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GBJ | The Features

24  28th Annual Bar Media & Judiciary Conference
    Ashley G. Stollar

30  Stepping Away to Step Forward: Georgia Lawyers Experience Wellness in Carefree, Arizona
    R. Javoyne Hicks

34  Leading the Way to Creating Diverse and Inclusive Firms
    Rebecca Christian Smith and Kathleen O. Currey

38  The Death of a Lawyer
    Michael S. Webb

40  Honor Roll of Contributors: 2018 “And Justice for All” State Bar Campaign for Georgia Legal Services Program

The Legal

The Peculiarities of Georgia Insurance Law / 18
J. Stephen Berry
4.6 Georgia Lawyer Spotlight
A Conversation with Mike Egan
Jacob E. Daly

55 Office of the General Counsel
You’re a Lawyer, Not a Banker
Paula Frederick

60 Law Practice Management
Digital Detoxing: A Dozen Ideas on Taking a Break from Your Smart Phone and Other Devices
Natalie R. Kelly

62 Pro Bono
Pro Bono Legal Clinics Provide an Answer to Rural Access to Justice Challenges
Mike Monahan

63 Pro Bono Star Story
A. Kelly Neal
Rachael B. Schell

64 Member Benefits
New Improved Live Chat in Fastcase
Sheila Baldwin

66 Writing Matters
Law and the English Language
Karen J. Sneddon and David Hricik

68 Professionalism Page
20th Annual Justice Robert Benham Community Service Awards
Karlise Y. Grier
Not long ago, opposing counsel in one of my cases told my partner and co-counsel—in apparent surprise—that I was “too nice to be a litigator.” He meant it as a compliment, as our case progressed without animosity and ultimately resulted in a win-win for each side. But his comment was telling of our times and of what has become all too common in litigation in particular: jaded and cynical attorneys on both sides who assume the worst of each other first and act accordingly. This is no way to live or practice law, in my opinion, and considering how much time in my day I spend on my work, the two are pretty much one and the same.

Of course, first you need to be nice to yourself. In “Stepping Away to Step Forward: Georgia Lawyers Experience Wellness in Carefree, Arizona,” Javoyne Hicks tells of a personal experience at the Wellness and Practical Skills CLE on incorporating wellness into your life and practice to become a healthier, more competent lawyer. Drawing on the success of this CLE, the Bar will be implementing wellness CLEs in the months to come. It is with this in mind that I read with deep sadness about the suicide of attorney E. Martin Putney in Union County in “Death of a Lawyer” by his colleague Michael S. Webb. Putney and many like him could certainly have used more kindness and compassion in their lives.

This issue also features a book review of “Seizing Serendipity” about former Supreme Court of Georgia Chief Justice Leah Ward Sears. The essence of Justice Sears’ story seems to be rising through the ranks of the Georgia legal community with integrity and respect for all members of the community. One particularly telling anecdote concerns her investiture at the Supreme Court of Georgia, when she was seated between Justice Thurgood Marshall and Justice Clarence Thomas. Both justices assured her of their mutual respect for one another despite their ideological differences, and she conveys her hope for such professionalism and collegiality in our current times. It seems that Georgia is quite fortunate in her chief justices.

As usual, this issue has much more to it, including the legal article “The Peculiarities of Georgia Insurance Law” by J. Stephen Berry, which takes us through the insurance coverage issues in which Georgia differs from the nationwide majority, including choice of law, bad faith and the duty to defend, among others. Berry addresses Supreme Court of Georgia opinions as recent as March 2019 in this thorough article.

Additional articles focused on wellness include “Digital Detoxing: A Dozen Ideas on Taking a Break from Your Smart Phone and Other Devices,” and articles about how the members of the Bar’s Executive Committee and the members of the YLD incorporate wellness into their daily lives. We hope you find some useful ideas to apply to your own lives.
The Time is Right

The first meeting I attended as a member of the Executive Committee of the State Bar of Georgia was in 2011. As the meeting was winding down and we came to the new business portion, I raised the issue of whether Bar members should be required to maintain professional liability insurance. I was told that the issue had been discussed before and it was not going anywhere, so I did not push it. Since then, the issue has been raised and debated several more times but has not been approved.

I believe the time has come for the Bar to address this issue, and I believe it is time for the Bar to require professional liability insurance of all active Georgia lawyers with certain exceptions. We are a self-governing profession—one of the few. We have a fiduciary responsibility to our clients and the public, and we must do what is right by them even at our own expense. This proposal, however, benefits both lawyer and client.

Last year, I appointed a diverse committee of Georgia lawyers to look at this issue and to see what has been done nationally. Of the 15 practicing attorneys on the committee, six represent large law firms. The other nine include five solo practitioners and four from small firms. There are a number of members from the Atlanta area, and we also have representation from Athens, Brunswick, Lawrenceville, Norcross, Roswell and Savannah. All are highly involved in, or very familiar with, professional liability and insurance matters. They include plaintiff and defense lawyers who handle malpractice cases.

Chaired by Linley Jones, the entire committee has held five meetings, not including individual members’ meetings with Georgia’s insurance commissioner, professional liability insurance agents, the executive director of the State Bar of Idaho and others. The committee also looked at other states that have considered the issue and presented a comprehensive report to the Board of Governors. The Board has not yet taken action. A lengthy discussion at the Spring Meeting raised a number of questions. The committee will continue to refine its recommendation based upon the questions and feedback it receives and will return to the Board at the Annual Meeting in June with its final recommendation. If the Board is not ready to vote in June, we will take more time to evaluate the committee’s recommendations. Until then, I want your input. Please contact your Board of Governors delegate(s) and let them know how you feel, or contact me at president@gabar.org. We want to hear
all viewpoints. All Bar members are also welcome to attend future committee meetings. If you want to attend, simply notify me, and I’ll make sure you know when and where the next meeting will be held. The next meeting date will also be posted on the Bar’s website, along with the agenda and minutes of previous meetings.

We had a lengthy discussion on this at the Spring Meeting, and while many lauded the idea, there were several questions and concerns. Among them were cost, impact on the new lawyers, impact on the solo lawyers, the thought that this might cause rates to increase, and who would or would not be exempt. We heard many points of view, and if there are other concerns, now is the time to raise them.

The largest concern aired was cost. The committee found that professional liability insurance premiums are based upon individual underwriting factors and vary based on practice area, length of time in practice and insured, claims history, practice income and other factors. Malpractice insurance for new lawyers can be as low as $800 per year, or less than $67 per month. Premiums increase the longer a lawyer has been in practice and been insured. Premiums can also be financed. The last year I was in private practice, my annual premium for myself and one associate and $1 million in coverage was only about $3,500.

Premium underwriting is very specific and individual. Uninsured lawyers should seek quotes now from an independent insurance agent to understand the insurance rates and financing options available to them. A list of Georgia’s professional liability insurance agents is available on the State Bar website at www.gabar.org/malpracticeinsurance and the Georgia insurance commissioner’s website.

For those who say they can’t afford it, I would say that the cost of insurance is only a fraction of what it would cost to defend a claim, regardless of whether the claim has merit. At the Spring Meeting, one Board member from South Georgia mentioned a claim against his firm in federal court that, if they had not had professional liability insurance to defend, would have crippled the firm. We are also aware of an attorney

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**OFFICERS’ BLOCK**

In this issue of the Georgia Bar Journal, we asked our State Bar of Georgia officers, “The State Bar has been focused on attorney wellness in recent years—physical, mental and social well-being. How do you incorporate wellness into your busy life?”

KENNETH B. HODGES III  
President  
In addition to hitting the gym, I am carving out more time with the family. Wellness is more than just physical fitness. Adjustments in work-life balance and focusing on stress reducers are as important. Also, when I have long calls to make, I’ll do them while on a walk.

DARRELL L. SUTTON  
President-Elect  
I am diligent about reserving at least two days each week to exercise at lunch. Two, one-hour workouts a week at your local Orangetheory Fitness can do wonders for your physical and mental well-being. (The preceding was an unpaid endorsement.)

DAWN M. JONES  
Treasurer  
Sunshine and time outdoors energize and lift my spirits. Laughter releases endorphins that also improve my mood and counter toxic activities in the body. Rounding out these basic wellness practices are drinking LOTS of water and getting a good night’s sleep, two daily goals of mine.

ELIZABETH L. FITE  
Secretary  
My approach to wellness includes making it a point to stay connected with friends and family. I like to send texts, notes or small gifts to let them know I’m thinking about them. I’ve found scheduling lunches/dinners well in advance ensures I follow through on my commitment to stay connected.

BRIAN D. “BUCK” ROGERS  
Immediate Past President  
I try to come up with an “ideal week.” I pick a week far off with no scheduled events yet and build a model with appointments like “workout” two or three times a week or “dinner with family” and try to protect those items when work appointments are scheduled. Otherwise, we book all work and think we are doing awesome.
who lost his retirement savings because he was not insured. The defense of a legal malpractice claim is very expensive and time-consuming. Obviously, a significant judgment jeopardizes the financial security of the firm and the lawyer. In certain instances, legal malpractice judgments are not subject to discharge in bankruptcy. I don't see how anyone could afford not to carry the insurance.

Other concerns that have been raised, along with Committee Chair Linley Jones’ responses to those concerns, based on the committee’s findings, include the following:

- **Impact on New Lawyers.** The modest cost of malpractice insurance for new lawyers is necessary to fulfill the fiduciary obligation to protect the interest of clients. It is certainly a small price to pay to secure your financial security should an act of malpractice give rise to a claim or judgment against you.

- **Impact on Solo Lawyers.** The impact on solo lawyers who have not been insured before is similar to the impact on new lawyers because insurers rate them at the same low premium levels. It is professionally irresponsible to handle significant client claims without malpractice insurance to take care of the client in the event of a mistake. Insurance agents tell us, however, that the most important purpose of malpractice insurance from their perspective is to ensure the financial security of the solo lawyer, so this is a significant benefit to lawyers as well.

- **Lawyers Who Would or Would Not Be Exempt from the Requirement.** Under the proposed rule, lawyers employed by a governmental agency or other organization and whose practice is limited to matters concerning those entities, lawyers who work solely as arbitrators or mediators, and lawyers not in the active practice of law or who do not represent clients would be exempt from the insurance requirement. All other active members engaged in private practice would be required to carry the insurance coverage.

- **“Uninsurable” Lawyers.** The committee found no evidence that there were lawyers who could not obtain professional liability insurance, although the cost would be much higher if a lawyer had a significant history of multiple valid claims.

I believe that mandatory professional liability insurance should be required because our paramount duty is to protect the public. The public largely believes we have insurance coverage, and those who become victims of malpractice are usually in disbelief when they find out that their attorney was not insured. They become victims for the second time when their viable claim is rendered moot. Some real-life examples the committee learned about include the following:

**Client A** was a distinguished military veteran with 25 years of service whose military career ended due to a car wreck. The car wreck case was lost due to the malpractice of an uninsured lawyer. **Client A** obtained a judgment against the lawyer but died before seeing any collection on the judgment after the collection process dragged on for years. It continues in the name of his widow.

**Client B** was a recently retired career schoolteacher who was seriously injured in a medical malpractice incident resulting in hundreds of thousands of dollars in medical bills. His case was dismissed on summary judgment due to his lawyer’s malpractice. The uninsured lawyer refuses to pay the damages and vows to fight the claim, leaving Client B in the position of spending years pursuing a judgment that will likely be uncollectible, or very difficult to collect, in the end.

**Client C** was a young man when his lawyer convinced him to let the lawyer invest the proceeds of a major personal injury settlement. Many years later, the lawyer died, after declining repeated requests to return the client’s money. The client learned that the lawyer had misspent his money and was uninsured. After eight years of litigation and taking the case all the way to the Supreme Court of Georgia, the client’s claim is now pending before the State Bar of Georgia’s Clients’ Security Fund.

Situations like those have the ability to completely undermine public confidence in the legal profession. Also, according to the recently published report of the Washington State Bar Association’s Mandatory Malpractice Insurance Task Force, “Uninsured lawyers create an access-to-justice problem; their clients are typically unable to pursue legitimate malpractice claims against them because plaintiff’s lawyers cannot afford to bring actions against uninsured practitioners.”

The task force recommended that the bar association’s Board of Governors propose a mandatory malpractice insurance rule for consideration by the Washington Supreme Court, similar to our proposal but with higher minimum coverage amounts.

Only two states, Idaho and Oregon, presently require lawyers to maintain professional liability insurance coverage. According to information published by the ABA in 2018, 23 states require lawyers to disclose whether they have insurance. Some states, including New Jersey and Nevada, have considered mandatory insurance but rejected the idea. Our committee considered recommending only a disclosure rule, but found it would be administratively difficult to enforce, toothless and would effectively force lawyers to advertise they can be sued.

The Idaho State Bar implemented its mandatory coverage rule two years ago. While lawyers in Idaho had a lot of questions and concerns at the time, the outcome has been that there have been no real issues, and the Idaho Bar believes it has 100 percent compliance.

I recently attended an ABA meeting on this issue, and California surveyed all of its lawyers in 2017 and found that virtually all firms of 10 or more attorneys carried malpractice insurance. In 2018, it looked at the firms with fewer than 10 and found that solos and those with fewer than five lawyers were uninsured at a rate of 39 percent and 12 percent respectively. Cost was the reason most gave for not having
it. The California report concluded that attorneys should be encouraged to purchase legal malpractice insurance because of its potential to protect the public. Professional corporations and limited liability corporations are required to carry insurance.

Illinois has also enacted an interesting rule in this area. While it doesn’t mandate insurance yet, for those who do not carry liability insurance, the Illinois Bar requires them to complete a four-hour interactive course, including an assessment of their practice. Called Professional Management-Based Regulation (PMBR), the program is a systemic approach to help lawyers develop ethical infrastructures that will, to the extent possible, prevent misconduct and/or negligence which would necessarily lead to lawyer discipline. It is, in my opinion, always better to prevent problems, proactively, rather than react to them. As Benjamin Franklin said, “an ounce of prevention is worth a pound of cure.” And the PMBR courses satisfy CLE requirements and is something Georgia should offer as well.

Georgia is in a position to be a leader on this issue, as we are on most issues. We do need to carefully consider our action, which we have done, but without suffering paralysis by analysis. Here is our proposed new rule, in its current form:

**Rule 1-210. Professional Liability Insurance**

(a) All active members of the State Bar of Georgia engaged in the private practice of law in Georgia must be covered by a policy of professional liability insurance, in an amount no less than $100,000 per occurrence and $300,000 in the aggregate, the limits of which are not reduced by payment of attorney's fees or claims expenses incurred by the insurer for the investigation, adjustment, defense or appeal of a claim.

(b) The following members shall be exempt from the requirements of this rule:

(1) Members who are employed by a governmental entity or other organization and whose practice is limited to matters concerning the entity or organization;

(2) Members whose practice consists solely of serving as an arbitrator or mediator; and

(3) Members who are not actively engaged in the practice of law or who do not represent clients.

(c) Each lawyer who is required by this rule to have professional liability insurance shall so certify by providing the name of the insurance company and the policy number on the annual license fee statement, and shall notify the Membership Department of the State Bar of Georgia in writing within thirty (30) days if coverage lapses, is no longer in effect, or terminates for any reason. Each lawyer’s insurance status shall appear in the State Bar Member Directory as either “yes,” “no,” or “exempt.”

(d) No lawyer shall be deemed to be a member in good standing while in violation of this Rule. A lawyer deemed not to be in good standing under this Rule shall be returned to good standing upon providing the Executive Director of the State Bar of Georgia with proof of professional liability insurance.

Provision (d), if the Rule is enacted, would also amend Rule 1-204 related to good standing by adding a Provision (f) to it, designating that no lawyer shall be deemed a member in good standing “while in violation of Rule 1-210 for failure to carry a policy of professional liability insurance.”

Hugh Dorsey, the first president of the unified State Bar of Georgia said, “Certainly, the capstone of the State Bar is the power of self-discipline, which has been sought so long and needed so badly. For the first time all of us can, and will, be held to answer to the public for the conduct and character of our profession, and here we must not, and cannot, fail.” The State Bar was established by act of the General Assembly on March 11, 1963, with the stated purpose that we “shall foster among the members of the Bar of this State the principles of duty and service to the public.”

More than a half-century later, we have an opportunity to protect our authority to self-discipline, and to better serve the public and the justice system by adopting a requirement for professional liability insurance. As Mark Twain said, "It is never wrong to do the right thing.” For the legal profession in Georgia, this is the right time to do the right thing. ●
According to our bylaws, the Young Lawyers Division of the State Bar of Georgia exists to encourage the interest and participation of young lawyers in the activities, objectives and purpose of the State Bar; to aid and promote the advancement of YLD members in Bar activities; and to foster among our members the principles of duty and public service, among other purposes.

All of those objectives and others are well represented in what has become one the YLD’s most important—and popular—programs, the YLD Leadership Academy. Now in its 13th year, the YLD Leadership Academy provides a unique opportunity for young lawyers to develop their leadership skills and learn more about the legal profession, their own communities and the state of Georgia.

The Leadership Academy is a nationally recognized program. In 2008, the Leadership Academy was awarded first place in the Minority Project Category during the American Bar Association YLD Awards of Achievement Program. Alumni have gone on to be elected to the State Bar Board of Governors, recognized in the Daily Report’s “On the Rise – 10 to Watch,” named as Atlanta Magazine’s “Rising Stars” and Georgia Trend’s “40 Under 40” and a variety of other accolades.

Over the years, the more than 500 graduates of the Leadership Academy have included solo practitioners, judicial law clerks, partners of large and small firms, assistant district attorneys, public defenders, nonprofit lawyers, alternative dispute resolution specialists and in-house counsel for Fortune 500 companies. One cannot overestimate the benefits of having a friend and legal resource in practically every practice area and geographic region of the state.

The Leadership Academy seeks applications each year from YLD members who have a history of involvement and leadership in their communities, offices and/or profession; who want to become more involved in the YLD and State Bar; and, who want to network with state and national leaders and hear their perspectives on effective lawyering and leadership.

The Leadership Academy Class of 2019 includes 30 members. Every year, the YLD receives applications from far more qualified candidates than spots available for that year’s class. If you have previously applied and were not selected, you are encouraged to apply again.

While participation requires a commitment of time and resources from each participant, Leadership Academy alumni...
tell us that their experience in the program and the rewards of their participation greatly outweighed any sacrifice they made to attend.

Each Leadership Academy class is made stronger through diversity in members’ backgrounds, practice areas and locations. Participants are selected through a competitive application process, and recommendations from employers, judges and Leadership Academy alumni are encouraged and considered. The application process for the Class of 2020 will take place this fall.

Traditionally, each YLD Leadership Academy session begins in January and meets once a month for six months. Participants who attend all six sessions receive 12 continuing legal education credit hours, including one for professionalism, one for ethics and three for trial. Participants without perfect attendance receive CLE credit only for the sessions they attend. CLE credit is turned in for participants after the sixth monthly session each June. Participants must attend at least four of the six sessions to graduate, be recognized at the graduation ceremony and be considered alumni of the program.

All CLE fees, program costs, hotel accommodations for overnight sessions and most meals are covered in the Leadership Academy’s tuition fee. For the Class of 2019 that fee was $1,100. Participants are encouraged to carpool to foster new relationships and save money. Payment plans and full and partial scholarships are also offered to participants on the basis of need. There is a separate scholarship application procedure. The selection of Leadership Academy participants is independent of those who apply for a scholarship.

The networking and business development opportunities are limitless for Leadership Academy participants. They meet judges, clients, potential clients and fellow lawyers who can refer business or provide local counsel to better serve their clients.

The Leadership Academy’s Class of 2019 is now at the halfway point toward graduation. January’s introductory session, “Becoming a Leader in the YLD and State

OFFICERS’ BLOCK

In this issue of the Georgia Bar Journal, we asked our YLD officers, “The State Bar has been focused on attorney wellness in recent years—physical, mental and social well-being. How do you incorporate wellness into your busy life?”

RIZZA O’CONNOR | YLD President
On most days during the week, I go to sleep early and wake up around 5:30 a.m. to make it to a CrossFit class or go for a run. I have found that exercising gives me more energy and helps me be more productive during the day.

WILLIAM T. “WILL” DAVIS | YLD President-Elect
As simple as it sounds, I try not to miss out on the routine things that are relaxing to me and help me wind down. If I can get home and relax with a glass of wine and Wheel of Fortune and Jeopardy! on TV, that hour break helps me take a mental break before heading back to work the next day.

BERT HUMMEL | YLD Treasurer
I set aside 30 minutes in the morning and evening to detach myself from all distractions and decompress. This helps to clear my mind and reflect on my goals. I also make it a point to be active for a few hours at least twice a week, which is usually spent playing basketball.

ELISSA B. HAYNES | YLD Secretary
After missing one too many post-work barre classes, I caved and bought a Peloton. I can now take on-demand (and live) spin, strength training and yoga classes, at any time, from the comfort of my home. I also enjoy a good “Treat Yo Self Day,” thanks to Parks and Rec.

NICOLE C. LEET | YLD Immediate Past President
I try to take time and disconnect from my work email, phone and laptop—be it for an hour or a day (or ideally a vacation with no cell service).

AUDREY B. BERGESON | YLD Newsletter Co-Editor
As often as possible, I try to take a break and go for a walk during the work day. I find that some fresh air, sunshine and movement help me to de-stress and reenergize.

BAYLIE M. FRY | YLD Newsletter Co-Editor
I make it a habit of working out at least three to four times per week. Not only does it energize you, it eliminates soreness from sitting all day at a desk, keeps you healthy, makes you feel good about yourself and helps you sleep better.
I strongly encourage all YLD members to take advantage of the opportunities afforded by the Leadership Academy to hone your leadership skills, continue learning about the legal profession and broaden your network of Georgia lawyers.

Bar,” was held in Macon. Participants met with State Bar and YLD leaders and had the opportunity to be sworn in to the U.S. District Court for the Middle District of Georgia before the general session of the YLD’s winter meeting. Class members also participated in a pro bono wills clinic for first responders.

The February session, “Lawyers as Leaders in State Government,” started at the Bar Center in Atlanta for a discussion of opportunities for lawyers to serve in Georgia governmental leadership positions. Participants then traveled to the State Capitol for a first-hand look at the General Assembly in action and lunch with lawyer-legislators. The afternoon events took place at the state judicial building and included a discussion with judges from the Court of Appeals of Georgia and justices from the Supreme Court of Georgia and the opportunity to be sworn in to those courts.

My hometown of Vidalia was proud to host the March session, “Pro Bono and Community Service,” which focused on opportunities for young lawyers to engage in pro bono and community service, which included a one-day community service project, in partnership with the YLD’s Estate and Elder Law Committee.

Later this month, the Leadership Academy will meet in Washington, D.C., for “Networking Across State Lines,” in conjunction with the YLD’s Spring Meeting. Participants will have the opportunity to tour federal agencies and government offices and discuss interstate professional networking. Leadership Academy programming will include a welcome reception, the YLD General Session and other weekend events.

For the May session, “Professionalism,” participants will meet in Atlanta for a program with local attorneys and judges to discuss professionalism in practice. The Leadership Academy will also travel to the U.S. District Court for the Northern District of Georgia to speak to judges from that court and will have the opportunity to be sworn in there.

The closing session will take place in Orlando, Florida, during the State Bar of Georgia’s Annual Meeting. A keynote speaker will address the Leadership Academy during a celebratory graduation luncheon, after which the members of the Leadership Academy will receive their graduation plaques. Graduates’ family and friends are also invited to attend. Graduates will then have the opportunity to participate in YLD Representative Council elections and are encouraged to attend other Annual Meeting events during the weekend.

The best testimony of the Leadership Academy’s success comes from the program’s alumni. Being a part of the Leadership Academy back in 2015 was one of the best experiences I have had as a young lawyer. Through the six-month program, I gained a well-rounded education on various areas that make our profession great—from diversity, pro bono and community service, to serving as leaders in local government. Hearing from leaders in different areas of the state and from different practice areas encouraged me to want to be more involved in Bar leadership. That same year in 2015, I successfully ran a statewide election for YLD secretary. Without the influence of the program and the support of the other participants, I would not be YLD president today. I know that the knowledge and skills that I gained from the YLD Leadership Academy will continue to help me serve others in my community and profession for years to come.

According to Margaret A. Head (Class of 2014), “My experience in Leadership Academy resulted in fulfilling professional and personal relationships that continue to help me mature as an attorney and as a leader. During the program, I learned a tremendous amount about the State Bar and the resources available to attorneys. Most of all, I enjoyed visiting different cities in the state and hearing from great attorneys and leaders. I frequently rely on advice and guidance given during the program. Anyone who is interested in growing their practice, networking, improving their craft or giving back to the community should consider applying.”

D. Bobo Mullens III (Class of 2015) adds, “Leadership Academy is an incredible opportunity that gives you the tools and experience to grow both personally and professionally as a lawyer in the state of Georgia. As part of the 2015 Leadership Academy class, I had the chance to make new friends while eating beignets in New Orleans, shooting clays at the Greenbrier and beachcombing off Tybee Island. Since that time, I’ve run into classmates at calendar calls in four different counties, referred cases to friends from the program and have had a classmate get hired through a connection made during Leadership Academy. I have every confidence that if you join the incoming class, you too will form the same quality bonds and greatly enjoy your experience.”

I strongly encourage all YLD members to take advantage of the opportunities afforded by the Leadership Academy to hone your leadership skills, continue learning about the legal profession and broaden your network of Georgia lawyers. For more information on the YLD Leadership Academy, please contact YLD Director Stephanie Wilson at yld@gabar.org.
The State Bar of Georgia and its Young Lawyers Division are excited to host the 2019 National High School Mock Trial Championship!

Athens, “The Classic City,” is a beautiful southern college town and will be a perfect setting for crowning the 2019 National Champion.

**VOLUNTEER**

> With about 46 teams coming in from all over the country, we will need a lot of help to make the 2019 Nationals a success.

> We need lawyers, legal professionals and community members to serve in a variety of roles, including 368 spots on judging panels.

**DONATE**

> Our fundraising goal is $200,000.

> Sponsorship opportunities are available at varying financial levels.

> Donations are tax-deductable if made through the State Bar of Georgia Foundation.
For four years, when I was director of the Judicial Qualifications Commission of Georgia, I had the privilege of serving with Hon. John D. Allen—a decorated Vietnam veteran, trailblazing civil rights activist as a college student and a lawyer who would serve as a State Court and Superior Court judge—and was chair of the JQC during my tenure as director.

Judge Allen led the commission with the steady hands of a former fighter pilot to fulfill our critical mission to ensure public confidence in our judicial system. He was the right man at the right time to lead our state through those challenging years when an unprecedented number of judges were removed or resigned from office.

John D. Allen was born Jan. 17, 1943, in Columbus. He graduated in 1966 from Tuskegee University in Alabama with a bachelor’s degree in mechanical engineering. It was during his college years that Allen first became active in social issues of the time, according to an interview with The History Makers, the nation’s largest African-American video oral history collection. In the “nurturing environment” of Tuskegee, Allen said he was “at first somewhat isolated from a lot of other happenings, (including) the Civil Rights Movement, until a couple of buddies and I—and we didn’t even get any credit, nor did we seek credit for this—decided that Tuskegee was being too conservative.”

Allen’s group became involved in two ways. “We founded an organization called the Tuskegee Institute Advancement League,” he said, to “get students to go out into the community and educate the persons who were farmers who were uneducated and do whatever was necessary to assist them in going back to school. And Tuskegee was not actively participating in marches at that point, as were . . . other schools. I went to the dean of students and said we need to be a part of the movement.”

Allen and his cohorts weren’t class officers, he said. “We were just activist engineers. That’s not even written anywhere, by the way. I don’t think it’s even in the archives of Tuskegee. But we went to the dean of students and said we need a taste of what’s happening outside of Tuskegee.”

They invited Muslim minister and prominent human rights activist Malcolm X to Tuskegee, and on Feb. 3, 1965, he...
addressed a meeting of several thousand on campus. The next day, he traveled to nearby Selma, where he told a group of 300 young people at a local church he believed “they have an absolute right to use whatever means are necessary to gain the vote.” Less than three weeks later, Malcolm X was assassinated as he was preparing to give a speech in New York. “So Tuskegee gave me a nurturing environment of sharing a common experience with other black kids from a lot of different areas,” Allen said, “and prepared us academically a lot better than I even thought at that time because I had no standard of comparison. And eventually getting involved in the Civil Rights Movement expanded our horizon.” After the Malcolm X speech, Allen said he was inspired to participate in the historic Selma to Montgomery march the next month, though “not all the way. I cheated. I met it outside of Montgomery and jumped in line and marched up.”

Designated by the ROTC program at Tuskegee as a “Distinguished Military Cadet,” Allen received an officer’s commission in the Air Force. He gained top-secret clearance and piloted an F-4 Phantom jet fighter. During the Vietnam era, he served two tours in Southeast Asia and earned five Distinguished Flying Crosses, 23 Air Medals and two Air Force Commendation Medals, among others.

John Allen became a State Court judge in 1987, serving until 1993 when he was appointed as a Superior Court judge.
tom jet fighter. During the Vietnam era, he served two tours in Southeast Asia and earned five Distinguished Flying Crosses, 23 Air Medals and two Air Force Commendation Medals, among others.

After his honorable discharge from the Air Force in 1973, Allen earned a law degree from the University of Florida in 1975. He practiced law in his hometown of Columbus, first in a two-member firm and a year later starting a solo practice.

“Taking appointments, taking whatever came in the door,” Allen described to The History Makers. “I paid my secretary more than I earned at the time—and just working hard, studying hard, practicing hard, taking appointments, building a reputation.”

Allen also established himself as an activist lawyer for civil rights, chairing the local board of Operation PUSH and suing the police and fire departments for race and sex discrimination and taking on the city, without pay, over accommodations for the disabled. “My client was a white female in a wheelchair,” Allen recalled. “I mean those kinds of things help—and forced the city to provide access for the handicapped. They never had it before.”

In doing so, Allen gained extensive civil and criminal trial experience and also served as city attorney for tiny Geneva, Georgia, in Talbot County and as a Recorder’s Court judge in Columbus. Also during this time, Allen joined with Bobby G. Peters to form the first integrated law firm in Columbus. Both would later serve as Superior Court judges in the Chattahoochee Judicial Circuit.

Allen became a State Court judge in 1987, serving until 1993 when he was appointed as a Superior Court judge. After his appointment, Allen said he “showed people that I was going to be fair and could be fair,” and he was never opposed for re-election, serving for 20 years.

“After some of those fights (in civil rights cases), I was asked to be on committees, various boards,” Allen said, including the Columbus Airport Commission, the Columbus High School Vocational Education Advisory Board, the Urban League, the Special Olympics Advisory Board and the African-American Historic Preservation Society.

The Institute of Continuing Judicial Education of Georgia selected Allen to mentor newly appointed or elected State Court judges, and the Supreme Court of Georgia appointed him to work on the “Court Futures Vanguard,” which drafts proposals to prepare Georgia’s courts for the future.

During Allen’s seven years as a member and then chairman of the JQC, more than 40 judges across Georgia were removed or resigned while under investigation.

At a ceremony honoring Judge Allen on his retirement from the bench in 2013, he became emotional, prompting his former law partner, Judge Bobby Peters, to tell the Columbus Ledger-Enquirer, “A lot of people look at John as this tough judge, and he is. But he is really a soft-hearted guy.”

On the same occasion, Judge Allen’s Tuskegee Institute classmate, Justice Robert Benham of the Supreme Court of Georgia, recalled his time reporting to Allen in ROTC.

“He looked like an officer then,” Benham said, “and he looks like an officer now.” Addressing Judge Allen directly, he added, “We hold you up as an example of what a Georgian should be and what an American should be.” ●

Thanks to Linton Johnson, media consultant to the Bar, for his assistance in researching and drafting this article. These articles are in support of the Arc of Justice Institute and its Hidden Legal Figures project. For more information, visit onthearc.net.
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The Peculiarities of Georgia Insurance Law

Under the McCarran-Ferguson Act, insurance coverage is inherently a matter of state law rather than federal law. Accordingly, states have developed different rules, interpretations and standards regarding insurance law. This is somewhat inefficient, but the additional work involved ultimately benefits lawyers, so it is good.

Georgia follows the nationwide majority rule on most insurance issues. In fact, the Supreme Court of Georgia often cites and follows the majority rule when addressing novel coverage questions. This article addresses the insurance issues on which Georgia differs from the nationwide majority.

Choice of Law

Because state insurance law can vary, a forum’s choice-of-law rule can be significant. Georgia follows the *lex loci contractus* rule, which is common among Southeastern states but has been replaced with the most significant contacts rule in the rest of the country. Supposedly a simpler rule, *lex loci contractus* requires a court to interpret a contract using the law of the state where the contract was finalized. The primary virtues of *lex loci contractus* were thought to be simplicity and certainty; however, its application has become more complex in modern times, and many other states have abandoned it.

Georgia courts apply a significant exception to the *lex loci contractus* rule that provides a home field advantage to Georgia lawyers. Under our “presumption of identity”
rule, Georgia courts will apply the law of the state where a contract was made only if that state has a statute on point. In the absence of such a statute, Georgia courts must apply Georgia common law.

The basis of the “presumption of identity” rule is that all American states have adopted the English common law, and that the courts of Georgia have (naturally) applied the law better than any other state. Application of the rule was formerly restricted to the original 13 colonies (on the basis that former French and Spanish colonies do not follow the English common law), but our courts later applied the rule to a policy delivered in Wisconsin.

In 2016, a federal district court made an “Erie guess” and held that the “presumption of identity” rule is “anachronistic” and should no longer be followed, despite precedent to the contrary from the Supreme Court of Georgia and the U.S. Court of Appeals for the 11th Circuit. Within months, the Supreme Court of Georgia re-established that the rule is still the law in Georgia.

Misrepresentations in Policy Applications
Georgia law is not forgiving to policyholders who misrepresent the facts in their application for insurance. In such a situation, the insurer can, by statute, rescind the policy even if the insured was unaware of the falsity, if the matter is material to the hazard assumed by the insurer, or if, had the insurer known of the falsehood, it would have issued the policy for a higher premium (or not at all). Our neighbors in South Carolina, Florida, Tennessee and Alabama apply different rules.

Property Coverage: Diminution in Value
Georgia is unique in requiring a first-party policy to pay for both repair costs and diminished market value after repairs are completed, even if the insurer promised to pay only the lower of these two valuation options. Georgia courts adopted this rule with regard to automobile policies almost a century ago.

Liability Insurance—The Duty to Defend
Most states determine an insurer’s duty to defend using the “eight corners” rule: if any allegation within the four corners of the complaint against the insured might be covered under the terms within the four corners of the insurance policy, then the insurer must defend. However, states vary in how they apply the “eight corners” rule. Some states apply it strictly, without

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allowing either the insurer or the insured to bring in additional facts to affect the scope of the duty. Some states, on the other hand, allow the insurer to consider additional facts to restrict their duty.

Georgia follows the nationwide minority rule, which allows a policyholder to expand the scope of this duty by notifying the insurer of additional facts that, if a fair investigation shows to be true, may also trigger the policy. The Court of Appeals of Georgia took this minority rule to the logical extreme in 1998 when an insured woman dragged a bus driver from a bus, kicked the bus driver in the head, beat her with a cane and was convicted of aggravated battery. When faced with a civil suit, the insured woman sought a defense from her insurer. When her insurer denied coverage pursuant to the “expected or intended injury” exclusion, the Court ruled that the insurer breached its duty to defend because it refused to defend without first investigating the insured woman’s contention that the injuries were “unintended.”

Like most states, Georgia encourages a liability insurer, when confronted with a potentially covered lawsuit against its insured, to provide a defense while reserving the right to reconsider coverage and possibly withdraw the defense later. Further, the higher courts of this state are relatively respectful of insurers’ rights when the insurer is asked to defend a case that might not be covered. For example, Georgia does not consider a reservation of rights letter to be a breach of the duty to defend, which allows a policyholder to settle a case without the insurer’s consent (as in Florida). Nor does Georgia require absolute specificity in the content of the reservation of rights letter (as in South Carolina). In one recent exception, however, our highest court, in a 4-3 decision, found that an insurer “waived” its rights under the policy’s prompt notice condition, even though the insurer specifically reserved those rights in its letter, because the insurer denied coverage on other grounds in the same letter.

Many other states have statutory and/or common law requiring an insurer defending under a reservation of rights to pay counsel selected by the insured. Georgia does not have such a rule. Perhaps the relic of a more civilized time, the Georgia rule relies on the professionalism of an insurance defense lawyer to identify and address potential conflicts between his client and the insurer. Only when the insurer conclusively denies a duty to indemnify is it required to fund counsel selected by the insured.

Liability Insurance—Interpretation of Exclusions

Georgia jurisprudence is relatively straightforward in allowing insurers to raise policy exclusions to bar coverage. While we apply the same general rule that all states apply (ambiguous language is interpreted against the insurer), Georgia courts seldom engage in the mental gymnastics that other states have employed to avoid the plain language of standard form exclusions.

For example, courts in many states have used various excuses to avoid the application of the standard pollution exclusion. This exclusion bars coverage for claims “arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of ‘pollutants’” (defined as “any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste”). This language is broad, but many states refuse to apply the exclusion when the “discharge” takes place indoors rather than into the environment, or where the “pollutant” at issue is an everyday substance rather than an industrial chemical. Georgia, however, applies the exclusion as it is written. In a similar vein, Georgia courts do not allow a policyholder to avoid the pollution exclusion by spinning an indoor pollution claim as a “negligent ventilation” claim, nor can the policyholder avoid an “assault and battery” exclusion by spinning a premises assault claim as a “security guard errors and omissions” claim.

Another more colorful example (indeed, a fact pattern unique to Georgia case law) helps explain how our courts will apply exclusionary language as it is written. In a scheme that probably seemed perfectly logical at the time, two deer hunters used a truck to hoist a portable toilet into a tree-born hunting lodge. Despite careful planning, the driver accidentally dropped the toilet onto his friend, causing bodily injury. When the injured hunter sued the driver, the driver’s insurer invoked an exclusion for “bodily injury . . . arising out of the use of a motor vehicle.” The two hunters (their interests aligned again due to the circumstances) argued that the motor vehicle exclusion was ambiguous in the context of their claim because it did not involve the traditional use of a motor vehicle. Although the predicate to their argument was true, the Court of Appeals applied the exclusion, as written, to bar coverage.

Policy Conditions

Georgia’s courts are relatively strict in requiring policyholders to satisfy policy conditions. For example, at least 37 of the 40 states to have ruled on the issue require an insurer to show prejudice when refusing to defend or indemnify an insured for giving late notice of the claim. However, Georgia considers the notice condition a “condition precedent” to coverage, and therefore does not require an insurer to show prejudice when raising it as a defense. Further, insurers may insist that the insured obtain consent to any settlement (when the insurer must pay the insured) or settlement (when the insurer must defend and/or settle claims against insurers that show bad faith in handling first-party and/or third-party insurance claims. Georgia has a statute addressing bad faith in first-party claims (when the insurer must pay the insured) but not in third-party claims (when the insurer must defend and/or settle claims against the insured brought by others).

Unlike many other states’ first-party bad faith statutes, O.C.G.A. section 33-4-6 imposes a strict procedure and a high standard on policyholders who bring bad
faith claims. A policyholder must send a demand threatening a bad faith lawsuit at a time when payment is already due, and more than 60 days before filing such a suit. To prevail, the policyholder must show a "frivolous and unfounded refusal to pay a claim." Thus, when an insurer can show any good reason for not paying a claim fully or promptly, it can get a bad faith lawsuit dismissed, often via summary judgment. This is in stark contrast to states such as Florida that apply a "totality of the circumstances" test, which usually requires a jury trial.

As for third-party insurance, Georgia has become a hotbed of litigation for common-law bad faith claims. Those lawsuits usually involve a liability insurer’s duty to settle claims. If an insurer does not accept an offer to settle a claim against its insured (a "Holt demand"), and as a result the insured suffers a judgment in excess of its policy limits, the insurer is at risk of a bad faith claim. Three unique factors make "Holt demand" litigation a cottage industry in Georgia: (1) a relatively low standard of negligence, instead of bad faith, that the plaintiff must show to bring a claim; (2) the local plaintiff bar’s fascination with the tactic of manufacturing extra-contractual liability through ambiguous demands; and (3) our Legislature’s semi-glutal attempt to remedy the practice in a 2013 statute. Absent further progress in the Legislature, we risk being included in the American Tort Reform Foundation’s "Judicial Hellhole" list. Fortunately, our Supreme Court recently ruled that in order to trigger an insurer’s extra-contractual liability under Holt, there must be a specific settlement offer with a clear deadline.

Endnotes
2. See Berry et al, New Appelman on Insurance Law Library Edition, Chapter 6 ("Choice of Law") (listing nine states following the lex loci contractus rule (including Georgia, Alabama and Florida) while stating that the multifactor Restatement test is the nationwide major rule).
3. Pink v. A.A.A. Highway Express, 191 Ga. 502, 13 S.E.2d 337, 344, aff’d sub nom Pink v. A.A.A. Highway Express, 314 U.S. 201, 62 S. Ct. 241, 86 L. Ed. 152 (1941) ("[A] contract of insurance is made, not where the policy was executed, but where it was in fact delivered.").
4. Other states applying lex loci contractus have struggled to reconcile that rule to an era in which policies are renewed via emails among underwriters, agents and brokers in various locations. See, e.g., Baffin Land Corp. v. Monticello Motor Inn, Inc., 425 P.2d 623, 627 (Wash. 1967) ("We think lex loci contractus is an unfortunately outstanding example of a rule which, in our modern multistate commercialism, has outlasted any usefulness it may ever have had, if it ever had any.").
5. Wallack v. Wallack, 211 Ga. 745, 747, 88 S.E.2d 154, 156 (1955) ("[T]he rights of the parties as to the personal property involved in this case will be determined by the pleaded statutes of Texas and the construction placed on such statutes by the courts of that State.").
7. "[T]he prevailing view at the time the doctrine was established was that there is one common law that can be properly discerned by wise judges, not multiple common laws by which judges make law for their various jurisdictions." Coon, 300 Ga. at 730, 797 S.E.2d at 834.
10. Coon, 300 Ga. at 722, 730, 797 S.E.2d at 723, 834. ("[W]here a claim in a Georgia lawsuit is governed by the common law, and the common law is also in force in the other state, as it is in Alabama, the common law as determined by Georgia’s courts will control. … "This approach may seem anachronistic to lawyers and judges trained and professionally steeped in relativist theories of legal realism.") (internal citations omitted).
13. Joseph v. Zurich Life Ins. Co. of Am., 159 Fed. Appx. 114, 117 n.3 (11th Cir. 2005) (Florida law) ("When, as here, the insurance application contains ‘knowledge and belief’ language -- that is, a provision stating that the information is accurate to the best of the applicant’s knowledge and belief, the insurer must show that the insured intentionally made the misstatement or omission to rescind the contract.").
15. Ala. Code § 27-14-28 (1975) (requiring a showing of “intent to deceive” before an insurer can invalidate a claim due to misrepresentation in an insured’s claim despite a prominent, although temporary, monument to the Ninth Commandment in its Supreme Court building).
119 (2001) (noting "there is a common perception that a wrecked vehicle is worth less simply because it has been wrecked").

18. Id.

19. Royal Capital Dev. LLC v. Md. Cas. Co., 291 Ga. 262, 267, 728 S.E.2d 234, 238 (2012) (applying "the Mabry rule" to commercial policies covering real property, but noting that parties can contract out of the double coverage (presumably through an exclusion, because standard policies had already contracted out of the double coverage through a loss payment condition)).

20. City of Atlanta v. St. Paul Fire & Marine Ins. Co., 231 Ga. App. 206, 207, 498 S.E.2d 782, 784 (1998) (explaining that "[a]n insurer's duty to defend turns on the language of the insurance contract and the allegations of the complaint asserted against the insured . . . We look to the allegations of the complaint to determine whether a claim covered by the policy is asserted . . . If the facts as alleged in the complaint even arguably bring the occurrence within the policy's coverage, the insurer has a duty to defend the action.").

21. AES Corp. v. Steadfast Ins. Co., 725 S.E.2d 532, 535 (Va. 2012) ("[I]t is a well-established principle, consistently applied in this Commonwealth, that only the allegations in the complaint and the provisions of the insurance policy are to be considered in deciding whether there is a duty on the part of the insurer to defend and indemnify the insured.").


23. Id.


26. Compare Wellons, Inc. v. Lexington Ins. Co., 566 Fed. Appx. 813, 821 (11th Cir. 2014) (clarifying that reservation of rights letter need not list every specific coverage issue that might apply; rather, it is sufficient if letter is clear about insurer’s decision to cover without reservation, defend under reservation, or deny coverage), with Harleysville Grp. Ins. v. Heritage Communities, Inc., 803 S.E.2d 288 (S.C. 2017) (finding reservation of rights letter ineffective when it cited policy exclusions without explaining how they might apply to claim).

27. Hoover v. Maxum Indem. Co., 291 Ga. 402, 730 S.E.2d 413 (2012). Notably, the dissent in Hoover carefully explained why the majority’s decision was neither an accurate application of Georgia precedent nor a good policy going forward. Since then, the federal courts have limited the precedential effect of Hoover, to the extent that federal courts can do so. See, e.g., Wellons, Inc. v. Lexington Ins. Co., 566 Fed. Appx. 813 (11th Cir. 2014) (reservation of rights letter need not list every specific coverage issue that might apply; rather, it is sufficient if the letter is clear about insurer’s decision to cover without reservation, defend under reservation or deny coverage).


29. Mead Corp. v. Liberty Mut. Ins. Co., 107 Ga. App. 167, 171, 129 S.E.2d 162, 165 (1962), rev’d on other grounds 219 Ga. 6, 131 S.E.2d 534 (1963) (“To contend that it would not be to the best interests of the insured to leave his defense to the insurance company and counsel chosen by it after the company had ceased to have a pecuniary interest in the indemnity aspects of the case, and that such a defense might in that event be carelessly or frivolously handled, would be a reflection on the insurance industry and the counsel who represent them. Attorneys, whether or not paid by insurance companies, owe their primary obligation to the insured they are employed to defend.”).

30. American Family Life Assur. Co. of Columbus, Ga. v. U.S. Fire Co., 885 F.2d 826 (11th Cir. 1989) (explaining that "Boston Old Colony offered to provide a defense at the time it denied coverage . . . [b]ut [w]hen Boston Old Colony denied coverage, it created a conflict of interest between itself and American Family").


32. Insurance Services Organization, form CG 00 01 04 13.

33. Doer v. Mobil Oil Corp., 774 So. 2d 119, 136 (La. 2000), opinion corrected on rehearing, 782 So. 2d 573 (La. 2001) (ruling that pollution exclusion is limited to "environmental pollution"); see also Evanson Ins. Co. v. Sandersville R.R. Co., No. 5:15-CV-247 (MTT), 2016 WL 5662040, at *4 (M.D. Ga. Sept. 29, 2016) (“There has long been a split among jurisdictions on the question of whether the standard CGL pollution exclusion bars coverage for all injuries caused by pollutants, or whether the exclusion applies only to occurrences arising from traditional environmental pollution. It is not necessary to dwell in depth on the history of this debate because the Georgia Supreme Court has firmly rejected the argument that pollution exclusions apply only to claims arising from traditional environmental pollution.”).


38. Id.

39. Id.

40. Id.

41. Id. at 113.

42. RANDY MANILOFF & JEFFREY STEMPEL, GENERAL LIABILITY INSURANCE COVERAGE: KEY ISSUES IN EVERY STATE (4th ed. 2018).

43. Caldwell v. State Farm Fire & Cas. Ins. Co., 192 Ga. App. 419, 385 S.E.2d 97 (1989) (awarding summary judgment to insurer because "State Farm is not required to show that it was prejudiced by the failure to give notice where the requirement is, as here, a valid condition precedent to coverage").

44. Piedmont Office Realty Trust, Inc. v. XL Specialty Ins. Co., 11 F.Supp.3d 1184,
1189 (N.D. Ga. 2014), certifying questions
45. BellSouth Telecomm., Inc. v. Church &
Tower of Fla., Inc., 930 So.2d 668, 670-
71 (Fla. 3d DCA 2006).
46. Fla. Stat. 624.155 (awarding attorney
fees to any policyholder that successfully
sues its insurer for coverage); C.R.S.
§§ 10-3-1115 and -1116 (awarding
penalty of twice the covered damages,
in addition to the covered damages
themselves, to any policyholder that sues
its insurer for coverage and establishes
the insurer was in bad faith).
47. O.C.G.A. § 33-4-6.
48. Id.
49. O.C.G.A. § 33-4-6(a).
50. United Serv. Auto. Ass’n v. Carroll, 226
Ga. App. 144, 148, 486 S.E.2d 613, 616
(1997).
51. Old Republic Nat’l Title Ins. Co. v.
RM Kids, LLC, 337 Ga. App. 638,
788 S.E.2d 542 (2016) (finding that
summary judgment was appropriate
on insured’s bad faith claim, as
insurer had a good reason to contest
coverage).
Gutierrez, 386 So. 2d 783 (Fla. 1980).
App. 93, 94, 156 S.E.2d 809, 811 (1967),
aff’d 223 Ga. 789, 158 S.E.2d 243 (1967)
(“Many jurisdictions have coupled in
their discussions the terms ‘bad faith’
and ‘negligence,’ seeming to use them
as disjunctive or alternative tests.”
(internal citations omitted).
55. See, e.g., Greg Land, Georgia
Justices to
Take Up ’Gotcha’ Holt Demands Tuesday
56. O.C.G.A. § 9-11-67.1 (merely defining
what material terms of a settlement offer
are, without referring to the relevance of
such an offer within a bad faith claim).
57. https://www.judicialhellholes.org/
wp-content/uploads/2018/12/judicial-
Florida as the #2 “Hellhole” and placing
Georgia on the “Watch List.”
58. First Acceptance Ins. Co. of Ga. v. Hughes,
No. S18G0517, 2019 WL 1103831, at *1
(March 11, 2019) (ruling that “an insurer’s
duty to settle arises only when the injured
party presents a valid offer to settle within
the insured’s policy limits,” which must
include a deadline.). Notably, this decision
restores relevance to the otherwise toothless
O.C.G.A. § 9-11-67.1 by suggesting (in a
footnote) that the statute’s requirements
constitute the clarity necessary to trigger
extra-contractual liability under Holt.
59. In no way should this be interpreted as
an endorsement of the American Law
Institute’s 2018 Restatement of the Law,
Liability Insurance. That project, rather
than “restating” anything, constitutes the
aspirations of a group of academics and
plaintiff-oriented attorneys as to what
they would like the law of all 50 states
be. It is being rejected by a growing
number of state legislatures and courts.
See, e.g., Ohio Rev. Code Ann. § 3901.82
(declaring the “Restatement . . . does
not constitute the public policy of this
state and is not an appropriate subject
of notice”); Progressive Nw. Ins. Co. v.
Gant, No. 15-9267-JAR-KGG, 2018 WL
(refusing to follow Restatement).

The Georgia High School Mock Trial Program would like to express our sincerest
gratitude to the Georgia legal community for their support during the 2019 season.

More than 300 Georgia attorneys and judges gave a tremendous amount of their time serving local
schools as attorney coaches for one of the 121 teams who registered for the season.

Twenty attorneys and judges (and their staffs) spent numerous hours preparing for and conducting the regional
and district competitions this past spring. We thank them not only for their time, but their firms (and families) as
well, for giving them this time to make these competitions happen.

Lastly, we thank the hundreds of attorneys and judges across the state that served as evaluators or
presiding judges for our competitions. During the season, we had to find enough volunteers from the
legal community to fill 330 courtrooms for all levels of the competition.

The result is that more than 1,660 high school students had the opportunity to compete in one of the most public
programs of the State Bar of Georgia. Without your support, they would not have had this opportunity.

The 2019 State Champion Team is from Jonesboro High School.

The State Champion Team will represent Georgia at the National High School
Mock Trial Championship in Athens, Georgia, May 16-18.

For more information about the program or to make a donation to the State Champion Team to support their
participation at Nationals, please visit athens2019.nhsmtc.org or contact the mock trial office:
404-527-8779 / 800-334-6865 ext. 779; Email: mocktrial@gabar.org.
28th Annual Bar Media & Judiciary Conference

This annual primer on recurring and emerging issues in journalism and the law focused its 2019 program on trust in government through transparency in the media and courts.

BY ASHLEY G. STOLLAR

On Friday, Feb. 22, the 28th Annual Bar Media & Judiciary Conference kicked off to a full auditorium at the Bar Center in Atlanta. This yearly conference, organized by Jones Day Partner Peter C. Canfield, is a primer on recurring and emerging issues in journalism and the law. This year’s panels focused on trust in government through transparency in the media and courts.


Presenter

• Samira Jafari, Executive Editor, CNN, Atlanta

Samira Jafari opened the conference explaining CNN’s decision-making process in today’s political and journalistic climate.
of divisiveness. How does CNN report on partisanship and polarization while not tarnishing its reputation with the audience? Jafari offered an inside look on how that happens day-to-day. Fake news isn’t new, she reminded those in attendance. What has changed is that fake news or disinformation lives and thrives in a digital environment, allowing it to spread quickly. This makes the mission to establish fact and report on the truth critical.

CNN has a three-pronged vetting body called the “Triad” which includes in-house counsel, the standards and practices department, and Jafari’s team, “The Row.” Anything with an allegation of wrongdoing must go through these three units.

The Row is the editorial advisory team for all of CNN worldwide that is charged with ensuring that news coverage meets the highest standards of story-telling, clarity, accuracy, fairness and balance, while avoiding libel, defamation and use infringement issues.

Jafari recognizes the increasingly difficult issue of trusting media in the “Post-truth era.” CNN’s approach is to check the facts, vet sources, examine allegations, be transparent and ensure clarity.

Building New Trust in Government?: The City of Atlanta Takes a Fresh Step Towards Transparency That May Become a National Model

Moderator:
- Christopher Walker, Associate, Greenberg Traurig LLP

Panelists:
- Michael A. Caplan, Partner, Caplan Cobb
- Jennifer Colangelo, Open Government Program, Georgia Department of Law
- Kristen Denius, City of Atlanta Law Department and Transparency Officer (pending confirmation)
- J. Scott Trubey, Reporter, Atlanta Journal-Constitution

Moderator Christopher Walker led panelists Michael Caplan, Jennifer Colangelo, Kristen Denius and J. Scott Trubey in a conversation centering on the complaint that led the city of Atlanta to create its Office of the Transparency Officer.

Reporters from the AJC and WSB encountered significant challenges with Open Records Act requests with the city of Atlanta. Caplan, who represented the AJC and WSB, raised the issue with the city attorney’s office and filed a formal complaint with the attorney general’s office in Spring 2018, outlining a series of concerns. The attorney general’s office facilitated a mediation between the news organizations and the city. As a result, Atlanta approved an ordinance last fall that created the Office of the Transparency Officer, and set up requirements for dealing with Open Records requests (ORR) including: posting all ORRs on a website.
(under development), training of all city employees and providing for a complaint process. The newly-created office and requirements have become a nationwide model for dealing with transparency.

Denius spoke of the charge of the transparency officer to make sure the process of obtaining documents is seamless from beginning to end. She recognizes that one particular challenge is the number of documents and where they are housed, balancing practicality and creating a uniform process across the city.

Other topics of discussion during the session included: how a government agency balances competing interests (time, staffing, taxpayer money), the burden of compliance, best practices for journalists, misuses of and ensuring compliance to the Open Records Act.

Public Trust and the Courts: New Rules for Public Access

**Panelists**
- Hon. David Nahmias, Presiding Justice, Supreme Court of Georgia
- Hon. Gregory A. Adams, Judge, DeKalb Superior Court
- Hon. Shawn LaGrua, Judge, Fulton Superior Court

Led by moderator Ed Bean, the panel of Hon. David E. Nahmias, Hon. Gregory A. Adams and Hon. Shawn LaGrua spoke about access to the courts by the public and media with a special emphasis on electronic access and cell phones. The revision of Uniform Superior Court Rule 22 (Rule 22), which governs recording in the courtroom, went into effect May 2018. Rule 22 was first issued in 1997, a time before smartphones. Because smartphones are pervasive accessories today, Rule 22 was re-examined to determine if cell phones create a disruption during court and whether they violate rules against recordings. The new Rule 22 recognizes that cell phones will be brought into the courtroom and grants judges’ discretion on whether to allow their use for activities other than recording. Presiding Justice Nahmias spoke to the process of reviewing and updating Rule 22, including Superior Court judges’ concerns about spectators or litigants recording proceedings with cell phones. The new Rule 22 attempts to balance the needs of those who want to record for official recording (media), attorneys who want a record for themselves and members of public who carry their cell phones as necessity dictates. Adams and LaGrua presented their perspectives dealing with the impact of the updated Rule 22 in their courtrooms.

Talking about History: Buried Truths Brings New Tools to Bear in Podcasting Georgia’s Past

This panel provided a behind-the-scenes look at how the popular podcast *Buried Truths* uncovers new truths about Georgia’s difficult past on matters of racial injustice, particularly in law-enforcement and the courts, and how a potent new federal law should vastly improve access to civil rights cold case records.

**Host**
- Prof. Hank Klibanoff, Director, Journalism Program and the James

**Public Trust and the Courts: New Rules for Public Access**

**Moderator**
- Ed Bean, Senior Vice President, Poston Communications
Prof. Hank Klibanoff and WABE’s Dave Barasoain and Je-Anne Berry spoke about the upcoming season of *Buried Truths*, a podcast that began its eight-episode second season on Feb. 18. *Buried Truths* unearths decades-old but still-relevant stories of injustice, resilience and racism in the American South. In season two, the story of A.C. Hall is uncovered. In 1962, Hall, a black teenager in Macon, was mistakenly identified as stealing a gun. Through Hall’s story, *Buried Truths* examines police privilege, racial conditioning and community activism. To get to the bottom of the story, Klibanoff and the students from his Civil Rights Cold Cases class at Emory University dug deep into court, police and archival records. They also visited Macon, retracing the walk that Hall took the night he encountered police. Back at Emory, they spoke to numerous people, including civil rights attorney Howard Moore, one of the lawyers who represented A.C.’s mother during the coroner’s inquest. Moore returned to Macon with Klibanoff, visiting the Bibb County courthouse where he had served as a lawyer for the Hall family 56 years earlier.

### And Then They Came for Me: Law, Justice and the Holocaust

**Facilitator**
- Jonathan Ringel, Managing Editor, *Daily Report*

**Discussion Leader**
- Wm. Frederick Meinecke Jr., Historian, U.S. Holocaust Memorial Museum

The often sobering presentation revealed how Adolf Hitler and the Nazi regime were able to take control of the German government without the support of the majority of the German people. Judges were among those inside Germany who might have effectively challenged Hitler’s authority, the legitimacy of the Nazi regime, the hundreds of laws that restricted political freedoms and civil rights, and the guarantees of property and security. And yet the overwhelming majority did not. Upon the death of the German President Paul von Hindenburg, Hitler took control of the government, and the oath which previously had state officials swear loyalty to the constitution was changed to loyalty to Hitler himself. Only one judge, Martin Gauger, refused the oath. Later in a letter to his brother, Gauger said of his resignation:

> "Hitler doesn’t have the authority under the Constitution that the Kaiser was bound by. Hitler has more authority and can change law at will. If he can change law at will, he can change the duties of our office at will."

Judges and other state officials were being asked to swear an unlimited oath of obedience to a man who was bound neither by the law nor the traditions of justice. This close scrutiny of the past provides a framework for a debate on the role of the judiciary in the United States today: What is the responsibility of judges to the legal system as a whole? What have been the challenges to a fair and impar-
Interlocutor

- Richard Griffiths, Georgia First Amendment Foundation

Panelists

- Bill McDonald, Dean of Students, University of Georgia, Athens, as the Vice Chancellor for Lizard Lick State University
- Anthony Hightower, Senior Legal Advisor, Augusta University, as the Chief Counsel at Lizard Lick State University
- Cheryl Elliott, Assistant to the Chief of the Emory Police Department for Special Projects, as the Chief of the Lizard Lick State University Police Department
- Maggie Holland, Editor-in-Chief, The Red & Black, Athens, as Editor-in-Chief of the student newspaper, the Lizard Lick Lookout
- Frank LoMonte, Professor of Media Law at the University of Florida and Director of the Brechner Center for Freedom of Information
- Jonathan Peters, Professor of Journalism at Grady College, as a representative of the groups attempting to demonstrate on the Lizard Lick campus

The following scenario is mostly imaginary. Any similarity to real names or locations is purely coincidental.

Lizard Lick State University, Home of the Fighting Cows, started as an agricultural college, with particular focus on beef and dairy. In the heart of campus stands “Big Bessie,” a monument to the agricultural legacy of the school and the beef and dairy interests, whose donations spurred the university’s growth. Lizard Lick State has increasingly become a strong liberal arts school with liberal arts majors now more than 80 percent of the student body, many of whom are vegans and vegetarians. Many of them believe that it is time for the university to present itself to the community as it is today: a sophisticated liberal arts school.

But the Board of Trustees and the Alumni Association have been pushing back on the branding change, citing the need to protect the traditional agriculture and cattle values that built the institution. The faculty Senate meetings have become increasingly testy, with faculty expressing frustration with the resistance to the change. The student government association passed a resolution calling for the removal of Big Bessie.

The Lizard Lick Vegans plan to invite controversial anti-meat radical Gus Aspera to campus to give a lunch-time speech at the base of Big Bessie. Gus Aspera is president of the group, Vegans Aren’t Vegetables. They plan to host Aspera on Founder’s Day, when the university is planning a big party that evening for alumni and major donors at Memorial Hall, including the Georgia Cattle Collective. One prominent cattleman, Duncan McIver, in particular threatens to cancel his $6 million pledge to refurbish the library.

Will a permit be required for the rally?
Can the university move the event to the campus’ “Free Speech Zone”? Security for the event will cost close to $30,000. Who would be liable for paying for security?
Do you try to delay the demonstration?

The student chapter of the Georgia Cattle Collective holds a meeting where the Lizard Lick Lookout’s reporter is asked to leave. In the meeting, the Georgia Cattle Collective chapter decides that it will mount a counter demonstration, inviting chapters from other campuses and members of other cattle groups. They vow to disrupt Gus Aspera’s speech with more than 5,000 people.

Are student organizations bound by Open Meeting Laws? Does the university cancel the Gus Aspera speech?

The Chancellor cancels the Aspera speech on the grounds that the speech is too disruptive and a student tweets an aggressive message effectively calling the Chancellor chicken. Is there any recourse?

In the aftermath, a student journalist uncovers a security memo that looks bad for the university. An administrator asks the newspaper not to publish it. Big Bessie is brought down by a group of students who’ve had a tough week of midterms. Campus police arrest everyone in the vicinity, including a reporter taking photos. Bessie has been relocated to a secret location on campus.
Time expired before the panel of experts could delve into aftermath of Big Bessie’s mob-induced ouster from the heart of Lizard Lick State University or the Lizard Lick Outlook’s decision on publishing the incendiary memo.

Trust and the Administration of Elections: What Will Change When Georgia Votes in 2020?

Moderator

- Mark Niesse, Reporter, Atlanta Journal-Constitution

Panelists

- Chris Harvey, State Elections Officer, Georgia Secretary of State’s Office
- Allegra J. Lawrence-Hardy, Partner, Lawrence & Bundy LLC
- Cynthia Willingham, Rockdale County Elections Supervisor, Rockdale County Board of Elections

Mark Niesse led a panel of elections experts in a discussion regarding the lessons of the 2018 midterm elections, the General Assembly’s current action on updating voting machines and challenges to be faced in Georgia during the 2020 election. Members of the panel included Chris Harvey, Allegra J. Lawrence-Hardy and Cynthia Willingham.

Harvey gave a rundown of some of the provisions of HB 316, legislation currently making its way through the General Assembly. Since 2002, Georgia has been using electronic tablets, which has prompted concerns about security and auditability of results. The state recognizes it is time to upgrade and is looking at ballot-marking devices that are similar to the current machines but allow for the ballot to be printed out for voter verification. That paper ballot would be scanned to record the vote. In effect, the new system allows three ways for that vote to be secured: electronic tabulation, image of the ballot and the hard copy. Other provisions in HB 316 include changes to the voter registration system, extension of the inactive voter by two years and joining Electronic Registration Information Center.

Lawrence-Hardy spoke about her experience with dissatisfied voters from the 2018 election and her goal of ending voter suppression in Georgia. After the 2018 election, Fair Fight Action recorded 50,000 contacts with people who had difficulties voting. Lawrence-Hardy noted that these issues are not partisan: long lines, fair allocation of voting machines, mechanisms to create an auditable and verifiable paper trail, overview and oversight of Georgia’s policies and procedures, end to voter purges, registrations upgrades, etc. There is much work to be done to ensure Georgians feel confident at the polls.

Willingham brought her 30-plus years of elections experience to the panel. She noted that elections officials recognize that Georgia’s aging voting system has to be replaced before the 2020 elections cycle. In order to be successful, legislators need to make the decision to go forward, so elections officials can be trained by March 2020. Voters, also, need to be educated. In 2017, Rockdale County piloted a ballot-marking system. Willingham’s experience with the pilot was that it was an easy transition for voters. HB 316 is good start to correcting the current issues. The legislation gives absentee voters the opportunity to come in rather than immediate rejection of the ballot. Long lines on election day and early voting would allow election day precincts to be utilized for early voting.

WABE’S Political Breakfast Live

Veteran Atlanta political reporter Denis O’Hayer hosted a conversation between Tharon Johnson, Democratic strategist, and Brian Robinson, Republican strategist, which revolved around legislative topics: voting issues uncovered in the 2018 midterm elections and the proposed state takeover of Atlanta Hartsfield-Jackson International Airport. The panel took questions from audience members to be a part of the podcast.

Ashley G. Stollar
Communications Coordinator
State Bar of Georgia
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Stepping Away to Step Forward: Georgia Lawyers Experience Wellness in Carefree, Arizona

The first Wellness and Practical Skills CLE was a great success, and we hope one of many. Look for more information regarding future wellness CLE activities and come join us.

BY R. JAVOYNE HICKS

When 2015-16 President Robert J. “Bob” Kauffman made wellness an initiative of his presidency, there was no way we could have imagined the weekend that we experienced at the Wellness and Practical Skills CLE, Jan. 24-28, at the Civana Carefree Resort in Carefree, Arizona. I am thankful for the vision of Past President Kauffman and the continuing support of President Ken Hodges. Their leadership and commitment to wellness has resulted in the integration of wellness into the programs of the State Bar, and our members’ every day practice of law.

Wellness Gains Momentum

The call for attorneys to realize that they should be “well” in order to be competent lawyers and healthy individuals has gained momentum in this country over the past several years. The American Bar Association, through its National Task Force, developed a Well-Being Tool Kit to be used as a guide for bar associations to incorporate wellness into their activities. Several bar associations, including the State Bar of Georgia, developed wellness committees and task forces to highlight the importance of self-care through body, mind and soul. This first (and we hope annual) Wellness and Practical Skills CLE, sponsored by Eversheds Sutherland, is a culmination of what we in Georgia have learned and want to emphasize. The positive reviews we received from the experience tell us that the State Bar has struck a chord with attorneys by saying it is not only okay to take care of yourself, it is encouraged.
Wellness and Practical Skills CLE

The opening session, “Preventing Burnout and Promoting Balance: Mindfulness for Attorneys,” was an experiential, interactive workshop presented by Alisa Gray, shareholder, Tiffany & Bosco, Phoenix, Arizona; and Charity Scott, Catherine C. Henson Professor of Law, Georgia State University College of Law. Gray spoke about the concern she had for years regarding the lack of contentment and balance in her own and her colleagues’ personal and professional lives. She began to practice yoga in an attempt to address those concerns, which led to her becoming a certified yoga instructor and a certified yoga nidra facilitator. In addition to giving vivid descriptions of her journey toward balance in her professional work and personal life, Gray taught the participants simple yoga practices that could be done at the office to build strength and flexibility, as well as helping to stay focused during the day.

Scott explored how the stress response is triggered automatically in the body by perceived threats to well-being, which she called “paper tigers” (like deadlines, job pressures, interpersonal interactions) that are not actually immediately life-threatening (like real saber-tooth tigers were to our ancestors), but the body responds in the same way to both real and perceived threats. The build-up of chronic stress in the body can take a heavy toll on health and well-being, which mindfulness exercises can alleviate.

Gray and Scott introduced different kinds of classic meditation practices that can calm the mind, reduce chronic reactivity to stressors and prevent burnout. Mindfulness training can improve mental health just as regular exercise and workouts can improve physical health.

The second day focused on how and why attorneys incorporate wellness activities into their personal and professional lives. The first panel of the day, “Why Wellness Is Important to Lawyers,” was moderated by R. Javoyne Hicks, clerk, DeKalb State and Magistrate Courts, Decatur, and included panelists LaKeisha R. Randall, Bendin Sumrall & Ladner, LLC, Atlanta; Hon. Kenneth B. “Ken” Hodges III, judge, Court of Appeals of Georgia, Al-
bany, president, State Bar of Georgia; Hon. Kelly Lee Ellerbe, judge, Superior Court of Fulton County, Atlanta; Danielle “Dani” Berry, partner, Lewis Brisbois, Atlanta; and Kristy Weathers, professional development partner, Eversheds Sutherland (US) LLP, Atlanta. Each spoke candidly about their journeys from “doing” life to “living” life.

The next session, “How to Live Well After Crisis,” was moderated by Hon. Shondeana Morris, judge, State Court of DeKalb County, Decatur, and featured Lynn Garson, Baker & Hostetler, Atlanta; Melody Z. Richardson, Richardson Bloom & Lines, Atlanta; and Paul Knowlton, principle—Marketplace Initiative, Mercer University—Center for Theology and Public Life, Atlanta.

Morris spoke on the devastating experience she had as a young prosecutor when her father committed suicide. She then led the panelists as they respectively addressed mental, physical and spiritual wellness. Garson shared her journey from major clinical depression to recovery and the toll of mental stress within the legal practice. She also highlighted specific State Bar resources such as Lawyers Living Well and the Lawyers Assistance Program, and shared how she successfully practices law while advocating for mental health on behalf of Georgia attorneys. Richardson candidly relayed her diagnosis of cancer and her difficult decision to withdraw from practice and concentrate on her recovery. With the support of her firm partners and associates, she focused on recovering her physical health. She is now cancer free and recently returned to her practice with renewed passion for her work. Knowlton, who recently completed his Master of Divinity at Mercer University, spoke on spiritual well-being. He defined spirituality as “the nature of every person to possess an inner trust and strength, which in turn gives meaning to work and life.” By the definition he says, “We are all on a spiritual journey and most of it takes place in our practice.” The practical skills he offered to help on that part of our journey and in the practice are those he distilled from the New York Times bestseller “The Art of Power” by Buddhist monk Thich Nhat Hanh.

Attorney turned therapist Stacey Douglas, associate professional counselor, Workbest Consulting, Atlanta, enhanced the mindfulness conversation by providing information and exercises designed to reduce anxiety and stress. She emphasized that although most of us recognize that we don’t have the ability to control other people, places and things, we actually spend quite a bit of energy trying to do exactly that. It might show up in the rush of anger toward opposing counsel or the surge of frustration toward a client. What’s actually happening at such times is that our brain is being hijacked by our emotional reactions to external factors. We are close to being, or actually are, out of control. The good news is that we can regain control by tap-
Imagine the Possibilities
One Year From Now

What do you want to create more of in your life? It may be something that you do not have right now. It may be more wellness, a new venture, a better golf score, more time, or it may be a spirit or value that you want to explore and reflect, like connection, generosity, adventure, wisdom, etc.

Why do you want to create this in your life over the next year? Is there a particular life situation that you are facing? Do you find yourself wondering if there is a better way? Are you curious about what else might be out there? Are you transitioning to another stage in your life?

What do you think creating this [fill in the blank] will give you in your life a year from now? How will it change the way you react and what happens in your life? What images do you see? What physical sensations arise when you think about a you that has created this in your life? How will your relationships be? What about your work? Will you be more engaged and energetic? Will you laugh more? Play more? Will you be more willing to be present with the uncomfortable parts of life? Will you be living more from a place of flourishing? Will you have released your grip on a grudge or resentment? Will you live more gratefully?

How might you go about creating this newly imagined possibility in your life with ease and elegance?

What might get in the way of you creating this newly imagined possibility?

Plan for those contingencies. Is it time to re-evaluate your current commitments in light of what you want to create this year? Remember your answer to No. 3—what will it feel like to create this new thing in your life? And remember, “no” to what others may want from you may be necessary to create what is meaningful to you.

Most importantly, I want you to spend time every day imagining who you will become in the creating of this new thing in your life over the next year. Return to this spot daily and weekly and sink into that feeling again and again.

Conclusion
As a result of this amazing experience, the attendees will not only be better lawyers, but also better, and more fulfilled, individuals. The conference was a huge success, and we plan to take this show on the road. Look for more information to come regarding future wellness CLE activities and come join us.

R. Javoyne Hicks
Clerk
DeKalb County State and Magistrate Courts; chair, State Bar of Georgia Attorney Wellness Committee
Creating a diverse and inclusive culture requires more than good intentions. It requires conscious effort, persistence, open-mindedness and a consistent belief that our colleagues, clients, organizations and communities will be better and stronger. For more than a decade, Parker, Hudson, Rainer & Dobbs LLP has committed time, energy and resources to creating and sustaining a diverse and inclusive environment.

SMITH: When did diversity and inclusion become a part of Parker Hudson’s ethos?
CURREY: About 10 or 11 years ago, we decided that we needed to be more intentional about our efforts to have a more diverse team. We created a diversity committee, adopted our diversity and inclusion mission statement, and identified our long-term diversity and inclusion goals. Once we had our long-term plan in place, the diversity committee was charged with developing annual diversity and inclusion goals and objectives.

SMITH: Why did the firm decide to include diversity and inclusion as part of Parker Hudson’s culture?
CURREY: We decided to include diversity and inclusion in the firm’s culture because we know that members of a diverse team bring different perspectives to the table, inspiring creative problem solving for our clients and communities, both of which are incredibly diverse. We realized that if we were not intentional about our efforts, the firm would not have the diverse team and inclusive culture that we wanted. Good intentions were not enough. We needed to be more conscious about the way we interact with each other and how we recruit and retain talent.

SMITH: Was there a moment or realization by the firm’s leadership that Parker Hudson must work toward creating a diverse and inclusive environment? Tell us about it.
CURREY: I do not think there was a specific moment; rather, we realized over time that, while we wanted to have a more diverse team, we were not getting where we wanted to be.

SMITH: What steps has Parker Hudson taken to create an inclusive and diverse environment?

CURREY: The members of our team have had a lot of diversity and inclusion and leadership training over the years with the goal that the training will help us have a more inclusive work environment. We started with general diversity and inclusion training for all of our attorneys, and then we provided training to all of the other members of our team. Over the years, we have repeated the training for new employees. We have also had a wide range of training on various specific topics addressing diversity and inclusion. We have had three unconscious bias seminars (including one that was particularly helpful because it focused on specific management techniques aimed at interrupting unconscious biases).

We have also explored generational diversity, Muslim Americans in the workplace and gender identity. We had a joint program with our wellness committee on mental health issues, including how we can better support employees with mental health concerns. We also had a program on ways of giving and getting feedback better (including exploring ways that men and women often are different in the ways that they receive feedback).

Last year, we provided leadership training to our attorneys based on the DiSC model that I like to describe as “personalized management,” in which the supervisor learns to tailor managing based on his or her leadership style and the leadership and learning styles of the person being managed. That training was really eye-opening for me personally and changed the way I think about management. Using that technique is a great way of getting the best from each individual on your team and thus creating a more inclusive work environment. This year, among other initiatives, we are planning a program on working with people with physical disabilities.

SMITH: What are some of Parker Hudson’s diversity and inclusion initiatives?

CURREY: In addition to our ongoing training, we also have a women attorneys’ affinity group. Among other programs, we have provided business development and personal branding training specifically tailored for women. Also, the firm has sponsored less formal social events through the women attorneys’ affinity group, with the idea that we can provide support and mentoring when we spend time getting to know each other better. We also have a very active professional development committee that has created a formal mentorship program and revamped our review process. Through their leadership, we identified professional competencies for each practice group and use those in our review process. We believe the efforts of our professional development committee are essential to reaching our goal of creating a more inclusive work environment by interrupting unconscious biases.

Early on, we also recognized the importance of being leaders in the community to promote diversity and inclusion in the profession. We consciously seek out opportunities to participate in diversity initiatives in our community. Wayne Hillis, our managing partner, has served as the co-chair of the Atlanta Bar Minority and Diversity Clerkship Program for many years, and Michelle Reed, our diversity director, and I have served on the Steering Committee for the Georgia Diversity Program (GDP) for a number of years. Richie Lopez is currently serving as president and Jennifer Blasco is currently serving as secretary of the Georgia Hispanic Bar Association. Armando Basarrate previously served on the board of that organization. Trish Treadwell served in various roles, including as chair, of the Leadership Institute for Women of Color Attorneys. Nirouz Elhammali currently serves on the board for the National Muslim Bar Association. We also have an army of attorneys who have

“We realized that if we were not intentional about our efforts, the firm would not have the diverse team and inclusive culture that we wanted. Good intentions were not enough. We needed to be more conscious about the way we interact with each other and how we recruit and retain talent.”—Kathleen O. Currey
participated on law school panels, mock interviews and other activities at various law schools and in GDP’s High School Pipeline Program, and we have sponsored and attended numerous events presented by local affinity bars, including the Gate City Bar Association and the Stonewall Bar Association.

We believe that, as members of the Bar, it is critical that we participate in the important things that are happening in our community to support diversity and inclusion in the legal profession. I can say that personally I have grown immensely through my participation in these community activities. Participating in these community activities provides an opportunity to build relationships, grow and effect change. I cannot begin to fully express my deep gratitude for the attorneys, other professionals and students from underrepresented groups whom I have had the privilege of working with in the community and learning from the stories they have shared with me. My goal is to put that knowledge to good use to support diversity and inclusion in the profession and in my firm.

SMITH: What obstacles or challenges has the leadership of Parker Hudson faced that have impeded the creation and sustainability of a diverse and inclusive environment? How did leadership overcome them? CURREY: The hardest thing that we have experienced is long-term retention. Because we are relatively small, losing one person that we hoped to promote to partnership is a blow. Our partners are committed to having more women and minorities in our partnership. However, it has been difficult to grow that organically. We know that some attrition is normal and is to be expected, but it is very difficult to unpack the reasons why a person leaves. For this reason, in addition to the leadership training that I mentioned before, we have created a task force (in addition to our diversity committee) to identify additional measures we can take to recruit and promote more women and minority attorneys to the partnership.

SMITH: Has the firm realized concrete benefits from promoting a diverse and inclusive environment? If so, what are they? CURREY: Our culture has definitely changed since we created our diversity program. We are much more aware of how the unique experiences of each person adds to the overall value that we, as a team, can provide to our clients. In addition, we are much more aware of the effects of implicit biases and are committed to employing management techniques to acknowledge and interrupt those biases. I also think we are much more open to discussing diversity and inclusion issues. Personally I had some meaningful conversations with my colleagues during Black History Month. As a firm, we really tried to focus on the positive impact that small things can have—like having one-on-one conversations with colleagues about black history and where we are today. Members of our team also created an informal group that attends local plays and other events focused on various diversity topics. That group started organically and has grown over time. I think that speaks to the culture we have created—a culture that encourages open and honest dialogue about diversity and inclusion issues.

Rebecca Christian Smith
Executive Director
State Bar of Georgia Diversity Program
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Kathleen O. Currey, partner, Parker, Hudson, Rainer & Dobbs LLP, is a member of the firm’s commercial finance practice group. She represents financial institutions and borrowers in secured lending and financial restructuring matters. Currey has extensive experience with syndicated loan facilities, asset-based financings, debtor-in-possession financings and negotiating complex intercreditor and subordination agreements. She serves on the firm’s recruiting committee and is the chair of the firm’s diversity and partnership committees.

HIGHLIGHT YOUR ORGANIZATION
The Georgia Diversity Program would like to continue highlighting the diversity and inclusion efforts of Georgia’s law firms, corporations and nonprofit organizations. If you would like to have your organization featured, please contact Rebecca Christian Smith at gadiversityprogram@gmail.com.
A food and fund drive competition among all Georgia lawyers.  

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The Death of a Lawyer

May we all be motivated to reach out to a person, be it a lawyer or nonlawyer, who is contemplating suicide and tell them there is another way to die—by living your life as best you can, and leaving it only when it is your time.

BY MICHAEL S. WEBB

I am shaken to the core.

I knew this attorney, E. Martin Putney, years ago when we both practiced law in Gwinnett County. I did not know him all that well, but well enough to be upset by the news of his untimely demise outside the Union County Courthouse in Blairsville last May.

Martin shot himself on the morning of May 21, 2018, the day of a scheduled hearing in one of his cases in Union County Superior Court. I did not learn about Martin’s suicide, however, until August 2018, when I picked up the August issue of the Georgia Bar Journal and turned to the “In Memoriam” section. There, I learned of the deaths of two other lawyers during the month of May whom I knew when my law office was in Lawrenceville.

I would say that I don’t know how I missed the story of 59-year-old attorney Martin Putney’s suicide on the steps of a county courthouse in North Georgia, but I know how I missed it. It was not covered by any local news outlets in Atlanta, including the Atlanta Journal-Constitution. Just another suicide by a depressed person with mental health issues.
Just another lone legal eagle’s suicide.

Friends, without becoming too preachy, I cannot say enough about the toll the practice of law can take upon a solo attorney. Once you hang out your own shingle, all sorts of pressures and stress factors descend upon a lawyer’s head. Those of you who are soloists, like me, know this without me even having to mention it. Yet, most laypersons (and most of our clients) are unaware of this invisible pressure. Many see us as greedy shysters and don’t hesitate to make us the butt of jokes at cocktail parties. For that matter, some clients seem to think it’s funny to tell a lawyer joke or two while sitting in their lawyer’s office for a consultation about a life-changing legal problem.

I don’t know what demons tormented Martin Putney, but assuming he practiced criminal defense, like me—except in the foothills of the Appalachian Mountains in northeastern Georgia—I can pretty well guess what some of them were: isolation; clients unable or unwilling to pay for his services; living in an area full of financially secure retirees; yet, living in an area also fraught by legions of poverty-stricken families.

I don’t know whether Martin was married, but I don’t think he was, and maybe he didn’t have a significant other in his life. Or maybe Martin didn’t have a sense of usefulness; maybe he thought he was no longer making a difference as a lawyer in the lives of others; maybe he was treading water for quite some time, and exhausted, finally gave up.

The late 19th and early 20th century French composer, pianist and conductor, Maurice Ravel, once wrote a hauntingly beautiful overture entitled, “Pavane for a Dead Princess.” Listening to it, one has an almost visceral sense of the mourning and despair felt by the survivors of the fictional, perfect princess who had crossed the River Styx. Yet, Ravel said his musical composition wasn’t about the death of a princess at all. Instead, it was a “wistful daydream” of a fictional, dancing 16th-century Spanish princess. (A “pavane” is a courtly dance associated with the Renaissance.)

There will not be any compositions, I am sure, entitled “Pavane for a Dead Lawyer,” written for Martin Putney, or for that matter, any other lawyer who has chosen to take their own life. And there are scores of lawyers who died by their own hand—far more of them have left us than princesses who were daydream believers.

I just hope, though, that somewhere, someone who was touched by the life of this lawyer will reflect upon the good that he did for them while handling their legal matter or case.

I hope that a former client of Martin will be motivated to reach out someday to a person, be it a lawyer or nonlawyer, who is contemplating suicide and tell them there is another way to die—by living your life as best you can, and leaving it only when it is your time.

It reminds me of that great line spoken in Larry McMurtry’s “Lonesome Dove” by the character Augustus “Gus” McRae, a captain in the Texas Rangers: “It ain’t dying I’m talking about, it’s living.”

Michael S. Webb

Michael S. Webb, of Webb & Webb in Decatur, focuses on criminal defense and is a C3 attorney for the Georgia Public Defender Council.

SUICIDE AWARENESS & PREVENTION

The State Bar of Georgia’s suicide awareness campaign has a dual purpose, directed toward lawyers and judges who are suffering from anxiety and depression and may be at risk for suicide, as well as all Bar members, who need to recognize the severity of the problem and be able to identify warning signs among our colleagues.

LEARN MORE AT:
www.gabar.org/suicideawareness
Honor Roll of Contributors: 2018 “And Justice for All” State Bar Campaign for Georgia Legal Services Program

The following individuals and law firms contributed $150 or more to the “And Justice for All” State Bar Campaign for GLSP from 4/1/18 – 2/12/19.

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of Contributors. If we have inadvertently omitted your name, we apologize and encourage you to contact

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Thank you for your support.

Georgia Legal Services Program, Inc.

2019 APRIL 45
You are senior vice president and general counsel for AMB Group, but many people might not be familiar with that specific company, so please tell us what this company is and what you do for it.

AMB Group is the holding company for Arthur Blank’s for-profit businesses, which include the Atlanta Falcons, Atlanta United, Mercedes-Benz Stadium, PGA TOUR Superstore, which is the largest golf retailer in the United States, and Mountain Sky Guest Ranch, which is based in Montana. I oversee all legal matters for these five businesses. I also play a number of roles in addition to my general counsel duties. Most significantly, those roles have included overseeing the construction of the stadium and overseeing Project Opening Day, which was coordinating all the operational workstreams to launch the stadium last year.

How did you develop a relationship with Arthur Blank?

It dates back to a transaction I worked on in 1986 when I was a fourth-year associate at King & Spalding. I met a fellow named Marshall Day, who ended up becoming the CFO of Home Depot, and that resulted in me starting to do some work for Home Depot back in the early 1990s. I was a mergers and acquisitions lawyer at King & Spalding, and I started doing a lot of that work for Home Depot. I got acquainted with Arthur through that work, and when he left Home Depot in 2000 to start AMB Group, he asked me to get involved in some projects with him. First, in 2001, AMB Group acquired Mountain Sky Guest Ranch, and then in 2002, he called me and said he was thinking about buying the Atlanta Falcons. I told him I thought that was a darn good idea (laughing). I worked closely together with Arthur and his team on that transaction, and I’ve been working with Arthur ever since.

That might be considered the ultimate acquisition for an M&A attorney.

It certainly was for me. As an Atlanta native, I’ve been an Atlanta Falcons fan since I was 10 years old when they started playing in Atlanta. I have been a Falcons fan for every moment of their existence, so for me it really was a dream come true to get the chance to work with Arthur on acquiring the Falcons and then following that up with the Atlanta United transaction.

Are Arthur Blank’s employees required to be fans of his teams?

I think it’s a good career move (laughing). There aren’t many Atlanta natives in this organization, so no doubt many people...
brought to it loyalties to other teams, but they seem to manage to hide those once they show up here to work for Arthur. You cannot help but get caught up in the passion that surrounds the sports teams and all of our businesses.

Describe the differences that you've experienced between working as outside counsel where you have many clients, compared to working as in-house counsel where you have a single client or, in your case, five clients.

I was at King & Spalding for 31 years as a corporate mergers and acquisitions lawyer. M&A is a broad discipline because you have to think about and solve a lot of issues relating to different areas of law, but it’s nothing compared to coming to a broad array of companies as a general counsel. It’s hard to imagine the type of issues that might come across your desk in any given day, and certainly I’ve become much more of a litigation manager than I ever was at King & Spalding. Even though I have five clients, I generally work with the same people, and so I have developed very close relationships with them. It is different being what I call a fixed cost [as in-house counsel] instead of a variable cost [as outside counsel]. Inside, no one is thinking when they pick up the phone or come see me about how much it will cost the company. With outside counsel, that’s always on your client’s mind, and so it does create a different type of relationship with your clients. Also, when you’re inside, you’re involved in things from the very start of the matter, whereas with outside counsel a project gets further down the road before the client brings in outside counsel. While at King & Spalding, I loved being an outside lawyer, and I’ve loved being an inside lawyer. They are different, but I think both are very challenging and enjoyable in their own ways.

When you were at King & Spalding, you described yourself as a “deal junkie.” As in-house counsel, do you still get that same kind of adrenaline rush that you did as outside counsel while negotiating an M&A deal?

It is just very different. In my K&S days, I’d be on planes flying to New York all the time, going into the biggest law firms in the United States and sitting around a table with a bunch of very bright and confident investment bankers and lawyers. I loved the challenge of that. Now it’s very different, but I am still a problem solver. That’s my business now. People come to our internal legal team all the time with problems, and our goal is to find a pragmatic solution to those problems that does not interfere with our ability to execute on our business strategy. That produces an adrenaline rush in its own way. Speaking of adrenaline rushes, I’ll never have an adrenaline rush that beats Aug. 19, 2017, which is when we first opened the doors to Mercedes-Benz Stadium. Seeing the faces of the people when they walked into the stadium for the very first time and looked up at the halo board was thrilling. That’s what it’s all about. The building is just a bunch of steel and concrete until it fills up with people, and that’s when it comes alive. Then, going to the Super Bowl and other events where there are 73,000 people packed into the stadium, and looking...
around knowing the role I was able to play along with many, many others in putting this building together—it’s just a constant adrenaline rush.

How does your work for the Falcons differ from your work for Atlanta United?
Not really that much. They are very similar because we work very closely with the leagues. The NFL takes on more responsibility for the teams from a legal standpoint than MLS does. The primary difference is that the players in MLS are employed by the league, whereas the players in the NFL are employed by the teams, so we have more involvement in player contracts for the Falcons than for Atlanta United. Otherwise, sponsorship agreements are a big part of what we do for both teams, and those are pretty similar. Representing a professional sports team has a lot of the same issues, and I would say it is not particularly different from Atlanta United to the Falcons.

Because soccer is much more of an international game than football, are there difficult immigration issues that you have to deal with for Atlanta United?
There are immigration issues, but we have outside counsel that handles all that for us, so we do not handle those issues on an in-house basis. But for someone like Darren Eales [president of Atlanta United] or Carlos Bocanegra [vice president and technical director for Atlanta United], who are involved in player transactions, it is very, very different for them versus what Thomas Dimitroff [general manager of the Falcons] would experience because of all the international FIFA rules that they have to comply with. That doesn’t really impact us too much as lawyers day to day.

Given the challenges of starting a professional sports franchise, where did you and the rest of the front office for Atlanta United realistically think the team would be after two years?
It’s been really interesting to experience the difference between the Falcons, where we bought an existing team, versus Atlanta United, where we bought a franchise—literally, a piece of paper—from MLS and had to build everything from scratch. We have always been very ambitious for Atlanta United. Arthur was ambitious for the team and was willing to put his vision and resources into this. He has treated Atlanta United in virtually every way the same as the Falcons in terms of his focus and what he wants for the team. When you have an owner with his abilities, talents, vision, resources and drive, it translates to great success very quickly. I don’t know if we thought we’d win the MLS Cup in the second year, but I can’t say we were shocked or surprised by the fact we did so.

What do you think sets Atlanta United apart from other teams that has allowed it to achieve such immediate success?
Credit for Atlanta United’s success starts with Arthur, absolutely, but Darren Eales and Carlos Bocanegra and their entire team deserve substantial credit too: what they’ve done, the teams they’ve put together and the way they’ve built, not just the talent but also the culture. That culture has come together so quickly, and even though we’re transitioning from Tata Martino to Frank de Boer [as head coach], I think you’ll see that culture will continue to carry through. It’s a culture not just of that team, but all of our businesses. We are a very culture-driven organization guided by our six core values. Arthur saw the strength in that from his Home Depot days and brought a similar model of core values to this organization. We work very hard on having a single culture that spreads across all of our business units.

As a native Atlantan and lifelong fan of the Falcons and Braves, and now a soccer fan, how does it feel to be part of the team that broke the so-called “Atlanta Sports Curse”?
I’ve always thought the curse and the whole idea of Atlanta not being a sports town was overstated. But sitting in Mercedes-Benz Stadium on Dec. 8, 2018, at the MLS Cup game was a phenomenal experience, and I think we’re going to see that kind of success from Atlanta’s other teams. The Falcons’ last year was an aberration, and they are going to be back in the playoff hunt this season and for many seasons to come. The Hawks are obviously going in the right direction, so I feel great about all our sports teams. I’m confident the next 10-20 years are going to yield much more results in the way of championships than we’ve seen over the last 50 years.

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.
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Tommy is five years old and has a mental disability. Tommy lives with his mother whose meager earnings are too slim to pay for his medications. With a prescription refill due, his application to renew his Medicaid benefits was declined for non-compliance. One of our lawyers contacted the Medicaid agency to request a review of Tommy’s application. Tommy met the compliance requirements, and the lawyer also discovered Tommy was not getting the dental coverage he needs. Tommy’s Medicaid benefits were reinstated immediately, allowing Tommy his medications and saving the household $3,000 in annual medical expenses. Tommy visited a dentist for the first time in his young life.

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The client story is used with permission. The name and photo does not necessarily represent the actual client.
**Kudos**

Pandora E. Palmer was appointed to the State Court of Henry County in January by then-Gov. Nathan Deal, becoming the county’s first female State Court judge.

The Walter F. George School of Law at Mercer University announced the establishment of the Griffin B. Bell and Frank C. Jones Fund for the Enhancement of Advocacy Education and Programs. The fund will be used to support and enhance advocacy education and programs, including trial practice, moot court, mock trial, client counseling, and negotiation teams and competitions. Bell (1948) served as the attorney general of the United States under President Jimmy Carter after serving 12 years as a judge on the Fifth Circuit Court of Appeals. Jones (1950) was president of the State Bar in 1968, and practiced law in Macon and Atlanta for six decades.

Kilpatrick Townsend announced that partner Brenda Holmes was selected as a fellow in the 2019 Leadership Council of Legal Diversity. The council was created to identify, train and advance the next generation of the leaders in the legal profession.

Taylor English Duma LLP announced that partner Kendall Minter was appointed as a board member of the Georgia Music Partners, a nonprofit organization that promotes music within Georgia’s communities, schools and economy.

Eversheds Sutherland announced that associates Melissa L. Fox and Amanda R. Giffin received the Law360 Distinguished Legal Writing Award for their article, “When Precedent Doesn’t Really Stand for That Proposition: FINRA’s Suitability Rule and the meaning of ‘Best Interest,’” published in *Bloomberg Law* in December 2018.

Chamberlain Hrdlicka announced that partner Sheppard Hale was inducted as a fellow in the American College of Tax Counsel. In addition, Hale authored numerous articles in 2018 for tax industry publications and was a featured speaker at a number of events, including the Georgia Estate Planning Conference, Tennessee Federal Tax Conference, Fraud and Forensic Accounting, Southern Federal Tax Institute and the American Institute of Federal Taxation.

Ramon Alvarado was appointed to the Recorder’s Court of Gwinnett County in January, becoming the county’s first Hispanic judge and first full-time judge of Korean descent.

The State Bar of Georgia announced that Mercedes Ball received the Young Alumae of Excellence Award from the University of Georgia School of Law. The Young Alumni/Alumnae of Excellence Award was established in 2016 to recognize an outstanding young graduate who gives gifts of time or talent, whether to the law school community or the community at large. Ball is the assistant director of the Consumer Assistance Program at the State Bar of Georgia.

**On the Move**

**IN ATLANTA**

Georgia Legal Services Program announced the addition of Rick Rufolo as executive director. Rufolo previously worked at the United Parcel Service. The office is located at 104 Marietta St. NW, Suite 250, Atlanta, GA 30303; 404-206-5175; www.glsp.org.

Littler Mendelson P.C. announced the elevation of Shannon R. Creasy to shareholder status. Creasy focuses her practice on litigation and labor and employment. The firm is located at 3344 Peachtree Road NE, Suite 1500, Atlanta, GA 30326; 404-233-0330; Fax 404-233-2361; www.littler.com.
Hall Booth Smith, P.C., announced the addition of Pearson Cunningham, Tyler Fisher, Caroline Jozefczyk, Meredith Knight, Asya Morgan, Danny Patterson and Heath Williamson as associates. Cunningham focuses his practice on business litigation, education, general liability and governmental liability. Fisher focuses his practice on health care and insurance. Jozefczyk focuses her practice on construction, general liability, insurance coverage and products liability. Knight focuses her practice on workers’ compensation. Morgan focuses her practice on active shooter/workplace violence, aging services, general liability, insurance coverage, products liability and medical malpractice. Patterson focuses his practice on appellate, employment, general liability, insurance coverage and transportation. Williamson focuses his practice on insurance coverage. The firm is located at 191 Peachtree St. NE, Suite 2900, Atlanta, GA 30303; 404-954-5000; Fax 404-954-5020; hallboothsmith.com.

Kevolin & Horst LLC announced the addition of Joyce Gist Lewis as partner and Daniel M. Alfino as an associate. Lewis focuses her practice on business litigation, corporate governance and business divorces, employment law, appeals, crisis management, entertainment law, non-compete and trade secrets, and education law. Alfino focuses his practice on middle market and closely held businesses, finance and lending, technology law, venture capital, mergers and acquisitions, business start-ups and education law. The firm is located at 1201 W. Peachtree St. NW, Suite 3250, Atlanta, GA 30309; 404-888-9700; www.khlawfirm.com.

Carlton Fields announced the election of Justan C. Bounds and Jason A. Morris as shareholders and the addition of Yelena Abalmazova Chan as an associate. Bounds’ focuses his practice on creditors’ rights and bankruptcy, intellectual property, life insurance and annuity litigation, litigation and trials, and securities and derivative litigation. Morris focuses his practice on class actions, cybersecurity and privacy, life insurance and financial lines, and property and casualty insurance. Chan’s practice focuses on real estate. The firm is located at 1 Atlantic Center, 1201 W. Peachtree St. NW, Suite 3000, Atlanta, GA 30309; 404-815-3400; Fax 404-815-3415; www.carltonfields.com.

Smith, Gambrell & Russell, LLP, announced its merger with Mazursky Constantine LLC in February. The firm will continue to be known as Smith, Gambrell & Russell, LLP. The firm also announced that Anthony J. Rollins and Darren G. Rowles were elected partners; and the addition of Don A. Mazursky, Randall Constantine, Glenn Infinger, David Putnal, Emily Friedman, Tobin R. Walls, Teri Forehand King, Kelly Meyers and Angela Roberts as partners; Amy Heppner as counsel; and Jamey Medlin and Alex Smith as associates. Rollins focuses his practice on corporate law, tax law, tax controversy, state and local tax, and Italian practice. Rowles focuses his practice on construction dispute resolution, sustainability practice, manufacturing, mediation, arbitration, litigation/trial practice, construction project counseling, construction contract drafting and government procurement. Mazursky focuses his practice on executive compensation and employee benefits. Constantine’s practice focuses on executive compensation and employee benefits. Infinger focuses his practice on executive compensation and employee benefits. Putnal’s practice focuses on executive compensation and employee benefits. Friedman focuses her practice on executive compensation, employee benefits and litigation/trial practice. Walls’ practice focuses on executive compensation and employee benefits. King focuses her practice on executive compensation and employee benefits. Meyers’ practice focuses on executive compensation, employee benefits and tax law. Roberts focuses her practice on executive compensation and employee benefits. Heppner’s practice focuses on executive compensation and employee benefits. Medlin focuses her practice on executive compensation and employee benefits. Smith’s practice focuses on executive compensation, employee benefits and tax law. The firm is located at Promenade, Suite 3100, 1230 Peachtree St. NE, Atlanta, GA 30309; 404-815-3500; www.sgrlaw.com.
Major, Lindsey & Asia announced the addition of Michael Albino as a managing director in the interim legal talent team. Albino focuses on partnering experienced attorneys and paraprofessionals with Fortune 500 corporations and AmLaw 200 firms who need legal talent for interim legal assignments. The firm is located at 1355 W. Peachtree St. NE, Suite 1125, Atlanta, GA 30309; 404-875-1070; www.mlaglobal.com.

Seyfarth Shaw announced that Eric Barton, Rebecca Davis, Esther McDonald, Sharon Cook Poorak and Steven Richman were elected partners. Barton’s practice focuses on commercial litigation, construction, trade secrets, computer fraud and non-competes, consumer financial services litigation, real estate litigation, product liability, health law, and franchise and distribution counseling and litigation. Davis’ practice focuses on commercial litigation, insurance, business torts, contract disputes, real estate litigation, product liability, commercial class action defense, labor and employment, consumer financial services litigation, retail and health law. Poorak’s practice focuses on immigration and labor and employment. Richman’s practice focuses on corporate, tax, institutional investor, co-investments and direct equity, and private equity and pooled funds. The firm is located at 1075 Peachtree St. NE, Suite 2500, Atlanta, GA 30309; 404-888-1500; www.seyfarth.com.

The U.S. Environmental Protection Agency (EPA) announced that Leif Palmer was selected as regional counsel for the EPA Region 4 office. Region 4 is the headquarters for EPA’s southeastern region, which includes Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee. The office is located at 61 Forsyth St. SW, 13th Floor, Atlanta, GA 30303; 404-562-9655; www.epa.gov/aboutepa/about-epa-region-4-southeast.

The Employment Law Solution: McFadden Davis LLC announced the addition of Jerico Phillips as an attorney. Phillips’ practice focuses on employment law. The firm is located at Cumberland Center II, 3100 Cumberland Blvd., Suite 1480, Atlanta, GA 30339; 678-424-1380; www.theemploymentlawsolution.com.

Zelle LLP announced the opening of its Atlanta office and the addition James V. Chin as partner. Chin focuses his practice on bad faith and extra-contractual liability, cyber risk and losses, engineering and construction, general liability and property insurance. The firm is located at 1170 Peachtree St., Suite 1200, Atlanta, GA 30309; 470-867-3040; Fax 612-336-9100; www.zelle.com.

Taylor English Duma LLC announced the addition of Micheline Johnson as partner and Vail Thorne as an attorney. Johnson’s practice focuses on intellectual property. Thorne focuses his practice on environmental, sustainability, and workplace health and safety law. The firm is located at 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339; 770-434-6868; Fax 770-434-7376; www.taylorend.com.

JAMS Mediation, Arbitration and ADR Services announced the addition of Hon. Cynthia D. Wright to its panel. Wright will serve as an arbitrator, mediator and special master in a number of specialized areas, including business/commercial, civil rights, education, employment, insurance, family law, government, intellectual property and professional liability. The office is located at One Atlantic Center, 1201 W. Peachtree St. NW, Suite 2650, Atlanta, GA 30309; 404-588-0900; www.jamsadr.com.

Henning Mediation announced the addition of Hon. John Goger as a mediator and arbitrator. The office is located at 3350 Riverwood Parkway, Riverwood Building, Suite 75, Atlanta, GA 30339; 770-955-2252; Fax 770-955-2494; www.henningmediation.com.

Ford Harrison LLP announced that Patrick L. Ryan was promoted to partner. Ryan focuses his practice on construction, employment law, litigation, restaurants and wage/hour. The firm is located at 271 17th St. NW, Suite 1900, Atlanta, GA 30363; 404-888-3800; Fax 404-888-3863; www.fordharrison.com.

Nelson Mullins announced that Tori M. Silas joined the firm as partner. Silas focuses her practice on cloud computing, licensing, and transactions, communications and media, cybersecurity and privacy, cybersecurity and data breach response, emerging growth and venture capital, general counsel services, outsourcing and technology. The firm is located at 201 17th St. NW, Suite 1700, Atlanta, GA 30363; 404-322-6000; www.nelsonmullins.com.
One of the first African-American attorneys to practice law in Georgia was Judson W. Lyons. Born into slavery in 1860, Lyons taught himself to read and write, and went on to attend Atlanta Baptist Seminary, the predecessor institution to Morehouse College (the nation's sole predominately male historically black college). After graduating from Atlanta Baptist Seminary in 1878, Lyons studied law at Howard University Law School, graduating with honors. In 1884 he made history by being the first Morehouse Man admitted into the Georgia Bar. He led a life of exemplary service, including serving by presidential appointment as the Registrar of the U.S. Treasury.

Morehouse was founded in 1867. In 2019, there are approximately 16,000 living graduates. The University of Georgia, by comparison, almost achieves that number in a single year. It is perhaps a gentle conceit that this small college produces an outsized share of legal professionals, civic and religious leaders, and public servants. Lyons demonstrated that a small school could produce talented, accomplished public servants. His legacy is honored in many ways by past and current Morehouse alumni, including the Morehouse Men, who have served on the Superior Court of Fulton County.

Horace T. Ward became the first African-American Superior Court judge in Georgia after his appointment to the Fulton County bench in 1977. Two years later, Ward became the first African-American to serve on the federal bench in Georgia. In 1980, Isaac Jenrette joined the Superior Court bench; he went on to become the first African-American chief judge of that court. In 1995, Alford J. Dempsey began his 23 years service on the Superior Court bench. In 2005, Michael D. Johnson was elected to the bench. Eleven years later, in 2016, two more Morehouse Men, Thomas A. Cox Jr. and Eric K. Dunaway, were elected to the Superior Court of Fulton County and actively serve today.

Dempsey, Cox and Dunaway support and remain involved in the educational and leadership mission of Morehouse. They devote their time and resources to passing the torch to future Morehouse lawyers. These judges are essential members of the Judson Lyons Society, a Morehouse lawyer-alumni group that impresses upon the next generation the high call of public service and the continuing need to pursue “justice for all.”

Other Judicial Morehouse Men of Note:
Chief Judge John H. Ruffin Jr. | Superior Court, Augusta
Judicial Circuit and Court of Appeals of Georgia
Chief Judge Herbert E. Phipps Jr. | Juvenile, State, and Superior Court of Dougherty County and Court of Appeals of Georgia
Chief Judge David Watkins | Richmond County State Court

Michael W. Tyler
Partner, Kilpatrick Townsend & Stockton LLP
Morehouse College Class of 1977

Samuel Matchett
Retired Partner, King & Spalding
Morehouse College Class of 1981

Tyler and Matchett are founding members of the Judson Lyons Society of Morehouse College Alumni Legal Professionals.
Freeman Mathis & Gary, LLP, announced the addition of Bill Linkous and Ken Menendez as partners. Linkous’ practice focuses on government law. Menendez focuses his practice on commercial litigation, construction and design law, and labor and employment. The firm is located at 100 Galleria Parkway, Suite 1600; Atlanta, GA 30339-5948; 770-818-0000; www.fmglaw.com.

Bendin Sumrall & Ladner, LLC, announced the addition of David V. Johnson, Kimberly Woodland and Kevin A. Spainhour as partners and Tony Hassan as an associate. Johnson’s practice focuses on representation of hospitals, physicians and their practice groups, and correctional health care providers, primarily in professional liability and civil rights litigation, and before professional boards. Woodland focuses her practice on defending companies and individuals in civil tort litigation, primarily medical malpractice, product liability and general personal injury defense. Spainhour’s practice includes professional malpractice, product liability, general personal injury defense and advice about daily operations. The firm is located at 1 Midtown Plaza, 1360 Peachtree St. NE, Suite 800, Atlanta, GA 30309; 404-671-3100; www.bsllaw.net.

IN FOREST PARK

Freeman Mathis & Gary, LLP, announced the addition of Joseph Colette as partner. Colette focuses his practice on health care law, governmental law, employment law, real estate law, business counseling and litigation, products liability law, insurance coverage disputes and employee benefits law, including retirement and pension plans. The firm is located at 661 Forest Parkway, Suite E, Forest Park, GA 30297; 404-366-1000; www.fmglaw.com.

IN ROME


IN SAVANNAH

Bouhan Falligant announced the promotion of Melanie Marks to managing partner and the addition of Gregory L. Finch as an associate. Marks’ practice focuses on estate planning, wills and probate, elder law, business and corporate law, and commercial and residential real estate. Finch’s practice focuses on transportation and logistics, products liability, and malpractice and professional liability. The firm is located at 1 W. Park Ave., Savannah, GA 31401; 912-232-7000; www.bouhan.com.

IN STATESBORO

Taulbee, Rushing, Snipes, Marsh and Hodglin, LLC, announced the promotion of Leslie H. Cushman to partner. Cushman focuses her practice on trial practice, personal injury, motor vehicle accidents, premises liability, employment discrimination, and retaliation and family law matters. The firm is located at 1209 Merchants Way, Suite 201, Statesboro, GA 30458; 912-764-9055; www.statesborolawgroup.com.

IN THOMSON

The Georgia Public Defender Council announced the appointment of Caryn Lobdell as the circuit public defender of the Toombs Judicial Circuit. The office is located at 309 Greenway St., Thomson, GA 30824; 706-595-7650; Fax 706-595-6030; www.gapubdef.org.

IN JACKSONVILLE, FLORIDA

JimersonBirr announced the promotion of Hans C. Wahl to partner. Wahl focuses his practice on business litigation, creditor’s rights and commercial collections, real estate law, condominium law, landlord/tenant law (commercial), eminent domain law, construction law, corporate formation, and transactions and operations. The firm is located at 1 Independent Drive, Suite 1400, Jacksonville, FL 32202; 904-389-0050; 904-212-1269; www.jimersonfirm.com.

IN RICHMOND, VIRGINIA

Whiteford, Taylor & Preston LLP announced that D. Shane Smith joined the firm as partner. Smith focuses his practice on mergers and acquisitions, tax planning, business transitions and estate planning. The firm is located at 1 James Center, 901 E. Cary St., Suite 500, Richmond, VA 23219; 804-977-3300; www.wtplaw.com.
“You’re the third firm I have inter-
viewed. I think you’re the one for me,”
your new client announces.
“Thanks for trusting us with your
case,” you reply with delight. “We’re ex-
perts with this kind of trucking accident,
so I can guarantee we will do a good job.
Just sign right here and we’ll start work-
ing on a settlement package.”

“I have a question about that,” your
new client responds. “One of the other
lawyers I met with offered to give me a
loan—just to help out with my mortgage
until the case settles. I haven’t been able to
work since the accident, so I could really
use the money.”

“I don’t think I’m allowed to do that,”
you respond doubtfully.
Are you?
No. Georgia Rule of Professional
Conduct 1.8 (e) prohibits a lawyer from
providing financial assistance to a client
in a litigation matter. The rule includes
an exception for court costs and expenses
of litigation, but requires that the client
repay even those costs and expenses in
most cases.¹

So a lawyer may not loan money to a
client to pay the mortgage, or for any oth-
er purpose unrelated to actually litigating
the case. The prohibition is based upon
a concern that allowing lawyers to offer
loans to potential clients might result in
lawyers essentially buying cases—result-
ing in a disadvantage to lawyers without
the means to make loans, creating a con-
flict with the lawyer’s own interest in be-
ing repaid and even facilitating litigation
that is without merit.

Critics of the rule point out that most
clients cannot afford to wait months or
even years for their case to end. The 1.8
(e) ban on loans drives some clients to
pre-settlement funding companies that
may charge usurious interest rates.

A few jurisdictions have revised their
rules to allow loans to indigent clients or
to allow them after the lawyer has been
hired, so that the promise of a loan is not
the deciding factor in the hiring decision.
Georgia is not among those jurisdictions,
however, and we continue to prosecute
these cases when we receive a grievance
about them. ●

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

Endnote
1. The rule allows the lawyer to make
repayment contingent on the outcome
of the case. It also allows a lawyer to pay
expenses and costs for an indigent client
without seeking reimbursement.
**Attorney Discipline Summaries**

Jan. 16, 2019 through March 8, 2019

BY JESSICA OGLESBY

**Public Reprimand**

Heather Jordan
P.O. Box 441151
Kennesaw, GA 30160

On Jan. 22, 2019, the Supreme Court of Georgia imposed a public reprimand on Heather Jordan (State Bar No. 587470). The facts alleged and the violations charged in the formal complaint were deemed admitted as follows.

In December 2011, a client hired Jordan to represent him in a divorce matter. Jordan finalized the client’s divorce. Subsequently, Jordan agreed to represent the client in a custody matter. From January to May 2016, the client attempted to contact Jordan numerous times via email, text message and telephone to obtain a status update on his custody case. However, Jordan failed to respond promptly to the client’s requests for information and updates in the case; failed to perform the necessary work on the case; provided incorrect information to opposing counsel in the client’s discovery responses; and ultimately stopped responding to the client and stopped working on the case. The client retained new counsel, emailed Jordan and requested his file. Jordan did not respond and did not return his file. The client’s new counsel also attempted on several occasions to request the file, and while Jordan did not respond to these requests, she did eventually send the client his file. The special master concluded that Jordan violated Rules 1.2, 1.3, 1.4 and 1.16 of the Georgia Rules of Professional Conduct.

In mitigation, the special master found an absence of a prior disciplinary record, and Jordan’s inexperience in the practice of law.

**Suspension**

Nathan E. Hardwick IV
1624 Durrett Way
Dunwoody, GA 30338

On Jan. 22, 2019, the Supreme Court of Georgia accepted the petition for voluntary discipline of attorney Nathan E. Hardwick IV (State Bar No. 325686) and imposed a suspension pending termination of his appeal of his criminal conviction to the Eleventh Circuit Court of Appeals. The Supreme Court had earlier suspended his license to practice, consistent with conditions of his bond pending trial for numerous felonies related to his law practice. Hardwick was tried and found guilty of 21 felonies. On Nov. 27, 2018, he filed a “Petition for Voluntary Suspension of License Pending Termination of Appeal,” asking the Court to continue his suspension pending an appeal to the U.S. Court of Appeals for the Eleventh Circuit. The Court accepted the petition and continued the suspension.

**Disbarment**

Shannon DeWayne Patterson
P.O. Box 20754
Winston-Salem, NC 27120

On Jan. 22, 2019, the Supreme Court of Georgia accepted the petition for voluntary surrender of license for attorney Shannon DeWayne Patterson (State Bar No. 173418). In November 2017, Patterson pled guilty in federal district court to one count of aiding and assisting in the preparation and presentation of a false tax return, in violation of 26 USC § 7206 (2). On Sept. 27, 2018, the federal district court sentenced Patterson to 13 months of incarceration, followed by one year of supervised release. The court further ordered him to pay restitution in the amount of $60,800. Patterson subsequently filed the underlying petition for voluntary surrender of license, admitting that he has violated Rule 8.4 (a) (2) of the Georgia Rules of Professional Conduct.

Jack S. Jennings
223 Pineland Road NW
Atlanta, GA 30342

On Feb. 4, 2019, the Supreme Court of Georgia disbarred attorney Jack S. Jen-
nings (State Bar No. 390990) from the practice of law. Jennings was personally served with the disciplinary formal complaint, but failed to file a response as required by former Bar Rule 4-212 (a). As a result of his default, the facts alleged and violations charged in the formal complaint were deemed admitted.

In 2017, Jennings represented a client in an estate matter pending in court. The client terminated Jennings, retained new counsel and the new counsel immediately sought to obtain the client file. Jennings failed to cooperate with the substitution of counsel and never provided the full file. Instead, Jennings provided a partial file that omitted documents showing that he had failed to respond to requests for admission. New counsel was required to seek the court’s assistance in obtaining the file, but Jennings failed to appear at the hearing scheduled on the matter, and even after the court ordered Jennings to turn over the file and to pay attorney fees, Jennings failed to comply with the court’s order. By successfully filing a motion to withdraw the matters deemed admitted by Jennings’ failures, the client’s new counsel was able to mitigate the harm Jennings caused. The special master concluded that by this conduct, Jennings violated Rules 1.3, 1.4, 1.16 (d), 3.2 and 9.3 of the Georgia Rules of Professional Conduct. The maximum sanction for a violation of Rule 1.3 is disbarment, and the maximum sanction for the other violations is a public reprimand.

In aggravation, Jennings’ misconduct involved multiple violations; he failed to comply with the rules and directions of the State Bar; he refused to acknowledge the wrongful nature of his conduct; he had substantial experience in the practice of law; and he showed indifference to making restitution. In mitigation, the special master noted that Jennings had no prior disciplinary record. The Supreme Court concurred with the special master’s recommendation of disbarment, noting that in addition to abandoning the legal matter entrusted to him, Jennings further harmed his client by intentionally concealing his misconduct, then ignored the trial court’s order to pay attorney fees for the trouble he caused and refused to participate in the disciplinary process.

Jessica Oglesby
Clerk, State Disciplinary Boards
State Bar of Georgia
jessicao@gabar.org

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Working from home and haven’t had a chance to finish painting your home office? Or is that hideous recliner in full view of your camera? Skype allows you to blur the background. But Skype can’t save you from your pajama choices.

2 Don’t Discard Your Old Devices
Use your old tablet as an electronic picture frame. Save some dollars and download a free frame app to the old tablet, then upload all of your photos to display them in your office or home. You can also use your old devices for home security. Why buy new cameras? Download a free streaming video app to the devices that have cameras and connect them all to your Wi-Fi.

3 Guard your Wi-Fi
www.fing.com
Some stranger or even one of your own devices might be using your office or home Wi-Fi network without your knowledge. Too many devices on your Wi-Fi can slow down your work or personal online productivity. And someone using your Wi-Fi without your permission can really cause problems. Use a free mobile app like Fing to identify all the devices that are currently connected to your office or home network. Fing will display the network name as well as the IP address, MAC address and description of each device currently connected to your Wi-Fi. Then get to work and start policing the connections.

4 Spring is Arriving
This spring, skip the house dusting and organizing and go right to your phone. Back up all the photos on your phone and free up storage space. You can check your phone’s storage capacity in the settings area. You’ll be surprised how much data you are storing. After you clean up duplicate photos and move photos to your cloud storage, take an editor’s eye to all the apps you have on your phone. Uninstall apps that you haven’t used.

5 Find Places to Safely Dispose of Expired Drugs
Spring cleaning and need to get rid of expired medicine? Check out the database search utility provided by the DEA to find a drug disposal collection site near you. And, don’t forget that this year’s National Take Back Day is Saturday, April 27.
I’m constantly in multiple documents. [Windows key] + [left arrow] puts one document on the left side of my screen while [Windows key] + [right arrow] puts another on the right, perfectly side-by-side.

Phil Sandick
Alston & Bird, Atlanta

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Cleaning up long links is easy with Bitly. Simply copy and paste your lengthy URL (Uniform Resource Locator) on www.bitly.com and voila, a shortened URL is generated. The shortened link is readily available for copying. Bitly also provides advanced link management services like branding and link tracking.

Shorten Long Links with Bitly
www.bitly.com

If you are looking for a secure browser, check out DuckDuckGo. The search engine does not track users, and remains secure by blocking advertising trackers, keeping search histories private and securing personal data. The service can be added as a Google Chrome extension, and users can control the appearance, themes and privacy settings for searches.

Securely Search with DuckDuckGo
www.duckduckgo.com

Use programs like SimpleMind, MindMeister or MindJet’s MindManager to map out what’s in your head. These tools allow users to build visually appealing layouts of strategies, checklists and more.

Mind Mapping
www.mindjet.com

The Occupational Safety and Health Administration (OSHA) has an eTool checklist for computer workstations. Simply go through the online checklist to evaluate whether or not your computer workstation is set up in a safe and comfortable manner. The tool can be found on OSHA’s website at the Bitly above. (We use Bitly, too!)

eTool for Evaluating Safe and Comfortable Workstation Setup
https://bit.ly/1dESMMG

Do you ever need to take a snapshot of a certain area on your computer screen? Use the built-in Windows Snipping Tool. Go to the Windows search in your toolbar, start typing “snipping tool” and then click on the name when it appears. This tool will allow you to take a snap of a webpage, document, photo, etc. You can even highlight areas on the snap and email it within the tool by going to File > Send To > Email Recipient.

Windows Snipping Tool

GETTYIMAGES.COM/SVETLANA-CHERRUTY
Digital Detoxing: A Dozen Ideas on Taking a Break from Your Smart Phone and Other Devices

We use devices daily; we should take time to make sure we are not overdoing it. Get started on a digital detox by using some of these tips and resources.

BY NATALIE R. KELLY

During ABA TECHSHOW 2019, Sheila Blackford, a practice management advisor with Oregon’s Professional Liability Fund, sat near me during the “Time for a Digital Detox” CLE. I make no confession as it relates to my use of devices by merely attending this session. However, Blackford openly admits to her concerning digital habits in the Attorney at Work article “Tech Tips and Takeaways from ABA TECHSHOW 2019” found at https://www.attorneyatwork.com/tips-takeaways-from-aba-techshow-2019/.

So why do I bring this up? Well, according to Blackford’s piece of the article, “… studies have revealed that the typical lawyer is checking his or her phone for
messages 47 times a day and touches the screen on the digital device 2,500 times a day. Most will confess to checking their phone within 15 minutes of waking . . . !” So, if you are reading this from your phone right now and simply can’t stop, then the tips below may help you get started with a much-needed digital detox.

1 Be mindful of when and how you check your phone. Set a schedule for checking work email and text messages; do your best to stay within the times you set. For instance, you may find checking your phone after you’ve dressed for the day, right out of court before starting your car or just before lunch can work. Don’t get caught in the trap of checking your phone due to “FOMSI” or the “Fear of Missing Something Important.”

2 If you simply can’t control your phone usage or put it down, then at least use your phone’s features to give yourself a break. Set timers for breaks. Shop online for fun stuff, listen to soothing music or watch riveting movies when you need to take a break and relax. Focus your usage instead of wandering around your phone apps.

3 Learn about “Flow” at https://positivepsychologyprogram.com/mihaly-csikszentmihalyi-father-of-flow. This psychological state happens when you get into the zone with what you do. So for focused time on your phone or digital device, look for a productive and healthy flow.

4 Set out of office and do not disturb messages for email, voicemail and texts so you don’t expect any communication for a set period of time. Adhere to your notice and don’t allow others to interrupt your focused breaks—even if you are taking a break to work without interruption, stay in control of not letting others or yourself take you off task.

5 Plan an unplugged vacation. Look for locations with “zones” where devices are not allowed or have very limited availability. Many travel sites offer healthy flow.

6 Schedule check-in times with staff to retrieve messages or for them to send you messages and reminders. For instance, set a check-in time of 2 p.m. to catch items needing review after lunch. Be sure to use times which correspond to the work flow of your office.

7 You’ve missed the National Day of Unplugging (www.nationaldayofunplugging.com) which took place back on March 1, but you still have time to participate in Screen-Free Week, April 29-May 5 (at least for a day or two during that week). Learn more at www.screenfree.org.

8 Unclutter your device screens to discourage wandering. Synchronize and organize data to a limited number of inboxes. For instance, you can merge inboxes from multiple email accounts to keep you focused on just one inbox for incoming email. Clean up apps by turning on features to manage and create useful and organized folders grouping similar apps with each other.

9 Turn off notifications on your phone. Even with text messages you can hide alerts, plus you don’t want to be guilty of revealing confidential client information simply because you didn’t know how to turn off phone notifications. On iOS devices look under the Notifications settings, and on Android devices look under Sound and Notification/Notification/App Notifications and block the notifications to keep them from interrupting you during breaks or focused time.

10 Use the grayscale trick. Turn your phone display to grayscale so that it becomes less appealing and forces you to use only what you should. Studies have likened the color screens and apps on smart phones to slot machines with their addictive pull. Going grayscale is thought to lessen this effect. You can set up grayscale in Android phones via the Accessibility menu, and on iOS devices under Settings/General/Accessibility/Accessibility Shortcut/Color Filters. Now, you just press the home button three times to enable grayscale. Triple-click again to go back to color.

11 Read Catherine Price’s “How to Break Up with Your Phone: The 30-Day Plan to Take Back Your Life.”

12 Use screen time management apps to help you “break up with your phone” temporarily and focus. Some apps to check out include:

- AntiSocial—www.antisocial.io;
- BreakFree—www.breakfree-app.com/index.html;
- bSociable—www.anti-apps.com;
- Flippd—www.flipdapp.co;
- Moment—inthemoment.io;
- OffTheGrid—www.offthegridapp.com;
- OffTime—offtime.es;
- RealizD—www.realizd.com;
- Sense—mysenseapp.com;
- Space—findyourphonelifebalance.com; and

And if you are a parent looking to limit screen time for your children, try Screen (www.getscreen.com).

We use devices daily; we should take time to make sure we are not overdoing it. Get started on a digital detox by using some of these tips and resources, and if you feel you need even more help, reach out to the Law Practice Management Program for additional assistance. Device addiction is a very real and growing concern for lawyers, but there is help.

Start now—put down your phone for at least one minute and look around!

Natalie R. Kelly
Director, Law Practice Management
State Bar of Georgia
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Pro Bono Legal Clinics Provide an Answer to Rural Access to Justice Challenges

Given the overwhelming demand for civil legal aid, please consider volunteering for a legal clinic. It’s an easy way to fulfill your professional obligation of 50 hours of pro bono each year. Check the clinics calendar on www.GeorgiaLegalAid.org to find one near you.

BY MIKE MONAHAN

One lawyer, one client—that seems to be the optimal and ordinary approach to the delivery of legal services, unless of course you live in rural Georgia and live at or below the poverty line.

Data about legal needs of low-income Georgians is available in a 2009 study undertaken by the Committee on Civil Justice of the Supreme Court of Georgia Equal Justice Commission. That report, no longer available online, notes that “more than 60 percent of low and moderate income households in Georgia experience one or more legal needs each year.” At the time of this study, the Legal Needs Study determined that low-income Georgians experienced 2.3 million legal needs each year. According to the federal Legal Services Corporation which provides funding to both Atlanta Legal Aid Society and Georgia Legal Services Program (GLSP), there are 2.2 million Georgians eligible to receive free civil legal assistance.

Structured pro bono programs are typically operated by legal aid programs as is the case outside metro-Atlanta with GLSP shouldering the civil pro bono operations in 154 mostly rural counties. The health and vitality of a pro bono program nested in a legal aid program relies on the overall financial health and vitality of its parent legal aid program.

In the face of the great demand for civil legal assistance within the low-income community in Georgia, and in light of the budgetary pressures on rural legal aid, we look to pro bono as, perhaps, the one critical means of increasing the supply of legal services. Large and small firm lawyers, government attorneys, in-house counsel, retired lawyers, law students and even many non-lawyers are eager to assist by donating their time as well as financial support.

And, although pro bono volunteers cannot replace the excellent work of legal services lawyers, many of whom are subject-matter experts in the unique issues faced by the poor, the private bar can make important contributions to closing the justice gap. Be reminded, though, that only about 30 percent of Georgia’s lawyers call rural Georgia home, but nearly 70 percent of Georgia’s poor live beyond metro-Atlanta.

The great challenge is to match the poor with legal needs with an available lawyer when the poor overwhelmingly outnumber the entire membership of the State Bar of Georgia—there are about 2,200 poor people for every 33 active, in-state lawyers. The one lawyer, one client approach is necessary in addressing many legal needs and will always be
important, but the pressing demand for legal assistance, especially in lawyer-scarce rural Georgia, indicates the need for an alternative: the pro bono legal advice clinic.

Brief services and advice clinics are an important means of empowering those who otherwise would not have legal assistance. At the same time, legal clinics offer a limited-representation opportunity to lawyers who may not be able to make a larger commitment of time or resources—including government, in-house, rural lawyers and solo practitioners. Legal clinics can provide free legal services, referrals to government agencies, mediation services, and referrals to other fee and non-fee legal service providers. Volunteer lawyers, staff of volunteer attorneys, paralegals and law students can participate to provide services in areas such as bankruptcy, child custody, consumer law matters, criminal records restrictions, divorce, unemployment insurance, landlord and tenant disputes, probate, disaster legal help and social security.

GLSP hosts pro bono legal clinics around the state throughout the year. The clinics are often held at community centers, senior centers or public libraries. GLSP solicits the help of volunteer lawyers and law students, providing training, clinic forms, professional liability insurance and participation rewards. At each pro bono legal clinic, as little as three and as many as 10 or more volunteer lawyers come together to serve as many as 40 or more clients in a three- or four-hour clinic. The efficiency of legal clinics in meeting demand is a major factor in their increasing popularity with clients and lawyers. Clients leave the lawyer-designed and lawyer-supervised clinic with specific legal advice, a brief services product like a simple will or letter to a creditor or landlord, or a forms packet with instructions and next steps. You can check out our clinics calendar on the home page of www.GeorgiaLegalAid.org and decide if you would like to volunteer at a clinic near you for a few hours. It’s an easy way to fulfill your professional obligation of 50 hours of pro bono each year.

Georgia Bar Rule 6.5 (Nonprofit & Court-annexed Limited Legal Services Programs) provides much-needed support for these legal clinics by allowing lawyer participation in these no-fee clinics without the usual and standard conflicts checking process. The clinic method does not always allow for advance notice of who’s coming for legal assistance. You can still participate in the one-off, limited scope services clinic. To read the full text of Rule 6.5 visit www.gabar.org/Handbook/index.cfm#handbook/rule559.

Given the overwhelming demand for civil legal aid, you should consider volunteering for civil legal clinics. Due Justice. Do 50.

PRO BONO STAR STORY

A. KELLY NEAL

BY RACHAEL B. SCHELL

A. Kelly Neal is currently a volunteer advocate specializing in education matters in the Macon-Regional Office of Georgia Legal Services Program. She is a 2005 graduate of Atlanta’s John Marshall Law School.

Neal found her passion for pro bono after her son’s diagnosis of autism; he was not being provided the services he needed to succeed academically. Neal knew things had to change when the only qualified attorneys she found represented school systems and not parents or students. She began taking nearly all her CLE in special education-related law.

Neal is a 2013 graduate of William & Mary Law School’s Institute of Special Education Advocacy, and has attended the Pacific Northwest Institute of Special Education and the Law in Seattle and Oregon. As recently as 2017, she attended the Special Education Symposium at Lehigh University in Pennsylvania. Neal also teaches the Law Merit Badge for Boy Scouts and was recently asked to participate on the Boy Scouts’ disability advisory council.

In February 2019, Neal brought attorney Peter Wright, a nationally recognized expert in the area of special education law, to speak at the Special Education Law and Advocacy Conference held in Macon. The conference boasted registrants from as far away as Oregon, with more than 175 total attendees from all over the country. The proceeds from the event benefitted Georgia Legal Services Program.

Endnotes

2. Id. at 12.

Mike Monahan
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2019 APRIL 63
New Improved Live Chat in Fastcase

Fastcase training classes are offered three times a month at the State Bar of Georgia in Atlanta for Bar members and their staff. Training is available at other locations and in various formats and will be listed on the calendar at www.gabar.org. Please call 404-526-8618 to request onsite classes for local and specialty bar associations.

BY SHEILA BALDWIN

Fastcase is the legal research tool many State Bar of Georgia members consider their most valuable benefit. Through Fastcase our attorneys have unlimited access to one of the largest law libraries in the world, specifically the entire Fastcase national law library, including cases, statutes, regulations, court rules, law reviews and bar publications. In addition to the intuitive and smarter legal research tools, our members can view training webinars and tutorials, access user guides and receive live customer support from members of the Fastcase team. Users are also able to utilize the free, industry-leading mobile app, which syncs to an individual's desktop account. This free member benefit has no restrictions on time or number of transactions and features unlimited printing, unlimited reference assistance and unlimited customer service at no cost.
My favorite way to access customer support is through Live Chat (see fig. 1), available as you are actively conducting research on your desktop, the very time you may need guidance. The amount of data contained within Fastcase requires a good understanding of the best approach to finding relevant and useful information. You may have taken a free class here at the Bar Center or participated in a Fastcase webinar conducted by one of their reference attorneys, both of which left you with a solid grasp on how to use the product in general, but there may be times when you need specific and immediate assistance. That’s when you should engage Live Chat by clicking on the tab from any screen. This tool has recently been refreshed with a new look, making this an excellent time to go over how you can take full advantage of its usefulness.

Live Chat allows researchers to connect with a law librarian or reference attorney any time between 8 a.m. - 8 p.m., Monday through Friday. The stateside outreach team is happy to help with technical and reference questions in live time. The updated Live Chat enables the attorneys and researchers to provide information quickly and easily while still retaining our focus on access to the law. Since the State Bar has partnered with Fastcase, I have rarely had to wait for a response from the Live Chat team.

One of the complex functions of Boolean Search is that the phrases need to be very specific, often yielding long and unwieldy series of words. Consider this query: (testimon* or marital) /3 privilege AND (compel* or requir*) /5 testify AND (spous* or husband or wife) NOT civil—not an easy set of words and connectors to discuss with someone on Fastcase phone support. It is much easier for the reference attorney to see the exact phrasing through Live Chat. Typos, a missing space or a question mark instead of a quotation mark can cause a search to fail, therefore, it’s best to copy and paste the phrase directly into the Live Chat box (be sure to include the jurisdiction). The Fastcase reference attorney will then analyze your search and be able to recommend additional terms to include or suggest other ways to construct your query that will produce better results (see fig. 2). They can even send sample reference phrases in Boolean to help expedite the process. Simply copy and paste the suggested phrase into your search box. The Fastcase team can also post links to helpful images, sources and support materials to assist with your research process.

We encourage you to take advantage of this great resource. Learn more about this member benefit by taking a Fastcase webinar or attending a live training at the Bar Center. CLE credit is available for either option.

Sheila Baldwin
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State Bar of Georgia
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Law and the English Language

Lawyers should be aware of the power of abstractions and use them to avoid creating unhelpful images.

BY DAVID HRICIK AND KAREN SNEDDON

Good legal writing is accurate, clear and purposeful. In his 1946 essay “Politics and the English Language,” George Orwell identified bad writing habits that made writing unclear. For example, he noted the failure to not pick “out words for the sake of their meaning and inventing images in order to make the meaning clearer,” but instead “gumming together long strips of words which have already been set in order by someone else. . . .” Citing Orwell’s essay, one court recently emphasized that point:
Imprecision and lack of attention to detail severely dampen the efficacy of Plaintiffs’ written submission to this Court. Equally unhelpful is Defendant’s one sentence, conclusory response that is completely devoid of any substance. Advocates, to be effective, must take the “necessary trouble” to present the Court with coherent, well-reasoned and articulable points for consideration. At times, the Court was forced to divine some meaning from the incomprehensible prose that plagued Plaintiffs’ written objections. Lest there be any confusion, the Court graciously did so even though it could have simply refused to give the faulty objections any consideration at all. The Court would have been equally obliged to treat Defendant’s failure to provide a meaningful response as a concession of Plaintiffs’ objections.2

Not all readers will be kind enough to do a writer’s work for him. Imprecision can lose cases and clients. Although written shortly after World War II, the essay’s lessons about how to avoid unintentionally obscuring meaning are as helpful now as ever. Indeed, Judge Richard A. Posner described the essay as “[t]he best style ‘handbook.’”

This installment of “Writing Matters,” however, focuses on a different lesson from that same essay: words can be chosen, intentionally, to obscure what the writer actually means. Specifically, Orwell recognized that abstract words can be used “to name things without calling up mental pictures of them.” As an example, he noted a politician would state “a certain curtailment of the right to political opposition is an unavoidable concomitant of transitional periods,” instead of “I believe in killing off your opponents when you can get good results by doing so.” Abstractions avoid creating images best left unseen.

Just as imprecision continues unabated, people continue to use abstractions to avoid creating images so they can defend the indefensible. In a March 2019 Congressional hearing, members of Congress asked Homeland Security Secretary Kirstjen Nielsen about pictures showing detained immigrant children being kept inside a warehouse in an area surrounded on all four sides by a 10-foot-high chain link fence and with chain link also covering the space above the fence itself. Asked if these children were in “cages,” she said: “They are not cages, they are areas of the border facility that are carved out for the safety and protection of those who remain there while they’re being processed.” Asked how that differed “from the cages you put your dogs in when you let them stay outside,” she began to explain, “It’s larger, it has facilities, it provides room to sit, to stand, to lay down,” before a representative interrupted with: “So does my dog’s cage.”

Secretary Nielsen was advocating with abstractions. No one would criticize keeping children in “areas of the border facility that are carved out for” their safety, but “keeping children in cages” would be an outrage. She could never justify keeping children in cages, but keeping them safe—everyone is for that. She wanted her words to create the image of safe children, not caged ones. To do so, she used abstractions.

Lawyers should be aware of the power of abstractions and use them to avoid creating unhelpful images. Is it “pain and suffering” or “noneconomic damages?” Is it “hiring her because she was Asian” or “affirmative action?” Is a patent owner a “patent troll” or a “patent assertion entity?” As a simple but powerful example, compare “Plaintiff was struck by Defendant’s car.” Ms. Jones is a real person; the defendant, an abstraction: make it pay her.

Orwell, of course, warned against abstractions as a means to portray brutality as bureaucracy. Abstractions are so powerful they can do that. They should be a tool in your legal writer’s kit.

David Hricik is a professor of law at Mercer University School of Law who has written several books and more than a dozen articles. The Legal Writing Program at Mercer continues to be recognized as one of the nation’s top legal writing programs.

Karen J. Sneddon is a professor of law at Mercer University School of Law.

Endnotes
1. Available at: https://faculty.washington.edu/rsoder/EDLPS579/HonorsOrwellPoliticsEnglishLanguage.pdf.
20th Annual Justice Robert Benham Awards for Community Service

The Commission was privileged to again honor another exceptional group of judges and lawyers who provided servant-leadership to their communities.

BY KARLISE Y. GRIER

The 20th Annual Justice Robert Benham Awards for Community Service, sponsored by the Chief Justice’s Commission on Professionalism (Commission), in partnership with the Ronald J. Freeman Chapter of the Black Law Students Association, was held on Saturday, March 9, at the Georgia State University Student Center East in Atlanta.

Beginning in 1998, the Commission has presented the Benham Awards to Georgia attorneys and judges who go beyond their usual legal work or judicial duties to serve their communities. Judges and lawyers meet the criteria for these awards if they combine a profes-
sional career with outstanding service and dedication to their communities through voluntary participation in community organizations, government-sponsored activities, or humanitarian work outside of their professional practice or judicial duties. Service may be made in any field, including but not limited to: social service, education, faith-based efforts, sports, recreation, the arts or politics. The selection committee generally believes that community or public service is not service to a bar association; however, community service can be done through bar-sponsored or related activities or projects.

Awards Program
Chief Justice Harold D. Melton welcomed everyone on behalf of the Supreme Court and the Commission. Prof. Tanya Washington brought greetings on behalf of Georgia State University College of Law and the Ronald J. Freeman Chapter of the Black Law Students Association. Joshua I. Bosin, partner, Holland and Knight, and Racquel V. McGee, Georgia State University J.D. Candidate, served as Master and Mistress of Ceremonies for the evening. President Kenneth B. Hodges and YLD President Rizza O’Connor made remarks on behalf of the State Bar of Georgia. Karlise Y. Grier, executive director of the Commission, introduced the honorees and assisted Chief Justice Melton and Justice Benham in presenting the awards.

Award Recipients
The Commission was privileged to again honor another exceptional group of judges and lawyers who provided servant-leadership to their communities. The Lifetime Achievement Award for Community Service recognizes a

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Laverne Lewis Gaskins
lawyer or a judge who, in addition to meeting the general criteria for the Justice Robert Benham Award for Community Service, has also demonstrated an extraordinarily long and distinguished commitment to volunteer participation in the community throughout his or her legal career. The award was presented posthumously to Hon. P. Harris Hines, former chief justice, Supreme Court of Georgia, Marietta, and accepted by his wife, Helen Hines; and Hon. Willie J. Lovett Jr., former judge, Fulton County Juvenile Court, Atlanta, and accepted by his wife, Seletha R. Butler.

The Justice Robert Benham Award for Community Service District Awards were presented to: Robert F. Mikell, Statesboro; Christopher S. Cohilas, Albany; Christina L. Folsom, Valdosta; Cheryl L. Milton, Macon; Hon. Clarence F. Seeliger, Decatur; Gordon L. Joyner, Atlanta; Deepa Subramanian, Atlanta; Stephanie L. Steele, Marietta; Julia K. Greene, Gainesville; and Hon. Regina M. Quick, Athens.

Creative Connections
This year, in keeping with Justice Benham’s desire to foster camaraderie between lawyers and judges through their artistic endeavors, the State Bar’s Creative Connections Subcommittee of the Committee on Professionalism, chaired by Josh Bosin, secured volunteers to display their talents during the ceremony. Musical entertainment included: Norman Barnett, Laurel Boatright, Kevin Wilson, Abbey Martin, Hon. Chung Lee, Patricia Buounodo and Brad Ketch. Hon. Gail Tusan, Hon. Benni Lane (retired) and Yolonda Martin-Brown danced with their dance troupe, “Always Wanted to Dance.” Participating visual artists included: Rosalind Rubens Newell, O.V. Brantley and honoree Cheryl L. Milton (quilts); Phil Sandick (photography); and Hon. Phinia Aten (painting). The after-party entertainment featured the Specific Deviations Band (Cobb County Superior Court Judge LaTain Kell, along with attorneys Vic Valmus, Jeremy Abernathy, John Lyndon and others). Georgia State law students were also invited to participate, and 2019 J.D. candidate Vonciel T. Bryant performed.

Community Service Project
New for 2019, the Commission spearheaded a community service project as part of the awards ceremony, thanks to a suggestion from Hon. Susan Edlein, judge, State Court of Fulton County. The Commission created 30 food baskets that were used as table centerpieces. Following the program, the food was donated to the Atlanta Community Food Bank. Thank you to our Community Service Sponsor Don C. Keenan of the Keenan Law Firm.

Special Thanks
The 2019 Awards Ceremony was successful because of the hard work of many. Selection committee members who determined the recipients included: Janet G. Watts, attorney, Chapter 7 Trustee, U.S. Bankruptcy Court, Jonesboro; Elizabeth L. Fite, DeKalb County Attorney’s Office, Decatur; Hon. Joy Lampley-Fortson, U.S. Department of Justice, New Orleans; Laverne Lewis Gaskins, Augusta University, Augusta; Michael Hobbs Jr., Troutman Sanders LLP, Atlanta; W. Seborn Jones, Owen, Gleaton, Egan, Jones & Sweeney LLP, Atlanta; Hon. Chung Lee, associate judge, Duluth Municipal Court, Duluth; William “Bill” Liss, legal and financial advisor, WXIA-TV News, Atlanta; and Brenda C. Youmas, Edwards & Youmas, Macon.

A complete list of the approximately 100 lawyers, judges and other legal professionals who provided sponsorships and who volunteered to make the 20th Annual Justice Robert Benham Awards for Community Service a huge success are listed at: http://cjcpga.org/benhamcsa20-volunteers-and-sponsors.

In addition, the Commission wishes to thank others who worked behind the scenes to ensure the honorees had an outstanding evening as follows: Chief Justice Harold D. Melton; Justice Sarah Hawkins Warren; Michelle Barclay, Jacqueline Booker and the Administrative Office of the Courts of Georgia; Rhonda Phillips; Leslie Stewart; Joyce Javis; and the members, advisors and liaisons of the Chief Justice’s Commission on Professionalism, including Hon. Carla Wong McMillian, Court of Appeals of Georgia, who served as the guest tweeter for #BenhamCSA20.


Karlise Y. Grier
Executive Director
Chief Justice’s Commission on Professionalism
kygrier@cjcpga.org
Christopher S. Cohilas
Chair, Dougherty County Board of Commissioners; member, Georgia Public Defender Council; co-chair, Albany’s annual King Day Celebration; helped establish the Lilypad SANE Center, the first rape and child abuse crisis center in Dougherty County.

Christina L. Folsom
Past president, Board of Directors for Lowndes Associated Ministry for People, Inc.—Valdosta’s homeless organization; secretary, Board of Directors for Tennis Valdosta, where in 2018, Valdosta won a bid to host its first USTA State Championship that brought in more than a half million dollars in economic development to the community.

Julia K. Greene
Past president, Gainesville-Hall County Junior League; president-elect, Quinlan Visual Arts Center Board of Directors; volunteer, the AIDS Alliance, the Northeast Georgia Speech Center, Hall County Habitat for Humanity Women’s Build, the Agnes Scott College Alumnae Board and the DeKalb Rape Crisis Center.

Hon. P. Harris Hines
Past distinguished president of the Kiwanis Club of Marietta and a past distinguished lieutenant governor of the Georgia District of Kiwanis International; served on the inaugural Board of Directors of the Cobb-Marietta Girls Club; elder, First Presbyterian Church of Marietta.

Gordon L. Joyner
Member, Fulton County Board of Commissioners; authored and secured the passage of Fulton County’s Fair Housing Ordinance; executive director and administrator, Georgia’s civil rights department; former director, HUD’s Office of Fair Housing Enforcement; coordinated the federal government’s nationwide effort to combat housing discrimination.

Hon. Willie J. Lovett Jr.
Chair (2012-15) and vice chair (2010-12), Chattahoochee Hills Charter School Board of Directors; member, National Association of Counsel for Children Board of Directors; active with Impact Church in many leadership capacities and maintained the gardens on the church’s two campuses.

Robert F. Mikell
Organized Statesboro’s America’s Best Communities competition, resulting in $1 million in seed money for the Blue Mile; led the effort to charter the Statesboro Branch of YMCA of Coastal Georgia; president of Habitat for Humanity of Bulloch County; chair, the Downtown Statesboro Development Authority; chair, Statesboro-Bulloch Chamber of Commerce.

Cheryl L. Milton
Member of nonprofit Crossroads Quilt Guild sewing quilts for the homeless; donates homemade pillows, pillow cases and quilts to numerous nonprofit community organizations across middle Georgia; volunteers in distributing Thanksgiving baskets to the needy via The Feed Center in Fort Valley.

Hon. Regina M. Quick
Started a self-represented litigant center in the Athens-Clarke County Courthouse, helping serve pro se individuals in domestic relations cases; spearheaded the Athens Access to Justice initiative, which organizes lawyers who volunteer once a month to offer advice at “pop-up” clinics for underserved members of the community.

Hon. Clarence F. Seeliger
Member, DeKalb County Task Force for Domestic Violence (1993-96); chair (1996-2002) and member (2002-present) Georgia Commission on Family Violence; founding board member, DeKalb Volunteer Lawyers Foundation; active in promoting civil rights.

Stephanie L. Steele
Chair, Marietta Tree Keepers, a nonprofit organization dedicated to planting, preserving and protecting trees in and around the city of Marietta; committee member, American Cancer Society Swordman’s Ball auction; volunteer, the Northwest Georgia American Heart Association Walk; team captain, Marietta’s Sleigh Bells on the Square.

Deepa Subramanian
Helped prosecute war crimes for the United Nations International Criminal Tribunal for Rwanda; organizer, annual Legal Food Frenzy drives for the Georgia Food Bank Association; volunteer attorney with Georgia Asylum and Immigration Network’s Victims of Violence Program, Tape-stri, CARE and the Pro Bono Partnership of Atlanta; Grady Hospital NICU volunteer.

*partial list of honoree accomplishments
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.

MICHAEL ALAN ANDERSON
Chattanooga, Tennessee
Samford University
Cumberland School of Law (1985)
Admitted 1991
Died January 2019

MAX B. ASBELL
Warner Robins, Georgia
Mercer University Walter F. George School of Law (1960)
Admitted 1959
Died January 2019

RANDY BACOTE
College Park, Georgia
California College of Law (1971)
Admitted 1973
Died September 2018

FREDERICK G. BOYNTON
Atlanta, Georgia
Tulane University Law School (1973)
Admitted 1976
Died November 2018

JACK THOMAS BRINKLEY
Columbus, Georgia
University of Georgia School of Law (1959)
Admitted 1958
Died January 2019

DANIEL GEORGE CHEEK
Atlanta, Georgia
Georgia State University College of Law (2007)
Admitted 2007
Died January 2019

JAMES H. COIL III
Atlanta, Georgia
Harvard Law School (1970)
Admitted 1971
Died December 2018

R.C. COUGILL
Demorest, Georgia
University of Nebraska College of Law (1968)
Admitted 1974
Died January 2019

HERBERT M. CRANE JR.
Cartersville, Georgia
University of Georgia School of Law (1962)
Admitted 1961
Died December 2018

JOHN STEPHEN CRAWFORD
Warm Springs, Georgia
University of Chicago Law School (1958)
Admitted 2006
Died December 2018

JOHN R. CRENshaw
Smyrna, Georgia
Emory University School of Law (1962)
Admitted 1961
Died January 2019

EMERY L. DUFFY
Crystal Lake, Illinois
Gilbert Johnson Law School (1959)
Admitted 1960
Died November 2018

E. SAMUEL EVANS
Aplin, Georgia
Woodrow Wilson College of Law (1979)
Admitted 1979
Died January 2019

LOIS W. GOSSETTE
Greensboro, Georgia
Atlanta’s John Marshall Law School (1977)
Admitted 1977
Died October 2018

GERARD DEAN HEGSTROM
Brunswick, Georgia
University of Minnesota Law School (1959)
Admitted 1989
Died December 2018

WILLIAM R. HURST
Atlanta, Georgia
University of Tennessee College of Law (1959)
Admitted 1969
Died November 2018

HOWARD R. JOHNSON
Atlanta, Georgia
University of Miami School of Law (1973)
Admitted 1973
Died January 2019

THERESA R. LANDE
Marietta, Georgia
Rutgers Law School (1981)
Admitted 1981
Died October 2018

C. TRUITT MARTIN JR.
Dawson, Georgia
University of Georgia School of Law (1976)
Admitted 1976
Died January 2019

L. HUTCH MOORE
Atlanta, Georgia
Georgia State University College of Law (1987)
Admitted 1988
Died January 2019

DONN MILLARD PEEVY
Lawrenceville, Georgia
Atlanta Law School (1980)
Admitted 1980
Died January 2019

TERRY LYNNE RUSS
Atlanta, Georgia
Berkeley Law – University of California (1996)
Admitted 1997
Died November 2018

JAMES ALAN SECORD
Chattanooga, Tennessee
University of Georgia School of Law (1973)
Admitted 1974
Died January 2019

JOHN L. SHELNUTT
Atlanta, Georgia
University of Georgia School of Law (1958)
Admitted 1958
Died January 2019

ANNE-MARIE SHIPE
Atlanta, Georgia
Georgia State University College of Law (2002)
Admitted 2003
Died November 2018

M. T. SIMMONS JR.
Gainesville, Georgia
University of Georgia School of Law (1960)
Admitted 1960
Died January 2019

WILLIAM G. VANCE
Atlanta, Georgia
University of Virginia School of Law (1963)
Admitted 1963
Died September 2018

LISA WEBB WANNAMAKER
Atlanta, Georgia
Emory University School of Law (1985)
Admitted 1985
Died December 2018

ELIZABETH BENTLEY WATSON
Atlanta, Georgia
University of Georgia School of Law (1983)
Admitted 1983
Died February 2019
OBITUARIES

Former Georgia State Senator Donn M. Peevy of Lawrenceville died in January. Peevy was a 1967 graduate of Buford High School. He received his B.S. in Criminal Justice from Georgia State University in 1974 and his J.D. from Atlanta Law School in 1980.

Peevy was a criminal defense attorney in the Gwinnett County court system for more than 37 years, with litigation experience in criminal, civil, domestic and appellate law. Prior to his law career, Peevy was a police officer with the Gwinnett County Police Department, serving as head of the Vice and Intelligence Division from 1969-75.

Peevy was a legislative assistant to U.S. Congressman Edgar “Ed” Jenkins in Washington, D.C., from 1976-79, after which he was a prosecutor for the Gwinnett County State Court in 1980. Peevy was elected to serve as a state senator for the 48th District in 1982 and served through 1989. During his seven years in the Senate, Peevy served on the Transportation Committee, Appropriations Committee and as chairman of the Senate Judiciary. He practiced law for 15 years at Peevy & Lancaster, PC, Attorneys at Law. Peevy continued a law firm under the name of The Peevy Firm, PC, until 2017. Peevy was a member of the American Bar Association, State Bar of Georgia and Gwinnett County Bar Association, and was admitted to practice in the Court of Appeals of Georgia, Supreme Court of Georgia, U.S. District Court for the Northern District of Georgia and the U.S. Supreme Court.

Marvin T. “M. T.” Simmons Jr. of Gainesville died in January. Simmons was born and raised in Donalsonville. He attended the University of Georgia, graduating in 1959 with a B.B.A. in accounting, followed by a J.D. in 1960. Throughout his legal career, Simmons practiced in the Decatur area, serving as president of the Decatur-DeKalb Bar.

Simmons served on the Board of Governors of the State Bar of Georgia (1975-2005). He chaired the State Bar Disciplinary Board (1978-79), the State Bar Lawyer Assistance Program (2000-01) and was a member of the Georgia Board of Bar Examiners (2005-10) completing his term as chair of that body.

A driving force in the creation of the Family Law Section of the State Bar, Simmons served as the chair of the first Family Law Institute in March 1983, as well as chair of the Family Law Section (1982-83). He received the Family Law Section’s Joseph P. Tuggle Jr. Award for professionalism in 1998, which recognizes those who exemplify the aspirational qualities of professionalism. Simmons was the 1994 recipient of the section’s Jack P. Turner Award, which honors lawyers who represent the pinnacle of what all family lawyers should strive to achieve: service, ethical conduct and professionalism. He served as the associate editor of the Family Law Section newsletter from 1996-97.

A formidable courtroom presence and skillful advocate, Simmons’ skills were recognized by his peers. A member of the prestigious American Academy of Matrimonial Lawyers since 1981, he served as vice-chair of the Georgia Chapter from 1984-85. He was invited to join the American College of Trial Lawyers in 2001. A true believer in the importance of lawyer’s comradery, he was an active member of the Lawyers Club of Atlanta, president of the Advocates Club and president of the Old War Horse Lawyers Club. In later years, Simmons acted as a mediator of family law disputes.

Memorial Gifts

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

by Rebecca Shiver Davis
165 pages, University of Georgia Press

REVIEWED BY KEVIN PATRICK

The story of Justice Leah Ward Sears’ remarkable personal journey and legal career is told in the context of historical and political events that have indelibly shaped Georgia and the legal profession. “Seizing Serendipity” explores Sears’ childhood and family, educational background and early legal career. This biography also chronicles Sears’ rise through the Georgia court system to become the chief justice of the Supreme Court of Georgia and now her pursuits following her return to private practice.

The essence of Sears can be traced to her father Thomas Euric Sears, who served as a lieutenant colonel in the U.S. Army. He was known for his self-discipline. Lt. Sears also earned the Legion of Merit and the Distinguished Flying Cross for his valor. He married Onnye Roundtree, who was a school teacher, in 1953. Their second child was Leah Jeannette Sears. Her early years were shaped by living in Germany, followed by Maryland and Savannah during the 1960s, the Civil Rights Movement, assassination of President John F. Kennedy and the Vietnam War.

Sears was recruited to attend Cornell University. She recalls being so pleased with all of the diversity supporting programs offered by this university, such as its Committee on Special Education Projects and the women’s studies program. While there were still very real challenges with race and gender discrimination during this time on campus, Sears and Pam Monroe, one of her close friends, maintained their studious habits. In fact, Sears exclaimed that Cornell offered, “Not one library, but six libraries.”

During this time, Sears met Love Collins III, who was a cadet at the U.S. Military Academy, and they were married on July 3, 1976. Sears began law school at Duke University. She put her dreams on hold to spend a year in Columbus with her husband and then enrolled at Emory Law School. She was an ambitious student and worked during the summer in the Columbus office for the Georgia Legal Services Program. After law school, she accepted a position at Alston, Miller and Gaines (now Alston & Bird). Sears, along with nine other attorneys, established the Georgia Association of Black Women Attorneys while working at the firm.

To fulfill her calling to engage in public service, Sears left the firm to serve as a judge for the City Court of Atlanta. Sears also welcomed her first daughter Brennan, who was named for the Supreme Court Justice William Brennan. She embraced a new judicial challenge after serving on that court for three years and ran for a spot on the Fulton County Superior Court. Sears maintained her poise and civility and won a contentious election, becoming the first African-American female Superior Court judge. As a judge, Sears was tasked with making difficult decisions ranging from parental rights and medical ethics. After interviewing with Gov. Zell Miller, Sears received a call from him appointing her to the Supreme Court of Georgia. Notably, Coretta Scott King wrote Sears a letter declaring her appointment “another shared triumph for the cause of progressive social change and equal opportunity.” One of her first cases dealt with racial bias in preemptive strikes for jurors. While on the bench, she faced opposition in the 1992 election, but
again Sears overcame the challenges and won the election. Her success, along with other jurists like Justice Carol Hunstein, ushered in the “Year of the Women” according to many leading magazines.

Although Sears’ first marriage ended in 1995, she remained committed to her children and persevered with her work. The court heard cases involving anti-discrimination and gay rights. For example, Sears made an impassioned dissent in the Christensen case and later authored the majority opinion in Powell. She met Haskell Ward during this time. He previously served in the Peace Corps in Africa and had a distinguished legal career. Sears and Ward were married in 1999.

Sears overcame another bruising election cycle in 2004. She attributed her success to her fidelity to the Constitution and the voters’ desire for judicial integrity. Sears was elected as the chief justice of the Supreme Court of Georgia by her colleagues on the bench exactly four months after this election. Her profile gained national attention of her professional accomplishments. Sears was even considered for the U.S. Supreme Court.

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Along with reading this biography, this reviewer also had the pleasure of meeting with Justice Leah Ward Sears to discuss “Seizing Serendipity” and listen to her reflections about her remarkable legal career. Sears graciously shared one of her fondest memories from the Supreme Court of Georgia along with advice to younger lawyers and Sears’ hopes for her legacy from her time on the court.

While Sears has many fine memories from her time on the Supreme Court of Georgia, she still distinctly remembers sitting between Justice Thurgood Marshall and Justice Clarence Thomas during her investiture. She was fascinated listening to these esteemed jurists talk with each other about their experiences on the Court. Sears was also moved by their assurances of mutual respect despite their ideological differences. To this day, Sears is honored that she was able to bring them together for this special ceremony. She fervently hopes that the political climate will shift back to the professionalism and collegiality of those days.

Her advice to young lawyers parallels the title of her biography. She encourages each young lawyer to take advantage of opportunities (and not to be afraid in doing so). Young lawyers, and all people for that matter, should work through their fears and insecurities. Sears remarked, “If you fall down, it’s ok, just remember to get back up even if it means walking with a limp.” In fact, she remembers doing it on a personal level after her brother took his life. Sears embraced the legacy of his life and worked through her sadness and pain.

Sears wants to be remembered for breaking the glass ceiling and doing it with dignity and respect. She especially remembers her father’s sense of pride when she took the oath of office because he grew up in a very segregated community. Her tenure both on the Fulton County Superior Court and Supreme Court of Georgia led to an opening of the courts for all people and fostered a culture that recognizes the importance of accepting all people regardless of their different backgrounds and life experiences.

Justice Leah Ward Sears “Seizing Serendipity” is must-read for members of the legal community. Rebecca Shriver Davis has gracefully articulated the personal and legal journey of a pillar of our community. In sum, Sears serves as an inspiration and role model for all of us.
### APRIL

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<td>ICLE: Construction Law for the General Practitioner</td>
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<td>ICLE: Truck Wreck Cases</td>
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<td>9-11</td>
<td>ICLE: Real Property Law Institute</td>
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<td>ICLE: False Claims Act Summit</td>
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<td>ICLE: Group Mentoring</td>
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<td>ICLE: 37th Annual Family Law Institute</td>
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<td>31</td>
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### JUNE

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<td>ICLE: Social Justice Advocacy in Action</td>
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<td>20</td>
<td>ICLE: Administrative Law for Attorneys</td>
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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.gabar.org.
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Notice of Withdrawal of Formal Advisory Opinion No. 87–6

Members of the State Bar of Georgia are hereby NOTIFIED that on Feb. 18, 2019, the Supreme Court of Georgia issued an order withdrawing Formal Advisory Opinion No. 87–6. Formal Advisory Opinion No. 87–6 addressed the ethical propriety of a lawyer interviewing the current officers and employees of an organization when that organization is the opposing party in litigation without the consent of the organization’s counsel.

The State Bar of Georgia filed a petition for withdrawal in the Supreme Court of Georgia on Sept. 21, 2018, asserting that Georgia Rule of Professional Conduct 4.2 addresses the question presented. On Feb. 18, 2019, the Supreme Court of Georgia issued an order granting the State Bar’s petition. Visit http://bit.ly/WD_876 to access a copy of the order.

For ethical guidance regarding the issue previously addressed in Formal Advisory Opinion No. 87–6, please see Georgia Rule of Professional Conduct 4.2.

Notice of and Opportunity for Comment on Amendments to the Rules of the United States Court of Appeals for the Eleventh Circuit

Pursuant to 28 U.S.C. § 2071(b), notice and opportunity for comment is hereby given of proposed amendments to the Rules of the United States Court of Appeals for the Eleventh Circuit. The public comment period is from April 1 to May 1, 2019.

A copy of the proposed amendments may be obtained on and after April 1, 2019, from the court’s website at www.ca11.uscourts.gov/rules/proposed-revisions. A copy may also be obtained without charge from the Office of the Clerk, U.S. Court of Appeals for the Eleventh Circuit, 56 Forsyth St. NW, Atlanta, GA 30303 (phone: 404-335-6100).

Comments on the proposed amendments may be submitted in writing to the Clerk at the above address, or electronically at www.ca11.uscourts.gov/rules/proposed-revisions, by 5 p.m. Eastern Time on May 1, 2019.

Proposed Amendment to the Uniform Rules for Superior Court

At its business meeting on Jan. 24, 2019, the Council of Superior Court Judges approved a proposed amendment to Uniform Superior Court Rule 36.16. A copy of the proposed amendment may be found at the Council’s website at georgiasuperiorcourts.org.

Should you have any comments on the proposed amendment, please submit them in writing to the Council of Superior Court Judges at 18 Capitol Square, Suite 104, Atlanta, GA 30334 or fax them to 404-651-8626. To be considered, comments must be received by Monday, Aug. 5, 2019.
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Index

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