

The background of the cover is a close-up photograph of a wooden pencil with a red eraser tip, resting on a document with a table of numbers. The numbers are in a serif font, and the pencil is positioned diagonally from the top right towards the bottom left. The number '12.064,09' is circled in red ink.

Georgia Bar Journal

October 2014 ■ Volume 20 ■ Number 2

**Accountant Liability
to Third Parties in Georgia**

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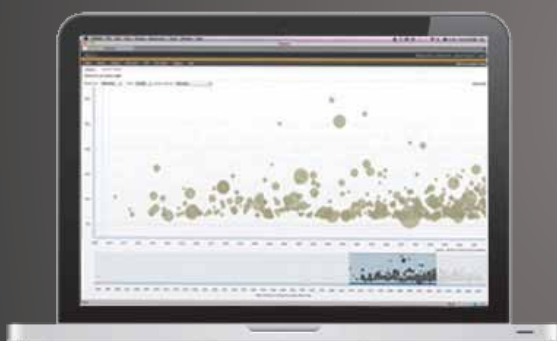
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The *Georgia Bar Journal* welcomes the submission of news about local and circuit bar association happenings, Bar members, law firms and topics of interest to attorneys in Georgia. Please send news releases and other information to: Sarah I. Coole, Director of Communications, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303; phone: 404-527-8791; sarahc@gabar.org.

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by Patrise M. Perkins-Hooker

iCivics: An Investment in Our Future

I Civics is an interactive computer program that was created by former U.S. Supreme Court Justice Sandra Day O'Connor to help teach mid-

dle and high school students

civics and the benefits of citizenship in the United States.

iCivics empowers teachers with effective and engaging resources to develop the younger generation of citizens.

The program exposes young people to concepts involving Foundations of Government, Road to the Constitution, the Constitution, the Legislative Branch, the Executive Branch and the Judicial Branch using a competitive computer game model which awards points and prizes to the player.

This year, the State Bar initiated a pilot program to introduce the iCivics curriculum to 8th and 9th graders in several public school systems throughout the state: Atlanta Public Schools, Harris County Schools, Liberty County Schools, Muscogee County Schools, Savannah-Chatham County Schools, Tift County Schools and Wilkinson County Schools. The State Bar is incurring the costs to train classroom instructors and promote the program to teachers at state conventions. If the pilot program is successful, we plan to add additional school systems during the next year.

A major component of the program will be the voluntary participation of lawyers in classrooms to augment the

subject matter of the course with real world cases and current examples of the concepts being taught by the teacher. The lawyers will also serve as role models to the students. We hope that the teacher and the assigned attorney volunteer will work as a team to encourage students to participate and to become

"We are looking forward to the return of our investment in time and resources in the future adult citizens in Georgia."

informed productive adults as they grow up.

Many public school systems have suffered severe financial cuts to their civics classes. The iCivics program allows a student to proceed at his or her own pace to work through concepts in a more intensive manner through activities that he or she can complete independently at home or at school. The competitive aspect of the program is what drives most students to enthusiastically play the program.

The program contains many features which align with the Georgia standards for course curriculum. Teachers have access to lesson plans for each unit and are allowed restricted access to pre-developed tests on different components of the subject matter. iCivics has been wildly successful in the states in which it has been adopted. We are hoping that it will be successful here as well.

We are working in collaboration with the state iCivics committee. This committee has been chaired by Supreme Court of Georgia Justice Carol W. Hunstein and the state coordinators are Evelyn Davis and Ashley Herd. This year the State Bar and the Young Lawyers Division have joined forces to assist the efforts of the state iCivics committee in introducing the program throughout school systems in the state. The president of the Young Lawyers Division, Sharri Edenfield, has committed to assist with the recruitment, training and assignment of the lawyer classroom volunteers. Our goal is to assign at least one lawyer per semester to each class whose teacher is utilizing the iCivics program. The program is the newest part of the State Bar's Law-Related Education (LRE) Program. LRE has operated our Journey through Justice Program

since 2006. This program reveals to students, throughout Georgia, the significance of the practice of law and how our court system operates. Deborah Craytor, the director of the program, has also provided assistance to the State Department of Education with the development of lesson plans and teaching reference aides for legally related courses.

We are looking forward to the return of our investment in time and resources in the future adult citizens in Georgia. If you want to volunteer to participate please contact Shiriki Cavitt at shiriki8@gmail.com to sign up. If you need more information about iCivics visit www.icivics.org. 

Patrise M. Perkins-Hooker is the president of the State Bar of Georgia and can be reached at president@gabar.org.



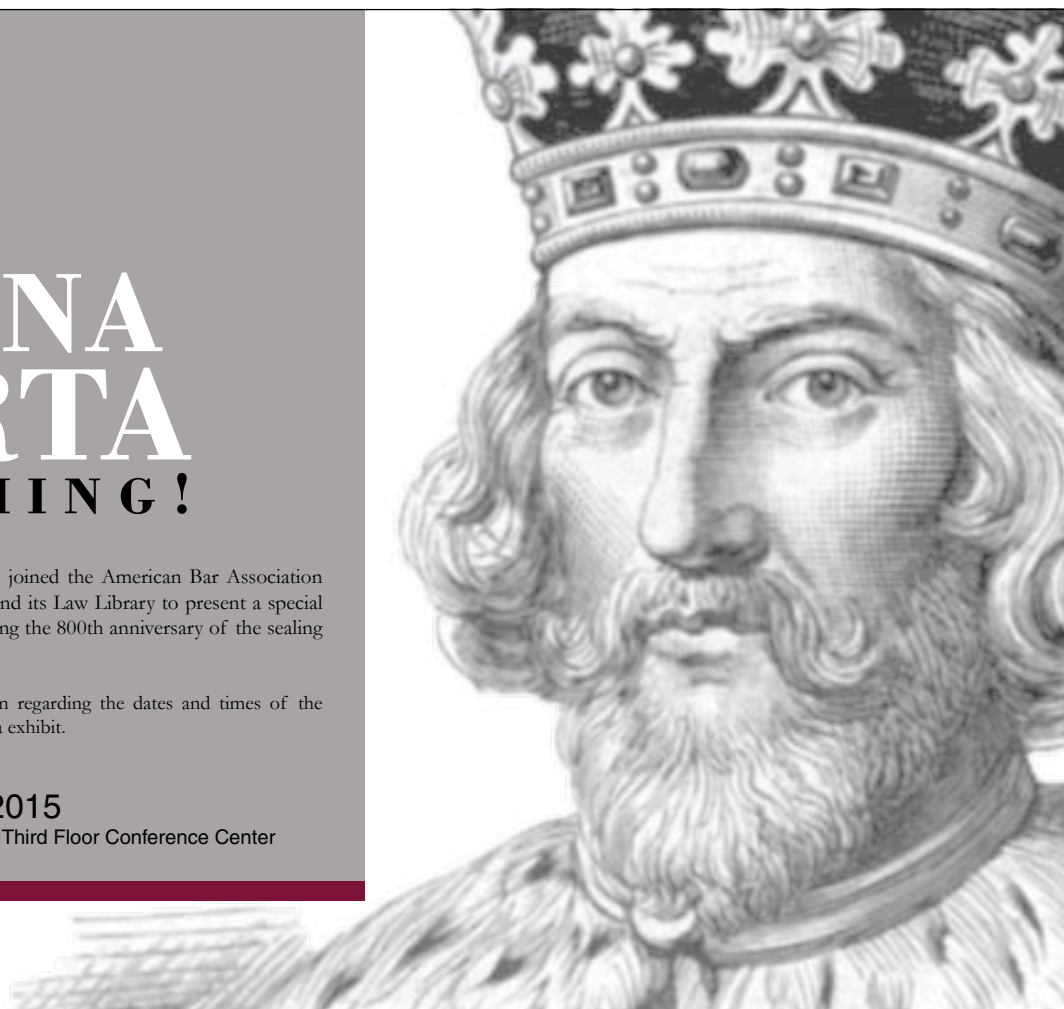
THE MAGNA CARTA IS COMING!

The State Bar of Georgia has joined the American Bar Association and the Library of Congress and its Law Library to present a special traveling exhibit commemorating the 800th anniversary of the sealing of the Magna Carta.

Look for upcoming information regarding the dates and times of the symposium and the Magna Carta exhibit.

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by Sharri Edenfield

Access to Justice Starts at the Ballot Box

I think it's safe to say that every lawyer aspires to be Atticus Finch, the country lawyer and hero of Harper Lee's "To Kill a Mockingbird." I certainly do. I was in middle school when my Aunt Susie gave me a copy of "To Kill a Mockingbird" and I first read the story. While the novel was set in the early 1930s in a small fictional Alabama town called Maycomb, there was a lot that I related to about the novel.

Like Scout, Atticus's daughter and the novel's narrator, I grew up in a small Southern town and was the daughter of a country lawyer with a general practice. While Atticus accepted hickory nuts as payment for legal services from a client because that was all he could afford to pay, I saw my father accept many different forms of payment, too, including onions. In fact, now that I am a "country lawyer" myself, I have also accepted non-traditional forms of payment.

Unfortunately, the rural poverty that Lee writes about in "To Kill a Mockingbird" has not changed

much in the 54 years since the novel was first published. Nor has the need for rural lawyers. While every lawyer may aspire to be Atticus Finch, very few actually have a rural practice like he had in the novel. Even though the recession of the late 2000s caused high rates of unemployment and underemployment for younger lawyers and brand new law school gradu-

ates, there are still areas in our state where it's difficult to find a lawyer. In fact, as of the time this article goes to print, there are 25 Georgia counties with 6-10 active lawyers and 29 Georgia counties with 1-5 active lawyers; however, these numbers do not reflect how many of these active lawyers are judges or who work for the district attorney's office or public defender's office and would be unable to take on general civil cases or estate planning. Further, there are six Georgia counties with no lawyers at

all. Whether they can afford an attorney or not, residents of those counties do not have adequate access to justice.

Further complicating the access to justice issue are budget cuts that the judicial branch has endured as a result of the recession. Three years ago, the State Bar commissioned a study by the Washington Economics Group, which revealed that funding cuts to the judicial branch of state government had cost Georgia thousands of jobs and hundreds of millions of dollars

"Tell the candidates for the executive and legislative branches why it is important for them to support a strong judicial branch. Find out where they stand on access-to-justice issues, and vote accordingly."

in annual economic impact—not to mention causing delays in the disposition of criminal cases, a lack of action in child support and custody cases, business disputes going unresolved, etc. Our state Supreme Court was forced to handle a larger and more complex caseload on a bare-bones budget.

Thanks to a slow but steady upturn in the economy, there have been positive developments in recent legislative sessions. The state budget for fiscal year 2015, for example, includes \$386,000 in new funding for legal representation of domestic violence victims. The Appellate Resource Center was also funded in the new budget at the request of the State Bar, and legislation to establish veterans' courts in Georgia was also enacted.

But things are by no means where they should be regarding the funding of Georgia's court system. While Georgia's judges

have not received a pay raise in 15 years, what really concerned Supreme Court of Georgia Chief Justice Hugh P. Thompson in his State of the Judiciary address earlier this year was that "Too many Georgians cannot afford legal representation, and too many go without legal services . . . Their legal needs involve fundamental rights, such as safety for the woman who needs a protective order to shield her children and herself from an abusive husband; or guardianship for the young children of a single dad who's dying of cancer; or education and disability benefits promised to the wounded warrior returning from war in Afghanistan."

One of my top initiatives as president of the Young Lawyers Division this year is finding solutions to issues that affect access to justice for all citizens while also helping to resolve the issue

of unemployment/underemployment that has hit young lawyers the hardest since the recession. Therefore, through the YLD's Long Range Planning Committee, the YLD, with the support of the State Bar leadership, will be promoting a pilot program that will provide student loan forgiveness to lawyers who commit to practicing law in the most under-served areas of our state. Additionally, the YLD's Legislative Affairs Committee will help coordinate the YLD's support of legislative efforts to secure additional funding for the representation of domestic violence victims as well as other issues on the Bar's legislative agenda. Donating money and pro bono time to Georgia Legal Services Program and Atlanta Legal Aid are important ways to combat access to justice problems, too; however, another very important way to improve access to justice is at the ballot box.

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The DVD includes three video lengths: 24 minutes, 11 minutes and six minutes. For more information or to obtain your copy of the DVD, call 404-527-8736.



State Bar
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This November, Georgians will go to the polls to elect a U.S. senator, a governor, other statewide constitutional officers and 236 members of the Georgia General Assembly, all of whom will have the opportunity to make critical decisions affecting the future of access to justice in our state and, in the case of the U.S. Senate candidates, our nation. It should be noted that both major candidates for governor are State Bar members who have outstanding records on the side of enhancing access to justice in Georgia during their time in public office.

Certainly, the intent here is not to make an endorsement of a particular candidate in that race or any other. Rather, consider this a non-partisan plea to you, my fellow lawyers, to research the records and statements of all candidates for statewide, district and local offices as they relate to access to justice issues. When these candidates approach you and ask for your support, be sure to ask if you can count on them to support adequate funding for the judicial branch of government, to keep our courts open and operating efficiently and effectively. Ask whether they support public funding for indigent defense and civil legal aid. Ask them if they agree that it is high time Georgia's judges received a salary increase. Ask them whether they would support loan forgiveness for lawyers to open law practices in under-served areas.


Some candidates might have the idea that access-to-justice issues are unpopular with the electorate. They might worry that restoring lost funding to our courts would be considered wasteful spending, or that funding indigent defense means you are soft on crime, or that civil legal aid is just another government giveaway, or that loan forgiveness to lawyers in under-served areas is helping the rich get richer.

If so, you should consider the campaign season as your oppor-

tunity to correct the candidates' thinking. They might be surprised to learn that, according to a recent nationwide poll, most Americans—when presented with the facts—actually support increased public funding for civil legal aid. The 2013 study, conducted by Lake Research Partners and The Tarrance Group on behalf of the Public Welfare Foundation and The Kresge Foundation, found that 82 percent of voters “support the basic principle behind Civil Legal Aid: that all Americans should have access to legal representation or help in civil matters, regardless of how much money you have.”

In the few weeks remaining before Election Day—while we have the candidates' attention—let's take the opportunity to help them understand the importance of an adequately funded judiciary and the ramifications on society when any citizen is denied access to seek justice in our courts.

One of the public service announcements produced for the State Bar's Cornerstones of Freedom program quotes Alexander Hamilton as saying, “The first duty of society is justice.” As the ad further states, “The judiciary, the guardian of all of our freedoms, plays a critical role in our system of checks and balances. Think of the government as a three-legged stool. If one leg becomes weak, the whole system will topple. The first duty of the courts is justice, and they must have sufficient resources to get the job done.”

Tell the candidates for the executive and legislative branches why it is important for them to support a strong judicial branch. Find out where they stand on access-to-justice issues, and vote accordingly. 

Sharri Edenfield is the president of the Young Lawyers Division of the State Bar of Georgia and can be reached at sharri@ecbcpc.com.



Annual Fiction Writing Competition

The editorial board of the *Georgia Bar Journal* is pleased to announce that it will sponsor its annual Fiction Writing Contest.

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. See the inside back cover for further information, or contact Sarah I. Coole, director of communications, at 404-527-8791; sarahc@gabar.org.

Deadline January 16, 2015

Accountant Liability to Third Parties in Georgia

by Teresa E. Adams and J. Marbury Rainer

Traditionally, an accountant could not be liable for negligence to a third party not in privity with the accountant. However, most courts now generally agree that, in appropriate cases, a claim for negligent misrepresentation can be brought by some third parties to recover for damages allegedly caused by reliance upon the accountant's work.

The Traditional "Privity" Rule

The traditional "privity" rule in Georgia as expressed by the Court of Appeals of Georgia in the 1973 case of *MacNerland v. Barnes* was that, "in the absence of intentional misrepresentation or fraud, an accountant is not liable for negligence to a third party who is not in privity with the accountant."¹ In *MacNerland*, a purchaser of a company brought suit against the seller and the seller's accountant after discovering that the financial statements it had received from the seller were incorrect and that the company was insolvent and unmarketable. The issue on appeal was "whether an accountant, as a matter of law, is liable for negligence in the preparation and issuance of an uncertified financial statement to parties not in privity but whose reliance is known to or foreseen by the accountant."² The Court of Appeals of Georgia reversed, in part because the parties may have been in privity as to certain spe-



cial procedures the plaintiff had asked the accountant to perform specifically for the plaintiff.³ However, the general rule requiring privity to bring a negligence

action remained the law in Georgia. The underlying policy for the privity rule, as expressed by a New York court in *Ultramares v. Touche, Niven & Co.* and relied on by the *MacNerland* Court, was that if liability for negligence to third parties was allowed, it “may expose accountants to liability in an indeterminate amount for an indeterminate time to an indeterminate class.”⁴

The Restatement Rule Adopted and Applied

Foreseeability or Duty Analysis Under the Restatement of Torts 2d

In 1983, Georgia moved away from the old privity rule in cases involving third party claims against professionals when the Supreme Court of Georgia affirmed the Court of Appeals of Georgia decision in *Robert & Co. Assoc. v. Rhodes-Haverty Partnership*.⁵ In *Robert & Co.*, the court abandoned the privity requirement for third party negligence claims against “one who supplies information during the course of his business, profession, employment, or in any transaction in which he has a pecuniary interest.”⁶ Although the *Robert & Co.* case addressed claims against engineers, it opened the door for third parties to seek liability against all professional service providers even though there was no privity between them by adopting and applying for the first time the Restatement of Torts 2d, §552 (1977).

In *Robert & Co.*, a partnership purchasing a building in Atlanta brought suit against a firm hired by the real estate broker “to make a ‘general evaluation’ of the subject building.”⁷ The engineers conducted a “walk-through” inspection “to ascertain the condition of the building as far as could be determined by visual observation.” The inspection report noted that there were cracks in the building, so there was notice regarding a possible structural issue. However, several months after the sale, extensive repairs to the exterior of the building were required. The partnership which had purchased the building was comprised of individuals who were either initially employed by the real estate broker or its parent corporation, but the partnership itself was not a party to the contract with the inspection company. Moreover, while the inspection company admitted “that it ‘understood that its report could be utilized, in connection with a possible purchase of the . . . building, by the [real estate broker] and perhaps other unidentified persons or entities . . .,’” it was never specifically advised that the partnership would utilize or rely on its report.⁸

The trial court granted the inspection company’s motion for summary judgment because it lacked privity with the partnership and because the court found that use or reliance on the inspection report by the partnership was not foreseeable to the inspection company. The Court of Appeals of Georgia reviewed the case framing the issue as one of duty, i.e., “whether [the company] owed any duty to the partnership to

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exercise ordinary care in the preparation of the inspection report.”⁹ In reversing the trial court’s holding, the Court of Appeals found there was something akin to a public duty involved, quoting a 1955 inspectors’ case that “[t]he law imposes upon persons performing architectural, engineering, and other professional and skilled services the obligation to exercise a reasonable degree of care, skill and ability, which generally is taken and considered to be such a degree of care and skill as, under similar conditions and like surrounding circumstances, is ordinarily employed by their respective professions.”¹⁰

In reaching the decision to allow liability against the inspection company despite the lack of privity, the Court of Appeals held that the inspection company owed a duty to the partnership to exercise ordinary care in the preparation of the inspection report even though the purchasers were not specifically identified to the inspection company. The Court based its decision on the theory that the inspection company knew that potential purchasers could rely upon its inspection report, i.e., that the report was “intended to affect a limited class of third parties such as the [purchasers] and that such third parties might foreseeably have sustained damages attributable to the negligent performance of its services.”¹¹ Notably, in his dissent, Judge Deen pointed out that the “walk-through” inspection resembled an unaudited or non-certified report of an accountant, and that this fact along with the fact that the report had noted the cracks in the building should have been enough to put the purchasers on notice that only a limited review had been done and if they wanted a more comprehensive inspection, they should have done so.¹² In effect, it appears Judge Deen believed that whether or not the partnership could bring a claim against the inspection company, its reliance on the inspection report was not justifiable.

The Supreme Court of Georgia affirmed based on the affirmative adoption and application of the Restatement 2d of Torts §552 to these types of cases. The Court reasoned:

Under this standard, one who supplies information during the course of his business, profession, employment, or in any transaction in which he has a pecuniary interest has a duty of reasonable care and competence to parties who rely upon the information in circumstances in which the maker was *manifestly aware* of the use to which the information was to be put and intended that it be so used. This liability is limited to a *foreseeable person or limited class of persons* for whom the information was intended, either directly or indirectly. In making a determination of whether the reliance by the third party is justifiable, we will look to the purpose for which the report or representation was made. If it can be shown that the representation was made for the purpose of inducing third parties to rely and act upon the reliance, then liability to the third party can attach. If such cannot be shown there will be no liability in the absence of privity, wilfulness or physical harm or property damage. The additional duty that this rule imposes may be, of course, limited by appropriate disclaimers which would alert those not in privity with the supplier of information that they may rely upon it only at their peril.¹³

Despite the fact that the Court acknowledged that the “particular party which ultimately relied on the representation was not known [to the inspection company] at the time the representation was made,” the fact that the inspection company “was aware that the report would be utilized to encourage prospective purchasers to buy the building” was found to be enough. Stated differently, “the

fact that the report would be used by a limited class was known,” and this was enough to allow liability without privity.¹⁴

Robert & Co. opened the door wide for third-party liability claims against all professionals by any foreseeable user. The one noted exception and possible avenue for professionals to limit their liability was to include a disclaimer in their report to place others on notice that they were not entitled to rely on the report or the information provided therein.

Acknowledging that *Robert & Co.* had clearly expanded the accountant’s duty of care, and recognizing the real potential for the unlimited liability warned about in *Ultramares*, the U.S. District Court for the Northern District of Georgia, when presented with an accounting malpractice claim¹⁵ brought by a third party creditor of a client corporation, granted the accountants’ motion for summary judgment in *Badische Corp. v. Caylor*, stating the accountant’s duty of care does have limits.¹⁶ In *Badische*, the plaintiff supplied materials to a carpet stamping company on credit. In the year before its bankruptcy, the company shared its audited financial statements with the plaintiff who claimed it relied upon them in deciding to continue to provide credit to the company. The company’s financial statements showed that the company owned \$2 million in inventory but failed to reveal that several banks held secured interests in the inventory. Furthermore, plaintiff’s expert testified that the financial statements were not in accordance with generally accepted auditing standards. After the company went bankrupt, the plaintiff, an unsecured creditor, brought a claim against the auditors of the company for injury caused by its reliance on the negligently misrepresented financial statements.

In denying the plaintiff’s claim, the district court stated that “[t]he law has not yet gone so far as to impose upon accountants a duty of care toward anyone that comes



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in contact with financial statements audited by them.”¹⁷ In analyzing the Supreme Court of Georgia’s ruling in *Robert & Co.*, the *Badische* Court focused on that Court’s analysis of the purpose of the report, noting that evidence before the *Robert & Co.* Court showed that the purpose of the report was to induce third parties to purchase the building. On this basis, the *Robert & Co.* Court found that the partnership was within the class of persons for whom the information was intended.¹⁸ In contrast, the plaintiff in *Badische* presented no evidence that the defendants’ audit of the company, done in the normal course, was intended for the company’s suppliers or creditors, either directly or indirectly. Accordingly, the *Badische* Court rejected the plaintiff’s argument that it was foreseeable that suppliers would rely on the financial statements, stating that “[a] distinction must be drawn . . . between the duty that plaintiffs wish to impose and the duty that the Restatement (Second) of Torts imposes. Plaintiffs would read into the formulation of the Restatement a duty of care not only to those persons that an accountant knows will be supplied information that he or she generates, but also a duty of care to those persons that an accountant ‘should know’ will be supplied with that information.”¹⁹ The court stated that such a broad standard would create “a much larger class of persons to whom an accountant is potentially liable,” and the court did not believe that Georgia “intended to move so drastically from the limited liability of accountants that has existed under the law to this time.”²⁰

In an effort to clarify the standards for an accountant’s liability to third parties not in privity, the *Badische* Court held that “an accountant’s liability is limited to those persons that he or she expressly knows will be given the information he or she generates, or, as in *Robert & Co.*, *supra*, to those persons intended to receive the information.” Thus, the *Badische*

Court found that the standard required “actual notice” to the accountant of the identity of persons who will receive and rely on their report. “[A]ctual notice allows an accountant to practice his or her profession without fear of future suits brought by unknown parties that may come into possession of an audited statement.”²¹

Upon appeal to the U.S. Court of Appeals for the 11th Circuit, the following question was certified to the Supreme Court of Georgia: “Can third parties recover against an accountant under Georgia law for the accountant’s negligence in preparing audited financial statements where it was foreseeable that the third parties would rely upon the financial statements?”²² The Supreme Court of Georgia answered in the negative, stating “[w]e specifically reject the plaintiffs’ argument that . . . *Robert & Co.* expands professional liability for negligence to an unlimited class of persons whose presence is merely ‘foreseeable.’ Rather, professional liability for negligence . . . extends to those persons, or the limited class of persons who the professional is actually aware will rely upon the information he prepared.”²³

Notably, the U.S. Court of Appeals for the 11th Circuit reasoned that the accountants were generally aware that the financial statements would probably be used by creditors, but the Supreme Court of Georgia said this was not enough, because there was “no evidence that [the accountants] were ever informed that [the company] intended to give the financial statements to plaintiff or any other creditors.”²⁴ Absent ‘actual notice,’ there was no duty of care to the third party. The Supreme Court of Georgia clarified its ruling by stating, “we note that our holding, like that of the majority of courts which have addressed this question, adopts the Restatement of Torts’ ‘middle ground’ standard between the unlimited foreseeability rule advocated by the plaintiffs and the narrow privity rule which remains the law in some states and

which was formerly the law in this state.”²⁵

In 2008, the federal courts were given another chance to interpret Georgia’s standard. In *Bank of North Georgia v. Reznick Group, P.C.*, the plaintiff bank brought a negligent misrepresentation claim against the auditors of a borrower corporation, alleging the bank had given the borrower a line of credit in reliance on the audited financial statements.²⁶ The case involved a loan agreement between the borrower and Merrill Lynch, the initial lender. Under the terms of the agreement, Merrill Lynch received the audited financial statements of the borrower annually. The primary purpose of the requirement for audited financial statements was to inform Merrill Lynch of the financial condition of the company prior to renewal of the line of credit. The borrower changed lenders from Merrill Lynch to the Bank of North Georgia (Bank), and the Bank claimed that it relied upon the audited financials in extending credit to the company.²⁷

The 11th Circuit affirmed the district court’s ruling that the auditors owed no duty to the Bank because there was nothing more than conclusory evidence that the auditors were aware that the “audit would be relied upon by a limited class of lenders other than Merrill Lynch.” Despite acknowledging that “as a matter of general experience any accountant would know that the line of credit would have to be renewed, refinanced or otherwise handled when it expired, and thus any accountant . . . would know that there is some possibility that the line of credit would be refinanced by another lender,” the 11th Circuit stated that this “future possibility [was] merely foreseeable, [and] insufficient to sustain plaintiff’s claim under Georgia law.”²⁸ The court distinguished *Robert & Co.*, relying on the fact that in *Bank of North Georgia*, the terms of the initial loan agreement identified the specific party entitled to rely, and because the Bank was not

identified, it was not entitled to rely on the audit opinion.²⁹

Cases Dealing with the Justifiable Reliance Requirement

Rather than focusing on the duty owed and the foreseeability of use of the accountants' report by an intended party, the Court of Appeals of Georgia in *First National Bank of Newton County v. Sparkmon* relied on the disclaimers in the accountants' report to conclude that the plaintiff could not show justifiable reliance.³⁰ In *First National*, the plaintiff bank alleged it had made loans to a corporation based on financial statements prepared by the corporation's accountants. However, the statements included disclaimers as to their reliability, primarily because the statements were not audited, but were either based on a review or a compilation. The trial court granted judgment on the pleadings to the accountants, and the Court of Appeals affirmed, finding that the accountants had given adequate disclaimers concerning the scope of their financial reports to preclude justifiable reliance by a third party.³¹

Another case focusing on justifiable reliance was *White v. BDO Seidman*.³² In *White*, plaintiffs/investors sued the auditors of a public company after the company went

bankrupt. While plaintiffs admitted that they did not have any direct relationship with the auditors, they argued that they indirectly relied upon the audited statements prior to making their investment because their brokers would never have recommended the investments without the company having been audited, and the SEC would never have let the company issue the shares for sale without having an audited opinion. In addition, the plaintiffs argued that under the Restatement, they were third parties "for whom the information was intended, either directly or indirectly."³³ The Court of Appeals of Georgia rejected the plaintiffs' arguments and affirmed the lower court's grant of summary judgment to the accountants, finding that there was no showing of justifiable reliance by the plaintiffs.³⁴

A key fact in this case was that the audited financial statements clearly showed that the company was losing money and had never made a profit. Moreover, at least one audit opinion included a going concern qualification expressing doubt that the company could even continue to operate. In addition, most of the plaintiffs admitted that they never even looked at the financial statements or the audit opinion, and they did not argue that they had specifically

relied on these statements. In finding that there was no justifiable reliance by the plaintiffs, the Court of Appeals found that "Georgia law [did not] permit such indirect reliance to substitute for proof of actual reliance in a negligent misrepresentation case," noting that "Georgia has historically required some evidence that a plaintiff exercised due diligence in discovering the truth."³⁵ The Court stated that to do otherwise would effectively shift the plaintiff's due diligence obligation to the regulatory process and those involved in that process. The Court further stated that an investment decision should be based on more than just a financial statement or auditors' opinion, and that if it were not, the investment decision itself could not be justified and should not be used to support a misrepresentation case, otherwise, "the auditor becomes, in effect, an insurer of not only the financial statements, but of bad loans and investments as well."³⁶

Cases Dealing with Both the Foreseeability and Reliance Elements

The issue of justifiable reliance in a negligent misrepresentation claim against an accountant was addressed by the trial court in *Mindis Acquisition Corp. v. BDO*



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Seidman, LLP, but ultimately was decided in the context of a question of duty or foreseeability by the Court of Appeals of Georgia.³⁷ The *Mindis* case involved a corporate acquisition in which the purchaser sued the auditors of the acquired company, claiming an overstatement of inventory had caused a major impact on the purchase price. The jury entered a verdict for the plaintiff, but the trial court granted the accounting firm's motion for j.n.o.v. finding that there was no justifiable reliance by the plaintiff.³⁸ The trial court's decision was based on evidence showing the purchasers could not have reasonably relied upon the audit opinion because they were also insiders of the acquired corporation, knew the inventory was overvalued and were responsible for giving the auditors the wrong information.³⁹


The Court of Appeals reversed, noting that the majority shareholder in the purchasing company had specifically asked the CFO of the target company for some type of "assurance that there would be no material adjustments to the . . . financial statements."⁴⁰ The CFO asked the manager of the audit firm to provide the shareholder with something "to comfort him so they could proceed with the transaction." The accountants gave the CFO the audit opinion, and the CFO faxed it to the shareholder. Based on these facts, the Court of Appeals found that evidence existed to support the jury's finding of justifiable reliance, making the trial court's granting of a judgment in favor of BDO Seidman notwithstanding the verdict improper.⁴¹ The Court of Appeals also addressed the duty element concluding that the plaintiff could bring the claim because the accounting firm was specifically aware that the purchaser was going to consider the financial statements and audit opinion in making its decision to buy the company, thus making the purchasers a part of a limited class of people that would receive and rely on the opinion.

Most recently, in 2008, the Court of Appeals of Georgia required much less specificity to find that a third party had "justifiably relied" on an auditor's work to support a negligent misrepresentation claim. In *PricewaterhouseCoopers, LLP v. Basset*, the trial court denied PricewaterhouseCoopers, LLP's (PwC) motion for a j.n.o.v., and affirmed the jury's \$10 million verdict against the accounting firm, as successors to Coopers & Lybrand LLP, the auditors of Mariner Health Group, Inc. (Mariner).⁴² Mariner merged with CSI, a company owned by the founders of CSI and four trusts holding CSI stock. In the merger, CSI shareholders obtained Mariner stock in exchange for their CSI stock. Four years later, the surviving Mariner entity filed for bankruptcy and its stock became worthless, leading the former CSI shareholders to commence litigation asserting a claim of negligent misrepresentation against PwC as the auditors who had given an unqualified opinion to Mariner prior to the merger. The jury returned a verdict against PwC in favor of the trusts only. On appeal, PwC challenged the finding that there was sufficient evidence to show that the plaintiffs had actually and justifiably relied upon the audit opinion because the current trustee did not testify at the trial with regard to this issue or any other. However, because there was evidence that prior trustees had reviewed the company's financial statements before the merger and that both companies were using the same accounting firms at the time of the merger, the Court of Appeals of Georgia found that there was sufficient evidence to support the jury's verdict that the plaintiffs had "justifiably relied." In addition, the Court summarily disposed of the foreseeability issue, stating that: "[t]he evidence authorized the jury to find that [the accounting firm] knew that potential investors like the [plaintiffs] would rely on [its] audits and 'clean' opinions regarding the company's financial condi-

tion and that [the company] was actively seeking to acquire and merge with other companies."⁴³

Ultimately, and with very little analysis or discussion, the Court found that the plaintiffs fit within the limited class of persons entitled to bring a negligent misrepresentation claim, and that there was evidence to support the jury verdict on justifiable reliance. On its face *PricewaterhouseCoopers* appears to allow a much broader reach for liability to third parties than previous cases since *Roberts & Co.* Unlike prior cases, indeed, in stark contrast to most, there was no showing of intent or knowledge by the accounting firm that its report would be used by a specific party for a specific purpose or specific transaction, yet the firm was found liable. Most likely, the Court's decision was guided by the fact that the accountants were the auditors for both entities. As such, the Court may have assumed that the accountants had actual knowledge that both entities would receive and rely on the audit report. Viewed in this factual scenario, the Court's ruling is more easily reconciled with existing case law, but stands as a reminder that accountants and their attorneys must study each case in this growing area of the law, understanding that the outcome is often determined on subtle facts.

Conclusion

In 2014, it is now well established that a negligent misrepresentation claim is a viable claim for a third party to assert against an accountant even if no privity exists between them. However, even after more than 30 years of case law, the exact requirements to succeed on such a claim in Georgia remain somewhat unclear. Accountants and attorneys today should be aware of these cases and understand how the law was applied based on the differing facts in each case in order to best protect themselves and their clients in this developing area of the law. 



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prior to obtaining her law degree, practiced as an auditor and forensic accountant for more than eight years. Adams is also currently serving on the Advisory Council for the Fraud and Forensic Division of the Georgia Society of CPAs. She focuses her legal practice on complex commercial litigation, financial fraud, fraudulent conveyance, shareholder and M&A earn out disputes, federal and state securities claims, D&O defense, business torts and auditor liability.



J. Marbury Rainer is a partner with Parker, Hudson, Rainer & Dobbs LLP in Atlanta. He has been practicing in the area of complex

commercial litigation since his graduation from Harvard Law School in 1975. His practice involves representation of public and private companies and their officers and directors in connection with corporate governance issues and securities, antitrust, and derivative litigation, and representation of clients in a broad range of commercial litigation and bankruptcy matters. Rainer has litigated cases involving, among other things, mergers, joint ventures, accounting restatements, accounting malpractice, breach of fiduciary duty, insurance coverage issues and disputes involving breach of contract, fraud and other commercial torts.

Endnotes

1. MacNerland v. Barnes, 129 Ga. App. 367, 370, 199 S.E.2d 564, 566 (1973).
2. *Id.* at 369, 199 S.E.2d at 565.
3. *Id.* at 372, 199 S.E.2d at 567.
4. Ultramares v. Touche, Niven & Co., 255 N.Y. 170, 179, 174 N.E. 441, 444 (1931). *See also* Howard v. Dunn & Bradstreet, 136 Ga. App. 221, 223, 220 S.E.2d 702, 704 (1975) (accountant not liable in negligence to a third party who is not in privity with the accountant).
5. Robert & Co. Assoc. v. Rhodes-Haverty P'ship, 250 Ga. 680, 300 S.E.2d 503 (1983).
6. *Id.* at 681-82, 300 S.E.2d at 504.
7. Rhodes-Haverty P'ship v. Robert & Co. Assoc., 163 Ga. App. 310, 311, 293 S.E.2d 876, 877 (1982).
8. *Id.* at 311, 293 S.E.2d at 877-78.
9. *Id.* at 310-11, 293 S.E.2d at 877-78.
10. *Id.* at 311-12, 293 S.E.2d at 878 (quoting Housing Auth. v. Ayers, 211 Ga. 728, 733, 88 S.E.2d 368, 373 (1955)).
11. *Id.* at 312, 293 S.E.2d at 878.
12. *Id.* at 313, 293 S.E.2d at 879 (Deen, J., dissenting).
13. Robert & Co. Assoc. v. Rhodes-Haverty P'ship, 250 Ga. at 681-82, 300 S.E.2d at 504 (emphasis added).
14. *Id.* at 681, 300 S.E.2d at 504.
15. A negligent misrepresentation claim is different from an accounting malpractice claim which requires strict privity. Terminology referring to these claims is often confused in the case law.
16. Badische Corp. v. Caylor, 630 F. Supp. 1196, 1197 (N.D. Ga. 1986).
17. *Id.*
18. *Id.* at 1198.
19. *Id.* at 1198.
20. *Id.*
21. *Id.* at 1198-99.
22. Badische Corp. v. Caylor, 806 F.2d 231, 233 (11th Cir. 1986).
23. Badische Corp. v. Caylor, 257 Ga. 131, 133, 356 S.E.2d 198, 200 (1987).
24. *Id.* at 132, 356 S.E.2d at 199.
25. *Id.* at 133 n.2, 356 S.E.2d at 200 n.2.
26. Bank of North Georgia v. Reznick Group, P.C., 262 Fed. Appx. 928 (11th Cir. 2008)(*per curiam*).
27. *Id.* at 929-30.
28. *Id.* at 930.
29. *Id.* Later that same year, the 11th Circuit revisited the third-party liability issue again in *Travelers Casualty & Surety Co. v. Reznick Group, P.C.*, 271 Fed. Appx. 833 (11th Cir. 2008), affirming the lower court's dismissal of a complaint which failed to include allegations that at the time the audit occurred, the auditor "actually knew" or was manifestly aware of the intended purpose of the report, or that the accountant intended its report to be used for that specific purpose.
30. First Nat'l Bank of Newton County v. Sparkman, 212 Ga. App. 558, 559-60, 442 S.E.2d 804, 805-06 (1994).
31. *Id.* at 558-60, 442 S.E.2d at 804-06.
32. White v. BDO Seidman, 249 Ga. App. 668, 549 S.E.2d 490 (2001).
33. *Id.* at 670-71, 549 S.E.2d at 492-93 (emphasis added).
34. *Id.* at 673, 549 S.E.2d at 494.
35. *Id.* at 671-72, 549 S.E.2d at 493-94.
36. *Id.* at 673, 549 S.E.2d at 494.
37. Mindis Acquisition Corp. v. BDO Seidman, LLP, 253 Ga. App. 360, 559 S.E.2d 111 (2002) (*rev'd on other grounds* BDO Seidman, LLP v. Mindis Acquisition Corp., 276 Ga. 311, 578 S.E.2d 400 (2003)).
38. *Id.* at 360-62, 559 S.E.2d at 111-15.
39. *Id.* at 362-63, 559 S.E.2d at 115-16.
40. *Id.* at 361, 364, 559 S.E.2d at 114, 116.
41. *Id.*
42. PricewaterhouseCoopers, LLP v. Bassett, 293 Ga. App. 274, 276, 666 S.E.2d 721, 724 (2008).
43. *Id.* at 277-78, 666 S.E.2d at 724.

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Bike in Every Georgia County

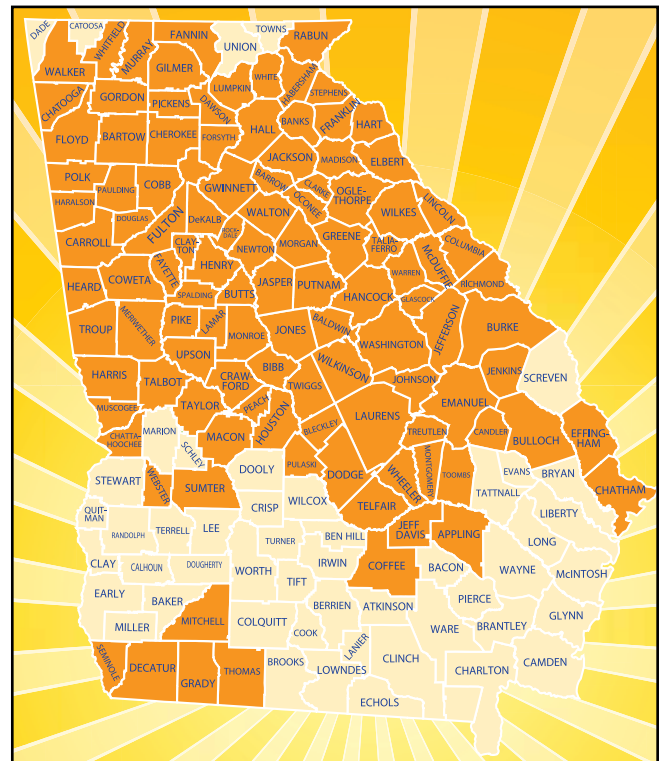
A Personal Fundraising Initiative Directly Benefitting the Georgia Legal Services Program

by Sarah I. Coole

Damon Elmore, an Atlanta attorney and Savannah native, had a vision. A vision to visit each of Georgia's 159 counties.

A vision to meet the people, research the counties and see all that Georgia has to offer. A vision to bring awareness and raise funds for the Georgia Legal Services Program (GLSP). That vision has become a reality, and he's doing it by biking in each county in Georgia. That's a lot of biking, folks.

Elmore got the idea from a neighbor who was training for the Susan G. Komen 3-day walk. He thought to himself, "I can do that for GLSP." So far, he's biked in 110 counties and reached just more than half of his fundraising goal of \$15,900. Not only is Elmore focused on raising awareness and funds for GLSP, but he's also the president of the civil legal services nonprofit organization this year. He actually began his bike initiative before being chosen as this year's president and was honored to be selected. "Being chosen to lead an organization that helps so many people in Georgia is humbling. I believe in helping out fellow Georgians, and I hope to do some good and raise awareness about the importance of civil legal services for the poor."



Damon Elmore is biking each county in Georgia to raise awareness and funds for the Georgia Legal Services Program. This map represents the visited counties to date.

"As a member of our Board of Governors and a past president of the Young Lawyers Division, Damon's acceptance of the GLSP presidency is further evidence of his strong commitment to serving the public and the legal profession," said State Bar of Georgia President

Patrise M. Perkins-Hooker. "His initiative to raise money through biking is an example of his creative talents."

Founded in 1971 by the Young Lawyers Division of the State Bar, GLSP is a nonprofit law firm serving rural and small town Georgia with 11 offices around the state. They offer free legal services in civil cases to people who cannot afford to hire a lawyer. GLSP helps clients with "high stakes" problems, such as domestic violence, eviction or foreclosure, denial of hard-earned benefits such as unemployment, inability to get critically needed health care or food aid, and many more. Their work ensures that people with low incomes have access to justice and opportunities out of poverty.

GLSP's community legal education and information clinics are one of the more important services that it offers, but they aren't all that well-known to the legal community. The clinics reach thousands of Georgians each year. "One program that I've seen develop during my time on the board focuses specifically on teen dating violence awareness," Elmore said. "It is significant because it is a problem affecting a high percentage of Georgia's young people. Low income or not. It's awareness events like this that help avoid problems later on or shed light on significant issues in society before they are the headlines of the day."

When asked what GLSP means to him, he said, "To me, GLSP is more than just access to justice for open or active files. It's about community. It's about families. It's about education. It's about service. It's about personal responsibility. It's about professional responsibility. It's about a better Georgia."

The first step in one of Elmore's county rides is planning and researching the area. That research time is spent learning what the poverty levels are in the particular county, which GLSP office serves the area, what the unique issues may be and the number

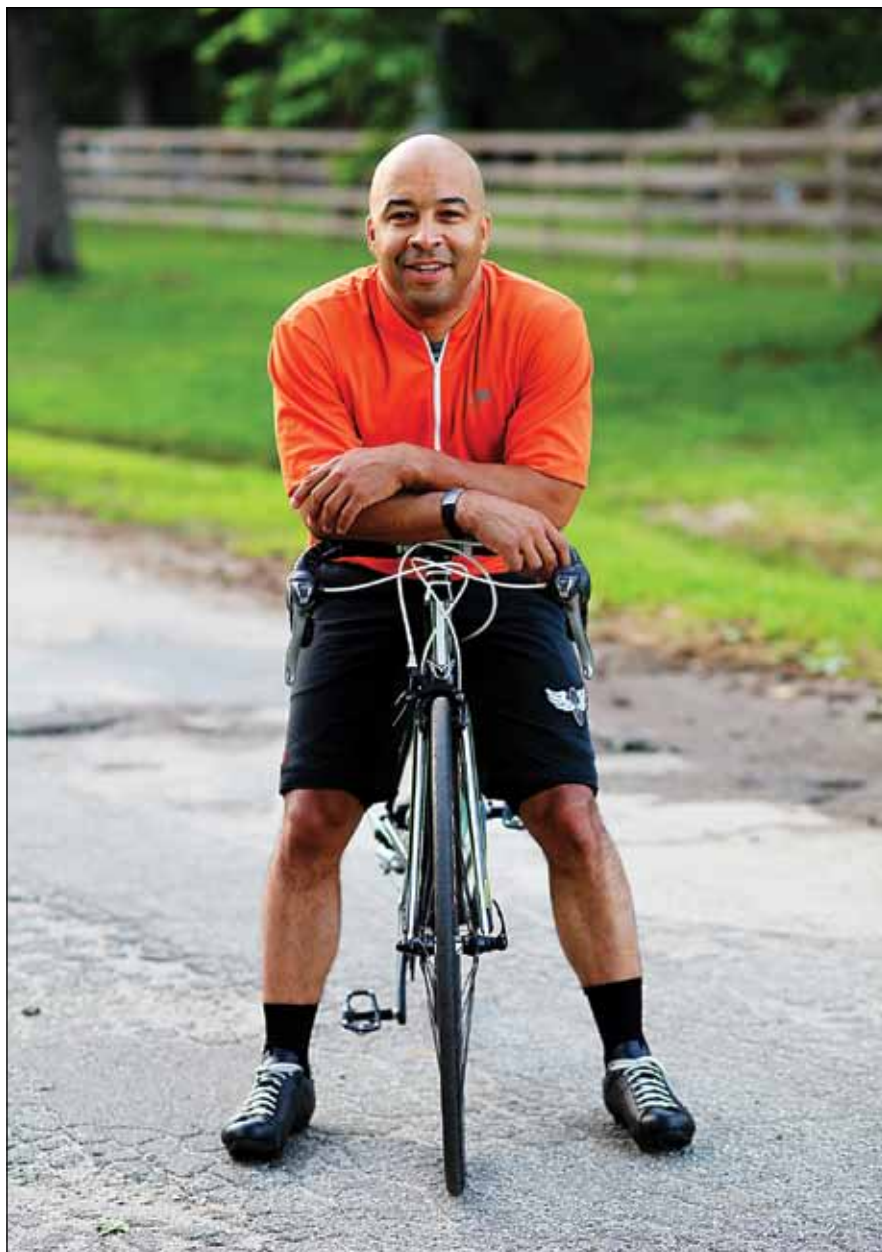


Photo by Sarah I. Coole

By the Numbers

- **159:** Counties in Georgia
- **110:** Counties that Elmore has biked
- **3,600+:** km biked since January 2014
- **90,000+:** elevation in feet climbed since January 2014
- **163km:** – longest single ride (Hancock, Washington, Jefferson, Glascock and Warren)
- **1,071+:** Tweets from @bikeGAcounties
- **404:** Pictures posted on Instagram
- **56:** Donors
- **5:** Flat tires
- **1,234,539:** Dogs
- **1971:** The year GLSP was founded and Elmore's birth year
- **79:** Minimum level of giving suggested by Elmore's daughters Ava and Simone

Learn more. Donate. Follow along.

- **DONATE:** razoo.com/story/DAMON-BIKES-IN-EVERY-GEORGIA-COUNTY
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- **SEE:** @damonelmore (Instagram)
- **WATCH:** Damon Elmore (YouTube)

About Damon Elmore

Age: 42

Law School: Emory University School of Law

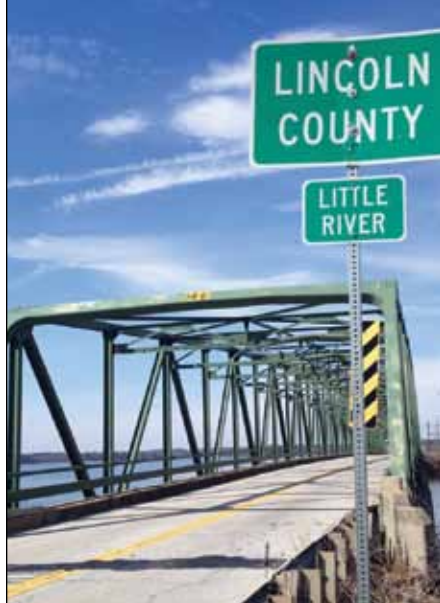
Practice Areas: Labor, Employment and HR guidance

Hobbies: Cycling, collects Hot Wheels

Other nonprofit passions: WDM Community Center, Big Brothers Big Sisters of Metro Atlanta

Favorite County: All of them with a special nod to his beloved Chatham

Contact: damonelmore@icloud.com



The signature @bikeGAcountries image, the county sign, of each county visited.



There are parts of Georgia you can only appreciate by bike.



The Washington County Courthouse, biked and visited in March 2014.

Photos by Damon Elmore

of lawyers that might be in the county or surrounding area to help. His ride routine varies and can sometimes be spontaneous. "I'm not gonna lie," Elmore said. "Some of those elevation maps on routes I plan have been a bit scary. But, I bike on, and I'm rewarded in the end by gorgeous Georgia scenery that you wouldn't normally notice otherwise."

"On the day of the ride, I endeavor to start in or go through the county seat. Once there, I snap a picture of the courthouse where the issue of access to justice really begins," Elmore said. "I always get a shot of the county sign. And because they are reminders of the Georgia I grew up in and are places of community and sources of information, I love to snap shots of the old post offices and unique places of worship."

Of course, you can't visit all of the counties in Georgia without enjoying a local meal. "Planning a ride always includes looking for great places to get a post-ride meal!" Elmore said.

Most important to the initiative are the people. Elmore said there are dozens of stories and hundreds of people he's heard of and met while biking that continue to serve as sources of inspira-

tion or reminders why pro bono service and the work performed by men and women in the legal service agencies is so important. "I have interacted with families in South Fulton that despite juggling temporary or seasonal jobs find themselves behind and need

were experiencing and how assistance with the services provided by Georgia Legal Services helped his family members."

"The most eye-opening part of it to me is when I share my initiative in office environments or during interviews as part of my work and learn that several people in support roles around us have benefited from the work of legal aid agencies in getting them back on track," he added. "Those are the people that are being helped, the friends of our friends."

Social media has played an important role in helping Elmore get the word out about his initiative. Elmore uses Twitter to inform followers of his upcoming and completed counties, and he utilizes Instagram to give followers a visual of the beauty of Georgia. The @bikeGAcountries signature photo is the county sign, along with a photo of the county courthouse. (If you aren't already a follower, you should definitely check him out!)

October marks National Pro Bono Month, which provides an opportunity for local legal associations across the country to take the next step in their efforts to provide high quality legal services to those living on the social margins. Each year, hundreds of individu-



help to avoid losing what they call home," he said. "I remember clearly, sitting on a bench, not too far from the Hancock County Courthouse, starting a conversation with a gentleman who shared the difficulty he and his family



The Birdsong Peanut Company silo in Colquitt (Miller County).



The Bulloch County Courthouse, biked and visited in May 2014.



Even the smaller Georgia counties have a lot of history. Seminole County, visited January 2014.

Photos by Damon Elmore

als and families are turned away because they do not meet criteria for financial assistance from GLSP or the nature of their need. Elmore says that his biking has introduced him to more and more of those Georgians, veterans, seniors and mainstreet business owners that need help.

"Damon has really inspired us at Georgia Legal Services," said Mike Monahan, director of the Pro Bono Project of the State Bar. "He's been biking around the Georgia countryside talking about our mission and raising money for our important work in a really unique way. Not one of us imagined you could share the important story of the need for civil legal aid for the poor and marginalized in this way that's both personal and heartwarming. It's fitting for us to give Damon the nickname of Mercury, the messenger of the Greek gods. But instead of winged sandals, he has a road bike. And a niftier helmet."

Elmore's goal of \$15,900 reflects the 159 counties in Georgia. With more than 50 donations to date, he said, "I am grateful for every dollar that has been donated to my effort. This includes the cash from strangers that I didn't know in Bainbridge in January. It includes surprise donations from people at the other side of the state only because they've stumbled across my Twitter feed. And of course, I'm

grateful for the generous gifts from my dear friends and others who actively support this initiative."

GLSP Executive Director Phyllis Holmen said, "We're excited about this terrific new way that Damon has initiated to let people know about GLSP and our services. He's generating great support."

The money that he raises will support three GLSP priorities: aid for access to residents in rural or remote areas in the state, many of which he has biked; continued support and resources for the community clinics and legal information sessions; and building personnel and bringing on new staff attorneys so that more Georgians can be helped.

When asked what happens when he finishes his goal of 159 counties, Elmore said, "Honestly, I have not thought much about it. Maybe I'll do it again. Maybe this time by mountain bike instead of road bike. As far as advocacy for Georgia families and GLSP, we'll think of something. As for cycling, I have a huge desire to bike some of the same routes used on some of the Grand Tour events. And then, long term, I would love to bike 100 miles on my 100th birthday."

GLSP will hold their second annual Champions of Justice Event this month, honoring many who make a difference in Georgia.

Elmore said, "Let me be clear. There are hundreds of lawyers all across the state heeding the call to help make a difference by volunteering their time or working for legal service agencies. These are lawyers that are smarter than I am, more engaged than I have been and more focused on what access to justice means for many Georgians. I'm not alone in this effort. My hope is that this campaign is viewed as my way of making a little difference for GLSP and Georgia. But I'm not the only one."

"We should all try harder. Try remembering how you felt when you graduated from law school and were determined to make a difference," he said. "Try not to forget our responsibility as lawyers to devote professional time on behalf of the poor and those who cannot afford adequate legal assistance. Try experiencing the feeling of making a difference in the lives of children and families. Just try." GBJ



Sarah I. Coole is the director of communications for the State Bar of Georgia and can be reached at sarahc@gabar.org.

Celebrating Pro Bono— It's About Volunteering

by Michael Monahan

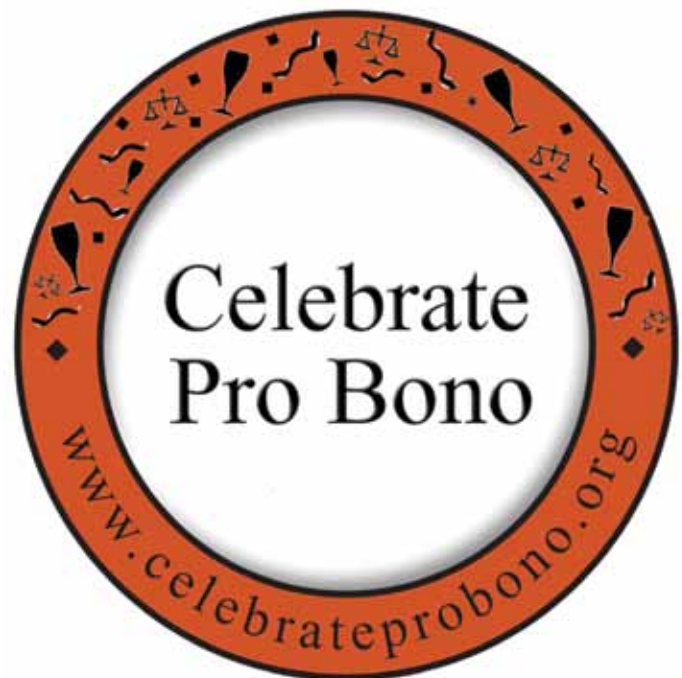
"We are more than a trade. . . A profession is not a business. It is distinguished by the requirements of extensive formal training, a code of ethics, a system of discipline, a duty to subordinate financial rewards to social responsibility and an obligation on its members to conduct themselves as members of a learned discipline and honorable occupation." – Hon. Simon Rifkin, Bates v. Arizona

The month of October is known for many things—fall festivals, Halloween, harvests and, now, *pro bono publico*. October has become our *de facto* pro bono celebration month largely due to help from the American Bar Association and its now annual Pro Bono Celebration Week held the last full week of October. You can learn more about the ABA National Pro Bono Celebration at CelebrateProBono.org.

The ABA's Center for Pro Bono and Standing Committee on Legal Services and Pro Bono created the national celebration to shine a spotlight on pro bono service. Here in Georgia, one week is not sufficient. We have expanded into a full month to accommodate the number of programs and events offered by the public interest law community.

Cause for Celebration

The newspaper advice columnist Ann Landers' sound response to a woman who was looking to improve her outlook on life and find a way to engage



people? Volunteer. Beyond the basic life advice of getting out there and living, consider the power you have as a lawyer: you have the keys to the courthouse. You can make a difference for someone trying to save their home or protect a senior citizen from abuse if you put

your mind and your law license to the task.

What you may not fully appreciate as you should is that all the work you do on a daily basis for people with limited or no income, for marginalized and unpopular clients, for charitable organizations and for the very personal and private causes you hold dear, is work that cannot be assailed. Lawyers distinguish themselves above every other profession in that we invented and have nurtured the concept of *pro bono publico*—for the public good—we put it in writing in a Bar rule and we live and work by that rule.

The demand for pro bono services is high. While there is much to be done in terms of meeting all the legal needs and finding resources to get the work done, we can and should celebrate. We have remarkable stories from volunteers in the field. We have built and sustained legal aid and pro bono programs that continue to grow and meet the challenges. Our profession has evolved and prospered because in large part, we are responsive to the public we serve. We celebrate, too, for practical reasons, first and foremost as the ABA notes, to keep attention focused on recruiting more pro bono volunteers and increasing legal services to poor and vulnerable people. Garnering support of local communities for pro bono and increased access to justice is also cause for celebration.

All Pro Bono is Good Pro Bono

We encourage you to weave *pro bono publico* service into your career whether that service includes helping someone avoid a wrongful eviction, protect free speech rights or fight government red tape.

Intentionally making pro bono part of your work/life balance requires you actively manage your pro bono practice. Following are some tips:

Frequently Asked Questions

How do I sign up as a volunteer?

You can contact the program in the county where you practice, or you can send an email with your questions or interests to probono@gabar.org. We will connect you to the appropriate program.

I might need some training.

Join the statewide volunteer lawyer support website. The State Bar of Georgia Pro Bono Project manages a statewide volunteer lawyer support website, GeorgiaAdvocates.org, to help lawyers manage their pro bono service. Join the free site today to access the statewide calendar of events, online trainings, resource and practice library and more—support content contributed by our participating legal aid and pro bono programs.

What other support do you offer?

Most pro bono programs offer professional liability insurance coverage for the pro bono cases you accept. Programs also offer mentoring and back-up support. In addition, the State Bar of Georgia Pro Bono Project and CCLC team up to provide volunteer lawyers who accept three or more pro bono cases from one of our structured programs a CLE voucher of \$150 good toward any one program offered by ICLE in Georgia. We also publish an annual Pro Bono Honor Roll in the *Georgia Bar Journal*. Each year we recognize outstanding volunteers with annual pro bono awards and we publish volunteer lawyer profiles on the State Bar of Georgia website. To learn more about the pro bono awards and to read the volunteer lawyer profiles, click on the Public Service Opportunities tab on the home page of the State Bar of Georgia website, www.gabar.org.

Georgia as Measured on the Justice Index

The National Center for Access to Justice at Cardozo Law has created the Justice Index to help make access to justice a reality for all. The Justice Index provides a vivid picture of which states are following selected practices and providing necessary resources to make the legal system fairer to everyone. One of the four indices used in the Justice Index is access to attorneys. The study considers civil legal aid attorneys, the number of licensed attorneys in a state as well as the poverty population within a state. Georgia ranks in the bottom 10 in a comparison of all the states. You can find the Justice Index at justiceindex.org.

Correction

In the Annual Pro Bono Honor roll published in the June 2014 edition of the *Georgia Bar Journal*, volunteer lawyers from the Brunswick area were not properly recognized. The Brunswick Region was mistakenly labeled the Waycross Region.

Volunteer lawyers from Brunswick who handled one or more cases in 2013 are: **Mary Beth Boone, R. Flay Cabiness, Robert Cunningham, Frances Dyal, Carlton Gibson, Eugene Highsmith, Richard Taylor, Holle Weiss-Friedman and Nathan Williams.**

We apologize for the error and we are grateful for the service of pro bono lawyers across the state.

"and justice for all"

2014 State Bar Campaign for the Georgia Legal Services Program, Inc.

"We couldn't afford a lawyer to help us obtain custody of Oliver. Our Georgia Legal Services Program lawyer knew the laws and assisted us every step of the way. It takes a village to raise a child, and it also takes a village to protect a child. Our GLSP lawyer told us she would always be there for us. She's a guardian angel!" – Mr. and Ms. Kinney

You Can Change a Life!

**Give Today at www.glsp.org
(Click on Donate Now)**

Justice for three-year old Oliver couldn't come fast enough for his grandparents, Mr. and Ms. Kinney. Oliver and his older brother, D.J., had been abused by their father, a meth addict and alcoholic who is the Kinneys' only son. The boys had bottles thrown at them and suffered cigarette burns, bruises, and other injuries. Oliver was born with fetal alcohol syndrome. D.J. acts out in school as a result of the abuse. The Kinneys adopted D.J. when he was four weeks old. Oliver has been living with his grandparents since he was two months old.

Recently, the father assaulted D.J. during a visit at his parent's home. The Kinneys filed criminal charges against him, and he was later convicted of the charges. Despite all that, he wanted Oliver to live with him, but the Kinneys would not allow it. They wanted to protect Oliver from the abuse. Their caseworker referred them to the Georgia Legal Services Program (GLSP). A GLSP lawyer assisted the Kinneys to obtain a protective order, custody, and child support for Oliver.



State Bar of Georgia



Georgia Legal Services Program

Thank you for your generosity and support.

- Identify the kind of pro bono you would like to incorporate into your practice.
- Choose pro bono for learning experiences.
- Choose pro bono that matches your charitable giving interests.
- Choose pro bono that means something to you.
- Choose how you want to structure your participation.
- Watch your calendar; don't get over-extended.
- Choose a program that will prescreen for you and provide support.
- Choose a pro bono opportunity that affords you primary or secondary professional liability insurance coverage.
- Identify your time constraints, your current level of expertise and whether you are interested in litigation vs. non-litigation matters.
- Consider advice/brief services clinics, one-on-one client service, non-client contribu-

tions like mentoring a legal aid lawyer.

- Co-counsel on a pro bono case with an experienced attorney.
- Serve on a pro bono committee for your local bar association.
- Introduce your staff to the local pro bono program contact.

Join the Celebration

If you haven't signed up with a pro bono program, do it now. Visit our Pro Bono Opportunities Guide and search for and volunteer with a pro bono program at www.gabar.org/publicservice/volunteer.cfm.

Ask your local bar association to celebrate pro bono in October. Dedicate a bar meeting to pro bono issues or to honor local volunteer lawyers. Ask your local bar association to create a pro bono committee for the long haul.

Find a legal clinic near you and volunteer by contacting the State Bar Pro Bono Project at probono@gabar.org.

If you can't volunteer, make a financial contribution to a legal aid or pro bono program of at least the equivalent of one to two billable hours.

Finally, tell us your pro bono story. Send a one-page summary of a pro bono case you handled describing the basic facts and how your service changed your perspective or made a difference for you or your client to probono@gabar.org. We'll include your story in our growing online library of pro bono volunteer profiles.

To learn more about pro bono in Georgia, contact Mike Monahan, director, State Bar of Georgia Pro Bono Project at mikem@gabar.org or visit www.gabar.org. 



Michael Monahan is the director of the Pro Bono Project for the State Bar of Georgia and can be reached at mikem@gabar.org.



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Bar Center Hosts Conference of Southeastern Bar Leaders:

The Need for State Bars to Participate in the Regulation of the Practice of Foreign Lawyers

by Linton Johnson

In May of this year, the State Bar of Georgia hosted a special conference of Bar leaders from five southeastern states on the need for regulation of the practice of foreign lawyers by state bars. The conference was held at the Bar Center in Atlanta and was moderated by Bernard L. “Ben” Greer Jr., retired partner of Alston & Bird, who is chair of the State Bar of Georgia’s Committee on International Trade in Legal Services and a chair emeritus of the International Bar Association Committee International Trade in Legal Services.

In his welcoming remarks, 2013-14 State Bar President Charles L. Ruffin said the objective of the gathering was “to get a handle on the issues involved with this type of trade agreement and how it might apply to the delivery of services, including the practice of law, across international borders. . . . I don’t have to tell any of you how crucial it is for us to examine these issues closely and do what we can to prevent any erosion of the American system of justice and the practice of law as regulated by the Supreme Court.”

According to the official report on the conference, submitted by Rebecca I. Lunceford of Arnall Golden Gregory LLP, the need for the discussion arose from what has been a significant increase in the number of



Bernard L. “Ben” Greer Jr., chair of the State Bar of Georgia’s Committee on International Trade in Legal Services, addresses Southeastern Bar leaders at the Bar Center.

Photos by Jennifer R. Mason

foreign attorneys within each state, coupled with—in many states—the lack of rules or regulations on their practices. “Currently, international treaties and trade agreements are the only source of law regulating the practice of foreign lawyers in many states,” the report stated. “And if states do not act soon to make their voices heard, it may be too late. . . . [A]bsent a dedicated and coordinated focus from a coalition of several state bars working together, perhaps the most critical voice in the regulation of foreign lawyers practicing in individual states will be ignored.”

Prof. Laurel S. Terry of The Dickinson School of Law at Penn State provided conferees with background on the issue, noting that since she has become active in the field, those who had interest in the regulations had a goal of making it as easy as possible to export legal services by eliminating barriers, rather than protecting the practice of law within the United States. She noted that the expansion of international trade (the five states represented at the conference alone had almost \$200 billion in exports in 2013) and immigration in the United States ensures the continued need for the work of domestic and foreign lawyers.

Yet, only seven states have rules expressly addressing a foreign lawyer practicing in temporary transactional work within a state, only eight states have a rule addressing the ability of foreign lawyers to serve as in-house counsel in a state and only 15 states have rules addressing the *pro hac vice* admission of foreign lawyers in a state. As a result, states are not part of the debate on the regulation of international legal practice, leaving the matter instead to those with an interest in removing as many barriers as possible to international trade and commerce.

The General Agreement on Trade in Services (GATS), adopted by World Trade Organization countries in 1995, prohibited those countries from imposing regulations "more burdensome than necessary to ensure the quality of service." The ability to domestically regulate lawyers under GATS and a number of other free trade agreements is thus severely restricted. The American Bar Association (ABA) has become more active making the Office of the U.S. Trade Representative more aware of the possible consequences, but it is still a small voice in the overall discussion.

William P. "Bill" Smith III, ethics counsel and former general counsel of the State Bar of Georgia, is a leading authority on the subject of international trade in legal services. As



(Left to right) Panelists included: Peter Dean, moderator; James C. Nobles Jr.; Prof. Laurel S. Terry; William P. "Bill" Smith III, ethics counsel; and J. Benjamin Kay III.



(Left to right) 2013-14 President Charles L. Ruffin, Ethics Counsel William P. "Bill" Smith III and chair of the State Bar of Georgia's Committee on International Trade in Legal Services, Bernard L. "Ben" Greer Jr.

staff liaison of the Bar's International Trade in Legal Services Committee, Smith has worked with Chairperson Greer and other committee members to spearhead the groundbreaking efforts to promulgate professional rules addressing foreign lawyers practicing in Georgia and advocating on behalf of the State Bar in national and international discussions.

Smith additionally serves on the ABA's International Trade in Legal Services Task Force, which monitors GATS negotiations and those of other international trade

agreements that involve the provision of legal services within the U.S. and, from its findings, delivers input to the Association for consideration and study. In this role, Smith has provided many valuable contributions toward addressing these issues at a state and national level, including his participation and submission of a white paper, "International Trade in Legal Services and Professional Regulation: A Framework for State Bars Based on the Georgia Experience," which was adopted by the ABA as part of a toolkit for



Conference attendee Betsy Griswold, attorney, UPS, addressed the group before introducing Dontai Smalls.



Dontai Smalls, vice president for corporate public affairs at UPS, underscored the need for a strong lobbying effort by state bars to have a positive impact on the final agreement's treatment of legal services.

the task force to provide to other state bars.

The white paper is now a national model for cross-border legal practice. According to Smith, all states must develop strategies to meet their own unique needs or lose the ability to address those needs. The "Georgia Experience" provides a toolkit for taking such action, which includes the following necessary steps:

- Each state bar must form an International Trade in Legal Services Committee, including a diverse membership that represents every viewpoint in the debate and addressing both outbound and inbound practices of law.
- The committee must be educated with all aspects of the regulation of cross-border legal practice, including a familiarity with GATS, the North American Free Trade Agreement and others, to ensure that any promulgated rules are in compliance.
- The committee must craft a regulatory regime that is best for its state.

- The solution must address the five areas in which foreign lawyers practice, including temporary transactional practice (also referred to as "fly in-fly out"), foreign licensed in-house counsel, permanent practice as a foreign legal consultant, temporary in-court appearance (*pro hac vice* admission) and full licensure as a U.S. lawyer.
- The committee should make every effort to have its state bar's concerns heard by the U.S. trade representative.

Conferees also heard from Dontai Smalls, vice president for corporate public affairs at UPS, who is heavily involved in the current negotiations over the European Union/United States Free Trade Agreement. Smalls underscored the need for a strong lobbying effort by state bars to have a positive impact on the final agreement's treatment of legal services. State bars must be able, he said, to show that allowing each state to continue regulating itself is a workable and necessary policy that the international community can support.

The conference also featured a panel discussion moderated by Peter Dean, an attorney qualified to practice law in the United Kingdom who is also a member of the New York and Georgia bars, and including Terry, Smith, James C. Nobles Jr. of Atlanta and J. Benjamin Kay III of Augusta as participants.

The final conference report concluded, "By being proactive, both in passing rules that address the needs of a defined regulatory scheme and in becoming a coordinated and active participant in the national and global debate, state bars can and should influence trade negotiations and position themselves to participate in the global economy." 

To read the full conference report and the "Georgia Experience" white paper, visit www.gabar.org.



Linton Johnson is a media consultant for the State Bar of Georgia. He can be reached at linton.johnson@wordexpress.info or 404-285-2453.

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For more information about the program, contact HSMT State Coordinator, Michael Nixon,
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The State of SOLACE:

Compassion and Generosity Abound

by Bonne Davis Cella

For those not familiar with the SOLACE Program, a U.S. district court judge and a New Orleans attorney created SOLACE, *Support of Lawyers/Legal Personnel, All Concern Encouraged*, in 2002. Hon. Jay Zainey, Eastern District of Louisiana, and Mark C. Surprenant recognized that there were all kinds of needs in their legal community in addition to vast resources that could help in meeting those needs—and they brought the two together. It was providential that the SOLACE Program was up and running when Hurricane Katrina ravaged their state. Acts of kindness and tender mercies followed within the New Orleans legal community and beyond. Today SOLACE is expanding to become a nationwide network.



The program is voluntary, simple and straightforward, and is limited to requests on behalf of the legal community and their family members. SOLACE does not solicit monetary contributions (but conveys information about fundraising through other entities). Confidentiality is encouraged but not always possible. The motto is: There is nothing too big, there is nothing too small.

Ken Shigley, 2011-12 president of the State Bar of Georgia, heard Judge Zainey speak about the program in 2010 and decided to bring the program to Georgia. Under Shigley's leadership, SOLACE is doing what it was designed to do—and doing it very well.

"The initial network consists of State Bar of Georgia members who received an email last September (2013), describing the program. The members can easily opt out of the list by following clear directions in the

email. Few have opted out. We are conservative about use of the blast emails—no more than one a month—to avoid wearing out our welcome. There are situations that come to my attention that I feel can be dealt with individually without a blast email to 36,000 lawyers. Sometimes it is just a matter of “pastoral counseling” with a lawyer in crisis and directing them to other resources. When a situation arises that I think may rate the full SOLACE treatment, we submit it to our committee, either on a conference call or by an email poll coordinated by Bonne Cella, the staff liaison. When approved by the committee, the SOLACE request blast email is handled by State Bar Communications Director Sarah Coole,” Shigley explains.

Gabriel's Story

Imagine you and your family in Cyprus, Greece—6,000 miles from your home in South Carolina. Your middle child, a precious boy of three, awakens one morning and begins screaming. You rush to his side and find an ominous looking lump on his leg—and now, you too are frightened and worried. The doctors in Cyprus initially say that it is a bacterial infection. A sigh of relief, but something is not right—the medicine is not working and your child is growing weaker. Your once thriving and active child is now fighting for his life. After three weeks in the hospital, sedated and on oxygen, the test results arrive and the news is grim. Your young son has lymphoma.

Joshua and Joanna Fleming, humanitarian aid workers in the Middle East and North Africa, found themselves in this situation this past June. Initially the devastated parents and their other two children, Charis and baby Joshua Benjamin, were not given much hope for Gabriel's recovery. Then, something happened—something not less than a miracle. Within 24 hours of the diagnosis, Gabriel's heart was functioning



Georgia attorneys and volunteers for the State Bar of Georgia SOLACE program anxiously await news of Gabriel's flight landing in Atlanta. (Left to right) Lorraine Sanchez Hayes and husband Rudjard Hayes with State Bar Past President Ken Shigley (and chair of the SOLACE program).

Photos by Sarah I. Coole



Gabriel's welcomed to Atlanta!

normally and his blood counts had improved. Encouraged by the change, plans now were to get Gabriel back to South Carolina for treatment.

With astronomical medical bills in Cyprus, how would they find the resources to get Gabriel home?

A regular flight was out of the question because of his need of constant medical attention.

"We've cried many tears over this," Gabriel's dad Joshua said, "but it's been remarkable to see how our faith has sustained us through all of it."



(Left to right) Big sister Charis Fleming, grandmother Debbie Jones, little brother Joshua Benjamin Fleming, Gabriel Fleming and grandfather Peter Jones at Atlanta's Hartsfield-Jackson International Airport.

Joanna has a college friend, Leigh Essig, who got the word about Gabriel and got busy. She set up a page on the website GOFundMe.com to raise money. The goal was \$100,000.

About this time, Judge Zainey heard about the effort and contacted Shigley to see if the Georgia SOLACE program would like to help. The committee, without hesitation or exception, said yes. The subsequent email blast sent to the State Bar of Georgia initiated a firestorm of responses. Hundreds of Georgia lawyers responded by email and phone all wanting to help this

little angel named Gabriel.

"I can't tell you how blown away I am by the Georgia Bar SOLACE network. We don't have a network specific to the South Carolina Bar, but after seeing the response from Georgia, I'm going to talk to our new bar president about setting one up," said Will Dillard, a South Carolina attorney who helped with the effort.

South Carolina attorney Everett McMillian coordinated the air transport aspects of the mission to get Gabriel home. McMillian, a pilot who practices aviation law, spent hours looking at every possible solution. David Jones, the

family's attorney, communicated the status with the Fleming family and kept in touch with McMillian and all those concerned. Updates, drawbacks and small victories were communicated to all State Bar members who expressed interest.

The solution for getting Gabriel home came from a man named Doug Hess of Global MedServices. Hess' company specializes in transporting critically ill patients using commercial air travel by sending a medical team to escort the patient on his flight. Hess agreed to fly to Cyprus and return with Gabriel. A block of seats were purchased for Gabriel, his medical equipment and medical team. Although very expensive, it was less than a private jet and Hess gave his services at cost. The family booked a separate flight that would arrive in Atlanta at the same time.

Finally on July 9, at 7:25 p.m., Gabriel and his family arrived at Hartsfield-Jackson International Airport in Atlanta. They were greeted by Ken Shigley, Bar members Rudjard Hayes, Lorraine Sanchez Hayes and State Bar of Georgia Communications Director Sarah Coole. NBC News got wind of the event and in a few days, Joanna Fleming and her friend Leigh Essig appeared on the "Kathie Lee and Hoda" show and hopefully raised more money for Gabriel's expenses.

"What the Georgia Bar did was three fold," said McMillian. "From the start, they were instrumental, generous and consistent in fundraising. They welcomed the family at the Atlanta Airport—a boots on the ground kind of support that meant so much to the family to have someone there to greet them. And their network provided the pieces to the puzzle that ultimately led to the right situation to bring Gabriel home. The Georgia Bar was by far the greatest outpouring of support of any group we contacted."

Gabriel is currently undergoing year-long chemotherapy in Columbia, S.C. The family plans to move back to Cyprus after the treatments to continue their work.



(Left to right) Georgia attorneys Rudjard Hayes and Lorraine Sanchez Hayes, GlobalMed Services Flight Paramedic Doug Hess, Joanna Fleming (Gabriel's mother), big sister Charis and SOLACE Committee Chair Ken Shigley welcome Gabriel to Atlanta.


You may read updates on Gabriel's condition at www.caringbridge.org/visit/gabrielfleming.

The South Carolina Bar has expressed its appreciation to the Georgia SOLACE committee and all Georgia lawyers who jumped in quickly to help. Ken Shigley has been asked to come to Columbia to speak to the South Carolina State Bar about the way SOLACE is organized in Georgia.

There is nothing too big, there is nothing too small when it comes to helping or needing help. One wise and brave young woman simply emailed SOLACE saying: "I need help. Please call me." Overwrought from a heavy trial calendar, an abusive husband and three small children—she had reached her limit. SOLACE immediately facilitated confidential counseling—just what she needed to get herself back together. Calming words of care and understanding from a SOLACE member also gave her a much needed lift.

When you or someone you know is in the trenches fighting alone, help is just an email away. Solutions are out there—SOLACE will help put the puzzle together.

Shigley has already spoken at several section meetings in the Atlanta area and he and the committee members of SOLACE are glad to speak at your local bar or section meetings about this most worthwhile program.

If you are interested in becoming a member of the SOLACE network, or know of someone in need of assistance, please contact Ken Shigley at ken@shigleylaw.com or Bonne Cella at bonnec@gabar.org. 



Bonne Davis Cella is the office administrator at the State Bar of Georgia's South Georgia Office in Tifton and can be reached at

bonnec@gabar.org.

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Notice of Expiring BOG Terms

Listed below are the members of the State Bar of Georgia Board of Governors whose terms will expire in June 2015. These incumbents and those interested in running for a specific post should refer to the election schedule (posted below) for important dates.

Alapaha Circuit, Post 1..... Carson Dane Perkins, Nashville
 Alcovy Circuit, Post 1..... Steven A. Hathorn, Covington
 Appalachian Circuit..... Will H. Pickett Jr., Jasper
 Atlanta Circuit, Post 1..... Diane E. Bessen, Atlanta
 Atlanta Circuit, Post 3..... Kathleen M. Womack, Atlanta
 Atlanta Circuit, Post 5..... Catherine Koura, Atlanta
 Atlanta Circuit, Post 7..... William M. Ragland Jr., Atlanta
 Atlanta Circuit, Post 9..... Damon Erik Elmore, Atlanta
 Atlanta Circuit, Post 11..... Jill Pryor, Atlanta
 Atlanta Circuit, Post 13..... Emily S. Bair, Atlanta
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 Atlanta Circuit, Post 39..... Anita Wallace Thomas, Atlanta
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 Chattahoochee Circuit, Post 2..... William C. Rumer, Columbus
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Dougherty Circuit, Post 2..... Thomas V. Duck III, Albany
 Dublin Circuit..... Donald W. Gillis, Dublin
 Eastern Circuit, Post 2..... Lester B. Johnson III, Savannah
 Eastern Circuit, Post 4..... Gwendolyn S. Fortson Waring, Savannah
 Flint Circuit, Post 1..... Gregory A. Futch, McDonough
 Griffin Circuit, Post 2..... Roy B. Huff Jr., Peachtree City
 Gwinnett Circuit, Post 1..... David S. Lipscomb, Lawrenceville
 Gwinnett Circuit, Post 3..... Robert V. Rodatus, Lawrenceville
 Lookout Mountain Circuit, Post 2..... Douglas Ray Woodruff, Ringgold
 Macon Circuit, Post 1..... John Flanders Kennedy, Macon
 Macon Circuit, Post 3..... John Christopher Clark, Macon
 Member-at-Large, Post 1*..... Laverne Lewis Gaskins, Valdosta
 Member-at-Large, Post 2*..... JaDawnya Cintelle Butler, Atlanta
 Middle Circuit, Post 2..... John Alexander Fitzner III, Swainsboro
 Mountain Circuit..... James T. Irvin, Toccoa
 Northeastern Circuit, Post 2..... Nicki Noel Vaughan, Gainesville
 Northern Circuit, Post 1..... Walter James Gordon Sr., Hartwell
 Ocmulgee Circuit, Post 2..... Wilson B. Mitcham Jr., Gray
 Oconee Circuit, Post 2..... Stephanie Diane Burton, Eastman
 Ogeechee Circuit, Post 2..... Susan Warren Cox, Statesboro
 Out-of-State, Post 1..... Jeb Tolliver Branham, Jacksonville Beach
 Pataula Circuit..... Edward R. Collier, Dawson
 Piedmont Circuit..... Barry E. King, Jefferson
 Rome Circuit, Post 1..... Paul T. Carroll III, Rome
 South Georgia Circuit, Post 2..... Joshua Clark Bell, Whigham
 Southern Circuit, Post 2..... Brian Allen McDaniel, Moultrie
 Southwestern Circuit..... R. Rucker Smith, Americus
 Stone Mountain Circuit, Post 10..... Andrea Dionne McGee, Decatur
 Stone Mountain Circuit, Post 2..... William Dixon James, Decatur
 Stone Mountain Circuit, Post 4..... Robert D. James Jr., Decatur
 Stone Mountain Circuit, Post 6..... Claudia Susan Saari, Decatur
 Stone Mountain Circuit, Post 8..... R. Javoyne Hicks White, Stone Mountain
 Tallapoosa Circuit, Post 1..... Michael Douglas McRae, Cedartown
 Toombs Circuit..... Dennis C. Sanders, Thomson
 Towaliga Circuit..... Curtis Stephen Jenkins, Forsyth
 Waycross Circuit, Post 2..... C. Deen Strickland, Waycross
 Western Circuit, Post 1..... Lawton E. Stephens, Athens

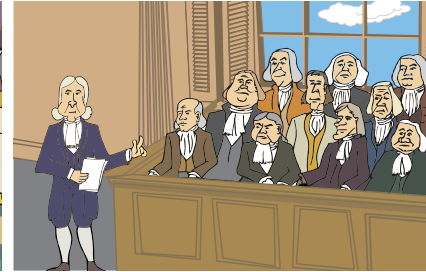
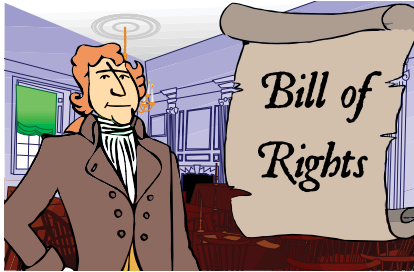
*Post to be appointed by president-elect.

State Bar of Georgia 2015 Election Schedule

OCT Official Election Notice, October Issue *Georgia Bar Journal*
DEC 1 Nominating petition package mailed to incumbent Board of Governors members and other members who request a package
JAN 8-10 Nomination of officers at Midyear Meeting, Marriott Marquis, Atlanta
JAN 30 Deadline for receipt of nominating petitions for incumbent Board members including incumbent nonresident (out-of-state) members
FEB 27 Deadline for receipt of nominating petitions for new Board members including new nonresident (out-of-state) members

MAR 13 Deadline for write-in candidates for officer to file a written statement (not less than 10 days prior to mailing of ballots (Article VII, Section 1 (c))
MAR 13 Deadline for write-in candidates for Board of Governors to file a written statement (not less than 10 days prior to mailing of ballots (Article VII, Section 2 (c))
MAR 27 Ballots mailed
APR 30 11:59 p.m. Deadline for ballots to be cast in order to be valid
MAY 6 Election service submits results to the Elections Committee
MAY 13 Election results reported and made available

Trial By Jury: What's the Big Deal?



"Trial By Jury: What's the Big Deal?" is an animated presentation for high school civics classes in Georgia to increase court literacy among young people. This presentation was created to be used by high school civics teachers as a tool in fulfilling four specific requirements of the Social Studies Civics and Government performance standards.

This animated presentation reviews the history and importance of trial by jury through a discussion of the Magna Carta, the Star Chamber, the trial of William Penn, the Constitutional Convention in 1787, the Constitution and the Bill of Rights. Also covered in the presentation are how citizens are selected for jury duty, the role of a juror, and the importance of an impartial and diverse jury.

The State Bar of Georgia's Law-Related Education Program offers several other opportunities for students and teachers to explore the law. Students can participate in Journey Through Justice, a free class tour program at the Bar Center, during which they learn a law lesson and then participate in a mock trial. Teachers can attend free workshops correlated to the Georgia Performance Standards on such topics as the juvenile and criminal justice systems, federal and state courts, and the Bill of Rights. The LRE program also produces the textbook *An Introduction to Law in Georgia* for use in middle and high school classrooms.

You may view "Trial By Jury: What's the Big Deal?" at www.gabar.org/forthepublic/forteachersstudents/lre/teacherresources. For a free DVD copy, email laurenf@gabar.org or call 404-527-8736. For more information on the LRE Program, contact Deborah Craytor at deborahcc@gabar.org or 404-527-8785.




Kudos

- >  The **Multi-Bar Leadership Council (MBLC)** presented **Avarita L. Hanson**, executive director of the Chief Justice's Commission on Professionalism, with the **2014 Seth Kirschenbaum Diversity Award** at a ceremony in September. The award recognizes any member in good standing with the State Bar of Georgia, a law firm's corporate law department or law-related organization that embodies the MBLC mission of fostering meaningful and positive interaction among diverse members of the Bar by its leadership in programs and efforts that support diversity and inclusion.

- >  **Boyd Collar Nolen & Tuggle, LLC**, announced partner **Kathleen B. Connell** was appointed **treasurer** of the **board of directors** of the **Charles Longstreet Weltner Family Law American Inn of Court**. In this role, Connell will oversee the organization's financial records, while continuing to promote the mission of the organization, which upholds professionalism, collegiality and continuing education among Atlanta's family law community.

- >    
Bowman McRae McCoy Puccini


Catherine Bowman of **The Bowman Law Office** was elected president of the **Savannah Bar Association** for **2014-15**. Bowman previously served as president of the Savannah Younger Lawyers. Also elected were: **Colin McRae**, HunterMaclean, president-elect; **Mat McCoy**, McCorkle & Johnson, treasurer; and **Maggie Puccini**, Bouhan Falligant, secretary.

- >  Valdosta law firm **Ryan & Golden, LLC**, announced founding partner **Ellen S. Golden** was appointed **Lowndes County State Court judge**. Golden assumed her duties as a full time judge in September.

- > **Hull Barrett** announced that attorney and partner **Neal Dickert** co-authored a chapter in **"Trying Your First Case: A Practitioner's Guide."** Dickert co-authored Chapter 8, which focuses on issues relating to the choice of the witnesses to use, meet-

ing and preparing the witness, preparation and use of a trial notebook, organization of the direct examination of the witnesses, use of documentary evidence and handling the difficult witness.

- > **Robert A. Mullins**, owner of Mullins Law Firm, P.C., in Augusta, published **"12 Monkeys & A Green Jacket,"** inviting readers to explore Southern history, more importantly, the history of Augusta, through one of the Southeast's most historically renowned lakes, Lake Olmstead. This new book is designed to raise awareness on both the currently wasted potential of the lake as well as the amount of respect her rich history warrants. The book is available at Amazon and Barnes & Noble.

- >  **Morris, Manning & Martin, LLP**, announced that founding partner **John G. "Sonny" Morris** received the **2014 Distinguished Alumni Award** from the **Emory University Law School Alumni Association** in September. The award recognizes outstanding alumni who embody the school's values and demonstrate extraordinary achievement in law and service to society.

- > **Fisher & Phillips LLP** announced that it has formed a new **government solutions practice group** to help employers who are faced with a fluid and evolving legislative and regulatory regime at the federal, state and local levels of government. The government solutions practice group is composed of 26 attorneys who are well-versed in the area of government affairs.

- >    
Frederick Southall Hatchett McClure

Georgia Association of Black Women Attorneys (GABWA) announced the recipients of its **2014 Founders' Awards**, presented during the annual Glitter Gala and Auction in June. Individuals honored were: **Paula Frederick**, general counsel, **State Bar of Georgia**; **Noni Ellison Southall**, assistant general counsel, **Turner Broadcasting System, Inc.**; **Judge Glenda Hatchett**; and **Teri Plummer McClure**, general counsel and corporate secretary, **United Parcel Service, Inc.** Frederick received the **Leah Ward Sears Award for Distinction in the Profession**, given for outstanding contribution to the advancement of black women in the legal profession. Southall received the **Barbara A. Harris**

Award for Service to the Community, given for significant impact on the social, political and economic equality of minorities and women. Hatchett received the **Bensonetta Tipton Lane Award for Commitment to the Family**, given for use of professional and personal leadership to strengthen the community through family and child-related programs and initiatives. McClure received the **Zenith Award for Distinction in the Profession (Individual)**, given for achievement of a high level of professional success and extraordinary service to black women and children through both professional and personal leadership. The Founders' Awards were established in 2006 to recognize the accomplishments of women and organizations that embody the mission of GABWA and the legacy of its founders.



> **Diana McKenzie**, a partner at **HunterMaclean's** Savannah office, spoke at the **2014 International Federation of Computer Law Associations** in Antwerp, Belgium, in June. McKenzie's presentation was titled "IT and Contracts: Outsourcing," and focused on what her group has learned about drafting outsourcing contracts with an emphasis on practical strategies, improving vendor performance and decreasing unexpected scope creep.

The firm, along with Junior Achievement of Georgia, was recently honored with the gold "**Award of Excellence**" from the **Academy of Interactive and Visual Arts** in the category of Online Video: Education. The video highlights Junior Achievement's Job Shadow Program, in which HunterMaclean attorneys speak to students about their jobs and encourage them to consider careers in law. The video was selected from more than 6,000 entries received from across the United States and around the world.



Anderson



Sweeney



Zacks



Vayner



Williams

Kilpatrick Townsend & Stockton LLP announced that partner **Yendelela Anderson** was appointed to serve a three-year term on **Families First's Board of Directors** effective July 1. Families First has been delivering empowering solutions in metro-Atlanta

for more than 120 years, including adoption and foster care services which help give every child in Georgia a chance for a permanent home and hopeful future; services that empower working parents and help those facing homelessness achieve self-sufficiency; and supportive counseling and courses for individuals, families and children helping create healthy families and relationships.


Partner **Neal Sweeney** announced the release of the "**2014 Construction Law Update**." The 2014 edition marks his 23rd year as editor of this highly regarded resource on important legal issues impacting the construction industry. Sweeney has more than 30 years of experience in construction law and federal government contracts with a further concentration in major infrastructure and industrial projects, including major PPP transportation projects and innovative clean energy projects. Contributing authors include: partners **Chad Theriot**, **Randall Hafer** and **Frank Bigelis**; of counsel **Edmund Kneisel**; counsel **Charlie Feuss** and **Susan Richardson**; and associate **Daniel Swaja**.

Senior Counsel **David Zacks** announced he recently began offering mediation, alternative dispute resolution and case evaluation services through **Zacks Resolution, LLC**, which is operating out of **Kilpatrick Townsend & Stockton's** Atlanta office. Zacks has served as national chair for the American Cancer Society—a nearly \$1 billion dollar organization which is the largest not-for-profit investor in cancer research and the world's largest volunteer organization. He has defended international companies in bet-the-company cases, and he has served as lead counsel for plaintiffs in more than 100 catastrophic injury and wrongful death cases.


Associates **Sabina Vayner** and **Tiffany Williams** were nominated and accepted into the **Atlanta Intellectual Property Inn of Court**. Established in 2010, the Atlanta IP Inn of Court serves as a forum for advancing professionalism, civility, ethics and legal excellence in the Atlanta IP legal community.





> **Carlock, Copeland & Stair** announced that partner **Heather Miller** was selected as an **inaugural member** of the **Atlanta Beltline 100**. The Atlanta Beltline 100 is comprised of 100 leading young professionals who have an interest in serving as advocates for the Atlanta Beltline in support of the mission of the Atlanta Beltline Partnership. Members are a diverse group of individuals who represent various businesses, organizations, nonprofits, artists, educators, health and wellness professionals, and communities who are interested in the success of the Beltline.


>  Assistant U.S. Attorney **Tiffany M. Mallory** was awarded the **10th Annual Ethics and Professionalism Award** by the **State Bar of Georgia Young Lawyers' Division** and was named to the **2015 Class of Leadership Augusta**.


>  The **National Bar Association** announced that **Gerald Thomas**, a partner at **Morris, Manning & Martin, LLP**, received the organization's **2014 Tax Leadership Award** in July at its 89th annual Convention & Exhibits in Atlanta.

>  **FordHarrison LLP** announced that **Frederick L. Warren**, a partner in the firm's Atlanta office, was elected as a **fellow** of the **College of Labor and Employment Lawyers**. Fellows must have worked in the field of labor and employment law for at least 20 years. Election as a fellow is recognition by one's colleagues of sustained outstanding performance in the profession, exemplifying integrity, dedication and excellence.


>  **James P. Monacell**, a partner in the Atlanta office of **Smith, Gambrell & Russell, LLP**, announced the release of his book, "**Georgia Public Finance Law Handbook**." This book provides the essential legal resource on matters of bonds and public finance in Georgia.

>  **Scott Killingsworth**, a partner in the Atlanta office of **Bryan Cave LLP**, was recently named to **Ethisphere Institute's** shortlist of "**Attorneys Who Matter**" in ethics and compliance for the second consecutive year.

>  **Creed & Gowdy, P.A.**, announced that **Jennifer Shoaf Richardson** was elected as **membership director** for the **Florida Association for Women Lawyers (FAWL)**. Richardson also recently accepted a **New Member Recruitment Award** from FAWL on behalf of the **Jacksonville Women Lawyers Association**, of which she serves as mentoring chair.

>  The **Florida Association of Criminal Defense Lawyers** elected **Richard A. Greenberg** as **secretary** during its 27th annual meeting in St. Petersburg Beach, Fla. Greenberg, partner with Rumberger,

Kirk and Caldwell in Tallahassee, concentrates his practice in the areas of professional responsibility, professional licensure defense and criminal defense and is licensed to practice in Florida and Georgia.



>  The **Brodie Law Group** announced that partner **Ashley Mackin Brodie** was elected **president** of the **Ocmulgee Circuit Bar Association** for 2014-15. Brodie has operated a private practice in Gray since 2008. Brodie's practice areas include criminal law, family law and personal injury. Brodie also serves as the part-time solicitor for both Jones County Probate Court and Monroe County Probate Court.

On the Move

In Atlanta

> The **Law Offices of Sarah Siedentopf, LLC**, a firm focusing on estate planning, elder law, probate and bankruptcy announced its **new location**. The office is now located at 1190 W. Druid Hills Drive, Suite T-90, Atlanta, GA 30329; 404-736-6066; Fax 404-736-6057; www.atlantalegalremedy.com.

> The **Kunnatha Law Firm, P.C.**, announced that **Amit K. Patel** joined the firm as an **associate**. Patel represents clients in personal injury and business litigation matters. He has been practicing law in Atlanta since 2009. The firm is located at 2970 Clairmont Road, Suite 905, Atlanta, GA 30329; 404-633-4200; Fax 404-633-4200; www.kunnathalaw.com.

>   **FordHarrison LLP** announced that **Timothy L. Williams** joined the firm's Atlanta office as **partner** and **Katelyn D. Winslow** joined as an **associate**. Prior to joining FordHarrison, Williams served as general counsel and corporate secretary for Winn-Dixie Stores, Inc. He concentrates his practice on the representation of management in matters related to employment law. Prior to joining FordHarrison, Winslow worked as a tax extern with a large multinational aviation and defense contractor. The firm is located at 271 17th St. NW, Suite 1900, Atlanta, GA 30363; 404-888-3800; Fax 404-888-3863; www.fordharrison.com.



Cook



Polking

> **MendenFreiman LLP** announced that **Allison S. Cook** was promoted to **senior attorney** and **Katherine E. Polking** joined the firm as an **associate**. Cook's legal practice

focuses on general corporate matters, including complex business transactions, commercial contract negotiation, business formation and structuring, intellectual property licensing and protection, employment and incentive compensation. Polking practices in the wills, trusts, estate planning and estate administration group and focuses on drafting estate planning documents, including wills and trusts, as well as assisting clients through the probate process. She was previously employed with Wallace Morrison & Casteel, LLP, and Roger A. Kirschenbaum, P.C. The firm is located at Two Ravinia Drive, Suite 1200, Atlanta, GA 30346; 770-379-1450; Fax 770-379-1455; mendenfreiman.com.



> **Caldwell & Watson, LLP**, announced that **Kasey Libby** joined the firm as **partner**. Libby is an experienced litigator who specializes in estate and trust disputes, including will contests, fiduciary matters, and guardianship and conservatorship actions. The firm is located at Two Ravinia Drive, Suite 1200, Atlanta, GA 30346; 404-843-1956; Fax 404-843-2737; www.cwlaw.org.



Speier



Swift

> **Baker, Donelson, Bearman, Caldwell & Berkowitz LLC** announced that **Ross M. Speier** and **Karli A. Swift** joined the firm as **associates** in the securities and corporate governance practice

group and corporate/mergers and acquisitions group, respectively. Speier focuses his practice on securities transactions, including 1933 Act filings and 1934 Act reporting, mergers and acquisitions, and general corporate matters, with a specific emphasis on real estate investment trusts (REITs). Swift focuses her practice on commercial transactions in the technology and health care industries and mergers and acquisitions. The firm is located at Monarch Plaza, 3414 Peachtree Road NE, Suite 1600, Atlanta, GA 30326; 404-577-6000; Fax 404-221-6501; www.bakerdonelson.com.



Taylor



Steele

> **Chamberlain, Hrdlicka, White, Williams & Aughtry** announced the addition of **Barclay R. Taylor** and **Christopher A. Steele** as **associates** in the firm's Atlanta office. Taylor is a

member of the firm's tax controversy and litigation practice group, and Steele joined the estate planning and administration practice group. The firm is located at 191 Peachtree St. NE, 34th Floor, Atlanta, GA 30303; 404-659-1410; Fax 404-659-1852; www.chamberlainlaw.com.



> **Buckley Brown, P.C.**, announced **Tracy K. Haff** joined the firm's practice as a **partner**. Haff's practice focuses on representing national, regional and Georgia employers in a wide variety of employment law actions, including discrimination and harassment cases, restrictive covenant disputes, and wage and hour law matters as well as constitutionally based employment claims and Section 1983 litigation. The firm is located at 2970 Clairmont Road NE, Suite 1010, Atlanta, GA 30329; 404-633-9230; Fax 404-633-9640; www.buckleybrown.com.




> **Fisher & Phillips LLP** announced that attorney **Lorie (Hutchins) Maring** joined its Atlanta office as **of counsel** and will serve in its employee benefits practice group. Maring has more than 20 years of experience counseling employers on employee benefits issues. She joins Fisher & Phillips from the Atlanta office of McKenna, Long & Aldridge. The firm is located at 1075 Peachtree St. NE, Suite 3500, Atlanta, GA 30309; 404-231-1400; Fax 404-240-4249; www.laborlawyers.com.



> **Hall Booth Smith, P.C.**, announced the addition of **Eric Hoffman** as an **associate** in the Atlanta office. Hoffman joined the long term care and senior housing practice group. Previously, Hoffman served for six years as assistant dean for campus life and director of student conduct at Emory University and spent five years working in the University of Maryland system. The firm is located at 191 Peachtree St. NE, Suite 2900, Atlanta, GA 30303-1775; 404-954-5000; Fax 404-954-5020; www.hallboothsmith.com.

>  **J. Pargen Robertson Jr.**, was appointed as **in-house legal counsel** for the **Georgia World Congress Center Authority (GWCCA)**, the authority which operates the Georgia Dome stadium, the Georgia World Congress Center convention and tradeshow facility, Centennial Olympic Park and the Savannah International Trade & Convention Center. Previously, Robertson was a partner at Owen, Gleaton, Egan, Jones & Sweeney, LLP, in Atlanta. The GWCCA is located at 285 Andrew Young International Blvd. NW, Atlanta, GA 30313; 404-223-4000; www.wgcc.com.


>  **Shelby R. Grubbs** joined **Georgia State University College of Law** as the **director of International Initiatives** in the **Consortium for Negotiation and Conflict Resolution** and will be **executive director** of the **International Arbitration Center** when the law school's new building opens in spring 2015. Under Grubbs' direction, the Atlanta Center for International Arbitration and Mediation will work with the Atlanta International Arbitration Society and other stakeholders to make Atlanta a preferred venue for the resolution of disputes and an international thought leader in dispute resolution. Most recently, he practiced with the firm of Miller & Martin PLLC, specializing in civil litigation and dispute resolution for construction, intellectual property, securities, product liability, business and insurance cases. The College of Law is located at 140 Decatur St., Atlanta, GA 30303; 404-413-9000; www.law.gsu.edu.

>    **Kilpatrick Townsend & Stockton LLP** announced the addition of **Heather Preston** to the Atlanta office as **partner** in the corporate tax team and **Tabatha Ogden** and **Rohan Kale** as **associates** on the labor and employment team in the litigation department and the software and electrical engineering team in the firm's intellectual property department, respectively. The firm is located at 1100 Peachtree St. NE, Suite 2800, Atlanta, GA 30309; 404-815-6500; Fax 404-815-6555; www.kilpatricktownsend.com.

>   **Taylor English Duma LLP** announced that **Michael A. Cicero** joined the Atlanta firm's intellectual property practice group as **of counsel** and **Charles K. McKnight Jr.** joined the firm as a **member** in its litigation and dispute resolution practice group. Cicero brings a combined 25 years of experience in patent, trademark and copyright law in private practice. McKnight brings with him more than 25 years of experience in representing Fortune 500 companies, privately held companies and individuals in business disputes and litigation, including domestic and international arbitration and mediation. He was previously with Nations, Toman & McKnight LLP. The firm is located at 1600 Parkwood Circle, Suite 400, Atlanta, GA 30339; 770-434-6868; Fax 770-434-7376; www.taylorengh.com.

>  **Burr & Forman LLP** announced the addition of **Thomas D. Allen** as **partner**. Allen joined the firm's tort trial and insurance practice section bringing with him more than 25 years of experience in complex litigation, representing manufacturers and other clients in matters related to product liability, toxic exposure, environmental contamination, and construction accident and defect. The firm is located at 171 17th St. NW, Suite 1100, Atlanta, GA 30363; 404-815-3000; Fax 404-817-3244; www.burr.com.


>   **Nelson Mullins Riley & Scarborough LLP** announced that **Michael Ward** joined the firm as **of counsel** and **Sean Kirwin** joined as an **associate**. Ward's primary representation includes that of property owners, developers, contractors, lenders, equity providers, public entities, and other related stakeholders. He recently headed up the real estate practice group for the Atlanta office of an international law firm. Kirwin practices in the areas of product liability litigation, pharmaceutical and medical device litigation, and commercial litigation. The firm is located at 201 17th St. NW, Suite 1700, Atlanta, GA 30363; 404-322-6000; Fax 404-322-6050; www.nelsonmullins.com.

- >  **Morris, Manning & Martin, LLP**, added **Amie Singer Piccola** as a **partner**. Singer Piccola is experienced in corporate finance and focuses on transactions for growing companies in the areas of mergers and acquisitions, private equity, venture capital and debt financings. The firm is located at 1600 Atlanta Financial Center, 3343 Peachtree Road NE, Atlanta, GA 30326; 404-233-7000; Fax 404-365-9532; www.mmmlaw.com.

- >   **Carlton Fields Jorden Burt** announced the addition of two **associates** to its Atlanta office: **Meredith Whigham Caiafa** and **Kevin J. O'Brien**. Caiafa is a member of the firm's financial services and insurance litigation practice group and O'Brien is a member of the business litigation section of the firm's national trial practice group. The firm is located at 1201 W. Peachtree St. NW, Suite 3000, Atlanta, GA 30309-3455; 404-815-3400; Fax 404-815-3415; www.cfjblaw.com.


- >  **Stites & Harbison, PLLC**, announced the addition of **David W. Adams** to its Atlanta office. Adams joined the firm as a **member** in the real estate and banking and finance service groups. Adams' experience includes hundreds of new credit transactions, more than 70 completed mergers and acquisitions, financial institution regulatory compliance, equity and debt offerings, and federal securities laws registration and exemptions. The firm is located at 303 Peachtree St. NE, 2800 SunTrust Plaza, Atlanta, GA 30308; 404-739-8800; Fax 404-739-8870; www.stites.com.

- >  **Merchant & Gould** announced that **Clark A.D. Wilson** joined its Atlanta office as **senior counsel**. Wilson brings more than 10 years of patent and trademark law experience to Merchant & Gould, including in-house at a medical device company. The firm is located at 191 Peachtree St. NE, Suite 4300, Atlanta, GA 30303; 404-954-5100; Fax 404-954-5099; www.merchantgould.com.

- >  **Andy Clark** announced the launch of **Andy Clark Law, LLC**. Clark, a former associate at Greenberg Traurig, LLP, and legal research and writing professor at Tulane Law School, focuses his practice on civil and criminal appellate litigation. The firm is located at 191 Peachtree St.

NE, Suite 3300, Atlanta, GA 30303; 404-736-3635; www.andyclarklaw.com.



In Columbus

- >  **Hatcher Stubbs** announced that **LaRae D. Moore** joined the litigation group after serving as a senior assistant district attorney in the Chattahoochee Judicial Circuit, specializing in the prosecution of serious violent felonies in Superior Court from trial through appeal and supervising a team of six lawyers. During her 14-year tenure as an ADA, Moore also served in the Dougherty Judicial Circuit and the Tift Judicial Circuit. She also served as assistant federal defender for the U.S. District Court, Middle District of Georgia. The firm is located at 233 12th St. Suite 500, Columbus, GA 31901; 706-324-0201; Fax 706-322-7747; hatcherstubbs.com.

In Duluth

- > **Gary Martin Hays & Associates, P.C.**, announced the addition of **Will Cheves** as a litigation **associate**. Cheves handles automobile personal injury litigation in the metro-Atlanta area and around the state. Prior to joining the firm, Cheves worked as staff counsel for the nation's two largest automobile insurance companies. The firm is located at 3098 Breckinridge Blvd., Duluth, GA 30096; 770-934-8000; Fax 770-934-1631; www.garymartinhays.com.

In Macon

- >   **Spivey, Pope, Green & Greer** announced the addition of two new **partners** with the Macon office: **John B. Wilkerson Jr.** and **Matthew R. Hall**. Wilkerson has extensive experience with commercial real estate transactions, real estate taxes and public and affordable housing. He has maintained his expertise through service with the Department of Housing and Urban Development, Region IV. Hall represents clients ranging from small business owners to large corporations. His practice includes providing advice to clients in complex business transactions and representing clients in various business litigation matters. The firm is located at 438 Cotton Ave., Macon, GA 31201; 478-254-8866; Fax 478-254-8980; www.spgglaw.com.

- > **Gautreaux, Adams & Sizemore, LLC**, announced that **Richard Lamar Sizemore** joined the firm as a **partner**. He continues to represent plaintiffs in cases involving catastrophic injury and wrongful death medical malpractice product liability

trucking/automobile collisions and insurance subrogation. The firm is located at 502 Mulberry St., Macon, GA 31201; 478-254-4759; Fax 478-254-4876; www.thegalawfirm.com.

In Smyrna

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The **Patel Burkhalter Law Group**, formerly MJ Patel Law Group, announced the **promotion** of new equity partner, **Brian Burkhalter**. Burkhalter joined the firm in 2011 to provide legal counsel and litigation services for entrepreneurs in the construction, commercial interests, insurance and transportation industries. The firm is located at 4045 Orchard Road, Building 400, Smyrna, GA 30080; 678-466-7878; Fax 678-547-3119; www.patelburkhalter.com.

In Tifton

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Hall Booth Smith announced the addition of **associate John David Dean** to the Tifton office. Dean, who has a background in insurance defense, focuses on professional negligence/medical malpractice, transportation, product liability and retail liability matters. The firm is located at 1564 King Road, Tifton, GA 31793; 229-382-0515; Fax 229-382-1676; www.hallboothsmith.com.

In Raleigh, N.C.

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Nelson Mullins Riley & Scarborough LLP announced that **Donna Rascoe** joined the Raleigh office as a **partner** where she focuses her practice on education law. A former teacher and school administrator, Rascoe advises and litigates on behalf of public and private schools in a variety of legal matters. She also handles employment and other civil litigation matters for school districts and other public entities. This firm is located at GlenLake One, Suite 200, 4140 Parklake Ave., Raleigh, NC 27612; 919-877-3800; Fax 919-877-3799; www.nelsonmullins.com.

In Nashville, Tenn.

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Bone McAllester Norton PLLC, announced the addition of attorney **Mandy Strickland Floyd** as a **member**. She focuses her practice in litigation and dispute resolution, intellectual property and labor and employment law. The firm is located at Nashville City Center, 511 Union St., Suite 1600, Nashville, TN 37219; 615-238-6300; www.bonelaw.com.

WANT TO SEE YOUR NAME IN PRINT?

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 Lauren Foster, 404-527-8736 or laurenf@gabar.org.

Georgia Attorney/Pilot Leads Air Rescue Mission for Ebola Patient by Linton Johnson

A Georgia lawyer has received international attention for his critical role in the extraordinary transport from Africa to the United States of an American missionary diagnosed with the Ebola virus.

Randall H. Davis, vice president and general counsel of Cartersville-based Phoenix Air Group Inc. and a member of the Board of Governors of the State Bar of Georgia, was one of three pilots who captained the mission to evacuate Nancy Writebol from Monrovia, Liberia, and fly her back to Atlanta for treatment at Emory University Hospital.

Davis said Phoenix Air's Gulfstream G-III jet departed Cartersville on Aug. 3 for the flight to Lajes Air Base in the Azores Islands in the Atlantic Ocean west of Portugal, then on to Monrovia. The following day, the team flew from Monrovia to Lajes Air Base to Bangor, Maine, and to Dobbins Air Reserve Base in Marietta, where a specially equipped ambulance was waiting to take Writebol to Emory.

It was the second such mission for Phoenix Air. Two days earlier, the company had successfully brought Dr. Kent Brantly, who was also infected with Ebola, from Liberia to Atlanta to begin his treatment.

"Our team has done very well on these complex flight/medevac operations," Davis said. "I remain in awe of what Phoenix Air dispatchers and our flight and medical crews can do in a short period of time. I am grateful to be able to leave my desk and help out from time to time on some of these unique missions."

Davis told ABC News that he was not nervous about his proximity to the contagious patient, given the special isolation precautions that had been taken. He said his participation in the rescue of Writebol, a missionary with the SIM USA charity based in Charlotte, N.C., was an honor.

"I think everybody everywhere would agree that you'd like to try to help people who are so selfless," he said in the ABC interview. "In any job when you can help some people first hand and see what they have done and even meet some of the family members, it certainly is a gratifying experience."



Randy Davis in the cockpit of the Phoenix Air Gulfstream III.

Davis is a graduate of Emory University School of Law and was admitted to the State Bar in 1979. In addition to aviation law and corporate counsel, Davis is a member of the State Bar's sections on animal law, consumer law, general practice and trial law, senior law and tort and insurance practice.

State Bar President Patrise M. Perkins-Hooker said, "All Georgia lawyers can draw inspiration from our colleague's voluntary and heroic leadership in such a highly sensitive rescue mission. Through efforts like this, outside the practice of law, Randy Davis continues to fulfill his duty as an attorney to serve others and brings honor to the legal profession in our state."

Phoenix Air provides a variety of aviation services to its clients, ranging from air charter to air ambulance to air cargo to military training. For the journey to and from Liberia, Davis said he and the two co-pilots took turns flying and resting, a routine practice for long flights.

"When we landed at Dobbins, our special passenger went into the ambulance," he said. "We wished her a speedy recovery, and we repositioned to home base in the heart of Bartow County."

Davis concluded, "All went well in Liberia, where I took a photo of our Gulfstream, which, I might add, is a fine Chatham County product. It was sitting pretty on the ramp in Monrovia and ready to receive its special passenger. We now call this our 'Angel Airplane.'"

Hot to Pot

by Paula J. Frederick

“**T**hat was my old college roommate,” you say, hanging up the telephone. “He runs a medical marijuana manufacturing plant in Colorado, and he’s interested in expanding to Georgia if our Legislature legalizes use of medical marijuana. He wants to hire us for the legal work.”

“I can’t believe Georgia is seriously considering legalizing the use of medical marijuana,” your partner marvels. “But until they do, you can’t give your roomie any legal advice! Marijuana use is still illegal here, so you’d be helping a client engage in criminal conduct.”

“I forgot about that,” you admit. “But there’s got to be an exception—otherwise, how are the folks in Colorado getting around the fact that federal law still prohibits the sale, use and possession of marijuana?”

What are a lawyer’s obligations when advising a client about conduct that is illegal in one or more of the relevant jurisdictions?

Georgia Rule of Professional Conduct 1.2(d) prohibits a lawyer from counseling or assisting a client in conduct that the lawyer knows is criminal or fraudulent. The Rule does allow a lawyer to “discuss the legal consequences of any proposed course of conduct with a client.” It also allows a lawyer to “counsel or assist a client to make a good faith effort to determine the




validity, scope, meaning or application of the law.”

But does advising your former roommate about a proposed medical marijuana business in Georgia fall within either exception? It’s hard to imagine that you will be able to limit your advice in the way that the exceptions require.

On the other hand, there is an obvious public policy interest in allowing lawyers to advise clients about this issue even before any change in the law.

Other states confronting the conflict between state law, federal law and the rules of professional conduct have issued advisory opinions or even amendments to their rules of professional conduct. The Colorado Supreme Court recently adopted a new Comment 1 to their Rule 1.2 that specifically allows lawyers to assist clients with legal issues from “marijuana-related activities.”¹ An advisory opinion from Arizona finds no value in reading Rule 1.2 so that

it restricts the ability of lawyers to give advice about marijuana law, because doing so would “deprive clients of the very legal advice and assistance that is needed to engage in the conduct that the state law expressly permits.”²

You can keep up with the latest news from under the Gold Dome by visiting the webpage for the Bar’s Legislative Program, which is updated constantly during the session. Stay tuned for more on Georgia’s consideration of medical marijuana. 



Paula J. Frederick is the general counsel for the State Bar of Georgia and can be reached at paulaf@gabar.org.

Endnotes

1. Colorado Supreme Court Rule Change 2014(05), issued March 24, 2014.
2. State Bar of Arizona Ethics Opinion 11-01 (February, 2011).

***“He who is his own lawyer
has a fool for a client.”***



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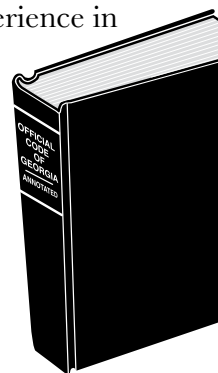
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Attorney Discipline Summaries

(June 27, 2014 through Aug. 29, 2014)

by Connie P. Henry

Disbarments/Voluntary Surrenders

Ronald Jin-Man Pak

Augusta, Ga.

Admitted to Bar 1992

On June 30, 2014, the Supreme Court of Georgia accepted the Petition for voluntary surrender of license of attorney Ronald Jin-Man Pak (State Bar No. 559455). Pak admits that he is not mentally competent to practice law. In addition, he is currently being detained in the Columbia County Detention Center indicted on a charge of attempted armed robbery.

Barbara Wright Willis

Poulan, Ga.

Admitted to Bar 1991

On June 30, 2014, the Supreme Court of Georgia disbarred attorney Barbara Wright Willis (State Bar No. 777675). The following facts are admitted by default; Willis was appointed as successor administrator of two estates but converted \$36,550.44 in estate funds to her own use. She knowingly filed false accountings with the Worth County Probate Court, and admitted at a show cause hearing that she removed the funds from the estates. In aggravation of discipline, Willis attempted to deceive the court and the parties with her accountings, had a selfish and dishonest motive in converting the funds and failed to make restitution to the estates.

William V. Hall Jr.

Decatur, Ga.

Admitted to Bar 1964

On June 30, 2014, the Supreme Court of Georgia disbarred attorney William V. Hall Jr. (State Bar No.

319500). Hall entered a guilty plea to one misdemeanor count of sexual battery and public indecency, which arose out of an incident involving a client. He was sentenced under the First Offender Act to 24 months probation. Aggravating factors include that Hall committed his illegal acts against a client and that he acted with a selfish motive. Mitigating factors include that Hall had no prior discipline and Hall's prior distinguished reputation.

Reinstatement Granted


Fred T. Hanzelik

Chattanooga, Tenn.

Admitted to Bar 1976

On June 30, 2014, the Supreme Court of Georgia determined that attorney Fred T. Hanzelik (State Bar No. 323950) had complied with all of the conditions for reinstatement following his suspension, and reinstated him to the practice of law in Georgia.

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 June 27, 2014, three lawyers have been suspended for violating this Rule and two have been reinstated. 



Connie P. Henry is the clerk of the State Disciplinary Board and can be reached at connieh@gabar.org.



Let CAP Lend a Helping Hand!

What is the Consumer Assistance Program?

The State Bar's Consumer Assistance Program (CAP) helps people with questions or problems with Georgia lawyers. When someone contacts the State Bar with a problem or complaint, a member of the Consumer Assistance Program staff responds to the inquiry and attempts to identify the problem. Most problems can be resolved by providing information or referrals, calling the lawyer, or suggesting various ways of dealing with the dispute. A grievance form is sent out when serious unethical conduct may be involved.

Does CAP assist attorneys as well as consumers?

Yes. CAP helps lawyers by providing courtesy calls, faxes or letters when dissatisfied clients contact the program.

Most problems with clients can be prevented by returning calls promptly, keeping clients informed about the status of their cases, explaining billing practices, meeting deadlines, and managing a caseload efficiently.

What doesn't CAP do?

CAP deals with problems that can be solved without resorting to the disciplinary procedures of the State Bar, that is, filing a grievance. CAP does not get involved when someone alleges serious unethical conduct. CAP cannot give legal advice, but can provide referrals that meet the consumer's need utilizing its extensive lists of government agencies, referral services and nonprofit organizations.

Are CAP calls confidential?

Everything CAP deals with is confidential, except:

1. Where the information clearly shows that the lawyer has misappropriated funds, engaged in criminal conduct, or intends to engage in criminal conduct in the future;
2. Where the caller files a grievance and the lawyer involved wants CAP to share some information with the Office of the General Counsel; or
3. A court compels the production of the information.

The purpose of the confidentiality rule is to encourage open communication and resolve conflicts informally.

**Call the State Bar's Consumer Assistance Program
at 404-527-8759 or 800-334-6865 or visit www.gabar.org/cap.**

How to Stop Reinventing the Wheel in Your Law Practice

by Natalie Robinson Kelly

A Wikipedia definition of the phrase “reinvent the wheel” is “to redo work unnecessarily when it has already been done satisfactorily; to rethink an already working system, technique, etc., in a needless attempt to improve it.” The example proffered after the definition is “Just use the database as it is and don’t try to reinvent the wheel.” (http://en.wiktionary.org/wiki/reinvent_the_wheel) The legal profession, and more particularly, law office administration and operation, lends itself to many areas where the firm or lawyer will attempt to “reinvent the wheel.” Following is an overview of the areas you can examine to determine if you are working needlessly when a better solution exists.

Client Intake

The potential client comes into the office or locates your online presence and fills out contact information and details about a case. Your firm dutifully captures the name, address, email, next of kin, emergency contact, SSN, etc. This information is used over and over in the life cycle of a client’s matter. Some firms have mastered making the intake process as painless as possible for potential clients by using the information



to create and work their new client’s file. Consider using automated intake forms or some of the programs discussed below so that you only have to enter information into your database once. Also, if you are using a manual intake systems—think paper forms on a clipboard in your lobby area—then be sure that where you end up putting the information on your computer can be accessed by other programs or processing functions so that you are not re-entering the data over and over again.

Case/Practice Management

The efficient practice will often use practice management software to track contact information and case details. This is a smart move. These programs, whether

employed in their traditional format or via the newer cloud formats, take reusing information to a beneficial extreme. End users typically don't have to re-type a contact name or address unless making changes to the information. It's always nice to be able to create file folder labels with pertinent information already entered elsewhere. This can work even if you are still using paper files as well. Practice managers of the traditional ilk still pack a lot of power, and the online cloud managers seem to grow stronger and stronger each month. Check out programs like ABACUS Law, Amicus Attorney, Practice Master and TimeMatters for traditional software; Clio, My Case and RocketMatter if you are in a solo or small firm practice. For larger firms, consider ProLaw, Perfect Practice, TrialWorks, Elite and Aderant. But be sure to review the market for other systems as this area of legal software tends to grow regularly with newcomers, and many are very competitive.

File Management

Keeping file information is generally easier within practice management software. But if your firm has resisted using this "wheel," you might be going around and around about finding files and keeping up with information in them. Setting up file management policies and procedures that include the firm's policies for file retention and even document storage can help keep a good system working efficiently. Contact our office for sample policies if you don't already have them. Consider putting your policies in your client representation agreements and engagement letters as appropriate. Often, the systems being used for online file management have a very good hierarchy for file creation and navigation; you shouldn't resist using it. The file explore and management systems native to computers (Window, Mac and even OpenSource platforms) have already been organized into structures that can be helpful for

storing data. Use them, and if you're not using them as intended, make sure your reason for diverging are valid ones. It is not uncommon to learn that the thing you are trying to get a system to do can be easily done. This scenario makes a very strong argument for getting training on any of your systems, too.

Time and Billing

If you despise time tracking and billing, rest assured that you are not alone. But re-creating bills from scratch after a matter has reached resolution is quite painful, not to mention highly inefficient. Using time and billing programs to create time entries that in turn become client bills is virtually a must-have for your firm. You should not attempt to create bills in a word processor or a spreadsheet program when there are very nice time and billing "wheels" out there. Many are designed just for lawyers: Timeslips, TABS3, EasySoft and PCLaw. Some of them even get their data directly from the practice management software systems that were discussed earlier. In fact, the newer cloud-based practice managers come with time and billing built right in, a trait shared by many of the large-firm practice management systems. This creates a great one-stop shop for law offices.


After securing a time and billing program, don't forget to look at when, where and how you track time in order to cut down on duplicative efforts with newer remote time entry tools via apps and online portals. Multiple time tracking tools are also available for you to utilize.

Document Assembly

Beyond the basics of practice management is the actual work on a client file. This work can often be very repetitive. So instead of constantly copying and pasting, which definitely is a working system, you could consider taking advantage of document assembly

programs. Some come in highly-respected practice management systems, and are even available in the cloud, e.g., Rapiddocs and XpressDox. But programs like Pathagorus and TheFormTool have made a big splash alongside established programs like HotDocs and D3—Dynamic Document Drafting. Again, the software market constantly changes so keep an eye out for other entrants.

These document management programs allow end users to create information queries so when they want a document to be generated quickly, the queries are answered. The responses are typically saved into a file or data set for a particular client or matter, and this information is reused for all subsequent documents being generated. The drafting time of items is shortened dramatically in most cases, and another "wheel" is left alone.

Looking for inefficient policies and procedures with an eye toward solving them is a worthwhile undertaking for any practitioner. No one wants to work hard at trying to make things more efficient and productive to later be met with "we already do that" or "did you know this already does that?" If you find you need the services of the Law Practice Management Program to help you keep from "reinventing the wheel," call or email to request our low-cost, confidential consulting services. Regardless of how you attack inefficiencies in your practice, don't forget the importance of recording the new and improved "wheels" in an updated policies and procedures manual. (And if you don't have one of those wheels yet either, then you can find a sample in our Law Practice Management Program Resource Library.) 



Natalie Robinson Kelly is the director of the State Bar of Georgia's Law Practice Management Program and can be reached at nataliek@gabar.org.

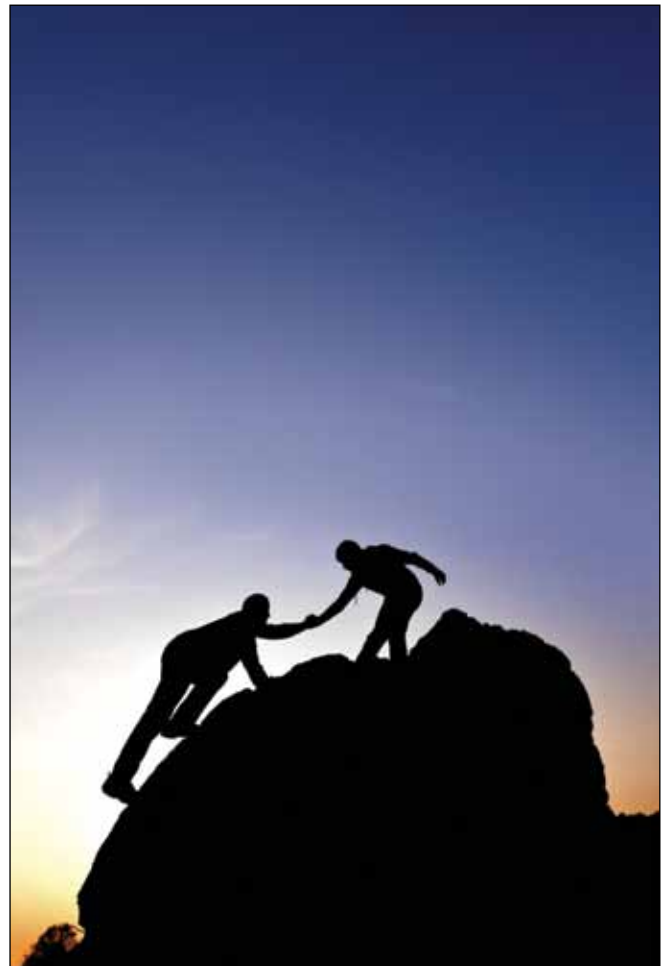
A Challenge to State Bar Sections

by Derrick W. Stanley

On July 22, section leaders met at the Bar Center in Atlanta for a partial day of training and education on their roles and responsibilities as leaders of their respective groups. The time was split between two programs: Section Leaders' Training and Committee and Section Chair Orientation.

The Section Leaders' Training program covered topics important to the daily operations of the section. Manuals were distributed to the attendees that cover topics from how to request reimbursement checks to various Bar policies that govern sections. Some "do's and don'ts" were also addressed to ensure that sections remain compliant with their bylaws and expectations of the Bar.

ICLE Executive Director Steve Harper, along with Director of Programs Doug Ashworth presented a program outlining the relationship of the Bar with ICLE. Part of this agreement allows sections to conduct four Lunch and Learn Programs a year under the sponsorship of ICLE. These programs allow sections the opportunity to have networking events and educational programs based on current topics or rulings within the area of practice. Many sections currently



take advantage of this relationship to convey "hot topics" and important information that benefits section members.

Ashworth also covered a list of benefits and features offered by ICLE to allow sections to conduct longer programs and institutes. This relationship allows sections to create relevant programs from Nuts and Bolts to advanced topics and institutes. The program chairs can guide the content while ICLE administers the program logistics from planning to registration. While this process is geared toward longer programs and is more intensive, it does allow sections to guide content that meets their members' needs. The result of this relationship is some of the best programming available to Georgia attorneys.

After the training program, section leaders joined committee chairs for lunch and a program created by Bar President Patrise M. Perkins-Hooker: Committee and Section Chair Orientation. Perkins-Hooker gave an overview of the Bar and member benefits, and then reviewed programs that she will focus on during her term as president. They include:

- promoting pro bono and access to justice for indigent and marginally employed citizens;
- launching the iCivics program in middle and high schools in Georgia; and
- increasing the awareness and participation of our members in the State Bar's activities.

The first and last initiative is where Perkins-Hooker feels sections can excel and demonstrate the purposes of the Bar. She challenged the leaders in the room to promote integration of professional networking and mentoring within sections and committees through:

- Community Projects;
- Joint CLE Programs and Networking Events; and

- Developing or Increasing Pro Bono Service.

These goals can be achieved by:

- reviewing/planning of section events;
- contacting other sections with similar goals;
- planning section/joint section events, programs, etc.;
- encouraging mentoring and engagement of junior section members; and
- providing an update on events/programs to the Sections Engagement Committee by Dec. 1, 2014, and May 1, 2015.

The incentives for reaching these goals are:


- recognition in the *Georgia Bar Journal*;
- awards for sections;
- increased membership; and
- increased goodwill in our society for lawyers.

Perkins-Hooker has created a Sections Engagement Committee to assist the section leaders and section liaison with support and insight. The committee, with members Harold Franklin Jr., King & Spalding, LLP; Lyn Espy-Williams, Cozen O'Connor; and Joy Lampley-Fortson, U.S. Department of Homeland Security, has formulated a game plan to engage sections to accept the challenge.

In the upcoming issues of the *Georgia Bar Journal*, the success-

ful programs and projects of sections and their leadership will be highlighted in Section News. This showcase will demonstrate how beneficial sections are and what good they are doing for the Bar and the community as a whole. New and existing efforts will be covered. If you have a section-sponsored program you would like highlighted, please contact Derrick Stanley at derricks@gabar.org.

The good efforts of the sections will be rewarded at the Annual Meeting of the State Bar with the presentation of the Section of the Year Award and Awards of Achievement. These awards will be given to those sections that advance the goals of the section and purpose of the Bar. The recipients will also be listed in the August 2015 issue of the magazine. The Annual Meeting will be June 18 - 21, 2015, at the Evergreen Conference Center at Stone Mountain Park.

Sections continually hold programs that benefit their members and assist organizations and individuals who are in need. From CLEs to pro bono to charitable organizations, sections represent the Bar and will demonstrate how they have accepted the challenge. 



Derrick W. Stanley is the section liaison for the State Bar of Georgia and can be reached at derricks@gabar.org.

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Of Things Past and Things to Come

by Sheila Baldwin

In December of 1999, while most of us were busy planning for the Millennium bug (aka Y2K), Fastcase, Inc., was launching their legal research company. As of this year, Fastcase has been providing legal research to law firms and bar associations for 15 years. That may surprise some who are just becoming familiar with this member benefit. The Jan. 16 blog on the company website displays an infographic with the following stats: partnered with 25 state bar associations; subscribed to by more than 600,000 out of the over 1.1 million lawyers in the United States; used to conduct more than 39 million searches which resulted in more than 9 million cases printed and 68 documents viewed (see fig. 1). These successes can be attributed to the company's dedication to innovation and keeping to the mission of smarter and faster. Groundbreaking improvements roll out regularly that save time and make searching even easier.

Never ones to rest on their laurels, the developers at Fastcase have been busy in 2014. Acquaint yourself with some of the most recent upgrades, all free of charge, listed here in no order of importance.

Printing Queue and Batch Printing options have expanded. It's now possible to save an unlimited number of documents to your queue. Batch Print allows creation of a zip file of up to 500 separate files (all properly labeled) or a single, combined file which can be printed or saved with one click.

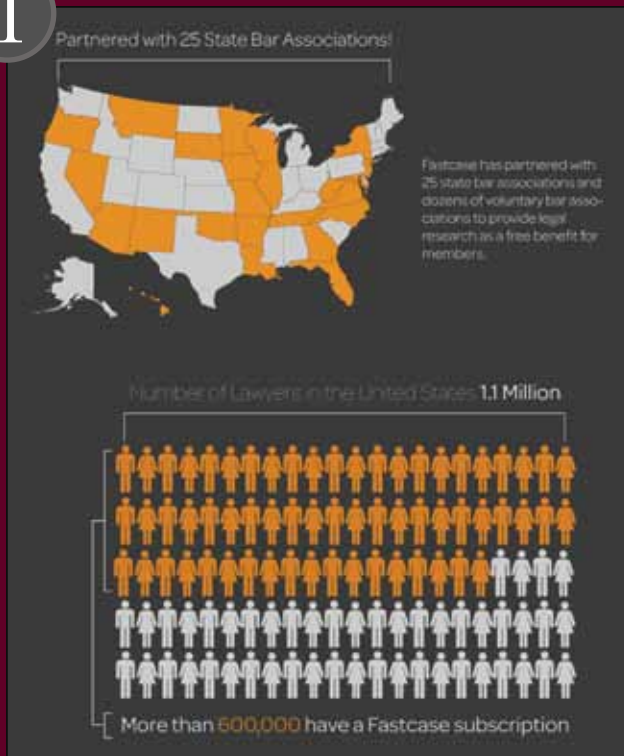
The 2013 ABA Legal Technology Survey Report named Fastcase as the most popular legal app, beating out competitors Westlaw and Lexis by a long shot (see fig. 2). Not to lose ground, the entire family of mobile apps will be getting an overhaul to take advantage of the higher-resolution "Retina" display on newer devices and some new features will be added. The new iOS7 app should take care of any bugs that you may have experienced recently as well. Follow Fastcase on Twitter or Facebook to stay up-to-date on this valuable member benefit.

Fastcase's statute collection on the app is now complete with the U.S. Code and all 50 states' statutes. Make sure to take advantage of the mobile sync option so you can save documents from your tablet or phone to your desktop to view once you are back at the office.

The addition of the Heinonline law reviews integrated into the Fastcase content brought recognition from the American Law Libraries as the New Product of the Year for 2014.

Georgia attorneys have always enjoyed access to law reviews as well as the *Georgia Bar Journal*; now it is possible to view more reviews through Heinonline, although a subscription is required for full viewing.

1



2



3




Fastcase training classes are offered four times a month at the State Bar of Georgia in Atlanta for Bar members and their staff. Training is available at other locations and in various formats and will be listed on the calendar at www.gabar.org. Please call 404-526-8618 to request onsite classes for local and specialty bar associations.

There's a feature built into Fastcase not a lot of people know about. Where you would normally enter in keywords to perform a search, you can actually cut and paste a portion of a brief or an opinion and extract the cases referenced by the text. This is a real time saver rather than hand typing all those citations. The Bad Law Bot will even flag cases with negative treatment history.

Finally, my personal favorite Fastcase tool is the live chat feature. It works just like an instant-messaging program and allows you to get personalized help while multi-tasking at the same

time. What's more, Fastcase customer support associates can even send you links to search results, cases and more via Live Chat, making it one of the most efficient ways to get assistance. To access Live Chat, just select Live Help from the Help menu at the top of the screen. A Live Chat window will open on your screen. Here you can type in your question and wait for a Fastcase customer support associate to respond (see fig 3.) An email with a transcript of your chat is available by choosing this option when you close your session. Live Chat is available from

8 a.m. to 8 p.m., E.T., Monday-Friday, excluding holidays.

I hope that this article will provide inspiration on how you can make the best use of this member benefit. As always, contact me at sheilab@gabar.org or 404-526-8618 for Fastcase help, or call Fastcase at 866-773-2782. 



Sheila Baldwin is the member benefits coordinator of the State Bar of Georgia and can be reached at sheilab@gabar.org.

He, She, They:

Strategies to Incorporate Gender-Inclusive Writing

by Karen J. Sneddon and David Hricik

Good legal writers use language to include and engage readers, not distance them. To that end, writers need to be conscious of the use of gender-neutral, also known as gender-inclusive and nonsexist, language. This installment of “Writing Matters” shares some strategies on how to incorporate gender-inclusive language.

Avoid Masculine Generics and Feminine Generics

The term masculine generic refers to the use of “man,” “men” and “he” as a generic term that includes both men and women. Studies reveal, however, that when masculine generics are used, the audience—whether listeners or readers—conjured only images of men. Similarly, use of feminine generics—using “woman,” “women” and “she” to refer to both men and women—conjured only images of women. Consequently, a writer intending to refer to both men and women should use an inclusive generic.

- *Gendered language*: The use of language is one of *mankind’s* defining characteristics.
- *Gender-inclusive language*: The use of language is one of *humanity’s* defining characteristics.



Use Plural Nouns Rather than Singular Nouns

Good writers can use *he or she* or *his or her* as gender-inclusive language; it avoids using masculine generics or feminine generics. On occasion, the use of *he or she* and *his or her* may prove cumbersome. In those instances, the writer may decide to use a plural noun rather

than a singular noun and then use the non-gendered *theirs*.

- **Gendered language:** A lawyer must be a zealous advocate for *his* client.
- **Gender-inclusive language:**
 - A lawyer must be a zealous advocate for *his or her* client.
 - Lawyers must be zealous advocates for *their* clients.

Using singular nouns and plural pronouns is, of course, improper grammar. Thus, the sentence can't be written as: A lawyer must be a zealous advocate for *their* clients. That, however, is a common mistake made trying to avoid "he" or "she" or "he or she."

Repeat the Noun and Skip the Gendered Pronoun

Pronouns are substitutes for nouns. Pronouns are often used to avoid repeating nouns. Repeating the noun, however, can be a technique to incorporate gender-inclusive language:

- **Gendered language:** A lawyer should ensure that client files are secured in *his* office.
- **Gender-inclusive language:** A lawyer should ensure that client files are secured in *the lawyer's* office.

Replace *His* or *Her* With *The* or *A*

His and *her* are used to indicate possession, but sometimes showing possession isn't central to the meaning of the sentence. In those instances, *his* and *her* can be replaced with *the* or *a*, as follows:

- **Gendered language:** The police officer must inform the suspect of *his* right to have an attorney present during the interrogation.
- **Gender-inclusive language:** The police officer must inform the suspect of *the* right to have an

attorney present during the interrogation.

Use the Passive Voice

In general, the active voice is the best choice. Active constructions are stronger and more memorable. On occasion, however, using active voice can trigger use of gendered language. Using passive voice can be an additional strategy to incorporate gender-inclusive language:

- **Gendered language:** A lawyer must timely file *his* notice of appeal.
- **Gender-inclusive language:** The notice of appeal must be timely filed.


Consistently Use Current Gender-Inclusive Terms

The reasonable man has become the reasonable person. Workman's Compensation has become Workers' Compensation. The policeman is the police officer. The chairman is the chair. And so forth.

Despite updating language to reflect gender-inclusive terms and remove antiquated language, some gendered language remains. Yet, lawyers are immersed in older sources and may unintentionally pick up some outdated language. Who uses the term "aviatrix" or "authoress" today? It's also time to purge uses of executrix, testatrix and murderess. Gendered distinctions of

this source are not relevant today. Be careful outdated descriptors don't resurface in your writing!

Conclusion

Some may say "this is political correctness run amok." Perhaps, and perhaps not. What should be paramount to a lawyer is considering his (or her!) audience might not share the same view, and might be less persuaded or informed by gendered language. Likewise, referring to gender is, of course, appropriate when writing about a particular person. But, in general, gender-inclusive language is the appropriate choice. We hope these suggestions help you promote reader engagement with your writing. 



Karen J. Sneddon is a professor of law at Mercer University School of Law.



David Hricik is a professor at Mercer University School of Law who has written several books and more than a dozen articles. The Legal Writing Program at Mercer continues to be recognized as one of the nation's top legal writing programs.

Try It Problems:

Put these suggestions to use by revising the following sentences.

1. A bar applicant may submit her fingerprints electronically.
2. The judge may ask to speak with the attorneys in his chambers.
3. The bylaws give the chairman broad authority to conduct the shareholders meeting.

Sample Revisions:

There are numerous ways to revise the sentences. Below are some sample revisions.

1. Fingerprints may be submitted electronically by bar applicants.
2. The judge may ask to speak with the attorneys in the judge's chambers.
3. The bylaws give the chair broad authority to conduct the shareholders meeting.

Orienting Incoming Georgia Law Students to Professionalism

by Avarita L. Hanson

The State Bar's Committee on Professionalism and the Chief Justice's Commission on Professionalism continued their tradition of orienting incoming students to professionalism at all of Georgia's law schools. The professionalism orientations always include an inspiring message from a keynote speaker followed by small group discussions of hypotheticals on ethical and professionalism issues with students, volunteer attorneys, judges and law faculty. This year's programs successfully engaged students, many who found the professionalism dialogues the most memorable part of their law school orientation period.

Of particular note is that this year's keynote speakers stressed the importance of one's reputation to a professional image.¹ At Mercer, Hon. Philip T. Raymond III, Superior Court, Macon Judicial Circuit, asked the students to remember just two points about their orientation to professionalism. First, as Raymond advised, "professionalism is not about how you act; it is about who you are." Second, he noted the mere fact that a large number of attorneys came to Mercer to serve as group discussion leaders showed how important they considered professionalism. These programs now have an intergenerational impact. One group leader at Mercer said, "Great programs! The students as always are bright and enthusiastic." Another said, "I enjoyed this program as a 1L and was able to bring that experience to the new students taking the plunge. Loved it and will be back next year!"

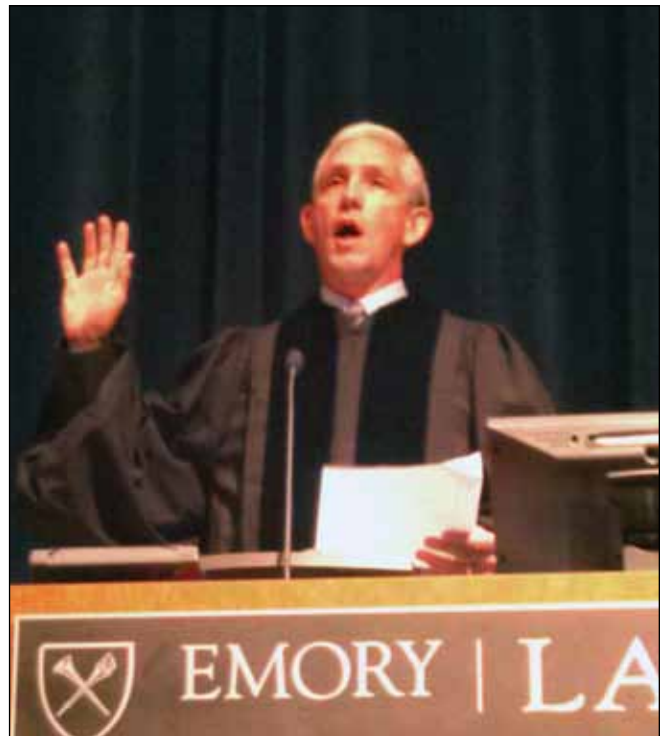


Photo by Terie Latala

Supreme Court of Georgia Justice David E. Nahmias administers the professionalism oath to students at Emory University School of Law.

State Bar President and Emory Law and Business School alumna Patrise M. Perkins-Hooker stressed the importance of professionalism while studying law. She advised students at Emory to be trustworthy, loyal and to look the part. Since students may be defined by professional attire, they should be professionally dressed for whatever the circumstances are at the time. Coming into a profession that has a box, a professional image box, their reputation will come back to them. Students should treat all people the same—respectfully and courteously—she recommended. In encouraging the students to "give something back," Perkins-Hooker asked them to ponder the question: "Are you going to help our image or hurt our image?" She advised them, "If you solely focus on money, you are in the wrong profession."

Supreme Court of Georgia Justice David E. Nahmias then administered the oath.

At the University of Georgia, Hon. J. Randal Hall, U.S. District Court, Southern District of Georgia, Augusta, recommended that the students consider that professionalism “must become a way of life, not just a subject you will study.” He stressed that how students conduct themselves is important because their reputations established in law school will follow them through their careers. “If money is your primary motivation and goal,” he said, “your ability to deal with low moments will be diminished.” A student evaluator found, “The program helped me understand the delicate balance between the minimum requirements of ethical behavior and the extra mile of professionalism.” Another student stated, “The idea of duties to different parties (yourself, client, the court, etc.) and how to balance these helped me realize that professionalism is fluid.”

At Atlanta’s John Marshall Law School, Hon. Jay M. Roth, State Court of Fulton County, put it simply, “your reputation will follow you and you will be measured throughout your life by your reputation.” Roth said, “It’s not about TV, it’s about you, handling yourself in situations. You cannot be professional without being ethical.” John Marshall students commented, “This program demonstrated that ethics requires professionalism,” and “The program challenges your personal beliefs, values and ethics. It asks you the tough questions.” An attorney volunteer added, “Judge Roth was fantastic. Best keynote speaker ever!”

Savannah Law School’s keynote speaker, Hon. Lisa G. Colbert, Chatham County Juvenile Court, shared insights of professionalism in law practice. A Savannah student commented, “The program allowed me to critically think through issues and hear the differing opinions of my fellow classmates.”

At Georgia State University College of Law, Robert D. James Jr., DeKalb County district attorney,



Photo by Terie Latala

Law students at the University of Georgia School of Law participate in a breakout session led by attorneys Jody Everette, Henry Tharpe and Kyra Abernathy.



Photo by Avarita L. Hanson

(Front, left to right) Attorneys Kimberly Gallant and William McAbee lead a breakout group at Savannah Law School.

spoke openly with students about public service and professionalism. Georgia State students’ comments reflected the program’s impact, “The open discussion and talk about professionalism were very helpful. Having small groups was very effective,” and “Good points [were made] bringing ‘to life’ that which is spelled out in writing.”

The yearly orientations on professionalism for Georgia law students ultimately provide a service to the legal and greater communi-

ty. Lawyers build their reputations over the course of their lives and it is important for law students to understand that their professional reputations start in law school. Reputable lawyers are competent, conscientious, thorough and effective—but are also known for good character. They should relate to people of all walks of life and be worthy of respect. Historically, they are those who have been well-loved by their families, helped the needy not just the greedy, took on

2014 Law School Orientation on Professionalism Volunteers

Atlanta's John Marshall Law School

Roy P. Ames
Robert L. Arrington Jr.
Joel R. Beck
John C. Bush
Shiriki L. Cavitt
Jason H. Coffman
David S. Crawford
Willie G. Davis Jr.
Sharee L. Davis
Randall W. Duncan
Hassan H. Elkhail
Irwin M. Ellerin
Patricia A. Hall
Anthony A. Hallmark
Duncan M. Harle
Hon. Jason T. Harper
Karolynn J. Harris
David A. Jaffer
Kristina Kim
Roland Knaut
Tavis L. Knighten
John W. Kraus
Edwin Marger
Joseph G. Mitchell
Wanda M. Morris
Robert E. Norman
Craig S. Oakes
Joseph H. Oczkowski
Margaret Jo Reilly
Hon. Jay M. Roth
Timothy J. Santelli
Cherri L. Shelton
Evelyn Y. Teague
Derick C. Villanueva

Emory University School of Law

Hon. Kimberly M. Esmond Adams
Prof. Frank S. Alexander
Linda Amidon
Prof. Thomas C. Arthur
Hon. Diane E. Bessen
B. Phillip Bettis
Scott L. Bonder
Emily R. Bramer
Lauren G. Brown
Mark G. Burnette
Lesley G. Carroll
Prof. Melissa D. Carter
Ben Chapman
Elizabeth D. Christian
Michael D. Cross Jr.
Nancy R. Daspit
Theodore H. Davis Jr.
Hon. J. Antonio DelCampo
Amy M. Durrence
Hon. Susan E. Edlein
Gregory M. Eells
Dean A. James Elliott
Prof. Mark Engsberg

Jennifer G. Fernandez
Angela R. Fox
Christina Glon
Prof. Mindy A. Goldstein
Hon. Reuben M. Green
Hon. Timothy Hagan
Blake D. Halberg
Gregory R. Hanthorn
Michelle M. Henkel
Phyllis J. Holmen
Joseph A. Homans
James B. Hughes Jr.
David N. Krugler
Paige F. Laine
Hon. Dax E. Lopez
T. David Lyles
Kevin A. Maxim
Ruth L. R. McMullin
Yvana L. B. Mols
S. Leighton Moore III
Hon. David E. Nahmias
Robert E. Norman
Prof. Polly J. Price
Megan R. Pulsts
Hon. William M. Ray II
Hon. Randolph G. Rich
Jennifer M. Romig
Ethan Rosenzweig
Claudia S. Saari
Dean Robert A. Schapiro
Prof. Sarah M. Shalf
Thomas Sneed
J. Darren Summerville
Hon. Wesley B. Taylor
Prof. Randee J. Waldman
James M. Walters

Georgia State University College of Law

Steven R. Ashby
Natalie Ashman
Lisa Radtke Bliss
Margaret Butler
Ann M. Byrd
Kendall W. Carter
Rory S. Chumley
Jeffrey R. Davis
Isaiah D. Deleamar
David S. DeLugas
Kathleen S. Dod
Robert N. Dokson
Hassan H. Elkhail
Elizabeth L. Fite
Prof. Jessica Gabel
David H. Glass
Dan R. Gresham
Nekia S. Hackworth
Hon. Jason T. Harper
Prof. Nicole G. Iannarone
Steven K. Kirson
John W. Kraus
Thomas E. Lavender III

Prof. Lauren Sudeall Lucas
Brett A. Miller
Ann Moceyunas
Charles C. Olson
Jody L. Peskin
Michael N. Rubin
Claudia S. Saari
Belinda T. Saulsberry
Prof. Charity Scott
Rajesh Shah
Matthew S. Swope
Michael J. Tempel
Kathleen A. Wasch
Robert G. Wellon
Roderick B. Wilkerson
Delores A. Young

Mercer University School of Law

Bryan O. Babcock
Hon. M. Anthony Baker
James W. P. Barnes
C. Joyce Baumgarner
Rebekah S. Betsill
Stephanie D. Burton
Crystal G. Buttimer
Hon. David L. Cannon Jr.
Joseph I. Carter
Lisa R. Coody
Jeffrey J. Costolnick
Danielle D. D'Eor-Hynes
James M. Donley
James E. Elliott Jr.
Prof. Timothy W. Floyd
John P. Fox
Patricia A. Hall
Hon. Render M. Heard Jr.
Donna S. Hix
Stephen J. Hodges
April R. Holloway
Andrew W. Jenkins
Paula E. Kapiloff
Kevin Kwashnak
Donald L. Lamberth
Prof. Patrick E. Longan
Leitra Y. Maxwell
L. Scott Mayfield
Edward T. McAfee
David H. McCain
Cheryl L. Milton
Hon. Rizza Palmares O'Connor
Hon. Samuel D. Ozburn
Jeffrey N. Powers
Kristen C. Quinton
Brenda J. Renick
Sarah E. Smith
Mary Beth Tolle
Erica L. Woodford

Savannah Law School

Charles E. Dorr
Kimberly A. Gallant

Avarita L. Hanson
William H. McAbee II
Wayne D. Toth
Michelle E. West

University of Georgia School of Law

Kyra L. Abernathy
Eleanor M. Attwood
Michelle L. Billars
Dean C. Bucci
Keisha Y. Burnette
Scott D. Cahalan
Albert Caproni III
James E. Carlson
Gene Chapman
Stephanie V. Chavies
Michael A. Clark
Martin H. Clarke
Walter N. Cohen
Charles E. Dorr
Jody B. Everette
Alycia D. Foggs-Anderson
Sharon B. Gallahar
Marc Goncher
Cathy Hampton
Judge Jason T. Harper
Amelia G. Helmick
Donald E. Henderson
Pamela L. Hendrix
G. Wayne Hillis Jr.
Angela M. Hinton
T. Tucker Hobgood
Hon. M. Stephen Hyles
Y. Soo Jo
Eric T. Johnson
Raegan M. King
John K. Larkins III
John K. Larkins Jr.
Morgan R. Luddeke
Alexander S. Lurey
Charles W. Lyons
Jean G. Mangan
Allison E. McCarthy
Christopher A. McGraw
Michael P. Morrill
Jack Paller
Arthur J. Park
Benjamin A. Pearlman
Judge James R. Puhger
Tracy L. Rhodes
Kristofer R. Schleicher
Sara D. Sibley
Robert W. Smith Jr.
Mary Jane Stewart
Sharon D. Stokes
Donald C. Suessmith Jr.
Henry C. Tharpe Jr.
Thomas L. Walker
Sharon W. Ware
C. Knox Withers

difficult causes and reached out to those who have been left out. They are caring, dependable and solid. Entertaining TV courtroom drama does not equal long-term effective professional lawyering.

Our greatest satisfaction as lawyers may not be our greatest fee, but what we have done for the greater good — our clients, judges, the courts and the public. Professionalism is about our reputations and as Raymond advised, “professionalism may not be just about how you act, but who you are.”

Many thanks to the law school faculty and administrators who worked with the staff of the Chief Justice’s Commission on Professionalism, Avarita L. Hanson, Terie Latala and Nneka Harris-Daniel, in coordinating the 2014 law school orientations. Many thanks to the Committee on Professionalism: Chair Elizabeth Fite, Vice Chair Nicole Iannarone and members for ensuring that the issues discussed remain relevant and informative. And as always, thanks to the volunteer judges, attorneys and law faculty who served as group leaders. To get involved in the 2015 Law School Orientations on Professionalism Program, look for the call for volunteers in *Georgia Bar Journal* publications and notices next spring, or contact Nneka Harris-Daniel at 404-225-5040 or nneka@cjcpga.org. 



Avarita L. Hanson is the executive director of the Chief Justice’s Commission on Professionalism and can be reached at ahanson@cjcpga.org.

Endnote

1. In an instructive book published in 2013 by the American Bar Association, Center for Professional Responsibility, *Essential Qualities of the Professional Lawyer*, Paul A. Haskins, Editor, the topic of Reputation was addressed by author, Avarita L. Hanson, and some of the material is referenced herein.

Law School	# of Students	# of Group Leaders	Keynote Speaker(s)
Atlanta’s John Marshall	161	34	Hon. Jay M. Roth, Judge, State Court, Fulton County
Emory	360	59	Hon. David E. Nahmias, Justice, Supreme Court of Georgia Patrise M. Perkins-Hooker, President, State Bar of Georgia
Georgia State	210	41	Hon. Robert D. James Jr., District Attorney, DeKalb County
Mercer	146	40	Philip T. Raymond III, Judge, Superior Court, Macon Judicial Circuit
Savannah	54	6	Hon. Lisa G. Colbert, Judge, Chatham County Juvenile Court
University of Georgia	218	54	Hon. J. Randal Hall, Judge, U.S. Court for the Southern District of Georgia

Justice Robert Benham Awards for Community Service

Nominations are now being accepted for the 16th annual Justice Robert Benham Awards for Community Service. Awards will be presented at a special ceremony on Feb. 17, 2015, at the Bar Center.

Judges and lawyers meet the criteria for these awards if they have combined a professional career with outstanding service and dedication to their communities through voluntary participation in community organizations, government-sponsored activities or humanitarian work outside of their professional practice. Contributions may be made in any field, including but not limited to: social service, education, faith-based efforts, sports, youth and mentoring, recreation, the arts or politics.

Eligibility: Nominees must: 1) be a member in good standing of the State Bar of Georgia; 2) have a record of outstanding community service and continuous service over a period of time to one or more cause, organization or activity; 3) not be a member of the Selection Committee, staff of the State Bar of Georgia or Chief Justice’s Commission on Professionalism; and 4) not be in a judicial or political race for 2014 and 2015.

Please go to www.gabar.org for a nomination form.

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.

Donald Evans Austin

Savannah, Ga.
University of Georgia School
of Law (1951)
Admitted 1952
Died October 2013

Anmarie Barrie

Eufaula, Ala.
Seton Hall University School
of Law (1989)
Admitted 2001
Died July 2014

J. Ralph Beaird

Athens, Ga.
George Washington University
Law School (1953)
Admitted 1974
Died August 2014

Hugh Winston Bedingfield

Augusta, Ga.
Augusta Law School (1949)
Admitted 1949
Died August 2014

Harry A. Bendiburg

Acworth, Ga.
Woodrow Wilson College of Law
(1978)
Admitted 1978
Died May 2014

Barry C. Blackburn

Olive Branch, Miss.
University of Mississippi School
of Law (1991)
Admitted 1993
Died March 2014

Lovic A. Brooks Jr.

Atlanta, Ga.
University of South Carolina
School of Law (1950)
Admitted 1960
Died July 2014

Lauren O. Buckland

Atlanta, Ga.
Emory University School of Law
(1970)
Admitted 1971
Died July 2014

H. Phillip Carnes

Nashville, Tenn.
Tulane University Law School
(1974)
Admitted 1974
Died April 2014

W. H. Chason

Cairo, Ga.
Mercer University Walter F.
George School of Law (1950)
Admitted 1950
Died July 2014

James L. Cline Jr.

Eatonton, Ga.
Mercer University Walter F.
George School of Law (1977)
Admitted 1977
Died August 2014

Robert L. Cork

Valdosta, Ga.
University of Georgia School
of Law (1953)
Admitted 1951
Died December 2013

Roy N. Cowart

Warner Robins, Ga.
Mercer University Walter F.
George School of Law (1961)
Admitted 1961
Died August 2014

Nathan B. Deaton

Hazlehurst, Ga.
Woodrow Wilson College of Law
(1981)
Admitted 1983
Died February 2014

J. Owen Forrester

Atlanta, Ga.
Emory University School of Law
(1966)
Admitted 1966
Died July 2014

Timothy T. Herring

Palmetto, Ga.
University of Georgia School of
Law (1985)
Admitted 1985
Died July 2014

Francis Houston

Waycross, Ga.
Atlanta Law School (1949)
Admitted 1949
Died July 2014

Clayton Jay Jr.
Fitzgerald, Ga.
Mercer University Walter F.
George School of Law (1947)
Admitted 1947
Died March 2014

Walter A. Jones
Decatur, Ga.
Woodrow Wilson College of Law
(1978)
Admitted 1978
Died July 2014

Robert Louis Kendall Jr.
Gladwyne, Pa.
University of Pennsylvania Law
School (1955)
Admitted 1993
Died August 2014

M. Henry Kent
Atlanta, Ga.
Atlanta's John Marshall Law
School (1995)
Admitted 1995
Died May 2014

William O. Key
Augusta, Ga.
Admitted 1950
Died July 2014

Sandra Folsom Kinsey
Jacksonville, Fla.
University of Georgia School
of Law (1980)
Admitted 1980
Died February 2014

Carolyn K. Knight
Atlanta, Ga.
Woodrow Wilson College of Law
(1970)
Admitted 1972
Died June 2014

Diane Miller Locklear
Rockmart, Ga.
Woodrow Wilson College of Law
(1980)
Admitted 1980
Died March 2014

Virginia L. Looney
Atlanta, Ga.
University of Georgia School
of Law (1985)
Admitted 1986
Died June 2014

John Devereux Marshall
Alpharetta, Ga.
West Virginia University College
of Law (1967)
Admitted 1975
Died July 2014

William J. Mason
Columbus, Ga.
Mercer University Walter F.
George School of Law (1984)
Admitted 1984
Died August 2014

Kent Earl Mast
Atlanta, Ga.
Duke University School of Law
(1968)
Admitted 1968
Died April 2014

Ricky Morris
Atlanta, Ga.
Mercer University Walter F.
George School of Law (1988)
Admitted 1996
Died June 2014

Lowell W. Olson
Atlanta, Ga.
Georgetown University Law
Center (1960)
Admitted 1968
Died July 2014

Christopher D. Parker
Tucker, Ga.
Atlanta's John Marshall Law
School (1971)
Admitted 1975
Died May 2014

John S. Patton
Atlanta, Ga.
University of Memphis Cecil C.
Humphreys School of Law (1936)
Admitted 1956
Died September 2013

Joe Perkins Jr.
Jonesboro, Ga.
Atlanta's John Marshall Law
School (2008)
Admitted 2008
Died July 2014

Richard L. Rothman
Plantation, Fla.
Mercer University Walter F.
George School of Law (1984)
Admitted 1984
Died April 2014

William F. Rucker
Decatur, Ga.
Emory University School of Law
(1978)
Admitted 1978
Died June 2014

Herbert Shafer
Atlanta, Ga.
SUNY Buffalo Law School (1950)
Admitted 1972
Died August 2014

George S. Stern
Atlanta, Ga.
Vanderbilt Law School (1961)
Admitted 1964
Died July 2014

Jonathan Derek Sumner
Atlanta, Ga.
University of Georgia School
of Law (2009)
Admitted 2009
Died August 2014

Joel S. Thwaites
Atlanta, Ga.
Woodrow Wilson College of Law
(1949)
Admitted 1949
Died June 2014

Dianne Lynn Trenholm
Roswell, Ga.
Cleveland-Marshall College
of Law (1997)
Admitted 1997
Died June 2014

Michael Weinstock
Atlanta, Ga.
Tulane University Law School
(1976)
Admitted 1976
Died July 2014

N. Harvey Weitz
Savannah, Ga.
University of Georgia School
of Law (1966)
Admitted 1965
Died August 2014

James C. Whelchel
Moultrie, Ga.
University of Georgia School
of Law (1961)
Admitted 1960
Died January 2014

William H. Young Jr.
Guyton, Ga.
University of Georgia School
of Law (1949)
Admitted 1949
Died April 2014

Marvin H. Zion
Decatur, Ga.
University of Georgia School
of Law (1957)
Admitted 1964
Died July 2014



N. Harvey Weitz passed away Aug. 15, 2014, after a short illness. He was born in Savannah, Ga., on May 16, 1942. He attended public school, graduating from Savannah High School in 1959 and the University of Georgia in 1963. He joined the State Bar of Georgia in 1965, a year before he earned his law degree from the University of Georgia School of Law. He spent most of his 49 years in law as a member and partner of what is now Weiner, Shearouse, Weitz, Greenberg and Shawe. During his time as a member of the Bar, Weitz served on the boards of numerous committees and associations, including the Board of Governors for more than 25 years, and the Executive Committee of the State

Bar for 12 years. Many of the associations had to do with professionalism and ethics, a subject of great importance to him.

He had been listed as one of "The Best Lawyer's in America," voted by his peers as a "Georgia Super Lawyer" on multiple occasions, and named by *Georgia Trend Magazine* as one of Georgia's Legal Elite. In 2008, he was awarded both the Chief Justice Thomas O. Marshall and Judge Frank Cheatham Professional Awards. Most recently, in June 2012, he was awarded the Distinguished Service Award by the State Bar of Georgia, the highest award bestowed by the bar for conspicuous service to the cause of jurisprudence and the advancement of the legal profession.


Despite his very busy legal practice, Weitz always made time for his family and many friends. Often his lunches out were occupied by small talk with friends stopping by his table, or mentoring sessions with one of his fellow members of the Bar. Weitz was known for his great sense of humor, and his endless collection of stories. He was a firm believer that if a story was worth telling once, then it was certainly worth repeating. He loved Athens, and the Georgia Bulldogs. He always claimed that it was pure coincidence that one or more of his Board of Governors' meetings, held in Athens, coincided with a Georgia home football game. He had a great love of food and wine, and was known to his fellow Savannah attorneys as the Commodore as he always planned the lawyer's annual boat ride—the jewel of their social events. He was active in many local charities, and was a member of the Jewish Educational Alliance and Congregation B'nai Brith synagogue. Weitz is survived by his wife, Helen; sons Trace, Adam (Rene), and Tommy (Allison); his brothers Julian (Jean) and Robert (Laurie); and numerous nieces and nephews.



Marvin Harold Zion, 81, of Decatur, passed away July 28, 2014. Born On May 29, 1933, Zion was a graduate of Henry Grady High School and the University of Georgia in 1955 with a B.A. in accounting. He then graduated from the University of Georgia School of Law in 1957. While at the University of Georgia he was inducted into *Phi Delta Phi*, *Phi Kappa Phi*, *Beta Gamma Sigma* and *Omicron Delta Kappa*. During law school, Zion served on the Editorial Board of the *Georgia Bar Journal*. He was a member of *Alpha Epsilon Pi*, having served as president of his chapter, and also president of the Fraternity Council.

Following law school graduation, Zion received his commission in the U.S. Army Finance Corps; first stationed in Japan as a 2nd Lt., he completed his military career at Fort McPherson as a 1st Lt.

Following his years in the Army, he was admitted to the Georgia Bar. His service to the legal profession and his alma mater has included membership in the DeKalb Bar Association, serving as president in 1979-80. He served on the Board of Trustees of The Institute of Continuing Legal Education in Georgia as well as the Advisory Committee of the Atlanta Legal Aid Society. Zion was a supporter of law services for the indigent. He was elected a member of the Board of Governors of the State Bar of Georgia, serving more than 20 years. He was elected to the board of the University of Georgia Law School Alumni Association, serving as president in 1993-94. As a practicing attorney, he was initiated into the Gridiron Secret Society at the University of Georgia. In 1986, Zion was appointed to membership on the Georgia Commission on the Bicentennial of the U.S. Constitution.

Zion is survived by his beloved wife of 57+ years, Joan, his sons David (Carla) and Mark (Brenda), and grandchildren Andrew, Katherine, Sara and Jessica. 



**The State Bar of Georgia and The Chief Justice's
Commission on Professionalism**
is seeking nominations for the
**16th Annual Justice Robert Benham Award; for
Community Service**



The State Bar of Georgia and the Chief Justice's Commission on Professionalism invite nominations for the 16th Annual Justice Robert Benham Awards for Community Service. Awards will be presented at a special ceremony on **Tuesday, February 17, 2015** at the Georgia Bar Center.

Judges and lawyers meet the criteria for these awards if they have combined a professional career with outstanding service and dedication to their communities through voluntary participation in community organizations, government-sponsored activities, or humanitarian work outside of their professional practice. Contributions may be made in any field, including but not limited to: social service, education, faith-based efforts, sports, youth and mentoring, recreation, the arts, or politics.

Eligibility: Nominees must: **1)** be a member in good standing of the State Bar of Georgia; **2)** have a record of outstanding community service and continuous service over a period of time to one or more cause, organization or activity; **3)** not be a member of the Selection Committee, staff of the State Bar of Georgia or Chief Justice's Commission on Professionalism; and **4)** not be in a judicial or political race for 2014 and 2015.

16th Annual Justice Robert Benham Award; for Community Service Nomination Form
(You may submit more than one nomination)

Nominee:

Name: _____

Address:* _____

(* Please use either the nominee's work or home address that corresponds with the location of their most significant community service.)

Phone: _____ Email: _____

Nominator:

Name:** _____

(** For organizations, identify a contact person in addition to the name of the organization.)

Address: _____

Phone: _____ Email: _____

In addition to this form, nomination; must also be accompanied by:

- ☐ **A Nomination Narrative:** Explain how the nominee meets the award criteria described above. Specify the nature of the contributions and identify those who have benefitted from the nominee's involvement. Specify when and how long the nominee participated in each identified activity.
- ☐ **Biographical Information:** Attach a copy of the nominee's resume or curriculum vitae.
- ☐ **Letters of Support:** Include 2 letters of support from individuals and/or organizations in the community that describe the nominee's work and the contributions made.

Submission of Material: Send nominations to Nneka Harris-Daniel, Chief Justice's Commission on Professionalism, Suite 620, 104 Marietta Street, N.W., Atlanta, GA 30303 • Phone: (404) 225-5040 • Fax: (404) 225-5041 • Email: Nneka@jcpga.org. **All Nominations; must be postmarked by November 14, 2014**

October-December

OCT 2-4	ICLE <i>SEALI Fall Meeting</i> Jackson Hole, Wyo. See www.iclega.org for location 10 CLE	OCT 10	ICLE <i>Premises Liability</i> Atlanta, Ga. See www.iclega.org for location 6 CLE
OCT 3	ICLE <i>Nuts and Bolts of Family Law</i> Atlanta, Savannah and Tifton, Ga. See www.iclega.org for location 6 CLE	OCT 14	ICLE <i>Uncertain Justice: Roberts' Court and Constitution</i> Atlanta, Savannah and Tifton, Ga. See www.iclega.org for location 3 CLE
OCT 3	ICLE <i>Ancient Foundations and Modern Equivalents</i> Atlanta, Ga. See www.iclega.org for location 3 CLE	OCT 16	ICLE <i>Beginning Lawyers Program</i> Statewide Rebroadcast See www.iclega.org for location 6 CLE
OCT 5-12	ICLE <i>Advanced Urgent Legal Matters at Sea Cruise</i> See www.iclega.org for location 12.5 CLE	OCT 16	ICLE <i>Great Adverse Depositions</i> Atlanta, Ga. See www.iclega.org for location 6 CLE
OCT 9	ICLE <i>Zoning Law</i> Atlanta, Ga. See www.iclega.org for location 6 CLE	OCT 16-18	ICLE <i>33rd Insurance Institute</i> St. Simons Island, Ga. See www.iclega.org for location 12 CLE
OCT 9-11	ICLE <i>Workers' Compensation Law Institute</i> St. Simons Island, Ga. See www.iclega.org for location 12 CLE	OCT 17	ICLE <i>Expert Testimony in Georgia</i> Atlanta, Savannah and Tifton, Ga. See www.iclega.org for location 6 CLE
OCT 10	ICLE <i>Litigating the Plaintiff's Employment Case</i> Atlanta, Savannah and Tifton, Ga. See www.iclega.org for location 6 CLE	OCT 17	ICLE <i>Advanced Health Care Law</i> Atlanta, Ga. See www.iclega.org for location 6 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.



OCT 17	ICLE <i>Basic Fiduciary Practice</i> Macon, Ga. See www.iclega.org for location 6 CLE	OCT 28	Atlanta Bar Association <i>11th Annual Estate Planning Forum</i> Atlanta, Ga. See www.atlantabar.org for location 3.5 CLE
OCT 17	ICLE <i>10th Annual Family Law Seminar</i> Augusta, Ga. See www.iclega.org for location 6 CLE	OCT 29-30	ICLE <i>33rd Business Law Institute</i> Atlanta, Ga. See www.iclega.org for location 12 CLE
OCT 21	Atlanta Bar Association <i>Advocating for the Truant Child</i> See www.atlantabar.org for location 3.5 CLE (1 ethics and 1 trial)	OCT 30	ICLE <i>E-Discovery 101: Nuts and Bolts</i> Atlanta, Savannah and Tifton, Ga. See www.iclega.org for location 6 CLE
OCT 23	ICLE <i>U.S. Supreme Court Update</i> Atlanta, Ga. See www.iclega.org for location 6 CLE	OCT 31	ICLE <i>Georgia Auto Insurance Claims Law</i> Atlanta, Ga. See www.iclega.org for location 6 CLE
OCT 23-24	ICLE <i>Consumer and Business Bankruptcy</i> Greensboro, Ga. See www.iclega.org for location 7 CLE	OCT 31	ICLE <i>Solo/Small Firm Fall Seminar</i> Atlanta, Ga. See www.iclega.org for location 6 CLE
OCT 24	ICLE <i>29th Technology Law Institute</i> Atlanta, Savannah and Tifton, Ga. See www.iclega.org for location 6 CLE	OCT 31	ICLE <i>Trial Advocacy</i> Statewide Broadcast See www.iclega.org for location 6 CLE
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October-December

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NOV 20	ICLE <i>Recent Developments in Georgia Law</i> Statewide Rebroadcast See www.iclega.org for location 6 CLE	DEC 5	ICLE <i>44th Annual Labor and Employment Law Institute</i> Atlanta, Ga. See www.iclega.org for location 6 CLE
NOV 21	ICLE <i>Making People Skills Pay Off as an Attorney</i> Atlanta, Ga. See www.iclega.org for location 6 CLE	DEC 5	ICLE <i>Professionalism, Ethics and Malpractice</i> Statewide Broadcast See www.iclega.org for location 3 CLE
NOV 21	ICLE <i>Basic Adoption Law</i> Statewide Broadcast See www.iclega.org for location 6 CLE	DEC 9	ICLE <i>Selected Video Replays: Internet Legal Research</i> Atlanta, Savannah and Tifton, Ga. See www.iclega.org for location 6 CLE
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DEC 4	ICLE <i>Basic Adoption Law</i> Statewide Rebroadcast See www.iclega.org for location 6 CLE	DEC 10	ICLE <i>Selected Video Replays: Professional Ethics Update</i> Atlanta, Savannah and Tifton, Ga. See www.iclega.org for location 6 CLE
DEC 4-5	ICLE <i>Defense of Drinking Drivers Institute</i> Atlanta, Ga. See www.iclega.org for location 12.5 CLE		

October-December

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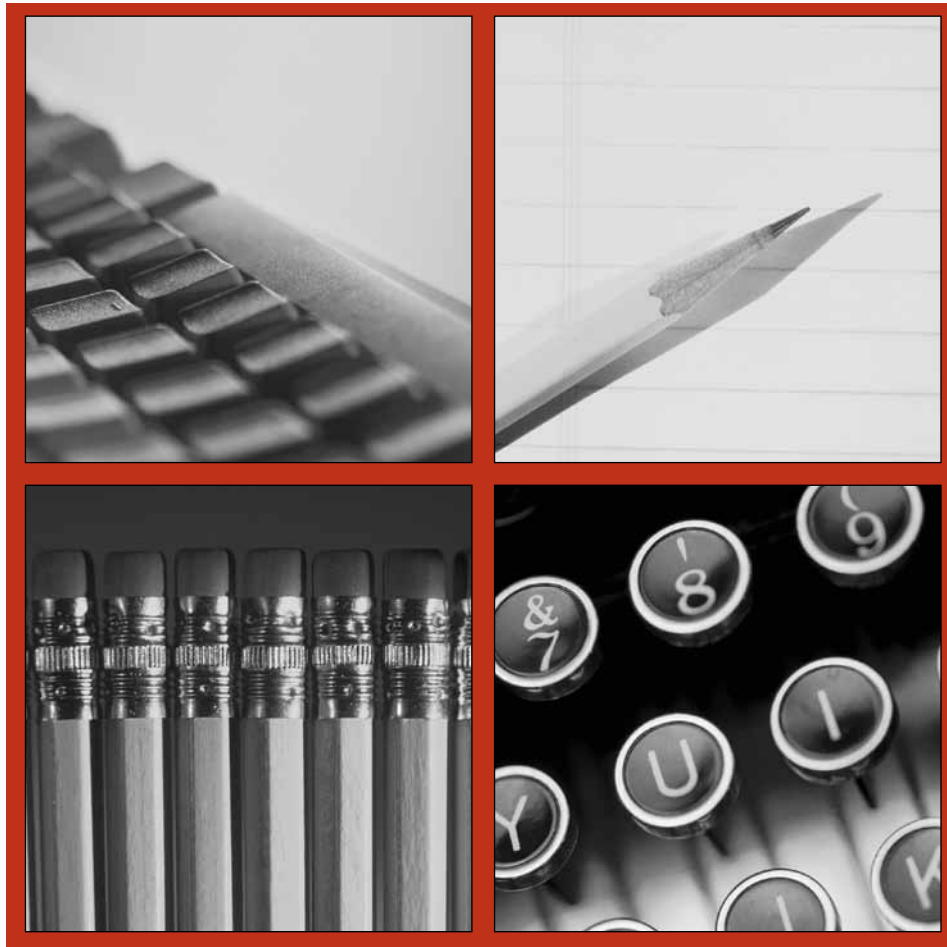
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Earn CLE credit, see your name in print and help the legal community by submitting an article today!*

Submit articles to Sarah I. Coole, Director of Communications,
104 Marietta St. NW, Suite 100, Atlanta, GA 30303 or sarahc@gabar.org.
If you have additional questions, you may call 404-527-8791.

*Not all submitted articles are deemed appropriate for the Journal.
The Editorial Board will review all submissions and decide on publication.

Proposed Amendments to Uniform Superior Court Rules 5, 21, 24, 31, 36, 39 and 46

At its business meeting on July 30, 2014, the Council of Superior Court Judges approved proposed amendments to Uniform Superior Court Rules 5, 21, 24, 31, 36, 39 and 46, and to the protective order forms. A copy of the proposed amendments may be found at the Council's website at <http://georgiasuperiorcourts.org>.

Should you have any comments on the proposed changes, please submit them in writing to the Council of Superior Court Judges at 18 Capitol Square, Suite 104, Atlanta, Georgia 30334, or fax them to (404) 651-8626. To be considered, comments must be received by Monday, Jan. 5, 2015.

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Annual Fiction Writing Competition

Deadline January 16, 2015

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.

Rules for Annual Fiction Writing Competition

The following rules will govern the Annual Fiction Writing Competition sponsored by the Editorial Board of the *Georgia Bar Journal*:

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. If you do not receive confirmation that your entry has been received, please call 404-827-8791.
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.

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