Article the fifth... No soldier shall, in time of peace, be quartered in any house, without the consent of the Owner; nor in time of war, but in a manner to be prescribed by law.

Article the sixth... The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Article the seventh... No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Article the eighth... In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have the Assistance of Counsel for his defence.
The State Bar of Georgia announces its annual Fiction Writing Competition

Deadline: Jan. 12, 2024

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 Ashley G. Stollar, Communications Coordinator, 404-527-8792 or ashleys@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: Ashley G. Stollar, Communications Coordinator, by email to ashleys@gabar.org. If you do not receive confirmation that your entry has been received, please call 404-527-8792.

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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The Georgia Bar Journal welcomes the submission of unsolicited legal manuscripts on topics of interest to the State Bar of Georgia or written by members of the State Bar of Georgia. Submissions should be 10 to 12 pages, double-spaced (including endnotes) and on letter-size paper. Citations should conform to A UNIFORM SYSTEM OF CITATION (19th ed., 2010). Please address unsolicited articles to: Jennifer R. Mason, State Bar of Georgia, Communications Department, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303. Authors will be notified of the Editorial Board’s decision regarding publication.

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. Please send news releases and other information to: Jada Pettus, Administrative Assistant, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303; 404-527-8736; jadap@gabar.org.

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2023 Law School Orientations on Professionalism
Karlise Y. Grier
School is now underway, fall weather is upon us and the warm days of summer have been traded for crisp fall leaves. The law school kickoff reminds me of professionalism orientation, and the fall weather evokes the possibility of change. Many of our readers who attended law school in Georgia may remember the professionalism portions of orientation. To me, professionalism is a combination of not only the requisite rules lawyers must follow, like confidentiality, but also the moral principles that society places on lawyers. That mixture is something attorneys must exhibit and strive to improve throughout the course of their careers.

Those orientation days set the tone for my legal career, and many people volunteer as group leaders for the next generation of lawyers. Whether its volunteering at your alma mater or in the community, altruism is a great way to build moral skills and fuel the soul. Numerous sections of the State Bar host volunteer events, and this edition features a group helping Habitat for Humanity (see page 58).

Getting involved in Bar Sections promotes team building with other lawyers while also keeping up-to-date on legal trends. Through some fantastic organizations, lawyers are celebrating awards for Commitment to Equality and advancements in the profession. Remember, failing to follow Bar rules will land you in this publication, and not in a good way.

Much like how leaves don’t decide when they change, neither can the legal profession when it comes to technology. AI is bringing change to the legal field, and the article on page 56 explains ways to safely incorporate it into your practice. Similarly, my favorite professors’ article on page 66 teaches how to use layered prompts to guide your writing or analyze briefs. I agree in their prospective to use AI as a starting place and never an ending place. I’ve heard a rumor that AI makes up cases to support its logic ...

If your current practice area no longer inspires you, the article on page 10 notes how three Georgia attorneys navigated their career to find their areas of passion in law. I encourage new lawyers to put less pressure on finding your passion during the first few years of working, trading that mindset for garnering skills in a practice area that you like and going from there. I encourage experienced lawyers to remain open-minded about their own careers while also finding time to mentor others via email, phone call or coffee chat. I know I’ve always appreciated the advice from judges, practitioners and career mentors along the way.

I want to end this letter with a note for law students to submit their case notes that have not yet been published. Law students provide a unique, raw perspective on major cases that appear to radically transform existing law, and the Georgia Bar Journal would be a great platform for selected articles.

Thank you to the staff, editors and authors who make this publication possible. I hope readers enjoy this professionalism-inspired edition as much as I did. •

BETH GILCHRIST
Editor-in-Chief, Georgia Bar Journal
journal@gabar.org
Mental Health: A Constant Focus

Oct. 10 is the annual observance of World Mental Health Day, which is intended to raise awareness of mental health issues around the world and improve mental health care to all populations. It is also a good opportunity for legal organizations to take stock of the increased efforts to address mental health within our profession over the past several years.

Current data suggests that mental health among lawyers is not improving. As with the general population—but more so—it is worsening. The results of a survey conducted earlier this year by ALM/Law.com revealed that, despite increased wellness initiatives on the part of law firms and law-related organizations, “incidences of mental health issues went up slightly, even if attorneys said their firms were offering more help and slowly destigmatizing the subject.”

In the survey, more than 71% of the lawyers queried said they had anxiety, which is up 5% over 2022. Those who said they were depressed rose from 35% to 38%, while the percentage of lawyers who said they had another mental health issue more than doubled from 14.6% in 2022 to 31.2% this year.

In reporting the data, Dan Roe of ALM/Law.com surmised, “A cynic’s take would be to write off law firms’ mental health efforts as lip service, a thinly veiled effort to keep up with the times while continuing to demand most of their employees’ waking hours.” But, Roe also noted, it could be “too early to tell how effective law firms’ mental health efforts will be,” especially in light of trauma brought on by the COVID-19 pandemic.

The raw data might indicate that mental health among lawyers is not improving and, in fact, is getting worse. But in addition to the effects of COVID, the higher number of incidences could also mean that as a result of the legal community’s ongoing mental health awareness initiatives and efforts to reduce the stigma, lawyers now feel freer to admit they are struggling—whether answering a survey or making the decision to seek help. If so, that’s a positive development.

Among the services the State Bar offers toward mental health care for our members is the Lawyer Assistance Program (LAP), a confidential service outsourced to CorpCare Associates Inc. to help Georgia lawyers and judges with difficulties in their professional and personal lives. All Bar members are entitled to six prepaid clinical counseling sessions per issue, per calendar year.

The program provides a broad range of helping services to members seeking assistance with depression, stress, alcohol/drug abuse, family problems, workplace conflicts, psychological and other issues. In addition to the prepaid counseling sessions, LAP offers a 24/7 hotline at 800-327-9631 for Bar members with a problem that is causing significant concern.

The number of State Bar members using their six prepaid counseling sessions has steadily increased over the past several years. According to Nicole Browning, customer service manager for CorpCare, the overall utilization rate among our 54,000-plus Bar members rose from 0.82% in 2018 to 1.39% in 2021 and is projected to be near 1.5% at the end of this calendar year.
From Jan. 1 through Sept. 27, CorpCare opened 459 cases. These included 10 telephone consultations, providing in-the-moment support. The top referral sources were the State Bar’s website (167) and the #UseYour6 hashtag (112). Approximately 54% of those who reached out had never used these services before.

Still, too many Bar members are unaware of these services. In every speech I give to Bar groups, I devote some time to mental health. In one recent gathering of about 60 lawyers, I asked for a show of hands from all who had heard of “Use Your 6.” Only one hand went up. We need to and will continue to spread the word about this valuable resource so that our colleagues know where to turn when they need help.

The most comprehensive and promising new development in terms of assistance to our lawyers is the creation of the new Center for Lawyer Well-Being in Georgia, which has been approved by our Board of Governors and is awaiting ratification by the Supreme Court of Georgia. State Bar Attorney Wellness Committee Chair Javoyne Hicks is the architect of this initiative. By bringing all of our well-being programs under one umbrella, our efforts will be more coherent, better directed and streamlined. It will be a game changer.

The State Bar also hosted a very successful Wellness and Practical Skills Institute in September at the Wild Dunes Resort in South Carolina, which I attended. As Hicks reported, “In addition to providing survival skills for ourselves, we also discussed how we can be advocates in the legal community, along with ways to incorporate wellness initiatives into the practice to make and keep it profitable.”

For this article, I talked with three State Bar members who have survived personal mental health challenges and now advocate for awareness initiatives and treatment programs that they know can be life-saving for colleagues in the profession who are walking in their shoes. I asked them to assess the legal community’s current efforts on mental health and what we can do better (or more of), what lawyers who are struggling need to do and what all Bar members need to know to help our colleagues.

In this issue of the Georgia Bar Journal, we asked our State Bar of Georgia officers, “What do you do to turn things around when you’re having a bad day?”

**HON. J. ANTONIO “TONY” DELCAMPO**
President

When I am having a bad day, I try to focus on all of the positive aspects on my life, reflect on all of the things for which I am grateful and shift my perspective. Mindfulness can be a wonderful thing!

**IVY N. CADLE**
President-Elect

Exercise always improves my day, even if I leave the office and return. I then look for an easy win so I can build momentum and execute on that duty that lies nearest.

**CHRISTOPHER P. TWYMAN**
Treasurer

“Alexa, play ‘Sing a Song’ by Earth, Wind & Fire.”

**WILLIAM C. “BILL” GENTRY**
Secretary

If I have time, I love to hike at Kennesaw Mountain National Battlefield Park. If I don’t have as much time, I’ll walk around the national cemetery across the street from my office in Marietta. The fresh air and exercise work wonders!

**SARAH B. “SALLY” AKINS**
Immediate Past President

I blast my favorite music in the car on my way home. Nothing makes anyone feel better than that!
Lynn Garson
Lynn Garson, counsel with Baker-Hostetler, chairs the State Bar’s Lawyer Assistance Program Committee and is a member of our Suicide Awareness and Prevention Committee and Attorney Wellness Committee, as well as the American Bar Association Well-Being Pledge Committee. She is a mental health advocate and author of “Southern Vapors,” a memoir describing her journey from major clinical depression to recovery, published in 2012.

“Based on my personal journey from mental illness to stability and many years of speaking and getting feedback in the space,” Garson says, “here’s what I think lawyers need to know: If you’re in a high-pressure environment and there’s nothing you can do about the brief being due, or the push to close the transaction, you can still manage your reaction to those situations. That takes a lot of work (see illustrations). There are all kinds of resources available to help lawyers through this: #UseYour6, EAP services if available, private counseling, coaches (Javoyne Hicks is one), apps (Betterhelp is a good one), 12-step programs and others like the Lawyer Depression Project, which offers peer support virtually in all mental health arenas, not just depression. CorpCare will also do assessments and referrals for rehab or inpatient treatment.”

In assessing where the legal community is in providing support for struggling attorneys, Lynn adds, “There are a lot of subtleties—like the fact that many law firms pay lip service to wellness as the flavor du jour but now that the economy has tightened, they are unwilling to put dollars behind their programs. I sit on the ABA Well-Being Pledge Committee and had a conversation confirming that on a national basis recently. Because attorneys in such firms are aware that leadership doesn’t truly prioritize well-being, they too often continue to keep their problems underground as long as they can, worried that they will get inferior assignments, won’t make partner, etc., if they disclose.”

However, Garson hastens to add that in programs such as the State Bar’s LAP, confidentiality is maintained. In a recent podcast interview, State Bar General Counsel Paula Frederick talked about how discipline related to mental health issues has changed over time and that punishment is no longer a goal at all. It is more important that people in the legal profession should get help.”

Simon Malko
Simon Malko is managing partner of Morris, Manning & Martin, LLP, a large firm that is doing far more than paying lip service when it comes to addressing the mental health needs of its partners, associates and other staff.

One year ago, the firm created a wellness consultant program and hired an independent contractor who is available 20 hours per week to all personnel for counseling sessions, at no cost to the lawyer or staff member. The professional counselor is intentionally located not in the Morris, Manning & Martin offices but in the same building.

In a recent conversation, Malko told me that any employee of the firm is able to schedule a counseling session confidentially and anonymously. “They go free of charge,” he said, “and we don’t know if they’re going or when they’re going.”

The inspiration for the program was what Malko calls “my own personal mental health journey.” When he assumed the responsibilities of managing partner, Malko recalled the increased professional demands, weighed against those of being a father with two young children, were taking a toll on his work-life balance.

“I had a lot going on in my life,” he said. “I decided I was going to start seeing a counselor once or twice a month. It changed my life for the better and helped me understand how to navigate this thing called life.” He said he also found it “illuminating to me that a person does not have to be clinically depressed or on the verge of self-harm” to benefit from counseling, and that there are barriers to entering the treatment arena that make it unnecessarily difficult to get started.

Malko compared the experience to when he injured his Achilles tendon on the recreational soccer field and sought recommendations for a doctor. “I got five
referrals in five minutes,” he recalled. But to find the right mental health counselor? “What it took was overwhelming,” he said. “It took about two and a half months of trial and error to see what this therapy thing was all about.”

That’s just part of why Malko worked to implement the counseling program at his firm. “I thought it was important for me to stand up,” he said. “If you’re struggling, this might help. Maybe you see (the counselor) once and decide it’s not for you. Maybe you see that you would benefit from a long-term clinical relationship, and our counselor can make a referral.”

One year in, according to Malko, the program has exceeded expectations. Employee utilization consistently fills 85 to 90% of the counselor’s time, “and it’s not the same 20 people going every time,” he said. Specific employee participation and conversations are not shared with anyone, including management, but the counselor does provide high-level, general statistical data and any common-theme issues the firm might need to address.

The result, Malko contends, is a healthier atmosphere for attorneys and staff, as well as benefits for the firm. “The business case can’t be understated,” he said, “from a health perspective, a retention perspective and a recruiting perspective.”

The approach may be innovative, but Malko does not consider it proprietary. “My hope is we can get the word out,” he said. “I’m happy to give away this professional advantage. My hope is that every firm can do this.”

Judge Wes Tailor
Judge Wes Tailor has served on the Fulton County State Court for the past 13 years. But on Sept. 11, 2001, he was a young lawyer with the Troutman Sanders firm, in the third year of his legal career. He happened to be in New York that fateful morning. Specifically, he was in his room on the 24th floor of the Marriott hotel that connected the twin towers of the World Trade Center—at the moment the first plane hit.

“I saw people jump—close up, from way up high,” Tailor recalled in a recent interview for this article. “I was stuck in the city for a week. It was a very traumatic experience.”

A few months after living through the 9/11 terrorist attack that took nearly 3,000 American lives, he went through a divorce. “Back-to-back tragedies,” he said, “and six years before that, I had lost my mother when I was 21.”

Resulting from those multiple traumatic events, he suffered from severe depression issues. He was on the verge of taking his own life.

Thankfully, while he was pondering suicide, he had a revelation: “I said to myself, ‘You should talk to somebody before you do this.’ And I did.” He called his firm’s Employee Assistance Program, saw a therapist and was quickly referred to a psychiatrist.

“When I was trying to decide the how, I was convinced that I didn’t have a problem,” the judge recalled. “My brain had convinced me that I was doing the right thing. Most of the time, the hardest part is just identifying the problem.”

Tailor said once he sought and received treatment, he saw improvement immediately. The recovery process took about six months, with medication and therapy appointments. And, this was all happening while he continued to work at the firm. He remembers, “The nice part was that my law firm was understanding. They knew I was traumatized. They were very accommodating and supportive.”

When asked what the legal profession needs to be doing to address mental health, Tailor replied, “The profession often has unrealistic and stressful expectations. We are doing a better job of talking about mental health issues in a mature and open way now. That’s a good thing; it reduces the stigma. Also, it’s better that more people are recognizing and addressing their own mental health issues.”

Tailor praised programs like the State Bar’s “Use Your 6,” stating he has availed himself of the prepaid counseling sessions in the past. “It’s important,” he said. “I think law firms should offer mental health benefits as part of their insurance packages. Pretty much all large organizations have it. The Bar does a good job letting lawyers know they can access mental health treatment as a member of the Bar. This ‘Use Your 6’ is like an Employee Assistance Program for firms and lawyers who otherwise may not have access.”

But lawyer awareness of such resources is a constant battle, he said. “I think the Bar has done a very good job of letting its members know what’s available. Even still, many lawyers are not aware of this benefit and do not take the time to prioritize their mental health. It’s a problem for lawyers, because we have so many demands on our time, a difficult time prioritizing. What it takes is to just go ahead and make the call and schedule the appointment. Another hurdle is that some people think that Employee Assistance Programs report back to Human Resources. They don’t. If people are worried about that, they shouldn’t be.”

According to Tailor, the first step is the most important. “One thing I’ve learned in this job is that everybody has problems. Everybody’s going through something. It doesn’t hurt to go talk to somebody about it. I did before it was too late. Now, I have a wonderful family and a fulfilling vocation. I am very thankful I had a resource like the ‘Use Your 6’ to turn to.”

***

By the time you read this, World Mental Health Day for 2023 will have come and gone. But the need for the legal community to focus on mental health is year-round.

I want to thank Lynn Garson, Simon Malko and Judge Wes Tailor for sharing their experiences and thoughts for this article. Our State Bar leadership fully supports the efforts of Chair Javoyne Hicks and the members of our Attorney Wellness Committee for all they are doing to develop innovative approaches to address and raise awareness of mental health issues within the legal profession.

Finally, I urge each of you to visit www.lawyerslivingwell.org and learn about the Lawyer Assistance Program and “Use Your 6” so that you can help others who are going through difficulty. If you are struggling with any issue, please call the LAP Hotline at 800-327-9631 right away to get help. Also, if someone you know is in suicide crisis or other immediate need of mental health assistance, you can dial 988 for the Suicide & Crisis Lifeline.”
A Journey to Finding Your Practice Area Niche

For this article, I asked young lawyers what types of articles they would like to read in the Georgia Bar Journal. The topic that emerged repeatedly was finding your niche or passion. As a new lawyer, we all experience a steep learning curve putting into practice everything we learned in law school. It can seem daunting but not insurmountable. Finding a passion and area of practice is something achievable for each lawyer. Some lawyers know exactly what area they want to focus on as a practitioner either by a prior career or a lifelong passion. If young lawyers do not yet know their passion, it is something that can be found. If you work in a law firm, it can be as simple as asking to help on a case that is in an area of interest. It is important to learn the basics of any practice area for example, civil procedure or criminal procedure—those are foundational for litigators.

I began my journey working for the Georgia Attorney General’s Office, which taught me the foundational aspects that I built upon when I transitioned to private practice. My journey to develop a litigation practice after government practice was a transition in adaptability and versatility of those foundational skills. My experience made me want to ask those in different practices to provide insights into their journeys that may be beneficial to young lawyers who are contemplating what their niche will be as they continue practicing law.

This article will highlight the journey of three practitioners: two associate-level attorneys and a partner share their journey to finding a practice area niche. YLD Board of Directors Member Megan Wyss is an associate practicing family law in Atlanta, Georgia. YLD Board of Directors Member Kelsey Kicklighter is an associate practicing plaintiff’s side civil litigation in Springfield, Georgia. Jason S. Lichtstein is a partner practicing environmental law in Atlanta, Georgia.

Did you start out in your practice area or find it along the way?

Megan Wyss: I knew I wanted to do family law when I went to law school. My background in seeing the impact of divorce on families drove me to work in this area of law. However, upon graduation, I worked in plaintiff’s personal injury before securing a position in family law.

Kelsey Kicklighter: I started out practicing government liability defense and civil defense with a focus on medical malpractice and psychiatric malpractice. I changed to plaintiff’s side and joined my father’s law firm. I now work in a small law firm that offers a variety of cases as we do a general practice.

Jason Lichtstein: Upon graduation, I worked as a staff attorney and law clerk for the U.S. Court of Appeals for
In this issue of the Georgia Bar Journal, we asked our State Bar of Georgia officers, “What do you do to turn things around when you’re having a bad day?”

BRITTANIE D. BROWNING | YLD President
One of the best ways to turn around a bad day is to get moving. Exercise is the best way to decompress for me, so I put on my running shoes or take a boxing class and get moving.

KENNETH MITCHELL JR. | YLD President-Elect
I take a deep breath and remind myself to take hold of what I can control and let go of what I cannot.

VERONICA ROGUSKY COX | YLD Treasurer
If I’m ever having a bad day, I turn to my furry companions for puppy cuddles and that usually does the trick.

VIRGINIA C. JOSEY | YLD Secretary
During difficult work days, I call my clients. They serve as a great source of inspiration and remind me why I am so passionate about my work. It’s an absolute privilege to practice law, especially when the individuals I represent turn out to be my biggest supporters and motivators.

What makes you enjoy your practice area?

MW: Family law touches upon a lot of areas of law, from tax and property to criminal. Those aspects combined means our practice is constantly moving and changing as family law is ever evolving. Family law is forced to change with the times, which means there is always something new and interesting to learn. As someone with a lifelong passion for learning, family law is the perfect practice area for me.

KK: I enjoy my practice area because I can help many people daily with something that is usually not the happiest of days in their life and help walk them through how the law can assist them. I embrace the immense privilege and duty lawyers have toward people and enjoy getting to help them through those times in their lives.

JENA G. EMORY | YLD Newsletter Co-Editor
I try to talk to people I like. The practice of law is inherently stressful. I am lucky to work with people I can talk to when I am stressed. They help me turn my day around.

SIENA BERRIOS GADDY | YLD Newsletter Co-Editor
When I’m having a bad day, a workout will usually turn things around. If my day turns sour while I’m at the office, I like to call my parents on my drive home. Checking in on them always puts a smile on my face.
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- Honor roll and pro bono incentives

JL: I enjoy interacting with clients, agencies and attorneys. I enjoy helping clients both achieve their goals and benefit the environment, and their communities. One special aspect of my work in Brownfield site cleanup and redevelopment is when a client is able to successfully acquire, clean up and revitalize property that may have been vacant, underutilized or blighted; that is a win-win for the client, the community and the environmental agency as well. The end result is a site that is protective of people and the environment—and also helps generate tax revenues and jobs for the local community.

What is a typical day for your practice? MW: No two days are alike in family law. Some days I am in trial or mediation all day long. Other days I spend talking to clients and answering emails.

KK: I enjoy the plaintiff’s side of civil litigation because I advocate for my client after learning their story that begins at case intake. My day-to-day varies from client phone calls, emails with medical providers, insurance companies and defense counsel, drafting legal documents to file, attending hearings, mediations or depositions, and negotiating cases.

JL: Most days consist of meetings and phone calls. In preparation for those meetings and discussions, I spend time reading and analyzing the key issues in my pending matters to really focus on what I will tackle during the day and to crystallize the issues for my clients. Balancing work and family life is especially important, so I spend early mornings and late afternoons/early evenings helping get everyone ready for school and for after-school activities. Then later in the evening, I get set for the next day as much as possible.

The takeaway from these interviews is that each lawyer has a unique journey and continual learning in an area of law makes the job enjoyable. As a partner, Lichtstein shared that passion can be found when the study of law touches on a personal area of interest or genuine curiosity. This point can be applied to law students and new lawyers alike as they began to narrow their area of interest. Young lawyers should attend seminars, CLEs and conferences in their area of interest, because it is easy to meet practitioners to determine what the job might look like on a daily basis and the challenges that they may encounter. You can make valuable contacts to build your knowledge and find mentorship in that area of practice. Mentorship from more senior lawyers is critical and can offer insights into the practice area. The legal community offers a wide variety of work and opportunities for young lawyers to find their niche. State Bar of Georgia meetings offer plenty of networking opportunities to connect with other lawyers at CLE sessions and events. Young lawyers can be involved in a variety of ways with the State Bar, including leadership roles and committee membership. Finding your passion is a journey that can require time, but each role and job is an opportunity for personal and professional growth. Ultimately, the legal profession is a journey—so we should all enjoy the ride.

Finding your passion is a journey that can require time, but each role and job is an opportunity for personal and professional growth. Ultimately, the legal profession is a journey—so we should all enjoy the ride.
As we find ourselves, once again, discussing the topics of wellness and resilience, it is worth noting that these subjects are not simply recurring themes, but essential pillars of a sustainable and fulfilling legal career. The demanding nature of our profession often overshadows the importance of maintaining our own well-being, making it critical to stay focused on these topics regularly.

Personal reflections on wellness and resilience were recently ignited as part of my attendance at a program designed to promote well-being and make the most of one of the Bar’s most valuable benefits. Additionally, encounters and conversations with influential individuals like Dr. William Alexander further underscore the significance of this matter. Then, add to that a recent conversation with a dear friend, focused on how we can go through our days “booked” and unavailable (the literal and secondary meanings), made the topic really hit home.

The Wellness and Practical Skills Institute was held Sept. 21-23 in Isle of Palms, South Carolina. It was planned and presented by our Attorney Wellness Committee, supported by our Commission on Continuing Lawyer Competency and facilitated by the Institute of Continuing Legal Education. I must confess, my primary motivation for attending was in an administrative capacity—to support our team, assist members who registered for the program and contribute to discussions regarding future programming and events. I was not completely connected to the agenda or many of the topics, so it is accurate to say that my initial focus was not aligned with wellness.

However, what transpired during the program was eye-opening. It became evident that this topic holds particular relevance for our membership, as it underpins each facet of our mission. At its core, the pursuit of wellness is essential for fostering clear-thinking, focused lawyers and nurturing our professional growth and development.

From the program, I gained three key insights that deserve attention.

1. **Self-Care Extends Beyond Surface Level Practices**

   The notion of self-care is often associated with indulgent, superficial activities. However, it is essential to understand that self-care encompasses far more than the occasional manicure appointment or visit to Serene Nail Bar on Ponce de Leon Avenue. While these moments of relaxation are certainly valuable, genuine self-care demands consistent attention to the maintenance and servicing of our physical and mental well-being. This includes regular physical exercise, solid nutrition and other practices that contribute to our overall health by taking care of what is inside.
Self-Awareness and Resilience Are Inseparable

The program built upon two interrelated themes—self-awareness and resilience. As self-awareness deepens, so does resilience. It made me wonder how these concepts directly correlate with the traditional elements of legal practice, such as client development, research, drafting and negotiations. The connection may not be immediately apparent, but it is undeniable. To consistently excel in our roles and serve our clients effectively over the long-term, as well as build good relationships and focus on the future, we must prioritize our own well-being. These aspects are intricately intertwined.

Leveraging Support Services Is Essential

This final point is most important to me. Our work often emphasizes the importance of using support services, especially our lawyer assistance program. While the phrase “Use Your 6” may have become somewhat cliché through repetition, I decided to experience its value firsthand. Let me share a little bit about that experience.

I went to www.gabar.org and clicked on the “Lawyers Living Well” tab at the top. I then scrolled over to “Mental Well-Being” and clicked on the Lawyer Assistance Program tab there. It provided the 1-800-327-9631 hotline to access services. The trained counselor answered and asked for some background information. She was able to quickly assess the type of person that would be able to help best. For me, matters of stress, family and relationships are three areas that I want to stay focused on and find value in the support. Before that call ended, the counselor was able to provide me with a link so that I could further evaluate and discover a counselor that would benefit me most.

I learned that the program is further backed by the team at BetterHelp. Through that portal, I was able to narrow down the type of counselor that I felt would help me best. I could assess location, particular practice area or any other elements that would help me feel comfortable that the session would be most effective. I observed how comprehensive the website is. Access to classes that focus on skill building or substance abuse or anxiety, etc., are available, as well as personal resources like a journal or other guides to therapy. In this portal-and dashboard-driven world we live in, this one is surprisingly good.

As I draft this article, I will have my third session later in the evening. The sessions have taught me how satisfying it is to simply talk and be heard, without judgment or recommendation. Other meetings delved into therapeutic analysis, enabling me to examine history and consider personal courses of action. Between sessions and beyond, I have tapped into those available resources on the portal, with a special focus on strengthening my family relationships, and showing up at work with the constant goal of excellence and service, regardless of distraction. I know ... I am biased, but our Lawyer Assistance Program is a treasure trove of resources that I wholeheartedly recommend exploring. It provides a supportive network and access to resources that can make a profound difference in your work and for your work.

I have talked enough. So, let me say this in conclusion: wellness and resilience are not just buzzwords. They are foundational elements of a fulfilling legal career. To be consistently exceptional lawyers—not simply good ones—and focus on improving the quality of legal services, we probably should prioritize our own well-being. Let us wholeheartedly embrace these practices and continue to support one another on the journey toward a healthier and more resilient legal community. Thank you for your continued commitment to your personal journey and our profession. DEE ●

There’s always a good reason to #UseYour6.

Through the Lawyer Assistance Program, there is no cost for a State Bar of Georgia member to use this program, which provides six clinical sessions per calendar year with an independent, fully licensed counselor near your office or home, or conducted virtually. All sessions are strictly confidential.

Call the LAP Hotline at 800-327-9631 today.
The Paradox That Is Georgia’s Implied Covenant of Good Faith and Fair Dealing

While Georgia courts hold that a party exercising an express contract right must do so in good faith, those same courts hold that a party exercising an express contract right cannot breach the implied covenant. How can those two statements coexist?

BY J. MATTHEW MAGUIRE JR.

We learned in law school that a duty of good faith and fair dealing is implied in nearly all contracts. This is an easy concept to grasp in the abstract, but not so easy to apply in the real world because of confusing and sometimes conflicting case law. While Georgia courts hold that a party exercising an express contract right must do so in good faith, those same courts hold that a party exercising an express contract right cannot breach the implied covenant. How can those two statements coexist? Similarly, if, as the cases instruct, one cannot breach an implied duty without also breaching an express duty, how is the implied covenant not a legal redundancy?

This article seeks to clarify this confusing area of the law by outlining at a high level the general rule in Georgia that a duty of good faith is implied in all contracts; exploring the exception to the general rule applicable to contracts that grant a party sole or absolute discretion; examining the paradox that a party exercising an express contractual right must use good faith but that a party exercising an express contractual right can never be guilty of bad faith; attempting to reconcile the leading cases that give rise to this paradox and offering an alternative and more workable approach to analyzing these types of cases; and finally, concluding with a brief explanation for why an implied covenant claim is still a valuable tool for litigators despite some limitations in its substantive reach.

The Contours of Implied Covenant of Good Faith and Fair Dealing

The concept of an implied duty of good faith and fair dealing seems to have first arisen in Georgia in the early 20th century. In *Palmer Brick Co. v. Woodward*, the Supreme Court of Georgia ruled that where a mining lease’s only compensation to the lessor was a royalty, the law implied a duty on the lessee to actually mine the property within a reasonable time; otherwise, the lessor would receive no benefit.1 The modern rule is often stated as follows: “where the manner of performance...
Most frequently, the implied covenant acts as a guardrail that keeps the parties operating within a zone of reasonableness and requires them to “refrain from arbitrary or unreasonable conduct which has the effect of preventing the other party to the contract from receiving the fruits of the bargain.”

is left more or less to the discretion of one of the parties to the contract, he is bound to the exercise of good faith.”

The implied covenant does not block the use of terms that actually appear in a contract but merely fills gaps in a contract to effectuate the parties intent. This is because “[a]n implied term in an agreement exists where it is reasonable and necessary to effect the full purpose of the contract and is so clearly within the contemplation of the parties that they deemed it unnecessary to state.” Other courts appear less willing to fill gaps, especially when it is a sophisticated party that is seeking relief. In *Sosebee v. McCrimmon*, for example, the Court of Appeals of Georgia rejected an attorney’s attempt to impose a lien on his former client’s recovery after the attorney had terminated the representation in a contingent fee matter. The court held that “[t]his Court will not revise this agreement to fill a contractual void under the pretext of contract construction. Courts are not at liberty to revise contracts while professing to construe them.” In keeping with the gap-filler model, “there is no independent cause of action for violation of the covenant apart from breach of an express term of the contract.” Thus, allegations of a party’s improper motive are irrelevant without a breach of an express contract provision.

Most frequently, the implied covenant acts as a guardrail that keeps the parties operating within a zone of reasonableness and requires them to “refrain from arbitrary or unreasonable conduct which has the effect of preventing the other party to the contract from receiving the fruits of the bargain.”

The Absolute Discretion Exception to the General Rule

While it is an “overarching presumption” that a duty of good faith is implied in all contracts, “the exception to this general rule occurs only if the contract expressly (not impliedly) provides otherwise.” This means that the covenant does not apply if the contract grants a party absolute or sole discretion to take or refrain from taking some action. The best case to illustrate this principle is *Hunting Aircraft, Inc. v. Peachtree City Airport Authority*. Hunting operated an aviation maintenance facility on land owned by the Peachtree City Airport Authority. Because it needed to cross the Authority’s property to access the airport runways, Hunting entered into a written contract with the Authority for a 25-year easement that could be renewed for another 25 years with both parties’ consent, “which shall not be unreasonably or arbitrarily withheld.” Importantly, the agreement also said that the Authority could declare Hunting in default if it assigned its easement rights without the Authority’s prior written consent.

When the Authority refused without explanation to consent to Hunting’s proposed assignment to a third party, Hunting sought a declaration that the Authority was breaching the implied covenant by attempting to force Hunting into a default so it could either secure the property for itself or extract additional fees from Hunting. In response, the Authority urged the court to find that the implied...
covenant did not apply because absolute discretion to withhold approval of the assignment could be “inferred” from the terms of the contract.16 The court rejected the Authority’s invitation, ruling that absolute discretion cannot be inferred but must be granted expressly by the contract terms.17 The court was clearly concerned that a contrary ruling would allow the exception to swallow the rule.

The granting of discretion to a party triggers a duty to act in good faith; it does not eviscerate it (absent express language so stating). As stated by then Circuit Judge [Antonin] Scalia, “to say that every expressly conferred contractual power is of this nature is virtually to read the doctrine of good faith (or of implied contractual obligations and limitations) out of existence.”18

The court then held that a jury must decide whether the Authority’s conduct (if proven) could constitute a breach of the implied covenant:

A finder of fact would be authorized to find that denying consent to the proposed transaction on the basis that the Authority hoped to secure the property for itself or hoped to extract additional fees from Hunting constituted unreasonableness or failure to act in good faith.19

While Georgia courts are fairly consistent in refusing to imply a duty of good faith when a party has absolute discretion, the decisions are not uniform. In Capital Health Mgmt. Grp., Inc. v. Hartley, for example, Hartley’s shareholder agreement with Capital Health required the company to purchase her shares upon a change in control if she was either still employed by the company or if her employment had previously been terminated due to disability.20 Importantly, the agreement granted the Capital Health board “sole discretion” to determine what constitutes a disability.21 A change in control occurred after Hartley’s separation so her buyout rights depended on whether her separation was due to disability or a company reorganization.22 Citing Hunting Aircraft and evidence that Hartley was terminated because she was disabled, the Court of Appeals ruled that a jury must decide whether the company’s refusal to purchase Hartley’s shares was “out of an improper pecuniary motive.”23 In so ruling, the Hartley court ignored the statement in Hunting Aircraft that a party’s good or bad faith is irrelevant if the contract gives them sole discretion to act.24 There is no way to reconcile Hartley with Hunting Aircraft or, for that matter, with binding Supreme Court of Georgia precedents such as Charles v. Leavitt that also observe the sole discretion exception.25

There are also a handful of decisions that take a different route but still arrive at the same conclusion reached by the court in Hartley by requiring good faith performance because if “sole discretion” really meant what it said, the contract would fail for lack mutuality. In Newport Timber Corp. v. Floyd, for example, a two-year logging contract provided that if weather conditions prevented “practical timber harvesting operations hereunder,” the contract shall be extended by the number of days equal to the bad weather days with the grantee (Newport) having “the uncontrolled and absolute right to determine when, as and if weather conditions” justify the extension.26 The grantor claimed the contract had expired and sought a preliminary injunction when Newport threatened to reenter the property to continue harvesting.27 Notwithstanding the “uncontrolled and absolute discretion” term, the court ruled that Newport was still required to act “in a sound and honest manner and in good faith,” because any other construction would render the contract unenforceable for lack of consideration.28 Although the court did not say so, it seems to have applied the commonly cited rule of contract construction that “[t]he construction which will uphold a contract in whole and in every part is to be preferred, and the whole contract should be looked to in arriving at the construction of any part.”29

The Paradox That a Party Exercising a Contract Right Must Use Good Faith but That a Party Exercising a Contract Right Can Never Be Guilty of Bad Faith

Georgia’s implied covenant decisions paradoxically hold that a party exercising an express contractual right must do so in good faith but that a party can never be found to have acted in bad faith if they are exercising an express contractual right. The best way to understand this paradox is to analyze the leading cases on each end of the spectrum. The Hunting Aircraft case (discussed in detail above) is one of the best examples of the former category holding that a party exercising an express contract right—in that case to approve or not approve a proposed assignment—must do so in good faith.30

Another example can be found in ULQ, LLC v. Meder.31 The ULQ operating agreement gave the company manager the right to terminate company officers “either with or without cause … whenever [the manager’s] judgment the best interests of the Company will be served thereby.”32 If the officer is also a member of the company, he or she must sell the membership interest back to the company.33 When the manager (who was also the majority owner) terminated Meder for alleged abusive conduct, Meder countered that the manager’s true motive was to benefit himself by allowing ULQ to buy Meder’s interest “for nothing, at a time when the company was about to take off financially.”34 Citing Hunting Aircraft, the court held that a jury must decide whether the manager had acted reasonably and in good faith.35

The Supreme Court of Georgia employed similar reasoning in a foreclosure case called West v. Koufman.36 In that case, Koufman bought a tract of land from West and executed a security deed that allowed West to accelerate the debt and
foreclose on the property if liens are filed against the property. When West initiated foreclosure proceedings after four liens materialized, Koufman sought (and obtained) a preliminary injunction by claiming that West had actively solicited the liens just so he could foreclose on the property. The Court affirmed, holding that Koufman’s allegation, if proven, could constitute a breach of the duty of good faith and fair dealing.

In sum, these three cases—Hunting Aircraft, ULQ and West—found viable implied covenant claims based on allegations that a party acted in bad faith when exercising express contract rights. Compare these results with Martin v. Hamilton State Bank, which also involves the exercise of an express contract right in a manner alleged to be in bad faith, but yields a different result. In Martin, the borrower defaulted on bank notes that allowed the bank to pursue various enumerated default remedies including pursuing collection or negotiating with the buyer to restructure the debt. The notes stated that the bank had discretion—but not sole discretion—to choose its remedies, and that the selection of one remedy did not foreclose any other. When the bank chose to pursue collections instead of restructuring, the borrower cried foul.

In ruling for the bank, the court in Martin borrowed this colorful language from the Seventh Circuit:

Firms that have negotiated contracts are entitled to enforce them to the letter, even to the great discomfort of their trading partners, without being mulcted for lack of “good faith.” Although courts often refer to the obligation of good faith that exists in every contractual relation, this is not an invitation to the court to decide whether one party ought to have exercised privileges expressly reserved in the document. “Good faith” is a compact reference to an implied undertaking not to take opportunistic advantage in a way that could not have been contemplated at the time of drafting, and which therefore was not resolved explicitly by the parties. When the contract is silent, principles of good faith ... fill the gap. They do not block use of terms that actually appear in the contract.

Five years later, the Court of Appeals of Georgia relied heavily on Martin to find no breach of the implied covenant in Brazeal v. NewPoint Media Group, LLC. Brazeal’s employment agreement was for a one-year term that would automatically renew unless either party provided 90 days’ notice of their intent to not renew. The contract also authorized NewPoint to terminate “at any time for any reason or for no reason whatsoever, with or without Cause,” but a termination without cause entitled Brazeal to a nine-month severance benefit. Brazeal claimed NewPoint’s decision to not renew the contract violated the implied covenant because it deprived him of the severance benefit. The Court of Appeals ruled for NewPoint, holding that “[t]here can be no breach of an implied covenant of good faith where a party to a contract has done what the provisions of the contract expressly give him the right to do.”

An Attempt to Reconcile the Paradoxical Holdings

The results reached in all of these cases—Hunting Aircraft, ULQ and West, on the one hand, and Martin and Brazeal, on the other—are difficult to reconcile. All five cases involve allegations that a party exercised an express contract right in bad faith, and yet they reach different results. The court in Brazeal attempted to distinguish Hunting Aircraft as follows:

In Hunting Aircraft..., whether to consent to the assignment was subject to an implied obligation of good faith so as not to unreasonably deprive the party seeking to assign his ability to do so, or allow the authority to declare the other party in default merely by withholding its consent for no good reason.

Here, the Agreement provides several ways in which the employment relationship could end and did not require either party to pick the method that would be most advantageous, or less damaging, to the other party. This was the Agreement negotiated by the parties, and the parties were free to exercise their discretion in deciding which method to use so long as they otherwise complied with the terms of the Agreement respecting their choice.

... There can be no breach of an implied covenant of good faith where a party to a contract has done what the provisions of the contract expressly allow.

In essence, the court’s distinction was that while both the Authority and the bank exercised express contract rights, the Authority did so in an unreasonable manner while the bank did so in a reasonable manner. This is not helpful for several reasons. First, conduct that is unreasonable is merely bad faith conduct by a different name. Second, some of these cases were decided as a matter of law even though a jury must generally decide whether a party has acted reasonably or unreasonably (or, for that matter, in good faith or in bad faith). This is not to say that the courts were wrong to grant summary judgment in Martin and Brazeal, but what happens in a closer case like 280 Partners, LLC v. Bank of North Georgia?

There, the plaintiff borrower alleged that the defendant bank refused to extend a loan’s maturity date based on the borrower’s failure to make the final interest payment after being told by the bank to not make that payment. The court affirmed summary judgment to the bank because the terms of the note did not require the bank to extend the maturity date. The only real distinction between 280 Partners, on one hand, and Hunting Aircraft and ULQ on the other, is that the defendant’s behavior in the former case was not perceived by the court to be as egregious as the defendants’ behavior in the latter two cases. This is not a sound basis for granting summary judgment.

Additionally, focusing on whether a party acted unreasonably (or in bad faith) does not account for those decisions that implied a duty of good faith without any evidence of wrongful conduct. In Myung Sung Presbyterian Church v. North American
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Association of Slavic Churches & Ministries, for example, one church leased land to another for the purpose of allowing the lessee to erect a temporary modular building on the land. This required the lessor to obtain a zoning variance, but when the lessor failed to renew the variance several years later, the court found for the lessee without even inquiring into whether the lessor’s failure was inadvertent or intentional. It was enough that the failure deprived the lessee of the purpose of the contract:

The express lease provisions imposing a duty on NAASCM to remove the modular building from the property if at any time the City of Norcross required removal of the building is not inconsistent with an implied duty for MSPC to apply for a zoning variance. This provision expressed an understanding that the lease did not contain a promise that it would run for the full term because there was no guarantee that the City would grant an application for another zoning variance. Rather, the lease contained an implied requirement that MSPC would apply for and make a good faith effort to obtain a variance from the City.

Focusing on the wrongfulness of the conduct, as most courts generally do, also creates a conflict between two rules that are invoked whenever summary judgment is granted in an implied covenant case. The first rule is that “[t]here can be no breach of an implied covenant of good faith where a party to a contract has done what the provisions of the contract expressly give him a right to do.” The second rule, which is an outgrowth of the first, is that if a party is exercising a right expressly granted under the contract, the party’s motive for doing so is irrelevant. In practical terms, the cases that keep the issue from the jury—like Martin, Brazeal and 280 Partners—explain that they did so because alleged breaching party was exercising an express contract right; whereas the cases that allow the case to go to the jury—like Hunting Airport, ULQ and West—generally follow the rule that a party exercising an express contract right must do so in good faith. But if the party cannot breach the implied covenant while exercising an express contract right, how can the party’s lack of good faith ever come into play as it did in Hunting Aircraft, ULQ and West? This is difficult terrain for the practitioner to navigate.

The key to smoothing out these inconsistencies may lie in a statement from the Martin decision (and repeated in Brazeal and elsewhere) that good faith means not taking “opportunistic advantage in a way that could not have been contemplated at the time of drafting, and which therefore was not resolved explicitly by the parties.” This approach to determining whether terms should be implied in a contract marries the parties’ contractual intent with the concept of foreseeability. Thus, the borrower in Martin cannot claim he was taken advantage of when the bank elected to sue him because the express terms of the note made this foreseeable and within the parties’ contemplation. No matter how malevolent the bank’s motive, it could not be liable for doing what had been contemplated all along and addressed expressly in the contract.

If the courts in Hunting Aircraft, ULQ and West had focused less on the parties’ motive and more on whether the conduct could have been reasonably anticipated at the time the contract was drafted, the results would still have been the same. In Hunting Aircraft, the court could have focused on how the Authority’s decision on the proposed assignment deprived Hunting of its expectancy in a long-term contract. In ULQ, the court could have focused on the unforeseen deprivation of plaintiff’s ownership interest in the company, and the West court would have focused on the unforeseen deprivation of the borrower’s equity in the secured property occasioned by the lender’s solicitation of third-party liens. This approach would avoid altogether the tension between the rule that a party must exercise express contractual rights in good faith on one hand, and the rule that a party cannot be guilty of bad faith if they are exercising an express contract on the other hand.

Focusing on the parties’ contractual intent will also promote uniformity in the decisions because it removes subjectivity from the equation. This is because a party’s contractual intent is judged objectively based on the words that appear within the four corners of the agreement and the surrounding circumstances. Thus, a jury was not needed to determine the implied covenant claims in Martin and Brazeal because those defendants exercised their contractual rights in precisely the manner intended (as reflected in the express terms of the agreement), but a jury was needed in Hunting Aircraft, ULQ and West because those defendants exercised express contractual rights in an unforeseen manner. This seems to be a much better and more workable approach than the patchwork of conflicting rules that the courts are currently applying.

Conclusion
This article started as others have in the past, with me throwing up my hands in frustration because I cannot make sense of a particular area of the law. Having read and re-read Georgia’s leading implied covenant cases and still not finding much of a common thread running through them, I return to the question posed in the introduction because it is much easier to answer: What does the implied covenant offer to a plaintiff that cannot otherwise be gained by showing a breach of an express term in the contract? First, depending on the court’s approach, a party pursuing an implied covenant claim may have more latitude in discovery. A party’s motivation for breaching a contract is always fair game under O.C.G.A. § 13-6-11, but when the reasons why a party exercised an express contractual right become relevant, a broader scope of discovery could require disclosure of some helpful internal communications. Second, accusing a party of breaching the duty of good faith and fair dealing sounds much more impactful than
1. 138 Ga. 289 (1912) ("But surely it was

2. Hunting Aircraft, Inc. v. Peachtree City


4. Fisher v. Toombs County Nursing

5. 228 Ga. App. 705, 706 (1997) (while

6. The Soebee court might have reached

7. Id. at 468 ("The implied covenant of


10. Wanna, 357 Ga. App. at 154 (express
duty provide D&O coverage to physician is complemented by an implied duty to inform physician of the basis for a regulatory compliance issue raised against him so that he could avail himself of the D&O coverage). See also Camp v. Peetluk, 262 Ga. App. 345, 350 (2003) (parties must "perform their promises and provide such cooperation as is required for the other party's performance"); Myung Sung Presbyterian Church v. North American Association of Slavic Churches & Ministries, Inc., 291 Ga. App. 808 (2008), disapproved on other grounds by George v. Hercules Real Estate Svcs., Inc., 339 Ga. App. 843 (2017) (When the purpose of a long term lease was
to enable lessee to erect a temporary modular building on the leased premises, the lessor violated the implied covenant by failing years later to seek a new zoning variance to permit the building to remain on the premises).

12. Id.
13. Id. at 451.
14. Id.
15. Id.
16. Id. at 453. The Authority’s specific argument was that since the assignment clause did not contain limiting language that consent “shall not be unreasonably or arbitrarily withheld” as was found elsewhere in the contract, the parties intended for the Authority to have sole discretion to withhold consent. Id.
17. Id.
18. Id. at 454 (citing Tymeshare, Inc. v. Covell, 727 F.2d 1145, 1153-54 (D.C. Cir. 1984) and Rhode Island Charities Trust v. Engelhard Corp., 109 F. Supp. 2d 66 (D.R.I. 2000), aff’d, 267 F.3d 3 (1st Cir. 2001) (applying Tymeshare’s analysis to Georgia law)).
19. Id.
21. Id. at 814.
22. Id. at 816.
23. Id. at 820.
25. 264 Ga. 160, 160 (1994) (“Charles’ evaluation of his financial condition was left to his unfettered control and discretion and need not have been exercised in good faith.”). See also Faith Enterprises Grp., Inc. v. Avis Budget Grp., Inc., No. 1:11-CV-3166-TWT, 2012 WL 1409403, at *7, n.2 (N.D. Ga. Apr. 20, 2012) (refusing to follow Hartley because it conflicts with the Supreme Court’s holding in Charles v. Leavitt.).
27. Id.
28. Id. at 540. Accord Tyson v. McPhail Properties, Inc., 223 Ga. App. 683 (1996) (agreement that gave McPhail the absolute discretion to approve or disapprove of Tyson’s sale of property still required McPhail to act reasonably; otherwise, the provision requiring the parties to split the profits from such sale would be rendered meaningless).


32. Id. at 177.

33. Id.

34. Id. at 180.

35. Id. ULQ may stand on slightly different footing than Hunting Aircraft because the ULQ contract required that terminations be in the best interest of the company. 293 Ga. App. at 178 ("The distinguishing feature in the agreement at issue, however, is that although ULQ could terminate Meder without cause, ULQ could only do so whenever in its manager's judgment the best interests of the company would be served thereby."). The business judgment rule would require judicial deference to this decision making process, but there would still have to be evidence that the decision was made in a deliberative way. Fed. Deposit Ins. Corp. v. Loudermill, 295 Ga. 579, 581 (2014). It was appropriate for the court to send this issue to the jury given the evidence in the evidence between company's stated reason for termination and the employee's evidence of the true reason for termination.

36. 259 Ga. at 505.

37. Id.

38. Id.

39. Id.


41. Id. at 336.

42. Id.

43. Id. at 334.

44. Id. at 337. The court relied on Automatic Sprinkler Corp. of Am. v. Anderson, 243 Ga. App. 867, 868 (1979), which held: "[t]here can be no breach of an implied covenant of good faith where a party to a contract has done what the provisions of the contract expressly give him the right to do." In fact, courts will not even question the motive of a party that has exercised an absolute right under a contract. Id. at 869 (citing Schaeffer v. King, 223 Ga. 468, 470 (1967)). The corollary to this rule is equally prevalent in Georgia case law: "[t]here is no independent cause of action for violation of a duty of good faith and fair dealing in the performance of a contract apart from breach of an express term of the contract." Bankston v. RES-GA Twelve, 334 Ga. App. 302, 304 (2015).

45. Id. at 335-36 (quoting Kham & Nate's Shoes No. 2, Inc. v. First Bank of Whiting, 908 F.2d 1351, 1357 (7th Cir. 1990) (emphasis added).


47. Id. at 689.

48. Id. at 690-691.

49. Id.

50. Id. at 693.


52. See, e.g., Patel v. Burt Dev. Co., 261 Ga. App. 436, 440 (2003) (whether a party acted reasonably or exhibited the good faith or diligence implied in the contract is clearly a material issue of fact). See also DeMarco v. State Farm Mut. Auto. Ins. Co., 346 Ga. App. 882, 885 (2018) ("While "it is the general rule that what is a reasonable time under the circumstances attending the transaction is a matter for determination by a jury," courts are authorized to determine that a delay in a party's performance is unreasonable as a matter of law.").


54. Id. at 607.

55. Id. at 610.


57. Id.


59. See, e.g., Martin, 314 Ga. App. 334, 336-337 (bank's "motivation" in choosing between alternative legal remedies available in the event of a borrower's default was immaterial in an action by the bank to recover an indebtedness). Accord Augustin v. Walker Lake Emergency Grp., PC, 364 Ga. App. 856, 862 (2022) (even if employer's motive in terminating a contract was retaliatory, the fact that the employer had the right to terminate the contract without cause defeats implied covenant claim as a matter of law).

60. 314 Ga. App. at 335 (emphasis added).

61. N. Georgia Elec. Membership Corp. v. City of Dalton, 197 Ga. App. 386, 387 (1990) (courts discern contractual intent objectively by examining the "meaning a reasonable man in the position of the other contracting party would ascribe to the first party's manifestations of intent, or that meaning which the other contracting party knew the first party ascribed to his manifestations of intent."). This is consistent with the three-step methodology courts employ to construe contracts: (1) determine whether contract language is clear and unambiguous and, if so, apply contract as written; (2) if not, apply rules of contract construction to resolve ambiguity which, of course, include implying a duty of good faith; and (3) if the ambiguity remains, the jury must determine what the parties intended. Augustin, 364 Ga. App. at 859.

62. This is also consistent with the principle that foreseeability may only be decided as a matter of law “where the relevant facts are plain and indisputable.” Watson v. Gen. Mech. Svs., Inc., 276 Ga. App. 479, 482 (2005).
Opinion | Just the Facts, Please: An Examination of the “Judicial Hellhole” Narrative

As a mandatory Bar, our members advocate varying views of the law. This opinion piece is an example and offers a counter perspective to the article on “phantom damages” and the collateral source rule offered in our June 2023 edition. As it was for the previous article, the statements, views and opinions expressed within this article are those of the authors and do not necessarily reflect those of the State Bar of Georgia, its Officers, Board of Governors, Sections, Committees, Editorial Board or staff.

A powerful network of business interests that has long promoted the false idea that Georgia is a “judicial hellhole” and its “tort system” has imposed a financial burden on Georgians is continuing their efforts by lobbying for tort law changes.1 The American Tort Reform Foundation (ATRF), based in Washington, D.C., publishes the notorious “Judicial Hellhole” list. Its members and supporters include representatives from the tobacco, insurance, chemical, auto and pharmaceutical industries.2 The “Judicial Hellhole” list has been widely criticized as a gimmick designed to intimidate judges and pressure lawmakers to enact unnecessary laws with unintended consequences.3 As one observer noted, the list “is not based on research into the actual conditions in the courts,” and in fact “empirical research tends to debunk the industry complaints.”4 A prime example is ATRF’s claim that “[n]uclear verdicts are bogging down business” in Georgia even though Georgia has been named the “Top State for Business” nine years in a row.5

Lawmakers, judges and the legal community should not rely on propaganda from organizations whose reason for existing and stated goal is to remake the tort system for their members’ benefit. Methodology matters, as every trial lawyer and judge in the state knows. ATRF’s disclosed “methodology” is that the information is member-driven and that its members submit anecdotal information about cases.6 Despite their apparent lack of peer review or application of journalistic standards, publications by the ATRF and similarly created organizations have unfortunately spread an inaccurate view of the law and courts.7 This article endeavors to fact check some of the claims made by ATRF’s most widely distributed publication and compare its characterization of Georgia’s courts with the facts.

The Stories Behind the Verdicts
Most people believe that the use of nuclear weapons should be avoided. Playing on the visceral terror that the term evokes, ATRF made up the term “nuclear verdict” as part of its propaganda. ATRF and ILR have tried to create the illusion that a “nuclear” verdict is synonymous with an “unjust” verdict, but the term is nothing more than a label based on raw numbers. They define the term as any verdict of $10 million or more.8 A verdict of $10 million dollars to a person with quadriplegia would be “nuclear,” for example, even if the amount awarded was equal to or less than the person’s medical expenses.

So, what are the stories behind these so-called “nuclear verdicts” in Georgia? Carmichael v. CVS is a case frequently cited by business lobbyists, and it also appears on a “judicial hellhole” list for its $43 million verdict. In that case, despite numerous criminal encounters and employ-
erees complaining to management about the dangerous criminal activity, CVS stopped providing security guards and, subsequently, a series of violent crimes occurred on the premises. A cashier was threatened with death and robbed at gunpoint; a customer was violently attacked and robbed in the parking lot; and another cashier was robbed at gunpoint—all within the two years prior to Carmichael’s attack. Employees had asked CVS to provide a security guard, but CVS would not grant those requests.19 Customers themselves cannot be expected to travel with an armed guard and will rarely know that a business has been the victim of armed robbery when they enter a premises. Yet when a jury found CVS largely responsible for foreseeable violent crime on the premises to Carmichael, ATRF labeled the proprietor breached its duty to do so.”20

In the context of premises liability actions involving third-party criminal conduct, “the proprietor is generally insulated from liability; an exception to this general rule arises, however, where the proprietor had sufficient reason to anticipate such criminal conduct.”17 To show the landowner or occupier had a duty of care, the plaintiff must also show that criminal activity was reasonably foreseeable.18 For example, the Court of Appeals of Georgia has found a plaintiff could not recover for a murder in a convenience store parking lot, despite rampant crime in the area, where there was no evidence the defendant “knew or had grounds to know about problems in the parking lot.”19

Once the plaintiff has established the landowner owed a duty of care, she still must go on to prove liability, which includes showing “whether the proprietor acted reasonably in the face of the particular foreseeable risk or whether the proprietor breached its duty to do so.”20 This showing requires the factfinder to “weigh the likelihood and severity of the foreseeable harm against the cost and feasibility of additional security measures in considering whether the duty owed was breached.”21

Of course, plaintiffs must also prove the lack of adequate security measures caused injury. The Court of Appeals has found a plaintiff was unable to recover, for example, where he claimed needed security measures were a functional gate and a courtesy officer, but he could not show the shooter entered through a broken gate and could not show a competent security officer had the ability to prevent the altercation.22 These examples are but
a few of the many ways plaintiffs with legitimate claims are unfortunately barred from being made whole.

Another of Georgia's business-friendly laws that often fades into the background of premises liability cases, even though it is vitally important to the broader discussion, is Georgia's workers' compensation law. It bars an employee from suing her employer for failure to provide a safe workplace even if the employer has repeated, actual notice of physical violence to its employees, like CVS had in the Car michael case. Although many states, like Alabama, have exceptions to the workers' compensation bar for grossly negligent conduct, Georgia does not. Thus, there is little financial incentive for a business owner to act reasonably to keep its premises safe unless customers can hold them responsible for a failure to do so.

ATRF also cites Holland v. Cypress Insurance Company as a problematic "nuclear verdict. In that case, the jury awarded $13 million for the value of the plaintiff's life, $2 million for his conscious pain and suffering, and $6 million in attorney's fees because of the defendant's bad faith. The defendant commercial truck driver concealed parts of his medical history, including a past brain aneurysm, lung disease (COPD), sleep apnea, chronic back pain, coughing fits, and blackouts in addition to his status as a smoker, his use of a breathing machine in his truck, a prior hospitalization, and his use of opioids.

Omitting these facts, ATRF claimed that the "Injury" was a partial amputation of his leg and other injuries, which necessitated seven surgeries by the time of trial and would require expensive prosthetics. Those prosthetics and other medical care required by amputations typically run into the millions of dollars over the course of a lifetime. A jury's decision to take care of those expenses makes Georgia "a judicial hellhole," according to ATRF.

Georgia's Long-Standing "Collateral Source" Rule

Georgia's Constitution provides, "No person shall be denied the equal protection of the laws." For more than a century, Georgia appellate courts have held that a wrongdoer is responsible for compensating an injured person for all harms such wrongdoer causes and cannot reduce an injured party's damages based on payments from a third-party because that would result in a windfall for the wrongdoer and a tortfeasor is not allowed to benefit from its wrongful conduct. Accordingly, under the collateral source rule, an injured party is permitted to seek full recovery from the tortfeasor of reasonable and necessary hospital charges undiminished by insurance payments or "write-offs" under "the hospital's contract with [an insurance company]." The payment of the medical expenses from a collateral source is not in any manner connected with the defendants and is of no concern to them. In fact, introduction of a collateral source payment is so irrelevant and prejudicial that it may be ground for a mistrial. Georgia is not alone in this rationale as other states follow similar collateral source rules.

An argument in favor of limiting damages to the amount paid by a third party violates Georgia's constitutional guarantee of equal protection and century old common law. For example, if an injured party is treated in the Emergency Department, the amount paid to the hospital varies depending on whether health insurance exists and the type of coverage. In turn, limiting damages to the amount paid creates an inequality for the same treatment. Whether an injured party can afford health insurance or the type of insurance that individual carries should not be of any benefit to the wrongdoer. The Supreme Court of Georgia has explicitly held, "There can be no equal justice where the kind of trial [or the damages] a man gets depends on the amount of money he has ... ."

In 1987, the Georgia Legislature amended the law to permit a jury to consider collateral sources. Shortly thereafter, the Supreme Court of Georgia held that the amendment violated "the Georgia Constitution, which mandates that the paramount duty of government is the protection of person and property and that the protection shall be impartial and complete." If, for example, both the plaintiff and the defendant are insured, but the jury is only informed of the plaintiff's coverage, it may assume that only the plaintiff has insurance and the plaintiff's insurance should pay for the loss caused by the tortfeasor. The Court outlined the public policy grounds behind full compensation, noting that "the courts are concerned not only with compensation for the victim, but with admonition of the wrongdoer." Full compensation to the injured party provides "a strong incentive to prevent the occurrence of the harm."

An injured party is often obligated to reimburse the insurer for payments made toward medical expenses. This obligation may be in addition to premiums paid
for the health insurance, which abolition of the collateral source rule would do nothing to reimburse victims for the premiums they paid. It cannot be fairly argued that an injured party has received full compensation when medical expenses are limited to amounts paid by an insurer and the injured party must also reimburse the insurer, even partially, as well as receive no reimbursement for premiums paid, but the wrongdoer would nonetheless benefit accordingly from such payments by the victim.

Those against full compensation argue that an injured party might get a windfall if a jury is denied the right to know about collateral sources. However, as the Supreme Court of Georgia has explained, "If there must be a windfall, it is usually considered more just that the injured person should profit, rather than let the wrongdoer be relieved of full responsibility for his wrongdoing."49

The only way to uphold Georgia’s constitutional equal protection is to maintain the common law collateral source rule that has existed for centuries and its proper application by Georgia’s appellate courts to an injured party’s damages.

Lions, Tigers and Punitive Damages, OH MY!
Some cases on the “judicial hellhole” list arise from verdicts that include an award for punitive damages. In Georgia, however, punitive damages are almost always capped at $250,000, a fact that the jury does not know during deliberations.50 Thus, reports of punitive verdicts are often vastly overstated because they do not reflect reductions to jury verdicts required by the punitive damages statute.

Punitive damages are only assessed when the actions of the defendant are egregious, such as cases of willful misconduct, malice, fraud, wantonness, oppression or entire want of care, raising the presumption of conscious indifference to the consequences. Although in products liability cases these damages are not capped, the statute nonetheless provides that 75% of that award (minus a court-awarded proportionate share of attorney’s fees) goes to the state of Georgia, into the general treasury, and not to the person who suffered harm.51 Even worse, these damages can only be assessed once against the manufacturer despite whatever number of victims they claim. Thus, the manufacturer receives a windfall benefit when it "loses" a product liability judgment pursuant to the statute.52

Once a product manufacturer has paid a punitive damages award pursuant to the statute, that manufacturer receives immunity from punitive damages again in Georgia for the same act or omission even though there is clear and convincing evidence that the product manufacturer has demonstrated an "entire want of care, which would raise the presumption of conscious indifference to consequences," and even if many more Georgians are hurt as a result of its egregious conduct. This immunity can have enormous value to product manufacturers—it can be their cost of doing business.

The Attack on Georgia’s Judiciary
ATRF’s publications name its target bluntly: Georgia judges.53 In 2022, ATRF took direct aim at the Supreme Court of Georgia, placing the court itself—and not the state as a whole—at the number three position on the list. The ATRF proclaimed the Supreme Court of Georgia had "developed a propensity to expand liability whenever given a chance."54 ATRF cited the Court’s decision in Alston & Bird, LLP v. Hatcher Management Holdings, LLC55 to try to support this caricature of an activist Supreme Court of Georgia. The Alston & Bird decision, however, is the opposite of judicial activism: it is a decision that relies on a careful textual analysis of statutory language enacted by the General Assembly.56

Ironically, ATRF was one of the major proponents of the original statutory language in O.C.G.A. § 51-12-33 as it was enacted in 2005, yet complains that the Court should have ignored its text and based its holding on what the defendants claimed that statute “intended.”57

Only a lobbying group from inside the D.C. Beltway could keep a straight face while painting the Supreme Court of Georgia as freewheeling, liability-loving judicial activists. Eight of the nine justices were appointed to the bench by conservative Republican governors. The ninth was duly elected by the citizens of this state. Our Supreme Court bench includes four justices who have worked closely with or served in leadership roles of the conservative Federalist Society and one who clerked for U.S. Supreme Court Justice Clarence Thomas. The same is true of our Court of Appeals, where nine of the 11 judges appointed to the bench were appointed by Republican governors after careful vetting, and four others were elected to open seats.

Although much of the business-funded efforts to dismantle the tort system sound silly, they should not be shrugged off. ATRF’s most recent version of the “Judicial Hellhole” publication seems to fully embrace the idea of bullying Georgia’s judiciary. It calls out judges by name in cases where ATRF’s constituents have not liked the outcome. It places the judges’ names in bold writing and makes various nefarious allegations against them. ATRF protects the identity of its members who make the allegations against the judges, claiming that it relies upon informants who “fear lawsuits or other retaliation in these jurisdictions” and therefore sometimes prefer to have their names and cases kept out of the program’s reporting.58 Yet, ATRF exposes the state’s public servants on the bench to potentially dangerous retaliation. Personal attacks against judges can result in serious consequences, and members of Georgia’s bar should consider condemning ATRF’s practice.59

Reducing the Cost of Injuries in Georgia: A Common-Sense Approach
The obvious way to reduce the cost of injuries is to reduce their frequency.
Suicide Awareness & Prevention
The State Bar of Georgia’s suicide awareness campaign has a dual purpose, directed toward lawyers and judges who are suffering from anxiety and depression and may be at risk for suicide, as well as all Bar members, who need to recognize the severity of the problem and be able to identify warning signs among our colleagues.

The time to act is now.

If you or someone you know are contemplating suicide, call 800-327-9631 today.
Learn more at gabar.org/suicideawareness.
Insurance Institute for Highway Safety (IIHS) is a model for this approach. IIHS conducts crash testing and safety research to assess the crashworthiness of vehicles. IIHS is supported by insurance companies, and those insurance companies benefit financially when their insureds are safe in crashes, because that keeps insurance claims lower.

In contrast to IIHS’ approach of improving safety, the “tort reform” organizations are not offering solutions to correct or prevent medical negligence or reduce the fatalities associated with commercial trucking collisions. Rather, they merely want to avoid the consequences of their conduct, and accordingly advocate to reduce the cost of culpable conduct that causes another person’s injuries or death.

The most obvious source of an increase in the number of verdicts over $10 million is the failure of defendants and their insurers to resolve cases pretrial, through settlement. As an example, the 2022-23 version of the report cites five Georgia cases but omits that in each case, the plaintiffs gave the defendants numerous opportunities to settle the claims for far less than the jury (or court) ultimately awarded after a trial. If insurers and defendants refuse to resolve claims before trial, they cannot feign surprise when a jury verdict is rendered in excess of the settlement offer.

In 2005, as part of comprehensive tort reform, the Georgia Legislature enacted O.C.G.A. § 9-11-68, the “offer of settlement” statute. The statute was designed by the insurance lobby to force pre-suit settlement by punishing a party who rejected a settlement offer made in good faith by mandating an award of attorney’s fees and case expenses in certain situations. If a plaintiff fails to obtain a judgment of 75% or more of an offer from the defense, then the plaintiff pays the defendant’s fees and expenses accruing after the date of the rejection of the offer; if the plaintiff obtains a judgment of more than 125% of an offer made by the plaintiff, then the defendant pays the plaintiff’s fees and expenses accruing after the date of the rejection of the offer. Given the enormous disparity between the economic power of a huge insurance company or corporate defendant and an individual plaintiff, the pressure to settle is not felt equally on both sides. An individual plaintiff faces a real financial threat: the potential of being on the hook for tens or even hundreds of thousands of dollars in defense fees and expenses; while, on the other hand, that threat to an insurance company who hedges its financial risk as routine practice in these types of cases, is just faced with its cost of doing business. Ultimately, a defense offer of settlement could force an otherwise deserving plaintiff to accept an unfair offer merely because of the enormous financial threat not equally felt by an insurance company or corporate defendant. Reducing damages that plaintiffs may seek further propounds this pressure they already face.

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Conclusion
The judicial branch is a branch of government, and jury verdicts are acts of governance by Georgia’s citizens from all counties and all walks of life. Their verdicts should motivate improvements in public and private safety measures and corporate responsibility instead of complaints about judges. As members of the bar, we have a responsibility to understand where the “judicial hellhole” narrative comes from and why it is so flawed, so that we can help our larger community understand the truth. We are of the position that such narrative is junk science and junk science has no place in the courtroom, bar journals or our legal community as a whole.

Madeleine N. Simmons is an equity partner with Stewart Miller Simmons Trial Attorneys, city councilwoman in Brookhaven and president of the Georgia Trial Lawyers Association. She is dedicated to representing individuals who have been injured due to the negligence of others and holding wrongdoers accountable for their actions. Simmons has tried more than 30 personal injury jury trials as lead counsel in 11 different counties within the state of Georgia. She focuses her trial practice on premises liability, sexual assault, motor vehicle and trucking cases.
Simmons assists in the management, training and mentorship of lawyers within her office and early in her career, at Georgia State University College of Law, by coaching mock trial for the law school. She is a board member of Georgia’s Civil Justice Political Action Committee and a fellow of the American Board of Trial Attorneys. Through her involvement with the trial bar and the State Bar, she often speaks at and is featured in statewide broadcasts, educational seminars and conferences on topics ranging from leadership and management to trial strategy and complex motions and evidentiary practice.

Adam Malone is based in Atlanta, Georgia, and dedicates his entire practice to helping families in cases involving brain injury, spinal cord injury, burns, amputation and wrongful death. Throughout his career, Malone has litigated and tried these cases all over the state of Georgia. Malone is immediate past president of the Georgia Trial Lawyers Association and past chair of the AAJ Traumatic Brain Injury Litigation Group. He is a past president of the Southern Trial Lawyers Association, past president of the Melvin M. Belli Society, past chair of the General Practice & Trial Law Section of the State Bar of Georgia, past member of the Board of Governors for the American Association for Justice and of the Board of Governors for the State Bar of Georgia, past member of the Executive Committee of the State Bar of Georgia, past president of the Young Lawyers Division of the State Bar of Georgia and past president of the Georgia Trial Lawyers Association. Pope is a fellow of the American Board of Trial Lawyers and the International Academy of Trial Lawyers.

Jon Pope is a partner with Hasty Pope LLP, a firm of trial lawyers with offices in Canton and Gainesville handling a wide range of personal injury, wrongful death and catastrophic injury cases. Over his 28-year career, Pope has handled more than 40 jury trials. He is a past member of the Executive Committee of the State Bar of Georgia, past president of the Young Lawyers Division of the State Bar of Georgia and past president of the Georgia Trial Lawyers Association.

Endnotes
1. 1. https://www.judicialhellholes.org/about/ (“... The primary purpose of the Foundation is to educate the general public about how the American civil justice system operates; the role of tort law in the civil justice system; and the impact of tort law on the private, public and business sectors of society.”) Several editions of the ATRF’s annual publication JUDICIAL HELLHOLES are cited in this article and are all available at www.judicialhellholes.org/reports.
4. Id. at 1103-04.
6. JUDICIAL HELLHOLES 2022-2023, at i (“It reflects feedback gathered from ATRA members and other firsthand sources.”).
7. The ILR recently published a paper claiming to find an increase in verdicts over $10 million. But, buried at the back of the paper, is its concession that its sources “likely capture[s] verdicts over $10 million at a high rate,” and that the amounts of the awards reported do “not reflect adjustments by the trial court or on appeal, such as a reduction of the verdict as excessive ...” ILR, NUCLEAR VERDICTS: TRENDS, CAUSES, AND SOLUTIONS [hereinafter NUCLEAR VERDICTS], at 48, available at https://instituteforlegalreform.com/research/nuclear-verdicts-trends-causes-and-solutions.
8. JUDICIAL HELLHOLES 2022-2023, at 5; NUCLEAR VERDICTS, at 2. Even that guideline does not appear to be consistently applied: as recently as the 2020-2021 issue, ATRF included a verdict for $8.6 million on the “Judicial Hellholes” list. JUDICIAL HELLHOLES 2020-2021, at 33.
12. JUDICIAL HELLHOLES 2020-2021, at 33.
13. O.C.G.A. § 51-3-1.
15. Id. at 173-74, 856 S.E.2d at 271.
18. Id. at *7-8.
24. O.C.G.A. § 51-12-1(b).
25. Id. at 45-46, 402 S.E.2d at 272.
26. Id. at 42, 402 S.E.2d at 270 (citation omitted).
27. Id. at 42, 402 S.E.2d at 270 (citation omitted).
28. O.C.G.A. § 33-24-56.1 (Private insurance reimbursement). See also 42 U.S.C. § 1395y(b)(2)(B)(iv) (Medicare); O.C.G.A. § 34-9-11.1 (worker’s compensation); id. § 44-14-470 (hospital, nursing homes, physicians and traumatic burn care medical practice liens); id. § 49-4-149 (Medicaid).
30. Id.
33. Id. at *23.
34. Judicial Hellholes 2020-2021, at 33.
41. Id. at 45, 402 S.E.2d at 272.
42. Id. at 45, 402 S.E.2d at 272 (citation omitted).
43. See also Bennett v. Terrell, 224 Ga. App. 596, 597, 481 S.E.2d 583, 584 (1997) (“The financial resources of a party and the existence of insurance coverage were irrelevant to the issues in this case.”).
44. O.C.G.A. § 51-12-1(b).
The Committee to Promote Inclusion in the Profession remains honored to announce the 2023 Commitment to Equality Awards recipients. Each of the 2023 recipients have commendably demonstrated personal resolution to ensure the promotion of inclusion within Georgia’s legal community. With pleasure, we celebrate their distinct accomplishments as they lead by example, collectively ensuring that our profession is an accepting, open and welcoming professional environment for all who join.

Randolph W. Thrower Lifetime Achievement Award
The Randolph W. Thrower Lifetime Achievement Award recognizes an outstanding individual who has dedicated his or her career to providing opportunities that foster a more diverse legal profession for members of underrepresented groups in the state of Georgia.

Hon. Verda M. Colvin, Justice, Supreme Court of Georgia
Hon. Verda M. Colvin was appointed to the Supreme Court on July 20, 2021 by Gov. Brian Kemp. She is the first African American female appointed by a Republican governor to the state’s high court. Previously, she served on the Court of Appeals of Georgia, having been appointed by Gov. Kemp in April 2020. Her time as judge also includes nearly six years as a Superior Court judge in the Macon Judicial Circuit. Justice Colvin discovered her love for trial work early in her career as an assistant solicitor in Athens-Clarke County. From there, she went on to serve as assistant general counsel to Clark Atlanta University and then as assistant district attorney in Clayton County. She was also an assistant U.S. Attorney in the Middle District of Georgia, where she prosecuted a wide range of offenses from drug trafficking to white collar crime. Justice Colvin has also served as an adjunct professor at Mercer University School of Law.

Born and raised in Atlanta, Colvin attended Therrer High School. She earned her bachelor’s degree in government and religion from Sweet Briar College in Virginia and her juris doctorate from the University of Georgia School of Law.

Justice Colvin is committed to service professionally and personally, and she effortlessly serves as a member of several organizations and boards. In her service on the Supreme Court of Georgia, she currently serves on the Judicial Qualifications Commission and as the chair of the Access to Justice Committee. Moreover, Justice Colvin is held in high esteem, receiving numerous awards and honors for her work in the profession and Georgia communities.

Michelle E. West, Founder and Principal, MeWe Consults, LLC
Michelle E. West is founder and principal of MeWe Consults, LLC, which provides executive leadership coaching, consulting, and conflict resolution to reach desired personal and business outcomes. She finds true joy in helping others realize their true leadership potential. She frequently speaks at conferences and organizes continuing legal education programs.

West received her executive leadership coach training from the Georgetown University Institute for Transformational Leadership and is also certified in both mediation and arbitration. She received her J.D. from Emory University School of Law and her B.S. in Foreign Service from Georgetown University, where she studied International Law, Relations and Organization, and received a certificate in Latin American studies along with proficiency status in the Spanish language. She attended academic programs across the world, and she taught English at La Escuela Politécnica Nacional in Ecuador, through the World Teach Program.

West is the previous founder and owner of MWest Legal, LLC, and she formerly served the State Bar of Georgia as director of the Institute of Continuing Legal Education and as director of the Transition Into Law Practice Program. West has previously served the legal profession on
the state level as staff liaison to the Chief Justice’s Commission on Professionalism, the State Bar of Georgia Professionalism Committee and the Commission on Continuing Lawyer Competency. West is also a past president of the Georgia Association for Women Lawyers, amongst other leadership roles. She currently serves on the American Bar Association’s Standing Committee on Public Protection in the Provision of Legal Services.

Commitment to Equality Awards
The Commitment to Equality Awards recognize the efforts of individuals, companies and legal employers who are committed to providing opportunities that foster a more diverse legal profession for members of underrepresented groups in Georgia. The awards are presented annually to lawyers and legal employers that, over the course of a decade or more, have demonstrated an outstanding commitment to promoting diversity in the legal profession.

Terrica Redfield Ganzy, Executive Director, Southern Center for Human Rights
Terrica Redfield Ganzy is the executive director of the Southern Center for Human Rights (SCHR), where she leads the SCHR team in carrying out its mission to dramatically transform the criminal justice system.

Commitment to Equality Awards: 2023 Honorees

Hon. Verda M. Colvin
Randolph W. Thrower Lifetime Achievement Award

Michelle E. West
Randolph W. Thrower Lifetime Achievement Award

Terrica Redfield Ganzy
Commitment to Equality Award

Robert K. “Bobby” Woo Jr.
Commitment to Equality Award

Nyonnohweah Seekie
One to Watch Award

Raymond Tran
One to Watch Award
legal system through direct representation, impact litigation, policy advocacy and public education. Prior to becoming SCHR’s executive director, Ganzy served in several different roles at SCHR, most recently as deputy director, helping to coordinate SCHR’s strategy and programs. She also served as SCHR’s development director, designing and leading SCHR’s development strategy and building strategic partnerships. For nine years, Ganzy served as a staff attorney in SCHR’s Capital Litigation Unit, where her work focused on representing clients on death row in Georgia and Alabama. For five years, she also served as the National Association of Criminal Defense Lawyers Death Penalty Resource Counsel, providing training and resources to capital defense attorneys throughout the nation.

Ganzy received her J.D. from the University of Virginia School of Law and an LL.M. in Trial Advocacy from Temple University Beasley School of Law. She received a B.A. in English and Humanities, summa cum laude, from Tougaloo College, and a Certificate in Nonprofit Management and Social Enterprise from Georgia State University’s Andrew Young School of Public Policy. Ganzy is admitted to practice law in North Carolina, Alabama, Georgia, the Court of Appeals of Georgia, the Supreme Court of Georgia, and the U.S. Supreme Court.

While Ganzy has served numerous organizations in metro-Atlanta, she is most recently serving as the 2023 president of the Georgia Association of Black Women Attorneys. She is also an alumna member of Leadership Atlanta Class of 2022. Ganzy serves on the Center for Death Penalty Litigation’s Board of Directors, Atlanta Chapter of the Association of Fundraising Professionals, State Bar of Georgia’s Professionalism Committee, and as a member of the State Bar’s Seeking Equal Justice and Addressing Racism and Racial Bias Committee. She is also a member of the Judicial Council of Georgia’s Access to Justice Committee.

Robert K. “Bobby” Woo Jr., Partner, Trial and Global Disputes, King & Spalding, LLP
For nearly three decades, Robert K. “Bobby” Woo Jr. has championed the advancement of diversity in the legal industry. As an Asian American attorney, Woo has pushed boundaries and broken barriers throughout his career. Woo is currently the deputy leader of King & Spalding’s Pharmaceutical and Medical Device Litigation specialty group and serves on the Associates Committee for the Trial and Global Disputes practice area. He has served on the firm’s Diversity and Hiring Committees and is a past hiring partner for the Atlanta office. Woo’s colleagues report that he is the heart and soul of the firm’s Asian Affinity Group (AAG). As the firm and AAG grew, Woo became an integral figure in advising the firm’s AAG and helped maintain its sense of community across nearly all King & Spalding’s U.S. and international offices.

Woo is active in the National Asian Pacific American Bar Association (NAPABA), which awarded him the Daniel K. Inouye Trailblazer Award, NAPABA’s highest honor, in 2002. He also received the inaugural Judge Alvin T. Wong Pioneer Award from the Georgia Asian Pacific American Bar Association (GAPABA) for his leadership in the Georgia Asian Pacific American (APA) legal community. He is a past co-president of GAPABA and the current co-president of the GAPABA Law Foundation, which supports charities critical to the success of underrepresented law students and professionals as well as low-income minorities requiring legal assistance. As co-president of the GAPABA Law Foundation, Woo’s goals include sharpening the focus of funds through scholarships and fellowships to build a more robust pipeline for the APA legal community and to make the legal profession more accessible for Asian American attorneys.

One to Watch Award
The One to Watch Award recognizes the efforts of young lawyers who are deeply committed to providing opportunities that foster a more diverse legal profession for members of underrepresented groups in Georgia.

Nyonnnoweak Seekie, Founder and Managing Attorney, The Seekie Law Firm, LLC
Nyonnnoweak Seekie has demonstrated her heart for helping others and guiding individuals through difficult situations by working with families of domestic violence, AmeriCorps, the Latin American Association and the Macon Circuit Public Defender’s Office, where she gained experience as an assistant public defender.

Today, as founder and manager of the Seekie Law Firm, Seekie is devoted to counseling clients through the arduous territories of family law, immigration and criminal prosecution. She understands the individuality of each client, their circumstances and their need for a zealous advocate. As a former school counselor working with disadvantaged students and families, Seekie knew that there was more to her students than negative stereotypes and labels society often placed on them. She was empathetic to their personal challenges. Seekie’s authenticity and compassion for people allowed her to connect with and aid those facing turbulent challenges in their daily lives. Today, Seekie provides that same understanding when working with clients on legal matters.

In the community, Seekie is a respected advocate for issues of social justice and equality including women’s rights, immigration and criminal justice, and serves on recognized boards both locally and nationwide.

Raymond Tran, Associate, Real Estate, Seyfarth & Shaw, LLP
Raymond Tran, associate, Seyfarth & Shaw, LLP, is an outstanding talent in his real estate practice and as a leader within the Asian Pacific American (APA) and broader Atlanta communities. As a former Secretary of Georgia Asian Pacific Bar Association (GAPABA), Tran was consistently working to ensure that the ideals of the organization, both outward-
facing and internally, embody values we can be proud of, advocacy, mentorship, and representation of the APA community. Tran’s mentors and colleagues affirm that he is a dedicated advocate for his clients, both commercial and pro bono.

Tran graduated from Manhattanville College, cum laude, with a B.A. in History and minor in Dance and Theatre. He then received the prestigious U.S. Fulbright Scholarship to do research and teach in Hong Kong, as well as serve as a delegate for the Forum for American and Chinese Exchanges at Stanford and Peking University. Tran later gained international consulting experience in Shanghai and Hong Kong.

Some organizations that Tran serves include the Atlanta Bar Association, the State Bar Young Lawyers Division, ABA Student Competitions, National Association of Chinese Americans, Vietnamese American Bar Association of Georgia, Emory University School of Law’s Asian Pacific American Law Students Association, Georgia State University College of Law’s Asian American Law Students Association. In 2019, Tran coached Atlanta’s John Marshall Law School team to win the ABA Regional Negotiation Competition.

Committee Member of the Year
This year, we honored Ira L. Foster for his commitment to ensuring inclusion and diversity in the profession through the Road Map to Law School Program. Foster has commenced an admirable mission to galvanize and inspire undergraduate students attending Georgia historically black universities and colleges to attend law school. Attorneys from all over the state attend panel sessions to speak about their experiences, and some even have become mentors to these future Georgia lawyers.

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Congratulations again to the 2023 honorees. Your service and commitment to our profession is beyond admirable.

To view the 2023 Commitment to Equality Awards ceremony hosted on April 25, 2023, at the Bar Center, please visit www.youtube.com/watch?v=Z5z1yqURZA8.

Lastly, and with great gratitude, the Committee to Promote Inclusion in the Profession would like to thank the Commitment to Equality Awards Subcommittee members for their leadership and participation in selecting, planning and executing the 2023 awards ceremony.

The Committee to Promote Inclusion in the Profession will accept nominations for the 2024 Commitment to Equality Awards beginning on Oct. 13, 2023, through Jan. 16, 2024, at 11:59 p.m. If you have any questions or would like to request a nomination form, please contact Megan Jones at 404-526-8635 or meganj@gabar.org, or Commitment to Equality Awards Subcommittee Co-Chair Marcee Campbell Hill at marceecampbell@gmail.com.

Commitment to Equality Awards Subcommittee

| Katie Dod, Co-Chair, Committee to Promote Inclusion in the Profession | Brittanie Browning* |
| Elicia Hargrove, Co-Chair, Committee to Promote Inclusion in the Profession | Edward Buckley* |
| LaQuaria Barton, Co-Chair, Commitment to Equality Awards Subcommittee | Jacqueline Bunn |
| Marcee L. Campbell Hill, Co-Chair, Commitment to Equality Awards Subcommittee | Kimberly Burroughs DeBrow |
| Geoffrey Alls* | Hon. Joy Lampley Fortson |
| LaToya Williams* | Terri N. Gordon |
| Joshua Bosin* | Avarita L. Hanson |
| *2022-23 subcommittee member | Simone Hylton* |
| | Shaton Menzie* |
| | Hon. Shondeana C. Morris |

Marcee L. Campbell Hill
Marcee L. Campbell Hill serves as a senior staff attorney to Hon. Courtney L. Johnson in the Superior Court of DeKalb County. She is a proud graduate of Albany State University and Howard University School of Law.
Georgia Bar Foundation Awards $7,896,237 in IOLTA Grants

BY LEN HORTON

The Georgia Bar Foundation awarded $7,896,237 in grants to 26 different law-related nonprofit organizations at its annual grants decisions meeting on July 20, 2023. This was the largest IOLTA grants meeting in the Foundation’s history. This dollar amount surpassed the previous largest IOLTA grants awarded in 2008.

Hon. Derek J. White, president of the Georgia Bar Foundation, said, “I am so proud to have presided over the largest meeting in our history. The large amount of funds available enabled us to provide unusually large grant awards to our applicants, all focused on helping Georgians in need. We awarded about $1.1 million more from IOLTA revenues than had ever been awarded before since IOLTA was created in 1983.”

IOLTA Grants
The primary purpose of the Georgia Bar Foundation is funding civil legal aid to the poor. This year Atlanta Legal Aid and Georgia Legal Services Program (GLSP) were provided significantly more support than in recent years. Atlanta Legal Aid received $1.8 million, while GLSP received $4.2 million. This amounted to 76% of all grant dollars awarded at the meeting.

Both Atlanta Legal Aid and GLSP are being led by new executive directors. Rita Sheffey is the new executive director of the Atlanta Legal Aid Society (ALAS), replacing its legendary previous leader, Steve Gottlieb. Susan Coppedge replaced Rick Rufolo as the new executive director of GLSP. Both leaders were invited to the meeting to introduce themselves to the Georgia Bar Foundation’s board of trustees. These two organizations are the only legal aid organizations in Georgia to be funded by the Legal Services Corporation. ALAS serves the metro-Atlanta area while GLSP provides legal assistance in the rest of the state.

The Atlanta Volunteer Lawyers Foundation (AVLF) has become a major recipient of IOLTA grants over the last few years. Now led by Michael Lucas, who replaced Marty Ellin as executive director, AVLF will be using its $150,000 grant to support the operation of its Safe Families Office where AVLF attorneys, paralegals, social workers, support staff and volunteers respond to more than 3,500 visitors seeking protective orders, family law assistance and holistic support in response to domestic abuse.

The Georgia Appellate Practice and Educational Resource Center, which represents people in post-conviction proceedings who have been sentenced to death, was awarded $140,000. The Resource Center, as it is called, tries to make up for the fact that this vital legal need is typically underfunded. The voices of these people served by the Resource Center often are not heard even though the seriousness of their need is unmatched in Georgia’s justice system.

The Middle Georgia Access to Justice Council, headquartered in Macon, received $50,000 to support a family law attorney and a paralegal position so that the organization can provide pro bono or reduced fee legal services to eligible people in Bibb County and the surrounding area.

A total of $20,000 was awarded in a first-time grant to the North Georgia
Low Income Taxpayer Clinic based in Lawrenceville. The grant will be used to fund a new tax attorney to handle tax controversy cases and to conduct tax education. This organization provides legal representation to low-income individuals who are in tax controversies and lack the resources to find assistance.

The Southwest Georgia Legal Self-Help Center in Albany received $62,200, the total amount it had requested. The grant will be used to fund a full-time legal navigator and also to pay for the organization's annual audit. The State Bar of Georgia Access to Justice Committee has long been an advocate for self-help centers as a cost-effective way to provide legal assistance to underserved Georgians.

The Georgia Heirs Property Law Center received $279,037, which will be leveraged with state, federal and other foundation grants to support attorneys, two paralegals and staff to serve approximately 530 low-to-moderate income individuals with direct legal services for title clearing and estate planning. Led by Skipper StipeMaas, Georgia’s acknowledged expert on heirs property law, the Center is now recognized as a national resource to solve a problem that just a few years ago did not receive much attention. A growing number of legal aid organizations are now establishing programs to deal with these problems, thanks to the spotlight StipeMaas has given heirs property law.

Hope Atlanta received $40,000 to support its efforts to continue to provide housing services to low-income Georgians in Fulton, DeKalb and Gwinnett counties. This organization typically assists 7,500 people annually.

The Georgia Asylum & Immigration Network received $120,000 to support personnel in the asylum program, which provides legal services to asylum seekers and immigrant survivors of crime. A total of 90% of the costs of this program will be designated directly for maintaining and increasing legal staff, and 10% will be used to cover indirect costs.

Under the leadership of Marty Ellin, its interim director and former leader of AVLF, the Georgia Innocence Project (GIP) has recently re-organized and is now on track to continue its important work to free wrongfully convicted Georgians and assist them in making a successful transition to normal life. GIP received a total of $70,000, which will be managed by its new executive director, Clare Gilbert.

The Halcyon Home for Battered Women, based in Thomasville, received $10,000 to fund legal assistance to battered women in this south Georgia community. The services they provide include divorces and temporary protective orders. This organization was a personal favorite of former Georgia Bar Foundation President Rudolph Patterson.

The SAFE Shelter Center for Domestic Violence received $30,000 to be used to assist domestic violence victims in Savannah. Services provided include divorces and protective orders.

Programs to assist children at risk have received grants from the Georgia Bar Foundation for years. Ash Tree Organization in Savannah received $18,000 to support its after-school program for
juvenile youth, teaching them how to apply life skills in their daily lives. Led by Dr. Morris Brown, a lifetime advocate for children in need, Ash Tree has become known as a major force for good in the community.

Catholic Charities Atlanta (CCA) received $40,000 to focus on helping at-risk children who entered the United States without one or both of their parents. CCA guides the children through the Georgia juvenile justice system and files for immigration benefits. It also represents children in the Atlanta Immigration Court.

A total of $38,000 went to Peachtree Ridge Robotics Booster Club, which is headquartered in Suwanee. The money will be used to purchase materials, tools and travel for students in this exciting STEM program. The program is so immersive that no participating child has the time or interest to get in trouble after school.

SafePath Children’s Advocacy Center in Marietta focuses on helping children who have been sexually and physically abused. Under the leadership of Jinger Robins and a favorite of former Georgia Bar Foundation Trustee Hon. G. Conley Ingram, SafePath has become the model program for assisting battered children. It received a grant of $20,000.

The Truancy Intervention Project (TIP) received a grant of $340,000 to help it expand this nationally commended program throughout Georgia. Created by Georgia Bar Foundation President Terry Walsh and skillfully managed for years by its former executive director Jessica Pennington, TIP was asked to take its program statewide by the Georgia Bar Foundation. This grant marks the Foundation’s support to do its part in making a statewide expansion a reality. TIP is dedicated to preventing student truancy, chronic absence and dropping out. Over its 32-year history, TIP has assisted more than 12,000 children, often diverting them from Georgia’s juvenile justice system. TIP’s new executive director is Lori Miller.

Georgia Appleseed received a grant of $225,000 to improve the education and life outcomes of approximately 11,400 children in foster care. Led now by Michael Waller and in its early days by the indefatigable Sharon Hill, Georgia Appleseed has become a major force for advancing justice for Georgia's children. With this grant, Waller reports that 175 children will be supported, and 700 lawyers will be trained to serve as advocates for children.

Another program focusing on children is the Georgia Center for Civic Engagement. Formerly led by Gerald Wade and now by Dr. Randell Trammell, this organization will use its $17,500 grant to support the Youth Assembly Judicial Program. One of the most popular programs ever funded by the Georgia Bar Foundation, this program introduces interested students to the real work of lawyers. At the same time youth are practicing what it means to be legislators in Georgia, children in this program also learn what it means to be judges at both trial and appellate levels and how to prepare a case for trial. Many graduates go on to become lawyers. Jefferson County Community Ships for Youth, a local agency of the Georgia Family Connection Partnership, based in Louisville, received $22,000 to continue its counseling services for youth in Candler, Emanuel, Jefferson, Toombs and Washington counties.

The Georgia Coalition Against Domestic Violence received $50,000 to support the Justice for Incarcerated Survivors project by funding project staff, travel to and from prisons, survivor support items, IT and a portion of overhead. The Coalition trains, advises, advances public policies, manages a hotline and represents underserved victims.

The Georgia Justice Project (GJP) received a $10,000 grant to help it continue its criminal record cleaning services. It also will use some of the funds to assist with its expansion back into the Athens area and into the Augusta area. GJP is nationally famous for converting people in trouble with the law into law-abiding citizens with jobs and a real place in society. GJP was created by John Pickens, a creative force who sensed how to save the lives of people in trouble with the law. Now managed by Doug Amarr, a marketing expert and dynamic leader, GJP has become a major rescuer of people written off by society.

The BASICS Program of the State Bar of Georgia was created by Ed Menifee, a leader who understood how people being released from prison in Georgia could become contributing citizens. Now managed by his widow, Michelle Menifee, BASICS received a grant for $50,000. "Best day of my life" is a great description of how people feel who are fortunate enough to encounter Michelle and Ilya Menifee and the BASICS Program. Like Ed, that quote from his greeting to you each day will always be remembered.

The Law and Public Safety Education Network received $19,500 to fund the creation of four legal services courses at the high school level. The courses are designed for students planning to enter the field of public safety.

Share the Magic Foundation, created by Super Bowl champion Malcolm Mitchell, received $75,000 to fund a partnership coordinator to manage and grow Read with Malcolm programs throughout Georgia. Mitchell’s goal is to inspire children in disadvantaged areas of the state to read and, therefore, to unlock their potential for academic, economic and social success.
Foundation Awards
In addition to awarding grants, the Georgia Bar Foundation recognized two deserving recipients with awards. The James Collier Award was made to Bill Easterlin, president of Queensborough Bank in Louisville, Georgia, for his contribution to the Georgia Bar Foundation. For years he has provided the point of view of a banker to the Board of Trustees composed mostly of lawyers. The James Collier Award, is reserved for individuals, lawyers or non-lawyers, who have made exceptional efforts to advance the Foundation’s primary objective of providing legal assistance to Georgians in need.

The Carol Hunstein Justice Award was created to recognize individuals who have made exceptional efforts to advance the Foundation’s primary objective of providing legal assistance to Georgians in need. The Carol Hunstein Justice Award was made to Len Horton in recognition of his work at the Foundation over the years helping to promote justice in Georgia.

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.

Georgia Bar Foundation grants are not made from Bar license fees.
As a senior judge (officially retired) with DeKalb County, I happily find myself with extra time to do with as I please. One of my many retirement goals is to organize the disorganized notes and general meanderings left in the “who knows where” places on my computer hard drives. Another of my retirement goals is to challenge my memory and record life events; the ones I deem worthy of memorializing. I thought of one memory worth sharing as much for its improbability as for its entertainment value.

Upon receiving my law school diploma in 1980, I found employment in Atlanta with Jim Jenkins, an all-around great guy and an extraordinary lawyer. He was a partner in a criminal defense firm with offices in Atlanta, San Antonio, Washington, D.C., and Chicago. The firm had an interesting specialty—the defense of those charged with the sale or possession of large quantities of marijuana. A typical case handled out of our Georgia office might involve a client charged with transporting hundreds of pounds of pot via airplane for delivery to some nondescript landing strip in central or south Georgia, or, if not by air, then by coastal delivery via shrimp boat or other maritime vessel. The criminal defense work was exciting and challenging, with dim prospects of victory if the case was tried before a small-town rural jury.

I had been at the firm for a few months when Jim was scheduled to appear in Florida for an important pre-trial hearing. Our client was a retired Air Force colonel and fighter jet pilot who flew adrenaline-pumping combat missions in both the Korean and Vietnam wars. He was indicted for transporting multiple kilos of marijuana by plane. He was a very likeable fellow. It seemed that the closest he could come to reliving the excitement of evasive, stealth-like piloting in civilian life was by choosing domestic smuggling as his pathway to a lucrative livelihood. High risk, high reward.

Jim had arranged for his client to fly the two of them from Georgia to Florida in the client’s private plane, a small single-engine aircraft. I drove Jim and our client to Peachtree DeKalb Airport, an airfield principally serving private air traffic. We arrived at our client’s airplane, which was parked on the tarmac, and I asked myself how the heck both of them along with their luggage and Jim’s multiple banker’s boxes of files would fit into something just a teensy bit larger than a toy model...
airplane. An answer to my silent question came soon enough when our client proceeded to select objects on the plane and throw them to me rather quickly. To keep up with the speed at which the many items were exiting the plane to free up space, as quickly as an item flew into my grasp, I was abruptly dropping that item onto the concrete tarmac. After the plane was emptied of everything that wasn’t nailed down, I returned the favor and handed the Florida-bound objects back to our client. With the banker’s boxes, luggage, Jim and the client safely aboard we waved each other goodbye and off they went. I then retrieved all of the items that had been thrown onto the tarmac, haphazardly placing them in the back seat of my 1973 Volkswagen Beetle.

About the time I made it onto I-85 during the drive back to our downtown Atlanta office, I heard a single popping sound, which I ignored. A few minutes later I distinctly heard the same sound repeated and turned my head to investigate. I noted a bloated canvas bag with metal snaps. I hadn’t recalled picking up any bloated objects from the tarmac, so I wasn’t sure what was happening. A short while later and occurring more quickly than the second “pop” sounded, there was a third “pop.” At about this time I noted that my seatback was “folding” forward (if you ever owned an older model VW Beetle you would know that there is a great deal of “play” in the seatback). I turned again and found two very important cautionary messages in the following order: 1) whatever was inside the canvas bag was working its way out of it; and 2) imprinted in Army-style lettering on the canvas bag: “8 MAN LIFE RAFT.” I came to the realization that dropping the canvas bag on the tarmac was poor decision-making on my part, triggering the inflation mechanism, and that an eight-person life raft is larger than a VW Bug. With my attention piqued I was hopeful but unconvinced that I could safely make it to the parking garage. My code yellow evaluation rapidly moved to red as the popping sound of the metal snaps quickened its pace while I observed the raft oozing out from its encasement and filling the back seat at a noticeably accelerating speed. My seatback was aggressively pushing against me, causing my face to inch closer and closer to the steering wheel while my rear-view mirror reflected a growing life raft back at me. My mind drifted to the 1950s sci-fi movie “The Blob,” starring Steve McQueen. I had only been practicing law for a few months and imagined tomorrow’s headlines: “Recent law grad found dead on highway. Eight-man life raft primary suspect.”

Fearing the worst, I stiffened my upper lip and put the pedal to the metal, arriving safely at our parking garage. The established parking procedure simply required me to drive up to the entrance, exit the car and leave the key in the ignition for the attendant to enter the car and park it. At the time of my arrival the life raft was pressing against the rear center window and against both rear side windows. To the objective observer it truly appeared that the windows were about to explode at any moment. Portions of the raft had expanded into the front passenger and driver’s seat where it made its way through the opening between the two front seats, while the forces of physics pushed my face uncomfortably close to the steering wheel and the driver’s side window. I stopped the car and was met by the attendant who, upon seeing all hitherto existent interior voids now occupied by the raft, stepped away from the car and loudly and authoritatively announced, “I AIN’T PARKING THAT THING.” Hearing the attendant’s declaration, I knew that my (imagined) brush with death-by-life-raft would, at least for a while longer, remain a work in progress. And that is how my legal career almost ended before it really even started.

Hon. Albert R. Sacks
received his J.D. in June 1980 from Mercer University Walter F. George School of Law in Macon. He was appointed to the DeKalb County Magistrate Court in 1985, where he served for 35 years until his retirement in June 2020. At Chief Judge Anderson’s request, he returned to serve as a senior judge in a part-time capacity, where he presides over general civil disputes. Sacks has been married to his wife, Melissa, for 37 years. Their daughter graduated from the University of Georgia in 2010, and their son graduated from the Georgia Institute of Technology in 2014.
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 2024. 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 2024 Election Schedule

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>2023</td>
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</tr>
<tr>
<td>AUG</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 1</td>
<td>Nominating petition package mailed to incumbent Board of Governors members and other members who request a package</td>
</tr>
<tr>
<td>2024</td>
<td></td>
</tr>
<tr>
<td>JAN 11-14</td>
<td>Nomination of Officers at Midyear Meeting at The Westin Buckhead Atlanta</td>
</tr>
<tr>
<td>JAN 19</td>
<td>Deadline for receipt of nominating petitions for incumbent Board members, including incumbent nonresident (out-of-state) members</td>
</tr>
<tr>
<td>FEB 16</td>
<td>Deadline for receipt of nominating petitions for new Board members, including new nonresident (out-of-state) members</td>
</tr>
<tr>
<td>MAR 1</td>
<td>Deadline for write-in candidates for officer to file a written statement not less than 10 days prior to mailing of ballots (Article VII, Section 1 (c))</td>
</tr>
<tr>
<td>MAR 1</td>
<td>Deadline for write-in candidates for Board of Governors to file a written statement not less than 10 days prior to mailing of ballots (Article VII, Section 2 (c))</td>
</tr>
<tr>
<td>MAR 18</td>
<td>Ballots mailed</td>
</tr>
<tr>
<td>APR 19</td>
<td>11:59 p.m. deadline for ballots to be cast in order to be valid</td>
</tr>
<tr>
<td>APR 26</td>
<td>Election service submits results to the Elections Committee</td>
</tr>
<tr>
<td>MAY 3</td>
<td>Election results reported and made available</td>
</tr>
</tbody>
</table>

Officers

President-Elect
Georg Brown, Atlanta

Treasurer
Sandra C. McPherson, Atlanta

Secretary
Ruth L. King, Atlanta

Executive Committee

Jonathan B. Pannell, Savannah
R. Gary Spencer, Atlanta
Martin Enrique Valbuena, Dallas

Board of Governors

Alapaha Circuit, Post 2
Hon. Clayton Alan Tomlinson, Nashville

Alcovy Circuit, Post 2
Anne Templeton LaMalva, Monroe

Atlanta Circuit, Post 2
Kent Edward Altom, Atlanta

Atlanta Circuit, Post 4
Jeffrey Ray Kuester, Atlanta

Atlanta Circuit, Post 6
Tracey Ready Benzo, Atlanta

Atlanta Circuit, Post 8
Hon. Paige Reese Whitaker, Atlanta

Atlanta Circuit, Post 10
Edward Alexander Piasta, Atlanta

Atlanta Circuit, Post 12
Joyce Gist Lewis, Atlanta

Atlanta Circuit, Post 14
Edward B. Krugman, Atlanta

Atlanta Circuit, Post 16
James Daniel Bitch IV, Atlanta

Atlanta Circuit, Post 18
Hon. Rachel Ross Krause, Atlanta

Atlanta Circuit, Post 20
Jennifer Auer Jordan, Atlanta

Atlanta Circuit, Post 22
Frank B. Strickland, Atlanta

Atlanta Circuit, Post 24
Joseph Anthony Roseborough, Atlanta

Atlanta Circuit, Post 26
Anthony B. Askew, Highlands, NC

Atlanta Circuit, Post 28
J. Henry Walker IV, Atlanta

Atlanta Circuit, Post 31
Hon. Robert David Wolf, Atlanta

Atlanta Circuit, Post 33
Hon. Susan Eichler Edlein, Atlanta

Atlanta Circuit, Post 35
N. John Bey, Atlanta

Atlanta Circuit, Post 37
Harold Eugene Franklin Jr., Atlanta

Atlanta Circuit, Post 38
Michael Dickinson Hobbs Jr., Atlanta

Atlanta Circuit, Post 40
Hon. Shukura L. Ingram, Atlanta

Atlanta Circuit, Post 1
H. Craig Stafford, Hinesville

Augusta Circuit, Post 2
Katrell Nash, Augusta

Augusta Circuit, Post 4
John Ryd Bush Long, Augusta

Bell-Forsyth Circuit
Hon. Philip C. Smith, Cumming

Blue Ridge Circuit, Post 1
Hon. David Lee Cannon Jr., Canton

Brunswick Circuit, Post 2
Martha Wilson Williams, Woodbine

Chattahoochee Circuit, Post 1
Amy Carol Walters, Columbus

Chattahoochee Circuit, Post 3
Alex Musole Shalishali, Columbus

Cherokee Circuit, Post 1
Randall H. Davis, Cartersville

Clayton Circuit, Post 2
Harold B. Watts, Jonesboro
Cobb Circuit, Post 1
Katie Kiihnl Leonard, Marietta
Cobb Circuit, Post 3
Hon. Kimberly A. Childs, Marietta
Cobb Circuit, Post 5
Dawn Renee Levine, Marietta
Cobb Circuit, Post 7
Norbert Daniel Hummel IV, Kennesaw
Conasauga Circuit, Post 1
Terry Leighton Miller, Dalton
Coweta Circuit, Post 1
Hon. Nina Markette Baker, LaGrange
Dougherty Circuit, Post 1
Joseph West Dent, Albany
Douglas Circuit
Kenneth Brown Crawford, Douglasville
Eastern Circuit, Post 1
Paul Wain Painter III, Savannah
Eastern Circuit, Post 3
Jonathan B. Pannell, Savannah
Enotah Circuit
Hon. Joy Renea Parks, Dahlonega
Flint Circuit, Post 2
John Philip Webb, Stockbridge
Griffin Circuit, Post 1
Janice Marie Wallace, Griffin
Gwinnett Circuit, Post 2
Judy C. King, Lawrenceville
Gwinnett Circuit, Post 4
Gerald Davidson Jr., Lawrenceville
Houston Circuit
Carl A. Veline Jr., Warner Robins
Lookout Mountain Circuit, Post 1
Archibald A. Farrar Jr., Summerville
Lookout Mountain Circuit, Post 3
Ralph Lee Van Pelt Jr., Ringgold
Macon Circuit, Post 2
Thomas W. Herman, Macon
Member-at-Large, Post 3*
Michael Alexander Prieto, Dunwoody
Middle Circuit, Post 1
Mitchell McKinley Shook, Vidalia
Northeastern Circuit, Post 1
Mark William Alexander, Gainesville
Northern Circuit, Post 2
Hon. Richard Dale Campbell, Elberton
Ocmulgee Circuit, Post 1
Carl Santos Cansino, Milledgeville
Ocmulgee Circuit, Post 3
Christopher Donald Huskins, Eatonton
Oconee Circuit, Post 1
Hon. Charles Michael Johnson, Eastman
Ogeechee Circuit, Post 1
Daniel Brent Snipes, Statesboro
Out-of-State, Post 2
William J. Monahan, Washington, D.C.
Paulding Circuit
Martin Enrique Valbuena, Dallas
Rockdale Circuit
Daniel Shelton Dighby, Conyers
Rome Circuit, Post 2
J. Anderson Davis, Rome
South Georgia Circuit, Post 1
Lawton Chad Heard Jr., Bainbridge
Southern Circuit, Post 1
Hon. Paul William Hamilton, Valdosta
Southern Circuit, Post 3
H. Burke Sherwood, Valdosta
Stone Mountain Circuit, Post 1
Hon. Stacey K. Hydrick, Decatur
Stone Mountain Circuit, Post 3
Hon. Shondeana Creus Morris, Decatur
Stone Mountain Circuit, Post 5
Keith E. Adams, Decatur
Stone Mountain Circuit, Post 7
John G. Haubenreich, Atlanta
Stone Mountain Circuit, Post 9
Sherry Boston, Decatur
Tallapoosa Circuit, Post 2
Brad Joseph McFall, Cedartown
Tifton Circuit
Hon. Render Max Heard Jr., Tifton
Waycross Circuit, Post 1
Matthew Jackson Hennesy, Douglas
Western Circuit, Post 2
Edward Donald Tolley, Athens

*Post to be appointed by president-elect

ABA House of Delegates
Post 1
Hon. Alvin T. Wong, Decatur
Post 3
C. Elisia Frazier, Pooler
Post 7
Vera Sharon Edenfield, Statesboro

Wherever you are, stay updated at gabor.org.

Visit gabor.org for the most up-to-date information on committees, members, courts and rules.
Kudos

Michelle Urbani Wallace received the Outstanding Woman in the Professions Achievement Award from the Women in the Profession Section of the Atlanta Bar Association. The award is conferred each year on an attorney who has made significant contributions in furthering the interests of women in the profession; demonstrated involvement in activities which assist women in the metro-Atlanta community; involvement in professional organizations which assist in promoting and empowering women in the profession; and significant professional achievements.

Titus Nichols was promoted to the rank of major in the U.S. Army. Nichols serves in the Georgia Army National Guard as the brigade judge advocate for the 648th Maneuver Enhancement Brigade located at Ft. Moore. In his civilian practice, he is the owner of Nichols Injury Law, where he focuses on representing those who have been seriously injured or killed due to the negligence of others.

Christopher T. Nace of Paulson & Nace, PLLC, was elected parliamentarian of the American Association for Justice (AAJ) at their annual convention. AAJ is the largest plaintiffs’ bar in the nation. He was also elected as a member of the American Law Institute. This follows on the heels of Nace’s recognition as the Lawyer of the Year by the Trial Lawyers Association of Metropolitan Washington, D.C.

Leonard R. Gray Jr., senior underwriting counsel at First American Title Insurance Company, received the 2023 George A. Pindar Award, given by the executive committee of the Real Property Law Section of the State Bar of Georgia, at the annual Real Property Law Institute. The award is granted to members of the section whose lifetime contribution has been significant to the real estate bar, who unselfishly give of themselves for the benefit of the bar and to people whom the committee thinks represents the ethics and ideals of George A. Pindar.

Schwartz Rollins LLC announced that partner Jay Rollins received his certification in mediation from The New Decisions Management Associates, Inc. Rollins has more than 30 years of experience in successfully mediating cases as counsel for both individuals and businesses in a broad spectrum of employment and employment-related matters.

Douglas J. Witten, mediator, arbitrator and principal of Innovative ADR International LLC, was installed as treasurer of the State Bar of Georgia Dispute Resolution Section. Witten offers neutral services across a range of areas including health care, accidents and injuries, and commercial matters.

On the Move

IN ATLANTA

MendenFreiman announced the addition of Kenneth D. “Kenny” Hall as counsel. Hall focuses his practice on advising businesses and business owners on capital raises, acquiring and selling businesses, tax-efficient capital restructuring, and reorganization and corporate formations.

The firm is located at 5565 Glenridge Connector NE, Suite 1000, Atlanta, GA 30342; 770-379-1450; www.mfcounsel.com.

Connell Cummings, LLC, announced the addition of Amy Saul Mollengarden as partner. Mollengarden’s practice focuses on family law, including divorce, custody, paternity, legitimation, child support, and contempt and modification litigation. The firm is located at 4200 Northside Parkway NW, Building 10, Suite 200, Atlanta, GA 30327; 678-384-4542; www.connellcummings.com.

Hall Booth Smith, P.C., announced the addition of Mark L. Pickett as of counsel and Paysen S. Bevans, Delenia King and Anna E. O’Donnell as associates. Pickett’s practice focuses on construction, general liability, premises liability, products liability and transportation matters. Bevans’ practice focuses primarily on medical malpractice matters. King’s practice focuses on general liability, medical malpractice and workers’ compensation matters. O’Donnell focuses her practice on medical malpractice matters. The firm is located at 191 Peachtree St. NE, Suite 2900, Atlanta, GA 30303; 404-954-5000; Fax 404-954-5020; www.hallboothsmith.com.

The firm is located at 5565 Glenridge Connector NE, Suite 1000, Atlanta, GA 30342; 770-379-1450; www.mfcounsel.com.
Swift, Currie, McGhee & Hiers, LLP, announced the addition of Michael Martin and Vera Starks as senior attorneys, and Brandon Bridges, Vanessa Galvan, Taylor C. Gore, Robert J. Kozloski, Asa McMillian, Lindsey Phillips and Sarah Snipes as associates. Martin focuses his practice on workers’ compensation defense, guiding employers, insurers and third-party administrators through workers’ compensation claims. Martin focuses his practice on defending insurance companies and their insureds in cases pertaining to arson and fraud, automobile litigation, bad faith litigation, commercial litigation, insurance coverage and premises liability. Bridges focuses his practice on defending individuals and businesses in matters primarily pertaining to appellate, bad faith litigation, catastrophic injury and wrongful death, commercial litigation, insurance coverage, premises liability and professional liability. Galvan’s practice focuses on defending insurance companies and individuals against a variety of claims related to automobile litigation, catastrophic injury and wrongful death, insurance coverage and premises liability. Gore focuses her practice on defending insurance carriers and insureds in coverage disputes and commercial litigation. Kozloski focuses his practice on defending small and large businesses in appellate, arson and fraud, bad faith litigation, commercial litigation, construction law, insurance coverage and trucking litigation cases. McMillian focuses his practice on defending employers and insurance companies in workers’ compensation claims throughout the state of Georgia. Phillips focuses her practice on defending her clients in matters pertaining to automobile and trucking litigation, catastrophic injury and wrongful death, commercial litigation, construction law, insurance coverage and premises liability. Snipes’ practice focuses on defending employers and insurers in workers’ compensation claims. The firm is located at 1420 Peachtree St. NW, Suite 1800, Atlanta, GA 30309; 404-817-8500; Fax 404-881-0470; www.hklaw.com.

Richter, Head, Shinall, White & Slotkin LLP announced the addition of Alex C. Devilliers and Courtney L. Wendler as associates. Devilliers and Wendler both focus their practice on insurance defense and litigating workers’ compensation matters for employers, insurers and servicing agents across the state of Georgia. The firm is located at 6100 Lake Forrest Drive, Suite 200, Atlanta, GA 30328; 404-531-0000; Fax 404-531-0021; www.rhs-law.com.

FordHarrison announced the addition of Christine F. Rodriguez and Laura T. Yellig as associates. Rodriguez focuses her legal practice on advising clients in all aspects of business immigration law. Yellig’s practice focuses on advocating for management clients involved in employment law disputes. The firm is located at 271 17th St. NW, Suite 1900, Atlanta, GA 30363; 404-888-3800; Fax 404-888-3863; www.fordharrison.com.

Holland & Knight announced the addition of Summer Martin and Rebecca Merrill as partners. Martin’s practice focuses on strategic advice, complex transactions and regulatory compliance counseling. Merrill focuses her practice on complex health care regulatory matters, including advising clients through internal and government directed investigations, with respect to false claims act matters, Medicare and Medicaid overpayments, reimbursement matters and strategies, enrollment, licensure and scope of practice issues, clinical research matters, privacy, security and confidentiality matters. 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.

IN GAINESVILLE

Legion Mediation announced the addition of Wayne D. Toth of The Toth Law Firm as a mediator and arbitrator. Toth focuses his practice on medical malpractice and nursing home litigation. He has been a licensed Georgia neutral since 2015. The firm is located at 380 Green St. NE, Gainesville, GA 30501; 470-290-5117; www.legionmediation.com.
Judging Panel volunteers are needed for the 2024 Georgia High School Mock Trial regional, district and state finals competitions!

Members of the State Bar of Georgia have supported the High School Mock Trial Competition for 35 seasons. We are asking for a few hours of your time as a presiding judge or evaluator (juror) to help us achieve a successful 36th season.

You can receive 1 Hour of CLE credit when you judge or score a round.

Regional Competitions
Feb. 4–10

District Competitions
March 2–3

State Finals Competition
March 22–24

For more information, contact the Mock Trial Office:
404-527-8779
mocktrial@gabar.org

Sign Up Online!
IN NORCROSS

Joshua Elbaz and Falon Stimpson announced the formation of their new firm, Elbaz & Stimpson, LLC, which focuses primarily on criminal defense. The firm is located at 4132 Steve Reynolds Blvd., Norcross, GA 30093; 678-820-0056; www.elbazstimpsonlaw.com.

IN STATESBORO

Taulbee, Rushing, Snipes, Marsh & Hodgin, LLC, announced the promotion of Krystin Deal “Charlie” McCook to partner. McCook focuses her practice on probate and estate administration, business formation and transactions, trusts, wills, asset protection and real estate law matters. The firm is located at 1209 Merchants Way, Suite 201, Statesboro, GA 30458; 912-764-9055; www.statesborolawgroup.com.

Atlanta Trial Lawyers Society 2.0

Members of the Atlanta Trial Lawyers Society 2.0, a group of experienced women plaintiffs’ trial lawyers, gathered for a luncheon at Alma Cocina Buckhead and brought along a “mentee” to meet and mingle with mentors. The Atlanta Trial Lawyers Society 2.0 is the post-pandemic reboot of a small organization of experienced women plaintiffs’ trial lawyers and is not associated with any other organizations.

(Left to right) Tracee Benzo, Melissa Cruz, Susan Witt, Laura Shamp, Angela Forstie, Natalie Woodward, Linley Jones, Andrea Peterson, Chloe Dallaire, Betty Davis, Margaret Edmonds, Rebecca Cooper, Lyle Warshauer, Lisa McNary, Samantha Funt and L’Zandra Jones.

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 404-527-8736.
Transparency Is Coming

The Corporate Transparency Act goes into effect Jan. 1, 2024.

BY PAULA FREDERICK

“You’ve represented MyCo for five years,” your client grouses. “Why are you suddenly asking for my home address and a picture ID? Besides—MyCo is your client—not me personally!”

“I’m just trying to keep you out of trouble,” you respond. “A new federal law requires businesses like MyCo to provide personal identification information about all the people with an ownership or controlling interest.”

“I don’t want the feds in my business,” your client protests.

“That’s precisely the point,” you mutter ...

The Corporate Transparency Act goes into effect Jan. 1, 2024. The Act requires that legal entities formed and operated in the United States provide identifying information (including the name, birthdate, physical address and a photo from a driver’s license or passport) for each beneficial owner or person with control. The information will go into a national registry controlled by FinCEN, a bureau of the U.S. Department of Treasury, and will be available to law enforcement agencies for their use in detecting illegal activity.

The CTA is not the only effort underway to curb the use of lawyers’ services to facilitate money laundering and terrorist financing. By order of Sept. 25, 2023, the Supreme Court of Georgia approved revisions to Georgia Bar Rule 1.2 that have the same purpose.

Subpart (d) of Rule 1.2 now reads: “A lawyer shall not either knowingly or with willful blindness counsel a client to engage in criminal or fraudulent conduct, nor knowingly or with willful blindness assist a client in such conduct.”

The rule does not prevent a lawyer from discussing the legal consequences of any proposed action by the client, or from helping a client decide the scope and validity of a law. The hope is that it will make lawyers more alert to signs that a client is using their services to facilitate crimes, such as creating a “shell” company to launder money.

Business lawyers who decide to handle the CTA reporting requirements for their clients will need to keep Rule 1.2 (d) in mind. The lawyer will need to make “reasonable inquiry” into the accuracy of the information the client has provided and cannot ignore obvious red flags that something is amiss. The act of filing corporate documents with the Secretary of State’s office also likely means that the lawyer is a “company applicant” whose personal identifying information also must be disclosed.

There are hefty penalties for those who fail to report under the CTA—fines are $500 per day up to $10,000, and possible jail time.

If your practice includes forming or counseling businesses, you will need to prepare for the Jan. 1 arrival of the CTA. Don’t say we didn’t warn you ...

Endnotes

2. For more information, see https://www.fincen.gov/boi.
Disbarments
Richard H. Middleton Jr.
317 E. Liberty St.
P.O. Box 10006
Savannah, GA 31412-0206
Admitted to the Bar 1977

On July 5, 2023, the Court accepted the petition for the voluntary surrender of license from Richard H. Middleton (State Bar No. 504912). In his petition, Middleton admitted that in connection with a single client matter he violated Rules 1.15 (I) (c) and 1.15 (II) (b) of the Georgia Rules of Professional Conduct. The maximum sanction for a violation of these rules is disbarment.

Middleton, who had been a member of the State Bar since 1977, admitted the following facts. Middleton was associated as co-counsel by an attorney licensed in South Carolina to represent a client who was injured in an automobile collision in the Savannah, Georgia, area in November 2016. Middleton filed a lawsuit on behalf of the client in the Chatham County State Court in November 2018. Middleton then settled the lawsuit with the primary insurance carrier for the policy limit of $100,000 in May 2020. The settlement funds were placed in Middleton’s IOLTA account at his bank pending the resolution of the client’s South Carolina workers’ compensation case, in which she was being represented by the South Carolina attorney. In March 2021, the South Carolina attorney resolved the workers’ compensation case when the carrier agreed to a lien waiver and, on that same day, notified Middleton that the workers’ compensation matter was resolved and that the settlement proceeds from the collision case could be disbursed. However, Middleton refused to disburse the settlement funds to the client or the South Carolina attorney despite numerous requests being made. Middleton admitted that sufficient funds were not available in his IOLTA account, because he incrementally withdrew the settlement proceeds for his personal use after the settlement proceeds were deposited into his IOLTA account.

Based on these admissions, Middleton stated that he violated Rule 1.15 (I) (c), by failing to promptly deliver the settlement proceeds to the South Carolina att-
torney and the client but asserted that he had since fully reimbursed both parties. In addition, he stated that he violated Rule 1.15 (II) (b), by failing to withdraw only earned fees, and instead, incrementally withdrawing client funds from his IOLTA account for his personal use over a considerable period without providing an accounting. Middleton requested the Court accept his petition for voluntary surrender of his license. The State Bar responded and recommended that the Court accept the petition based on Middleton’s admissions.

Keith Chance Hardy
147 Wendell Drive
Columbus, GA 31904
Admitted to Bar 2014

On July 13, 2023, the Court disbarred Keith Chance Hardy (State Bar No. 538509) 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 Hardy, who was admitted to the State Bar in 2014, be disbarred for his admitted violations of Rules 1.1; 1.2 (a); 1.3; 1.4; 1.5 (a) and (c); 1.15 (I) (a), (b), and (c); 1.16 (b) and (d); 8.4 (a) (4); and 9.3 of the Georgia Rules of Professional Conduct in connection with three client matters. The maximum penalty for a single violation of Rules 1.1, 1.2, 1.3, 1.15 (I), and 8.4 (a) (4) is disbarment, and the maximum penalty for a single violation of Rules 1.4, 1.5, 1.16, and 9.3 is a public reprimand.

As background, the State Bar filed a formal complaint on Sept. 23, 2022, and had it personally served on Hardy on Nov. 20, 2022. Hardy failed to file an answer or request an extension of time within 30 days, and in January 2023, the Bar filed a motion seeking to find Hardy in default. Hardy failed to respond to the motion, and in March 2023, the special master issued a report and recommendation, finding that, because Hardy was in default, the facts alleged and violations charged in the formal complaint were deemed admitted. The special master summarized the facts of each of the three client matters as follows.

With regard to State Disciplinary Board Docket (SDBD) No. 7622, Hardy admitted that in 2020 a client paid him $1,500 for representation in a case in which the client had been charged with a criminal misdemeanor, and Hardy told the client that he would waive arraignment without the client needing to appear. The arraignment was rescheduled multiple times, but Hardy failed to inform the client about the progress of the case or to respond to the client’s repeated inquiries as to the status of, or upcoming hearings in, the case. At the arraignment, Hardy failed to appear or advise the client that he needed to appear, and, as a result, the court forfeited the client’s bond and issued a bench warrant for the client’s arrest. Afterward, the client emailed Hardy, terminating the representation and demanding the return of his client file and a full refund. Hardy did not respond, and on Oct. 4, 2021, the client filed a grievance with the Bar. Hardy never responded to the grievance or to the Bar’s Notice of Investigation despite being given multiple opportunities to do so.

With regard to SDBD No. 7623, Hardy was appointed as a “conflict defender” to represent a client who was charged with murder, tampering with evidence and other charges. On or about Sept. 5, 2019, Hardy had his first meeting with the client and told her that he believed he could get a bond on her charges, but that she would need money to pay the bondsman. When the client advised that she had some money but did not know how to access it from jail, Hardy offered to access the client’s bank account for her. The client provided Hardy with the information necessary to access her bank account after Hardy allowed her to use his computer to digitally transfer $21,600 from her savings account to her checking account. The court did not immediately grant bond, but Hardy began taking money out of the client’s account and, by Dec. 10, 2019, Hardy had initiated six withdrawals or transfers from his client’s account, taking a total of $20,000 and incurring $120 in wire transfer fees. In addition, the client had specifically authorized Hardy to receive the property she had in her possession when she was arrested, which included approximately $3,500 worth of jewelry. Although the client directed Hardy to turn the jewelry and other items over to her family, he instead kept the jewelry and other items. Hardy entered an appearance in the client’s matter and filed a motion for bond, but he failed to take any other action on the client’s behalf and never filed a motion asking to withdraw from representation. The client’s family hired a new lawyer to assist the client in cooperating with the state. New counsel was able to get the client a bond, which she was only able to post with the help of her family because Hardy had depleted her savings. The client reported Hardy’s thefts to the State Bar, but she was fearful to report them to the local police and district attorney because of Hardy’s connections to local law enforcement and because the local district attorney was still prosecuting her. Hardy made no attempt to refund the stolen funds to the client who ultimately
filed a grievance with the Bar in November 2021. Hardy did not respond to the grievance or to the Bar’s subsequent Notice of Investigation.

With regard to SDBD No. 7624, a client hired Hardy to represent her in a suit to recover for injuries she suffered in an automobile accident on Aug. 24, 2017. Over the next two years, Hardy failed to adequately communicate with her about the status of her case and also failed to communicate with her medical providers. In July 2019, the client reached out to Hardy’s brother, also an attorney, to check on Hardy since she had been unable to contact him. Hardy’s brother told the client that Hardy was OK, and he would contact her soon, but Hardy did not contact her until September 2019 to advise her that he was still working on her case. The client heard nothing more about her case until Nov. 4, 2019, when she received a letter from an insurance company informing her that the case had been settled on Oct. 10, 2019. The client immediately tried to contact Hardy, who responded the following day, telling her (falsely) that the insurance company had only provided a “proposed release draft and dismissal” and advising her that, if she was willing to accept between $7,000 and $10,000 for her case, she could have a check in days. The client then contacted the insurance company herself and learned that Hardy had already received and negotiated a check, which had been made payable to both her and Hardy, for a total settlement of $15,000. The client did not authorize Hardy to sign her name or otherwise negotiate the check. The client continued trying to contact Hardy, sending an email threatening to have the check tracked and investigated for forgery and to contact the district attorney’s office about Hardy negotiating the check and retaining the proceeds. The client copied Hardy’s brother on the email and Hardy finally responded, denying any wrongdoing but offering to take no attorney fees from the settlement. Hardy itemized the proposed payout of the settlement, listing amounts owed to three medical providers (although one of the providers already had been paid by the client and her insurance company) and advising that he would retain the amounts necessary to pay those bills ($3,405.50). By his default, Hardy admitted that his brother acted as a “go-between” and actually met with Hardy’s client to finalize the settlement and deliver the settlement check. The client never heard from Hardy or his brother again, but she did hear from two medical providers, informing her that no amount had been paid on her behalf. One of the providers put her debt into collection and the other threatened to do so before agreeing to settle the debt for $600, which the client paid out of her own pocket. In November 2021, the client filed a grievance with the Bar, but Hardy never responded to it nor to the Bar’s resulting Notice of Investigation.

Based upon the admitted facts, the special master found that Hardy violated Rule 1.1 in all three client matters because he failed to demonstrate the thoroughness and preparation reasonably necessary for the representations and failed to demonstrate that he had given the required amount of attention to any of the three matters. The special master further found that Hardy violated Rule 1.2 (a) in all three matters by failing to abide by any of the clients’ decisions concerning the scope and objectives of their representations or to even consult with them as to the means by which their objectives were to be pursued. Moreover, in the case of SDBD No 7624, Hardy further violated Rule 1.2 (a) by settling the case and negotiating the settlement check when he lacked the authority to do so.

The special master found that Hardy violated Rule 1.3 in SDBD No. 7622 by willfully and without just cause disregarding the client’s matter to the client’s detriment, in that the court issued a bench warrant and ordered a bond forfeiture for the client’s failure to appear. In SDBD No. 7623, he willfully and without just cause disregarded and abandoned the client’s matter to her detriment because due to his failures, the client was incarcerated without bond. And, in SDBD No. 7624, he willfully and without just cause disregarded the client’s matter for approximately two years, refused to communicate with her about the status of her case until she called his brother, and then abandoned the client’s matter by failing to pay the outstanding obligations due to her medical providers, which he promised to do.

The special master found that Hardy violated Rule 1.4 in SDBD No. 7622 because he failed to adequately communicate with, or provide updates to, the client or to notify him of his upcoming court dates. He violated Rule 1.4 in SDBD No. 7623 when he failed to adequately communicate with, or provide updates to, his client or her family; withheld information from his client and her family about his theft of her funds; and cut off all communications with the client and her family after his theft of her funds. The special master found that Hardy violated Rule 1.4 in SDBD No. 7624 because of the approximately two-year lapse of communications between him and his client; because Hardy refused to communicate directly with the client and forced her to use his brother
Lawyers who would like to discuss an ethics dilemma with a member of the Office of the General Counsel staff should contact the Ethics Helpline at 404-527-8741 or toll free at 800-682-9806, or log in to www.gabar.org and submit your question by email.
were adversely affected. Hardy also violated Rule 1.16 (b) in SDBD No. 7622 when he collected and retained $1,500 from the client without performing any services at all; in SDBD No. 7623, when he collected and retained money from the client whom he had been appointed to represent; and, in SDBD No. 7624 when he collected and retained funds he told the client that he had withheld to pay her medical expenses.

With regard to the trust accounting rules, the special master found that Hardy violated Rule 1.15 (l) (a) in that he received money from the account of the client in SDBD No. 7623 and failed to keep it separate from his own property in one or more separate IOLTA accounts; received that client’s jewelry and other personal property in connection with his representation of her but failed to safeguard it; and received property in which the client in SDBD No. 7624 had an interest—that is, the proceeds of her settlement—in connection with his representation of her and failed to keep it separate from his own property in one or more separate IOLTA accounts. According to the special master, Hardy violated Rule 1.15 (l) (b) in SDBD No. 7624 because he disregarded the interests that the medical providers for the client had in their expected payment for treating the client’s injuries. He violated Rule 1.15 (l) (c) in SDBD No. 7624 by failing to promptly notify the client or her medical providers of his receipt of the settlement funds in which they had an interest and to promptly deliver to them the funds to which they were entitled.

The special master found that Hardy violated Rule 1.16 (b) in SDBD No. 7622 because he failed to withdraw from the client’s case before the client’s interests were adversely affected. Hardy also violated Rule 1.16 (d) in that case because he terminated his representation of the client without giving him reasonable notice or taking the steps reasonably practicable to protect his interests, without returning unearned attorney’s fees and without returning the client’s file upon request. As for Rule 8.4 (a) (4), the special master found that Hardy knowingly violated the rule in SDBD No. 7622 because his retention of that client’s $1,500 amounted to a dishonest and unlawful conversion of those funds. The special master found that Hardy violated the same rule in SDBD No. 7623 because his taking of more than $20,000 from that client’s bank account under the circumstances described herein amounted to dishonesty, deceit, identify fraud and conversion. He also violated this rule through his conversion of her jewelry and other personal items, which amounted to dishonest and deceitful theft. As to SDBD No. 7624, the special master found that Hardy violated Rule 8.4 (a) (4) because he engaged in deceitful conduct by settling that client’s matter without her knowledge or authorization; by lying to her in a November 2019 email about the nature of his negotiations with the insurance company; by falsely telling her that she owed one of her medical providers $500 when that amount had been satisfied through her insurance; by forging her signature on the settlement check in order to deposit it without authorization; and by converting to his own use the amount he told her he had withheld to pay her remaining medical providers. Finally, the special master found that Hardy violated Rule 9.3 by failing to respond to the Notices of Investigation related to each of the underlying grievances.

The Court agreed with the special master that disbarment was the appropriate sanction for his admitted violations of the Georgia Rules of Professional Conduct and found that the sanction was consistent with prior cases in which the Court disbarred attorneys who failed to perform work, failed to communicate with clients, abandoned or otherwise neglected client matters, and failed to respond to disciplinary authorities.
The AI Era Is Here ... Will You Get Onboard?

Embracing AI as a partner rather than a replacement will empower attorneys to navigate the ever-changing legal world successfully while providing the best possible service to their clients.

**BY NKOYO-ENE R. EFFIONG**

“You cannot fight against [the] future. Time is on its side.” —William Ewart Gladstone

Artificial Intelligence (AI) is here to stay, and we, as lawyers, must contend with it. AI has rapidly evolved over the past few decades, transforming industries and professions. Now, it is changing the way we practice law. AI is more than a buzzword or a fleeting trend in the legal profession. It is a powerful tool that can enhance efficiency, accuracy and decision-making. This article will delve into what AI truly is (and is not), explore its applications in the legal profession with real-world examples, and discuss the risks and rewards of using AI in your legal practice. Moreover, we will provide you with a quick cheat sheet on how to get started with AI in your legal work.

**What Is AI?**

AI is a set of technologies that enable machines to perform tasks that typically require human intelligence. These technologies include machine learning, natural language processing and neural networks, among others. AI can analyze vast datasets, recognize patterns and make predictions based on data, but it lacks consciousness and emotions.

**Why Should You Pay Attention to AI?**

AI is here to stay. Embracing AI in legal practices, particularly for solo or small firms, is crucial in navigating the evolving legal landscape. The rewards are substantial, including increased efficiency, cost reduction and enhanced client service. There are risks to using AI. These include the initial financial investment for tools and training, data privacy and security concerns, and potential over-reliance on AI. It is not a replacement for sound, ethical lawyering. Still, it is a powerful tool that can improve your practice and...
create more opportunities to address the pervasive access to legal services gap. As the pace of legal innovation continues, we must take a proactive approach to integrating AI into our work. Anything less means you have to provide strong legal services. AI is only as powerful as the input it receives, and, of course, automation tools like ChatGPT. Still, there is more that it can do. Below are five ways lawyers are using AI in their practices right now. To be clear, AI is a powerful tool that can help you get 60% of the way forward. It is not a substitute for a lawyer’s knowledge or skill. In fact, it is only as powerful as the input it receives, which means you have to provide strong inputs and review its responses.

**Marketing and Content Creation**
AI offers many applications in marketing and content creation. For lawyers, AI offers a multifaceted toolkit for an array of purposes. It enables the automatic generation of diverse content types, including website copy, social media posts, blogs, newsletters and more. Moreover, AI aids in data-driven content strategies by identifying trends and generating creative content ideas, simplifies content research by summarizing key information from extensive documents and optimizes email marketing campaigns through personalized messaging and optimal send times. Additionally, AI enhances content quality by offering valuable suggestions for grammar, style and readability improvements, ensuring that legal professionals communicate effectively with their audience. Furthermore, AI’s language translation capabilities break down language barriers, expanding the reach of legal content to diverse global audiences.

**Client Support Services**
AI tools can help strengthen lawyers’ client relationships and mitigate communication-related complaints. By implementing AI-driven chatbots and virtual assistants, lawyers can provide clients with round-the-clock access to answers for common inquiries, ensuring prompt and responsive communication. Additionally, AI analytics can help lawyers proactively identify and address client needs and concerns, fostering a more personalized and client-centric approach. Ultimately, these AI-powered solutions enhance client satisfaction and free up attorneys’ time, allowing them to focus on delivering high-quality legal services.

**Document Review and Contract Analysis**
Lawyers can use AI to streamline document review and contract analysis by automating labor-intensive tasks. Tools like Kira and LawGeex utilize AI to sift through vast volumes of legal documents, identifying key clauses, potential risks and inconsistencies. Lawyers can adopt these AI-powered solutions to streamline due diligence processes in mergers and acquisitions, conduct contract reviews more efficiently and ultimately save time and resources while maintaining a high level of accuracy and comprehensiveness in their work.

**Due Diligence**
AI is reshaping due diligence processes in the legal field, offering lawyers efficient ways to investigate transactions, regulatory compliance and risks. Tools like Kira, ThoughtRiver and Diligen streamline contract analysis by identifying key terms and potential issues, helping the legal team assess implications faster. AI can also aid in risk assessment, financial due diligence and the organization of vast document volumes, providing valuable insights for strategic decision-making. These AI-driven advancements equip lawyers to conduct more thorough and timely due diligence, ultimately benefiting their clients and enhancing the quality of legal services.

**Legal Research**
AI is reshaping legal research, making it faster and more efficient for lawyers. Tools like ROSS, LexisNexis and Westlaw Edge employ AI-driven search engines to provide precise and relevant search results, while others like Casetext’s Compose and Fastcase’s Docket Alarm offer AI-generated summaries of complex legal documents. Predictive analytics platforms like Lex Machina empower lawyers to anticipate case outcomes and litigation trends. Chatbots like DoNotPay and virtual legal assistants like EVA assist with common legal inquiries and guide clients through legal processes. To ensure accuracy, verifying data sources, maintaining human oversight, addressing ethical concerns regarding biases, prioritizing transparency in AI processes and staying updated on AI advancements are essential. By harnessing AI for legal research, lawyers can analyze, apply and analyze information more effectively, ultimately improving the quality of their legal work.

**Concluding Thoughts**
AI is not a distant future for attorneys. It is already transforming the legal landscape. The rapid pace of technological advancement makes it imperative for legal professionals to learn and evolve alongside AI. While AI is a powerful tool that can enhance efficiency and effectiveness, it should always be used judiciously, with attorneys exercising their expertise and judgment to integrate it seamlessly into their law practice. Embracing AI as a partner rather than a replacement will empower attorneys to navigate the ever-changing legal world successfully while providing the best possible service to their clients.

Are you ready to embrace AI in your legal practice? Download our Getting Started with AI Cheat Sheet today at bit.ly/aistartupsheet.

Want more tips, tricks and tools for streamlining your law practice with ease? Join the LPM Insider at bit.ly/lpmnewsletter.
Bar Sections Support Habitat for Humanity

On Aug. 29, the Construction Law and Nonprofit Law sections of the State Bar of Georgia sponsored a workday with Atlanta Habitat for Humanity.

BY PETER M. CROFTON

On Aug. 29, the Construction Law and Nonprofit Law sections of the State Bar of Georgia sponsored a workday with Atlanta Habitat for Humanity. The intrepid volunteer lawyers persevered through temperatures nearing 100 degrees while helping to paint, install siding and perform miscellaneous carpentry work on the future home of a family with big dreams.

Atlanta Habitat for Humanity is celebrating its 40th year of helping deserving families get a start on the American dream of home ownership. With more than 1,500 homes built, predominantly in the Atlanta and Fulton County, Atlanta Habitat is a leader in addressing the problems of housing affordability and homelessness in the metro-Atlanta area. Doing much more than building needed housing, Atlanta Habitat educates homeowners on money management to protect their new home investment.

The Construction Law and Nonprofit Law sections thank all the volunteers who helped make this Atlanta Habitat build a success. Special thanks to event sponsors Alston & Bird LLP, Arnall Golden Gregory LLP, King & Spalding LLP, Morris Manning & Martin, LLP, and Smith, Gambrell & Russell, LLP. We offer best wishes to the new homeowner and her family, and we look forward to involving more sections and their members in future Habitat builds.

Peter M. Crofton
Chair, Construction Law Section
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Navigate Open Enrollment With Member Benefits, Inc.

Open enrollment begins on Nov. 1, and changes in Georgia’s insurance marketplace is causing volatility. Read this informative article to learn how you can be prepared.

BY SHEILA BALDWIN

Member Benefits, Inc., the State Bar’s recommended insurance broker, has earned an excellent reputation for its service to our members over the past 14 years with health, dental and vision plans, as well as disability and long-term care plans. If you are in the market for professional insurance such as group health, professional liability, cyber and 401k retirement plans, they have you covered. The Board of Governors selected Member Benefits, Inc., on the recommendation of the State Bar of Georgia Member Benefits Committee, due to their vast experience in working with lawyers and law firms. Now may be a good time to take advantage of this valuable benefit. This article is timely as open enrollment begins on Nov. 1, and changes in Georgia’s insurance marketplace are causing volatility. Read this informative article to learn how you can be prepared.

Our health care and health insurance situation is rapidly changing. The demand for health care services continues to increase, but the supply of primary care physicians is not keeping pace. Both the cost and utilization of prescription drugs are up, while supply chain-related shortages are still plaguing entire pharmacy networks. The need for quality mental health care services has skyrocketed. The industry has become highly regulated, and providers and patients are struggling to make sense of it.

Collectively, these factors suggest that there will be a significant increase in health care costs for 2024. The PwC Health Research Institute’s “Medical Cost Trends: Behind the Numbers 2024” report projects the 2024 average annual medical cost will increase 7% from 2023—which is more than double the U.S. inflation rate as of June 2023.

Here in Georgia, it was announced in May that the state would take over and operate its own individual health insurance marketplace; however, the launch of the Georgia-run marketplace is now targeted for the fall of 2024. For the upcoming 2024 Annual Enrollment Period, members seeking individual health insurance will continue to use the federal marketplace (www.healthcare.gov) with the enrollment period beginning on Nov. 1, 2023, and running through Jan. 15, 2024.

This can sound discouraging and overwhelming, but it does not have to be.

The State Bar of Georgia’s recommended insurance broker, Member Benefits, Inc., has a team of licensed benefits counselors who can help you assess your needs, discuss your options and even determine if you qualify for potential health insurance premium tax subsidies, which can offset a significant amount you pay for health insurance. Once you select a health plan, your personal counselor will assist you or your firm through the enrollment process—and be available to assist you with questions throughout the year. Whether you are a solo practitioner, work in a firm, are eligible for Medicare or have some other unique situation, Member Benefits will be your personal advocate.

We are all working through any number of financial and work-life issues in this post-pandemic environment. While there is no escaping the rising costs and complexities of health care, Member Benefits can save you time, reduce your frustration level and help you find the options that align with your personal situation.

For questions or concerns please contact me at 404-526-8618 or sheilab@gabar.org, or to connect with a benefits counselor visit gabar.memberbenefits.com or call 800-282-8626.

Sheila Baldwin
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State Bar of Georgia
Byrd’s Story

In nearly 50 years of practicing, Byrd Garland has seen the highs, but he has also seen the lows. And he can attest, with expertise, that the stress of the highs and lows can take its toll on an attorney’s wellness.

By MEGAN MURREN RITTEL

Byrd Garland invited me to meet him at his office on a typical June day. I show up, laptop in hand, ready for lunch and to learn. Byrd Garland, a Jackson, Georgia attorney, will retire at the end of 2023 after 50 years of service. Knowing there must be a story of wellness to be told in a life of serving 50 years as a lawyer, I relished the opportunity to get to hear it firsthand, and Byrd, ever the storyteller, was more than happy to oblige. I stroll through Byrd’s office on Brookwood Avenue and say hello to its other occupants before stopping at his office to see if he is ready for lunch. As we walk to the front of the office to leave, we are met at the door by Tyler Garland. Tyler and Byrd have been married for 54 years. Byrd’s story—one of adaptability and endurance—cannot be told without Tyler.

I hop in the back of Byrd’s car anticipating a routine that is all too familiar to me. Before lunch, we drive the less than half a mile to Byrd and Tyler’s house so that I can envy the hydrangeas that seem to have multiplied by 100 this year; admire how big the fish in the koi pond have gotten; pet the naughty corgi, Bad George, before Tyler shoos him away; and covet the beautiful outdoor dining room that has been created under the canopy of oaks since the last time I stopped by. After a peaceful stroll through dreamland (and believe me, their yard is an absolute dream), we head over to Jimmy’s, a local favorite, for lunch.

I met Byrd as a baby lawyer in 2012. I had barely passed the bar when I had the opportunity to watch Byrd defend his client against a civil warrant for assault and battery. The accuser testified that Byrd’s client had pushed her up against the wall by her throat and held her there for one minute. Byrd clarified, “One minute, you say?” The accuser confirmed, it was one minute. Byrd made a show of pushing up his coat sleeve and looking at his

J. Byrd Garland

PHOTO COURTESY OF SMITH, WELCH, WEBB & WHITE, LLC
watch. He said, "OK, I am going to time one minute." Pause. Byrd's eyes are fixed on his watch. Witness is starting to stir, nervously. I am enthralled, knowing full well that I am seeing a master at work. Byrd speaks up, "That was 30 seconds. Did he hold you there longer than that?" "No," comes the answer of the witness. I felt like Scout watching Atticus from the balcony as he crossed Mayella Ewell.

Atticus Finch comes to mind as Byrd, Tyler and I sit at the table in Jimmy's. It seems everyone in this restaurant knows the Garlands. People are making their way by to say hello, ask about their trip to Costa Rica, and to get the latest on the local Methodist church split. We ordered the highly recommended build-your-own salads and baked potatoes because Byrd has recently had to transition to a mostly plant-based lifestyle in order to maintain his good health, and we order onion rings because they are delicious. After everyone who had something to say or ask stopped by, and before our plates arrive, we dive into to Byrd's, and Tyler's, story.

Like so many of us, Byrd went to law school after finding few attractive post-grad job opportunities. Byrd had educational experience in insurance and was looking for a risk management job, but the only opportunity he found was in St. Louis, Missouri. "Tyler couldn't drive in the snow," said Byrd. Tyler scoffed. "I did not want to drive in the snow. I take exception to the notion [that I can't drive in the snow]. I can do anything I want."

So, Byrd and Tyler stayed in Georgia, and Byrd took an opportunity sweeping floors in a warehouse. With his college degree and perseverance, he eventually found himself promoted to stacking boxes.

However, Byrd's great grandfather, grandfather and father were all lawyers. At the time of Byrd's burgeoning warehouse career, his brother was at Mercer studying law. Maybe steered by blood, maybe by boredom, Byrd also decided to go to law school. After he took the bar, he set up shop and started practicing in his hometown of Jackson.

Byrd's first case was a brutal armed robbery where two elderly women were severely beaten. Byrd represented one of the accused. In the way that lawyers and clients do, Byrd bonded with the young man. Byrd later represented the client in a divorce, a custody action and a second marriage that involved "the law of Leviticus" (Byrd had to get a preacher to attest that "they were not kin"), as well as closing on his first home and his child's first home.

"There is no greater reward," says Byrd. "Sometimes you have a terrible situation. You stay awake at night thinking about it, but sometimes it is gratifying. It has served us well." Tyler chimed in, sharing that once a client could not pay, so the Garlands got two goats in exchange for legal services. At the time, Byrd and Tyler had two children under three at home. "The idea was that the goats were going to eat the kudzu," says Tyler. They named one goat Kud and the other Zu. Eventually, the goats ended up as pets in the house. Tyler added that they still get payment in sweet potatoes and tomatoes sometimes.

At this point in the conversation, Byrd pipes up to exclaim that he keeps pinching himself. He said of Tyler, "she's smarter, prettier, does a better job raising children and she is a hell of a lawyer." They both laugh and look at each other with a mixture of mirth and tenderness that only a lifetime knows. Tyler, in fact, was a high school counselor for 30 years, not a lawyer. A lot of the people in Jackson are her "babies," and she remembers her time in that position as wonderful. Following her retirement from the school system, Tyler came to Byrd's office to fill in as a title abstractor for six weeks. It's been 13 years and she is still at it.

In nearly 50 years of practicing, Byrd has seen the highs, but he has also seen the lows. And Byrd can attest, with ex-
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pertise, that the stress of the highs and the lows can take its toll on an attorney’s wellness. In 2001, Byrd says he made the best decision of his legal career when he called one of his former fraternity brothers from the University of Georgia, Buddy Welch, and asked him for help. “At the time, I was handling too much, alone.” Byrd had previously practiced with his father until his retirement and then began practicing with Richard Milam. Byrd and Milam were partners for 20 years, until Milam became the district attorney for the Tolland Circuit. “Then I was alone, and I was doing everything. I needed to be at the jail. I needed to be at the bank. It was too much. So, I called Buddy.” Byrd joined the office of Smith, Welch and Brittian (currently Smith, Welch, Webb & White) in 2001. Byrd said joining Smith Welch gave him strength in numbers and the opportunity to work with people he liked.

Along the way in his career, Byrd transitioned his practice mostly to real estate and had his eyes on retirement at 65. “In 2006-07, at that time I was in my early 60s and had it all planned to retire at 65. I had all sorts of assets and then the bottom fell out. We lost all our assets. We lost all our money. Things just went to pot.” During this time, Byrd had to consider bankruptcy and even thought he and Tyler might face the foreclosure of their home. But, according to Tyler, they managed to sell their home and pay off all their debts. “We were always blessed with close friends, family and church to sustain us through a difficult time,” says Tyler.

In addition to family, friends and church, Byrd says there are a few things that helped him survive the aftermath of the crash. “I have a good wife. We put our noses to the grindstone and persevered.” The Garlands offloaded their brand-new luxury cars and traded them in for a one-year-old Toyota and a 10-year-old truck. And Byrd relied on the skills that gave him early success in his career. “I could try cases. I went back to trials. I became a mediator, too.” Byrd says that he and Tyler survived like that for years, and they eventually bought their current house for $60,000 cash. Tylerushes that it was “a house with beautiful bones and history that had been neglected and falling in after being vacant for many years.” Over the last decade, they did all the work to make it the dreamland that it is today.

However, after weathering the financial crisis, Byrd and Tyler were not through the hard times. “In about 2014, I started feeling dizzy sometimes,” Byrd says. He made a few trips to the hospital, but he was not getting answers. Eventually he stayed five days in the hospital hooked up to a heart monitor. He was diagnosed as having atrial fibrillation (“AFib” for short). The diagnosis resulted in multiple procedures, including installation of a pacemaker, but without improving Byrd’s health.

Then one day Byrd stumbled upon an article about convergent ablation that turned out to be his cure. “I read a three-year-old article in the Atlanta magazine that talked about this procedure and mentioned the pioneer doctor at Emory. I immediately called the doctor and made an appointment. A month later I was on the operating table and the rest is history. To me, the researching and reaching out sort of underscores things lawyers do and how to think like a lawyer.”

After experiencing a breakdown in his health, Byrd started to take it more seriously. When the COVID-19 pandemic came along, Byrd realized that he did not have energy like he used to. He bought himself an e-bike to see what would happen. He started with a mile or two a day and worked his way up to 10. “I loved it,” Byrd says. Discovering a new passion, Byrd, “traded luxury cars for luxury bikes.” Byrd now also has a non-electric, 21-speed road bike. He alternates e-bike and road bike rides every other day. Byrd’s goal is to wean himself off the e-bike, and, when he retires, he wants to be able to ride the road bike two hours a day.

When Byrd considers retirement, he admits it is daunting. “I’m researching. I’m having second thoughts. I’ll take over the yard work, maybe for a little while,” Byrd muses. He is also considering joining a business venture with a friend, but “I’m not sure how much work I want to do.” Byrd has also considered serving as a mentor to new lawyers.

On the subject of new lawyers and wellness, I ask Byrd what wisdom he can share. Byrd states emphatically, “There’s been a breakdown in bonding. [Young] lawyers don’t come for these connections in community organizations. People float in and out of communities. They don’t become involved. It is a worrisome trend. From a wellness perspective you need that. There’s too much isolation.” Byrd recommends joining a church, rotary, historical society or arts council. “It gives you a chance to be around different people.” He and Tyler agree, “And get with friends once a month for dinner. Be around people who think differently. Don’t get in [a lawyer] bubble.”

For new lawyers, Byrd also offers, “Be real careful on where you start. Don’t jump unless you are real comfortable.” Byrd warns against starting up solo or with a partner who has questionable ethics or lawyering ability. I ask Byrd if partners, in life and law, have been integral to his success. He replies, “That, and a bunch of good doctors.”

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 baby and two pups.
Artificial Intelligence Is Here to Help

While caution on over-relying on technology is appropriate, lawyers are using ChatGPT (and similar services) to produce better legal writing. Generative AI like ChatGPT is here now, and it is here to help.

BY DAVID HRICIK AND KAREN J. SNEDDON

In our last installment of “Writing Matters,” we showcased the potential value of ChatGPT by relying on it to draft the entire column. This installment of “Writing Matters” explains how we did that, so you can understand how to use one “prompt”—a request for ChatGPT to draft text—to generate an outline and then to use iterative prompts to add detail to that outline. Along the way, we share how similar prompts can generate useful outlines or structure for common legal documents. While caution on over-relying on technology is appropriate, lawyers are using ChatGPT (and similar services) to produce better legal writing. Generative AI like ChatGPT is here now, and it is here to help.

How “We” Wrote the Last Installment

The last installment began by asking ChatGPT this question: “What five ways can lawyers improve their writing?” One of the five suggestions it provided was this:

Clear and concise language: Lawyers should strive to use clear and straightforward language in their writing. Avoid unnecessary jargon, complex sentence structures and convoluted expressions. Focus on conveying your ideas in a concise and easily understandable manner, ensuring that your message is crystal clear to your audience.

Then, we asked an “iterative” prompt, a request for more detail on one aspect of that. We asked, “What are two examples of how lawyers can avoid unnecessary jargon?” One of its replies was:

Use plain language: Instead of using complex legal terminology, opt for plain language that is easily under-
stood by a non-legal audience. For example, rather than using Latin phrases like “prima facie” or “sua sponte,” use simpler alternatives such as “at first glance” or “on its own accord.” Consider how the average person would understand the information and aim to communicate in a clear and accessible manner.

All we had to do was cut and paste the response to the iterative request into a document. With the assistance of AI, the entire column was created in less than 10 minutes.

Prompts and Iterative Prompts Can Help “You” Write Better

The approach of using a broad prompt followed up by iterative more specific questions can be a very useful way to leverage ChatGPT and improve your legal writing. For example, in response to the broad question, “What are the elements of negligence under Georgia law?” it provided a numbered list of the five elements. For example, it wrote:

1. Duty of Care: The first element is establishing that the defendant owed a duty of care to the plaintiff. This duty of care is a legal obligation to act reasonably and avoid causing harm to others. The specific duty of care can vary depending on the circumstances of the case.

We then asked it “When can a duty of care arise under Georgia negligence law?” and it wrote in part:

Under Georgia negligence law, a duty of care can arise in various situations, and it is often determined by the specific circumstances of the case. The general principle in Georgia, as in many other jurisdictions, is that a duty of care arises when there is a foreseeable risk of harm to others as a result of a person’s actions or omissions. Here are some common situations in which a duty of care may arise:

1. Common Carriers and Innkeepers: Georgia law imposes a high duty of care on common carriers (like buses and taxis) and innkeepers (such as hotels) to ensure the safety of their passengers or guests.

2. Property Owners: Property owners owe a duty of care to individuals who are on their property, which may vary depending on the visitor’s status. Georgia recognizes three categories of visitors: invitees, licensees and trespassers, each of whom may be owed a different duty of care.

Our point is not that writers rely exclusively on ChatGPT (or any other similar service) for legal advice. Our point is that writers use tools. ChatGPT can be used to gather ideas on how to structure arguments or analysis. In some circumstances, it can provide a base or foundation that the writer was not otherwise aware of. In other circumstances, it can provide options that the writer may not have recognized.

How ChatGPT Can Help You

ChatGPT may provide alternatives that the writer might consider or even offer conclusions that the writer might recognize. We know of lawyers who ask ChatGPT how to respond to unprofessional emails from opposing counsel, rather than instinctively firing back in kind. Other lawyers have used ChatGPT to analyze appellate briefs and ask it to write an opinion. The ChatGPT generated opinion has been found to accurately predict the result of the appeal, at least most of the time.

Finally, while sometimes it can fail miserably, ChatGPT may give you ideas or perspectives you otherwise would not have considered. For example, we asked ChatGPT to describe a rear end car wreck from the perspective of the plaintiff. In part, it wrote this:

1. Normal Driving: The driver is going about their day, perhaps commuting to work or running errands. They’re focused on the road ahead, other vehicles and traffic signals. Everything seems routine.
Connect with a counselor virtually.

Maintaining your mental health is vital. Every State Bar of Georgia member receives six pre-paid clinical sessions per calendar year through the Lawyer Assistance Program. Now, you can connect with a counselor wherever you are.

Call the confidential LAP Hotline at 1-800-327-9631 to schedule your appointment today.
2. Sudden Impact: Out of nowhere, there’s a sudden and unexpected impact from behind. The driver’s body is jolted forward as the car is pushed by the force of the collision. It happens so fast that they might not even have time to react.

3. Noise and Chaos: There’s a loud noise as the vehicles collide. Airbags might deploy, and the sound of crunching metal is overwhelming. The driver’s ears might ring from the noise.

4. Moment of Confusion: In the immediate aftermath of the collision, the driver might be disoriented and confused. They may not immediately realize what has happened. Their heart races, and adrenaline surges through their body. ...

This gave us perspectives we had not thought about, and in a few minutes, we edited it to this:

Plaintiff was going about her day, commuting to work, focused on the road ahead, other vehicles and traffic signals. Out of nowhere, there was a sudden and unexpected impact from behind. Her body was jolted forward as the car was pushed by the force of the collision. It happened so fast she did not even have time to react. Air bags deployed, and the sound of crunching metal was overwhelming. Her ears rang from the noise.

In the immediate aftermath of the collision, she was disoriented and confused, not immediately realizing what had happened. Her heart raced as adrenaline surged through her body.

Cautions and Concerns About ChatGPT
We have been highlighting the value of ChatGPT. ChatGPT is just the latest digital tool that can be helpful. Consider the value of Spell Check, Grammar Check and Grammarly. Yet, all tools need to be used responsibly. Automatically accepting spelling suggestions could convert all of your “statutes” or “statues.” Grammarly suggests synonyms that may alter the meaning of a text. Over-relying on ChatGPT may result in a text that is incomplete or inaccurate.

Yet, ChatGPT can provide a starting point for a draft, especially when the writer is experiencing writer’s block. ChatGPT could provide a comparative approach to a draft to contrast with an existing draft.

Conclusions
Whether you embrace ChatGPT or avoid ChatGPT, we hope that this installment has demystified ChatGPT and encouraged you to acknowledge how some may use ChatGPT to improve legal writing.

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 dean and professor of law at Mercer University School of Law.
2023 Law School Orientations on Professionalism

The Chief Justice’s Commission on Professionalism thanks all the lawyers and judges for helping to make the 2023 Law School Orientations on Professionalism a success.

BY KARLISE Y. GRIER

When the Supreme Court of Georgia adopted A Lawyer’s Creed and the Aspirational Statement on Professionalism in 1992, it wrote, “It is the Court’s hope that Georgia’s lawyers, judges and legal educators will use the following aspirational ideals to reexamine the justifications of the practice of law in our society and to consider the implications of those justifications for their conduct. The Court feels that enhancement of professionalism can be best brought about by the cooperative efforts of the organized bar, the courts and the law schools with each group working independently, but also jointly in that effort.” For the past 31 years, the Chief Justice’s Commission on Professionalism, along with the State Bar of Georgia’s Committee on Professionalism, have partnered to bring the Court’s vision to life during the Law School Orientations on Professionalism. In August 2023, the Commission, along with the Bar’s 2022-23 Committee on Professionalism, under the leadership of Committee Chair Joshua Bosin and Committee Vice Chair Michael Herskowitz organized the 31st Annual Law School Orientations on Professionalism, which were held at all five of Georgia’s ABA-accredited law schools. The orientations are designed to provide incoming first year law students with their first introduction to professionalism. Georgia lawyers and judges apply to serve as group leaders during small-group breakout sessions at the orientations to help students learn the meaning of professionalism and why it is important for them as law students. The 130 lawyers and judges who volunteered to serve as group leaders in 2023 ensured the contin-

Supreme Court of Georgia Chief Justice Michael P. Boggs giving remarks at the Georgia State University College of Law Orientation on Professionalism.

PHOTO BY JENNI GIRTMAN
ued success of the orientations. Several of the group leaders participated in orientations at more than one school. In addition, several other judges and one lawyer served as plenary speakers during the professionalism orientations. Supreme Court of Georgia Chief Justice Michael P. Boggs, for example, made brief remarks regarding professionalism and administered the Professionalism Oath and Honor Code Pledge at Georgia State University College of Law. Chief Justice Boggs also shared his thoughts on professionalism in a letter provided to the law students at all of the schools. He shared in his letter, “You are now a member of your law school community, and you will eventually become a member of the Bar. You will often interact with one another in stressful, chaotic environments that are designed to be adversarial. But you should never put aside the moral compass you brought with you to law school or forget that we are all colleagues in a noble profession. For our profession to thrive, we must remember that the way in which we resolve disputes defines part of the character of our society and we should act accordingly.”

Hon. J. Antonio “Tony” DelCampo, the 61st president of the State Bar of Georgia also provided a letter to the law students at each of the law schools that emphasized the importance of relationships and service. He wrote: “Beginning with your first moments as a law student, it is important that you establish solid professional and social relationships with your classmates because this is one of the foundational elements of professionalism. While you may not realize it yet, the relationships that you establish with your peers will benefit you throughout your entire professional life. ... I also encourage you to get involved in your law school, your community and in civic organizations—even as a law student. Getting involved is not only good for your soul, it is not only good for doing what is right, but it is also good for your legal career.”

Group leaders for the orientations at (1) Atlanta’s John Marshall Law School; (2) Emory University School of Law; and (3) Georgia State University College of Law.
The subcommittee that planned the 2023 law school orientation programs was chaired by J. Maria Waters and Kacey Baine. The members of the Law School Orientation on Professionalism Subcommittee, which planned the orientations, included several lawyers, law students and one judge. The subcommittee members were: Associate Dean Kent Barnett, Assistant Director Leron Burge, Professor Nathan S. Chapman, Andrew Ligon Fant, Professor Derrick Howard, Hon. Shukura L. Ingram, Ashley S. Lewis, Associate Dean Tameka Lester, Professor Patrick Longan, Travis Lynes, C. Brad Marsh and Kevin C. Patrick. The Commission and Committee also wish to acknowledge the support staff of our law school partners: Leron Burge, Atlanta’s John Marshall Law School; Franklin B. Lebo, Emory University School of Law; Shreeca S. Lott, Emory University School of Law; Jeanne Zipperer, Mercer University Walter F. George School of Law; Cody Teague, Georgia State University College of Law; Amanda Jean Fox, University of Georgia School of Law; Casey Anne Graham, University of Georgia School of Law; and Chantelle Tickles, University of Georgia School of Law.\(^2\)

On a personal note, I have discovered that by participating in the orientations, I “get back” as much as I give by my participation. This was also true in 2023 and in one particularly unexpected way. During one of the breaks at an orientation session, a student shared with me that he had actually read an article I wrote, “The Necessity of Unparalleled Unity,” which had been included in the written materials for the orientation. It made my day! If you are looking for a fun and meaningful way to serve our profession, please consider applying to participate as a group leader at the 2024 professionalism orientations.\(^4\)

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 for their dedication to making this program a success. Moreover, the Commission and the Committee could not hold the orientation without the help of the many lawyers and judges who volunteer each year to serve as plenary speakers or to lead the small-group breakout sessions. 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! ●

Karlise Y. Grier
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Chief Justice’s Commission on Professionalism
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Endnotes
2. For more information regarding the 2023 Law School Orientations on Professionalism, visit https://cjcpga.org/law-school-orientations-on-professionalism-2023/.
4. To add your name to the list to receive the 2024 group leader application, visit https://cjcpga.org/law-school-orientations-on-professionalism-2024/.
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Georgette M.C. Thinn
James R. Thompson
Torin D. Togut
Uchenna Mary-Anne Uzoka
Professor Randee J. Waldman
Thomas Leland Walker
Julayaun Maria Waters
Jill Thrasher Young

Are you interested in serving as a group leader for the 2024 Law School Orientations on Professionalism? Complete the contact form found at bit.ly/groupleader2024.
GBJ | In Memoriam

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.

JAMES C. ABBOT
Louisville, Georgia
University of Georgia School of Law (1951)
Admitted 1951
Died May 1997

ELIZABETH COLLINS BELDEN
Norcross, Georgia
Emory University School of Law (1979)
Admitted 1979
Died June 2023

CHARLES K. COBB JR.
Atlanta, Georgia
Woodrow Wilson College of Law (1968)
Admitted 1969
Died August 2023

PETER DANIEL COPELAND
Clarkston, Georgia
University of North Carolina School of Law (1988)
Admitted 1988
Died July 2023

DAVID U. CROSBY
Decatur, Georgia
Emory University School of Law (1969)
Admitted 1969
Died August 2023

KENNETH B. FOLLOWILL
Columbus, Georgia
Emory University School of Law (1960)
Admitted 1960
Died May 2023

FRANK THOMAS GOMEZ
Marietta, Georgia
Georgia State University College of Law (1988)
Admitted 1989
Died December 2021

WALTER JAMES GORDON SR.
Hartwell, Georgia
Antioch School of Law (1976)
Admitted 1976
Died July 2023

J. EDWARD HALL
Milledgeville, Georgia
Emory University School of Law (1964)
Admitted 1966
Died April 2023

SCOTT CHANDLER HUGGINS
Cumming, Georgia
Mercer University Walter F. George School of Law (1987)
Admitted 1997
Died August 2023

LAWTON JORDAN JR.
Augusta, Georgia
University of Georgia School of Law (1964)
Admitted 1964
Died August 2023

BARBARA M. LASSETER
Marietta, Georgia
University of Georgia School of Law (1985)
Admitted 1985
Died July 2023

CHARLES JEFFREY LILLY
Fort Valley, Georgia
Mercer University Walter F. George School of Law (1973)
Admitted 1973
Died August 2023

BRADLEY DUNCAN PALMER
Atlanta, Georgia
University of South Carolina School of Law (1988)
Admitted 1990
Died July 2023

CLINTON O. PEARSON
Brunswick, Georgia
Atlanta’s John Marshall Law School (1973)
Admitted 1973
Died July 2023

STAR-BETH REGAN
Chattanooga, Tennessee
Mercer University Walter F. George School of Law (1986)
Admitted 1986
Died July 2023

GEORGE M. SALIBA
Valdosta, Georgia
University of Georgia School of Law (1969)
Admitted 1970
Died April 2023

TONYA L. SAYERS
Augusta, Georgia
Regent University Law School (1998)
Admitted 1999
Died July 2023

FRANK W. SEILER
Savannah, Georgia
University of Georgia School of Law (1957)
Admitted 1958
Died August 2023

JOHN RAY SKATES
Canton, Georgia
Emory University School of Law (1987)
Admitted 1987
Died July 2023

ROBERT R. SMITH
Atlanta, Georgia
Emory University School of Law (1967)
Admitted 1967
Died March 2023

DOUGLAS EDWARD VERHEUL
Sarasota, Florida
Western Michigan University Thomas M. Cooley Law School (1988)
Admitted 1991
Died June 2023

GEORGE WALTON WALKER III
Auburn, Alabama
Samford University’s Cumberland School of Law (1989)
Admitted 2011
Died July 2023
OBITUARIES

Walter James Gordon Sr. died in July 2023. He was born in March 1950 to Elaine Marett Gordon and John Lambert Gordon Sr.

A lifelong resident of Hart County, Gordon graduated from Hart County High School in 1968, where he was a critical member of the storied Debate Team known throughout the state for its many tournament wins. He was named STAR student and graduated from high school with honors.

Throughout his life he was recognized as an extraordinary public speaker. His talents were spotted early on when he was asked to host a rock-n-roll music radio show on Hartwell's WKLY at the age of 15. His Sunday afternoon shows became known as “The Willie G. Show,” which earned him the nickname of Willie G.

Having won a Barkley Forum Debate Scholarship to Emory University, he became part of Emory’s elite debate program where his oratorical and reasoning skills further developed. At Emory, he was a member of DVS, a seven-member, senior honor society. After graduating from Emory with honors, Gordon became active in Democratic politics and served as press secretary for Zell Miller’s campaign for lieutenant governor. Later on, Gov. Miller would make two special appointments for his dear friend. The most prestigious was naming Gordon to the Stone Mountain Memorial Association where he served on the board of directors for more than a decade, but the more distinguished honor came as Gordon was able to join his father in receiving the title Admiral of the Georgia Navy.

After college Gordon attended Antioch School of Law and graduated in 1976 before returning to his hometown as a solo practitioner opening his office in the building his father had owned for many years. Antioch School of Law was located in Washington, D.C., and was founded for the purpose of training trial lawyers committed to justice and equality for all. Gordon retained those ideals in his practice of local government law, general civil litigation, real estate and personal injury matters. He was admitted to practice before the Superior Courts of the Northern Judicial Circuit, Court of Appeals of Georgia, Supreme Court of Georgia, U.S. District Court (Northern and Middle Districts of Georgia), U.S. Court of Appeals for the Eleventh Circuit and the U.S. Supreme Court.

Gordon remained in practice at the same location in downtown Hartwell for more than 47 years, progressing from a solo practice to building a multi-staffed, bustling practice of lawyers, paralegals and administrative staff. He loved his practice and the people who worked there. Gordon served as county attorney for the Hart County Board of Commissioners for more than 30 years and was recognized as one of the longest serving attorneys with the Association of County Commissioners of Georgia.

Gordon was listed in the Bar Registry of Preeminent Lawyers, and his Bar and practice activities included: Georgia EMC Counsel Association charter member (1990-2023) and state president (1993-94); county attorney for Hart County, Georgia (1980-84, 1990-2023); state president, County Attorney Section, Association of County Commissioners of Georgia (1997-98); served on many boards and committees of the State Bar of Georgia, including the Board of Governors (2012-2021). He was proud to serve as a trustee of the Georgia Legal History Foundation (1995-2023); and Northern Judicial Circuit Public Defender Program Governing Committee (1981-84; 1989-2023).

The Hart County community was near and dear to his heart and Gordon often performed legal services free of charge to churches and nonprofits. Walter was legal counsel for Habitat for Humanity from 1992-2023 and performed the closing for every Habitat for Humanity house built in Hart County. In addition to the pro bono services he provided to the community, Gordon was instrumental in helping to create the first public defender program in Hart County. Additionally, he served on the founding board of Hart County Community Theatre (1979) where he loved to take the stage especially for his yearly reading of ’Twas the Night Before Christmas, as well as a founding member of the Northview Cemetery (1994-2023). He was a devoted member of the Hartwell Rotary Club who served in many roles, including leading a group of young leaders on a tour of Australia in 2000.

As a lifelong member of the Hartwell First Baptist Church, he served in various capacities ranging from deacon to Sunday School teacher. He was awarded one of the “Five Outstanding Young Men in Georgia” recognitions in 1980 and received the Justice Robert Benham Award for Community Service in 1998. The Hart County Chamber of Commerce honored Gordon with a Lifetime Achievement Award. Only three weeks before his death, Gordon emceed the Community Chorus patriotic presentation at Hartwell’s Episcopal Church giving the community one last oration.

In these last few years, Gordon further pursued his passion for music by becoming a founder and part owner of the High Cotton Music Hall. He delighted not only in bringing nationally acclaimed musicians to Hartwell, but also in taking the opportunity to befriend the musicians that came to play. But most of all Gordon loved to find the spotlight whether on the High Cotton stage, a hotel lobby or the deck of a cruise ship. Ever since Gordon learned to play the harmonica, he carried at least one on his person at all times and was immensely delighted whenever he was asked to play along.●
Frank Wilkins "Sonny" Seiler died in August 2023 after an amazing 90-year life.

He was born in February 1933 to Frank Herman and Helen Wilkins Seiler of Savannah and spent his idyllic summers crabbing, fishing and lifeguarding on Tybee Island. In 1955, he and fellow lifeguard, Jack Schaaf, challenged themselves to swim from Savannah to Tybee beginning the nearly 11-mile journey at the east end of River Street. Braving the tides, jellyfish and an incoming nor'easter, the pair successfully made the six-hour swim and arrived to a cheering crowd on the Fort Pulaski bridge.

Seiler, nicknamed Houdini by his friends, was a well-known magician and entertainer earning his pocket money performing at parties and local clubs.

He graduated from Porter Military Academy (now Porter-Gaud School) in Charleston in 1950.

Seiler attended Newberry College for one year before transferring to the University of Georgia—a decision that would alter the course of his life. He held two degrees from the University of Georgia: a B.B.A. in Finance, and a J.D. degree which he received in 1957.

Prior to attending law school, Seiler married the former Cecelia Gunn from Columbus. One football Saturday, the couple took their English bulldog, UGA, to the game where he caught the attention of Coach Wally Butts and Athletic Director Dan Magill. That event would ultimately lead to the tradition and dynasty of the Georgia mascots which is continued today by the Seiler family.

While a student, Seiler was president of Sigma Chi Fraternity, the Interfraternity Council and Gridiron. He was a member of Sphinx, the Blue Key Honor Society, and a founding member of the Greek Horsemen. He lettered on the varsity men's swim team.

In 1956, he graduated from the Advanced Officer Infantry Training School at Fort Benning having been commissioned as a second lieutenant and proudly served as an officer in the Georgia National Guard, 230th Field Artillery.

Seiler practiced law in Savannah at Bouhan, Williams and Levy, now Bouhan Falligant, specializing in civic defense and plaintiff work. He served as president of the State Bar of Georgia from 1972-73.

Seiler served as a member of the University of Georgia Athletic Association Board of Directors, president of the University of Georgia National Alumni Association, member of the Board of Directors for the Georgia Student Educational Fund, chairman of the University of Georgia School of Law Board of Visitors, member of the President’s Club and member of the Board of Trustees of the University of Georgia Foundation.

For eight years, Seiler dedicated much of his legal expertise to defense in the trials of local antiques dealer Jim Williams, ultimately gaining his acquittal. This trial would be immortalized in John Berendt’s novel. The best-seller was later made into a movie directed by Clint Eastwood. Seiler was cast as the judge and relocated to Los Angeles for the filming. He is a member of the Screen Actors Guild and appeared in two other movies.

Seiler and his family are multigenerational members of the Lutheran Church of the Ascension. He was a member of the Salzburgers and past president of the German Heritage Society.

A lover of history, Seiler is a former curator of the Georgia Historical Society and a board member of Bonaventure Historical Society.

Seiler enjoyed collecting poetry and inspirational thoughts. Among his possessions is a worn, dog-eared copy of “The Best Loved Poems of the American People” filled with clippings of life’s lessons he found and saved throughout the years.

In 2002, Seiler co-authored the book “Damn Good Dogs” with Kent Hannon, a history of the University of Georgia’s mascots.

He was a member of the Savannah Golf Club, The Chatham Club, The Oglethorpe Club and the Savannah Yacht Club.

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.
Proposed Amendment to the Uniform Rules for Superior Court

At its business meeting on Aug. 2, 2023, the Council of Superior Court Judges approved proposed amendments to Uniform Superior Court Rules 16 and 36. 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@scsnc.org. To be considered, comments must be received by Friday, Jan. 5, 2024.
**GBJ | ICLE Calendar**

**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.

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<td>Constitutional Law: A Review of the 2022-23 Term of SCOTUS—and a Preview of the 2023-24 Term</td>
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<td>The Ritz-Carlton Reynolds, Lake Oconee Greensboro, Georgia</td>
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<td>Corporate Counsel Institute</td>
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Please note: Not all programs listed are open for registration at this time.
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<tr>
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