

**COMMITTEE ON THE STANDARDS OF THE PROFESSION
STATE BAR OF GEORGIA**



**TRANSITION INTO LAW PRACTICE PROGRAM
PILOT PROJECT**

January 1, 2000 - December 31, 2001

BACKGROUND AND HISTORY OF THE PILOT PROJECT

The Committee on the Standards of the Profession was appointed in 1996 by then Bar President Benjamin F. Easterlin IV. Composed of lawyers from across the state, as well as the deans of the four ABA-accredited Georgia law schools, the Committee was charged with investigating and reporting to the Board of Governors as to whether the State Bar should require beginning lawyers to complete a period of internship or other supervised work prior to admission to membership in the State Bar.

The Committee studied internship, apprenticeship, and courses for newly admitted lawyers in other states, as well as the clerkship requirements in Canada and England where law graduates clerk in chambers and learn by doing under the eye of a senior attorney before being licensed. The Committee also studied other professions in the United States that require periods of internship before new members gain full entry into those professions.

After extensive study, the Committee unanimously recommended against proposing mandatory clerkships or internships as a condition for admitting new lawyers to the practice of law. The reasons were:

- (1) Approximately 1,200 people begin law practice in Georgia each year. (This number is based on the average number of lawyers attending the mandatory Bridge-the-Gap Program for each of the past four years.) Arranging 1200 new internships each year while assuring a high-quality, uniform learning experience for all interns would be a daunting task;

- (2) Imposing on those emerging from four years of college and three years of law school, often with significant debt, an extended one or two year period in a low-paying internship seemed unfair; and
- (3) Improving the transition into practice for beginning lawyers can be accomplished without resorting to such mandatory internships.

Attempting to use the most effective features of the internships, clerkships, and courses for newly admitted lawyers and to avoid the attendant problems, the Committee found a middle ground by recommending a program that no one else had tried. This distinctive program combined two familiar components: continuing legal education and mentoring. A Pilot Project was proposed to test whether a program creating a new synergy between the components of mentoring and continuing legal education could be delivered that would effectively convey to beginning lawyers the practical skills and professional values that only experience teaches.

The Standards Committee made its report to the Board of Governors in June, 1997. The Board responded by passing a unanimous resolution authorizing the Pilot Project recommended in the Committee's Report. It is significant that the Executive Council of the State Bar's Young Lawyers Division also voted unanimously to approve the Report and Project. The Supreme Court of Georgia authorized the Project. At the suggestion of then Chief Justice Robert Benham, the Committee decided to extend the Project over four years, with the first two years being devoted to securing funding and resolving preliminary issues and the remaining two years being spent in conducting a Pilot Project that combined a continuing legal education curriculum and a mentoring component.

Early on, the Committee realized that prior to assigning mentors and mentees, it would have to address a host of issues, including securing funds, clarifying the impact of the program

on law school curricula, resolving the issue of possible mentor liability for the acts of beginning lawyers, and seeking the support of bar groups and judicial organizations. To deal with these issues, the members of the Committee divided into the following subcommittees: Finance, Mentor Recruitment and Selection, Mentors' Work, Mentee Recruitment and Selection, Curriculum, Evaluation, and Special Issues.

Funding for the Pilot Project was provided by grants from the State Bar of Georgia, the Georgia Bar Foundation, the Institute of Continuing Legal Education in Georgia, the Chief Justice's Commission on Professionalism, and the Open Society Institute, a charitable foundation established by philanthropist George Soros to improve the administration of justice.

The Pilot Project was based on the recognition that, despite the addition of clinical experience as a regular feature of legal education, law schools cannot carry the entire responsibility of preparing lawyers for the practice of law. The Project also recognized that a beginning lawyer's ethical values are likely to be tested and shaped far more by on-the-job experience in the early years of practice than by the limited practice setting available in law school. The Committee's Report acknowledged that the State Bar and its individual members have a professional obligation to assist beginning lawyers in acquiring the practical skills, seasoned judgment, and sensitivity to ethical and professional values necessary to practice law in a highly competent manner.

A publicly spirited group of experienced lawyers and new lawyers agreed to volunteer to participate in the Pilot Project. To test the feasibility of the Pilot Project's concept, beginning lawyers guided by their mentors undertook to complete the curriculum offerings of the Project and the interchange with their mentors during the first two years after admission to practice in lieu of attending the regular Bridge-the-Gap program.

KEY FEATURES OF THE PILOT PROJECT**Mentorships**

The Committee, in consultation with the professional research firm engaged to evaluate the Pilot Project, decided that a Pilot Project should include at least 100 mentorships. This meant that the Project provided each participating beginning lawyer with access to meaningful counsel and professional guidance from an experienced lawyer mentor. To link continuing legal education with the mentoring component, a recommended Schedule of Activities and Experiences was developed as a guide for the mentors and beginning lawyers. The Schedule of Activities and Experiences included:

- introductions to the local legal community
- dialogues on ethics and professionalism
- overview of law practice management
- guidance on relationships with clients, other lawyers, the Judiciary, and the public
- approaches to client counseling and negotiations
- observations of advocacy experiences (trials, depositions, appellate arguments, administrative hearings, mediations, and arbitrations).

To attend to the dynamics of the mentoring component, each member of the Standards Committee was assigned to monitor several mentorships. This arrangement served to support the mentoring component and to keep members of the Committee apprised of the progress of the Project.

Curriculum

The two-year curriculum focused on teaching practical skills, professional values and the mechanics of exercising sound professional judgment in a lawyer's relationships with his or her clients, the courts, other lawyers, the legal system, and the public.

The continuing legal education curriculum served to lay a foundation of topics and information to enable the mentors to extend training and practical guidance in one-on-one or small group discussions. The First Year Curriculum consisted of 18 hours of instruction delivered in 3 units of 6 hours each in three day-long seminars spaced over the calendar year. Instruction in the first-year seminars focused on laying a base of practical skills and judgments and were grouped as follows:

Session I *Dealing with your Client: The Lawyer as Counselor*

Session II: *Acting for Your Client: The Lawyer as Advocate and Architect of Future Conduct*

Session III *Negotiating for Your Client: The Lawyer as Negotiator*

Working with the staff of the Institute of Continuing Legal Education in Georgia ("ICLE"), advisory groups composed of practicing lawyers and law faculty created the First Year Curriculum. A number of experienced lawyers from around the state participated as group leaders in presenting these three programs. Under the leadership of Professor C. Ronald Ellington of the University of Georgia, Professor A. James Elliott of Emory University, Professors Marjorie L. Girth and Douglas H. Yarn of Georgia State University, Professor Jack L. Sammons of Mercer University, and Professor Alexander Scherr of the University of Georgia made significant contributions to the development and presentation of the First-Year Curriculum.

The Second Year Curriculum gave beginning lawyers the opportunity to select 12 hours of continuing legal education ("CLE") in practice areas of interest to them through an elective

curriculum. Certain programs from the ICLE's regular offerings during 2001 were designated for inclusion in the Pilot Project, and beginning lawyers were asked to choose two electives for a total of 12 CLE hours from one or more of the following subject areas: Civil Litigation, Criminal Litigation, Corporate Transactions, General Practice, Law Practice Management, and Legal Writing. Electives were designated for the Pilot Project because of their content, quality and expected usefulness to beginning lawyers. ICLE subsidized the cost of these programs for participants in the Pilot Project.

Mentors

Mentors in the Pilot Project represented a broad cross-section of the State Bar of Georgia. The mentors were diverse in geography, law firm size and area of practice, gender, race, and ethnicity. The mentors were selected for participation in the Pilot Project based on their standing at the Bar and their reputation for character and professionalism. A Mentor Orientation was held in November, 1999 and repeated in January, 2000. A total of 84 mentors attended these sessions, which gave an overview of the Pilot Project, previewed the upcoming first year CLE programs for beginning lawyers, and offered guidance on good mentoring.

Beginning Lawyers

Selected law school graduates from the class of 1999 who passed the July 1999 Bar examination and several new admittees who had just completed judicial clerkships were invited to serve as beginning lawyers in the Pilot Project. Beginning lawyers were chosen to represent a cross section of the Bar, diverse in geography, firm size and area of practice, gender, race, and ethnicity. These lawyers were nominated for participation in the Project by their law schools or by their employers. The Standards Committee worked with the State Bar Membership

Department and Georgia law schools to achieve a percentage of mentorships in each state judicial district which approximated the percentage of State Bar members in each state judicial district.

Liability of Mentors

The Pilot Project required each mentor and beginning lawyer to carry professional liability insurance with policy limits of at least \$100,000 per claim/\$300,000 in the aggregate for each of the two years of participation in the Pilot Project (January 1, 2000 to December, 2001.) All mentors and beginning lawyers in the Project were required to sign and file with the Project an Insurance Confirmation Memorandum certifying that they had in force, and would obtain in a timely fashion, renewed or additional professional liability insurance meeting these requirements.

The Pilot Project asked mentors and beginning lawyers within the same firm to check with their regular professional liability insurance carriers to confirm coverage of mentors and beginning lawyers in Pilot Project activities. The Project warned mentors that mentoring a beginning lawyer who was not in the mentor's firm might present questions of professional liability insurance coverage. The Project suggested that these mentors check with their carriers to determine if their regular professional liability policies would cover activities as mentors of an "outside the firm Mentee" in the Pilot Project. Each mentor and beginning lawyer in an outside mentorship were required to sign and file with the Project a Continuing Legal Education Pilot Project Agreement. The purpose of this Agreement was to clarify the mentor-mentee relationship for lawyers in different firms, and to make sure that all concerned understood that the mentor was engaged solely in a continuing legal education effort that did not include giving professional advice to the mentee's clients.

The State Bar of Georgia was able to secure a policy of excess professional liability coverage for mentors in the Pilot Project. This policy covered claims against mentors arising out

of participation in the mentoring program. As of the date of this report, neither the Committee nor the State Bar has been made aware of any claims under this policy.

LAUNCHING OF THE PILOT PROJECT

In January, 2000, the Pilot Project was launched with 98 mentors and 101 beginning lawyers.¹ While most mentors and mentees were matched one-on-one, other configurations were included in the Project such that some mentors were assigned two beginning lawyers, and some beginning lawyers had two mentors. In 1996, when this Project was conceived, the Standards Committee was particularly concerned about devising a program that would provide mentors to those new lawyers who were opening practices on their own and not in association with a more experienced lawyer. By the time the Pilot Project began in 2000, the Standards Committee found that the pool of new lawyers going out on their own had grown very small. As a result, the large majority of the participants in the Pilot Project had “in firm” mentorships, i.e., the mentor and beginning lawyer worked for the same firm. Fifteen of the mentorships, however, were composed of beginning lawyers who “hung out their own shingles.” These mentors and beginning lawyers had no employment relationship with each other.

EVALUATION OF THE PROGRAM

The Pilot Project ran for two years, from January, 2000 to December, 2001. The Standards Committee recognized from the outset the importance of a thorough, careful and continuing evaluation of the Pilot Project. To accomplish this, the Committee engaged a professional research firm to perform a baseline survey at the beginning of the Project to measure

¹ Before the Pilot Project began, the Committee invited 180 seasoned members of the State Bar of Georgia to serve as mentors in the Pilot Project. Of those, 131 (73%) accepted the invitation to participate. Since the Project reached only 101 beginning lawyers, it could not include all those who volunteered to serve as mentors. This overwhelming response to the invitation to serve as mentors is a tribute to the Bar.

mentors' and beginning lawyers' attitudes on professionalism, assessments of targeted lawyering skills, and perceptions of the Pilot Project. These surveys were repeated in the middle and at the end of the Project to gauge the results of the Project.

As additional aids in assessing the Pilot Project, periodic narrative reports and completed Schedules of Activities and Experiences were collected from the mentors and beginning lawyers. The assessments of the Pilot Project are summarized below as Lessons Learned From the Pilot Project.

LESSONS LEARNED FROM THE PILOT PROJECT

The Committee on Standards of the Profession was appointed in 1996 to study whether a mandatory clerkship or internship should be completed by all beginning lawyers before admission to practice. For reasons spelled out in its May 1997 report, attached here as Appendix C, the Committee did not recommend a mandatory clerkship or internship before new lawyers begin practice. Instead, the Committee proposed a Pilot Project to test new ways to improve the transition into practice for beginning lawyers. A description of the Pilot Project, including its background and history, is attached as Appendix A.

Based on the experience gained in conducting the Pilot Project and during the course of its deliberations in more than twenty meetings, the Committee formulated certain basic considerations that should guide the design of any permanent Transition Into Law Practice Program. Combined with lessons learned from the evaluations of the Pilot Project by the participating mentors and beginning lawyers, these considerations serve as the framework and rationale for the Committee's recommendations in the Report to the Supreme Court and the State Bar of Georgia. These considerations are:

- (1) The Transition Into Practice Program should apply to *all* beginning lawyers. The need

for mentoring and professional guidance is most obvious in the case of beginning lawyers who enter practice on their own. Beginning lawyers in firms of experienced lawyers will also benefit in their development as well-rounded lawyers by a renewed emphasis on in-firm mentoring. There is good reason to believe that the economic pressures of modern law practice have reduced the time and attention that senior lawyers now spend on the training and professional development of beginning lawyers in a significant number of firms. The Pilot Project's assessment of mentoring both within and outside of existing firms taught that the Transition Into Law Practice Program should attempt to reach all beginning lawyers as they start the private practice of law. A program of high quality with uniform content should be available to all beginning lawyers.

- (2) About 1,200 people begin law practice in Georgia each year.² This large number makes it impossible for the State Bar to match individual mentors with each new lawyer or even to conduct a mandatory continuing legal education program for all beginning lawyers with close interaction between experienced lawyers and new lawyers through small breakout groups.
- (3) While a Transition Into Law Practice Program should extend to all beginning lawyers, new lawyers need not all access it in the identical way. There are relevant differences between the circumstances of new lawyers who begin practice in association with experienced lawyers and those who do not that must be considered.
- (4) Lawyers who begin careers practicing in association with an experienced lawyer or lawyers should receive the benefits of mentoring within those firms. In this employment

² This number is based on the average number of lawyers attending the mandatory Bridge-the-Gap Program for each of the last four years.

setting, a “natural” mentor is at hand. A Bar-conducted apparatus is not needed to match the beginning lawyer with a recruited mentor. While the potential for good mentoring in these settings exists, the quality and extent of mentoring varies widely. The Transition Into Law Practice Program should include measures aimed at improving the quality and consistency of mentoring for beginning lawyers in existing firms.

- (5) The best estimate is that approximately 10% of the lawyers entering practice in Georgia each year, currently about 120 - 125, begin to practice on their own rather than in association with an experienced lawyer. With a slowing economy, this number could increase, so planning should take into account that the number of lawyers starting to practice on their own may reach 175 or 200 in any given year. A top priority of any Transition Into Law Practice Program conducted by the State Bar should be to lend assistance to these new lawyers in learning the ways of experienced lawyers.
- (6) How to secure mentors for beginning lawyers who do not practice in the same firm is one of the most vexing problems to overcome. It is simply not feasible to count on matching beginning lawyers with experienced lawyers to mentor them on a one-on-one basis when the beginning lawyer does not practice in the same firm with the experienced lawyer. Constraints of time (for both the experienced lawyer and the beginning lawyer), geographical distance, law practice concentration, and fear of exposure to potential claims of civil liability by clients of the beginning lawyer will inhibit, and may overwhelm, the State Bar’s capacity to find mentors for beginning lawyers outside the mentor’s firm. Experience with the Pilot Project has taught, however, that one-on-one mentoring is not the only means of mentoring. There are collateral benefits in group mentoring where a select team of experienced lawyers meets for extended discussion of

practical lawyering concerns with small groups of beginning lawyers. It is possible to respond to the mentoring needs of beginning lawyers who do not practice in association with experienced lawyers and to provide them with access to professional guidance by recruiting a team of experienced lawyers from the state at large who would be willing to mentor small groups of beginning lawyers. These teams of at large mentors could meet periodically on a regional basis to share the lessons of practical experience and acquired wisdom with beginning lawyers and to offer advice and counsel.

- (7) The current Bridge-the-Gap program can be enhanced by beefing up its curriculum to include some of the subjects developed in the Pilot Project. Introduction of subjects such as dealing with clients, acting for clients and negotiating for clients, even in the large group format of Bridge-the-Gap, can lay a foundation for fruitful discussions of these same topics between beginning lawyers and mentors later in the beginning lawyer's mentoring relationship.
- (8) For beginning lawyers who do not have ready access to an experienced lawyer through employment, the options of attending a special CLE program covering in greater depth these and other Bridge-the-Gap subjects should be provided. In this program, experienced lawyers will lead small group discussions on selected topics of practical lawyering skills and professional values. This program should try to replicate the kind of in-depth and extended discussions of these same issues that would be expected to take place in a practice setting where beginning lawyers practice in the same firm as experienced lawyers. This CLE program will be organized on a scale to provide significant "hands-on" instruction and close interaction between experienced lawyers and beginning lawyers to "jump-start" the mentoring process. To distinguish this program

from the regular Bridge-the-Gap, this new program should be given the distinctive name “Fundamentals of Law Practice.” It seems feasible to offer such a program twice a year to 100 or so beginning lawyers at each session. Because attendance must be limited to achieve the close interaction sought, the Fundamentals of Law Practice Program will be open to all beginning lawyers, but priority will be given to beginning lawyers who do not have an in-firm mentor close at hand to offer similar instruction.

- (9) Both CLE programs, the enhanced Bridge-the-Gap and the new Fundamentals of Law Practice, are intended to set the stage and suggest appropriate subjects for subsequent conversations between the beginning lawyer and his or her in-firm or out-of-firm group mentor(s). While good mentoring comes in many forms, the Pilot Project has taught that it can be facilitated by structure and preparation. The synergy between the two components, mentoring and CLE programs focused on instruction in practical skills and ethical values, sets this proposal for a Transition Into Law Practice Program apart from efforts elsewhere. In short, our Transition Into Practice Program will be unique.
- (10) The most important time period to offer beginning lawyers professional guidance is in their first year of law practice as they encounter the stresses and challenges of a new profession. A one-year program that starts shortly after the new lawyer begins the practice of law will achieve the greatest return on the State Bar’s investment of time and resources.
- (11) One size does not fit all. Mentoring arrangements must be flexible enough to meet the particular needs of the participants and their practice settings. At the same time, participants should not be left “to reinvent the wheel.” Satisfaction of the Transition Into Law Practice Program requirements should assure that a meaningful and worthwhile

mentoring experience has occurred within an existing firm or an arranged group. All beginning lawyers should receive training and mentoring that meet certain criteria and standards established as benchmarks by the Transition Into Law Practice Program. Both the beginning lawyer and his or her mentor will be expected to certify that the beginning lawyer has satisfactorily completed the Program requirements (just as active members of the State Bar must certify satisfactory completion of Mandatory Continuing Legal Education requirements).

- (12) Mentoring works. It can benefit the beginning lawyer and mentor, as well. Anecdotally, beginning lawyers in the Pilot Project reported that the mentor was an invaluable source of learning. They recognized that regular contact with mentors in a structured setting accelerated their learning curves and avoided costly misjudgments. If mentoring works as intended, it can prove instrumental in the professional and personal growth of a new lawyer. The relationship with a new lawyer through mentoring can also be a source of satisfaction for the experienced lawyer. Several mentors in the Pilot Project reported that serving as a mentor was enjoyable and that it caused them to reflect on being a lawyer, to “stop and think” about “why we do what we do.” As with other studies, the Pilot Project confirmed that at its ideal best, the experience of sharing one’s knowledge with a beginning lawyer contributes to the experienced lawyer’s own renewal and refreshed sense of professionalism.
- (13) Although mentoring can occur without any organized framework or program, merely having an employment relationship is not enough to foster successful mentoring. There is evidence that having a program and structure tends to improve the quality of mentoring by giving it emphasis, raising it as a priority in busy lawyers’ schedules, and providing

easier access to the experienced lawyer-mentor. Given the busy and at times hectic nature of modern practice, mentoring beginning lawyers, as opposed to merely supervising their work, will get shoved aside unless there is some structure and need to set aside time for the mentoring process. A sentiment echoed in many beginning lawyer evaluations is one expressed about the value the Pilot Project added to an in-firm associate training program: “Having one person to contact for advice and knowing they expected my contact and never felt as though I was imposing.”

- (14) Putting together beginning lawyers with experienced, thoughtful lawyers in small groups to talk about real world situations is a highly effective and enjoyable way to teach some of the mechanics of good legal decision-making. Small group interaction is a desirable way to explore professional and ethical issues encountered in practice. Moreover, many beginning lawyers in the Pilot Project commented on the added bonus of meeting with other beginning lawyers during CLE programs and having the chance to network, share experiences, and decompress.
- (15) Results from the Schapiro Research Group telephone surveys (“Schapiro Survey”) conducted at one year intervals over the period of the Pilot Project showed that approximately 85% of both the mentors and beginning lawyers rated the Pilot Project as satisfactory in varying degrees.
- (16) Results from the telephone surveys of the Pilot Project support the conclusion that the Pilot Project was effective in helping to make better lawyers. When beginning lawyers were asked which of the targeted lawyer skills the Pilot Project had an impact on, the two skills that were rated as most strongly impacted by the Project at the end of both the first and second years of the Pilot Project were the handling of ethical aspects of law practice

and dealing with other lawyers. On measures of professionalism, such as handling the ethical aspects of law practice and dealing with clients and other lawyers, the beginning lawyers' own rating of their increase in skills was matched in the perception of their mentors. In fact, the mentors usually rated the beginning lawyers' skills across the board as somewhat higher than the beginning lawyers rated themselves. The beginning lawyers' rating of their ability to handle the ethical aspects of law practice increased consistently from the baseline over the course of the Pilot Project. This was also true for dealing with other lawyers, judges and court personnel.

- (17) In the Schapiro Survey, the beginning lawyers' views of themselves were also positive. Satisfaction with their careers increased over time. At the end of the second year of the Pilot Project, 60% of the group rated themselves "very satisfied" with their legal careers. Based on earlier research on Georgia lawyers (G. Melton Mobley, et al., Mentoring, Job Satisfaction, Gender, and the Legal Profession, 31 Sex Roles 79 (1994).), having a mentor can be an important factor in raising this level of satisfaction. The Schapiro "satisfaction measure" clearly supports the positive effect of the mentoring component of the Transition Into Practice Program on the quality of the professional life of the beginning lawyers.
- (18) The Shapiro Survey and other evaluations did not try to measure how beginning lawyers in the Pilot Project compare in terms of competence, career satisfaction, and sensitivity to professional and ethical norms with new lawyers who did not participate in the Project. Nevertheless, the results do show convincingly that on the areas targeted for emphasis, the beginning lawyers and the mentors reported steady improvement.

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Butterfield, Randy Atlanta	Floyd, Michael Carrollton	Kolczak, Amy Atlanta
Carr, Christopher M. Atlanta	Folsom, Christina Albany	Lavori, Angela Atlanta

Loggins, Amy E. Burton
Atlanta

Luciani, Euguene
Lawrenceville

Mahaffey, Bryan C.
Marietta

Mayfield, Scott
Griffin

McCarthy, Corin M.
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McNatt, Heather B.
Brunswick

McRae, Colin A.
Savannah

Meloan, Marsha
Aiken, SC

Men, Yong
Atlanta

Meyerowitz, Jennifer
Atlanta

Michaelson, Chad
Atlanta

Moseley, Stephen B.
Rome

Moulds, David
Atlanta

Overstreet, James
Augusta

Palanca, Ramon
Atlanta

Peeler, Melissa A.
Atlanta

Petcu, Jonathan
Marietta

Presley, Anne
Atlanta

Rawls, Marc
Atlanta

Reeves, Christopher
Atlanta

Sawyer, Carolyn
Atlanta

Shah, Tina
Atlanta

Skorupski, Edmund H.
Folkston

Tate, Sonja R.
Augusta

Threadgill, Beth M.
Atlanta

Vaishnav, Rupal
Decatur

Wainwright, Charles
Albany

Wallace, Scott
Gainesville

Walsh, Ryan
Atlanta

Watkins, Anna E.
Atlanta

Wheat, Nathan Michael
Atlanta

White, Michael
Macon

White, William A.
McDonough

Willis, Kent
Tucker

Woo, Amy
Marietta

Woodall, Angie
Dallas,

Yeattes, Louann
Atlanta

APPENDIX A

STATE BAR OF GEORGIA

Board of Governors

June 13, 1997

RESOLUTION

This resolution authorizes a pilot project to test and develop a two year period of professional guidance for beginning lawyers through continuing legal education and counseling by experienced lawyers who will serve as their mentors and advisors.

WHEREAS, on June 8, 1996, the Board of Governors created a Committee on the Standards of the Profession to investigate whether the State Bar of Georgia should require a period of internship or other supervised work prior to admission to membership in the State Bar of Georgia, and to report to the Board of Governors with the Committee's recommendations; and

WHEREAS, that Committee has completed its study and reported its recommendations to the Board of Governors;

THEREFORE, BE IT RESOLVED THAT:

The Board of Governors hereby accepts the attached report;

The Board of Governors commends the members of the Committee for their dedication and service on this most important effort to enhance the legal profession in Georgia; and

The Board of Governors hereby authorizes the Committee on behalf of the State Bar of Georgia to petition the Supreme Court for authority to conduct a pilot program of development and testing as recommended by the attached report.

Approved this 13th day of June, 1997, by the Board of Governors of the State Bar of Georgia.

APPENDIX B

**COMMITTEE RECOMMENDATIONS AND REPORTER'S
COMMENTARY
FOR A PROGRAM OF PROFESSIONAL GUIDANCE****INTRODUCTION**

The Committee on Standards of the Profession recommends that the Board of Governors endorse and petition the Supreme Court of Georgia to approve the establishment of a mandatory program to provide guidance and counsel to assist beginning lawyers who are newly admitted to the State Bar of Georgia in acquiring the practical skills, judgment and professional values necessary to practice law in a highly competent manner. The program proposed below seeks to address the needs of these lawyers as they begin their careers in the practice of law in this State.

The Committee also recommends that a pilot program be established to test and refine the program proposed in this Report before the program is fully mandated and implemented.

When used hereafter, the term “beginning lawyer” means a person who is recently admitted to the State Bar of Georgia and who is engaging for the first time in the practice of law in this State.¹

¹ The following lawyers are not covered by this proposal:

- a) Lawyers admitted to practice in this state who have their principal practices in another state;
- b) Lawyers who have practiced law for four or more years outside of Georgia prior to admission to practice in this state;
- c) Lawyers who serve in the military; and
- d) Lawyers who are employed full-time as attorneys by municipal, county, state, federal or other governmental entities.

Similarly, lawyers who are serving as judicial law clerks would not be covered by this proposal during the period of the judicial clerkship but would be covered for two years once the clerkship ends and they begin to engage in the practice of law in this State.

The role of the State Bar in addressing the needs of lawyers who are not covered by this program for training in the profession and for access to advice and counsel from more experienced lawyers can await another day.

RECOMMENDATIONS

- (1) The State Bar and its individual members have a professional obligation to assist beginning lawyers in acquiring the practical skills, seasoned judgment, and sensitivity to ethical and professional values necessary to practice law in a highly competent manner.**

The Committee recognizes that learning to practice law requires on-the-job training and learning both by doing and observation. Although law schools today offer students training in practical skills and opportunities to participate in clinics and externships dealing with actual client matters, developing a complete panoply of legal skills and the sound judgment and professional traits that mark good lawyering requires experience that only time in practice can impart. The State Bar of Georgia as an arm of the Supreme Court and individual members of the bar have an obligation to the new members of the profession, to the courts and to the public to assist beginning lawyers as they make the transition from law student to competent practitioner.

- (2) To assist beginning lawyers in becoming competent practitioners, every beginning lawyer should have access to meaningful counsel and professional guidance from an experienced lawyer during the first two years after admission to the bar.**

For several reasons, the Committee rejects the idea of a mandatory pre-admission internship or clerkship. First, arranging some 1,200 new internships each year while assuring a high-quality, uniform learning experience for all interns is a daunting task. Second, the Committee is convinced that imposing on students who emerge from four years of college and three years of law school, often with significant debt, the added burden of an extended period in a low-paying internship is both unfair and unnecessary to accomplish the broad goal of improving the standards of practice.

Instead, the Committee recommends that during the formative years of their practice, beginning lawyers be assured of access to the advice and counsel of one or more experienced lawyers through a rule requiring that each beginning lawyer in

Georgia be assigned a senior lawyer or lawyers who agrees to serve in this role. The senior lawyer would meet on a frequent and regular basis with the beginning lawyer to offer counsel and advice, provide professional guidance, and take reasonable steps to assist the beginning lawyer to discharge competently his or her professional obligations.

Senior lawyers matched one-on-one with beginning lawyers, or working singly or in pairs with a small group of beginning lawyers, would be available at reasonable times and with reasonable frequency to offer advice and counsel on specific legal matters being handled by the beginning lawyer, as well as to assist and guide the beginning lawyer in honing his or her practical skills and in learning professional values. Senior lawyers would build on the mandatory continuing legal education courses required for all beginning lawyers in Recommendation No. 6 below by discussing and answering questions about problems and topics presented in these courses.

Qualified lawyers who agree to serve as senior lawyers, or Counselors, to advise young lawyers would be expected to complete a training course to learn how to mentor successfully. This would include working through together a specially prepared set of materials containing suggested discussion topics, problems and legal references based on the content of the mandatory CLE courses that all beginning lawyers will take. In this way, the content of the mandatory CLE courses will be integrated with and extended by the discussions in the small group sessions or one-on-one between the Counselors and beginning lawyers. Thus, when Counselors meet with beginning lawyers they will be prepared and equipped to bring to bear their individual and unique experiences and judgment on a common set of specific topics and problems to assure that there is uniform coverage among the various mentoring groups. Quarterly progress reports on the times met and topics covered could be required.

In addition to covering topics such as relationships with clients, judges, fellow lawyers, and the community, a Counselor could help a beginning lawyer broaden his or her base of experience and knowledge by arranging for the beginning lawyer to attend a deposition, pre-trial conference, hearing, trial,

negotiation, real estate closing, or the like, and then offering feedback and commentary about the proceeding. Counselors can play an important role in introducing beginning lawyers to local judges and other members of the local legal community. The duties of the Counselor will be varied, but ultimately the Counselor's responsibility is to help the beginning lawyer in acquiring on-the-job know-how, in inculcating habits of professionalism, and, to the extent reasonable and practicable, in offering advice and counsel to assist the beginning lawyer to discharge satisfactorily his or her professional obligations.

- 3. Counselors who serve as advisors and mentors to beginning lawyers must be active members of the State Bar of Georgia in good standing, admitted to practice ordinarily not less than ten years, and qualified by character and reputation for professionalism to serve. Counselors will be appointed by the Supreme Court upon the recommendation of a committee of the State Bar. The State Bar committee may receive applications from individuals or nominations from individuals or local bar associations. All candidates for appointment as Counselor must have the recommendation of a judge of the Superior Court of the circuit where the lawyer maintains his or her office.**

Appointment as Counselor is intended to be a high honor. Lawyers serving in this role are expected to serve as role models for beginning lawyers and are entrusted by the profession with helping to inculcate in beginning lawyers the practical skills, judgment and customs of civility and ethical conduct that represent the best of the profession. Appropriate recognition should be given to those who serve in this role. The appointment, terms, and duties of Counselors will be prescribed by rules to be issued by the Supreme Court of Georgia. These rules should provide that lawyers recommended for appointment as Counselors complete a Continuing Legal Education course designed to prepare them to serve as mentors for other lawyers. Counselors who serve as mentors for beginning lawyers outside their own firms will receive CLE credit for their service.

- 4. Counselors will be assigned to beginning lawyers in one of the following ways:**
- (a) for a beginning lawyer who joins an existing law firm corporate law department, private institution or other comparable organization that has one or more attorneys qualified to be Counselors in its ranks, then, upon appointment by the Supreme Court as prescribed in Recommendation 3, a member of the firm, corporate law department, private institution or other comparable organization may be designated as the Counselor for the beginning attorney.**
 - (b) for a beginning lawyer who is self-employed or who practices with a small firm, corporate law department, private institution or other comparable organization that does not have an attorney qualified to serve as a Counselor, or for a beginning lawyer who does not otherwise have a Counselor, then the beginning lawyer, with the approval of the Supreme Court, will be assigned a Counselor by the State Bar committee from a list of qualified lawyers who have volunteered to serve and who have been appointed as Counselors by the Supreme Court.**

For beginning lawyers employed by existing law firms, corporations, private institutions or other comparable organizations, the natural mentor should be at hand, assuming that one or more of the attorneys there are qualified for appointment as Counselor. For example, law firms employing beginning lawyers have every reason not only to supervise the work of the new lawyer but also to enhance and guide the beginning lawyer's professional development. There is reason to think, however, that the economic pressure of modern practice has cut into the time and attention that senior lawyers now spend on the training and professional development of associates in a significant number of firms. For these firms, the proposal will require formalizing mentoring relationships for new associates within the firm and attending to the whole development of the beginning lawyer.

It is highly desirable that each beginning lawyer have an approved Counselor to whom he or she can look for help in honing professional skills and judgments, and from whom he or she can seek advice about ethical and professional concerns. A Counselor may serve as such for more than one beginning lawyer at a time. Counselors should not seek nor be asked to serve as advisor and mentor for more beginning lawyers than it is practical to guide, however, bearing in mind that the goal is that each beginning lawyer should have meaningful access to the attention and experience of a Counselor.

Beginning lawyers who enter solo practice or who join small firms or other organizations where there is not a lawyer qualified to be appointed as Counselor will be assisted in securing a Counselor by the committee of the State Bar created to oversee this program. This committee, which might be called the “Committee on Professional Guidance,” will suggest a Counselor in the appropriate geographical area from a list approved by the Supreme Court. Matching beginning lawyers with Counselors would require the consent of both parties, and ordinarily there should be a personal interview before the Counselor and beginning lawyer finally agree to enter into this relationship. This should be a mutually satisfying professional relationship.

The proposed recommendation recognizes that the organized bar has a responsibility to facilitate the beginning lawyer in securing an experienced and qualified lawyer who agrees to serve as his or her Counselor. The onus should not be placed solely on the beginning lawyer to find a Counselor although requests to be paired by a beginning lawyer and a lawyer approved by the Court to serve as Counselor should be honored. In some locales, one or more Counselors might work collaboratively with a small group of beginning lawyers.

- 5. Special problems arise in connection with the appointment of Counselors who do not practice in the same law firm as the beginning lawyer. Court rules and other measures may be needed to limit the liability of Counselors and to regulate the disclosure of confidential information.**

By undertaking to serve as Counselor for a beginning lawyer with whom the Counselor does not practice, the Counselor might risk personal liability for the conduct of the beginning lawyer. It should be made clear by law that by virtue of this office the Counselor shall not be civilly, criminally, professionally or ethically responsible for the conduct of the beginning lawyer. A Counselor's obligation is to make himself or herself reasonably available to consult with, advise and guide the beginning lawyer and to take reasonable steps to help the beginning lawyer meet his or her professional responsibilities. The Counselor can be called on to offer advice and guidance. The Counselor cannot be expected to supervise the performance of legal services by a beginning lawyer who does not practice in the same law firm nor to be asked to assume responsibility to the beginning lawyer's clients for work performed by the beginning lawyer. The name of the experienced lawyer who serves as the Counselor for a particular beginning lawyer should be a private matter between the two lawyers and should not be publicly disseminated nor represented to clients by the beginning lawyer.

6. To bolster the transition period from law student to competent practitioner, every beginning lawyer should be required to complete a practical skills training course during the first two years after starting to practice. This new CLE course will replace the current Bridge-the-Gap program.

An important component of the recommendations is to require a two-year, structured curriculum of continuing legal education courses taught by members of the bar designed to enhance the practical skills and professional values of beginning lawyers. These courses should be designed to meet the needs of beginning lawyers who complete law school with varying levels of practical skills.

Courses in the first year will be “non-substantive” in the sense that they will not cover practice areas. During the first year, the new attorney should complete a basic curriculum of courses focusing on topics such as Client Relations, Counseling, Negotiations, ADR, Law Office Management, Legal Ethics, Professionalism and the like. For example, in the course in Client Relations,

matters such as the use of engagement letters, recognition and resolution of conflicts of interest, proper use of escrow accounts, communications with clients and billing, etc. could be taught.

In the second year, beginning lawyers will be encouraged to select courses in practice areas such as Litigation (Civil or Criminal), Business Practice, Real Estate Practice, Family Law, Trusts and Probate Law or other areas that are of particular relevance to their self-selected areas of practice. As far as possible, these courses will be designed to develop practical skills by providing opportunities for demonstration with members of the bar who serve as instructors. The Committee on Professional Guidance or other agency created to administer the program will be responsible for designing these courses in conjunction with ICLE, drawing on educational technology to make them as interactive and audience participatory as possible.

- 7. The Committee recommends that a pilot project be implemented to develop the CLE components, to recruit and train volunteer, experienced lawyers for service as Counselors, and to test different ways of grouping beginning lawyers with Counselors.**

The prototype of a mentoring, relationship is usually one mentor for each mentee to help forge a close, lasting relationship. On the other hand, there is some reason to think that two or three Counselors, working with a small group of beginning lawyers, might be arranged more feasibly and sustained more easily. A pilot project with around 200 beginning lawyer volunteers and an appropriate number of Counselors to test the workability and rate of success of different configurations should be tried before the requirement is imposed on all beginning lawyers. This pilot project should be phased-in over three years to allow time to recruit and train Counselors, design the curriculum of the continuing legal education components, survey participants in the pilot project to fine-tune the requirements, and establish the necessary administrative structure and funding to implement and administer the full program.

- 8. Once implemented, completion of the CLE component and satisfactory**

participation in the extended program of instruction and guidance with the assigned Counselor will be mandatory for the beginning lawyer. This program of professional guidance will conclude no later than two years after initiation when the Counselor and beginning lawyer each certify to the Supreme Court that the beginning lawyer has completed the required CLE courses in practical skills and, in the opinion of the Counselor, has satisfactorily completed the required two-year period of professional guidance.

Under this plan, beginning lawyers will be admitted to the State Bar upon passage of the state bar examination. The license will allow the holder to practice as now without restriction. However, the beginning lawyer will be required to complete the continuing legal education courses described above, including the extended program of one-on-one or small group instruction in practical skills and guidance in professional values. The Counselor and beginning lawyer must each certify to the Supreme Court that the beginning lawyer has completed the required professional skills curriculum and that, in the opinion of the Counselor, the beginning lawyer has satisfactorily completed the required two-year period of professional guidance. Failure to complete the program within two years could subject the beginning lawyer to the same sanctions that apply to any lawyer who fails to complete in a timely fashion the mandatory CLE requirements. Rules adopted by the Supreme Court could prescribe how the State Bar committee charged with overseeing the program of professional guidance would permit a Counselor or beginning lawyer to terminate the relationship before the completion of the required period. The State Bar committee would be empowered to assign the beginning lawyer to a new Counselor or take other appropriate action when warranted.

GENERAL CONSIDERATIONS AND UNRESOLVED ISSUES

- (a) General Considerations: These recommendations outline an ambitious program that holds the promise to improve substantially the level of competence of the legal profession. It is a**

serious undertaking and cannot be implemented without adequate funding to retain and compensate an executive director and consultants to develop the needed educational materials, to recruit and train volunteers. and to administer the Pilot Program.

This proposal seeks to improve in a fundamental way the transition process from law student to competent practitioner. It focuses on the most formative period, the first two years of practice, and calls on experienced lawyers to play indispensable roles in the education of young professionals by offering counsel and guidance to beginning lawyers as they acquire practical skills, make judgments with lasting consequences, and first confront ethical and professional challenges in the practice of law. This is a serious undertaking.

The Committee has sought to formulate a proposed plan of action that meets three tests: Will it work? Is it sustainable over time? Will it do more than nibble at the margins, that is, will it make a significant difference over time in the level of competence and professionalism among members of the bar? We believe this set of recommendations meets all three of these goals and, as a salutary by-product, may make the practice of law more civil, humane, and satisfying to beginning, lawyers as well as experienced lawyers who serve as Counselors.

Designing, implementing, and administering this Pilot Project will require more than a casual, ad hoc effort. While a committee of the State Bar ought to provide policy direction, oversight and assessment, the executive action needed to establish the Pilot Project will require the Bar to engage the services of (on at least a part-time basis, initially) and compensate an experienced lawyer who is a competent administrator. Moreover, the Pilot Project will require hiring one or more consultants from law school faculties and private practice to prepare program materials both for the CLE courses and the extended discussion sessions to be run by the Counselors. Arrangements must be made through the Executive Director of the State Bar to obtain administrative assistance to handle record keeping, and an assortment of other tasks. Funding will be required to create and implement a Pilot Project as well as any permanent program that the Board of Governors and the Supreme Court might ultimately approve.

(b) Unresolved Issues: A number of issues remain to be determined.

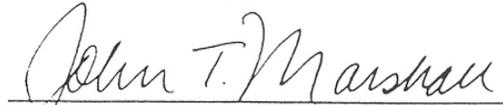
A number of problems, including at least the following, must be addressed:

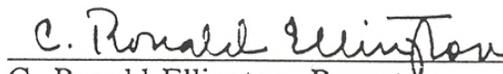
- Are there a sufficient number of experienced lawyers willing to take on the responsibility of serving as Counselors, particularly for lawyers not in the same firm?
- Can lawyers who serve as Counselors for beginning lawyers outside their own firms be effectively protected from liability for the acts of the beginning lawyer?
- How can funding be secured for both a pilot project and a permanent program? Perhaps the funding of the Pilot Project might come from a grant from the Chief Justice's Commission on Professionalism or the Commission on Continuing Lawyer Competency, and funding for the permanent program might come from increasing the application fees charged those who take the Georgia Bar Examination.
- How should “laterals,” i.e. lawyers who have less than four years experience in practice in another state, but who are newly admitted to the State Bar of Georgia be covered by this program?
- Should any of the lawyers described in Footnote 1 of this Report be covered by this proposal?
- How can the requirement of “satisfactory completion” in Recommendation 8 be defined and made as objective as possible? Clearly this is intended to mean more than just attendance at the required sessions. At the same time, this cannot be wholly subjective. How should this concept be defined?

The Committee recognizes that these and other problems must be addressed in the future. The Committee believes, however, that the Board of Governors and the Supreme Court of Georgia should first decide whether to proceed with the

goals and basic approach of the proposal outlined here. If the Board of Governors and the Supreme Court of Georgia approve, the concept of the plan recommended by the Committee and authorize a pilot project with the necessary funding, these and other problems can be addressed in detail as the pilot program is implemented and evaluated.

This 15th day of May, 1997


John T. Marshall, Chair


C. Ronald Ellington, Reporter

Committee. Members:

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W. G. Scrantom, Jr. , Vice Chair

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