THE TRIAL OF LEO FRANK
A Legal Chronicle and Analysis
August 29, 2019
10197
THE TRIAL OF LEO FRANK
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2.5 CLE Hours Including
1 Ethics Hour | 1 Professionalism Hour | 2 Trial Practice Hours
**SOLACE** is a program of the State Bar of Georgia designed to assist those in the legal community who have experienced some significant, potentially life-changing event in their lives. SOLACE is voluntary, simple and straightforward. SOLACE does not solicit monetary contributions but accepts assistance or donations in kind.

**How does SOLACE work?**

If you or someone in the legal community is in need of help, simply email SOLACE@gabar.org. Those emails are then reviewed by the SOLACE Committee. If the need fits within the parameters of the program, an email with the pertinent information is sent to members of the State Bar.

**What needs are addressed?**

Needs addressed by the SOLACE program can range from unique medical conditions requiring specialized referrals to a fire loss requiring help with clothing, food or housing. Some other examples of assistance include gift cards, food, meals, a rare blood type donation, assistance with transportation in a medical crisis or building a wheelchair ramp at a residence.

Contact SOLACE@gabar.org for help.
The purpose of the SOLACE program is to allow the legal community to provide help in meaningful and compassionate ways to judges, lawyers, court personnel, paralegals, legal secretaries and their families who experience loss of life or other catastrophic illness, sickness or injury.

**TESTIMONIALS**

In each of the Georgia SOLACE requests made to date, Bar members have graciously stepped up and used their resources to help find solutions for those in need.

A solo practitioner’s quadriplegic wife needed rehabilitation, and members of the Bar helped navigate discussions with their insurance company to obtain the rehabilitation she required.

A Louisiana lawyer was in need of a CPAP machine, but didn’t have insurance or the means to purchase one. Multiple members offered to help.

A Bar member was dealing with a serious illness and in the midst of brain surgery, her mortgage company scheduled a foreclosure on her home. Several members of the Bar were able to negotiate with the mortgage company and avoided the pending foreclosure.

Working with the South Carolina Bar, a former paralegal’s son was flown from Cyprus to Atlanta (and then to South Carolina) for cancer treatment. Members of the Georgia and South Carolina bars worked together to get Gabriel and his family home from their long-term mission work.

Contact SOLACE@gabar.org for help.
Dear ICLE Seminar Attendee,

Thank you for attending this seminar. We are grateful to the Chairperson(s) for organizing this program. Also, we would like to thank the volunteer speakers. Without the untiring dedication and efforts of the Chairperson(s) and speakers, this seminar would not have been possible. Their names are listed on the AGENDA page(s) of this book, and their contributions to the success of this seminar are immeasurable.

We would be remiss if we did not extend a special thanks to each of you who are attending this seminar and for whom the program was planned. All of us at ICLE hope your attendance will be beneficial as well as enjoyable. We think that these program materials will provide a great initial resource and reference for you.

If you discover any substantial errors within this volume, please do not hesitate to inform us. Should you have a different legal interpretation/opinion from the speaker’s, the appropriate way to address this is by contacting him/her directly.

Your comments and suggestions are always welcome.

Sincerely,

Your ICLE Staff

Jeffrey R. Davis  
Executive Director, State Bar of Georgia

Rebecca A. Hall  
Associate Director, ICLE
AGENDA

PRESIDING:
Irvan A. “Van” Pearlberg, Program Chair; Deputy Attorney General, Director, Medicaid Fraud Control Unit, Georgia Office of the Attorney General, Atlanta

8:15 REGISTRATION AND CONTINENTAL BREAKFAST
(All attendees must check in upon arrival. A jacket or sweater is recommended.)

9:00 WELCOME AND PROGRAM OVERVIEW

9:05 HISTORY AND FACTUAL BACKGROUND

10:30 BREAK

10:45 TRIAL OF THE CASE AND ITS AFTERMATH

11:50 ADJOURN
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HISTORY AND FACTUAL BACKGROUND
Defendant was charged with the murder of 13 year old Mary Phagan.

Although there was evidence that “…tended to show that the sexual organ of the girl indicated external violence. The physician found no indication of spermatozoa in the uterus, or upon the persons garments”.

Defendant was NOT charged with rape.

At page 251- Jim Conley testified that Leo M. Frank stated to him:

“Now there will be a young lady up here after a while, and me and her are going to chat a little…. Now when the lady comes I will stomp like I did before…and you go shut the door…. Now when I whistle I will be through, so you can go and unlock the door and come upstairs to my office like you were going to borrow some money from me, and that will give the young lady time to get out”.

At page 252-Jim Conley testified at trial that Leo frank said to him:

“…I wanted to be with the little girl and she refused me, and I struck her, and I guess I struck her too hard, and she fell and hit her head against something, and and I don’t know how bad she got hurt. Of course you know I ain’t built like other men.

Jim Conley “…also gave evidence tending to show that on various Saturday afternoons, during several months preceeding the homicide, the accused had received women in his office, and indulged in lascivious practices with them on a number of occasions, and had also had another man (named Dalton) and a woman present on several occasions”.

At page 253- Jim Conley gave testimony regarding the statement ,

“Of course you know I ain’t built like other men” to mean, “…I have seen him a position I haven’t seen any other man that has got children. I have seen him the office two or three times before Thanksgiving, and a lady was in his office, and she was sitting down in a chair and she had her clothes up to here (indicating up to her waist), and he was down on his knees, and she had her hands on Mr. Frank.”

“I have seen him another time there in the packing room with a young lady lying on the table. She was on the edge of the table when I saw her”.

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“I have seen him another time there in the packing room with a young lady lying on the table. She was on the edge of the table when I saw her”. 
Issue:

Whether the trial court erred by permitting the testimony of Jim Conley “in relation to acts and conduct of the accused on former occasions, and in regard to the watching of the witness for the accused at the previous times....”

At page 256: “Here the question of whether the accused had a motive in regard to his Conduct on that occasion, which might induce him to commit the homicide in the effort to carry out his purpose, was of the utmost materiality. The general rule on this subject has been stated by the Court of Appeals of New York in People v. Place, 157 N.Y. 584, as follows: It is an elementary principle of law that the commission of one crime is not admissible in evidence upon the trial of another, where its sole purpose is to show that the defendant has been guilty of other crimes, and would, consequently, be more liable to commit the offence charged. But if the evidence is material and relevant to the issue, it is not inadmissible because it tends to establish the defendant’s guilt of a crime other than the one charged.”

“...collateral facts are not to be rejected merely because they may show the commission of some crime other than that for which the accused is on trial, but they will be admitted, notwithstanding they may show the commission of other crimes, if they tend to illustrate the defendant’s guilt or innocence of the crime for which he is being tried”.

At page 259. “Another ground on which evidence may be received, although it includes proof of a different crime, is to show a common scheme or plan of related offenses”.

At page 266: “Thus the question, not whether some unknown criminal had a lecherous motive, but whether or not the accused had a lecherous motive which might lead to the effort to accomplish it upon the girl, and upon her resistance, than to murder, was vitally involved. The question would naturally be asked, what motive was there to prompt the accused to commit the act? The evidence tended to show a practice, plan, system or scheme on the part of the accused to have a lascivious or adulterous association with certain of his employees and other women at his office or place of business, in which place the homicide occurred. Some of these acts were shown specifically to have occurred not long before the homicide, .... It tended to show a motive on the part of the accused, inducing him to seek to have criminal intimacy with the girl who was killed, and, upon her resistance, to commit murder to conceal the crime”.
Issue:

“…that the occurrence of such disorder (in the court-room and vicinity of the court-room) prevented a fair and impartial trial, and that the court should have granted a mistrial upon motion made at the conclusion of the argument”.

At page 280: “While the defense was examining one of its witnesses there was laughter by spectators in the courtroom.” “The other incident related to the conduct of spectators in applauding the result of a colloquy between the Solicitor-General and counsel for the accused.”

At page 281: “The general rule is that the conduct of a spectator during the trial of a case will not be ground for reversal of a judgment, unless a ruling upon such conduct is invoked from the judge at the time it occurs”. “The applause by the spectators, ... is but an irregularity not calculated to be substantially harmful to the defendant....”

At page 281: “A request was made to poll the jury, and just after the polling had begun loud cheering from the crowd in the streets adjacent to the court-house was heard”.

At page 282: “When a trial is proceeding in the usual way, and neither of the parties connected with it nor the jury are guilty of any impropriety, an outside disturbance or irregularity should never be cause to vitiate the trial, unless such irregularity, from its very nature, is of a character that will poison the fairness of the whole trial. Otherwise, persons interested in the result of the case, foreseeing a termination unfavorable to their wishes, might conspire to bring about a disturbance which would nullify the whole trial. The courts therefore will inquire, when outside matters are relied upon to impress illegality upon a trial, as to whether such foreign matter is of such contaminating influence as to poison the whole trial; and unless it is shown that such foreign matter amounts to more than an irregularity, and that a party is deprived of a substantial right, such outside matters will be treated as irregularities and insufficient to require a de novo trial”.

Two (2) matters not raised in the motion for new trial regarding disorder in the courtroom:

1. In the presence of the jury and during the testimony of Dr. J.W.Hurt, Judge Roan held up the Georgian newspaper. The headline for that day was:

   “STATE ADDING LINKS TO CHAIN”

2. In the presence of the jury and in open court, Judge Roan conferred with the chief of police of the City of Atlanta and the colonel of the Fifth Georgia Regiment stationed in Atlanta regarding “…a large crowd of people on the outside cheering, shouting and hurrahing, and the crowd in the court-room signifying their feelings by applause and other demonstrations…” Frank v. State, 142 Ga. Reports 741 at 745.

Another issue not raised at the motion for a new trial but should have been:

That a verdict of guilty was received in the absence of the prisoner, and without his consent, while he was incarcerated in jail.

MOTION TO SET ASIDE VERDICT
FRANK v. STATE
142 GEORGIA REPORTS 741
June 6, 1914

At page 742-743:

“On the day the verdict was rendered...the judge, in the jury room where the trial was proceeding, privately conversed with two of the counsel for the defendant, and in the conversation referred to the probable danger of violence that the defendant would be in if he were present when the verdict was rendered and if the verdict should be one of acquittal; and after the judge had thus expressed himself...he requested the counsel...to agree that the defendant need not be present at the time the verdict was rendered and the jury polled”.

At page 743:

“The defendant was not present at the conversation, and knew nothing about any agreement made,...until after the verdict was received and the jury was discharged and until after the sentence was pronounced upon him”. 
Issue:

“Did the absence of the defendant,...at the time that the verdict finding him guilty of murder was received by the court and the jury trying him was discharged, render the verdict void and of no legal effect?

At page 759: “It is the undoubted right of a defendant who is indicted for a criminal offense in this State to be present at every stage of his trial”. But he may waive his presence at the reception of the verdict rendered in his case.”

At page 761: “When, … the defendant by motion for a new trial invoked from the court a ruling upon alleged errors that had been committed upon the trial (reciting on the face of the motion a knowledge of his absence when the verdict was returned, and the waiver of his presence), he will not now be heard to say that the verdict was a nullity on account of his not being present at its rendition, after the motion for a new trial has been denied and the judgment denying it affirmed by this court”.

Quote from *Muscogee Democrat*:

“...the sad part of it all is that Frank has failed to get a new trial not because the higher court believes him to be guilty, but because of technical mistakes made by his lawyer”. 
Mary Phagan

- Born: June 1, 1900
- Marietta
- Bellwood
- Nat’l. Pencil Factory
  37 So. Forsyth & Hunter St.
- Parade: 4/26/13
- Murdered: 4/26/13

Leo Frank

- Born: April 17, 1884
- Cornell Univ.
- Nat’l. Pencil Factory
- Wife: Lucille Selig
- Arrested: 4/27/13
- “Silent Man in the Tower”
- Convicted: 8/25/13
- Murdered: 8/17/15
FACTS

- $1.20
- 12:05 – 12:10 P.M.
- Lemmie Quinn
- M. Stover
- Metal shop
- H. Denham & A. White
- 1-1:10 P.M. - Gantt/Miller/Lefkoff
- Baseball game
- Newt Lee
- Phone call
- Grace Hicks
- Identification
- Notes

Notes

Written on paper torn from National Paper Co. pads

1. “He said he would love me land down play the night witch did it but that long tall negro did buy his slef”

2. “mam that negro hire down here did this I went to make water and he push me down that hole a long tall negro black that hoo it was long sleam tall negro I wright while play with me”
ARRESTED

Newt Lee
J.M. Gantt
Arthur Mullinax
Paul Bowen
Gordon Bailey
Jim Conley
Leo Frank
  • Rosser
  • struggle
  • search

"Detectives expect to wring the secret of Mary Phagan's murder from Newt Lee, Negro night watchman at the National Pencil Factory."
Journal's 1st story
Pg. 65- "Peachtree Parade"

Leo statements (?)

To Jim Conley-"Keep your mouth shut. If you'd had come back on Saturday and done what I told you, there wouldn't have been no trouble". Pg. 243 DSR

To Newt Lee- "If you keep up like this, both of us will go to hell". Pg. 70 DSR

Leo Frank never told police he saw Lemmie Quinn; (until trial-said it slipped his mind until Quinn reminded him) Pg. 87 DSR

Leo Frank hired counsel on Monday-before arrest
The Man in The Tower

Inside the grim prison fortress, the accused refused to speak. He would not refute the words of the chief witness. He was too proud to let his accuser see him in such a weakness. He considered himself a man of honor, a man who would not be swayed by fear.

Mary Phagan had not been found. There was not even a shred of evidence that she had ever been there, much less murdered in Mayaguez. However, Judge Donahoo, the coroner's inquest, had ruled that Phagan's death was a murder. George Epps, the man who had been accused of the crime, was clearly not a candidate for the honor role. The public sentiment for the coroner's inquest was strong. The case must be handled with care.

MAY-JUNE 1913

1-5-13  Jim Conley held on
2-5-13  Conley talks with lawyer
2-5-13  Conley confesses
3-5-13  Conley denies
4-5-13  Conley admits
5-5-13  Conley pleads guilty

Coroners Inquest

• Judge Donahoo
• George Epps
• Autopsy #1
• Autopsy #2
APRIL 1909 - MARCH 1913

17 Colored women murdered
Throats cut
Mutilated
Saturday

JACK THE RIPPER

“What is the matter with the Atlanta police that they have not found the criminals themselves and locked them securely from further depredation? Is it indifference or incompetence?…” editorial in the Constitution

ARRESTED
Henry Huff-

ARRESTED
Lawton Brown

NOT GUILTY
Confederate Memorial Day

Honoring the men in gray

Annual Confederate Memorial Day Parade

The Cobb County Sons of Confederate Veterans cordially invites you to participate in the Annual Confederate Memorial Day Parade Saturday, April 26th, 2008

The Parade will start at 1:45 PM from the staging area in the parking lot near the Root House on Hwy. 120, west of the Marietta Square. The Parade will then proceed to the Marietta Confederate Cemetery, where a memorial service will be held.

All those wishing to participate in the Parade should assemble at the staging area by 1:00 PM. Participants please register upon arrival. Enforced dress code for participants: Sunday best, size casual, period dress, Confederate uniform. The Sons of Confederate Veterans reserves the right to restrict the participation of anyone who does not adhere to proper codes of dress or behavior.

Call (770) 991-2318 for more information.

Come Celebrate Our Glorious Southern Heritage!
TRIAL OF THE CASE AND ITS AFTERMATH
PRETRIAL

Robert House
Nina Formby
Minola McKnight
Albert McKnight*
Dewey Hewell
Luther Bricker
A.H.Henley

*4,300.00 reward

TRIAL-July 28, 1913

STATES WITNESSES

Monteen Stover
George Epps
Jim Conley
• saw Mary 12:56
• heard steps to metal shop
• saw L. Frank with rope
• Helped take body to basement by elevator
• L. Frank dictated notes
• L. Frank paid money & took it back
• L. Frank put mesh bag in safe
C. Brutus Dalton
Helen Ferguson
Nellie Pettis-wink
C. Donegan-smile
Nellie Wood-breast
Irene Jackson & Mamie Kitchens-bathroom
Ruth Robinson & D. Howell-Mary
Hugh Dorsey examining Newt Lee on the opening day of the trial
(William Pullen Library, Georgia State University)

The Jury

The jurors who convicted Leo Frank, standing with three sheriff's deputies.
—Courtesy of the University of Georgia Library
Jim Conley

- Morning of 4/26/13-
  elevator shaft
- Letters to Annie Maude
  Carter
- Notes & words,
  “did”, “negro”
- Admission of killing;
  door bolt
- Money from Mary Pirk
  & L. Frank innocent
- William Mincey, Ins.
  Agent
- Accessory After the Fact-
  “If it didn’t demand a
  conviction, I would let
  him go”. H. Dorsey
Editorial in the **Georgian**

“Many people are arguing to themselves that the negro, no matter how hard he tried or how generously he was coached, still never could have framed up a story like the one he told **unless there was some foundation in fact**”.

“Seeking Justice, The Leo Frank Case Revisited”, 2008
The Wm. Breman Jewish Heritage Museum

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**DEFENSE**

- Cross-examined Conley
- “**Why should I hang? I have wealthy people in Brooklyn**”.
- Poor examination re: hair; blood; notes; bite; feces.
- **Basement door with fingerprints**
- **Stomps & Whistles; dress/table; Dr. T. Hancock**

**Witnesses**

- Atlanta Jews
- B’nai B’rith; Hebrew Orphans Home;
- Yondiff
- Northern Jews
- Un-sworn statement by Leo Frank
- Mother and wife of L. Frank
- “**No and you haven’t either, you Gentile dog**”.
Lawyers

“most remarkable speech ever been delivered in a Fulton Co. Court;
“…guilty, guilty, guilty”

“He asked no favors. He gave no quarter. He battle everyone in his way. He was the knock down drag out type.”

Solicitor Hugh Dorsey

“It is evident that he has sought self-aggrandizement in his ruthless effort to make out a case, where he knew beforehand that he had no case”. Frost magazine

1. Lost two murder cases
2. Cops forced George Epps to testify
3. Bite marks
4. Handwriting expert *
5. Indictment for L. Frank & J. Conley; L. Frank & Newt Lee
6. Hair on lathe
7. Cops held Minola McKnight
8. Bribery of Albert McKnight
9. Cops plied drink to Nina Formby

5 Hebrews on G.J.
“10 Real Murder Mysteries”
**Dorsey**—“He treated doubtful evidence as fact, misquoted and misinterpreted more. He used sarcasm, humor, any trick to play on the jurors emotions. The same weapons Arnold & Rosser had used—more skillfully by Dorsey. He attacked Frank personally, comparing him to Oscar Wilde, as a brilliant man with unnatural lusts.”

“The Leo Frank Case” by Edgar H. Johnson
Atlanta Journal
Aug. 24, 1913
BURNS vs. The STATE
172 Ga. App. 645; 1984
Whitfield Superior Court

Judge Leonard Roan

“...I am not thoroughly convinced that Frank is guilty or innocent”.

“Why, if Christ and all his angels came to show this man innocent, they would still vote him guilty.”

poll jurors-too loud
N. Lee
Sentence to hang-10/10/13
“I can go home again”,
by Arthur G. Powell, 1943

“When he was preparing
his charge to the jury, I sat
on the bench to his side and
he said to me, ‘this man’s
innocence is proved to a
mathematical certainty’.”
Pg.288

“Confessions of a criminal
lawyer”, by
Allen Lumpkin Henson, 1959

“I have made up my mind to
grant a motion for new trial”
Pg.62

“I can’t reveal clients
secrets, yet, I can’t live with
them”, Wm. Smith, Esq. Pg.62

“If you grant this motion, you
may save Frank’s life, but the
chances are you would not”

“Deny motion and let case run
it’s course”.
Judge Foster to Judge Roan,
Pg.65

Re: “Confessions of a Criminal Defense
Lawyer”, by Henson-
**Superior Court Judge Benning Grice:**
1) discredits story
2) Story is attempt to help sell book

3) Dad assisted Hugh Dorsey in
arguing before Supreme Court in 1914
4) Henson ran against Grice for Judge

Pg. 119, Edgar H. Johnson
“Columbia Sentinel”

“...the Judge (Roan) had been overreached; that the statement had been obtained from him at a moment when he was without mental capacity to make any statement; and that his signature to the affidavit had been secured by fraud”.

Thomas E. Watson, publisher

“Confessions of a Criminal Lawyer”, Henson, Pg.67
“IN THE AIR”

• “According to your great-great grandmother, Judge Roan maintained strict discipline in his courtroom at all times and would not tolerate any disturbance”.

• 11 affidavits from jurors—didn’t hear crowds cheering

• Motion for New trial; Order changed from: “…which jury heard” to “…which perhaps jury could have heard”

• “…spectators didn’t impugn fairness of the trial”

Justice Sam Atkinson, Ga. Supreme Court

• The crowds in the street were angry and saying Leo Frank should die.

Yelling “kill the Jew”. - A. Mann
Ruling on PERVERSION

• Defense waited too long before objecting
• Previous conduct by Frank was admissible to explain conduct of Jim Conley and motivation of Leo Frank
• Plan, intent and scheme of accused
• Evidence showed practice, plan, system on defendant’s part to have lascivious or adulterous associations with certain employees & other women at his place of business
• Motive on behalf of defendant to seek criminal intimacy with the girl & on her resistance he killed her

Northern Help Solicited

Louis Marshall, Esq., Pres.of American Jewish Committee
Adolph Ochs, publisher, New York Times
Albert Lasker, Advertising Exec.
Julius Rosenwald, Chairman, Sears & Roebuck
Jane Adams, Thomas Edison and Henry Ford

NEW ATTORNEY’S
Herbert Haas & Leonard Haas, Esqs.
• Leo not in court for verdict
June 1914-Supreme Court of U.S.:

- Alleged lack of due process should have been raised earlier.
- Supreme Court refused to reverse Ga. Courts denial of Writ of Error because ground raised was a State procedure
- HABEAS CORPUS IN FED. COURT-DENIED

“…The sad part of it all is that Frank has failed to get a new trial not because the higher court believes him to be guilty, but because of technical mistakes made by his lawyer”.

The Muscogee Democrat
Justice O.W. Holmes expressed doubt that Leo Frank had received due process of the law, citing “…the presence of a hostile demonstration and seemingly dangerous crowd, thought by the presiding Judge to be ready for violence unless a verdict of guilty was rendered”.

“An unbiased trial was impossible”-Dr. L.O. Bricker

William Smith, Esq.

- represented Jim Conley
- October 2, 1914- announced that Jim Conley had admitted to killing Mary Phagan
- 1944-Smith house-Dalonaga
- “In articles of death, I believe in the innocence and good character of Leo M. Frank”

- Ga. Rules of Professional Conduct
  - Rule 1.6
  - Confidentiality of Information
  - (e) “The duty of confidentiality shall continue after the client-lawyer relationship has terminated”.

- March 11, 1963-State Bar created and established
Ga. Prison Commission
June 1st, 1915

For Commutation
Milton Klein
Rabbi David Marx
Dr. Ben Wildauer
Sam Boorstein
Lucille Frank

Opposed to Commutation
Herbert Eugene Clay-Solicitor
Gen.
John Tucker Dorsey
Fred Morris-Attorney
Mayor E.P.Dobbs
Bolen Glover Brumby
James Gann-Cobb Ordinary
Josiah Carter-editor
William Frey-Former Sheriff
Elmer Phagan-uncle

“I am not asking for mercy. I am innocent and have been unjustly convicted. What I want is justice.” Leo Frank

June 26, 1915

John Slaton

Arthur Brisbane

Nathaniel Harris
New factories were suspect Institutions in the south—
“a Jewish convent as lascivious as a Catholic Monastery”

“... wielded a pen that was warmed up in hell”

Mark Twain

“It may mean my death or worse, but I have ordered the sentence commuted”

“I'd rather be the widow of a brave and honorable man, than the wife of a coward”
Governor Slaton

Sentence commuted
June 26, 1915

Rosser, Brandon, Slaton & Phillips, Attorneys at law

Roan & Rosser, Esqs.

“Governor Slaton,
King of the Jews,
Traitor to Georgia,
Forever”

“...75 men, some with firearms, some with blackjacks, some with dynamite”. “I can go home again” Pg. 290-291

Slaton paid $1,000,000.00 by Jews of America to commute sentence.
Pg. 66, “Peachtree Parade”
“I can go home again”,
by Arthur G. Powell

Governor Slaton refused to swear out warrants. He said:
“Let these deluded men, who thought they were acting in a good cause, go home to their families who need them. Tell them that I did what I knew was right and I forgive them for any wrong they intended against me”.

Gov. Slaton’s Considerations for Commuting Sentence

6/21/15-Gov. Slaton commutes sentence
1Conley – a “…depraved and lecherous negro as ever lived in Georgia”.
2. Inconsistences in statements
3. Hair; Blood
4. Crocas sack vs. bed-tick
5. Notes-a) H.F. Becker 1908-1912
   b) Night Witch
6. Elevator Shaft and intact excrement
**NIGHT WITCH**

**Southern Negro Culture / superstition**

'When children cry out in their sleep at night, it means the night witches are riding them and if you don't go and wake them up, they will be found the next morning strangled to death with a cord around their neck'

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**THE LEADERS**

Eugene Herbert Clay-Solicitor General  
John Tucker Dorsey-Legislator/Chairman-Penal Commission  
Fred Morris-Attorney  
Bolen Glover Brumby  
Former Governor Joseph M. Brown

“Are we to understand that anybody except a Jew can be punished for a crime”  
Judge Newton Augustus Morris

“AUTHORITY, UNLESS IT WAS THEIR OWN, WAS AN AFFRON'T TO THEM, THE PROSPECT OF OUTRAGING THE WHOLE OF JEWRY AND YANKEEDOM AN ALLURE.”
LIEUTENANTS
George Daniell-jewelry store owner
James Gann-Cobb County Ordinary
Newton Mayes Morris a/k/a Black Newt a/k/a whipping Newt
-ran Cobb County Prison Camp

640 Atlanta Road
Daughter of Newton Mayes Morris

Jan. 4, 2008

Black Newt to wife—

“If you see some commotion over at the cemetery, don’t be alarmed.”

Per daughter—

“Jew up in New York had some pull with the Governor.”
SUPPORTERS

Jim Brumby
L.B. Roberson-freight agent; lent car
Mayor E.P. Dobbs
William Frey-former sheriff; tied knot
Robert Hill-Banker
Sheriff George Swanson
Deputy Sheriff William McKinney
Deputy Sheriff George Hicks
Cicero Dobbs-taxi driver
D.D. Benton-farmer; uncle of M. Phagan*
Horace Hamby-farmer
“Coon” Shaw-mule trader
Dr. C.D. Elder
Emmett & Luther Burton
“Yellow Jacket” Brown-electrician *
Lawrence Haney-farmer
THE LYNCHING

August 17, 1915

- William Creen-noble deed

- August 16, 1915- abduction
  a) Best Citizens
  b) No riffraff

- “Mr. Frank, we are now going to do what the law said to do-hang you by the neck until dead”.

- “I think more of my wife and mother than I do of my own life”
Mayor E.P. Dobbs
August 17, 1915

“I desire in the interests of justice and truth to say that the Marietta & Cobb Officials had no knowledge of any automobiles leaving Marietta well loaded last night, nor were they apprised of the return of any machine today. None of the Officials had any intimation of the lynching until the body was found.”
The Aftermath - Atlanta

• “We regard the hanging of L.F. in Cobb County as an act of law abiding citizens” - Marietta paper
• Atlanta City Council - photo
• $ for tree
• Coroners Jury
  1. Coon Shaw
  2. Dr. W.H. Perkinson - friend of Judge Morris
  3. 3 minutes
  4. L.F. died at hands of unknown persons
  5. John Booth - Cobb Coroner - Inductee

• Gov. Harris - investigation of lynching to Chief Prosecuting Official

• 1915 - Col. Wm. J. Simmons - Knights of M.P.
  formed to Knights of the KKK

Quotes

“In putting the sodomite murderer to death the Vigilante Committee has done what the sheriff would have done, if Slaton had not been the same mold as Benedict Arnold.
Let Jew libertines take notice! Georgia is not for sale to rich criminals”.
Letter from Tom Watson to Robert E. Lee (Bob) Howell

“I can’t talk. Thank God he is dead and through with this trouble. If he lived, his life would have been a torture to him and they might have killed him in a worse way.”
Mrs. Rhea Frank
Grand Jury Investigation
or
“A Mockery of a fraud of a Sham”

• James T. Anderson-Foreman
• Robert Hill
• B. G. Brumby
• Luther Hames
• 9/2/15-G.J.-no ID & insuff. Evid
  • “We wish to thank the Hon. H. Clay for his active participation of these matters…”
  • R.G. Brumby-Clerk of Court

Eyes on Georgia

1. “Georgia is a good place for every decent man & woman to stay away from.”- Akron Beacon

2. “The south is barely half educated. Whatever there is explicable in the murder of Leo Frank is thus explainable. The south is a region of illiteracy, blatant self-righteousness, cruelty and violence. Until it is improved by the infusion of better blood and better ideas it will remain a reproach and a danger to the American Republic.”- The Chicago Tribune

3. Boston boycotted Georgia products

4. Merchants stopped stocking Coca-cola

5. Chicago police would not honor Ga. requests for extradition as Ga. not capable of self-government
Tom Watson is the “murderer of Leo Frank” and ought to be tried for murder.

Louis Marshall

U.S. Attorney attempted to indict Tom Watson.

---

**FREEMAN-1923**

<table>
<thead>
<tr>
<th>Needed</th>
<th>$3.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wanted to borrow</td>
<td>$1.80</td>
</tr>
<tr>
<td>Conley had</td>
<td>$1.20</td>
</tr>
</tbody>
</table>
The Pardon

1982 - Alonzo Mann
83 years old

“…without addressing the question of guilt or innocence, and in recognition of the state’s failure to protect the person of Leo Frank and thereby preserve his opportunity for continued legal appeal of his conviction and in recognition of the state’s failure to bring his killers to justice, and in an effort to heal old wounds, the State Board of Pardon and Parole,…hereby grants Leo Frank a pardon.”

March 11, 1986

“Wrongly accused. Falsely convicted. Wantonly murdered.”

1995-80th anniversary of death of Leo Frank

SAMMONS vs. THE STATE
279 Ga. 386-389; 2005
Bulloch Superior Court

Judge Roan brokered a deal that neither Leo Frank or his attorneys would be resent in court at the verdict, fearing that an acquittal would endanger the safety of Leo Frank and his attorneys. “Seeking Justice, The Leo Frank Case revisited, 2008
Marietta Events


After lynching on 8/17/15-ring delivered to O.B. Keeler at 303 Polk street.(corner of Polk St. & Powder Springs St.)

1993-KKK marched to Mary Phagan grave at Marietta Cemetery. Mayor Robert E. Flournoy,Jr.(Judge) & 300 citizens had meeting at Baptist Church.

Other Facts / What Happened to?

• Judge Roan-Appellate Court Judge
• Hugh Dorsey-Governor, 1916-1921. pardon to: John Tucker Dorsey Judge-Atlanta City court Judge-Fulton Superior Court Died-1949
• Tom Watson-1920-U.S.Senate; Died 1922
• Governor Eugene Talmadge gave pardon to William Creen.
• Maureen Stover-badger scheme conviction
• Jim Conley-1919, shot in burglary 20 year sentence; Died 1962
The Atlanta Journal - March 11, 1925

Judge Newt A. Morris

1-Alpharetta
2-Blue Ridge Circuit Court
3-John Woods, Esq.
4-“joined party” (per Oney)
Time Line

Murder of Mary Phagan-4/26/13
Arrest of Leo Frank-4/27/13
Trial-7/28/13(29 days)
Convicted-8/25/13
Sentenced to hang-10/10/13
Hanging rescheduled-4/17/14
Sentence commuted-6/21/15
Throat cut-7/19/15
Abducted 8/16/15; hung 8/17/15
Freeman story published-1923
Alonzo Mann story-1982
Pardon-3/11/86

1995

Leo Frank (1884-1915)
Wrongly accused, Falsely convicted,
Wantonly murdered
Pardoned, 1986

Remembered on the 80th yahrzeit, 1995/5755
By the Jewish Community of Cobb County
Mount Carmel Cemetery
Sec. 1, Blk. E, Path 41, Lot 1035

"Always the same"

FLOWERS & NOTES

Shalom Leo Frank
You were robbed of the chance to clear your name and the State of Georgia now realizes you were innocent and issued a full pardon clearing your name! The Black maintenance worker from the pencil factory was the true assailant someone saw the murder happen but out of fear for their safety waited over 65 years to tell what they saw! Rest in peace!

Your memory lives in my heart. I played the role of Lucille Frank in the musical "Parade" dedicated to you. It was my honor even for the briefest of moments to be your wife.

- Heather Thrasher
Added: 9/1/2003

you'll get no sympathy from me-I know you did it-you filthy pig!!
- adam haynes
Added: 2/17/2004
National Pencil Factory

- 37 South Forsyth St.
- Hunter Street
- Hotel Granite
- Venable Building
- Venable Bros.
- Montag Bros.
- 1899-1909
- Sig Montag – Majority stockholder

Forsyth & Alabama St.
Sam Nunn Federal Building
Forsyth & MLK (Hunter St)

Lucille Frank

- Dr. James Kauffman
- J.P. Allen

“I think we should know each other. My name is Mrs. Leo M. Frank.”

- Died-April 23, 1957
- ring & letters
- cremated
- ordinance
- shelf
- 1962/1963
- Marcus Bros.-1964
Chapter 1
45 of 45

HISTORIC OAKLAND
A Guide to the Jewish Sections

SELG PLOT

Leo Frank Lynching

Near this location on August 17, 1915, Leo M. Frank, the Jewish superintendent of the National Pencil Company in Atlanta, was lynched for the murder of thirteen-year-old Mary Phagan, a factory employee. A highly controversial trial fueled by societal tensions and anti-Semitism resulted in a guilty verdict in 1913. After Governor John M. Slaton commuted his sentence from death to life in prison, Frank was kidnapped from the state prison in Milledgeville and taken to Phagan's hometown of Marietta where he was hanged before a local crowd. Without addressing guilt or innocence, and in recognition of the state's failure to either protect Frank or bring his killers to justice, he was granted a posthumous pardon in 1988.

Erected by the Georgia Historical Society, the Jewish American Society for Historic Preservation, and Temple Kol Emeth
COMMISSION ON PROFESSIONALISM
THE CHIEF JUSTICE’S COMMISSION ON PROFESSIONALISM
(Founded 1989)

A Brief History of the Chief Justice’s Commission on Professionalism

Karlise Y. Grier, Executive Director

The mission of the Chief Justice’s Commission on Professionalism is to support and encourage lawyers to exercise the highest levels of professional integrity in their relationships with their clients, other lawyers, the courts and the public, and to fulfill their obligations to improve the law and legal system and to ensure access to that system.

After a series of meetings of key figures in Georgia’s legal community in 1988, in February of 1989, the Supreme Court of Georgia created the Chief Justice’s Commission on Professionalism (“Commission”), the first entity of this kind in the world created by a high court to address legal professionalism. In March of 1989, the Rules of the State Bar of Georgia were amended to lay out the purpose, members, powers and duties of the Commission. The brainchild of Justice Thomas Marshall and past Emory University President James Laney, they were joined by Justices Charles Weltner and Harold Clarke and then State Bar President A. James Elliott in forming the Commission. The impetus for this entity then and now is to address uncivil approaches to the practice of law, as many believe legal practice is departing from its traditional stance as a high calling – like medicine and the clergy – to a business.

The Commission carefully crafted a statement of professionalism, A Lawyer’s Creed and the Aspirational Statement on Professionalism, guidelines and standards addressing attorneys’ relationships with colleagues, clients, judges, law schools and the public, and retained its first executive director, Hulett “Bucky” Askew. Professionalism continuing legal education was mandated and programming requirements were developed by then assistant and second executive director Sally Evans Lockwood. During the 1990s, after the Commission conducted a series of convocations with the bench and bar to discern professionalism issues from
practitioners’ views, the State Bar instituted new initiatives, such as the Committee on Inclusion in the Profession (f/k/a Women and Minorities in the Profession Committee). Then the Commission sought the concerns of the public in a series of town hall meetings held around Georgia. Two concerns raised in these meetings were: lack of civility and the economic pressures of law practice. As a result, the State Bar of Georgia established the Law Practice Management Program.

Over the years, the Commission has worked with the State Bar to establish other programs that support professionalism ideals, including the Consumer Assistance Program and the Diversity Program. In 1993, under President Paul Kilpatrick, the State Bar’s Committee on Professionalism partnered with the Commission in establishing the first Law School Orientation on Professionalism Program for incoming law students held at every Georgia law school. At one time, this program had been replicated at more than forty U.S. law schools. It engages volunteer practicing attorneys, judges and law professors with law students in small group discussions of hypothetical contemporary professionalism and ethics situations.

In 1997, the Justice Robert Benham Community Service Awards Program was initiated to recognize members of the bench and bar who have combined a professional career with outstanding service to their communities around Georgia. The honorees are recognized for voluntary participation in community organizations, government-sponsored activities, youth programs, religious activities or humanitarian work outside of their professional practice or judicial duties. This annual program is now usually held at the State Bar Headquarters in Atlanta and in the past it has been co-sponsored by the Commission and the State Bar. The program generally attracts several hundred attendees who celebrate Georgia lawyers who are active in the community.

In 2006, veteran attorney and former law professor, Avarita L. Hanson became the third executive director. In addition to providing multiple CLE programs for local bars, government and law offices, she served as Chair of the ABA Consortium on Professionalism Initiatives, a group that informs and vets ideas of persons interested in development of professionalism programs. She authored the chapter on Reputation, in Paul Haskins, Ed., ESSENTIAL QUALITIES OF THE PROFESSIONAL LAWYER, ABA Standing Committee on Professionalism, ABA Center for Professional Responsibility (July 2013) and recently added to the newly-released accompanying Instructor’s Manual (April 2017). Ms. Hanson retired in August 2017 after a distinguished career serving the Commission.

Today, the Commission, which meets three times per year, is under the direction and management of its fourth Executive Director, attorney Karlise Yvette Grier. The Commission continues to support and advise persons locally and nationally who are interested in professionalism programming. The Chief Justice of the Supreme Court of Georgia serves as
the Commission’s chair, and Chief Justice Harold D. Melton currently serves in this capacity. The Commission has twenty-two members representing practicing lawyers, the state appellate and trial courts, the federal district court, all Georgia law schools and the public. (See Appendix A). In addition to the Executive Director, the Commission staff includes Shamilla Jordan (Administrative Specialist). With its chair, members and staff, the Commission is well equipped to fulfill its mission and to inspire and develop programs to address today’s needs of the legal profession and those concerns on the horizon. (See Appendix B).

The Commission works through committees and working groups (Access to Justice, Finance and Personnel, Continuing Legal Education, Social Media/Awareness, Financial Resources, and Benham Awards Selection) in carrying out some of its duties. It also works with other state and national entities, such as the American Bar Association’s Center for Professional Responsibility and its other groups. To keep Georgia Bar members abreast of professionalism activities and issues, the Commission maintains a website at www.cjcpga.org. The Commission also provides content for the Professionalism Page in every issue of the Georgia Bar Journal. In 2018, the Commission engaged in a strategic planning process. As a result of that process, the Commission decided to focus on four priority areas for the next three to five years: 1) ensuring high quality professionalism CLE programming that complies with CJCP guidelines; 2) promoting the understanding and exercise of professionalism and emphasizing its importance to the legal system; 3) promoting meaningful access to the legal system and services; and 4) ensuring that CJCP resources are used effectively, transparently and consistent with the mission.

After 30 years, the measure of effectiveness of the Commission should ultimately rest in the actions, character and demeanor of every Georgia lawyer. Because there is still work to do, the Commission will continue to lead the movement and dialogue on legal professionalism.

Chief Justice’s Commission on Professionalism
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Atlanta, Georgia 30303
(404) 225-5040 (o)
professionalism@cjcpga.org
www.cjcpga.org
THE MEANING OF PROFESSIONALISM

The three ancient learned professions were the law, medicine, and ministry. The word profession comes from the Latin *professus*, meaning to have affirmed publicly. As one legal scholar has explained, “The term evolved to describe occupations that required new entrants to take an oath professing their dedication to the ideals and practices associated with a learned calling.”¹ Many attempts have been made to define a profession in general and lawyer professionalism in particular. The most commonly cited is the definition developed by the late Dean Roscoe Pound of Harvard Law School:

The term refers to a group . . . pursuing a learned art as a common calling in the spirit of public service - no less a public service because it may incidentally be a means of livelihood. Pursuit of the learned art in the spirit of a public service is the primary purpose.²

Thinking about professionalism and discussing the values it encompasses can provide guidance in the day-to-day practice of law. Professionalism is a wide umbrella of values encompassing competence, character, civility, commitment to the rule of law, to justice and to the public good. Professionalism calls us to be mindful of the lawyer’s roles as officer of the court, advocate, counselor, negotiator, and problem solver. Professionalism asks us to commit to improvement of the law, the legal system, and access to that system. These are the values that make us a profession enlisted in the service not only of the client but of the public good as well. While none of us achieves perfection in serving these values, it is the consistent aspiration toward them that defines a professional. The Commission encourages thought not only about the lawyer-client relationship central to the practice of law but also about how the legal profession can shape us as people and a society.

¹ DEBORAH L. RHODE, PROFESSIONAL RESPONSIBILITY: ETHICS BY THE PERVERSIVE METHOD 39 (1994)
² ROSCOE POUND, THE LAWYER FROM ANTIQUITY TO MODERN TIMES 5 (1953)
BACKGROUND ON THE LEGAL PROFESSIONALISM MOVEMENT IN GEORGIA

In 1986, the American Bar Association ruefully reported that despite the fact that lawyers’ observance of the rules of ethics governing their conduct is sharply on the rise, lawyers’ professionalism, by contrast, may well be in steep decline:

[Although] lawyers have tended to take the rules more seriously because of an increased fear of disciplinary prosecutions and malpractice suits, . . . [they] have also tended to look at nothing but the rules; if conduct meets the minimum standard, lawyers tend to ignore exhortations to set their standards at a higher level.³

The ABA’s observation reflects a crucial distinction: while a canon of ethics may cover what is minimally required of lawyers, “professionalism” encompasses what is more broadly expected of them – both by the public and by the best traditions of the legal profession itself.

In response to these challenges, the State Bar of Georgia and the Supreme Court of Georgia embarked upon a long-range project – to raise the professional aspirations of lawyers in the state. Upon taking office in June 1988, then State Bar President A. James Elliott gave Georgia’s professionalism movement momentum when he placed the professionalism project at the top of his agenda. In conjunction with Chief Justice Marshall, President Elliott gathered 120 prominent judges and lawyers from around the state to attend the first Annual Georgia Convocation on Professionalism.

For its part, the Georgia Supreme Court took three important steps to further the professionalism movement in Georgia. First, at the first Convocation, the Supreme Court of Georgia announced and administered to those present a new Georgia attorney’s oath emphasizing the virtue of truthfulness,reviving language dating back to 1729. (See also Appendix C). Second, as a result of the first Convocation, in 1989, the Supreme Court of Georgia took two additional significant steps to confront the concerns and further the aspirations of the profession. First, it created the Chief Justice’s Commission on Professionalism (the “Commission”) and gave it a primary charge of ensuring that the practice of law in this state remains a high calling, enlisted in the service not only of the client, but of the public good as well. This challenging mandate was supplemented by the Court’s second step, that of amending the mandatory continuing legal education (CLE) rule to require all active Georgia

lawyers to complete one hour of Professionalism CLE each year [Rule 8-104 (B)(3) of the Rules and Regulations for the Organization and Government of the State Bar of Georgia and Regulation (4) thereunder].

GENERAL PURPOSE OF CLE PROFESSIONALISM CREDIT

Beginning in 1990, the Supreme Court of Georgia required all active Georgia lawyers to complete one hour of Professionalism CLE each year [Rule 8-104 (B)(3) of the Rules and Regulations for the Organization and Government of the State Bar of Georgia and Regulation (4) thereunder]. The one hour of Professionalism CLE is distinct from and in addition to the required ethics CLE. The general goal of the Professionalism CLE requirement is to create a forum in which lawyers, judges and legal educators can explore the meaning and aspirations of professionalism in contemporary legal practice and reflect upon the fundamental premises of lawyer professionalism – competence, character, civility, commitment to the rule of law, to justice, and to the public good. Building a community among the lawyers of this state is a specific goal of this requirement.

DISTINCTION BETWEEN ETHICS AND PROFESSIONALISM

The Supreme Court has distinguished between ethics and professionalism, to the extent of creating separate one-hour CLE requirements for each. The best explanation of the distinction between ethics and professionalism that is offered by former Chief Justice Harold Clarke of the Supreme Court of Georgia:

“... the idea [is] that ethics is a minimum standard which is required of all lawyers, while professionalism is a higher standard expected of all lawyers.”

Laws and the Rules of Professional Conduct establish minimal standards of consensus impropriety; they do not define the criteria for ethical behavior. In the traditional sense, persons are not “ethical” simply because they act lawfully or even within the bounds of an official code of ethics. People can be dishonest, unprincipled, untrustworthy, unfair, and uncaring without breaking the law or the code. Truly ethical people measure their conduct not by rules but by basic moral principles such as honesty, integrity and fairness.

The term “Ethics” is commonly understood in the CLE context to mean “the law of lawyering” and the rules by which lawyers must abide in order to remain in good standing before the bar. Legal Ethics CLE also includes malpractice avoidance. “Professionalism” harkens back to the traditional meaning of ethics discussed above. The Commission believes that lawyers should remember in counseling clients and determining their own behavior that the letter of the law is only a minimal threshold describing what is legally possible, while professionalism is meant to address the aspirations of the profession and how we as lawyers should behave.
Ethics discussions tend to focus on misconduct -- the negative dimensions of lawyering. **Professionalism discussions have an affirmative dimension -- a focus on conduct that preserves and strengthens the dignity, honor, and integrity of the legal system.**

As former Chief Justice Benham of the Supreme Court of Georgia says, “We should expect more of lawyers than mere compliance with legal and ethical requirements.”

**ISSUES AND TOPICS**

In March of 1990, the Chief Justice’s Commission adopted *A Lawyer’s Creed* (See Appendix D) and an *Aspirational Statement on Professionalism* (See Appendix E). These two documents should serve as the beginning points for professionalism discussions, not because they are to be imposed upon Georgia lawyers or bar associations, but because they serve as words of encouragement, assistance and guidance. These comprehensive statements may be utilized to frame discussions and remind lawyers about the basic tenets of our profession.

Karl N. Llewellyn, jurisprudential scholar who taught at Yale, Columbia, and the University of Chicago Law Schools, often cautioned his students:

The lawyer is a man of many conflicts. More than anyone else in our society, he must contend with competing claims on his time and loyalty. You must represent your client to the best of your ability, and yet never lose sight of the fact that you are an officer of the court with a special responsibility for the integrity of the legal system. You will often find, brethren and sistern, that those professional duties do not sit easily with one another. You will discover, too, that they get in the way of your other obligations – to your conscience, your God, your family, your partners, your country, and all the other perfectly good claims on your energies and hearts. You will be pulled and tugged in a dozen directions at once. You must learn to handle those conflicts.\(^4\)

The real issue facing lawyers as professionals is developing the capacity for critical and reflective judgment and the ability to “handle those conflicts,” described by Karl Llewellyn. A major goal of Professionalism CLE is to encourage introspection and dialogue about these issues.

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\(^4\) **Mary Ann Glendon, A Nation Under Lawyers** 17 (1994)
APPENDICES

A  2019-2020 COMMISSION MEMBERS

B  MISSION STATEMENT

C  OATH OF ADMISSION

D  A LAWYER’S CREED

E  ASPIRATIONAL STATEMENT ON PROFESSIONALISM

F  SELECT PROFESSIONALISM PAGE ARTICLES
APPENDIX A

CHIEF JUSTICE’S COMMISSION ON PROFESSIONALISM

Honorable Harold D. Melton
Chief Justice
Supreme Court of Georgia

CHIEF JUSTICE’S COMMISSION ON PROFESSIONALISM
2019-2020

Members

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Atlanta

Ms. Elizabeth Beskin, Atlanta
Professor Nathan S. Chapman, Athens
Professor Clark D. Cunningham, Atlanta
Mr. William T. Davis, Atlanta
Mr. Gerald M. Edenfield, Statesboro
The Honorable Susan E. Edlein, Atlanta
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The Honorable Meng H. Lim, Tallapoosa

Professor Patrick E. Longan, Macon
Professor Patrick E. Longan, Macon
Ms. Maria Mackay, Watkinsville
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Ms. Adwoa Gharney-Tagoe Seymour, Atlanta
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Mr. Robert Arrington, Atlanta
Mr. Jeffrey R. Davis, Atlanta
Ms. Paula J. Frederick, Atlanta
Ms. Michelle E. West, Atlanta
Ms. DeeDee Worley, Atlanta

Staff

Ms. Karlise Y. Grier, Atlanta

Ms. Shamilla Jordan, Atlanta

Names in italics denotes public member/non-lawyer

Suite 620 • 104 Marietta Street, N.W. • Atlanta, Georgia 30303 • (404) 225-5040 • Email: professionalism@cjcpga.org • www.cjcpga.org
MISSION STATEMENT

The mission of the Chief Justice’s Commission on Professionalism is to support and encourage lawyers to exercise the highest levels of professional integrity in their relationships with their clients, other lawyers, the courts, and the public and to fulfill their obligations to improve the law and the legal system and to ensure access to that system.

CALLING TO TASKS

The Commission seeks to foster among lawyers an active awareness of its mission by calling lawyers to the following tasks, in the words of former Chief Justice Harold Clarke:

1. To recognize that the reason for the existence of lawyers is to act as problem solvers performing their service on behalf of the client while adhering at all times to the public interest;

2. To utilize their special training and natural talents in positions of leadership for societal betterment;

3. To adhere to the proposition that a social conscience and devotion to the public interest stand as essential elements of lawyer professionalism.

* * * * * * * * *
APPENDIX C

HISTORICAL INFORMATION ABOUT THE COMMISSION’S ROLES IN THE DEVELOPMENT OF THE CURRENT GEORGIA ATTORNEY OATH

In 1986, Emory University President James T. Laney delivered a lecture on “Moral Authority in the Professions.” While expressing concern about the decline in moral authority of all the professions, he focused on the legal profession because of the respect and confidence in which it has traditionally been held and because it has been viewed as serving the public in unique and important ways. Dr. Laney expressed the fear that the loss of moral authority has as serious a consequence for society at large as it does for the legal profession.

For its part, the Georgia Supreme Court took an important step to further the professionalism movement in Georgia. At the first convocation on professionalism, the Court announced and administered to those present a new Georgia attorney’s oath emphasizing the virtue of truthfulness, reviving language dating back to 1729. Reflecting the idea that the word “profession” derives from a root meaning “to avow publicly,” this new oath of admission to the State Bar of Georgia indicates that whatever other expectations might be made of lawyers, truth-telling is expected, always and everywhere, of every true professional. Since the convocation, the new oath has been administered to thousands of lawyers in circuits all over the state.

<table>
<thead>
<tr>
<th>Attorney’s Oath</th>
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</thead>
<tbody>
<tr>
<td>I, ____________, swear that I will truly and honestly, justly, and uprightly demean myself, according to the laws, as an attorney, counselor, and solicitor, and that I will support and defend the Constitution of the United States and the Constitution of the State of Georgia. So help me God.</td>
</tr>
</tbody>
</table>

In 2002, at the request of then-State Bar President George E. Mundy, the Committee on Professionalism was asked to revise the Oath of Admission to make the wording more relevant to the current practice of law, while retaining the original language calling for lawyers to “truly and honestly, justly and uprightly” conduct themselves. The revision was approved by the Georgia Supreme Court in 2002.
OATH OF ADMISSION
TO THE STATE BAR OF GEORGIA

“I,___________________, swear that I will truly and honestly, justly and uprightly conduct myself as a member of this learned profession and in accordance with the Georgia Rules of Professional Conduct, as an attorney and counselor and that I will support and defend the Constitution of the United States and the Constitution of the State of Georgia. So help me God.”

As revised by the Supreme Court of Georgia, April 20, 2002
APPENDIX D

A LAWYER’S CREED

To my clients, I offer faithfulness, competence, diligence, and good judgment. I will strive to represent you as I would want to be represented and to be worthy of your trust.

To the opposing parties and their counsel, I offer fairness, integrity, and civility. I will seek reconciliation and, if we fail, I will strive to make our dispute a dignified one.

To the courts, and other tribunals, and to those who assist them, I offer respect, candor, and courtesy. I will strive to do honor to the search for justice.

To my colleagues in the practice of law, I offer concern for your welfare. I will strive to make our association a professional friendship.

To the profession, I offer assistance. I will strive to keep our business a profession and our profession a calling in the spirit of public service.

To the public and our systems of justice, I offer service. I will strive to improve the law and our legal system, to make the law and our legal system available to all, and to seek the common good through the representation of my clients.
APPENDIX E

ASPIRATIONAL STATEMENT ON PROFESSIONALISM

The Court believes there are unfortunate trends of commercialization and loss of professional community in the current practice of law. These trends are manifested in an undue emphasis on the financial rewards of practice, a lack of courtesy and civility among members of our profession, a lack of respect for the judiciary and for our systems of justice, and a lack of regard for others and for the common good. As a community of professionals, we should strive to make the internal rewards of service, craft, and character, and not the external reward of financial gain, the primary rewards of the practice of law. In our practices we should remember that the primary justification for who we are and what we do is the common good we can achieve through the faithful representation of people who desire to resolve their disputes in a peaceful manner and to prevent future disputes. We should remember, and we should help our clients remember, that the way in which our clients resolve their disputes defines part of the character of our society and we should act accordingly.

As professionals, we need aspirational ideals to help bind us together in a professional community. Accordingly, the Court issues the following Aspirational Statement setting forth general and specific aspirational ideals of our profession. This statement is a beginning list of the ideals of our profession. It is primarily illustrative. Our purpose is not to regulate, and certainly not to provide a basis for discipline, but rather to assist the Bar’s efforts to maintain a professionalism that can stand against the negative trends of commercialization and loss of community. It is the Court’s hope that Georgia’s lawyers, judges, and legal educators will use the following aspirational ideals to reexamine the justifications of the practice of law in our society and to consider the implications of those justifications for their conduct. The Court feels that enhancement of professionalism can be best brought about by the cooperative efforts of the organized bar, the courts, and the law schools with each group working independently, but also jointly in that effort.
APPENDIX E

GENERAL ASPIRATIONAL IDEALS

As a lawyer, I will aspire:

(a) To put fidelity to clients and, through clients, to the common good, before selfish interests.

(b) To model for others, and particularly for my clients, the respect due to those we call upon to resolve our disputes and the regard due to all participants in our dispute resolution processes.

(c) To avoid all forms of wrongful discrimination in all of my activities including discrimination on the basis of race, religion, sex, age, handicap, veteran status, or national origin. The social goals of equality and fairness will be personal goals for me.

(d) To preserve and improve the law, the legal system, and other dispute resolution processes as instruments for the common good.

(e) To make the law, the legal system, and other dispute resolution processes available to all.

(f) To practice with a personal commitment to the rules governing our profession and to encourage others to do the same.

(g) To preserve the dignity and the integrity of our profession by my conduct. The dignity and the integrity of our profession is an inheritance that must be maintained by each successive generation of lawyers.

(h) To achieve the excellence of our craft, especially those that permit me to be the moral voice of clients to the public in advocacy while being the moral voice of the public to clients in counseling. Good lawyering should be a moral achievement for both the lawyer and the client.

(i) To practice law not as a business, but as a calling in the spirit of public service.
APPENDIX E

SPECIFIC ASPIRATIONAL IDEALS

As to clients, I will aspire:

(a) To expeditious and economical achievement of all client objectives.

(b) To fully informed client decision-making.
   As a professional, I should:
   (1) Counsel clients about all forms of dispute resolution;
   (2) Counsel clients about the value of cooperation as a means towards the productive resolution of disputes;
   (3) Maintain the sympathetic detachment that permits objective and independent advice to clients;
   (4) Communicate promptly and clearly with clients; and,
   (5) Reach clear agreements with clients concerning the nature of the representation.

(c) To fair and equitable fee agreements.
   As a professional, I should:
   (1) Discuss alternative methods of charging fees with all clients;
   (2) Offer fee arrangements that reflect the true value of the services rendered;
   (3) Reach agreements with clients as early in the relationship as possible;
   (4) Determine the amount of fees by consideration of many factors and not just time spent by the attorney;
   (5) Provide written agreements as to all fee arrangements; and,
   (6) Resolve all fee disputes through the arbitration methods provided by the State Bar of Georgia.

(d) To comply with the obligations of confidentiality and the avoidance of conflicting loyalties in a manner designed to achieve the fidelity to clients that is the purpose of these obligations.

As to opposing parties and their counsel, I will aspire:

(a) To cooperate with opposing counsel in a manner consistent with the competent representation of all parties.
   As a professional, I should:
   (1) Notify opposing counsel in a timely fashion of any cancelled appearance;

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(2) Grant reasonable requests for extensions or scheduling changes; and,
(3) Consult with opposing counsel in the scheduling of appearances, meetings, and depositions.

(b) To treat opposing counsel in a manner consistent with his or her professional obligations and consistent with the dignity of the search for justice.

As a professional, I should:
(1) Not serve motions or pleadings in such a manner or at such a time as to preclude opportunity for a competent response;
(2) Be courteous and civil in all communications;
(3) Respond promptly to all requests by opposing counsel;
(4) Avoid rudeness and other acts of disrespect in all meetings including depositions and negotiations;
(5) Prepare documents that accurately reflect the agreement of all parties; and,
(6) Clearly identify all changes made in documents submitted by opposing counsel for review.

As to the courts, other tribunals, and to those who assist them, I will aspire:

(a) To represent my clients in a manner consistent with the proper functioning of a fair, efficient, and humane system of justice.

As a professional, I should:
(1) Avoid non-essential litigation and non-essential pleading in litigation;
(2) Explore the possibilities of settlement of all litigated matters;
(3) Seek non-coerced agreement between the parties on procedural and discovery matters;
(4) Avoid all delays not dictated by a competent presentation of a client’s claims;
(5) Prevent misuses of court time by verifying the availability of key participants for scheduled appearances before the court and by being punctual; and,
(6) Advise clients about the obligations of civility, courtesy, fairness, cooperation, and other proper behavior expected of those who use our systems of justice.
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(b) To model for others the respect due to our courts.
   As a professional I should:
   (1) Act with complete honesty;
   (2) Know court rules and procedures;
   (3) Give appropriate deference to court rulings;
   (4) Avoid undue familiarity with members of the judiciary;
   (5) Avoid unfounded, unsubstantiated, or unjustified public criticism of
       members of the judiciary;
   (6) Show respect by attire and demeanor;
   (7) Assist the judiciary in determining the applicable law; and,
   (8) Seek to understand the judiciary’s obligations of informed and impartial
       decision-making.

As to my colleagues in the practice of law, I will aspire:

(a) To recognize and to develop our interdependence;

(b) To respect the needs of others, especially the need to develop as a whole person;
    and,

(c) To assist my colleagues become better people in the practice of law and to accept
    their assistance offered to me.

As to our profession, I will aspire:

(a) To improve the practice of law.
   As a professional, I should:
   (1) Assist in continuing legal education efforts;
   (2) Assist in organized bar activities; and,
   (3) Assist law schools in the education of our future lawyers.

(b) To protect the public from incompetent or other wrongful lawyering.
   As a professional, I should:
   (1) Assist in bar admissions activities;
   (2) Report violations of ethical regulations by fellow lawyers; and,
   (3) Assist in the enforcement of the legal and ethical standards imposed upon
       all lawyers.

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As to the public and our systems of justice, I will aspire:

(a) To counsel clients about the moral and social consequences of their conduct.

(b) To consider the effect of my conduct on the image of our systems of justice including the social effect of advertising methods.

As a professional, I should ensure that any advertisement of my services:
(1) is consistent with the dignity of the justice system and a learned profession;
(2) provides a beneficial service to the public by providing accurate information about the availability of legal services;
(3) educates the public about the law and legal system;
(4) provides completely honest and straightforward information about my qualifications, fees, and costs; and,
(5) does not imply that clients’ legal needs can be met only through aggressive tactics.

(c) To provide the pro bono representation that is necessary to make our system of justice available to all.

(d) To support organizations that provide pro bono representation to indigent clients.

(e) To improve our laws and legal system by, for example:

(1) Serving as a public official;
(2) Assisting in the education of the public concerning our laws and legal system;
(3) Commenting publicly upon our laws; and,
(4) Using other appropriate methods of effecting positive change in our laws and legal system.

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Honoring Georgia’s Lawyers

I sincerely hope the Commission on Professionalism’s work will honor Georgia’s lawyers for what they do each day and will help each lawyer to become consummate professionals while they do the tireless and often thankless work of representing clients.

BY KARLISE Y. GRIER

In June of 2018, I was shaken to the core when I learned of the death of attorney Antonio Mari. I did not personally know Mari, a family law attorney who was murdered by a client’s ex-husband. I had, however, as a former family law attorney of almost 18 years, personally experienced the dynamics that caused his death: enmity, anger, retribution and a myriad of other vitriolic emotions directed at you as a lawyer (by opposing parties or clients) because you are striving to do your job to the best of your ability. I wanted to take a moment in this article to pay tribute to Mari and to honor the thousands of other Georgia lawyers who are just like him, men and women who toil in the trenches every day—putting their clients interests above their own personal well-being—as they strive to provide exemplary service and excellent representation. I also wanted to commend the wonderful professionalism example set by the Bartow County Bar Association, which stepped up in the midst of this horrible tragedy to divide up and take Mari’s cases and to help close down his law practice.
According to the Daily Report, Mari was afraid of the pro se opposing party who ultimately killed him. Nevertheless, Mari fulfilled his legal obligations to his client and obtained a final divorce decree for the client less than two hours before his client’s ex-husband shot him to death. This balance of client interests versus personal interests is not always played out as dramatically as in Mari’s case, but it is always there. Do you go to your child’s soccer practice or do you first finish the brief that is due tomorrow? Do you take time to go for a walk or a run or do you take that early morning meeting with a client who can’t take time off from their work as an hourly employee? Do you tell the pro bono client you are meeting with they have to leave your office and reschedule (knowing they most likely won’t) because they reek of cigarette smoke and you have asthma? Do you file a motion to withdraw well in advance of trial or do you take the chance the client will pay you “in installments” as promised, knowing the client really needs a lawyer in this custody battle?

Each day, Georgia lawyers are called upon to make choices, large and small, that force them to balance their personal well-being against the interests of their clients. Striking the “correct” balance is at the heart of what we call “professionalism.” One of the first quotes I came across when I started as executive director of the Chief Justice’s Commission on Professionalism was from Karl N. Llewellyn, a jurisprudential scholar who taught at Yale, Columbia and the University of Chicago Law Schools. Prof. Llewellyn cautioned his students:

The lawyer is a [person] of many conflicts. More than anyone else in our society, he [or she] must contend with competing claims on his [or her] time and loyalty. You must represent your client to the best of your ability, and yet never lose sight of the fact that you are an officer of the court with a special responsibility for the integrity of the legal system. You will often find, brethren and sisteer, that those professional duties do not sit easily with one another. You will discover, too, that they get in the way of your other obligations— to your conscience, your God, your family, your partners, your country and all the other perfectly good claims on your energies and hearts. You will be pulled and tugged in a dozen directions at once. You must learn to handle those conflicts.

I hope that, under my stewardship, the Chief Justice’s Commission on Professionalism will honor Georgia’s lawyers by ensuring CLE providers offer outstanding programming regarding professionalism concepts that give lawyers the opportunity to discuss the challenges (and sometimes joys) of practicing law. I look forward to continuing to recognize the amazing community service work of lawyers and judges at the Justice Robert Benham Awards for Community Service. I hope that the Commission’s convocations, such as the 2018 Convocation on Professionalism and the Global Community, will continue to explore cutting-edge issues in the legal profession. I hope the Commission’s work will help to embolden lawyers to stand courageously for the rule of law in our country and to provide guidance to lawyers on how to do so thoughtfully and with integrity. I look forward to the Commission’s continued partnership with the State Bar of Georgia Committee on Professionalism and with Georgia’s law schools as we strive to introduce law students to professionalism concepts during the Law School Orientations on Professionalism.

Too often, I think our profession focuses on the “bad” things for which lawyers may be known. I truly believe most lawyers are good, hard working men and women who want to do the best job they can for their clients in return for fair payment for their work. During my stewardship as executive director of the Commission, it is my goal to focus on and cultivate the good and the goodness in our profession that often happens without notice or comment. I am eager to help us all (myself included) grow to be the best professionals we can be. I sincerely hope the Commission’s work will honor Georgia’s lawyers for what they do each day and will help each lawyer to become consummate professionals while they do the tireless and often thankless work of representing clients.

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Endnotes


2. See Id.

3. To learn more about how Georgia defines professionalism, see A Lawyer’s Creed and the Aspirational Statement on Professionalism at: http://cjcpga.org/lawyers-creed/ (last visited August 10, 2018).

The Importance of Lawyers Abandoning the Shame and Stigma of Mental Illness

One tenet of the Chief Justice’s Commission on Professionalism’s “A Lawyer’s Creed” is “To my colleagues in the practice of law, I offer concern for your welfare.” If you are aware of a colleague that may be experiencing difficulties, ask questions and offer to help them contact the Lawyer Assistance Program for help.

BY MICHELLE BARCLAY

January is the month when Robin Nash, my dear friend and lawyer colleague, godfather to my child, officiate for my brother’s marriage and former director of the Barton Center at Emory University, left the world. Positive reminders of him are all around, including a child law and policy fellowship in his name, but January is a tough month.

Robin’s suicide, 12 years ago, was a shock to me. As time passed and I heard stories about Robin from others who knew him and I learned more about suicide, I can see in hindsight the risk looming for him. Today, I think his death was possibly preventable.

In 2006, Robin wrote this essay about himself for Emory’s website

“Robin Nash, age 53, drew his first breath, attended college and law school and now works at Emory University. He loves to travel to places like Southeast Asia and the Middle East but he always returns home to Emory and his hometown of Decatur. Robin majored in Economics and Mathematics. He began his law practice in 1980 in Decatur surviving mostly on court appointed cases for mentally ill patients in commitment hearings. His practice expanded to working with institutionalized developmentally delayed clients, special education cases, wills and estate litigation and representing banks in the hugely interesting area of commercial real estate closings.

In 1995, he was appointed as a juvenile court judge in DeKalb County. He resigned from the bench effective December 2005. He sold most of his personal belongings, paid off his remaining debts and moved overseas to think and travel. After thinking and traveling for three months, he returned to the active world of Decatur. He was appointed director of the Barton Clinic effective April 15, 2006.”

When Robin came back from traveling, he told his friends—"I can be more impactful here."—which was and is true. Robin’s impact continues today through the work of young lawyers serving as Robin Nash Fellows and through the lives of the thousands of mothers, fathers, daughters and sons he touched, helping people traumatized by child abuse, neglect, addiction and crime.

He was impactful in part because he had so much empathy for others. He was
well regarded and well loved. He was a person you could count on who did extraordinary things for others—helping a student obtain a TPO in the middle of the night to stop a stalker; quietly helping a refugee family get stable and connected to services; and of course, his consistent care of his friend Vinny. Vinny was a severely disabled adult Robin befriended and with whom he had a deep connection. Because he was a lawyer, Robin was able to help Vinny obtain full access to available medical services without being institutionalized.

So why did Robin leave? He lost his battle with mental illness. He masked it well and as a private person, did not share his struggles. His friends had some insight into his struggles but it was always complicated. While a judge, Robin was known for saying things like, “I am a manager of misery” or “I manage the competition not to serve the most vulnerable families and children.” But he also said, “Talk like this is just dark humor which is a useful coping mechanism for an emotionally draining job.”

I know today that a low serotonin level in his body was dangerous for his depression and that the medications he took waxed and waned in effectiveness. I also now know that he had not slept well for days before he acted. We’d had a work meeting the day before he died where he made a long ‘to do’ list. Who makes a long ‘to do’ list when one is contemplating suicide? Plenty of people, I have learned. I saw that ‘to do’ list on his table when I was in his apartment after his death.

What could have helped? Abandoning the shame and stigma of mental illness is a good start. I have been heartened by the changes in our culture and the movement to get people to speak up about mental illness. A safety plan shared with a reasonably wide network of people can also help. Antidepressant medications can help. Recent studies about anti-depression drugs "puts to bed the controversy on anti-depressants, clearly showing that these drugs do work in lifting mood and helping most people with depression." Science is advancing better treatments at a rapid pace. And some experts advise that directly asking whether a person has considered killing themselves can open the door to intervention and saving a life.

Before becoming a lawyer, I worked as a nurse in a variety of settings at both Grady and Emory hospitals. I saw attempted suicides. I witnessed a number of those people who were grateful they were not successful. I saw safety plans work when enough people knew about the risks. Sometimes, medications were changed, new treatments tried and I saw people get better.

I feel like with my background I could have and should have probed Robin more. But at the time, I thought I was respecting his privacy by not asking too many questions. Today I know that a person can be fine one day and then chemicals in their brain can wildly change within 24 hours, and they’re no longer ok. I learned that not sleeping can be deadly. I have also learned that just talking about it can help a person cope.

A book that has helped me is called “Stay: A History of Suicide and the Philosophies Against It,” by Jennifer Michael Hecht. If I had a second chance, I would try to use some of the arguments in that book, such as:

None of us can truly know what we mean to other people, and none of us can know what our future self will experience. History and philosophy ask us to remember these mysteries, to look around at friends, family, humanity, at the surprises life brings—the endless possibilities that living offers—and to persevere.

Of course, first I would have just asked about his mental health with love and listened. I still wish for that chance to try.

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**Endnotes**

Promoting a Professional Culture of Respect and Safety #MeToo

In keeping with our professionalism aspirations, I challenge you to take a proactive, preventative approach to sexual harassment and to start the discussions . . . about things we as lawyers can do to promote a professional culture of respect and safety to prevent #MeToo.

BY KARLISE Y. GRIER

“There is no doubt that Marley was dead. This must be distinctly understood, or nothing wonderful can come of the story I am going to relate.”—Excerpt from: “A Christmas Carol” by Charles Dickens.

To borrow an idea from an iconic writer: There is no doubt that #MeToo testimonials are real. This must be distinctly understood, or nothing wonderful can come of the ideas I am going to share.

I start with this statement because when I co-presented on behalf of the Chief Justice’s Commission on Professionalism at a two-hour seminar on Ethics, Professionalism and Sexual

#MeToo
Harassment at the University of Georgia (UGA) in March 2018, it was clear to me that men and women, young and old, question some of the testimonials of sexual harassment that have recently come to light. For the purposes of starting a discussion about preventing future #MeToo incidents in the Georgia legal profession, I ask you to assume, arguendo, that sexual harassment does occur and to further assume, arguendo, that it occurs in Georgia among lawyers and judges.1 Our attention and discussion must therefore turn to “How do we prevent it?” We won’t expend needless energy on “Is he telling the truth?” We won’t lament, “Why did she wait so long to come forward?”

First, I want to explain why I believe that sexual harassment in the legal profession is, in part, a professionalism issue. As Georgia lawyers, we have A Lawyer’s Creed and an Aspirational Statement on Professionalism that was approved by the Supreme Court of Georgia in 1990.2 One tenet of A Lawyer’s Creed states: “To my colleagues in the practice of law, I offer concern for your welfare. I will strive to make our association a professional friendship.”

Frankly, it is only a concern for the welfare of others that in many cases will prevent sexual harassment in the legal profession because of “gaps” in the law and in our ethics rules. For example, under federal law, sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. Title VII applies to employers with 15 or more employees.3 According to a 2016 article on lawyer demographics, three out of four lawyers are working in a law firm that has two to five lawyers working for it.4 In Georgia, there are no state laws similar to Title VII’s statutory scheme.

There is currently nothing in Georgia’s Rules of Professional Conduct that explicitly prohibits sexual harassment of a lawyer by another lawyer.5 Moreover, it is my understanding that generally the Office of the General Counsel will not prosecute a lawyer for alleged lawyer-on-lawyer sexual harassment absent a misdemeanor or felony criminal conviction, involving rape, sexual assault, battery, moral turpitude and other similar criminal behavior.6 Other circumstances in which laws or ethics rules may not apply include sexual harassment of lawyers by clients or sexual harassment that occurs during professional events, such as bar association meetings or continuing education seminars.7

Former Georgia Chief Justice Harold Clarke described the distinction between ethics and professionalism as . . . the idea that ethics is a minimum standard which is required of all lawyers while professionalism is a higher standard expected of all lawyers. Therefore, in the absence of laws and ethical rules to guide our behavior, professionalism aspirations call on Georgia lawyers to consider and implement a professional culture of respect and safety that ensures zero tolerance for behavior that gives rise to #MeToo testimonials.8

practical advice for legal employers to address or to prevent sexual harassment.\(^9\)

Some of the suggestions included: establishing easy and inexpensive ways to detect sexual harassment, such as asking about it in anonymous employee surveys and/or exit interviews; not waiting for formal complaints before responding to known misconduct; and discussing the existence of sexual harassment openly.\(^10\)

The federal judiciary’s working group on sexual harassment has many reforms that are currently underway, such as conducting a session on sexual harassment during the ethics training for newly appointed judges; reviewing the confidentiality provisions in several employee/law clerk handbooks to clarify that nothing in the provisions prevents the filing of a complaint; and clarifying the data that the judiciary collects about judicial misconduct complaints to add a category for any complaints filed relating to sexual misconduct.\(^11\) For those planning CLE or bar events, the American Bar Association Commission on Women in the Profession cautions lawyers to “be extremely careful about excessive use of alcohol in work/social settings.”\(^12\)

During our continuing legal education seminar at UGA, one of the presenters, Erica Mason, who serves as president of the Hispanic National Bar Association (HNBA), shared that HNBA has developed a “HNBA Conference Code of Conduct” that states in part: “The HNBA is committed to providing a friendly, safe, supportive and harassment-free environment for all conference attendees and participants. . . . Anyone violating these rules may be sanctioned or expelled from the conference without a registration refund, at the discretion of HNBA Leadership.”\(^13\) Mason also shared that the HNBA has signs at all of its conferences that reiterate the policy and that provide clear instructions on how anyone who has been subjected to the harassment may report it. In short, you don’t have to track down a procedure or figure out what to do if you feel you have been harassed.

Overall, some of the takeaways from our sexual harassment seminar at UGA provide a good starting point for discussion about how we as lawyers should aspire to behave. Generally, our group agreed that women and men enjoy appropriate compliments on their new haircut or color, a nice dress or tie, or a general “You look nice today.” Admittedly, however, an employment lawyer might say that even this is not considered best practice.

Many of the seminar participants agreed on some practical tips, however. Think twice about running your fingers through someone’s hair or kissing a person on the cheek. Learn from others’ past mistakes and do not intentionally pat or “flick” someone on the buttocks even if you mean it as a joke and don’t intend for it to be offensive or inappropriate.\(^14\)

In our professional friendships, we want to leave room for the true fairy-tale happily ever after endings, like that of Barack and Michelle, who met at work when she was an associate at a law firm and he was a summer associate at the same firm.\(^15\) We also need to ensure that our attempts to prevent sexual harassment do not become excuses for failing to mentor attorneys of the opposite sex.

Finally, just because certain behaviors may have been tolerated when you were a young associate, law clerk, etc., does not mean the behavior is tolerated or accepted today. Professionalism demands that we constantly consider and re-evaluate the rules that should govern our behavior in the absence of legal or ethical mandates. Our small group at UGA did not always agree on what was inappropriate conduct or on the best way to handle a situation. We did all agree that the conversation on sexual harassment was valuable and necessary.

So in keeping with our professionalism aspirations, I challenge you to take a proactive, preventative approach to sexual harassment and to start the discussions in your law firm, corporate legal department, court system and/or bar association about things we as lawyers can do to promote a professional culture of respect and safety to prevent MeToo.

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**Endnotes**


5. The Georgia Code of Judicial Conduct differs from the Georgia Rules of Professional Conduct in that Rule 2.3 (b) of the Code of Judicial Conduct specifically prohibits discrimination by a judge in the performance of his or her judicial duties. See https://
Convocation on Professionalism and the Global Community

The purpose of the Convocation was to model professionalism while discussing a high-conflict issue and to demonstrate the ways in which attorneys have implemented “A Lawyer’s Creed” and the “Aspirational Statement” in their work with the global community.

BY LESLIE E. STEWART

On Nov. 30, 2018, the Chief Justice’s Commission on Professionalism (the Commission) held its Convocation on Professionalism (the Convocation) at Atlanta’s Porsche Experience Center. This year, the Convocation theme was Professionalism and the Global Community, which focused on the professionalism values of competence, civility, character, and commitment to the rule of law and the public good. The purpose of the Convocation was to model professionalism while discussing a high-conflict issue and to demonstrate the ways in which attorneys have implemented “A Lawyer’s Creed” and the “Aspirational Statement” in their work with the global community. The event, which was sponsored by Squire Patton Boggs, Miller & Martin PLLC and Alston & Bird LLP, was well-received by the attendees. The speakers included an array of notables and dignitaries with ties to Georgia, beginning with Supreme Court of Georgia Chief Justice Harold D. Melton, who urged the attendees to demonstrate professionalism through service to their community, a key element of “A Lawyer’s Creed” and the “Aspirational Statement.”
The first panel, “Overview of the Global Community in Georgia,” was facilitated by Javier Díaz de León, Consul General of Mexico. Two judges, Hon. Meng H. Lim, Tallapoosa Circuit Superior Court, and Hon. Dax E. Lopez, DeKalb County State Court, spoke movingly about how their judicial careers have been influenced by their experiences of straddling two cultures. Abby Turano, deputy commissioner for International Relations, Georgia Department of Economic Development, explained how and why Georgia welcomes foreign businesses to Georgia.

The second panel, “A View from General Counsels of Companies Doing International Business,” was moderated by Shelby S. Guilbert Jr. from King & Spalding. The panelists, including Angus M. Haig, senior vice president and general counsel for Cox Automotive, and Ricardo Nuñez, senior vice president and general counsel for Schweitzer-Mauduit International, described their challenges and how core values affect their roles as international general counsels. Audrey Boone Tillman, executive vice president and general counsel for AFLAC, portrayed the challenges and successes of being a woman of color supervising attorneys in Japan. Joseph Folz, vice president, general counsel and secretary for Porsche Cars North America, shared his experiences working for a German-based company.

The third panel, “The Business Pros and Cons of Developing a Formal Working Relationship with an International Lawyer or Law Firm,” was facilitated by Petrina A. McDaniel from Squire Patton Boggs. Tricia “CK” Hoffler, principal at The CK Hoffler Firm, regaled the attendees with her vivid descriptions of being threatened by automatic gunfire as a result of a cultural miscalculation while she represented an un-named government. Therese Pritchard, from Bryan Cave and Robert Tritt, Dentons US LLP, discussed the necessity of retaining competent local counsel in international cases.

The Convocation’s keynote speaker, Randolph “Randy” Evans, U.S. Ambassador to Luxembourg, described his humble beginnings in Georgia and how the values instilled in him by his family continue to influence the way in which he deals with his professional duties—of treating each person with respect and dignity.

After lunch, the next panel, “What Lawyers Need to Know about Labor Trafficking,” focused on the darker side of doing business in the global community. The moderator, Hon. Richard Story, judge, U.S. District Court, Northern District of Georgia, oversaw a lively discussion between Norm Brothers, senior vice president and general counsel for UPS; Susan Coppedge, former U.S. Ambassador-at-Large, the Office to Monitor and Combat Trafficking in Persons, and senior advisor to the Secretary of State (Ret.); and Jay Doyle of Lewis Brisbois Bisgaard & Smith LLP. This panel focused on the way in which government and private business have collaborated to combat the scourge of human trafficking.

The attendees were then treated to a presentation on “An Overview of Professionalism in Immigration Cases” by James McHenry, director of the Executive Office for Immigration Review at the Department of Justice, who unpacked the complex hearing procedures surrounding this timely topic.

The second afternoon panel, “Emerging Issues and Pro Bono Opportunities for Attorneys as a Result of Changes in Immigration Laws,” was moderated by Phil Sandick from Alston & Bird. The panelists were Audra Dial from Kilpatrick Townsend & Stockton, Jorge Andres Gavilanes from Kuck Baxter, Monica Khant, executive director of the Georgia Asylum and Immigration Network, and Willis Linton Miller from The Latin American Association. During this panel, the speakers touched on the need for pro bono assistance on these important cases due to an upsurge in work and the consequent burnout on the part of those working full time in this area.

The final panel of the day, “Ethics, Regulatory and Procedural Issues in International Practice,” was facilitated by Shelby R. Grubbs, from Miller & Martin. Along with Paula Frederick, general counsel of the State Bar of Georgia and Ben Greer Jr., retired partner at Alston & Bird, the presenters discussed the competing ethical standards that attorneys must negotiate in international work and the necessity of adhering to Georgia standards regardless of cultural or ethical differences.

The Convocation offered a marvelous opportunity for in-person attendees to learn about how the principles of professionalism impact our legal work in the global community. Commission member Hon. Carla McMillian, Court of Appeals of Georgia, tweeted throughout the day at @cjcpga in English and Spanish with the help of Commission member Maria F. Mackay, a Georgia certified interpreter who provided Spanish interpretations of the proceedings for McMillian to tweet. Commission advisor Jennifer Davis and Commission liaison Dee Dee Worley provided invaluable “behind the scenes” staff assistance for the event throughout the day.

The Commission staff was grateful for the support of the Commission members and other Convocation contributors and planners who provided invaluable assistance for this immensely successful Convocation. More information about the Convocation and other upcoming Commission events, including the 20th Annual Justice Robert Benham Awards for Community Service, is available on the Commission’s website at www.cjcpga.org.

Leslie E. Stewart is a child welfare attorney and has served as a Supreme Court Fellow on Georgia’s Cold Case project since March 2009 and is also a contractor with the Chief Justice’s Commission on Professionalism.
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<td>Mr. Jeffrey Reese Davis</td>
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<td>2020</td>
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<tr>
<td>Ms. Michelle E. West</td>
<td>Staff Liaison</td>
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Every “active” attorney in Georgia must attend 12 “approved” CLE hours of instruction annually, with one of the CLE hours being in the area of legal ethics and one of the CLE hours being in the area of professionalism. Furthermore, any attorney who appears as sole or lead counsel in the Superior or State Courts of Georgia in any contested civil case or in the trial of a criminal case in 1990 or in any subsequent calendar year, must complete for such year a minimum of three hours of continuing legal education activity in the area of trial practice. These trial practice hours are included in, and not in addition to, the 12 hour requirement. ICLE is an “accredited” provider of “approved” CLE instruction.

Excess creditable CLE hours (i.e., over 12) earned in one CY may be carried over into the next succeeding CY. Excess ethics and professionalism credits may be carried over for two years. Excess trial practice hours may be carried over for one year. A portion of your ICLE name tag is your ATTENDANCE CONFIRMATION which indicates the program name, date, amount paid, CLE hours (including ethics, professionalism and trial practice, if any) and should be retained for your personal CLE and tax records. DO NOT SEND THIS CARD TO THE COMMISSION!

ICLE will electronically transmit computerized CLE attendance records directly into the Official State Bar Membership computer records for recording on the attendee’s Bar record. Attendees at ICLE programs need do nothing more as their attendance will be recorded in their Bar record.

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