Irrevocable Trust Modification: Clarifying Georgia Law
The State Bar of Georgia announces its annual Fiction Writing Competition

Deadline: Jan. 13, 2023

The Editorial Board of the Georgia Bar Journal is pleased to announce that it will sponsor its Annual Fiction Writing Contest in accordance with the rules set forth below. The purposes of this competition are to enhance interest in the Journal, to encourage excellence in writing by members of the Bar and to provide an innovative vehicle for the illustration of the life and work of lawyers. For more information, contact Jennifer R. Mason, Director of Communications, 404-527-8761 or jenniferm@gabar.org.

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

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

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

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

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

6. All submissions must be received at State Bar headquarters in proper form prior to the close of business on a date specified by the Board. Submissions received after that date and time will not be considered. Please direct all submissions to: Jennifer R. Mason, Director of Communications, by email to jenniferm@gabar.org. If you do not receive confirmation that your entry has been received, please call 404-527-8761.

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

8. The winning article, if any, will be published. The Board reserves the right to edit articles and to select no winner and to publish no article from among those submitted.
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Welcome to the October issue. Thank you so much for flipping through or scrolling through this edition of the Georgia Bar Journal. Here are some highlights you can look forward to:

Health and wellness are major themes in this issue. YLD President Ron Daniels kicks things off with his article, “Be Well.” As Daniels writes, as we continue to be more open and honest about the stress associated with the legal field, it’s important to remember that there are many outlets for releasing that stress. It’s essential to have a hobby that allows us to escape the rigors of the profession—and for Daniels, that hobby is BBQ. It’s impressive.

In her article “What SOLACE Does for Georgia’s Legal Community,” State Bar of Georgia’s Coastal Georgia Office Manager Kindall Harville writes about the SOLACE program. SOLACE allows the legal community to reach out in meaningful and compassionate ways to judges, lawyers, court personnel, paralegals, legal secretaries and their families who experience deaths or other catastrophic illnesses, sickness or injuries. It’s an invaluable program for those dealing with grief and severe stress.

SOLACE is just one of the services and benefits that the State Bar of Georgia offers its members. In his article “Conversations on Bar Benefits and Professionalism,” State Bar of Georgia Executive Director Damon Elmore discusses the different resources available to Georgia’s legal community. He has a candid discussion with his friends and colleagues about their favorite State Bar of Georgia programs, the value of committee work and the importance of professionalism.

Attorney health and well-being are also the central premises of attorney Megan Rit-tle’s article, “Wellness Through the Stages of Practice.” In this second installment, Megan writes about attorney wellness throughout the many stages of practicing law and how to balance our personal lives with our professional lives. She reminds us that we’re not alone and that there are resources available. If you’re interested in reading the first article in this series, be sure to look back at the August issue of the Georgia Bar Journal.

Our legal article is “Irrevocable Trust Modification: Clarifying Georgia Law” by Madalyn Davis and Kristin Miller. The authors propose that to understand and evaluate the competing approaches concerning the use of nonjudicial settlement agreements, one must look to the Trust Code sections themselves. They discuss the legislative history of the Code as well as the intent of any revisions.

In this issue, we are also excited to share articles about the Georgia Bar Foundation’s 2022 Grants ($3.7 million), the 30th anniversary of the award-winning Law School Orientations on Professionalism program and the Tifton Judicial Circuit Bar Association’s 2022 Liberty Bell Award.

We hope you enjoy all of this content—and more—in the October issue. Thank you, again, for your support of the Georgia Bar Journal, and we’ll see you in December.

MEGAN HODGKISS
Editor-in-Chief, Georgia Bar Journal
journal@gabar.org
At the beginning of this Bar year, I included making the public aware of what the State Bar of Georgia does to ensure the residents of this state are well served by lawyers as one of our top priorities. At every opportunity, we are making an effort to remind the public of how a unified Bar protects their interests.

The most important of these is our program of self-regulation, and it always has been.

Hugh Dorsey, who became the first president of the unified State Bar of Georgia in 1964 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 fulfills this duty through strict codes of ethics and discipline that are enforced by the Supreme Court of Georgia, through the work of the State Bar’s Office of the General Counsel. The process is driven by investigations and reviews of the State Disciplinary Board, which includes Bar members and non-lawyers alike.

The disciplinary program is funded by Bar members’ mandatory license fees. Further, the unified Bar recognizes the unique status of lawyers as officers of the court and the accompanying need for an enhanced system of regulation for the legal profession.

The State Bar’s disciplinary process is presented in full on our website. All Georgia lawyers would benefit from familiarizing themselves with the process and taking advantage of the Office of the General Counsel’s Ethics Helpline at 404-527-8741 or 800-682-9806 or by email through a link on the Bar website with questions about ethics and disciplinary rules and potential ethical dilemmas.

I’ll summarize the disciplinary process here. The early stages of an investigation are completely confidential as to the Bar. The Supreme Court of Georgia regulates the practice of law in Georgia and has the final say regarding any public discipline against a lawyer. The State Disciplinary Board decides which cases the State Bar of Georgia will prosecute, and the lawyers in the Office of the General Counsel prosecute those cases. There are three stages to a disciplinary matter: the initial screening process, a formal investigation by the State Disciplinary Board and disposition—through dismissal, imposition of confidential discipline or public proceedings.

Screening Process
When a member of the public contacts the State Bar about a problem with a lawyer, the inquiry goes to the Client Assistance Program (CAP), which
can intervene when a client is having trouble communicating with their lawyer or when a call to the lawyer might resolve the problem. If CAP staff cannot resolve the matter informally, they may send a grievance form to the person who has complained.

Filing a grievance is the most direct method of bringing possible misconduct to the attention of the Bar, but the Office of the General Counsel is allowed to begin an investigation when it receives “credible information” of a violation of the rules. Articles in the press or misconduct reported in court orders may serve as the basis for an investigation even when no one has filed a grievance.

The screening process typically involves sending the grievance to the respondent lawyer with a request for a response within 14 days. When the lawyer responds, the Bar’s Grievance Counsel may send the response to the grievant for additional comments or rebuttal. The Grievance Counsel may ask the lawyer for a copy of the client file, bank records or other information that would help resolve the matter.

At the end of the screening process the Office of the General Counsel may dismiss grievances that do not present sufficient merit to proceed. Those that seem to involve a violation of Bar Rules proceed to the next level of investigation with the State Disciplinary Board.
State Disciplinary Board
The State Disciplinary Board consists of volunteers, who are appointed by the Supreme Court and the State Bar president and serve three-year terms. There are four non-lawyer members. The lawyer members are assigned individual grievances to investigate, and the board, similar to a criminal grand jury, determines whether there is probable cause to believe that a lawyer’s conduct violated Bar Rules.

The board’s work begins when the respondent lawyer is served with a Notice of Investigation, which lists the specific rules involved in the investigation and must be served on the lawyer in accordance with the Bar Rules.

After service, the respondent lawyer has 30 days to submit a sworn, written response to the Notice of Investigation. If the lawyer does not respond and the alleged rules violation carries a penalty of disbarment, the board may recommend that the lawyer be suspended from practice until the lawyer files a response. These “interim suspensions” are based solely on the lawyer’s failure to cooperate with the investigative process and not on the merits of the underlying case.

The Board member who is assigned to a particular investigation is responsible for gathering the information necessary to make a probable cause finding. The Bar employs three paralegal/investigators who help with the formal investigation. Most Board members correspond in writing and by telephone with the Respondent and the complaining party. They may also issue subpoenas for necessary documents, such as bank records. The board meets at least eight times per year to consider cases.

For each investigation, the Disciplinary Board may take one of the following steps:

Dismissal
If after investigation it does not appear that the lawyer has violated a Georgia Rule of Professional Conduct, the Board will dismiss the grievance.

Letter of Admonition
Letter of Admonition is the lowest level of discipline. It is confidential and is used when the lawyer has committed a violation inadvertently or through ignorance of the rules.

State Disciplinary Board Reprimand
A reprimand is also confidential discipline, but it is used in cases that warrant more than a Letter of Admonition. The respondent lawyer is required to appear at a Board meeting and is reprimanded by the Chair in front of the entire Board.

Finding of Probable Cause/Notice of Discipline
The Disciplinary Board may issue a Notice of Discipline when the facts of a case are clear so that there is no need for a hearing before a special master. In a Notice of Discipline, the Board notifies the Supreme Court of its findings and asks the Court to impose a specific level of public discipline against the lawyer.

Finding of Probable Cause/Referral to Special Master
When there is probable cause to believe that the lawyer has violated Bar Rules but there are still facts in dispute after investigation, the Disciplinary Board may refer the matter to a special master for a hearing. In those cases, the Bar’s Office of the General Counsel serves as the prosecutor in the case. When the board recommends a Letter of Admonition, Reprimand or Notice of Discipline, the lawyer may reject the imposition of any of those steps and choose instead to have a special master decide the case.

Evaluation for Mental Incapacity or Substance Abuse
The State Disciplinary Board is allowed to refer a lawyer for a medical or mental health evaluation if there are signs of mental illness, cognitive impairment, alcohol abuse or substance abuse. The referral is confidential and the Board may postpone disciplinary proceedings in order to have the lawyer evaluated. If the lawyer does not participate or cooperate with the evaluation, the Board may take further action as it deems appropriate.

Emergency Suspension
The State Disciplinary Board is allowed to ask that a lawyer be suspended on an emergency basis if the lawyer poses a substantial threat of harm to the public or to clients. The rule provides for an expedited hearing before a special master.

Referral to Other Bar Resource
The Board may also refer respondent lawyers to the Client Assistance Program, Lawyer Assistance Program, Fee Arbitration Program or Law Practice Management Program.

Disciplinary Prosecution by the Office of the General Counsel
When the Disciplinary Board makes a probable cause finding and refers a matter for hearing before a special master, the case goes back to the Office of the General Counsel for prosecution. The Bar files a complaint in the Supreme Court of Georgia, which appoints a special master to serve as judge. At this point all proceedings in the case are public.

The complaint must be served on the respondent lawyer, who has 30 days to file an answer. The case proceeds through discovery, like a civil case in court. The person who filed the grievance is usually a witness at any hearing in the case. Many cases are resolved with the respondent lawyer filing a Petition for Voluntary Discipline, which requires that the lawyer admit to engaging in conduct in violation of the rules.

After a case is resolved through a voluntary petition or with a hearing, the special master issues a report and recommendation that contains findings of fact, conclusions of law and a recommendation of discipline. That recommenda-
tion may be reviewed by a Review Board, which upon request of the Bar or the respondent lawyer may review the special master’s findings for errors.

Decision by the Supreme Court of Georgia
Ultimately, the Supreme Court reviews the pleadings and transcripts from every special master case and enters an order. The Court may issue a public reprimand, suspend the lawyer from practice for any period of time up to five years, disbar the lawyer or determine the lawyer should not be disciplined.

After entry of the order, a lawyer who has been suspended or disbarred must immediately stop practicing law and must notify clients of the discipline. A suspended lawyer may resume practice at the end of the suspension but must also comply with any conditions the Court has imposed, such as repaying money owed to clients. A disbarred lawyer may not practice law again without going through the entire Bar Admissions process, including taking and passing the bar examination.

If the Supreme Court of Georgia has issued an order disciplining a lawyer, the order is placed on the Bar’s online Member Directory. The Supreme Court orders are posted in the listing of public discipline, if the lawyer has any such record, on the lawyer’s directory entry information. If the lawyer has no history of public discipline, the website will show “none on record” beside “public discipline.”

Our other programs intended to protect the public include:

Client Assistance Program
The Client Assistance Program is designed to improve communication between lawyers and their clients by working to informally resolve minor matters that might not rise to the level of a serious ethical violation.

Fee Arbitration
The Fee Arbitration program provides a convenient mechanism for resolving fee disputes between attorneys and clients.

Unlicensed Practice of Law
The Unlicensed Practice of Law program is responsible for investigating and prosecuting cases of law practice activity by unlicensed individuals as set forth in the rules issued by the Supreme Court of Georgia.

We must remember and remind others that a unified State Bar of Georgia with a strict but fair process of self-discipline is necessary to guarantee that all lawyers—those who represent the public sector and private interests, criminal prosecutions and defense, civil plaintiffs and defendants, all other areas of law practice, large firms and small firms, all geographic areas, ethnic communities and political and religious beliefs—meet our obligations to our clients, to the judicial system and to the public.
No one questions whether practicing law is stressful. It is. As we continue to be more open and honest about the stress associated with our profession and continue the conversation about lawyer wellness, it is important to remember there are many outlets for stress. For some, it may be a moment of quiet reflection. For others, it may be spending time with family, friends, or a beloved pet, collecting records, watching sports, or even riding a Peloton.

For me, it’s smoking meat (and sometimes vegetables or dairy) for long periods of time. Some people call this “barbecue” and other people believe barbecue can only be pork. Whatever you call it, the process of cooking over generally low temperatures for an extended period of time and imbuing food with smoke flavors has become my hobby. It’s how I help deal with the stresses of our profession.

Axiomatic, this hobby can be very stressful. You may stay up most of the night making sure your fire stays at the right temperature. You may have to wake up before dawn to start your fire. Don’t get me started on inclement weather and how you may find yourself building a makeshift smokestack from items found in your garage. Then there are things which are wholly out of your control—sometimes you’ve just gotten bad meat or produce. All of your work may come unraveling when you start to prepare the food for consumption.

And there are lots of varying opinions on the right way to do things. Is it really barbecue if you smoke a brisket? What’s in your rub? Lump charcoal or briquette? Does using a pellet smoker really count? Do you sauce your meat? A famous barbecue chef, Harry Soo, often says during his YouTube videos some of these questions will lead to a three-hour debate amongst pitmasters. I started watching Harry’s videos not because of how many championships he has won, but because he always tells people to do what works for them; he’s just showing you how he does it. As he says, he wants to teach people so they can spread love throughout the world through good-tasting food.

I arrived at this hobby quite by accident. I never cooked a lot growing up and had never used a grill or smoker by myself until the summer of 2014. My wife gave me a kamado-style smoker—I think because I mentioned at some point I would like to try using one—and I was off. I spent hours reading articles and watching videos before my first “real” attempt at smoking something. A Boston butt, of course. The results were pretty good. Nothing spectacular, but better than what one might find at a random restaurant off the interstate.

It could have ended there and the smoker winding up being like a rarely used kitchen gadget. But I found I en-
Ronald Edward "Ron" Daniels | YLD President
Hot summer streets and the pavements are burning. I sit around. Trying to smile but the air is so heavy and dry. Strange voices are sayin’ things I can’t understand. It’s too close for comfort, this heat has got right out of hand. Anyway, it’s summer. Now let the Alpine blast.

Brittanie D. Browning | YLD President-Elect
My favorite season, by far, is fall. Football returns, pumpkin everything and the weather is cooler. It is the perfect time to get outside to explore all of Georgia’s changing of the seasons in the mountains.

Kenneth Mitchell Jr. | YLD Treasurer
My favorite season is summer because of the warmer weather and vacations.

Veronica Rogusky Cox | YLD Secretary
My favorite season is autumn. I love a hot cup of coffee on a crisp fall morning. Autumn is filled with family gatherings, carving pumpkins, knitting scarves, baking pies and roasting marshmallows. The season inspires a sense of warmth and comfort that is unmatched by any other time of year.

Elissa B. Haynes | YLD Immediate Past President
My favorite season is fall and everything that comes with it: near-perfect weather, leaves changing colors, Halloween (the best holiday—not up for debate), a constant uniform consisting of sweaters, leather leggings and boots, firepits and the occasional football game.

Jena G. Emory | YLD Newsletter Co-Editor
My favorite season is summer. I hate the sweat, but I love the heat!

Virginia C. Josey | YLD Newsletter Co-Editor
Without hesitation, autumn. Each month brings a new reason to get together and eat. In October, Halloween and candy. In November, pies and casseroles. Throughout fall, there’s gameday food. All of this incredible food paired with equally enjoyable weather. What could be better?
preciate that for you it may be something entirely different.
Find a hobby that brings you joy. It doesn’t matter how serious or silly it is. What matters is that it provides you with a safe avenue to be well.

Endnotes
1. Harry Soo has won more than 30 Grand Championships, has more than 100 first place awards in various BBQ competitions worldwide and has appeared on TLC’s “BBQ Pitmasters.”
2. At this point, I will note Judge Ken Hodges—who wasn’t at the time a judge—remarked our BBQ surpassed Fox Brothers.
3. One of the worst kept secrets of the Bar is my other hobby is collecting memorabilia and movie prop replicas from the “Ghostbusters” film franchise.

Ron working hard to create a tasty meal on his beloved Char-Griller AKORN® Kamado Grill—a gift from his wife, Maggie. He loved his first one so much, she got him a second. He was overheard saying, “We’ve got some Julia Child stuff going on right here!”

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Conversations on Bar Benefits and Professionalism

As I have said before, one of the greatest joys of my work is the opportunity to meet and interact with our members: lawyers and judges like you. I particularly enjoy meeting you where you work, at meetings or events, or where you live and relax. I am fascinated by your stories and learn so much from all of you.

What’s better than all of that is your feedback about the value you receive from your State Bar membership. This information is vital for the work we do and the way we develop programs and benefits that support your work. As you’ve seen in previous columns on mentorship, professionalism and general lessons learned, I also enjoy sharing that feedback. Wait! ... You have read those columns, right?

For this edition, I solicited help from a few old and new friends. They are at different stages of their careers. They practice in Rome, Atlanta and Macon. I asked them their thoughts on Bar benefits and professionalism. These are two areas that are important to our president, Sally Akins, this Bar year.

The respondents include Chris Twyman of Rome, our current State Bar secretary; Caren Cloud, legal and policy director with Georgia Appleseed in Atlanta; Albert Reichert Jr. of Anderson, Walker & Reichert LLP and Virginia Josey Law and co-editor of the The YLD Review for the Young Lawyers Division, both of Macon; Cindy Wang, general counsel with the Office of Legal Services at the Department of Juvenile Justice, who chairs our Children and the Courts Committee and Madalyn Davis with Drew Eckl and Farnham, also in Atlanta.

Here’s how the conversations went:

**What benefit, service or program offered to members of the State Bar is your favorite?**

**AL REICHERT:** The sections, such as the Fiduciary Law Section, and the CLE programs, such as the Fiduciary Law Institute, are my most-used State Bar benefit. They are first class, and they have the added benefit of getting to know one’s fellow lawyers better. They promote collegiality and learning. One never stops learning how to practice law.

**CHRIS TWYMAN:** The Bar’s website is the feature/service I access the most. Whether using the attorney directory or simply visiting the site to get the latest news and offerings from the Bar, the comprehensive website is a great resource.

**CINDY WANG:** My most-used Bar service is the Bar directory. It is very convenient to have on hand whenever I need to get in contact with someone or if I have to look someone up. Of course, I appreciate the Bar staff as well. They are very responsive and helpful whenever there is a question about Bar rules.
CAREN CLOUD: Being an Atlanta resident, I must say that the free parking at the Bar Center has been so helpful over the years. It is just a fabulous perk that you don’t often think about but is really a cool way for the Bar to say “you are appreciated” to all its members.

VIRGINIA JOSEY: I frequently turn to the Bar website for the member directory, but my favorite Bar service and benefit are the publications. The Georgia Bar Journal and The YLD Review help me stay updated on colleagues, friends, events and the latest legal issues.

MADALYN DAVIS: The ethics helpline is a wonderful and often underutilized resource. Often times the practice of law is not as black and white as attorneys would wish. Having a resource to turn to in confidence allows me to practice without fear of reprisal. While I cannot avoid litigation or a malpractice claim, I can be sure I won’t be found at fault in the end because I have sought counsel who is knowledgeable in this specific area.

My most used resource is the Institute of Continuing Legal Education programs. Trying to find ways to satisfy all the requirements for CLE would be exhausting if the State Bar of Georgia did not provide excellent programs and information. The ICLE programs provided by the Bar are superior in content, access and location than other places that offer CLE. I have never regretted attendance at an ICLE event and have always walked away with better connections (professionally and personally) and pages of notes of new knowledge.

Are you active with a committee or section of the Bar? If so, why, and how do you view the value or significance of that group’s work?

JOSEY: I serve as newsletter co-editor of the Young Lawyers Division. A few months ago, I served as a co-chair of the YLD Signature Fundraiser. Since the YLD is the service arm of the Bar, it is important to me to find new ways to contribute each year. This year, I am excited to assist Rich Harris with the High School Mock Trial Competition and Law Academy. This work is important to Georgia lawyers and the profession because it is

“The ethics helpline is a wonderful and often underutilized resource. Often times the practice of law is not as black and white as attorneys would wish. Having a resource to turn to in confidence allows me to practice without fear of reprisal.” —Madalyn Davis
vital to encourage students to consider legal careers and advocacy. There are plenty of jokes about lawyers, discouraging others from joining our profession. I did not know any lawyers before law school. I enjoy making students feel welcome and comfortable pursuing law.

**WANG:** I have been and am currently chair of the Children and the Courts Committee and have also been on the Executive Committee of the Child Protection and Advocacy Section for several years. Both the committee and section look out for the interests and welfare of children caught up in the court system. The work is important because the great thing about being a lawyer is advocating for those who are unable to speak for themselves, to fight for the rights of others.

**How do you define professionalism?**

**CLOUD:** Having integrity and respect for others in everything you do, whether law related or not.

**TWYMAN:** Professionalism is treating other lawyers and litigants as you want to be treated. To me, professionalism means being a zealous advocate for your client without being rude to the opposing counsel.

**REICHERT:** It is defined as the punctilio of honor. It is acting fairly toward others, not just mechanically or grudgingly, but with a gracious attitude.

**DAVIS:** I aim to provide the best level of service to my clients while maintaining personal ethical standards. I always comply with the legal rules, but I also have personal ethical standards that I will not bend on. Before agreeing to work with a client, I consider the following:

1. Am I being asked to do something that violates a law, ethical code or personal ethical standard?
2. Do I have the time to handle the scope of the matter and respond in appropriate time frames? (For me, I respond to client emails within 24 hours.)
3. Do I have the experience and knowledge to see the matter from start to completion? Or do I have the resources to support me in the areas I do not know about? These people can be in-house counsel or third-party resources, provided the client understands where I will be seeking assistance and the fees associated with getting help.
4. Can I provide the service at a reasonable rate? Is the client truly better served seeking someone who could do the work for less and better than I could?

**Why do you believe professionalism is important?**

**REICHERT:** I believe that professionalism is extremely important. It is important to the lawyer who acts professionally. He feels good about himself. It is important for the lawyer who is treated professionally. He feels that he has been treated fairly and it makes him want to act the same way. And it is important to the public. The public’s confidence in the law is enhanced. There is a feeling that matters are being decided on their merits and are not the result of petty ad hominem jabs.

**DAVIS:** Your word is your bond. If my clients can’t trust what I say for small things, they will never trust me for big things. You may not like me, you may not agree with the way I do business, but if I conduct myself appropriately, you will have respect for me and for my work. Respect will travel with you from firm to firm, client to client, and serve you far better than any paid marketing material. Your reputation is worth its weight in gold.

**CLOUD:** Professionalism is the most important aspect of practicing law. It doesn’t matter how smart you are, or how good you are in court. If you don’t conduct yourself in a manner that is respectful of our profession and our peers, you fall short of the expectations and standards of your role as an attorney of law.

**TWYMAN:** Professionalism and collegiality are important in the orderly administration of justice—civil and criminal. When we, as lawyers, actually speak to each other and not past each other, we can usually resolve issues faster and with less expense to our clients. And, in basic terms, it’s good to be nice to people.

The years of legal experience for this group ranged from 58 (Reichert) to seven (Davis). So I thought it would be interesting to know: Do you believe the profession has changed since you started practicing law and, if so, how?

**DAVIS:** Yes, and generally a positive one. I have seen less yelling, cursing and bullying than when I started. I think that the standard expectation of being treated poorly, overworked, stressed and pushed to the limit as a young attorney is changing. Attitudes of mutual respect and professionalism to all attorneys, regardless of age or experience, are beneficial for all. A new attorney may not have the wisdom and experience of a seasoned attorney, but they may know the latest laws or offer a new perspective on a matter. Also, there are just certain things that should not be tolerated in any work environment. For too long, the legal community
has written off such behavior as “paying your dues,” and it is time our colleagues held each other accountable to a higher standard. Never should one be yelling, screaming, cursing, berating, bullying or condescending to someone—another attorney, a paralegal, a secretary, it doesn’t matter. Stop accepting the poor treatment of others and mismanagement of subordinates. Create a culture in your firm of constructive criticism, correction, improvement and building people up. This is not an “everybody wins and gets a trophy” attitude. If you don’t do your job properly, you are reprimanded. If you don’t prepare properly or perform poorly, there are consequences. However, there are parameters on those consequences. Rebuke in private. A sincere critique from a respected attorney will carry further and have more impact than a screaming session. Perhaps we should all go back to our kindergarten lessons: keep your hands to yourself; words hurt; don’t scream; treat others as you want to be treated. Somehow between our earliest education and our navigation of the professional world we lose the fundamental lessons on interaction. While there has been a significant shift in the legal workplace, we still have a long way to go.

CLOUD: Yes, I have practiced public interest law for more than 20 years and have witnessed a gradual increase in law students committed to careers in public interest, and more specifically, juvenile justice and child welfare, my area of practice. It has been delightful to work with so many law students and new attorneys who truly love working with children and families. The courtroom used to be where I got most of my thrills in the practice of law, but these days, I am much more excited about the next generation of attorneys who are stepping up to fill our shoes!

Point of Personal Privilege:

Last year, I wrote about a firm’s 50th anniversary and the endurance and commitment to excellence necessary to achieve that success. I asked for stories from other firms celebrating milestone anniversaries and, holy smokes – did you all deliver! This summer alone, I had the honor to join the principals and staff of Tisinger Vance, P.C., in Carrollton as they celebrated the 100th anniversary of their firm. Then, I had a similar honor to join President Sally Akins in celebrating and recognizing Oliver Maner LLP in Savannah, for its 125th anniversary. It is remarkable what those firms have done over that time, and we look forward to supporting them, and all members, for the next 100-125 years. DEE

TWYMAN: Our profession now moves at a faster pace. The ability and convenience to email and text from our phones puts attorneys on the constant “Go!” Unfortunately for our profession and to the detriment of professionalism, we no longer pick up the phone or spend the time to engage opposing counsel personally. I believe we should all be intentional about making more personal contact with our colleagues.

REICHERT: I have seen the profession change since I started practicing law. I think that the change is due in large part to the increase in the number of lawyers. When I began practice, I think that there were about 5,000 lawyers in Georgia. Now there are about 10 times that many. That makes a difference, because it is harder to have a personal relationship with so many. You may be dealing with a lawyer with whom you have never dealt before and with whom you may never deal again. And, therefore, you may not be inclined to act as professionally as you would if you were likely to be dealing again with the same person. Also, there is more competition among lawyers, and that may create incentives to act in a non-professional way.

* * *

I hope these conversations on Bar benefits and professionalism were as enlightening to you as they were to me. I appreciate all of those who took the time to respond to my questions. As I stated at the beginning, this feedback is vital to our efforts to serve our members, the public and the justice system. I look forward to presenting similar member conversations in the future. DEE
Irrevocable Trust Modification: Clarifying Georgia Law

To understand and evaluate the competing approaches concerning the use of nonjudicial settlement agreements, one must look to the Code sections themselves, the legislative history behind them and the intent of the authors of the revisions to the Trust Code.

BY MADALYN DAVIS AND KRISTIN MILLER

The 2020 amendments (effective Jan. 1, 2021) to the Official Code of Georgia Annotated (O.C.G.A.), Title 53, Chapter 12, enabled estate planning practitioners in Georgia to more easily modify noncharitable irrevocable trusts, specifically through the use of nonjudicial settlement agreements (NJSAs). Although the new Code sections provide clarity on the use of NJSAs for trust modification, they also establish limitations on their use. Debate has ensued on the interpretation of these limitations with regard to NJSAs entered into during the settlor’s lifetime. Practitioners have developed two primary approaches for determining whether an NJSA is permitted while the settlor is living. The first approach believes the limitations on NJSAs prohibit all trust modifications during the settlor’s lifetime. The second approach adopts the position that the current statutes leave room for NJSAs to make certain permissible modifications during the settlor’s lifetime. To understand and evaluate the competing approaches, one must look to the Code sections themselves, the legislative history behind them, and the intent of the authors of the revisions to the Trust Code.

The addition of O.C.G.A. § 53-12-9, which governs NJSAs, allows “the trustee, any trust director, and all other persons whose interests would be affected” to enter into an NJSA “with respect to any matter involving the trust.” However, this broad authorization is limited by its succeeding paragraphs, which provide:

(b) A nonjudicial settlement agreement:
(1) Shall be valid only to the extent it does not violate a material purpose of the trust and includes terms and conditions that could be properly approved by the court under this Code section or other applicable law; and
(2) Shall not be valid with respect to any modification or termination of an irrevocable trust when the settlor’s consent would be required in a proceeding to approve such modification or
Although Georgia did not directly adopt the provisions of the Uniform Trust Code (UTC), the Legislature did rely heavily on UTC 411 in drafting the provisions in question.
ACTEC was concerned that the Internal Revenue Service (IRS), applying Internal Revenue Code (IRC) § 2036(a)(2), might determine that a modification under UTC 411 constitutes an agreement between the settlor and beneficiaries to allow the settlor to retain control over the rights of possession or enjoyment of the trust assets, negating the irrevocability of the trust and subjecting the trust assets to inclusion in the decedent’s taxable estate. Additionally, because a settlor could bind a beneficiary under UTC 301(d), the IRS could view the ability to modify as the settlor retaining the right to designate persons who would enjoy the property of the trust, which is a further violation of § 2036.

To address these concerns, ACTEC amended UTC 411(a) in 2004 by placing the entire subsection in brackets to indicate that the language was optional and added optional language, also in brackets throughout the subsection, as follows:

[(a) [A noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all beneficiaries, even if the
modification or termination is inconsistent with a material purpose of the trust.] [If, upon petition, the court finds that the settlor and all beneficiaries consent to the modification or termination of a noncharitable irrevocable trust, the court shall approve the modification or termination even if the modification or termination is inconsistent with a material purpose of the trust.] A settlor’s power to consent to a trust’s modification or termination may be exercised by an agent under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust; by the settlor’s [conservator] with the approval of the court supervising the [conservatorship] if an agent is not so authorized; or by the settlor’s [guardian] with the approval of the court supervising the [guardianship] if an agent is not so authorized and a conservator has not been appointed. [This subsection does not apply to irrevocable trusts created before or to revocable trusts that become irrevocable before the effective date of this [Code] [amendment].]]

Mary F. Radford’s “Georgia Trusts and Trustees” lays out the options presented by the new bracketed language to states considering the adoption of this provision of the UTC:

1. Not adopt subsection (a) of UTC 411 at all, and prior state law controls;
2. Adopt the original language in UTC 411, which allows modification with the unanimous consent of the settlor and beneficiaries and without court approval;
3. Adopt the bracketed language, which requires court approval; or
4. Regardless of which approach is taken, make the provision only applicable to irrevocable trusts that become irrevocable after the effective enactment date of the Trust Code.

The Georgia General Assembly passed legislation that mirrors the language of UTC 411, allowing modification by the unanimous consent of the settlor and beneficiaries without court approval. This choice corresponds to Radford’s second option under the 2004 revisions.

Although to date the issue of the IRS’ interpretation has not been fully settled, a series of Private Letter Rulings (PLRs) have provided some guidance. Under these PLRs, the IRS has interpreted the amended language of UTC 411 to allow modification or termination of an irrevocable trust without causing estate inclusion or gift tax consequences. Because the guidance provided through PLRs is not binding on either the IRS or the courts, the more conservative approach is to always seek court approval for modifications during the settlor’s lifetime. However, when the PLRs are considered together with amendments to UTC 411 and opinions expressed by ACTEC, this approach, which frustrates the goal of allowing NJSAs, may no longer be necessary.

Insight provided by the authors of O.C.G.A. §§ 53-12-9 and 53-12-61 further supports the use of NJSAs during the lifetime of a settlor. Nick Djuric, Kyle King, and Chuck Efstration were three key members involved in the drafting and passing of the 2020 amendments. All three agree that the amendments were intended to allow modifications via NJSAs during the lifetime of the settlor. Djuric has given presentations on the topic and holds the view that there are two categories of modifications under the subsections of O.C.G.A. § 53-12-61. In the first category, the traditional modifications, referred to as “(d) modifications,” are found in subsection (d) of O.C.G.A. § 53-12-61. Unlike subsection (b), subsection (d) lists permissible reasons for modification without explicitly requiring the settlor’s consent, as follows:

(d) The court may, upon petition:
   (1) Modify the trust if, owing to circumstances not anticipated by the settlor, modification would further the purposes of such trust;
   (2) Modify the administrative provisions of a trust if continuation of such trust under its existing provisions would impair such trust’s administration;
   (3) Modify the trust by the appointment of an additional trustee or special fiduciary if such appointment is necessary or helpful to the administration of such trust;
   (4) Modify the trust to achieve the settlor’s tax objectives, with such modification to have either prospective or retroactive effect;
   (5) Order the division of a single trust into two or more trusts or the consolidation of two or more trusts, whether created
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by the same or different trust instruments or by the same or different persons, into a single trust if the division or consolidation would be helpful to the administration of such trust or trusts; or
(6) Terminate a trust and order distribution of the trust property if the:
(A) Costs of administration are such that the continuance of such trust, the establishment of such trust if it is to be established, or the distribution from a probate estate would defeat or substantially impair the purposes of such trust;
(B) Purpose of such trust has been fulfilled or become illegal or impossible to fulfill; or
(C) Continuance of such trust would impair the accomplishment of the purposes of such trust.19

Djuric and others have concluded that modifications under subsection (d) are different from the subsection (b) catch-all and are therefore permissible during the settlor’s lifetime through an NJSA. Their logic is as follows: although subsection (d) does not specify whether these modifications are permissible while the settlor is alive or only after death, subsection (f) suggests that such modifications can be done both during the settlor’s lifetime and without the settlor’s consent.20 Because O.C.G.A. § 53-12-9(b)(2) prohibits an NJSA modification or termination of an irrevocable trust only if the settlor’s consent would be required in a court proceeding to approve such modification or termination under subsection (b) of O.C.G.A. § 53-12-61, a modification or termination is permissible when it can be accomplished without the settlor’s consent under subsection (d) of O.C.G.A. § 53-12-61.

Therefore, a nonjudicial settlement agreement may be used to modify a trust pursuant to O.C.G.A. § 53-12-9 if the modification falls under the permissible modifications the court may approve without the settlor’s consent under O.C.G.A. § 53-12-61(d). Only if a modification is not expressly permitted under subsection (d) is it necessary to look to “subsection (b) modifications,” which would encompass any other modification while the settlor is living, such as a change that is inconsistent with a material purpose of the trust. Conversely, because settlor consent is required under O.C.G.A. § 53-12-61(b), any “subsection (b) modification” would not be permissible through an NJSA and would require a court petition (although the court would be required to approve the petition if the requisite parties have consented). In sum, the distinction between the specific grounds for modification found in subsection (d) and the broad language of subsection (b) permits the use of NJSAs to modify an irrevocable trust during the settlor’s lifetime under subsection (d), even though it cannot be used to modify an irrevocable trust during the settlor’s lifetime under subsection (b).

When asked to modify an irrevocable trust, practitioners must determine whether the modification qualifies as a “(d) modification.” If the modification is specifically listed under subsection (d), then the modification can be accomplished via an NJSA, even during a settlor’s lifetime.●

Endnotes
1. O.C.G.A. § 53-12-9(a).
2. O.C.G.A. § 53-12-9(b) (emphasis added).
3. O.C.G.A. § 53-12-61(f) (“Notice of a petition to modify or terminate a trust under subsection (d) of this Code section shall be given to the settlor, if living…” (emphasis added) implying that the court may grant such petition without settlor’s consent.).
5. UTC 411(a).
6. 26 U.S.C. § 2036 (The value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer …, by trust or otherwise, under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death—(1) the possession or enjoyment of, or the right to the income from, the property, or (2) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom).
7. UTC § 411(a).
9. Id.
10. UTC 411(a) (emphasis added).
11. Mary F. Radford, Georgia Trusts and Trustees § 3.5 (2021).
12. Mary F. Radford, Georgia Trusts and Trustees § 3.5 (2021).
13. Id.
15. Id.
16. Partner in Djuric Spratt.
17. State House representative and partner with McGarity & Efstration.
18. Previous president of the Legislation Committee of the Fiduciary Law Section of the Georgia State Bar, Partner with Hodges, McEachern, & King.
19. O.C.G.A. § 53-12-61(d).
20. O.C.G.A. § 53-12-61(f) (“Notice of a petition to modify or terminate a trust under subsection (d) of this Code section shall be given to the settlor, if living, the trustee, any trust director, all qualified beneficiaries, any holder of a power of appointment over the trust property, and such other persons as the court may direct.”) (Emphasis added).
An Environmental Justice Master Class on Protecting the Air, Land and Water Does Not Disappoint

This article provides a synopsis of a CLE offered at the State Bar of Georgia Annual Meeting in June 2022 in Amelia Island, Florida.

BY JACQUELINE F. BUNN

Sir David Attenborough said, “The truth is: the natural world is changing. And we are totally dependent on that world. It provides our food, water and air. It is the most precious thing we have and we need to defend it.” Given the importance of our environment, several bar organizations coalesced June 3 at the State Bar’s Annual Meeting to present a dynamic continuing legal education (CLE) seminar on environmental justice. The topic: “Environmental Justice: What Can We Do to Protect the Air, Land and Water—Particularly in Poor and Communities of Color?”

A properly designed master class can challenge advanced students and students with limited knowledge alike. The seminar handily hit the mark. The Environmental Justice Movement seeks to prevent disproportionate adverse impact on disadvantaged communities. The U.S. Environmental Protection Agency (EPA) defines it as “the fair treatment and meaningful involvement of all people regardless of race, color, national

(Left to right) Wyatt Kendall, partner, Morris, Manning & Martin, LLP, served as a panelist and Gwendolyn Keyes Fleming, co-chair of the Environmental Practice Group at DLA Piper LLC, Washington D.C., served as moderator for segment two of the CLE.

PHOTO BY JACQUELINE F. BUNN
origin, or income, with respect to the development, implementation and enforcement of environmental laws, regulations, and policies.”

The CLE was divided into three segments (all moderated by Gwendolyn Keyes Fleming). Fleming is the co-chair of the Environmental Practice Group at DLA Piper LLC, Washington D.C., and the former U.S. Environmental Protection Agency Region 4 (Southeastern Region) regional administrator. In the first segment, Fleming provided a succinct overview of the environmental justice movement. She detailed how the basis for environmental justice is found in the Due Process Clause, the Equal Protection Clause, the National Environmental Protection Act, Title VI of the 1964 Civil Rights Act, and state statutes, regulations and constitutions. Thereafter, an engaging conversation with the current EPA Regional Administrator Daniel Blackman allowed participants to gain a greater understanding of current trends and the nuts and bolts of the EPA’s operations. Blackman highlighted his past experience and his commitment to creating economic opportunities for marginalized communities in the South.

In the second segment, participants heard from two seasoned attorneys who specialize in environmental law. Jade Rutland, associate regional counsel, EPA, Region 4, and Wyatt Kendall, partner, Morris, Manning & Martin, LLP, shared their perspectives from the enforcement side and from the private sector. They discussed current cases and statutes impacting their practice area. Both acknowledged the importance of doing an environmental justice analysis in connection with certain transactions, specifically real estate development projects.

The final segment highlighted advocates who engage in this area of social justice. A case study of a community in Atlanta impacted by environmental justice issues was discussed in great detail. Tanya R. Washington, professor, Georgia State University College of Law, detailed her involvement in an eminent domain case in the Peoplestown area of Atlanta. Her experience in connection with challenging the city’s attempt to take property from residents was riveting. She and her attorney, R. Gary Spencer, discussed the posture of the case. They explained the basis for their contention that certain homes were targeted by the city—because they were located in a disadvantaged area. Residents were given 30 days to move from their homes. Kimberly Scott, executive director, Georgia WAND Education Fund, Inc., also discussed her work in connection with the case. Scott discussed her advocacy for environmental justice and efforts to change inequities that impact the environment, housing and communities. The Peoplestown case study was a sobering reminder of the consequences decisions related to eminent domain can have on ordinary citizens and entire communities.

Since 1984, the Georgia Association of Black Women Attorneys (GABWA) has sponsored a CLE at the State Bar’s Annual Meeting. Over the years, partners have joined the effort to bring impactful CLE topics that stimulate discussion, provide dynamic speakers and inspire action. In addition to GABWA, this year’s partners included the Georgia Diversity Program, the State Bar Committee to Promote Inclusion in the Profession, and the State Bar of Georgia Seeking Equal Justice and Addressing Racism & Racial Bias Committee. The mission of this committee, created in 2020, is to identify, address and eradicate bigotry, racism and racial bias in the justice system. This seminar furthered that mission. The seminar co-chairs included GABWA Past Presidents Hon. Joy Lampley Fortson, Jacqueline F. Bunn and Avarita L. Hanson. The coordinated efforts of the CLE committee members, ICLE and Bar staff helped make the CLE presentation a seamless endeavor.

Note: At the time of the CLE, the U.S. Supreme Court had not rendered its decision in West Virginia v. EPA, 597 U.S. (2022). In that case, the Court limited the EPA’s ability to regulate carbon emissions from power plants.

Jacqueline F. Bunn is vice chair of the State Board of Pardons and Paroles for FY 2023. She was appointed to the Parole Board by Gov. Nathan Deal, effective July 1, 2016. In December 2016, Bunn was reappointed by Gov. Deal to a full seven-year term on the Parole Board.
What SOLACE Does for Georgia’s Legal Community

The sole purpose of the SOLACE program is to allow the legal community to reach out in meaningful and compassionate ways to judges, lawyers, court personnel, paralegals, legal secretaries and their families who experience deaths or other catastrophic illnesses, sickness or injury.

BY KINDALL M. HARVILLE

SOLACE (Support of Lawyers/Legal Personnel; All Concern Encouraged) is a program adopted by the State Bar of Georgia during the 2011-12 Bar year under the leadership of then-President Ken Shigley. SOLACE is overseen by a committee of Bar members and staff, including the current chair, Hon. Clyde Reese, judge, Court of Appeals of Georgia, and vice chair, Hon. Render Heard, judge, Juvenile Courts of the Tifton Judicial Circuit. The first SOLACE program was initiated in 2002 by Hon. Jay Zainey and Mark Surprenant, in connection with the Louisiana State Bar Association, to help lawyers and legal personnel in Louisiana who had experienced catastrophic events that upset their lives. Since that time, numerous other state bar associations and the Federal Bar Association have adopted similar programs for their own legal communities.

The main purpose of the SOLACE program is to allow members of the legal community to reach out to judges, lawyers, court personnel, paralegals, legal secretaries and their families who experience a sudden catastrophic loss, a medical emergency or other similar situation, and support them in times of need. Actions taken by the SOLACE Committee to assist the legal community can range from simply sending a card signed by local and/or state leaders to providing the family with meals and/or personal items after a fire; physical assistance when moving items; replacing office equipment/furniture after a loss to water or fire; transportation; medical community contacts and referrals; compassion flights or other similar services. All of these are provided by volunteers from the SOLACE committee’s statewide network. It is important to note that SOLACE will not seek or solicit cash contributions, offer the opportunity for public service announcements, or generate a prayer chain or list.

Through the network of individuals on the SOLACE committee and the Chief Justice’s Commission on Professionalism, a law student and his father delivered and set up the desk for Attorney M. There were many attorneys who volunteered to assist Attorney M with the insurance matter as well; however, later it was determined that the matter had been resolved without need of SOLACE assistance.

Thus far in 2022, the SOLACE committee has received one request for direct assistance, in mid-summer. Bar member Juanita Holsey Bostick contacted SOLACE to ask for help in locating someone who might donate a multi-function printer after she lost her office and all of her equipment in a fire. After the staff liaison sent out a confidential email request to the committee, SOLACE Committee member Sheronn Harris donated the needed office equipment and State Bar President Sally Akins assisted in transporting the printer from Atlanta to the Savannah area where it was then delivered to Bostick’s temporary office by Kindall Harville, the current SOLACE Committee staff liaison. This type of Georgia statewide extended community demonstrates SOLACE at its best. In addition, in 2022, SOLACE has received at least two requests for assistance with referrals for attorneys in very specialized areas of the law. Most of SOLACE’s impact this year has been through condolence cards to attorneys who have experienced an unexpected loss in either their professional or personal communities. These cards serve to offer both our deepest sympathies during these most difficult times in a person’s life, while also
Many times the volunteers fulfilling these requests, whether big or small, report just as much satisfaction as the recipients of the help.

letting them know that members of the State Bar of Georgia’s legal community, via the SOLACE Committee network, are there for them if a need arises. To many, this act may seem overly simple, but the SOLACE Committee has learned over the years how much it means to individual attorneys to know their professional community cares about them. Many times the volunteers fulfilling these requests, whether big or small, report just as much satisfaction as the recipients of the help.

During a recent SOLACE Committee meeting, committee members discussed the number of requests that SOLACE receives because SOLACE Committee members want to do more. Vice Chair Heard remarked, however, that while SOLACE wants the legal community to know we are here to help when they need it, we are grateful that the legal communities and their families are not experiencing catastrophic losses or other crisis situations on a regular basis. When unexpected tragedy does occur, however, SOLACE stands ready and willing to help.

If you would like more information on volunteering or know an attorney or legal personnel that need assistance due to a catastrophic event, you can reach out confidentially to SOLACE by emailing solace@gabar.org. These events can be caused by any unexpected disaster, death, illness, sickness or injury. The SOLACE Committee’s staff liaison, Kindall Harville, will work with the point of contact to create an appropriate confidential email requesting practical assistance from our committee members and subsequently their network of contacts. Please note that all requests are handled as discreetly as possible. Typically, the only parties who will know the full identity of the person requesting help is the SOLACE staff liaison and occasionally a volunteer if they will be making direct contact with the person to fulfill the request. Likewise, if you are offering to help meet a request, the only parties who will know your identity are the SOLACE coordinators. SOLACE will only disclose the identity of a party requesting assistance or fulfilling a request if you give SOLACE permission to release your name to help us spread the word about SOLACE.²

*Names redacted due to confidentiality.
**Bostick, Harris and Akins all gave SOLACE permission to use their names for this article.

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Endnotes

State Bar of Georgia member Juanita Holsey Bostick needed helping locating someone who might donate a multifunction printer after she lost her office and all of her equipment in a fire.

Sheronn Harris, a member of the State Bar of Georgia SOLACE Committee, donated the office equipment requested by Juanita Holsey Bostick following a fire that destroyed her law office.
Georgia Bar Foundation Awards $3.7 Million in Grants

BY LEN HORTON

The Georgia Bar Foundation awarded almost $3.7 million in grants at its annual grants meeting on July 21. This was the foundation’s first meeting under its new president, Hon. Derek J. White, judge, State Court of Chatham County, and with five new board members.

“This was a significant meeting where our five new board members joined with existing trustees to make many important decisions that will end up helping thousands of Georgians,” said White. “It was also the fifth and last round of Bank of America grants from the settlement funds awarded to the Georgia Bar Foundation. I am proud of how the new board members collaborated with experienced board members to make these grant decisions.”

IOLTA Grant Awards
The IOLTA grant awards to 20 law-related organizations totaled $2,480,100. Georgia’s two major legal aid organizations received about 68% of the total IOLTA funds awarded. Atlanta Legal Aid received $505,500 and Georgia Legal Services received $1,179,500, totaling $1,685,000. According to Steve Gottlieb, executive director of Atlanta Legal Aid for more than four decades, “... what makes IOLTA grants so valuable for Atlanta Legal Aid and Georgia Legal Services is the fact that the foundation permits the funds to be used to support lawyer salaries and not just to support specific programs.”

Having received grant awards annually since 1991 except for five years during the Great Recession, Atlanta Volunteer Lawyers Foundation (AVLF) received $120,000 for its Safe Families Office where AVLF attorneys, paralegals, social workers, support staff and volunteers respond typically to more than 3,500 people annually who are seeking protective orders, family law assistance and holistic support in trying to deal with intimate partner violence.

For the first time, the Georgia Bar Foundation awarded funds to DeKalb Volunteer Lawyers Foundation (DVLF). Like AVLF, DVLF seeks to pair volunteer lawyers, but with an indigent population in DeKalb County who need legal assistance. DVLF received $20,000.

Catholic Charities Atlanta received $10,000 to continue its work of representing children who have come to the United States without their parents. The Georgia Asylum and Immigration Network (GAIN) received $80,100 to provide legal assistance to asylum seekers and immigrant victims of crime. Specifically, the award will be used to add legal staff.

The Georgia Appellate Practice and Educational Resource Center received $100,000 to support staff and operations to provide legal representation to approximately 42 people on Georgia’s death row. Georgia is one of only two death penalty states not fully funding legal assistance to people on death row. Since 2005, the Georgia Bar Foundation has awarded more than $2.8 million to this important organization.

The Georgia Heirs Property Law Center, based in Athens, received $100,000 to support several attorneys, paralegals and staff to serve several hundred low-to-moderate income individuals who need title clearing and estate planning. The center, under the leadership of Skipper Stipemaas, also provides education for community leaders, nonprofits and pro bono attorneys.

Middle Georgia Access to Justice Council (MGJ), the brainchild of retired State Court Judge William P. Adams, received $15,000 to expand heirs’ prop-
erty work by adding an additional staff attorney. MGJ was created to provide legal assistance to low-income clients through a self-help center, in-house representation and volunteer lawyers who accept referrals on a pro bono and reduced fee basis.

Savannah’s SAFE Shelter for Domestic Violence Services received $10,000 to support attorneys who assist domestic violence victims in Chatham County with divorces and temporary protective orders. For more than 40 years, Safe Shelter has provided safe, temporary shelter for domestic violence victims and their children. The Georgia Bar Foundation has provided funding beginning in 2001.

Southwest Georgia Legal Self-Help Center, based in Albany, received $20,000 to help support attorneys who assist domestic violence victims and their children. The Georgia Bar Foundation has provided funding beginning in 2001.

Hope Atlanta, now part of Travelers Aid of Metropolitan Atlanta, received $10,000 to continue attacking the problem of homelessness in the Atlanta area, which it previously performed as part of the Georgia Law Center for the Homeless (GLCH). Created by Eric Kocher, GLCH eventually had to cease operations, in effect losing its home. Travelers Aid stepped up to make sure that the organization that fought against homelessness did not itself become homeless.

While organizations providing civil legal services received $2,090,000 or 84.3% of all IOLTA grant funds awarded at the meeting, a number of other organizations were awarded significant support for their missions. Children at risk applicants received $145,000 spread among three organizations.

Peachtree Ridge Robotics Booster Club, based in Suwanee, Georgia, received $10,000 to support an extracurricular high school robotics team made up of culturally, economically and gender diverse students. The club is 21% Black, 75% Asian and 44% female. Keeping kids out of trouble by playing sports is a known successful strategy; we are going to learn if kids can be kept out of trouble by learning how to use robots.

SafePath Children’s Advocacy Center in Marietta received $15,000 for general support including utilities, janitorial services and the annual audit. A favorite of Judge Conley Ingram, SafePath offers a comprehensive approach to helping children who have been sexually and physically abused. It also works to acquire evidence to prosecute the abusers of these children.

The Truancy Intervention Project Atlanta (TIP) focuses on keeping kids in school. Stopping kids from dropping out of school is one of the best ways to save a child from poverty and from trouble with the law. To help with creating that focus, the Georgia Bar Foundation awarded TIP $120,000. TIP has received Georgia Bar Foundation grants totaling $1,505,725 beginning in 1992 and has served more than 11,000 children, keeping about 87% of them out of the juvenile justice system and into a more productive life.

Applicants within the category of criminal legal services also received attention by the Georgia Bar Foundation. The Georgia Coalition Against Domestic Violence received $10,000 to help cover operating expenses. Part of what this organization does is bring together a project attorney and several pro bono attorneys from Alston & Bird and Shook, Hardy & Bacon to work on behalf of incarcerated women who probably should not be in prison. Many of these women prisoners were long time sufferers of physical abuse by a partner and eventually, in a provoked rage, killed their abusers. These
lawyers investigate these cases, looking for evidence of abuse that may well have provoked retaliatory action. When they find the evidence, they create what are called parole packets, including relevant evidence, interview findings and a parole application. With the assistance of these attorneys supported by this grant, these women often get their lives back and become productive citizens. The goal is to get 12 women paroled this year.

Jefferson County Ships for Youth, based in Louisville, Georgia, provides first-time offenders with education and life skills to manage anger and avoid substance abuse. It received a $10,000 grant.

The BASICS program for the State Bar of Georgia received $40,000 for its program to educate prisoners within six months of release. The program’s goal is to teach these people how to adjust to life outside confinement. Created and implemented by Edward Menifee, whose positivity was legendary, BASICS became famous for minimizing recidivism among a population that was often not expected to stay out of trouble when released. Now managed by Michelle Menifee, Ed’s widow, BASICS continues to be recognized as the program to teach prisoners how to succeed when released from confinement.

Halcyon Home for Battered Women, located in Thomasville, received $5,000 to help provide legal representation to victims of domestic violence. Protective orders and divorces are the major product provided to these women who often have nowhere else to turn other than Halcyon Home.

Within the category of improving the justice system, Georgia Appleseed Center for Law and Justice received $100,000 for...
a project to advance justice for Georgia’s children. Georgia Appleseed, under the leadership of Sharon Hill, led the way in improving Georgia’s juvenile code. Now under the leadership of Michael Waller, it is taking on improving the lives of Georgia’s more than 11,000 children in foster care. Georgia Appleseed created the FAIR (Fairness, Advocacy and Individualized Representation) Project to provide legal representation to children in foster care facing long-term suspension or even expulsion from school. As many as 100 referrals are expected from DFCS annually. The Georgia Bar Foundation has joined with the Carter Center, the Joseph Whitehead Foundation and the Georgia Department of Family and Children Services in assisting Georgia Appleseed and awaits with excitement FAIR's further impact on foster care.

**Bank of America Settlement Funds Grants**

Considering only the IOLTA grants, the 2022 Georgia Bar Foundation annual grants meeting was a major success. But this meeting included something more: the Bank of America (BOA) Settlement Funds grants, totaling $1,214,783.06.

Beginning in 2015, the Georgia Bar Foundation received a total of $13,884,320.52 from the Bank of America’s settlement with the U.S. Department of Justice in a mortgage fraud suit. The purpose of those funds was to help redress the inequities in the mortgage and foreclosure system allegedly perpetrated by BOA and others in the mortgage industry and the broad impact such foreclosures brought about on individuals and communities. A total of $1,214,783.06 remained to be given away at this meeting in response to several proposals in response to an RFP sent out by the Foundation.

The two largest legal aid programs in Georgia received significant support from this money. Atlanta Legal Aid was awarded $388,730 to support salaries and benefits for staff providing legal services to prevent the loss of family homes. Atlanta Legal Aid became known nationally as the experts in foreclosure prevention.

Georgia Legal Services received a grant for $583,096 to support the operational costs associated with the 11 attorneys making up the Georgia Legal Services Program (GLSP) Eviction Prevention Project (EPP). EPP provides legal assistance to tenants of private (not government subsidized) housing in the 154 counties outside metro-Atlanta.

Middle Georgia Access to Justice Council received $35,000 to help fund a second staff attorney to assist low-income clients by providing end-of-life planning, probate and administration of estates, the resolution of title issues and assistance with paying fees for filing, service, publication, copies of court records, investigations to locate heirs and title exams.

The Georgia Heirs Property Law Center received $121,957.06. The plan, developed by Skipper Stipemaas, is to use those funds to create matching funds from HUD Certified Housing Counseling Agencies sufficient to fund attorneys, paralegals and staff to provide title clearing, estate planning and community redevelopment legal services to several hundred low-income individuals.

Atlanta Volunteer Lawyers Foundation's proposal received $86,000 to focus on assisting the 220 families being displaced due to the mandated Forest Cove Apartments renovation.

**Summary**

In summary, higher than expected foundation revenues for fiscal year 2021-22 enabled the meeting to be more effective than had been anticipated a year ago. As pleased as the trustees were about what was accomplished, the meeting ended with excitement caused by anticipated greater revenues next year from rising interest rates on IOLTA accounts. If the economy is not significantly damaged by the rising interest rates, fiscal year 2022-23 looks as if it could be an even better year, suggesting an even greater ability to assist Georgia’s legal aid and other law-related organizations at next year’s meeting.

The Georgia Bar Foundation is a 501(c)(3) foundation, the largest legal charity in Georgia devoted to supporting legal assistance to those who cannot afford legal representation; to improving the judicial system to foster speedy, efficient and inexpensive resolution of disputes; to assisting in providing legal education to pre-college, educational programs for Georgia’s children; and to fostering professionalism in the practice of law.

Len Horton

Executive Director
Georgia Bar Foundation
len@gabarfoundation.org
State Bar Elections: Notice of Expiring Terms

Listed below are the State Bar of Georgia officers, Executive Committee members, Board of Governors members and ABA House of Delegates members whose terms will expire in June 2023. These incumbents and those interested in running for a specific office or post should refer to the election schedule (posted below) for important dates.

State Bar of Georgia 2023 Election Schedule

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>2022</td>
<td>Deadline for submission of election schedule for publication in October issue Georgia Bar Journal</td>
</tr>
<tr>
<td>OCT</td>
<td>Official Election Notice, October issue Georgia Bar Journal</td>
</tr>
<tr>
<td>DEC 2</td>
<td>Nominating petition package mailed to incumbent Board of Governors members and other members who request a package</td>
</tr>
</tbody>
</table>

2023

<table>
<thead>
<tr>
<th>Event</th>
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</thead>
<tbody>
<tr>
<td>JAN 12-14 Nomination of Officers at Midyear Meeting at The Westin Buckhead Atlanta</td>
</tr>
<tr>
<td>JAN 20 Deadline for receipt of nominating petitions for incumbent Board members, including incumbent nonresident (out-of-state) members</td>
</tr>
<tr>
<td>FEB 17 Deadline for receipt of nominating petitions for new Board members, including new nonresident (out-of-state) members</td>
</tr>
<tr>
<td>MAR 3 Deadline for write-in candidates for officer to file a written statement not less than 10 days prior to mailing of ballots (Article VII, Section 1 (c))</td>
</tr>
<tr>
<td>MAR 3 Deadline for write-in candidates for Board of Governors to file a written statement not less than 10 days prior to mailing of ballots (Article VII, Section 2 (c))</td>
</tr>
<tr>
<td>MAY 5 Election results reported and made available</td>
</tr>
</tbody>
</table>

Officers
President-Elect
Treasurer
Secretary

Executive Committee
R. Javoyne Hicks, Stone Mountain
Shiriki Cavitt Jones, Atlanta
David S. Lipscomb, Lawrenceville

Board of Governors
Alapaha Circuit, Post 1
Daniel Jackson Connell III, Adel
Alcovy Circuit, Post 1
Michael G. Geoffroy, Covington
Appalachian Circuit
Will H. Pickett Jr., Jasper
Atlanta Circuit, Post 1
Nicole Christine Leet, Atlanta
Atlanta Circuit, Post 3
Lisa Katsuko Liang, Atlanta
Atlanta Circuit, Post 5
Catherine Koura, Atlanta
Atlanta Circuit, Post 7
William M. Ragland Jr., Atlanta
Atlanta Circuit, Post 9
Keith Elliott Gammage, Atlanta
Atlanta Circuit, Post 11
Hon. Jill Pryor, Atlanta
Atlanta Circuit, Post 13
R. Gary Spencer, Atlanta
Atlanta Circuit, Post 15
Letitia A. McDonald, Atlanta
Atlanta Circuit, Post 17
Hon. Jadaunya C. Baker, Atlanta
Atlanta Circuit, Post 19
Zahra S. Karinshak, Atlanta
Atlanta Circuit, Post 21
Patricia Anne Gorham, Atlanta
Atlanta Circuit, Post 23
Donna G. Barwick, Atlanta
Atlanta Circuit, Post 25
Amanda Rourk Clark, Atlanta
Atlanta Circuit, Post 27
Nancy Jean Whaley, Atlanta
Atlanta Circuit, Post 29
Tina Shadix Roddenbery, Atlanta
Atlanta Circuit, Post 30
Shiriki Cavitt Jones, Atlanta
Atlanta Circuit, Post 32
Seth David Kirschenbaum, Atlanta
Atlanta Circuit, Post 34
Allega J. Lawrence, Atlanta
Atlanta Circuit, Post 36
Graham Elliott McDonald, Atlanta
Atlanta Circuit, Post 39
Anita Wallace Thomas, Atlanta
Atlantic Circuit, Post 2
Hugh J. McCullough, Glennville
Augusta Circuit, Post 1
Hon. Amanda Nichole Heath, Augusta
Augusta Circuit, Post 3
Thomas Reuben Burnside III, Augusta
Blue Ridge Circuit, Post 2
Eric Alvin Ballinger, Canton
Brunswick Circuit, Post 1
Stephen Elliott Tillman, Baxley
Chattahoochee Circuit, Post 2
Brandon Lee Peak, Columbus
Chattahoochee Circuit, Post 4
Donna Stanaland Hix, Columbus
Cherokee Circuit, Post 2
John Thomas Mroczo, Catesville
Clayton Circuit, Post 1
Kathryn Lauranne Powers, Jonesboro
Clayton Circuit, Post 3
Hon. Martin L. Couen III, Jonesboro
Cobb Circuit, Post 2
Ronald Arthur Lowry, Marietta
Cobb Circuit, Post 4
Patrick H. Head, Marietta

Cobb Circuit, Post 6
Laura Joan Murphree, Marietta

Columbia Circuit
Danny L. Durham, Evans

Conasauga Circuit, Post 2
Robert Harris Smalley III, Dalton

Cordele Circuit
James W. Hunt, Cordele

Coweta Circuit, Post 2
Jason W. Swindle Sr., Carrollton

Dougherty Circuit, Post 2
George P. Donaldson III, Albany

Dublin Circuit
Joseph Carl Sumner Jr., Dublin

Eastern Circuit, Post 2
Lester B. Johnson III, Savannah

Eastern Circuit, Post 4
John Bell Manly, Savannah

Flint Circuit, Post 1
Amanda Renee Flora, McDonough

Griffin Circuit, Post 2
Hon. Christopher Charles Edwards, Griffin

Gwinnett Circuit, Post 1
David S. Lipscomb, Lawrenceville

Gwinnett Circuit, Post 3
Wesley Charles Ross, Lawrenceville

Lookout Mountain Circuit, Post 2
Douglas Ray Woodruff, Ringgold

Macon Circuit, Post 1
John Flanders Kennedy, Macon

Macon Circuit, Post 3
Rebecca Holmes Liles Grist, Macon

Member-at-Large, Post 1*
William Thomas Davis, Newnan

Member-at-Large, Post 2*
Rotsen Dara Diya Law, Atlanta

Middle Circuit, Post 2
Jerry Neal Cadle, Savannah

Mountain Circuit
Hon. James T. Irvin, Toccoa

Northeastern Circuit, Post 2
Nicki Noel Vaughan, Gainesville

Northern Circuit, Post 1
Kimberly Wilkerson Higginbotham, Hartwell

Ocmulgee Circuit, Post 2
Ashley Mackin Brodie, Gray

Oconee Circuit, Post 2
Hon. Stephanie Diane Burton, Hawkinsville

Ogeechee Circuit, Post 2
Vera Sharon Edenfield, Statesboro

Out-of-State, Post 1
Scott R. McMillen, Winter Park, Florida

Pataula Circuit
Edward R. Collier, Dawson

Piedmont Circuit
Barry E. King, Hoschton

Rome Circuit, Post 1
Christopher Ross Jackson, Rome

South Georgia Circuit, Post 2
Tabitha Edwina Payne, Whigham

Southern Circuit, Post 2
Robert Allen Plumb Jr., Valdosta

Southwestern Circuit
Hon. R. Rucker Smith, Americus

Stone Mountain Circuit, Post 2
William Dixon James, Decatur

Stone Mountain Circuit, Post 4
Donna Coleman Stribling, Decatur

Stone Mountain Circuit, Post 6
Claudia Susan Saari, Decatur

Stone Mountain Circuit, Post 8
R. Javoyne Hicks, Stone Mountain

Stone Mountain Circuit, Post 10
Hon. Dax Eric Lopez, Atlanta

Tallapoosa Circuit, Post 1
Michael Douglas McRae, Cedartown

Toombs Circuit
Hon. Thomas Brittan Hammond, Warrenton

Towaliga Circuit
Curtis Stephen Jenkins, Forsyth

Waycross Circuit, Post 2
C. Deen Strickland, Waycross

Western Circuit, Post 1
Hon. Lawton E. Stephens, Athens

*Post to be appointed by president-elect

ABA House of Delegates

Post 2
S. Lester Tate III, Cartersville

Post 4
Paula Frederick, Atlanta
Kudos

The American Bar Association announced that Yosefi Seltzer was awarded the Legal Assistance for Military Personnel (LAMP) Distinguished Service Award. Those chosen for the award are individuals and units judged to have set the bar for military legal assistance, by pushing themselves and their practices in extraordinary ways. The LAMP Distinguished Service Award program shines a light on those blazing paths in military legal assistance, that others might follow.

The Council of Municipal Court Judges announced that Hon. Gary E. Jackson received the Frost Ward Lifetime Achievement Award and the Council President’s Award. The Frost Ward Lifetime Achievement Award recognizes a municipal court judge who has made significant contributions to the Council of Municipal Court Judges over a long period of time. The Council President’s Award recognized Jackson’s tireless efforts to improve the judicial system through legislative reform.

Jackson was also re-elected as a District Five representative on the Council of Municipal Court Judges Executive Committee.

Phyllis Talley is serving as interim director of Georgians for End of Life Options (GALEO), a new statewide nonprofit organization, that launched in October 2021 underDeath with Dignity’s national umbrella, Death with Dignity National Center. GALEO’s mission is to support and improve end of life and advance care planning in Georgia by advocating for laws and policies which improve and expand options for end of life decision making. The organization’s goal is to ensure that every Georgian can define for themselves what quality of life they may have at the end of their lives, and then receive the care that provides that quality, and reflects their individual values and wishes.

Nelson Mullins announced the launch of Dispute Resolution Services, a new group providing commercial businesses in Georgia with a broad range of arbitration, mediation, special master and other alternative dispute resolution solutions. From preparing dispute resolution clauses to protecting business interests through mediation, arbitration and litigation, Nelson Mullins professionals help business owners, officers and directors obtain fair and reasonable solutions to business disputes. Nelson Mullins Dispute Resolution Services is an interdisciplinary team of mediators and arbitrators certified or registered by states or the American Arbitration Association who conduct all forms of dispute resolution.

The O’Brien Flowers Law Group, LLC, announced that Dr. Marcia O’Brien Flowers earned her PhD from Walden University in criminal justice and a second master’s degree in philosophy. O’Brien Flowers graduated in May 2022.

On The Move

IN ATLANTA

Swift Currie announced the addition of Jeffrey S. Adams, Kyle A. Ference, Nathan K. Hofman, Mark A. Kerr, Lisa S. Northrop and Blake E. Williams as associates. Adams concentrates his practice on litigation matters. Ference’s practice focuses on coverage and commercial litigation matters. Hofman focuses his practice on catastrophic injury and wrongful death suits, premises liability, commercial litigation and trucking litigation. Kerr’s practice focuses on defending businesses and insurers in litigation and mediation proceedings, with a focus on claims related to premises liability, automobile, trucking and transportation liability. Northrop’s practice is centered on automobile litigation for insurance companies. Williams focuses his practice on general litigation matters, including premises liability, products liability, and automobile, trucking and transportation liability. The firm is located at 1355 Peachtree St. NE, Suite 300, Atlanta, GA 30309; 404-874-8800; Fax 404-888-6199; www.swiftcurrie.com.

Burr & Forman announced the addition of Kyubin “Kevin” Han as associate. Han’s practice focuses on general corporate matters, mergers and acquisitions, economic development, business organization, corporate governance, and labor and employment matters. The firm is located at 171 17th St. NW, Suite 1100, Atlanta, GA 30363; 404-815-3000; Fax 404-817-3244; www.burr.com.
Hall Booth Smith, P.C., announced the addition of David R. Carducci and Billy Fawcett as associates. Carducci’s practice focuses on civil rights, employment, immigration, sentencing, direct and non-direct criminal, state and federal habeas corpus and civil litigation cases. Fawcett focuses his practice on the defense of insureds and insurers in a variety of general liability and motor vehicle claims. The firm is located at 191 Peachtree St. NE, Suite 2900, Atlanta, GA 30303; 404-954-5000; Fax 404-954-5020; www.hallboothsmith.com.

Holland & Knight announced the addition of Nellie Shipley Sullivan as partner. Sullivan focuses her practice on real estate, real estate development, real estate finance, residential real estate, state tax credits and sustainable development. The firm is located at 1180 W. Peachtree St. NW, Suite 1800, Atlanta, GA 30309; 404-817-8500; Fax 404-881-0470; www.hklaw.com.

Bryan Cave Leighton Paisner announced the addition of Bob Stupar as partner. Stupar concentrates his practice on origination and servicing of commercial real estate conduit and balance-sheet loans secured by apartment buildings, shopping centers, strip malls, hotels, warehouses, residential developments, office buildings and other types of commercial real estate. The firm is located at 1201 W. Peachtree St. NW, Atlanta, GA 30309; 404-572-6600; Fax 404-572-6999; www.bclplaw.com.

Bovis, Kyle, Burch & Medlin, LLC, announced the promotion of Eric Connelly and Winfield Pollidore to partner, the addition of Zack Lewis as partner and the addition of Edward “Ward” Pankowski as an associate. Connelly’s practice is devoted to complex litigation and the defense of insureds in commercial liability disputes, including personal injury, premises liability, products liability and business disputes. Pollidore focuses his practice on litigation, which includes the defense of tort claims, family law and intellectual property. Lewis’ practice focuses on insurance defense, professional liability defense, insurance coverage and bad faith litigation, construction litigation and transportation litigation. Pankowski’s practice is devoted to civil litigation, insurance defense, premises liability, coverage litigation and transportation litigation. The firm is located at 200 Ashford Center N, Suite 500, Atlanta, GA 30338; 770-391-9100; Fax 770-668-0878; www.boviskyle.com.

Oliver Maner Receiving Outstanding Georgia Business Award

Rep. Derek Mallow (D-Savannah) presented the Outstanding Georgia Business Award to Oliver Maner LLP. State representatives are permitted to request recognition for a business in their district from the Georgia secretary of state, along with documentation and verification of facts. Mallow proposed Oliver Maner for this recognition after reading an article on LinkedIn about the firm’s work with a local nonprofit. Mallow investigated further and found that the attorneys and partners at Oliver Maner supported at least 25 more charities. He contacted the secretary of state’s office to begin the proposal for this honor, which was accepted. Oliver Maner Managing Partner and 2016-17 State Bar President Patrick O’Connor accepted the award on the firm’s behalf.
The Asbury Law Firm announced the addition of Mark Mesler as senior counsel. Mesler’s practice focuses on tax controversy, including corporate examinations, IRS appeals and sophisticated tax controversies. The firm is located at 133 Peachtree St. NE, Suite 4900, Atlanta, GA 30303; 404-382-9942; Fax 404-565-1103; www.asburylawfirm.com.

Levine Smith Snider & Wilson, LLC, announced the addition of James L. Powers as an associate. Powers’ practice focuses on family law, including a full range of domestic relations matters including divorce, custody, child support and legitimation. The firm is located at 3490 Piedmont Road NE, Suite 1150, Atlanta, GA 30305; 404-237-5700; Fax 404-237-5757; www.lsswlaw.com.

Baker Donelson announced the addition of Tyler Bishop as an associate. Bishop’s practice areas include intellectual property, litigation, commercial/business litigation, class action, appellate practice and environmental law. The firm is located at 3414 Peachtree Road NE, Suite 1500, Atlanta, GA 30326; 404-577-6000; Fax 404-221-6501; www.bakerdonelson.com.


James Bates Brannan Groover LLP announced the addition of R. Andrada Steele as an associate. Steele focuses her practice on general litigation matters including insurance defense. The firm is located at 231 Riverside Drive, Macon, GA 31201; 478-742-4280; Fax 478-742-8720; www.jamesbatesllp.com.

Gentry Law Firm LLC announced the addition of Alan J. Gibson as associate. Gibson’s practice focuses on family law, including mediation and negotiation, custody and alimony. The firm is located at 254 Roswell St. SE, Marietta, GA 30060; 770-425-5573; Fax 770-422-1347; www.gentrylawfirmgeorgia.com.

Bouhan Falligant announced the expansion of partner Dennis Keene’s mediation practice and the addition of Donavan C. Juleus as an associate in the firm’s litigation group. Keene, a registered neutral with the Georgia Office of Dispute Resolution since 2013 and 29-year litigation veteran, expanded his mediation practice to fill a need in Savannah and surrounding counties. Juleus’ practice focuses on maritime and admiralty, medical malpractice, transportation and trucking, and education law. The firm is located at 1 W. Park Ave., Savannah, GA 31401; 912-232-7000; Fax 912-233-0811; www.bouhan.com.

Announcement Submissions

The Georgia Bar Journal welcomes the submission of news about local and voluntary bar association happenings, Bar members, law firms and topics of interest to attorneys in Georgia. Learn more at www.gabar.org/newsandpublications.

To place an announcement, please contact Jada Pettus at jadap@gabar.org or 404-327-8736.

CORRECTION

In the August 2022 issue of the Georgia Bar Journal, we incorrectly identified Amanda Morris as an associate at James Bates Brannon Groover LLP. Morris is counsel at the firm. We apologize for this error.
Georgia Diversity Program Spent the Summer Investing in Future Lawyers and Will Devote the Fall to Current Lawyers

The State Bar of Georgia Diversity Program (GDP) held two successful in-person events this summer, targeted at the future of our legal profession. GDP held its annual Summer Associates & Judiciary Reception on June 28. Eager to get back together in person, summer associates, attorneys and judges alike flocked to Nelson Mullins. GDP interviewed Supreme Court of Georgia Associate Justice Verda Colvin, a product of Atlanta Public Schools and who hails from humble beginnings; she shared that her parents were both blue collar workers without college degrees. The discussion grew emotional at times as Justice Colvin shared war stories, including her experience trying (and winning) a child molestation case. It was clear that Justice Colvin is a true public servant who loves to give back. She struck the audience as honest and authentic. One attendee said she got the feeling you get after going back to church when you haven’t been in a while. Justice Colvin’s main advice to law students was “know your why.” Thanks to all who attended, to Nelson Mullins for sponsoring, to Charles Huddleston for his hard work planning the program and, of course, to Justice Colvin.

In July, GDP resurrected its annual High School Pipeline Program. For almost two weeks, 10 ambitious students gathered daily at Atlanta’s John Marshall Law School’s new location in Peachtree Center. Led by their teacher, Valorri Jones, the scholars worked diligently on their writing and their verbal presentation skills. Each day, the students went to a different law firm or corporate legal department to have lunch and to hear from the attorneys on an array of topics. For example, Equifax spoke on Credit 101, and Swift Currie spoke on social media. The scholars’ excitement was infectious as they marveled at being able to use skywalks to travel from building to building without going outside. Some took MARTA for the first time; others took photos of murals, sculptures and buildings. Their growth over the course of the program was evident. Special thanks to Akerman, Atlanta’s John Marshall Law School, Balch & Bingham, City of Atlanta Department of Law, Equifax, Georgia Power, Leadership Institute for Women of Color Attorneys, Parker Hudson, Swift Currie and Troutman Pepper. The High School Pipeline Program will begin accepting applications again in the spring of 2023.

GDP will host its annual CLE in the fall. Among the topics will be a discussion of the legal challenges to informing others about diversity in schools and at work. We also anticipate having a panel discussion with chief diversity officers to learn best practices. If you would like to be a speaker or help plan the CLE, please contact GDP Executive Director Halima H. White at gadiversityprogram@gmail.com.
A Fool for a Client?

Can a lawyer representing herself in a matter talk about the case to a represented opposing party, without first getting permission from their lawyer?

BY PAULA FREDERICK

“He’s my husband!” the adverse party exclaims into the phone. “What do you mean I can’t talk to him without your OK?”

“You’re getting divorced,” you remind her. “I’m his lawyer. Take a look at Rule 4.2—the ‘no contact’ rule. ... To talk to him about the divorce, you have to go through me!”

“But I don’t have a client this time; I’m just a pro se litigant.”

“So you’re representing yourself?” you point out. “You know what they say about lawyers representing themselves,” you mutter as you hang up the phone.

Can a lawyer representing herself in a matter talk about the case to a represented opposing party, without first getting permission from their lawyer?

Until recently my answer would have been “of course!” But maybe I’m wrong ...

A new opinion by the American Bar Association Standing Committee on Ethics & Professional Responsibility1 finds that a pro se lawyer has a client—themselves. That means Rule 4.22 applies, and the lawyer cannot communicate about the subject of the representation with someone who is represented by a lawyer in the same matter.

Comment 1 to the Model Rule3 explains its laudable rationale:

This Rule contributes to the proper functioning of the legal system by protecting a person who has chosen to be represented by a lawyer in a matter against possible overreaching by other lawyers who are participating in the matter, interference by those lawyers with the client-lawyer relationship and the uncounseled disclosure of information relating to the representation.

Two members of the ABA Committee disagreed with the outcome of the Formal Opinion and issued a rare dissent. The dissent makes the point that “self-representation is simply not the same as ‘representing a client.’” They urge the group to consider amending the rule to specifically cover pro se lawyers, rather than pretend that the existing language means that a pro se lawyer has a client.

Georgia’s Formal Advisory Opinion Board will soon decide the issue under our Rule 4.2; a Board subcommittee is drafting an opinion on this same topic. Bar members will have the opportunity to weigh in when the Board issues a draft opinion. Stay tuned.

Endnotes

2. Georgia Rule of Professional Conduct 4.2 (a) states: “A lawyer who is representing a client in a matter shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or court order.” (emphasis added)
3. Note that Georgia’s Rule 4.2(a) is worded slightly differently from the ABA Model Rule, and the Comments are not the same.
Good morning Ms. Frederick—

I read with interest the article you wrote for this month’s GBJ, which I just received this week. Unfortunately, I believe you have made an error in the article, and I feel compelled to write to alert you so that you may consider issuing a follow-up.

The fact pattern to open the article was as follows:

“Let me get this straight,” you say into the phone—you sent me and my co-counsel an email. Unbeknownst to me, you blind-copied your client. I hit ‘reply all’ and pointed out all the problems with your position. Through no fault of mine, your client received my response.…”

The above fact pattern is not possible. If lawyer A sends an email, putting opposing counsel B in the “To:” line; his paralegal C in the “Cc:” line; and his client D in the “Bcc:” line—in other words, C is copied, but D is blind-copied—then a “reply all” by B will go to A and C, but not D. “Blind copy” recipients never receive replies from anyone else on the email, including other blind-copy recipients.

As another example, if you have school children, you have probably received emails sent to classrooms or even the entire fifth grade (or whatever), where you were blind-copied. I can promise you, someone in those lists hit “reply all,” but you didn’t get that response.

Now, I should also point out that I still think it is a terrible idea for lawyers to copy or blind-copy clients on emails, because of the risk—I would say inevitability—that the client will hit “reply all” and include opposing counsel on his emails. So taking my example fact pattern above:

- If B hits “reply all,” it will go to A and C, but not D.
- If C hits “reply all,” it will go to A and B, but not D.
- If D (the client) hits “reply all,” it will go to A, C and B. Moreover, now A, B, C and D are all in the “To:” and “Cc:” fields on the email D sent, so any “reply all” to that email by anyone will be copied to all four of them.

Based on conversations I have had with colleagues over the years, I have come to believe that this is one of the most misunderstood aspects of this every-day technology by a majority of lawyers—which is unfortunate, because there is such obvious potential for malpractice, which ultimately traces back to lawyers being lazy. The better practice, in my opinion, is to NEVER COPY OR BLIND-COPY CLIENTS ON EMAILS TO ANYONE ELSE, EVER. Instead, send the email to opposing counsel (or whomever), and then go back to your sent folder and FORWARD THAT EMAIL TO THE CLIENT. To me, this is the electronic version of what we used to do before email existed:

- I would write a letter to opposing counsel and put it in the mail.
- I would write a second letter to my client that said “enclosed please find a copy of the letter I just sent to opposing counsel,” probably including other commentary or instructions that might have been relevant at the time, and then put that in the mail, in a second envelope.

Lawyers should get in the habit of making this a two-step process, and then the risk of screwing up in this fashion disappears forever. (The risk of screwing up in some other fashion, of course, will always remain, but is out-of-scope for this email.)

I apologize for the length of this email but I do think this is a serious and important issue, and one where so many lawyers screw this up on a daily basis. If you have any questions or if I can somehow be of further assistance, please let me know. I appreciate you taking the time to consider the above.

—Michael R. Dunham
Disbarments
Sherri Len Washington
1253 Commercial Drive Suite A
Conyers, GA 30094
Admitted to the Bar 2007

On June 22, 2022, the Supreme Court of Georgia disbarred attorney Sherri Len Washington (State Bar No. 107007) from the practice of law in Georgia for her multiple violations of the Georgia Rules of Professional Conduct in connection with three separate client matters following a report and recommendation of the State Disciplinary Review Board. Despite being personally served with the formal complaint, Washington failed to timely answer or otherwise respond, and the special master found her to be in default such that the factual allegations and the disciplinary violations charged in the formal complaint were deemed admitted and recommended that Washington be disbarred from the practice of law. Thereafter, Washington hired counsel, who filed objections and initiated a late defense before the Review Board, but counsel later withdrew and Washington failed to further support her objections, which resulted in the Review Board’s correctly declining to consider the objections and essentially adopting the special master’s report and recommendation as to discipline. Washington filed no exceptions to the Review Board’s report and recommendation, and the Court agreed that the circumstances of the matter warranted disbarment.

The facts, as deemed admitted by Washington’s default show the following. With regard to State Disciplinary Board Docket (SDBD) No. 7444, a client retained Washington to represent her in a simple divorce case in March 2017. The client sought a division of her husband’s 401(k) retirement account, temporary and permanent spousal support, and division of marital assets, and she asked Washington to file the divorce as quickly as possible because she feared her husband would take steps to remove her from his health insurance and to request a protective order because she feared for her safety. Washington failed to file the divorce promptly, which led to her client’s loss of her health insurance, and also failed to seek a protective order. As the case proceeded, Washington failed to keep her client advised of the status of the case, failed to respond to court notices, failed to exchange mandatory discovery, failed to attend the pretrial status conference, failed to provide the required domestic relations financial affidavit, failed to complete the consolidated pretrial order required by the court, failed to respond to requests from opposing counsel for this information and failed to participate in a conference call with the court on the subject of outstanding discovery and the incomplete pretrial order. Eventually, the case was set for trial on Oct. 27, 2017, but neither Washington nor her client appeared for the court date. The trial court granted the divorce on terms which were very unfavorable to Washington’s client.

Throughout this time period, Washington’s client was not aware of the status of her case because Washington would not respond to any of the client’s numerous calls or emails. The client discovered the final judgment of divorce on the clerk’s website. When the client sent Washington a screenshot of the divorce decree via text message, Washington acknowledged the text but did not call her client. Instead, Washington immediately filed a motion to reconsider the divorce judgment, which was unsuccessful. In addition, Washington told both her client and the trial court that she was sick on the evening of Oct. 24, 2017, and therefore had overlooked the trial notice, which was sent to her electronically on that date, but her client found pictures posted on Facebook of Washington at a sorority function the same night she claimed to be sick. Despite repeated requests, the client never received a copy of her final divorce decree from Washington’s office, and she ultimately retained new counsel and obtained, by default, a malpractice judgment against Washington. The judgment has not yet been paid.

With regard to SDBD No. 7445, the admitted facts are that Washington was paid $515 to represent a client, who had been convicted of child molestation in 2011 and resentenced in November 2015. She was asked to perfect the record and pursue an appeal from the new sentence—tasks that obviously were time sensitive. After receiving payment of the fee, however, Washington stopped communicating with her client and his family; the deadline to perfect the record passed; and her client’s appeal was dismissed. Washington has not refunded the fee.
With regard to SDBD No. 7446, the admitted facts are that a client retained Washington in March 2019 to file suit against her contractor for negligent work on her bathroom. The client was worried about the statute of limitations and asked Washington to proceed with the case as soon as possible. The client paid a retainer of $3,000, but Washington failed to take any action in the case and failed to communicate with her client. Eventually, the client terminated the relationship and requested a refund of her fee in a certified letter to Washington, but Washington refused to accept the certified letter and did not refund the fee until after the Bar filed its notice of investigation in this matter.

Finally, with regard to all three matters, Washington failed to timely respond during the investigation of the grievances, and despite being personally served with the notices of investigation in each matter, failed to timely and properly respond. Instead, she submitted a brief statement regarding circumstances in her practice which did not specifically address the issues raised in these three cases.

Based on these facts, the Court agreed with the Review Board and the special master that Washington violated Rules 1.2, 1.3, 1.4 and 9.3 of the Georgia Rules of Professional Conduct in all three of the underlying disciplinary matters. Specifically, she failed to abide by her clients’ decisions, desires and directions regarding the scope and objectives of the representations; she failed to act diligently in filing, pursuing or responding in any of these clients’ matters; she failed to communicate or consult with these clients (or respond to their inquiries) about matters of importance in, or even the status of, their cases; and she failed to properly and timely respond to the personally served notices of investigation relating to each of these matters. The Court further agreed that Washington violated Rules 1.1 and 3.2 in SDBD No. 7444 because her lack of thoroughness and preparation caused her competence to fall below the level reasonably necessary for the representation and because she failed to take any steps to expedite that litigation as requested by her client. Moreover, the Court agreed that Washington violated Rule 8.4 (a) (4) in SDBD No. 7444 when she made false representations to the court and her client about an Oct. 24, 2017, illness affecting her ability to recognize the court’s emailed trial notice; when she made misrepresentations to the Bar about attending status conferences in her client’s case; and when she attempted to mislead her client as to the status of her case after entry of the final decree.

The record further showed that Washington violated Rule 1.5 in both SDBD Nos. 7445 and 7446 because she collected a fee that was unreasonable in light of the fact that she did no work in either case and because in SDBD No. 7445 she failed to communicate a basis for her fee to her client or his family. Finally, the Court agreed that Washington violated Rule 1.16 in SDBD No. 7445 because she failed to refund the advance payment of a fee that she did not earn. The Court noted that the maximum punishment for a single violation of Rules 1.1, 1.2, 1.3 and 8.4 (a) (4) is disbarment, and the maximum penalty for a single violation of Rules 1.4, 1.5, 1.16, 3.2 and 9.3 is a public reprimand. The Board further agreed with the Review Board and the special master that the case implicates Bar Rule 4-103 because Washington received a formal letter of admonition in February 2013 and Investigative Panel reprimands...
in May 2011, January 2013 and July 2015 (involved two separate client matters).

The Court found the record demonstrated that Washington knowingly or intentionally violated the duties she owed to her clients, the courts and the legal system and that her conduct resulted in serious or potentially serious harm to her clients. Moreover, the Court found no factors in mitigation of discipline and a multitude of factors in aggravation, including prior discipline, dishonest or selfish motive, a pattern of misconduct, multiple offenses, refusal to acknowledge wrongful nature of conduct, vulnerability of victims, experience in the practice of law and indifference to making restitution.

Glen Roy Fagan
30 Ivan Allen Jr. Blvd. NW
Atlanta, GA 30308
Admitted to the Bar 2000

On July 6, 2022, the Supreme Court of Georgia disbarred attorney Glen Roy Fagan (State Bar No. 253944) from the practice of law in Georgia. The disciplinary matter came before the Court on the report and recommendation of the special master who recommended that Fagan be disbarred for his violations of Rules 1.7, 1.8 (b), 1.15 (l), 8.4 (a) (4) and 9.3 of the Georgia Rules of Professional Conduct. Because Fagan did not answer or otherwise respond to the formal complaint, which was properly served by publication, the special master granted the State Bar’s motion for default pursuant to Bar Rule 4-212 (a), and the facts as set out in the formal complaint were deemed admitted. In addition, the special master determined, as an initial matter, that while Fagan, who became a member of the State Bar in 2000, resigned his membership in the State Bar before the complaint giving rise to this matter was filed with the Office of the General Counsel, he was still subject to these disciplinary proceedings.

The facts as set forth in the special master’s report are as follows. Fagan was employed as an associate general counsel by U.S. Xpress, Inc. (USX) in Tennessee from August 2015 until February 2019, and at all relevant times, he was also registered as in-house counsel to practice law
in Tennessee. As part of his employment with USX, Fagan oversaw employment-related lawsuits, administrative charges, and complaints and allegations of employee misconduct. On April 30, 2018, Fagan falsified in its entirety an Equal Employment Opportunity Commission (EEOC) complaint allegedly filed by an individual named Karen Sawyer; on May 2, 2018, he incorporated the law firm of Kirk James and Associates, LLC (Kirk James); and on Aug. 27, 2018, he communicated to his supervisor that he attended a mediation in the Sawyer matter and created a confidential settlement agreement and general release in the matter. Fagan then signed the settlement agreement and general release on behalf of himself and Sawyer, whose signature he forged, and on Aug. 28, 2018, he instructed USX to issue payment for $27,000 to Kirk James for the Sawyer settlement and provided USX with a W-9 form for Kirk James. Fagan then deposited the $27,000 settlement check into the account of Kirk James and converted the money to his own use.

In addition, on Jan. 29, 2019, Fagan signed a confidential settlement agreement and general release purporting to be initiated and signed by Virginia Ladd to settle her claim against USX for $14,000 and then forged Ladd’s initials and signature on the settlement agreement. On the same day, Fagan emailed an employee with USX to authorize the disbursement of funds to Kirk James, the purported firm representing Ladd; USX then issued a check in the amount of $14,000 payable to Kirk James; and Fagan deposited the check into Kirk James’s account and converted the money to his own use.

On Feb. 1, 2019, Fagan announced that he was resigning from his position with USX to accept a position with another company in Atlanta, Georgia. On Feb. 12, 2019, he signed and filed a position statement with the EEOC on the Ladd case, even though the case was allegedly settled; on Feb. 14, 2019, Fagan met with employees at USX regarding his cases and listed the Ladd case as pending with a note that he submitted the position statement to the EEOC; and on Feb. 15, 2019, he stopped working for USX. On Aug. 20, 2019, the EEOC contacted USX regarding settling the Ladd case, and upon review, USX became aware of Fagan’s misconduct in that case, as well as in the Sawyer case. USX filed a complaint with the Tennessee Board of Responsibility in October 2019, and after USX filed its complaint, Fagan entered into a promissory note with USX, paying USX $45,243.29, which included full repayment of the $41,000 from the Ladd and Sawyer settlements, plus interest. Fagan resigned his membership with the State Bar of Georgia before it received USX’s complaint in this matter, and thereafter, he failed to respond to disciplinary authorities’ requests for information in this disciplinary proceeding.

The special master determined that Fagan admitted through his default to the State Bar’s allegations that he violated Rule 1.7 (a), because his own interests materially and adversely affected his representation of USX; Rule 1.8 (b), by using information gained in his professional relationship with USX to the disadvantage of USX; and Rule 1.15 (I), when he retained and misappropriated settlement funds paid out of USX and failed to disburse to the proper parties the settlement funds paid out by USX. The special master stated that Fagan also admitted violating Rule 8.4 (a) (4) when he (1) falsified a complaint allegedly filed by an employee of USX; (2) entered into fraudulent settlements on behalf of USX; (3) falsified documents, including but not limited to settlement documents in matters he was overseeing; (4) misled USX regarding the status of matters he was overseeing; (5) forged signatures of the complainants on settlement agreements and settlement checks; (6) incorporated a law firm, Kirk James, and instructed USX to disburse settlement funds for falsified settlements to this law firm; (7) misled USX into disbursing settlement funds in the amount of $41,000 to Kirk James; and (8) retained settlement funds paid out by USX. The special master also stated that Fagan admitted violating Rule 9.3 when he failed to respond to disciplinary authorities. The special master noted that the maximum sanction for a single violation of Rule 1.7, 1.8 (b), 1.15 (I) and 8.4 (a) (4) is disbarment, while the maximum sanction for a violation of Rule 9.3 is a public reprimand.

As aggravating factors, the special master concluded that the State Bar had established that Fagan acted with a dishonest and selfish motive, engaged in a pattern of misconduct resulting in multiple offenses and had substantial experience in the practice of law. In addition, the special master concluded that Fagan engaged in illegal conduct, including “theft, forgery, and wire fraud at a minimum.” The Court stated it was not clear why Fagan had not been criminally prosecuted based on the admitted facts and the substantial potential laundry list of criminal charges he could have, and could still, face.

As to mitigation, the special master concluded that Fagan admitted the facts and rules violations as alleged. Fagan waived his right to present evidence of mitigating factors by virtue of his default. In sum, the special master concluded that Fagan used his position as in-house counsel to defraud and swindle his client out of a substantial amount of money, and that in doing so, he violated his duties to his client and to the legal profession and recommended that he be disbarred. The Court agreed that Fagan violated the Rules stated and that disbarment was the appropriate sanction.

Endnote

1. This opinion is subject to modification resulting from motions for reconsideration under Supreme Court Rule 27, the Court’s reconsideration and editorial revisions by the Reporter of Decisions. The version of the opinion published in the Advance Sheets for the Georgia Reports, designated as the “Final Copy,” will replace any prior version on the Court’s website and docket. A bound volume of the Georgia Reports will contain the final and official text of the opinion.
Send Later
Delay the delivery of your emails.
Both Outlook and Gmail provide the option to schedule your emails. This is great for those of you who block schedule, work at odd hours or want to enforce boundaries with clients around acceptable hours to email or receive a response.

Unroll.me
Manage your email subscriptions and declutter your inbox with a simple app. Unroll.me allows you to quickly sort your inbox and decide whether you want to keep, unsubscribe or roll up emails into an easy-to-read daily digest. Say hello to a less cluttered inbox.

Inbox When Ready
Protect your focus.
Spend less time on your email.
Have you ever gotten distracted while going through your emails by the onslaught of new emails? If so, this is a great solution for your Gmail fans. Inbox When Ready is a browser extension that allows you to pause your inbox so you can manage other inbox tasks like composing messages or searching. It also allows you to “lock” your inbox designed to prevent you from checking your email outside of designated times. Hello, batch emailing!

Missive
Elevate your shared inbox management with Missive. Missive is a sleek app that allows you to collaborate around email. You can manage all your communication channels—shared or private—in a single app. That means one place to check your firm’s emails, tweets, webchats and SMS text. Not to mention you can create workflows, assign users and chat internally about messages before you respond.

1 Inbox When Ready
inboxwhenready.org
2 Missive
missiveapp.com
3 Unroll.me
unroll.me
4 Send Later
Delay the delivery of your emails.
5 Firefox Relay
relay.firefox.com
Ever visit a website that requires you to hand over your email address to create an account, order something or get a discount? Mozilla’s Firefox Relay will create an alias email address to protect your true email address from public view, automatically forwarding messages to your true inbox. You don’t even have to use Firefox as your browser—a Chrome plugin is available.

6 ReadClearly
www.openadvocate.org/readclearly
ReadClearly identifies complex legal terms on your website and displays a plain language explanation. It’s free and easy to install! Just add a Javascript code snippet to your website and ReadClearly does the rest.

7 Loom
www.loom.com
Many of us have been in a meeting thinking, “This could have been an email.” Skip the meeting and send a Loom. With Loom, you can record your screen and camera easily. The video can be shared by simply pasting a link to your clip wherever your recipients are, and they can watch it without logging in or creating an account.

8 Focus
With iOS 15 and iPadOS 15 or later, Focus lets you stay in the moment when you need to concentrate or step away from your device. You can customize Focus settings and choose when you want to receive alerts and notifications, while letting other people and apps know when you’re busy.
Three Pieces of Information You Must Have to End the Year Strong

If you have ever wondered how to accelerate the results you are getting from your law practice, this article is for you.

BY NKOYO-ENE R. EFFIONG

Ready for Q4?
We are headed into what can be a BIG time of year as law practice owners. The fourth quarter is your final push to meet your 2022 goals. In sports, the fourth quarter is where all the action is—unless the game was a total blowout from the beginning. Assuming it was not, and you are not a Falcons fan, the fourth quarter is where momentum builds, and incredible things can happen.

At the Law Practice Management Program, we want that for you. We know that a strong end to one year catapults your success in the next year. Why? Because success begets success.

So, how about we check in on your goals? Maybe you are right on track. Maybe you are not where you want to be. Maybe you are feeling great and want to keep the momentum moving.

Regardless of where you are, if you are wondering, “How do I accelerate the results I am getting?” then this article is for you.

The number one place—the best and only place—to start is with your data. Your data is the best indicator of what strategic moves you need to make to hit your goals. Without sound data, you could implement an incredible strategy or tactic at the wrong time or in the wrong order. Data helps you see what is happening in your law practice and where the leaks may be in your process.

Below are three pieces of information you must have to end the year strong.

1 Who Your Ideal Client Is
Running a six- or seven-figure law practice with ease requires you to divorce the “whatever walks in the door” mentality that may have served you when you were starting out. Instead, you should define the types of legal matters and clients with whom you prefer to work. As the owner of your law practice, you get to decide this. You get to choose what types of matters you work on and with whom. You have agency here. The sooner you realize, accept and own this reality, you will be able to attract those clients and run a law practice you enjoy.

Knowing your ideal client will allow you to better position your law firm as the best solution to their problem. You show up with more clarity and confidence in your marketing, networking, consultations and related spaces.

2 How Your Ideal Clients Find You
When you know how your clients find you, you can make sure to target your marketing efforts consistently in that space. You can also design a repeatable process to turn your leads into clients.

One low-hanging location is the State Bar website. It makes perfect sense. What better place to find an attorney than a statewide bar association? While we do not have a lawyer referral service, we do have a nifty Find A Lawyer feature on the website that your potential clients search regularly.

From Jan. 1-Aug. 31, ReliaGuide reported nearly 600,000 searches and a lit-
tle more than 200,000 profile views from consumers. Many Bar members have obtained a good, paying client from an inquiry that started on the Bar’s website. Some have landed several great clients on a monthly and quarterly basis.

Check out the infographic for more useful information about legal consumers accessing the State Bar website to find you.

**How to Use This Information**

Show up where you know they are searching. Every Bar member has access to a free profile through ReliaGuide. Your basic information is already there. Why not ride that traffic wave by claiming your profile and filling in your basic information, including uploading a photo? Not to mention, the more links you have out there, the more opportunities you have to be found.

**How Many Potential Clients You Need to Convert Into Paying Clients**

Getting lots of leads is great. What is better? Qualified leads or prospects. Prospects are people with whom you can start a sales conversation. In case you were like me and did not know, consultations are sales conversations. For most of you, the consultation is the point in your process where you are inviting a prospect to become a client. Beyond giving great information and assessing the legal merit of a matter, this is your opportunity to position your firm as the best solution to your prospect’s problem. This often means inviting people to work with you, also known as asking for the sale.

The number of consultations that result in paying clients is a powerful piece of data. To the extent that sales is a numbers game, this number unlocks a magical formula for growth. Once you know your close rate, and the number of sales conversations (consultations) that result in a paying client, you can use industry standards to determine how many people you need to reach each month to meet your financial goals.

**How to Use This Information**

This data provides valuable information about where you may have a leak in your sales funnel. It is not enough to run a lot of traffic to your website or social media. You must convert those leads into actual clients (and ultimately raving fans) of your law practice. Conversions (often the result of a solid follow-up process) is where the profit lies.

There are several other data points or pieces of information that can help you accelerate your revenue generation. These are just a few sometimes overlooked data points that can help you strategically grow your practice.

What other information do you use to help you make profitable decisions about your firm?

Send us a message on Instagram @gabarlpm. Want more tips, tricks and tools for streamlining your law practice with ease? Join the LPM Insider at bit.ly/lpmnewsletter.

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*Nkoyo-Ene R. Effiong*

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Tifton Judicial Circuit Bar Association Gives Liberty Bell Award to Victim Advocate

The purpose of the Liberty Bell award is to recognize community service that has strengthened the American system of freedom under law.

BY ANGIE THOMPSON

The Tifton Judicial Circuit Bar Association presented Latricia Sumner, a local advocate for crime victims, with the 2022 Liberty Bell award during a Law Day celebration in May. The Liberty Bell is the most prestigious award given by lawyers to a non-lawyer.

Sumner, a victim assistance advocate in the Tift County District Attorney’s Office, was chosen by the circuit’s attorneys to receive the award. “I was very humbled and surprised. I couldn’t do it without everyone here,” Sumner said. “To have people you work with think that about you is very humbling.”

In addition to the Liberty Bell award, Sumner also received a scrapbook containing letters and notes from victims with whom she had worked. The scrapbook and other gifts were presented by Tifton District Attorney Bryce Johnson. Sumner was moved to tears when excerpts of the letters were read during the ceremony.

Sumner left her long-time career in the food industry 12 years ago to begin
In addition to the Liberty Bell award, Sumner also received a scrapbook containing letters and notes from victims with whom she had worked. ... Sumner was moved to tears when excerpts of the letters were read during the ceremony.

her role as an advocate. She makes the initial and ongoing contact with victims to explain the criminal justice process and inform them of their rights and the services available. She also serves as a liaison between the prosecutor and the victim.

Victims of rape, assault and other violent acts—as well as their families—benefit from Sumner’s caring personality, said Hon. Herbert “Herby” Benson, judge, Tift County State Court.

Sumner “is there to hold their hand, offer a shoulder to cry on, and she stays close right up until the time a verdict is rendered,” Benson said.

“Latricia has to meet the victim shortly after they have had their world turned upside down. She is one of those special people who goes above and beyond for the victims in our community. She is one of the most important people in our community.”

Sumner primarily handles Tift County cases as Tift is the largest county in the circuit and has the highest rate of violent crimes, Benson said, noting that 1,410 people received assistance in Tift County in 2020 and another 1,200 in 2021.

Sumner, who locals might remember had worked at Shoney’s, continues her love for cooking and contributes cakes and other treats when employees have birthdays or when another special occasion is celebrated.

“Latricia’s life experiences coupled with her amazing personality has created the perfect recipe,” Benson said. “She has provided the people in the circuit with an unexpected blessing.”

A celebration of life for the late attorney Sandy Sims was also observed following the dinner. ●

BAR BENEFITS

Conference Center

DID YOU KNOW?
The Bar Center conference rooms can be reserved at no charge for law-related meetings. Similar amenities are available at the Savannah and Tifton offices.

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Fastcase Secondary Sources: An Often-Overlooked Treasure

Free online legal research is available to all Bar members. Learn how to effectively use and navigate Fastcase. In-person training sessions are currently not being offered, but you may still sign up for a webinar hosted by Fastcase at www.fastcase.com/blog/free-fastcase-webinars.

BY SHEILA BALDWIN

Members typically log in to Fastcase to do primary legal research within cases, statues and regulatory law as these have binding authority. This article will cover secondary legal research content within Fastcase. Secondary sources provide persuasive authority to support your legal argument. They also can be a suitable place to begin a search because they clarify a topic by explaining the key issues and provide analysis of legal concepts. Secondary sources can also expand your research and help generate key words or phrases to use when searching for cases. Fastcase includes an abundance of secondary resources making it convenient to do all your legal research in one place. These libraries are available at no cost to Georgia members. This article will cover the content that is free with your Bar subscription.
**Law Journals and Reviews**

Fastcase offers Georgia law school journals and reviews as part of your Bar subscription. They can be searched individually or by browsing in an index format (see fig.1). When you search by the browse mode, you will notice that you are spontaneously seeing only Georgia and federal content. In browse mode, scroll down to Law Journals and Reviews and you will notice a magnifying glass icon, which allows for global searching, or you can open the indexed list to view one issue at a time based on chronological order (see fig. 2). You have access to Emory Law’s three journals: the *Emory Bankruptcy Developments Journal*, the *Emory International Law Review*, and the *Emory Law Journal*, as well as the *Georgia State University Law Review* and the *Mercer Law Review*. The University of Georgia’s four law reviews recently were added after popular request. They consist of the *Georgia Law Review*, the *Georgia Journal of International & Comparative Law*, the *Journal of Intellectual Property Law* and the newest publication, the *Georgia Criminal Law Review*. The inaugural edition of the *Georgia Criminal Law Review* will be a welcome addition to those who specialize in this area of law as its integrated into the Bar’s Fastcase content. Have you ever searched your name in Fastcase? Try it and you may be surprised to see a mention of your name in past cases, law reviews or the *Georgia Bar Journal*.

**Georgia Bar Journal**

Other free secondary sources contain the State Bar’s *Georgia Bar Journal* going back to Vol. 4, No. 1, August 1998. You may be surprised to find information that relates to your search as each issue focuses on a current hot legal issue or one that speaks to law-related practices. This database can be searched in the same manner as law reviews.

**Pattern Jury Instructions**

Recently, Fastcase added a practice aid, Eleventh Circuit Pattern Jury Instructions, Civil and Criminal. Members have requested this information and we are glad to have it as part of Georgia’s searchable content. These publications are the most recent version and are searchable by an indexed list.

**JurisPro Expert Witness and LexBlog**

Two other national secondary sources are free as part of the Bar’s searchable content. Members can access JurisPro Expert Witness Directory at no cost and discover a list of expert witnesses that includes their background as an expert, contact information, areas of expertise and testimonial background. Use a simple word like obstetrics or create a search using a legal term like boundary infringement to find results.

LexBlog is the other secondary content that is integrated into the Bar’s Fastcase content at no cost. After conducting a search, I found 33,892 articles presently in the LexBlog library (see fig. 3). Kevin O’Keefe, founder and CEO of LexBlog, explained that the amount of insight and commentary that is being published on legal blogs exceeds that of law reviews and law journals. LexBlog was created to organize, search, index, archive and cite this content.

Take a few minutes to view these helpful secondary sources. If you have something you would like Fastcase to add, please email them at support@fastcase.com or send to sheilab@gabar.org.

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**Sheila Baldwin**

Member Benefits Coordinator

State Bar of Georgia

sheilab@gabar.org

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**BAR BENEFITS**

**Fastcase Legal Research**

**DID YOU KNOW?**

Fastcase is a comprehensive national law library on your computer/tablet/smartphone, with online access to cases, statutes, regulations, court rules and Bar publications. Apps and mobile sync aid mobility in regard to legal research.

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**State Bar of Georgia**

2022 OCTOBER 51
Wellness Through the Stages of Practice

This is the second installment in a series of articles regarding attorney wellness throughout the many stages of practicing law. Be sure to look back at the February 2022 issue of the Georgia Bar Journal if you missed the first installment.

BY MEGAN MURREN RITTLE

As I sit down to write this article, which is the second in a series centered around Wellness Through the Stages of Practice, several headlines in the news this week and from weeks past strike me as analogous to this feature. Just this week, Serena Williams, arguably the greatest tennis player of all time, announced her retirement in Vogue magazine, explaining her decision to choose building a family over building her tennis career.1 Williams was quoted as saying:

Believe me, I never wanted to have to choose between tennis and a family. I don’t think it’s fair. If I were a guy, I wouldn’t be writing this because I’d be out there playing and winning while my wife was doing the physical labor of expanding our family. Maybe I’d be more of a Tom Brady if I had that opportunity.2

At the same time, Tom Brady made headlines for taking some time away from training camp, and missing the first two preseason games with the Tampa Bay Buccaneers to “deal with personal matters,” which many have speculated may have been a family vacation that was planned when he initially announced his retirement (before recanting and deciding to play another year instead).3 Brady famously shares one son with actress and model Bridget Moynihan, and two children with his wife, model Gisele Bundchen.

Williams’ announcement and commentary have brought up older headlines, specifically ones concerning the most decorated track and field athlete of all time, Allyson Felix, who published an op-ed in the New York Times in 2019, disclosing her treatment by sponsor Nike when she chose to start her family.4 According to Felix, Nike’s position was essentially that her pay would stop while she was pregnant and not competing, and, that she needed to get back to her pre-baby performance if she expected to obtain her pre-baby compensation. After the piece by Felix (as well as two similar pieces by her teammates Alysia Montaño and Kara Goucher, also formerly Nike-sponsored athletes) was published, Nike decided to change its tune and institute a policy to protect its birthing athletes in the 18-month period following the delivery of their child.5 6

Conversely, the same week Williams’ article hit newstands, Women’s National Basketball Association 2019 Rookie of the Year Napheesa Collier returned to the hardwood less than three months after giving birth to her daughter to much applause as she would now make her season debut in the WNBA just in time to help her team, the Minnesota Lynx, make a final push to a playoff berth.7 8 Collier’s story reminds me of Major League Baseball player, Daniel Hudson, who, in 2019, made headlines when he decided to miss a playoff game for the birth of his third child and received a lot of flack from the internet for taking advantage of the MLB’s three-day paternity leave policy, which has been in place since 2011.9

Finally, as I write this, I am 35 weeks and four days (I’ll spare you the hours and minutes, though I am counting every one) pregnant with my first child. Reading some of these headlines above, I feel that I can relate to some of these sports figures because I too feel faced with some of these challenges. Starting a family versus building my career. Feeling pressure to return to the game as quickly as possible postpartum. Knowing, because I am a partner at a private firm and am therefore beholden to the billable hour,10 that I’ll need to return to my pre-baby performance if I expect to continue to receive my pre-baby compensation. Therefore, as
I embark on what I am sure is an incredible journey, the two lawyers that I chose to feature have some wellness strategies that are particularly pertinent to me, but also to many more like me who are either thinking about growing a family, or who are already parents.

Changing Jobs and Careers, Being a Wife, Being a Mom and Running the Show
I asked attorney Erica Harrison Arnold to share with me some insights on her career as she experienced a transition in careers, as well as legal jobs, at the same time she began starting and growing her family. Arnold has been practicing law since 2012. Prior to embarking on her journey as a lawyer, she served as a public-school teacher in Atlanta. After receiving her JD from Harvard Law School in 2012, Arnold began her legal career with Alston & Bird as an associate in the government contracts and construction practice group. After five years at Alston & Bird, Arnold returned to public service, making the transition to working at the district level of the eighth largest school system in Georgia, Henry County Schools. In the past decade, Arnold also married her husband, blended a family and eventually became the biological mother to two children. Arnold currently serves as the executive director of legal compliance for Henry County Schools. Below are excerpts from the questions that I posed to Arnold for this feature.

Of the areas of wellness, as defined by the American Bar Association, which is most important to you?
Surely, my answer on this has ebbed from one category to another (e.g., mental, social, emotional, spiritual, physical, financial) over my years of practice. At present, my spiritual and mental wellness are supremely important.

When you transitioned from law school to the big firm life, how did that affect your wellness? Mentally? Physically? Socially/emotionally? Spiritually?
The "big law" firm that hired me after 3L year in law school was also the firm at which I had the opportunity to be part of the summer associate program for two years. I entered my first year as an associate attorney with prior relationships—both among my entering associate class (most of whom "summered together"), the associate classes a few years senior and some of the partners. Those welcoming relationships certainly eased my transition, as part of my social wellness.

Fortunately, I'd be joining a government contracts specialty with large defense and construction industry clients who were part of public projects. Doing public-adjacent work was an important aspect of legal practice I wanted to learn (fueling my intellectual curiosity and mental wellness). The law firm also had a respectable pro bono commitment to the city, which fed my sense of self-actualization—also mental wellness. And, of course, working as a big law associate affords a level of financial wellness and security in uniquely privileged ways.

The opportunity to transition back to Atlanta was, in itself, a blessing. Atlanta is a city in which I had previously lived (and could rediscover neighborhoods), where I retained community among friends, had prior health care providers, knew religious congregations and is less than 100 miles from my hometown. In these ways, my physical, emotional and spiritual wellness were centered. And, although I may sound capricious about it, I do not underestimate the environmental wellness I experienced moving from New England.
back to Georgia, and how the benefits of more year-round warmth and less harsh winters enabled me balance in the professional, familial, social, health and personal aspects of my life.

If you found that the practice of law was having a negative effect on an aspect of your wellness, did you take any steps to correct or lessen the negative affects? If so, what were the steps? If you did not, is there anything that you would advise to a young lawyer now in that situation?

Life is dynamic: practicing law did not stop or slow that for me. I certainly had periods where I questioned whether “how” I was practicing law aligned with my core beliefs. I also had periods where I needed to adjust commitment to my physical health. Self-reflection led me to take affirmative steps to address concerns and prioritize—which I would recommend for any young lawyer—like regular doctor visits and check-ups, family planning, mentorship and counseling, and exercise and nutrition programs.

Eventually you transitioned from a law firm to public service and a non-traditional legal role. How did that change affect your wellness?

I appreciate this question. ... I’d clarify that I transitioned back to public service, since most of my formative years were spent in this space. But, it’s a fair question because I made what felt like a binary choice—particularly after straddling four years in a joint degree policy and law program—to begin my practice of law for commercial clients rather than public interest. Because I’m the first attorney in my family, I practiced law for me. I certainly had periods where I questioned whether my experience for the remainder of the 2019-20 school year except to celebrate graduating high school seniors in a very large outdoor forum. For the 2020-21 school year, we remained open to an in-person experience for students and employees. Hence, our teachers, administrators, support professionals, staff, technicians who all are essential workers and public heroes as far as I’m concerned have marshalled themselves in person to buildings and classrooms to hold together our community for more than two years consistently.

Yes: like so many, I have been “on.” My pre-pandemic duties certainly included primary areas of responsibility in student-related grievances and complaints; internal and agency investigations; mediations; litigation management; and open records requests. Tangentially, I also worked pre-pandemic in areas of law such as employment, procurement, real estate and civil rights. None of this has changed with the pandemic, but the everyday conditions are more intense. The matters I handle during this pandemic are magnified, immediate and elevated, politicized and more consequential.

I find space for myself in ways I have found sustainable previously: I get fueled by my village of family and friends, I practice my faith and tune up my health, and, while at work, I seek out colleagues who are as much empathetic advocates as they are unyielding in high expectations ... so that we may conspire together in the “good trouble” (Rep. John Lewis) to keep decisions centered around what is best for children.
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Taking Responsibility in Fatherhood and Partnership

When preparing to write this feature, I wanted to make sure to include a father’s perspective, and the unique stressors that accompany that ever-so-important role. Arvind Reddy, the father of two active boys, has been practicing law for more than 16 years, and is currently a partner at Thomas Horstemeyer, an intellectual property boutique firm. Shortly after transitioning to full-time attorney, Reddy also became a full-time father, and he and his wife eventually grew their family to two. Below are the thoughts that Reddy shared with about the responsibilities of partnership, fatherhood and self-care.

Of the areas of wellness, as defined by the ABA, which is most important to you and why; or asked differently, which do you believe you most often prioritize?

I think they’re all extremely important but since you are forcing me to pick one, I will just say that since the beginning of 2020 and the onset of the COVID-19 pandemic, I have had a renewed emphasis on the physical dimension of the ABA’s well-being definition. I think that ensuring one’s physical well-being, involving regular activity, rest and recovery, helps lawyers make better decisions and thrive in the other dimensions of lawyer well-being.

When you transitioned from law school to the firm life, how did that affect your well-being? If you found that the practice of law was having a negative effect on an aspect of your wellness, did you take any steps to correct or lessen the negative effects? If so, what were the steps? If you did not, is there anything that you would advise to a young lawyer now in that situation?

For many years, I think I neglected the physical dimension of lawyer well-being that I mentioned above is so important to me now. Part of this stems from youth and part of this stems from the pressures of learning your craft early on in your career. It is “easy” to neglect the physical dimension of well-being when you are in your 20s and are feeling billing pressure and also trying to simply learn the job. I would tell my 25-year-old self to make time for that physical dimension and place an emphasis on it because, again, I feel it can help lawyers thrive in all dimensions of well-being.

If you have experienced any transitions during your career (whether it be a job change, a boss change, a promotion (e.g., associate to partner)), how have those changes affected your life (such as availability of time) and your wellness? Did you at any point have to take stock of yourself and re-prioritize your well-being?

I don’t think I really had a moment where I took stock of myself and had a major shift or re-prioritization. I think I am more on a continuum or an evolution in these different dimensions. I probably experienced gradual change and evolution in the various dimensions of well-being, and that process will continue.

In your current role, what are the biggest stressors for you related to work? Do you have any strategies to combat those stressors? Now that I’m a partner in my firm, my partners and I feel a great deal of responsibility to the associates and staff at the firm. They come to work every day and work extremely hard, and we feel a sense of responsibility to them, to keep the lights on and to provide a work environment in which they can thrive. My personal strategy for combating the stress of this responsibility is allowing myself...
some time to focus on some of the dimensions of lawyer well-being as well as remembering that we have a great team in place.

At some point, you became a new parent while still being (presumably) an associate in your firm with expectations for billable hours, etc. At the time that your kids were born, did you take any paternity leave? If not, when you look back on that time, would you take it now? Do you have any advice for new and expectant first-time lawyer fathers?

I did take paternity leave but not as much as I could have taken. When I look back on that time, I would have taken more time and spaced it out over the first six months to one year after they were each born. While I was not the primary caregiver for my kids when they were infants, I definitely feel like I missed some of those precious moments. With that said, my firm allowed me to take as much time as I needed, but as a young associate I felt “guilty” about doing it. Looking back, I should have ignored that guilt.

Now that your kids are older and playing basketball, I am sure they want to prioritize their time, their friends, their wants, etc. How do you find balance for your work, your marriage and yourself? Do you have a plan of attack, or do you take the days as they come?

Honestly, we take the days as they come. I think it is important to my mental well-being to find time to do fun things with my family and also with my friends outside of work. It helps me put my career into the proper context by understanding that it is just one of many things in my life that define me, not the only thing.

What strategies do you and your wife use to prioritize your marriage with all of the competing factors?

Wish I could say we have a detailed strategy here, but we honestly take it day by day. One thing we’ve always tried to emphasize is taking a few trips per year with our kids to a new place. We feel it helps us remember and strengthen those bonds with our kids and with each other.

If you have any self-care rituals, what are they?

Again, I try to spend time on the physical dimension of lawyer well-being while also prioritizing regular time doing fun things with the family and with friends. Finding time for some of these social activities helps keep me from being overly stressed about my job and my career.

Conclusion

As I reflect on the news stories at the start of this article, as well as my conversations with Erica Harrison Arnold and Arvind Reddy, it’s apparent to me that whether you are an elite athlete competing at the peak of your physical profession, or an aspiring attorney attempting to deliver the best quality work for your clients and your firm, at some point or other most of us will be faced with the challenge of how to balance our professional lives with our personal lives, whether that involves starting and raising a family or simply prioritizing our mental, emotional, spiritual and physical well-being. When faced with that challenge, it’s helpful to know that we’re not alone, and that resources exist to help us cope with the stressors that can often overwhelm us in our professional lives. Moreover, these decisions are very rarely a zero-sum game, as choosing to invest time and energy into your mental health, emotional needs, spiritual life and physical well-being can pay dividends in other facets of your life, and leave you better equipped to be the best lawyer you can be.

Content for the Attorney Wellness section of the Georgia Bar Journal is provided by members of the Print and Media Subcommittee of the State Bar of Georgia Attorney Wellness Committee.

Megan Murren Rittle is a partner at the law firm of Smith, Welch, Webb & White, LLC, practicing in the education and general civil litigation groups. She enjoys running, swimming and biking. Rittle lives in Atlanta with her husband, Tom, their new baby and two pups.

Endnotes

2. Id.
5. See https://time.com/6077124/allyson-felix-tokyo-olympics/.
6. Perhaps to cover the blunder or to capitalize on what could have been a missed opportunity, Nike also developed a maternity line, Nike (M), where it touts “Mom Comes First. Nike (M) is more than a collection, it’s a space to find the support you need to get or stay active during motherhood.” https://www.nike.com/.
8. In contrast to Felix’s experience with Nike, Collier was featured in Nike advertising proudly cradling her baby bump during pregnancy. See Instagram @napheesa24.
10. This statement is not a criticism of my firm or any of the partners in it, but rather a statement of the state of being a lawyer in a firm. The partners of my firm, particularly the three equity partners, have been more supportive than I ever could have hoped, and I know that I am fortunate because not every new and expectant lawyer-parent’s experience has been as positive as mine.
12. Erica also attained a Master of Public Policy from the Harvard University Kennedy School of Government.
Take a Memo to the File

The memo to file is not an anachronistic document. Even though the ubiquity of electronic communications has left fewer gaps in the record that lawyers make, memos to file can still be critical.

BY DAVID HRICIK AND KAREN J. SNEDDON

As legal writers, we compose a range of documents every day. Whether a motion for summary judgment or a contract, each document has a clear purpose, an intended audience and genre conventions. This installment of “Writing Matters” discusses a commonly created document: a “memo to the file.” This installment shares the purpose behind the memo to file and presents strategies to improve its effectiveness. While the age of digital communication—where many decisions are memorialized in email or text—a memo to file remains a useful tool in every lawyer’s toolbox.

What is a Memo to the File?
The phrase “memo to the file” is usually used to describe a document sent only to the file to record a decision, memorialize a conversation or describe an important event. In other words, the memo to file documents information that would otherwise leave no paper trail.

As one federal judge recently observed, “writing a memo to the file is common in a variety of settings.” They’re “second nature to anyone who has worked as even just a midlevel manager in the federal government. ... [T]he first thing such an employee does if his boss is stupid enough to ask him to do something sketchy, is to write it down, to document in detail the what, the when and the where. Time spent managing, or even just working, in the federal government, teaches the habit of writing memos to the file.”

In the practice of law, a memo to the file can document a variety of key conversations or events. For example, a memo to file may describe a series of conversations between a lawyer and a client about accepting a settlement offer. If a question later arises about the decision, the memo to file provides context. A memo to file may be created to memorialize the negotiation of contract provisions with opposing counsel. A client’s decision to forego a claim, a defense or other legal right, for example, are other critical events that can be the subject of a memo to file. That is one reason why “lawyers representing attorneys in legal malpractice advise that memos to the file...
The phrase “memo to the file” is usually used to describe a document sent only to the file to record a decision, memorialize a conversation or describe an important event.

How to Write a Memo to the File

A memo to file often includes a factual recitation of key details. A memo to file created to memorialize the basis for a decision should include details that may not be recalled later, when they are needed. For example, a memo to file concerning an employment termination should include the information that led to termination, who communicated that information, and how and when that information had been communicated. After all, the decision to terminate and the use of the information in any wrongful termination litigation may be separated by months if not years. A memo to the file is in effect a time capsule and needs to be written to survive until its planned use.

Related to that, a memo to file is just that—a memo no one will read—but it still should be written with some level of care. It may, after all, provide the explanation for a decision important enough that it is later being challenged, and so should be written with an appropriate degree of attention and formality. Slang, acronyms, misspelling and sentence fragments should be avoided. To that end, the memo should be similar in tone to an objective office memorandum.

Ideally, a memo to file should be created as soon as possible following the decision, conversation or event. Dating the memo is critical. Use the typical memo heading: to (files), from (author of the memo), date (the date of the memo) and regarding (subject of the memo). This memo heading ensures that the memo can be easily found and accessed.

Keep in mind that a memo to the file may be subject to the attorney-client privilege, work product doctrine or other protection. As a result, it is important to label it as such. Related to that, another purpose of a memo to file is to document facts establishing when a client had anticipated litigation, to enable work product protection to begin.

Conclusion

The memo to file is not an anachronistic document. Even though the ubiquity of electronic communications has left fewer gaps in the record that lawyers make, memos to file can still be critical. Some
decisions, conversations or events do not leave a paper trail. Imagine a client who foregoes a substantive right, but based upon critical information that had been disclosed only in an oral communication, information disclosed in a phone call during an ongoing email exchange but not mentioned in it. Those emails will not reflect that the lawyer imparted the critical information to the client, leaving a written record that gives the false impression that the client had made a choice without the critical information. Regularly creating memos to file ensure that all decisions, conversations and events are sufficiently documented.

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 interim dean and professor of law at Mercer University School of Law.

Endnotes
1. DR Distributors, LLC v. 21 Century Smoking, Inc., 513 F. Supp. 3d 839 (N.D. Ill. 2021). Much of this installment is based off of articles and authorities in this well-written district court decision by Hon. Iaian D. Johnston.
3. See Tricia Goss, How to Write a Memo to File, BIZFLUENT (Sept. 26, 2017), https://bizfluuent.com/how-4678025-write-memo-file.html ("For example ... write a memo to file in case another party later questions your actions. Memos to file are imperative for legal, medical or other highly sensitive files that might later be used in court as well."); Mark E. Ellis & Steven B. Vinick, How to Avoid Legal Malpractice: Ethics for Every Attorney (last visited Aug. 8, 2020), www.ellislawgrp.com/article17malpractice.html ("All discussions, recommendations and actions should be documented."); Greg Fayard, Avoiding Legal Malpractice Tip: Document, Document, Document, FMG BlogLine (May 24, 2018), www.fmglaw.com/FMGBlogLine/professional-liability/avoiding-legal-malpractice-tip-document-document-document/ ("Having defended scores of attorneys over the years, more often than not, I wish my lawyer-client had either better documented his or her file, or memorialized a key conversation ... For a key strategy decision in a case, a quick ‘memo to file’ in e-mail form works as well as something more formal."); Edward X. Clinton Jr., When Should You Make a Memo to the File? (May 17, 2017), www.chicagolegalmalpracticelawyerblog.com/make-memo-file/ ("A memo to the file should be made ... whenever the client ... does not appear to be telling the truth. ... In sum, the memo to file is used to protect the lawyer where the client may be heading off the rails in some form or fashion or where the client will later blame the lawyer for some event that took place.").
4. DR Distributors, LLC, 513 F. Supp. 3d at n.16.
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Thirty Years of the Award-Winning Law School Orientations on Professionalism

The Commission thanks all of the lawyers and judges—including the 140 lawyers and judges and one law school graduate who served as group leaders—for helping to make the 2022 Law School Orientations on Professionalism a great success!

BY KARLISE Y. GRIER

In 1992, Dana Miles, while serving as chair of the State Bar of Georgia Committee on Professionalism, became the architect of the Law School Orientations on Professionalism. During 1992 and 1993, Miles reported on the progress of the Committee’s work on the orientations to the Chief Justice’s Commission on Professionalism. On Nov. 2, 1992, Miles reported that the committee had divided responsibilities for its project of making a professionalism presentation at each of the four Georgia accredited law schools’ orientations. Those divisions were (1) law school coordination (getting in touch with deans and faculty members), (2) program development and (3) attorney identification and recruitment. Miles further announced that he would be calling on members of the commission and the bench and bar to participate in the orientation programs.

During another meeting on June 4, 1993, Miles reported to the commission that the committee was in the final stages of planning the Orientation on Professionalism programs as a part of orientation at the law schools. Miles also credited Professor Roy Sobelson with the development of the hypotheticals to be used in the breakout groups at these programs.

Miles further announced that the committee was actively recruiting lawyer volunteers to serve as small group leaders. The first Law School Orientations on Professionalism program in Georgia was held in the fall of 1993. Shortly, thereafter, by the commission’s Nov. 19, 1993, meeting the American Bar Association Commission on Partnership Programs announced that it had selected the State Bar of Georgia Orientations on Professionalism as the recipient of the 1994 ABA/Information America Client Relations Project Award. Miles accepted the award at the ABA Midyear Meting in Kansas City in February 1994. In addition, the Nov. 19, 1993, commission minutes reflected that the committee and the commission continued to receive letters commending the orientations. Sobelson reported that he was finding that first-year law students were bringing up professionalism issues in substantive classes.

The commission, along with the State Bar of Georgia’s 2021-22 Committee on Professionalism, under the leadership of Chair Joshua Bosin and Vice Chair Terrica Redfield Ganzy, observed the 30th Anniversary of the Law School Orientations on Professionalism by holding the orientations at all five of Georgia’s ABA-accredited law schools during August 2022. The orientations are designed to introduce concepts of legal professionalism to incoming 1L students. Georgia judges and lawyers serve as “group leaders” at breakout sessions during the orientations to help students learn the meaning of professionalism and why it is important for them as law students. The Law School Orientations subcommittee that planned the August 2022 law school orientation programs was chaired by Michael Herskowitz, U.S. Attorney’s Office, Northern District of Georgia. The vice chairs of the subcommittee were J. Maria Waters, Worsham Corsi Dobur & Berss, and Kacey Baine, JD May 2022, Georgia State University College of Law.

The focus of the hypothetical problems designed by the Committee and discussed with the students has changed over the years from client-centered problems to professionalism problems law students might encounter while they are students in law school. Nevertheless, the heart of the Law School Orientations on Professionalism has remained the same for the past 30 years. In a letter to the students at each of the law schools, Chief Justice Michael P. Boggs described the orientations as follows:
The heart of the Professionalism Orientation is the breakout session, during which one of the documents you will discuss is A Lawyer’s Creed and the Aspirational Statement on Professionalism. This document is intended for use by Georgia’s practicing lawyers and judges, but as you will discover during your breakout sessions, the principles embodied in it have many applications to you as a law student. In 1992, the Supreme Court of Georgia explained that it was our “hope that Georgia’s lawyers, judges and legal educators will use the ... ideals [set forth in A Lawyer’s Creed and the Aspirational Statement on Professionalism] to reexamine the justifications of the practice of law in our society and to consider the implications of those justifications for their conduct.”

The commission asked Professor Emeritus Roy Sobelson, who retired from Georgia State University College of Law in 2018, what was the rationale behind the breakout sessions and his thoughts about why the breakouts continue to be one of the highlights for students of the program. He said:

I was always surprised at how many law students knew almost nothing about what lawyers really do and...
had made no pre-school effort to examine what a lawyer’s life and career are really like. And while professors serve partly as role models, I knew that many of them had little practice experience or had left practice because they disliked it. Thus, I thought it was important that [new law students] immediately see how successful practicing lawyers think, work, talk, carry themselves and engage in public service. I didn’t give as much thought to how much it helped them see the diversity of thought amongst their new classmates, which was a real bonus. Since those first professionalism sessions, I’ve spoken with many graduates who remember them quite vividly, and say they had a profound effect on their lives, which is something I honestly didn’t expect, but pleases me greatly.

The Commission and the Committee thank our partners (including deans, professors, law students and support staff) at each of Georgia’s five ABA-accredited law schools and the many lawyers and judges who have volunteered during the past 30 years. It is because of each of these individuals that the Commission and the Committee can continue to make the award-winning Law School Orientations on Professionalism an outstanding success!

Endnotes
1. Georgia’s fifth law school, Atlanta’s John Marshall Law School, was included in the orientation program in later years.
3. For a list of the many people, in addition to the group leaders, who assisted with the preparation and execution of the 2022 Law School Orientations on Professionalism and to view more photographs from the orientations, visit http://cjcpga.org/orientations_2022_thanksphotos/.

Are you interested in serving as a group leader for the 2023 Law School Orientations on Professionalism? Complete the contact form found at www.surveymonkey.com/r/GL_Contact.
2022 Law School Orientation on Professionalism Group Leader Volunteers

Michael Abramson  
Silas Allard  
Eleanor Attwood  
Bryan Babcock  
Sarah Babcock  
Hon. Kimberly Bandoh  
Stewart Banner  
Bob Berlin  
Steven Berne  
Samantha Beskin-Schemer  
N. John Bey  
Charles Blaska  
Mara Block  
Joshua Bosin  
Kimberly Bourroughs Debrow  
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Lesley Carroll  
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Karen Cooper  
Lawrence Cooper  
Terrence Croft  
Charles Cullen  
Charles Dalziel  
Nancy Daspit  
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Michael Eshman  
Elizabeth Fite  
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David Rapaport  
Whitnie Riden  
Maurice Riden II  
Robin Rock  
Tina Roddenbery  
Kathy Rogers  
Mark Rogers  
Jennifer Romig  
Jatrean Sanders  
Timothy Santelli  
Jabu Sengova  
George Shepherd  
Christian J. Steinmetz III  
Meg Strickler  
Henry Tharpe  
John Thielman  
Torin Togut  
Mary Tolle  
Randee Waldman  
Jenny Walker  
Thomas Walker  
Kate Wasch  
Julayaun Waters  
Stephen Weyer  
Dorothy Young  
Jill Young

23rd Annual Justice Robert Benham Awards for Community Service

The Chief Justice’s Commission on Professionalism is accepting nominations for the 23rd Annual Justice Robert Benham Awards for Community Service through Nov. 11. Visit cjcpga.org/nominationsbenhamcsa for more information on the nomination eligibility criteria or to nominate a deserving lawyer or judge.
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.

JOHN TREVOR ADRIAN
Jacksonville Beach, Florida
Emory University School of Law (1988)
Admitted 1989
Died June 2022

ROBERT B. ANSLEY JR.
Atlanta, Georgia
Emory University School of Law (1965)
Admitted 1964
Died August 2022

ESSIE JUANITA ANTHONY
Dunwoody, Georgia
Woodrow Wilson College of Law (1979)
Admitted 1979
Died September 2022

CLARENCE D. BLOUNT
Waycross, Georgia
University of Georgia School of Law (1950)
Admitted 1950
Died August 2022

MORRIS BOYER
Jonesboro, Georgia
University of Georgia School of Law (1964)
Admitted 1965
Died June 2022

AUDREY ANN BUTLER
Rock Hill, South Carolina
University of Georgia School of Law (1990)
Admitted 1990
Died March 2022

JOHNNY J. BUTLER
Philadelphia, Pennsylvania
Howard University School of Law (1971)
Admitted 1972
Died June 2022

DOUGLAS N. CAMPBELL
Atlanta, Georgia
Emory University School of Law (1973)
Admitted 1974
Died June 2022

ANDY MORRIS COHEN
Atlanta, Georgia
Mercer University Walter F. George School of Law (2007)
Admitted 2007
Died June 2022

DAVID W. CROSLAND III
Severna Park, Maryland
University of Alabama School of Law (1966)
Admitted 1970
Died August 2022

RICHARD T. FULTON
Atlanta, Georgia
Georgetown Law (1983)
Admitted 1983
Died July 2022

S. ROBERT HAHN JR.
Norcross, Georgia
Atlanta Law School (1983)
Admitted 1983
Died February 2022

WILLIAM B. HARDEGREE
Columbus, Georgia
University of Alabama School of Law (1957)
Admitted 1960
Died July 2022

SAM DUDLEY HART JR.
Columbus, Georgia
Stetson University College of Law (1988)
Admitted 1990
Died August 2022

MICHELLE MARIE HENKEL
Atlanta, Georgia
Emory University School of Law (1993)
Admitted 1993
Died May 2022

RALSTON DARNELL JARRETT
Columbus, Georgia
Faulkner University Jones School of Law (2017)
Admitted 2019
Died September 2022

ALTON PARKER JOHNSON II
Carrollton, Georgia
Admitted 1995
Died March 2022

EARLE F. LASSETER
Columbus, Georgia
University of Alabama School of Law (1966)
Admitted 1987
Died April 2022

RICHARD F. LIVINGSTON JR.
Fort Mill, South Carolina
Emory University School of Law (1964)
Admitted 1964
Died July 2022

WALTER H. NEW
Quitman, Georgia
University of Georgia School of Law (1973)
Admitted 1973
Died July 2022

JOHN ARTHUR NIX
Peachtree City, Georgia
Emory University School of Law (1964)
Admitted 1964
Died August 2022

JAMES J. O’CONNELL
Lilburn, Georgia
Emory University School of Law (1972)
Admitted 1973
Died August 2022

H. ARTHUR MCLANE
Valdosta, Georgia
University of Georgia School of Law (1964)
Admitted 1963
Died April 2022

WILLIS LINTON MILLER III
Valdosta, Georgia
Emory University School of Law (1972)
Admitted 1973
Died May 2022

CYNTHIA ANTIONETTE MINOR
Nashville, Tennessee
Texas Southern University Thurgood Marshall School of Law (1983)
Admitted 1994
Died April 2022

JOHN C. MOONEY
Chattanooga, Tennessee
Emory University School of Law (1965)
Admitted 1964
Died July 2022

RONNIE E. MOORE
Snellville, Georgia
Atlanta Law School (1986)
Admitted 1986
Died July 2022

WILLIAM B. HARDEGREE
Columbus, Georgia
University of Alabama School of Law (1957)
Admitted 1960
Died July 2022

SAM DUDLEY HART JR.
Columbus, Georgia
Stetson University College of Law (1988)
Admitted 1990
Died August 2022

MICHELLE MARIE HENKEL
Atlanta, Georgia
Emory University School of Law (1993)
Admitted 1993
Died May 2022

RALSTON DARNELL JARRETT
Columbus, Georgia
Faulkner University Jones School of Law (2017)
Admitted 2019
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Quitman, Georgia
University of Georgia School of Law (1973)
Admitted 1973
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Peachtree City, Georgia
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Admitted 1964
Died August 2022

JAMES J. O’CONNELL
Lilburn, Georgia
Emory University School of Law (1972)
Admitted 1973
Died August 2022
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.
Be ready to be infuriated, riveted and inspired. *The Woman They Could Not Silence* is a true story about Elizabeth Packard, a woman whose husband committed her to an insane asylum—for the crime of publicly disagreeing with him.

Elizabeth Packard was a housewife and mother of six who lived in Illinois in the 1860s. She was thoughtful, intelligent and independent. After 21 years of marriage, her husband Theophilus has Elizabeth committed to the Jacksonville Insane Asylum. Theophilus, a local preacher, has been feeling increasingly threatened by his wife’s opinions about religion and child-rearing, and he believes that an asylum is the only way to silence her. So, he arranges for a local doctor to falsify a report on her mental health and has the county sheriff take her into custody.

As horrific as this whole situation is, Elizabeth quickly realizes that she’s not the only one to experience it. The Jacksonville Insane Asylum is full of sane, rational women whose husbands and families have tried to hide them away. Elizabeth observes the inhumane conditions inside the hospital, and the horrible way that the patients are treated for their “sickness.” Overseeing the asylum is Dr. Andrew McFarland, a man who may be even more dangerous than her own tyrant of a husband.

No one—not Dr. McFarland, the asylum employees, the community, her friends or even her family—is willing to fight for Elizabeth. She and the other patients have been labeled “insane” and “crazy” so that their voices and needs can be ignored. No one wants to support these disenfranchised women. So, Elizabeth decides to fight for her own freedom and rights. She refuses to be silenced. Her work and words bring justice to those in the Jacksonville Insane Asylum, and eventually, make a long-lasting impact within the fields of U.S. law and medical science.

Elizabeth Packard fought against the 19th century laws that gave men a shocking amount of power over their wives. Readers may be surprised to learn about...
the state and federal laws concerning property ownership, child custody and forced confinement (not to mention all of the gender-based social norms of the day). Elizabeth’s journey takes place in 1860s Illinois, but many of the themes of gender and discrimination could have been pulled from today’s headlines. To reinforce this idea, author Kate Moore transposes Elizabeth’s story with modern quotes about gender, politics and equal rights.

While most of the story focuses on Elizabeth’s time within the Jacksonville Insane Asylum, readers learn that Elizabeth later becomes an advocate for the rights of those accused of insanity, as well as the founder of the Anti-Insane Asylum Society. Throughout her life, she also campaigns for divorced women to retain custody of their children. With The Woman They Could Not Silence, author Kate Moore highlights Elizabeth Packard’s amazing journey and her contributions to modern medical treatments and current laws on gender equality. Moore incorporates Elizabeth’s own speeches, articles and diary entries to illustrate her passion and intelligence.

Kate Moore is a New York Times, USA Today and Wall Street Journal bestselling author. Readers may know Moore’s previous work, Radium Girls, which is the true story of the women who suffered deadly injuries and diseases due to their exposure to radium at U.S. dial-painting factories. Those courageous women fought a groundbreaking legal battle for workers’ rights and found themselves in one of the biggest industrial scandals in 20th century America. (It’s another highly recommended read). Like Radium Girls, Moore’s book The Woman They Could Not Silence illustrates the inspiring strength of those who find themselves in impossible situations. Elizabeth’s bravery and tenacity helped shape a better life for herself, her fellow asylum patients and for U.S. women—for decades to follow. This book helps preserve her remarkable story.

Reviewer’s Note: If you’re the type of reader who likes to “go down the research rabbit hole” when you start a documentary or biography, try to stay strong and avoid the independent study. Elizabeth Packard is an unlikely hero who dealt with a seemingly endless amount of life’s obstacles. While you can find information about Elizabeth online, it will spoil some of the more shocking and disturbing moments that Kate Moore so carefully recreates. And there’s a lot of them.

Megan Hodgkiss, JD, PhD
Editor-in-Chief
Georgia Bar Journal
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With The Woman They Could Not Silence, author Kate Moore highlights Elizabeth Packard’s amazing journey and her contributions to modern medical treatments and current laws on gender equality.
GBJ | ICLE Calendar

OCTOBER

20  Civil Prosecutions of DUI and Dram Shop Cases in Georgia
    Bar Center | Atlanta, Georgia
    6 CLE Hours

25  Basic Fiduciary 201
    Bar Center | Atlanta, Georgia
    6 CLE Hours

26  Zoning Law
    Bar Center | Atlanta, Georgia
    6 CLE Hours

28  Advanced Health Care Law
    Bar Center | Atlanta, Georgia
    6 CLE Hours

28  Jury Trials in Divorce
    Bar Center | Atlanta, Georgia
    6 CLE Hours

NOVEMBER

2   Business Litigation
    Bar Center | Atlanta, Georgia
    6 CLE Hours

4   Title Standards
    Bar Center | Atlanta, Georgia
    6 CLE Hours

11  Adoption Law
    Bar Center | Atlanta, Georgia
    6 CLE Hours

17  Commercial Real Estate
    Bar Center | Atlanta, Georgia
    6 CLE Hours

18  Criminal Practice
    Bar Center | Atlanta, Georgia
    6 CLE Hours

DECEMBER

1   Health Care Fraud
    Bar Center | Atlanta, Georgia
    6 CLE Hours

2   Expert Testimony
    Bar Center | Atlanta, Georgia
    6 CLE Hours

8-9  Defense of Drinking Drivers Institute
    The Westin Atlanta Perimeter North | Atlanta, Georgia
    12 CLE Hours

JANUARY 2023

23-26 Update on Georgia Law
    The Westin Riverfront Resort & Spa, Avon, Vail Valley | Avon, Colorado
    12 CLE Hours

FEBRUARY

2-3  Estate Planning Institute
    Athens, Georgia
    12 CLE Hours

9   Residential Real Estate
    Bar Center | Atlanta, Georgia
    6 CLE Hours

17  Bootcamp for Trial Lawyers
    Bar Center | Atlanta, Georgia
    6 CLE Hours

MARCH

23  Professional and Ethical Dilemmas in Litigation
    Bar Center | Atlanta, Georgia
    6 CLE Hours

Note: ICLE courses listed here are subject to change and availability. For the most up-to-date ICLE program details, please visit icle.gabar.org. For questions and concerns regarding course postings, please email ICLE@gabar.org.

Please note: Not all programs listed are open for registration at this time.
Proposed Amendments to the Uniform Rules for Superior Court

At its business meeting on Aug. 3, 2022, the Council of Superior Court Judges approved proposed amendments to Uniform Superior Court Rules 3, 22 and 39. A copy of the proposed amendments may be found at the Council’s website at http://georgiasuperiorcourts.org.

Should you have any comments on the proposed amendments, please submit them in writing to the Council of Superior Court Judges at 18 Capitol Square, Suite 104, Atlanta, Georgia 30334, or email them to uniformrules@cscj.org. To be considered, comments must be received by Friday, Jan. 6, 2023.
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The **ACA Health Insurance Open Enrollment Period** for 2023 plans begins **November 1, 2022**. Enroll by **December 15, 2022** to secure coverage that starts January 1.

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