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State Bar of Georgia Young Lawyers Division

# THE YLD REVIEW

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Working for the Profession and the Public



**Changing  
the Public's  
Perception of  
Lawyers, One  
Feel-Good Story  
at a Time**

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jennifer@mocklaw.com

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nleet@grsmb.com

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will.davis@knclawfirm.com

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jlongattorney@aol.com

### NEWSLETTER CO-EDITOR

ShaMiracle S. Johnson, Atlanta  
shamiraclejohnson@libertymutual.com

### NEWSLETTER CO-EDITOR

Heather Riggs, Atlanta  
heather.riggs@melyourmind.com



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## From the President

# A Change in Leadership Doesn't Mean a Change in Tradition



**Jennifer Mock**

The Young Lawyers Division has long been known as the "service arm" of the State Bar of Georgia. The YLD takes great pride in the services we render to our members, the legal profession, the justice system, future lawyers and, perhaps most rewarding, the community as a whole.

Under the leadership of our Community Service Projects Committee, numerous opportunities are available for YLD members to participate in service projects focused on various global issues, such as underprivileged children's needs, hunger, domestic violence and the environment, as well as helping with causes in specific Georgia communities.

This year, the YLD's community service agenda is focused on the theme of helping families and children. Recently, the YLD participated in the St. Jude Walk/Run to End Childhood Cancer at Lenox Square in Atlanta. YLD volunteers helped set up and work the registration area on Saturday, Sept. 24.

St. Jude's Walk/Run to End Childhood Cancer is a nationwide effort taking place in more than 60 cities this year. The money raised by the event will be used by St. Jude's to help find treatments and cures for childhood cancers. St. Jude Children's Research Hospital is where doctors send their toughest cases because it has the world's best survival rates for the most aggressive childhood cancers.

The committee is also planning a Trees Atlanta Volunteer Day on Oct. 22 and a Holiday Party for the Fulton County Department of Family & Children Services. The YLD will also have a Toys for Tots drive in December, a suit/cell phone drive

in January and a series of Wills Clinics, with dates and locations to be announced. Be on the lookout for information on our website about these and other upcoming projects.

The YLD coordinates a local service project at each of our quarterly meetings. We collected toys and money for the Glynn County Court Appointed Special Advocates (CASA) birthday closet during our Summer Meeting at St. Simons Island, and we are in the process of scheduling projects for the Fall Meeting at Disney World, the Midyear Meeting in Atlanta and the Spring Meeting in Asheville, N.C.

Zachary Howard of Atlanta and Justin Wolfe of Sandy Springs are co-chairs of the Community Service Projects Committee. Please let them know if you would like to become involved in any of our projects this year.

Some YLD affiliates hold annual fundraising activities at the local level, such as the golf tournaments held by the Savannah YLD and the Glynn County YLD each year to benefit worthy local charities. These events give young lawyers across the state a chance to work together and network in a casual atmosphere. The YLD is proud to have affiliates around the state in Albany, Athens/Western Circuit, Augusta, Cobb County, Columbus, DeKalb County, Glynn County, Gwinnett County, Houston County, Macon, Rome/Northwest Georgia, Savannah and Valdosta.

Each year, our YLD Signature Fundraiser Committee organizes and orchestrates a major fundraising event to raise money to support a designated charitable organization. Since its inception 10 years ago, the YLD Signature Fundraiser has raised and donated more than \$500,000 to several worthy causes.

Plans are under way for our 2017 Signature Fundraiser, which will benefit Georgia CASA, Inc. The co-chairs are Audrey

Bergerson of Decatur, Rizza O'Connor of Lyons, and Katherine Willett of Augusta. Please contact any of them if you would like to support this year's Signature Fundraiser.

The YLD has, for the past five years, teamed up with the Office of the Attorney General to host the statewide Legal Food Frenzy, a food drive and fundraiser competition among Georgia's law firms, law schools, and other legal organizations. Committee members work with leaders from the legal community across the state to spread awareness about Georgia's hunger problems and to make a significant impact by gathering both canned food donations and monetary donations to help those affected by hunger in the state.

This competition is held in the spring, and since its inception has raised more

than 5 million pounds of food. The YLD Legal Food Frenzy Committee is co-chaired by David Burroughs of Augusta, Justin Oliverio of Decatur, Justin Purvis of Valdosta and Lisa Robinson of Lilburn, who would be delighted to hear from you about getting involved in this successful annual project.

Other public service-based committees offered by the YLD include Advocates for Students with Disabilities, Disaster Legal Assistance and High School Mock Trial. You can find out more information on each of them from our website.

As you can tell, the opportunities for YLD members to serve others in your communities and around the state are plentiful. I hope you will join us for one or more of these worthwhile projects and events. YLD

## Changing the Public's Perception of Lawyers, One Feel-Good Story at a Time



**Erica Taylor**

Recently, I received an email from the State Bar of Georgia asking for real lawyer-client success stories.

The State Bar of Georgia is working on a PSA campaign to improve the image of lawyers in the state by showing the great work that lawyers provide. I ultimately decided not to send in my story for the campaign, but, I did want to share it with the YLD because it was a story that touched my heart.

I have intentionally omitted names and fine details for client privacy reasons.

I was co-counsel on a sexual harassment case. It was a heartbreaking story and it was very hard not to feel personally invested in the outcome. The more I dug in and the more I found out, the angrier I became for my client.

For years, my client was victimized by her boss. She felt helpless because of how



much power he had and how little help seemed to be available from her employer. Her boss constantly threatened her position and reminded her that her family's well-being was at stake. She knew her boss had been previously accused of harassment and that the employer did nothing. After

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From the Editors

## Change Is Hard, but Change Is Good

**ShaMiracle Johnson  
& Heather Riggs**



PHOTO BY ISTOCK.COM/ROMOLOTAVANI

Change is never easy, but often necessary. You may have noticed that we have made some changes to *The YLD Review* this year, and, in keeping with that old maxim, it hasn't been easy. Nonetheless, we could not be more excited to share our new format with you in this premier edition. We have also made some changes to our content, focusing more on substantive and practice-centered features. Young lawyers experience so many life changes, whether they are advancing on the partner track, buying their first home or expanding their family, so we have included a little something for everyone.

The updates, recaps and highlights that you know and love are not going away. Instead, they are going through a change too, with the launch of *The YLD Review Blog* ([www.theyldreview.org](http://www.theyldreview.org)). On our blog and through our existing social media platforms, you will be able to access different, exclusive and special articles to keep you up to date with all things YLD related.

While you are there, you might notice a different kind of change. It is the change that our Georgia young lawyers are making in our firms, in our communities and in the legal profession. After all, we are not known as "the service arm of the Bar" for no reason. Change is what we do; it is who we are. And you know what? Change is good. YLD

## ► PERCEPTION, FROM PAGE 3

being caught in a public scandal, her boss stepped down.

When my client eventually came forward, she was terminated in a very public manner for “having an inappropriate relationship” with her boss. Prior to terminating her, the employer did not interview her boss. Understandably, my client was humiliated, angry and sad. Though she lost trust in corporate America, over the course of her lawsuit she showed amazing strength and resilience.

The case required her to tell her story over and over again. And while she became emotional and cried when she had to relive the story, she continued to tell it. She did not back down. She did not quit.

When she first retained the firm, her only request was a public apology and rescission of the statement that her previous employer made regarding why she was fired. The employer refused. The farther we got into the case, the worse the employer’s sins became. We quickly discovered that they ignored several harassment complaints.

After engaging in discovery, the parties agreed to mediation. However, shortly before the mediation occurred, I transitioned to another firm. With sadness, I advised the client that I would not be there for the final resolution of her case. I prepared to transition firms, but made sure to prepare everything I could for the mediation and leave it with the attorneys who were still on the case.

A few days ago, the client called me. She could not wait to tell me the outcome of the mediation. They settled the case for a very fair amount. But, most importantly, they agreed to equitable relief that would protect other women employees.

The client finally felt vindicated. After fighting hard, she got what she wanted most: to set the record straight and to help protect other women. She thanked me for all my hard work. I was ecstatic to hear from her and thrilled to learn that she received the closure that she deserved.

These are the days that make practicing law worthwhile. Unfortunately, many members of the public only hear about the bad and the ugly. They do not often hear about the good. YLD

## Stressed? Depressed? Overwhelmed? Millennial Lawyers Need to Change Their Coping Strategies



**LaKeisha  
Randall**

A recent study, “The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys,” was conducted by the American Bar Association in partnership with the Hazelden Betty Ford Foundation. The study found that younger lawyers are most at risk for substance abuse and mental health problems. Unfortunately, the findings do not come as a surprise.

Prior to this study, the research suggested a direct correlation between increased drinking and years of practice. However, the 2016 study found that there was a direct reversal of that association. Attorneys in the first 10 years of their practice now experience the highest rates of alcohol use

(28.9 percent), followed by attorneys practicing for 11 to 20 years (20.6 percent), and continuing to decrease slightly from 21 years or more.

These percentages also correspond with the position the attorney holds within a law firm. Notably, junior associates had the highest rates of problematic alcohol use, followed by senior associates, junior partners and senior partners.

By comparison, only 6.8 percent of all Americans are believed to have a drinking problem. In addition to questions related to alcohol, participants answered questions about their use of legal and illicit drugs, including sedatives, marijuana, stimulants and opioids. Of the attorneys who admitted to using stimulants, 74 percent noted that they used them weekly.

Many young lawyers finished law school during America’s worst economic crisis, have more student loan debt than any other

 State Bar  
of Georgia

### Stress, life challenges or substance abuse?

**The Lawyer Assistance Program** is a free program providing confidential assistance to Bar members whose personal problems may be interfering with their ability to practice law.

Members are entitled to six prepaid counseling sessions per issue per year.

LAP Confidential Hotline | 800-327-9631  
[www.lawyerslivingwell.org](http://www.lawyerslivingwell.org)

generation of lawyers and are still unemployed or underemployed. Factors for increased drinking among younger lawyers could include stress, depression and financial hardship. Instead of finding comfort in alcohol, young lawyers should recognize the warning signs of stress, depression, substance abuse and the increased risk for harm to self.

Symptoms of stress include, but are not limited to muscle tension, upset stomach, changes in sleep patterns, lack of motivation and irritability. While stress and depression have similar characteristics, there are some key differences. Symptoms of depression include, but are not limited to, feelings of emptiness, hopelessness, pessimism, guilt and worthlessness. Depression may also cause difficulty concentrating, remembering details, inability to make decisions and overeating.

Instead of turning to alcohol, one can combat stress and depression with alternative solutions. It is important to realize your limitations and have outlets like counseling, hobbies, journaling or talking with friends to help ease symptoms. Eating well, exercising and getting plenty of sleep also have a significant positive impact.

If you or someone you know is abusing alcohol or suffering from the symptoms of stress and depression, the Lawyer Assistance Program (LAP), 800-327-9631, may be able to help. Benefits of LAP include access to trained counselors 24 hours a day, seven days a week. Lawyers can also take advantage of up to six prepaid in-person sessions with a licensed counselor per issue per year. LAP also offers a work/life program to help with issues like childcare, elder care and finances. If financial assistance is of particular concern, certified financial counselors are also available to help.

While millennial lawyers may be at a higher risk for substance abuse, the State Bar of Georgia has recognized the challenges that attorneys, young and old, face and has created programs that provide assistance during hard times. It is important to remember that you are not alone and the YLD is a great place to find support. Visit [www.lawyerslivingwell.org](http://www.lawyerslivingwell.org) for more resources. YLD

# Making the Change from Employee to Employer: Five Tips for Starting a Law Practice



**Kevin Patrick**

After forging ahead with my dream to start a personal injury practice last year, I am offering other young lawyers with similar aspirations five tips to help them along their journey.

## 1. Plan Ahead

Starting a law practice may initially seem like an insurmountable challenge for a younger lawyer, but through preparation, the dream of starting a practice will come to fruition for you. I found it useful to sit down and make a flowchart of the various aspects of my nascent practice. There are the obvious questions like “what type of law,” “where to practice,” and even, “what will be my firm’s name?” Not only do you need to have a clear grasp of these issues, but also pragmatic considerations should drive your focus. For example, you need to look into enrollment periods for your spouse’s or partner’s health insurance plan, as well as when your 401(k) plan will vest at your soon-to-be-previous employer. In sum, you should take the time to develop a clear plan and work hard to stick with it.

## 2. Get Involved

Even with a plan in place, the inevitable question remains: “How will I get cases?” The key to developing a case pipeline is becoming involved in the profession and the community. Other attorneys are one of the best sources of referrals. Instead of only asking them for cases, a valuable way to capitalize on your connections is to hold yourself

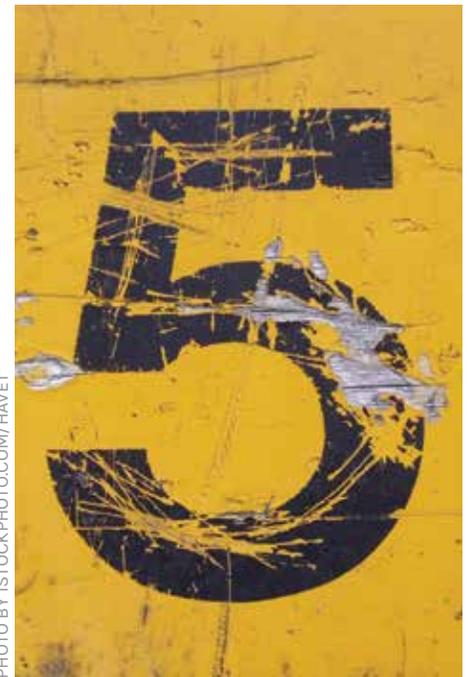


PHOTO BY ISTOCKPHOTO.COM/HAVET

out as an asset to them by offering specialized knowledge about an area of the law, like day care negligence. The general public, as a practical matter, infrequently encounters attorneys. Community events, such as booths at outreach events, are a great way to meet new people. I recommend placing a sign-in sheet or perhaps having a bowl for a raffle, as these are unassuming ways for you to gather contact information.

## 3. Leave on Good Terms

While you may feel a bit awkward over leaving your previous position, you are most likely not the first or the last to leave. You will, however, be remembered by the way you choose to depart. During the weeks and even months leading up to your departure, you should continue doing your job because

► SEE FIVE TIPS, PAGE 6

# Digital Marketing for Law Firms Is Ever-Changing



**Heather  
Riggs**

The worlds of marketing and business development are ever-changing. So much so, that it can be hard to keep up and even harder to effectively adapt your law firm's strategy to incorporate new technologies. To give you (and your social media following!) a boost, here are three new developments in law firm marketing you should know.

## 1. Snapchat

The growth of Snapchat has forced law firms to look closely at its value as a marketing tool. Social media is an effective way to boost the marketing campaigns of law firms, but Snapchat still seems to leave many people scratching their heads.

Snapchat has become a powerful way for law firms to connect directly with the public while growing their brand's online presence. Understanding the app's features and the benefits it can provide your practice will help you decide if it is right for you.

As the number of Snapchat users increases, so does the potential for law firms to embrace the app to market their services.

The app currently has more than 100 million active users each day. Marketers estimate that more than 400 million "snaps" are shared daily, making it one of the most popular platforms among mobile users.

Snapchat has long been considered to be an app for millennials to share messages, photos, and videos. Among Snapchat users, more than 70 percent are between 18 and 34 years old. This may not be the target market for your law firm, but that does not mean that Snapchat can not have a place in your marketing strategy.

The future of Snapchat will see a continued increase in the app's popularity. Professional adults are also starting to use

the app as they become more familiar with its features.

The photos, videos and messages sent on Snapchat have a time limit that presents some applications that may support your law firm's marketing efforts.

Law firms can integrate Snapchat alongside other marketing events. For example, you can share videos of offline events such as conferences and other industry events, making it easy to share valuable content with your audience.

Snapchat's "story" feature allows you to compile multiple videos and photos into one continuous stream. The content in your stories expires after 24 hours. By creating stories around your brand and services, users get a deeper insight into the work you do.

Snapchat is an example of the real-time marketing strategies that are a significant trend in online marketing. Apps like Snapchat allow your audience to become a part of the experiences around your brand.

Your law firm can use Snapchat to provide exclusive content that they may not be able to get through Facebook or Twitter.

You can offer a behind-the-scenes look at your law firm or highlight members of your team, humanize your brand and make your law firm more accessible and trustworthy.

Snapchat helps you connect with other industry leaders, broadens your reach and grows your audience. Like other forms of social media, building relationships is the foundation of your success online.

Lawyers, medical practitioners and other professionals often have to approach social media more cautiously than businesses in other industries. Consider your goals and make sure that they are aligned with the content you share.

There are rules related to professional conduct, which may influence the ways law firms market through social media. It is always a good idea to review the ethics rules

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## ▶ FIVE TIPS, FROM PAGE 5

you still have a duty to them and, most importantly, your clients. It is only fair. An effective way to juggle your dual roles is setting a separate work schedule when you are "off-the-clock." Once you decide to inform your soon-to-be-previous employer about your decision, you should not be afraid to ask individuals that you have formed relationships with for advice and assistance. For example, your secretary may already have a list compiled of your various e-file login names and passwords.

## 4. Hold Yourself Accountable

You are now your boss and are likely wearing some other hats, like the administrative assistant and office manager. To balance all of these new responsibilities, I found it useful to compartmentalize my tasks for the day and week ahead of me. Monday mornings, I like to update my calendar with marketing events; whereas, Friday afternoons are a good time to create journal entries for the week's expenses. Another way to ensure personal accountability is to surround yourself with like-minded individuals. If you know that they will arrive early and stay late, then you will naturally follow their example. At the very core, embrace the challenges, work hard (and smart) because the benefits will flow directly to you.

## 5. Be Yourself and Say "Thank You"

People are going to come to your firm because they know and trust you as an attorney and person. You have made it this far so do not change! When the cases do come your way, a thank you note to the referral source with a small token of appreciation, like a lottery or movie ticket, goes a long way. You instill a sense of commitment to the case and pave the way for future referrals. By far, though, the most important "thank you" should go to your family and friends. They have been by your side throughout this entire process, so always remember to be there to support their dreams in the future.

Please feel free to reach out to me directly at 404-566-8964 or kevin@patricktriallaw.com if I can ever be of any assistance to you and your practice. YLD

# YLD Leadership Academy: Changing Lawyers Into Leaders



**Ashley  
Akins**



**Ron  
Daniels**



**Elissa  
Haynes**

The 2016 YLD Leadership Academy class was comprised of 42 young lawyers from a wide array of practice areas and geographic locations throughout the state. This year's Leadership Academy program consisted of six sessions over a six-month period, with each session organized around a different theme ranging from leadership in the legal profession to diversity.

## Session 1

Session one of the 2016 Leadership Academy kicked off Jan. 8-9 at Lake Lanier Islands in conjunction with the State Bar of Georgia's Midyear Meeting. Over the weekend, the class participated in the YLD General Session and had the opportunity to sit in and observe the Board of Governors Meeting. There was also some time for informal and entertaining improv training to help break the ice and give everyone a chance to get to know each other in a more relaxed and quite comical setting.

## Session 2

The second session focused on lawyers as leaders in state government and was held on Feb. 24. The session began at the Georgia Capitol where participants learned firsthand about the inner workings of the state's legislative process from the State Bar's Director of Governmental Affairs Thomas Worthy and numerous lawyer-legislators, including Rep. Scott Holcomb (D-Atlanta). The class then attended the 28th annual Capitol Leadership Luncheon, where guest speaker Sen. William Cowsert (R-Athens) addressed the Leadership Academy on the importance of a lawyer's presence in the state Legislature. After lunch, the class walked to the State Judicial Complex where Presiding



(L-R) Deepa Subramanian, Mike Rivera and Tiffany Robinson form a cuckoo clock while participating in improv training during Session 1.

Judge John Ellington of the Court of Appeals of Georgia and Justice Keith Blackwell of the Supreme Court of Georgia spoke with the class about their careers. After the concluding remarks, several class members had the honor of being sworn in to both courts.

## Session 3

Session three took place in Augusta during the weekend of March 18-19. The week-

end kicked off with lunch at the childhood home of U.S. Supreme Court Justice Joseph Rucker Lamar and a tour of the boyhood home of President Woodrow Wilson. After lunch, the class headed to the U.S. District Court for the Southern District of Georgia where participants had the opportunity to be sworn in to the court following remarks from Judge James Randal Hall. After the ceremony, the class enjoyed the beautiful

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PHOTO BY ISTOCKPHOTO.COM/CNTHZL



to ensure that you use Snapchat and other platforms accordingly.

Law firms can no longer ignore the growth of Snapchat. Although it may not be right for all businesses, your law firm can implement this tool into your marketing strategy for greater visibility and an increase in the number of clients you serve.

## 2. Live Streaming

Live streaming gives law firms the power to broadcast their messages to a larger audience. But many law firms and attorneys have yet to consider the benefits that live streaming can provide.

Live streaming has a variety of applications that support other marketing efforts. It demonstrates your law firm's willingness to reach out to its audience, share valuable information and engage your target audience.

Simply put, live streaming is too important to ignore. But to get the most out of your efforts, you need to understand how live streaming works and the best ways to implement it into your marketing strategy.

The growth of mobile devices has increased the need for new ways to reach current and prospective clients. Text-based content provides useful information, but images and videos are powerful ways to attract the attention of your audience.

Live video streaming allows you to convey a deeper message, develop a brand voice and connect with viewers in real time, mak-

ing live streaming an essential component in the marketing campaigns of today's law firms.

Live streaming keeps your audience engaged for a longer period than a traditional advertisement or social media post.

There are many ways in which law firms can integrate live streaming into their social media and marketing strategies. The most popular live streaming applications are Periscope and Facebook Live.

Live streaming applications make it easy to broadcast videos using a mobile device. You can also save your live stream for future viewing, letting you create new content to be used alongside other marketing materials and strategies.

The principles that apply to other types of content are also essential to live streaming. Use headlines that promise a benefit to your audience and compel them to watch your broadcast.

Hashtags help you reach your target audience and let you create a discussion online, making it easy to monitor and answer questions during your broadcast.

It is also a good idea to address your viewers by name when answering questions to enhance the level of engagement with your audience.

Live streaming serves many purposes. If your law firm wants to do a Q&A session for viewers, schedule a live stream to address a single topic or general legal questions.

Attorneys, attending and presenting at conferences, use live streaming to share

valuable content that viewers may not otherwise be able to access.

Live streaming a presentation from your law firm positions you as an authority. It builds credibility and strengthens your following over time.

You can share your live streams across all of your marketing channels. Include your broadcasts in your blog and social media posts.

You can repurpose the content of your broadcasts into articles, blog posts and infographics, making it easy to create ongoing content that appeals to different audience members.

Law firms are leveraging live streaming and reaping the rewards. Live streaming creates an immediate connection with your audience, builds credibility and provides valuable feedback for your law firm.

Understanding the benefits of live streaming and knowing how to integrate it into your marketing strategy gives you better results when growing your audience online.

## 3. Social Media Search

To learn more about how social media search features are changing the face (and Facebook!) of law firm marketing, head on over to *The YLD Review* Blog. While you are there, leave a comment about how your law firm marketing has changed since you started practicing. We would love to hear from you. YLD

# The Changing Face of Georgia's ABA Involvement



**Daiquiri Steele**

The Georgia YLD has gained recognition on the national stage throughout its American Bar Association YLD involvement. Each year the Georgia YLD's work with the ABA increases the reach of the state's young lawyers and their influence on the profession. Below is a brief recap of Georgia's ABA highlights from the 2015-16 bar year, contributions Georgia lawyers are making in the current bar year and upcoming opportunities for Georgia young lawyers to get involved.

## 1. Georgia ABA Experiences a Year of Firsts and Wields Influence During the 2015-16 ABA Year

### Georgia YLD Immediate Past President Jack Long Leads the Charge to End Privatized Probation and Creates New ABA Policy

Jack Long authored a resolution that would require the ABA to urge state, local, territorial and tribal legislatures to abolish "offender-funded" systems of probation supervised by private, for-profit companies. Long successfully navigated the resolution through the ABA YLD Assembly, where it passed in February 2016. In August 2016, he advocated for the resolution's passage before the ABA House of Delegates. The House adopted the resolution, and it is now ABA policy.

### ABA YLD's Social Media Presence Grows Under the Leadership of Heather Riggs

For multiple years, Heather Riggs has served as Social Media Coordinator for the ABA YLD. In her role, Riggs has taken the ABA's YLD social media platform to new heights. Under her leadership, the Division's Twit-

ter account has grown to nearly 24,000 followers. Riggs has instituted live tweeting at assembly, increased the division's Facebook following and trained young lawyers nationally on ABA social media policy. #WellDone

### ABA Law Student Division Makes Strides with Fabiani Duarte at the Helm

While in his 3L year at Mercer University School of Law, Fabiani Duarte served as Chair of the ABA Law Student Division (LSD). During his year as chair, Duarte launched a revamped version of the LSD website, hosted several podcasts of interest to young lawyers and created dozens of new initiatives aimed at assisting the nation's law students.



### Georgia YLD Newsletter Wins Best in the Nation

Georgia won first prize for best YLD newsletter... again! When compared with other young lawyer newsletters around the country, the Georgia YLD's newsletter once again took the top prize. Let's give kudos to the 2015-16 Newsletter Editors Yari Lawson and Kevin Patrick.

### Georgia YLD Takes Home Prize in EMBRACING Diversity Challenge

The Georgia YLD won second place in the EMBRACING Diversity Challenge, a nationwide competition that awards young lawyer organizations for the creation and

implementation of programs aimed at promoting diversity in the legal profession. Georgia was awarded the honor for its "Georgia's Journey to Marriage Equality: The Importance of Diversity and Inclusion in the Profession" program hosted in January 2016. Kudos to program co-chairs Amanda Heath, ShaMiracle Johnson and Titus Nichols.

### Erika Robinson Debates Mental Health Resolution at Assembly

ABA YLD Member Service Team Vice-Chair Erika Robinson debated a resolution during assembly at the ABA Annual Meeting in San Francisco, Ca. The resolution was aimed at states that require mandatory CLEs and urged those states to provide optional mental health and substance abuse programming. The inclusion of such programs would fulfill ethics, professional responsibility and professionalism requirements. The resolution passed by an overwhelming margin.

### Georgia Young Lawyers Accompany ABA Immediate Past President to Norcross Boys & Girls Club

ABA Immediate Past President Paulette Brown visited Georgia as part of her Main Street ABA initiative. While in the Peach State, Brown visited a local Boys & Girls Club in Norcross and was accompanied by several Georgia young lawyers.

## 2. Georgia Carries on Its Tradition of Excellence in ABA Leadership

### Linda Klein Sworn In as ABA President

Georgia's own Linda Klein was sworn in as ABA President for the 2016-17 bar year. Klein is a senior managing shareholder at Baker Donelson and was the first woman to serve as president of the State Bar of Georgia. At the annual meeting, Klein an-

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# To Toll or Not to Toll: *Harrison v. McAfee* Has Changed the Application of O.C.G.A. § 9-3-99



**ShaMiracle Johnson**

In Georgia, actions for personal injuries must be brought within two years after the right of action accrues.<sup>1</sup> However, as with most rules, there are exceptions. Over the years, the Georgia General Assembly has enacted statutes which allow for the tolling of the statute of limitations in certain circumstances. O.C.G.A. § 9-3-99 is such a statute and provides:

The running of the period of limitations with respect to any cause of action in tort that may be brought by the victim of an alleged crime which arises out of the facts and circumstances relating to the commission of such alleged crime committed in this state shall be tolled from the date of the commission of the alleged crime or the act giving rise to such action in tort until the prosecution of such crime or act has become final or otherwise terminated, provided that such time does not exceed six years, except as otherwise provided in Code Section 9-3-33.1.<sup>2</sup>

For years, O.C.G.A. § 9-3-99 was interpreted to only toll the statute of limitation for “any cause of action in tort brought by the victim of an alleged crime while the prosecution of the defendant is pending.”<sup>3</sup> In cases where the action was brought against a joint tortfeasor who was not being prosecuted for the alleged crime, courts found that the statute of limitation was not tolled by O.C.G.A. § 9-3-99.<sup>4</sup> However, recently, these cases were overruled in *Harrison v. McAfee*, where the Court of Appeals of Georgia found that

O.C.G.A. § 9-3-99 applies “regardless of whether the defendant in the case has been accused of committing the crime from which the cause of action arises.”<sup>5</sup> This article addresses the historical application of O.C.G.A. § 9-3-99 and the significant impact that the *Harrison v. McAfee* decision may have on personal injury actions brought by crime victims.



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## I. Not to Toll: The Interpretation of O.C.G.A. § 9-3-99 Prior to *Harrison v. McAfee*

Prior to *Harrison*, the Court of Appeals of Georgia found that the tolling provisions of O.C.G.A. § 9-3-99 only applied to a crime victim’s claims against the person accused of committing the crime that forms the basis of the lawsuit.<sup>6</sup> As early as 2009, the Court of Appeals of Georgia in *Valades v.*

*Uslu* rejected the plaintiff’s argument that O.C.G.A. § 9-3-99 tolled the time for filing claims against a county and its police officers. The *Valades* court reasoned that “the statute’s plain language tolls the statute of limitation for any cause of action in tort brought ‘by the victim of the alleged crime’ while the prosecution of the defendant is pending, for a period not to exceed six years.”<sup>7</sup> The potential defendant in the *Valades* case was not prosecuted for any crime related to the incident that formed the basis of the suit. As such, the *Valades* court found that O.C.G.A. § 9-3-99 did not toll the limitations period. In reviewing the *Valades* ruling, the Court of Appeals in *Harrison* noted that the *Valades* court did not make clear the basis of the plaintiffs’ position that they were “victims” within the meaning of O.C.G.A. § 9-3-99.<sup>8</sup> Nor did the court “identify any language or statute, plain or otherwise, that limited its scope to claims against a prosecuted defendant.”<sup>9</sup>

In 2010, the Court of Appeals of Georgia followed the *Valades* ruling in *Columbia Cty v. Branton*, finding that O.C.G.A. § 9-3-99 did not toll the plaintiff’s time for filing an ante litem notice against a county and its sheriff.<sup>10</sup> In *Branton*, the plaintiff’s wife was killed by a motorist who was trying to elude a sheriff’s deputy. As a result of the accident, the motorist was prosecuted for felony murder of the plaintiff’s wife. While the deputy was not prosecuted for a crime, the plaintiff sued the county and the sheriff based on evidence that the sheriff pursued the motorist at a high rate of speed. In rejecting the plaintiff’s argument that O.C.G.A. § 9-3-99 tolled the time for filing the ante litem notice, the court quoted

*Valades* holding that “[b]ecause the county defendants were not criminal defendants in a prior prosecution, O.C.G.A. § 9-3-99 does not toll the time for filing the ante litem notice[.]”<sup>11</sup>

A similar result was reached in *Mays v. Target Corp.*, where the Court of Appeals reaffirmed that O.C.G.A. § 9-3-99 only “tolls the limitations period for suits brought against persons accused of crimes which the plaintiff is a victim.”<sup>12</sup> Unlike its predecessors, *Valades* and *Branton*, the *Mays* case did not involve a suit against a governmental entity or its employees. Rather, the plaintiff brought suit against the retailer that employed the defendant who pled guilty to a crime for taking photographs of the plaintiff while she was changing in the retailer’s dressing room. The *Mays* court found that O.C.G.A. § 9-3-99 was ambiguous “as to whether it tolls the limitations period for a crime victim’s cause of action against the person accused of the crime only.”<sup>13</sup> Ultimately, the court looked to the caption of the enacting legislation which provided that the purpose of the legislation was to “provide for a statute of repose in certain tort actions brought by victims of crimes against the person accused of such crimes.”<sup>14</sup> In doing so, the *Mays* court found that the tolling provisions of O.C.G.A. § 9-3-99 did not extend to individuals or entities who were not accused of committing the crime.

## II. To Toll: *Harrison v. McAfee* and Its Application of the Plain Language of O.C.G.A. § 9-3-99

As fate would have it, once the law appeared “settled” on the application of O.C.G.A. § 9-3-99, the Court of Appeals of Georgia revisited the statute and its interpretation in *Harrison*. Perhaps one of the most seminal personal injury decisions issued in 2016, the *Harrison* court applied the plain language of O.C.G.A. § 9-3-99 to find that the statute of limitations is “tolled regardless of whether the defendant in the case has been accused of committing the crime from which the cause of action arises.”<sup>15</sup> In *Harrison*, the plaintiff was a victim of a shooting, while a patron of a restaurant and bar. The shooter fled the scene and at the time

## We must presume the General Assembly meant what it said and said what it meant.

of the plaintiff filing his lawsuit the shooter had not been identified, arrested or prosecuted. Two years and two months after the shooting occurred, the plaintiff filed suit against the restaurant owner, alleging that he was negligent in maintaining the premises. Upon motion of the defendants, the trial court rejected the plaintiff’s arguments that O.C.G.A. § 9-3-99 tolled the limitations period and dismissed the suit as time-barred under O.C.G.A. § 9-3-33.

In reversing the trial court’s ruling, the Court of Appeals of Georgia performed a thorough analysis of its previous rulings and the plain language of O.C.G.A. § 9-3-99. In construing the meaning of the statute, the court relied upon the age old adage that “we must presume that the General Assembly meant what it said and said what it meant.”<sup>16</sup> In applying the most plain and natural reading to the text of O.C.G.A. § 9-3-99, the court employed the following reasoning:

O.C.G.A. § 9-3-99 provides for the tolling as to “any cause of action in tort” brought by a crime victim that “arises out of the facts and circumstances relating to the commission of such alleged crime.” In its ordinary usage, “any” refers to “one or some indiscriminately of whatever kind,” “one, some, or all indiscriminately of whatever quantity,” and “unmeasured or unlimited in amount, number or extent.” Webster’s New Collegiate Dictionary 93 (9th ed. 1991). So the statute applies to any cause of action in tort, without limitation, so long as that cause of action is brought by a crime victim and “arises of the facts and circumstances relating to the commission of such alleged crime.” [...] “[A]ny cause of action in tort” that “arises out of the facts and circumstances relating to the commission of such alleged crime” means precisely that; there is no qualifying or limiting language that narrows the scope of the statute based on the identity of the civil defendant.<sup>17</sup>

In one decision, the Court of Appeals of Georgia overruled seven years of precedent, which interpreted O.C.G.A. § 9-3-99 as only applying to the defendant who committed the crime. In applying the plain meaning of the statute, the Court of Appeals of Georgia removed the limitations that were imposed in previous decisions. Instead of limiting the application of the statute to the individual who committed the alleged crime, the *Harrison* court found that O.C.G.A. § 9-3-99 is not ambiguous. Rather, it is unlimited in its reach to potential civil defendants when a crime victim alleges any cause of action for personal injury. Realizing the magnitude of such a decision, the court acknowledged that the *Harrison* holding “will have a significant impact on personal injury actions” that are brought by crime victims.<sup>18</sup> YLD

### Endnotes

1. O.C.G.A. § 9-3-33.
2. O.C.G.A. § 9-3-99.
3. *Mays v. Target Corp.*, 332 Ga. App. 44, 46, 743 S.E.2d 603 (2013).
4. *See Valdes v. Uslu*, 301 Ga. App. 885, 888-89, 689 S.E.2d 338 (2009); *Columbia Cty v. Branton*, 304 Ga. App. 149, 152-53, 695 S.E.2d 674 (2010); *Mays v. Target Corp.*, 332 Ga. App. 44 (2013).
5. *Harrison v. McAfee*, A16A0648
6. *Id.*
7. *Valades v. Uslu*, 301 Ga. App. at 888-89 (2009).
8. *Id.*
9. *Id.*
10. *Columbia Cty v. Branton*, 304 Ga. App. at 152-53 (2010).
11. *Id.*
12. *Mays v. Target Corp.*, 332 Ga. App. at 46 (2013).
13. *Id.*
14. *Id.*
15. *Harrison v. McAfee*, A16A0648
16. *Id.*
17. *Id.*
18. *Id.*

# A Change in Status: Three Things to Know Before Accepting the Client



**Titus  
Nichols**

Imagine this typical scenario: You are in your office, hard at work, alone and unafraid, fighting for justice . . . Or maybe you are just playing Pokémon GO! Your telephone lights up with a page from your assistant. She tells you that there is a potential client in the front lobby who is interested in hiring you for a new case. Part of you is excited, but another part of you (the smarter part) wonders if this “new” client is going to become the “annoying” or perhaps the “deadbeat” client. Like all things in our profession, it helps to do your homework first.

## 1. Define the Scope of Your Engagement

Many clients believe, “once my lawyer, *always* my lawyer.” The endearing sentiment can lead to repeat business; however, it can also lead to misunderstandings where the client believes that you represent them for anything and everything that happens in their life going forward. Defining the scope of your attorney-client relationship will let the client know that just because you repre-

sent her in her personal injury case does not mean you represent her against her landlord who is trying to evict her. Likewise, if you have been hired to represent him for a possession case, you do not represent him for the subsequent bank robbery case that he was charged with several days later. Knowing the difference is especially important when you are working for a fixed fee. While the client may seek to expand the scope, it is your job to make sure that the scope is appropriately and narrowly defined.

## 2. Get Paid Up Front

. . . or at least as much as you can. Clients typically have good intentions when they meet with a lawyer. Unfortunately, clients are typically in the middle of a life crisis (perhaps of their own creation), and they might not have access to a considerable amount of money. While lawyer fees may vary depending on the complexity of the case, it is your responsibility to get paid for the work you do. Countless lawyers have heard their clients say, “I’ll pay X now, but then I’ll be back next week to pay the rest.” Unfortunately, next week turns into next month. Before you realize it, you have done a significant amount of work for an insignificant amount of money. Whether you decide to use a fixed-fee system or bill by

the hour, it is incumbent upon you that you do not “accidentally” work for free.

## 3. Firing Works Both Ways

It is never a pleasant event, but sometimes it has to be done. The attorney-client relationship only works when both parties respect and communicate with each other. The breakdown in either category can have disastrous effects on the client’s case and the lawyer’s career. (Pro tip: If you ever receive a letter from the State Bar of Georgia, you better *drop everything* you are doing and respond.) If you have to terminate the business relationship, do so before the relationship turns hostile. Unless the client has new counsel, you will typically need the judge’s permission to withdraw. However, you can only withdraw if there is sufficient time prior to trial and the client will not be prejudiced by your withdrawal. See Rule 1.16 of the Georgia Rules of Professional Conduct for further guidance on terminating representation.

As lawyers, our primary mission is to seek justice and zealously advocate on behalf of our clients. However, we also have to remember to run our practices as a serious business. If the client trusts and believes in you, then they will have no problem agreeing to the terms that you have thoroughly laid out and explained. YLD

# NEED HELP?

Let CAP lend you a hand.

The State Bar’s **Consumer Assistance Program (CAP)** helps people with questions or problems with Georgia lawyers. CAP also helps lawyers by providing courtesy calls, faxes or letters when dissatisfied clients contact the program. Most problems with clients can be prevented by returning calls promptly, keeping clients informed about the status of their cases, explaining billing practices, meeting deadlines and managing a caseload efficiently.

[www.gabar.org](http://www.gabar.org)

Call the State Bar’s Consumer Assistance Program at  
**404-527-8759** or  
**800-334-6865**



► **ACADEMY, FROM PAGE 7**

spring weather during a boat tour of the Augusta Canal while attorneys from the Georgia Legal Services Program spoke on their mission and the various opportunities available to young lawyers. Day one ended with a fantastic dinner at Sheehan's Irish Pub and a gathering back at the Partridge Inn with the Young Lawyers of Augusta. The next morning, the class received training from Katie Willett and Brandon Elijah before participating in the First Responders Wills Clinic where participants assisted 30 first responders and their spouses from the Richmond and Columbia Sheriff's Office in the preparation and execution of important estate planning documents.

**Session 4**

Session four, which focused on developing leadership skills, was held on April 29 at Mercer University Walter F. George School of Law. Hon. Larry Walker and Senior Judge W. Louis Sands began the session with a few thoughts on lawyers as leaders. After lunch, the class participated in a panel discussion on leadership with Bibb County Superior Court Judge Verda Colvin, Houston County Superior Court Judge Katherine Lumsden and Judge Lamar W. Sizemore. The session concluded with an interactive and creative leadership training session in which participants split off into groups and acted out hypothetical issues lawyers may encounter and how leaders should handle such issues.

**Session 5**

Session five took place on May 13 and began at the U.S. District Court for the Northern District of Georgia with a panel discussion on leadership and lunch with the Northern District judges led by Chief U.S. District Judge Thomas W. Thrash Jr. Members of the Leadership Academy then had the opportunity to be sworn in to the Northern District by Judge Leigh Martin May and received an exclusive behind the scenes tour of Judge May's chambers. That afternoon, the class headed to the Bar Center where Erica V. Mason, a partner at Constangy,

## Leadership Academy Testimonials

"Beyond its focus on leadership and educating young lawyers on where leadership is valued in our profession, the Leadership Academy remarkably assembles the best and most diverse young legal minds in our state. By far, I am most fond of the professional relationships and friendships that I developed in my Leadership Academy class. One day soon, I will be supporting the next candidate for governor of Georgia, and I have no doubt that he or she will have been a graduate of the Leadership Academy. I never stop recruiting young lawyers to apply for the Leadership Academy because I believe that our profession needs responsible, seasoned leaders. I strongly believe that no effort prepares our profession's leaders better than the Leadership Academy."

*Yari Lawson, Class of 2010*

"Leadership Academy was an eye-opening experience for me because it introduced me to how our State Bar operates as an organization and the various ways that we as young lawyers can get involved. In particular, our Leadership Academy sessions allowed me to have one-on-one conversations with various leaders of the "Big Bar" in a relaxed atmosphere. The greatest asset I gained from Leadership Academy was the relationships that I was able to form with my classmates and other leaders within the Bar."

*Titus Nichols, Class of 2013*

"The YLD Leadership Academy is the single most useful Bar activity in which a young lawyer can become involved. Over the course of a year, you will not only learn more about the various ways the State Bar is working to advance our profession in Georgia, but you will become friends with 50 other talented young lawyers who comprise your class. I cannot recommend this program highly enough to any young lawyer who is interested in becoming involved

in the State Bar, expanding their network and developing a service mentality towards our profession."

*Win Cook, Class of 2014*

"Leadership Academy was one of the most valuable networking experiences I have had. I now have a much vaster circle of contacts throughout the state who also became my friends. My favorite experience was attending the Eleventh Circuit conference and having the opportunity not only to have intimate conversations with federal judges, but also get sworn in to the U.S. Supreme Court by Justice Thomas. I would encourage all young lawyers to apply for Leadership Academy who are looking for a way to give back to the profession, meet other ambitious young lawyers and have a good time."

*Katie Dod, Class of 2013*

"Leadership Academy provided invaluable experience to me as a young lawyer. It connected me with various young lawyers across Georgia, who are now some of my closest friends; it facilitated civic engagement activities through the Wills Clinic, which was by far the most fulfilling experience; and it catapulted my involvement with the YLD where I now serve as the YLD co-chair to the Women in the Profession Committee. I highly encourage all young lawyers to get involved and apply to the Leadership Academy."

*Baylie Fry, Class of 2016*

"Hands down the best law-related experience I had after law school. No program other than the Leadership Academy provides you with the same keen insight to our profession and exposes you to those who influence it. Every young lawyer who cares about the future of our profession, and the Bar in particular, needs to participate in the Leadership Academy."

*Darrell Sutton, Class of 2007*

► **ABA, FROM PAGE 9**

nounced that during her tenure she will mobilize lawyers to provide enhanced legal services for the nation's veterans.

**Daiquiri Steele to Serve as ABA YLD Diversity Director**

Primary responsibility for the ABA YLD's diversity and inclusion initiatives this year will rest with Daiquiri Steele. Among these initiatives are What Do Lawyers Do? 2.0, a program aimed at informing undergraduate students of the various facets of the legal profession, the EMBRACING Diversity Challenge, the YLD Scholars Program and the Diversity Dialogue.

**Kerry Nicholson Selected as a 2016-17 ABA YLD Scholar**

Kerry Nicholson was one of 16 lawyers selected as an ABA YLD Scholar from a nationwide pool of applicants. Nicholson will join one committee and one board/team as part of her scholarship. She also serves as the co-chair of the Georgia YLD Public Interest Internship Committee.

**LaKeisha Randall Tasked with Leading ABA YLD #Fit2Practice Initiative**

In her capacity as vice-coordinator of the ABA YLD Member Service Project team, LaKeisha Randall will lead the ABA YLD #Fit2Practice initiative, which will focus on wellness and work/life balance and management.

**Roberto "Shawn" Hoover Will Co-Chair the ABA YLD's Government, Military and Public Sector Lawyers Committee**

Conflict Defender Shawn Hoover has been appointed to serve as co-chair of the Government, Military and Public Sector Lawyers Committee. The committee consists of a diverse group of attorneys from all three branches and all levels of government, as well as active duty military lawyers, active duty reservists, national guardsmen, civilians who represent the armed forces and public sector attorneys.

**Savannah Steele to Serve on Public Service Team**

Savannah Steele will serve as a member of the Public Service Team. The team's focus this year is on Access to Education.

**Sydney Jakes Tapped to Help Lead New Disability Rights Committee**

The newest ABA YLD committee, the Disability Rights Committee, will have the assistance of Sydney Jakes in its inaugural year. Jakes has been appointed to serve as vice chair of the committee, as well as the ABA YLD liaison to the Commission on Disability Rights.

**3. The ABA Still Needs More Involvement from Georgia's Young Lawyers. Get Involved Today!**

**EMBRACING Diversity Challenge**

The EMBRACING Diversity Challenge recognizes and awards top young lawyer organization programs that increase diversity in the legal profession. EMBRACING is an acronym, which means:

- Expose
- Motivate
- Broaden
- Recognize
- Advocate
- Communicate
- Include
- Network
- Grow

Any proposed programs should embrace and incorporate the acronym. The top programs developed by YLD affiliates will be showcased at the 2017 YLD Spring Conference and will receive a sub-grant to expand their program. The deadline for contest entry is Nov. 1. For more information, please visit the American Bar Association's website, [www.americanbar.org](http://www.americanbar.org).

**2016 ABA YLD Fall Conference in Detroit**

Registration is open for the 2016 ABA YLD Fall Conference Oct. 20-22 in Detroit, Mich. In addition to outstanding continuing legal education programs, professional development opportunities and leadership skills courses will be offered. The conference will feature a health and wellness track focused on improving the mental and physical well-being of young professionals. For more information, or to register, visit the American Bar Association's website. <sup>YLD</sup>

**State Bar of Georgia  
Young Lawyers Division**

**Join a YLD Committee!**

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- Inclusion in the Profession
- Intellectual Property Law
- Intrastate Moot Court Competition
- Judicial Law Clerk
- Juvenile Law
- Labor & Employment Law
- Law School Outreach
- Legal Food Frenzy
- Legislative Affairs
- Litigation
- National Moot Court Competition
- Public Interest Internship Program
- Real Estate Law
- Signature Fundraiser
- Solo/Small Firm
- William W. Daniel National Invitational Mock Trial
- Women in the Profession

*The Service Arm of the Bar*

► **ACADEMY, FROM PAGE 13**

Brooks, Smith & Prophete, LLP, led a presentation on diversity in the legal profession. The day concluded with a program on leadership and lawyer marketing presented by Heather Riggs.

**Session 6**

The final session and graduation was held June 17-19 at the Omni Amelia Island Plantation Resort in conjunction with the State Bar's Annual Meeting. Graduation began with a luncheon featuring keynote speaker and renowned personal injury attorney William S. Stone who spoke about his professional and leadership experience throughout the years. Program co-chair Anne Kaufold-Wiggins then presented each Leadership Academy participant with a commemorative plaque.

The 2016 Leadership Academy class wants to extend their gratitude and thanks to program co-chairs Anne Kaufold-Wiggins, Sarah Kjellin and Ron Daniels, as well as the 2015-16 YLD Executive Committee, without whom this year's program would not have been possible. Each and every one of you worked effortlessly to make this program a success and we sincerely appreciate your time and commitment.

If you are interested in applying for the 2017 Leadership Academy, please visit [www.georgiayld.org](http://www.georgiayld.org). Applications will be available on the website in October. Check out a few testimonials on page 13 from Leadership Academy alumni to find out why you should apply! <sup>YLD</sup>



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Then-YLD President-Elect Jennifer Mock (second from left), then-YLD President Jack Long (third from left), members of the 2015 Leadership Academy and others pose with Gov. Nathan Deal (front, center) on the steps inside the Capitol during Session 2 on Feb. 24.



PHOTO BY DANIELLE BUTEAU

(L-R) Mark Weaver, Sarah Yaeger and Tiffany Robinson don judicial robes and sit at the bench at the Court of Appeals of Georgia during Session 2.



PHOTO BY DANIELLE BUTEAU

(L-R) Karin Vinson, Ichechi Alikor, Baylie Fry and Aslean Zachary are sworn in to the Court of Appeals of Georgia and the Supreme Court of Georgia.



ShaMiracle Johnson, Editor  
Heather Riggs, Editor  
The YLD Review  
104 Marietta St. NW, Suite 100  
Atlanta, GA 30303

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