Uninsured Motorist Benefits in Light of 
*Thurman v. State Farm*
THE STATE BAR OF GEORGIA ANNOUNCES ITS ANNUAL

FICTION WRITING COMPETITION

DEADLINE: JANUARY 12, 2018

The Editorial Board of the Georgia Bar Journal is pleased to announce that it will sponsor its annual Fiction Writing Contest in accordance with the rules set forth below. The purposes of this competition are to enhance interest in the Journal, to encourage excellence in writing by members of the Bar and to provide an innovative vehicle for the illustration of the life and work of lawyers. For more information, contact Sarah I. Coole, Director of Communications, 404-527-8791 or sarahc@gabar.org.

1. The competition is open to any member in good standing of the State Bar of Georgia, except current members of the Editorial Board. Authors may collaborate, but only one submission from each member will be considered.

2. Subject to the following criteria, the article may be on any fictional topic and may be in any form (humorous, anecdotal, mystery, science fiction, etc.). Among the criteria the Board will consider in judging the articles submitted are: quality of writing, creativity; degree of interest to lawyers and relevance to their life and work; extent to which the article comports with the established reputation of the Journal; and adherence to specified limitations on length and other competition requirements. The Board will not consider any article that, in the sole judgment of the Board, contains matter that is libelous or that violates accepted community standards of good taste and decency.

3. All articles submitted to the competition become the property of the State Bar of Georgia and, by submitting the article, the author warrants that all persons and events contained in the article are fictitious, that any similarity to actual persons or events is purely coincidental and that the article has not been previously published.

4. Articles should not be more than 7,500 words in length and should be submitted electronically.

5. Articles will be judged without knowledge of the author’s identity. The author’s name and State Bar ID number should be placed on a separate cover sheet with the name of the story.

6. All submissions must be received at State Bar headquarters in proper form prior to the close of business on a date specified by the Board. Submissions received after that date and time will not be considered. Please direct all submissions to: Sarah I. Coole, Director of Communications, by email to sarahc@gabar.org. If you do not receive confirmation that your entry has been received, please call 404-527-8791.

7. Depending on the number of submissions, the Board may elect to solicit outside assistance in reviewing the articles. The final decision, however, will be made by majority vote of the Board. Contestants will be advised of the results of the competition by letter. Honorable mentions may be announced.

8. The winning article, if any, will be published. The Board reserves the right to edit articles and to select no winner and to publish no article from among those submitted if the submissions are deemed by the Board not to be of notable quality.
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In your daily practice of law, do you ever think to yourself, “I wish I knew then what I know now.”? Do you ever think of what you’d tell your younger, fresh-faced, eager-to-learn self as you began law school? Which classes to take for your chosen career path? How to navigate the job search? Get more sleep, perhaps? In this issue of the Georgia Bar Journal, you can read about the reflections of our State Bar and YLD officers on the most important thing they would tell themselves as first-year law students. I’m sure you’ll see a little bit of yourself in their reflections.

Once that article puts you in the mood to help others, please take a look at “Georgia Lawyers Helping Lawyers” in our executive director’s column. This article discusses the new Lawyers Helping Lawyers (LHL) peer-to-peer program, which is designed to help lawyers struggling with depression, substance abuse, and family and workplace problems, among others. Whether you or someone you know needs help, or has experience with these common problems, the LHL program is a confidential resource for support.

Also, if you are considering undertaking any pro bono work, this issue can provide you with information to get you started. Solo practitioners can turn to “Pro bono—Small but Mighty: Making Pro Bono a Win-Win as a Solo or Small Firm Attorney” for a discussion of the benefits of pro bono work to your practice as a whole while serving the community. The YLD president’s column also discusses the “misconceptions” that surround pro bono practice for younger lawyers who are wondering how to incorporate pro bono work into the early years of their practice.

This issue’s legal article, “Uninsured Motorist Benefits in Light of Thurman v. State Farm,” by David J. Blevins, offers an interpretation of the exception to the derivative claim rule in cases involving traditional uninsured motorist policies as laid out in the Thurman case. As he notes, this thorny issue has “bedeviled” practitioners, and his interpretation will assist anyone who confronts this issue in their practice.

Also in this issue, you will find many helpful tips for your daily practice. Whether it’s advice on when it’s time to hire an interpreter, writing your statement of facts or resources for managing your practice, this issue offers many insightful tips. You can also read about the private health insurance exchange of the State Bar in the Member Benefits section.

Lastly, check out the new Bike Law Section of the State Bar in Section News! As always, we hope you enjoy reading the Georgia Bar Journal, and we welcome any feedback.
In Praise of Local Bar Associations

One of the benefits of serving as president of the State Bar of Georgia is the opportunity to visit communities across the state and meet with our local bar associations. I enjoy going to Georgia cities and towns that I have often heard about but haven’t been to in a long time, if ever. It’s also good to be able to report to our members the latest news from the State Bar and get your feedback on how the Bar can better serve you.

Most of all, I cherish the opportunity to witness first-hand the great work being done at the local level, through our local bar associations, in service to the public, the legal profession and the justice system. The State Bar of Georgia has nearly 50,000 members. Organizationally, we depend on local bars to serve as affiliates to meet the unique needs of the attorneys and citizens of each community. I am truly inspired by what I see and hear about from our local bars. Here are just a few recent examples:

- The Atlanta Bar Association co-sponsored the 17th Legal Runaround with the Atlanta Police Department. Proceeds provide college scholarships to children of Atlanta Police officers who have been disabled or killed in the line of duty.
- The Augusta Bar Association celebrated Law Day this year with none other than American Bar Association President Linda Klein, a past president of the State Bar of Georgia, as keynote speaker.
- The Blue Ridge Bar Association co-sponsored an Easter egg hunt with the Cherokee Family Violence Center and the Canton Police Department.
- The Cobb County Bar Association hosts a full calendar of continuing legal education activities for its members. In September, the Cobb Bar sponsored the 19th Annual Alexis Grubbs Memorial Golf Tournament, proceeds supporting the Alexis Nicole Grubbs Scholarship Fund for local students.
- The Dougherty Circuit Bar Association’s Toys for Tots box was full within the first 15 minutes of its annual Christmas Party.
- The Gwinnett County Bar Association partnered with the Gwinnett Children’s Shelter for its 2017 Law Day Community Service Project. Gwinnett bar members collected tickets and served drinks
during the annual Sip and Swine Barbecue Festival.

- The Houston County Bar Association presents a $500 college scholarship to six local high school seniors each year, collects toys for disadvantaged children during the holidays and collects clothes for the Public Defender's Office for use by defendants, witnesses and family members who do not own appropriate clothing to appear in the courtroom.

- The New Rock Legal Society joined with Rockdale County Chief Magistrate Judge Phinia Aten to host a Youth Law Camp, a full day of nonstop fun and learning. The program included sessions on Legal Careers, Teens Know Your Rights, Mock Trial and Meet & Greet with Government Officials.

- The Paulding County Bar Association hosted a legislative luncheon, which featured local lawmakers sharing reports from the 2017 session of the Georgia General Assembly with bar members.

- The Savannah Bar Association Young Lawyers Division hosted the 12th Annual Charity Golf Tournament, providing a day of fun and competition while raising thousands of dollars for charity.

- The Troup County Bar Association sponsored “Trial Practice as Viewed from the Bench,” a CLE session presented by Coweta Judicial Circuit Superior Court Judge Emory Palmer.

Georgia is also fortunate to have a number of active voluntary bar associations representing minority communities. They include:

- The Georgia Asian Pacific American Bar Association's Law Foundation established the inaugural Trinh Huynh Fellowship to commemorate the legacy of one of GAPABA's most ardent community activists and former board members.

- The Georgia Association of Black Women Attorneys, through its

**OFFICERS’ BLOCK**

For this issue of the Georgia Bar Journal, we asked our Bar officers, "Knowing what you know now, if you could send a letter to yourself as a first-year law student, what is the most important thing it would say?"

**BRIAN D. “BUCK” ROGERS**  
President

Dear Buck, get a haircut; mullets are out. Also, embrace the diversity of your classmates. You come from different places with different experiences, and there is much to learn from each other. You'll be going to many places and it'll be nice to have your classmates as friends across the country. In fact, it may be more important than what the professors will teach you.

**KENNETH B. “KEN” HODGES III**  
President-Elect

The lecture hall is not the only place you should spend your time. Clinical programs can give you invaluable hands-on experience, and time on the intramural fields and social activities can foster friendships with those who can help you succeed in the real world. And don’t miss the football games!

**DARRELL L. SUTTON**  
Treasurer

Where you will find yourself following law school will be much different than what you envision when you begin. Where you will be practicing and what you will be practicing will likely be different than what you expect. Approach law school open to all opportunities. Yes, that means take a corporate transactions class.

**DAWN M. JONES**  
Secretary

I would explain how, on the very first day of law school, I was unknowingly building my reputation as a lawyer. Whether I was honest, trustworthy and competent during the course of my studies while interacting with others; such attributes would form my developing reputation in the practice of law.

**PATRICK T. O’CONNOR**  
Immediate Past President

No matter how far you go, no matter how high you climb, never forget from whence you came.
Georgia’s local and voluntary bar associations provide an essential service for our profession and the community at large. I strongly encourage you to get involved, not only for the benefit of others, but for your law practice as well.

foundations, raises funds to provide services to the community that further the interests of women and children throughout Georgia and that increase the representation of black women in the legal profession. These include its Civil Pro Bono Project, the Sister to Sister Mentoring Program and a Scholarship & Endowment program for African-American women entering the legal profession.

- The Georgia Hispanic Bar Association joined with the Atlanta Volunteer Lawyers Foundation to sponsor a Saturday Lawyer Program, with attorneys meeting with low-income Atlantans confronted by various wage and housing problems.

- The Gate City Bar Association celebrated the 10th anniversary of its Summer Associates Program, which supports law students by providing a substantive summer experience; sponsored the 11th annual Justice Robert Benham Law Camp, held during the summer at the Georgia State University College of Law, for high school students to help develop the next generation of lawyers; and held a Community Law Clinic, partnering with Greenbriar Mall and the Fulton County Solicitor General’s Office.

- The Georgia Hispanic Bar Association and the Korean-American Bar Association of Georgia both joined with the Atlanta Volunteer Lawyers Association to host Saturday Lawyer Programs on the topics of unpaid wages, landlord/tenant issues and lease disputes. The events provided low-income Atlantans with access to volunteer attorneys and gave Bar members a chance to perform meaningful pro bono work.

While the opportunity to provide volunteer service to the profession and the community is a rewarding component of membership in a local bar association, there are numerous other benefits. For example, the State Bar of Georgia is not authorized to refer clients to lawyers, but many local and voluntary bar associations offer referrals. On the State Bar website, you can find a list of the local or voluntary bars’ contact information, including a list of counties that are served by each particular organization, and whether they offer attorney referrals. Lawyers can list their contact information and practice areas with the local bar for potential client referrals.

Additionally, being active in your local bar association can provide beneficial networking opportunities. As Keith Lee wrote for AboveTheLaw.com, “While some of the uses of bar associations are affordable CLEs and identifying practice trends, their real value is in fostering relationships between their members.” Bar association membership is, he wrote, “essentially a lawyer’s professional community. And . . . if you invest in your community, your community will invest in you. By joining a local bar association and dedicating real time and effort to it, you can begin to develop the relation-
ships you need in order to thrive as a small firm practitioner.”

Camaraderie and professional respect, cultivated by these relationships, also pay dividends. Lee wrote about his local bar association’s recent Bench & Bar retreat, a couple of days at a golf resort with hundreds of lawyers and judges.

“During this time I had the opportunity to speak with dozens of lawyers I would have never met otherwise,” he said. “Many of whom I have subsequently had lunch or coffee with and now have a real relationship. But one interaction in particular stood out.

“The week prior to the event, I had spent most of the day in a deposition in a long-running case. At the retreat, I ran into a lawyer who was at the deposition on the opposite side of the case from us. The other lawyer and I immediately struck up a conversation, completely unrelated to the case. Over the course of the evening, we had a couple drinks together, talked about sports, our neighborhoods, and all sorts of things that had nothing to do with us being in an adversarial relationship in our professional lives. Because we were members of the same bar, we were able to just be two guys hanging out for a day. The value of this cannot be discounted. Someday the present case will end, and we will no longer be adversaries. Perhaps I’ll refer a case to him. Perhaps he’ll suggest me to another lawyer for a particular type of matter.”

Law firms that support their attorneys’ voluntary bar association membership, especially for young lawyers, get a return on their investment as well. As Marilyn Odendahl wrote for TheIndianaLawyer.com, “In a bar association, young lawyers will have opportunities for public speaking and holding leadership positions. The attorneys will then call upon the skills gained through these experiences to build their client base.”

Getting involved early helps young attorneys meet the experienced lawyers in town and begin building their network of colleagues, Odendahl added. “Then when they need help or get lost in the courthouse, the new attorneys will see a face they recognize and be able to ask for assistance.”

Georgia’s local and voluntary bar associations provide an essential service for our profession and the community at large. I strongly encourage you to get involved, not only for the benefit of others, but for your law practice as well. As Keith Lee concluded, “Building reputations and extending professional courtesy is difficult if you don’t know any other lawyers in town. And the easiest way to get to know other lawyers is to join your local bar association. But perhaps most importantly, developing such relationships with other lawyers can be beneficial to the most important people: your clients.”

If you are already a leader in your local bar, feel free to contact me if you would like for me to attend one of your meetings to not only give a report from the State Bar, but also listen to your thoughts, suggestions and concerns. Additionally, while it is impossible to list all of our local bar associations’ contributions in this one article, please keep us posted on the highlights of your activities for future articles and letters of recognition that I send to local newspaper editors on a regular basis. You can send these items to Sarah Coole, our director of communications, at sarahc@gabar.org.

Endnotes
3. Lee.
In our profession, there are some lawyers who do pro bono work on a daily basis, some who perform occasionally and some not at all. Only a very small subset, however, actively discuss volunteering to do pro bono work. Therefore, a lot of misconception and misunderstanding exists about what pro bono work can entail and the wide variety of opportunities for any lawyer to step in and provide service.

Those who do discuss their pro bono work most often are those in public interest positions or who have their firm’s support for finding and handling pro bono cases. This typically involves taking cases or appeals in their entirety. In private practice, many attorneys are reluctant to talk about the pro bono work they may be interested in or are doing. There are attorneys who do pro bono work on their own, finding a niche in which they can provide assistance. A lot of their pro bono work does not get advertised or categorized as such because it is done outside of the major public interest organizations.

Many more attorneys are reluctant to even consider doing pro bono work, fearing it will conflict, diminish or somehow take away from their practice.

For solo and small firm attorneys, they may not have the support or encouragement from their company or firm to perform pro bono work. This is especially true for young lawyers, who are engaged in the process of building their professional careers as well as relationships and families. Time and energy is generally considered best spent furthering those goals, and young lawyers believe they do not have time to devote to pro bono efforts. Based on the “generally available knowledge,” many attorneys are unaware of the pro bono opportunities that do not involve taking a whole case or becoming overwhelmed with requests. This is due to the aforementioned lack of discussion about the wide variety of pro bono opportunities in Georgia and across the nation.

Inability or unwillingness to do pro bono work because of misconceptions...
about the nature and extent of time and involvement is not and should not be a part of the legal profession’s culture. A lot of the reluctance to discuss or engage in pro bono work comes from excuses and outdated misconceptions about what pro bono work is and how it can be accomplished.

Everyone should agree that pro bono work is worthwhile and of great benefit. That is not in dispute. But the majority of attorneys believe that pro bono consumes too much time and generally involves taking a full case from start to finish.

In discussing the common misconceptions and excuses regarding pro bono work, Laura Rashidi-Yazd, director of Pro Bono Legal Services for Atlanta Legal Aid, said, “There is no-one-size-fits all approach to pro bono legal work any more than there is one answer to any complex legal problem.” Pro bono work does not have to involve taking a case, going to trial or taking an appeal. Especially with today’s advanced technology, there are many different methods and ways to provide pro bono service.

The list of all these opportunities is far too exhaustive to put in one article. There are many different initiatives and programs across Georgia that provide pro bono service in almost every area of practice and every conceivable means or method. The YLD’s new Pro Bono Committee is tasked with identifying and highlighting all of the diverse, traditional and non-traditional opportunities to provide pro bono and “low bono” service across the state. This committee is spearheading the YLD’s effort to remove the barriers keeping young lawyers from doing pro bono work. To receive updates on pro bono activities throughout Georgia and become more involved with the Pro Bono Committee, join the committee online at www.georgiayld.org.

While identifying all of our pro bono activities is too extensive to list, highlighting the different means and methods to dispel some of the misconceptions is not.

Misconception No. 1: You have to go to court to do pro bono work.
Contrary to popular belief, there are many pro bono opportunities available to lawyers that do not involve litigation or going to court. These include assisting with

OFFICERS’ BLOCK
For this issue of the Georgia Bar Journal, we asked our Bar officers, “Knowing what you know now, if you could send a letter to yourself as a first-year law student, what is the most important thing it would say?”

NICOLE C. LEET | YLD President
Enjoy this time broadly examining the law, theorize and discuss issues with your classmates and professors, and do a “deep dive” into a minutiae of interesting areas. This is the only time you will have the luxury to do so without other pressures. Develop and nurture your love of the law.

RIZZA O’CONNOR | YLD President-Elect
Everything will be okay. Law school is stressful, overwhelming and brings incredible challenges. Don’t be discouraged when disappointment comes your way. Being a lawyer requires persistence and resilience. Let setbacks inspire you to improve and come back stronger.

WILLIAM T. “WILL” DAVIS | YLD Treasurer
I would tell my 1L self to stay calm and remember to breathe. Law school and your legal career to come can and will be stressful, but do not let that stress take control of your life. Take care of yourself so that you can be the best lawyer possible for your clients, friends and family.

BERT HUMMEL | YLD Secretary
No doubt that grades are important as a first year law student since they determine rank and potential jobs, but take time to get to know your classmates, figure out what about the law interests you and pay attention to the professors’ nuances. Also, good outlines are everything.

JENNIFER C. MOCK | YLD Immediate Past President
There are many different ways of practicing law. Don’t feel like you have to conform to a certain style to be a successful lawyer. You can do it your own way and enjoy a fulfilling career.

SHAMIRACLE J. RANKIN | YLD Newsletter Co-Editor
Take long deep breaths and remember that you are equipped with everything you need to accomplish any goal that you set. If you find yourself doubting your abilities, mute that little voice in your head because you can conquer any task—including law school exams!

HEATHER RIGGS | YLD Newsletter Co-Editor
Be confident in your abilities! You can accomplish anything you set your mind to; you always have and you always will. You’re going to enjoy a successful career, dynamic relationships and fulfilling bar service. There’s no limit to what you can and will achieve, so don’t doubt yourself now.
Misconception No. 2: Pro bono work takes a lot of time.

Like any professional activity, pro bono work requires an investment of time. Most attorneys complain they already have too much to do, and not enough time to do it. But is less than one hour a week impossible? Try this: every time you go into the lunchroom or take a coffee break at work, record how much time you spend chatting with co-workers. If it is 12 minutes a day or more, you just found an extra hour in your schedule every week or, about 50 hours a year, the aspirational goal set by the State Bar of Georgia and ABA Model Rule 6.1.

You do not need to take time away from your paying work, client development, practice management or your family to do pro bono work. Many of the newer means and methods of providing pro bono work involve the use of technology, making it even more convenient to fit pro bono work in those spare minutes you have during the day.

Misconception No. 3: Pro bono work costs my practice too much in terms of time and money.

This misconception does not take into account the full picture of pro bono work. Any activity performed takes time. Is pro bono work a waste of time, or “costing” you money? No. First, you can do “bite-sized” pro bono, which does not take a significant chunk of time in one sitting. So there is no choice that has to be made between doing pro bono or going to lunch with a client for instance. Second, while going to lunch with a client is one way to network and market yourself and your practice, you can do pro bono with an eye toward networking and marketing mortgages or other real estate contractual issues; and drafting or reviewing transactional documents in the areas of estate planning, tax planning, corporate and real estate law. Many pro bono opportunities involve something as simple as providing information on what forms to fill out or file.

Pro bono work does not even necessarily involve “representing” a client. There are opportunities ranging from assisting senior citizens in filling out property tax appeal applications to reviewing a lease to see if a rent increase is allowed by the contract.

For every area of interest, personally or professionally, there is an opportunity to do pro bono work related to that interest. Interested in supporting military and veterans? Find opportunities at www.GeorgiaAdvocates.org/GAMLAP. Want to learn more about elder law? Volunteer for an elder hotline or clinic, and they will train you. Passionate about children? You could assist with revising parent/student handbooks for the school year.
as well. Many in-house counsel serve on pro bono boards and committees. Rather than a brief cocktail conversation or lunch, how much more effective would it be instead to invite that attorney to join you in representing an indigent client in a pro bono matter? Working side-by-side with another lawyer as co-counsel is a terrific way to build a bond and form a lasting relationship. Furthermore, pro bono work provides opportunities to network with a wide variety of people, expanding marketing opportunities.

Pro bono activities with some legal clinics, in addition to doing good, provide opportunities to pick up paying clients. Moreover, along with tremendous self-satisfaction, there are many other benefits that accrue from doing pro bono work, such as gaining new skill sets and improving your reputation in the legal community. Focusing only on what you give to a pro bono matter ignores what you get from it.

**Misconception No. 4: Pro bono work only involves matters in family law, criminal law or landlord/tenant work, areas in which you may not practice.**

While it is true that the legal needs of the indigent and referrals for pro bono work typically fall in only a few legal areas that reflect basic human needs such as housing or family law, these are not the only areas of the law with pro bono opportunities or needs.

Doing pro bono work in a new area of practice may appear intimidating, but having some representation is more favorable to the indigent client than having no counsel at all. Basic legal knowledge and research skills—and a hunger to learn—are all the pro bono volunteer usually needs. In addition, nearly every pro bono referral agency provides basic training to its volunteers, in addition to oversight and research assistance from highly skilled in-house lawyers who do nothing but practice in these areas. You do not have to be an “expert” in housing law to defend an indigent person in an unlawful detainer case; you just need to be a quick study with a desire to help the less fortunate. Additionally, this work provides opportunities to learn new skills, perhaps get into a courtroom or gain more courtroom experience, and take on a rewarding project.

As discussed earlier, there are opportunities in almost every practice area. A lawyer can find pro bono opportunities in his or her own practice area, from patent work to real estate closings. Legal hotlines, clinics and organizational events provide a variety of opportunities to add pro bono work to your practice.

**Misconception No. 5: I cannot find opportunities to do pro bono because I do not practice in the public interest area.**

This misconception is a bit circular, as it is based on a lack of awareness of pro bono opportunities, due in part to the lack of discussion regarding pro bono work that attorneys are already providing. This is the easiest misconception to address. The YLD Pro Bono Committee collects and distributes opportunities across the state. The State Bar of Georgia’s Access to Justice Committee has compiled an aggregate list of opportunities and organizations providing opportunities at www.georgiaadvocates.org/gojc. And the YLD’s “Signature Service Project: Pro Bono Challenge” strives to connect those interested in doing pro bono work with opportunities in areas across the state. Take the YLD Pro Bono Challenge at www.georgiayld.org to pledge to complete 50 hours of pro bono service in the next year. Everyone who takes the challenge and makes the pledge will be contacted and connected with a variety of pro bono opportunities to assist those who might not even know where to start.

Hopefully this has dispelled some of the misconceptions surrounding pro bono work. Share your experiences with your colleagues. Find something that interests you, and seek an opportunity to volunteer in that area. And take the YLD Pro Bono Challenge at www.georgiayld.org.
In August, following months of hard work by members of our Lawyer Assistance Program (LAP) Committee, the State Bar of Georgia announced the establishment of our new Georgia Lawyers Helping Lawyers program. This is an additional tool for the State Bar to help our members who are going through rough times. This peer-to-peer program will provide our colleagues who need assistance with a fellow Bar member to be there, listen and help.

Lawyers Helping Lawyers (LHL) is a continuation of the Bar’s effort to assist our members with life’s difficulties—including but not limited to depression, stress, alcohol or drug abuse, family problems, workplace conflicts and mental health issues.

“Based on my experience as a member of the ABA’s Commission on Lawyer Assistance Programs Advisory Committee, I am convinced that Georgia’s new peer program is the most confidential and technologically advanced program in the country and will be a model for other states,” said LAP Committee Chair Jeffrey R. Kuester. “A famous philosopher once said, ‘Nothing is so difficult as not deceiving oneself.’ Concerned peers can provide accountability and feedback that help us avoid self-deception. We all remember how meaningful it was for us to receive important advice during our most difficult times, so we should all give back and be good stewards of the wisdom we have received.”

Lynn S. Garson, the LAP Committee member who spearheaded the effort to create LHL, said the goal of the peer program “is to utilize the Bar’s best resource for helping lawyers who are struggling with a range of issues—each other. I have personally suffered from depression and anxiety (voluntarily hospitalized three times between 2000 and 2010), and there is no doubt that my road to recovery was founded on developing a lay community of support.”

LHL is the first attorney peer program of its kind in the country, simultaneously guaranteeing anonymity while also leveraging the benefits of online technology. Garson says the timeliness of this initiative is underscored by a recent New York Times article, “The Lawyer, the Addict,” written by Eilene Zimmerman, the ex-wife of a “high-powered Silicon Valley attorney” who died of a drug overdose.

In her investigation, Zimmerman discovered not only her ex-husband’s addiction, of which she and other family members had been unaware, but also this: “The further I probed, the more apparent it became that drug abuse among America’s lawyers is on the rise and deeply hidden.” Citing a 2016 study by the Hazelden Betty Ford Foundation and the American Bar Association (ABA), Zimmerman wrote that “about 21 percent of lawyers qualify as problem drinkers, while 28 percent struggle with mild or more serious depression and 19 percent struggle with anxiety.”
Additionally, the ABA Commission on Lawyer Assistance Program—as part of the National Task Force on Lawyer Well-Being—recently released a comprehensive report, “The Path to Lawyer Well-Being: Practical Recommendations for Positive Change,” aimed at addressing the problem of substance abuse and mental health disorders among lawyers. The report features comprehensive new recommendations focusing on five central themes:

- Identifying stakeholders and the role each can play in reducing the level of toxicity in the legal profession.
- Eliminating the stigma associated with help-seeking behaviors.
- Emphasizing that well-being is an indispensable part of a lawyer’s duty of competence.
- Educating lawyers, judges and law students on lawyer well-being issues.
- Taking small, incremental steps to change how law is practiced and how lawyers are regulated to instill greater well-being in the profession.²

According to Garson, the Georgia LHL peer program is seeking not only volunteers who have experienced particular mental health or substance issues, but also (i) those who have experience helping a family member or friend who is struggling and (ii) those whose only qualification is that they practice law and are familiar with the stress of our profession.

In 2009, the Board of Governors of the State Bar approved Member Benefits, Inc., as the Bar’s recommended broker for members’ health, dental and vision plans. They are also approved to offer disability and long term care plans, and lawyers professional liability insurance.

The State Bar’s Private Insurance Exchange is a multi-carrier private exchange designed for members and their staff and dependents. Available to both individuals and employer groups, the exchange offers a wide range of health insurance choices and more with a consumer-friendly approach to purchasing insurance coverage. Individuals that do not qualify for a government subsidy may purchase a qualified health plan on a private exchange. Consumers may view plans from many insurance carriers, compare benefits and costs, and make purchasing decisions based on their specific health needs and budget.

If you are an employer, the employer group solution is a particular advantage because it enables you to offer a simple way for your employees to shop for insurance and other benefits by creating your own private health exchange. With defined contributions, you give your employees a set amount of money to spend on benefits and they use that money to shop for the coverage that meets their individual needs. So instead of offering a “one-size-fits-all” health and benefits package, you empower your employees to choose the combination of coverage that's just right for them.

For more information, visit gabar.memberbenefits.com or call 800-282-8626.

Products and services are administered, sold and serviced by the State Bar of Georgia’s recommended broker, Member Benefits, Inc. The State Bar of Georgia is not a licensed insurance entity and does not sell insurance products.
“All are welcome,” she said. “The need is great and we would like to build the most expansive volunteer base possible. The Lawyer Assistance Program has always faced the hurdle of convincing lawyers that disclosures of personal issues will not lead to discipline. Knowing that, the committee probably spent as much time taking steps to ensure the confidentiality of the participants in the program as it did putting the entire rest of the program together.”

To ensure such confidentiality, she said the program is structured so that volunteers’ names and contact information will not be available on the website, instead identified only by a peer number. The committee has taken great lengths to ensure confidentiality of participants in the program, which will be administered by CorpCare Associates Inc.

One single person at CorpCare, the Bar’s outside contractor for lawyer assistance program services, will have access to the identifying information and it will be kept in an encrypted database by CorpCare.

“Even knowing that, when I signed up it felt awkward to me to check off my ‘issues,’ so I imagine I won’t be the only one,” Garson said. “I can’t emphasize enough the firewall that has been built to maintain confidentiality and the need for honest disclosure. For some seeking help, their biggest comfort will be in knowing that they can talk to someone who has ‘been there.’ The online matching system can’t make that match if volunteers don’t disclose what they have experienced.”

Required training for volunteers, to be conducted by CorpCare, consists of a 2.5-hour program. During training, volunteers will learn how to distinguish between being a counselor, which they are not, and being support for other members, which they are; they will learn how to be an effective peer and acquire new communication skills; and they will know what is expected in terms of frequency of contact, location, etc. Volunteers will also be told what to do if there is a need for support in excess of what the volunteer peer can provide. If you want to be a peer but aren’t sure what you’re signing up for, the training will answer those questions for you.

Thanks to approval by the Commission on Continuing Lawyer Competency, the Lawyer Assistance Program will pay for training for the peer-to-peer program will receive two hours of CLE credit, including one ethics hour and one professionalism hour.

Allan L. Galbraith, the LAP Committee member who will assist the LHL volunteers, said, “I am also a person in recovery and in addition to being a practicing lawyer, I also have a master’s degree in counseling. One of the hopes that I have for this program is that we can remove some of the institutional barriers to Bar members seeking help from the LAP. My hope is that members may utilize the services offered by the peer program before they reach a crisis situation so that we can hopefully alleviate some of the distress that is inherent in untreated emotional illness. That serves not only the member who is struggling but also serves the public. I am hopeful that for those lawyers whose difficulties were more severe in nature, that we are able to assist them in integrating back into a productive life, including a productive practice, by offering the friendly assistance of someone who has an understanding of their situation and perhaps a bit of wisdom based on experience.”

CorpCare President and CEO George Martin said, “Our ongoing clinical support statewide, providing professional assistance, undergirds the volunteers’ efforts on an as-needed basis. We believe this effort will expand our reach to enrich the life decisions of attorneys, which reinforces both their practice and family lifestyles.”

Addressing questions that have already been raised by prospective volunteers about whether training can be sufficient to teach volunteers how to address such daunting issues as depression, anxiety, addiction and the like, Garson responds, “That is the precise point of the program: volunteers are acting as support, a friendly ear, a voice of encouragement—expressly not as ‘counselors.’ The training will teach volunteers how to recognize when that line might be crossed, in which case the volunteer will be instructed how to immediately direct the struggling attorney to CorpCare, which can provide counseling services. Equally, volunteering for the peer program is not a set commitment; the volunteer and the member seeking services together will determine the extent and duration of meetings or other modes of contact and the depth of the commitment.”

During the launch phase of the LHL program, volunteers are asked to sign up online at www.GeorgiaLHL.org. Once a group of volunteers is established, the website will be open to those who would like to request a peer, while continuing to grow the volunteer database.

“Our goal is to create an extremely robust volunteer base so that those in need have the opportunity to find the best ‘match’ possible,” Garson added. “The beauty of the online system is that a match might occur between lawyers who live in different parts of the state, which greatly expands the possibility of providing help. It also gives the opportunity for those living in smaller communities to find a match outside of their immediate area, which often will increase their comfort level and encourage someone to seek help who might not have otherwise done so.”

Please consider volunteering and help us spread the word about this important new program. We are hopeful that it will be a huge success in Georgia and that other states will follow our lead. If you have any questions, please contact Jeff Kuester at jkuester@taylorenglish.com or Lynn Garson at lgarson@bakerlaw.com.

Endnotes
If You Don’t Stand for Justice for All, Who Will?

Give Today at www.glsp.org (Click on Donate Now)

The Culver family was evicted from their home when the landlord failed a federal inspection. The landlord responded by evicting the Culvers and denying the return of their security deposit. With legal assistance from the Georgia Legal Services Program (GLSP), the Culvers had the wrongful eviction reversed, maintained their housing and clean credit rating, and received treble damages against the landlord for the failure to return the security deposit. GLSP’s involvement was vital in keeping this family together.

Evictions can be complicated and detrimental to the stability of working families. Homeless families lose jobs looking for another place to live. Their children miss school for long periods that often lead to dropping out. With few other affordable housing options, homeless families relocate to housing that is not better, but has more housing problems, or they move into neighborhoods that are not safer, but have higher crime rates. They pay up to 80% of their incomes for rent to live in housing that is usually indecent or substandard, because too many landlords fail to maintain the properties and pocket the cash, instead, for their own benefit. GLSP’s work on eviction cases maintains housing and keeps families together.

2017 “And Justice for All” State Bar Campaign for the Georgia Legal Services Program®

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Uninsured Motorist Benefits in Light of Thurman v. State Farm

Thurman created an exception to the derivative claim rule for “traditional” uninsured motorist policies which has bedeviled the bench and the bar since it entered Georgia law. The purpose of this article is to explore the basis and scope of the Thurman exception.

BY DAVID J. BLEVINS

It is widely held that Georgia uninsured motorist (UM) law is unsettled when an insured has both a traditional UM policy and medical coverage through either Medicaid or a plan established pursuant to the Employee Retirement Income Security Act of 1974, as Amended (ERISA). It has not always been so. Prior to the Supreme Court of Georgia’s 2004 decision in Thurman v. State Farm Mutual Automobile Insurance Company, neither Medicaid nor ERISA was thought to impact UM coverage because Georgia follows what might best be called the “derivative claim rule,” which treats multiple claims derived from a single personal injury as a single claim for the purposes of determining the UM limits applicable to those claims. Thurman created an exception to the derivative claim rule for “traditional” UM policies which has bedeviled the bench and the bar since it entered Georgia law. The purpose of this article is to explore the basis and scope of the Thurman exception.
Before one can appreciate the Thurman exception, one must have a working knowledge of traditional UM coverage limits. UM coverage is insurance to cover the risk of a tortfeasor not carrying liability insurance. As originally conceived, UM coverage makes up the difference between the tortfeasor’s liability limit and the tort victim’s UM limit; therefore, to determine the UM carrier’s exposure, the liability limits are subtracted from the UM limits. In the parlance of the insurance industry, the UM carrier receives an “offset” for the tortfeasor’s liability coverage. For example, if the tortfeasor has $25,000 in liability coverage, the tort victim has $55,000 in damages but only $50,000 in UM coverage, the tort victim may only collect $25,000 from the UM carrier ($50,000 minus $25,000 for the liability limits offset) despite the fact that $5,000 in damages goes unfunded.

From time to time, third parties seek to recover the same liability coverage as the tort victim/UM insured. Based on the “other claims” language of O.C.G.A. § 33-7-11(b)(1)(D)(ii)(II), the UM carrier’s offset is reduced (UM carrier’s exposure increased) by depletion of the liability coverage due to payment of non-derivative claims such as payments to other people who were also injured in the same accident. In the above example, if the liability carrier pays $10,000 from its limits to someone injured in the accident other than the UM insured, the UM offset is reduced by the $10,000 liability payment; therefore, the UM insured is entitled to collect $35,000 instead of $25,000 from the UM carrier.

In Thurman, the Court disregarded the distinction between liability insurance payments made for claims arising from other people injured in the same collision and liability payments arising from the UM insured’s own injuries. The beneficiary of the Court’s ruling was Gail Thurman, an employee of the U.S. Postal Service who was involved in an automobile collision in which the other party was at fault. At the time of the collision, Ms. Thurman was in the course and scope of her employment. Her medical expenses were primarily paid by a combination of her federal workers’ compensation coverage pursuant to the Federal Employee Compensation Act (FECA) and her major medical insurance pursuant to the Federal Employee Health Benefits Act (FEHBA). The federal government became a third-party claimant when pursuant to FECA and FEHBA, the federal government successfully asserted a subrogation claim against the tortfeasor’s liability carrier for benefits it paid to Ms. Thurman’s medical providers due to injuries she sustained in the collision.

Before the payment to the federal government, the UM offset shielded the UM carrier from exposure because the liability limits exceeded Ms. Thurman’s UM limits. However, after the payment of the federal claims, the funds left in the liability policy were less than Ms. Thurman’s UM limits. She sued the UM carrier for the difference between her UM limit and the remaining proceeds of the liability policy. The UM carrier contended that it had no exposure because the federal claims were derived from Ms. Thurman’s injuries; therefore, it was entitled to offset the liability policy without taking into account the liability carrier’s payment of FECA and FEHBA claims. Ms. Thurman, on the other hand, advanced a novel theory. She contended that the UM statute provided an exception to the derivative claim rule because the federal government’s Supremacy-Clause-enabled subrogation claims contravened Georgia public policy by depleting a portion of the liability coverage before
she was completely compensated for her damages. In doing so, Ms. Thurman attempted to pit Georgia public policy that one injury is entitled to only one opportunity to collect applicable UM coverage (derivative claim rule) against Georgia public policy that a tort victim must be completely compensated before his or her health insurance carrier may bring a subrogation claim against a responsible third party’s liability coverage (complete compensation rule).

The trial court and the Court of Appeals rejected Ms. Thurman’s novel approach. However, the Supreme Court proved more receptive. Noting “Georgia’s public policy strongly supportive of the complete compensation rule,” the Court unanimously reversed the Court of Appeals. However, the Court’s analysis was complicated by the fact the Court had to find room in O.C.G.A. § 33-7-11 to accommodate its public policy conclusions.

O.C.G.A. section 33-7-11 is the statutory framework around which Georgia Uninsured Motorist law is built. It provides that traditional UM policies are offset by “available” liability coverage. “Available coverages” is defined as:

the limits of coverage [of the tortfeasor’s liability insurance] less any amounts by which the maximum amounts payable under such limits of coverage have, by reason of payment of other claims or otherwise, been reduced below the limits of coverage.

The limits of coverage [of the tortfeasor’s liability insurance] less any amounts by which the maximum amounts payable under such limits of coverage have, by reason of payment of other claims or otherwise, been reduced below the limits of coverage.

The Court of Appeals focused on the phrase “other claims” and concluded that claims by Ms. Thurman’s federal health insurance were derivative of her injury and therefore were not “other claims.”

Justice Benham writing for the Supreme Court did not quibble with the Court of Appeals’ analysis of “other claims.” Instead, the Supreme Court found that the liability limits for the purpose of calculating UM exposure could be reduced not only by “other claims” but also pursuant to the nebulous phrase “or otherwise.” The Court did not attempt to define “otherwise” but noted that “the legislature has provided a means [for the Court to follow the complete compensa-

Despite the UM carrier’s plea that Thurman should be limited to its holding, in Toomer v. Allstate Insurance Company the Court of Appeals rightly concluded:

We find no meaningful distinction between Toomer’s situation and that of Gail Thurman. Allstate argues that Thurman is distinguishable because in that case, the injured party was a federal employee whose reimbursement obligations arose under FECA and FEHBA, whereas here, the injured party is not a federal employee and her reimbursement obligations arise under Medicare law. Allstate offers no reason why these factual variances matter, and we discern none.

The Toomer Court’s disregard of Thurman’s holding in favor of its rationale called into question the application of the derivative claim rule when any lien attached to the liability policy. Uncharted waters lay ahead for calculation of traditional UM coverage in the face of hospital liens, ERISA liens and Medicaid liens, to name a few.

Less than a year after Toomer, in Adams v. State Farm Mutual Ins. Co., in a four to three decision, the Court of Appeals found that hospital liens should be treated like Medicare liens for the purpose of calculating UM coverage. It appeared the Thurman exception had swallowed the derivative claim rule. The Court of Appeals spent the bulk of its Adams opinion analyzing the text of the Uninsured Motorist statute, but in the end did not base its decision on the statute but on the similarity of federal and state liens. The Court stated:

the only distinction between the liens in Thurman and Toomer is that in those cases the liens were imposed under federal law, but in this case the hospital lien was imposed under O.C.G.A. § 44-14-470(b). As we find that this is a distinction without a real difference.

The Supreme Court of Georgia resuscitated the derivative claim rule by reversing the Court of Appeals by a vote of five to two. The Supreme Court likewise looked to the hospital lien, but saw it with
different policy eyes. The Supreme Court opinion written by Justice Melton turned on the benefit to Randolph Adams by the payment of the medical bill which was the basis of the hospital lien.

When a tortfeasor’s liability carrier pays a hospital lien . . . it does so for the direct benefit of the [tort victim /UM] insured. The [UM] insured, then, receives all of the benefits from the payment, as his personal responsibilities for the hospital bill are satisfied.37

By stating “personal responsibility,” the Court cannot simply mean personal liability. Gail Thurman and Jamie Toomer were personally liable to the federal government for the satisfaction of the federal liens38 as Randolph Adams was personally liable to the hospital for the hospital bill. The distinction that the Court made by “personal responsibility” is that Randolph Adams’ liability for the hospital bill was not contingent on his recovery from the tortfeasor, whereas Ms. Thurman’s and Ms. Toomer’s liability to the federal government was so conditioned.39 What the Supreme Court’s opinion does not tell us is why that distinction should make a difference.

The reason for the difference rests on the policy foundations of the complete compensation rule. The primary purpose of the rule is not to compensate just any injured person, but to give an injured person who has purchased insurance the benefit of his bargain (i.e., shift the risk of loss to an insurer in exchange for a premium).

Where either the insurer or the insured must to some extent go unpaid, the loss should be borne by the insurer for that is a risk the insured has paid it to assume.40

In the form of either labor or payroll deduction, Gail Thurman and Jamie Toomer paid their lien holder, the federal government, to assume the risk of medical expenses.41 Randolph Adams did not pay his lien holder, the hospital, to assume a risk for him. To the contrary, his agreement was to assume the debt, not shift the risk of incurring it. Absent the U.S. Constitution’s Supremacy Clause42 allowing federal statutes to pre-empt Georgia law, the complete compensation rule would have held the federal claims at bay until Ms. Thurman and Ms. Toomer had been completely compensated for their damages.43 Not so in Mr. Adams’ case.

Using the complete compensation rule as a guide, evaluation of derivative claims for the Thurman exception is not difficult. As we learn from Toomer, hospital liens paid out of the tortfeasor’s liability policy clearly do not reduce the UM offset (increase the UM exposure). The same is true for Medicaid liens though the conclusion is less obvious. Unlike Medicare beneficiaries, Medicaid recipients do not pay a premium for their benefits.44 Medicaid is not a form of insurance.45 On the other hand, benefits afforded under ERISA are in exchange for either labor or payroll deduction, therefore, do implicate the complete compensation rule if the plan documents contain a mandatory reimbursement provision.46 ERISA liens paid from the liability policy should fall within the Thurman exception, i.e., reduce the UM offset (increase the UM carrier’s exposure).

The views expressed here are at odds with the view expressed by two of Georgia’s foremost authorities in the field, Frank E. Jenkins III and Wallace Miller III in their excellent treatise, Georgia Automobile Insurance Law, Including Tort Law With Forms (West 2016). In section 32:3 of this standard work entitled “Underinsured Motor Vehicles and Thurman v. State Farm,” the authors argue that Thurman and its prodigy seem to establish “a simple, two-pronged litmus test for a lien to qualify under Thurman.” The authors articulate the test as follows:

In the absence of (1) the payment of medical benefits and (2) a resulting subrogation lien enforceable by the subrogee against the liable third party, it would seem that any Thurman-based claim for uninsured motorist insurance benefits should tumble like a house of cards.47

On the basis of prong two of their test, the authors maintain that ERISA liens do not have Thurman implications because an ERISA plan’s claims are not true subrogation claims against the tortfeasor or the tortfeasor’s carrier, but rather a right of reimbursement which may only be brought against the ERISA beneficiary who is also the tort victim/UM insured.48 However, the Georgia law of complete compensation as set out in O.C.G.A. section 33-24-56.1 specifically applies to reimbursement claims. In subsection (b), the statute states:

In the event of recovery for personal injury from a third party by . . . a person for whom any benefit provider has paid medical expenses or disability benefits, the benefit provider for the person injured may require reimbursement from the injured party of benefits it has paid on account of the injury, up to the amount allocated to those categories of damages in the settlement documents or judgment, if: (1) [the injured person is first completely compensated].49

The statute defines “benefit provider” to include:

any insurer, health maintenance organization, health benefit plan, preferred provider organization, employee benefit plan, or other entity which provides for payment or reimbursement of health care expenses, health care services, disability payments, lost wage payments, or any other benefits under a policy of insurance or contract with an individual or group.50

Clearly, ERISA liens infringe on Georgia’s public policy of complete compensation every bit as much as federal liens pursuant to FECA or FEHBA.51 Like FECA and FEHBA liens, ERISA liens thwart Georgia public policy via the supremacy clause.52

Also based on their test, Jenkins and Miller contend that a Medicaid lien should constitute a Thurman exception despite Holland v. State Farm which holds that the complete compensation rule has “no application” to Medicaid liens because it only applies to insurance contracts.53 The Jenkins and Miller test attempts to address all the facts of Thur-
man and its progeny; however, in the final analysis it fails because the test does not adequately account for the complete compensation rule. The complete compensation rule is the legal principle on which Thurman turns.

Despite all the confusion that has surrounded the Thurman exception, Thurman, Toomer and Adams are consistent with each other. Seen through the lens of the complete compensation rule, the cases are reliable guides for courts and litigants navigating the tricky waters of UM coverage in the face of derivative claims.

That does not mean that Thurman was rightly decided. The text of O.C.G.A. section 33-7-11(b)(1)(D)(ii)(II) gives the Court scant foundation for the Thurman exception. Beyond the statute, the Court had a dubious policy basis for applying the complete compensation rule in such a way as to burden UM carriers with a risk neither insurer nor insured contemplated. If the appellate courts of this state see fit to revisit the viability of the Thurman decision, they must account for the complete compensation rule. Beyond the statute, the Court had a dubious policy basis for applying the complete compensation rule in such a way as to burden UM carriers with a risk neither insurer nor insured contemplated.54 If the appellate courts of this state see fit to revisit the viability of the Thurman exception, the question should not turn on the supposed chaos Thurman has injected into the law. It should turn on the meaning of the statute and the wisdom of undertaking the laudable goal of reforming federal subrogation law with an obscure and nebulous corner of the Georgia insurance code. In the final analysis, if Thurman is infirm, the fault lies in its root, not in its branches.


Endnotes
4. The phrase is the author’s.
5. See Erturk v. GEICO Gen. Ins. Co., 315 Ga. App. 274, 277, 726 S.E.2d 757, 758-759 (2012) (when a tort victim is killed, the personal representative may bring a claim for funeral expenses and, at the same time, the surviving spouse may bring a separate claim for wrongful death; however, “because the damage to both the Estate and the Widow ‘arises out of a personal injury to only one person,” the claims are taken in the aggregate to determine the applicable liability and UM limits). Mullinax v. State Farm Mut. Auto. Ins. Co., 303 Ga. App. 76, 78, 692 S.E.2d 734, 736 (2010) (a separate consortium claim arises in one spouse by virtue of a personal injury to the other; however, because both claims are derived from a single personal injury, they are treated as one claim for the purposes of calculating UM coverage); Thurman v. State Farm, 260 Ga. App. 338, 339, 579 S.E.2d 746, 747 (2003), rev’d 278 Ga. 162, 598 S.E.2d 448 (2004); Young v. Maryland Cas. Co., 228 Ga. App. 388, 389-90, 491 S.E.2d 839, 840-41 (1997) (claims against the at-fault driver and father of driver via Family Purpose Doctrine are treated as one claim for UM purposes if they arise from one injury); Knight v. Ga. Farm Mut. Ins. Co., 184 Ga. App. 312, 313-314, 361 S.E.2d 190, 191-192 (1987) (summary judgment for UM carrier not appropriate until determination of other claims, which seems to mean other claimants; however, the opinion is not clear. See treatment in Young, 228 Ga. App. at 390, 491 S.E.2d at 841 and Thurman, 260 Ga. App. at 339, 579 S.E.2d at 747).
6. O.C.G.A. § 33-7-11(b)(1)(D)(ii)(II), also known as “reduced” or “limits to limits” coverage. Since January 1, 2009, in addition to traditional UM coverage,
Georgia law has provided for “added on” coverage (also known as “excess UM coverage”) in which the UM carrier does not get credit for the liability coverage. Instead, the UM coverage is added on or stacked on the liability coverage. O.C.G.A. § 33-7-11(b)(1)(D)(ii)(I).

*Thurman* and its progeny have no impact on added-on policies.

7. See articles collected at endnote 2, supra.

8. There is no distinction in the legal status of a claim under a UM policy if the tortfeasor has no liability coverage, sometimes called a true uninsured motorist, or if the tortfeasor has insufficient liability coverage, sometimes called an underinsured motorist. Both are defined as an “uninsured motorist.” O.C.G.A. § 33-7-11(b)(1)(D)(ii)(II). Of course, the amount of liability coverage is a factual distinction that may have legal consequences.


11. See generally JENKINS AND MILLER § 39.5(b).

12. The statute states in relevant part, “[The tortfeasor’s] motor vehicle [is] uninsured only for the amount of the difference between the available coverage under the bodily injury liability insurance and property damage liability insurance coverages on such motor vehicle and the limits of the uninsured motorist coverages provided under the insured’s motor vehicle insurance policies; and, for purposes of this subdivision, available coverages under the bodily injury liability insurance and property damage liability insurance coverages on such motor vehicle shall be the limits of coverage less any amounts by which the maximum amounts payable under such limits of coverage have, by reason of payment of other claims or otherwise, been reduced below the limits of coverage.” (emphasis added).


15. 5 U.S.C. § 8101-8152


17. Thurman, 278 Ga. at 164, 598 S.E.2d at 450.

18. In *Thurman*, the liability policy was a $100,000 single limit policy, which means that all claims arising from a collision, including property damage, are taken from the $100,000 limit as opposed to a “split limit” policy that provides separate amounts for property damage and bodily injury. Thirty-four thousand, six hundred sixty-six dollars and 32/100 ($34,666.32) of the liability coverage was paid to the federal government pursuant to either the FECA or the FEHBA, and $4,445.81 of the liability coverage was paid to the United States Post Office for damage to the mail truck, leaving a balance of liability coverage of $60,887.87. Ms. Thurman had an aggregate of $75,000 traditional uninsured motorist coverage (three $25,000 policies). Ms. Thurman brought suit for the difference of $14,112.13. Id. 278 Ga. at 162-63, 598 S.E.2d at 449-450.

19. Id. 


21. It is tempting to state the rule as one injury for one policy; however, under Georgia’s rather complicated “stacking” rules, the applicable UM coverage may be comprised of several policies. See generally, JENKINS AND MILLER § 39:6.


23. Thurman, 278 Ga. at 163-64, 598 S.E.2d at 450.

24. O.C.G.A. § 33-7-11(b)(1)(D)(ii)(II) (as quoted and emphasized by the Supreme Court); Thurman, 278 Ga. at 163, 598 S.E.2d at 450.


26. Thurman, 278 Ga. at 164, 598 S.E.2d at 450.

27. Id. 278 Ga. at 164, 598 S.E.2d at 451.

28. Adams v. State Farm Mut. Auto. Ins. Co., 298 Ga. App. 249, 250-51, 679 S.E.2d 726, 727-28 (2003). The bulk of the opinion is devoted to the definition of “otherwise.” At the end of its analysis, however, the Court did not say what the term means in the context of the statute except that it means something more than “other claims,” which is true but not very helpful if one is looking to “otherwise” for guidance in determining if a particular type of lien comes within the Thurman exception.


abrogate the rule), with Duncan v. Integon, 267 Ga. 646, 482 S.E.2d 325 (1997) (at odds with Woodcraft, the Court’s property damage / personal injury distinction notwithstanding).


42. U.S. Const. art. VI, cl. 2.

43. Thurman, 278 Ga. at 164, 598 S.E. 2d at 356 (2006). It is an exceedingly rare plan that has not afforded itself the widest latitude to recover.

44. “Medicare is an insurance program. Medical bills are paid from trust funds which those covered have paid into.” “Medicaid is an assistance program. It serves low-income people of every age. Patients usually pay no part of costs for covered medical expenses. A small co-payment is sometimes required.” U.S Dept’t of Health & Human Servs., https://www.hhs.gov/answers/medicare-and-medicaid/what-is-the-difference-between-medicare-medicaid/index.html (last visited September 1, 2017).


46. ERISA does not mandate an “ERISA lien.” ERISA preempts state law insofar as state law curtails the plan’s rights to recover as set out in the plan documents. Cagle v. Bruner, 112 F.3d 1510, 1521-1522 (11th Cir. 1997). If the plan documents so provide, the plan’s right to recover is not diminished by the complete compensation rule (also called the made whole doctrine). Sereboff v. Mid Atlantic Med. Servs., Inc., 547 U.S. 356 (2006). It is an exceedingly rare plan that has not afforded itself the widest latitude to recover.

47. JENKINS AND MILLER, § 32:3(h).

48. Id. The distinction between an ERISA plan’s right of reimbursement and right of subrogation is unfortunately lost on many courts. A classic right of subrogation would permit an ERISA plan to stand in the shoes of its beneficiary to bring a suit against a tortfeasor or a tortfeasor’s insurance carrier to recover healthcare expenses or other benefits paid by the plan on account of the tortfeasor’s conduct. On the other hand, a right of reimbursement is the ERISA plan’s right to pursue its beneficiary to recover funds the beneficiary has received from a tortfeasor or a tortfeasor’s insurance carrier. Although the two legal vehicles have the same object, they are prosecuted in very different ways. For discussion of an ERISA plan’s right (or lack thereof) to bring an action against a liability carrier, see generally cases collected at When Is Insurer Fiduciary Under § 3(21)(A)(i) or (iii) of ERISA (29 U.S.C.A. § 1002(21)(A)(i) or (iii))? 181 A.L.R. Fed. 269 § 38. “Monies held by tortfeasor’s insurer subject to subrogation agreement” (originally published in 2002). See also HCA v. Clemmons, 162 F. Supp. 2d 1374, 1380-81 (M.D. Ga. 2001).


51. The Thurman court cited O.C.G.A. § 33-24-56.1(b) for the proposition that “Georgia is strongly supportive of the complete compensation rule.” Thurman, 278 Ga. at 163-164, 598 S.E. 2d at 450.

52. FMC Corp. v. Holliday, 498 U.S. 52 (1990), and its progeny.


54. The UM carrier is not immune from the complete compensation rule for risks contemplated by the policy (i.e., that the tortfeasor does not have coverage adequate to satisfy the tort victim’s damages up to the UM limit). To the contrary, its right of subrogation against the tortfeasor is not ripe until its insured has been fully compensated. Mullenberg v. K.J. Saxon Constr. Co., 192 Ga. App. 281, 282, 384 S.E.2d 418, 419 (1989); Cherokee Ins. Co. v. Lewis, 187 Ga. App. 628, 630, 371 S.E.2d 103, 105 (1988), rev’d on other grounds, 258 Ga. 839, 375 S.E.2d 850 (1989).
Earlier this summer, I had the opportunity to visit my undergraduate alma mater. As I stepped out of the cab at the front gates of 37 and O Streets in Washington, D.C., it all came rushing back. Walking through campus, I watched the intensely colored floral bloom variations zigzag across the campus lawn adding multiple patches of color to the setting. It made me remember when I was a budding young adult headed to this place that

“A Tapestry of Mentoring

“We don’t accomplish anything in this world alone . . . and whatever happens is the result of the whole tapestry of one’s life and all the weavings of individual threads form one to another that creates something.”—Sandra Day O’Connor

BY MICHELLE E. WEST
There is tremendous value in both formal and informal mentoring. It is the sum of both, intricately woven throughout our lives, that leads to enduring growth and development.

I called home for four years. I recall concluding my final year in high school with a pre-college counselor encouraging me to sign a contract confirming my college application preparation and submission schedule. It was my dear calculus teacher who helped me uphold this agreement’s impending deadlines. Daily, she sat with me after school in front of the computer and guided my direction in completing what seemed to be a daunting task. These wonderful individuals are just two of the many supporters who lent a steady hand, provided words of encouragement and helped me chart a path toward the college I found myself returning to almost 20 years to the day after I walked across the stage situated on the front lawn.

As I walked through campus, I encountered graduation day for various degree programs. I became nostalgic as I made my way down the floral clustered pathway. I was welcomed by the buildings of yesteryear as I admired the recent, more modern structures of today. The older buildings juxtaposed against the new exemplified how things had changed yet also remained the same. Complementing one another; the wisdom of the old celebrated the new as the new uplifted the old. Upon entering the Intercultural Center where I spent most of my undergraduate years, I searched for the name of the international politics professor who shaped my formative college years. I was sad to find that it was not there. I subsequently learned that he passed some years earlier, but fortunately for me, not before impacting my life. I also looked for the name of the dean with whom I pleaded to allow me to veer off course for a semester of study abroad in Italy. She encouraged my skills of persuasion and supported my need to follow my heart.

As I made my way through campus in search of my old dorm, I passed the Healy and New North buildings, where years ago, I met the English professor who influenced my writing style and encouraged my love for the written word. I also recalled the theology professor who broadened my thoughts on religion and life. Heading into the tunnel, I was shaded from the sun but not before being greeted by another patch of glorious blooms. The contrasting color brought forth vivid memories of how my life had been illuminated by my various experiences here.

As I was preparing to journey out of the gates, I passed one last commencement exercise. It was that of the school from which I had graduated, the School of Foreign Service. I paused and reflected on how not only the professors, but also my peers and family had shaped my life and assisted me through those four fabulous foundational years. Each encounter stitched lasting threads weaving through and supporting the fabric of my life.

As the beautiful florals of summer pass the torch to the aching red and orange leaves of fall, I recall not just these experiences, but the many that came after, in law school and currently in my professional career, which have served to impact the life I have today. It has not been just one mentoring relationship, but the sum of many, in all shapes and sizes, that has created this beautiful patchwork. Whether it was a connection at the office, strategy surrounding a case, a shared interest, camaraderie at a salon, a conversation on a flight, a short call, a planned lunch or dinner meeting, a walk in the park or a chance encounter at an event or seminar, I have learned from these experiences. Although this wisdom was not transferred in a formalized fashion, a connection was established and an imprint was made on my life.

There are so many valuable connections to be made, if encounters are approached as more than mere transactions. Mentoring can be found at all stages of life and in numerous forms. The Transition Into Law Practice Program was in the early stages of development when I graduated from law school. Therefore, I was not afforded the wonderful opportunity to participate in Georgia’s formalized mentoring and continuing legal education program. The advice, guidance and support I received resulted from serendipitous encounters and intentional engagements interspersed throughout my life. Nevertheless, my existence has been thoroughly enriched. These experiences have served to aid my professional and personal journey in much the same manner as a formalized mentoring program.

There is tremendous value in both formal and informal mentoring. It is the sum of both, intricately woven throughout our lives, that leads to enduring growth and development.

Michelle E. West
Director, Transition Into Law Practice Program
State Bar of Georgia
michellew@gabar.org
Georgia Bar Foundation Funds Five Proposals from Bank of America Settlement Funds

Bank of America settlement funds are to assist civil indigent legal aid organizations in providing foreclosure legal assistance or community redevelopment legal assistance in Georgia.

**BY LEN HORTON**

At its annual grants meeting in July, the Georgia Bar Foundation completed its evaluations of 11 proposals received for how best to use Bank of America settlement funds. The foundation had received about $13 million from round two of the settlement.

After discussions that overlapped two meetings, the Board of Trustees decided to award $8,025,967 to five proposals whose primary purpose was foreclosure legal assistance or community redevelopment legal assistance in accordance with the purpose of the funds. This leaves approximately $5 million to be disbursed, pending evaluation of the effectiveness of these accepted proposals, most of which last two years.

Ash Tree Organization in Savannah received $250,000 to fund a Financial Literacy Academy to teach students and their families about banking and finance to help them better cope with possible future economic problems such as foreclosure. Ash Tree is well known in Savannah for finding creative ways to educate children and keep them in school. The proposal of the organization, which is led by Morris Brown, combines its reach into communities with the use of volunteer executives from Wells Fargo, Queensborough National Bank, Primerica and South State Bank. Combining Brown’s proven ability to get the attention of Savannah’s children with the in-depth knowledge of these top financial executives is a powerful approach to reduce foreclosures, expand home ownership in Savannah and educate children and their families.

Atlanta Legal Aid has become almost famous for partnering with many other Georgia organizations in tackling social problems that can go beyond providing legal aid. This has been true even when Executive Director Steve Gottlieb knew that the partnership might on occasion mean less money for Atlanta Legal Aid. In making this proposal, Gottlieb set up partnerships with four organizations where his legal aid organization could use some help. The Georgia Heirs Property Law Center, Georgia Appleseed Center for Law and Justice, the Truancy Intervention Project and the Pro Bono Partnership of Atlanta joined with Atlanta Legal Aid to help prevent the loss of family homes and to revitalize low-income communities.

The Georgia Heirs Property Law Center will work with families, nonprofits and municipalities to resolve and prevent heirs property issues and other barriers
to preserving and growing family wealth throughout Georgia. Led by Skipper Stipe Maas who is probably the most experienced lawyer in Georgia regarding heirs property law, this relatively new organization deals with property title issues where homeownership may cover multiple generations and where ownership rights may be difficult to prove.

Georgia Appleseed will partner with Atlanta Legal Aid to revitalize Cuyler Brownsville, a hard-hit community in Savannah. The Truancy Intervention Project (TIP) will support the children whose families have been destabilized by the foreclosure crisis. TIP will do what it does best, namely, find ways to keep children in school no matter their housing situation. The Pro Bono Partnership of Atlanta will partner with Atlanta Legal Aid to support nonprofit organizations throughout the state that serve disadvantaged Georgians. Its support will include workshops, webinars and pro bono, and direct legal assistance for targeted nonprofits already working in impacted communities.

In total, Atlanta Legal Aid received $2,636,000 of which $351,800 will go to the Georgia Heirs Property Law Center, $134,200 to Georgia Appleseed, $90,000 to the Pro Bono Partnership of Atlanta and $130,000 to TIP.

Atlanta Volunteer Lawyers Foundation received $325,000 to hire an attorney to work with AVLF community advocates inside schools located in destabilized communities. AVLF will also use its expertise in recruiting lawyer volunteers to improve housing conditions at the same time it is enforcing rights to habitable housing and assisting tenants in avoiding displacement through eviction.

Equal Justice Works (EJW) received $2.6 million to create the Georgia Housing Corps (GHC). GHC will promote community redevelopment throughout Georgia over a two-year period. The actual number of fellows and community organizers will depend on the memorandum of understanding (MOU) with each host organization, detailing the number of fellows and community organizers agreed upon. The MOUs had to be completed by Oct. 1. EJW is famous for supplying highly educated, well-trained fellows to work in host legal aid organizations providing supervision of the fellows. It is a win-win situation for host organizations and for EJW.

Georgia Legal Services received $2,214,967 to hire 10 attorneys to provide legal assistance over a two-year period to low-income tenants of private landlords through its advice line, through direct legal representation and through court advocacy. The focus is on reducing evictions and stabilizing communities in Bibb, Chatham, Dougherty, Floyd, Glynn, Hall, Muscogee, Richmond and Whitfield counties.

“We are trying to be careful in our stewardship of these valuable funds,” said Kitty Cohen, president of the Georgia Bar Foundation. “We have recently learned that Attorney General Sessions in the Justice Department has ordered that future settlement funds can go only to governmental organizations and not 501(c)(3) corporations like the Georgia Bar Foundation. So the largest single inflow of money into the foundation may well also be our last when it comes to federal cy pres funds from the U.S. Department of Justice.”

Georgia Bar Foundation Awards SafePath a $10,000 Fellows Grant

During a visit to SafePath Child Advocacy Center in Marietta on Aug. 16, the Georgia Bar Foundation presented the center with a fellows grant check in the amount of $10,000.

“We are thrilled to be able to announce this award to SafePath,” said Superior Court Judge G. Conley Ingram. “The money will be used to provide additional training to the staff to ensure thorough preparation when it is required to provide testimony in the courtroom.”

SafePath’s President Kevin Rogers, who was presented the check, said, “SafePath is honored to receive this award from the foundation and will put it to good use in ensuring that our staff is well trained and fully prepared when it needs to appear in court.” The funds were provided by the Fellows Program of the Georgia Bar Foundation, which is composed of more than 1,200 Georgia lawyers who are invited to become fellows in recognition of their service to their communities and to the legal profession.

The Georgia Bar Foundation, the charitable arm of the Supreme Court of Georgia, is the largest legal charity in the state. It recently surpassed $100 million in total revenues raised to fund law-related programs throughout Georgia.

Len Horton
Executive Director
Georgia Bar Foundation
hortonl@bellsouth.com
Ever since Nelson Tift established his trading post on the Flint River at Albany in 1836, Newton, the county town of Baker County, has languished in Albany’s shadow. Baker County was cut from Early County in 1825, and shortly thereafter the first crude wooden courthouse was erected at Byron, not far from present day Albany. The county seat was soon moved to Newton which was laid out on Flint River well to the south of Tift’s future enterprise, and the county’s second courthouse rose at Newton around 1832. Five years later, the building witnessed the passage of Tift’s first steamboat, the Mary Emeline, on its way from Apalachicola to Albany.

All Newton could do was watch as Albany passed her by, and by 1849, in his “Statistics of the State of Georgia,” the reliable George White informs us that Albany had a population of about 800, while the county seat at Newton counted only 30 residents. In 1853, the creation of Dougherty County with Albany as the county town doomed Newton to an obscure fate. Her 1832 frame courthouse burned in 1873, only to be replaced by a similar two-story wooden building.

But it was not the river that ultimately drove Albany's success, it was the railroad. As the early voyages of the Mary Emeline proved, steamboating on the Flint was a perilous and uncertain enterprise. Despite considerable effort to dredge, blast and clear a channel, the Flint remained a capricious highway. In 1873, just as Newton's second new courthouse rose, the U.S. Corps of Engineers made of survey of the Flint. Their report describes Newton as a "small village" with "a courthouse, a jail, a few stores and a population of about 150." The report goes on to describe the Flint below Newton as far south as Bainbridge as containing, "many serious and almost impossible obstructions." A plan for clearing the Flint was adopted by The Corps in 1874, but the undertaking was still not complete in 1910. Defying all efforts to dredge a navigable channel, the river remained "narrow" with "many shoals." In the meantime, seven railroads had met at Albany, and her population exceeded 8,000.

In 1900, tiny Newton remained completely bypassed, counted just over 300 residents and harbored little hope for a railroad of her own. The great east-west lines ran through Albany to the north and Bainbridge to the south, while north-south railroads skirted Baker County passing through Camilla to the east and Colquitt to the west. Nevertheless, at one point, a connecting scheme did emerge. In 1906, amid the various plans for a railroad from Albany via Cairo to Quincy, Fla., speculation for the construction of The Albany, Camilla and Newton railroad swept through Baker County. In the end, this grand railroading scheme came to nothing, and sadly we have little to document the effects of such speculation in Newton. Baker County did not have its own newspaper until 1912, and no Albany papers from 1906 survive today. Nonetheless, we know that the county's first bank, The Bank of Baker County, was established in that same year, and it cannot be coincidance that the last of Georgia's Romanesque Revival courthouses rose on the square in Newton in 1906 amid talk of a railroad in Baker County.

By 1906, the Romanesque Revival was long dead in most of America, but the rural American South clung to symbols of the past with tenacity unmatched elsewhere in the country. James W. Golucke’s 1906 Newton County courthouse was a near copy of his 1905 Jones County courthouse at Gray. Except for the design of the original tower and a few details in the banding and fenestration, this building also matches Golucke’s court buildings at McDonough (1897), Blairsville (1899) and Ellaville (1900).

Sadly, like many of Golucke’s court buildings, the original tower did not stand the test of time. In 1925, the Flint River flooded Newton. When the river returned to its banks, the high water mark was six feet up the side of this courthouse. The footings beneath the tower were seriously weakened. Shortly thereafter, the original tower was razed, and the grotesque replacement we see today was erected in its place. In the Flint River flood of 1994, the high-water mark was nearly 17 feet up the walls of the old courthouse, and the old building was abandoned leaving Newton a near ghost town. Today the building has been restored and designated a historical landmark.

In a quirk of history, just as the Romanesque Revival breathed a dying breath in Georgia, James Wingfield Golucke, the architect of so many of its most enduring monuments, died in the obscure village of Newton. In 1907, as Golucke’s courthouse neared completion, the architect was arrested and placed in the Baker County jail for alleged misappropriation of county funds in connection with the construction of the Baker County courthouse. The frail Golucke was crushed by these accusations and deeply shamed by his incarceration. On Oct. 7, 1907, he unsuccessfully attempted suicide, and on Oct. 26 he died at the age of 50 while still in prison. A contemporary Baker County history suggests that Golucke may have been wrongfully accused by local culprits, who were attempting to cover their own crimes.

In 1907, the untimely death of James Golucke marked the end of an era for Picturesque public architecture in Georgia. Alexander Bruce, arguably the master of the Picturesque in Georgia, had retired in 1904. Although the popularity of the Picturesque had lingered in the American South, the Romantic architectural epic came to an abrupt end in Georgia with the erection of the Baker County courthouse and the sudden death of its creator. Perhaps it was a fitting end. The Picturesque had come to a sudden end in the North 15 years earlier, and its great guiding genius, Henry Hobson Richardson, had met an equally untimely death in 1886.

Surely, James Golucke was no Richardson. Nonetheless, the comparison is interesting. In the growing urban centers of the North and Midwest, Richardson and his followers sought to create a distinctly American architectural style to boldly flaunt the emerging nation’s industrial and financial success. Meanwhile, way out in the dusty fields of rural Georgia, James Golucke sought to tame the massive Richardsonian beast. He designed soft, simple, pastoral Romantic forms, which stood for a less ambitious form of progress, and simultaneously recalled an ancient age. Toward the end of his career H. H. Richardson had begun to create a uniquely modern idiom that few would immediately comprehend. Golucke on the other hand, showed no such originality. He was one of the first architects in the Deep South to embrace the new Classicism, and with the same zeal he had lavished on the Picturesque, he fashioned Classical duel symbols to soothe the troubled and divided mind of the South.

### Notice of Expiring Board Terms

Listed below are the members of the State Bar of Georgia Board of Governors whose terms will expire in June 2018. These incumbents and those interested in running for a specific post should refer to the election schedule (posted below) for important dates.

#### State Bar of Georgia 2018 Election Schedule

<table>
<thead>
<tr>
<th>Year</th>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>AUG 11</td>
<td>Deadline for submission of election schedule for publication in October issue Georgia Bar Journal</td>
</tr>
<tr>
<td></td>
<td>OCT</td>
<td>Official Election Notice, October issue Georgia Bar Journal</td>
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<tr>
<td></td>
<td>DEC 1</td>
<td>Nominating petition package mailed to incumbent Board of Governors members and other members who request a package</td>
</tr>
<tr>
<td>2018</td>
<td>JAN 4–6</td>
<td>Nomination of Officers at Midyear Board Meeting, Westin Atlanta Perimeter North, Atlanta</td>
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<td>JAN 26</td>
<td>Deadline for receipt of nominating petitions for incumbent Board members including incumbent nonresident (out of state) members</td>
</tr>
<tr>
<td></td>
<td>FEB 23</td>
<td>Deadline for receipt of nominating petitions for new Board members including new nonresident (out of state) members</td>
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<tr>
<td></td>
<td>MAR 9</td>
<td>Deadline for write-in candidates for officer to file a written statement (not less than 10 days prior to mailing of ballots (Article VII, Section 1 (c)))</td>
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<tr>
<td></td>
<td>MAR 9</td>
<td>Deadline for write-in candidates for Board of Governors to file a written statement (not less than 10 days prior to mailing of ballots (Article VII, Section 2 (c)))</td>
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<tr>
<td></td>
<td>MAR 26</td>
<td>Ballots mailed</td>
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<td></td>
<td>APR 27</td>
<td>11:59 p.m. deadline for ballots to be cast in order to be valid</td>
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<tr>
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<td>MAY 4</td>
<td>Election service submits results to the Elections Committee</td>
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<tr>
<td></td>
<td>MAY 11</td>
<td>Election results reported and made available</td>
</tr>
</tbody>
</table>

**Alapaha Circuit, Post 2**  
Hon. Clayton Alan Tomlinson, Nashville  
Alapaha Circuit, Post 2  
Michael R. Jones Sr., Loganville  
Atlanta Circuit, Post 2  
Kent Edward Altom, Alpharetta  
Atlanta Circuit, Post 4  
Jeffrey Ray Kuester, Atlanta  
Atlanta Circuit, Post 6  
Dwight L. Thomas, Atlanta  
Atlanta Circuit, Post 8  
Hon. Paige Reese Whitaker, Atlanta  
Atlanta Circuit, Post 10  
Scott Dewitt Delius, Atlanta  
Atlanta Circuit, Post 12  
Elena Kaplan, Atlanta  
Atlanta Circuit, Post 14  
Edward B. Krugman, Atlanta  
Atlanta Circuit, Post 16  
James Daniel Blitch IV, Atlanta  
Atlanta Circuit, Post 18  
Fay R. Devine, Atlanta  
Atlanta Circuit, Post 20  
Jennifer Auer Jordan, Atlanta  
Atlanta Circuit, Post 22  
Frank B. Strickland, Atlanta  
Atlanta Circuit, Post 24  
Joseph Anthony Roseborough, Atlanta  
Atlanta Circuit, Post 26  
Anthony B. Askeu, Atlanta  
Atlanta Circuit, Post 28  
J. Henry Walker IV, Atlanta  
Atlanta Circuit, Post 31  
Michael Brian Terry, Atlanta  
Atlanta Circuit, Post 33  
Hon. Susan Eichler Edlein, Atlanta  
Atlanta Circuit, Post 35  
Terrence Lee Croft, Atlanta  
Atlanta Circuit, Post 37  
Samuel M. Matchett, Atlanta  
Atlanta Circuit, Post 38  
Michael Dickinson Hobbs Jr., Atlanta  
Atlanta Circuit, Post 40  
Carol V. Clark, Atlanta  
Atlanta Circuit, Post 1  
H. Craig Stafford, Hinesville  
Augusta Circuit, Post 2  
William James Keogh III, Augusta  
Augusta Circuit, Post 4  
William R. McCracken, Augusta  
Bell Forsyth Circuit  
Hon. Philip C. Smith, Cumming  
Blue Ridge Circuit, Post 1  
Hon. David Lee Cannon Jr., Canton  
Brunswick Circuit, Post 2  
Jeffrey S. Ward, Brunswick  
Chattahoochee Circuit, Post 1  
Amy Carol Walters, Columbus  
Chattahoochee Circuit, Post 3  
Thomas F. Gris tina, Columbus  
Cherokee Circuit, Post 1  
Randall H. Davis, Cartersville  
Clayton Circuit, Post 2  
Harold B. Watts, Jonesboro  
Cobb Circuit, Post 1  
Dennis C. O’Brien, Marietta  
Cobb Circuit, Post 3  
Hon. David P. Darden, Marietta  
Cobb Circuit, Post 5  
Daun Renee Levine, Marietta  
Cobb Circuit, Post 7  
William C. Gentry, Marietta  
Conasauga Circuit, Post 1  
Terry Leighton Miller, Dalton  
Coweta Circuit, Post 1  
Gerald P. Word, Atlanta  
Dougherty Circuit, Post 1  
Joseph West Dent, Albany  
Douglas Circuit  
Ryan Reese Leonard, Douglasville
Eastern Circuit, Post 1
Sarah Brown Akins, Savannah
Eastern Circuit, Post 3
Jonathan B. Pannell, Savannah
Enotah Circuit
Hon. Joy Renea Parks, Cleveland
Flint Circuit, Post 2
John Philip Webb, Stockbridge
Griffin Circuit, Post 1
Janice Marie Wallace, Griffin
Gwinnett Circuit, Post 2
Judy C. King, Lawrenceville
Gwinnett Circuit, Post 4
Gerald Davidson Jr., Lawrenceville
Houston Circuit
Carl A. Veline Jr., Warner Robins
Lookout Mountain Circuit, Post 1
Archibald A. Farrar Jr., Summerville
Lookout Mountain Circuit, Post 3
Lawrence Alan Stagg, Ringgold
Macon Circuit, Post 2
Thomas W. Herman, Macon
Member-at-Large, Post 3*
Tracee Ready Benzo, Atlanta
Middle Circuit, Post 1
John Kendall Gross, Metter
Northeastern Circuit, Post 1
Mark William Alexander, Gainesville
Northern Circuit, Post 2
Hon. Richard Dale Campbell, Elberton
Ocmulgee Circuit, Post 1
Carl Santos Cansino, Milledgeville
Ocmulgee Circuit, Post 3
Christopher Donald Huskins, Eatonton
Oconee Circuit, Post 1
Ashley W. McLaughlin, Eastman
Ogeechee Circuit, Post 1
Daniel Brent Snipes, Statesboro
Out-of-State, Post 2
William J. Monahan, Washington, D.C.
Paulding Circuit
Martin Enrique Valbuena, Dallas
Rockdale Circuit
William Gilmore Gainer, Conyers
Rome Circuit, Post 2
J. Anderson Davis, Rome
South Georgia Circuit, Post 1
Lawton Chad Heard Jr., Camilla
Southern Circuit, Post 1
Christopher Frank West, Thomasville
Southern Circuit, Post 3
H. Burke Sherwood, Valdosta
Stone Mountain Circuit, Post 1
Hon. Stacey K. Hydrick, Decatur
Stone Mountain Circuit, Post 3
Hon. J. Antonio, DelCampo, Atlanta
Stone Mountain Circuit, Post 5
Amy Viera Howell, Atlanta
Stone Mountain Circuit, Post 7
John G. Haubenreich, Atlanta
Stone Mountain Circuit, Post 9
Sherry Boston, Decatur
Tallapoosa Circuit, Post 2
Brad Joseph McFall, Cedartown
Tift Circuit
Hon. Render Max Heard Jr., Tifton
Waycross Circuit, Post 1
Douglas Kirk Farrar, Douglas
Western Circuit, Post 2
Edward Donald Tolley, Athens

*Post to be appointed by president-elect.

Does your firm produce a newsletter? Have you written a law review, magazine or newspaper article on a legal topic? Would you like to expand your audience, receive free publicity and be recognized in the Georgia Bar Journal? If so, the Law-Related Education (LRE) Program needs you!

One of the resources we offer to teachers and other members of the public is a series of online LiveBinders on a variety of legal topics and famous cases, from employment, intellectual property and tort law, to important civil rights cases, to historic trials such as the Leo Frank case, Marbury v. Madison, and Gregg v. Georgia. Each LiveBinder contains not only lesson plans, but also resources such as scholarly articles and links to relevant current events. Our LiveBinders have been used by hundreds of teachers, both within and outside the state of Georgia, and one of them, dealing with the tension between the rights of free press and fair trial, has been viewed more than 6,500 times nationwide. A list of all of our LiveBinders is available at http://bit.ly/2ubBwvB.

We are looking for new resources to add to our LiveBinders. We can upload entire documents, link to a specific article, or link to an entire newsletter, other database or subject-specific website (no firm home pages, please). If you would like to share your knowledge with a wider audience and be recognized by your peers, simply complete a LiveBinder Submission Form at http://bit.ly/2hvGj5u.

Any questions regarding the suitability of a particular resource for inclusion in the LRE Program’s LiveBinders should be directed to Deborah Craytor, director of Law-Related Education, deborahccc@gabar.org or 404-527-8785. ●
Were you looking to leave Young Harris College, or did the opportunity at Mercer just come up and you decided it was too good to pass up?

It was a real surprise. I was not looking to leave Young Harris when some of our alumni and judges who were serving on the search committee for the dean approached me last fall. I said, “Thank you, but no thanks,” and didn’t give it much more thought. I presumed they went ahead with the search and didn’t find what they were looking for because they came back to me this spring with a full-court press, so I started having some serious conversations then. It really made me think about why I love this institution and whether I wanted to stay at Young Harris until I retired, or whether this was something that I really wanted to do because it was too good an opportunity to pass up at a place that I love.

What excites you about coming back to Macon?

It’s the combination of being back in Macon and at Mercer Law School. I love this beautiful building, and I love the faculty and staff, a lot of whom were here when I was a student here. Being in Macon has been a true added bonus. Macon has changed a lot since I was a student. We bought a house in an area that used to be cow pastures when I was in school here, and now it’s a beautifully developed area of nice neighborhoods and convenient to everything in town. The excitement of downtown Macon is unbelievable. Folks here complain a lot about not having a place to park in downtown Macon, but that’s indicative of what is happening here. There are great restaurants and entertainment venues, and the redevelopment of downtown Macon is something to behold.

It’s been 31 years since you graduated from Mercer. What is different and what is the same about the law school since you were here as a student and now again as dean?

The best parts are still alive and well here. The camaraderie among the student body, and the friendships that are so easily made. The accessibility of the faculty is still a hallmark of Mercer. I am happy that this environment is still very much what nurtured me and pushed me and challenged me and helped me become a good lawyer.

What has been most surprising is the change in curriculum, not just at Mercer, but at all law schools. When I was a student, the curriculum was pretty much prescribed for all three years. There were very few opportunities for electives, but that’s not the case today. After the first year at most law schools, students take almost anything they want, which was absolutely stunning to me because we’ve given so much freedom of choice to students who don’t necessarily know what they don’t know about what practice is going to be like, or what the bar exam is going to require. I have been having a lot of discussions with our faculty about whether that is still meeting the needs of students today. In some respects, giving choices to students is as it should be, but I think we still have to do our job as the professionals to make sure students are adequately educated and prepared for the bar exam and for practice.

What are some of the challenges that legal education faces in the 21st century?

When the recession hit, law firms quit hiring at the same levels and reduced salaries. I don’t think the jobs are going to rebound to where they were prerecession at any time in the near future. Law firms have learned how to operate more leanly, and technology has moved into the legal field in ways that five or 10 years ago people would never have believed. If a computer can write a legal memo, why would a firm hire an asso-
One of the biggest challenges that Mercer faces as a private institution is cost. The annual cost of tuition and living expenses today is about $60,000 a year, so when you are asking prospective students to spend that much money per year for three years, how do you convince them that Mercer is the right choice rather than a public school that would be dramatically less expensive?

I said almost exactly that in my first faculty meeting, that we have to make sure we know what that extra value is. Students have options today, so the extra value that they get out of a private institution like Mercer includes the accessibility of the faculty, the small class sizes, the friendships that you make because of this really collegial environment, our career services office knowing students from the first year on and knowing what their ambitions are, and nearly 90 percent of our graduates are employed or enrolled within less than a year after graduation.

There is a return on the investment here, and these are things that we can talk to prospective students about. Private schools know they have to compete with some really good public law schools in Georgia and around the South, so we have to be very generous with scholarships and financial aid. About 95 percent of our first-year class this year received a scholarship, so we’re trying to reach all of the students who need financial aid.

How do you control the rising costs short of increasing enrollment in order to increase revenue?

That is the ultimate budgeting challenge that almost every law school is faced with right now. We have to make extra fundraising efforts among our alumni, and I’m going to be out talking to our alumni about why they love this institution and how they can help us maintain our standards and do everything we need to do to support our faculty, staff and programs here. We’ve also had to challenge our faculty and staff to do more with less. It also gives us the opportunity to look at new revenue programs. Mercer has not done a lot in terms of non-JD programs, but now may be the right time for us to do more in that regard because there are people who want legal knowledge but not the full law school experience.

Is a legal education worth its high cost?

Absolutely. The critical thinking skills you learn in law school that help you become an invaluable problem solver are like none you learn anywhere else, and I think that is the inherent value of a law degree. I think people in business like to hire lawyers because they know we learn to think, not only about one side of a problem, but about 20 sides of a problem and can help them anticipate what might happen with certain issues. We learn to think about and anticipate all of the arguments about an issue, and that’s not the type of education you gain anywhere else other than law school. I think law is the most exciting and flexible of all types of graduate education.

You’ve said that your goal is to make Mercer the premier law school in Georgia. What do you think is needed for Mercer to attain that status?

Our goal is to be the premier law school in the state and in the Southeast, and we want to be every prospective student’s first choice. To do that, we have to assure them that this is going to be the best fit for them. It won’t be for every student, but we want them to visit because about 87 percent of our current first-year students say the visit here really impacted their decision to be here. We have to do everything right to make that happen. We have to be the best in the bar passage rate, in the job placement rate, and in fundraising to support our faculty and staff and the programs here. I’m not here to run a mediocre law school. I’m here to raise us up to be the best on all of these measurements, and that’s going to take a great team effort from everyone here. I know how much they love this place and how much they believe in what we’re doing.

Where do you see Mercer five, 10 and 20 years from now?

Our goal is to be the premier law school in Georgia. What do you think is needed for Mercer to attain that status?

We’re about to dive into our next strategic plan, so I’m very excited about what that will look like and how that can shape who we’re going to be, particularly in the next five years. I think we have to be a lot more nimble than we have been in the last five, 10 or 20 years. The ground beneath us has shifted, and so we have to be in tune with that and address that with perhaps smaller enrollments and other programs that meet the needs of the marketplace. As I mentioned, perhaps with some non-JD programs that still make us the place to go for legal knowledge in whatever form the marketplace wants.

Law schools around the country are closing because they can’t get the enrollment, they can’t keep their bar pass rates up, they can’t provide the type of quality education that students want, and I want Mercer to never come close to that kind of consideration. We want to train the best lawyers to go back into all of the communities in this area and beyond to provide the best type of problem solving possible. We have to focus on what the needs are today rather than continuing to do what we’ve been doing the last 144 years.

Where do you see yourself five, 10 and 20 years from now?

The average tenure of a college president is about five years, and I stayed at Young Harris for 10 years. I don’t like to jump around from job to job. I take jobs that I think are really interesting because I think I might want to do them for a really long time. So I hope they’ll keep me on board and let me drive this train for a lot of years to come. I’m excited about the adventure.

Jacob E. Daly is of counsel with Freeman Mathis & Gary, LLP, in Atlanta and a member of the Georgia Bar Journal Editorial Board. He represents private companies, government entities and their employees in personal injury litigation with a focus on defending property owners, management companies and security companies in premises liability lawsuits.
Henning Mediation and Arbitration Service, Inc., announced that Joseph W. Watkins, partner, Watkins, Lourie, Roll & Chance, PC, joined their panel of neutrals. Watkins has practiced as a civil trial lawyer for more than 40 years. He has tried numerous cases for plaintiffs and defendants in state and federal courts, and has argued cases before the Supreme Court of Georgia and Court of Appeals of Georgia, as well as before the 5th Circuit and 11th Circuit Court of Appeals.

Attorney Christopher Adams, The Law Office of Christopher W. Adams, P.C., was sworn in as second vice president of the National Association of Criminal Defense Lawyers at the association’s annual meeting in San Francisco, Calif., in July. The National Association of Criminal Defense Lawyers is the pre-eminent organization advancing the mission of the criminal defense bar to ensure justice and due process for persons accused of crime or wrongdoing.

Baker Donelson announced that shareholder Jodi D. Taylor received the firm’s 2017 Work-Life Warrior Award. Baker Donelson established the Work-Life Warrior Award to honor an attorney in the firm who demonstrates an ongoing commitment to excellence in maintaining a healthy work-life balance or has advocated on behalf of work-life balance issues for the benefit of others.

Kilpatrick Townsend & Stockton announced that Counsel Kathleen “Katie” Barton was appointed to the Partnership Against Domestic Violence’s (PADV) Board of Directors. For 40 years, PADV, the largest nonprofit domestic violence organization in Georgia, has provided professional, compassionate and empowering support to battered women and their children in metro-Atlanta.

Swift, Currie, McGhee and Hiers LLP announced the firm was selected to join the Network of Trial Law Firms, a not-for-profit corporation whose membership is comprised of independent U.S. firms with reputations for excellence in trial and litigation practice. The network helps to provide a framework for defense law firms to work together by sharing trial and litigation expertise and resources for corporate and insurance company clients.

The American Red Cross of Atlanta awarded Miles Alexander with its LifeBoard Chairman’s Award in recognition of his dedication and commitment as a lifelong blood donor. The LifeBoard Chairman’s Award is given to an individual who exemplifies the highest level of commitment to their organization’s blood program. Alexander’s donation of more than 20 gallons since 1948 has potentially saved the lives of more than 500 individuals.

Berman Fink Van Horn P.C. announced it achieved Partner in Prevention status as awarded by Darkness to Light, an international nonprofit organization committed to empowering adults to prevent child sexual abuse. This designation is bestowed upon organizations which take extra steps to protect children by training staff to understand the issue of child sexual abuse, identify unsafe situations and practices, and react responsibly in the best interest of children. The firm provided Stewards of Children® training to more than 90 percent of its management and staff.

The Saylor Law Firm LLP announced that founding partner Jacquelyn “Jackie” Saylor was elected vice chair/chair-elect of the Atlanta Bar Association’s Estate Planning & Probate Section and founding partner Murray Saylor was appointed as a member-at-large of the Atlanta Bar Association’s Tax Law section.
Smith, Gambrell & Russell, LLP, announced that partner Joyce Klemmer joined the board of directors of the Atlanta Bar Association Dispute Resolution Section. Klemmer also currently serves on the board of directors of the Atlanta Bar Association Intellectual Property Section.

Leadership Atlanta announced the following members of its Class of 2018: Germaine Austin, Thomas Kennedy Sampson & Tompkins LLP; Nora Benavidez, Law Office of Nora Benavidez; David Broussard, Greenberg Traurig LLP; Andrew Cooper, United Parcel Service; Katherine Dunn, U.S. Department of Education Office for Civil Rights; Jake Evans, Thompson Hine LLP; Emerson Girardeau III, Eversheds Sutherland LLP; Ashley Heintz, Jones Day; Labriah Lee, American Israel Public Affairs Committee; Phi Nguyen, Bendin Sumrall & Ladner, LLC; Sam Park, Georgia General Assembly; Brandi Reeves, Fulton County Government Public Defender’s Office; James Sturm Jr., KPMG; Karli Swift, ADP, LLC; and Samuel Williams, U.S. Housing & Urban Development Department. Leadership Atlanta is the oldest continuously running training program of its type in the country.

On the Move

IN ATLANTA

Boyd Collar Nolen & Tuggle announced the addition of Jennifer K. “Jenni” Brown as an associate. Brown focuses her practice in a range of family law issues, including complex divorce litigation, child custody and support disputes, and paternity and legitimation. The firm is located at 3330 Cumberland Blvd., 100 City View, Suite 999, Atlanta, GA 30339; 770-953-4300; Fax 770-953-4300; www.bcntlaw.com.

Locke Lord LLP named Bryan G. Harrison managing partner of the firm’s Atlanta office. Harrison is a partner in the firm’s intellectual property litigation practice group. His practice focuses on prosecuting and defending patent infringement actions, serving as regional or national litigation counsel for clients and appearing in various courts in more than 30 states, Canada and the European Union. The firm is located at Terminus 200, Suite 1200, 3333 Piedmont Road NE, Atlanta, GA 30305; 404-870-4600; Fax 404-872-5547; www.lockelord.com.

Attorney Gary M. Kazin joined Zirkle & Hoffman Mediation Services, LLC, as a mediator in workers’ compensation cases. The office is located at 400 Galleria Parkway, Suite 1750, Atlanta, GA 30339; 770-551-8700; Fax 770-551-3856; www.zirklaw.com.

Hall Booth Smith, P.C., announced that Tom Mazziotti joined as a partner. Mazziotti’s practice focuses on health care, product liability, fire cause and origin, and transportation matters. He also counsels clients on product safety, product recall and reporting and regulatory compliance matters before federal and state agencies including the Consumer Product Safety Commission and the National Highway Traffic Safety Administration. The firm is located at 191 Peachtree St. NE, Suite 2900, Atlanta, GA 30303; 404-954-5000; Fax 404-954-5020; www.hallboothsmith.com.

James-Bates-Brannan-Groover-LLP announced the addition of Robert L. Swartwood II as of counsel. Swartwood provides comprehensive corporate counsel to businesses with a specific emphasis on mergers and acquisitions in the middle market. The firm is located at 3399 Peachtree Road NE, Suite 1700, Atlanta, GA 30326; 404-997-6020; Fax 404-997-6021; www.jamesbatesllp.com.

Levine Smith Snider & Wilson, LLC, announced that R. Andrew Snider joined the firm as an associate. Snider focuses on all aspects of family law including divorce, modifications, protective orders, child custody, legitimation, grandparent visitation, and prenuptial and postnuptial agreements. The firm is located at 3490 Piedmont Road NE, Suite 1150, Atlanta, GA 30305; 404-237-5700; Fax 404-237-5757; www.lsslaw.com.

Smith Moore Leatherwood LLP announced that G. Marshall Kent Jr. was elected partner-in-charge of the firm’s Atlanta office. Kent joins the firm’s management committee, which is responsible for overseeing the operations of the southeast region’s seven offices located in North Carolina, South Carolina and Georgia. Kent’s practice focuses in the areas of creditor/debtor rights, commercial, construction and bankruptcy litigation, and general corporate law. The firm is located at 1180 W. Peachtree St. NW, Suite 2300, Atlanta, GA 30309; 404-962-1000; Fax 404-962-1200; www.smithmoorelaw.com.
Baker Donelson announced the addition of Sebastian Meis as a shareholder, Felix Faerber as an attorney and Anthony Thompson Jr. as an associate. Meis advises companies in corporate matters, particularly in the formation and restructuring of corporations and partnerships both in Germany and the United States. Faerber represents domestic and international companies in areas including corporate and partnership law, cross-border transactions, mergers, acquisitions, foreign direct investment and intellectual property. Thompson focuses his practice on representing owners, investors and developers in the acquisition, disposition, development and leasing of commercial real estate, including multifamily complexes, mixed-use developments, retail centers, hotels and self-storage facilities. The firm is located at 3414 Peachtree Road NE, Suite 1600, Atlanta, GA 30326; 404-577-6000; Fax 404-221-6501; www.bakerdonelson.com.

Georgia Legal Services Program (GLSP) announced that Ira Foster was named general counsel and associate director. As the in-house general counsel, Foster reviews policy and procedure and works with the executive director to ensure high quality legal services are provided. Foster previously served as the managing attorney of GLSP’s Macon office. The office is located at 104 Marietta St. NW, Suite 250, Atlanta, GA 30303; 404-206-5175; www.glsp.org.

Hunton & Williams LLP announced G. Scott Rafshoon as a partner in the Atlanta office. Rafshoon represents clients involved in mergers and acquisitions and other corporate matters. His practice also includes advising companies in connection with mergers, acquisitions, divestitures, corporate governance and joint ventures. The firm is located at 300 Peachtree St. NE, Suite 4100, Atlanta, GA 30308; 404-888-4000; Fax 404-888-4190; www.hunton.com.

Attorney Paul Knowlton joined the McAfee School of Theology at Mercer University as the founding director of the newly created Institute for Spirituality in the Professions. Knowlton recently served as CEO of Morningstar Children and Family Services. The Institute is located on Mercer’s Atlanta campus at 3001 Mercer University Drive, Atlanta, GA 30341; 404-245-0957; www.mercer.edu.

Taylor English Duma LLP announced the addition of R. Wayne Bond as partner and Deborah J. Livesay as counsel. Bond joined the firm from Seyfarth Shaw LLP where he focused his practice on complex commercial litigation and class action cases. He deals with breach of contract, corporate shareholder and partnership disputes, corporate liability, false advertising, professional malpractice and government investigations. Livesay focuses her practice on labor and employment, and represents management in all aspects of labor-management relations, equal employment opportunity and other employment-related issues. The firm is located at 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339; 770-434-6868; Fax 770-434-7376; www.taylorend.com.

Adams and Reese LLP announced the opening of an office in Atlanta, managed by founding partners Ron C. Bingham II, Bryan E. Busch and Matthew B. Norton. The firm also announced the addition of Sameer K. Kapoor, Amy L. Hanna Keeney, Brian D. Pierce and John A. Thomson Jr. as special counsel; and Laura H. Mirmelli and David Stewart as associates. Bingham advises clients regarding commercial workouts, receiverships, bankruptcy and commercial litigation matters in state and federal courts throughout the country. Busch represents financial institutions, hedge funds, banks, credit unions, servicers and other lenders in all types of financial litigation. Norton focuses his practice on real estate-related matters and secured transactions collateralized by both real estate and other property. Kapoor represents the interests of secured lenders and other creditors in out-of-court workouts and restructuring transactions, bankruptcy proceedings and other financial litigation matters. Keeney defends businesses in state and federal court litigation and brings significant experience representing financial institutions—including mortgage services and auto lenders—in a broad range of litigation matters that includes contested foreclosures, repossession disputes involving personal property collateral, homeowners’ association disputes, reformation actions, trash-out claims, REO disputes, lien priority disputes and quit title claims. Pierce represents cli-
ents in the acquisition, development, leasing and disposition of commercial properties. Additionally, he represents both borrowers and institutional lenders in commercial property transactions. Thomson represents a variety of clients in matters related to commercial finance and debtor/creditor issues. Mirmelli represents financial institutions in connection with distressed real estate and commercial loans. Stewart represents clients regarding corporate and commercial real estate transactions, including corporate formations, asset and stock purchases, commercial leasing and a variety of secured transactions. The firm is located at 3424 Peachtree Road NE, Suite 450, Atlanta, GA 30326; 470-427-3700; Fax 404-500-5975; www.adamsandreese.com.

Lee & Hayes, PLLC, announced the addition of Bruce Bower as partner. Bower helps companies with complex patent issues involving litigation, strategic counseling, prosecution and licensing. He has litigated patent disputes in U.S. District Courts, the U.S. International Trade Commission and the U.S. Court of Appeals for the Federal Circuit. He also prosecutes patent applications in various technologies before the U.S. Patent and Trademark Office. The firm is located at 1175 Peachtree St. NE, 100 Colony Square, Suite 2000, Atlanta, GA 30361; 404-815-1900; Fax 509-323-8979; www.leehayes.com.

Alston & Bird announced the addition of Paul Monnin as a partner. A trial lawyer with more than 20 years of securities litigation and civil and criminal regulatory defense experience, Monnin has conducted internal investigations on behalf of numerous Fortune 500 corporations. His commercial litigation engagements have included successful temporary restraining order and preliminary injunction proceedings, dispositive motion practice, bench and jury verdicts related to contract, business tort, mergers and acquisitions, antitrust, patent, real estate and secured lending litigation, including class actions and multi-district litigation in federal and state courts. The firm is located at One Atlantic Center, 1201 W. Peachtree St., Suite 4900, Atlanta, GA 30309; 404-881-7000; Fax 404-881-7777; www.alston.com.

DLA Piper announced that Kevin Gooch joined the firm’s finance practice as a partner. Gooch represents financial institutions, corporate borrowers and private equity funds in complex finance and restructuring transactions, including syndicated credit facilities, bilateral loan transactions, acquisition financings, asset-based financings and notes offerings. Gooch also has experience advising publicly traded borrowers and clients in the healthcare space on credit facilities and secured loans. The firm is located at One Atlantic Center, 1201 W. Peachtree St., Suite 2800, Atlanta, GA, 30309; 404-736-7800; Fax 404-682-7800; www.dlapiper.com.
Drew Eckl & Farnham announced the addition of Timothy Veith as of counsel and Shannon Fishel as an associate. Veith has been a corporate and transactional attorney for 25 years. His experience includes private and public corporate finance, and mergers and acquisitions transactions, conduit and securitization financing, banking and securities regulation, and litigation and mediation management. Fishel focuses her practice on general casualty and commercial litigation, and possesses expertise in appellate practice. The firm is located at 303 Peachtree St. NE, Suite 3500, Atlanta, GA 30308; 404-885-6408; Fax 404-876-0992; www.deflaw.com.

IN BRUNSWICK

HunterMaclean announced that Patrick Webb joined the firm as a partner. Webb focuses his practice in the field of commercial real estate development, leasing and finance, in addition to related areas including corporate finance, joint ventures and general corporate transactions. He has in-depth experience in the purchase and sale of multi-million dollar office buildings and multifamily apartment complexes. The firm is located at 777 Gloucester St., Suite 400, Brunswick, GA 31520; 912-262-5996; Fax 912-279-0586; www.huntermaclean.com.

Hall Booth Smith, P.C., announced Stephanie McDonald joined the firm as of counsel. McDonald focuses on trial work in insurance defense, family law, criminal defense and personal injury law. She has extensive pre-trial and jury trial experience spanning two decades in federal and state court for both civil and criminal defense matters. The firm is located at 3528 Darien Highway, Suite 300, Brunswick, GA 31525; 912-554-0093; Fax 912-554-1973; www.hallboothsmith.com.

IN MACON

James-Bates-Brannan-Groover-LLP announced that Christopher R. Conley joined the firm as an associate. Conley’s practice focuses on civil litigation, where he represents clients in business, employment, estate, contract and personal injury matters. The firm is located at 231 Riverside Drive, Macon, GA 31201; 478-742-4280; Fax 478-742-8720; www.jamesbatesllp.com.

IN SAVANNAH

HunterMaclean announced that Louann Bronstein joined the firm as a partner. Bronstein focuses her practice in the field of corporate law, with extensive experience working with major corporations, middle market and closely held companies ranging from start-up businesses to internationally recognized companies. She has closed major deals representative of the full spectrum of business transactions, including mergers and acquisitions, joint ventures, strategic alliances and consolidations. The firm is located at 200 E. Saint Julian St., Savannah, GA 31412; 912-236-0261; Fax 912-236-4936; www.huntermaclean.com.

The Eichholz Law Firm, P.C., announced the addition of Fatima Alexis Zeidan as a partner. Zeidan practices in the areas of personal injury and civil litigation. She also handles cases ranging from minor motor vehicle collisions to catastrophic injury cases. Zeidan has tried cases throughout multiple states and presented oral arguments in the South Carolina Court of Appeals. The firm is located at 530 Stephenson Ave., Suite 200, Savannah, GA 31405; 912-335-4580; Fax 912-629-2590; www.thejusticelawyer.com.

FROM THE NIXON WHITE HOUSE TO TRUMP TOWER

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Check us out on Facebook @GeorgiaMockTrial and on Twitter @GA_MockTrial!
“¿En qué puedo ayudarle?” you ask, surprised that you remember enough high school Spanish to ask your potential new client how you can help.

“Oh good! You speak Spanish!” your client-to-be exclaims with delight, mistakenly believing that your impeccable accent indicates actual language fluency. She launches into her tale of woe. You panic, realizing you don’t understand a word she has said.

“Um . . . I only got as far as Spanish II,” you respond weakly.

What are a lawyer’s obligations when representing a client who speaks a different language?

Pretty much the same as they are for any other client. As with any client, communication is essential to the relationship. Georgia Rule of Professional Conduct Rule 1.4 requires a lawyer to consult with the client about the case, to keep the client reasonably informed and to promptly respond to requests for information. The rule requires a regular flow of communication to ensure that the client understands her options in directing the lawyer’s actions.

If you’re lucky enough to be bilingual none of this poses problems for you. Many times the rest of us rely on staff or even relatives of the client to translate conversations with a client of limited English proficiency. While such arrangements may be the only option for office visits, the lawyer should ensure that the client has a certified interpreter for any judicial proceeding. Certified interpreters understand the duties of confidentiality and impartiality, and are subject to rules of professional conduct. Take a look at the website for the Georgia Commission on Interpreters for more information on choosing and using an interpreter. Additional resources are available through the American Bar Association and the statewide website run by Georgia’s legal services organizations, www.georgiaadvocates.org.

While it’s great fun to show off your less-than-fluent foreign language skills during a Spring Break vacation to Cabo, your clients deserve better. It’s your obligation to ensure that there is meaningful communication and understanding at each step of the process.

Paula Frederick
General Counsel
State Bar of Georgia
paulaf@gabar.org
Attorney Discipline Summaries

July 13, 2017 through Sept. 5, 2017
BY JESSICA OGLESBY

Suspensions

Michael Bernard King
5581 Aspen Drive
College Park, GA 30349
Admitted to Bar 1990

On Aug. 14, 2017, the Supreme Court of Georgia ordered that attorney Michael Bernard King (State Bar No. 421140) receive a Public Reprimand and a Suspension from the practice of law with conditions. The Investigative Panel had originally decided to impose an Investigative Panel reprimand in this matter, but King failed to appear to receive that sanction and failed to explain his failure to appear, which led to the Investigative Panel’s decision to issue a Notice of Discipline. King was served with the Notice of Discipline, but he failed to file a Notice of Rejection, resulting in default.

King admitted by virtue of default that he represented a client in a personal injury suit, which the trial court dismissed. King then repeatedly failed to properly advance the client’s appeal, including by failing to file the requisite transcript, resulting in the trial court’s dismissal of the appeal and imposition of attorney fees against King. King appealed the dismissal of the appeal, but the Court of Appeals dismissed that appeal for failure to pay costs or provide sufficient evidence of his client’s indigence. The Investigative Panel concluded that King had violated Rules 1.2, 1.3, and 3.2 of the Georgia Rules of Professional Conduct. The maximum sanction for a violation of Rules 1.2 and 1.3 is disbarment, while the maximum sanction for a violation of Rule 3.2 is a public reprimand.

In mitigation, King had no prior discipline. In aggravation, King failed to appear to receive the Investigation Panel reprimand and did not respond to the Bar’s filings in the court. The Supreme Court ordered a Public Reprimand, and Suspension from the practice of law until King appears for and receives that reprimand, as the appropriate discipline in this matter. Accordingly, once King receives the Public Reprimand, he may seek reinstatement.

John Dennis Duncan
29 Blue Ridge Drive
Newnan, GA 30265
Admitted to Bar 2009

On Aug. 28, 2017, the Supreme Court of Georgia accepted a Petition for Voluntary Discipline filed by attorney John Dennis Duncan (State Bar No. 311056)
for a six-month suspension with conditions for reinstatement.

In State Disciplinary Board Docket No. 6922, Duncan agreed to represent a client in a personal injury case in February 2012 for a 4 percent contingent fee. He admitted that he did not adequately communicate with the client as the case progressed; that he settled the case with client authority for $28,000, deposited the settlement check in his IOLTA account on Oct. 9, 2013, disbursed $28,000 to himself as attorney fees and delivered $2,000 to the client, advising him that the balance had to remain in the trust account while a Medicare lien was negotiated; and that he failed to adequately negotiate the lien. Duncan eventually delivered the balance owed to the client by paying $13,880 in October 2016 and another $920 in April 2017. Later, Duncan reduced his contingency fee to 33 percent and refunded the difference in three monthly payments. He admitted he violated Rules 1.4, Rule 1.15 (I) (a), and 1.15 (II) (b) of the Georgia Rules of Professional Conduct.

In State Disciplinary Board Docket No. 6984, Duncan admitted that he agreed to represent another client in or about February 2015, in defense of misdemeanor battery charges in Coweta County; that during the representation, the client was taken into immigration custody; that he directed the client to retain immigration counsel; that when he left his law firm in July 2015, he took the client’s case with him; that in September 2015, he appeared on the client’s behalf at a hearing in the battery case and notified the judge that the client was in immigration custody; and that the judge issued a bench warrant to ensure the client would be delivered to Coweta County when he was released from immigration custody. After that time, Duncan admitted that, although the client discharged him, he failed to formally withdraw from the representation, thereby violating Rules 1.4 and 1.16 (c) of the Georgia Rules of Professional Conduct.

In mitigation, Duncan has no prior disciplinary history and his behavior was the result of personal and emotional difficulties, including an addiction, which he is trying to overcome as detailed in two sealed documents. He took full responsibility for his failings and the fact that his clients have suffered as a result of his conduct. Additionally, this case also involves a timely good faith effort to make restitution or rectify the consequences of misconduct, remorse and a cooperative attitude toward the disciplinary proceedings.

Duncan’s reinstatement after the six-month suspension is conditioned on providing proof from a licensed counselor or therapist that he is fit to practice law, and proof that the client set forth in SDB Docket No. 6922 has been refunded the money as stated.

Fincourt Braxton Shelton
883 Main St.
Darby, PA 19023
Admitted to Bar 2007

In a reciprocal discipline case filed pursuant to Rule 9.4 (b) of the Georgia Rules of Professional Conduct, the Supreme Court of Georgia on Aug. 28, 2017, accepted the Report and Recommendation of the Review Panel of the State Disciplinary Board to suspend Fincourt Braxton Shelton (State Bar No. 771101) from the practice of law in Georgia for four years, with conditions for reinstatement, based on a four-year disciplinary suspension imposed by the Pennsylvania Supreme Court.

Shelton’s Pennsylvania suspension was based on his conduct in two unrelated client matters. In one matter, he made material misrepresentations in court documents, mishandled funds that had been entrusted to him, labored under a significant conflict of interest, committed a breach of his fiduciary duties and engaged in extreme incompetence. In the other matter, Shelton persistently misrepresented the identity of a party in filed pleadings, acted without the consent of his client, filed inaccurate and false documents, and disbursed funds without authority to do so.

To be reinstated after the suspension, Shelton must offer proof to the State Bar’s Office of the General Counsel that he has been reinstated to the practice of law in Pennsylvania.
law in Pennsylvania, and the State Bar agrees and submits a notice of compliance to this Court, which will issue an order granting or denying reinstatement.

Disbarment
Cassandre M. Galette
5020 Geranium Court
McKinney, TX 75070
Admitted to Bar 2005

On Aug. 14, 2017, the Supreme Court of Georgia accepted the petition for Voluntary Surrender of License of attorney Cassandre M. Galette (State Bar No. 920625) for her admitted violation of Rule 8.1 (a) of the Georgia Rules of Professional Conduct.

Galette admits that she provided false information to the Office of the General Counsel concerning a grievance alleging that she assisted a third party in filing a false petition for a temporary protective order against the grievant and in falsely acknowledging service of that petition—actions that ultimately led to the arrest and jailing of the grievant. The State Bar had no objection, and the special master recommended accepting the Petition, noting that disbarment is appropriate where, as here, the lawyer engages in intentional conduct involving dishonesty or submits false statements during the disciplinary process.

Gerald W. Fudge
510 Valley Lane
Atlanta, GA 30328
Admitted to Bar 1972

On Aug. 14, 2017, the Supreme Court of Georgia accepted the petition for Voluntary Surrender of License of attorney Gerald W. Fudge (State Bar No. 279200). In his petition, Fudge, who has been a member of the State Bar of Georgia since 1972, admitted that in February 2016, he pled guilty to conspiracy to commit bank fraud under 18 U.S.C. § 371, a felony, in the U.S. District Court for the Northern District of Georgia and was sentenced to three years’ probation and restitution in the amount of $2,150,617.32. Fudge admitted that by virtue of his felony conviction, he violated Rule 8.4 (a) (2) of the Georgia Rules of Professional Conduct.

Public Reprimand
Lakeisha Tennille Gantt
175 Straight St.
Forsyth, GA 31029
Admitted to Bar 2005

On Aug. 28, 2017, the Supreme Court of Georgia accepted the Petition for Voluntary Discipline for attorney Lakeisha Tennille Gantt (State Bar No. 142126) and imposed a Public Reprimand. Gantt admitted to violating Rules 1.2, 1.3 and 1.4 of the Georgia Rules of Professional Conduct.

In her petition, Gantt admitted that in September 2007, she was retained to represent a client in a civil matter arising from an incident where the parking brake on an unoccupied asphalt truck had disengaged, causing the truck to roll across the client’s front lawn and into her house. In August 2009, Gantt timely filed a lawsuit, and after the defendants answered and some initial written discovery was conducted, Gantt decided to voluntarily dismiss the lawsuit without prejudice, knowing that it could be refiled. However, she admits that she did not adequately communicate with the client about her intent to do so or about the actual dismissal, and that she never filed a renewal lawsuit. Consequently, some of the claims of the client’s minor children were barred.

The Special Master found in mitigation no prior disciplinary history; the absence of a selfish motive; personal and emotional problems, which required medical treatment and counseling, and which may have contributed to Gantt’s behavior; cooperation during these disciplinary proceedings; relative inexperience in the practice of law at the time of these infractions; and good character, integrity and reputation, as evidenced by letters submitted from two attorneys who know her. The Supreme Court agreed that a Public Reprimand was appropriate discipline.

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Jessica Oglesby
Clerk, State Disciplinary Board
State Bar of Georgia
jesscao@gabar.org
1 Photo-Scanning Apps Have Come a Long Way
You can use photo-scanning apps to do much more besides taking a picture of the picture you want to scan. Some smartphone apps that are designed specifically for scanning or capturing digital versions of photographic prints can do a bit more than just take a picture of the picture. When searching for a portable scanning program, read its listed set of features on its app store page. Check out Google PhotoScan, CamScanner and Photomyne.

2 Where is This Photo From?
Search Images on Google
Do you have a photo and want to know where it came from or see where else on the web it can be found? On your computer, you can do a reverse search by dragging or copying the image into the Google URL search field in a Google Chrome browser, then right click on the image that appears and click “Search Google.” Or, if you are in www.images.google.com, click “upload an image.” On your smartphone or tablet, use the Chrome app to do a search. Touch the image you want to search to open a larger version of the image and then press and hold the image. In the box that appears, touch “Search Google” for this image.

3 Insight Timer
insighttimer.com
Think about wellness. Incorporate a little meditation into your hectic day. Try Insight Timer. Available in both iOS and Android, this app provides you with tools to enhance sleep, relaxation and mindfulness, and reduce anxiety. The app provides a library of guided meditations, 34 meditation playlists and ambient sounds.

4 Be Prepared for Insurance Claims, Take Inventory
Picture a home or business disaster? Be prepared insurance-wise by using your smartphone camera to catalog your inventory, purchases and receipts. Take a date-stamped picture of the item and the receipt. Some property may require a brief video with voice-over. Store the photos and videos in the cloud for the emergency you hope never happens.

5 Co-Parenting Software: Reduce Stress, Save Money
If you practice family law, here’s a tip to share with divorced or divorcing clients (or other family members). Use a co-parenting software solution to share data and improve communication, calendar and track custody and visitation, share receipts and expenses and more. These apps generally are not free, with cost increasing depending upon features selected, but in the long run can help you save time and money and reduce stress and frustration. Check out these examples: Our Family Wizard (www.OurFamilyWizard.com), 2Houses (www.2Houses.com) and CustodyJunction (www.CustodyJunction.com).
No USB Plug for Charging?
Try the TV!
If you’ve settled in at the hotel after a long day at work while traveling and find you brought a USB wire but not the plug, your hotel TV likely has a USB port to plug in your device and charge it. While on the subject of travel, you should put together a tech emergency kit consisting of an extra USB wire and plug, ear buds and a thumb drive. If you use your tablet, laptop or device for trainings and presentations, make sure you also include an adapter to connect to a projector. Pack them in a small container and leave it in your carry-on.

Zombies, Run!
zombiesrungame.com
With Halloween around the corner we offer you this twofer: An app that combines Zombies and fitness—Zombies, Run! Available in Android and iOS, this is part game, part story and part fitness app according to the company. It’s an app to get you running in the real world, with the carrot (or stick) being a horde of zombies chasing after you—at least, according to your headphones.

Online Notary
www.NotaryCam.com
Need a notary? Short on time? Try www.NotaryCam.com. You or your client can go to NotaryCam.com, upload your document, connect to a live online notary face-to-face on a webcam and electronically sign your document. The notary will verify and confirm your identity and apply their eNotary seal. The service costs $25 per signature in the United States and higher for international service.

GetHuman
gethuman.com
GetHuman is an online consumer advocate that helps you find a customer service number, get tips from other callers, or makes the call for you to customer service and helps resolve your problem. GetHuman membership also provides a “Lower My Bill” service that contacts your service providers, helps identify hidden fees, negotiates lower rates and helps you track lower rates and savings.

Scannable
evernote.com/products/scannable
I recommend Scannable. It allows you to use your phone’s camera and take pictures of any document, card or receipt and easily categorize it by sharing it with Evernote, or make a new contact. You can even use it to convert a photo of a document into a PDF, which is great for saving documents shown at a deposition for instance.
Nurturing Your Practice with Law Practice Management Resources

To get help with the nurturing of a law practice, regardless of which stage it happens to be in, Bar members can find ready confidential aid and support, like that of a watchful parent, through the Law Practice Management Program.

BY NATALIE R. KELLY

From infancy, humans require nurturing, and it certainly remains the case throughout life. The same is true for a law practice. (Shout out to the 3-week old in the waiting room whose gentle, young cries inspired this article.) The life phases of law practice require nurturing to address the needs that come with the maturity of the practice. Luckily, the Law Practice Management Program stands ready like a brand new parent waiting to assist Georgia law practices with their office management needs.
New Practice Resources

The Law Practice Management Program staff regularly conducts office startup consulting. While most new lawyers turn to the program's resources for getting a new practice off the ground, there are also many experienced lawyers who avail themselves of the confidential assistance provided to help move from BigLaw or another practice environment to solo or small firm practice. Because the now-famous Office Start Up Kit is one of the most frequently requested items of the program and the hard copy version of 'THE OTHER BLUE BOOK' is still preferred, the program does not provide the Office Start Up Kit as a download or in electronic format like it does for its other practice assistance forms and checklists.

New practices are often looking for help with what technology they should acquire. Bar members—actually in new and established practices—can visit with program staff to discuss their needs and to get implementation tips for technology products. Lawyers and their staff are invited to discuss and in some cases, see demonstrations of practice matter or case management software, general and trust accounting systems, conflict of interest checking programs, document assembly tools, document management programs, email encryption products, mobile apps and more. The program also provides hands-on training sessions for Fastcase throughout the month and offers CLE credit for the sessions.

Mid-Life Practices

For firms that have grown past the startup and new phases of practice, the program offers:

- Associate Development and Training Tools—feedback forms, sample orientation material and plans for new associates.
- Partnership Consulting—meetings to address how to put together a practice, and more importantly to examine what would break it up.
- Strategic Planning Assistance—ideas surrounding when, where and how the law firm should grow.
- Compensation Planning Advice—a review of existing models and development of working models to account for firm management and growth goals.
- General Management Consultations—in-office reviews of how the firm operates and a follow up report and action plan for overall firm improvement.
- Disaster Recovery and Business Continuity Aids—sample plans and advice to cover the planning, implantation and reporting stages of disaster recovery and tools for managing risk and protecting firm assets and resources.

The critical growth stage of a practice often requires more sophisticated tools. Think about all of the advanced devices and techniques required to handle a young adolescent or to interact with a young adult. The program’s offerings in this area are vast. Consequently, Bar members utilizing the resources to nurture the mid-life needs of their practices frequently request specialized tools to help monitor and accelerate their firm’s growth; and the program becomes a strong source of assistance for many practices in this way.

Aging and Retiring Practices

Even before the actual conversation is had about winding down a practice, the Law Practice Management Program can help Georgia lawyers with getting there. The program helps by referring practitioners to helpful resources for succession planning, like the YLD Succession Planning Pilot Project, the Senior Lawyers Section, and helping with books and information on retirement and estate planning for lawyers; providing books and checklists for the sale of a law practice which help structure the deal and account for the value of the practice; and maintaining a detailed checklist for closing a practice, whether needed for the voluntary shutting of a firm’s doors or for where there has been a sudden death or disability forcing the closing of a practice. The end-of-life for a law firm is a stage of practice where the Law Practice Management Program can also be of assistance.

To get help with the nurturing of a law practice, regardless of which stage it happens to be in, Bar members can find ready confidential aid and support, like that of a watchful parent, through the Law Practice Management Program. Contact the program for assistance with the program’s Resource Library books and information; sample management forms and checklists; on-site consulting; training on Fastcase and other office systems; Bar office visits with program staff; and management advice via phone or email.

Natalie R. Kelly
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Small but Mighty: Making Pro Bono a Win-Win as a Solo or Small Firm Attorney

If you are a solo or small firm attorney who is thinking about taking your first pro bono case or looking for ways to get more out of your pro bono practice, here are some ways to emulate your pro bono all-star colleagues.

BY SARAH BABCOCK

We all know that pro bono work is important, no matter your practice setting: big law, small law or somewhere in between. Pro bono work is an essential component of our commitment to the profession of law, which reaches across practice areas and settings.

While the commitment is the same, pro bono work poses different and unique challenges for solo and small firm attorneys. Big firm associates may be able to count pro bono hours toward their billable requirements, but for solo and small firm lawyers juggling administrative duties, networking, marketing and actually practicing law, every hour spent on a pro
bono case is an hour taken away from those responsibilities. If a pro bono case suddenly needs more staff time or resources than expected, solo practitioners and small firms often don’t have the capacity to respond.

Despite these challenges, solo and small firm attorneys remain committed to performing pro bono work; according to the American Bar Association’s most recent report on nationwide pro bono work, solos and small firm attorneys responding to the survey averaged approximately 60 hours of pro bono work in 2011. Studies conducted prior to the recession showed that solo and small firm attorneys performed a higher percentage of pro bono work than any other group of practitioners.

We don’t (yet) have comprehensive data on what drives solo and small firm attorneys to take on pro bono matters. But in all likelihood, those solos and small firm lawyers have figured out how to make their pro bono work a true win-win, benefiting both their overall practice and the clients served. So if you are a solo or small firm attorney who is thinking about taking your first pro bono case or looking for ways to get more out of your pro bono practice, here are some ways to emulate your pro bono all-star colleagues.

Choose Wisely

The need for pro bono legal services is great, and it’s easy to feel overwhelmed. Carefully selecting your area or areas of focus is an essential first step for success, especially as a solo or small firm attorney.

Pro bono representations generally fall into three categories: (1) matters in your wheelhouse; (2) learning opportunities; and (3) wild cards. Matters in your wheelhouse are cases and matters that are part of your regular fee-paying practice, for example, a family law attorney taking a pro bono divorce or custody case. Learning opportunities are pro bono cases that allow the attorney to develop skills and experience in a new area of law, with the potential of turning that expertise into fee-paying work. An example here is an attorney who takes pro bono Guardian ad Litem cases in order to develop a fee-paying Guardian ad Litem practice (while continuing to take those cases pro bono as well). Finally, the “wild card” category includes attorneys who practice in one area but develop pro bono expertise in another, unrelated area or handle a potpourri of pro bono cases. This category covers all of the IP litigators who handle child abductions under the Hague Convention or the deal attorneys who take deportation defense and name change matters.

In general, solo and small firm attorneys enjoy the most success when they stick to the first two categories of pro bono cases. When a family law attorney takes a custody case pro bono, for example, she can employ all of the templates, intake questionnaires and legal research that she uses in fee-paying cases. That attorney can also leverage the same expertise and relationships with opposing counsel and judges that she relies on in the rest of her practice. Essentially, taking pro bono cases in your wheelhouse allows you to treat your pro bono matters no differently than any other case, except that there’s no invoice to the client at the end of the month.

On the flip side, pro bono work in a new and different practice area is a great opportunity for solo or small firm attorneys looking to develop a new skill set. Legal services organizations like Georgia Legal Services and Atlanta Legal Aid can provide comprehensive training in a variety of areas, allowing solo and small firm attorneys to gain substantive knowledge at little or no cost. Those organizations will also refer cases that are well-suited for pro bono representation, giving attorneys a chance to practice their newly acquired skills. For example, both Georgia Legal Services and Atlanta Legal Aid host wills clinics throughout the year. Attorneys looking to develop a wills and estates practice can take a training offered by either organization, get practical experience at the clinic and handle subsequent pro bono referrals to further develop their skills.

Forensic Analysis Consultations

QUESTIONED DOCUMENTS ANALYSIS
(Handwriting)
Former: Police Academy Professor–FBI Academy Graduate
University Professor in Criminal Justice at the Master Program
Doctoral and Master degrees in Criminal Justice
Qualified Expert by State & Federal courts in more than 400 cases

Free Consultations—45 years of experience—English & Spanish
Tel. 787-617-2836 Email: onofrejusino@hotmail.com
I offer a great deal of time and effort in representing those who have suffered at the hands of violence in their home. When I am assigned a case, I do more than just show up in court to represent the petitioner in the legal setting. I like to meet with them ahead of time and spend an hour or two discussing their situation, all of their options and what the court process entails. I usually try to spend time with them after the court proceeding to obtain their copies of the order, to explain further options, and to be sure they know they are the victor and not the victim.

These cases matter to me because most, if not all, of them believe they have nowhere to turn, and have been shamed by those around them, or are afraid to speak to their loved ones about their situation. They may have preconceived notions about the justice system. I want them to know that there are people who care about them.

I have suffered at the hands of a violent person and an emotionally abusive person, and this has given me a deeper understanding of what goes on in my clients’ minds and my experiences help to carry them through the whole process without judgment. This is my calling from God to help those that truly need it and I believe that I am helping many people with my abilities.

In addition, pro bono work is a great way for small firms to train new hires. Smaller firms might not have in-house training programs, but their new attorneys need practical experience. Pro bono work can help bridge this gap. If a new hire needs courtroom experience, for instance, he or she could represent an abuse survivor at a 12-month Temporary Protective Order (TPO) hearing. Several legal services organizations in Georgia have TPO programs, under which the organization provides all of the training and resources needed to argue a 12-month TPO hearing. New attorneys at small firms can gain valuable trial experience while helping someone in need. And the referring organization can provide needed support and oversight to the new attorney, which leads to point number two.

Partner, Partner, Partner
Many solo attorneys chose solo practice because they didn’t want a partner. When it comes to pro bono representation, however, partnership with a legal services organization is essential for success. The attorneys and staff at these organizations have resources, trainings and expertise that can prove invaluable. They can help with things like getting in forma pauperis affidavits signed and filed, locating low-cost interpretation resources, finding alternate contact information for the client, navigating tricky situations with judges or clients, and more. Depending on your practice area, legal services attorneys and staff are also a potential source of fee-paying referrals.

Local legal services organizations can also help with unsolicited requests for pro bono assistance. Almost every lawyer has been stopped in the grocery store by an acquaintance with a “quick legal question” or had an unsolicited visitor or caller ask for pro bono help. Partnership with a legal services organization allows you to refer the acquaintance or caller to Georgia Legal Services, Atlanta Legal Aid or any other organization you partner with, explaining that you only take pro bono referrals from that organization, and would be happy to take their case if it gets referred back to you. For solo and small firm attorneys who might not have the protection of a receptionist, partnership with a legal services organization is essential for deftly avoiding those unsolicited pro bono requests.

Prepare
Over-preparation is in most attorneys’ nature, and it is a good instinct to follow when it comes to pro bono cases. Even when a pro bono case is in your wheelhouse, working with low-income clients can pose some unique challenges. Preparation is half (or more) of the battle when it comes to effectively addressing these challenges. Fortunately, there are many resources available to attorneys taking on pro bono representations.

If your pro bono case was referred by a legal services organization, the referral information likely included a handout on effective representation of low-income clients. If you prefer videos, Practising Law Institute (www.pli.edu) has two free training series on communicating with legal services and pro bono clients. Fellow attorneys—both those at legal aid organizations and private attorneys who have taken pro bono cases—can also provide tips and tricks for working effectively with low-income clients. Here are just a few tips to start with:

- Try to build rapport with the client at the beginning of any meeting, just as you would for a billable client. Building rapport leads to trust, which will increase the likelihood that your client will divulge all of the essential facts about her case. This in turn leads to a more successful representation.
- Remember that clients in poverty have scarce resources, as do most of their neighbors and family. Ask your client...
about the resources available to him: Internet, phone, mail, etc. Ask which form of communication is best for him.

- Repeat new information so the client has a chance to absorb it fully. Take the time to ask if she has any questions for you and to answer them thoroughly.

- Remember that these clients are likely in crisis. Follow up with them regularly instead of waiting for them to contact you. Don’t assume that your client’s lack of responsiveness means that she does not want your help.

- Finally, don’t forget to reach out to the Pro Bono Resource Center of the State Bar. The center has lots of resources to help every attorney do pro bono well, no matter his or her practice setting.

Pro bono work may look different for solo and small firm practitioners, but the need for their skills and expertise is great. The ABA has challenged all attorneys to devote more of their pro bono efforts to providing service to low-income people with “everyday legal problems,” which include family law, estate planning and wills, landlord-tenant/housing, and consumer issues—i.e., areas in which solo and small firm attorneys tend to have expertise. Using the strategies above, solo and small firm attorneys can help meet this need in a way that is also beneficial to their overall practice—a win-win that benefits us all.

Sarah Babcock
Pro Bono Director
Lawyers for Equal Justice
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Endnotes
3. Supporting Justice III, supra note 1, at 12 n. 21, 34.
State Bar Bike Law Section Rolls In

In June, the State Bar of Georgia’s Board of Governors approved the creation of a new section, the Bike Law Section. The Journal sat down with four members of the Bar, all active cyclists, who proposed the section: Damon Elmore, Gerry Weber, Bruce Hagen and Drago Cepar Jr. Here’s what they had to say about the section and why you should help support it.

GBJ: The Bike Law Section is now an official section of the Bar. What is the purpose and what will it do?

DAMON: We proposed the creation of the Bike Law Section (bicycle or cycling, not motor) to serve the legal profession and the public, by creating, interpreting and advancing laws that protect, guide and promote cyclists/cycling. Here are two examples of what it will explore. First, the nuances and legal arguments of a cycling injury case can be substantially different from standard personal injury matters, much like distinctions have been made with trucking, public carrier and other injury cases. That’s on the legal side. Second, the section will work with our legislative team and advocacy groups to explore new innovations and new issues to address with legislation, such as urban planning and infrastructure improvements. This will undoubtedly also include exploring issues like helmet use, bicycling under the influence, bikers taking control of lanes, sidewalk riding, bi-

(Left to right) Bruce Hagen, Gerry Weber, Drago Cepar Jr. and Damon Elmore.

PHOTO BY SARAH I. COOLE
cycles as vehicles, “rolling” or “dead red” stops, and other laws and issues.

**GBJ:** Will the section be able to support advocacy groups and promote innovative laws and policy designed around urban planning and infrastructure improvements?

**GERRY:** With more and more people using non-car paths to work and play, there is a growing need to make sure infrastructure plans take this population into account. There are a number of local and statewide groups focused on making the streets safer and more useable for bikers and pedestrians, in both urban and rural areas. The section will work with these organizations so they can talk about their issues and ideas in a language that local and state governments understand.

**GBJ:** Your practice involves lawsuits and other legal issues affecting cyclists on a regular basis. How can this section work to protect cyclists and motorists, and improve our laws?

**BRUCE:** I would like to see this section involved with education and advocacy projects as well as continuing our efforts on police, driver and bicyclist training. Through better understanding of the law, including both the rights and responsibilities for people on bikes, the roads in Georgia will become a safer place to ride. I also believe that we can be very influential in helping our state and local governments make meaningful infrastructure improvements that will make sense for their communities while making roads safer for people both on bikes and in cars.

**GBJ:** The issue of wellness is significant to the Bar, including the work of the Bar’s Attorney Wellness Committee and the Lawyers Living Well program. How do you believe this section could support or promote that initiative through its work?

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**Bike Talk**

**Ready? Set? Go!**

**Distance or time?** An honest answer would be both. I take advantage of any time I can get in the saddle. When I do, I love to go as far as I can. That’s fair, right? —Damon Elmore

**Arriving or departing?** As they say, “It’s not the destination—it’s the journey.” So I would say neither. Although after a long ride or a race, it can be good to arrive at a destination and relish in that sense of accomplishment. —Drago Cepar Jr.

**Two bikes or n+1?** You can never have too many bikes. Support your local bike shop and go buy a bike. —Bruce Hagen

**Road riding or other?** I bike about 7,000 miles a year. It’s how I get groceries, get to work and meetings, and even grab a beer after work. And when I’m on the bike, there is no hair pulling because of traffic. —Gerry Weber

**Race or chill pace?** What’s the hurry? Slow down, enjoy the scenery and have fun. We all have fast-paced lives as lawyers. When I get on my bike, I like a slow roll. —Bruce Hagen

**Ascending or descending?** Anyone who knows me knows I am allergic to hills. On top of that, I love the feeling of cresting, and then heading down a hill or mountain swiftly. It’s a plus if I happen to pass people on the way. —Damon Elmore

**Adventure or commute?** There is some adventure in every commute, ride or race. I was recently able to take a few seconds to enjoy the view from Sand Mountain during a 69-mile USA Cycling-sanctioned race near Chattanooga. The weekend before that, I commuted to the Grant Park Criterium race. You can almost have it all. —Drago Cepar Jr.

**Favorite place to bike in Georgia?** I have a cabin near Dahlonega, and my favorite day is biking from the cabin to a river to see if the trout are friendly. Sometimes you are on a road, but it’s even better when you make a road through the woods! —Gerry Weber
DRAGO: A rising tide lifts all boats. Wellness derived from an active lifestyle is the same for lawyers and non-lawyers—so a general approach is in order. It wasn’t until the recession that we saw an increase in “utility” cycling across the country—triggered by necessity and revealing the extra benefits along the way. Law often lags behind social change. I think one of the opportunities for this section will be to examine what changes in the law may be helpful to facilitate promotion of biking within the larger framework of active lifestyles and ultimately increase the quality of life in our communities as well as that of our Bar members.

GBJ: If someone is not a cyclist, or is a beginner at best, why is this section for them?

BRUCE: Cyclists are human beings from all walks of life. You may not ride, but you know many people who do so regularly. If you drive a car, chances are that you’ve encountered people on bikes too. As lawyers, let’s help lead the way to fostering an environment where people can make safe choices about how they choose to get around, whether for work, recreation, sport or just plain fun.

GBJ: During the development of the section, there was talk about collaboration and exchange of ideas with other sections and committees of the Bar. What are those committees and how will this collaboration take place?

GERRY: Of course, the Attorney Wellness Committee is a natural fit for the Bike Law Section. Cycling can have an amazing impact on the body and mind. Some folks’ best ideas for a legal strategy happen in the shower, but for my money, I hop on a bike and the ideas just flow! On the section front, there will be a lot of intersections with the Local Government Law Section on infrastructure, and the Tort & Insurance Law and General Practice & Trial Law sections on litigation issues. As a primary mode of transportation for a growing number of people, laws related to bikes cut across a large swath of civil and criminal law, and almost every section could potentially gain insight from our members.

Ready to join? Visit www.gabar.org > Member Login > Section Membership > Join Sections. Questions? Email derricks@gabar.org.
it’s time to
JOIN A STATE BAR SECTION

The State Bar of Georgia’s 49 sections provide newsletters, programs and the chance to exchange ideas with other practitioners. Section dues are very affordable, from $10-$35. Join one (or more) today by visiting www.gabar.org > Member Login > Section Membership > Join Sections. Questions? Email Section Liaison Derrick Stanley at derricks@gabar.org.

BIKE LAW

The Bike Law Section will study, review and/or initiate proposed law, policy or legislation promoting and protecting cycling and cyclists, and provide information regarding the unique legal aspects and application of legal principles common to cycling and cycling advocacy.
Member Benefits: Providing Bar Members with a Private Insurance Exchange for Health, Dental, Vision and More

The State Bar’s Private Insurance Exchange is a multi-carrier private exchange designed for members, their staff and dependents. Benefits offered include medical, disability, life, long-term care and professional liability insurance.

BY SHEILA BALDWIN

One of the most common requests received from State Bar members is help in choosing a health insurance plan for themselves, their families and for their firms. In October 2009, then-Executive Director Cliff Brasher made this observation in his Bar Journal article where he detailed the long, arduous task undertaken by the Member Benefits Committee to find a solution and present it to the Board of Governors. Earlier that year, the 147-member governing body selected BPC Financial (now known as Member Benefits, Inc.) as the recommended broker for members’ health, dental and vision plans.

For the past eight years, we have been able to respond to that request confidently by directing members to the private insurance exchange website built by Member Benefits, Inc., whereupon they are able to find the best possible plans for their individual situations. This has been a welcome and timely benefit for our members with the current disruption in the health insurance industry. Many of you have taken advantage of this service and expressed your satisfaction. I hope this article will be welcome news to those who are not aware of this benefit.

The State Bar’s Private Insurance Exchange is a multi-carrier private exchange designed for members, their staff and dependents. Available to both individuals and employer groups, the exchange offers a wide range of health insurance choices and more with a consumer-friendly approach to purchasing insurance coverage. Individuals that do not qualify for a government subsidy may purchase a qualified health plan on a private exchange. Consumers may view plans from many insurance carriers, compare benefits and costs, and make purchasing decisions based on their specific health needs and budget.

If you are an employer, the employer group solution is a particular advantage because it enables you to offer a simple way for your employees to shop for insurance and other benefits by creating your own private health exchange. With defined contributions, you give your employees a set amount of money to spend on benefits and they use that money to shop for the coverage that meets their individual needs. So instead of offering a “one-size-fits-all” health and benefits package, you empower your employees to choose the combination of coverage that’s just right for them.

Find the Private Insurance Exchange under the Attorney Resources tab on the State Bar website under Insurance Offerings (see fig. 1). Access the website by clicking on the image (see fig. 2). Once you enter the Private Health Exchange, you have access to all available benefits for individuals, families and business (see fig. 3). Simply choose a
product and register by entering basic information, which will enable you to review quotes from leading insurance providers side by side. At this point use the decision support tool or speak with a licensed benefits counselor dedicated to help members of the State Bar of Georgia. Once you make your decision, fill out and submit the online application.

Chip Trefry, Member Benefits CEO, has expanded the list of benefits available on the exchange to include disability, life, long-term care and professional liability insurance. These products and more are found on the homepage of the exchange website. If you have additional questions and are unable to find the answer on the website, contact Member Benefits by clicking the contact link on the top right of the homepage, or call 800-282-8626.

The Private Insurance Exchange, a benefit that the State Bar of Georgia extends to its members through its affiliation with Member Benefits, Inc., is increasing in value as the insurance market responds to recent volatility. Heathcare.gov has announced that the 2018 Open Enrollment Period runs from Nov. 1 to Dec. 15, 2017, and plans sold during open enrollment start Jan. 1, 2018. It’s best to begin your search sooner than later, so take a minute and register today rather than wait until the market gets crowded at the end of the year. We hope you will find this benefit useful to you. Please contact me at any time about this and other member benefits at sheilab@gabar.org or 404-526-8618.

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Fact Statements Part II: More than “Just the Facts”

This article addresses the importance of getting specific with your language and the use of charts and graphs.

BY MEGAN E. BOYD

Get Specific

Specific language is much more persuasive than vague generalities. Consider the difference in the following sentences:

- Maxwell suffered terrible injuries in the accident.
- First responder James Holmes, a 20-year veteran of the Oaklawn Fire Department, described Maxwell’s injuries as “some of the most severe [I’ve] ever seen,” noting that Maxwell’s right femur had “broken through the skin by several inches” and was “clearly visible.”

Similarly, using a party’s own testimony or writings is often more effective than summarizing the content.

- Bornwell intentionally breached the contract.
- Bornwell’s president has admitted it breached the contract. She sent the following email to Graphix on May 1, 2017: “I know we agreed to purchase 50,000 brochures, but we...”
simply do not need as many as we thought we would.”

An excellent example comes from Paul Clement’s brief on behalf of Hobby Lobby in litigation before the Supreme Court over whether the Affordable Care Act requires Hobby Lobby to provide certain health care coverage. Clement sought to show that Hobby Lobby and its owners, the Greens, “organized their businesses with express religious principles in mind.” Why? Because Hobby Lobby and the Greens argued that under the Religious Freedom Restoration Act of 1993, they cannot be required to provide coverage for contraceptives when doing so violates their religious beliefs.

But Clement does not stop with that statement. He gives explicit examples of ways in which the Greens’ faith guides their operation of Hobby Lobby:

Hobby Lobby’s official statement of purpose commits the company to “[h]onoring the Lord in all we do by operating the company in a manner consistent with Biblical principles.” The Greens operate Hobby Lobby. . . through a management trust they created, of which each Green is a trustee. The Greens each signed a Statement of Faith and a Trustee Commitment obligating them to conduct the businesses according to their religious beliefs, to “honor God with all that has been entrusted” to them, and to “use the Green family assets to create, support, and leverage the efforts of Christian ministries.”

Hobby Lobby stores close on Sundays, at a cost of millions per year, to allow employees a day of rest. Each Christmas and Easter, Hobby Lobby buys hundreds of full-page newspaper ads inviting people to “know Jesus as Lord and Savior.” Store music features Christian songs. Employees have cost-free access to chaplains, spiritual counseling and religiously themed financial courses.

Respondents also refrain from business activities forbidden by their religious beliefs. For example, to avoid promoting alcohol, Hobby Lobby does not sell shot glasses. Hobby Lobby once declined a liquor store’s offer to take over one of its building leases, costing it hundreds of thousands of dollars a year. Similarly, Hobby Lobby does not allow its trucks to “back-haul” beer and so loses substantial profits by refusing offers from distributors.¹

As we learn in law school, the devil is in the details, and judges deal in specifics, not generalities. Clement’s use of specific statements, advertisements and business policies undoubtedly helped persuade the Supreme Court that the Greens exercise their religion through Hobby Lobby.

**Use Charts and Graphs**

Charts and graphs are excellent ways to bring to life certain types of information that might otherwise “fall flat” if incorporated into paragraphs in your fact statement.² These devices work particularly well for displaying numbers, showing overlapping events that occurred over the passage of time and explaining relationships between key actors in the litigation.

Consider the effectiveness of the following chart, used to explain how a plaintiff calculated its damage amount:
Similarly, bullet or numbered points are equally helpful in highlighting multiple pieces of related information that might otherwise get lost in the midst of a paragraph. Consider the effective use of numbers in a brief Exxon filed in litigation over the Valdez oil spill. In its statement of facts, Exxon does not skirt responsibility for the spill but seeks to show everything it did post-spill to prevent future disasters:

In addition, Exxon instituted comprehensive remedial measures to reduce the risk of future spills, including: (1) new navigation policies specifying daylight-only departures and reduced speeds in icy conditions, limitations on deviations from traffic lanes, and increased use of tug escorts; (2) a technologically advanced satellite-based navigation tool; (3) a strengthened policy requiring masters to remain on the bridge; (4) enhanced safety training programs; (5) revised alcohol policies; (6) improved monitoring and reporting procedures; (7) random testing for alcohol or substance abuse; (8) an absolute prohibition against use of alcohol by vessel officers while on a tour of duty; (9) additional mates in port; (10) new mandatory rest periods; and (11) strengthened corporate environmental and safety policies, a new Safety, Environmental and Regulatory Department, and a $1 billion industry-wide program to improve spill response capability.3

The issue before the Supreme Court was whether Exxon could be liable for punitive damages after it had already paid several billion dollars in criminal and civil penalties. Exxon numbers (and therefore emphasizes) the plethora of activities it undertook to prevent future spills, highlighting its corporate responsibility to show that punitive damages were unwarranted.

These suggestions, and those featured in the August 2017 installment of “Writing Matters,” will help you present your client’s story in a more thorough and interesting way. ●

Endnotes

Megan E. Boyd is an instructor of law at Georgia State University College of Law, where she teaches Lawyering: Foundations. She is the author of numerous articles on legal writing and co-author of Show, Don’t Tell: Legal Writing for the Real World. She maintains a legal writing blog, www.ladylegalwriter.blogspot.com, and tweets about writing at @ladylegalwriter.
The Professionalism Committee reflects upon the last 25 years’ experiences while also looking toward the future.

BY NICOLE G. IANNARONE AND ROBERT ARRINGTON

At the first Orientation on Professionalism, then-assistant director of the Chief Justice’s Commission on Professionalism Sally Lockwood told law students and volunteer lawyer attendees that both the State Bar’s Professionalism Committee and Chief Justice’s Commission on Professionalism “hope that these Orientations on Professionalism will become a tradition at the law schools.” After the Professionalism Committee completed the 25th annual Professionalism Orientations at each of the six Georgia law schools in August, we can say that the Professionalism Orientations have transcended tradition to become part of the foundational professional development education of thousands of lawyers.

The dual aims Lockwood described at the inaugural program remain: “to demonstrate the unity among the law schools, the organized bar, practitioners and the judiciary in the move to raise the
professional aspirations of lawyers in this state.” Each year, several dozen judges and lawyers from every practice area donate their time to underscore the importance of professionalism. From the group leaders’ perspective, professionalism is something they have learned through experience, both their own when faced with hard choices and by observing lawyer colleagues. In both cases, they learn from positive and negative examples and use them to craft their identity as a professional attorney. While law students know they want to be a professional attorney, they have not yet had any experience in the law, and they look for role models to help them identify what steps they should take to develop a professional identity as a lawyer. Professionalism Orientations help jump start students’ professional identity formation and equip them with a framework for approaching professionalism issues. The program also introduces them to lawyers who further offer their time to meet and talk after the formal program concludes.

Students are not the sole learners in the Professionalism Orientation program. When we hear from discussion group leaders, they tell us that the value of the program is not what they give, but what they get: the ability to welcome the newest entrants into our great profession and learn from them. Orientation group leader Jessica Jay Wood says of her experience this year: “I got some spectacularly kind, insightful, and wise messages today from law students and younger attorneys who think I’m mentoring them. Plot twist: They are reverse-stealth-mentoring me.”

As we reflect upon the last 25 years’ experiences, we are also looking toward the future. The Professionalism Committee is conducting a top-to-bottom review of the entire Professionalism Orientation Program. Our goal is to foster a deeper partnership with the faculties, administrators and students at each of the Georgia law schools. We want to ensure our model program is current, comprehensive and compelling. We will work with our law school administration and student partners to identify and address the issues they find most relevant.

Last year, the Professionalism Committee’s dedicated volunteers expanded the outreach program, in which we asked second- and third-year students for their feedback and suggestions on how to improve the orientations. It was highly successful, and the resulting changes were well-received by the schools. We look forward to expanding that program this year, with the possibility of having senior students actively participate in the orientations to relay their personal experiences dealing with many of the issues discussed in the breakout sessions. Because professional identity formation is so crucial to students’ development, we are looking to expand the orientation to include a Winter/Spring program for second- and third-year students.

The solid foundation of the past will guide us in our efforts to further grow and expand the Professionalism Orientation Program. We hope you will join us and share your input, ideas and experiences as we look toward the next 25 years.

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2017 Law School Orientation on Professionalism Volunteers

Atlanta’s John Marshall Law School
Roy P. Ames
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P. Todd Carroll
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Prof. George B. Shepherd
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J. Darren Summerville
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Prof. Randee J. Waldman
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Stacy B. Williams
Keely M. Youngblood
Prof. Paul J. Zwier
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Hon. Leigh Martin May
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Staci J. Miller
John R. Monroe
Amanda L. Morin
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Jody L. Peskin
Adelle Petersen
Hon. William M. Ray II
Hon. Randolph G. Rich
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Michael N. Rubin
Claudia S. Saari
Hon. Kimberly W. Schroer
Frank B. Strickland
Hon. Wesley B. Tailor
Elizabeth V. Tanis
Michael J. Tempel
John P. Thielman
Kathleen A. Wasch
Richard A. Wingate
Jessica Jay Wood

Georgia State University College of Law
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Karen E. Bain
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Sandra Kaye Bowen
James E. Carlson
Kendall W. Carter
Shiriki L. Cavitt
Gene Chapman
Hon. Kimberly A. Childs
Rory S. Chunley
Isaiah D. Deleman
David S. DeLugas

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Leslie L. Cadle
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Justin Allen Chin
Lisa R. Coody
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Rhani M. Lott
Hon. T. David Lyles
Kevin A. Maxim
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Rebecca Purdom
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Frank B. Strickland
Hon. Wesley B. Tailor
Elizabeth V. Tanis
Michael J. Tempel
John P. Thielman
Kathleen A. Wasch
Richard A. Wingate
Jessica Jay Wood

Savannah Law School
Hon. Thomas L. Cole
Falen O. Cox
Charles E. Dorr
Mark G. Kelso
William H. McBee II
Joseph D. Newman
Michael E. Silverman
Hon. Jerome J. Stenger

University of Georgia School of Law
Doug G. Ashworth
Elizabeth D. Barwick
William D. Barwick
Hon. Eric A. Brewton
Hon. Dean C. Bucci
Scott D. Cahalan
Albert Caproni III
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Natalie G. Cox
Hon. David P. Darden
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Donald E. Henderson
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Thomas C. Holcomb
Behrouz Kianian
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John Knox Larkins III
John K. Larkins Jr.
Jean Goetz Mangan
Allison E. McCarthy
Wylencia H. Monroe
William L. Nabors Jr.
Veronica M. O’Grady
Lara Ortega
Tracy L. Rhodes
Sarah M. Stephens
Donald C. Suessmith Jr.
Henry C. Tharpe Jr.
Torin D. Togut
Tash J. Van Doras
Thomas L. Walker
C. Knox Withers

Paula E. Kapiloff
Kevin Kwashnak
Donald L. Lambeth
Virginia Robinson Magruder
David H. McCain
Rebecca C. Moody
William D. NeSmith III
Elizabeth P. O’Neal
Hon. Samuel D. Ozburn
Mary E. Tolle
Edward Spencer Tolley
In Memoriam honors those members of the State Bar of Georgia who have passed away. As we reflect upon the memory of these members, we are mindful of the contributions they made to the Bar. Each generation of lawyers is indebted to the one that precedes it. Each of us is the recipient of the benefits of the learning, dedication, zeal and standard of professional responsibility that those who have gone before us have contributed to the practice of law. We are saddened that they are no longer in our midst, but privileged to have known them and to have shared their friendship over the years.

G. MICHAEL AGNEW
Pine Mountain, Ga.
University of Georgia School of Law (1971)
Admitted 1971
Died July 2017

WILLIAM F. BARTEE JR.
Atlanta, Ga.
Emory University School of Law (1966)
Admitted 1965
Died July 2017

BRUCE H. BEERMAN
Sandy Springs, Ga.
University of Georgia School of Law (1974)
Admitted 1974
Died July 2017

PAULA EVADNE BONDS
Atlanta, Ga.
Northwestern University Pritzker School of Law (1979)
Admitted 1981
Died July 2017

MORRIS E. BRASWELL
Sautee Nacoochee, Ga.
Atlanta’s John Marshall Law School (1978)
Admitted 1978
Died February 2017

LAURENCE L. CHRISTENSEN
Marietta, Ga.
Emory University School of Law (1976)
Admitted 1976
Died July 2017

CHARLES RONALD CLONT S
Kennesaw, Ga.
Georgia State University College of Law (1989)
Admitted 1989
Died May 2017

SHARON ANN COBB
Bradenton, Fla.
Emory University School of Law (1987)
Admitted 1987
Died July 2017

JAMES J. DALY JR.
Warner Robins, Ga.
Mercer University Walter F. George School of Law (1974)
Admitted 1974
Died July 2017

LEIGHTON B. DEMING JR.
Cumming, Ga.
Atlanta’s John Marshall Law School (1973)
Admitted 1974
Died July 2017

JOSHUA MICHAEL DUMAS
Woodstock, Ga.
Atlanta’s John Marshall Law School (2013)
Admitted 2013
Died June 2017

DAVID CYRUS FARSHY
Atlanta, Ga.
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J. D. FLEMMING JR.
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Decatur, Ga.
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PEYTON S. HAWES JR.
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JACKIE KLEINER
Bronx, N.Y.
New York Law School (1964)
Admitted 1964
Died July 2017

ADRIANA F. KLICH
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Potomac School of Law (1979)
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JULIUS WATSON WILLIAMS
Gainesville, Ga.
Woodrow Wilson College of Law (1985)
Admitted 1985
Died February 2017

WESLEY THEODORE WISE
Warner Robins, Ga.
Mercer University Walter F. George School of Law (1996)
Admitted 1996
Died June 2017
If you were lucky enough to be chosen to be a law clerk to Judge William C. O’Kelley, you were guaranteed a memorable and enjoyable clerking experience. Judge, as we called him, ran his courtroom and his chambers with intelligence, grace and good humor, and mentored all his clerks throughout our legal careers. He ran happy chambers and inspired us all with his example as a judge and lawyer, and as a person.

Judge O’Kelley died on July 5, 2017, at age 87 after a brief illness. He virtually died “in the saddle,” barely six weeks after his last day in the courtroom. Dying in the saddle would have pleased this former Eagle Scout and life-long horseman and outdoors man, who loved his fishing trips and horses almost as much as judging. Judge was also a devoted family man; he and his wife Ernestine Allen O’Kelley, known as “Teeny,” had two children, Leigh and “Bo,” and several grandchildren and great grandchildren, all of whom he adored. He was loved by his family, his court staff and his law clerks, and was respected and admired by his fellow judges and lawyers.

Judge served in the U.S. Air Force after attending Emory University and its School of Law. He never forgot that he had been granted a scholarship to Emory and was a life-long supporter, both financially and with his time, serving as a member of the Emory Board of Trustees. Emory rewarded him in 2014 with its highest alumnas distinction, the Emory Medal, and included him in the Emory 100. While at Emory, he joined the Sigma Chi Fraternity and later served on the Sigma Chi Foundation as a board member and then governor emeritus. He was recognized as a “Significant Sig” honoree. In 2005, his law clerks established the Judge William C. O’Kelley Endowed Scholarship in honor of his birthday.

Appointed to the bench by President Richard Nixon, O’Kelley was confirmed by the Senate and took office in October 1970. During his tenure, he was entrusted by three Chief Justices—Burger, Rehnquist and Roberts—to handle some of the most sensitive special assignments and to serve on committees involved in the administration of the federal judicial system. He served as one of the first members of the Foreign Intelligence Surveillance Court, hearing surveillance cases during the Iran hostage crisis. In addition, he served on the Alien Terrorist Removal Court. He was elected by his colleagues in the 11th Circuit as its first representative on the Judicial Conference of the United States, the administrative body of the federal courts.

As a trial judge, he heard some of the most significant cases to be tried in Atlanta courts. In February 1974, Atlanta Constitution editor Reg Murphy was kidnapped and held for two days by William Williams. After two trials overseen by O’Kelley, Williams was convicted and received a 40-year jail sentence. For nearly two decades from the 1970s into the 1990s, O’Kelley oversaw the long process of desegregating the DeKalb County School District. He also ruled in a copyright case of civil rights leader Dr. Martin Luther King Jr.’s 1963 “I Have a Dream” speech, and a case involving the placement of the Ten Commandments in a public place. O’Kelley took senior status in 1996, continuing to hear trial cases on a selective basis and sitting when needed with panels of the U.S. Court of Appeals for the Third, Sixth and 11th Circuits.

We will all—his family, his court family, his law clerks, the legal community and this country—miss him and remember his long and faithful service with gratitude. Godspeed, Judge, and may there be fishing in heaven.

Elizabeth Kohn served as a law clerk to Hon. William C. O’Kelley, U.S. District Judge, Northern District of Texas, after graduation from law school.

A Tribute to Judge O’Kelley

by Elizabeth Kohn
Sharon A. Cobb of Bradenton, Fla., died in July 2017. She grew up in Birmingham, Ala., where she graduated from Birmingham Southern University. She continued her education at Georgia State University, receiving her Master’s degree in English and her J.D. at Emory University’s School of Law.

Cobb attended Emory University as a Robert W. Woodruff fellow and wrote for the Law Review. Emory honored Cobb with the Attorneys’ Title Guaranty Fund as well as induction into The Order of the Coif. She served as clerk for Hon. William Acker in the U.S. District Court for the Northern District of Alabama, Birmingham Division. She then associated with Paul Hastings before contracting her legal services for an extensive period of time to BellSouth. Cobb also enjoyed her professorship at Emory, instructing first-year law students in legal writing and research. The law she practiced from day to day was a passion that was seen by all those around her.

Robert E. “Mully” Mulholland died in August 2017. He was born in February 1957 in Denville, N.J., and grew up in Lake Valhalla, Montville, N.J. After receiving his Bachelor’s and Master’s degrees from Catholic University in Washington, D.C., he received his J.D. from Emory University School of Law. He was the founding member of Mulholland & Sutlive, LLC. Before starting his firm, he was a litigator with several of the most prominent insurance defense firms in the southeast, and started a plaintiff’s practice. Before becoming an attorney, Mulholland worked as a social worker. He credited the experience of being the primary advocate for these patients as the main reason he became a forceful champion for catastrophically injured individuals in his practice.

During his career, Mulholland was a member of the State Bar of Georgia, the American Bar Association, the Georgia Trial Lawyers Association, the Southern Trial Lawyers Association, the Million Dollar Advocates Forum and the American Association for Justice. He was admitted to practice in the U.S. District Court for the Northern and Middle Districts of Georgia, and the 11th Circuit Court of Appeals, in all Georgia trial courts and the Supreme Court and Court of Appeals of Georgia. He was also admitted to the U.S. Supreme Court.

His loyalty, integrity and generosity to others in need were well known. Mulholland was sober for more than 21 years, during which he dedicated his time to helping others gain sobriety. He touched hundreds of people in his work and personal life, leaving them better for having known him and setting the standard for others to follow. His profound impact on others cannot be overstated. He lived his life in sober appreciation for the gifts he was given. He shared that appreciation in his actions with all who were fortunate enough to know and love him. In lieu of flowers, donations may be made to the State Bar of Georgia Lawyers’ Assistance Program. To do so, please contact Pauline Childress at paulinec@gabar.org.

Memorial Gifts are a meaningful way to honor a loved one. The Georgia Bar Foundation furnishes the Georgia Bar Journal with memorials to honor deceased members of the State Bar of Georgia. Memorial Contributions may be sent to the Georgia Bar Foundation, 104 Marietta St. NW, Suite 610, Atlanta, GA 30303, stating in whose memory they are made. The Foundation will notify the family of the deceased of the gift and the name of the donor. Contributions are tax deductible. Unless otherwise directed by the donor, In Memoriam Contributions will be used for Fellows programs of the Georgia Bar Foundation.
### OCTOBER

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### NOVEMBER

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<thead>
<tr>
<th>Date</th>
<th>Event Title</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>ICLE: Commercial Real Estate Atlanta, Ga.</td>
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<td>2</td>
<td>ICLE: Real Property Foreclosure Atlanta, Ga.</td>
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<tr>
<td>2</td>
<td>ICLE: Trial Advocacy Atlanta, Ga., and Statewide Satellite</td>
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<tr>
<td>2-4</td>
<td>ICLE: 33rd Annual Medical Malpractice Liability Institute Amelia Island, Fla.</td>
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<td>ICLE: Milich on Criminal Evidence Atlanta, Ga.</td>
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<td>ICLE: Litigation Under 42 Section 1983 Atlanta, Ga.</td>
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<td>ICLE: Adult Guardianship Atlanta, Ga.</td>
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<td>ICLE: Trial Advocacy—Rebroadcast Atlanta, Ga., and Statewide Satellite</td>
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<td>ICLE: Keep It Short and Simple (KISS) Atlanta, Ga.</td>
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<td>ICLE: Basic Fiduciary Practice 201 Macon, Ga.</td>
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<td>ICLE: Recent Developments in Georgia Law Atlanta, Ga., and Statewide Satellite</td>
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<td>ICLE: VA Accreditation Atlanta, Ga.</td>
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<td>ICLE: Recent Developments in Georgia Law—Rebroadcast Atlanta, Ga., and Statewide Satellite</td>
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<td>ICLE: Contract Litigation Atlanta, Ga.</td>
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<td>ICLE: Defense of Drinking Drivers Institute Atlanta, Ga.</td>
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</table>
Note: To verify a course that you do not see listed, please call the CLE Department at 404-527-8710. Also, ICLE seminars only list total CLE hours. For a breakdown, call 678-529-6688. For ICLE seminar locations, please visit www.iclega.org.

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<th>DECEMBER</th>
<th>ICLE: 47th Annual Employment Law Institute</th>
<th>Atlanta, Ga.</th>
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<td>ICLE: AAML Georgia Chapter Family Law Seminar</td>
<td>Atlanta, Ga.</td>
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<td>1</td>
<td>ICLE: Professionalism, Ethics and Malpractice</td>
<td>Atlanta, Ga., and Statewide Satellite</td>
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<td>ICLE: Advanced Storytelling and Persuasion for Lawyers</td>
<td>Atlanta, Ga.</td>
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<td>ICLE: Update on Georgia Law</td>
<td>Augusta, Ga.</td>
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<td>ICLE: Health Care Fraud Institute</td>
<td>Atlanta, Ga.</td>
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<tr>
<td>7</td>
<td>ICLE: Professionalism, Ethics and Malpractice—Rebroadcast</td>
<td>Atlanta, Ga., and Statewide Satellite</td>
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<td>7-8</td>
<td>ICLE: Corporate Counsel Institute</td>
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<td>ICLE: ADR Institute and Neutrals Conference</td>
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<td>ICLE: 9th Annual Georgia and the Second Amendment</td>
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<td>ICLE: Partnership Audit Update</td>
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<td>ICLE: Consumer and Business Bankruptcy</td>
<td>Greensboro/Lake Oconee, Ga.</td>
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<td>ICLE: Finance for Lawyers</td>
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<td>20</td>
<td>ICLE: The New Negotiation Advantage</td>
<td>Atlanta, Ga.</td>
<td>6 CLE</td>
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Proposed Amendments to the Uniform Rules for Superior Court

At its business meeting on July 26, 2017, the Council of Superior Court Judges approved proposed amendments to Uniform Superior Court Rules 2, 18, 21, 24, and 48. A copy of the proposed amendments may be found at the Council’s website at http://georgiasuperiorcourts.org.

Should you have any comments on the proposed changes, please submit them in writing to the Council of Superior Court Judges at 18 Capitol Square, Suite 104, Atlanta, Georgia 30334 or fax them to 404-651-8626. To be considered, comments must be received by Tuesday, Jan. 2, 2018.
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Managing Attorney—In-town firm seeks experienced attorney to assist in overseeing the management of cases in litigation. Ideal candidate will have significant experience in civil litigation. Collegial work environment, stable firm, benefits. All replies confidential. Please send resume to: spshns@me.com.

Brennan, Wasden & Painter LLC is seeking attorneys to assist with its professional liability and business litigation practice groups in both the Savannah and Augusta offices. Those with deposition and courtroom experience will receive preference. Georgia Bar required. Please submit a cover letter and resume to Wiley Wasden III at WWasden@BrennanWasden.com.

PI Associate Attorney—Personal injury law firm is seeking a junior associate in the Jacksonville, Fla., area with 0-5 years of PI experience for entry level personal injury position. Energetic self-starters with great written and verbal communication skills is a must. If you are highly motivated to do great lawyering for your clients, aren’t afraid to pay your dues and want excellent professional development and earnings potential, then send detailed cover letter (explaining your desire to represent the injured and your willingness to pay your dues) along with resume AND references to plaintiffpi1@gmail.com. If you are not serious about your legal career and willing to pay your dues, then do not apply.

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