

**IN THE SUPREME COURT
STATE OF GEORGIA**

**IN RE: STATE BAR OF GEORGIA
Rules and Regulations for its
Organization and Government**

MOTION TO AMEND 2018-1

**MOTION TO AMEND THE RULES AND REGULATIONS OF THE
STATE BAR OF GEORGIA**

COMES NOW, the State Bar of Georgia, pursuant to the authorization and direction of its Board of Governors, and respectfully moves that the Rules and Regulations of the State Bar of Georgia be amended¹ as follows:

I.

**Proposed Amendments to Part I, Creation and Organization;
Chapter 2, Membership; Rule 1-202. Classes of Members**

It is proposed that the following Rule be amended by deleting the struck-through sections and inserting the underlined sections as follow:

Rule 1-202. Classes of Members.

Membership in the State Bar of Georgia shall consist of five classes: active, foreign law consultant, emeritus, disabled and inactive. The bylaws shall make provision for the registration of each active member and the location of his or her principal office for the practice of law, the registration of each foreign law consultant and the location of his or her principal office, and the registration of emeritus and inactive members and their mailing addresses. Only Active Members and Emeritus Members may vote on any State Bar matter or election or nominate an active member for office. Emeritus members can vote only in person or electronically.

¹ See the order of this Court providing for such amendments dated December 6, 1963 (219 Ga. 873), and amended by subsequent Orders, and published at the *2017-2018 State Bar of Georgia Directory Handbook*, pp. H-1, *et seq.*

(a) Inactive Members. All lawyers who are neither engaged in the practice of law nor holding themselves out as practicing attorneys nor occupying any public or private position in which they may be called upon to give legal advice or counsel, ~~or~~ to examine the law or to pass upon the legal effect of any act, document, or law may be inactive members at their election. Members who are in military service may be inactive if they so elect.

(b) Active Members. Active members shall be all other lawyers including judges but excluding foreign law consultants. Only active members of the State Bar of Georgia in good standing may ~~vote or~~ hold office in the State Bar of Georgia.

(c) Foreign Law Consultants. Foreign Law Consultants shall be those persons, who are licensed under the Rules Governing Admission to the Practice of Law as adopted by the Supreme Court of Georgia.

(d) Emeritus Members. Any member in good standing of the State Bar of Georgia who ~~shall have~~ will attained the age of 70 years in a Bar year and who shall have been admitted to the practice of law for at least 25 years, five years of which must be as a member in good standing of the State Bar of Georgia, may ~~retire~~ request emeritus status from the State Bar upon petition to and approval by the Membership Department. When approved, Such a retired the member shall hold emeritus status. An emeritus member of the State Bar shall not be required to pay dues or annual fees, and may not hold office in the State Bar of Georgia. An emeritus member of the State Bar of Georgia shall not be privileged to practice law except that an emeritus member may handle pro bono cases referred by either an organized pro bono program recognized by the Pro Bono Project of the State Bar of Georgia or a non-profit corporation that delivers legal services to the poor. An emeritus member may be reinstated to active or inactive membership upon application to the Membership Department and payment of non-prorated dues for the year in which the emeritus members returns to active or inactive service.

(e) Disabled Members. Any member of the State Bar of Georgia may petition the Executive Committee for disabled status provided the member meets one of the following criteria:

(1) the member has been determined to be permanently disabled by the Social Security Administration; or

(2) the member is in the process of applying to the Social Security Administration for permanent disability status; or

(3) the member has been determined to be permanently disabled or disabled for a period in excess of one year by an insurance company and is receiving payments pursuant to a disability insurance policy; or

(4) the member has a signed statement from a medical doctor that the member is permanently disabled, or disabled for a period in excess of one year, and unable to practice law.

Upon the Executive Committee's granting of the member's petition for disability status, the disabled member shall be treated as an inactive member of the State Bar of Georgia and shall not be privileged to practice law. A member holding disabled status shall not be required to pay dues or annual fees. A disabled member shall continue in such status until the member requests reinstatement by written application to the membership department of the State Bar of Georgia.

If the proposed amendments to the Rule are adopted, the amended Rule would read as follow:

Rule 1-202. Classes of Members.

Membership in the State Bar of Georgia shall consist of five classes: active, foreign law consultant, emeritus, disabled and inactive. The bylaws shall make provision for the registration of each active member and the location of his or her principal office for the practice of law, the registration of each foreign law consultant and the location of his or her principal office, and the registration of emeritus and inactive members and their mailing addresses. Only Active Members and Emeritus Members may vote on any State Bar matter or election or nominate an active member for office. Emeritus members can vote only in person or electronically.

(a) Inactive Members. All lawyers who are neither engaged in the practice of law nor holding themselves out as practicing attorneys nor occupying any public or private position in which they may be called upon to give legal advice or counsel, to examine the law or to pass upon the legal effect of any act, document, or law may be inactive members at their election. Members who are in military service may be inactive if they so elect.

(b) Active Members. Active members shall be all other lawyers including judges but excluding foreign law consultants. Only active members of the State Bar of Georgia in good standing may hold office in the State Bar of Georgia.

(c) Foreign Law Consultants. Foreign Law Consultants shall be those persons, who are licensed under the Rules Governing Admission to the Practice of Law as adopted by the Supreme Court of Georgia.

(d) Emeritus Members. Any member in good standing of the State Bar of Georgia who will attain the age of 70 years in a Bar year and who shall have been admitted to the practice of law for at least 25 years, five years of which must be as a member in good standing of the State Bar of Georgia, may request emeritus status from the State Bar upon petition to and approval by the Membership Department. When approved, the member shall hold emeritus status. An emeritus member of the State Bar shall not be required to pay dues or annual fees, and may not hold office in the State Bar of Georgia. An emeritus member of the State Bar of Georgia shall not be privileged to practice law except that an emeritus member may handle pro bono cases referred by either an organized pro bono program recognized by the Pro Bono Project of the State Bar of Georgia or a non-profit corporation that delivers legal services to the poor. An emeritus member may be reinstated to active or inactive membership upon application to the

Membership Department and payment of non-prorated dues for the year in which the emeritus members returns to active or inactive service.

(e) Disabled Members. Any member of the State Bar of Georgia may petition the Executive Committee for disabled status provided the member meets one of the following criteria:

- (1) the member has been determined to be permanently disabled by the Social Security Administration; or
- (2) the member is in the process of applying to the Social Security Administration for permanent disability status; or
- (3) the member has been determined to be permanently disabled or disabled for a period in excess of one year by an insurance company and is receiving payments pursuant to a disability insurance policy; or
- (4) the member has a signed statement from a medical doctor that the member is permanently disabled, or disabled for a period in excess of one year, and unable to practice law.

Upon the Executive Committee's granting of the member's petition for disability status, the disabled member shall be treated as an inactive member of the State Bar of Georgia and shall not be privileged to practice law. A member holding disabled status shall not be required to pay dues or annual fees. A disabled member shall continue in such status until the member requests reinstatement by written application to the membership department of the State Bar of Georgia.

II.

Proposed Amendments to Part I, Creation and Organization; Chapter 2, Membership; Rule 1-205. Bar of Judicial Circuit

It is proposed that the following Rule be amended by deleting the struck-through sections and inserting the underlined sections as follow:

Rule 1-205. Bar of Judicial Circuit.

Each member in good standing ~~who is a resident of this State~~ shall be considered a member of the bar of the Georgia judicial circuit in which his or her official bar mail is delivered or where his or her primary residence is located. ~~principal office for the practice of law is located, or, at his election, the circuit in which he resides, or if he has not office, the circuit in which he resides or last resided.~~

If the proposed amendments to the Rule are adopted, the amended Rule would read as follow:

Rule 1-205. Bar of Judicial Circuit.

Each member in good standing shall be considered a member of the bar of the Georgia judicial circuit in which his or her official bar mail is delivered or where his or her primary residence is located.

III.

Proposed Amendments to Part I, Creation and Organization; Chapter 2, Membership; Rule 1-208. Resignation From Membership

It is proposed that the following Rule be amended by deleting the struck-through sections and inserting the underlined sections as follow:

Rule 1-208. Resignation from Membership.

(a) Resignation while in good standing. A member of the State Bar of Georgia in good standing may, under oath, petition the Executive Committee for leave to resign from the State Bar of Georgia. Upon acceptance of such petition by the Executive Committee by majority vote, such person shall not practice law in this state nor be entitled to any privileges and benefits accorded to active members of the State Bar of Georgia in good standing unless such person complies with part (f) or part (g) of this Rule.

(b) Resignation while delinquent or suspended for failure to pay dues or for failure to comply with continuing legal education requirements: A member of the State Bar of Georgia who is delinquent or suspended (but not terminated) for failure to pay dues or failure to comply with continuing legal education requirements may, under oath, petition the Executive Committee for leave to resign from the State Bar of Georgia. Upon acceptance of such petition by the Executive Committee by majority vote, such person shall not practice law in this state nor be entitled to any privileges and benefits accorded to active members of the State Bar of Georgia unless such person complies with part (f) or part (g) of this Rule.

(c) A petition for leave to resign from membership with the State Bar of Georgia shall comply with the following:

(1) the petition shall be filed under oath with the Executive Director of the State Bar of Georgia and shall contain a statement that there are no disciplinary actions or criminal proceedings pending against the petitioner; and

(2) the petition shall contain a statement as to whether the petition is being filed under part (a) or part (b) of this Rule. If the petition is being filed under part (b), the petition shall state the term of the delinquency and/or suspension for failure to pay dues or to comply with continuing legal education requirements.

(d) No petition for leave to resign shall be accepted if there are disciplinary proceedings or criminal charges pending against the member, or if the member is not in good standing for failure to pay child support obligations under Bar Rule 1-209.

~~(e)~~ A petition filed under this Rule shall constitute a waiver of the confidentiality provisions of Rule 4-221 (d) as to any pending disciplinary proceedings.

(e) Resignation shall not be a bar to institution of subsequent disciplinary proceedings for any conduct of the resigned person occurring prior to the resignation. If the penalty imposed on the resigned member is disbarment or suspension, the status of the member shall be changed from "resigned member" to that of a person so disciplined.

(f) A petition filed under this Rule shall not toll the provisions of Rule 1-501 (c).

(g) Readmission within five years after resignation. For a period of five years after the effective date of a voluntary resignation, the member of the State Bar of Georgia who has resigned pursuant to this Rule may apply for readmission to the State Bar of Georgia upon completion of the following terms and conditions:

(1) payment in full of any delinquent dues, late fees and penalties owing at the time the petition for leave to resign was accepted, and payment in full of the current dues for the year in which readmission is sought;

(2) payment of a readmission fee to the State Bar of Georgia equal to the amount the member seeking readmission would have paid during the period of resignation if he or she had instead elected inactive status;

(3) for resignations while suspended for failure to comply with continuing legal education requirements under part (b) of this Rule, submission of a certificate from the Commission on Continuing Lawyer Competency declaring that the suspended member is current on all requirements for continuing legal education; and

(4) submission to the membership department of the State Bar of Georgia of a determination of fitness from the Board to Determine Fitness of Bar Applicants. Provided the former member seeking readmission has applied to the Board to Determine Fitness of Bar Applicants before the expiration of the five year period after his or her resignation, the former member shall be readmitted upon submitting a determination of fitness even if the five year period has expired.

(gh) Readmission after five years. After the expiration of five years from the effective date of a voluntary resignation, the former member must comply with the Rules governing admission to the practice of law in Georgia as adopted by the Supreme Court of Georgia.

If the proposed amendments to the Rule are adopted, the amended Rule would read as follow:

Rule 1-208. Resignation from Membership.

(a) Resignation while in good standing. A member of the State Bar of Georgia in good standing may, under oath, petition the Executive Committee for leave to resign from the State Bar of Georgia. Upon acceptance of such petition by the Executive Committee by majority vote, such person shall not practice law in this state nor be entitled to any privileges and benefits accorded to active members of the State Bar of Georgia in good standing unless such person complies with part (f) or part (g) of this Rule.

(b) Resignation while delinquent or suspended for failure to pay dues or for failure to comply with continuing legal education requirements: A member of the State Bar of Georgia who is delinquent or suspended (but not terminated) for failure to pay dues or failure to comply with continuing legal education requirements may, under oath, petition the Executive Committee for leave to resign from the State Bar of Georgia. Upon acceptance of such petition by the Executive Committee by majority vote, such person shall not practice law in this state nor be entitled to any privileges and benefits accorded to active members of the State Bar of Georgia unless such person complies with part (f) or part (g) of this Rule.

(c) A petition for leave to resign from membership with the State Bar of Georgia shall comply with the following:

(1) the petition shall be filed under oath with the Executive Director of the State Bar of Georgia and shall contain a statement that there are no disciplinary actions or criminal proceedings pending against the petitioner; and

(2) the petition shall contain a statement as to whether the petition is being filed under part (a) or part (b) of this Rule. If the petition is being filed under part (b), the petition shall state the term of the delinquency and/or suspension for failure to pay dues or to comply with continuing legal education requirements.

(d) No petition for leave to resign shall be accepted if there are disciplinary proceedings or criminal charges pending against the member, or if the member is not in good standing for failure to pay child support obligations under Bar Rule 1-209. A petition filed under this Rule shall constitute a waiver of the confidentiality provisions of Rule 4-221 (d) as to any pending disciplinary proceedings.

(e) Resignation shall not be a bar to institution of subsequent disciplinary proceedings for any conduct of the resigned person occurring prior to the resignation. If the

penalty imposed on the resigned member is disbarment or suspension, the status of the member shall be changed from “resigned member” to that of a person so disciplined.

(f) A petition filed under this Rule shall not toll the provisions of Rule 1-501 (c).

(g) Readmission within five years after resignation. For a period of five years after the effective date of a voluntary resignation, the member of the State Bar of Georgia who has resigned pursuant to this Rule may apply for readmission to the State Bar of Georgia upon completion of the following terms and conditions:

(1) payment in full of any delinquent dues, late fees and penalties owing at the time the petition for leave to resign was accepted, and payment in full of the current dues for the year in which readmission is sought;

(2) payment of a readmission fee to the State Bar of Georgia equal to the amount the member seeking readmission would have paid during the period of resignation if he or she had instead elected inactive status;

(3) for resignations while suspended for failure to comply with continuing legal education requirements under part (b) of this Rule, submission of a certificate from the Commission on Continuing Lawyer Competency declaring that the suspended member is current on all requirements for continuing legal education; and

(4) submission to the membership department of the State Bar of Georgia of a determination of fitness from the Board to Determine Fitness of Bar Applicants. Provided the former member seeking readmission has applied to the Board to Determine Fitness of Bar Applicants before the expiration of the five year period after his or her resignation, the former member shall be readmitted upon submitting a determination of fitness even if the five year period has expired.

(h) Readmission after five years. After the expiration of five years from the effective date of a voluntary resignation, the former member must comply with the Rules governing admission to the practice of law in Georgia as adopted by the Supreme Court of Georgia.

IV.

Proposed Amendments to Part I, Creation and Organization; Chapter 5, Finance; Rule 1-506. Clients’ Security Fund Assessment

It is proposed that the following Rule be amended by deleting the struck-through sections and inserting the underlined sections as follow:

Rule 1-506. Clients' Security Fund Assessment.

(a) The State Bar is authorized to assess each member ~~of the State Bar~~ a fee of \$100.~~00~~. This \$100.~~00~~ fee may be paid in minimum annual installments of \$25.~~00~~ for a period of four ~~(4)~~ years. Each new member of the State Bar will also be assessed a similar amount upon admission to the State Bar. This fee shall be used only to fund the Clients' Security Fund and shall be in addition to the annual license fee as provided in Rule 1-501 through Rule 1-502.

(b) For a member who joins the State Bar of Georgia after taking the Georgia Bar Examination, the Clients' Security Fund assessment shall be due and payable in \$25.~~00~~ installments on July 1 of each year, beginning with the second full fiscal year following the year of admission, until the balance of \$100.~~00~~ is paid. The failure of a member to pay the minimum annual installments shall subject the member to the same penalty provisions, including late fees and suspension of membership, as pertain to the failure to pay the annual license fee as set forth in Bar Rules 1-501 and 1-501.1.

(c) For a member who is admitted as a Foreign Law Consultant or who joins without taking the Georgia Bar Examination, and who has not previously paid the Clients' Security Fund Assessment, the full assessment shall be due and payable prior to or upon registration with the State Bar.

If the proposed amendments to the Rule are adopted, the amended Rule would read as follow:

Rule 1-506. Clients' Security Fund Assessment.

(a) The State Bar is authorized to assess each member a fee of \$100. This \$100 fee may be paid in minimum annual installments of \$25 for a period of four years. Each new member of the State Bar will also be assessed a similar amount upon admission to the State Bar. This fee shall be used only to fund the Clients' Security Fund and shall be in addition to the annual license fee as provided in Rule 1-501 through Rule 1-502.

(b) For a member who joins the State Bar of Georgia after taking the Georgia Bar Examination, the Clients' Security Fund assessment shall be due and payable in \$25.00 installments on July 1 of each year, beginning with the second full fiscal year following the year of admission, until the balance of \$100 is paid. The failure of a member to pay the minimum annual installments shall subject the member to the same penalty provisions, including late fees and suspension of membership, as pertain to the failure to pay the annual license fee as set forth in Bar Rules 1-501 and 1-501.1.

(c) For a member who is admitted as a Foreign Law Consultant or who joins without taking the Georgia Bar Examination, and who has not previously paid the Clients' Security Fund Assessment, the full assessment shall be due and payable prior to or upon registration with the State Bar.

V.

Proposed Amendments to Part I, Creation and Organization; Chapter 5, Finance; Rule 1-507. Bar Facility Assessment

It is proposed that the following Rule be amended by deleting the struck-through sections and inserting the underlined sections as follow:

Rule 1-507. Bar Facility Assessment.

(a) The State Bar is authorized to assess each member ~~of the State Bar~~ a fee of \$200.~~00~~. This \$200.~~00~~ fee may be paid in minimum annual installments of \$50.~~00~~ for a period of four ~~(4)~~ years. This fee shall be used to ~~purchase~~, maintain, and operate ~~a facility for~~ the State Bar offices and shall be in addition to the annual license fee as provided in Rule 1-501 through Rule 1-502 and the Clients' Security Fund Assessment as provided in Rule 1-506.

(b) For a member who joins the State Bar of Georgia after taking the Georgia Bar Examination, the Bar Facility assessment shall be due and payable in \$50.~~00~~ installments on July 1 of each year, beginning with the second full fiscal year following the year of admission, until the balance of \$200.~~00~~ is paid. ~~For members admitted to the State Bar prior to July 1, 1997, such installments shall begin on July 1, 1997. For newly admitted members of the State Bar, such installments shall begin when a new member is admitted to the State Bar.~~ The failure of a member to pay the minimum annual installments shall subject the member to the same penalty provisions, including late fees and suspension of membership, as pertain to the failure to pay the annual license fee as set forth in Bar Rules 1-501 and 1-501.1.

(c) For a member who is admitted as a Foreign Law Consultant or joins the State Bar without taking the Georgia Bar Examination, and who has not previously paid the Bar Facility Assessment, the full assessment shall be due and payable prior to or upon registration with the State Bar.

If the proposed amendments to the Rule are adopted, the amended Rule would read as follow:

Rule 1-507. Bar Facility Assessment.

(a) The State Bar is authorized to assess each member of the State Bar a fee of \$200. This \$200 fee may be paid in minimum annual installments of \$50 for a period of four years. This fee shall be used to maintain and operate the State Bar offices and shall be in addition to the annual license fee as provided in Rule 1-501 through Rule 1-502 and the Clients' Security Fund Assessment as provided in Rule 1-506.

(b) For a member who joins the State Bar of Georgia after taking the Georgia Bar Examination, the Bar Facility assessment shall be due and payable in \$50 installments on July 1 of each year, beginning with the second full fiscal year following the year of admission, until the balance of \$200 is paid. The failure of a member to pay the minimum annual installments shall subject the member to the same penalty provisions, including late fees and suspension of membership, as pertain to the failure to pay the annual license fee as set forth in Bar Rules 1-501 and 1-501.1.

(c) For a member who is admitted as a Foreign Law Consultant or joins the State Bar without taking the Georgia Bar Examination, and who has not previously paid the Bar Facility Assessment, the full assessment shall be due and payable prior to or upon registration with the State Bar.

VI.

Proposed Amendments to Part I, Creation and Organization; Chapter 6, Bylaws; Rule 1-602.

It is proposed that the following Rule be amended by deleting the struck-through sections and inserting the underlined sections as follow:

Rule 1-602

~~Bylaws and amendments thereto may be proposed by the~~ The Board of Governors, ~~the Executive Committee~~ or any ten members of the State Bar of Georgia ~~by giving notice may propose bylaws and amendments thereto for consideration at a midyear, annual or special called membership meeting.~~ Proposals from ten or more members of the State Bar of Georgia must be provided to the Secretary at least ~~sixty~~60 days ~~before~~prior to the ~~next annual meeting or~~midyear, annual ~~midyear or special called membership~~ meeting. Written notice of ~~such~~ proposed bylaws and amendments shall be ~~mailed to each member at least thirty~~published 20 days prior to the ~~next~~midyear, annual ~~or special called~~ meeting ~~or annual midyear meeting and may be adopted by a majority of the members present and voting. The proposed bylaws and any amendments may be amended from the floor in any respect germane to the subject thereof. The notice by mail herein required may be by or~~ of the membership through any one or more of the official publications of the State Bar of Georgia: including the official website for the State Bar of Georgia.

If the proposed amendments to the Rule are adopted, the amended Rule would read as follow:

Rule 1-602

The Board of Governors, the Executive Committee or any ten members of the State Bar of Georgia may propose bylaws and amendments thereto for consideration at a midyear, annual or special called membership meeting. Proposals from ten or more members of the State Bar of Georgia must be provided to the Secretary at least 60 days prior to the midyear, annual or special called membership meeting. Written notice of proposed bylaws and amendments shall be published 20 days prior to the midyear, annual or special called meeting of the membership through any one or more of the official publications of the State Bar of Georgia including the official website for the State Bar of Georgia.

VII.

Proposed Amendments to Part 5, Amendment and Effective Date; Chapter 1, Amendment; Rule 5-101. Amendment; Filing, Notice

It is proposed that the following Rule be amended by deleting the struck-through sections and inserting the underlined sections as follow:

Rule 5-101. Amendment; Filing, Notice.

The Supreme Court of Georgia may, on motion of the State Bar of Georgia, amend the ~~f~~Rules of the State Bar of Georgia at any time; provided, however, that no motion to amend these ~~f~~Rules may be filed until ~~thirty (30)~~ days after a notice setting forth the proposed amendment has been published in the *Georgia Bar Journal* or ~~any other document~~ on the official website of the State Bar of Georgia. The said notice shall contain the following:

(a) the date ~~upon~~ after which the motion to amend these ~~f~~Rules shall be filed in the Supreme Court of Georgia;

(b) the verbatim text of the ~~said motion~~ proposed amendment as certified by the Executive Director of the State Bar of Georgia;

(c) a statement that the publication of the ~~said motion~~ proposal to amend these ~~f~~Rules is intended to comply with the notice requirement of this ~~f~~Rule;

(d) a statement that any objection to the proposed amendment shall be made only in accordance with Rule 5-102.

At the same time that notice is ~~sent~~ published to its membership, the State Bar of Georgia shall file a copy of such a notice with the Clerk of the Supreme Court of Georgia.

If the proposed amendments to the Rule are adopted, the amended Rule would read as follow:

Rule 5-101. Amendment; Filing, Notice.

The Supreme Court of Georgia may, on motion of the State Bar of Georgia, amend the Rules of the State Bar of Georgia at any time; provided, however, that no motion to amend these Rules may be filed until 30 days after a notice setting forth the proposed amendment has been published in the *Georgia Bar Journal* or on the official website of the State Bar of Georgia. The said notice shall contain the following:

- (a) the date after which the motion to amend these Rules shall be filed in the Supreme Court of Georgia;
- (b) the verbatim text of the proposed amendment as certified by the Executive Director of the State Bar of Georgia;
- (c) a statement that the publication of the proposal to amend these Rules is intended to comply with the notice requirement of this Rule;
- (d) a statement that any objection to the proposed amendment shall be made only in accordance with Rule 5-102.

At the same time that notice is published to its membership, the State Bar of Georgia shall file a copy of such a notice with the Clerk of the Supreme Court of Georgia.

VIII.

Proposed Amendments to Part X, Clients' Security Fund

It is proposed that the following Rules be amended by deleting the struck-through sections and inserting the underlined sections as follow:

PREAMBLE

The purpose of the Clients' Security Fund is to promote public confidence in the administration of justice and the integrity of the legal profession by providing monetary relief to persons who suffer reimbursable losses as a result of the dishonest conduct of members of the State Bar of Georgia.

Rule 10-101. Fund Established.

There is established a separate fund of the State Bar of Georgia designated “Clients’ Security Fund of the State Bar of Georgia”. There is also established a Clients’ Security Fund Board of Trustees which shall receive, hold, manage and disburse from the Fund such monies as may from time to time be appropriated to it by the State Bar of Georgia, or received through voluntary contributions, income from investments or other funding sources.

Rule 10-102. Definitions.

For this rule, the following terms shall have the following meanings:

- (a) The “Board” means the Clients’ Security Fund Board of Trustees.
- (b) “Claimant” means one who files a claim for reimbursement with the Board of Trustees.
- (c) The “Fund” means the Clients’ Security Fund of the State Bar of Georgia.
- (d) “Lawyer” or “attorney” means one who, at the time of the commencement of his or her handling of the matter in which the loss arose, was a Member of the State Bar of Georgia.

Rule 10-103. Funding.

(a) The State Bar of Georgia shall provide funding for the payment of claims and the costs of administering the Fund. In any year following a year in which the gross aggregate balance of the Fund falls below \$1,000,000, the State Bar of Georgia shall assess and collect from each dues-paying member a pro rata share of the difference between the actual Fund balance and \$1 million, provided that such assessments shall not exceed \$25 in any single year. The aggregate amount paid to claimants from the Fund in any year shall not exceed \$500,000. The Board of Governors may from time to time adjust the Fund’s minimum aggregate balance, maximum annual payout, or maximum annual assessment to advance the purposes of the Fund or to preserve the fiscal integrity of the Fund.

(b) All monies or other assets of the Fund shall constitute a trust and shall be held in the name of the Fund, subject to the direction of the Board.

(c) ~~No disbursements shall be made from the Fund except by~~ Only the Board of Trustees may authorize the payment of money from the Fund.

Rule 10-104. Board of Trustees.

(a) The Board of Trustees shall consist of six (6) lawyers and one (1) non-lawyer appointed by the President of the State Bar. The initial appointments to the Board shall be of such terms as to result in the staggered expiration of the terms of all members of the Board. Thereafter, the appointments shall be for a term of five (5) years.

(b) Vacancies shall be filled by appointment of the President of the State Bar of Georgia for any unexpired term.

(c) The Board members shall select a chairperson who is a member in good standing of the State Bar of Georgia, and such other officers as the Board members deem appropriate.

(d) A quorum for the transaction of business at any meeting of the Board shall consist of three current members in attendance.

(e) The Board ~~may~~shall adopt a regulation to terminate Trustees who fail to regularly attend meetings and may adopt additional regulations for the administration of the Fund ~~which~~ that are not otherwise inconsistent with these rules.

Rule 10-105. Investigations.

(a) The Board shall review every claim, and in its discretion, will investigate to the extent the Board deems appropriate those claims ~~which~~ that appear to meet the requirements for payment as described in these rules.

(b) The Board may approve for payment from the ~~fund~~ Fund such claims as are found, after investigation, to be meritorious and in accordance with these rules.

(c) Applications for relief shall be submitted on forms prescribed by the Board.

Rule 10-106. Eligible Claims.

(a) The loss must be caused by the dishonest conduct of the lawyer and shall have arisen out of and ~~by reason~~ because of a lawyer-client relationship, or a fiduciary relationship, between the lawyer and the claimant.

(b) As used in these Rules, “dishonest conduct” means wrongful acts committed by a lawyer in the nature of theft or embezzlement of money or the wrongful taking or conversion of money, property or other things of value.

(c) ~~A complaint against the lawyer who caused or is alleged to have caused such loss shall have been filed with the State Disciplinary Board of the State Bar of Georgia and final disposition of such complaint has been made resulting in disciplinary action against the lawyer in the form of indefinite suspension, disbarment, or voluntary surrender of license~~ There must be a final disposition of a grievance filed with the State Disciplinary Board of the State Bar of Georgia resulting in indefinite suspension, disbarment, or voluntary surrender of license.

(d) The claim shall be filed no later than two years after the date of final disciplinary action by the Supreme Court of Georgia. In the event disciplinary action cannot be prosecuted due to the fact that the attorney is either deceased or cannot be located, the claim shall be filed no later than five years after the dishonest conduct was first discovered by the applicant; provided, however, the claim shall be filed no later than seven years after the dishonest conduct occurred.

(e) Except as provided by Section (f) of this Rule, the following losses shall not be reimbursable:

(1) Losses incurred by spouses, children, parents, grandparents, siblings, partners, associates and employees of lawyer(s) causing the losses;

(2) Losses covered by any bond, surety agreement, or insurance contract to the extent covered thereby, including any loss to which any bonding agent, surety or insurer is subrogated, to the extent of that subrogated interest;

(3) Losses incurred by any financial institution which are recoverable under a “banker’s blanket bond” or similar commonly available insurance or surety contract;

(4) Losses incurred by any business entity controlled by the lawyer, or any person or entity described in Section (e) (1) hereof;

(5) Losses incurred by any governmental entity or agency;

(6) Losses incurred by corporations or partnerships, including general or limited.

(f) In cases of extreme hardship or special and unusual circumstances, the Board may, in its discretion, recognize a claim which otherwise would be excluded under these Rules in order to achieve the purpose of the Fund.

(g) In cases where it appears that there will be unjust enrichment, or the claimant unreasonably or knowingly contributed to the loss, the Board, in its discretion, may, ~~in its discretion~~, deny the claim.

(h) The Board shall require the applicant to exhaust his or her civil remedies unless the Board determines that the pursuit of the civil claim is not feasible or practical.

Rule 10-107. Payments.

(a) ~~If, in the judgment of the Board, a reimbursable loss has been sustained by a claimant and the circumstances warrant relief, then, after taking into consideration the resources of the Fund and the priority to be assigned to such application in the discretion of the Board, the Board may, in the exercise of its discretion, as a matter of grace and not of right, grant monetary relief.~~ The Board may exercise its discretion to grant monetary relief as a matter of grace and not of right if it determines that a claimant has suffered a reimbursable loss under these rules and the circumstances warrant relief. Before granting such a claim, the Board must take into consideration the resources of the Fund and the priority to be assigned to a claimant’s application.

(b) Such monetary relief shall be in such an amount as the Board may determine and shall be payable in such a manner and upon such conditions and terms as the Board shall prescribe.

(c) This process is designed so that a claimant should be require legal counsel to assist with a claim. However, if a claimant desires legal counsel, no lawyer may accept any payment for assisting a claimant with prosecuting a claim under these rules unless such payment has been approved by the Board.

Rule 10-108. ~~No Legal~~ Right to Payment and Right of Appeal.

(a) No person shall have any legal right to payment or reimbursement from the Fund whether as a claimant, third-party beneficiary, or otherwise. Any amount paid to a claimant by the Fund may be appealed to the Board by the claimant.

(b) The claimant may request reconsideration within 30 days of notice of the denial or determination of the amount of a claim. If the claimant fails to make a request or the request is denied, the decision of the Board is final and there is no further right of reconsideration or appeal.

Rule 10-109. Restitution and Subrogation.

(a) A lawyer whose dishonest conduct results in reimbursement to a claimant shall be liable to the Fund for restitution; the Board may bring such action, as it deems advisable to enforce such obligation.

(b) As a condition of reimbursement, a claimant shall be required to provide the Fund with a pro tanto release and transfer of the claimant's rights against the lawyer, the lawyer's legal representative, estate or assigns, and the claimant's rights against any third party or entity who may be liable for the claimant's loss.

(c) No petition for reinstatement to practice law in the state of Georgia shall be granted until the petitioner has made restitution to the Clients' Security Fund for all amounts paid by the Fund as a result of the petitioner's conduct, ~~plus accrued interest.~~

Rule 10-110. Immunity.

~~The Trustees, employees and agents of the Board shall be absolutely immune from civil liability for all acts in the course of their official duties. Absolute immunity shall also extend to claimants and lawyers who assist claimants for all communications to the Fund.~~

The Supreme Court of Georgia recognizes the actions of the State Bar of Georgia and this program to be within the Court's judicial and regulatory functions, and being regulatory and judicial in nature, the State Bar of Georgia, its employees, the Office of the General Counsel, its staff liaison to the program, the Clients' Security Fund Board of Trustees, and any outside counsel advising and assisting the program are entitled to judicial immunity.

Rule 10-111. Confidentiality.

(a) Claims, proceedings and reports involving claims for reimbursement are confidential until the Board authorizes reimbursement to the claimant, except as provided below. After payment of the reimbursement, the Board may publicize the nature of the claim, the amount of reimbursement, and the name of the lawyer. The name and the address of the claimant shall not be publicized by the Board unless specific permission has been granted by the claimant.

(b) This Rule shall not be construed to deny access to relevant information by professional discipline agencies or other law enforcement authorities as the Board shall authorize, or the release of statistical information which does not disclose the identity of the lawyer or the parties, or use of such information as necessary to pursue the Fund's subrogation and restitution rights under Rule 10-109.

(c) In the event a lawyer whose conduct resulted in the payment of a claim files a petition for reinstatement to the practice of law, the Board shall release all information pertaining to the claim to the Board to Determine Fitness of Bar Applicants as may be pertinent to the reinstatement proceeding.

(d) Any disciplinary information obtained by the Board or a Trustee during the investigation of a claim is confidential to the same extent as required by Bar Rule 4-221 (d).

Rule 10-112. Repeal of Resolution.

Any Resolution of the State Bar of Georgia currently in force and covering the subject matter of these Rules 10-101 through 10-112, shall be repealed upon adoption of these Rules by the Supreme Court of Georgia.

If the proposed amendments to the Rules are adopted, the amended Rules would read as follow:

PREAMBLE

The purpose of the Clients' Security Fund is to promote public confidence in the administration of justice and the integrity of the legal profession by providing monetary relief to persons who suffer reimbursable losses as a result of the dishonest conduct of members of the State Bar of Georgia.

Rule 10-101. Fund Established.

There is established a separate fund of the State Bar of Georgia designated "Clients' Security Fund of the State Bar of Georgia". There is also established a Clients' Security Fund Board of Trustees which shall receive, hold, manage and disburse from the Fund such monies as may from time to time be appropriated to it by the State Bar of Georgia, or received through voluntary contributions, income from investments or other funding sources.

Rule 10-102. Definitions.

For this rule, the following terms shall have the following meanings:

- (a) The “Board” means the Clients’ Security Fund Board of Trustees.
- (b) “Claimant” means one who files a claim for reimbursement with the Board of Trustees.
- (c) The “Fund” means the Clients’ Security Fund of the State Bar of Georgia.
- (d) “Lawyer” or “attorney” means one who, at the time of the commencement of his or her handling of the matter in which the loss arose, was a Member of the State Bar of Georgia.

Rule 10-103. Funding.

(a) The State Bar of Georgia shall provide funding for the payment of claims and the costs of administering the Fund. In any year following a year in which the gross aggregate balance of the Fund falls below \$1,000,000, the State Bar of Georgia shall assess and collect from each dues-paying member a pro rata share of the difference between the actual Fund balance and \$1 million, provided that such assessments shall not exceed \$25 in any single year. The aggregate amount paid to claimants from the Fund in any year shall not exceed \$500,000. The Board of Governors may from time to time adjust the Fund’s minimum aggregate balance, maximum annual payout, or maximum annual assessment to advance the purposes of the Fund or to preserve the fiscal integrity of the Fund.

(b) All monies or other assets of the Fund shall constitute a trust and shall be held in the name of the Fund, subject to the direction of the Board.

(c) Only the Board of Trustees may authorize the payment of money from the Fund.

Rule 10-104. Board of Trustees.

(a) The Board of Trustees shall consist of six (6) lawyers and one (1) non-lawyer appointed by the President of the State Bar. The initial appointments to the Board shall be of such terms as to result in the staggered expiration of the terms of all members of the Board. Thereafter, the appointments shall be for a term of five (5) years.

(b) Vacancies shall be filled by appointment of the President of the State Bar of Georgia for any unexpired term.

(c) The Board members shall select a chairperson who is a member in good standing of the State Bar of Georgia, and such other officers as the Board members deem appropriate.

(d) A quorum for the transaction of business at any meeting of the Board shall consist of three current members in attendance.

(e) The Board shall adopt a regulation to terminate Trustees who fail to regularly attend meetings and may adopt additional regulations for the administration of the Fund that are not otherwise inconsistent with these rules.

Rule 10-105. Investigations.

(a) The Board shall review every claim, and in its discretion, will investigate to the extent the Board deems appropriate those claims that appear to meet the requirements for payment as described in these rules.

(b) The Board may approve for payment from the Fund such claims as are found, after investigation, to be meritorious and in accordance with these rules.

(c) Applications for relief shall be submitted on forms prescribed by the Board.

Rule 10-106. Eligible Claims.

(a) The loss must be caused by the dishonest conduct of the lawyer and shall have arisen out of and because of a lawyer-client relationship, or a fiduciary relationship, between the lawyer and the claimant.

(b) As used in these Rules, “dishonest conduct” means wrongful acts committed by a lawyer in the nature of theft or embezzlement of money or the wrongful taking or conversion of money, property or other things of value.

(c) There must be a final disposition of a grievance filed with the State Disciplinary Board of the State Bar of Georgia resulting in indefinite suspension, disbarment, or voluntary surrender of license.

(d) The claim shall be filed no later than two years after the date of final disciplinary action by the Supreme Court of Georgia. In the event disciplinary action cannot be prosecuted due to the fact that the attorney is either deceased or cannot be located, the claim shall be filed no later than five years after the dishonest conduct was first discovered by the applicant; provided, however, the claim shall be filed no later than seven years after the dishonest conduct occurred.

(e) Except as provided by Section (f) of this Rule, the following losses shall not be reimbursable:

(1) Losses incurred by spouses, children, parents, grandparents, siblings, partners, associates and employees of lawyer(s) causing the losses;

(2) Losses covered by any bond, surety agreement, or insurance contract to the extent covered thereby, including any loss to which any bonding agent, surety or insurer is subrogated, to the extent of that subrogated interest;

(3) Losses incurred by any financial institution which are recoverable under a “banker’s blanket bond” or similar commonly available insurance or surety contract;

(4) Losses incurred by any business entity controlled by the lawyer, or any person or entity described in Section (e) (1) hereof;

(5) Losses incurred by any governmental entity or agency;

(6) Losses incurred by corporations or partnerships, including general or limited.

(f) In cases of extreme hardship or special and unusual circumstances, the Board may, in its discretion, recognize a claim which otherwise would be excluded under these Rules in order to achieve the purpose of the Fund.

(g) In cases where it appears that there will be unjust enrichment, or the claimant unreasonably or knowingly contributed to the loss, the Board, in its discretion, may deny the claim.

(h) The Board shall require the applicant to exhaust his or her civil remedies unless the Board determines that the pursuit of the civil claim is not feasible or practical.

Rule 10-107. Payments.

(a) The Board may exercise its discretion to grant monetary relief as a matter of grace and not of right if it determines that a claimant has suffered a reimbursable loss under these rules and the circumstances warrant relief. Before granting such a claim, the Board must take into consideration the resources of the Fund and the priority to be assigned to a claimant’s application.

(b) Such monetary relief shall be in such an amount as the Board may determine and shall be payable in such a manner and upon such conditions and terms as the Board shall prescribe.

(c) This process is designed so that a claimant should be required to seek legal counsel to assist with a claim. However, if a claimant desires legal counsel, no lawyer may accept any payment for assisting a claimant with prosecuting a claim under these rules unless such payment has been approved by the Board.

Rule 10-108. Right to Payment and Right of Appeal.

(a) No person shall have any legal right to payment or reimbursement from the Fund whether as a claimant, third-party beneficiary, or otherwise. Any amount paid to a claimant by the Fund may be appealed to the Board by the claimant.

(b) The claimant may request reconsideration within 30 days of notice of the denial or determination of the amount of a claim. If the claimant fails to make a request or the request is denied, the decision of the Board is final and there is no further right of reconsideration or appeal.

Rule 10-109. Restitution and Subrogation.

(a) A lawyer whose dishonest conduct results in reimbursement to a claimant shall be liable to the Fund for restitution; the Board may bring such action, as it deems advisable to enforce such obligation.

(b) As a condition of reimbursement, a claimant shall be required to provide the Fund with a pro tanto release and transfer of the claimant's rights against the lawyer, the lawyer's legal representative, estate or assigns, and the claimant's rights against any third party or entity who may be liable for the claimant's loss.

(c) No petition for reinstatement to practice law in the state of Georgia shall be granted until the petitioner has made restitution to the Clients' Security Fund for all amounts paid by the Fund as a result of the petitioner's conduct.

Rule 10-110. Immunity.

The Supreme Court of Georgia recognizes the actions of the State Bar of Georgia and this program to be within the Court's judicial and regulatory functions, and being regulatory and judicial in nature, the State Bar of Georgia, its employees, the Office of the General Counsel, its staff liaison to the program, the Clients' Security Fund Board of Trustees, and any outside counsel advising and assisting the program are entitled to judicial immunity.

Rule 10-111. Confidentiality.

(a) Claims, proceedings and reports involving claims for reimbursement are confidential until the Board authorizes reimbursement to the claimant, except as provided below. After payment of the reimbursement, the Board may publicize the nature of the claim, the amount of reimbursement, and the name of the lawyer. The name and the address of the claimant shall not be publicized by the Board unless specific permission has been granted by the claimant.

(b) This Rule shall not be construed to deny access to relevant information by professional discipline agencies or other law enforcement authorities as the Board shall authorize, or the release of statistical information which does not disclose the identity of the

lawyer or the parties, or use of such information as necessary to pursue the Fund's subrogation and restitution rights under Rule 10-109.

(c) In the event a lawyer whose conduct resulted in the payment of a claim files a petition for reinstatement to the practice of law, the Board shall release all information pertaining to the claim to the Board to Determine Fitness of Bar Applicants as may be pertinent to the reinstatement proceeding.

(d) Any disciplinary information obtained by the Board or a Trustee during the investigation of a claim is confidential to the same extent as required by Bar Rule 4-221 (d).

Rule 10-112. Repeal of Resolution.

Any Resolution of the State Bar of Georgia currently in force and covering the subject matter of these Rules 10-101 through 10-112, shall be repealed upon adoption of these Rules by the Supreme Court of Georgia.

IX.

Proposed Amendments to Part XII, Consumer Assistance Program

It is proposed that the following Rules be amended by deleting the struck-through sections and inserting the underlined sections as follow:

Rule 12-101. Consumer Assistance Committee.

The advisory and oversight responsibility for this program will be vested in the Consumer Assistance Committee ("Committee").

Rule 12-102. Consumer Assistance Committee; Membership and Terms.

(a) The Committee shall consist of eight members including seven State Bar [of Georgia](#) members and one public member. At least two-thirds of the State Bar [of Georgia](#) members shall be members of the Board of Governors of the State Bar [of Georgia](#) at the time of their appointment. Committee members shall serve staggered three-year terms. The number of members shall be subject to change by a majority vote of the Board of Governors but shall never be less than five.

(b) The public member shall be appointed by the Supreme Court [of Georgia](#) for a three year term. All other Committee members shall be appointed by the President of the [State Bar of Georgia](#) for three year terms except, initially, two Committee members shall be appointed for one-year terms, two members shall be appointed for two-year terms, and two members shall be appointed for a three-year term. Committee terms shall begin with the operational year of the State Bar [of Georgia](#). Should additional members be approved, their three-year terms shall be

assigned in such fashion as to best maintain uniformity in the number of members to be appointed each year.

(c) The Committee shall elect a chairperson and such other officers as the Committee members deemed appropriate.

(d) Vacancies shall be filled by appointment of the President of the State Bar [of Georgia](#) for any unexpired term.

Rule 12-103. Committee Purpose and Responsibility.

The Committee shall meet for the purposes of oversight of the Consumer Assistance Program, coordination of the program's goals and implementation of directives and resolutions from the Board of Governors [of the State Bar of Georgia](#). The Committee shall have authority to adopt additional regulations for the administration of the program which are not otherwise inconsistent with these rules. Additionally, the Committee will develop recommendations for submission to the Executive Committee and the Board of Governors [of the State Bar of Georgia](#) with regard to the funding, staffing, administration, and operation of the program, which may include proposed changes to Bylaws and Rules of the State Bar [of Georgia](#).

Rule 12-104. Staff and Funding.

The State Bar [of Georgia](#) shall provide such staff as it deems necessary. The program shall be funded through the general budget of the State Bar [of Georgia](#) and, when appropriate, through donations and grants from foundations and other public and private sources.

Rule 12-105. Supervision.

The Consumer Assistance Program shall operate under the supervision of the Executive Director of the State Bar [of Georgia](#). [Program staff may be used at any time, including at any stage of th disciplinary process, to help consumers understand their rights, obligations, and options.](#)

Rule 12-106. Procedures.

Inquiries concerning State Bar members may be received by Consumer Assistance staff in writing, in person and by telephone. Consumer Assistance staff shall have the authority to contact the attorney involved and conduct other limited investigation necessary to determine if the inquiry can be resolved in an informal method either through communications with Consumer Assistance staff or by referral to other ~~State Bar programs~~ [resources both within and outside the State Bar of Georgia](#) including but not limited to [the State Bar of Georgia Fee Arbitration Program](#), [State Bar of Georgia Clients' Security Fund](#), [the Law Practice Management Program](#), and the Lawyer Assistance Program.

If the conduct which is the subject of the inquiry appears to violate ~~one of the standards~~ [Georgia Rules of Professional eConduct](#), ~~set forth in Part IV of the Bar Rules~~, Consumer

Assistance staff shall have independent authority to determine whether the matter can ~~either~~ be resolved informally or should ~~be referred to the Office of General Counsel for further screening~~ proceed for an informal investigation under Part IV of the Bar Rules 4-202.

Consumer Assistance staff shall follow written guidelines developed and established by the Consumer Assistance Committee with the advice and counsel of the General Counsel and Executive Director of the State Bar of Georgia and approved by the Executive Committee and Board of Governors of the State Bar of Georgia.

Regardless of any decision made by Consumer Assistance staff, any individual ~~shall have the right to request grievance forms and~~ may file a grievance under Part IV of the Bar Rules. ~~In the event~~

If a bar member who is the subject of any inquiry disagrees with the voluntary resolution recommended by Consumer Assistance staff, staff may refer the matter to the Office of the General Counsel for and investigation pursuant to Bar Rule 4-202 ~~further screening under Part IV of the Bar Rules~~.

Rule 12-107. Confidentiality of Proceedings.

(a) All investigations and proceedings provided for herein shall be confidential unless the respondent otherwise elects or as hereinafter provided in this Rule and Part IV of the Bar Rules.

(b) Except as expressly permitted by these Rules, no person connected with the Consumer Assistance Program shall disclose information concerning or comment on any proceeding under Part XII of these Rules.

~~(c) Nothing in the Rules shall prohibit truthful and accurate public statements of fact about a proceeding under Part XII of these Rules, provided however, that in the event of such statement any other person involved in the proceeding may make truthful and accurate public statements of fact regarding the proceeding, including information otherwise confidential under the provisions of Rule 4-102 (d), Rule 1.6, as may be reasonably necessary to defend that person's reputation;~~

~~(2) Willful and malicious false statements of fact made by any person connected with a proceeding under Part XII of these Rules may subject such person to rule for contempt by the Supreme Court of Georgia.~~

~~(ed) In the event~~ If the conduct of the attorney appears to violate one or more of the Georgia Rules of Professional Conduct set forth in Part IV of the Bar Rules, and Consumer Assistance staff in its sole discretion makes a determination under Rule 12-106 that the matter cannot be resolved informally, then the Consumer Assistance staff shall ~~inform callers of their option to file a grievance and shall advise the Office of the General Counsel to send the appropriate forms to the callers~~ forward the matter to the Office of the General Counsel for an investigation pursuant to Bar Rule 4-202, with notice to the attorney.

(~~e~~) The Consumer Assistance Committee and staff may reveal confidential information when required by law or court order.

Rule 12-108. Disclosure.

Information obtained by the Consumer Assistance Committee and staff shall not be disclosed to the Office of the General Counsel without the consent of the person providing the information, or unless:

(a) the information clearly shows the attorney intends to engage in criminal conduct in the future;

(b) the information clearly shows the attorney has misappropriated funds or engaged in criminal conduct;

(c) ~~the caller files a grievance and the affected attorney consents in writing to the release of the information; or~~

(~~d~~) as otherwise provided by Bar Rule 12-107.

Rule 12-109. Immunity.

The Supreme Court of Georgia recognizes the actions of the State Bar of Georgia's Consumer Assistance Program to be within the Court's judicial and regulatory functions. As such, ~~T~~the State Bar of Georgia, its employees, and members of the Committee shall be ~~absolutely immune from civil liability~~ entitled to judicial immunity for all acts undertaken in good faith in the course of their official duties.

If the proposed amendments to the Rules are adopted, the amended Rules would read as follow:

Rule 12-101. Consumer Assistance Committee.

The advisory and oversight responsibility for this program will be vested in the Consumer Assistance Committee ("Committee").

Rule 12-102. Consumer Assistance Committee; Membership and Terms.

(a) The Committee shall consist of eight members including seven State Bar of Georgia members and one public member. At least two-thirds of the State Bar of Georgia members shall be members of the Board of Governors of the State Bar of Georgia at the time of their appointment. Committee members shall serve staggered three-year terms. The number of members shall be subject to change by a majority vote of the Board of Governors but shall never be less than five.

(b) The public member shall be appointed by the Supreme Court of Georgia for a three year term. All other Committee members shall be appointed by the President of the State Bar of Georgia for three year terms except, initially, two Committee members shall be appointed for one-year terms, two members shall be appointed for two-year terms, and two members shall be appointed for a three-year term. Committee terms shall begin with the operational year of the State Bar of Georgia. Should additional members be approved, their three-year terms shall be assigned in such fashion as to best maintain uniformity in the number of members to be appointed each year.

(c) The Committee shall elect a chairperson and such other officers as the Committee members deemed appropriate.

(d) Vacancies shall be filled by appointment of the President of the State Bar of Georgia for any unexpired term.

Rule 12-103. Committee Purpose and Responsibility.

The Committee shall meet for the purposes of oversight of the Consumer Assistance Program, coordination of the program's goals and implementation of directives and resolutions from the Board of Governors of the State Bar of Georgia. The Committee shall have authority to adopt additional regulations for the administration of the program which are not otherwise inconsistent with these rules. Additionally, the Committee will develop recommendations for submission to the Executive Committee and the Board of Governors of the State Bar of Georgia with regard to the funding, staffing, administration, and operation of the program, which may include proposed changes to Bylaws and Rules of the State Bar of Georgia.

Rule 12-104. Staff and Funding.

The State Bar of Georgia shall provide such staff as it deems necessary. The program shall be funded through the general budget of the State Bar of Georgia and, when appropriate, through donations and grants from foundations and other public and private sources.

Rule 12-105. Supervision.

The Consumer Assistance Program shall operate under the supervision of the Executive Director of the State Bar of Georgia. Program staff may be used at any time, including at any stage of the disciplinary process, to help consumers understand their rights, obligations, and options.

Rule 12-106. Procedures.

Inquiries concerning State Bar members may be received by Consumer Assistance staff in writing, in person and by telephone. Consumer Assistance staff shall have the authority to contact the attorney involved and conduct other limited investigation necessary to determine if the inquiry can be resolved in an informal method either through communications with Consumer Assistance staff or by referral to other resources both within and outside the State Bar

of Georgia including but not limited to the State Bar of Georgia Fee Arbitration Program, State Bar of Georgia Clients' Security Fund, the Law Practice Management Program, and the Lawyer Assistance Program.

If the conduct which is the subject of the inquiry appears to violate the Georgia Rules of Professional Conduct, Consumer Assistance staff shall have independent authority to determine whether the matter can be resolved informally or should proceed for an informal investigation under Part IV of the Bar Rules 4-202.

Consumer Assistance staff shall follow written guidelines developed and established by the Consumer Assistance Committee with the advice and counsel of the General Counsel and Executive Director of the State Bar of Georgia and approved by the Executive Committee and Board of Governors of the State Bar of Georgia.

Regardless of any decision made by Consumer Assistance staff, any individual may file a grievance under Part IV of the Bar Rules.

If a bar member who is the subject of any inquiry disagrees with the voluntary resolution recommended by Consumer Assistance staff, staff may refer the matter to the Office of the General Counsel for and investigation pursuant to Bar Rule 4-202.

Rule 12-107. Confidentiality of Proceedings.

(a) All investigations and proceedings provided for herein shall be confidential unless the respondent otherwise elects or as hereinafter provided in this Rule and Part IV of the Bar Rules.

(b) Except as expressly permitted by these Rules, no person connected with the Consumer Assistance Program shall disclose information concerning or comment on any proceeding under Part XII of these Rules.

(c) Nothing in the Rules shall prohibit truthful and accurate public statements of fact about a proceeding under Part XII of these Rules.

(d) If the conduct of the attorney appears to violate one or more of the Georgia Rules of Professional Conduct set forth in Part IV of the Bar Rules, and Consumer Assistance staff in its sole discretion makes a determination under Rule 12-106 that the matter cannot be resolved informally, then the Consumer Assistance staff shall forward the matter to the Office of the General Counsel for an investigation pursuant to Bar Rule 4-202, with notice to the attorney.

(e) The Consumer Assistance Committee and staff may reveal confidential information when required by law or court order.

Rule 12-108. Disclosure.

Information obtained by the Consumer Assistance Committee and staff shall not be disclosed to the Office of the General Counsel without the consent of the person providing the information, or unless:

- (a) the information clearly shows the attorney intends to engage in criminal conduct in the future;
- (b) the information clearly shows the attorney has misappropriated funds or engaged in criminal conduct;
- (c) as otherwise provided by Bar Rule 12-107.

Rule 12-109. Immunity.

The Supreme Court of Georgia recognizes the actions of the State Bar of Georgia's Consumer Assistance Program to be within the Court's judicial and regulatory functions. As such, the State Bar of Georgia, its employees, and members of the Committee shall be entitled to judicial immunity for all acts undertaken in good faith in the course of their official duties.

SO MOVED, this _____ day of _____, 2018.

Counsel for the State Bar of Georgia

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