

GEORGIA BAR

# JOURNAL

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Recognizing the  
Value of Mentoring

No Vacation:  
Top Georgia Criminal  
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A Conversation  
with Gov. Nathan Deal

The Convocation  
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**GBJ** | *The Features*

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- 26** Embrace Failure:  
Get A Good Result in Mediation  
**DAVID ZACKS**
- 28** 'Tis the Season:  
Recognizing the Value of Mentoring  
**MICHELLE E. WEST**
- 32** No Vacation: Top Georgia Criminal  
Defense Attorneys Travel to Tbilisi  
**ROBERT G. "BOB" RUBIN, FRANKLIN J. HOGUE,  
LAURA D. HOGUE AND ANGIE COGGINS**
- 36** 2016 Legislative Preview  
**CHRISTINE BUTCHER**
- 38** Stewart County Courthouse  
at Lumpkin: The Grand Old  
Courthouses of Georgia  
**WILBER W. CALDWELL**



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# The Legal

**WHAT DUTY OF  
CARE DOES A  
HOMEOWNER  
ASSOCIATION OWE  
ITS MEMBERS? / 18**

Julie Liberman



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**GBJ** | *In Every Issue*

- 5 Editor’s Letter
- 6 From the President
- 10 From the YLD President
- 14 From the Executive Director
- 44 Bench and Bar
- 50 Attorney Discipline
- 54 Legal Tech Tips
- 65 Know Your Bar
- 76 In Memoriam
- 79 CLE Calendar
- 82 Notice
- 83 Classified Resources
- 84 Advertisers Index

**40 Georgia Lawyer Spotlight**  
 A Conversation with  
 Gov. Nathan Deal  
*Jacob E. Daly*

**49 Office of the General Counsel**  
 Prosecutor by Day,  
 Defender by Night  
*Paula Frederick*

**56 Law Practice Management**  
 Ten Tips to Build a Strong  
 Bridge: How to Successfully Say  
 “Goodbye” to Your Old Firm  
*Natalie R. Kelly*

**58 South Georgia Office**  
 Be Fruitful and Multiply:  
 The Tifton Circuit Bar  
 Complies with Five Sets  
 of Twins  
*Bonne Davis Cella*

**62 Pro Bono**  
 Passing the Baton  
*Michael Monahan*

**63 Pro Bono Star Story**  
 Patricia Fortune Ammari  
*Michael Monahan*

**64 Section News**  
 A Look at Recent Section Events  
*Derrick W. Stanley*

**66 Member Benefits**  
 Online Vendor Directory  
*Sheila Baldwin*

**68 Writing Matters**  
 Legal-blogging Lessons  
 from Georgia Lawyers  
*Jennifer Murphy Romig*

**72 Professionalism Page**  
 The Convocation on  
 Professionalism: The New  
 Normal for Delivery  
 of Legal Services  
*Avarita L. Hanson*

# The December Issue

**This issue focuses, in part, on the Bar's** purposes: "The purposes of the State Bar of Georgia shall be: to foster among the members of the bar of this State the principles of duty and service to the public; to improve the administration of justice; and to advance the science of law."

In the From the President and the From the YLD President columns, Bar officers answer the questions "How do you carry out the mission of the Bar? What kind of footprint do you hope to leave?" The *Journal* invites Bar members to ask themselves the same questions.

In the From the President column, State Bar President Pat O'Connor examines steps the Bar has taken, as of the halfway point of the fiscal year, to carry out the Bar's mission. The president highlights three steps: the Bar's PSA/Media Campaign to promote stories of people positively affected by Georgia lawyers; assisting those mistakenly informed by the Board of Bar Examiners that they had failed the Georgia bar exam; and the Aging Lawyers Task Force. The PSA/Media Campaign discussed in this column is also featured in this issue's Know Your Bar column.

YLD President Jennifer C. Mock, in her From the YLD President column, reflects on professionalism's place in the practice of

law, as well as ways the Bar emphasizes the importance of professionalism.

The Pro Bono Star Story features Patricia Fortune Ammari, a long time Atlanta Legal Aid volunteer, who is leaving her footprint by serving senior citizens throughout the state of Georgia with their civil legal needs.

The Georgia Lawyer Spotlight column continues its series of interviews with influential Bar members. For this issue, *Journal* Editorial Board member Jacob Daly sat down with Gov. Nathan Deal and discussed, in part, his priorities for the upcoming legislative session, the declining number of lawyer-legislators and the importance of criminal justice reform.

This issue's legal article "What Duty of Care Does a Homeowner Association Owe its Members?" answers a question on everyone's mind while also offering analysis and strategies to ameliorate an otherwise uphill battle for plaintiff-homeowners. Don't let the ostensible narrow focus fool you—the article examines circumstances under which fiduciary duties arise, which is a topic every attorney should be familiar with.

Thank you for reading, and as always, please let us know what you think. ●



**TIM COLLETTI**

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## PATRICK T. O'CONNOR

President  
State Bar of Georgia  
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# What Kind of Footprint Will We Leave?

**The official mission of the State Bar of Georgia** is “to foster among the members of the Bar of this state the principles of duty and service to the public; to improve the administration of justice; and to advance the science of law.”

Having reached the halfway point of our 2016-17 fiscal year, I find this an appropriate time to reflect on how we are living up to that mission, what kind of differences we are making in our profession and in the administration of justice, and what kind of footprint and legacy we will leave for future generations.

In my view, the State Bar of Georgia is successfully carrying out its mission. To illustrate the point, I will report on three areas that have had a significant and positive impact this year and I believe will continue to do so in the years to come.

### PSA/Media Campaign

At the request of the State Bar leadership, the Communications/Cornerstones of Freedom Committee, co-chaired by Sonjui Kumar and Peter Canfield, along with the State Bar Communications Department staff, engaged a Georgia-based media consulting firm to develop a series of public service announcements (PSAs) to promote real-life stories of people whose lives have been positively affected by the work of Georgia lawyers.

Earlier this year, Bar members were asked to share appropriate case histories for use in these ads. Out of more than 50 that were submitted, the committee selected three stories to launch the campaign. The tagline for the campaign is “Who needs lawyers? We do.”

Instead of focusing on lawyers talking about themselves or their personal accomplishments, these stories are told from the perspective of the client, which is a more effective means of conveying how real people have been helped and how their lives have been changed for the better through the actions of their lawyers. Featured in the first three messages are the stories of:

- Queenyona Boyd, the new mother of a four-day-old baby boy. Queenyona was wrongly accused of child abuse. Having her child taken away four days after the child’s birth left Queenyona, already the mother of a healthy, happy young daughter, feeling helpless. “It was like having your child kidnapped,” Queenyona said. Ironically, Queenyona had been active for years in Georgia’s child welfare community fighting for the rights of young people in foster care. Queenyona and her husband were represented by Atlanta attorney Diana Johnson, who was able to prove the parents’ innocence and arrange the

return of their son. While an eternity to the parents, the baby boy came home in just 27 days. “My lawyer put a lot of time into making sure I got my baby back,” a relieved Queenyona said. “I credit my lawyer for that.”

- Murray English, a decorated Vietnam veteran who served 18 years in the military and worked 25 years in the construction industry before circumstances beyond his control left him homeless and with no benefits for five long years. Trusted relatives pilfered his savings. Fortunately, Jeff Nix of Troutman Sanders LLP took a personal interest in Murray’s case and cut through the red tape and bureaucracy, restoring Murray’s identity and veteran’s benefits. As Murray put it, “My lawyer got everything back for me. Got me my name back. Things I had spent years trying to accomplish, he was able to accomplish in less than a week. I was homeless, but now I have a home—thanks to my lawyer.”
- Jarryd Wallace, an athlete who had been a Georgia state champion in two middle-distance track events as a high school junior and was heavily recruited by Division I colleges. When he was 19, a surgery to correct Exertional Compartment Syndrome went wrong, and a year later, Jarryd made the difficult decision to have his leg amputated. His lawyer, Jim Matthews of Blasingame, Burch, Garrard and Ashley PC in Athens, was able to uncover what had gone wrong, negotiate a monetary settlement, help find expert doctors to perform the amputation, and get Jarryd fitted with a prosthetic blade—enabling Jarryd to compete again, this time as a Paralympian. Jarryd set three world records at the World Championships in 2013 and was a member of the U.S. Paralympic team in 2012 and 2016. Jarryd, now 26, said, “My lawyer helped make my second run at life possible.”

These real-life stories illustrate the work that lawyers do all over Georgia

## OFFICERS’ BLOCK

For this issue of the Georgia Bar Journal, we asked our Bar officers, “How do you carry out the mission of the Bar? What kind of footprint do you hope to leave?”



**PATRICK T. O’CONNOR**

*President*

Through service, I make an effort to carry out the mission of the Bar by seeking to give back to a profession that has given so much to me. In my practice, I try to be more concerned with the interests of my client than the amount of my fee.



**KENNETH B. “KEN” HODGES III**

*Treasurer*

Georgia is often divided into two regions—Atlanta and everywhere else. Working in Albany and Atlanta and practicing all over this great state, allows me to see and hear the concerns of all Georgia lawyers so that I can effectively address issues that are raised with a global and balanced perspective.



**DARRELL L. SUTTON**

*Secretary*

By remaining a good steward of the Bar and its resources and ensuring both work for the benefit of all Georgia lawyers, I strive to carry out our mission. This includes ensuring that the Bar, more than anything else and in all that it does, remains dedicated to the entirety of our profession by serving every Georgia lawyer alike.



**ROBERT J. “BOB” KAUFFMAN**

*Immediate Past President*

During my year as president, my goal was to have the Bar provide greater value to its members. To that end, I had three goals: to complete the strategic plan; to initiate a review of our discipline process; and to create a wellness taskforce. I am confident these efforts, with the support of the staff we have at the Bar, and the service provided by the Board of Governors, will continue the good works of the Bar in fulfilling its mission.



(Left to right) Queenyona and A.J. Boyd with attorney Diana Johnson.

every single day. They help remind us of why we became lawyers in the first place, and how blessed we are to have the ability to help others resolve difficult situations. For many, lawyers are their best and sometimes only hope for justice and fairness.

The PSAs, expertly produced by the Dalton Agency, will be distributed for a reasonable amount from our Cornerstones of Freedom program budget this month. To get the most bang for our buck, they will also be shared on multiple social media platforms. All Bar members can further assist in getting these messages out to the public through your social networks, or by sponsoring their placement on local TV stations or billboards.

If you have not yet seen the PSAs, you can find them at [www.ganeedslawyers.org](http://www.ganeedslawyers.org). You can also submit story ideas to be featured in future announcements. Contact Sarah Coole, director of communications, at 404-527-8791 or [sarahc@gabar.org](mailto:sarahc@gabar.org), for more information.

### Assisting New Lawyers

As most of you learned in September through media reports or other sources, the Georgia Board of Bar Examiners determined that errors in the scoring of the July 2015 and February 2016 bar

examinations resulted in 90 applicants being mistakenly notified that they had failed the bar exam when, in fact, they had passed.

The Office of Bar Admissions and Board of Bar Examiners are independent of the State Bar of Georgia, and the State Bar does not administer the bar exam or manage the test results. Nevertheless, through our Membership Department, we quickly took additional steps to assist the exam takers as they began their law practices.

John Sammon of the Board of Bar Examiners called each of the 90 test takers personally. On behalf of the Bar, I sent a personal letter to each of the newly admitted Bar members, highlighting State Bar programs and resources aimed at helping them begin their careers in the legal profession, including:

- The Transition into Law Practice Program, which provides volunteer mentors to newly admitted lawyers who are setting up a full-time solo practice and varied career programming and networking opportunities for beginning lawyers in all practice settings.
- Automatic membership in our Young Lawyers Division (YLD) upon Bar enrollment. Our YLD leaders made themselves available for peer-to-peer

support for the newly admitted lawyers who wished to speak with them.

- The Law Practice Management Program, an invaluable resource committed to marshaling the resources we have available to ensure that each new lawyer is given every opportunity to succeed. This program provides a wealth of information regarding all practice management needs, including assistance for those thinking about starting their own practices.
- Within three weeks of the scoring errors being discovered, the State Bar hosted a mass swearing-in ceremony at the Bar Center, conducted by the Superior Court of Fulton County. Our Membership Department staff was on hand to enroll new lawyers, as were our YLD officers, other Bar leaders and Transition into Law Practice Program and Law Practice Management Program staff to network and provide resources during a reception following the swearing-in ceremony.

I would like to again welcome these new lawyers into the practice of law and thank all Bar members and staff who stepped up to the plate to assist our new colleagues in the wake of such unusual, unfortunate and unexpected circumstances.



(Left to right) Murray English with attorney Jeff Nix.



(Left to right) Attorney Jim Matthews with Jarryd Wallace.

### Aging Lawyers Task Force

The State Bar has dozens of standing and special committees. The work of these committees, while conducted mostly behind the scenes, is vital in addressing major issues facing the legal profession. One of these special committees is our Aging Lawyers Task Force, co-chaired by Bill Gentry, board of governors member from Marietta, and State Bar Secretary Darrell Sutton. The task force is studying and preparing recommendations to respond to and assist lawyers who are experiencing age-related issues, including age-related cognitive impairment.

The “graying” of the baby boomer generation is having an impact on many professions, including the legal profession, nationally and in our state. The median age of lawyers in the United States has risen steadily from 39 in 1980 to 49 in 2005. In Georgia, more than one-third of all active Bar members are 55 or older, and approximately 12 percent are 65 and older.

“The unavoidable conclusion is that as lawyers age and remain in practice, statistically a greater number will experience cognitive impairments, as well as significant medical problems, such as heart disease and strokes,” according to the Second Joint Committee on Aging Lawyers of the National Organization of Bar Counsel, the Association of Professional

Responsibility Lawyers and the American Bar Association’s Commission on Lawyer Assistance Programs.

In addressing the issue, the task force is seeking to find the proper balance between the growing number of lawyers with age-related challenges who are insufficiently prepared for transitioning away from their practices and the rights of unimpaired older lawyers to continue applying their experience, insight and wisdom in their practices, to the benefit of themselves, younger lawyers and the public.

The task force will ultimately propose solutions and best practices on age-related issues for the attorney grievance committees, the courts and the State Bar. It will also coordinate with other Bar committees to develop resources for attorneys about other services available, succession and retirement planning, cognitive issues, educational programs, and other practice management tools and local resources.

Immediate-term recommendations now under consideration include the development of a Senior Lawyers Division; development of an alternative membership classification for cognitively impaired lawyers; and lowering the age and practice requirements for emeritus membership status.

Short-term proposals to be considered for the next one or two Bar years include

developing an education platform covering a range of issues from signs and symptoms of cognitive impairment to financial planning for retirement; a non-disciplinary track for lawyers with cognitive issues; resources for lawyer succession planning; engaging stakeholders to further identify issues, resources and recommendations; providing career and community opportunities for personal fulfillment, especially pro bono work and access to justice issues; and coordinating with the YLD’s partnering project for new and older lawyers.

Long-term recommendations to be considered for the next several Bar years call for an enhanced education platform to help later generations of lawyers plan for a rewarding and fulfilling retirement, as well as refining and implementing resources for lawyer succession planning.

The State Bar of Georgia is a positive force in the continuing effort to strengthen our system of justice. These are just a few of the many areas in which the Bar is working this year to make a lasting, positive impact on the legal profession and on the lives of Georgia citizens. As always, I welcome your comments and suggestions on these and other issues we are facing and actions we are taking. ●



JENNIFER C. MOCK

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## Respecting the Profession

**Reflecting on his stellar career in the 1980s and 1990s,** Baseball Hall of Famer Ryne Sandberg once said, “I was taught you never, ever disrespect your opponent or your teammates or your organization or your manager and never, ever your uniform.”

That philosophy can easily be translated from the baseball diamond to serve as a basis for the ideal of professionalism in the practice of law. We have all been taught to never, ever disrespect our opposing counsel, our colleagues, our law firm, our judges or our courts and never, ever the privilege we have to represent our clients as members of the legal profession.

Most of us consider ethical and professional conduct a “given” in the practice of law. Professionalism comes to mind only when it is time to fulfill the annual CLE credit requirement and, on the unfortunate and hopefully rare occasions when we must deal with an uncooperative, unethical and, yes, unprofessional attorney.

In my opinion, clients are better served when their lawyers exhibit common courtesy and respect for their colleagues, including opposing counsel, instead of

taking an arrogant, bullying “my-way-or-the-highway” approach.

Being a lawyer is so much more than fighting to win on every single issue. It also requires an ability to pick our battles and to ensure the outcome of each case is as fair and equitable as possible.

Fortunately, professionalism has long been a top priority in Georgia’s legal community. In 1989, the Supreme Court of Georgia created the Chief Justice’s Commission on Professionalism, the first of its kind in the nation. With representation from the organized bar, practicing bar, judiciary, law schools and the public, the commission serves as the institutional framework for sustaining an environment that fosters professionalism in the legal community.

The commission’s work focuses on educational programming; periodic recommendations to the State Bar, the judiciary and the law schools in Georgia; and coordination of professionalism activities of the organized bar, courts, law schools and law firms.

The Supreme Court also amended Georgia’s mandatory CLE rule to require all active Georgia lawyers to complete one

hour of professionalism CLE each year. The requirement's objective, according to the State Bar website, "is to create a forum in which lawyers, judges and legal educators can explore the meaning and aspirations of professionalism in contemporary legal practice and reflect upon the fundamental premises of lawyer professionalism—competence, civility, integrity, and commitment to the rule of law, to justice, and to the public good. Building a community among the lawyers of this state is a specific goal of this requirement."

As opposed to being a one-time reminder of the problems in contemporary law practice, the annual CLE requirement seeks to turn professionalism into a constant awareness for every Georgia lawyer. "If successful," the website adds, "professionalism CLE courses will inculcate a habit of talking with colleagues and engaging in dialogue that is essential to a healthy professional life. They also will encourage the habit of reflection (or the "stop and think" rule of morality). They will acquaint lawyers with the harsher realities of the profession, but also will equip them with a variety of strategies for coping with these realities. They will also deepen one's awareness of a lawyer's particular professional situation and can provide a sense of empowerment or control over a professional career rather than a passive acceptance of an untenable situation. They should expand the horizons of participants with respect to the richness and variety of the profession and the range of interests compatible with practice in the profession. And lastly, they can stimulate the imagination about the potential of a professional life."

With separate one-hour requirements for each, the Supreme Court's distinction between ethics and professionalism is reflected in the CLE program. The distinction is discussed in the commission's online description by three former chief justices, Harold Clarke, Robert Benham and Norman Fletcher. According to Justice Clarke, "... ethics is a minimum standard which is *required* of all lawyers, while professionalism is a higher standard *expected* for all lawyers." Justice Benham added, "We should expect more of lawyers than mere compliance with legal and ethical requirements." Justice Fletcher explained, "I have concluded that professionalism, in a legal sense, is to a great extent practicing the golden rule. It is not—

# OFFICERS' BLOCK

For this issue of the Georgia Bar Journal, we asked our YLD officers, "How do you carry out the mission of the Bar? What kind of footprint do you hope to leave?"



**JENNIFER C. MOCK**

*YLD President*

I always strive to be fair and accommodating to opposing counsel and opposing parties while ensuring that it does not greatly compromise the goals and objectives of my client. I hope that my actions foster a new attitude by our society toward attorneys and the courts.



**NICOLE C. LEET**

*YLD President-Elect*

I strive to meet the mission of the Bar by not only trying to lead by example, but encouraging other young lawyers to become leaders in their own practices and communities. By stepping up to serve both the profession and our communities, lawyers can help inspire others to lead and serve.



**RIZZA O'CONNOR**

*YLD Treasurer*

It is important that the Bar remain unified to demonstrate the value of working together despite different perspectives and ideologies. As a minority woman, working in a rural area, elected to a statewide YLD leadership position, I seek to keep lawyers of all stripes unified in accomplishing the Bar's mission.



**WILLIAM T. "WILL" DAVIS**

*YLD Secretary*

Everyone deserves a seat at the table. As lawyers, we must not only advocate for our clients but also for those in the public who might not have someone to stand up for them. I hope to leave a footprint of inclusivity and kindness.



**JOHN R. B. "JACK" LONG**

*YLD Immediate Past President*

I hope to have left a footprint on the YLD as the service arm of the Bar. Last year, we raised hundreds of thousands of dollars and volunteered thousands of hours for a number of worthy causes across the state of Georgia.



**SHAMIRACLE S. JOHNSON**

*YLD Newsletter Co-Editor*

Service to the public is one way that I carry out the Bar's mission. For the past six years, I have mentored at-risk Atlanta youth through the Sister to Sister Mentoring Program. The footprint I desire to leave on the young ladies I mentor is one of self-love and respect.



**HEATHER RIGGS**

*YLD Newsletter Co-Editor*

I believe strongly in leading by example. Being a role model for the principles we hold dear is one way I carry out the mission of the Bar. The footprint I hope to leave is one of expecting nothing more of others than I expect for myself.

GEORGIA BAR

# JOURNAL

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do my opponent in before my opponent does me in—but rather, it is do unto your fellow attorneys, the judges and society as you would have them do unto you.”

In a Court of Appeals of Maryland Professionalism Course for new admittees to the Maryland Bar in 1992, then-Justice Sandra Day O’Connor of the U.S. Supreme Court was quoted as defining professionalism thusly: “To me, the essence of professionalism is a commitment to develop one’s skills to the fullest and to apply that responsibly to the problems at hand. Professionalism requires adherence to the highest ethical standards of conduct and a willingness to subordinate narrow self-interest in pursuit of the more fundamental goal of public service. Because of the tremendous power they wield in our system, lawyers must never forget that their duty to serve their clients fairly and skillfully takes priority over the personal accumulation of wealth. At the same time, lawyers must temper bold advocacy for their clients with a sense of responsibility to the larger legal system which strives, however imperfectly, to provide justice for all.”

The Chief Justice’s Commission, according to the State Bar website, looks at professionalism “as a wide umbrella of values encompassing competence, civility, legal ethics, integrity, commitment to the rule of law, to justice and to the public good. Professionalism calls us to be mindful of the lawyer’s roles as officer of the court, advocate, counselor, negotiator and problem solver. Professionalism asks us to commit to improvement of the law, the legal system and access to that system. These are the values that make us a profession enlisted in the service not only of the client but of the public good as well. While none of us achieves perfection in serving these values, it is the consistent aspiration toward them that defines a professional. The commission encourages thought not only about the lawyer-client relationship central to the practice of law but also about how the legal profession can shape us as people and a society.”

The State Bar’s Young Lawyers Division, through our Ethics and Professionalism Committee, works to develop

educational programs to assist lawyers in achieving the ethical and professional standards set forth for the legal profession. This committee works with the Chief Justice’s Commission to raise awareness in new developments concerning ethics and professionalism in the legal field. The committee also annually recognizes one young lawyer who has demonstrated outstanding professionalism with its Ethics & Professionalism Award.

When I was younger, I never thought that I wanted to be a lawyer. At the time, the only thing I knew about lawyers was that “they like to argue.” In fact, I was more of a peacemaker among friends during my younger years. So I wasn’t even sure that law school was right for me.

However, throughout my practice as a lawyer, I have learned that better results are achieved when attorneys look at themselves as peacemakers instead of fighting tooth and nail on every conflict in a given case.

Attorneys should fight for what is fair and equitable but usually that includes both sides compromising a little and helping your client see the opposing party’s point of view.

State Bar Past President Robin Frazer Clark, writing in the April 2013 edition of the *Georgia Bar Journal*, concluded “the ideals of professionalism in the practice of law are aimed at ensuring our field remains a ‘high calling’ and not ‘just a business like any other,’ enlisted in the service not only of the clients, but of the public good as well. . . . (T)he American justice system is governed by our courts, from the U.S. Supreme Court on down. But much of what lawyers do on a daily basis is not in the courtroom or under the direct supervision of a judge. As officers of the court, we each have a duty to self-regulate our daily practices to—as declared in the mission statement of the Chief Justice’s Commission on Professionalism—‘exercise the highest levels of professional integrity in their relationships with (our) clients, other lawyers, the courts, and the public and to fulfill (our) obligations to improve the law and the legal system and to ensure access to that system.’” ●



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JEFF DAVIS

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State Bar of Georgia  
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## Fastcase: A Great Member Benefit Just Got Better

For the past six years, all members of the State Bar of Georgia have enjoyed free access to the Fastcase legal research system. This exclusive member benefit provides access to one of the largest law libraries in the world and a variety of Georgia legal materials, including case law, statutes, regulations, court rules and attorney general opinions, as well as a 50-state and federal legal database.

The State Bar's Member Benefits Committee recommended Fastcase to the Board of Governors in 2010 in an effort to provide the best possible online legal research service to our members. The recommendation came after a two-year period of consideration by the committee, which included listening to members' needs and initiating an intense comparison of several legal research providers.

Fastcase is an ideal service for conducting online legal research and a valuable resource for Bar members. Busy lawyers appreciate having the most comprehensive database, interactive search features and easy-to-use technology at their fingertips. Fastcase features smarter technology to bring the best documents to the top of the results list, as well as sorting technologies that allow users to customize results for the type of research they are doing.

The State Bar is pleased to announce that this already-great member benefit just got better. Fastcase 7, the all-new version of Fastcase, became available to Bar members in November. Fastcase 7 is an even more fluid and easy-to-navigate online legal research library. It has all of the familiar features and tools, plus an enhanced Forecite, Tag Cloud, Authority Check and Bad Law Bot (the first big data service to identify negative citations to judicial opinions), more advanced search options, new results screen options, larger fonts and selections to make documents easier to read on computer screens, and new dual-column printing options.

You have the ability to choose when you want to upgrade to Fastcase 7. A slider in the top right corner of your screen allows you to toggle back and forth between Fastcase 7 and the classic Fastcase service (see fig. 1).

When you take the leap and use the new Fastcase 7 version, you'll get the following new features and additions, described as follows by the company.

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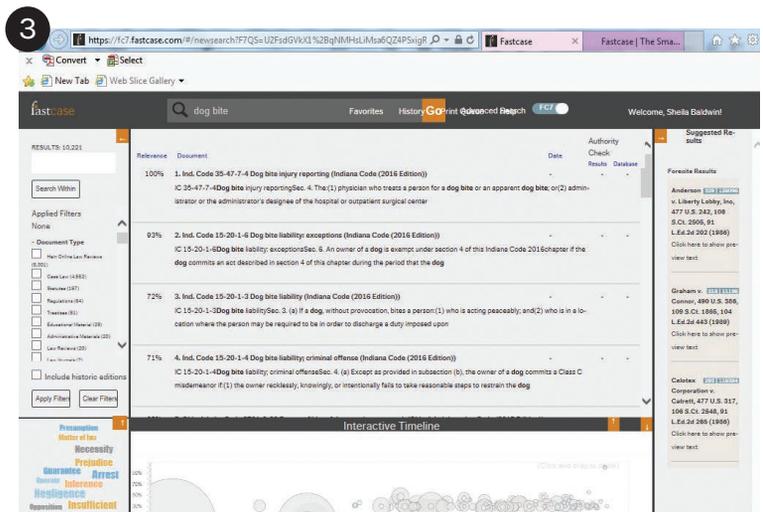
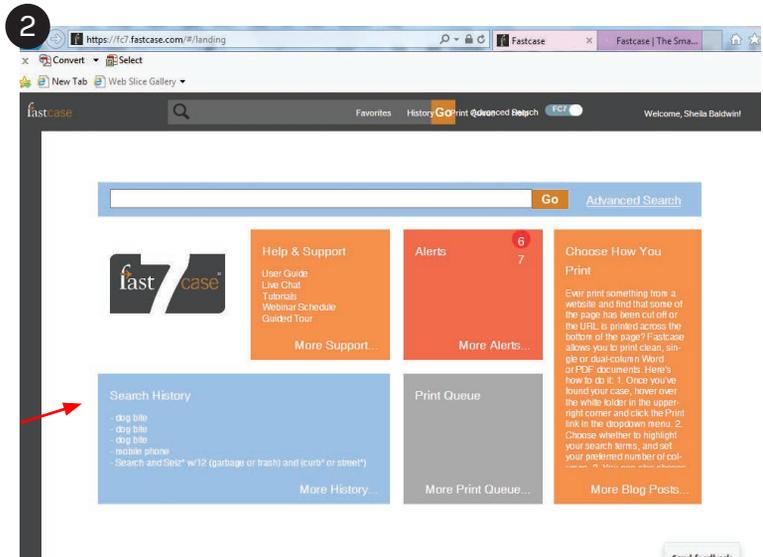
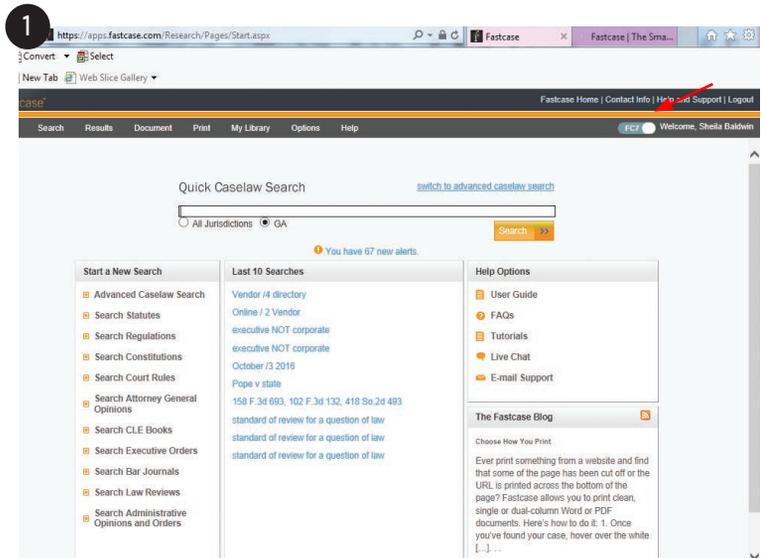
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Suggested Results are displayed alongside your main results for every search. This right-hand column is no longer just for HeinOnline materials, but Forecite Results, Journals and everything in between. Additionally, you get bottomless



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Please check the State Bar calendar at [www.gabar.org](http://www.gabar.org) for training dates and registration. If you have any technology questions or want to know more about any of your other benefits as a member of the State Bar of Georgia check out the Bar website, [www.gabar.org](http://www.gabar.org), or contact Member Benefits Coordinator Sheila Baldwin at [sheilab@gabar.org](mailto:sheilab@gabar.org) or 404-526-8618.

We are excited to be one of the first bar associations to provide the latest in legal research technology to our members. The Fastcase service ordinarily costs \$995 per year for an individual subscriber, but State Bar members have complimentary access to Fastcase and Fastcase 7. Be sure to make the most of this great member benefit. ●

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# What Duty of Care Does a Homeowner Association Owe Its Members?

Attorneys in Georgia increasingly are being asked not just to defend lawsuits for unpaid assessments and fines for alleged violations, but to advise homeowners whether to sue their associations before being sued. But under what cause of action?

BY JULIE LIBERMAN

**Members of homeowner associations** and condominium associations frequently clash with these entities' boards of directors over the use of both private and common property in their communities. These disputes may concern, for example, responsibility for maintaining and repairing common elements in a condominium, such as roofs, swimming pools, elevators or entryways, or relatively minor matters such as the permissible color of a homeowner's front door. Regardless of the magnitude of the matter, homeowners often find themselves in the unenviable position of facing an unyielding board composed of their neighbors, and often feel they are the victims of arbitrary or draconian decisions that have very real effects on their property rights or assessment obligations without due process.

The results can be harsh. The board, for example, might require that a homeowner pay to maintain property in an area where

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ownership or responsibility, or both, are in dispute, or change the way the homeowner has used his property for decades, with daily fines imposed for failure to comply. Frequently, the homeowner concludes that the board has abused its power and that the board's decision-making process lacks fairness.

Homeowners often feel a board composed of their neighbors should be held to the same standards and levels of compliance with procedures to which the homeowners are held. For example, the association can levy fines for a homeowner's failure to store a trash can in the precise location dictated by the governing documents. But Georgia law is more forgiving when it comes to a board's failure, for example, to precisely follow its own requirements for providing notices of meetings or voting procedures.

A declaration of covenants is a contract to which the association and its members are equally bound, and as such, the covenants are interpreted according to the general rules of contract interpretation.<sup>1</sup> Generally speaking, a board is required only to substantially comply with the procedures set forth in the community's governing documents.<sup>2</sup> While a homeowner may conclude that if the board fails to follow those rules and procedures, the board is in breach of contract or a duty, the conclusion might not be legally accurate. Adding to the homeowner's difficulties, most neighborhood governing documents are drafted to ensure a contractual basis for an award of attorney fees to the association, without the need to prove defendant's bad faith,<sup>3</sup> upon prevailing in litigation against

a homeowner for collection of any unpaid assessments or fines.

Even if only as a matter of principle, homeowners are more willing than ever to stand up to their homeowner associations and to seek legal counsel when doing so. Attorneys in Georgia increasingly are being asked not just to defend lawsuits for unpaid assessments and fines for alleged violations, but to advise homeowners whether to sue their associations before being sued. But under what cause of action? When a board's failure to follow the covenants implicates property rights, or the misuse of association funds, do fiduciary duties come into play? Whether a fiduciary duty is owed by the board to the homeowners is a nuanced question and a legal issue ripe for development in Georgia.

### **What Is a Breach of Fiduciary Duty under Georgia Law?**

The general concept of fiduciary duty under Georgia law is beyond this article's scope. However, certain cases involving homeowner associations have looked to general statutory and case law on fiduciaries. It is, therefore, useful to examine those general concepts to understand current Georgia law of fiduciary duty in the context of community associations.

Under Georgia tort law, a fiduciary duty can be established when the parties are in a "confidential relationship." This defined is by statute as follows:

Any relationship shall be deemed confidential, whether arising from nature, created by law, or resulting from contracts, where one party is so situated as to exercise a controlling influence over the will, conduct, and interest of another or where, from a similar relationship of mutual confidence, the law requires the utmost good faith, such as the relationship between partners, principal and agent, etc.<sup>4</sup>

The statute sets forth business partnerships and principal and agent relationships as examples of confidential relationships. Georgia case law recognizes other confidential relationships, including relationships between a trustee and beneficiaries

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Whether a fiduciary duty is owed by the board to the homeowners is a nuanced question and a legal issue ripe for development in Georgia.

of a trust,<sup>5</sup> between spouses,<sup>6</sup> and between a clergyman and members of his church.<sup>7</sup> The list is not exclusive.

The statute refers to an exercise of one party's "controlling influence" over another, but the control at issue has a narrow application. It does not, for example, concern the parties' relative bargaining power. When one party clearly possesses superior control over information, and is better positioned to dictate contractual terms (such as employer to employee and creditor to debtor), no fiduciary duty exists because these and other business relationships are deemed arms-length.<sup>8</sup> Moreover, when bargaining power is indisputably unequal, such as when one party to a contract is illiterate and the other is not, a confidential relationship does not necessarily exist either.<sup>9</sup>

The statute's reference to a relationship of "mutual confidence" provides scant practical guidance. The Court of Appeals of Georgia has held that no fiduciary duty arises in a relationship of mutual trust and confidence in each other's integrity, which is presumed in arm's-length transactions.<sup>10</sup> Additionally, the mere fact that one party voluntarily reposed trust and confidence in another, alone, is not enough to establish the relationship.<sup>11</sup> The relevant inquiry is not whether (or the degree to which) one party has exercised influence over another,<sup>12</sup> nor the degree to which the parties have mutual confidence in one another, but whether one party is justified in reposing confidence in the other and why.<sup>13</sup>

The fact-specific determination of whether one party justifiably reposes confidence in the other ordinarily presents a jury question.<sup>14</sup> Accordingly, we might assume that with the right set of facts, a homeowner could make a convincing case that he justifiably reposed confidence in the board of directors of his homeowner association, and that the board owed him "the utmost good faith." The benefits of proving such a duty would include, for example, a heightened responsibility for the fiduciary to disclose facts, and a lessened responsibility on the plaintiff-homeowner to investigate facts.<sup>15</sup> However, to date, no set of facts in any reported Georgia appellate decision has definitively established a heightened

duty owed by a homeowner association directly to an individual homeowner.

### **Is a Homeowner in a Confidential Relationship with the Board or its Directors and Officers?**

The question thus becomes, for purposes of establishing fiduciary duties, could a homeowner ever be justified in "reposing confidence" in the board of his homeowner association? Two cases brought by individual homeowners in direct actions for breach of fiduciary duty provide some guidance, if not definitive answers, for the unwary litigant.

A 2010 case, *Bailey v. Stonecrest Condominium Association, Inc.*,<sup>16</sup> primarily concerned discrimination under the Georgia Fair Housing Act (GFHA), but also presented claims for breach of fiduciary duty against the association, its property management company and the board of directors. The plaintiff asserted two bases for these claims. First, the association had passed amendments that restricted leasing, and the restrictions allegedly constituted racial discrimination. The resulting violation of the GFHA was the first basis alleged as a breach of fiduciary duty. The plaintiff also contended that the board breached a fiduciary duty when it allegedly failed to follow proper procedures to notify homeowners of a meeting at which a vote on the amendments would take place.<sup>17</sup>

In addressing these claims, the Court of Appeals of Georgia began by citing the general rule governing all such claims, requiring proof of the three elements of the claim: (1) the existence of a fiduciary duty; (2) breach of that duty; and (3) damage proximately caused by the breach.<sup>18</sup> However, the court's ruling did not turn on whether any of the elements of a breach of fiduciary duty had been proved, but instead on a different standard, routinely cited when owners challenge a homeowner association decision.<sup>19</sup> The standard derives from the Supreme Court of Georgia's opinion in *Saunders v. Thorn Woode Partnership, L.P.*,<sup>20</sup> and provides as follows:

Where . . . the declaration delegates decision-making authority to a group

and that group acts, the only judicial issues are whether the exercise of that authority was procedurally fair and reasonable, and whether the substantive decision was made in good faith, and is reasonable and not arbitrary and capricious.<sup>21</sup>

Unfortunately, the *Bailey* court did not analyze the plaintiff's fiduciary duty claim against the defendants individually, nor did it analyze the three elements of breach of fiduciary duty as to any of the defendants. That analysis would have been instructive, given that as a threshold matter, the first element of the general test—existence of a fiduciary duty—was at issue. Did the association itself owe a fiduciary duty to the plaintiff? Did the property management company? Did the officers or individual members of the board of directors?

The court also did not fully address the plaintiff's contention that the board failed to follow proper meeting notice and voting procedures, because the plaintiff failed to cite evidence in the record to support that contention and because the court reversed the grant of summary judgment to the defendants on the GFHA claim.<sup>22</sup> The court remanded the case for a factual determination as to "whether the defendants' substantive decision to adopt the leasing restriction amendments was made in good faith, was reasonable, and was not arbitrary and capricious."<sup>23</sup> One interpretation of this decision is that if a jury found the defendants' decision to be unreasonable or arbitrary and capricious, that finding would necessarily amount to a breach of the greater duty of a fiduciary. However, while logical, this reasoning fails to settle the question of whether the duty of "utmost good faith" is owed in this context at all, much less by whom.

A contrasting approach to the issue was taken by the Court of Appeals of Georgia in the 2011 case *Campbell v. Landings Association, Inc.*<sup>24</sup> In that case, the plaintiff-homeowner alleged, among other things, a breach of fiduciary duty by the homeowner association when its general manager unilaterally adopted a policy banning airboats from its marinas.<sup>25</sup> In the division of the opinion concerning the breach of fiduciary



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duty claim, the court ruled that the board did not owe the homeowner a fiduciary duty merely by virtue of the homeowner's status as a "resident" of the association.<sup>26</sup> The court stated that "the burden is on the party asserting the existence of a fiduciary or confidential relationship to establish its existence. Campbell's mere reliance upon his status as a resident of the Landings, without more, fails to establish such a relationship."<sup>27</sup> Campbell was, in fact, a landowner and member of the association, not merely a "resident" nonmember.

The court could have, but did not, follow the *Saunders* line of inquiry into whether the general manager's decision to ban airboats was "procedurally fair and reasonable, and whether the substantive decision was made in good faith, and is reasonable and not arbitrary and capricious." It is unclear from the opinion whether the homeowner briefed the issue under that standard. As such, the *Campbell* opinion suggests that homeowner litigants need to advocate more pointedly for the application of the fiduciary standard under particular facts that justify reposing confidence in their boards. Alternatively, a homeowner can attempt to argue that the board's decisions were not reasonable under *Saunders*.

Interestingly, two subsequent opinions have referred to *Bailey* as recognizing the existence of a homeowner association board of director's fiduciary duty. In a 2013 case, *Hall v. Town Creek Neighborhood Association*,<sup>28</sup> the Court of Appeals of Georgia referred to *Bailey* in a string citation as "recognizing that members of a homeowners' association's board of directors may be held liable for breach of fiduciary duty."<sup>29</sup> However, the facts of *Hall* did not involve a claim for breach of fiduciary duty. In fact, in the *Hall* case, no board had been established.<sup>30</sup> The case was brought by the association against a homeowner for allegedly unpaid assessments; the homeowner defended the suit on the grounds that the association lacked authority to levy the assessments when only the board was empowered by the declaration to do so, and the board did not exist. The court agreed with the homeowner, and reversed a grant of summary judgment to the association.<sup>31</sup> Thus, the reference to *Bailey* in *Hall* is

mere dicta. Moreover, the *Hall* opinion does not indicate to whom any fiduciary duty is owed, whether to the association itself or to the homeowners.

*Bailey* was cited again by the Court of Appeals of Georgia in its 2014 opinion *Thunderbolt Harbour Phase II Condominium Association v. Ryan*.<sup>32</sup> In *Thunderbolt Harbour*, a homeowner association board sued its sole officer and director for breach of fiduciary duty in connection with failure to adequately inspect and repair construction defects. The director moved for summary judgment, contending that Georgia law did not recognize the cause of action against a sole officer and director, and that the association lacked standing to bring the claim. The trial court granted the motion but the Court of Appeals reversed, noting that an agency relationship between the parties was at play under those facts.<sup>33</sup> The court cited *Bailey* as precedent "recognizing a claim for breach of fiduciary duty against the board" and found that whether a confidential relationship existed was for a jury to decide.<sup>34</sup>

The citation to *Bailey* in the *Hall* opinion points in the direction of the standards set forth by the Georgia Corporate Nonprofit Code.<sup>35</sup> That statute recognizes that the members of an association's board of directors owe, at a minimum, a quasi-fiduciary duty to the board itself, and thus to the association. It prescribes the following standard of care owed by directors to the corporation:

Unless a different standard is prescribed by law,

- (1) A director shall discharge his or her duties as a director, including his or her duties as a member of a committee:
  - (A) In a manner the director believes in good faith to be in the best interests of the corporation; and
  - (B) With the care an ordinarily prudent person in a like position would exercise under similar circumstances . . . .<sup>36</sup>

A parallel standard is set forth for officers.<sup>37</sup> Notably, the standard for directors and officers provided by these statutes is a lower standard than the "utmost good faith" provided in the statute governing confidential relationships. However, by their own terms, the statutes governing the stan-

dard for directors and officers provide that the standard of care may be altered as “prescribed by law.” The dicta in *Hall* is presumably insufficient to alter the standard for directors and officers such that it matches the standard for fiduciaries, and *Thunderbolt Harbour* was decided in part based on an agency relationship, which provides an independent basis for the fiduciary standard. But the reference to *Bailey* in the *Hall* and *Thunderbolt Harbour* opinions is still significant in that it demonstrates the importance of litigants consulting the framework found in nonprofit corporate decisions and framing their issues in terms of standing.

### Fiduciaries in For-Profit Corporations and Their Nonprofit Counterparts

A for-profit corporation’s officers and directors occupy a fiduciary relationship with the corporation and its shareholders, and are held to the standard of utmost good faith and loyalty.<sup>38</sup> The fiduciary re-

lationship between a corporation and one of its officers arises out of the contractual or employment relationship between the two parties.<sup>39</sup> Corporate officers and directors owe to the corporation and its stockholders a fiduciary or quasi-fiduciary duty, which requires that they act in utmost good faith.<sup>40</sup> Directors and officers, in the management and use of corporate property in which they act as fiduciaries and are trustees, are charged with serving the interests of the corporation as well as the stockholders.<sup>41</sup> When those duties are violated, resulting in waste to the corporate assets or injury to such property, the directors and managers are liable to account.<sup>42</sup>

With a *nonprofit* corporation, it has been held the officers and directors also owe a fiduciary duty to the corporation, “unless they cause individual injury to an association member by the breach of their fiduciary duties.”<sup>43</sup> Otherwise stated, the primary duty is owed by the individual officers and directors to the nonprofit corporation, but if in discharging those duties, an individual

injury occurs, the individual member may have standing to sue the corporation directly. This is an exceptional situation. More frequently, an individual has standing to sue a nonprofit corporation only through a derivative action, described as follows:

In a nonprofit derivative suit, a member asserts for the corporation’s benefit rights or remedies belonging to the corporation, not to the member. The wrong which the action seeks to redress is one which the corporation, not the individual, has sustained. The member is a mere nominal party, having no right, title or interest in the claim itself. One of the primary underlying reasons for the derivative action—especially applicable to nonprofits—is to avoid a multiplicity of lawsuits.<sup>44</sup>

Further, the Georgia courts have held,

[T]o have standing to sue individually, rather than derivatively on behalf

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of the corporation, the plaintiff must allege more than an injury resulting from a wrong to the corporation. [T]o set out an individual action, the plaintiff must allege either an injury which is separate and distinct from that suffered by other [members], or a wrong involving a contractual right of a [member] which exists independently of any right of the corporation.<sup>45</sup>

Thus, when a board of directors commits a wrong that injures the entire association, the individual homeowner may bring a derivative action against the association, and depending on the nature of the facts alleged, the claim may be properly labeled as a breach of fiduciary duty. For example, the Court of Appeals of Georgia has held that whether an association's election procedures were conducted in accordance with its bylaws is a question that concerns all the members, and breach of those procedures can create a derivative claim for a breach of fiduciary duty.<sup>46</sup> Likewise, a claim of misappropriated association funds is properly brought as a derivative claim.<sup>47</sup>

## The Business Judgment Rule and Beyond

No discussion of homeowner actions against board members would be complete without considering the business judgment rule. In the context of negligence claims against board members, the Court of Appeals of Georgia often recites as follows: "No principle of law is more firmly fixed in our jurisprudence than the one which declares that the courts will not interfere in matters involving merely the judgment of the majority in exercising control over corporate affairs."<sup>48</sup> Thus, a case sounding in ordinary negligence for a director's or officer's malfeasance or nonfeasance will likely fail if the defendant demonstrates in some deliberative decision-making process in reaching the contested decision. Because the courts frequently look beyond the nomenclature of litigants' pleadings, actions seeking to challenge a board's judgment, whether or not alleged as "negligence," may be decided under the business judgment rule.

The 2014 Supreme Court of Georgia opinion in *FDIC v. Loudermilk*,<sup>49</sup> involving bank officers and directors, may shed light on future calibrations of this rule. The Court explained that

the business judgment rule at common law forecloses claims against officers and directors that sound in ordinary negligence when the alleged negligence concerns only the wisdom of their judgment, but it does not absolutely foreclose such claims to the extent that a business decision did not involve "judgment" because it was made in a way that did not comport with the duty to exercise good faith and ordinary care.<sup>50</sup>

In other words, officers and directors cannot make decisions blindly, or fail to exercise any judgment, and later hide behind the business judgment rule.

The Supreme Court of Georgia and Court of Appeals have yet to apply the business judgment rule as set forth in *Loudermilk* to the board members or officers of a community association. The hope for homeowners should be that *Loudermilk* will result in more triable issues regarding an association's exercise, or lack thereof, of judgment.

## Conclusion

Under current Georgia law, a homeowner association's board of directors does not owe the same duty of "utmost good faith" to the homeowner members that the officers of a for-profit corporation owe to the shareholders. The individual homeowner association board members owe a quasi-fiduciary duty, but only to their board. Consequently, when a homeowner is aggrieved by board action, he rarely will have a valid claim for breach of fiduciary duty, as Georgia precedent supports such a claim only under very limited circumstances. The homeowner properly asserts such a claim in his individual capacity only when the board's actions both negatively impact the entire association and cause the individual some special or unique harm.

As to direct negligence claims, more often than not, the business judgment

rule insulates individual officers and directors from attacks on their decisions that impact the individual homeowner. As to direct, individual actions by aggrieved homeowners against an entire board, the courts have said the duty a board owes to the homeowner is merely to act reasonably and not arbitrarily and capriciously. These relatively low standards often prove difficult for a plaintiff-homeowner to overcome. Of course, as shown by *Bailey*, if a board member fails to act reasonably, or makes decisions that are arbitrary and capricious, then *ipso facto*, he has also failed to act in the "utmost good faith." But the *Bailey* court's holding that such conduct was unreasonable did not create precedent for the legal existence of a fiduciary duty in the first place.

Perhaps under some very compelling set of facts, a homeowner will be able to convince Georgia's appellate courts that he was justified in reposing confidence in his board. Moreover, following *Loudermilk*, the business judgment rule should not provide an automatic bar to negligence claims and other claims concerning a board's judgment. Nevertheless, additional precedents would be valuable in fleshing out the distinctions between these standards and further clarifying the circumstances under which each applies. Such decisions may well raise the bar for those in whom Georgia homeowners place their trust for decisions impacting both their property values and ongoing relationships with their neighbors. ●



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employment and business disputes, and she regularly handles litigation of community association matters on behalf of homeowners. She can be reached at [julie@jlibermanlaw.com](mailto:julie@jlibermanlaw.com).

## Endnotes

1. See, e.g., *Britt v. Albright*, 282 Ga. App. 206, 209, 638 S.E.2d 372, 375 (2006).

2. *See, e.g., Rice v. Lost Mountain Homeowners Ass'n*, 269 Ga. App. 351, 354, 604 S.E.2d 215, 220 (2004).
3. *See, e.g., O.C.G.A. § 13-6-11* (2010).
4. O.C.G.A. § 23-2-58 (2002).
5. *See, e.g., Smith v. SunTrust Bank*, 325 Ga. App. 531, 539, 754 S.E.2d 117, 124 (2014).
6. *See, e.g., Beller v. Tilbrook*, 275 Ga. 762, 571 S.E.2d 735 (2002).
7. *Bryan v. Norton*, 245 Ga. 347, 348, 265 S.E.2d 282, 283-84 (1980) (dicta).
8. *See Baxter v. Fairfield Fin. Servs.*, 307 Ga. App. 286, 293, 704 S.E.2d 423, 429 (2010) (no confidential relationship between creditor and debtor); *Canales v. Wilson Southland Ins. Agency*, 261 Ga. App. 529, 531, 583 S.E.2d 203, 204-05 (2003) (no confidential relationship between insurance agent and insured absent a special relationship of trust). However, a stockbroker and his customer have a fiduciary relationship as principal and agent. *See Holmes v. Grubman*, 286 Ga. 636, 643, 691 S.E.2d 196, 201 (2010). *But see Tigner v. Shearson-Lehman Hutton*, 201 Ga. App. 713, 715-16, 411 S.E.2d 800, 802 (1991) (where a disabled holder of a brokerage account sued his broker for mismanagement of funds, the court held that a fiduciary relationship was created because of the account holder's disabilities of which the broker was aware, rather than by analogy to principal and agent).
9. *See Clinton v. State Farm Mut. Auto. Ins. Co.*, 110 Ga. App. 417, 423, 138 S.E.2d 687, 691-92 (1964) ("The fact that an unlearned and uneducated person reposes trust and confidence in another does not create a confidential relationship.").
10. *Kienel v. Lanier*, 190 Ga. App. 201, 203, 378 S.E.2d 359, 361 (1989).
11. *Id.* at 203, 378 S.E.2d at 361; *Lewis v. Alderman*, 117 Ga. App. 855, 855, 162 S.E.2d 440, 441 (1968).
12. Employers exercise influence and control over their employees, but ordinarily that does not mean an employer owes its employees a fiduciary duty. *See Atlanta Mkt. Ctr. Mgmt. Co. v. McLane*, 269 Ga. 604, 607, 503 S.E.2d 278, 281-82 (1998) (employee-employer relationship does not imply fiduciary obligations unless facts establish obligations associated with a principal-agent relationship). *See also Physician Specialists in Anesthesia, P.C. v. Wildmon*, 238 Ga. App. 730, 732-33, 521 S.E.2d 358, 360 (1999) (same).
13. A client is justified in reposing confidence in his attorney with regard to confidential information, so the attorney owes his client the utmost good faith and loyalty with regard to the confidential information. *See, e.g., Tante v. Herring*, 264 Ga. 694, 696, 453 S.E.2d 686, 688 (1994).
14. *See Yarbrough v. Kirkland*, 249 Ga. App. 523, 527, 548 S.E.2d 670, 673 (2001).
15. *Smith v. SunTrust Bank*, 325 Ga. App. 531, 544, 754 S.E.2d 117, 127 (2014).
16. 304 Ga. App. 484, 696 S.E.2d 462 (2010).
17. *Id.* at 484, 696 S.E.2d at 464.
18. *Id.* at 494, 696 S.E.2d at 470.
19. *See id.* at 494, 696 S.E.2d at 470.
20. 265 Ga. 703, 462 S.E.2d 135 (1995).
21. *Id.* at 704, 462 S.E.2d at 137. In a similar formulation of the duties owed by an association to its members, the Court of Appeals of Georgia in *Brockway v. Harkleroad*, 273 Ga. App. 339, 341 & n.1, 615 S.E.2d 182, 185 & n.1 (2005), in dicta, citing the Restatement (Third) of "Property: Servitudes § 6.13(1), stated, In addition to duties imposed by statute and the governing documents, the association created to manage the property or affairs of a common-interest community must use ordinary care and prudence while engaged in its management duties; must treat members fairly; must act reasonably in the exercise of discretionary powers such as rulemaking, enforcement, and design-control powers; and must give members reasonable access to information about the common property and the association and its financial affairs."
22. *Bailey*, 304 Ga. App. at 494, 696 S.E.2d at 471.
23. *Id.* at 494, 696 S.E.2d at 471.
24. 311 Ga. App. 476, 716 S.E.2d 543 (2011).
25. *Id.* at 482, 716 S.E.2d at 548.
26. *Id.* at 482, 716 S.E.2d at 548.
27. *Id.* at 482, 716 S.E.2d at 548.
28. 320 Ga. App. 897, 740 S.E.2d 816 (2013).
29. *Id.* at 899-900, 740 S.E.2d at 818.
30. *Id.* at 898, 740 S.E.2d at 818.
31. *Id.* at 900, 740 S.E.2d at 818.
32. 326 Ga. App. 580, 757 S.E.2d 189 (2014).
33. *Id.* at 580, 757 S.E.2d at 190.
34. *Id.* at 582-83, 757 S.E.2d at 191. Note that while *Hall* cites *Bailey* for establishing that individual board members may be liable for a breach of fiduciary duty, *Thunderbolt Harbor* cites *Bailey* as establishing that a board, meaning the association itself, may be liable.
35. O.C.G.A. §§ 14-3-101 to -1703 (2003 & Supp. 2016).
36. O.C.G.A. § 14-3-830(1)(A) and (B) (2003).
37. *See O.C.G.A. § 14-3-842(1)* (2003 & Supp. 2016).
38. *See, e.g., Argentum Int'l, LLC v. Woods*, 280 Ga. App. 440, 447, 634 S.E.2d 195, 203 (2006) ("It is well settled that corporate officers and directors have a fiduciary relationship to the corporation and its shareholders and must act in good faith.") (quoting *Paul v. Destito*, 250 Ga. App. 631, 635, 550 S.E.2d 739, 745 (2001)).
39. *See Insight Tech., Inc. v. FreightCheck, LLC*, 280 Ga. App. 19, 24, 633 S.E.2d 373, 378 (2006).
40. *Argentum Int'l*, 280 Ga. App. at 447, 634 S.E.2d at 202.
41. *See Thunderbolt Harbour Phase II Condo. Ass'n v. Ryan*, 326 Ga. App. 580, 582, 757 S.E.2d 189, 191 (2014) (quoting *Enchanted Valley RV Resort v. Weese*, 241 Ga. App. 415, 423, 526 S.E.2d 124, 131(2000)).
42. *Id.* at 582, 757 S.E.2d at 191.
43. *Id.* at 582, 757 S.E.2d at 191. *But see Morrell v. Wellstar Health Sys., Inc.*, 280 Ga. App. 1, 7-8, 633 S.E.2d 68, 74 (2006) (nonprofit hospital generally has no fiduciary duty to a patient with respect to the price the hospital charges for medical care).
44. *Dunn v. Ceccarelli*, 227 Ga. App. 505, 507, 489 S.E.2d 563, 566 (1997) (citations omitted).
45. *Id.* at 507, 489 S.E.2d at 566 (brackets and omitted punctuation in original) (quoting *Phoenix Airline Servs. v. Metro Airlines*, 260 Ga. 584, 586, 397 S.E.2d 699, 702 (1990)).
46. *Crittenton v. Southland Owners Ass'n*, 312 Ga. App. 521, 524, 718 S.E.2d 839, 843 (2011).
47. *Id.* at 524-25, 718 S.E.2d at 843. *But see Hampton Ridge Homeowners Ass'n v. Marett Properties*, 265 Ga. 655, 460 S.E.2d 790 (1995) (association's failure to pay property taxes on common property from assessments collected was alleged by homeowner as a direct breach of fiduciary duty claim, and failed, but not for lack of standing).
48. *Rymer v. Polo Golf & Country Club Homeowners Ass'n, Inc.*, 335 Ga. App. 167, 174-75, 780 S.E.2d 95, 101 (2015) (quoting *Vernon Bowdish Builder v. Spalding Lake Homeowners' Ass'n*, 196 Ga. App. 370, 371, 396 S.E.2d 24, 25 (1990)).
49. 295 Ga. 579, 761 S.E.2d 332 (2014).
50. *Id.* at 585-86, 761 S.E.2d at 338.

# Embrace Failure: Get A Good Result in Mediation

Instead of going into a mediation like it's "déjà vu," try to think about it as "vuja de." In other words, it won't be the same as it has been before.

BY DAVID ZACKS

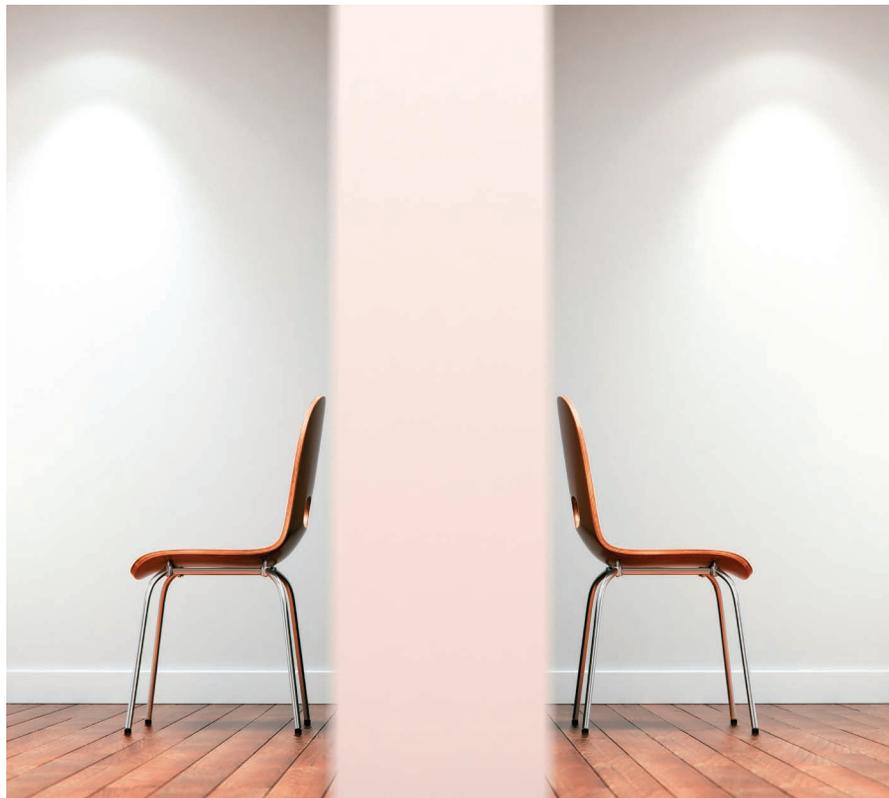


PHOTO BY ISTOCK.COM/SKEGBYDAVE

It was dark as I took my early morning walk with my dog, Red, while listening to a TED Talk. As I entered Piedmont Park, it occurred to me how beautiful the sky becomes at the moment between darkness and sunrise. Then there is a sudden change, the beautiful pinks go away and the bright blue sky appears just as the sun rises. The morning's own "ah ha" moment.

I had my own "ah ha" moment as I was watching the day begin. The speaker I was listening to was Adam Grant, and he talked about some of the surprising habits of original thinkers and the concept of concept of "déjà vu" and "vuja de," looking at things differently than it has been before. He also talked about the importance of failure. As I listened to him share his thoughts, it resonated with me how powerful his message could be in the context of two sides trying to come up with a resolution in a process we call mediation. When I serve as a mediator at Henning Mediation, I so often see lawyers approaching the process as if it is déjà vu. I think a fair definition of this would be the "experience of thinking that a new situation had occurred before." In other words, we go in putting offers and counteroffers on the table in hopes that a neutral like myself might bring the parties to consensus with questions and ideas that might disclose the strength and vulnerabilities of both positions.

Often before a mediation, the parties tell me that they feel the process will be a waste of time because the other side is so unreasonable. Whenever I hear such a refrain, I try to point out that this is usually the reason

why mediation is indicated. If the two sides were already close, then they would probably be able to settle the case on their own. It is precisely because they are so polarized that they need the intervention of a mediator. This is all well and good, but I would like us to consider instead of going into a mediation like it's "déjà vu," to think about it as Adam Grant suggested and make it "vuja de." In other words, it won't be the same as it has been before. "Vuja de" would be a process in which counsel and the mediator would be exploring how they could make the process better and different. As you create this "vu jade" moment, you might explore things that are not only outside the box, but also outside your comfort zone.

A relevant example might be a case in which I had two brothers who were so angry at each other they would not allow an opening session because they didn't want to be in the same room. Not only had they not spoken for 10 years, they did not allow their children to speak or see one another. We settled the financial matters but I struggled with how we could do something to improve the family dynamics even though it had little or nothing to do with mediation. I got permission from both lawyers to take the brothers for a walk. As I stood between them, the topic we discussed was trying to find a common ground that they could each give a small portion of the settlement proceeds they had agreed upon to a charity that meant something to both of them. Yes, it was a beginning and I continue to follow through with these brothers to make sure the beginning has a middle point and hopefully an end point of reconciliation between them.

I recall almost reaching an impasse among a large group of medical professionals in which the younger members of the group felt the old guys were keeping far too many dollars in this successful practice. The old guys felt they founded the firm; it had a great reputation; and they were entitled to the majority of the income. They both referred to the other as "SOBs." Since I was gaining no momentum, I suggested that we all get around a table the following week. I opened the session by congratulating them and letting them know we had reached an accord. They looked at me as if I were

crazy (maybe I am). The agreement was they all felt the other side was filled with SOBs. I said that if we can agree on this, it seems like we can agree on the money and be done with this. It broke the ice, they laughed. Take away point—it's much easier to reach an accommodation with people smiling than having a lot of grumpy people on both sides. Never underestimate the value of humor.

If you embrace this concept of "vuja de" and not "déjà vu," you have to embrace some failure with it. As Grant describes, "The greatest originals are the ones who fail the most, because they are the ones who try the most. You need a lot of bad ideas in order to get a few good ones." I encourage us to embrace failure and not run from it. We should strive to be creative to avoid ending up striking a jury and rolling the dice.

As an example, I was representing a plaintiff in a personal injury case, and we received an outstanding verdict and award from the jury. While on the elevator in the Richmond County Courthouse, I asked the jury foreperson what was the most important factor in the jury's decision. She replied, ". . . your partner sitting at the table has curly hair like my son, and I just knew everything you said must have been the truth." Talk about rolling the dice!

It was Abraham Lincoln who said, "A good settlement is better than a good lawsuit." Fortunately, the vast majority of civil cases are settled which proves that his admonition has been taken to heart. The widespread acceptance of mediation in my view shows that it is a highly effective form of dispute resolution.

Let's embrace failure as we come up with an idea that can bring consensus and resolution. Here's to failure until you hit that great idea. Here's to "vuja de" and not just "déjà vu." ●



**David Zacks**, president, Zacks Resolution, LLC, is a full time neutral with the Henning Mediation & Arbitration panel. Zacks is a fellow in the American College of Civil Trial Mediators and he has been recognized by "The Best Lawyers in America" consecutively since 1991.



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# 'Tis the Season: Recognizing the Value of Mentoring

There is no perfect equation for creating a successful mentoring relationship. Don't let myths, misconceptions or past experiences keep you from recognizing the value of becoming a mentor.

BY MICHELLE E. WEST



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The State Bar of Georgia truly understands the importance of mentoring, so much so that it led the nation by establishing a formalized legal mentoring program. The Transition Into Law Practice Program (TILPP), with its ambitious yet fitting title, has been in existence for 10 years; the same amount of time it took to launch. This year the program celebrates the 10th anniversary of its inaugural class. The State Bar blazed a trail 20 years ago when it set out to address the needs of new lawyers starting out in the legal profession. The program continues to be an integral introduction to the profession for the new lawyer, and provides an opportunity for the seasoned, more experienced attorney to give back.

Over the past few years as TILPP's director, I have come to realize that there is no perfect equation for creating a successful mentoring relationship. However, there are some elements that can be great predictors for substantive connections. It

is in these meaningful relationships where we discover the true value of mentoring.

### Dispelling Mentoring Myths and Misconceptions

Most experienced lawyers I have interacted with during my tenure are flattered by the request to mentor and are eager to pay it forward. I can recall the empathy most seasoned attorneys exhibit in their response. They acknowledge that without proper guidance, the new lawyer faces difficulty acquiring the necessary professional acumen to excel in the industry. TILPP embraces the new lawyer's challenge and arms its mentors with resources, benchmarks and best practices through the Model Mentoring Plan, Mentor Executive Summary and Mentor Orientation Continuing Legal Education (CLE) seminar. The Mentor Executive Summary provides a synopsis of the program; the Model Mentoring Plan highlights integral topics that should be addressed; and the Mentor Orientation CLE supplies the mentor with training and updates. After a brief introduction to the program and its resources, most lawyers welcome their role as a mentor.

However, I must admit there are some experienced attorneys who are discouraged from being a mentor due to myths, misconceptions or past experiences. Myths and misconceptions regarding mentoring range from the perception of having insufficient time, energy and patience; the notion of inadequate knowledge; and a feeling of being insufficiently established to undertake a mentoring relationship. Given the current state of our profession, it is understandable that these notions exist. However, I challenge the discouraged to recognize the myths, welcome the possibility and discover the value of mentoring.

#### Time, Energy and Patience Is on Our Side

Insufficient time, low energy and little patience tend to collectively be the primary reason why lawyers I have interacted with say they are unable to mentor. As lawyers, *all* of us are busy with our personal and professional lives, but what I think we fail to realize is that we have more available time than we think. In actuality, men-



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toring can be tailored so that it fits into the specific schedules of the mentor and mentee.

This requires a little planning at the outset. As such, at your initial meeting:

- Assess the needs of your mentee, whether you are in an informal arrangement or a formalized program, such as TILPP. Reconcile these needs with your calendar to determine your availability.
- Plan a regular time to meet whether monthly, every other month or quarterly.
- Determine a location and time that is best for your meetings. For consistency, choose a time when you are less likely to have a conflict. Discuss how cancellations will be handled, if the need arises.
- Discuss how you would like to deal with questions that may arise prior to your next scheduled meeting.
- Determine the best mode of communication, whether it's by telephone, leaving a voicemail, sending an email or text message. Discuss the appropriate length of time that should pass after the initial contact prior to following up.

Simply put, what is most important at this juncture is to establish the parameters of the mentoring relation-

ship. Effective communication at the initial meeting can really set the stage for a productive and successful pairing. Planning and patience at the outset will save time and energy as the relationship progresses.

#### Knowledge In and Of Itself Is Adequacy

The second most conveyed misconception as to why mentoring is not a viable option for a lawyer is the belief that one lacks sufficient knowledge to adequately contribute to the development of a new lawyer. TILPP's goal is to afford beginning lawyers with meaningful access to experienced lawyers equipped to teach the practical skills, seasoned judgment and sensitivity to ethical and professionalism values necessary to practice law in a highly competent manner. Neither TILPP's mission, nor any other mentoring program requires mentors to be a guru of any particular area of law. What most programs ask is that you be a sounding board, support system and cheerleader. Additionally, in many non-formalized mentoring programs, peer mentoring exists. Peer mentoring provides a forum of exchange for all.

Observations are also powerful teaching and learning tools. Experiences, such as hearings, trials, client interviews, real estate transactions, mediations and oral arguments, can stimulate questions and serve as a launching pad from which to share knowledge. The Mandatory Advocacy Experiences requirement in TILPP's Model Mentoring Plan provides the mentor and mentee with the opportunity to

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learn firsthand and discuss particular concepts highlighted during the observation.

### **All Roots Are Fully Grounded in Mentoring**

Finally, when it comes to mentoring, some believe that they do not possess sufficient footing to support the needs of the new lawyer. Somehow the belief that a traditional setting is necessary for a thriving practice seems to have clouded the reality that there is a new normal. Considerations in determining a practice setting is another area where a new lawyer may require mentoring. Regardless of whether you practice from a home, virtual, stand-alone, part-time office share or in a skyscraper, you have something to impart. There is no prerequisite of what your office setting must look like. The mentor is simply tasked with advising the new lawyer about the profession and the goals expressed in TILPP's mission. TILPP requires that mentors be admitted for at least five years; be active and in good standing; possess malpractice insurance and have not received Bar discipline in the previous 10 years. TILPP's mentors complete a Mentor Volunteer Form attesting to their eligibility. However, legal mentoring programs have varying eligibility requirements for mentors. Each program should be reviewed individually by the mentor to ensure that the eligibility requirements are met.

### **Uncovering the Reality . . . . Bridging the Divide**

It is borne in the realities where we gain clarity on the significance of men-

toring. The reality for the mentor and mentee contrast in some ways, yet are very similar in others. Upon admission, the new lawyer must learn how to navigate the profession, in addition to starting or looking for a new job. Remember what it was like graduating from law school, taking the bar exam, becoming admitted and embarking on a new career? It is this memory that can assist a mentor with gaining the true perspective of the beginning lawyer. Below sets forth the most common perspectives expressed by the new lawyer regarding their experienced counterpart.

### **Your Presence Can Be Intimidating**

Many new lawyers are intimidated by the busy experienced attorney. As previously mentioned, as lawyers we are *all* busy. This includes the beginning lawyer, who may feel that their growth is considered an insignificant microcosm in the world of the legal profession. It is up to us as seasoned lawyers to show some empathy and kindness to their plight. Consider the following:

- When approached to mentor, carefully consider the call to action before immediately dismissing the possibility.
- Think about what mental exercise the new lawyer had to endure to gather the courage to reach out to you.
- Breathe in the request and think about how you could inspire through your assistance.
- Put yourself in their shoes. Just think, if you were the new lawyer, what outcome would you hope for?
- After you have channeled your empathy, only then should you respond.
- Should you choose to inspire by becoming a mentor, remember that you are not alone on your journey. TILPP provides a complimentary Mentoring Orientation CLE, as well as other resources mentioned previously that serves to support the mentor.

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TILPP requires that mentors be admitted for at least five years; be active and in good standing; possess malpractice insurance and have not received Bar discipline in the previous 10 years.

### We Aren't All Looking for a Job

Some experienced lawyers feel that with mentoring comes the responsibility of providing a job or assisting with job placement. Given the state of the recent economy, many new lawyers are still without jobs. Mentoring allows these lawyers to seek counsel on how to navigate the profession due to lack of employment. Here is an opportunity where we as experienced lawyers can step up and try to provide guidance and leads, if available. Many times the beginning lawyer simply needs reassurance and a kind, yet real perspective on dealing with the current environment. Be cognizant that when a new lawyer approaches you, most times they are seeking wisdom. Again, assess their situation and reconcile it with what you are able to realistically provide. Communicate the parameters of your relationship at the outset.

### We Also Have Something to Offer

The mentoring relationship is one that is symbiotic and that is how it should be approached. Mentoring is best seen as "compassion in action." Both parties must actively participate in the relationship for it to be successful. Some actions that foster a comfortable exchange are:

- Get to know your mentee personally. Reveal that you are a person that has both challenges and victories.

- Share your legal experiences, both good and bad.
- Let down your guard, but be reasonable in your delivery.
- Find commonality in interests.

I think many of us would agree that the new lawyer is typically more technologically savvy than the more experienced lawyer. Beginning lawyers have introduced me to apps and programs that have assisted in my work. Additionally, they offer a perspective on generational connecting, which the experienced lawyer could employ in workplace supervision or caring for young adults. There is much to gain by both from the mentoring relationship. Both parties simply have to be open to the possibilities.

### Recognizing Mentoring's Value

In Georgia, legal mentoring is not an ordinary volunteer opportunity. Dating back to its beginnings in 1996, Georgia continues to uphold its commitment to the profession through TILPP. Eligible mentors are nominated by TILPP at the request of an employer, new lawyer or the program itself. The Supreme Court of Georgia appoints nominated mentors for a one-year term. These mentors are issued an appointment certificate from

the Court for their service. TILPP is impressed by and remains grateful for the continued commitment and dedication it receives from the lawyers who serve as mentors. In the coming year, TILPP plans to celebrate the service of its mentors through a "Mentor of the Year" award.

It is our hope that other lawyers who have considered mentoring, but remain reluctant recognize the value that is generated by a bit of empathy and kindness. I recently read "Your Best Destiny" by Wintley Phipps, which discussed the practice of kindness. It revealed a most fitting perspective on the true value of mentoring. "When we show even a little bit of compassion, empathy, or thoughtfulness toward another person, it's as if we drop a pebble into a pond. The ripples in the water keep going and going, creating an impact far beyond what we imagine. Sometimes they even hit the opposite shore and bounce all the way back to us." ●



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# No Vacation: Top Georgia Criminal Defense Attorneys Travel to Tbilisi

After the Republic of Georgia recently granted criminal defendants the right to a jury trial, eight Georgia lawyers traveled to Tbilisi to educate and empower defense attorneys with trial advocacy training, one of many trips over the next two years.

BY ROBERT G. "BOB" RUBIN, JASON B. SHEFFIELD, FRANKLIN J. HOGUE,  
LAURA D. HOGUE AND ANGIE COGGINS



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## The right to a jury trial.

It is a fundamental right that the accused in criminal prosecutions in America are afforded under the Sixth Amendment of the U.S. Constitution. Only recently, however, has the other Georgia—the Republic of Georgia—granted criminal defendants the right to a jury trial, and eight lawyers from the state of Georgia are making sure the new right is meaningful for Georgian citizens.

The right to a jury trial had previously only applied to the most serious of crimes such as murder and treason, but by January 2017, it will be applied to a host of other offenses. The problem for lawyers and their clients in the Republic of Georgia is that very few lawyers have ever handled a jury trial or even been trained in the art of trial advocacy.

Since Georgia became independent after the break-up of the Soviet Union in 1991,

(Top row, left to right) Dick Rubin and Frank Hogue. (Middle row, left to right) Tako Nasaridze, state department host; Angie Coggins; Laura Hogue; Jason Sheffield; and two local interpreters. (Front row, left to right) Doug Peters and Bob Rubin.

it has turned to the West, specifically the United States, for a model for its criminal justice system. The United States has been eager to help the Republic of Georgia, affectionately referred to as our “good neighbor in a bad neighborhood,” given that Georgia borders Russia to the south and Turkey to the north. In anticipation of the establishment of the right to a jury trial, their American and British counterparts trained Georgian law enforcement officers, investigators and forensic chemists. Likewise, prosecutors have received extensive trial advocacy training, courtesy of the U.S. Department of Justice. As a result, Georgian prosecutors have out-lawyered Georgian defense attorneys rendering defense lawyers as valuable as “flowers on a dead man,” according to one Georgian prosecutor. Recognizing the disparity, the U.S. Bureau of International Narcotics and Law Enforcement Affairs (INL) has recruited a group of criminal defense attorneys from the state of Georgia to provide trial advocacy training to Georgian defense attorneys.

The eight-member group includes De-catur attorney and current Georgia Association of Criminal Defense Lawyers (GACDL) President Robert G. “Bob” Rubin, Past GACDL President Douglas N. Peters and GACDL Treasurer Jason B. Sheffield. Also included in the group are Macon attorneys Franklin J. and Laura D. Hogue, Houston County chief assistant public defender and GACDL President-Elect Angie Coggins, Federal Defender Natasha Silas and Idaho Federal Defender Richard “Dick” Rubin. This group of prominent criminal defense attorneys has tried more than 300 jury trials and has extensive experience teaching trial advocacy skills in the state of Georgia and across the country. Bob Rubin, Jason Sheffield and Dick Rubin have taught trial skills to law students at Emory University for the past 30 years. Laura Hogue, Frank Hogue, Natasha Silas and Angie Coggins are faculty members at GACDL’s Bill Daniel Trial Advocacy Program and the National Criminal Defense College in Macon where Laura Hogue was

recently named dean of the college. Doug Peters lectures nationwide on the variety of skills needed to try serious criminal cases. “The methods that we use to teach lawyers in the United States have proven to be effective for more than 30 years in giving trial lawyers both the skills and confidence necessary to be effective advocates for their clients,” said Bob Rubin.

The man responsible for putting the group together is former Henry County Chief of Police Michael Turner who is now the director of the INL in the Republic of Georgia. As a former law enforcement officer, Turner understands the benefits of a strong defense bar, and was dismayed at what he was seeing in Georgian courtrooms. “It’s time to level the playing field,” Turner said. “The government has the ultimate burden of proof and the resources to accomplish their goals. Defense lawyers and their clients must have the same opportunities.”

The group, who will make multiple trips to the Republic of Georgia over the



The house of the president of the Republic of Georgia, Giorgi Margvelashvili.

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(Left to right) Dick Rubin, Jason Sheffield, Doug Peters, Bob Rubin, Laura Hogue, Frank Hogue and Angie Coggins.

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next two years, recently returned from their first trip to Tbilisi. They spent one week learning about the country's criminal justice system from Georgian law professors, prosecutors, judges, the Georgian Bar Association, the Georgian Young Lawyers Association and the director of Georgia's Legal Aid Service. "It was clear to us that the prosecutors have an enormous advantage over the criminal defense bar in their trial advocacy training," said Frank Hogue after meeting with all stakeholders in the Georgian criminal justice system. While prosecutors in the region are receiving a great deal of training, defense attorneys are receiving practically none. Defense lawyers in Georgia are in need of basic trial skills that many American law students begin to develop in law school: public speaking, building a theory of defense, developing voir dire techniques, structuring opening statements and closing arguments, conducting direct and cross examination, and presenting evidence. The trial advocacy program developed by the group will encompass all of those needed skills.

"We recognize that our program will need to be adapted to fit within the Georgian culture and will evolve as we continue to understand the needs of the lawyers and students," Peters said. The group also plans to expose the students to other skills such as client interviewing, strengthening the attorney-client relationship with effective communication, handling exhibits and media relations.

### Under the Current System

Helping to train defense attorneys is not the group's only objective. While American lawyers enjoy decades of state appellate court and U.S. Supreme Court case precedent and judicial interpretation of statutes, Georgian lawyers and the judges who rule on pretrial and trial matters have very little to guide them. The criminal code is not clear on the elements of each offense or on courtroom procedure. There are no codified rules of evidence or pattern jury instructions. The opportunity to shape the future jurisprudence of the country is part of the teaching the

team of trial attorneys is eager to embrace. "The opportunity for us to assist Georgian defense lawyers in crafting the arguments that will ultimately shape the future of their criminal justice system is quite thrilling," said Sheffield, who added, "We potentially get to play a part in creating their *Miranda v. Arizona* (right to remain silent and the right to counsel when being interrogated by police) or *Crawford vs. Washington* (right to confront witnesses), and even their *Brady vs. Maryland* (holding the government responsible for turning over exculpatory evidence to the defense)."

Under the current system in Georgia, 97 percent of cases result in a stipulation of all evidence prior to any investigation by the defense or full pretrial disclosures by the government. Thirty-six percent of defendants attend pretrial hearings without counsel, so the stipulations are often made without any advice or assistance of counsel. If the defense learns of evidence that may be helpful to their defense, they must ask the prosecutors to go and obtain the evidence for them in lieu of conduct-

ing their own investigation. This has built in systemic animosity.

“What jumped out at us from the start was that neither side trusted the other on any matter,” said Coggins, one of the three public defenders in the group. “And it was no surprise why, once we learned the types of rules that existed and the country’s history of systemic corruption.” Coggins added, “If justice is truly going to reign in the Republic of Georgia, defense lawyers must have access to their own investigators and their own experts and not be relegated to asking for assistance from the very people who are trying to imprison their client.”

### Change Won’t Come Easy

Transitioning from a criminal justice system in which the fate of the accused was decided by a judge alone to the implementation of jury trials not only requires the training of prosecutors and defense attorneys and the revamping of the country’s criminal procedure code, but also a change in the mindset of the stakeholders and the public. At present, most of the jury trials that have taken place began with a jury selection process that took months to complete, keeping jurors away from their families and jobs by having to come back to court time and time again until the process resolved. It is no wonder citizens have grave concerns about participating in the system itself.

Many in Georgia who grew up in the Soviet era believe that the legal profession is ethically and financially corrupted. “A major obstacle is the Soviet mentality that the prosecutor runs everything and the judge is an extension of the prosecutor,” said Dick Rubin. The American lawyers will work with their Georgian counterparts to understand the Georgian juror’s mentality about the system, and the Georgian lawyers’ role in educating the populace. “Furthermore,” Rubin noted, “we have in place some of the finest techniques around that will absolutely ensure that any person charged with a criminal offense will have a fighting chance at trial.”

And, most critically, within the Georgian culture exists the negative connotation that defense lawyers are of

less value to the legal system than their civil or prosecutorial counterparts. This stigma, no doubt, results from the prosecutors having received far more training, resources and hands-on skills than public and private defense lawyers. “Helping the Georgians see, feel and embrace the pride associated with standing alongside the accused, fighting for their justice system to apply fairly and vigorously to all, underpins all that we are doing in this beautiful country,” says Laura Hogue. “It was disheartening to hear that 70 percent of defense lawyers choose that path because they can’t become prosecutors or civil lawyers. We intend to change that perception.”

### Moving Forward

As Georgia expands the list of crimes for which a defendant has the right to be tried by a jury, the country must provide the infrastructure to effectively accommodate this change. There are only two courtrooms in the whole country with a jury box. The country will hold jury trials in eight regions in the country, and they are building courtrooms with the necessary accommodations.

In February 2017, the eight-member group of experienced criminal defense lawyers from the state of Georgia will return to the Republic of Georgia. Through lectures on all aspects of a jury trial, followed by small group exercises in which the attorneys work on those skills while receiving critiques from the faculty, and culminating in demonstrations of those skills, the Georgian attorneys will be working toward their goal of effective representation for the accused. It is expected that as the Georgian defense lawyers master these skills, they will begin to join the faculty in training their colleagues and, eventually, take over the training program themselves. Given the friendships that will continue to develop over the coming months and years, their U.S. counterparts will never be more than an email away. The experience of working together will have enriched both sets of lawyers and, without a doubt, will enhance the criminal justice systems in both the state of Georgia and the Republic of Georgia. ●

*A special thanks to Kendra Livingston, a 3L at Atlanta’s John Marshall Law School, for her assistance with this article.*



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**Laura D. Hogue** graduated from the Walter F. George School of Law at Mercer University in 1991. A board member of GACDL and an active member of the National Association of Criminal Defense Lawyers, Hogue is now the dean of the National Criminal Defense College. Hogue can be reached at [laura@hogueandhogue.com](mailto:laura@hogueandhogue.com).



**Angie Coggins** is a 1989 graduate of Mercer University’s Walter F. Georgia School of Law. She’s been with the Houston County Public Defender’s Office for 27 years. Coggins is the president-elect of GACDL and can be reached at [acoggins@houstoncountyyga.org](mailto:acoggins@houstoncountyyga.org).

# 2017 Legislative Preview

This coming year will be another important legislative session for the State Bar's sections and other areas of interest to Bar members.

BY CHRISTINE BUTCHER

**The start of a new year means the start** of another regular session of the Georgia General Assembly. It has been such a pleasure getting to know so many fellow attorneys around Georgia since I started as the new director of governmental affairs on July 1. I am eager to represent the State Bar as the General Assembly gears up on Jan. 9, 2017.

With the 2016 general election behind us, we move forward into a new two-year term. Legislation that did not pass during the 2016 session will need to begin the process all over again.

The State Bar's Advisory Committee on Legislation (ACL) held its first meet-

ing on Sept. 29 to begin the process of developing the State Bar's legislative agenda. The committee approved four legislative proposals and a request for funding support. At the Fall Meeting at Callaway Gardens on Oct. 21, the Board of Governors unanimously approved these proposals. These items include:

- A proposal from the Nonprofit Law Section that provides a means for foreign nonprofit corporations to change its state of organization to Georgia. Currently under Georgia law, a foreign nonprofit corporation that wants to become a Georgia nonprofit can



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only do so through a merger, and the same is true for a Georgia nonprofit corporation that seeks to incorporate outside of Georgia.

- A proposal from the Child Protection and Advocacy Section that amends the current law so that upon an appeal of an order terminating parental rights, an adoption proceeding related to that child is stayed until the conclusion of the appeal. This proposal also adds language to clarify that a party, other than a child, to a juvenile proceeding can waive his or her right to counsel, provided that the waiver is knowing, voluntary and on the record.
- A proposal from the Fiduciary Law Section that would provide for a 360-year permissible vesting period for a nonvested property interest, like a trust, created after June 30, 2017. Georgia currently has a 90-year permissible vesting period, but many states have expanded this to 360 years to allow property interest to be held in trust for substantially longer periods of time. This proposal would also amend the code to expressly provide five methods for modifying an irrevocable trust.
- A second proposal from the Fiduciary Law Section provides to enact a Georgia version of the Revised Uniform Fiduciary Access to Digital Assets Act. This gives a trustor the power to plan for the management and disposition of digital assets in a similar way that he or she can make plans for tangible property. This includes virtual currency accounts like bitcoin, valuable web domains, and digital photography and art, among other things.

The second ACL meeting took place Nov. 29. A handful of additional proposals were considered, with final approval set for the Board of Governors meeting in Atlanta on Jan. 7, 2017.

In this upcoming session, Rusty Sewell and I also expect revisions to HB 808, the 2016 legislation that amended the structure and procedure of Georgia's Judicial



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Qualifications Commission (JQC). We anticipate new legislation that addresses due process and transparency concerns that were vocalized during the House JQC Study Committee this fall.

As the number of lawyer-legislators in the General Assembly continues to dwindle, your engagement in the legislative process is more important than ever. You can sign up for the State Bar Action Network, an online portal that provides real-time monitoring of State Bar agenda items and facilitates easy communication with your elected officials ([www.gabar.org](http://www.gabar.org)). We also encourage you to join us, either with your local bar associations or individually, for a "Lobby Day" at the Capitol. Lawyers are important and productive members of our communities and legislators find it meaningful to hear from their engaged, concerned constituents.

This coming year will be another important one for the State Bar under the

Gold Dome. The Legislative and Grassroots Program not only advocates and defends changes that affect the practice of law, but also issues affecting the judiciary, public safety, youth and a host of other areas that attorneys regularly encounter. We are grateful to those who donate to the Legislative and Grassroots Program, which is funded entirely through voluntary contributions upon renewal of your Bar dues. We appreciate your continued support as we continue to ensure a strong and unified voice for the profession under the Gold Dome. ●



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# Stewart County Courthouse at Lumpkin The Grand Old Courthouses of Georgia

BY WILBER W. CALDWELL



PHOTO BY WILBER W. CALDWELL

The Stewart County Courthouse at Lumpkin, built in 1895, Andrew J. Bryant, architect, burned 1922, rebuilt 1923, T. F. Lockwood, rebuilding architect.

In 1895, when Atlanta architect Andrew Bryan drew the plans for the Stewart County Courthouse at Lumpkin, few in Georgia understood the far-reaching implications of his design. Here was the first court building in the state to express the “new Classicism” which was to sweep the nation into the new century. Two years before, the flamboyant arcades of Chicago’s 1893 Columbian Exposition had awed visitors with its “Florentine” finery and begun the so-called American Renaissance. Ironically, this gushing display of classical ornament had been strongly opposed by Lumpkin’s native son, the prominent Chicago architect, John Wellborn Root. As one of America’s leading architects and the consulting architect for the design of the buildings at the Chicago fair, Root had sought to embellish the great exposition with elaborately Picturesque buildings of “variety and color.” But in 1890, while the fair was in its planning stages, Root died an untimely death. His Romantic ideas for the architecture at the grand exposition, along with those of Louis Sullivan, were quickly swept aside by the proponents of the new Classicism led by Eastern architects like Charles McKim and Richard Morris Hunt. As the Chicago Fair opened, great spasms of Beaux-Arts Classicism spewed forth in an orgy of Baroque excess, and the Picturesque in America was quickly engulfed.

John Wellborn Root had traveled a long way from the rural Stewart County of his youth. Likewise, in 1893, the architecture of the proposed “White City” at Chicago was a great distance from the

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simple country courthouse at Lumpkin, Ga. Despite her ancient ties to classical forms, the American South would be slow to embrace the new styles unveiled at Chicago. Chief architect Bradford Gilbert's buildings at the 1895 Cotton States Exposition in Atlanta confirm the region's intransigence. Although the buildings in Atlanta's Piedmont Park manifested a return to symmetry, their thrust was still decidedly Picturesque. With their Romantic gray and green color scheme and their rustic shingle and stone textures, Gilbert's highly influential designs at Atlanta would further retard the progress of the new Classicism in the region.

Nonetheless, Classical seeds were on the wind, and men like Andrew Bryan understood how seductive these classical images would be for the American South. He also knew that such a seduction could never be accomplished by flashy displays of Beaux-Arts ornament alone. Like James Golucke and Frank Milburn after him, Bryan began the process of Neoclassical Revival in Georgia with a bit of an "end run." He eschewed fashionable Parisian forms and returned to the vocabulary of Georgian England so familiar to the South. His 1895 Stewart County Courthouse at Lumpkin paved the way for the Classical Revival in Georgia. Although the first properly neoclassical court building in the state rose in Columbus in 1896, it would be almost a decade before classical forms were firmly entrenched in Georgia. By then, the South would have manipulated the symbols attached to the new style to suit her own peculiar needs. Meanwhile, here in Lumpkin, the Federal Style details of Andrew J. Bryan's Stewart County Courthouse, which was originally crowned with a stunning Neocolonial lantern, appeared to be more a voice from the past than from the future. Perhaps nothing could have been more appropriate.

Originally the county seat of Randolph County, Lumpkin had been laid out in February of 1830 as the partition of the enormous Lee County began. The town had become the Stewart County seat when that county was created from Randolph in December of the same year. The town's early progress was exceptional. A log courthouse was erected at Lumpkin in

1831 and was replaced by a sturdy frame court building in 1837. In that same year, Adiel Sherwood described the town as having 36 dwellings. As the lure of its new cotton growing lands filled Stewart County with eager farmers, Lumpkin continued to grow. In his 1849 "Statistics of the State of Georgia," George White catalogued Lumpkin's successes, listing three hotels, 12 stores, 10 lawyers and a population numbering between 800 and 1,000. White adds, "considerable business is done in this place."

But Lumpkin's early growth was not to continue. A long period of stagnancy followed the end of the war. The simple wooden courthouse and the flimsy wooden buildings that had ringed the square before the Civil War would stand well into the 1890s. In 1885, Stewart County produced only 15,000 bales of cotton, a figure that barely surpassed her antebellum output. Sholes' *Gazetteer of Georgia* for 1879, 1886 and 1896 all list Lumpkin's population at about 1,000. However, the mood was expectant as the first train on Samuel Hawkins's Americus, Preston and Lumpkin Railroad steamed into Lumpkin in February of 1886. Amid a rush of high expectations and billowing steam everyone assumed that Lumpkin was about to "speedily grow to the magnitude of a commercial city."

Sadly, the initial effect of The Americus, Preston and Lumpkin Railroad on Lumpkin's struggling economy bore little resemblance to her visions of New South wealth. The road's first depot was an old fertilizer warehouse, and the shabby wooden buildings that still ringed the 1837 frame Stewart County Courthouse looked nothing like the grand New South monuments of brick that everyone thought would rise. Expectations were quickly tempered by reality, and throughout the late 1880s, successive grand juries found the old wooden courthouse totally acceptable.

But Samuel Hawkins was far from finished. By the end of the decade, The Americus, Preston and Lumpkin had become the nucleus of the mighty Savannah, Americus and Montgomery Railroad, affectionately known as The SAM. By 1891 the entire line was converted to standard

gauge and the rails stretched all the way from Montgomery, Ala., to Lyons, Ga., where its trains ran into Savannah on the newly completed rails of The Savannah and Western. The effect in Lumpkin was electric. Brick buildings began to materialize, and the Bank of Sumter County rose in 1891. By 1893, two grand juries had recommended a new courthouse, and by the first of June, courthouse designs had been submitted by "half a dozen" architects, and a plan by Atlanta's Andrew Bryan had been selected.

Ironically, the very expansion that so lifted spirits in Lumpkin proved fatal for The Savannah, Americus and Montgomery. Extending the road westward to Montgomery had proved far more expensive than Samuel Hawkins and his engineers had originally calculated. The national depression of the early nineties coupled with the failure of The Central and The Savannah and Western's sudden refusal to allow The SAM use of its tracks into Savannah, put an abrupt end to Col. Hawkins's dreams.

In 1922, Andrew Bryan's 1895 Stewart County Courthouse at Lumpkin burned, and the once tiny village of Richland in eastern Stewart County at the junction of two railroads made a futile bid to wrestle the county seat away from hapless Lumpkin. It was to be the one prize that the bold upstart would not garner. Lumpkin retained the county seat and a sadly inferior reconstruction of Bryan's 1895 Stewart County Courthouse, designed by Columbus architect T. F. Lockwood, rose in 1923. ●

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Excerpted by **Wilber W. Caldwell**, author of "The Courthouse and the Depot, The Architecture of Hope in an Age of Despair, A Narrative Guide to Railroad Expansion and its Impact on Public Architecture in Georgia, 1833-1910," (Macon: Mercer University Press, 2001). Hardback, 624 pages, 300 photos, 33 maps, 3 appendices, complete index. This book is available for \$50 from book sellers and Mercer University Press at [www.mupress.org](http://www.mupress.org) or call the Mercer Press at 800-342-0841 inside Georgia or 800-637-2378 outside Georgia.

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## A Conversation with Gov. Nathan Deal

BY JACOB E. DALY

This installment of the Georgia Lawyer Spotlight features Gov. Nathan Deal. Among the issues discussed are his priorities for the upcoming legislative session, thoughts on the declining number of lawyer-legislators, the importance of criminal justice reform and the qualities he looks for when making judicial appointments.

### *What are your priorities for the upcoming legislative session?*

**Gov. Deal:** For the fourth consecutive year, Georgia has been named the No. 1 state in which to do business. As we move forward, it is important that we prioritize maintaining low tax burdens, investing in education and improving our infrastruc-

ture so that the state can continue to provide a foundation for job creators.

Last year, the General Assembly approved the FY 2017 budget which included \$23.7 billion in total state appropriations for education, public safety and economic development. The budget includes \$8.9 million for the continuation of criminal justice reforms, \$300 million in additional funds intended for teacher salary increases and \$26.2 million for Pre-K teacher pay raises.

Once again, Georgia has earned an AAA bond rating from each of the three main credit-rating agencies, one of only 11 states to meet this standard. Our Rainy Day Fund now stands at more than \$2 bil-

lion, surpassing my goal of reaching that point before January of 2019. Our unemployment rate is lower than it was before the Great Recession.

Last session, we also unveiled our 10-year, \$10 billion dollar transportation plan, which was only possible because of the General Assembly's bold action the year before on HB 170. This investment in our infrastructure is vital to our continued economic growth and long-term viability.

For some time, we've heard discussions regarding changes to Georgia's existing Medicaid plan. I'm looking forward to working with the General Assembly to fix issues with Medicaid services provided to foster children, mental health patients in state care and other individuals being treated by the Department of Behavioral Health and Developmental Disabilities. I'm also working to include mental health services for children age 5 and under.

In September, I unveiled the law enforcement reform proposal that includes both an across-the-board, 20 percent pay raise for state-level officers and a multi-phase training overhaul.

### *As a former lawyer-legislator, what do you think about the declining number of lawyers who serve in the General Assembly? Why is it important to have more lawyer-legislators in the General Assembly?*

**Gov. Deal:** Good lawyers are important to the legislative process because they bring a special perspective and insight as to how a proposed law may work in practice. Real-world legal insight, as well as careful attention to detail in the early stages of legislation, is particularly important in protecting the interests of all Georgians.

We are fortunate to have good legal counsels who draft legislation, but lawyers in the legislative bodies have the experience to anticipate the unintended consequences which may not be appar-

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ent in the language of legislation. A good lawyer-legislator knows how to ask the right questions.

***With reference to the legal profession, what do you consider to be your most significant accomplishment as governor so far?***

**Gov. Deal:** As a former lawyer and judge, Georgia's justice systems have received special attention from me, and we have made great strides in this area. We have found ways to improve our justice systems, and we are taking the necessary steps to do so. Criminal justice reform has been particularly successful, especially the implementation of accountability courts, reforms to the juvenile justice system and re-entry initiatives.

Georgia's criminal justice reforms have saved hundreds of millions of taxpayer dollars, while preserving families, and providing ways for offenders to become productive members of society.

***Why has criminal justice reform been so important to you?***

**Gov. Deal:** In Georgia, we have taken monumental steps in recent years to give new beginnings to non-violent offenders whose underlying issues are addictions or mental illnesses. Instead of saddling taxpayers with the cost of a prison sentence or branding offenders with the stigma of incarceration, these individuals are getting the treatment they need, keeping their jobs and keeping their families together.

Beyond fiscal considerations, criminal justice reform is essential to providing successful rehabilitation to prevent former offenders from becoming repeat offenders. These reforms have the long-term potential to positively change the dynamics of families, as crime is often generational. In far too many homes, children have grown up with parents who have serious addic-

tions or children have seen family members going in and out of prison. In such cases, children start to accept this pattern as a normal way of life, but if we break the cycle of generational crime, then we not only save money and lives in the short term, but we are making changes that will last for generations. As recently as 2013, Georgia was spending \$91,000 on each incarcerated juvenile per year and still seeing a 65 percent recidivism rate. These unique challenges led to reforms including assessment tools designed to help judges determine the risk levels of juvenile offenders; providing judges with greater discretion in sentencing juveniles; and expanding community-based options across the state, an objective pursued in part through the creation of an incentive grant program. Since these changes have been put in place, the state has made significant progress, particularly with its incentive grant program. For example, participating counties have seen felony commitments and placements in short-term programs drop more than 62 percent in the first nine-month period. This has resulted in the closure of two detention centers.

Re-entry is the critical intersection between an offender's incarceration and return to life in the free world. By removing barriers to employment, housing and

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Good lawyers are important to the legislative process because they bring a special perspective and insight as to how a proposed law may work in practice.

—Gov. Nathan Deal

education for rehabilitated offenders, a larger number of returning citizens are able to rejoin the workforce and support their families.

**What role do accountability courts play in your vision of criminal justice?**

**Gov. Deal:** Before reform initiatives had been enacted, Georgia's inmate population was projected to grow by 8 percent in the ensuing five years, presenting taxpayers with an additional \$264 million price tag for the construction of two new prisons. Those new prisons and the costs to taxpayers associated with them are no longer necessary.

Georgia's 105 accountability courts provide sentencing alternatives that give non-violent offenders a second chance, and often, an opportunity to address underlying addiction and mental health issues outside of a prison cell.

The cost to incarcerate one adult offender is about \$18,000 per year, which is far more expensive than an addiction rehabilitation program or mental health counseling—so it makes fiscal sense to seek alternatives to prison for non-violent offenders whenever feasible.

**What do you hope to accomplish during the remainder of your second term?**

**Gov. Deal:** Since January of 2011, we've created more than 575,000 new private sector jobs in Georgia and I want to see that trend continue. We must continue implementing the measures we know to work so that Georgia may continue to help small businesses grow and attract top companies from around the world.

It is imperative that we continue working to break the "school to prison" pipeline in favor of improving our education system to strengthen the workforce pipeline that runs from the classroom to the job market. Approximately 70 percent of Georgia's inmates do not have a high school diploma or equivalent. In order to see that all Georgia students have an opportunity, we must continue to improve our education system.

I hope to continue to grow the REACH Scholarship, a public-private partnership that provides scholarships to promising middle school students from low-income families.

**You've been a real friend of the judiciary since taking office. You've substantially increased the courts' budgets, added judgeships and pushed for the construction of a new building for the state's appellate courts. What do you want people years from now to look back and say about your impact on Georgia's judiciary?**

**Gov. Deal:** For many, judges are the first, and hopefully last, stop in receiving justice through our legal system, so we surely want the best possible judges around and a legal system that works.

Georgia's population has grown rapidly over the past several years, from the 10th to the 8th most populous state. This year's estimated population is 10,379,084 for a total of 691,431 new Georgia residents since 2010. In order to be prepared for the future, Georgia's court system needed to keep up and a well-prepared judiciary is an essential step.

It has been my honor to appoint a record number of new judges. I want these judges and those who have served the cause of justice for many years to be appropriately compensated and housed in offices that allow them to work efficiently.

**What qualities do you look for when making judicial appointments?**

**Gov. Deal:** I consider intellect, experience, temperament, compassion and an appreciation of the proper role of the judicial branch of government.

**Is there anything different you look for in trial judges compared to appellate judges?**

**Gov. Deal:** Yes. I prefer for trial judges to be lawyers with practical experience in the types of cases they will be called upon to preside over. Appellate judges should have the ability to enter well-written, understandable opinions that address the issues of the case before them, but must also understand the impact of their decisions on the judgment calls trial judges must make in future cases.

They should also give appropriate consideration to the actions of legislative bodies, when interpreting the meaning of statutes on judging those statutes against the dictates of the state or federal constitutions. Most of all, their opinions should be void of partisan biases.

**What do you say to those who complain that your appointments have not been diverse enough?**

**Gov. Deal:** When making a judicial appointment, it's important to consider the most qualified applicants who will each bring a unique perspective. Educational accomplishments are important, as well as career experiences and experience in the legal profession.

Those nominated are considered as individuals, with one's judicial philosophy and abilities in interpreting the law as the driving factors. Overall, I'm looking to appoint judges who are deliberative and respect the divisions of power that exist in state government.

My appointments have been very diverse as to gender and race. Some of the groups who complain about my appointments have failed to nominate attorneys for the Judicial Nominating Committee to consider.

**Are there any further changes to Georgia's court system that you would like to see?**

**Gov. Deal:** I would like to see a further expansion of Georgia's Accountability Courts to provide new beginnings for non-violent offenders.

I will continue to work with the courts and the Clerk of Courts Association to expand e-filing to make court cases and documents more accessible from any number of Georgia courts anytime and from anywhere.

**Why did you support the bill to remake the Judicial Qualifications Commission?**

**Gov. Deal:** As governor, I have no role in approving or signing Constitutional amendments into law. I support the Legislature's desire to place this decision in the hands of voters. ●



**Jacob E. Daly** is of counsel with Freeman Mathis & Gary, LLP, in Atlanta and a member of the Georgia Bar Journal

Editorial Board. He represents private companies, government entities and their employees in personal injury litigation with a focus on defending property owners, management companies and security companies in premises liability lawsuits.



State Bar  
of Georgia

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*For up-to-date information on committees,  
members, courts and rules.*



## Kudos



BakerHostetler partner Charlene McGinty was named president of the American Health Lawyers Association (AHLA). McGinty has been active in AHLA for more than 17 years where she first served as vice chair of the Physician Organizations Practice group in 1999. The AHLA Board of Directors oversees the day to day operations and implementation of the strategic plans of the organization.



David J. Burge, a partner in the Real Estate Practice at Smith, Gambrell & Russell, LLP, and section head of the firm's real estate practice in Atlanta, was a recipient of the 2016 Whitney M. Young, Jr. Service Award given by the Atlanta Area Council of the Boy Scouts of America. The award is designed to recognize those individuals and corporations who have been instrumental in the development of scouting for rural, urban and suburban youth who often face challenging barriers.



Atlanta Municipal Court Deputy Chief Judge Gary E. Jackson was elected president of the Council of Municipal Court Judges of Georgia. Jackson was appointed as a judge in the Municipal Court of Atlanta by Mayor Shirley Franklin on June 30, 2005. Jackson is also a member of the Judicial Council of Georgia which is the policy-making body for Georgia's judiciary, chaired by the chief justice of the Supreme Court of Georgia.



U.S. Bankruptcy Judge Lamar W. Davis Jr. retired in June after a 30-year judicial career, the last four on "recall status." Davis went on the federal bench in May 1986. During his time on the bench, the court has grown to three full-time judges, and Davis has twice been chief or administrative judge. When he took "recall status" in July 2012, Davis said he wanted to continue to work, but that the court for the 43-county Southern District of Georgia needed a fourth judge because of growing caseload. The recall status, which is similar to a district judge taking senior status, allowed Davis to work but on a three-year term rather than the normal 14-year term.



Christopher Adams of The Law Office of Christopher W. Adams, P.C., in Charleston, S.C., was sworn in as secretary of the National Association of Criminal Defense Lawyers (NACDL). A professional bar association founded in 1958, NACDL's approximately 9,000 direct members in 28 coun-

tries—and 90 state, provincial and local affiliate organizations totaling up to 40,000 attorneys—include private criminal defense lawyers, public defenders, military defense counsel, law professors and judges committed to preserving fairness and promoting a rational and humane criminal justice system.



BRACKEN



GRIFFITH



BUSSCHER



MILLMAN



WAGNER



EZEKIEL

Hunton & Williams LLP recognized six Atlanta-based attorneys at its E. Randolph Williams award reception: Lawrence J. Bracken II, partner; Greta T. Griffith, partner; Peter F. Busscher, senior attorney; Dan B. Millman, associate; Laura Thayer Wagner, associate; and Farley Ezekiel, pro bono fellow. Recipients of the annual award, named after one of the firm's founders, each contributed more than 100 hours of pro bono legal services to indigent clients and nonprofit organizations during the firm's fiscal year ending March 31. This year marks the firm's eighth consecutive year of 100 percent pro bono participation.



Kilpatrick Townsend & Stockton LLP announced that associate Rho Thomas was named to the Board of Trustees of Literacy Action. Founded in a church basement, Literacy Action is now the oldest, largest and leading adult basic education nonprofit in the Southeastern United States. Literacy Action works to set the standard of excellence in the field of adult basic education and to ultimately eradicate low literacy, a root cause of poverty in the Atlanta area. Literacy Action helps build better futures for undereducated adults by teaching literacy, life and work skills that empower them to reach their highest potential.

FordHarrison LLP, one of the country's largest management-side labor and employment law firms, announced that the firm's employees raised \$10,000 in support of St. Jude Children's Research Hospital. St. Jude was selected as the firm's spring/summer 2016 firm-wide charity. The firm set an initial goal of raising \$7,000 for the organization, but with the overwhelming amount of participation from both attorneys and staff, the firm was able to exceed its goal.



Debby Stone of Novateur Partners, LLC, published her first book, “The Art of Self-Promotion: Tell Your Story, Transform Your Career.” The book teaches readers how to effectively tell their stories to reach their career goals, develop new clients and build their practices. It features practical tools for mastering the art of self-promotion with authenticity, grace and confidence.



Richard C. Litwin, an Atlanta attorney who specializes in state and local tax planning and tax disputes at The Litwin Law Firm, P.C., was appointed to the University of South Carolina Board of Visitors for a three-year term. As part of his role, he will assist the university’s Board of Trustees and the president in the advancement of the university, and where appropriate, the University of South Carolina System.



Jeffrey K. “Jeff” Haidet, U.S. co-CEO of Dentons, was appointed chair of the Board of Directors of The Catholic Foundation of North Georgia. Haidet has served on the board for nearly eight years and previously served the foundation as chair for the Governance and Nominating Committee and vice chair of the board. The foundation’s mission is to help Catholics make a lasting difference in the community. The Catholic Foundation attracts, professionally manages and invests gifts to support the current and long-term financial needs of parishes, schools, charities and other ministries.

## On the Move

### IN ATLANTA

Goodman McGuffey Lindsey & Johnson, LLP, announced that one of its founding partners, Edward Lindsey, left his litigation practice at the firm to pursue lobbying and public policy work. The firm changed its name to Goodman McGuffey LLP and is located at 3340 Peachtree Road NE, Suite 2100, Atlanta, GA 30326; 404-264-1500; Fax 404-264-1737; www.gmlj.com.



Butler Wooten & Peak LLP announced Ramsey B. Prather joined the firm’s Atlanta office as an associate. Prather’s practice areas include False Claims Act litigation, business torts and personal injury. The firm is located at 2719 Buford Highway, Atlanta, GA 30324; 404-321-1700; Fax 404-321-1713; www.butlerwooten.com.

# In the Community



PHOTO PROVIDED BY MICHAEL JOHNSON

On Nov. 6, members of the State Bar participated in the Out of the Darkness Walk and raised almost \$1,000 to help fund suicide awareness and prevention programs. Many thanks to all who participated by walking or donating! Pictured left to right: Court of Appeals of Georgia Judge Lisa Branch, Bill Clark, Past President Robin Clark, and Michael and Alison Johnson.

Looking for a wellness event to participate in? Visit the calendar at [www.lawyerslivingwell.org](http://www.lawyerslivingwell.org). #lawyerslivingwell

Seyfarth Shaw LLP announced the arrival of partner Andrew R. Hough to the firm’s Corporate Department in Atlanta. Hough joins Seyfarth from Ballard Spahr LLP where he was a partner in their Atlanta office. Hough advises financial and strategic clients regularly on general business matters, domestically and internationally, with a focus on mergers and acquisitions, private equity, venture capital and outsourcing transactions. The firm is located at 1075 Peachtree St. NE, Suite 2500, Atlanta, GA 30309; 404-885-1500; Fax 404-892-7056; www.seyfarth.com.



LAWRENCE-HARDY



LEWIS

Allegra Lawrence-Hardy announced the formation of Lawrence & Bundy LLC, a litigation firm serving clients nationwide from offices in Atlanta and Washington, D.C. Most recently, Lawrence-Hardy co-headed Sutherland Asbill & Brennan's business and commercial litigation team and the firm's labor and employment team, helping Fortune 500 clients navigate an array of complex commercial and employment matters.



SMITH

John Lewis Jr., former senior managing counsel at The Coca-Cola Company, joined the firm as partner. During his 14-year career at Coca-Cola, Lewis has held roles of increasing responsibility, having led the company's global litigation team, directed the company's compliance with the Foreign Corrupt Practices Act and related anti-corruption laws and regulations around the world.

Victoria C. Smith, a former associate of King & Spalding LLP, joined the Atlanta office as a senior associate. Smith was a member of King & Spalding's tort and environmental litigation team for more than five years. Her practice focused on defending product manufacturers in the pharmaceutical, automotive and asbestos industries in nationwide product liability and personal injury litigation in both state and federal court. Lawrence & Bundy LLC is located at 1180 W. Peachtree St., Suite 1650, Atlanta, GA 30309; 404-400-3350; Fax 404-609-2504; www.lawrencebundy.com.



Akin & Tate, P.C., announced that W. Matthew Wilson joined the firm, opening an Atlanta office in addition to the original Cartersville office. As a general practice litigator, Wilson has experience in personal injury, wrongful death, medical malpractice, civil and administrative appeals, class actions, multi-district litigation and complex business litigation cases. The firm is located at 2719 Buford Highway NE, Atlanta, GA 30324; 770-382-0780; www.akintate.com.



Freed Howard LLC announced that Naomi Bryant joined the firm as an associate. She has successfully represented clients before the Immigration Court, the Board of Immigration Appeals, the U.S. Citizenship and Immigration Service, and various state courts in Georgia. Bryant is proficient in Spanish and has studied in Madrid, Spain, and Santiago, Chile. The firm is located at Centennial Tower, 101 Marietta St., Suite 3600, Atlanta, GA 30303; 470-839-9300; Fax 470-839-9301; freedhoward.com.



FordHarrison LLP announced the addition of Jill M. Harrison as of counsel to the firm's Atlanta office. Harrison has a breadth of experience advising management in issues related to both labor relations and employment law. Her experience includes providing strategic counsel to business executives and human resources management on all aspects of the employment relationship, First Amendment litigation and counseling, and privacy matters. The firm is located at 271 17th St. NW, Suite 1900, Atlanta, GA 30363; 404-888-3800; Fax 404-888-3863; www.fordharrison.com.



FINDLEY



PARKER

Kilpatrick Townsend & Stockton LLP announced the addition of Jennifer R. Findley, Sarah E. Parker and Joe P. Reynolds to the firm's Atlanta office as associates. Findley focuses her practice on trademark and copyright law. Parker focuses



REYNOLDS

her practice on information technology, outsourcing agreements, technology licensing and support, systems integration, managed network services, software licensing and support, application service provider and software as well as service transactions, electronic commerce arrangements and other similar commercial transactions. Reynolds focuses his practice on complex commercial litigation. The firm is located at 1100 Peachtree St. NE, Suite 2800, Atlanta, GA 30309; 404-815-6500; Fax 404-815-6555; www.kilpatricktownsend.com.



Connell & Cummings LLC announced that K. Jeanette Holmes joined the firm as an associate. She was previously with Boyd Collar Nolen & Tuggle in Atlanta. Holmes assists mothers and fathers in resolving complex child custody issues that arise in the context of divorce, paternity, modification and contempt matters. She also has broad experience representing parents dealing with addiction and mental illness and the resulting impact on custody litigation. The firm is located at 3225 Cumberland Blvd., Suite 510, Atlanta, GA 30339; 678-384-4542; Fax 678-404-6336; connellcumings.com.



Sutherland Asbill & Brennan LLP announced that it expanded its premier state and local tax practice with the recent addition of Alla Raykin as an associate. Before joining Sutherland, Raykin was a staff attorney for the Georgia Department of Revenue, where she provided counsel on compliance and collections matters, drafted regulations, and handled administrative protests and proceedings. The firm is located at 999 Peachtree St. NE, Suite 2300, Atlanta, GA 30309; 404-853-8000; Fax 404-853-8806; www.sutherland.com.



KNOX

Nelson Mullins Riley & Scarborough LLP announced that Brandi Knox joined the firm as of counsel and Thomas D. Powell joined as an associate in the Atlanta office. Knox focuses her practice on immigration law, including employment-based, family-based and naturalization. Powell is a member of the education law team. His practice focuses on the transactional needs of the firm's education clients. The firm is located at Atlantic Station, 201 17th St. NW, Suite 1700, Atlanta, GA 30363; 404-322-6000; Fax 404-322-6050; www.nelsonmullins.com.



POWELL



Krevolin & Horst announced that Adam Sparks joined the firm's litigation practice. Sparks handles a variety of litigation matters in the political, education and public arenas. He has experience trying cases involving complex financial institutions and straightforward landlord/tenant issues, and litigating cases running the gamut of business settings and civil procedure obstacles. The firm is located at One Atlantic Center, 1201 W. Peachtree St. NW, Suite 3250, Atlanta, GA 30309; 404-888-9700; Fax 404-888-9577; www.khlawfirm.com.



Taylor English Duma LLP announced the addition of Joel C. Williams as counsel in the firm's corporate and business practice. Williams, who was previously with Bryan Cave LLP, serves clients in general corporate, international trade, and regulatory and legislative matters. The firm is located at 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339; 770-434-6868; Fax 770-434-7376; www.taylorenglish.com.



Boyd Collar Nolen & Tuggle announced the addition of Michael P. Hodes as of counsel to the firm. Hodes will serve clients with a range of family law issues, from pre- and post-nuptial agreements to complex divorce litigation. Hodes joins Boyd Collar Nolen & Tuggle from Mayoue Gray Eittrheim. The firm is located at 3330 Cumberland Blvd., 100 City View, Suite 999, Atlanta, GA 30339; 770-953-4300; Fax 770-953-4700; www.bcntlaw.com.



Leading sports litigation attorney for multiple Major League Baseball teams Ronald Gaither joined the Atlanta office of BakerHostetler as a partner in the litigation group and the sports and entertainment industry team. For the past 10 years, he has served as outside litigation counsel for the Atlanta Braves. Gaither comes to the firm from Schiff Hardin. The firm is located at 1170 Peachtree St. NE, Suite 2400, Atlanta, GA 30309; 404-459-0050; Fax 404-459-5734; www.bakerlaw.com.



NOWACK

George E. Nowack Jr. and Julie McGhee Howard announced the creation of their new law firm, NowackHoward, LLC. By mutual agreement, NowackHoward absorbed the community association practice of Weissman, Nowack, Curry & Wilco, PC, transferring clients and novating contracts relating to the practice. The new firm will stress its advisory abilities, providing timely counsel aimed at protecting associations and defusing or avoiding conflicts. The firm is located at Resurgens Plaza, Suite 1250, 945 E. Paces Ferry Road NE, Atlanta, GA 30326; 770-863-8900; Fax 770-863-8901; www.nowackhoward.com.



HOWARD



MendenFreiman LLP announced that Max R. Lafer joined the firm as an associate in its business law and outside general counsel practice area. He brings more than six years of experience providing legal counsel to small and medium-sized businesses on a variety of corporate and transactional matters, including business and corporate representation, entity structuring, incentive plans, licensing agreements, employment law and related agreements, trademark and copyright clearance, and related registration. The firm is located at 5565 Glenridge Connector NE, Suite 850, Atlanta, GA 30342; 770-379-1450; Fax 770-379-1455; www.mendenfreiman.com.

## How to Place an Announcement in the Bench & Bar column

If you are a member of the State Bar of Georgia and you have moved, been promoted, hired an associate, taken on a partner or received a promotion or award, we would like to hear from you. Talks, speeches (unless they are of national stature), CLE presentations and political announcements are not accepted. In addition, the *Georgia Bar Journal* will not print notices of honors determined by other publications (e.g., Super Lawyers, Best Lawyers, Chambers USA, Who's Who, etc.). Notices are printed at no cost, must be submitted in writing and are subject to editing. Items are printed as space is available. News releases regarding lawyers who are not members in good standing of the State Bar of Georgia will not be printed. For more information, please contact Stephanie Wilson, 404-527-8792 or [stephaniew@gabar.org](mailto:stephaniew@gabar.org).

#### IN CANTON

Roach, Caudill & Gunn, LLP, announced the election of David Whitlow Frost to partnership. Frost's practice areas include criminal litigation, family law, personal injury and civil litigation. The firm is located at 111 W. Main St., Canton, GA 30114; 770-479-1406; Fax 770-479-6171; www.rcglawyers.com.

#### IN COLUMBUS



Page, Scrantom, Sprouse, Tucker & Ford, P.C., announced that Taylor G. Martin joined the firm as an associate. Martin's areas of concentration include litigation, commercial and business law, and estate planning. The firm is located at 1111 Bay Ave., Third Floor, Columbus, GA 31901; 706-324-0251; Fax 706-243-0417; www.columbusgalaw.com.

#### IN HAWKINSVILLE



Stephanie D. Burton was appointed as the first full-time Juvenile Court judge for the Oconee Judicial Circuit on Oct. 1, 2016. Burton, a member of the State Bar of Georgia Board of Governors since 2012, was previously with the Oconee Judicial Circuit Public Defender's Office. The Oconee Circuit Juvenile Court can be reached at P.O. Box 1096, Hawkinsville, GA 31036; 478-783-2900; Fax 478-783-2902; www.eighthdistrict.org.

#### IN MACON

Spivey, Pope, Green & Greer, LLC, announced that Keith A. Johnston joined the firm as an associate. Johnston will practice in the areas of business litigation, general civil litigation and corporate law. The firm is located at 4875 Riverside Drive, Suite 200, Macon, GA 31210; 478-254-8866; Fax 478-254-8980; www.spggglaw.com.

#### IN COLUMBIA, S.C.

Speed, Seta, Martin, Trivett & Stubley, LLC, announced the opening of an office in Columbia, S.C. The firm will continue to focus its practice on insurance defense litigation throughout Georgia, Florida, Alabama, Tennessee and the Carolinas. The office can be reached at P.O. Box 11669, Columbia, SC 29211; 803-748-2919; Fax 803-748-2735; www.speed-seta.com.

#### IN DUNEDIN, FLA.



Jan Rosser, who practiced as a creditors' rights lawyer in Roswell, served as chair of the Creditors' Rights Section of the Bar and authored "How to Set the Stage for Successful Commercial Debt Collection," announced the opening of Rosser Law Office. Rosser is a Florida Supreme Court certified and court-appointed mediator in all judicial circuits of the state. Mediations in Florida focus on civil contract matters. Rosser Law Office is located at 886 Weathersfield Drive, Dunedin, FL 34698; 727-734-8716; Fax 727-734-8716.

## 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.

# Prosecutor by Day, Defender by Night

BY PAULA FREDERICK

“Why in the world would you take a job as a part-time prosecutor?” your partner asks, shocked at your news. “You’ll ruin my practice!”

“How do you figure that?” you ask.

“About half my practice is criminal defense,” your partner reminds you. “If you’re now representing the state I can’t oppose it—your conflicts are imputed to me, remember?”

“Well obviously I can’t handle cases where you are defense counsel,” you admit. “But I’m going to be prosecuting for Webster County, when I’m down at the farm,” you add. “Your practice is mostly in the metro area. How could that possibly be a conflict?”

Is it?

For many years Georgia case law, statutes and the ethics rules have provided inconsistent guidance for part-time prosecutors.<sup>1</sup>

Comment 4 to Rule 1.7, the general rule on conflicts of interest, provides that “a lawyer ordinarily may not act as advocate against a person the lawyer represents in some other matter, even if it is wholly unrelated.” Thus a strict reading of the rule would prohibit a part-time prosecutor (whose client is the state) from representing a criminal defendant whose interests are adverse to the state. To make matters worse, Rule 1.10 imputes the part-time prosecutor’s conflict of interest to her law partners.

So how is a part-time prosecutor supposed to make a living? A recent amendment to the Georgia Rules of Professional Conduct should help.

By Order of Nov. 2, 2016, the Supreme Court of Georgia approved subpart (d) to Rule 1.7. As amended, the rule allows part-time prosecutors to handle criminal defense cases with the exception of “matters for which the part-time prosecutor had or has prosecutorial authority or responsibility.”

Of course, any particular case could still present a conflict under the general rule stated in 1.7 (a), if there is a significant risk that one of the clients will be harmed by the representation. Otherwise the change to the rule should help part-time prosecutors breathe a little easier. ●



**Paula Frederick**

General Counsel  
State Bar of Georgia  
paulaf@gabar.org

## Endnote

1. Compare *Thompson v. State*, 254 Ga. 393 (1985), Rule 1.7 of the Georgia Rules of Professional Conduct, and O.C.G.A. §§ 15-18-63(c), 15-18-94(c), and 15-9-153(c).



# Attorney Discipline Summaries

(Sept. 13, 2016 through Oct. 31, 2016)

BY CONNIE P. HENRY

## DISBARMENTS

### **Lyle Vincent Anderson**

1119 Trammell St.  
Dalton, GA 30720  
Admitted to Bar 2001

On Oct. 3, 2016, the Supreme Court of Georgia accepted the Petition for Voluntary Surrender of License of attorney Lyle Vincent Anderson (State Bar No. 017722). Anderson was convicted of forgery in the first degree for having falsified a written agreement for the payment of legal fees. The Court of Appeals affirmed his conviction.

### **Ted B. Herbert**

1731 Bonnterre Drive  
Marietta, GA 30062  
Admitted to Bar 1975

On Oct. 3, 2016, the Supreme Court of Georgia disbarred attorney Ted B. Herbert (State Bar No. 348250). The following facts are admitted by default. Herbert was consulted by two individuals in October 2009 regarding their discharge from employment. Herbert advised them to start their own company in order to continue serving their customers and to destroy physical and electronic records relating to

their work for the former employer. In December the employer sued the individuals, and Herbert was retained to represent them. Herbert filed an answer, defenses and counterclaim, but failed to adequately communicate with his clients, did not devote the necessary attention to his representation, did not conduct any discovery and allowed the discovery period to elapse without responding. The trial court found that the individuals had intentionally spoliated evidence; struck their answer and defenses; and entered an injunction preventing them from providing services to customers of the former employer. Herbert filed a notice of appeal, and indicated that a hearing transcript should be included and had been requested from the court reporter, but failed to order the transcript and the clients terminated his representation.

The special master noted in aggravation Herbert's failure to comply with the disciplinary process and his prior discipline of a formal letter of admonition, a public reprimand and an Investigative Panel reprimand. The special master found no mitigating factors.

### **Christopher G. Nicholson**

P.O. Box 14728  
Augusta, GA 30909  
Admitted to Bar 1974

On Oct. 3, 2016, the Supreme Court of Georgia disbarred attorney Christopher G. Nicholson (State Bar No. 543275). The following facts are admitted by default. Nicholson represented a client involved in an automobile accident. After the client died, Nicholson also served as a temporary administrator of his estate. He negotiated a settlement with two insurance companies. Even though Nicholson knew it to be false, he signed an affidavit that all medical bills had been paid in full. A medical facility had not been paid in full, and it had filed a statutory hospital lien in the amount of \$11,734. The insurance companies paid the settlement funds to Nicholson on behalf of the estate, but Nicholson did not use the funds to satisfy the lien. The medical facility sued the insurers on the lien, the insurers filed a third-party claim against Nicholson and judgment was entered against Nicholson for the amount of the lien and attorney fees. Nicholson failed to pay the judgment, refused to respond to post-judgment

discovery and was held in contempt for that refusal.

At a hearing on aggravating and mitigating circumstances, Nicholson continued to display contempt for the disciplinary process and the special master as he had throughout the process.

In mitigation, the witnesses for Nicholson testified that he had a reputation as an effective advocate and generally got good results, and that he had not made any false statements of which they were aware. One of those witnesses referred to a court proceeding in which Nicholson was held in contempt for disruptive and disrespectful outbursts.

The special master and the Court found in aggravation of discipline Nicholson's prior discipline of an Investigative Panel reprimand and a formal letter of admonition, his lack of remorse, his refusal to acknowledge the wrongful nature of his conduct, his failure to pay the judgment against him, his substantial experience in the practice of law and his outrageous, disrespectful conduct throughout the disciplinary process.

The Court emphasized its intolerance of dishonesty in representing clients and in the disciplinary process.

#### **Chalmer Edwin Detling II**

P.O. Box 683906  
Marietta, GA 30068  
Admitted to Bar 2004

On Oct. 31, 2016, the Supreme Court of Georgia accepted the Petition for Voluntary Surrender of License of attorney Chalmer Edwin Detling II (State Bar No. 219500). Detling was hired by a client in February 2016 regarding a claim for damages arising out of a motor vehicle accident. He settled that claim without receiving the client's authorization to do so.

In mitigation of discipline Detling noted that his daughter was diagnosed in 2014 with an inoperable brain tumor, for which she has been in treatment ever since. As a result, Detling stated that he was unable to devote the necessary time to the client's matter. Detling was under an emergency suspension issued by the Court on Sept. 1, 2016.

#### **SUSPENSIONS**

##### **Daniel J. Saxton**

235 Pinetree Drive  
Marietta, GA 30068  
Admitted to Bar 1977

On Oct. 3, 2016, the Supreme Court of Georgia accepted the Petition for Voluntary Discipline of attorney Daniel J. Saxton (State Bar No. 628075) for a three-month suspension to resolve two grievances. As a result of the purchase of an existing law practice in 2011, Saxton's firm assumed the representation of a client. The client had been seeking to renegotiate the terms of her mortgage and to avoid foreclosure on a home purchased for \$1.6 million, but now worth \$475,000. Saxton's firm was able to suspend the foreclosure, but was unable to renegotiate the mortgage terms. Communications with the lender and client were conducted by non-lawyer employees. In April 2012 the client terminated the representation. Saxton sent the client \$1,500, along with a "Liability Waiver and Release of Claims," but he did not advise the client to obtain independent counsel to advise her about the release. The client obtained



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a judgment against the firm for \$2,250, which Saxton paid.

In another matter Saxton's firm was paid \$6,000 to attempt to reach a settlement with a judgment creditor to prevent the foreclosure of a client's property. After the client's initial consultation with Saxton, all communications were with non-lawyer employees. The firm obtained a postponement of foreclosure and negotiated a restructured mortgage note that would allow the client to retain the property with a lower interest rate and monthly savings of \$200. However, the lender required an up-front payment of \$7,000, which the client was unable to pay. Without Saxton's knowledge, a non-lawyer employee encouraged the client to file a meritless bankruptcy petition *pro se* to forestall foreclosure. The client requested and Saxton gave a full refund and an additional \$700 for a new lawyer to seek emergency relief.

The Court found in aggravation of discipline Saxton's substantial experience in the practice of law and his prior discipline of an Investigative Panel reprimand and a Review Panel reprimand. The Court found in mitigation a timely good faith effort to make restitution; a full and free disclosure and a cooperative attitude toward the disciplinary process; and a reputation for integrity and good moral character.

#### **Ricardo L. Polk**

1302 Invermere Drive SE  
Mableton, GA 30126  
Admitted to Bar 2004

On Oct. 3, 2016, the Supreme Court of Georgia accepted the Petition for Voluntary Discipline of attorney Ricardo L. Polk (State Bar No. 001354) for a suspension to run concurrently with the 30-month suspension he is already serving, with conditions for reinstatement. Polk was retained in February 2012 to represent a client and her son in a possible breach of contract claim against two insurers. The client paid Polk \$1,500. Polk attempted to communicate with the insurers, but only one responded. In September 2012, the client terminated Polk's representation, and although Polk agreed to refund the fee, he did not do so. After the client filed a petition with the Bar's

Fee Arbitration Program, Polk agreed to a repayment plan, but he has not satisfied the award. Polk acknowledged service of the Notice of Investigation in this matter, but failed to respond.

Polk's prior disciplinary history, in addition to the 30-month suspension he is currently serving, includes a three month suspension; two administrative suspensions for failure to pay Bar dues; and an administrative suspension for failure to pay child support.

In aggravation of discipline the Court noted Polk's substantial experience in the practice of law and his prior disciplinary offenses. The Court noted in mitigation his lack of a dishonest or selfish motive and his cooperative attitude.

Polk's reinstatement is contingent on repayment of \$1,500 to the two clients he represented in the insurance matter, and on payment of \$1,500 to the client in the first disciplinary proceeding.

#### **L. Nicole Brantley**

420 Seabreeze Drive  
Rincon, GA 31326  
Admitted to Bar 2002

On Oct. 3, 2016, the Supreme Court of Georgia accepted the Petition for Voluntary Discipline of attorney L. Nicole Brantley (State Bar No. 0320909) for a 180-day suspension with conditions for her action in five matters.

S16Y1235—Brantley failed to appear at a sentencing hearing in federal court, failed to communicate with her client, and failed to promptly respond to the Notice of Investigation.

S16Y1236—Brantley failed to promptly respond to a Notice of Investigation where the initial complaint involved poor communication between Brantley and the client.

S16Y1237—Brantley continued to practice law after an administrative suspension for not paying Bar dues, and she failed to communicate with clients concerning pending court appearances.

S16Y1238—Brantley failed to promptly return a signed release to an insurance company following resolution of an automobile injury claim, failed to have a contingency fee agreement in writing and failed to respond accurately to the Bar

about the status of the release and nature of the contingency fee agreement.

S16Y1239—Brantley accepted a \$1,000 retainer to perform work on a probate matter, but failed to do the work, failed to communicate with the client, and failed to return the retainer. Brantley acknowledged service of the Notice of Investigation but did not respond. Brantley has since refunded the retainer.

Brantley received an Investigative Panel reprimand in 2006, two formal letters of admonition in 2010, an Investigative Panel reprimand in 2010, and a formal letter of admonition in 2014. With the exception of the 2014 matter, all of the prior cases involved Brantley's failure to adequately communicate with her clients and most arose out of conduct occurring between 2008 and 2010. The 2014 matter arose from trust account violations which did not result in loss of client funds.

The Court agreed with Brantley that her violations involve inadequate communication with her clients, that none of her actions appear to have caused her clients lasting harm, that her violations are the result of negligence as opposed to willful behavior, and most arose at a time of great stress and/or physical impairment. The Court further agreed that Brantley has expressed remorse for her behavior, that she has provided service to her community, both as an attorney and as a volunteer, and that she has taken steps to improve herself and her practice, resulting in no known client-based grievances since 2011. Nevertheless, the Court found that the number of violations evidence a pattern of conduct inconsistent with the fiduciary obligation an attorney owes a client.

Brantley's reinstatement is conditioned on her participation in the Bar's Law Practice Management Program and Lawyers Assistance Program and her agreement to follow all their recommendations.

#### **Richard J. Storrs**

2870 Peachtree Road NW, Suite 212  
Atlanta, GA 30306  
Admitted to Bar 1984

On Oct. 27, 2016, the Supreme Court of Georgia accepted the Petition for Vol-

untary Discipline of attorney Richard J. Storrs (State Bar No. 685575) for a three-month suspension. In 2012, Storrs was engaged in settling payment bond claims filed by subcontractors against a client when he received a check from that client for \$15,031.32 to be paid to one of the subcontractors. Storrs forwarded a release to the subcontractor and, after not receiving a response, deposited the check into his trust account. Between July and December 2012, Storrs withdrew \$11,150 from his trust account for his personal use, money that came from his client and was to be used in satisfaction of the settlement. In February 2013, the subcontractor signed a release. Storrs then deposited the missing funds into his trust account and mailed a certified check to the subcontractor for the full amount of the settlement.

In mitigation, Storrs noted that, during the period in question, he was suffering from emotional and mental distress resulting from his separation and eventual divorce, and from the depression suffered by one of his children. Storrs has sought and continues to seek counseling from his psychologist, as well as his priest. Storrs further noted in mitigation that he fully and freely cooperated in the disciplinary proceeding, and openly and honestly discussed the facts underlying the matter; that he used his personal funds to replace the funds improperly withdrawn from his trust account; that he has a long and substantial record of community service and pro bono work; and that he has had only one letter of admonition that was received almost 20 years ago.

#### REVIEW PANEL REPRIMAND

##### Nicole Jones

8677 Hospital Drive  
Douglasville, GA 30134  
Admitted to Bar 2004

On Oct. 3, 2016, the Supreme Court of Georgia accepted the Petition for Voluntary Discipline of attorney Nicole Jones (State Bar No. 001352) for a Review Panel Reprimand to resolve two grievances. In one matter a client retained Jones to

file an action for fraud against his former spouse, paid her the agreed-upon fee of \$30,000, and told her to have the action filed as soon as possible because he believed that the former spouse had the means and ability to relocate. She did not file the complaint and her office sent the client misleading form letters that did not accurately update him as to the status of his case.

In a second matter a client hired Jones to handle an appeal from a civil judgment and the appeal was ultimately dismissed for want of prosecution.

In mitigation of discipline Jones asserted that she returned the \$30,000 fee, she is remorseful, that she has no prior discipline, and that she has instituted new office procedures to insure that communications regarding client matters are personally reviewed by her before they are sent to clients.

#### REINSTATEMENT GRANTED

##### Gayle S. Graziano

P.O. Box 767  
Hiawassee, GA 30546  
Admitted to Bar 1975

On Oct. 28, 2016, the Supreme Court of Georgia determined that attorney Gayle S. Graziano (State Bar No. 306650) had complied with all of the conditions for reinstatement following her suspension, and reinstated her to the practice of law.

#### INTERIM SUSPENSIONS

Under State Bar Disciplinary Rule 4-204.3(d), a lawyer who receives a Notice of Investigation and fails to file an adequate response with the Investigative Panel may be suspended from the practice of law until an adequate response is filed. Since Sept. 13, 2016, one lawyer has been suspended for violating this Rule and four have been reinstated. ●



##### Connie P. Henry

Clerk, State Disciplinary Board  
State Bar of Georgia  
conniep@gabar.org

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has a fool for a client."*

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 State Bar  
of Georgia

# Legal Tech TIPS

BY NATALIE R. KELLY  
AND MICHAEL MONAHAN

## 1 Kringl App

[www.kringlapp.com](http://www.kringlapp.com)

This free mobile app lets you create magic with video and bring Santa to life, right in your living room. Choose from a range of scenes, including Santa enjoying your cookies and milk, Santa searching for your gift and Santa checking to see if you're on his list.

## 2 Amazon Prime Now

[primenow.amazon.com](http://primenow.amazon.com)

Get last-minute supply needs answered within two hours with an Amazon Prime Now account. I watched a lawyer receive her on-the-road snacks prior to leaving for a Bar meeting using this service which delivers within two hours for certain areas. A great way to get almost anything you need quickly if you are an Amazon Prime member. Not one? Subscription is \$99 per year, and if you are not in a Prime Now area, you get free 2-day shipping on your online orders.

## 3 Use Stickk to Set Goals and Keep Them

[www.stickk.com](http://www.stickk.com)

Use Stickk to create a "commitment contract," set the stakes, get support.

## 4 InvisibleHand

[www.getinvisiblehand.com](http://www.getinvisiblehand.com)

InvisibleHand is a free price-tracking extension for Firefox, Google Chrome

and Safari browsers. The browser extension discretely alerts you (you get a popup banner on your search results screen) if the product you are searching for can be purchased elsewhere at a lower price. It monitors pricing on most major retailers and it even finds hidden pricing. Now, how's that for getting the best price out there?

## 5 Restore Closed Google Browser Tabs

Too quick on the trigger and closed out a Google Chrome browser tab? Get your tabs back in Google Chrome browser with CTRL + SHIFT + T. The keystrokes will bring back (reopen) all tabs from your most recent Google Chrome session, even after closing and reopening the browser!

## 6 What's up in Washington?

[www.whitehouse.gov/engage](http://www.whitehouse.gov/engage)

Use the free mobile app WhiteHouse.gov to visit the White House, anytime, anywhere and on any device.



## 7 Track Legislation

[GovTrack.us](http://GovTrack.us)

Track legislation as it happens through this website and provider of aggregated data. A free-use license is granted to visitors of the site, and some of the site's information is used exclusively by some government websites.

## 8 Increase Your Productivity—Use CamScanner

[www.camscanner.com](http://www.camscanner.com)

CamScanner turns any smartphone into a scanner. The app is free in iTunes or from the CamScanner site for Android.

## 9 Calm App

[www.calm.com](http://www.calm.com)

Election results, bar exam results, trial results and even this holiday season—the legal profession and life in general is fraught with continual opportunities to become stressed out. This is where the Calm app can help. The app features a Check-In menu option where users can self-assess cognitive, emotional, physical and behavioral symptoms of stress and rate their level of stress. The app's Relief menu includes breathing meditation,

# Google



# Calm

loving kindness, body scan, walking meditation, calm place, self-massage, guided imagery and more! Finally, the app includes links for learning more about properly managing stress as well as a Personal Safety Plan menu option to help users create a custom plan for dealing with their stressors. #LawyersLivingWell

## 10 Where is Santa?

[m.google.com/maps](https://m.google.com/maps)

To track Santa on your mobile device open up your Google Maps app, or navigate to [m.google.com/maps](https://m.google.com/maps). To find Santa, simply type Santa in the search bar. You will then see Santa's current location on a map. To get his updated location, you only need to search again. You can begin watching Santa on Google Maps on Christmas Eve.

## Testimonial



Darrell, Meredith and Louise Sutton  
*Sutton Law Group, LLC,  
and Davidson Hotels  
& Resorts, respectively*

## Kringl App • [www.kringlapp.com](http://www.kringlapp.com)

Generations of kids have wondered alike, "Is Santa real?" What better way than an app to answer this question for the generation that doesn't know a world without a smartphone? With only a couple swipes and taps on your smartphone or tablet you can finally obtain undeniable truth that Santa exists and that he has visited the same living room your kids traipse through each day. With this app, they will now know Santa is ALWAYS watching.



# Ten Tips to Build a Strong Bridge: How to Successfully Say “Goodbye” to Your Old Firm

BY NATALIE R. KELLY



ILLUSTRATION BY ISTOCK.COM/ERHUI1979

**According to the music database, Discogs ([www.discogs.com](http://www.discogs.com)), there have been more than 95,000 tracks recorded using the word goodbye. Goodbye songs have been written to convey feelings of anger, disappointment, sadness and even regret when exiting, but leaving a law firm need not end in those sentiments. Use the tips below to build a strong bridge—maintain a positive relationship between you and your soon-to-be former firm—whether leaving due to retirement, the sale of your practice, a new position, opening your own shop or for any other reason you need to say goodbye.**

#### **Organize before you leave.**

To get ready to close the door or prepare your office for a successor, go through your papers and other information and discard unnecessary items. Moving beyond clearing out the physical items in your office, look to organize your systems and procedures in such a way as to leave the firm in a position to maintain and build what works for the practice as well as eliminating what may be broken. Specifically, look to update job descriptions to match the current needs of the firm and adhere to any strategic planning initiatives. During this process, outline and

delegate tasks to deal with any outstanding work you were asked to do. Looking externally, make sure you're covered on any assignments you already agreed to handle, and that you have thought through any potential conflict of interest situations which may arise due to your new job or situation.

**Review your personal succession plan.**

You don't have one? Succession planning can be formalized through the Bar's YLD Succession Planning Pilot Project, and questions about this program can be answered by Stephanie Powell, [careerservices@law.mercer.edu](mailto:careerservices@law.mercer.edu) or 478-301-2615. You can also download the form for the Succession Planning Program from [www.gabar.org/committees/programs/sections/younglawyersdivision/](http://www.gabar.org/committees/programs/sections/younglawyersdivision/).

**Try a lighter schedule.**

You might ease out of your office with a part-time or reduced-time arrangement if you are looking to retire. By limiting the time and the work you are doing, the remainder of the firm can better determine staffing needs and arrange for strategic planning shifts going forward. Reducing the time you work and other work requirements will help you ease away from the practice under less stressful conditions. Make sure your reduced schedule is understood so no unnecessary misunderstandings develop as you wind down your work.

**Don't forget ethics rules!**

Comply with your ethical obligations as it relates to clients and their files—remember it's always the client's choice when it comes to representation and you will always have obligations to clients long after you have left their employ. Contact the State Bar's Ethics Helpline at 404-527-8741 with questions about what you can and cannot do as it relates to taking clients with you to a new firm. Strive to leave in a professional and agreeable manner.

**Make sure file retention and destruction policies are in place.**

Follow consistent steps for all closed matters. A good system to follow is one where you indicate in an online

practice management or accounting program that matters are closed; and if you are using physical files, move them to an area separated from your active client files after they have been labeled by the year, internal file number and organized alphabetically.

**Make sure bank accounts correctly reflect your firm's signatories or are closed out prior to your departure.**

If names must come off accounts or if accounts must be closed, make it a point to handle these items personally, if you bank locally.

**Catalog passwords and return company property before you leave.**

Make this process easier by including it in your personal leaving checklist. If you have an assistant or paralegal, go over where such items can be found. Setting a generic overall password—still strong though—for all accounts can make the transition out of the office easier. Anyone accessing your old accounts can more readily access information they will need after you've moved on.

**Leave behind helpful institutional knowledge.**

If useful information is not kept in the firm's written policies and procedures manuals or a standard and regarded tenet of the practice, then make it a point to get this information to the appropriate parties. If an exit interview is part of the process, take the time to honestly assess what was good and what was challenging during your tenure. Your efforts will be appreciated, and you can feel good about what you contributed to the firm while you were there.

**Review insurance of all types for adequate coverage and continuing service concerns.**

If your future entails more law practice, review whether tail coverage is provided under existing professional liability policies and in what coverage formats. Also review other types of insurance for adequate coverage as you transition to your new situation. You may need to purchase additional insurance if your coverage is

not adequate or you may need to address insurance terms set to expire after you have planned to leave. Planning for these eventualities sooner rather than later can help ease the burden of managing risk as you leave.

**Finally, and on a personal note, take a picture before turning out your office light one last time.**

You can capture the footprint of what you've left behind, and you won't have to look back, unless you do so fondly!

For a checklist on closing your office or other forms related to leaving a firm, contact the Law Practice Management Program at 404-527-8772. You can use these and other resources from the program to build a strong bridge between your old office and new situation. ●



**Natalie R. Kelly**

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# Be Fruitful and Multiply The Tifton Circuit Bar Complies with Five Sets of Twins

These parents offer their survival tips and express the unique joy of having twins.

BY BONNE DAVIS CELLA

A curious phenomenon was recently brought to light regarding the Tifton Judicial Circuit Bar Association. Among the attorney parents are five sets of twins. The Tifton Judicial Circuit Bar, comprised of Tift, Worth, Irwin and Turner counties, is one of the smaller voluntary bars with less than 50 members. Even though multiple births are on the rise—the 2014 twin birth rate in our nation was 33.9 twins per 1,000 births;<sup>1</sup> this is still a high percentage of twins within the circuit.

All of the parents were shocked and surprised when they heard the word “twins.” Attorneys Chip and Emily Vowell were speechless in the ultrasound room and then Emily began to cry. “Our shock quickly turned to joy, though, and we wouldn’t have it any other way,” Emily said. She and Chip are the parents of 18-month-old fraternal twins, Waylon and Wyatt.

Virginia and Chris Hall are both attorneys and the parents of 5-year-old fraternal twins Cole and Alex. Chris, a Georgia bankruptcy attorney, is also a major in the Alabama Na-

PHOTO PROVIDED BY HOLLY WALKER



(Left to right, front row) Ann Catherine, John Robert and Fletcher;  
(left to right, back row) Holly, Eleanor and Rob Walker.

PHOTO PROVIDED BY VIRGINIA HALL



(Left to right) Cole, Chris, Lauren, Virginia and Alex Hall.

tional Guard serving as a command judge advocate. They also have a daughter Lauren, who is 8. Virginia's advice to parents who have just learned that they are expecting twins: "You *will* make it."

Attorney George Reinhardt and his wife Ashley are the parents of 2 1/2-year-old twins Henry and Jackson. They are also fraternal twins but look almost identical. George and Ashley both had great-grandparents who were twins. Ashley's advice to new parents of twins: "Two words: night nanny. I don't know how we would have survived without one! That, and start buying a pack of diapers every time you go to the store. You'll be glad you have a stockpile once your babies arrive!"

"Our twins were born weighing 7 pounds 1 ounce and 7 pounds 4 ounces—the largest babies born at the hospital that day," said Holly Walker of her now 9-year-old fraternal twins John Robert and Fletcher. She and husband Rob, an attorney in Ocilla, are also the parents of daughters, Ann Catherine who is 11, and 3-year-old Eleanor.

"Our greatest joy has been to see the incredible bond that exists between our boys. John Robert and Fletcher are very competitive, but their love for each other is an amazing gift they share. They now realize that they have a 'built in' best friend for life that God blessed them with," Holly said.

Municipal Court judge and attorney Chad Vanorman and wife Amy have the only set of twin girls—Anna Claire and Ava. The 2-year-old fraternal twins have a brother Ethan, who is 7. "The logistics of taking care of two babies and trying to accomplish anything has absolutely been our greatest challenge. My wife has had near nervous breakdowns in parking lots trying to get all three kids inside a store successfully. In addition, double strollers are evil and rarely fit through aisles. It's also difficult to find babysitters to come into your house who are up for the challenge of taking care of twins. It can be exhausting, we know," Chad said. As for advice, Chad offers: "It's quite the roller coaster ride. It takes a lot of prayer, wine, endurance and adherence to routine."



PHOTO PROVIDED BY EMILY VOWELL

(Left to right) Emily, Wyatt, Waylon and Chip Vowell.



PHOTO PROVIDED BY ASHLEY REINHARDT

(Left to right) Henry, George, Jackson and Ashley Reinhardt.



PHOTO PROVIDED BY AMY VANORMAN

(Back row, left to right) Amy and Anna Claire; Chad and Ava; (front) Ethan Vanorman.

# PRIDE OF PLACE

## INTERESTING FACTS AND VIEWS ON THE AZALEA CITY

What does a region in Italy, a high school football team with the most wins in history and John Henry “Doc” Holiday have in common? Valdosta, Georgia!

Valdosta was named after an estate owned by Georgia Gov. George Troup who served from 1823 to 1827. His estate, Val D’Osta was in Laurens County, and was named after a valley in the Italian Alps. Troupville and Troup County were both named in honor of the popular governor, who was also an attorney.

For the one or two people who may not know: “The Valdosta Wildcats are the winningest high school football team in the United States with a record 900 wins, 220 losses and 34 ties. From 1913-2015, the Wildcats have won six national championships, 23 state championships and 41 regional championships.”

Doc Holiday and his family moved from Griffin to Valdosta when he was 12 years old. His father served as mayor of Valdosta and Doc was one of the first students at Valdosta Institute that provided him with a strong classical education. He then attended the Pennsylvania College of Dental Surgery and briefly practiced dentistry in Valdosta and Atlanta. Doc’s mother is buried in Valdosta where she succumbed to tuberculosis. The same illness drove Doc out West for his health and his destiny as a legendary gunfighter.<sup>2</sup>

There are many more interesting features about the lovely “Azalea City” and the home of Valdosta State University. While observing a local bar meeting, the pride for Valdosta was obvious as well as the cordiality between the bar members. When asked what they are proud of in their city, the bar members had many responses. Here are a few:

- “We have a very giving community.”
- “Our Turner Arts Center is unmatched as is the Valdosta Symphony!”
- “Check out the Grand Bay Wildlife area and the Lowndes County Historical Society.”
- “Our downtown is vibrant with great restaurants!”

As Superior Court Judge James Tunison stood to address the bar on the status of the Lowndes County accountability court, attorney Walter Elliott commented: “We have a strong bench.”

It appears that the Accountability Court, like so many other things in Valdosta, is going strong!

### Endnotes

1. Wikipedia
2. Lowndes County Historical Society and Museum Website

Are they twins? Did you breastfeed? Are they natural? Are they a handful? Questions like these are the most common according to these twin parents. “We don’t often get annoyed when people ask us questions. Although, when people are looking directly at them and ask whether they are identical or fraternal, we can’t help but laugh because Waylon and Wyatt look so different,” said Emily Vowell.

“They really do have their own language that no one else understands but the two of them understand perfectly,” said Ashley Reinhardt of sons Henry and Jackson. Emily Vowell agrees: “Our boys will say something to each other in their special language and then burst out laughing—it’s amazing!”

“It brings us great joy watching our son play with the girls and seeing how they look up to him,” said Chad Vanorman.

“Our greatest joy is their smiles and laughter,” said Virginia Hall.

“God sent these babies to you for a reason, and he trusts you to take care of them. It is the most special time of your life, full of joy beyond belief! Love and enjoy every minute,” said Holly Walker.

For the record, an attempt was made to gather all of the twins at the State Bar office for a group picture which was understandably easier said than done! ●



**Bonne Davis Cella**

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South Georgia Office

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### Endnote

1. Hamilton, b., et al. “Births: Final Data for 2014.” National Vital Statistics Reports, December 23, 2015.



(Left to right) Jessica Young, president; Marnie Watson, treasurer; Patrick Kerns, secretary and Superior Court Judge James Tunison at a Valdosta bar meeting.

PHOTO BY BONNE DAVIS CELLA

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**T**welve-year-old Matthew has autism, Tourette's syndrome, attention deficit disorder, auditory processing and an eye disorder—but still the Department of Community Health determined his

condition was deemed not severe enough to retain his eligibility for a special Medicaid waiver that covers treatment for children with extreme needs. Matthew's parents were certain that he continued to be eligible. He depends on regular speech, physical, and occupational therapies covered by Medicaid. Without the coverage, his parents were panicked about what they would do as they couldn't afford such treatment otherwise. They contacted Georgia Legal Services for help. We were able to prove that Matthew needed all the care and services he received. The family never lost eligibility, and was able to continue paying for Matthew's medical care with the waiver's support.



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# Passing the Baton

Nurturing the promise of pro bono publico from one generation to the next.

BY MICHAEL MONAHAN

We are on the cusp of a major demographic change in the lawyer population in Georgia and nationally. The Boomer generation of lawyers is entering retirement. Many of the generation's lawyers, if not retiring, are already slowing down their practice and planning the next phase of their lives. These lawyers who came of age in the 50s and 60s have made a profound impact on our legal culture, particularly in the area of pro bono publico.

The Boomer generation has been hailed and assailed in the political and social arenas. The question for our discussion here is: Have Boomer lawyers raised up their successors—have they raised up *young lawyers*—in the ways of pro bono and community service in a manner that will ensure a healthy future for the legal profession and respect for the courts?

In presentations I make to local bar associations around the state, I often urge the members in attendance to reflect on their role as mentor and guardian—mentor of new lawyers and guardian of the keys to the courthouse. If each one of us has a responsibility to make life better for succeeding generations, then, too, a lawyer has a similar obligation for those within her profession. That obligation goes beyond seeing that new lawyers are technically prepared for their work.

Perhaps I should express the generational transfer of professional values as a covenant rather than a duty. We often speak of the *promise* of pro bono and of a time in the future when “justice will rush down like waters and righteousness like a mighty stream.” Who among us will choose to enter into that covenant



PHOTO BY ISTOCK.COM/VM

to march toward perfect justice and fair play? One might argue that we all do that work in our ordinary role as lawyer and counselor—that it's baked into the role of lawyer; however, we need strong and visible pro bono *leaders* in every generation of lawyers.

The Young Lawyers Division of the State Bar of Georgia has played an effective role in bridging the gap between one generation and the next. The YLD's history reflects quality leadership—in giving birth to what is now the Georgia Legal Services Program, in addressing special legal needs in our communities, for creative responses to disasters and much more. New lawyer and YLD member, you are following in the footsteps of young lawyers who became leaders for justice.

The curtain has not yet fallen for the Baby Boomer generation of lawyers who still exert great influence over our profession and our communities. As you move toward retirement, think about your legacy and how you might preserve it by capturing and sharing your stories of public service in CLE programming, through local bar pro bono projects and in one-on-one conversations with young lawyers.

I also urge young lawyers that you not wait to fill a void, that you actively plan now an agenda for pro bono publico and community service. Honor your pro bono forebears by imitation. Let them know you have been watching and listening. ●



**Michael Monahan**

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State Bar of Georgia

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## PRO BONO STAR STORY



# PATRICIA FORTUNE AMMARI



Patricia Fortune Ammari  
Attorney at Law  
The Ammari Firm, LLC

Patricia Fortune Ammari is the founder of The Ammari Firm, LLC, and a long time Atlanta Legal Aid volunteer. She has donated her time to the Georgia Senior Hotline serving senior citizens throughout the state of Georgia with their civil legal needs. Ammari's involvement with the hotline focuses on advising seniors in nursing homes to help them remain eligible for health care and works to ensure the patient's qualified income trust runs smoothly so the client receives necessary medical treatment and care. Having been a caregiver herself, she understands the challenges that the aging process can pose to families, and she endeavors to provide quality legal service while treating each of her clients as she would want her own family members to be treated.

Ammari graduated from The University of Alabama in 1997.

She then attended Georgia State University College of Law where she served on the Law Review and represented her law school in the Philip C. Jessup International Law Moot Court Competition. Ammari began her career as a commercial litigation associate in the Atlanta office of a large international law firm where she represented Fortune 500 clients. She now uses those same advocacy skills on behalf of seniors.

Ammari currently serves as the past president of the Georgia Chapter of the National Academy of Elder Law Attorneys. She is also a member of the Atlanta Bar Association, the Cobb County Bar Association and ElderCounsel. Ammari serves as the president of the Elder Law Section of the Cobb County Bar Association. She lives in East Cobb County with her husband and two children.

Atlanta Legal Aid is proud to have Patricia Ammari as part of the volunteer team representing Georgia senior citizens. ●

STATE BAR OF GEORGIA

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# A Look at Recent Section Events

BY DERRICK W. STANLEY

Over the past few months, there have been several opportunities to learn about very specialized legal circumstances. While these may not be your particular practice area, these events demonstrate the value of belonging to a section.

The International Law Section conducted a program titled “Argentina: Opportunities and Challenges in a New Business and Legal Environment.” This program covered topics that highlighted the legal changes that have happened in Argentina during the 10 months following a shift in government and policies. The panel included representatives from Argentina and major companies with a presence in Latin America.

On the same day as the International Law Section event, the Creditors’ Rights Section was having their luncheon at Maggiano’s in Buckhead. This annual event has become a mainstay of the section where practitioners meet to network and learn the most current information in their practice area. This year the program, “What We Learned, What We Need To Do, How It Works,” covered the topics



ILLUSTRATION BY ISTOCK.COM/FIRSTPENTUER

from the 2016 Legislative Session that pertained to the Garnishment Bill. The speakers were both key players in garnishment law and provided insight on their strategy to get the bill passed.

The Intellectual Property Law Section has been actively producing “lunch and learn” programs from the various committees. One of the timeliest sessions was “Brexit and European Patent Law.” Representatives from Bristows LLP in the United Kingdom discussed the impact of Brexit in the EU Patent Court and potential pitfalls for clients in Europe and the United States.

The Trade Secrets Committee of the section also presented a program on “The Defend Trade Secrets Act.” This program covered topics from expert transactional and litigation attorneys who have been dealing with this new law. They also discussed why major companies need a Trade Secret Protection Program and how they can begin to set one up.

These are only a few of the programs that sections have offered over the past year. The ability for sections to respond to emerging issues and new laws is unparalleled. The collective knowledge of the groups allows the opportunity to create cutting-edge programs and to disseminate them to the members in a very quick fashion. It also allows an opportunity for non-section members to learn about trends in the legal profession that may pique their interest while not being in their particular area of practice.

In addition to educational programs, sections also have social events including lunch with judges, happy hour receptions and holiday parties. Section events can be found by navigating to the Calendar page at [www.gabar.org](http://www.gabar.org). Most events are open to all attorneys with a special discounted rate for section members.

To learn more about sections, go to [www.gabar.org](http://www.gabar.org) and click on the “Committee, Programs and Sections” button. ●



**Derrick W. Stanley**

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## Know Your Bar



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## “Georgia Needs Lawyers” PSA Campaign

Showing Georgia citizens why we all need lawyers: [ganeedslawyers.org](http://ganeedslawyers.org).

The State Bar of Georgia has launched Georgia Needs Lawyers, a campaign aimed at showcasing examples of the kind of indelible difference Georgia lawyers make every day in the lives of Georgia residents.

The campaign will employ a large-scale storytelling platform, featuring television and radio ads and will be enhanced by social media and traditional public relations initiatives.

Different from any other in the Bar’s history, the campaign features stories drawn from Georgia lawyers’ own experiences.

“There are so many extraordinary stories about the way our members have greatly impacted the lives of

their clients, not only by representing them in the legal system, but by going well beyond the traditional role of a lawyer,” said Patrick T. O’Connor, president of the State Bar of Georgia. “These stories are so compelling, and so emotionally moving, that we decided to make them the centerpiece of our new campaign.”

The Georgia Needs Lawyers campaign will begin by telling the stories of three Georgians who have had their lives transformed thanks to their lawyers. Visit [www.ganeedslawyers.org](http://www.ganeedslawyers.org) for a preview of the TV spots.

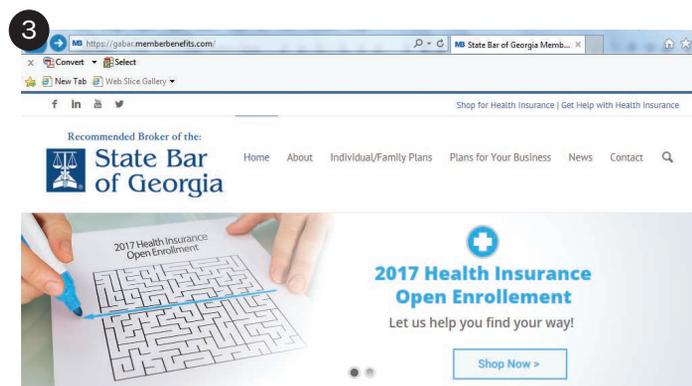
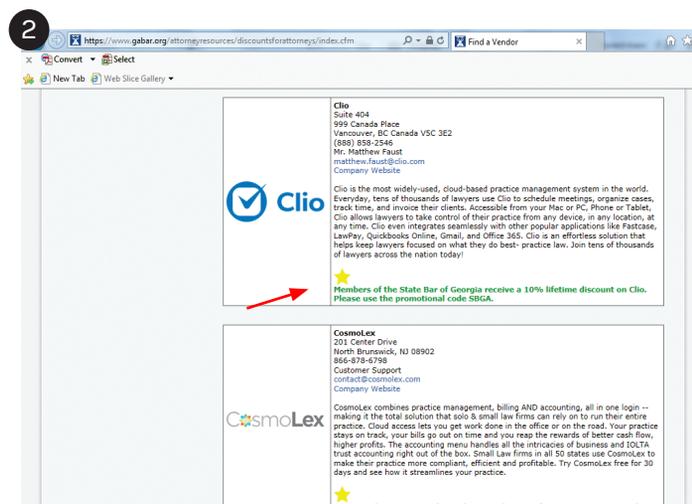
*Do you have a story about changing a client’s life? For a chance to be featured in next year’s campaign, email [sarahc@gabar.org](mailto:sarahc@gabar.org).*

# Online Vendor Directory

BY SHEILA BALDWIN

Legal professionals are increasingly on the lookout for products and services to make their practices and their lives run more efficiently and productively. The State Bar of Georgia has compiled a list of companies on the Bar's website under the heading Attorney Resources/Member Discounts to make it easy to find help (see fig. 1). In the vendor directory, members can search by name, category or keyword to find a variety of resources. Interested vendors list their products or services on the directory and often include a discount. Each vendor listing appears as a business card with contact information and links to additional information. Our goal is to provide an easy way to search and purchase business solutions and the vendor directory is designed to serve this purpose.

The most likely way to find what you are looking for is to search by category. Attorneys looking to enhance their practice



through the use of new or upgraded practice management software, and we recommend that you do, would look under Computer Technology which is divided into four sub-categories, Consultants, Hardware, Software and Web Design/Marketing. Under the main category, 18 computer technology providers are listed; narrow to a specific technology such as software to see 16 companies, the majority of all companies in this space. Practice management software is the most likely technology investment solos or small firms will make in the coming years. Providers take this into account and offer some decent discounts from 10-20 percent, usually for the lifetime of use (see fig. 2). With the wide acceptance of cloud-based software, it's now assumed that business owners will be able to deliver services with no time or location barriers. Two companies are listed under Office Needs in the subcategory Virtual Assistance that can help meet this expectation. Find help under Financial Needs in several areas, including: Accountants/Financial Advisor, Banking and Credit Card Processing.

Lawyers looking for hotel discounts can find them under the Personal Services category. Among the hotels that offer special rates for Bar members are The Glenn Hotel, Hilton Garden Inn and the Omni Hotel at CNN Center, both of which are located within walking distance of the Bar Center in Atlanta. We have also negotiated deals with The Hyatt Regency and the Hilton Garden Inn in Savannah that are close to the Coastal Bar office. Make sure you check the list before you book your next trip.

A big concern for law firm managers is the rising price of health insurance premiums and deductibles. Fortunately, the Member Benefits Committee of the State Bar of Georgia had a concern about this need and due to their efforts, Member Benefits, Inc., became the recommended broker of the State Bar of Georgia for health, dental, disability and long term care insurance. Recently, professional liability insurance has been approved as part of their resources as well. This company has earned a good reputation with our members in helping them find the solutions to a wide variety of insurance needs. Find their

information under Insurance Offerings in the dropdown under Attorney Resources on the home page of the Bar website as well as under Insurance on the vendor directory (see fig. 3). Members can also find a large group of additional professional liability insurers under this category.

If you already know the name of a vendor, use the search by name option to see an alphabetical list or search by keyword to sort through the vendor list. If you use the terms such as "health," "wellness" or "stress," you would find the Lawyer Assistance Program (LAP), a program of the State Bar of Georgia that provides confidential help to our members. LAP is outsourced to CorpCare Associates, Inc., to help State Bar members with life's difficulties. Members are entitled to six prepaid counseling sessions per issue per year.

You would also find our wellness initiative, Georgia Lawyers Living Well. A portion of our website is dedicated to information regarding the physical, mental and social well-being of our members. The website includes a list of wellness partners who offer great discounts in the area of exercise, fitness and yoga. Visit [www.lawyerslivingwell.org](http://www.lawyerslivingwell.org) for more information on the wellness initiative.

Hopefully, our members will benefit from and support the vendors who offer discounts. You may have a vendor that you would like to promote because of exceptional service or good pricing, if so feel free to mention this website to them. Our goal is to help our members find good products and services in order to run more successful and efficient practices. For questions or further information regarding the Online Vendor Directory contact [sheilab@gabar.org](mailto:sheilab@gabar.org) or call 404-526-8618. ●

*The Online Vendor Directory and list of wellness partners are not intended to be an inclusive list or a recommendation of any vendor. Members are advised to use their own due diligence prior to using the services of these or any other vendors.*



**Sheila Baldwin**

Member Benefits Coordinator  
State Bar of Georgia  
[sheilab@gabar.org](mailto:sheilab@gabar.org)

# 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.*



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# Legal-blogging Lessons from Georgia Lawyers

Do you need a creative outlet? Want to establish expertise or market your services to potential clients? Blogging may be for you!

BY JENNIFER MURPHY ROMIG

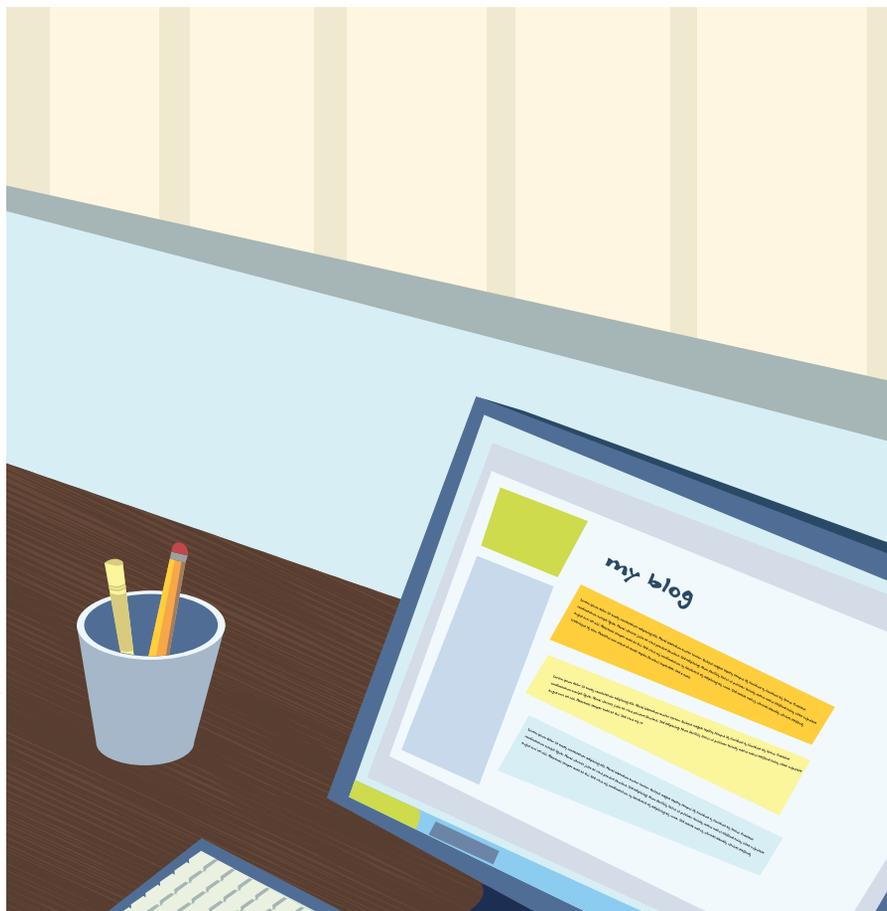


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**Why do lawyers and law firms start and maintain legal blogs?** Lawyers' reasons to blog vary rather widely: finding a creative outlet, establishing expertise, writing to learn about new developments, making connections with other lawyers and marketing legal services to potential clients, to name a few.<sup>1</sup> Blogging is a form of what I call "public legal writing," which opens up more creative possibilities for the legal writer than in traditional client-driven work.<sup>2</sup>

Legal blogs in Georgia<sup>3</sup> represent all these many reasons to blog. They also show the same wide spectrum of quality seen in legal blogs nationally. Legal blogs range from the not-so-good (out-of-date, lots of cut-and-paste text, jargon-filled, broken links or no links and non-responsive on smartphones) to the excellent (creative, accessible, up-to-date, visually compelling and mobile-responsive on smartphones). And excellent legal blogging comes in a range of styles from formal to conversational. Within that range of styles, the selected posts in this article demonstrate some broad generalities of effective legal blogging.

## Write a Great Lead (About a Great Topic)

Legal issues and legal news make good topics when they provide information of value to intended readers. Non-legal news can also make good fodder for posts. Doug Isenberg's award-winning GigaLaw Blog<sup>4</sup> jumped on the Pokémon GO bandwagon with his July 2016 post on the inadvisability of registering Pokémon-related domain names.<sup>5</sup> His lead took the opportunity to have a little fun with the topic:

The legal issues surrounding the sudden success of "Pokémon GO"—one of the world's fastest-growing apps or games—are popping up as quickly as unhatched Eggs at a PokéStop.

Legal blogging gives lawyers the opportunity to write about another tempting if somewhat risky topic—themselves. Appellate lawyer Scott Key used his experience at the Peachtree Road Race as the hook for a summer 2016 post:<sup>6</sup>

On Monday, I stood at the start line of a hot, humid, and crowded 10k.

He went on to reflect on lawyers' efforts to prepare and perform well in court, as well as his clients' struggles with crimes of addiction and impulsivity. Key's blog post captures some other lessons of legal blogging as well, such as showing personality and being authentic yet still professional. Whether to weave the personal in with the professional will depend on the lawyer's personal-comfort level and, if the blog is hosted by a law firm, the firm's blogging strategy and style.

## Use a Good Headline

For lawyers who want to reach potential clients, one effective and simple strategy is to brainstorm questions that potential clients would ask, and then use those questions as headlines.<sup>7</sup> "Why Should I Create Health Care Directives" is the title of a May 26, 2016, post by Walker, Hulbert, Gray, & Moore.<sup>8</sup>

Headlines can also catch readers' attention with the unexpected, such as this from Michael Moebes: "What are some good

ways I can totally screw up my workers' comp case?"<sup>9</sup> The technicalities of search engine optimization are beyond the scope of this article, but useful headings such as these should guide curious members of the web-browsing public toward lawyers' blog posts addressing their questions.

## Use Headings, Bullet Points and Other Cues

A screen full of text may drive readers away, whereas headings provide a sense of structure and highlights drawing readers in. In her blog *All Things Pros*<sup>10</sup> dedicated to patent prosecution, Karen Hazzah organizes her posts on new patent cases into a set of standard bold headings giving the key point first:

- Takeaway
- Details
- My Two Cents

But the topic doesn't have to be as complicated as a patent case to benefit from helpful headings. In a post directed at employers on pregnancy accommodations,<sup>11</sup> Todd Stanton organized the information around two headings:

- Avoid the Following Mistakes
- Take the Following Steps

## Use a Variety of Sentence Lengths and Paragraphs

A mix of short and long paragraphs and sentences makes the writing more interesting.

Like this.

Fragmentary paragraphs such as the preceding one may be too informal for some legal bloggers' style. But all bloggers—and all legal writers, and writers generally—can benefit from using variety in sentence length and structure. Ken Shigley's Atlanta Injury Blog has a nice example in a post<sup>12</sup> on venue:

Facts and law are vitally important. But the identity of the decision makers—judge and jury—are crucial too.

While phenomenal verdicts may occur in conservative rural counties in great cases, and the plaintiff will likely recover nothing in a rotten case even in the most generous venue, in average cases the identity of judge and county are crucial.

This passage ranges from a six-word sentence to a 40-word sentence. The latter is long but readable because of its grammatical structure and punctuation. And the variety throughout the passage makes the overall effect more engaging for the reader.

## Use Vivid Quotations

Traditional legal writing should use quotations effectively, and the same is true of legal blogging. Pare down the



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quote to the most vivid part, as Christopher Simon did in this post on the recent Supreme Court of Georgia's opinion about the value of a deceased pet's life:

As the Supreme Court noted at the beginning of its opinion, the death of a pet is an issue "near and dear to the heart of many a Georgian," and the Supreme Court's ruling brings much-needed clarity to this area of law.<sup>13</sup>

Block quotes can be used effectively in legal blogs, especially when the blogging platform sets them off visually. To integrate them into the content, preview the block quote with a full sentence preview suggesting what the reader should see in the block.<sup>14</sup> This article tries to demonstrate that technique in introducing examples.

### Use Humor and Personal Anecdotes Where Appropriate

Some topics lend themselves to humor more than others. Entertainment lawyer Mark Baker weighed in on the recent Led Zeppelin trial with this lead:

I'm not a judge. And I don't play one on TV. And despite what I believed was a strong memorandum in support of summary judgment, District Judge Klausner denied the defendants' motion and set the case for trial.<sup>15</sup>

(Side note: Baker provided a hyperlink to the memorandum itself in this lead, showing the value of relevant links as another aspect of good legal blogging.)

Even where a blog has a potentially life-and-death topic such as federal criminal law, there is room for levity and a conversational tone, as in Paul Kish's post on texting:

When I first heard about these anti-texting laws in Georgia, they made a lot of sense, especially since my then teenagers were just learning to drive when the law went into effect in 2008.

However, I wondered, how can an officer know if the motorist whose head is pointed down toward a cellphone is "engaging in a wireless communication" as opposed to looking at photos or his calendar?<sup>16</sup>

Humor can of course go awry if it's not appropriate for the topic or the audience. New legal bloggers may want to be cautious when first trying humor in their posts; many experienced legal bloggers confidently brandish their sarcastic wit throughout their posts.

### Use Images

Photos and charts make blog content more memorable, and are said to increase "shares" on other social media sites such as Facebook and Twitter. For example in a post on whether federal contractors can administer pre-employment tests to their employees,<sup>17</sup> Kristine Sims included an image of a pencil bubbling in an answer on a multiple-choice test.

The proper use of images requires not only finding a good image but also respecting copyright law and giving proper attribution. In Sims' post on pre-employment tests, she showed that she sourced this image from Creative Commons and included an attribution. A variety of free-image sources such as [www.unsplash.com](http://www.unsplash.com) are now available to bloggers, and stock photos can be purchased as another option.

### Update the Site to Make it Mobile-responsive

If people are reading at all anymore, it's on their phones. Blog content should be attractive and easy to access on a smartphone. Doug Isenberg's GigaLaw blog is a good example. You can tell it's responsive because when you resize your browser window or look at it on your phone, the content reorganizes itself to fit the screen. Responsive blogs create the most seamless and enjoyable experience for readers accessing them on all kinds of computers, tablets and phones.

## Be Ethical and Respectful of Others' Rights

Creative imagery, conversational writing and pithy headings won't matter if a blog infringes copyright, reveals client confidences or otherwise violates the Georgia Rules of Professional Conduct. The ethical obligations of lawyers on social media are beyond the scope of this already-long article but are more important than stylistic writing decisions. The wide variety of excellent legal blogging in Georgia shows that many Georgia lawyers are managing their ethical obligations effectively and enjoying the creative process of blogging. ●



**Jennifer Murphy Romig** is a professor of practice at Emory Law School. She teaches first-year legal research and writing and an advanced legal writing course in blogging and social media for law students and lawyers. In 2013, Romig founded the blog Listen Like a Lawyer, [www.listenlikealawyer.com](http://www.listenlikealawyer.com), which focuses on listening skills for law students, law professors and practicing lawyers. She tweets about legal writing at @JenniferMRomig and about listening and communication skills at @ListenLikeALwyr.

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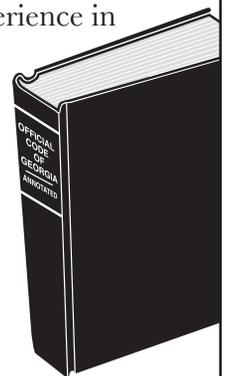
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# The Convocation on Professionalism: The New Normal for Delivery of Legal Services

Georgia lawyers tackle issues of practicing law, new technology and access to justice at the Convocation on Professionalism.

BY AVARITA L. HANSON



(Left to right) Edward Ezekiel, Robb Hern, Dean Stephanie Powell and Shelia Manely.

**What's on the horizon as the "new normal" for delivery of legal services?** To answer that question, the Chief Justice's Commission on Professionalism (CJCP) presented its Convocation on Professionalism on Aug. 30, 2016. Since 1988, statewide convocations on professionalism have become an institutional fixture of the Chief Justice's Commission on Professionalism. Each convocation has given greater impetus and sharper focus to professionalism issues.<sup>1</sup> The 2016 Convocation on Professionalism continued that tradition of bringing the Bar together to address timely and important issues widely affecting the profession by addressing the theme: The New Normal for Delivery of Legal Services. This topic reaches all facets of the legal community—academics, professors, solo, small and large firm practitioners, private and public attorneys, civil, criminal and administrative practitioners, the judiciary, and all types of diverse attorneys and clients.

The convocation was co-chaired by Prof. Timothy W. Floyd from Mercer Law, Prof. Nicole G. Iannarone from Georgia State University College of Law, Emory Law Associate Dean Rita A. Sheffey and CJCP Executive Director Avarita L. Hanson. The chairs and planners anticipated the American Bar Association's issuing the report of its Commission on the Future of Delivery of Legal Services in the United States just days before the convocation.<sup>2</sup> With 2017 ABA President Linda A. Klein scheduled to appear on the convocation program, it was clear that attendees would

PHOTO BY DON MORGAN PHOTOGRAPHY

hear about the key issues covered in the ABA's report, as well as Georgia initiatives.

The planning committee convened an array of national and local experts for the program that positioned it well for success, and attendees were provided with materials and references for future study, as well as a copy of the recent ABA publication, "The Relevant Lawyer: Reimagining the Future of the Legal Profession"

The program opened with a welcome by Chief Justice Hugh P. Thompson, who stressed his administration's priority for expanding access to justice initiatives in Georgia. The first panel asked and answered questions regarding the definitions and perceptions of "access" and "justice" to the judicial system for both civil and criminal litigants. Lead by Prof. Iannarone and Paula J. Frederick, State Bar of Georgia General Counsel and member of the ABA Commission, information was provided about lawyer regulation and use of non-lawyers to provide access to justice. Federal Magistrate Judge Catherine M. Salinas shared her experiences as a rural Texas legal aid lawyer; as a pro bono lawyer with a large Atlanta law firm; and as a federal magistrate regarding the provision of lawyers and perception of attainable justice. Georgia State Law Prof. Lauren Sudeall Lucas added information about options for providing access to justice.

The second session, Embracing and Thriving with Tomorrow's Innovation and Today's Technology, moderated by Dean Sheffey, highlighted new models for providing legal services with a particular focus on rapidly evolving technology to assist lawyers. Natalie Kelly, director of the State Bar's Law Practice Management Program and past co-chair of the American Bar Association's annual TechShow, provided an overview of how lawyers use technology and emerging platforms to improve lawyer productivity and efficiency. Panelist Andrew M.J. Arruda, co-founder and CEO of Ross Intelligence, defined "artificial intelligence" and presented probable applications for lawyers that captured great interest of the audience. For Bar leaders, he says:

My recommendations for Bar leaders would be to ensure they stay open minded. Bar leaders are meant to pro-



(Left to right) Paula J. Frederick, Prof. Nicole G. Iannarone, Prof. Lauren Sudeall Lucas and Hon. Catherine M. Salinas.



(Left to right) Prof. Steven H. Hobbs and Linda A. Klein.

mote and maintain the practice of law as a profession in the spirit of a public service—a spirit of service which furthers the administration of justice. New technologies, including A. I. technology like ROSS, can help ensure better-skilled lawyers and new technology has the power to help individuals access a lawyer who previously could not afford one. Bar leaders should seek ways to work together with those in tech to ensure their Bar members are aware and have access to the latest and best technology.

To the extent that older lawyers use technology and want to become proficient with it, Arruda said:

My advice would be to openly seek out ways to improve your practice. While there is no substitute for experience and on-the-job learning, there is technology available that enables more efficient delivery of legal services. Keeping up-to-date with different legal technologies is arguably an ethical duty that lawyers have, so be sure to stay up-to-date and do not be afraid to try new technologies out to see if they can aid you in your practice. A legal career should be a journey of constant improvement.

Although younger lawyers may come to the profession with a current, and perhaps higher, proficiency with technology,

## 2016 Convocation Planning Committee Members

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*\*Special thanks to Georgia State University College of Law Dean Steven J. Kaminshine, who hosted a dinner for speakers, planning committee members and guests on the evening prior to the convocation.*

they may need some impetus to use that technology to grow a practice and apply it to expanding access to justice. For this group, Arruda advised that the Bar:

... encourage young lawyers to be the voice of change in their organizations. While lawyers/firms have a bad reputation for being tech-a-phobic, a lot of the issue stems from lawyers not knowing what technology is available on the market and how they can use it. Young lawyers have the power to be great agents for change in their organizations, which will not only help their firms, but also their own careers and they gain a voice early on in their careers becoming the “experts” in technology at their firms.

Panelist John Mayer, developer and director of The Center for Computer-Assisted Legal Instruction, advised that technology can be expanded to not only increase profits and educate law students, but to provide access to justice. He has worked with numerous civil legal aid organizations across the nation to, among other things, provide self-help options such as courthouse kiosks. Finally, Fastcase legal research engine founder and CEO Ed Walters rounded out the discussion on lawyers using legal research tools.

Mercer Law Prof. Timothy W. Floyd moderated the third session, Entrepreneurs for Change—Public, Private and the Academy: Georgia Showcase. Stephanie A. Everett provided an update of the state’s incubator program, Lawyers for Equal Justice. Michael and Shelia Manely of the Manely Law Firm described how their Justice Café provides a supervised experience for emerging lawyers to provide low-fee services to clients while learning to practice law. Mercer Assistant Dean Stephanie Powell, who administers the State Bar YLD’s Succession Planning Pilot Program, described how the program partners seasoned lawyers with younger lawyers for a mutually beneficial relationship that enables the mature attorney to transition out of practice and the newer lawyer to advance in practice. Robb Hern, director, Columbus and Legal Residency Program, Global Litigation Services, UnitedLex, along with Edward Ezekiel, also with

United Lex, discussed United Lex’s Legal Residency Program, a program that enables new graduates to provide document review for larger firms.

Attendees were welcomed to the luncheon by State Bar President Patrick T. O’Connor and YLD President-Elect Nicole C. Leet, after which they enjoyed a conversation with ABA President Linda A. Klein and University of Alabama Law Prof. Steven H. Hobbs. This was a unique session during which Prof. Hobbs interviewed his former student from Washington & Lee Law School. Klein addressed her presidential priorities, provided information about the ABA report on the future delivery of legal services, and confirmed that her reason for becoming a lawyer was “to make a difference.”

The first afternoon session was moderated by Fulton County Probate Judge Pinkie T. Toomer and reviewed the bench and Bar’s efforts to meet the needs of all consumers of legal services. Jana J. Edmondson-Cooper, Georgia Legal Services Program’s bilingual staff attorney, talked about language access and meeting the needs of deaf and hard of hearing litigants, as well as the important strides Georgia has made with the provision of interpreters. Bibb County Superior Court Clerk Erica L. Woodford discussed the changes she initiated to make the courthouse more user-friendly. DeKalb County Public Defender Claudia Saari reviewed her efforts to address the needs of pro se and misdemeanor offenders who are entitled to and need legal representation but often do not have a lawyer. Closing out the session was Clyde E. Mize Jr., State Bar Diversity Program chair and partner, Morris, Manning & Martin LLP. Mize recounted his own childhood experiences of questioning whether his periodically incarcerated father would “get justice” in the system, a soliloquy that gave the audience insights into some of today’s important issues of access and justice.

The closing session, Lawyers Living Well, was moderated by Mercer Law Dean Daisy Hurst Floyd. Expanding on State Bar of Georgia Immediate Past President Robert J. “Bob” Kauffman’s wellness initiatives, this session provided an intimate look at lawyers taking care of ourselves—from law school to prac-

tice to transitioning out of practice—and our professional obligation to be well and stay well in mind, body and spirit. Hanson provided an overview of the many reasons lawyers need to deal with aging in the law, what the CJCP is doing to inform and educate the Bar and its recommendations of disciplinary options and intervention, assistance and support. In support of this important subject, President O'Connor has appointed the Aging Lawyers Task Force to address the issues of aging lawyers. DeKalb State Court Judge Shondeana G. Morris provided a very personal account of dealing with her father's suicide and implored her colleagues to seek help through the Bar's Lawyer Assistance Program and other wellness initiatives. Dean Floyd ended this session by informing us about her studies of law students who enter law school healthy and altruistic and thereafter develop negative attitudes, habits and unhealthy lifestyles.

In conclusion, Hanson noted that lawyers like ABA President Linda Klein and entering law students share a powerful common driving force: they want to "make a difference." Professionalism ideals addressed in the convocation—like being open to learn and use new technology and actively committing to providing access to justice—can make a difference and will positively contribute to the profession's and individual lawyer's well-being. Arruda's advice to access to justice advocates is helpful to frame future directions and intentions:

Technology has the power to aid in bridging the access to justice divide. A new wave of tools, some enabled by artificial intelligence such as ROSS, now have the power to allow lawyers to do more than ever before humanly possible. Access to justice issues are rooted in many issues, but a lot of them stem from how hard it is to navigate through the complex infrastructure of the legal system—new technology now has the power to slice through the complex legal system in seconds, cutting out inefficiencies that previously priced people out of affordable legal representation. It is an exciting time in legal technology and because of this I also think it is an exciting time for access to justice in America.



PHOTO BY DON MORGAN PHOTOGRAPHY

(Left to right) Jana J. Edmondson-Cooper, Caludia S. Saari, Hon. Pinkie Toomer, Clyde E. Mize Jr. and Erica L. Woodford.

In addition to the positive responses from attendees, the convocation attracted positive press for its coverage of options for access to justice and technological applications to law practice—new information, ideas and strategies.<sup>3</sup> Perhaps, the "new normal for delivery of legal services" will not only be aspirational—as our high professionalism ideals for lawyers often are—but maybe the new normal will become a reality for lawyers to stay apace with the marketplace, renew our dedication to our profession, and expand our ability to provide access to and justice in our legal system. ●



**Avarita L. Hanson**, Atlanta attorney, has served as the executive director of the Chief Justice's Commission on Professionalism since May of 2006. She can be reached at [professionalism@cjcpga.org](mailto:professionalism@cjcpga.org) or 404-225-5040.

## Endnotes

1. *Convocations and Town Hall Meetings on Professionalism*:  
1988—The Practice of Law: Is There Anything More to It Than Making Money?  
1989—A New Era of Professionalism  
1990—The Social Responsibilities of Lawyers in the Practice of Law: The Lawyer as Citizen  
1991—Professionalism: Passing It Along (Mentoring)

- 1992—Town Hall Meetings: Attorney Concerns About Ethics and Professionalism
- 1993—Ethics: Beyond the Code
- 1994–96 Town Hall Meetings: Professionalism in Client Relations
- 1996—Professionalism and Community Service
- 1997—Professionalism and Public Service
- 2010—Law Practice 2010 and Beyond: Challenges and Opportunities
- 2012—The Future of Legal Education: Will It Produce Practice-Ready Lawyers?
- 2014—Aging in the Practice of Law: It's More Than A Senior Moment!
2. ABA Commission on the Future of Legal Services, *Report on the Future of Legal Services in the United States* (2016): [http://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport\\_FNL\\_WEB.pdf](http://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport_FNL_WEB.pdf)
3. Gabrielle Orum Hernández, *Tech Divide Looms in Access To Justice Efforts*, LEGALTECH NEWS (posted August 31, 2016): <http://www.legaltechnews.com/id=1202766427878?keywords=georgia&publication=Legal+Technology;MeredithHobbs,NewLawyersTargetLowerIncomeClientsToBuildPractices>, DAILY REP. (posted August 31, 2016): <http://www.dailyreportonline.com/id=1202766452302/New-Lawyers-Target-Lower-Income-Clients-to-Build-Practices?kw=New%20Lawyers%20Target%20Lower%20Income%20Clients%20to%20Build%20Practices&cn=20160-901&pt=Morning%20News&src=EMC-Email&et=editorial&bu=Daily%20Report&slreturn=20160801124936>

**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.

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**WILLIAM THOMAS BEARD**  
Marietta, Ga.  
Woodrow Wilson College of Law (1949)  
Admitted 1950  
Died September 2016

**K. REID BERGLUND**  
Cashiers, N.C.  
University of Georgia School of Law (1972)  
Admitted 1972  
Died April 2016

**CAROLYN C. BLACKWOOD**  
Iowa Park, Texas  
Woodrow Wilson College of Law (1967)  
Admitted 1975  
Died April 2016

**A. W. FRANKLIN BLOODWORTH**  
Atlanta, Ga.  
University of Georgia School of Law (1963)  
Admitted 1962  
Died October 2016

**ANNA DURHAM BOLING**  
Athens, Ga.  
University of Georgia School of Law (1984)  
Admitted 1984  
Died June 2016

**NIKKI GIOVANNI BONNER**  
Atlanta, Ga.  
Regent University School of Law (2002)  
Admitted 2004  
Died September 2016

**ALAN LEE CASSEL**  
Saint Peters, Mo.  
Georgia State University College of Law (1991)  
Admitted 1993  
Died April 2016

**NICKOLAS P. CHILIVIS**  
Atlanta, Ga.  
University of Georgia School of Law (1953)  
Admitted 1952  
Died October 2016

**CHRISTOPHER JOHN CHURCHILL**  
Washington, DC  
University of Georgia School of Law (2010)  
Admitted 2010  
Died March 2016

**CHARLES CLEMENTS JR.**  
LaFayette, Ga.  
Stetson University College of Law (1951)  
Admitted 1951  
Died July 2016

**ROBERT M. COKER**  
Atlanta, Ga.  
Emory University School of Law (1973)  
Admitted 1973  
Died August 2016

**TURNER S. DAVIS**  
Griffin, Ga.  
Atlanta's John Marshall Law School (1968)  
Admitted 1973  
Died April 2016

**MICHAEL A. DEEP**  
Macon, Ga.  
Mercer University Walter F. George School of Law (1949)  
Admitted 1949  
Died May 2016

**R. B. DONALDSON JR.**  
Savannah, Ga.  
University of Georgia School of Law (1967)  
Admitted 1970  
Died November 2016

**B. JOSEPH DROMSKY JR.**  
Augusta, Ga.  
University of Nebraska College of Law (1978)  
Admitted 1979  
Died October 2016

**JOEY ROBERT FEAGINS**  
Knoxville, Tenn.  
University of Tennessee College of Law (1999)  
Admitted 2013  
Died September 2016

**ROBERT L. FINE**  
Atlanta, Ga.  
Emory University School of Law (1961)  
Admitted 1960  
Died October 2016

**GLEN A. GARRETT**  
Lawrenceville, Ga.  
Atlanta's John Marshall Law School (1971)  
Admitted 1973  
Died September 2016

**WINFIELD ALLEN GARTNER**  
Jacksonville, Fla.  
University of Virginia School of Law (1960)  
Admitted 1965  
Died October 2016

**ANN NELSON GRAINGER**  
Pompano Beach, Fla.  
Atlanta Law School (1952)  
Admitted 1952  
Died January 2016

**HAROLD STRONG GULLIVER**  
Atlanta, Ga.  
Georgia State University College of Law (1987)  
Admitted 1987  
Died March 2016

**ISAAC N. HABIF**  
Atlanta, Ga.  
Woodrow Wilson College of Law (1948)  
Admitted 1949  
Died July 2016

**EDWARD J. HARRELL**  
Macon, Ga.  
Mercer University Walter F. George School of Law (1969)  
Admitted 1970  
Died September 2016

**EUGENE HIGHSMITH**  
Brunswick, Ga.  
Mercer University Walter F. George School of Law (1960)  
Admitted 1960  
Died August 2016

**FRANK T. HOLT**  
Thomasville, Ga.  
Columbia Law School (1950)  
Admitted 1959  
Died May 2016

**MITCHEL P. HOUSE JR.**  
Macon, Ga.  
Mercer University Walter F. George School of Law (1959)  
Admitted 1958  
Died September 2016

**RALPH O. HOWARD**  
Roswell, Ga.  
University of Alabama School of Law (1961)  
Admitted 1987  
Died June 2016

**JOSEPHINE L. HUNNICUTT**  
Fayetteville, Ga.  
Woodrow Wilson College of Law (1973)  
Admitted 1974  
Died April 2016

**MAX D. KALEY**  
Marietta, Ga.  
Emory University School of Law (1952)  
Admitted 1952  
Died September 2016

**STEVE E. KALEY**

Watkinsville, Ga.  
Southern Methodist  
University Dedman  
School of Law (1954)  
Admitted 1965  
Died May 2016

**JACK H. KING**

Atlanta, Ga.  
Atlanta's John Marshall  
Law School (1951)  
Admitted 1951  
Died March 2016

**DIANE GILLIAM LEROY**

Thomasville, Ga.  
University of Louisville  
Louis D. Brandeis School  
of Law (1980)  
Admitted 1991  
Died October 2016

**MARION ROSCOE LOWERY**

Avondale Estates, Ga.  
Mercer University Walter  
F. George School of Law  
(1948)  
Admitted 1949  
Died April 2016

**SYLVAN N. MACK**

Highland Park, Ill.  
DePaul University College  
of Law (1949)  
Admitted 1966  
Died August 2016

**ROBERT P. MALLIS**

Decatur, Ga.  
University of Georgia  
School of Law (1968)  
Admitted 1967  
Died October 2016

**FRED P. MEYER**

Lawrenceville, Ga.  
Woodrow Wilson College  
of Law (1973)  
Admitted 1973  
Died September 2016

**ARTHUR A. MORRISON**

Fairburn, Ga.  
Emory University School  
of Law (1960)  
Admitted 1969  
Died February 2016

**WILLIAM JONATHAN  
MURRAY**

Americus, Ga.  
University of Georgia  
School of Law (1971)  
Admitted 1972  
Died October 2016

**WILLIAM J. NEVILLE**

Statesboro, Ga.  
Mercer University Walter  
F. George School of Law  
(1949)  
Admitted 1947  
Died September 2016

**JAMES WALBERT  
OXENDINE**

Madison, Ga.  
Atlanta's John Marshall  
Law School (1969)  
Admitted 1973  
Died August 2016

**HENRY GARY PANNELL**

Atlanta, Ga.  
University of Virginia  
School of Law (1965)  
Admitted 2003  
Died September 2016

**BEN L. PATTERSON JR.**

Rutledge, Ga.  
University of Georgia  
School of Law (1957)  
Admitted 1956  
Died August 2016

**RICHARD L. POWELL**

Marietta, Ga.  
Atlanta's John Marshall  
Law School (1963)  
Admitted 1966  
Died October 2016

**BORIS M. RAMSEY**

Atlanta, Ga.  
Georgia State University  
College of Law (2002)  
Admitted 2003  
Died August 2016

**JOHN W. REYNOLDS**

Decatur, Ga.  
Woodrow Wilson College  
of Law (1985)  
Admitted 1985  
Died March 2016

**BRUCE M. RUBIN**

Dawsonville, Ga.  
Atlanta's John Marshall  
Law School (1976)  
Admitted 1976  
Died February 2016

**RICHARD B. RUSSELL III**

Winder, Ga.  
University of Georgia  
School of Law (1953)  
Admitted 1953  
Died October 2016

**ROBERT W. SHEPHERD**

Crawfordville, Fla.  
Atlanta Law School (1972)  
Admitted 1972  
Died June 2016

**WILLIAM N. SLAUGHTER**

Athens, Ga.  
University of Georgia  
School of Law (1963)  
Admitted 1963  
Died June 2016

**WILLIAM TRUETT SMITH**

Elberton, Ga.  
University of Georgia  
School of Law (1950)  
Admitted 1949  
Died October 2016

**JULIAN C. SPENCE**

Hoschton, Ga.  
Woodrow Wilson College  
of Law (1980)  
Admitted 1983  
Died October 2016

**DOUGLAS E. STRACK**

Franklin, N.C.  
American University  
Washington College of  
Law (1979)  
Admitted 1980  
Died October 2016

**HENRY R. STRINGFELLOW**

Lawrenceville, Ga.  
Woodrow Wilson College  
of Law (1970)  
Admitted 1971  
Died March 2016

**GEORGE EDWARD TANNER**

Peachtree City, Ga.  
Georgia State University  
College of Law (1992)  
Admitted 1992  
Died June 2016

**T. E. VAN HOUTEN JR.**

Duluth, Ga.  
Atlanta's John Marshall  
Law School (1952)  
Admitted 1952  
Died October 2016

**RALPH ROUSH VANCE**

Marietta, Ga.  
Western Michigan  
University Thomas M.  
Cooley Law School (1993)  
Admitted 1993  
Died June 2016

**LOUIS ALLISON WADE**

Cordele, Ga.  
University of Georgia  
School of Law (1959)  
Admitted 1958  
Died August 2016

**JAMES MICHAEL WALTERS**

Atlanta, Ga.  
University of Nebraska  
College of Law (1970)  
Admitted 1971  
Died September 2016

**JAMES EDWARD WEBB**

Gainesville, Ga.  
Woodrow Wilson College  
of Law (1971)  
Admitted 1973  
Died May 2016

**MICHAEL A. WHITE**

Cumming, Ga.  
Atlanta's John Marshall  
Law School (1968)  
Admitted 1971  
Died August 2016

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## OBITUARIES



**Nickolas P. "Nick" Chilivis died in October 2016.** He is survived by his wife, Patti, three children and six grandchildren.

Chilivis was born in Athens, Ga., on Jan. 12, 1931. Following graduation from Athens High School, he enrolled at the University of Georgia (UGA) on a scholarship. After his sophomore year at UGA, he enrolled in the UGA School of Law, graduating in 1953. As was permitted at the time, Chilivis was admitted to the Bar before he graduated and before he was even 21 years old.

Chilivis began to practice law in 1952 in Athens. The success of his practice resulted in his being invited to become a partner in a venerable Athens firm, soon to be named Erwin, Epting, Gibson & Chilivis.

On Jan. 1, 1975, Gov. George Busbee asked Chilivis to serve as Georgia Revenue Commissioner. He accepted the offer and served for three years. Following his service with the state, Chilivis joined the Atlanta firm of Powell Goldstein Frazier & Murphy. In 1985, he created his own law firm, originally known as Chilivis & Grindler, now known as Chilivis, Cochran, Larkins & Bever LLP.

Chilivis tried innumerable cases during his career, both civil and criminal, in Georgia and other jurisdictions. He represented several movie, stage and television actors and is believed to have represented more governors, judges and lawyers than any other lawyer in Georgia. Perhaps his most famous trial was the successful defense of Bert Lance, a cabinet-level official in the Carter administration.

Chilivis was also known for his seemingly inexhaustible supply of humorous stories, which mostly involved himself.

The honors awarded Chilivis are too many to list here, as are the occasions of his service to the state of Georgia, to UGA Law School (where he originated a moot trial program) and to his beloved church. His courtesy and kindness to others was unending.

In the practice of law, Chilivis had a calm and rapid mind. His judgment—the ability to see through the fog of the law and to understand human nature—was impeccable. Nobody ever regretted following the advice of Nick Chilivis. ●



**Judge Robert P. Mallis of Gainesville, beloved husband, father, grandfather, brother and uncle** passed away suddenly in October 2016 after a four-year battle with cancer.

Mallis was born May 17, 1939, in Kingsport, Tenn., son of Andrew Spears Mallis and Genevieve Moses Mallis. He grew up in Savannah and attended Savannah High School. Mallis was a graduate of Oglethorpe University and the University of Georgia School of Law, where he received his Juris Doctor degree.

Mallis began his career in private law and practiced in DeKalb County for 20 years. He was a former president of the DeKalb Bar Association and served as a member of its Board of Trustees. In 1988 he received the DeKalb Bar Association leadership award. Mallis was appointed to the Superior Court in 1988 by Gov. Joe Frank Harris. He served as chief judge of the DeKalb Superior Court as well as administrative judge for the 4th Judicial Administrative District. He was a past member of the Judicial Council of Georgia, the Executive Committee of the Council of Superior Court Judges and a member of the Board of Governors of the State Bar of Georgia. He was an adjunct professor at Oglethorpe University, teaching constitutional law, criminal law and business law. At retirement in 2005, Mallis was appointed by Gov. Sonny Purdue to be a senior superior court judge and he served throughout Georgia. He was a civil mediator with the Georgia Office of Dispute Resolutions.

When living in Dunwoody, Mallis was a member of the Holy Innocents Episcopal Church and served as head usher and as a member of the vestry. He twice served on the Board of Trustees of Holy Innocents Episcopal School as vice-chairman and later as chairman when the decision was made to expand to include high school. He served on the Board of Marr Addiction Treatment Center and many other nonprofit boards. Mallis was a member of the Lawyers Club of Atlanta and the Old War Horse Lawyers Club. Mallis leaves behind his wife of 46 years, Ginger McCuen Mallis; three sons, Hampton, Laurie and their sons Robert and Alston of Atlanta; David, Leigh and their daughters Eve and Sloan of Atlanta; and Spears, Janna and their children Lillie and Sam of Gainesville; sister, Evelyn Mallis Griffin and her daughters Lisa Fiondella and Ellen Sassa; brother, Alex Mallis, wife Linda and their sons, Andrew and Nicholas Mallis of Cumming; many nieces, nephews and cousins. ●

DECEMBER

- 6 ICLE: **Eminent Domain**  
Webinar | 1 CLE
- 6 ICLE: **Trial and Error**  
Selected Video Replays  
Via Web Streaming and Atlanta,  
Savannah and Tifton, Ga. | 6 CLE
- 6 ICLE: **Handling Big Cases**  
Selected Video Replay  
Atlanta, Ga. | 6 CLE
- 7 ICLE: **Trial Advocacy**  
Selected Video Replays  
Via Web Streaming and Atlanta,  
Savannah and Tifton, Ga. | 6 CLE
- 7 ICLE: **Malpractice Avoidance, Ethics  
and Professionalism**  
Selected Video Replays  
Atlanta, Ga. | 3 CLE
- 8 ICLE: **Recent Developments in Georgia Law**  
Atlanta, Ga. | 6 CLE
- 8 ICLE: **Health Care Fraud Institute**  
Via Web Streaming and Atlanta,  
Savannah, Tifton and Athens, Ga. | 6 CLE
- 9 ICLE: **ADR Institute and Neutrals  
Conference**  
Via Web Streaming and Atlanta and  
Tifton, Ga. | 6 CLE
- 13 ICLE: **Cessation of Social Security  
Benefits**  
Webinar | 1 CLE
- 14 ICLE: **8th Annual Georgia and the 2nd  
Amendment**  
Via Web Streaming and Atlanta, Ga. | 4 CLE
- 15 ICLE: **Keep it Short and Simple (KISS)**  
Via Web Streaming and Atlanta,  
Savannah, Tifton and Athens, Ga. | 7 CLE
- 15 ICLE: **Tax Traps for Real Estate Practitioners**  
Atlanta, Ga. | 6 CLE
- 15-16 ICLE: **Corporate Counsel Institute**  
Atlanta, Ga. | 12 CLE

- 16 ICLE: **Carlson on Evidence**  
Via Web Streaming and Atlanta,  
Savannah, Tifton and Athens, Ga. | 6 CLE
- 16 ICLE: **Child Welfare Attorney Training**  
Atlanta, Ga. | 7 CLE
- 16 ICLE: **Update on Georgia Law**  
Augusta, Ga. | 6 CLE

JANUARY

- TBD ICLE: **Succeeding in Family Law Hearings  
and Trials**  
Via Web Streaming and Atlanta,  
Savannah, Tifton and Athens, Ga. | 6 CLE
- TBD ICLE: **Importance of Diversity and  
Inclusion in the Profession**  
Webinar | 1 CLE
- 5 ICLE: **Technology in Practice**  
Midyear Meeting  
Atlanta, Ga. | 3 CLE
- 6 ICLE: **Moving Georgia Forward through  
Innovative Pro Bono**  
Midyear Meeting  
Atlanta, Ga. | 3 CLE
- 13 ICLE: **Jury Trial**  
Statewide Satellite Broadcast | 6 CLE
- 18 ICLE: **Speaking to Win**  
Atlanta, Ga. | 6 CLE
- 19 ICLE: **Best Verdicts 2016**  
Atlanta, Ga. | 6 CLE
- 19 ICLE: **ADR in the Workers' Compensation  
Arena**  
Atlanta, Ga. | 6 CLE
- 19 ICLE: **Jury Trial**  
Statewide Satellite Rebroadcast | 6 CLE
- 20 ICLE: **Nuts & Bolts of E-Discovery**  
Atlanta, Ga. | 6 CLE

- 20 ICLE: **Defense of a Personal Injury Case**  
Statewide Satellite Broadcast | 6 CLE
- 24 ICLE: **Professionalism**  
Webinar | 1 CLE
- 25 ICLE: **Restrictive Covenants and Trade Secrets in Georgia**  
Atlanta, Ga. | 6 CLE
- 26 ICLE: **Child Protection Seminar**  
Atlanta, Ga. | 6 CLE
- 26 ICLE: **Changes in War and Law**  
Atlanta, Ga. | 6 CLE
- 26 ICLE: **Defense of a Personal Injury Case**  
Statewide Satellite Rebroadcast | 6 CLE
- 26-28 ICLE: **27th Annual Tropical Seminar**  
Cartagena, Colombia | 12 CLE
- 27 ICLE: **Internet Legal Research**  
Via Web Streaming and Atlanta, Ga. | 6 CLE
- 27 ICLE: **Landlord and Tenant Law**  
Atlanta, Ga. | 6 CLE

## FEBRUARY

- TBD ICLE: **Ancient Foundations and Modern Equivalents**  
Atlanta, Ga. | 3 CLE
- TBD ICLE: **White Collar Crime**  
Atlanta, Ga. | 7 CLE
- 1 ICLE: **Abusive Litigation**  
Atlanta, Ga. | 6 CLE
- 1 ICLE: **Arbitration Clause Drafting**  
Atlanta, Ga. | 3 CLE
- 2 ICLE: **Georgia Foundations and Objections Update**  
Via Web Streaming and Atlanta, Savannah and Tifton, Ga. | 6 CLE
- 2 ICLE: **Secured Lending**  
Atlanta, Ga. | 6 CLE

- 3 ICLE: **Advanced Debt Collection**  
Atlanta, Ga. | 6 CLE
- 3 ICLE: **Banking Law**  
Atlanta, Ga. | 6 CLE
- 3 ICLE: **Residential Real Estate**  
Statewide Satellite Broadcast | 6 CLE
- 3 ICLE: **Georgia Insurance Claims Law**  
Savannah, Ga. | 6 CLE
- 5-8 ICLE: **Update on Georgia Law**  
Park City, Utah | 12 CLE
- 8 ICLE: **Special Needs Trusts**  
Atlanta, Ga. | 6 CLE
- 8 ICLE: **Administrative Law for Attorneys**  
Atlanta, Ga. | 6 CLE
- 9 ICLE: **Narcissism in the Law**  
Atlanta, Ga. | 6 CLE
- 9 ICLE: **Residential Real Estate**  
Statewide Satellite Rebroadcast | 6 CLE
- 10 ICLE: **John Mayou Family and Trial Law Convocation on Professionalism**  
Atlanta, Ga. | 7.5 CLE
- 10 ICLE: **Solo Small Firm Boot Camp**  
Atlanta, Ga. | 6 CLE
- 10-11 ICLE: **62nd Annual Estate Planning Institute**  
Athens, Ga. | 10 CLE
- 14 ICLE: **Plea Negotiations in Criminal Cases**  
Webinar | 1 CLE
- 15 ICLE: **Advanced Securities Law**  
Atlanta, Ga. | 6 CLE
- 15 ICLE: **Attorney First Aid Kit**  
Atlanta, Ga. | 6 CLE
- 16 ICLE: **Nuts & Bolts of Appellate Practice**  
Atlanta, Ga. | 6 CLE
- 16-17 ICLE: **Social Security Institute**  
Atlanta, Ga. | 10.5 CLE

Note: To verify a course that you do not see listed, please call the CLE Department at 404-527-8710. Also, ICLE seminars only list total CLE hours. For a breakdown, call 800-422-0893. For ICLE seminar locations, please visit [www.iclega.org](http://www.iclega.org).

17	ICLE: <b>Advanced Negotiation Strategies</b> Atlanta, Ga.   6 CLE	2	ICLE: <b>Plaintiff's Personal Injury</b> Statewide Satellite Rebroadcast   6 CLE
17	ICLE: <b>Elder Law</b> Statewide Satellite Broadcast   6 CLE	3	ICLE: <b>Truck Wreck Cases</b> Atlanta, Savannah and Tifton, Ga.   6 CLE
22	ICLE: <b>25th Annual Product Liability Seminar</b> Atlanta, Ga.   6 CLE	3	ICLE: <b>Professionalism and Ethics Update</b> Statewide Satellite Broadcast   3 CLE
23	ICLE: <b>Negotiated Corporate Acquisitions</b> Atlanta, Ga.   6 CLE	7	ICLE: <b>Group Mentoring</b> Atlanta, Ga.   No CLE
23	ICLE: <b>Eminent Domain Law</b> Atlanta, Ga.   6 CLE	8	ICLE: <b>Post Judgment Collection</b> Atlanta, Ga.   6 CLE
23	ICLE: <b>Elder Law</b> Statewide Satellite Rebroadcast   6 CLE	9	ICLE: <b>13th Annual Nonprofit Law Seminar</b> Atlanta, Ga.   6 CLE
24	ICLE: <b>Georgia Auto Insurance Claims Law</b> Atlanta, Ga.   6 CLE	9	ICLE: <b>Nuts &amp; Bolts of Local Government Law</b> Atlanta, Ga.   6 CLE
24	ICLE: <b>26th Annual Georgia Bar Media and Judiciary Conference</b> Atlanta, Ga.   6 CLE	9	ICLE: <b>Professionalism and Ethics Update</b> Statewide Satellite Rebroadcast   3 CLE
24	ICLE: <b>Plaintiff's Personal Injury</b> Statewide Satellite Broadcast   6 CLE	10	ICLE: <b>Milich on Evidence</b> Atlanta, Ga.   6 CLE
24	ICLE: <b>24th Annual Criminal Practice Seminar</b> Kennesaw, Ga.   6 CLE	10	ICLE: <b>Fundamentals of Health Care Law</b> Atlanta, Ga.   7 CLE
27	ICLE: <b>Beginning Lawyer Program</b> Atlanta, Savannah and Tifton, Ga.   6 CLE	10	ICLE: <b>Trial and Error</b> Statewide Satellite Broadcast   6 CLE
<b>MARCH</b>		15	ICLE: <b>Georgia's False Claim Act/Whistleblower</b> Atlanta, Ga.   7 CLE
TBD	ICLE: <b>23rd Annual ADR Institute and 2016 Neutrals' Conference</b> Macon, Ga.   6 CLE	15	ICLE: <b>Proving Damages</b> Atlanta, Ga.   6 CLE
TBD	ICLE: <b>Walton County Bar Association Seminar</b> Monroe, Ga.   6 CLE	16	ICLE: <b>6th Annual Same Sex Legal Issues</b> Atlanta, Ga.   6 CLE
1	ICLE: <b>Advanced Topics in Franchising and Distribution</b> Atlanta, Ga.   3 CLE	16	ICLE: <b>Medicine for Lawyers</b> Atlanta, Ga.   6 CLE
2	ICLE: <b>Family Immigration Law</b> Atlanta, Ga.   6 CLE	16	ICLE: <b>Trial and Error</b> Statewide Satellite Rebroadcast   6 CLE
		16-18	ICLE: <b>15th Annual General Practice and Trial Institute</b> St. Simons Island, Ga.   12 CLE

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| 17 | ICLE: <b>Workers' Compensation for the General Practitioner</b><br>Atlanta, Ga.   6 CLE              | 24 | ICLE: <b>Mediation Advocacy</b><br>Atlanta, Ga.   6 CLE                                    |
| 17 | ICLE: <b>Winning Settlement Strategies</b><br>Atlanta, Ga.   6 CLE                                   | 24 | ICLE: <b>Basic Fiduciary Practice</b><br>Atlanta, Ga.   6 CLE                              |
| 17 | ICLE: <b>Jury Trial</b><br>Statewide Satellite Rebroadcast   6 CLE                                   | 24 | ICLE: <b>Recent Developments in Georgia Law</b><br>Statewide Satellite Rebroadcast   6 CLE |
| 17 | ICLE: <b>Agriculture Law</b><br>Macon, Ga.   6 CLE   | 28 | ICLE: <b>Trials of the Century</b><br>Atlanta, Ga.   6 CLE                                 |
| 21 | ICLE: <b>Beginning Lawyers Program</b><br>Statewide Satellite Rebroadcast   6 CLE                    | 28 | ICLE: <b>Depositions</b><br>Webinar   1 CLE  |
| 22 | ICLE: <b>Georgia Law of Torts</b><br>Atlanta, Ga.   6 CLE  | 29 | ICLE: <b>8th Annual Employee Benefits Law Section Seminar</b><br>Atlanta, Ga.   6 CLE      |
| 22 | ICLE: <b>24th Annual Family and Trial Law Convocation on Professionalism</b><br>Atlanta, Ga.   3 CLE | 30 | ICLE: <b>Not Your Typical CLE</b><br>Atlanta, Ga.   6 CLE                                  |
| 23 | ICLE: <b>Professional and Ethical Dilemmas in Litigation</b><br>Atlanta, Ga.   6 CLE                 | 31 | ICLE: <b>Advanced Cross-Examination</b><br>Atlanta, Ga.   6 CLE                            |
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GBJ | *Notice*

## **Notice of and Opportunity for Comment on Amendments to the Rules of the U.S. Court of Appeals for the Eleventh Circuit**

Pursuant to 28 U.S.C. § 2071(b), notice and opportunity for comment is hereby given of proposed amendments to the Rules of the U.S. Court of Appeals for the Eleventh Circuit. The public comment period is from December 5, 2016 to January 9, 2017.

A copy of the proposed amendments may be obtained on and after December 5, 2016, from the court's website at <http://www.ca11.uscourts.gov/rules/proposed-revisions>. A copy

may also be obtained without charge from the Office of the Clerk, U.S. Court of Appeals for the Eleventh Circuit, 56 Forsyth St. NW, Atlanta, Georgia 30303 [phone: 404-335-6100]. Comments on the proposed amendments may be submitted in writing to the Clerk at the above address, or electronically at <http://www.ca11.uscourts.gov/rules/proposed-revisions>, by January 9, 2017.

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FICTION WRITING  
COMPETITION

DEADLINE: JANUARY 13, 2017

The Editorial Board of the *Georgia Bar Journal* is pleased to announce that it will sponsor its annual Fiction Writing Contest. See the back cover for more information, or contact Sarah I. Coole, director of communications, at 404-527-8791; sarahc@gabar.org.

## JUDGING PANEL VOLUNTEERS NEEDED IN 2017

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### Regional Level of Competition

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At least one round of HSMT judging panel experience or one year of HSMT coaching experience required to serve at the district level.

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Feb. 16 and 19 in Atlanta

### State Finals Competition

At least two rounds of HSMT judging panel experience or one year of HSMT coaching experience required to serve at the state level.

Lawrenceville, March 4

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- 51 Gilsbar, LLC
- 31 Investors Title Insurance Company
- 71 Law Firm of Shein & Brandenburg
- 13 Member Benefits, Inc.
- 57 Mitchell Kaye Valuation
- 29 Norwitch Document Laboratory
- 71 Quintairos, Prieto, Wood & Boyer, P.A.
- 23 The University of Alabama School of Law
- 53 Warren R. Hinds, P.C.



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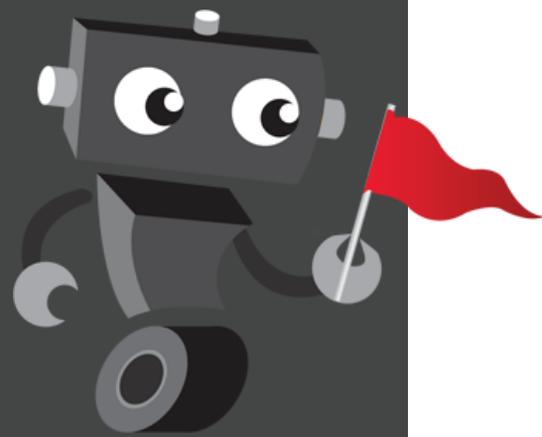
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THE STATE BAR OF GEORGIA ANNOUNCES ITS ANNUAL

# FICTION WRITING COMPETITION

DEADLINE: JANUARY 13, 2017

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 further information, contact Sarah I. Coole, Director of Communications, State Bar of Georgia, 404-527-8791 or [sarahc@gabar.org](mailto:sarahc@gabar.org).

1. The competition is open to any member in good standing of the State Bar of Georgia, except current members of the Editorial Board. Authors may collaborate, but only one submission from each member will be considered.
2. Subject to the following criteria, the article may be on any fictional topic and may be in any form (humorous, anecdotal, mystery, science fiction, etc.). Among the criteria the Board will consider in judging the articles submitted are: quality of writing; creativity; degree of interest to lawyers and relevance to their life and work; extent to which the article comports with the established reputation of the *Journal*; and adherence to specified limitations on length and other competition requirements. The Board will not consider any article that, in the sole judgment of the Board, contains matter that is libelous or that violates accepted community standards of good taste and decency.
3. All articles submitted to the competition become the property of the State Bar of Georgia and, by submitting the article, the author warrants that all persons and events contained in the article are fictitious, that any similarity to actual persons or events is purely coincidental and that the article has not been previously published.
4. Articles should not be more than 7,500 words in length and should be submitted electronically.
5. Articles will be judged without knowledge of the author's identity. The author's name and State Bar ID number should be placed on a separate cover sheet with the name of the story.
6. All submissions must be received at State Bar headquarters in proper form prior to the close of business on a date specified by the Board. Submissions received after that date and time will not be considered. Please direct all submissions to: Sarah I. Coole, Director of Communications, by email to [sarahc@gabar.org](mailto:sarahc@gabar.org). If you do not receive confirmation that your entry has been received, please call 404-527-8791.
7. Depending on the number of submissions, the Board may elect to solicit outside assistance in reviewing the articles. The final decision, however, will be made by majority vote of the Board. Contestants will be advised of the results of the competition by letter. Honorable mentions may be announced.
8. The winning article, if any, will be published. The Board reserves the right to edit articles and to select no winner and to publish no article from among those submitted if the submissions are deemed by the Board not to be of notable quality.