

2019 REPORT OF THE

OFFICE OF THE GENERAL COUNSEL

ORLANDO, FL



State Bar
of Georgia

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STATE BAR OF GEORGIA

JUNE 6-9 | RITZ-CARLTON ORLANDO, GRANDE LAKES



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INDEX

I.	Report of the General Counsel	3	IX.	Disciplinary Orders of the Supreme Court of Georgia	
II.	State Disciplinary Board			Reinstatements	22
	State Disciplinary Board	6		Review Panel Reprimands	22
	Review Board	8		Public Reprimands	22
III.	Formal Advisory Opinion Board	10		Suspensions	
IV.	Overdraft Notification Program	13		Emergency Suspensions.....	22
V.	<i>Pro Hac Vice</i> Program.....	15		Indefinite Suspensions	22
VI.	Amendments to Bar Rules and Bylaws	16		Definite Suspensions	22
VII.	Clients’ Security Fund	18		Interim Suspensions	22
VIII.	Receiverships	21		Interim Suspensions Lifted	23
				Disbarments/Voluntary Surrenders.....	23



REPORT OF THE GENERAL COUNSEL

BY PAULA J. FREDERICK, GENERAL COUNSEL

I am pleased to present the 2018-19 Report of the Office of the General Counsel. Enclosed herein are reports from all of the boards and programs staffed by the Office of the General Counsel—the Disciplinary Board, the Disciplinary Review Board, the Clients’ Security Fund, the Formal Advisory Opinion Board, the *Pro Hac Vice* program, and the Trust Account Overdraft Notification Program. There is also a report on the Receiverships that the Office handled this year, and a description of the year’s revisions to the Bar Rules.

Following the reports is a list of the Supreme Court orders issued in disciplinary cases between May 1, 2017 and April 30, 2018. To read the order in any of these cases just click on the lawyer’s name in the member directory.

The enclosed reports document an impressive array of cases handled and services rendered to the Bar and to the public; however, they represent only a fraction of the work done by you and other dedicated Bar volunteers along with the staff of the Office of the General Counsel each year. The Office is indebted to each of you and to every Georgia lawyer who volunteers his or her time in service to the legal profession.

STAFF

Senior Assistant General Counsel William “Bill” Cobb is retiring in mid-July. Although Bill has only been with the office for seven years, we have benefitted tremendously from

his more than 40 years of experience in various practice settings. Bill has handled some of our toughest cases and has served as a thoughtful mentor to other lawyers in the office. He will be missed.

Bill Cobb’s departure isn’t effective for a few weeks, but it is the only staffing change we have had recently. I have attached a staff roster at the end of this report so that you know who to contact when you need something from the Office. Remember that in addition to investigating and prosecuting disciplinary cases the Office:

- Provides legal advice to the staff, Executive Committee and Board of Governors;
- Represents the Bar and its volunteers or monitors outside counsel in threatened or pending litigation;
- Drafts and amends bar rules, contracts, and policies;
- Provides guidance to supervisors on employment matters, proposes and drafts amendments to the Employee Manual, provides HR advice and training;
- Files and manages receiverships.

Staff of the Office of the General Counsel also provide advice and support to a number of other Bar entities, including the:

- State Disciplinary Board,

REPORT OF THE GENERAL COUNSEL

- State Disciplinary Review Board,
- Disciplinary Rules Committee,
- Formal Advisory Opinion Board,
- Clients' Security Fund,
- Professional Liability Insurance Committee,
- Unified Bar Committee,
- Advisory Committee on Legislation,
- Uniform Rules Committee,
- Elections Committee,
- Insurance Committee,
- Committee on International Trade in Legal Services,
- Wellness Committee,
- Continuity of Law Practice Committee, and the
- OGC Overview Committee.

LAWYER HELPLINE

The Office of the General Counsel operates a Lawyer Helpline for members of the State Bar of Georgia to discuss ethics questions on an informal basis with an Assistant General Counsel. The helpline averages 22 calls, letters or email requests each weekday.

CONTINUING LEGAL EDUCATION

As always, the Office of the General Counsel provides staff counsel to speak at CLE seminars and to local bar groups upon request. This year OGC lawyers participated in more than 80 CLE presentations, an all-time record.

THANKS

The staff and I remain committed to serving each member of the State Bar of Georgia with efficiency and professionalism. Please call upon us whenever we can be of help to you.

REPORT OF THE GENERAL COUNSEL

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BAR COUNSEL UNIT

(In-house counsel work, drafting amendments to Bar Rules or Bylaws, contract review, receiverships, Clients' Security Fund, Formal Advisory Opinion Board, letters of good standing.)

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STATE DISCIPLINARY BOARD

BY MELODY A. GLOUTON, CHAIR

As chair of the State Disciplinary Board, I would like to thank each board member for the time and effort they have committed to serving. Throughout the year, the board is charged with investigating a significant amount of grievances for potential violations of the Georgia Rules of Professional Conduct. While our work as a board is challenging, it is a vital and necessary component of the State Bar. It has been a privilege to volunteer with my fellow board members and accomplish such important work on behalf of the State Bar.

The 2018-19 State Disciplinary Board consisted of the President-elect of the State Bar of Georgia and the President-elect of the Young Lawyers Division of the State Bar of Georgia; twelve members of the State Bar of Georgia (two from each of the three federal judicial districts of Georgia); four nonlawyer members; and two at-large members. The Board continued its practice of holding monthly meetings throughout the state; this year we met in Amelia Island, Gainesville, Tifton, Atlanta, Callaway Gardens, Macon, Lake Oconee and Rome.

The Bar received more grievance forms this year (2,197) than last year (1,991). Each of these grievances were returned to the Office of the General Counsel for additional review and screening.

After review by the Office of General Counsel, 1,768 grievances were closed or dismissed for their failure to state facts sufficient to invoke the jurisdiction of the State Bar. A total of 159 grievances contained allegations which, if true, would amount to violations of one or more of the Georgia Rules of Professional Conduct. This represents a decrease from 193 such grievances in 2018. Each of those grievances were referred to one of the district board members for further investigation.

State Disciplinary Board members who investigated grievances each handled numerous cases during the Bar

year. The board worked diligently and efficiently to report each case within 180 days of service on the respondent. Each case required investigation and time away from the board member's law practice, all without compensation. At the conclusion of each grievance investigation, the board member made a report and recommendation to the full Board. Forty-three (43) grievances were dismissed, twenty-six (26) of those with a letter of instruction to educate and inform the lawyer about the Bar Rules. Fifty cases (50) met the "probable cause" standard and were returned to the Office of the General Counsel for prosecution. This represents a decrease from 119 such cases last year.

In grievance cases that met the standard for probable cause, thirty-one (31) of the respondents received confidential discipline in the form of Formal Letters of Admonition or State Disciplinary Board Reprimands. In seventy-three (73) more serious cases, the board issued a Notice of Discipline for disbarment or made a referral to the Supreme Court of Georgia for a hearing before a special master.

The State Disciplinary Board imposed the following during 2018-2019:

CASES

Confidential Reprimands	15
Letters of Formal Admonition	16
Cases Dismissed with Letters of Instruction	26
Interim Suspensions	15

Public discipline imposed by the Supreme Court of Georgia is described in the Annual Report of the State Disciplinary Review Board on page 8.

STATE DISCIPLINARY BOARD

I would like to recognize those members of the State Disciplinary Board who have unselfishly devoted so much of their personal and professional time to this necessary task. They are as follows:

Anna Green Bolden (*term expiring*)
Melody A. Glouton (*term expiring*)
Hon. Amanda N. Heath (*term expiring*)
John David Newberry (*term expiring*)
Dana Michelle Pagan (*term expiring*)
Kimberly Anne Reid (*term expiring*)
John G. Haubenreich (*term expiring*)
Preyesh K. Maniklal (*term expiring*)
Darrell Lee Sutton (*term expiring*)
William Thomas Davis (*term expiring*)
Patricia Fortune Ammari
Dale Pearson Beardsley
Sherry Boston
Daniel Shelton Digby
Gerald Alan Dodson
Jeffrey R. Harris
Elizabeth Pool O'Neal
Margaret W.S. Puccini
Lawrence Alan Stagg
William Hickerson Thomas, Jr.
Karen Brown Williams

Finally, I want to recognize and thank the four non-lawyer members appointed by the Supreme Court and the President of the State Bar of Georgia:

Hon. Carol H. Fullerton (*term expiring*)
Rev. David F. Richards, III (*term expiring*)
Jennifer M. Davis
Dr. H. Elizabeth King

REVIEW BOARD

BY ANTHONY B. ASKEW, CHAIR

The State Disciplinary Review Board serves as an appellate review board in our disciplinary system. After a disciplinary case has been heard by a special master, the parties may elect to file exceptions and request review by the Review Board before the case is filed with the Supreme Court. In these cases, the Review Board considers the complete record, reviews the findings of fact and conclusions of law, and determines whether a recommendation of disciplinary action will be made to the Supreme Court of Georgia and the nature of such recommended discipline. The findings of fact made by a Special Master may be reversed if the State Disciplinary Review Board finds them to be clearly erroneous or manifestly in error. The board has the discretion to grant oral argument if requested by either party. The Supreme Court may follow the Review Board's recommendation, but may also render an opinion that modifies the recommendation in some way.

In addition, the Review Board reviews all cases involving reciprocal discipline. The Georgia Supreme Court amended the Bar Rules on June 9, 2004, so that the Review Board reviews every case in which a Georgia lawyer has been disciplined in another jurisdiction. The board is charged with recommending the appropriate disciplinary result in Georgia. These cases present many interesting issues for the board and can be challenging when the lawyer objects to reciprocal discipline. In all cases, the board must consider whether the case is in the correct procedural posture to be reviewed, whether the lawyer was afforded due process in the underlying disciplinary proceeding, whether the misconduct would result in similar discipline under our rules, and recommend discipline which would be substantially similar to the discipline imposed in the foreign jurisdiction.

The Review Board also issues Review Board reprimands when directed by the Supreme Court, and makes recommendations in reinstatement cases which involve suspensions with conditions for reinstatement as directed by the Supreme Court.

The Supreme Court recently approved amendments to the disciplinary rules which became effective July 1, 2018. Under these rules, the Review Panel was renamed the State

Disciplinary Review Board, and the size of the board was reduced from 15 to 11 members. In particular, the number of lawyer members who serve on the Board from around the state was reduced from nine to seven. The board performs many of the same functions as the former Review Panel, including review of special master cases upon request by the parties, reciprocal discipline, issuance of Review Board reprimands, and review of some reinstatement cases.

The Review Board is now composed of two lawyers from each of the three federal judicial districts in Georgia, one at-large lawyer member, and two non-lawyer members. These members are appointed in alternate years by the Supreme Court of Georgia and the President of the State Bar. Two ex-officio members also serve on the board in their capacity as officers of the State Bar.

The following is a brief summary of public disciplinary action taken by the Supreme Court of Georgia during the period from May 1, 2018, to April 30, 2019:

FORM OF DISCIPLINE	CASES	LAWYERS
Disbarments/Voluntary Surrenders	24	13
Suspensions	35	29
Public Reprimands	3	2
Review Board Reprimands	1	1

The foregoing summary does not begin to reflect the important issues that were carefully considered by the Review Board over the past year. In addition to attending regular meetings, each board member must review material for each case prior to the meeting in order to make a fair and well-reasoned decision. This represents a major commitment of time and energy on the part of each board member, all of whom acted with the highest degree of professionalism and competency during their terms.

At this time, I would like to recognize the members of the board who have unselfishly devoted so much of their time to the implementation of the disciplinary system of the State

REVIEW BOARD

Bar of Georgia. I would also like to say farewell and heartfelt thanks to the members noted below whose terms on the Review Board will expire this year.

NON-LAWYER MEMBERS

P. Alice Rogers, Atlanta

Clarence Pennie, Kennesaw (*term expiring*)

LAWYER MEMBERS

Northern District

C. Bradford Marsh, Atlanta (*term expiring*)

Halsey G. Knapp, Atlanta

Middle District

Ralph F. Simpson, Tifton (*term expiring*)

Alfreda Sheppard, Albany

Southern District

Aimee Pickett Sanders, Augusta

Sarah Brown Akins, Savannah (*term expiring*)

AT LARGE

Anthony B. Askew, Atlanta

EX-OFFICIO MEMBERS

Brian DeVoe Rogers, Atlanta (*term expiring*)

Nicole Christine Leet, Atlanta (*term expiring*)

FORMAL ADVISORY OPINION BOARD

BY JEFFREY HOBART SCHNEIDER, CHAIR

The Formal Advisory Opinion Board considers requests for formal advisory opinions and drafts opinions that interpret the Georgia Rules of Professional Conduct.

BOARD MEMBERS

The board consists of active members of the State Bar of Georgia who are appointed by the President of the State Bar, with the approval of the Board of Governors. For the 2018-19 Bar year, the board is comprised of the following lawyers:

<i>Members at Large</i>	<i>Term Expires</i>
Jeffrey Hobart Schneider, Chair, Atlanta	2020
David N. Lefkowitz, Vice Chair, Atlanta	2019
Edward B. Krugman, Atlanta	2019
Mary A. Prebula, Duluth	2020
Letitia A. McDonald, Atlanta	2020
<i>Georgia Trial Lawyers Association</i> C. Andrew Childers, Atlanta	2019
<i>Georgia Defense Lawyers Association</i> Jacob Edward Daly, Atlanta	2019
<i>Georgia Association of Criminal Defense Lawyers</i> Amanda Rourk Clark Palmer, Atlanta	2020
<i>Georgia District Attorney's Association</i> Donald R. Donovan, Dallas	2020
<i>Young Lawyers Division</i> Nicole Christine Leet, Atlanta	2019
<i>Emory University</i> Professor Melissa D. Carter, Atlanta	2020
<i>University of Georgia</i> Professor Lonnie T. Brown Jr., Athens	2019
<i>Mercer University</i> Professor Patrick E. Longan, Macon	2019
<i>Georgia State University</i> Professor Megan Elizabeth Boyd, Atlanta	2020
<i>John Marshall Law School</i> Prof. Jeffrey Alan Van Detta, Atlanta	2019

State Disciplinary Board (formerly Investigative Panel; effective July 1, 2018, pursuant to Supreme Court order issued on January 12, 2018)
William Hickerson Thomas Jr., Atlanta 2019

Review Board (formerly Investigative Panel; effective July 1, 2018, pursuant to Supreme Court order issued on January 12, 2018)
C. Bradford Marsh, Atlanta 2019

Executive Committee (new position pursuant to Supreme Court order issued on June 15, 2017)
J. Antonio DelCampo, Atlanta 2019

PROCEDURES

When the board receives a request for a formal advisory opinion, it decides whether to accept or decline the request. Factors that the board considers in determining whether a request is accepted for the drafting of a formal advisory opinion include whether a genuine ethical issue is presented, whether the issue raised is of general interest to the members of the State Bar, whether there are existing opinions that adequately address the issue and the nature of the prospective conduct.

If the board decides to accept the request for the drafting of a formal advisory opinion, the board selects one or more of its members to draft a proposed opinion. The draft is carefully reviewed by the board in an effort to determine whether the proposed opinion should be approved. If the board approves the proposed opinion, it is published in an official State Bar publication. Members of the State Bar are invited to review the proposed opinion and submit comments to the board. The board reviews all comments before making a final determination to issue an opinion.

A board approved opinion is filed with the Supreme Court of Georgia and published in an official State Bar publication. Upon the filing of the opinion, the State Bar and the person who requested the opinion can seek discretionary review from the Supreme Court. If review is not sought, or the Court declines to review the opinion, the opinion is an opinion of the board, and is binding only on the State Bar and the requestor, and not on the Supreme Court. If the Supreme Court grants discretionary review and disapproves the opinion, it shall have absolutely no effect. However, if the Court grants review and approves or modifies the opinion, the opinion is an opinion of the Supreme Court, and shall be binding on all members of the State Bar. The opinion shall be published in the official Georgia Reports and the Supreme

FORMAL ADVISORY OPINION BOARD

Court shall give the opinion the same precedential authority given its other regularly published judicial opinions.

SUMMARY OF THE BOARD'S ACTIVITIES DURING THE 2018-19 BAR YEAR

The board received one new request for a formal advisory opinion. Following is the issue presented and the status of the request:

Formal Advisory Opinion Request No. 18-R3

Is it a conflict of interest or will an ethics issue arise if a lawyer, who also serves as a State Representative, or the lawyer's firm represents the Peace Officers Annuity Fund?

Shortly after submitting the request, the requestor withdrew the request, opting to receive an informal opinion through the ethics hotline of the Office of the General Counsel at the State Bar of Georgia.

The following requests for a formal advisory opinion were received in a prior Bar year and acted upon during the 2018-19 Bar year. Following are the issues presented and the status of each request:

Formal Advisory Opinion Request No. 1

Does Rule 1.6 extend to unsolicited statements made by a potential client with whom there is not a pre-existing relationship? Does Rule 1.6(b)(1)(ii) apply to communications that indicate there may be ongoing inappropriate behavior by the potential client?

The board determined that there is no Georgia Rule of Professional Conduct currently available that it can interpret to address the issue presented in the first question of this request. However, the board found that ABA Model Rule 1.18 and ABA Formal Opinion 10-457, which interprets ABA Model Rule 1.18, address the issue presented in the first question of this request. Accordingly, the board referred this issue to the Disciplinary Rules and Procedures Committee and asked the committee to consider adopting ABA Model Rule 1.18. The Disciplinary Rules and Procedures Committee drafted and approved proposed Georgia Rules of Professional Conduct 1.18 based in large part on ABA Model Rule 1.18. The proposed rule, if approved by the Supreme Court of Georgia, will address the issue presented in the first question of this request. Regarding the second question presented in this request, the board determined that the current Georgia Rules of Professional Conduct adequately address the question, and took no action on the question. The board tabled any further action on the first question of

this request pending the final adoption of proposed Georgia Rule of Professional Conduct 1.18.

Formal Advisory Opinion Request No. 18-R1

Ethical consideration of Rule 1.7. Conflict of Interests in issues related to the representation of an insurance company and the insurance company's insured party.

The board decided to appoint a subcommittee to consider this request further before making a decision to accept or decline the request for the drafting of a formal advisory opinion. The subcommittee is evaluating the ethics issues, determining the scope of a proposed opinion, modifying the question presented if necessary, and preparing a draft of a proposed opinion for the board's review and consideration. The subcommittee continues its work on this matter.

Formal Advisory Opinion Request No. 18-R2

Ethical consideration of Rule 4.2. Communication with Person Represented by Counsel when the lawyer no longer serves as opposing counsel in the action.

Pursuant to Bar Rule 4-403(b), the board determined that the issue presented in this request did not regard prospective conduct and was not of general interest to State Bar members. Accordingly, the board declined this request for the drafting of a formal advisory opinion.

The board also addressed the following matter related to an existing formal advisory opinion during the 2018-19 Bar year:

Formal Advisory Opinion No. 87-6

Ethical Propriety of a Lawyer Interviewing the Officers and Employees of an Organization When That Organization is the Opposing Party in Litigation Without Consent of Organization.

This matter was brought to the board's attention during the 2016-17 Bar year. The Formal Advisory Opinion Board was asked to consider revising Formal Advisory Opinion No. 87-6 to clarify that when an entity is represented by a lawyer in a matter, the consent discussed in the opinion must come from only that lawyer, in compliance with Georgia Rule of Professional Conduct 4.2. After extensive discussion and consideration, the Board determined that Georgia Rule of Professional Conduct 4.2 on its own, as amended by order of the Supreme Court of Georgia on November 3, 2011, clearly addresses the question presented. The board also determined that Formal Advisory Opinion No. 87-6 no longer provides an accurate and adequate interpretation of Georgia Rule of Professional Conduct 4.2. Accordingly, the board

FORMAL ADVISORY OPINION BOARD

voted to withdraw the opinion. A petition to withdraw Formal Advisory Opinion No. 87-6 was filed with the Supreme Court of Georgia on September 21, 2018. On February 18, 2019, the Supreme Court of Georgia issued an order withdrawing the opinion. Now that the Supreme Court of Georgia has ordered the withdrawal of Formal Advisory Opinion No. 87-6, the Formal Advisory Opinion Board is in the process of determining how to address references to Formal Advisory Opinion No. 87-6 in Comment 4[A] to Rule 4.2 and Formal Advisory Opinion No. 94-3.

Formal Advisory Opinions and the rules governing the Formal Advisory Opinion Board can be found on the State Bar of Georgia's website at www.gabar.org.

I would like to thank the members of the board for their dedication and service. These members have volunteered their time and knowledge in order to ensure that lawyers are provided with an accurate interpretation of the ethics rules. In addition, I express my sincere gratitude and appreciation to General Counsel Paula Frederick, Deputy General Counsel William D. NeSmith, III, Senior Assistant General Counsel John Shiptenko and Betty Derrickson of the Office of the General Counsel of the State Bar of Georgia. Their commitment and assistance have been invaluable to the board.

OVERDRAFT NOTIFICATION PROGRAM

BY REGINA PUTMAN, TRUST ACCOUNT OVERDRAFT NOTIFICATION COORDINATOR

The Overdraft Notification Program received 293 overdraft notices from financial institutions approved as depositories for Georgia attorney trust accounts. Of the total number of notices received, two notices were received on the trust accounts of deceased lawyers. A total of 184 files were dismissed based on the receipt of satisfactory responses following the initial State Bar inquiry, four files were referred to the Law Practice Management Program, one file was referred to the State Bar’s Unlicensed Practice of Law for investigation and 20 files were forwarded to the State Disciplinary Board for possible disciplinary action. (Several attorney overdraft files contained more than one overdraft notice regarding the same IOLTA account number. Some overdraft files opened during the latter part of FY 2018-19 remain open, pending final review and disposition.)

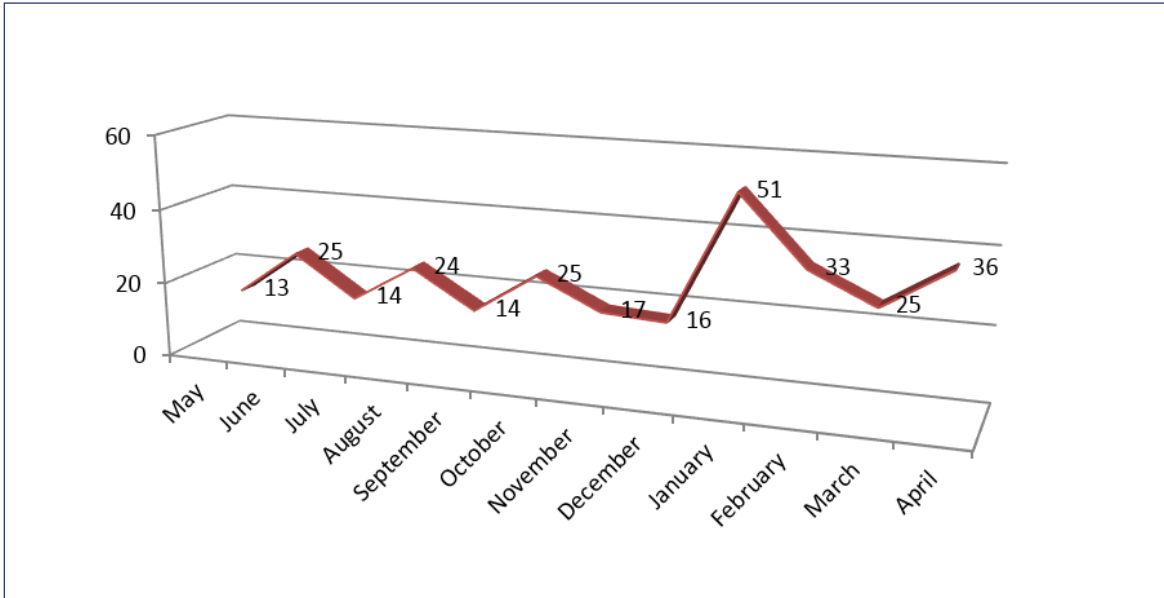
FINANCIAL INSTITUTIONS APPROVED AS DEPOSITORIES FOR ATTORNEY TRUST ACCOUNTS

Bank failures and mergers over the past few years have greatly affected the number of financial institutions currently approved as depositories for attorney trust accounts. Accordingly, lawyers should refer to the *List of Approved Financial Institutions*, which can be found on the State Bar of Georgia’s website, www.gabar.org, under For Lawyers > Attorney Resources.

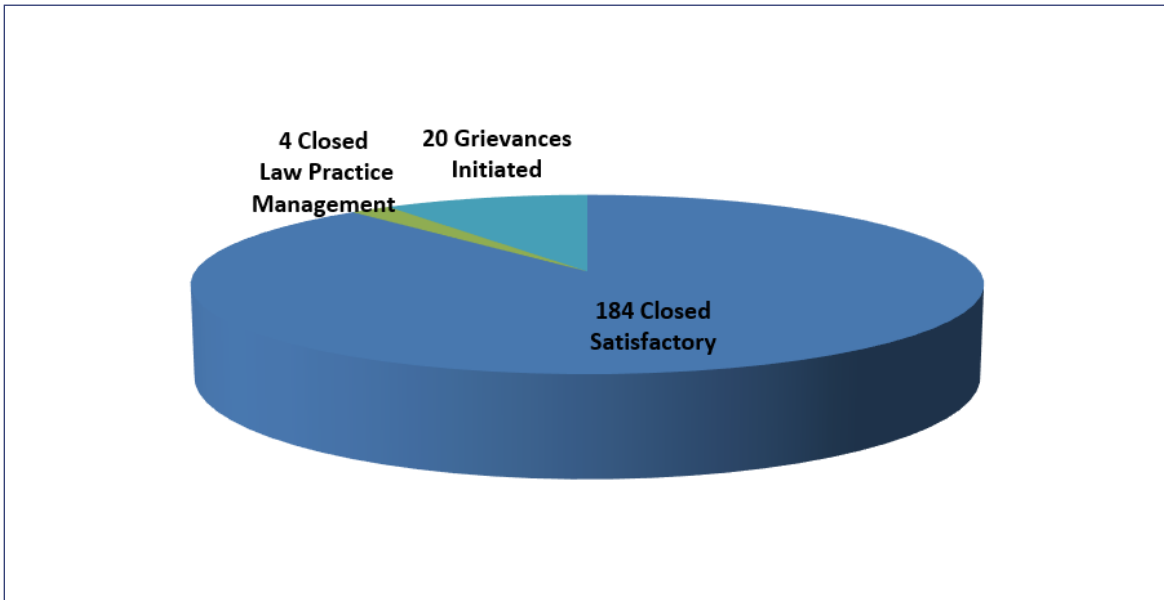
MONTH 2018-19	ACTUAL # NOTICES RECEIVED	FILES CLOSED/ ADEQUATE RESPONSE	FILES CLOSED/ LPMP	GRIEVANCES INITIATED	TOTAL CLOSED
May	13	15	1	0	16
June	25	22	0	0	22
July	14	13	0	3	16
August	24	18	0	2	20
September	14	18	0	0	18
October	25	12	0	2	14
November	17	15	2	0	17
December	16	6	0	2	8
January	51	12	0	0	12
February	33	17	1	4	22
March	25	22	0	3	25
April	36	14	0	4	18
TOTAL	293	184	4	20	208
PERCENTAGE		91	0.63	8.59	

OVERDRAFT NOTIFICATION PROGRAM

ACTUAL NUMBER OF BANK OVERDRAFT NOTICES RECEIVED | FY 2018-19



TRUST ACCOUNT OVERDRAFT FILE DISPOSITION | FY 2018-19



PRO HAC VICE PROGRAM

BY KATHY S. JACKSON, *PRO HAC VICE* PARALEGAL

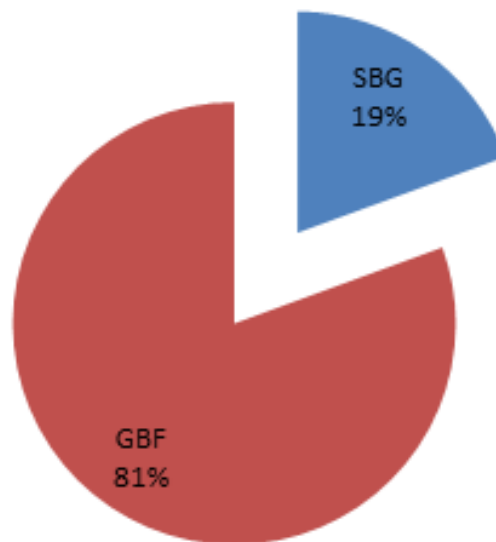
By order of November 10, 2005, the Supreme Court of Georgia amended Rule 4.4 of the Uniform Superior Court Rules to require out-of-state lawyers applying for pro hac vice admission in Georgia to serve a copy of their application for admission pro hac vice on the Office of the General Counsel, State Bar of Georgia. Attorneys seeking to appear pro hac vice in Magistrate, State and Superior Courts and the State Board of Workers' Compensation must comply with Rule 4.4.

The Supreme Court of Georgia has amended the rule three times since 2005. The most recent amendment came after the Civil Legal Services Task Force proposed increasing the pro hac vice fee to generate money for civil legal services. In its September 4, 2014 order, the Supreme Court of Georgia amended Rule 4.4 to adopt the proposed changes from the Civil Legal Services Task Force.

The Supreme Court of Georgia amended Georgia Rule of Professional Conduct 5.5(l) on June 15, 2017. The amendment requires applicants to pay a late fee of \$100 if they do not pay the annual fee by January 15th. The annual fee and late fee must be paid no later than March 1st of that year. Failure to pay the annual fee and late fee may result in disciplinary action.

During the period of May 1, 2018 through April 30, 2019, the Office of the General Counsel reviewed 944 pro hac vice applications. The Office of the General Counsel filed 21 responses with Georgia courts regarding the eligibility of the applicant. Eleven applicants sought exemption from the application fee due to pro bono representation. The Office of the General Counsel collected a total of \$368,840 from pro hac vice applicants. Below is a chart with a breakdown of the fees received.

TOTAL *PRO HAC VICE* FEES RECEIVED



The State Bar of Georgia ("SBG") collected a total of \$368,840 for *pro hac vice* fees. The fees were divided between the SBG and the Georgia Bar Foundation ("GBF"). The SBG received \$71,140 from the total collected. The GBF received \$297,700 from the total collected.

AMENDMENTS TO BAR RULES & BYLAWS

BY WILLIAM D. NESMITH III, DEPUTY GENERAL COUNSEL

The Supreme Court of Georgia, upon motion of the Office of the General Counsel, ordered the following amendments to the rules, regulations and policies of the State Bar of Georgia during the 2018-19 Bar year. In addition to the substantive changes, the amendments include minor working changes to improve clarity and to comport with stylistic guidelines adopted by the State Bar of Georgia. The most current version of the rules is on the State Bar of Georgia website at www.gabar.org.

RULE 1-202. CLASSES OF MEMBERS

(Amended by Order of the Supreme Court of Georgia on June 14, 2018)

The amendment to this rule allows emeritus members to vote in State Bar of Georgia elections and nominate qualified candidates for office; however, emeritus members are not allowed to hold office. The rationale behind this amendment was to better utilize invaluable institutional knowledge and wisdom about the State Bar of Georgia that emeritus members possess.

RULE 1-208. RESIGNATION FROM MEMBERSHIP

(Amended by Order of the Supreme Court of Georgia on June 14, 2018)

The amendment to this rule prevents a member of the State Bar of Georgia from avoiding disciplinary action by resigning prior to the wrongful conduct becoming known or reported. The amendment allows the status of a member who has resigned under the rule to have the resigned status changed to the status of a disciplined member.

RULE 1-506. CLIENTS SECURITY FUND ASSESSMENT

(Amended by Order of the Supreme Court of Georgia on June 14, 2018)

The amendment to this rule allows new members of the State Bar of Georgia admitted after May 15 of each year to defer payment of the Clients' Security Fund assessment until the second full fiscal year following their admission to the Bar. The reasoning behind the amendment was to allow newly barred members more time to seek employment and settle into the practice of law before being required to pay the assessment.

RULE 1-507. BAR FACILITY ASSESSMENT

(Amended by Order of the Supreme Court of Georgia on June 14, 2018)

The amendment to this rule allows new members of the State Bar of Georgia admitted after May 15 of each year to defer payment of the Bar Facility assessment until the second full fiscal year following their admission to the Bar. The reasoning behind the amendment was to allow newly barred members more time to seek employment and settle into the practice of law before being required to pay the assessment.

BAR RULE 1-602. PROPOSED BYLAWS AND AMENDMENTS

(Amended by Order of the Supreme Court of Georgia on June 14, 2018)

The amendment to this rule clarifies who is authorized to propose bylaws and amendments to bylaws, and the process for submitting such proposals. The amendment also expands the official publications of the State Bar of Georgia to include the official website of the State Bar of Georgia thereby creating expediency and more efficient notice to the membership.

BAR RULE 5-101. AMENDMENT; FILING, NOTICE

(Amended by Order of the Supreme Court of Georgia on June 14, 2018)

The amendment to this rule expands the official publications of the State Bar of Georgia to include the official website of the State Bar of Georgia thereby creating expediency and more efficient notice to the membership.

AMENDMENTS TO BAR RULES & BYLAWS

PART X. CLIENTS' SECURITY FUND

(Amended by Order of the Supreme Court of Georgia on June 14, 2018)

A substantial portion of the amendments to these rules is housekeeping to address various issues that the trustees of the Clients' Security Fund have encountered over the years and simplify overly verbose language. A summary of the substantive changes is as follows:

Rule 10-104. Board of Trustees

The amendment to this rule requires the trustees of the Clients' Security Fund to adopt an internal regulation to terminate a trustee who regularly fails to attend board meetings.

Rule 10-106. Eligible Claims

The amendment to this rule simplifies the language of the rule and adds clarity as to what circumstances or events will make a claim eligible for consideration.

Rule 10-107. Payments

The amendment to this rule prohibits an attorney from charging or collecting a fee for giving legal advice or assisting a claimant in filing a Clients' Security Fund claim, as doing so is not conducive to the intended purpose of the Clients' Security Fund.

Rule 10-108. Right to Payment and Right of Appeal

The amendment to this rule adds an appeal process with specific time limits for a claimant who believes that the board did not make the correct decision. The rationale behind this rule is to add finality to the appeal and reconsideration process.

Rule 10-110. Immunity

The amendment to this rule causes the immunity provision to track recent language approved by the Supreme Court of Georgia, asserting that the trustees of the Clients' Security Fund's function is judicial in nature.

Rule 10-111. Confidentiality

The amendment to this rule advises that disciplinary information contained in the Clients' Security Fund file is subject to the confidentiality provisions of Rule 2-221 (d).

PART XII. CONSUMER ASSISTANCE PROGRAM

(Amended by Order of the Supreme Court of Georgia on June 14, 2018)

The amendments to these rules stems from the amendments to the disciplinary procedural rules. A substantial portion of the amendments is housekeeping. Following is a summary of the substantive changes:

Rule 12-105. Supervision

The amendment to this rule allows the Consumer Assistance Program to provide assistance at any time, including the disciplinary process, so that the consumer understands their rights, obligations and options under the rules and regulations of the State Bar of Georgia.

Rule 12-106. Procedures

The amendment to this rule allows the Consumer Assistance Program to independently determine if a matter should be referred to the Office of the General Counsel for an investigation. The amendment also clarifies that an aggrieved person has the right to file a formal grievance without presenting the matter to the Consumer Assistance Program.

Rule 12-107. Confidentiality of Proceedings

The amendment to this rule removes superfluous language that is already provided for in the Georgia Rules of Professional Conduct and in common and statutory law of the State of Georgia. The amendment also allows the Consumer Assistance Program to directly refer serious matters to the Office of the General Counsel for an investigation pursuant to Rule 4-202.

Rule 12-108. Disclosure

The amendment to this rule requires the Consumer Assistance Program to obtain permission from the source before revealing information to the Office of the General Counsel, unless the information comes from the affected attorney.

Rule 12-109. Immunity

The amendment to this rule causes the immunity provision to track recent language approved by the Supreme Court of Georgia, asserting that the function of the Consumer Assistance Program is quasi-disciplinary and judicial in nature.

CLIENTS' SECURITY FUND

BY WILLIAM D. NESMITH III, DEPUTY GENERAL COUNSEL

The Clients' Security Fund is a public service of the legal profession in Georgia. The purpose of the Clients' Security Fund is to repay clients who have lost money due to a lawyer's dishonest conduct. Every lawyer admitted to practice in Georgia, including those admitted as a foreign law consultant or those who join the State Bar of Georgia without taking the Georgia Bar Examination, contributes to this fund.

On behalf of the trustees of the Clients' Security Fund, it is a pleasure to present the 2018-19 Clients' Security Fund Annual Report to the Board of Governors of the State Bar of Georgia. The trustees of the fund are proud of the efforts put forth to maintain the integrity of the legal profession.

CREATION OF THE FUND

The Board of Governors of the State Bar of Georgia created the Clients' Security Fund by Resolution on March 29, 1968. The fund was formed "for the purpose of promoting public confidence in the administration of justice, and maintaining the integrity and protecting the good name of the legal profession by reimbursing, to the extent deemed proper and feasible by the trustees of the fund, losses caused by the dishonest conduct of members of the State Bar of Georgia." In 1991, the Supreme Court of Georgia adopted the Rules of the Clients' Security Fund (Part X) making it an official part of the Rules of the State Bar of Georgia. That same year, pursuant to the Rules, the Board of Governors assessed each of the members of the State Bar the sum of \$100, to be paid over a five-year period, to fully fund and stabilize the fund.

ADMINISTRATION OF THE FUND

The Clients' Security Fund Board of Trustees performs all acts necessary and proper to fulfill the purposes of and effectively administer the Fund. The rules, issued by order of the Supreme Court of Georgia, establish a board of trustees consisting of six lawyer members and one non-lawyer member who are appointed to staggered terms by the President of the State Bar of Georgia. The trustees serve five-year terms, and receive no compensation or reimbursement for their service. The trustees select the chair and vice-chair to serve as officers for the fund. The fund receives part-time assistance from one attorney and one paralegal from the Office of the General Counsel. The following lawyers served as trustees for the 2018-19 Bar year:

- Tyronia Monique Smith, Atlanta
- Katherine K. Wood, Decatur
- Robert J. Kauffman, Douglasville
- Thomas Reuben Burnside, III, Augusta

- R. Javoyne Hicks, Decatur
- Karl David Cooke, Jr., Macon
- Sammy Strode, Savannah (*non-lawyer member*)

The trustees strive to meet at least quarterly during the year. If circumstances warrant, special meetings may be called to ensure that claims are processed in a timely fashion. These trustees have served tirelessly and their dedication to this program is greatly appreciated.

FUNDING

Members of the State Bar of Georgia provide the primary funding for the Clients' Security Fund. On April 2, 1991, the Supreme Court of Georgia approved the motion to amend the Bar Rules to provide for an assessment of \$100 per lawyer to be paid over a period of five years. On October 6, 2010, the rules were amended making the assessment payable over four years. Fund revenues are supplemented by interest income, restitution payments from disbarred lawyers, and miscellaneous contributions. The most recent amendment to the Bar rules, adopted by the Supreme Court of Georgia on June 14, 2018, allows new members of the State Bar of Georgia admitted after May 15 of each year to defer payment of the Clients' Security Fund assessment until the second full fiscal year following their admission to the Bar, giving them more time to seek employment and settle into the practice of law before being required to pay the assessment.

The assessment provides a relatively substantial source of income; however, to ensure a secure source of funding to sustain the integrity of the fund, the Bar rules provide for future assessments triggered whenever the fund balance falls below a minimum of \$1,000,000. In January 1996, the board of trustees adopted certain administrative rules to help stabilize and manage the fund. These rules provide that the maximum amount the trustees will pay on any individual claim is \$25,000. Also, the aggregate amount the trustees will pay to all claimants victimized by a single lawyer is limited to 10% of the fund balance as it existed on the date the first claim against the lawyer was paid. Both of these rules may be overridden by a unanimous vote of the trustees in cases of undue hardship or extreme unfairness.

Other efforts to maintain the stability of the fund included an amendment to the Bar rules adopted by the Supreme Court of Georgia on November 8, 2003. The amended rules provide that all members who are admitted to the State Bar of Georgia as a foreign law consultant or who join without taking the Georgia Bar Examination are required to pay the full assessment of \$100 prior to or upon registration with the State Bar.

CLIENTS' SECURITY FUND

The efforts of the State Bar of Georgia and the trustees of the fund had proven successful over the years. However, in September 2014, the trustees of the Clients' Security Fund brought to the attention of the State Bar of Georgia Executive Committee several coinciding issues that threatened the stability of the fund. These issues included the sustained reduction in the amount of interest income generated by the fund's corpus and the resulting reduction in that corpus, and the filing of several substantial claims by clients of several Georgia attorneys. The trustees were concerned that this combination of occurrences would cause the fund balance to drop below \$1,000,000, which would trigger an automatic assessment from the members of the Bar pursuant to Bar Rule 10-103. The trustees also expressed their concern that the current annual claims payment cap of \$350,000 would leave the fund unable to adequately address pending claims.

To address these issue, at their 2015 Spring meeting, the Board of Governors approved a one-time contribution of \$500,000 from the State Bar of Georgia's unrestricted surplus to the Clients' Security Fund, reasoning the contribution would compensate for the reduction in the fund's balance caused by several successive years of little to no interest income, and replenish the significant reduction in the fund balance caused by the payment of claims currently under the trustees' consideration. The board also approved a proposed amendment to Bar Rule 10-103, which would increase the annual claims payment cap of \$350,000 to \$500,000. On March 3, 2016, by order of the Supreme Court of Georgia, the proposed amendment was approved.

While the trustees had hoped these measures would stabilized the fund, the efforts proved to be less than effective in stabilizing the fund. The corpus of the fund continued to decline significantly over the past few years. Other options for providing a more stable source of funding are currently being considered.

All monies held in the name of the Clients' Security Fund are maintained by the trustees of the fund who exclusively control the disbursement of the funds.

LOSS PREVENTION EFFORTS

An important role of the trustees of the fund is to promote and endorse rules and educational programs that are designed to prevent losses from occurring. Two significant programs exist that are designed to prevent lawyer theft of clients' funds.

OVERDRAFT NOTIFICATION

In November 1992, the Board of Trustees joined the Investigative Panel of the State Disciplinary Board in urging the Board of Governors to approve amendments to Disciplinary Standard 65 to create a trust account overdraft notification program. On August 22, 1995, the Supreme Court of Georgia approved the amendment to Standard 65, which became effective January 1, 1996. The primary purpose of the overdraft notification rule is to prevent misappropriation of clients' funds by providing a mechanism for early detection of improprieties in the handling of attorney trust accounts. Standard 65 was subsequently replaced with Rule 1.15(III) with the Supreme Court's adoption of the Georgia Rules of Professional Conduct on January 2, 2001 (www.gabar.org/handbook).

PAYEE NOTIFICATION

During the 1993 legislative session, with the urging of the Board of Trustees, the Board of Governors endorsed legislation specifically designed to prevent lawyer theft of personal injury settlement funds. As of result of these efforts, the "payee notification rule" was approved in the form of an amendment to the Insurance Code. This statute requires insurers to send notice to the payee of an insurance settlement at the time the check is mailed to the payee's attorney. This places the client on notice that the attorney has received settlement finds. The adoption of this procedure has substantially reduced claims involving theft of insurance funds.

CLAIMS PROCESS

Before the Clients' Security Fund will pay a claim, the trustees must determine that the loss was caused by the dishonest conduct of the lawyer who has been disbarred, indefinitely suspended, or has voluntarily surrendered his or her license, and arose out of the client-lawyer relationship. The rules define "dishonest conduct" as acts "committed by a lawyer in the nature of theft or embezzlement of money, or the wrongful taking or conversion of money, property, or other things of value." Typically, claims filed by corporations or partnerships, government entities, and certain members of the attorney's family are denied. Losses covered by insurance, or that result from malpractice or financial investments are also not considered reimbursable by the fund. Claimants are responsible for providing sufficient documentation to support their claims.

CLIENTS' SECURITY FUND

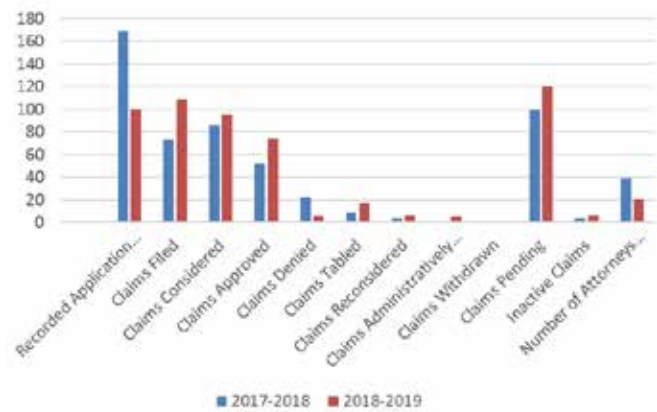
The last meeting for the 2018-19 Bar Year was held on May 23, 2019. However, following is the most recent Statement of Fund Balance, Income and Expenses for the period ending April 30, 2019.

ANNUAL FINANCIAL STATISTICS

	2018-19	2017-18
Balance on April 30	\$1,314,191	\$1,551,007
Income to Fund		
Assessments	\$104,779	\$139,064
Restitution	\$27,306	\$3,626
Interest	\$8,293	\$4,660
Distributions from Fund		
Claims Paid	\$221,686	\$372,472
Expenses	\$54,750	\$60,865

Claims Denied	23	6
Claims Tabled	9	17
Claims Reconsidered	4	7
Claims Administratively Closed	0	5
Claims Withdrawn	0	0
Claims Pending	99	120
Inactive Claims	4	7
# of Attorneys Involved in Paid Claims	39	21

Comparison Chart Between Bar Year 2017-18 and 2018-19



SUMMARY OF CLAIMS ACTIVITY

The following summary of claims activity for the 2018-19 operational year is for a period beginning May 1, 2018 and ending April 30, 2019. The trustees met four times during the 2018-19 Bar year to consider pending claims.

ACTIVITY	2017-18	2018-19
Recorded Application Requests	169	100
Claims Filed	73	109
Claims Considered	86	95
Claims Approved	52	74

RECEIVERSHIPS

BY WILLIAM D. NESMITH III, DEPUTY GENERAL COUNSEL

Pursuant to Rule 4-228, a member of the State Bar of Georgia, or any foreign or domestic lawyer authorized to practice law in Georgia, becomes an “Absent Attorney” if he or she disappears, dies, becomes disbarred, disciplined or incarcerated, or becomes so impaired as to be unable to properly represent his or her client or poses a substantial threat of harm to the client or the public.

Upon petition by the State Bar of Georgia, the Supreme Court of Georgia shall make the determination that a lawyer has become an absent attorney. If there is no partner, associate or other appropriate representative available to notify the lawyer’s clients of this fact, the Supreme Court of Georgia may order that a member or members of the State Bar of Georgia be appointed as receiver to take charge of the absent attorney’s files and records. The receiver is responsible for reviewing the files, notifying the clients and the public of the receivership, and taking the necessary steps to protect the interests of the clients and the public. By petition to the Supreme Court of Georgia, the scope of the receivership can be extended to include the management of the lawyer’s IOLTA, trust and escrow accounts if the receiver determines that the absent attorney maintained such accounts and there is no present provision that would allow the clients or other appropriate entities to receive from the accounts the funds to which they are entitled.

Once the receiver has completed his or her duties, all unclaimed files are delivered to the State Bar of Georgia where they are held until such time the Supreme Court of Georgia issues an order allowing for their destruction.

The State Bar of Georgia is currently serving as receiver for 17 absent attorneys and has mailed out notices to thousands of clients to return files to those clients. The Office of the General Counsel has handled approximately 63 inquiries concerning deceased, incapacitated and missing attorneys.

During the 2018-19 Bar year the following members of the State Bar of Georgia were appointed receivers by order of the Supreme Court of Georgia:

Lynn W. Martin

Bruce W. Baggarly, Jr.

Nicholas D. Benzine

Charles Adam Carvin

Mitchell T. Key

Sherrod Judson Waites, II

Campbell W. Kirbo

Randal Alonzo Mangham

It is with great pleasure that the State Bar of Georgia expresses its gratitude and appreciation to these members of the State Bar of Georgia for their selfless efforts and willingness to serve the State Bar of Georgia, the legal profession, and the public in this capacity. It is essential to the practice of law and the administration of justice that members of the State Bar of Georgia step up to protect clients of absent attorneys and the public.

DISCIPLINARY ORDER

REINSTATEMENTS

Date of Order	Respondent	Docket
6/15/2018	Jennifer Dawn LeDoux	5435
6/22/2018	Bonnie M. Youn	6846
8/23/2018	John Michael Spain	6887
8/28/2018	Nancy Jean Martin-Veator	3103

REVIEW BOARD REPRIMANDS

Date of Order	Respondent	Docket
4/29/2019	Lakeisha Tennille Gantt	7181

PUBLIC REPRIMANDS

Date of Order	Respondent	Docket
1/22/2019	Heather E. Jordan	7084
4/15/2019	Melody Yvonne Cherry	7135 7136

SUSPENSIONS

Emergency Suspension

Date of Order	Respondent	Docket
8/15/2018	Clarence A. Sydnor	7172

Indefinite

Date of Order	Respondent	Docket
5/21/2018	Shannon DeWayne Patterson	7086
6/4/2018	Claud L. McIver III	7153
8/20/2018	Nathaniel A. Barnes, Jr.	7101
8/20/2018	Ricardo L. Polk	7041
8/27/2018	Andrew B. Koplan	7155

Indefinite (Cont.)

Date of Order	Respondent	Docket
8/27/2018	Scott L. Podvin	7007
09/10/2018	Matthew T. Dale	7088
1/22/2019	Nathan E. Hardwick	6832
4/29/2019	Don Smart	7219

Definite

Date of Order	Respondent	Docket
5/7/2018	David E. Morgan, III	7068
6/4/2018	S. Quinn Johnson	6518 6519 6520 6599 6600 6626 6925
12/10/2018	Amber C. Saunders	7057
1/7/2019	Samuel Williams, Jr.	6290

Interim Suspensions

Date of Order	Respondent	Docket
6/18/2018	Jeffrey L. Sakas	170079
6/18/2018	Anthony Cheatham	180077
6/18/2018	Joseph Arrington II	180053
7/9/2018	Christopher Thompson	180088
8/8/2018	Willie G. Davis, Jr.	180120
8/8/2018	Lesley Annis	170176
9/19/2018	Neil Larson	180124
10/12/2018	Kara S. Lawrence	180039
11/14/2018	Sherri Len Washington	180162

DISCIPLINARY ORDER

Interim Suspensions (Cont.)

Date of Order	Respondent	Docket
12/17/2018	Latrevia P. Kates	180172
12/17/2018	Don Smart	180167
1/23/2019	Keith F. Brandon	180134
1/23/2019	S.V. Palmer	180181
1/31/2019	Eston W. Hood	180108
2/25/2019	Quintin J. Lewis	180147

Interim Suspensions Lifted

Date of Order	Respondent	Docket
8/1/2018	Jeffrey L. Sakas	170079
9/25/2018	Willie G. Davis	180120
11/2/2018	Kara Lawrence	180039
11/28/2018	Sherri Len Washington	180162
2/21/2019	S.V. Palmer	180181
2/27/2019	Keith F. Brandon	180134
3/4/2019	Eston W. Hood	180108
4/9/2019	Quintin J. Lewis	180147

DISBARMENTS/VOLUNTARY SURRENDERS

Date of Order	Respondent	Docket
5/7/2018	Ronald J. Doeve	6851 6853 6854
5/21/2018	Raymond Juiwen Ho	7105
5/21/2018	Jerry Ricardo Caldwell	7009
6/4/2018	Prince A. Brumfield, Jr.	7130
6/4/2018	George W. Snipes	7115
6/4/2018	Shannon Briley-Holmes	6844 6881 7048 7049 7050
6/18/2018	Gary Lanier Coulter	6499 6500 6501
10/22/2018	Anthony Eugene Cheatham	7108
10/22/2018	Richard Allen Hunt	6928
12/10/2018	David P. Rachel	6693
1/22/2019	Shannon DeWayne Patterson	7086
2/4/2019	Jack Jennings	7122
3/11/2019	Neil Larson	7188 7189 7190 7191



State Bar
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