



State Bar  
of Georgia

# BOG BOARD BOOK

**2019 Spring Meeting  
Greensboro, Ga.**

---

*This book serves as the agenda and materials for the State Bar of Georgia's 2019 Spring Board of Governors Meeting.*



# State Bar of Georgia

Saturday, March 30, 2019

9:00 a.m.–12:00 p.m.

The Ritz-Carlton Reynolds at Lake Oconee  
Greensboro, Georgia

*Dress: Business Casual*

## AGENDA

<u>Topics</u>	<u>Presenter</u>	<u>Page No.</u>
<b>1) ADMINISTRATION</b>		
a) Welcome and Call to Order .....	Ken Hodges, President.....	1-4
b) Pledge of Allegiance and Invocation .....	Martha Williams	
c) Recognition of Former Presidents, Judges And Special Guests .....	Ken Hodges	
d) Roll Call (by signature).....	Elizabeth Fite, Secretary ....	5-11
e) Future Meetings Schedule.....	Ken Hodges .....	12-14
<b>2) INFORMATIONAL REPORTS</b>		
a) Attorney General’s Report .....	Chris Carr, Attorney General	
b) Georgia Legal Services Program .....	Rick Ruffalo, GLSP Executive Director	
c) President’s Report.....	Ken Hodges	
d) Professional Liability Insurance Committee Report and Discussion .....	Ken Hodges .....	15-50
	Linley Jones	

<u>Topics</u>	<u>Presenter</u>	<u>Page No.</u>
e) Registration of In-House Counsel Discussion .....	Ken Hodges .....	51-69
	Paula Frederick	
f) Young Lawyers Division .....	Rizza O'Connor, .....	70-75
	YLD President	

**3) ACTION**

a) Minutes of the 276 <sup>th</sup> Meeting of the Board of Governors on January 12, 2019 .....	Elizabeth Fite .....	76-82
b) Amendments to Bylaws and Rules .....	Paula Frederick .....	83-84
	Bill NeSmith	
(1) Rule 1.0 Terminology and Definitions.....		85-102
(2) Rule 1.4 Communication.....		103-110
(3) Rule 1.17 Sale of Law Practice.....		111-120
(4) GRPC Rule 5.3 Responsibilities Regarding Nonlawyer Assistants.....		121-126
(5) Rule 5.4 Professional Independence of a Lawyer .....		127-132
(6) Rule 7.1 Communications Concerning a Lawyer’s Services.....		133-140
(7) Rule 9.4 Jurisdiction and Reciprocal Discipline.....		141-150
(8) Rule 4-219. Publication and Protective Orders.....		151-154
(9) Rule 4-220. Notice of Punishment or Acquittal; Administration of Reprimands.....		155-158
(10) Rule 14-3.1 and 14-14.1 Unlicensed Practice of Law.....		159-170
(11) Rule 16-101. – 16.105. Institute of Continuing Legal Education .....		171-178
c) Statement of Investment Policy .....	Ken Hodges .....	179-188
d) Treasurer’s Report .....	Dawn Jones, Treasurer.....	189-198
(1) 2019-2020 Budget Timeline .....		199
e) ICLE Budget Report .....	Dawn Jones .....	200-202

<u>Topics</u>	<u>Presenter</u>	<u>Page No.</u>
f) Dues 2019-2020 .....	Dawn Jones .....	203-209
	Darrell Sutton, President-Elect	

- (1) Finance Committee Minutes
- (2) Recommendation
  - a) Recommendations of the Finance, Programs and Personnel Committees
  - b) Recommendations of the Executive Committee
    - Active Dues \$254**
    - Inactive Dues \$127**
- (3) Approval of Other Bar Dues Statement Items
  - a) Section Dues (\$10 to \$40 opt in)
  - b) Assessments Required by Bar Rules or Supreme Court Mandated
    - Clients' Security Fund (\$100 @ \$25/year)
    - Bar Center (\$200 @ \$50/year)
    - Professionalism Fee (\$15/year)
  - c) Other Contributions
    - Legislative and Public Education Fund Contribution  
\$100 optional contribution (no change from 2006-07 through 2019-20)
    - Georgia Legal Services Program  
\$300 suggested individual contribution  
\$100 suggested contribution for YLD

## 2) LEGISLATION

- a) 2019 Legislation Update ..... Christine Butcher  
Rusty Sewell

## 3) WRITTEN REPORTS

- a) Executive Committee Minutes
  - (1) December 6, 2018 .....210-213
  - (2) February 20, 2019 .....214-220
- b) Office of the General Counsel Report ..... 221-223
- c) Military Legal Assistance Program ..... 224-226
- d) Consumer Assistance Program ..... 227-228

<u>Topics</u>	<u>Presenter</u>	<u>Page No.</u>
e) Law Practice Management Program.....		229-233
f) Communications Media Report.....		234-236
g) Chief Justice’s Commission on Professionalism .....		237-242

#### **4) CLOSING**

- a) Old Business ..... Ken Hodges
- b) New Business ..... Ken Hodges
- c) Questions/Answers; Comments/Suggestions ..... Board of Governors  
Officers/Executive Committee  
Executive Director  
General Counsel
- d) Adjournment..... Ken Hodges



PHOTO COURTESY OF THE RITZ-CARLTON REYNOLDS, LAKE OCONEE

# 2019 SPRING MEETING

THE RITZ-CARLTON  
REYNOLDS, LAKE OCONEE  
GREENSBORO, GEORGIA  
MARCH 29-31

HOTEL CUT-OFF: FRIDAY, MARCH 1 | REGISTRATION CUT-OFF: FRIDAY, MARCH 22





PHOTO COURTESY OF THE RITZ-CARLTON REYNOLDS, LAKE OCONEE

## SCHEDULE OF EVENTS




### FRIDAY, MARCH 29

- |                     |   |
|---------------------|---|
| 9 a.m. - 12 p.m.    | <b>Consumer Assistance Program Committee Meeting</b>  |
| 9 a.m. - 12:30 p.m. | <b>CLE - Professionalism and Ethics Update (Video Replay)</b><br>3 CLE hours including 1 ethics and 1 professionalism.<br>Program Chair: <b>Jeffrey Smith</b> , Greenberg Traurig, LLP, Atlanta.<br>Seminar covers current hot topics in professionalism, ethics and malpractice. |
| 9:30 a.m. - 2 p.m.  | <b>State Disciplinary Board Meeting</b>   |
| 10 a.m. - 12 p.m.   | <b>Clients' Security Fund Meeting</b>   |
| 10 - 11 a.m.        | <b>Senior Lawyers Committee Meeting</b>   |
| 12 - 2 p.m.         | <b>ICLE Board Meeting</b>   |
| 12 - 2 p.m.         | <b>State Disciplinary Review Board Meeting</b>  |
| 12 - 3 p.m.         | <b>ICJE Quarterly Board Meeting</b>   |
| 3:30 - 5 p.m.       | <b>Member Benefits Committee Meeting</b>  |
| 6:30 - 9:30 p.m.    | <b>Board of Governors Dinner</b><br>Join your friends and colleagues for an evening of fellowship and networking.   |



### SATURDAY, MARCH 30

- |                  |   |
|------------------|---|
| 7 - 7:45 a.m.    | <b>Fun Run/Walk</b> <br>Please gather in the lobby for a leisure run/walk around the property on your own. |
| 8:30 - 9 a.m.    | <b>SOLACE Meeting</b>   |
| 9 a.m. - 12 p.m. | <b>Board of Governors Meeting</b>   |

 Indicates an event specific to the State Bar's wellness initiative.

## HOTEL ACCOMMODATIONS

The Ritz-Carlton Reynolds, Lake Oconee  
One Lake Oconee Trail  
Greensboro, GA 30642  
706-467-0600

*Cut-off date is Friday, March 1*

The Ritz-Carlton Reynolds, Lake Oconee will be our host hotel offering discounted room rates. A block of rooms has been reserved for the meeting. Room rates are \$229 single/double plus applicable taxes and fees. To make reservations and receive our special rate, call 800-944-5884 and reference the State Bar of Georgia Spring Board of Governors Meeting, or you may register online at <https://book.passkey.com/e/49696922>.

Reservations must be made by Friday, March 1, as rooms will be on a space and rate availability after this date.

Valet parking is \$18/day.

Check-in is 4 p.m. | Check-out is 12 p.m.

### ATTIRE

Business casual

### GOLF

With the storied Augusta National Golf Course, home of the Masters Golf Tournament, nearby, inspired play comes naturally on the five golf courses at The Ritz-Carlton Reynolds, Lake Oconee. Tucked away in the natural beauty of towering Georgia oaks, fragrant magnolias, flowering native dogwoods and the pristine waters of Lake Oconee, the resort's 99 holes of golf are designed by the game's best known architects.

Call the resort at 706-467-7135 to set up your tee times. Be sure to ask about The Reynolds Kingdom of Golf presented by TaylorMade, as well as the Quick 6 Experience.

### SPA

Drawing inspiration from its surroundings, the luxury spa offers a menu infused with native Georgia ingredients, water-themed therapies and a lodge-like space with windows overlooking the lake. Sprawling across 27,600 square feet, the resort spa includes relaxation lounges, a traditional barbershop space, a dedicated nail treatment room, 24-hour fitness center and indoor pool.

Call the spa at 706-467-7185 to schedule your appointment. The spa is offering State Bar of Georgia attendees a 10 percent discount off the full-priced spa menu (not available with any other discounts or spa packages) during your stay.

## SPECIAL THANKS

Special thanks to the following corporate sponsor for their support of the State Bar of Georgia.

### 5-GAVEL

**MB** | MemberBenefits



PHOTOS COURTESY OF THE RITZ-CARLTON REYNOLDS, LAKE OCONEE



## REGISTRATION FORM

Please use this form to register by checking all events you plan to attend. Registration is required for all events, including no charge functions. You may also register online at [www.gabar.org](http://www.gabar.org). Final registration deadline is Friday, March 22.

### ATTENDEE INFORMATION

Bar Number \_\_\_\_\_

Name \_\_\_\_\_

Nickname \_\_\_\_\_

Spouse/Guest Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Email \_\_\_\_\_

Special Needs/Dietary Restrictions \_\_\_\_\_

### ADA

If you qualify for assistance under the Americans with Disabilities Act, please call 404-526-8627.

### REFUND/CANCELLATION POLICY

Cancellation of registration must be received in writing no later than Friday, March 22. Cancellations will receive a full refund, less a \$25 administrative charge. Absolutely no refunds will be made after Friday, March 22. Requests should be mailed to the State Bar of Georgia, Attn: Michelle Garner, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303; faxed to 404-527-8747 or emailed to [michelleg@gabar.org](mailto:michelleg@gabar.org).

### PAYMENT INFORMATION

Registrations will be processed on a first-come, first-served basis and will not be processed without payment. Visa, MasterCard and American Express are accepted. Please make checks payable to State Bar of Georgia and mail to Michelle Garner, Director of Meetings, 2019 Spring Meeting, State Bar of Georgia, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303. No charge and credit card orders may be faxed to 404-527-8747. Verbal registrations will not be accepted.

### EVENTS

	Quantity
<b>Board Functions</b>	
<input type="radio"/> BOG Dinner	\$95 _____
<input type="radio"/> BOG Meeting	N/C _____
<b>CLE</b>	
<input type="radio"/> Professionalism and Ethics Update (Video Replay)	\$95 _____
<b>Committee Meetings</b>	
<input type="radio"/> ICLE Board	N/C _____
<input type="radio"/> Member Benefits	N/C _____
<input type="radio"/> Senior Lawyers	N/C _____
<input type="radio"/> SOLACE	N/C _____
<b>Related Organizations</b>	
<input type="radio"/> ICJE Quarterly Board Meeting	N/C _____
<b>Wellness</b>	
<input type="radio"/> Fun Run/Walk	N/C _____

Total Fees Enclosed: \$ \_\_\_\_\_

### CREDIT CARD INFORMATION

Please bill my:  Visa  MasterCard  AMEX

Credit Card Number \_\_\_\_\_

Expiration Date \_\_\_\_\_

Name as it appears on card (please print) \_\_\_\_\_

Signature \_\_\_\_\_



**State Bar  
of Georgia**

## Board of Governors Attendance Record

	6-16	10-16	1-17	4-17	6-17	6-17	10-17	1-18	3-18	6-18	6-18	11-18	1-19
	Sat.	Callaway	ATL	Oconee	Jekyll	Jekyll	Jekyll	ATL	Greensboro	Fri.	Sat.		
	Amelia									Amelia	Amelia	Pine Mtn	ATL
Sarah Brown Akins	•	e	e	e	•	•	•	•	•	•	•	•	•
Mark W. Alexander	e	•	•	•	•	•	•	•	•	•	•	•	•
Kent Edward Altom	•	•	•	•	•	e	e	•	•	•	•	•	•
Anthony B. Askew	•	•	e	•	•	•	•	•	•	•	•	•	•
JaDawnya Cintelle Baker	•	•	•	•	•	•	•	e	•	•	e	•	•
Nina M. Baker	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•
Eric A. Ballinger	•	e	•	•	•	•	•	•	•	•	•	•	•
Donna G. Barwick	•	•	•	•	•	•	•	•	u	•	•	•	•
Joshua C. Bell	•	•	e	u	u	u	•	•	u	e	•	u	e
Tracee R. Benzo	•	•	•	•	•	•	•	•	•	•	•	e	•
Diane E. Bessen	•	•	e	•	•	•	e	•	•	•	•	e	e
James D. Blich IV	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•	•	•	•
Sherry Boston	•	•	•	•	•	•	•	•	•	•	•	e	•
Thomas R. Burnside	•	•	•	•	•	•	e	•	•	u	u	•	u
Stephanie D. Burton	•	•	•	•	•	•	u	•	•	•	•	•	•
Ivy Neal Cadie	n/a	n/a	n/a	n/a	n/a	•	•	•	•	e	e	•	•
Richard D. Campbell	•	•	•	•	•	•	u	•	•	•	•	e	•
David L. Cannon	•	•	u	u	•	•	u	•	u	u	u	u	u
Carl S. Cansino	•	•	•	•	•	•	•	•	•	•	•	•	•
Chris M. Carr	n/a	n/a	n/a	•	•	u	u	•	•	•	u	u	•
Shiriki L. Cavitt	n/a	n/a	n/a	n/a	n/a	n	•	•	•	•	•	•	•
Carol V. Clark	•	•	•	•	•	•	•	•	•	•	•	•	•
Edward R. Collier	u	•	•	•	e	e	•	•	e	u	u	•	•

To request an excused absence, please email Secretary Elizabeth Fite (elfite@gmail.com)

## Board of Governors Attendance Record

	6-16	10-16	1-17	4-17	6-17	6-17	10-17	1-18	3-18	6-18	6-18	11-18	1-19
	Sat.	Callaway	ATL	Oconee	Fri.	Sat.	Jekyll	ATL	Greensboro	Fri.	Sat.	Pine Mtn	ATL
	Amelia				Jekyll	Jekyll	Jekyll		Amelia	Amelia			
Christopher S. Connelly	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•
Stephanie Kirijan Cooper	n/a	n/a	n/a	n/a	•	•	•	•	•	e	e	e	e
Martin L. Cowen III	u	•	u	•	•	•	•	•	•	•	•	•	•
Susan W. Cox	•	•	•	•	•	e	u	•	•	•	•	•	•
Terrence Lee Croft	e	•	•	•	e	e	e	•	•	e	e	•	•
David P. Darden	•	•	e	•	•	•	•	•	•	e	e	•	•
Gerald Davidson Jr.	•	•	e	•	•	•	u	•	•	•	•	e	e
J. Anderson Davis	e	•	•	•	e	e	•	•	•	•	•	e	•
Randall H. Davis	•	•	•	•	•	•	•	e	•	•	•	•	e
William T. Davis	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•
J. Antonio Delcampo	•	•	•	•	•	•	•	•	e	•	•	•	e
Scott Dewitt Delius	•	•	e	•	•	•	•	•	•	•	•	•	e
Joseph W. Dent	e	•	•	•	•	•	•	•	•	•	•	•	•
Foy R. Devine	•	u	u	•	•	•	•	u	•	•	•	e	•
Daniel S. Digby	n/a	n/a	n/a	n/a	n/a	n	n/a	n/a	n/a	n/a	•	•	u
Susan E. Edlein	•	•	e	•	•	•	•	•	•	•	•	•	•
Gregory W. Edwards	n/a	n/a	n/a	n/a	•	•	•	e	•	•	•	•	•
Archibald A. Farrar	•	u	•	•	•	•	e	•	•	e	e	•	•
D. Kirk Farrar	•	u	•	•	e	e	•	u	•	u	u	•	•
Elizabeth L. Fite	•	•	•	•	•	•	•	•	•	•	•	•	•
Gregory A. Futch	u	•	•	e	e	e	u	•	•	•	•	u	•
Keigh E. Gammage	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•
William C. Gentry	•	•	•	•	•	•	•	•	•	•	•	•	•

To request an excused absence, please email Secretary Elizabeth Fite (elifite@gmail.com)

## Board of Governors Attendance Record

	6-16	10-16	1-17	4-17	6-17	6-17	10-17	1-18	3-18	6-18	6-18	11-18	1-19
	Sat. Amelia	Callaway	ATL	Oconee	Jekyll	Fri. Jekyll	Sat. Jekyll	ATL	Greensboro	Fri. Amelia	Sat. Amelia	Pine Mtn	ATL
Michael G. Geoffroy	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	u	u	u	•
H. Emily George	n/a	n/a	n/a	n/a	n/a	n/a	•	u	•	e	e	•	•
Walter J. Gordon Sr.	e	•	e	•	u	u	u	•	u	•	•	•	e
Patricia A. Gorham	•	•	•	•	e	e	•	•	•	e	e	•	•
Thomas F. Gristina	•	•	e	•	•	•	•	•	u	•	•	•	u
John Haubenreich	•	•	•	•	•	•	•	•	•	•	•	•	•
Patrick H. Head	e	e	•	•	•	•	•	•	•	•	•	•	•
Lawton C. Heard, Jr.	•	•	e	•	•	•	•	u	•	•	•	•	•
Render M. Heard Jr.	•	•	•	u	•	•	•	•	e	•	•	•	•
Thomas W. Herman	•	u	u	•	u	u	•	u	•	•	•	•	•
R. Javoyne Hicks	•	•	•	e	•	•	•	•	•	•	•	•	•
Donna S. Hix	•	•	e	•	•	•	e	•	•	e	e	•	•
Michael D. Hobbs	•	e	•	•	u	u	e	u	u	u	•	u	•
Kenneth B. Hodges	•	•	•	•	•	•	•	•	•	•	•	•	•
Phyllis J. Holmen	•	•	e	e	•	•	•	•	•	•	•	•	•
J. Marcus E. Howard	•	•	•	•	•	•	e	•	e	•	•	e	•
Amy V. Howell	•	•	•	•	•	•	•	•	•	•	•	e	•
Roy B. Huff Jr.	e	•	•	•	e	e	e	•	•	e	e	•	•
James W. Hurt	•	u	e	u	•	u	•	u	•	•	•	u	•
Christopher Huskins	u	u	•	•	u	•	u	•	•	u	u	u	•
Stacey K. Hydriek	•	•	e	•	•	•	e	•	•	•	•	•	•
James T. Irvin	•	•	e	e	•	•	•	•	•	•	•	e	•
William Dixon James	•	•	•	•	u	u	•	•	e	•	•	•	•

To request an excused absence, please email Secretary Elizabeth Fite (elfite@gmail.com)

## Board of Governors Attendance Record

	6-16	10-16	1-17	4-17	6-17	6-17	10-17	1-18	3-18	6-18	6-18	11-18	1-19
	Sat.	Callaway	ATL	Oconee	Fri.	Sat.	Jekyll	ATL	Greensboro	Fri.	Sat.	Pine Mtn	ATL
	Amelia				Jekyll	Jekyll	Jekyll			Amelia	Amelia		
Curtis S. Jenkins	•	u	•	•	•	•	•	•	•	u	•	u	•
Larry Michael Johnson	n/a	n/a	n/a	n/a	n/a	•	•	u	•	u	u	•	•
Lester B. Johnson, III	•	•	e	e	•	•	e	•	•	u	•	e	•
Dawn M. Jones	•	•	•	•	•	•	•	•	•	•	•	•	•
Michael R. Jones, Sr.	u	•	e	u	u	u	e	u	•	u	u	•	u
Jennifer A. Jordan	•	•	e	•	•	•	u	•	e	•	•	e	•
Zahra S. Karinshak	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	e	e
John F. Kennedy	•	•	•	•	•	•	u	•	•	•	•	u	•
William J. Keogh, III	•	•	e	e	•	•	•	u	u	•	•	e	•
Barry E. King	•	•	e	•	•	•	•	•	•	•	•	•	•
Judy C. King	•	•	•	•	•	•	e	•	•	•	•	•	•
Seth Kirschenbaum	•	•	•	•	•	•	•	•	e	•	•	•	•
Catherine Koura	•	e	•	•	e	e	e	•	•	•	•	e	•
Edward B. Krugman	•	•	•	•	e	e	e	•	•	e	e	•	•
Jeffrey R. Kuester	•	•	•	•	•	•	•	•	e	•	•	•	•
Allegra Lawrence-Hardy	•	•	•	e	•	•	•	•	•	•	•	e	•
Nicole C. Leet	•	•	•	•	•	•	•	•	•	•	•	•	•
Katie K. Leonard	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•
Ryan R. Leonard	•	•	•	e	e	•	•	•	•	•	•	•	•
Dawn Renee Levine	•	u	u	•	•	•	u	•	•	•	•	•	•
Joyce Gist Lewis	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•
David S. Lipscomb	•	•	•	•	•	•	•	•	•	•	•	•	•
John R. B. Long	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	e	•

To request an excused absence, please email Secretary Elizabeth Fite (elfite@gmail.com)

## Board of Governors Attendance Record

	6-16	10-16	1-17	4-17	6-17	10-17	1-18	3-18	6-18	6-18	11-18	1-19
	Sat.	Callaway	ATL	Oconee	Jekyll	Jekyll	ATL	Greensboro	Fri.	Sat.	Pine Mtn	ATL
	Amelia								Amelia	Amelia		
Dax Eric Lopez	•	•	u	•	•	e	•	•	•	e	e	•
Ronald A. Lowry	•	•	•	•	e	e	u	•	u	u	•	u
John Bell Manly	•	•	•	e	•	•	u	•	•	•	•	•
Ana Maria Martinez	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•
Samuel M. Matchett	•	e	u	•	u	e	•	e	u	•	•	•
Leticia A. McDonald	•	•	•	•	•	u	•	e	•	•	u	•
Brad J. McFall	u	e	•	•	u	u	•	•	u	u	e	•
Ashley W. McLaughlin	u	•	•	u	•	u	u	•	u	u	u	u
Michael D. McRae	u	u	u	•	u	e	u	•	u	•	•	•
Terry L. Miller	•	•	•	•	•	•	•	•	•	•	•	•
W. Benjamin Mitcham	•	•	e	•	u	•	u	•	•	•	•	•
William J. Monahan	•	•	e	•	•	•	e	•	•	•	•	e
Shondeana Morris	•	•	•	•	•	•	•	•	•	•	•	•
John T. Mroczko	n/a	n/a	n/a	n/a	n/a	u	•	u	u	u	u	u
Laura J. Murphree	•	•	e	•	•	e	•	•	•	•	•	•
Sam G. Nicholson	•	•	•	•	•	•	u	•	e	•	e	•
Rizza O'Connor	n/a	n/a	n/a	n/a	•	•	•	•	•	•	•	•
Kathy Stephens Palmer	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•
Jonathan B. Pannell	•	•	•	e	•	•	e	•	•	•	e	•
Joy Renea Parks	•	•	e	•	•	•	•	•	•	•	•	u
Thomas A. Peterson, IV	n/a	n/a	n/a	n/a	n/a	•	e	•	•	•	•	e
Will H. Pickett, Jr.	u	u	u	u	u	•	u	u	u	u	u	•
Robert Allen Plumb Jr.	n/a	n/a	n/a	n/a	n/a	•	u	•	•	•	•	•

To request an excused absence, please email Secretary Elizabeth Fite (elfite@gmail.com)

## Board of Governors Attendance Record

	6-16	10-16	1-17	4-17	6-17	10-17	1-18	3-18	6-18	6-18	11-18	1-19
	Sat. Amelia	Callaway	ATL	Oconee	Fri. Jekyll	Sat. Jekyll	ATL	Greensboro	Fri. Amelia	Sat. Amelia	Pine Mtn	ATL
Jill Pryor	e	•	•	•	e	e	•	•	e	e	e	•
William M. Ragland	•	e	u	•	•	e	•	e	•	•	e	•
James L. Roberts, IV	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	e
Robert V. Rodatus	•	e	e	e	e	•	•	•	e	e	e	e
Tina S. Roddenbery	•	•	•	•	•	e	•	•	•	•	•	•
Buck Rogers	•	•	•	•	•	•	•	•	•	•	•	•
Joseph Roseborough	•	u	•	•	u	•	•	u	•	•	u	•
William C. Rumer	•	e	u	e	e	e	e	•	e	e	•	•
Claudia S. Saari	•	•	•	•	•	•	•	•	•	•	•	•
Dennis C. Sanders	•	e	u	•	•	e	•	•	•	•	e	•
H. Burke Sherwood	•	•	e	•	•	•	u	u	•	•	e	•
Robert H. Smalley, III	•	•	•	•	•	•	•	e	•	•	•	•
Philip C. Smith	•	u	•	•	•	e	•	•	•	•	•	•
R. Rucker Smith	•	•	•	•	•	•	•	•	•	u	•	•
Daniel B. Snipes	e	•	•	•	•	e	•	•	e	e	e	•
R. Gary Spencer	•	e	•	e	•	•	•	e	•	•	•	•
H. Craig Stafford	•	e	u	•	•	•	e	•	•	•	e	e
Lawton E. Stephens	•	•	e	•	e	e	e	•	•	•	e	•
Donna Coleman Stribling	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•
C. Deen Strickland	•	e	u	•	•	•	u	•	•	•	•	•
Frank B. Strickland	•	e	•	•	•	•	•	•	e	•	•	•
Joseph C. Sumner, Jr.	•	•	u	•	•	•	•	•	•	•	u	u
Darrell L. Sutton	•	•	•	•	•	•	•	•	•	•	e	•

To request an excused absence, please email Secretary Elizabeth Fite (elifite@gmail.com)

## Board of Governors Attendance Record

	6-16	10-16	1-17	4-17	6-17	6-17	10-17	1-18	3-18	6-18	6-18	11-18	1-19
	Sat.	Callaway	ATL	Oconee	Jekyll	Jekyll	Jekyll	ATL	Greensboro	Fri.	Sat.	Pine Mtn	ATL
	Amelia									Amelia	Amelia		
Jason W. Swindle	n/a	n/a	n/a	n/a	•	•	•	u	•	•	•	u	•
Michael B. Terry	•	e	•	•	•	•	•	•	•	•	•	•	•
Anita W. Thomas	•	e	u	•	u	u	•	•	e	u	•	e	•
Edward D. Tolley	•	•	•	•	u	u	•	u	•	•	u	u	•
Clayton Tomlinson	•	•	e	•	•	•	•	u	•	u	•	•	u
Chris P. Twyman	n/a	n/a	n/a	n/a	•	•	•	•	•	•	e	•	•
William Underwood III	n/a	n/a	n/a	n/a	n/a	•	•	•	u	•	•	•	u
Martin E. Valbuena	•	•	•	u	•	•	•	•	•	•	•	e	•
Carl R. Varnedoe	•	u	•	•	•	•	•	u	•	•	•	•	u
Nicki N. Vaughan	•	•	•	•	•	•	•	•	•	•	•	•	•
Carl A. Veline, Jr.	•	•	•	•	e	e	•	•	•	u	•	•	•
J. Henry Walker	•	•	•	•	•	•	e	•	•	•	•	e	•
Janice M. Wallace	•	•	•	•	•	•	•	•	•	e	e	e	•
Amy Carol Walters	•	•	e	•	e	•	e	e	•	•	•	•	•
Jeffrey S. Ward	•	•	•	e	•	•	•	•	•	•	•	e	u
Harold B. Watts	•	•	•	•	•	•	e	•	•	•	•	•	•
John P. Webb	•	•	•	•	•	e	•	•	u	•	•	•	•
Christopher F. West	•	u	u	•	•	•	u	•	u	•	•	u	•
Nancy J. Whaley	•	•	•	•	•	•	•	•	•	•	•	•	e
Paige Reese Whitaker	•	•	•	•	•	•	•	•	•	•	•	•	•
Kathleen Womack	•	•	•	•	•	•	e	•	•	•	•	•	•
Douglas Woodruff	•	•	e	•	e	e	e	u	•	•	•	•	e

**• - attended meeting**

**e - excused absence**

**u - unexcused absence**

To request an excused absence, please email Secretary Elizabeth Fite (elfite@gmail.com)



# Future Meetings Schedule *(3/1/19)*



## **Executive Committee**

---

March 15-17, 2019	Supreme Court/Executive Committee Joint Meeting, Callaway Gardens, Pine Mountain, GA
May 3, 2019	Executive Committee Meeting Tifton, GA
Sept. 6-8, 2019	Executive Committee Extended Meeting Omni Grove Park Inn, Asheville, NC
Sept. 11-13, 2020	Executive Committee Extended Meeting Wild Dunes Resort, Isle of Palms, SC

## **Board of Governors**

---

Spring 2019	March 29-31, 2019	The Ritz-Carlton Reynolds, Lake Oconee Greensboro, GA
Annual 2019	June 6-9, 2019	The Ritz-Carlton Orlando, Grande Lakes Orlando, FL
Fall 2019	October 18-20, 2019	DeSoto Hotel, Savannah, GA
Midyear 2020	January 9-11, 2020	The Georgian Terrace & Fox Theatre, Atlanta, GA
Spring 2020	March 27-29, 2020	Château Élan Winery & Resort, Braselton, GA
Annual 2020	June 11-14, 2020	Sandestin Golf & Beach Resort, Miramar Beach, FL
Annual 2021	June 10-13, 2021	Wild Dunes Resort, Isle of Palms, SC
Annual 2022	June 2-5, 2022	Omni Amelia Island Resort, Amelia Island, FL

### **Young Lawyers Division**

---

Spring 2019	April 25-29, 2019	Hamilton Hotel, Washington, DC
Annual 2019	June 6-9, 2019	The Ritz-Carlton Orlando, Grande Lakes Orlando, FL
Summer 2019	August 22-25, 2019	King & Prince Beach & Golf Resort, St. Simons Island, GA
Fall 2019	November 15-17, 2019	Lanier Islands Legacy Lodge, Buford, GA
Midyear 2020	January 9-11, 2020	The Georgian Terrace & Fox Theatre, Atlanta, GA
Spring 2020	April 24-26, 2020	Graduate Athens, Athens, GA
Annual 2020	June 11-14, 2020	Sandestin Golf & Beach Resort, Miramar Beach, FL
Annual 2021	June 10-13, 2021	Wild Dunes Resort, Isle of Palm, SC
Annual 2022	June 2-5, 2022	Omni Amelia Island Resort, Amelia Island, FL

### **American Bar Association Meetings**

---

Annual 2019	Aug. 8-13, 2019	San Francisco, CA
Midyear 2020	Feb. 12-18, 2020	Austin, TX
Annual 2020	Aug. 6-11, 2020	Toronto, Ontario, Canada
Midyear 2021	Feb. 10-16, 2021	Orlando, FL
Annual 2021	Aug. 5-10, 2021	Chicago, IL

### **Savannah Boat Ride**

---

2019	April 5, 2019	Savannah, GA
------	---------------	--------------

### **Southern Conference Meetings**

---

2019	October 9-13	Ritz-Carlton Atlanta, Atlanta, GA
2020	October 15-18	Moody Gardens Hotel Spa & Convention Center, Galveston Island, TX
2021	Oct.	Florida
2022	Oct.	Mississippi
2023	Oct.	West Virginia
2024	Oct.	South Carolina

**2019 High School Mock Trial Championship (Athens, GA)**

---

2019

May 17-18

Nationals Weekend

(Bar leadership encouraged to serve on Judging Panels on Fri., be on hand for Judging Panel Reception Fri. night, serve on Judging Panels for Sat. and the championship round, and be on hand for Awards Gala)

## Proposed Rule 1-210. Professional Liability Insurance

### 1 **Rule 1-210. Professional Liability Insurance**

2 (a) All active members of the State Bar of Georgia engaged in the private  
3 practice of law in Georgia must be covered by a policy of professional liability  
4 insurance, in an amount no less than \$100,000 per occurrence and \$300,000 in  
5 the aggregate, the limits or which are not reduced by payment of attorney's fees  
6 or claims expenses incurred by the insurer for the investigation, adjustment,  
7 defense, or appeal of a claim.

8 (b) The following members shall be exempt from the requirements of this rule:

9 1) Members who are employed by a governmental entity or other  
10 organization and whose practice is limited to matters concerning the entity or  
11 organization;

12 2) Members whose practice consists solely of serving as an arbitrator or  
13 mediator; and

14 3) Members who are not actively engaged in the practice of law or who  
15 do not represent clients.

16 (c) Each lawyer who is required by this rule to have professional liability  
17 insurance shall so certify by providing the name of the insurance company and  
18 the policy number on the annual dues statement, and shall notify the  
19 Membership Department of the State Bar of Georgia in writing within thirty (30)  
20 days if coverage lapses, is no longer in effect, or terminates for any reason. Each  
21 lawyer's insurance status shall appear in the State Bar Member Directory as either  
22 "yes," "no," or "exempt."

Proposed Rule 1-210. Professional Liability Insurance

23 (d) No lawyer shall be deemed to be a member in good standing while in  
24 violation of this Rule. A lawyer deemed not to be in good standing under this Rule  
25 shall be returned to good standing upon providing the Executive Director of the  
26 State Bar of Georgia with proof of professional liability insurance.

27

28

29

Proposed Amendment to Rule 1-204  
(contingent upon adoption of Rule 1-210)

1 Rule 1-204. Good Standing.

2 No lawyer shall be deemed a member in good standing:

- 3 a. while delinquent after September 1 of any year for nonpayment of the
- 4 annual license fee and any costs or fees of any type as prescribed in
- 5 Chapter 5, Rule 1-501 (a)-(c);
- 6 b. while suspended for disciplinary reasons;
- 7 c. while disbarred;
- 8 d. while suspended for failure to comply with continuing legal education
- 9 requirements; or
- 10 e. while in violation of Rule 1-209 for failure to pay child support obligations.
- 11 f. while in violation of Rule 1-210 for failure to carry a policy of professional
- 12 liability insurance.

13

14



MEMORANDUM

To: Members, Board of Governors

From: Paula Frederick, based upon a memo by Linley Jones, Chair, PLI Committee

Date: March 11, 2019

Re: PLI Committee report

---

After discussion at the Executive Committee retreat on September 22, 2018 and at the Fall meeting of the Bar's Board of Governors on November 3, President Ken Hodges appointed a committee to further investigate the issue of malpractice insurance disclosure. The Committee roster is attached; its members are lawyers highly involved in, or very familiar with, professional liability and insurance matters. Members include plaintiff and defense lawyers who handle malpractice cases, five sole practitioners, six Atlanta-area lawyers and others from Savannah, Brunswick, Athens, Norcross, Lawrenceville, and Roswell.

The committee held five meetings before making its recommendation. Individually and as a group committee members have undertaken research efforts including, but not limited to: (1) exploring the policies and practices of other states; (2) viewing an ABA webinar on professional liability malpractice insurance; (3) interviewing professional liability insurance agents; and (4) considering articles, information and materials provided by members and State Bar staff. Since its formation, the progress of the committee consisted of discussion followed by majority votes on issues presented.

Meetings

At its first meeting on December 13, 2018, the committee began by reaching unanimous consensus on the aspirational idea that all lawyers should carry professional liability insurance unless exempt due to practice area, practice status or employment. The committee also discussed whether the Bar should post insurance information on the State Bar website and decided at a minimum that the fact of coverage should appear with the lawyer's listing in the Bar's online member directory. The committee rejected the idea of requiring lawyers to turn in insurance declaration pages to the State Bar.

The committee discussed consequences for lack of insurance. Members seemed to prefer enforcement of the insurance requirement by administrative suspension and not by any disciplinary penalty. Information gathered from lawyers, whether through a voluntary survey or

a mandatory checkoff, should not be available to the Office of the General Counsel. The committee recommended that the administrative part of the Bar, probably its Membership Department, would receive the information collected under either a disclosure or mandatory coverage rule.

There was additional discussion of the arguments made against mandatory coverage, including cost and a perception that having coverage leads to more claims. The inability to get firm statistics on the number of uninsured lawyers in GA was discussed, and members discussed whether that information was necessary as a prerequisite to recommending a rule. The committee reviewed information from the American Bar Association comparing the rules and requirements of other U.S. jurisdictions. After discussion the committee excluded the option of an Oregon Bar model of single-policy group coverage. The committee asked counsel to craft a proposed rule requiring mandatory professional liability insurance for presentation at the Spring meeting of the BOG.

The minutes of the December 13 meeting are attached.

The committee next met on January 7, 2019. After discussion they decided upon categories of lawyers exempt from a mandatory PLI requirement, and decided to adopt the State Bar of Nevada rule. Proposed exemptions include inactive and emeritus members, mediators, nonprofit lawyers and government lawyers. The committee discussed but rejected exemptions for lawyers in certain low-risk areas of practice, and decided that lawyers practicing criminal law would not be exempt from a mandatory requirement.

The committee took several votes on matters discussed previously:

- The committee decided by majority vote that diminishing limits policies should not be permissible. A subcommittee was formed to interview insurance agents for information relating to the proposed rule.
- The committee voted for enforcement of the insurance requirement by the administrative part of the Bar as opposed to the Office of the General Counsel, with a penalty of an administrative suspension for a lawyer who failed to comply with the mandatory PLI requirement.
- The committee voted not to recommend or draft a proposed rule on mandatory disclosure.
- The committee voted for the State Bar website to list insurance status as yes/no/exempt.
- The committee recommended against a study or survey of Bar members on their insurance status because it could undermine the efforts and credibility of the committee.

The minutes from the January 7 meeting are attached.



At the January 16, 2019 meeting, subcommittee members presented four reports on interviews with professional liability insurance agents. Based on the feedback and member experience, it was concluded that between 20-35% of Georgia lawyers are uninsured.

General Counsel Paula Frederick presented a draft proposed Rule 1-210 and the committee recommended modifications. The committee attempted to view an ABA webinar, Mandatory Professional Liability Insurance, but had technical difficulties. Members later were provided the opportunity to view it individually.

The minutes from the January 16, 2019 meeting are attached.

The committee met again on February 7, 2019 and discussed feedback from the webinar.

Chair Linley Jones provided the committee with information from additional conversations with brokers and others. Committee members learned that 20 insurers and 20 agents currently write professional liability insurance policies in Georgia.

The committee tabled any discussion of whether to prohibit arbitration clauses in professional liability insurance policies.

The Committee reviewed a draft of the proposed mandatory professional liability insurance rule. Several modifications were voted on and approved by the Committee.

The Committee discussed the survey conducted by the Cobb County Bar Association regarding mandatory professional liability insurance. Informational outreach to lawyer organizations was discussed.

The final vote on a proposed mandatory professional liability rule that will be presented to the Board of Governors was scheduled for Tuesday, February 19, 2019 at 12:30 p.m.

The minutes from the February 7 meeting are attached.

The final committee meeting was February 19. Members discussed deleting the language prohibiting eroding policy limits from the draft rule, but a vote to do so failed.

Chair Linley Jones reported on her conversation with the director of the Idaho Bar, who believes that her state has achieved 100% compliance with coverage one year after adopting a rule. Members discussed recommending a lead-in time of one year from adoption of the rule in Georgia to enforcing the rule, to allow lawyers to get coverage.

The minutes from the February 19 meeting are attached. Please note that they have not yet been reviewed and approved by the committee.

## Presentation to the Board of Governors

President Ken Hodges would like the committee to present its proposed rule to the Board of Governors for discussion at the March 30 meeting of the Board. He would like for the Board to vote on the proposal at the Annual Meeting, June 7 in Orlando.

## Professional Liability Insurance Committee

### Talking Points re recommendation

#### **1. What is the Committee recommending?**

The committee recommends that the Bar require lawyers to be covered by a policy of professional liability insurance (“PLI”) with non-eroding limits in an amount no less than \$100,000/occurrence \$300,000/aggregate. The draft rule includes exemptions for lawyers who are not actively practicing or representing private clients.

Each Georgia lawyer will certify on the annual dues statement that they are covered, and will provide the name of the insurance company and the policy number. Members will be required to notify the Bar’s Membership Department if coverage lapses for more than 30 days.

The Bar’s Member Directory will say whether each member is covered or exempt from reporting.

#### **2. What happens if a lawyer fails to comply with the rule?**

A member who does not comply will face administrative suspension, which is the same consequence for a lawyer who does not pay dues or complete CLE requirements.

The requirement will be part of the Bar’s membership rules (Rule 1-210). It will not be a Rule of Professional Conduct and will not be enforceable by the threat of a disciplinary sanction. A lawyer who does not comply would not be in good standing, and hence not eligible to practice law. To have the administrative suspension lifted the member would simply present the Bar’s Executive Director with proof of insurance.

#### **3. Why is the Committee making this recommendation?**

The Bar has an obligation to protect the public. Whether a lawyer maintains professional liability insurance is a material fact that may bear upon a client’s decision to hire the lawyer. Prospective clients should be fully informed before deciding who to hire.

#### **4. Do other states have similar rules?**

Twenty-three jurisdictions require lawyers to disclose whether they have malpractice insurance.

Two (Oregon and Idaho) actually require that lawyers be covered by a PLI policy. Oregon has had a rule in place since 1977, when it created its own Professional Liability Fund to provide \$300,000/\$300,000 coverage to every Oregon lawyer. They offer excess coverage for a fee and half the lawyers in the state pay for the excess coverage. The cost is \$3,300/each for the basic coverage.

#### **5. What about lawyers who cannot afford a policy, or lawyers who are not insurable?**

Committee members spoke with several brokers about these two questions. The brokers suggest that lawyers who cannot afford to pay the PLI discuss a monthly payment plan with their broker. Only one broker reported ever encountering a lawyer who was uninsurable, and in that case the lawyer had a history of eight or nine paid claims of over \$100,000/each.

The Bar's recommended broker for PLI is Member Benefits, Inc. The Bar's website includes a list of admitted and non-admitted carriers, risk retention groups and multi-line agencies/brokers at the link

<https://www.gabar.org/attorneyresources/insuranceofferings/malpractice-insurance.cfm>.



# State Bar of Georgia

## 2018-2019 PROFESSIONAL LIABILITY INSURANCE COMMITTEE ROSTER

**Linley Jones, Chair**

The Linley Jones Firm, PC  
3334 Peachtree Road, NE, Suite CU-2  
Atlanta, Georgia 30326  
Phone: (404) 418-0000  
Fax: (404) 418-0044  
E-mail: [linley@linleyjones.com](mailto:linley@linleyjones.com)

**William Thomas Mitchell, Vice-chair**

Cruser Mitchell Novitz Sanchez  
Gaston & Zimet LLP  
275 Scientific Drive, NW, Suite 2000  
Norcross, Georgia 30092  
Phone: (404) 881-2622  
Fax: (404) 881-2630  
E-mail: [bmitchell@cmlawfirm.com](mailto:bmitchell@cmlawfirm.com)

**Sarah Brown Akins**

Ellis Painter Ratterree & Adams, LLP  
2 East Bryan Street, 10<sup>th</sup> Floor  
PO Box 9946  
Savannah, Georgia 31412  
Phone: (912) 233-9700  
Fax: (912) 2332281  
E-mail: [sbakins@epra-law.com](mailto:sbakins@epra-law.com)

**William T. Clark**

Georgia Trial Lawyers Association  
3350 Centennial Tower  
101 Marietta Street, NW  
Atlanta, Georgia 30303  
Phone: (404) 522-8487  
Fax: (404) 522-3705  
E-mail: [bclark@gtla.org](mailto:bclark@gtla.org)

**William T. Davis**

Naggjar & Sarif LLC  
3490 Piedmont Road, NE, Suite 1450  
Atlanta, Georgia 30305  
Phone: (404) 816-2004  
Fax: (404) 816-2005  
E-mail: [will@nsfamilylawfirm.com](mailto:will@nsfamilylawfirm.com)

**Peter Werdeshim**

Werdeshim Law Firm, LLC  
691 John Wesley Dobbs Ave, Suite Z  
Atlanta, Georgia 30312  
Phone (404) 348-8325  
Fax (678) 210-7379  
E-Mail: [pete@werklaw.com](mailto:pete@werklaw.com)

**David S. Lipscomb**

**Executive Committee Liaison**  
Attorney at Law  
175 Langley Drive, Building C, Suite 1  
Lawrenceville, Georgia 30046-6952  
Phone (770) 995-2515  
Fax (770) 995-2502  
E-Mail: [david@lipscomblaw.com](mailto:david@lipscomblaw.com)

**Michael Glenn Frick**

Hall Booth Smith, PC  
3528 Darien Highway, Suite 300  
Brunswick, Georgia 31525  
Phone: (912) 554-0093  
Fax: (912) 554-1973  
E-mail: [mfrick@hallboothsmith.com](mailto:mfrick@hallboothsmith.com)

**Warren Raymond Hinds**

Warren R. Hinds, PC  
1303 Macy Drive  
Roswell, Georgia 30076  
Phone: (770) 993-1414  
Fax: (770) 993-4441  
E-mail: [warrenhindslaw@gmail.com](mailto:warrenhindslaw@gmail.com)

**David Neal Lefkowitz**

The Lefkowitz Firm LLC  
648 S. Milledge Avenue  
Athens, Georgia 30605  
Phone: (706) 850-8383  
Fax: (706) 850-8388  
E-mail: [dnl@lefkowitzfirm.com](mailto:dnl@lefkowitzfirm.com)

**Christine Lupo Mast**

Hawkins Parnell Thackston & Young  
LLP  
303 Peachtree Street, NE, Suite 4000  
Atlanta, Georgia 30308-3243  
Phone (404) 614-7400  
Fax (404) 614-7500  
E-Mail: [cmast@hptylaw.com](mailto:cmast@hptylaw.com)

**Shannon McKenzie Sprinkle**

Carlock Copeland & Stair LLP  
191 Peachtree Street, NE, Suite 3600  
PO Box 56887  
Atlanta, Georgia 30303  
Phone (404) 221-2330  
Fax (404) 222-9482  
E-Mail: [ssprinkle@carlockcopeland.com](mailto:ssprinkle@carlockcopeland.com)

**R. Gary Spencer**

R. Gary Spencer, PC  
50 Hurt Plaza, Suite 830  
Atlanta, Georgia 30303  
Phone (404) 549-8782  
Fax (888) 572-1831  
[gary@regaryspencer.com](mailto:gary@regaryspencer.com)

**Kimberly Cofer Butler**

Ellis Painter Ratterree & Adams LLP  
2 East Bryan Street, 10th Floor  
PO Box 9946  
Savannah, GA 31412-0146  
Phone (912) 233-9700  
Fax (912) 233-2281  
[kharris@epra-law.com](mailto:kharris@epra-law.com)

**Emerson Carey Jr.**

Carey & Dobson, LLC  
531 Boulevard SE  
Post Office Box 504  
Atlanta, Georgia 30302  
Phone (404) 635-1112  
Fax (404) 994-6294  
[careylaw@bellsouth.net](mailto:careylaw@bellsouth.net)

**Christopher Dean Balch**

Balch Law Group  
1270 Caroline Street  
Suite D120  
Atlanta, Georgia 30307  
Phone: (404) 202-5934  
Fax: (678) 228-1885  
[chris@balchlawgoup.com](mailto:chris@balchlawgoup.com)

**State Bar Staff Liaison****William D. NeSmith****Dputy General Counsel**

104 Marietta Street, NW, Suite 100  
Atlanta, Georgia 30303  
Phone: (404) 524-8720  
[billn@gabar.org](mailto:billn@gabar.org)



MEMORANDUM


To: Members, Board of Governors

From: Paula Frederick

Date: October 11, 2018

Re: Disclosure of Professional Liability Insurance

At its September retreat the Executive Committee discussed the idea of mandatory malpractice insurance disclosure for Georgia lawyers. The Executive Committee voted to explore the concept and asked that I provide the Board of Governors with information for discussion at the November Board meeting. Twenty-three jurisdictions currently require lawyers to disclose whether they have malpractice insurance. Most gather the information through the annual dues or registration statement with a checkoff similar to this one (used in Nevada):

SCR 79 PROFESSIONAL LIABILITY INSURANCE DISCLOSURE		
All members, active or inactive, MUST complete this section. Please select ONE option.		
<input type="checkbox"/>	I am not currently representing clients; or I am engaged as a full-time government lawyer or judge; or I am employed by an organizational client and do not represent clients outside that capacity. <i>If you check this box, you are done, please sign and date at the bottom of this page.</i>	
<input type="checkbox"/>	I am engaged in the private practice of law and do not maintain professional liability insurance. <i>If you check this box, you are done, please sign and date at the bottom of this page.</i>	
<input type="checkbox"/>	I am engaged in the private practice of law and, I or my firm, maintain professional liability insurance with the carrier listed below. This includes insurance from ANY state. If you check this box, you MUST disclose the following:	
Firm Name (if you are reporting insurance):		
Names of Insurance Carrier (not broker):		
Insurance Carrier Address:		
City:	State:	Zip:
I certify all of the above disclosures required by NRS 7.034, NRS 425.520 and SCR 79 are true and complete.		
Signature		Date
Please return to: State Bar of Nevada 3100 W. Charleston Blvd., Suite 100 Las Vegas, NV 89102		
		

The information is most often provided to the public for the benefit of potential clients; in fact, seven jurisdictions require the lawyer to disclose the information directly to the potential client. Many clients are not aware that lawyers are not required to have insurance. A chart indicating which jurisdictions have a malpractice disclosure rule is attached to this memo.

Our Executive Committee was in favor of gathering data through a voluntary pilot program and reviewing the results before making any recommendation about possible uses of the information. The information would be gathered by the Administrative part of the Bar and not by the Office of the General Counsel. The one-year voluntary pilot project would give the Bar's leadership some idea of how many lawyers are covered by malpractice insurance, and would allow the Bar to explore how it can help more lawyers find affordable coverage.

As conceived by the Executive Committee, there would not be any consequence if a lawyer failed to report during the pilot project. If the Board approves the concept as a rules change, it could consider whether failure to report should result in an administrative suspension of license, similar to failure to pay dues, to complete CLE requirements, or to pay court-ordered child support.

You may have read that the State Bar of California is currently debating whether to require all California lawyers to carry malpractice insurance coverage. Our proposal would not require coverage but would require disclosure by all lawyers of whether they have insurance.

Attached to this memo is a draft rule for the Board's discussion. I have also attached a chart indicating which jurisdictions require disclosure of malpractice insurance, and a brief chart outlining average costs for professional liability insurance in Georgia provided by Jacob Healy of Gallagher Affinity, one of the Bar's recommended brokers.

Thank you, and please let me know if I can provide you with other information.

pjf

AMERICAN BAR ASSOCIATION  
 STANDING COMMITTEE ON CLIENT PROTECTION

STATE IMPLEMENTATION OF  
 ABA MODEL COURT RULE ON INSURANCE DISCLOSURE

	Requires Disclosure Directly to Client  (7) (AK, CA, NH, NM, OH, PA and SD)	Requires Disclosure On Annual Registration Statement <sup>1</sup>  (16) (AZ, CO, DE, HI, IL, KS, ME, MA, MI, MN, NE, NV, ND, RI, VA, WA and WV)	Considering Adoption  (6) (NJ, NY, SC, UT and VT)	Information Made Available to Public	Other Info <i>(See also, Oregon and Idaho:</i> Professional liability insurance mandated)  (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule. NC withdrew its rule.)
<b>AL</b>					
<b>AK</b>	Alaska Rules of Professional Conduct, Rule 1.4			N/A	
<b>AZ</b> Effective 1/1/07		Supreme Court Rule 32(c)(12), effective January 1, 2007.		Yes. State Bar of Arizona website.	
<b>AR</b>					On January 21, 2006, the House of Delegates of the Arkansas Bar Association voted not to adopt a disclosure rule.
<b>CA</b> Effective 1/1/2010	Rule 3-410. Disclosure of Professional Liability Insurance. California Rules of Professional Conduct.			N/A	



	<b>Requires Disclosure Directly to Client</b>  (7) (AK, CA, NH, NM, OH, PA and SD)	<b>Requires Disclosure On Annual Registration Statement<sup>1</sup></b>  (16) (AZ, CO, DE, HI, IL, KS, ME, MA, MI, MN, NE, NV, ND, RI, VA, WA and WV)	<b>Considering Adoption</b>  (6) (NJ, NY, SC, UT and VT)	<b>Information Made Available to Public</b>	<b>Other Info</b> <i>(See also, Oregon and Idaho:</i> Professional liability insurance mandated)  (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule. NC withdrew its rule.)
<b>CO</b> Effective 1/1/09		Colorado Rules of Civil procedure, Rule 227		C.R.C.P. 227: <b>(c) Availability of Information.</b> The information provided by the lawyer regarding professional liability insurance shall be available to the public through the Supreme Court Office of Attorney Registration and on the Supreme Court Office of Attorney Registration website.	
<b>CT</b>					At its February 23, 2009 meeting, the Connecticut Superior Court Rules Committee voted unanimously to deny a proposal to adopt an insurance disclosure rule.
<b>DE</b> Beginning with 2007 Annual Registration Form.		Annual Registration Form			
<b>DC</b>					

	<b>Requires Disclosure Directly to Client</b>  (7) (AK, CA, NH, NM, OH, PA and SD)	<b>Requires Disclosure On Annual Registration Statement<sup>1</sup></b>  (16) (AZ, CO, DE, HI, IL, KS, ME, MA, MI, MN, NE, NV, ND, RI, VA, WA and WV)	<b>Considering Adoption</b>  (6) (NJ, NY, SC, UT and VT)	<b>Information Made Available to Public</b>	<b>Other Info (See also, Oregon and Idaho: Professional liability insurance mandated)</b>  (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule. NC withdrew its rule.)
<b>FL</b>					Declined to adopt. See, <i>In Re: Amendments to The Rules Regulating The Florida Bar (Biannual Report) Florida Supreme Court No. SC10-1967 dated April 12, 2012.</i>
<b>GA</b>					
<b>HI</b> Effective 12/1/07		<b>RSCH 2.17(d)</b>		N/A	
<b>ID</b>				Available to the public upon request.	Effective January 1, 2018, all Idaho licensed lawyers representing private clients must show proof of malpractice insurance. Idaho Bar Commission Rule 302(a)(5)
<b>IL</b> Effective 10/1/04		Amended Illinois Supreme Court Rule 756		Yes	
<b>KS</b> Effective 9/6/05		Supreme Court Rule 208A		Yes, by means designated by the Court.	
<b>KY</b>					On or about November 14, 2006 the KY Sup. Ct. declined to adopt a disclosure rule.
<b>LA</b>					

	<b>Requires Disclosure Directly to Client</b>  (7) (AK, CA, NH, NM, OH, PA and SD)	<b>Requires Disclosure On Annual Registration Statement<sup>1</sup></b>  (16) (AZ, CO, DE, HI, IL, KS, ME, MA, MI, MN, NE, NV, ND, RI, VA, WA and WV)	<b>Considering Adoption</b>  (6) (NJ, NY, SC, UT and VT)	<b>Information Made Available to Public</b>	<b>Other Info</b> <i>(See also, Oregon and Idaho:</i> Professional liability insurance mandated)  (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule. NC withdrew its rule.)
<b>ME</b>		Maine Board of Bar Overseers Rule 4			
<b>MD</b>					
<b>MA</b> Effective 9/1/06		Supreme Judicial Court Rule 4:02		Yes.	
<b>MI</b> Beginning with the notice issued for fiscal year 2003-2004		Administrative Order No. 2003-5, dated August 6, 2003		<b>No.</b>	
<b>MN</b> Effective 10/1/06		Rule 6 of the Rules of the Supreme Court on Lawyer Registration. Annual Reporting of Professional Liability Insurance Coverage (Effective October 1, 2006)		Yes.  Rule 7. Access to Lawyer Registration Records	
<b>MO</b>					Not currently being considered.
<b>NE</b>		Supreme Court Rules · CHAPTER 3: ATTORNEYS AND THE PRACTICE OF		Shall be made available to the public.	

	<b>Requires Disclosure Directly to Client</b>  (7) (AK, CA, NH, NM, OH, PA and SD)	<b>Requires Disclosure On Annual Registration Statement<sup>1</sup></b>  (16) (AZ, CO, DE, HI, IL, KS, ME, MA, MI, MN, NE, NV, ND, RI, VA, WA and WV)	<b>Considering Adoption</b>  (6) (NJ, NY, SC, UT and VT)	<b>Information Made Available to Public</b>	<b>Other Info (See also, Oregon and Idaho: Professional liability insurance mandated)</b>  (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule. NC withdrew its rule.)
		LAW · Article 8: State Bar Association; Creation; Control; and Regulation. § 3-803. Membership.			
<b>NV</b> Adopted 9/13/05 and effective 11/13/05		Amended Supreme Court Rule 79 (Adopted September 13, 2005 and effective November 13, 2005)		Yes. It will be part of the lawyer's public record available by phone or email inquiry.	
<b>NH</b> Effective 3/1/03	New Hampshire Rules of Professional Conduct, Rule 1.19. (Disclosure of Information to the Client)			N/A	
<b>NJ</b>			X		Supreme Court Committee studying. Chair: Robert Fall
<b>NM</b> Effective 11/2/09	Rule 16-104 Rules of Professional Conduct (Current Rule not available online)				
<b>NY</b>			Under consideration.		
<b>NC</b>					Effective January 1, 2010, North Carolina lawyers are no longer required to

	<b>Requires Disclosure Directly to Client</b>	<b>Requires Disclosure On Annual Registration Statement<sup>1</sup></b>	<b>Considering Adoption</b>	<b>Information Made Available to Public</b>	<b>Other Info (See also, Oregon and Idaho: Professional liability insurance mandated)</b>
	(7) (AK, CA, NH, NM, OH, PA and SD)	(16) (AZ, CO, DE, HI, IL, KS, ME, MA, MI, MN, NE, NV, ND, RI, VA, WA and WV)	(6) (NJ, NY, SC, UT and VT)		(AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule. NC withdrew its rule.)
					inform the State Bar as to whether they maintain legal malpractice insurance.
<b>ND</b> Effective 8/1/09		Amended Rule 1.15 of the North Dakota Rules of Professional Conduct		Yes	
<b>OH</b> Effective 7/1/01	Ohio Rules of Professional Conduct, Rule 1.4(c)			N/A	Lawyers who hire themselves out to do research and writing for other lawyers need not comply. (Ohio Supreme Court Bd. of Commissioners on Grievances and Discipline, Op. 2005-1, 2/4/05).
<b>OK</b>					No action taken to adopt a rule.
<b>OR</b>					All lawyers required to maintain professional liability insurance. For information on Oregon Professional Liability Fund
<b>PA</b> Effective 7/1/06	Pennsylvania adopted RPC 1.4(c), effective 7/1/2006.			N/A	As part of attorney registration, Pennsylvania attorneys must state whether they have malpractice insurance. Whether they do or not is public information that appears on the Disciplinary Board's website.

	<b>Requires Disclosure Directly to Client</b>  (7) (AK, CA, NH, NM, OH, PA and SD)	<b>Requires Disclosure On Annual Registration Statement<sup>1</sup></b>  (16) (AZ, CO, DE, HI, IL, KS, ME, MA, MI, MN, NE, NV, ND, RI, VA, WA and WV)	<b>Considering Adoption</b>  (6) (NJ, NY, SC, UT and VT)	<b>Information Made Available to Public</b>	<b>Other Info</b> <i>(See also, Oregon and Idaho:</i> Professional liability insurance mandated)  (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule. NC withdrew its rule.)
<b>RI</b> Effective 4/15/07		Rule 1(b) of Article IV "Periodic Registration of Attorneys". (Effective April 15, 2007)			
<b>SC</b>			<b>X</b>		<p>1) Beginning in 2012, each lawyer seeking license renewal or a new license will be asked to disclose voluntarily whether the lawyer maintained legal malpractice insurance coverage with a minimum amount of \$100,000, and then:</p> <p>2) Based on the information gathered in 2012 showing the percentage of uninsured lawyers, either</p> <p>a) Presenting to the South Carolina Supreme Court a potential proposed Rule of Professional Conduct possibly modeled, in part, on the ABA Model Court Rule;</p> <p>b) Adopting an internal South Carolina Bar rule that authorizes disclosure to the public of each lawyer's insurance information through the</p>

	<b>Requires Disclosure Directly to Client</b>  (7) (AK, CA, NH, NM, OH, PA and SD)	<b>Requires Disclosure On Annual Registration Statement<sup>1</sup></b>  (16) (AZ, CO, DE, HI, IL, KS, ME, MA, MI, MN, NE, NV, ND, RI, VA, WA and WV)	<b>Considering Adoption</b>  (6) (NJ, NY, SC, UT and VT)	<b>Information Made Available to Public</b>	<b>Other Info</b> <i>(See also, Oregon and Idaho: Professional liability insurance mandated)</i>  (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule. NC withdrew its rule.)
					Bar and on the Bar's website, or  c) Taking no action.
<b>SD</b> Effective 1/1/99	South Dakota Model Rules of Professional Conduct, Rule 1.4 (Communication)  (SDBAR links currently unavailable)	(SD also requires lawyers to disclose on their annual registration statements.)		N/A	SD has 7 years of certification to the Supreme Court - 97% have at least \$100,000 in coverage, together with name and policy number of the policy. Over the past 7 years, the percentage has never dropped below 96% nor been higher than 97.5% in any given year.  RPC 7.5 concerning letterhead requires the RPC 1.4(c) disclosure to be in black ink with type no smaller than the type used for the lawyer's names.

	<b>Requires Disclosure Directly to Client</b>  (7) (AK, CA, NH, NM, OH, PA and SD)	<b>Requires Disclosure On Annual Registration Statement<sup>1</sup></b>  (16) (AZ, CO, DE, HI, IL, KS, ME, MA, MI, MN, NE, NV, ND, RI, VA, WA and WV)	<b>Considering Adoption</b>  (6) (NJ, NY, SC, UT and VT)	<b>Information Made Available to Public</b>	<b>Other Info</b> <i>(See also, Oregon and Idaho: Professional liability insurance mandated)</i>  (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule. NC withdrew its rule.)
<b>TX</b>					By letter dated April 14, 2010 to the President of the State Bar of Texas, the Supreme Court of Texas declined to adopt an insurance disclosure rule.
<b>UT</b>			Rule 1.4 Proposed Amendment - Disclosure of Malpractice Insurance Rule 1.4. Communication.		Required to disclose on registration statement but no Rule enacted. Bar will collect date on coverage for a 2-year period (2009-2011).
<b>VT</b>			On December 28, 2006 the Civil Rules Committee proposed that the Vermont Supreme Court consider adoption of a rule requiring insurance disclosure, not in the Vermont Rules of Professional Conduct, but as part of the Rules for Licensing of Attorneys. In adopting the rule, consideration should be given to requiring disclosure of the liability limits and deductibles of the coverage.		
<b>VA</b> Amended effective 7/1/89; 1/1/90; 4/1/90.		Rules of the Virginia Supreme Court, Part 6 § 4 Paragraph 18. Financial Responsibility /		Yes, on Bar's website: (See, <a href="http://www.vsb.org">www.vsb.org</a> , under the headings Public Information, Attorney Records Search, Attorneys without	



	<b>Requires Disclosure Directly to Client</b>  (7) (AK, CA, NH, NM, OH, PA and SD)	<b>Requires Disclosure On Annual Registration Statement<sup>1</sup></b>  (16) (AZ, CO, DE, HI, IL, KS, ME, MA, MI, MN, NE, NV, ND, RI, VA, WA and WV)	<b>Considering Adoption</b>  (6) (NJ, NY, SC, UT and VT)	<b>Information Made Available to Public</b>	<b>Other Info</b> <i>(See also, Oregon and Idaho: Professional liability insurance mandated)</i>  (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule. NC withdrew its rule.)
				Malpractice Insurance).	
<b>WA</b> Effective 7/1/07		Admission to Practice Rule 26 - Insurance Disclosure. (Effective July 1, 2007)		Yes.	
<b>WV</b> Effective 5/6/05		State Bar By-Laws – Article III (A) - Financial Responsibility Disclosure Form		Yes.  ... shall be made available to the public by such means as may be designated by the West Virginia State Bar.	
<b>WI</b>					
<b>WY</b>					

Copyright © 2018 American Bar Association. All rights reserved. Nothing contained in this chart is to be considered the rendering of legal advice. The chart is intended for educational and informational purposes only. We make every attempt to keep the chart as accurate as possible. If you are aware of any inaccuracies in the chart, please send your corrections or additions and the source of that information to Selina Thomas (312) 988-6271, [selina.thomas@americanbar.org](mailto:selina.thomas@americanbar.org).

## MINUTES

December 13, 2018

### Professional Liability Insurance Committee Meeting

Attendees: Linley Jones, Bill NeSmith, Deputy General Counsel, State Bar of Georgia, David Lipscomb, Sally Akins, Bill Clark, Shannon Sprinkle, Warren Hinds, Jeff Davis, Executive Director State Bar of Georgia, David Lefkowitz, Pete Werdesheim, Michael Frick, Christine Mast, Paula Frederick, General Counsel, State Bar of Georgia, Ken Hodges, President, State Bar of Georgia by conference call.

Meeting was called to order by Chair, Linley Jones at 12:05 p.m. The chair called for introductions of the members and after explained that the purpose of the committee is to discuss requiring members of the State Bar of Georgia to have professional liability insurance.

Ken Hodges joined the group by conference call, welcoming the members and thanking them for agreeing to serve on such an important committee. President Hodges reiterated his position that all lawyers practicing law in Georgia should be required to have PLI.

David Lipscomb suggested that the Board of Governors will not support mandatory PLI but will support to determine how many lawyers in Georgia have liability insurance and a study of requiring lawyers to reporting whether they do or do not carry PLI. Chair pointed out that the mission of the Committee is to make a recommendation based on what the Committee determines is in the best interest of the public and the Bar, regardless of what it is believed that the Board of Governors may do.

A discussion ensued about what will be the enforcement mechanism if a lawyer is required to have PLI, but doesn't; will mandatory PLI cause rates to go up once the insurance companies know that they have a captive audience, will mandatory PLI encourage clients to sue, what about lawyers that can't afford it, and if they cannot afford PLI, should they be practicing law?

In the discussions, it was suggested that the Bar may want to consider an enhancement to Clients' Security Fund. Bill NeSmith addressed this topic and explained that the Clients' Security Fund does not pay out on malpractice claims, only on claims of proven dishonesty and only if the dishonest lawyer was disbarred or indefinitely suspended.

Paula Frederick said that mandatory PLI is good idea, but we have to figure out how to get there. Issues include limits of liability, costs, enforcement for failure to insure, would mandatory insurance have eroding limits, what about deductible, what to do about lawyers who cannot afford a deductible?

After much more discussion, the consensus among the committee members is to recommend to the Board of Governors that the State Bar of Georgia should require all lawyers practicing law in Georgia to have PLI. Some were still concerned about reception at Board of Governors. Once again, the Chair pointed out that the mission of the Committee is to make a recommendation based on what the Committee determines is in the best interest of the public and the Bar, regardless of what it is believed that the Board of Governors may do.

All agreed that more time is needed to craft a detailed proposal. President Hodges told the committee that it was not necessary to have a recommendation for the Board at the Mid-Year Meeting in January 2019 as the committee may need more time to craft a good proposal and to fully investigate mandatory PLI in other jurisdictions. President Hodges suggested that the committee might be able to provide a proposal to the Board of Governors at the Spring meeting, which will be held March 29-31 at the Ritz-Carlton, Lake Oconee, Greensboro, Georgia.

The committee began discussing possible requirements for requiring a lawyer to disclose to a client if the lawyer has PLI. The general consensus was if there was no mandatory PLI, but mandatory disclosure of PLI, limits of liability should not be part of that disclosure. The committee discussed that if PLI disclosure was mandatory, how would that be accomplished? Some suggestions were: signage in waiting room, disclosing PLI coverage on the State Bar website directory and the CloudLawyer directory, include the disclosure in any fee agreement, disclosure via website/advertisement. There was a brief discussion about mandatory fee agreements as not being embraced by the Executive Committee, so disclosure by fee agreement would not likely be effective without mandatory fee agreements.

It was suggested that State Bar could post information on its website for public consumption to explain what PLI is, that a client should always ask a lawyer if they carry PLI and ask questions about limits.

The committee discussed that if mandatory PLI was required, what would be the enforcement mechanism? Would enforcement be through the disciplinary process or an administrative suspension like CLE.

The committee discussed requiring lawyers to turn in their declarations page perhaps in connection with the dues notice. Jeff Davis suggested that this might require more staff to keep up with all of the new required documents. It was suggested that the lawyer should just disclose that they have PLI and not require any verification. A false statement about mandatory disclosure of PLI to the Bar could be pursued through the disciplinary process.

The committee inquired as to how many lawyers in Georgia currently carry PLI. Some committee members suggested that most have PLI and other believed that no more than 1/3 carry PLI. Paula Frederick explained to the committee that insurance companies will not disclose how many Georgia lawyers they have insured and consider that information confidential and proprietary. It was her belief that the State Bar cannot get that information.

The committee discussed the Oregon Bar model in which the Oregon Bar buys one policy and covers all lawyer in Oregon. The cost of the PLI is then factored into lawyer dues. There are exceptions of who can be excluded, such as judges, in house counsel, prosecutors and others. The committee's consensus that State Bar should not attempt group purchasing like the Oregon Bar and should pursue other ways to require PLI.

There being no additional discussions, the Chair set the next meeting for January 7, 2019 at noon in the YLD Boardroom. The room was booked at the meeting and the committee adjourned.



# State Bar of Georgia

## PROFESSIONAL LIABILITY INSURANCE COMMITTEE MEETING

Monday, January 7, 2019  
12:00 Noon  
YLD Presidents Board Room  
State Bar Headquarters  
Atlanta, Georgia

### MINUTES

#### **I. Call to Order**

At approximately 12:05 p.m. Chair Linley Jones called the meeting to order.

#### **II. Roll Call & Introductions**

The following Committee members were present: Linley Jones; William T. Clark; Peter Werdesheim; Warren R. Hines; Christine Lupo Mast; Shannon M. Sprinkle; and Executive Committee Liaison, David S. Lipscomb. Committee members William T. Mitchell, William T. Davis; Michael Glenn Frick; and David N. Lefkowitz participated via teleconference.

Committee Member Sarah B. Akins was not in attendance.

Also present were the following State Bar of Georgia staff members: Executive Director Jeff R. Davis; General Counsel Paula J. Frederick; Deputy General Counsel Jenny K. Mittelman; Deputy General Counsel William D. NeSmith, III and Paralegal Betty Ross Derrickson.

#### **III. Approval of the December 13, 2018 Meeting Minutes**

The December 13, 2018 Professional Liability Insurance Committee meeting minutes were presented to the Board prior to the meeting. Hearing no objections, the December 13, 2018, meeting minutes were approved by unanimous consensus.

#### **IV. Unfinished Business**

The committee discussed the following items in an effort to craft proposed rules to be submitted and recommended to the Board of Governors. The committee's objective is to have something for the Board's review and possibly a vote by the 2019 Spring Board of Governor's meeting in March 2019.

1. Proposed Rule A - Mandatory professional liability insurance.

i) Category of lawyers to be included/excluded from mandatory insurance: The committee determined that all active members of the State Bar of Georgia will be included with the following exceptions: inactive and emeritus members; mediators and arbitrators who work exclusively as mediators/arbitrators; lawyers whose sole client is a nonprofit organization; and government/public entity employees. Language used by the State Bar of Nevada may be adopted.

ii) Minimum limits of liability: The committee determined that diminishing policy limits should not be permissible and the aggregate limit should be more than (double or more) the per/claim minimum.

iii) Maximum deductible: The committee determined that information from an insurance broker and a professional in the insurance industry may be helpful in determining this item. It was determined that a broker will be invited to the next meeting to provide this information.

Also, an informal subcommittee was formed to obtain information from various insurance professionals and other state bars that have considered this matter to obtain historical information. Christine Mast, Linley Jones, Shannon Sprinkle and Bill Davis were appointed to the subcommittee. Paula Frederick and Jeff Davis will also speak with other Bar executives and presidents to obtain information at the upcoming ABA National Association of Bar Executive midyear meeting.

iv) Diminishing/eroding policy limits - The committee determined that diminishing/eroding policy limits will not be permitted.

v) Enforcement by administrative suspension? Discipline reserved for affirmative misrepresentation or harm caused? The committee determined that any affirmative misrepresentation should be covered by Georgia Rule of Professional Conduct Rule 8.4.

2. Proposed Rule B - Mandatory disclosure of professional liability insurance by lawyers to clients.

The committee decided not to recommend or draft a proposed rule for this option.

3. Proposed Rule C - State Bar requirement for Georgia lawyers to report professional liability insurance coverage.

i) Should the State Bar of Georgia's website list insurance status as yes/no/exempt?

By majority vote the committee approved this option. Other options will be considered and possibly implement in the future.

ii) Should the State Bar of Georgia disclose to clients upon request?

The committee determined that specific information regarding the coverage should be disclosed to the client upon request.

4. Should the State Bar of Georgia conduct a voluntary survey for members to determine the levels of professional liability insurance coverage?

By majority vote, the committee recommended that the above-referenced study/survey not be conducted because it will undermine the efforts and credibility of the committee.

## V. New Business

1. Spring Board of Governors Meeting

All committee members are invited to attend the 2019 Spring Board of Governors meeting on March 30, 2019, from 9:00 a.m. to 12:00 p.m. at the Ritz Carlton Lake Oconee Lodge. It was determined that the committee will not meet in conjunction with the Spring Board of Governors meeting. It is the committee's intention to submit its work product at this meeting in advance of the Board voting on this matter.

2. Next Committee Meeting – January 16, 2019, at 12:00 noon. The meeting will include the viewing of an ABA Webinar: Mandatory Professional Liability Insurance, Disclosure and Other Efforts to Insure Attorneys and Product Public beginning at 1:00 p.m.

Committee members should be prepared to present their reports at this meeting (prior to the webinar).

There being no further business, the meeting was adjourned at approximately 1:27 p.m.



# State Bar of Georgia

## PROFESSIONAL LIABILITY INSURANCE COMMITTEE MEETING

Wednesday, January 16, 2019  
12:00 Noon  
Presidents Board Room  
State Bar Headquarters  
Atlanta, Georgia

### MINUTES

#### **I. Call to Order**

At approximately 12:09 p.m. Chair Linley Jones called the meeting to order.

#### **II. Roll Call & Introductions**

The following committee members were present: Linley Jones, William T. Clark, Peter Werdesheim, Christine Lupo Mast, R. Gary Spencer, Emerson Carey Jr., and Executive Committee Liaison, David S. Lipscomb.

Committee members Sarah (Sally) B. Akins, Warren R. Hinds, David N. Lefkowitz, Kimberly Cofer Butler and Shannon M. Sprinkle (who joined the meeting later) participated via teleconference.

Committee members William T. Mitchell, William T Davis, and Michael Glenn Frick were not in attendance.

Also present were the following State Bar of Georgia staff members: Executive Director Jeff R. Davis; General Counsel Paula J. Frederick; Deputy General Counsel Jenny K. Mittelman; Deputy General Counsel and staff liaison William D. NeSmith, III and Paralegal Betty Ross Derrickson.

#### **III. Approval of the Meeting Minutes**

The January 7, 2019 Professional Liability Insurance Committee meeting minutes were presented to the committee members prior to the meeting. Hearing no objections, the January 7, 2019 meeting minutes stand approved as presented.

#### **IV. Unfinished Business**

Member reports on insurance agent interviews



- Paula J. Frederick presented a report prepared by Shannon Sprinkle in her absence. The report reflected her interview with three insurance brokers (two local and one national). A written report was provided to the committee prior to this meeting.
- Warren Hinds reported on his interview with his insurance broker with the Daniels Head Agency in Texas. A written report was provided to the committee prior to this meeting.
- Christine Mast reported on her interview with Aubrey Smith, a former insurance agent with Southern Lawyers. A written report was provided to the committee prior to this meeting.
- Linley Jones reported on her interview with Martha Klocke, her insurance agent with Affinity Insurance. A written report was provided to the committee prior to this meeting.

Copies of the written reports are attached to these minutes as information items only.

#### Update on the drafting of a proposed rule

Based upon the committee's decision at the January 7, 2019 meeting to recommend a mandatory professional liability insurance requirement to the Executive Committee, General Counsel Paula Frederick presented to the committee a draft of a proposed rule (Rule 1-210). For the committee's information, Ms. Frederick included a proposed disclosure rule that was taken directly from the ABA model rule (the committee previously decided not to recommend this option).

After reviewing the proposed Rule 1-210, the committee suggested modifications, which Ms. Frederick will incorporate.

#### **V. New Business**

1. ABA Webinar: Mandatory Professional Liability Insurance, Disclosure and Other Efforts to Insure Attorneys and Protect Public, Jan. 16, at 1:00 – 2:00 pm.

The committee attempted to view the webinar, but because of technical difficulties, was unable to view it in its entirety. Paula J. Frederick indicated she will attempt to arrange for the distribution of the webinar to each committee member at a later date.

2. Spring Board of Governors Meeting – March 29-30 at the Ritz Carlton Lake Oconee

Committee members were invited to attend the above-reference meeting, at which the proposed rule will be presented, so that they can answer questions or discuss the proposed rule with Board members. The committee discussed the timing of presenting its final report and recommendation, noting that Bar President Ken Hodges has told the Board the recommendation will be presented at the Spring Board of Governors meeting. Paula Frederick discussed the need to afford Board

members an opportunity to thoroughly review, consider and discuss the proposed rule with their constituents before having to cast a vote.

It was suggested that instead of having this matter on the Board of Governor's Spring meeting agenda, the committee can conduct a public hearing to discuss any proposed rule.

3. The committee was asked to review the proposed Rule 1-210 and be prepared to give more specific feedback at the next committee meeting.
- VI. The committee decided that the next meeting will be held on Friday, February 1, 2019 at 12:00 noon. The meeting will be held at State Bar Headquarters in Atlanta, Georgia.

There being no further business, the meeting was adjourned at approximately 1:27 p.m.



# State Bar of Georgia

## PROFESSIONAL LIABILITY INSURANCE COMMITTEE MEETING

Thursday, February 7, 2019

12:00 Noon

YLD Presidents Board Room

State Bar Headquarters

Atlanta, Georgia

### MINUTES

#### **I. Call to Order**

At approximately 12:07 p.m. Chair Linley Jones called the meeting to order.

#### **II. Roll Call & Introductions**

The following committee members were present: Linley Jones, Sarah B. Akins; Peter Werdesheim; and Executive Committee Liaison, David S. Lipscomb.

Committee members Michael G. Frick; David N. Lefkowitz; Shannon Sprinkle; Kimberly C. Butler; Christine L. Mast; and David N. Lefkowitz participated via teleconference.

Committee members William T. Clark; Warren Hinds; R. Gary Spencer; Emerson Carey, Jr.; William T. Mitchell; William T Davis; and Michael Glenn Frick were not in attendance.

Also present were the following State Bar of Georgia staff members: Executive Director Jeff R. Davis; General Counsel Paula J. Frederick; General Counsel and staff liaison William D. NeSmith, III and Paralegal Betty Ross Derrickson.

#### **III. Approval of the Meeting Minutes**

The January 16, 2019 Professional Liability Insurance Committee meeting minutes were presented to the committee members prior to the meeting. Hearing no objections, the January 16, 2019 meeting minutes stand approved as presented.

#### **IV. Unfinished Business**

1. ABA webinar Mandatory Professional Liability Insurance, Disclosure and Other Efforts to Insure Attorneys and Protect the Public now available for viewing

Committee members were asked to view the above-referenced webinar that was provided to them via a link by email, and give their feedback at the next meeting.

2. Member feedback on draft rule proposal to the Board of Governors recommending mandatory PLI

The Committee reviewed a draft of the proposed mandatory professional liability insurance rule. Several modifications were voted on and approved by the Committee. A modified draft of the proposed rule will be presented to the Committee at the next meeting.

## **V. New Business**

1. Discuss and decide whether proposed rule should allow arbitration provisions in professional liability insurance policy

This matter was postponed to the next meeting.

2. Review listing of current Georgia insurers and agents

A list of current Georgia insurers and agents were provided to the committee (20 insurers and 20 agents writing professional liability insurance policies.

A question was raised as to where there are any benefits available to lawyers who use the State Bar's preferred carrier through member benefits. Currently there are no "kick-backs" to the State Bar; but rather any "kick-backs" are passed on to State Bar members it hopes that it results in lower premiums. However, a discussion can be had with the Member Benefit Committee Chair to see if the preferred provider can address the issue of insuring difficult to insure lawyers at a reasonable price.

3. Review feedback from Cobb County Bar Association

The Committee discussed the survey conducted by the Cobb County Bar Association regarding mandatory professional liability insurance. It appears that a little more than half of the respondents support a mandatory professional liability insurance policy. The survey supported the Committee's decision to recommend mandatory professional liability insurance.

4. Identify organization for educational outreach efforts

Chair Linley Jones indicated that she is interested in doing an educational outreach effort where Committee members meeting with various organizations to discuss the work of the committee and solicit opinions from the organizations. Chair Linley Jones provided the Committee with a list of organizations that can be contacted. A copy of the proposed draft will be posted on the State Bar's website once it is finalized by the Committee. The Committee decided that this matter should be placed on the Supreme Court's Retreat meeting agenda. That meeting is scheduled for March 15, 2019. Bar Counsel Paula Frederick will prepare an executive summary to accompany the proposed rule.

5. Recruit volunteers for education outreach effort

Committee members were asked to volunteer for the educational outreach effort.

6. Invite Committee members to attend the 2019 Spring Board of Governors meeting on March 29-30, 2019 at the Ritz Carlton, Lake Oconee

Committee members were asked to attend the 2019 Spring Board of Governors meeting so that they are available to discuss the proposed rule with and ask questions from Bar members.

VI. Next Meeting Date

The next meeting is scheduled for Tuesday, February 19, 2019 at 12:30 p.m., and will be held at State Bar Headquarters in Atlanta, Georgia.

The final vote on a proposed mandatory professional liability rule that will be presented to the Board of Governors will be conducted at this meeting.

- VII. The committee decided that the next meeting will be held on Friday, February 1, 2019 at 12:00 noon. The meeting will be held at State Bar Headquarters in Atlanta, Georgia.

- VIII. There being no further business, the meeting was adjourned at approximately 1:52 p.m.



# State Bar of Georgia

## PROFESSIONAL LIABILITY INSURANCE COMMITTEE MEETING

Tuesday, February 19, 2019

12:00 Noon

Executive Director's Conference Room  
State Bar Headquarters  
Atlanta, Georgia

### MINUTES

#### **I. Call to Order**

At approximately 12:07 p.m. Chair Linley Jones called the meeting to order.

#### **II. Roll Call & Introductions**

The following committee members were present: Linley Jones, William T. Mitchell, William T. Clark, William T. Davis, Peter Werdesheim, Warren Hinds, Kenneth B. Hodges, III, and Executive Committee Liaison, David S. Lipscomb.

Committee members Michael G. Frick; Christine L. Mast, Shannon Sprinkle; and Kimberly C. Butler participated via teleconference.

Committee members Sarah B. Akins, David N. Lefkowitz, R. Gary Spencer, Emerson Carey, Jr., William T Davis; and Michael Glenn Frick were not in attendance.

Also present were the following State Bar of Georgia staff members: General Counsel Paula J. Frederick; Deputy General Jenny Mittelman, Deputy General Counsel and staff liaison William D. NeSmith, III and Paralegal Betty Ross Derrickson.

#### **III. Approval of the Meeting Minutes**

Hearing no objections, the February 7, 2019 Professional Liability Insurance Committee meeting minutes were unanimously approved as presented.

#### **IV. Unfinished Business**

1. Presentation of Executive Summary of Professional Liability Insurance Committee Activities

Chair Linley Jones gave an oral presentation summarizing the activities of the Professional Liability Insurance Committee.

Chair Jones also informed the Committee that in 2018 the Idaho State Bar recently adopted a rule requiring mandatory professional liability insurance. She indicated the rule adopted by the Idaho Bar is similar to the proposed rule being considered by this committee, except that the Idaho rule was more restrictive. She stated that in 1 year, the Idaho Bar has achieved 100% compliance. Their biggest problem has been educating its members about the rule. It was suggested that should the State Bar of Georgia adopt a rule requiring Georgia Bar members to carry professional liability insurance, the effective date of the rule should be at least 1 year from the date the rule is adopted during which time Georgia attorneys can be educated about the rule.

2. Member feedback on draft rule proposal to the Board of Governors recommending mandatory professional liability insurance.

The Committee discussed a modified version of the proposed rule, which included the changes approved at the February 7, 2019 meeting. After extensive discussion, a motion was made to delete language that prohibited eroding limits. By majority vote, the motion failed.

3. Final vote on draft rule proposal to the Board of Governors recommending mandatory professional liability insurance.

By unanimous vote, the Committee approved the modified proposed rule as presented.

Following the vote, committee members were asked to lobby members of the Board of Governors on behalf of the proposed rule. General Counsel Paula Frederick was asked to draft an executive summary and talking points to guide committee members. The Office of the General Counsel will provide Committee members with a sign-up sheet containing the names and contact information for each Board member.

General Counsel Paula J. Frederick recommended that the proposed rule be presented to the Board of Governors at their March 29-30, 2019 meeting as an information item, with the vote scheduled for the Board's June 2019 meeting. However, the final decision will be determined by State Bar President Kenneth B. Hodges, III.

#### VI. Next Meeting Date

The Committee did not schedule a future meeting; however, each Committee member was encouraged to attend the 2019 Spring Board of Governors meeting on March 29-30, 2019, at the Ritz Carlton Reynolds, Lake Oconee in Greensboro, Georgia

VIII. There being no further business, the meeting was adjourned at approximately 1:39 p.m.



MEMORANDUM

To: Members, Board of Governors

From: Paula Frederick

Date: March 7, 2019

Re: Draft Rule on Registration of In-House Counsel

---

In-house counsel working within corporations in Georgia are not required to be members of the State Bar of Georgia<sup>1</sup> if they are licensed and in good standing in another jurisdiction. Thirty-four U.S. jurisdictions require in-house counsel to register and pay an annual fee in order to practice within the jurisdiction. After discussion at the Executive Committee retreat last Fall, the Committee asked me to draft a rule that would require registration of in-house counsel. A proposed rule is attached.

The proposed rule would require non-Georgia lawyers who serve as in-house counsel in this State to register with the Bar, to prove their status as lawyers in another jurisdiction, and to pay a fee equal to the dues amount paid by Georgia lawyers.

The draft rule will be on the agenda for discussion at the Spring Board meeting. After hearing input from the Board I would like to circulate the rule to the Bar's Corporate Counsel section, the Association of Corporate Counsel, and the ITLS committee (for input on the implications for foreign in-house counsel).

pjf

---

<sup>1</sup> Bar Rule 5.5(d) allows a lawyer who is admitted in another jurisdiction to provide legal services in Georgia that "are provided to the...Lawyer's employer or its organizational affiliates and are not services for which the forum requires *pro hac vice* admission...".



## Registration of In-House Counsel

1

2           A. A Domestic or Foreign Lawyer who is employed as a lawyer by an  
3 organization, the business of which is lawful and consists of activities other than  
4 the practice of law or the provision of legal services, and who has a systematic and  
5 continuous presence in this jurisdiction as permitted pursuant to Rule 5.5(d)(1) or  
6 5.5(f)(1) of the Georgia Rules of Professional Conduct, shall register as in-house  
7 counsel within [180 days] of the commencement of employment as a lawyer or if  
8 currently so employed then within [180 days] of the effective date of this Rule, by  
9 submitting to the Membership Department of the State Bar of Georgia the  
10 following:

11                   1) A completed application in the form prescribed by the State Bar of  
12 Georgia;

13                   2) A fee in the amount determined by the State Bar of Georgia and  
14 approved by the Supreme Court of Georgia;

15                   3) Documents proving admission to practice law and current good  
16 standing in all jurisdictions, U.S. and foreign, in which the lawyer is  
17 admitted to practice law.

18                   4) If the jurisdiction is foreign and the documents are not in English,  
19                   the lawyer shall submit an English translation and satisfactory proof of the  
20                   accuracy of the translation; and

21                   5) An affidavit from an officer, director, or general counsel of the  
22                   employing entity attesting to the lawyer’s employment by the entity and the  
23                   capacity in which the lawyer is so employed, and stating that the  
24                   employment conforms to the requirements of this Rule.

25                   6) A lawyer lawfully practicing as in-house counsel in a foreign  
26                   jurisdiction who does not meet the above requirements to register as an in-  
27                   house counsel may apply to the Supreme Court of Georgia for a waiver of  
28                   these requirements based upon consideration of other criteria, including the  
29                   lawyer’s legal education, references, and experience.

30                   B. A lawyer registered under this Rule shall have the rights and  
31                   privileges otherwise applicable to members of the State Bar of Georgia with  
32                   the following restrictions:

33                   1. The registered lawyer is authorized to provide legal services  
34                   to the entity client or its organizational affiliates, including entities  
35                   that control, are controlled by, or are under common control with the  
36                   employer, and for employees, officers and directors of such entities,

37 but only on matters directly related to their work for the entity and  
38 only to the extent consistent with Rule 1.7 of the Georgia Rules of  
39 Professional Conduct;

40 2. The registered lawyer shall not:

41 a. Except as otherwise permitted by the rules of this  
42 jurisdiction, appear before a court or any other tribunal; or

43 b. Offer or provide legal services or advice to any person  
44 other than as described in paragraph B.1., or hold himself or  
45 herself out as being authorized to practice law in Georgia other  
46 than as described in paragraph B.1; and

47 c. If a foreign lawyer, provide advice on the law of this or  
48 another jurisdiction of the United States except as permitted by  
49 Rule 5.5 of the Georgia Rules of Professional Conduct.

50 C. Notwithstanding the provisions of paragraph B above, a lawyer registered  
51 under this Rule is authorized to provide pro bono legal services through an  
52 established not for-profit bar association, pro bono program or legal services  
53 program.

54 D. A lawyer registered under this Rule shall:

55                   1. Pay an annual fee equal to the amount of dues required of members  
56 of the State Bar of Georgia;

57                   2. Pay the Clients' Security Fund and Building Assessments required  
58 of members of the State Bar of Georgia;

59                   3. Fulfill the Continuing Legal Education requirements that are  
60 required of active members of the bar in this jurisdiction;

61                   4. Report the following to the Membership Department of the State  
62 Bar of Georgia within [\_\_\_] days:

63                   a. Termination of the lawyer's employment as described in  
64 paragraph A.5;

65                   b. Whether or not public, any change in the lawyer's license  
66 status in another jurisdiction, whether U.S. or foreign, including by  
67 the lawyer's resignation;

68                   c. Whether or not public, any disciplinary charge, finding, or  
69 sanction concerning the lawyer by any disciplinary authority, court, or  
70 other tribunal in any jurisdiction, U.S. or foreign.

71 E. A registered lawyer under this Rule shall be subject to the Georgia Rules  
72 of Professional Conduct and all other laws and rules governing lawyers admitted to  
73 the active practice of law in Georgia .

74 F. A registered lawyer’s rights and privileges under this Rule automatically  
75 terminate when:

76 1. The lawyer’s employment terminates;

77 2. The lawyer is suspended or disbarred or the equivalent thereof in  
78 any jurisdiction or any court or agency before which the lawyer is admitted,  
79 U.S. or foreign; or

80 3. The lawyer fails to maintain active status in at least one jurisdiction,  
81 U.S. or foreign.

82 G. A registered lawyer whose registration is terminated under paragraph F.1.  
83 above, may be reinstated within [ ] months of termination upon submission to  
84 the Membership Department, State Bar of Georgia, of the following:

85 1. An application for reinstatement in a form prescribed by the State  
86 Bar of Georgia;

87 2. A reinstatement fee in the amount of \$ \_\_\_\_\_;

88                   3. An affidavit from the current employing entity as prescribed in  
89 paragraph A.5.

90           H. A lawyer under this Rule who fails to register shall be:

91                   1. Subject to professional discipline in this jurisdiction;

92                   2. Ineligible for admission on motion in this jurisdiction;

93                   3. Referred by the State Bar of Georgia to the Georgia Office of Bar  
94 Admissions, and

95                   4. Referred by the State Bar of Georgia to the disciplinary authority or  
96 to any duly constituted organization overseeing the lawyer's profession, or  
97 that granted authority to practice law in the jurisdictions of licensure, U.S.  
98 and/or foreign.

99

100           Comment

101           [1] Paragraph A(6) of this Rule provides that the Supreme Court of Georgia  
102 may, in its discretion, allow someone who does not meet the Rule's other  
103 definitional requirements of a foreign lawyer, but who is lawfully practicing  
104 as in-house counsel in their home foreign jurisdiction, to register. The  
105 exercise of such discretion by the court may be necessary, because some

106 foreign jurisdictions may not permit otherwise qualified in-house counsel to  
107 be members of or admitted to the bar. Lawyers in such foreign jurisdictions  
108 who are employed as in-house counsel may be required to relinquish any bar  
109 membership or admission while so employed or they may never have  
110 obtained such admission or membership status.

111 [2] Paragraph F of this Rule sets forth three circumstances that result in  
112 automatic termination of in-house counsel’s registrations status. In situations  
113 where a court has exercised its discretion pursuant to Paragraph A of this  
114 Rule, a registered foreign in-house counsel lacking bar admission or  
115 licensure in that individual’s home country cannot “fail to maintain active  
116 status” as set forth in Paragraph F(3). There is no active status in existence.  
117 Absent the circumstances set forth in Paragraph F(2), the triggering event to  
118 terminate registration status of such foreign in-house counsel would be the  
119 termination of employment of that individual by the employer as set forth in  
120 Paragraph F(1).

AMERICAN BAR ASSOCIATION  
CENTER FOR PROFESSIONAL RESPONSIBILITY  
POLICY IMPLEMENTATION COMMITTEE

**In-House Corporate Counsel Registration Rules**

<b>AL</b>	Rule IX of the Rules Governing Admission to the State Bar of Alabama <a href="http://judicial.alabama.gov/library/rules/admit9.pdf">http://judicial.alabama.gov/library/rules/admit9.pdf</a> Fee: Application: \$725, Annual: \$300
<b>AK</b>	No Rule. Admission by Motion available: reciprocity required. Alaska Bar Rule 2, Section 2. <a href="http://www.alaskabar.org/library/admissionsrules.pdf">http://www.alaskabar.org/library/admissionsrules.pdf</a>
<b>AZ</b>	Arizona Supreme Court Rules, Rule 38(a). <a href="http://www.azcourts.gov/Portals/20/2015Rules/R-15-0018.pdf">http://www.azcourts.gov/Portals/20/2015Rules/R-15-0018.pdf</a> Fee: 75% of per annum dues paid by active member of the Bar. Renewal Fee: 75% of per annum dues paid by active member of the Bar.
<b>AR</b>	Rules of the Supreme Court of Arizona Rule 34(f) <a href="https://www.azcourts.gov/Portals/26/AOM/Rule34_EffectiveJanuary2016.pdf">https://www.azcourts.gov/Portals/26/AOM/Rule34_EffectiveJanuary2016.pdf</a>
<b>CA</b>	California Supreme Court Rule 965. Registered In-House Counsel. <a href="http://www.courts.ca.gov/cms/rules/index.cfm?title=nine&amp;linkid=rule9_46">http://www.courts.ca.gov/cms/rules/index.cfm?title=nine&amp;linkid=rule9_46</a> Fee: \$550 to apply, \$363 moral character check, \$390 annual State Bar fee and 25 hours CLE.



<p><b>CO</b></p>	<p>Chapter 18. Rules Governing Admission To The Bar, Rule 204.1, Single-Client Counsel Certification.</p> <p><a href="https://www.courts.state.co.us/userfiles/file/Court_Probation/Supreme_Court/Rule_Changes/2014/2014(09)%20clean.PDF">https://www.courts.state.co.us/userfiles/file/Court_Probation/Supreme_Court/Rule_Changes/2014/2014(09)%20clean.PDF</a></p> <p>Registration requirement for in-house corporate counsel.</p> <p>Fee: \$1000 to apply</p> <p>Rule 204.2 allows foreign lawyer in-house counsel.</p> <p><a href="https://www.courts.state.co.us/userfiles/file/Court_Probation/Supreme_Court/Rule_Changes/2014/2014(09)%20clean.PDF">https://www.courts.state.co.us/userfiles/file/Court_Probation/Supreme_Court/Rule_Changes/2014/2014(09)%20clean.PDF</a></p>
<p><b>CT</b></p>	<p>Effective January 1, 2008.</p> <p>Section 2-15A – Authorized House Counsel. Rules of the Superior Court Regulating Admission to the Bar.</p> <p><a href="https://www.jud.ct.gov/cbec/housecounsel.htm">https://www.jud.ct.gov/cbec/housecounsel.htm</a></p> <p>As of January 1, 2009, applies to foreign lawyers.</p> <p>Fee: \$1000 filing fee and payment of annual registration fee and annual payment to client security fund.</p>
<p><b>DE</b></p>	<p>Rule 55.1 Limited permission to Practice of In-House Counsel</p> <p><a href="http://courts.delaware.gov/Rules/?supremerule55-1.pdf">http://courts.delaware.gov/Rules/?supremerule55-1.pdf</a></p> <p>Fee: \$100. Applies to foreign lawyers.</p>
<p><b>DC</b></p>	<p>No registration rule but allowed under:</p> <p>Rule 49(c)(6) of the Rules of the District of Columbia Court of Appeals  <b>(6) Internal Counsel:</b> Providing legal advice only to one’s regular employer, where the employer does not reasonably expect that it is receiving advice from a person authorized to practice law in the District of Columbia.</p> <p>Applies to foreign lawyers.</p> <p><a href="http://www.dccourts.gov/internet/documents/DCCA_Rules_12-01-2014.pdf">http://www.dccourts.gov/internet/documents/DCCA_Rules_12-01-2014.pdf</a></p>
<p><b>FL</b></p>	<p>Rule 17-1.3, Rules Regulating The Florida Bar</p> <p><a href="https://www.floridabar.org/wp-content/uploads/2017/04/rtrfb-chapter-17.pdf">https://www.floridabar.org/wp-content/uploads/2017/04/rtrfb-chapter-17.pdf</a></p> <p>Registration requirement for in-house corporate counsel.</p> <p>Application Fee: \$1600          Annual Dues: \$265</p>

<b>GA</b>	<p>No Rule.</p> <p>Have adopted Rule 5.5. Georgia Rule 5.5 allows domestic and foreign lawyers to practice as in-house counsel.</p>
<b>HI</b>	<p>No Rule.</p>
<b>ID</b>	<p>Idaho Rules Governing Admission, Rule 220  <a href="https://isb.idaho.gov/wp-content/uploads/ibcr.pdf">https://isb.idaho.gov/wp-content/uploads/ibcr.pdf</a></p> <p>Registration requirement for in-house corporate counsel.</p> <p>Application Fee: \$800          Annual Dues: \$230 (under 3years); \$315 (over 3 years)</p>
<b>IL</b>	<p>Effective July 1, 2004. Rule 716. Limited Admission of House Counsel.  <a href="https://www.ilbaradmissions.org/appinfo.action?id=4">https://www.ilbaradmissions.org/appinfo.action?id=4</a></p> <p>Fee: \$1250</p>
<b>IN</b>	<p>Rule 6, Indiana Supreme Court Rules for Admission to the Bar  <a href="http://www.in.gov/judiciary/rules/ad_dis/">http://www.in.gov/judiciary/rules/ad_dis/</a></p> <p>Admission by Motion available.          Rule 6, Indiana Supreme Court Rules for Admission to the Bar</p> <p>Fee: \$850. Applies to foreign lawyers.</p>
<b>IA</b>	<p>CHAPTER 31          ADMISSION TO THE BAR          Rule 31.16 Registration of house counsel.</p> <p>A lawyer may practice law in Iowa under this registration provision for a period of up to five years, then must move for admission by motion. (Does not apply to foreign lawyers).</p> <p><a href="http://www.iowacourts.gov/for_attorneys/bar_information_admissions/out_of_state_admissions/registration_of_in-house_counsel/index.asp">http://www.iowacourts.gov/for_attorneys/bar_information_admissions/out_of_state_admissions/registration_of_in-house_counsel/index.asp</a></p> <p>Foreign lawyers allowed.</p> <p>Fee: \$700 and pay annual disciplinary fee</p>

<p><b>KS</b></p>	<p>Kansas Supreme Court Rule 712</p> <p><a href="http://www.kscourts.org/rules/Rule-Info.asp?r1=rules+relating+to+admission+of+attorneys&amp;r2=428">http://www.kscourts.org/rules/Rule-Info.asp?r1=rules+relating+to+admission+of+attorneys&amp;r2=428</a></p> <p>Registration requirement for in-house corporate counsel.</p> <p>Foreign lawyers allowed under Rule 5.5 (d) (1).</p> <p>Application Fee: \$1250          Annual Dues: \$100</p>
<p><b>KY</b></p>	<p>Kentucky Supreme Court Rule 2.111</p> <p><a href="http://www.kybar.org/page/SCR">http://www.kybar.org/page/SCR</a></p> <p>Registration requirement for in-house corporate counsel.</p> <p>Application Fee: \$1500          Annual Fees: \$171 (under 5 years); \$221 (over 5 years)</p>
<p><b>LA</b></p>	<p>La. S. Ct. Rule XVII, Section 14          Section 14. Limited Admission for In-House Counsel</p> <p><a href="http://www.lasc.org/rules/supreme/RuleXVII.asp">http://www.lasc.org/rules/supreme/RuleXVII.asp</a></p> <p>Application Fee: \$300          Annual Fees: Annual Disciplinary Assessment required of attorneys admitted to practice three years or more pursuant to La. S. Ct. Rule XIX, Section 8; and Louisiana State Bar Association annual dues pursuant to Article V of the Articles of Incorporation of the Louisiana State Bar Association during the period of the limited license.</p>
<p><b>ME</b></p>	<p>No Rule.</p> <p>Have adopted Rule 5.5.</p>
<p><b>MD</b></p>	<p>Maryland Code, Section 10-206(d), Business Occupations and Professions</p> <p><a href="http://law.justia.com/maryland/codes/gbo/10-206.html">http://law.justia.com/maryland/codes/gbo/10-206.html</a></p>

<b>MA</b>	<p>Rules of the Supreme Judicial Court, Chapter Four</p> <p>Rule 4:02, subsection (9)</p> <p>Registration requirement for in-house corporate counsel.</p> <p><a href="http://www.mass.gov/obcbbo/rule402amend.pdf">http://www.mass.gov/obcbbo/rule402amend.pdf</a></p> <p>Foreign lawyers allowed under Rule 5.5 (d) (1).</p>
<b>MI</b>	<p>Michigan Board of Law Examiners Rule 5</p> <p><a href="http://courts.mi.gov/courts/michigansupremecourt/rules/documents/rules%20for%20the%20board%20of%20law%20examiners.pdf">http://courts.mi.gov/courts/michigansupremecourt/rules/documents/rules%20for%20the%20board%20of%20law%20examiners.pdf</a></p> <p>Registration requirement for in-house corporate counsel.</p> <p>Application Fee: \$600          Annual Dues: \$260</p>
<b>MN</b>	<p>Minn. Sup. Ct. Admission Rule 9</p> <p><a href="https://www.revisor.leg.state.mn.us/court_rules/rule.php?type=pr&amp;subtype=admi&amp;id=9">https://www.revisor.leg.state.mn.us/court_rules/rule.php?type=pr&amp;subtype=admi&amp;id=9</a></p> <p>Registration requirement for in-house corporate counsel.</p> <p>Application Fee: \$825          Annual Dues: None</p>
<b>MS</b>	<p>No Rule.</p>
<b>MO</b>	<p>Missouri Supreme Court Rule 8.105</p> <p><a href="http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/779a56307ce22ae386256db70073edd2?OpenDocument">http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/779a56307ce22ae386256db70073edd2?OpenDocument</a></p> <p>Registration requirement for in-house corporate counsel.</p> <p>Application Fee: \$750          Annual Dues: \$183</p>

<b>MT</b>	<p>No registration rule but allowed under:</p> <p>Rule 5.5 (b) of the Montana Rules of Professional Conduct.  <a href="https://supremecourtdocket.mt.gov/view/AF%2009-0688%20Rule%20Change%20--%20Order?id=%7bE094024E-0000-C118-9AD0-255BFE8C0308%7d">https://supremecourtdocket.mt.gov/view/AF%2009-0688%20Rule%20Change%20--%20Order?id=%7bE094024E-0000-C118-9AD0-255BFE8C0308%7d</a></p> <p>Applies to foreign lawyers.</p>
<b>NE</b>	<p>Neb. Ct. R. Section 3-1201-104. Registration of In-House Counsel  <a href="https://supremecourt.nebraska.gov/supreme-court-rules/chapter-3-attorneys-and-practice-law/article-12-registration-house-counsel">https://supremecourt.nebraska.gov/supreme-court-rules/chapter-3-attorneys-and-practice-law/article-12-registration-house-counsel</a></p> <p>Fee: \$700 plus annual renewal fee of \$345.</p>
<b>NV</b>	<p>Nevada Supreme Court Rule 49.10  <a href="http://www.leg.state.nv.us/CourtRules/scr.html">http://www.leg.state.nv.us/CourtRules/scr.html</a></p> <p>Registration requirement for in-house corporate counsel.</p> <p>Fee: \$250 plus annual fee for member of State Bar of Nevada</p>
<b>NH</b>	<p>No Rule.</p> <p>Rule 5.5 (d)(1) adopted. Applies to foreign lawyers.  <a href="http://www.courts.state.nh.us/supreme/orders/11-10-15-Order.pdf">http://www.courts.state.nh.us/supreme/orders/11-10-15-Order.pdf</a></p> <p>Admission by Motion available: reciprocity required. (Effective March 1, 2003)</p> <p>Amended Supreme Court Rule 42  <a href="http://www.courts.state.nh.us/rules/scr/scr-42.htm">http://www.courts.state.nh.us/rules/scr/scr-42.htm</a></p>
<b>NJ</b>	<p>Rule 1:27 Admission to Practice          Section 1:27-2. Limited License; In-House Counsel.  <a href="https://www.judiciary.state.nj.us/attorneys/assets/rules/r1-27.pdf">https://www.judiciary.state.nj.us/attorneys/assets/rules/r1-27.pdf</a></p> <p>Fee: Annual assessments for Discipline, Lawyers' Fund and Lawyers Assistance program.</p> <p>Applies to foreign lawyers          Rule 1:27-2A. Foreign In-House Counsel Registration</p>
<b>NM</b>	<p>No Rule but allowed under Rule 5.5(d)(1).</p>

<p><b>NY</b></p>	<p>Rules of the Court of Appeals, Part 522          22 NYCRR, Part 522          (Effective 12/30/2015)</p> <p>Registration of In-House Counsel  <a href="https://www.nycourts.gov/ctapps/news/nottobar/nottobar121515.pdf">https://www.nycourts.gov/ctapps/news/nottobar/nottobar121515.pdf</a></p> <p>Applies to foreign lawyers.</p> <p>Fee: Bar dues.</p>
<p><b>NC</b></p>	<p>No Rule.</p> <p>Have adopted Rule 5.5.</p> <p>See also, North Carolina General Statutes, Chapter 84-5(b).  <a href="http://www.ncga.state.nc.us/gascripts/Statutes/StatutesTOC.pl?0084">http://www.ncga.state.nc.us/gascripts/Statutes/StatutesTOC.pl?0084</a></p>
<p><b>ND</b></p>	<p>North Dakota Supreme Court Rules: Rule 3, Admission to Practice Rules  <a href="http://www.ndcourts.com/Court/Notices/20040256/AdmissionR3_Final.htm">http://www.ndcourts.com/Court/Notices/20040256/AdmissionR3_Final.htm</a></p> <p>Fee: Annual fee equivalent to what a ND lawyer admitted five years would pay. 45 hours of CLE every three years.</p>
<p><b>OH</b></p>	<p>Ohio Supreme Court Rules for the Government of the Bar, Rule VI, Section 3.  <a href="http://www.supremecourt.ohio.gov/LegalResources/Rules/govbar/govbar.pdf">http://www.supremecourt.ohio.gov/LegalResources/Rules/govbar/govbar.pdf</a></p> <p>Registration requirement for in-house corporate counsel.</p> <p>Application Fee: \$250          Annual Dues: \$250 (every two years)</p>
<p><b>OK</b></p>	<p>Okla. R. Gov. Adm. Law Practice, Art. 2, Sec. 5  <a href="http://www.okbar.org/Portals/13/PDF/Governance/Rules-Creating-Control.pdf">http://www.okbar.org/Portals/13/PDF/Governance/Rules-Creating-Control.pdf</a></p> <p>Registration requirement for in-house corporate counsel.</p> <p>Application Fee: \$750          Annual Dues: \$175</p>

<b>OR</b>	<p>Ore. Sup. Ct. Rule 16.05</p> <p><a href="https://www.osbar.org/rulesregs">https://www.osbar.org/rulesregs</a></p> <p>Registration requirement for in-house corporate counsel.</p> <p>Application Fee: \$1050 Annual Dues: \$416</p>
<b>PA</b>	<p>Rule 302: Limited In-House Corporate Counsel License</p> <p><a href="http://www.pabarexam.org/bar_admission_rules/302.htm">http://www.pabarexam.org/bar_admission_rules/302.htm</a></p> <p>Fee: \$1250</p>
<b>RI</b>	<p>Article II, Rule 9, Rules of the Rhode Island Supreme Court.</p> <p><a href="https://www.courts.ri.gov/Courts/SupremeCourt/Supreme%20Court%20Rules/AdmissionBar-ArticleII.pdf">https://www.courts.ri.gov/Courts/SupremeCourt/Supreme%20Court%20Rules/AdmissionBar-ArticleII.pdf</a></p> <p>Fee: \$200</p>
<b>SC</b>	<p>S.C. App. Ct. Rule 405</p> <p><a href="http://m.sccourts.org/courtReg/displayRule.cfm?ruleID=405.0&amp;subRuleID=&amp;ruleType=APP">http://m.sccourts.org/courtReg/displayRule.cfm?ruleID=405.0&amp;subRuleID=&amp;ruleType=APP</a></p> <p>Registration requirement for in-house corporate counsel.</p> <p>Application Fee: \$400 Annual Dues: \$225</p>
<b>SD</b>	<p>No Rule.</p> <p>Have adopted Rule 5.5.</p>
<b>TN</b>	<p>Tenn. Sup. Ct. R. 7, Section 10.01. Registration of In-House Counsel</p> <p><a href="http://tncourts.gov/rules/supreme-court/7">http://tncourts.gov/rules/supreme-court/7</a></p> <p>Fee: \$750</p>

<p><b>TX</b></p>	<p>See, Rule XIV, Rules Governing Admission to the Bar of Texas, Foreign Legal Consultants, Section 1(b)(4).  <a href="http://www.txcourts.gov/All_Archived_Documents/SupremeCourt/AdministrativeOrders/miscdocket/14/14.911300.pdf">http://www.txcourts.gov/All_Archived_Documents/SupremeCourt/AdministrativeOrders/miscdocket/14/14.911300.pdf</a></p> <p>See also, Texas Board of Bar Examiners Policy Statement on Lawful Practice. In-house counsel not required to be admitted.</p>
<p><b>UT</b></p>	<p><b>Rule 14-719. Qualifications for admission of House Counsel Applicants.</b>  <a href="http://www.utcourts.gov/resources/rules/ucja/ch14/07%20Admissions/USB14-719.html">http://www.utcourts.gov/resources/rules/ucja/ch14/07%20Admissions/USB14-719.html</a></p> <p>Admission by Motion: reciprocity required.</p> <p>The current annual fee is equivalent to fee paid by member of Bar.</p>
<p><b>VT</b></p>	<p>No Rule.</p> <p>Have adopted Rule 5.5.</p> <p>Admission by Motion: reciprocity for New Hampshire lawyers.</p> <p>Rule 7, Vermont Supreme Court Rules of Admission to the Bar  <a href="http://www.vermontjudiciary.org/">http://www.vermontjudiciary.org/</a>.</p>
<p><b>VA</b></p>	<p>Proposed in-house counsel rule adopted, Va. Sup. Ct. Rule 1A:5  <a href="http://www.vsb.org/pro-guidelines/index.php/corp-council/">http://www.vsb.org/pro-guidelines/index.php/corp-council/</a></p> <p>Part II. Corporate Counsel Registrants applies to foreign lawyers.</p> <p>Fee: \$150</p>
<p><b>WA</b></p>	<p>Wash. Admission to Practice Rule 8(f)  <a href="http://www.courts.wa.gov/court_rules/?fa=court_rules.display&amp;group=ga&amp;set=APR&amp;ruleid=gaapr08">http://www.courts.wa.gov/court_rules/?fa=court_rules.display&amp;group=ga&amp;set=APR&amp;ruleid=gaapr08</a></p> <p>Applies to foreign lawyers.</p> <p>Application Fee: \$620          Annual Dues: \$169 (under 4 years); \$278 (under 6 years); \$341 (over 6 years)</p>



<p>WV</p>	<p>Have adopted Rule 5.5.</p> <p>Admission by Motion: reciprocity required.</p> <p>Rules 4.0 to 4.5, West Virginia Supreme Court of Appeals Rules for Admission to the Practice of Law in West Virginia</p> <p><a href="http://www.courtswv.gov/legal-community/rules-for-admission.html">http://www.courtswv.gov/legal-community/rules-for-admission.html</a></p> <p>Foreign lawyers allowed to practice under RPC 5.5 (d).</p>
<p>WI</p>	<p>Supreme Court Rule 10.03(4)(f).                  (Adopted July 30, 2008)</p> <p><a href="http://www.wicourts.gov/sc/rulhear/DisplayDocument.html?content=html&amp;seqNo=33576">http://www.wicourts.gov/sc/rulhear/DisplayDocument.html?content=html&amp;seqNo=33576</a></p> <p>Fee: \$250</p>
<p>WY</p>	<p>Have adopted Rule 5.5.</p> <p>Allowed under Rule 5.5 of the Rules of Professional Conduct.</p> <p><a href="http://courts.state.wy.us/Rules/Pending%20Rules/RulesofProfessionalConductforAttorneysatLaw--July1,2006.htm">http://courts.state.wy.us/Rules/Pending%20Rules/RulesofProfessionalConductforAttorneysatLaw--July1,2006.htm</a></p> <p>Admission by Motion: reciprocity required.</p> <p>Wyoming Statute 33-5-110 and Rules 301 to 305 of the Wyoming Rules and Procedures Governing Admission to the Practice of Law.</p> <p><a href="http://www.courts.state.wy.us/Supreme/CourtRule?CourtRuleCategoryID=27">http://www.courts.state.wy.us/Supreme/CourtRule?CourtRuleCategoryID=27</a></p>
<p>U.S. Virgin Islands</p>	<p>Supreme Court Rule 21.1. Limited permission to practice as in-house counsel.</p> <p>image1872.pdf image1872.pdf image1872.pdf image1872.pdf image1872.pdf image1872.pdf image1872.pdf image1872.pdf</p>

Copyright © 2017 American Bar Association. All rights reserved. Nothing contained in this chart is to be considered the rendering of legal advice. The chart is intended for educational and informational purposes only. We make every attempt to keep the chart as accurate as possible. If you are aware of any inaccuracies in the chart, please send your

As of June 13, 2017

©2017 American Bar Association

corrections or additions and the source of that information to John Holtaway, (312) 988-5298, [John.Holtaway@americanbar.org](mailto:John.Holtaway@americanbar.org)



March 6, 2019

Board of Governors,

The busyness of spring is upon us! As the “Service Arm of the Bar”, the YLD has continually dedicating its efforts to serve both the profession and the public. During the 2018-19 Bar year this dedication remains the same throughout our whole organization. I am pleased to give you an update on what we have accomplished so far in 2019 and the other programs that we are looking forward to for the remainder of the Bar year.

### **YLD Committees**

The YLD has more than 25 committees working to support our motto of service to the community and profession. Each committee works diligently to provide substantive programming in their respective focus areas. Below are some of the accomplishments of our YLD Committees this year:

#### **Advocates for Students with Disabilities**

In February, the committee attended the “Wrights law Special Education Law and Advocacy Conference in Macon, GA on Feb. 21. The committee is also looking for volunteer lawyers to help with Parent to Parent in South Georgia. Parent to Parent provides information and services to parents of children with special needs.

#### **Community Service**

The YLD Judicial Law Clerk Committee and the YLD Community Service Projects Committee volunteered on Wednesday Jan. 9, from 5-7 p.m. at the Gateway Center in Atlanta to review resumes and facilitate mock job interviews. The Gateway Center prides itself on being “the gateway to a continuum of care that helps individuals move out of homelessness.” They offer a variety of services and programs in efforts to help their clients towards self-sufficiency.

#### **Corporate Counsel**

On Thursday, Feb. 21, The Sladkus Law Group in Atlanta, the YLD Corporate Counsel Committee and the YLD Intellectual Property Law Committee, hosted a stimulating roundtable discussion of IP issues where in-house counsel shared their insight, advice, stories and perspectives on various IP-related issues within their respective companies and industries. The event featured speakers from five prominent companies either based in Atlanta or with a significant Atlanta presence, including:

- The Weather Channel;
- Focus Brands (Cinnabon, Moe’s Southwest Grill, Schlotzsky’s and more);
- CCA and B, LLC (creators of The Elf on the Shelf);
- Mud Pie, LLC (a leading manufacturer of gift and home goods); and
- McKesson Corporation (an international health care company).

#### **Disaster Legal Assistance**

A toll-free legal aid hotline is still available to victims of Georgia's declared disaster areas in Baker, Calhoun, Clay, Crisp, Decatur, Dougherty, Early, Grady, Laurens, Lee, Miller, Mitchell, Randolph, Seminole, Sumter, Terrell, Thomas, Tift, Turner and Worth Counties. Georgia victims facing legal issues who are unable to afford a lawyer may call 1-866-584-8027 (toll-free) or 404-527-8793 (local) between 9 a.m. and 5 p.m. Monday through Friday to request assistance.

### **Family Law**

The YLD Family Law Committee met on Tuesday, Feb. 26, at 6 p.m. to make final arrangements for our annual signature event, community service event and additional upcoming programming. The meeting took place at Smith & Lake LLC.

### **Health Law**

The YLD has created a new YLD Health Law Committee, co-chaired by Baylie Fry and Toby Morgan. This committee aims to connect and engage young lawyers serving in the health care industry in various capacities, including compliance, transactional and litigation, and operates to provide professional and networking opportunities. The committee places emphasis on mentoring, community service, social networking and lunch-and-learns focused around emerging legal issues in the health care industry, including privacy, compliance, fraud, facility operations, insurance, public health and much more on both the federal and state levels.

### **Labor and Employment Law**

The YLD Labor and Employment Law Committee met at Seyfarth Shaw, LLP, on Tuesday, Jan. 22, from 5:30-7:30 p.m. where they heard a panel of employment attorneys from different backgrounds discuss the different career paths employment attorneys can take. The panelists included: Shola Omojokun, Assistant Vice President and Senior Legal Counsel, AT&T (In-House); Benjamin Briggs, Partner, Seyfarth Shaw (AmLaw 100 Defense); Cheryl Legare, Partner, Legare, Attwood & Wolfe, LLC (Plaintiff's Attorney); Todd Stanton, Partner, Stanton Law (Small Defense Firm); and Carmen Alexander, Attorney, U.S. Department of Veterans Affairs (Government Attorney).

### **Legislative Affairs**

The YLD Legislative Affairs Committee and the YLD Leadership Academy organized the 31st annual Capitol Leadership Luncheon on Tuesday, Feb. 5, at noon in the Floyd Room of the James H. "Sloppy" Floyd Building. The Luncheon included a roundtable discussion from Sen. Jennifer Jordan (D-Atlanta), Rep. Dar'shun Kendrick (D-Lithonia), Rep. Sam Park (D-Lawrenceville), Rep. Bert Reeves (R-Marietta), Sen. Brian Strickland (R-McDonough), Sen. Blake Tillery (R-Vidalia), Rep. Matthew Wilson (D-Brookhaven).

### **Litigation**

The Litigation Committee has had several events these past couple of months:

- The YLD Litigation Committee held a lunch meeting on Thursday, Jan. 24, at 12 p.m. at Polsinelli, 1201 W. Peachtree St. NW, Suite 1100, Atlanta, GA 30309. Amanda Moulthrop, attorney and certified mediator, offered mediation tips and strategies.
- The YLD Litigation Committee held the first program this year of their popular War Stories Series. This War Stories lunch was held at the State Bar on Thursday, Feb. 7, at 12 p.m. Amanda Clark-Palmer was the speaker. She is a graduate of the YLD Leadership Academy and discussed high-profile criminal cases, including her role on Tex McIver's defense team. She has been featured on CBS' "48 Hours." She also represented rapper T.I. when he was facing federal firearms charges.
- The YLD Litigation Committee hosted a networking breakfast at Capstone Financial on Monday, Feb. 11, at 8 a.m. The topic of discussion was business development.

- The YLD Litigation Committee met on Wednesday, Feb. 20, from 6-8 p.m. at BakerHostetler for an “Expert Deposition Workshop: Practical Tips and Examples.” The speakers were Jessica Wood, principal with Bodker, Ramsey, Andrews, Winograd & Wildstein, P.C., and Brandi Steinberg from IAG Forensics. This event outlined how to prepare for expert depositions and how to depose an expert. The event included an opportunity to participate in mock depositions and was followed by a happy hour and networking opportunity.

### **Leadership Academy**

The Leadership Academy held their first session on Jan. 11-12 in Macon. The theme for this session was “Becoming a Leader in the YLD and State Bar.” Participants met on Friday during the State Bar of Georgia’s Midyear Meeting and attended a session with leaders of the Bar and the YLD. They had an opportunity to be sworn in to the U.S. District Court for the Middle District of Georgia and later attended the YLD General Session in the afternoon. On Saturday, the Leadership Academy participated in a pro bono wills clinic for local first responders at Mercer University School of Law.

The Academy’s second session was held on Feb. 5 in Atlanta. This theme was “Lawyers as Leaders in State Government.” Participants met at the Bar Center in Atlanta with Attorney General Chris Carr and discussed opportunities for lawyers to serve as leaders in state government before traveling to the state Capitol. There, the Leadership Academy observed the political process and enjoyed a luncheon with lawyers serving in the Georgia General Assembly for the YLD’s Annual Capitol Leadership Luncheon. After lunch, participants moved to the state judicial building for a discussion with judges from the Court of Appeals of Georgia and justices from the Supreme Court of Georgia.

The third session will be held March 8-9 in Vidalia. The theme for this session is “Pro Bono and Community Service.” The Leadership Academy will meet in Vidalia, where YLD President Rizza O’Connor resides, for a discussion about the opportunities for and importance of pro bono work and community service. Members will hear from Chief Superior Court Judge Kathy Palmer, representatives from Georgia Legal Services and Justice Ellington of the Supreme Court of Georgia. On Saturday, participants will partner with the YLD Estate and Elder Law Committee for a one-day community service project.

### **Public Interest Internship Committee (PIIP)**

The YLD Public Interest Internship Program (PIIP) Committee announced that applications for 2019 funding are available. The applications can be found on the Bar website. Law students and recent law school graduates may apply for limited \$5,000 grants to fund unpaid full-time summer internships in public interest law. Applicants must have secured an unpaid internship in a law-related nonprofit or government agency in Georgia. Applications are due no later than March 29 at 5 p.m. Eligible internship placements must be unpaid and for a minimum of 10 weeks of work and 400 hours at a public interest legal organization in Georgia.

### **Women in the Profession**

The YLD Women in the Profession Committee met at Taste and See Coffee Shop on Friday, Jan. 11, from 12:30 to 2 p.m. in Macon in conjunction with the State Bar Midyear Meeting. The committee connected with Hon. Verda M. Colvin, Macon Circuit Superior Court, and Hon. Pamela Y. White-Colbert, Macon-Bibb County Magistrate Court. The committee learned about their journeys to becoming judge and practicing in Middle Georgia.

The YLD Women in the Profession Committee also met at the State Bar from 12:30-2 p.m. on Wednesday, Feb. 20, for their February Lunch and Learn entitled “Financial February” where they discussed financial considerations for young attorneys with Jonathan DiMarco and Elena Funk of Principal Financial Services.

### **Workers' Compensation**

The YLD has created a new YLD Workers' Compensation Committee, co-chaired by Tina Lute and Ivy White. The committee is aimed at young lawyers whose practice involves representing claimants, employers, insurers, and servicing agents in workers' compensation claims. This committee seeks to be a resource to young workers' compensation attorneys by providing relevant and useful information to help navigate the workers' compensation arena; creating guidance and mentorship opportunities by connecting young attorneys with seasoned workers' compensation attorneys; and facilitating social and networking opportunities throughout the state of Georgia.

### **YLD Affiliates**

#### **Augusta YLD**

The Augusta YLD held their yearly kickoff event on Thursday, Jan. 31, at Habaneros Mexican Grill. The event was sponsored by Queensborough Bank and Trust and Nick Blume. Young lawyers enjoyed a happy hour and heard about upcoming events and what is new this year with the Augusta YLD. The Augusta YLD also held a Happy Hour on Feb. 28 at the Savannah River Brewery.

#### **DeKalb YLD**

The DeKalb YLD held a Happy Hour on Feb. 28 at the Belgian Bar. The goal of the DeKalb YLD is to get involved in a charity or pro bono opportunity for their next meeting.

#### **Glynn County YLD**

The Glynn County YLD held a February Happy Hour on Feb. 7 at ECHO. The happy hour was sponsored by Paul Scoot of Brown, Readdick, Bumgartner, Carter, Strickland and Watkins, LLP.

#### **Savannah YLD**

The YLD January Happy Hour was held on Jan. 24 at McDonough's Restaurant. The popular February event of Trivia Night was held on Feb. 21 at B&D Burgers. Lastly in March, the Savannah YLD will hold a joint event with the Glynn County YLD at Skipper's Fish Camp in Darien on March 21.

#### **Macon YLD**

The next Macon YLD meeting will be held on March 14 at Just Tap'd in Macon.

### **Meetings**

#### **Midyear Meeting in Macon, GA | Jan. 10-12**

The YLD met in Macon, GA in conjunction with the State Bar's Midyear Meeting. On Friday, the YLD held its General Session where YLD Leadership and Committee Chairs shared with the audience the events and programs that were occurring within the organization. After the General Session, the YLD with large help from the YLD Macon Affiliate and the YLD Houston County Affiliate held a networking event at the home of Attorney Carl Reynolds. On Saturday, the YLD Leadership Academy held a Wills Clinic at Mercer Law School. At the Wills Clinic, attorney volunteers assisted first responders in the preparation and execution of basic estate planning documents.

#### **Spring Meeting in Washington D.C. | April 25-29**

The Young lawyers will have a very busy weekend in Washington, D.C., for the YLD Spring Meeting. The meeting will include the YLD's traditional business meeting of the General Session and a CLE presented by Rachel Wolmbers, Policy Director at the Foundry. Wolmbers will speak on the influence of disruptive innovation on internet law and policy. Following Wolmbers will be a Q&A panel with attorneys Randall Nuckolls and Ben Keane from Dentons US LLP. Both Nuckolls and Keane work in the area of federal and state election law, lobbying law and Foreign Agent Registration Act compliance. They served as legal counsel for the Kemp for Governor and Duncan for Lt. Governor campaigns. Nuckolls and Keane represent political candidates on both sides of the aisle and do work for many corporations, trade associations and nonprofit groups in Washington, D.C., and around the country.

Young lawyers will also have the opportunity to have some fun over the weekend. There will be two food tours. The first will be an indoor food tour featuring six different restaurants. The site of this food tour will be in President Lincoln's Cottage. The second food tour will be a walking food tour through the Georgetown area of the city. In the evening, attendees can go on a nighttime monuments tour on Friday and a comedy show featuring famous comedian Mo Mandel on Saturday evening. On Monday, April 29, 25 young lawyers will be sworn in to the U.S. Supreme Court. Supreme Court Justice Clarence Thomas will meet with our group for one hour and a half after the swearing-in ceremony.

### **Notable Upcoming Events**

- **Intrastate Moot Court**

The Intrastate Moot Court Competition is recruiting judges for this year's competition hosted at Emory University School of Law. This is always a very exciting competition as the Georgia law schools compete head to head! In addition, up to 2 hours of general CLE credit is available for those who judge oral arguments. Three preliminary rounds will be argued on Friday, March 22, at 10 a.m., 1 p.m. and 2:30 p.m.; the fourth preliminary round will be argued on Saturday, March 23, at 9 a.m. All judges will receive a bench brief in advance and are invited to participate in both a judges-only dinner and a reception for judges and teams.

- **Signature Fundraiser**

This will be the 13th annual Signature Fundraiser. This year's event will be held at Terminal West in Atlanta on April 13 to benefit Lawyers for Equal Justice. The event will have a decades game theme featuring some of the favorite games of the 80s, 90s and 2000s. Attendees are encouraged to wear their favorite decades prom attire. There will be music from The City band out of Atlanta.

- **Georgia Legal Food Frenzy**

The Georgia Legal Food Frenzy is a two-week food and fund drive competition done in partnership with the Georgia Attorney General, the State Bar and YLD, and the Georgia Food Bank Association. The competition is open to everyone in the legal community to see which law firm, legal organization and corporate/in-house counsel can have the biggest impact on hunger. Everything you raise stays local and benefits the regional food bank that serves your community. The dates for the 2019 Georgia Legal Food Frenzy have been announced. The competition will take place from April 22 through May 3.

- **Build a Better Georgia Day**

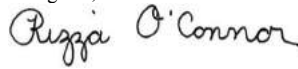
The Community Service Committee will put on this event for the second year in a row. On Saturday, May 4, young lawyers in each federal judicial district in Georgia will build a Habitat for Humanity house simultaneously. There will be builds in Savannah, Macon and Atlanta.

- **National High School Mock Trial Championship**

Championship teams from across the United States will descend on Athens, Georgia, on May 16-18 for the national championship. The competition will be in need of volunteer lawyers to serve as judges. This is a wonderful experience to see the hard work of high school students culminate to this final stage of competition.

Thank you again for all your support.

Regards,



Rizza P. O'Connor  
2018-2019 YLD President



**D-R-A-F-T**  
**STATE BAR OF GEORGIA**  
**BOARD OF GOVERNORS**  
**MEETING MINUTES**  
**Saturday, January 12, 2019/9:00 a.m.**  
**Macon Marriott City Center/Macon, GA**

The 276<sup>th</sup> meeting of the Board of Governors of the State Bar of Georgia was held at the date and location shown above. Ken Hodges, President, presided.

Special Recognition

President Ken Hodges recognized the members of the judiciary, the Past Presidents of the State Bar, and other special guests in attendance.

Roll Call

Secretary Elizabeth Fite circulated the roll for signature. The list of those in attendance is attached as Exhibit A.

Future Meetings Schedule

President Ken Hodges and President-elect Darrell L. Sutton reviewed the Future Meetings Schedule.

Minutes of the 275<sup>th</sup> Meeting of the Board of Governors

The minutes of the Board of Governors meeting held November 2, 2018, at The Lodge & Spa at Callaway Gardens, Pine Mountain, GA, were approved by unanimous voice vote.

Proposed Rules Changes – Part VII - Lawyer Assistance Program (LAP)

Following a report by Deputy General Counsel Bill NeSmith and LAP Committee Chair Jeffrey R. Kuester, the Board of Governors, by unanimous voice vote, approved proposed rules changes to Part VII – Lawyer Assistance Program (Exhibit B).

Nominations of State Bar Officers

The Board of Governors received the following nominations for State Bar officers for the 2019-2020 Bar year, and there being no others, declared the nominations closed:

<u>Office</u>	<u>Nominator</u>	<u>Nominee</u>
Treasurer	Patrick T. Connor Michael G. Geoffroy (Seconding)	Elizabeth L. Fite
Secretary	John Flanders Kennedy Daniel Brent Snipes (Seconding)	Sarah (Sally) Brown Akins
	Shondeana G. Morris Lawton E. Stephens (Seconding)	Frank B. Strickland

President-elect R. Gary Spencer  
 Dawn M. Jones  
 Lester B. Johnson, III (Seconding)

Nominations of ABA Delegates

The Board of Governors, by unanimous voice vote, nominated the following attorneys for two-year terms to the Georgia ABA Delegate Posts indicated. These positions are open to Georgia lawyers who are members of the ABA. Anyone else interested in running for any of the three posts can do so by filing a petition as outlined in Article VII Section 1 of the Bylaws.

<u>Post</u>	<u>Delegate</u>
2	Past President S. Lester Tate, III
4	Donna G. Barwick
6	(will be held by the Immediate Past President as of July 2019)

Advisory Committee on Legislation (ACL)/Legislative Proposals

Following a report by ACL Chair Thomas Worthy, the Board of Governors took the following action on proposed legislation:

<u>Legislative Proposal</u>	<u>Germane to Purposes of the Bar</u>	<u>Support on Merits 2/3 Majority</u>
Fiduciary Law Section		
1) Proposed Amendments to the Uniform Guardianship & Conservatorship Proceedings Jurisdiction Act	Passed by unanimous voice vote	Passed by unanimous voice vote
Dispute Resolution Section		
1) Proposal to Adopt the Uniform Mediation Act	Passed by unanimous voice vote	Passed by 2/3 majority voice vote
Comm. to Promote Inclusion in the Profession		
1) Continued State Appropriations to the Judicial Council for Legal Services Grant for Victims of Domestic Violence	Passed by unanimous voice vote	Passed by unanimous voice vote
Georgia Appellate Practice & Educational Resource Center		
1) Continued State Funding to the Judicial Council for Post-Conviction Proceedings	Passed by unanimous voice vote	Passed by unanimous voice vote

Family Law Section

- |   |                           |                     |
|---|---------------------------|---------------------|
| 1) Counterclaims in Response to a Complaint | Passed by unanimous voice | Passed by unanimous |
| Changing Custody & Counterclaims in         | vote                      | voice vote          |
| Response for a Motion for Contempt for      |                           |                     |
| Enforcement of a Custody Order              |                           |                     |

Real Property Law Section

- |                                      |                           |                     |
|--------------------------------------|---------------------------|---------------------|
| 1) Remote Online Notary Proposal     | Passed by unanimous voice | Passed by unanimous |
| (to support a study committee in the | vote                      | voice vote          |
| Legislature)                         |                           |                     |

Legislative Update

Governmental Affairs Director Christine Butcher Hayes and Legislative Consultant Rusty Sewell provided an update on the upcoming legislative session. Christine reported that President Ken Hodges created a working group of representatives from the Georgia Trial Lawyers Association, the Georgia Chamber of Commerce, and the State Bar that are working on business court enabling legislation. Rusty reported on new leadership in the House Judiciary and Judiciary Non-Civil Committees. He said there will also be new leadership under Governor Brian Kemp and the State Bar will be working with a number of new state elected officials in the coming year.

The Board of Governors received a copy of the November 27, 2018 Advisory Committee on Legislation meeting minutes.

Resolution for Honorable Carol W. Hunstein, Supreme Court of Georgia Justice (Retired)  
President Ken Hodges presented a resolution to (Retired) Supreme Court Justice Carol W. Hunstein honoring her for forty-two years of service to the profession, the public, and the judicial system. She recently retired after serving twenty-six years on the Supreme Court of Georgia.

Recognition of Disciplinary Rules & Procedures Committee

President Ken Hodges recognized the members of the Disciplinary Rules & Procedures Committee who worked several years on reforming the disciplinary rules.

President's Report

President Ken Hodges stated that service on the Board of Governors is a commitment and thanked all members for doing so. He recognized outgoing Board member Jeffrey S. Ward who recently vacated his post due to moving to another circuit. His replacement representing the Brunswick Circuit is Martha Wilson Williams. Ken also recognized Donna Coleman-Stribling who he appointed to the Stone Mountain Circuit replacing outgoing Board member Gary Freed.

Ken reported that he appointed a Professional Liability Insurance Committee, chaired by Linley Jones, to study and make recommendations to the Executive Committee and Board of Governors on issues concerning lawyers' professional liability insurance. He encouraged the Board members to provide their input to the committee. He stated that in his talks to bar associations around the state about the issue of malpractice insurance that feedback has been positive.

Ken reported that the U.S. Supreme Court granted writ of certiorari and issued an opinion in *Fleck v. Wetch*, a case out of the Eighth Circuit challenging mandatory payments of bar dues. The Supreme Court vacated the Eighth Circuit's decision and remanded it for further consideration in light of the Supreme Court's recent decision in *Janus*. He has appointed a Unified Bar Committee to watch that.

Ken reported that ongoing with the YLD we have a disaster relief initiative spearheaded by Pro Bono Director Mike Monahan helping Albany and Southwest Georgia hurricane victims. Eighty-two lawyers around the state have volunteered their time and assisted forty-five people to date. Also, the following three law firms put together a detailed and comprehensive state disaster manual for lawyers: Kilpatrick Townsend, Alston & Bird, and Troutman Sanders, and Ken thanked them for their service.

Lastly, Ken reported that he will be sworn in to the Court of Appeals on January 16, 2019 at 10:30 a.m. and invited those that can to attend. He thanked everyone for the privilege of serving and looks forward to working with them over the next five months.

#### Treasurer's Report

Treasurer Dawn Jones reported on the Bar's finances. She referred members to the line item variances supplied by the Accounting Department each month and how those variances are being addressed, the legislative fund activity and encouraged members to contribute to it when they are renewing their dues this year, and to the ICLE financials that will be a regular report in the financials from here on out. She reported that there are a number of ICLE programs that do not make money and some that lose a lot of money, and the ICLE staff is addressing that. She reviewed the 2018-19 State Bar Budget Timeline for the 2019-2020 State Bar Budget, and reported that over the last six years we have raised dues by \$8. She reviewed the Clients' Security Fund and stated that it will need to be replenished in the near future. She reported on changes that have been made on how we manage the Finance Department. Financial information is now current and accounting procedures have been streamlined, allowing us to eliminate a staff position. We have implemented the first budget for ICLE, a new general ledger reporting system, and transitioned to a new expense report system.

President-elect Darrell Sutton reported on the new State Bar of Georgia Officer Reimbursement Policy adopted by the Executive Committee.

The Board of Governors received a copy of the following State Bar financial reports: Consolidated Revenue & Expenditures (Operations and Bar Center Combined) as of October 31, 2018; Summary of Dues and Voluntary Contribution as of October 31, 2018; Income Statement YTD (Operations) for the Four Months ending October 31, 2018; Bar Center Revenue and Expenditures for the Four Months ended October 31, 2018; Investment Performance Comparison 2005-2018; Cornerstones of Freedom Fund and Legislative Fund Fiscal Year Through October 31, 2018; and ICLE Statement of Financial Position as of October 31, 2018, and ICLE Statement of Operating Revenue and Expenditures for the Four Months ended October 31, 2018 and Budget Fiscal Year Ended June 30, 2018.

2018-19 State Bar Budget Timetable (for the 2019-2020 State Bar Budget)

The Board of Governors received a copy of the 2018-19 State Bar Budget Timetable for the 2019-2020 State Bar Budget.

Young Lawyers Division

YLD President Rizza O'Connor reported that the YLD has had a very busy year supporting young lawyers around the state both professionally and personally. In the past six months the YLD has done many things to actively engage in the human aspect of the profession through a tacky Christmas sweater party, haunted ghost tours, yoga, and kickboxing. It has reached out to all of the YLD affiliates to make those personal relationships, and young lawyers continue to do things that inspire and encourage each other.

Rizza reported that the YLD has 27 committees and there is something going on at the Bar Center almost every week. There is a lunch and learn series featuring topics such as educational rights for students with disabilities, navigating your first year of a real estate practice, and how to start your own law practice. Adhering to the YLD motto, working for the profession and the public, on the public end the YLD has handled close to 100 calls through its disaster relief hotline and will continue to work through that for the months to come. The YLD put together hygiene kits for the homeless in Savannah. This past Wednesday, the YLD was in Atlanta at the Gateway Center and helped over twenty-five people formulate a resume, and the community service project at this meeting is collecting coats and blankets to give to the Gateway Center.

Rizza highlighted the YLD's 31<sup>st</sup> Annual Capitol Leadership luncheon on February 5 where leadership academy and other young lawyers will meet with lawyer legislators, the Intrastate Moot Court Competition at Emory on May 23, and the YLD Spring Meeting in Washington, D.C. on April 25-29 that will feature a swearing-in at the U.S. Supreme Court. She reported that the Annual Signature Fundraiser will take place on April 13. It will be an 80's, 90's and early 2000's themed affair with dinner and dancing, and drinks

and games. This year's recipient is the Lawyers for Equal Justice Project. On May 19 a Build a Better Day will take place at which the YLD will build Habitat for Humanity houses in Atlanta, Macon and Savannah. Young lawyers are very much involved in the upcoming National High School Mock Trial Competition, May 14-18 in Athens, which you will be hearing more information on. Lastly, Rizza reported that the YLD has started using Facebook Live at all YLD general sessions and is creating YLD podcasts offering practical advice. She thanked the Board of Governors for its support of the YLD and hopes Board members will continue to join the YLD at their events.

#### Who Needs Lawyers? We do. 2019 Campaign

Communications Committee Co-chair Sonjui Kumar, and *Arc of Justice* President and Managing Director Derrick Alexander Pope, reported on the *Who Needs Lawyers? We do. 2019* campaign messaging.

#### 2019 National High School Mock Trial Championship

High School Mock Trial Director Michael Nixon reported on the upcoming National High School Mock Trial Championship being hosted this year by the State Bar of Georgia. The event will take place May 14-18, 2019, in Athens. Forty-six teams from 42-43 states, Guam, Northern Marianas Island, and South Korea will be participating in the competition. There will be about 1,200 students, coaches and parents in attendance along with 200-300 volunteers, staff, and NHSMT Board members. The competition needs to fill 92 judging panel spots each round for four rounds. Michael encouraged the Board members to participate as judges and encouraged them to become sponsors. The Board of Governors also received written information on the Championship.

#### Executive Committee Minutes

The Board of Governors received copies of the minutes of the Executive Committee meetings held on September 21-22, November 7, and November 12, 2018.

#### Office of General Counsel

The Board of Governors received a written report of the Office of the General Counsel.

#### Military Legal Assistance Program

The Board of Governors received a written report on the activities of the Military Legal Assistance Program.

#### Consumer Assistance Program

The Board of Governors received a written report on the activities of the Consumer Assistance Program.

Law Practice Management Program

The Board of Governors received a written report on the activities of the Law Practice Management Program.

Communications Update

The Board of Governors received a media report from the Communications Department.

Georgia Legal Services Program

The Board of Governors received a written report on the activities of the Georgia Legal Services Program.

Old Business

There was no old business.

New Business

There was no new business.

Remarks/Q&A/Comments/Suggestions

President Ken Hodges opened up the floor to remarks, questions, comments and suggestions.

David Cannon requested that Board members receive in advance any proposal drafted by the Professional Liability Insurance Committee so Board members have an opportunity to discuss it with their constituents, and David Lipscomb asked if the Communications Department could assist in distributing the proposal to their constituents. President Ken Hodges affirmatively agreed to both requests

Adjournment

There being no further business, the meeting was adjourned at 11:15 a.m.

---

Elizabeth L. Fite, Secretary

---

Kenneth B Hodges, III, President



MEMORANDUM

To: Board of Governors  
From: Bill NeSmith  
Date: March 6, 2019  
Re: Rule change proposals 2019 Spring Meeting

---

Below is a short explanation of the proposed rules changes on the agenda for the 2019 Spring Meeting of the Board of Governors:

1. **Rule 1.0 (t) and (cc) -Terminology.** Added a new definition of “prospective client” to deal with obligations owed to prospective clients in new Rule 1.18. and amends the term “written” to remove the reference to email and take into account that communication methods may change in the future.
2. **Rule 1.4, Comment 4—Communication.** Adds ABA model rule language and deletes a reference to phone calls, while keeping the language that requires a lawyer promptly to respond to client inquiries.
3. **Rule 1.17, Comment 6—Sale of a Law Practice.** The proposed revision is at Comment 6. It clarifies the timing of giving detailed information about client files to a person who is buying another lawyer’s practice. Disclosure of detailed information requires client consent, which means it can only be done AFTER the client has been notified of the sale.
4. **Rule 5.3, Comments 4 and 5—Responsibilities Regarding Nonlawyer Assistants.** New Comments 4 and 5 from the ABA Model Rules provide guidance on use of nonlawyer service providers outside the firm/organization.
5. **Rule 5.4(a)(4)—Professional Independence of a Lawyer.** This change is in response to a request that the Bar accommodate Civil Lawyers Against World Sex-Slavery (CLAWS) and other not-for-profit organizations that refer cases to a lawyer, and the lawyer wishes to share court-awarded legal fees from referred cases. The ABA model rule language helps with the Georgia fee splitting issue.
6. **Rule 7.1(a)—Communications Concerning a Lawyer’s Services.** The language was revised after discussion of whether to add language about the use of text messages as advertising.



Ultimately the Disciplinary Rules and Procedures Committee decided against referring to any specific advertising medium and decided on a broad statement that whatever the advertising method is, statements have to be true and not misleading. This encompasses written and electronic media.

7. **Rule 9.4—Jurisdiction and Reciprocal Discipline.** Revised so that Georgia does not have to bring a reciprocal discipline case unless the lawyer has been suspended or disbarred in the other jurisdiction. The Office of the General Counsel notes the imposition of reprimands in the other jurisdiction and can use it as an aggravating circumstance in later cases.

8. **Rule 4-219(a)—Publication and Protective Orders.** The rule requires OGC to publish notice of imposition of discipline in a local newspaper. The amendment takes interim suspensions out of the publication requirement, since they are imposed and removed quickly and are not final orders of discipline.

9. **Rule 4-220(c)—Notice of Punishment.** The rule currently says that a special master chooses the location for a public reprimand. In Notice of Discipline cases there is no special master. The amendment sets public reprimands in the county of the respondent's official State Bar of Georgia address or as otherwise ordered by the Supreme Court

10. **Rule 14-3.1 and Rule 14-14.1 Unlicensed Practice of law (UPL).** The proposed amendments to these two Unlicensed Practice of Law rules are to ensure that the UPL rules are in compliance with the *North Carolina State Board of Dental Examiners v. Federal Trade Commission* decision of the United States Supreme Court. The most important substantive change is the make-up of the UPL board to comport with the SCOTUS decision. The remaining changes are largely housekeeping changes.

11. **Rules 16-101 through 16-105—Institute of Continuing Education of the State Bar of Georgia.** These proposed changes are needed because of the recent transfer of the assets of ICLE from the State Bar of Georgia Foundation, Inc. to the Institute of Continuing Education of the State Bar of Georgia, LLC, a limited liability company owned solely by the State Bar of Georgia. These proposed changes add clarity and most are simply housekeeping amendments to the ICLE rules.

1 **RULE 1.0 TERMINOLOGY AND DEFINITIONS**

2 (a) “Belief” or “believes” denotes that the person involved actually thought the fact in  
3 question to be true. A person’s belief may be inferred from the circumstances.

4 (b) “Confidential Proceedings” denotes any proceeding under these Rules which  
5 occurs prior to a filing in the Supreme Court of Georgia.

6 (c) “Confirmed in writing” when used in reference to the informed consent of a  
7 person, denotes informed consent that is given in writing by the person, or a writing that a  
8 lawyer promptly transmits to the person confirming an oral informed consent. See  
9 paragraph (l) for the definition of “informed consent.” If it is not feasible to obtain or  
10 transmit the writing at the time the person gives informed consent, then the lawyer must  
11 obtain or transmit it within a reasonable time thereafter.

12 (d) “Consult” or “consultation” denotes communication of information reasonably  
13 sufficient to permit the client to appreciate the significance of the matter in question.

14 (e) “Conviction” or “convicted” denotes any of the following accepted by a court,  
15 whether or not a sentence has been imposed:

16 (1) a guilty plea;

17 (2) a plea of nolo contendere;

18 (3) a verdict of guilty;

19 (4) a verdict of guilty but mentally ill; or

20 (5) A plea entered under the Georgia First Offender Act, OCGA § 42-8-60 et  
21 seq., or a substantially similar statute in Georgia or another jurisdiction.

22 (f) “Domestic Lawyer” denotes a person authorized to practice law by the duly  
23 constituted and authorized governmental body of any State or Territory of the United

24 States or the District of Columbia but not authorized by the Supreme Court of Georgia or  
25 its Rules to practice law in the State of Georgia.

26 (g) “Firm” or “law firm” denotes a lawyer or lawyers in a private firm, law  
27 partnership, professional corporation, sole proprietorship or other association authorized  
28 to practice law pursuant to Rule 1-203 (d); or lawyers employed in a legal services  
29 organization or the legal department of a corporation or other organization.

30 (h) “Foreign Lawyer” denotes a person authorized to practice law by the duly  
31 constituted and authorized governmental body of any foreign nation but not authorized by  
32 the Supreme Court of Georgia or its Rules to practice law in the State of Georgia.

33 (i) “Fraud” or “fraudulent” denotes conduct that is fraudulent under the substantive  
34 or procedural law of the applicable jurisdiction and has a purpose to deceive; not merely  
35 negligent misrepresentation or failure to apprise another of relevant information.

36 (j) “Grievance/Memorandum of Grievance” denotes an allegation of unethical  
37 conduct filed against a lawyer.

38 (k) “He,” “Him” or “His” denotes generic pronouns including both male and female.

39 (l) “Informed consent” denotes the agreement by a person to a proposed course of  
40 conduct after the lawyer has communicated adequate information and explanation about  
41 the material risks of and reasonably available alternatives to the proposed course of  
42 conduct.

43 (m) “Knowingly,” “known,” or “knows” denotes actual knowledge of the fact in  
44 question. A person's knowledge may be inferred from the circumstances.

- 45 (n) “Lawyer” denotes a person authorized by the Supreme Court of Georgia or its  
46 Rules to practice law in the State of Georgia including persons admitted to practice in this  
47 state pro hac vice.
- 48 (o) “Nonlawyer” denotes a person not authorized to practice law by either the:  
49 (1) Supreme Court of Georgia or its Rules (including pro hac vice admission),  
50 or  
51 (2) duly constituted and authorized governmental body of any other State or  
52 Territory of the United States, or the District of Columbia, or  
53 (3) duly constituted and authorized governmental body of any foreign nation.
- 54 (p) “Notice of Discipline” denotes a Notice by the State Disciplinary Board that the  
55 respondent will be subject to a disciplinary sanction for violation of one or more Georgia  
56 Rules of Professional Conduct unless the respondent affirmatively rejects the notice.
- 57 (q) “Partner” denotes a member of a partnership, a shareholder in a law firm  
58 organized pursuant to Rule 1-203 (d), or a member of an association authorized to  
59 practice law.
- 60 (r) “Petition for Voluntary Surrender of License” denotes a Petition for Voluntary  
61 Discipline in which the respondent voluntarily surrenders his license to practice law in  
62 this State. A voluntary surrender of license is tantamount to disbarment.
- 63 (s) “Probable Cause” denotes a finding by the State Disciplinary Board that there is  
64 sufficient evidence to believe that the respondent has violated one or more of the  
65 provisions of Part IV, Chapter 1 of the Bar Rules.
- 66 (t) “Prospective Client” denotes a person who consults with a lawyer about the  
67 possibility of forming a client-lawyer relationship with respect to a matter.

68 (u) “Public Proceedings” denotes any proceeding under these Rules that has been  
69 filed with the Supreme Court of Georgia.

70 (wv) “Reasonable” or “reasonably” when used in relation to conduct by a lawyer  
71 denotes the conduct of a reasonably prudent and competent lawyer.

72 (+w) “Reasonable belief” or “reasonably believes” when used in reference to a lawyer  
73 denotes that the lawyer believes the matter in question and that the circumstances are  
74 such that the belief is reasonable.

75 (wx) “Reasonably should know” when used in reference to a lawyer denotes that a  
76 lawyer of reasonable prudence and competence would ascertain the matter in question.

77 (xy) “Respondent” denotes a person whose conduct is the subject of any disciplinary  
78 investigation or proceeding.

79 (yz) “Screened” denotes the isolation of a lawyer from any participation in a matter  
80 through the timely imposition of procedures within a firm that are reasonably adequate  
81 under the circumstances to protect information that the isolated lawyer is obligated to  
82 protect under these Rules or other law.

83 (zaa) “Substantial” when used in reference to degree or extent denotes a material matter  
84 of clear and weighty importance.

85 (aab) “Tribunal” denotes a court, an arbitrator in an arbitration proceeding or a  
86 legislative body, administrative agency or other body acting in an adjudicative capacity.  
87 A legislative body, administrative agency or other body acts in an adjudicative capacity  
88 when a neutral official, after the presentation of evidence or legal argument by a party or  
89 parties, will render a legal judgment directly affecting a party's interests in a particular  
90 matter.

91 (abcc) “Writing” or “written” denotes a tangible or electronic record of a communication  
92 or representation, including but not limited to handwriting, typewriting, printing,  
93 photostating, photography, audio or video recording and e-mail/electronic  
94 communications. A “signed” writing includes an electronic sound, symbol or process  
95 attached to or logically associated with a writing and executed or adopted by a person  
96 with the intent to sign the writing.

97 **Comment**

98 [1] Bar Rule 4-110 includes additional definitions for terminology used in the procedural section  
99 of these Rules.

100 **Confirmed in Writing**

101 [1A] If it is not feasible to obtain or transmit a written confirmation at the time the client gives  
102 informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter.  
103 If a lawyer has obtained a client's informed consent, the lawyer may act in reliance on that  
104 consent so long as it is confirmed in writing within a reasonable time thereafter.

105 **Firm**

106 [2] Whether two or more lawyers constitute a firm within paragraph (e) can depend on the  
107 specific facts. For example, two practitioners who share office space and occasionally consult or  
108 assist each other ordinarily would not be regarded as constituting a firm. However, if they  
109 present themselves to the public in a way that suggests that they are a firm or conduct themselves  
110 as a firm, they should be regarded as a firm for purposes of the Rules. A group of lawyers could  
111 be regarded as a firm for purposes of the Rule that the same lawyer should not represent  
112 opposing parties in litigation, while it might not be so regarded for purposes of the Rule that  
113 information acquired by one lawyer is attributed to another. The terms of any formal agreement

114 between associated lawyers are relevant in determining whether they are a firm, as is the fact that  
115 they have mutual access to information concerning the clients they serve. Furthermore, it is  
116 relevant in doubtful cases to consider the underlying purpose of the Rule that is involved.

117 [3] With respect to the law department of an organization, including the government, there is  
118 ordinarily no question that the members of the department constitute a firm within the meaning  
119 of the Rules of Professional Conduct. There can be uncertainty, however, as to the identity of the  
120 client. For example, it may not be clear whether the law department of a corporation represents a  
121 subsidiary or an affiliated corporation, as well as the corporation by which the members of the  
122 department are directly employed. A similar question can arise concerning an unincorporated  
123 association and its local affiliates.

124 [4] Similar questions can also arise with respect to lawyers in legal aid and legal services  
125 organizations. Depending upon the structure of the organization, the entire organization or  
126 different components of it may constitute a firm or firms for purposes of these Rules.

127 Fraud

128 [5] When used in these Rules, the terms "fraud" or "fraudulent" refers to conduct that is  
129 characterized as such under the substantive or procedural law of the applicable jurisdiction and  
130 has a purpose to deceive. This does not include merely negligent misrepresentation or negligent  
131 failure to apprise another of relevant information. For purposes of these Rules, it is not necessary  
132 that anyone has suffered damages or relied on the misrepresentation or failure to inform.

133 Informed Consent

134 [6] Many of the Rules of Professional Conduct require the lawyer to obtain the informed consent  
135 of a client or other person (e.g., a former client or, under certain circumstances, a prospective  
136 client) before accepting or continuing representation or pursuing a course of conduct. See, e.g.,

137 Rules 1.2(c), 1.6(a) and 1.7(b). The communication necessary to obtain such consent will vary  
138 according to the Rule involved and the circumstances giving rise to the need to obtain informed  
139 consent. The lawyer must make reasonable efforts to ensure that the client or other person  
140 possesses information reasonably adequate to make an informed decision. Ordinarily, this will  
141 require communication that includes a disclosure of the facts and circumstances giving rise to the  
142 situation, any explanation reasonably necessary to inform the client or other person of the  
143 material advantages and disadvantages of the proposed course of conduct and a discussion of the  
144 client's or other person's options and alternatives. In some circumstances it may be appropriate  
145 for a lawyer to advise a client or other person to seek the advice of other counsel. A lawyer need  
146 not inform a client or other person of facts or implications already known to the client or other  
147 person; nevertheless, a lawyer who does not personally inform the client or other person assumes  
148 the risk that the client or other person is inadequately informed and the consent is invalid. In  
149 determining whether the information and explanation provided are reasonably adequate, relevant  
150 factors include whether the client or other person is experienced in legal matters generally and in  
151 making decisions of the type involved, and whether the client or other person is independently  
152 represented by other counsel in giving the consent. Normally, such persons need less information  
153 and explanation than others, and generally a client or other person who is independently  
154 represented by other counsel in giving the consent should be assumed to have given informed  
155 consent.

156 [7] Obtaining informed consent will usually require an affirmative response by the client or other  
157 person. In general, a lawyer may not assume consent from a client's or other person's silence.  
158 Consent may be inferred, however, from the conduct of a client or other person who has  
159 reasonably adequate information about the matter. A number of Rules require that a person's



160 consent be confirmed in writing. See Rules 1.7(b) and 1.9(a). For a definition of "writing" and  
161 "confirmed in writing," see paragraphs (s) and (b). Other Rules require that a client's consent be  
162 obtained in a writing signed by the client. See, e.g., Rules 1.8(a)(3) and (g). For a definition of  
163 "signed," see paragraph (s).

164 Screened

165 [8] This definition applies to situations where screening of a personally disqualified lawyer is  
166 permitted to remove imputation of a conflict of interest under Rules 1.11 and 1.12.

167 [9] The purpose of screening is to assure the affected parties that confidential information known  
168 by the personally disqualified lawyer remains protected. The personally disqualified lawyer  
169 should acknowledge the obligation not to communicate with any of the other lawyers in the firm  
170 with respect to the matter. Similarly, other lawyers in the firm who are working on the matter  
171 should be informed that the screening is in place and that they may not communicate with the  
172 personally disqualified lawyer with respect to the matter. Additional screening measures that are  
173 appropriate for the particular matter will depend on the circumstances. To implement, reinforce  
174 and remind all affected lawyers of the presence of the screening, it may be appropriate for the  
175 firm to undertake such procedures as a written undertaking by the screened lawyer to avoid any  
176 communication with other firm personnel and any contact with any firm files or other materials  
177 relating to the matter, written notice and instructions to all other firm personnel forbidding any  
178 communication with the screened lawyer relating to the matter, denial of access by the screened  
179 lawyer to firm files or other materials relating to the matter and periodic reminders of the screen  
180 to the screened lawyer and all other firm personnel.

181 [10] In order to be effective, screening measures must be implemented as soon as practical after  
182 a lawyer or law firm knows or reasonably should know that there is a need for screening.

183 Writing

184 [11] The purpose of this definition is to permit a lawyer to use developing technologies that  
185 maintain an objective record of a communication that does not rely upon the memory of the  
186 lawyer or any other person. See O.G.C.A. § 10-12-2(8).

1 **RULE 1.0 TERMINOLOGY AND DEFINITIONS**

2 (a) "Belief" or "believes" denotes that the person involved actually thought the fact in  
3 question to be true. A person's belief may be inferred from the circumstances.

4 (b) "Confidential Proceedings" denotes any proceeding under these Rules which  
5 occurs prior to a filing in the Supreme Court of Georgia.

6 (c) "Confirmed in writing" when used in reference to the informed consent of a  
7 person, denotes informed consent that is given in writing by the person, or a writing that a  
8 lawyer promptly transmits to the person confirming an oral informed consent. See  
9 paragraph (l) for the definition of "informed consent." If it is not feasible to obtain or  
10 transmit the writing at the time the person gives informed consent, then the lawyer must  
11 obtain or transmit it within a reasonable time thereafter.

12 (d) "Consult" or "consultation" denotes communication of information reasonably  
13 sufficient to permit the client to appreciate the significance of the matter in question.

14 (e) "Conviction" or "convicted" denotes any of the following accepted by a court,  
15 whether or not a sentence has been imposed:

16 (1) a guilty plea;

17 (2) a plea of nolo contendere;

18 (3) a verdict of guilty;

19 (4) a verdict of guilty but mentally ill; or

20 (5) A plea entered under the Georgia First Offender Act, OCGA § 42-8-60 et  
21 seq., or a substantially similar statute in Georgia or another jurisdiction.

22 (f) "Domestic Lawyer" denotes a person authorized to practice law by the duly  
23 constituted and authorized governmental body of any State or Territory of the United

24 States or the District of Columbia but not authorized by the Supreme Court of Georgia or  
25 its Rules to practice law in the State of Georgia.

26 (g) “Firm” or “law firm” denotes a lawyer or lawyers in a private firm, law  
27 partnership, professional corporation, sole proprietorship or other association authorized  
28 to practice law pursuant to Rule 1-203 (d); or lawyers employed in a legal services  
29 organization or the legal department of a corporation or other organization.

30 (h) “Foreign Lawyer” denotes a person authorized to practice law by the duly  
31 constituted and authorized governmental body of any foreign nation but not authorized by  
32 the Supreme Court of Georgia or its Rules to practice law in the State of Georgia.

33 (i) “Fraud” or “fraudulent” denotes conduct that is fraudulent under the substantive  
34 or procedural law of the applicable jurisdiction and has a purpose to deceive; not merely  
35 negligent misrepresentation or failure to apprise another of relevant information.

36 (j) “Grievance/Memorandum of Grievance” denotes an allegation of unethical  
37 conduct filed against a lawyer.

38 (k) “He,” “Him” or “His” denotes generic pronouns including both male and female.

39 (l) “Informed consent” denotes the agreement by a person to a proposed course of  
40 conduct after the lawyer has communicated adequate information and explanation about  
41 the material risks of and reasonably available alternatives to the proposed course of  
42 conduct.

43 (m) “Knowingly,” “known,” or “knows” denotes actual knowledge of the fact in  
44 question. A person's knowledge may be inferred from the circumstances.

- 45 (n) “Lawyer” denotes a person authorized by the Supreme Court of Georgia or its  
46 Rules to practice law in the State of Georgia including persons admitted to practice in this  
47 state pro hac vice.
- 48 (o) “Nonlawyer” denotes a person not authorized to practice law by either the:  
49 (1) Supreme Court of Georgia or its Rules (including pro hac vice admission),  
50 or  
51 (2) duly constituted and authorized governmental body of any other State or  
52 Territory of the United States, or the District of Columbia, or  
53 (3) duly constituted and authorized governmental body of any foreign nation.
- 54 (p) “Notice of Discipline” denotes a Notice by the State Disciplinary Board that the  
55 respondent will be subject to a disciplinary sanction for violation of one or more Georgia  
56 Rules of Professional Conduct unless the respondent affirmatively rejects the notice.
- 57 (q) “Partner” denotes a member of a partnership, a shareholder in a law firm  
58 organized pursuant to Rule 1-203 (d), or a member of an association authorized to  
59 practice law.
- 60 (r) “Petition for Voluntary Surrender of License” denotes a Petition for Voluntary  
61 Discipline in which the respondent voluntarily surrenders his license to practice law in  
62 this State. A voluntary surrender of license is tantamount to disbarment.
- 63 (s) “Probable Cause” denotes a finding by the State Disciplinary Board that there is  
64 sufficient evidence to believe that the respondent has violated one or more of the  
65 provisions of Part IV, Chapter 1 of the Bar Rules.
- 66 (t) “Prospective Client” denotes a person who consults with a lawyer about the  
67 possibility of forming a client-lawyer relationship with respect to a matter.

- 68 (u) “Public Proceedings” denotes any proceeding under these Rules that has been  
69 filed with the Supreme Court of Georgia.
- 70 (v) “Reasonable” or “reasonably” when used in relation to conduct by a lawyer  
71 denotes the conduct of a reasonably prudent and competent lawyer.
- 72 (w) “Reasonable belief” or “reasonably believes” when used in reference to a lawyer  
73 denotes that the lawyer believes the matter in question and that the circumstances are  
74 such that the belief is reasonable.
- 75 (x) “Reasonably should know” when used in reference to a lawyer denotes that a  
76 lawyer of reasonable prudence and competence would ascertain the matter in question.
- 77 (y) “Respondent” denotes a person whose conduct is the subject of any disciplinary  
78 investigation or proceeding.
- 79 (z) “Screened” denotes the isolation of a lawyer from any participation in a matter  
80 through the timely imposition of procedures within a firm that are reasonably adequate  
81 under the circumstances to protect information that the isolated lawyer is obligated to  
82 protect under these Rules or other law.
- 83 (aa) “Substantial” when used in reference to degree or extent denotes a material matter  
84 of clear and weighty importance.
- 85 (bb) “Tribunal” denotes a court, an arbitrator in an arbitration proceeding or a  
86 legislative body, administrative agency or other body acting in an adjudicative capacity.  
87 A legislative body, administrative agency or other body acts in an adjudicative capacity  
88 when a neutral official, after the presentation of evidence or legal argument by a party or  
89 parties, will render a legal judgment directly affecting a party's interests in a particular  
90 matter.

91 (cc) “Writing” or “written” denotes a tangible or electronic record of a communication  
92 or representation, including but not limited to handwriting, typewriting, printing,  
93 photostating, photography, audio or video recording and electronic communications. A  
94 “signed” writing includes an electronic sound, symbol or process attached to or logically  
95 associated with a writing and executed or adopted by a person with the intent to sign the  
96 writing.

97 **Comment**

98 [1] Bar Rule 4-110 includes additional definitions for terminology used in the procedural section  
99 of these Rules.

100 **Confirmed in Writing**

101 [1A] If it is not feasible to obtain or transmit a written confirmation at the time the client gives  
102 informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter.  
103 If a lawyer has obtained a client's informed consent, the lawyer may act in reliance on that  
104 consent so long as it is confirmed in writing within a reasonable time thereafter.

105 **Firm**

106 [2] Whether two or more lawyers constitute a firm within paragraph (e) can depend on the  
107 specific facts. For example, two practitioners who share office space and occasionally consult or  
108 assist each other ordinarily would not be regarded as constituting a firm. However, if they  
109 present themselves to the public in a way that suggests that they are a firm or conduct themselves  
110 as a firm, they should be regarded as a firm for purposes of the Rules. A group of lawyers could  
111 be regarded as a firm for purposes of the Rule that the same lawyer should not represent  
112 opposing parties in litigation, while it might not be so regarded for purposes of the Rule that  
113 information acquired by one lawyer is attributed to another. The terms of any formal agreement

114 between associated lawyers are relevant in determining whether they are a firm, as is the fact that  
115 they have mutual access to information concerning the clients they serve. Furthermore, it is  
116 relevant in doubtful cases to consider the underlying purpose of the Rule that is involved.

117 [3] With respect to the law department of an organization, including the government, there is  
118 ordinarily no question that the members of the department constitute a firm within the meaning  
119 of the Rules of Professional Conduct. There can be uncertainty, however, as to the identity of the  
120 client. For example, it may not be clear whether the law department of a corporation represents a  
121 subsidiary or an affiliated corporation, as well as the corporation by which the members of the  
122 department are directly employed. A similar question can arise concerning an unincorporated  
123 association and its local affiliates.

124 [4] Similar questions can also arise with respect to lawyers in legal aid and legal services  
125 organizations. Depending upon the structure of the organization, the entire organization or  
126 different components of it may constitute a firm or firms for purposes of these Rules.

127 Fraud

128 [5] When used in these Rules, the terms "fraud" or "fraudulent" refers to conduct that is  
129 characterized as such under the substantive or procedural law of the applicable jurisdiction and  
130 has a purpose to deceive. This does not include merely negligent misrepresentation or negligent  
131 failure to apprise another of relevant information. For purposes of these Rules, it is not necessary  
132 that anyone has suffered damages or relied on the misrepresentation or failure to inform.

133 Informed Consent

134 [6] Many of the Rules of Professional Conduct require the lawyer to obtain the informed consent  
135 of a client or other person (e.g., a former client or, under certain circumstances, a prospective  
136 client) before accepting or continuing representation or pursuing a course of conduct. See, e.g.,



137 Rules 1.2(c), 1.6(a) and 1.7(b). The communication necessary to obtain such consent will vary  
138 according to the Rule involved and the circumstances giving rise to the need to obtain informed  
139 consent. The lawyer must make reasonable efforts to ensure that the client or other person  
140 possesses information reasonably adequate to make an informed decision. Ordinarily, this will  
141 require communication that includes a disclosure of the facts and circumstances giving rise to the  
142 situation, any explanation reasonably necessary to inform the client or other person of the  
143 material advantages and disadvantages of the proposed course of conduct and a discussion of the  
144 client's or other person's options and alternatives. In some circumstances it may be appropriate  
145 for a lawyer to advise a client or other person to seek the advice of other counsel. A lawyer need  
146 not inform a client or other person of facts or implications already known to the client or other  
147 person; nevertheless, a lawyer who does not personally inform the client or other person assumes  
148 the risk that the client or other person is inadequately informed and the consent is invalid. In  
149 determining whether the information and explanation provided are reasonably adequate, relevant  
150 factors include whether the client or other person is experienced in legal matters generally and in  
151 making decisions of the type involved, and whether the client or other person is independently  
152 represented by other counsel in giving the consent. Normally, such persons need less information  
153 and explanation than others, and generally a client or other person who is independently  
154 represented by other counsel in giving the consent should be assumed to have given informed  
155 consent.

156 [7] Obtaining informed consent will usually require an affirmative response by the client or other  
157 person. In general, a lawyer may not assume consent from a client's or other person's silence.  
158 Consent may be inferred, however, from the conduct of a client or other person who has  
159 reasonably adequate information about the matter. A number of Rules require that a person's

160 consent be confirmed in writing. See Rules 1.7(b) and 1.9(a). For a definition of "writing" and  
161 "confirmed in writing," see paragraphs (s) and (b). Other Rules require that a client's consent be  
162 obtained in a writing signed by the client. See, e.g., Rules 1.8(a)(3) and (g). For a definition of  
163 "signed," see paragraph (s).

164 Screened

165 [8] This definition applies to situations where screening of a personally disqualified lawyer is  
166 permitted to remove imputation of a conflict of interest under Rules 1.11 and 1.12.

167 [9] The purpose of screening is to assure the affected parties that confidential information known  
168 by the personally disqualified lawyer remains protected. The personally disqualified lawyer  
169 should acknowledge the obligation not to communicate with any of the other lawyers in the firm  
170 with respect to the matter. Similarly, other lawyers in the firm who are working on the matter  
171 should be informed that the screening is in place and that they may not communicate with the  
172 personally disqualified lawyer with respect to the matter. Additional screening measures that are  
173 appropriate for the particular matter will depend on the circumstances. To implement, reinforce  
174 and remind all affected lawyers of the presence of the screening, it may be appropriate for the  
175 firm to undertake such procedures as a written undertaking by the screened lawyer to avoid any  
176 communication with other firm personnel and any contact with any firm files or other materials  
177 relating to the matter, written notice and instructions to all other firm personnel forbidding any  
178 communication with the screened lawyer relating to the matter, denial of access by the screened  
179 lawyer to firm files or other materials relating to the matter and periodic reminders of the screen  
180 to the screened lawyer and all other firm personnel.

181 [10] In order to be effective, screening measures must be implemented as soon as practical after  
182 a lawyer or law firm knows or reasonably should know that there is a need for screening.

183 Writing

184 [11] The purpose of this definition is to permit a lawyer to use developing technologies that  
185 maintain an objective record of a communication that does not rely upon the memory of the  
186 lawyer or any other person. See O.G.C.A. § 10-12-2(8).

1 **RULE 1.4 COMMUNICATION**

2 (a) A lawyer shall:

3 (1) promptly inform the client of any decision or circumstance with respect to  
4 which the client's informed consent, as defined in Rule 1.0(h), is required by these  
5 Rules;

6 (2) reasonably consult with the client about the means by which the client's  
7 objectives are to be accomplished;

8 (3) keep the client reasonably informed about the status of the matter;

9 (4) promptly comply with reasonable requests for information; and

10 (5) consult with the client about any relevant limitation on the lawyer's conduct when  
11 the lawyer knows that the client expects assistance not permitted by the Rules of  
12 Professional Conduct or other law.

13 (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the  
14 client to make informed decisions regarding the representation.

15 The maximum penalty for a violation of this Rule is a public reprimand.

16 Comment

17 [1] Reasonable communication between the lawyer and the client is necessary for the client  
18 effectively to participate in the representation.

19 Communicating with Client

20 [2] If these Rules require that a particular decision about the representation be made by the  
21 client, paragraph (a)(1) requires that the lawyer promptly consult with and secure the client's  
22 informed consent prior to taking action unless prior discussions with the client have resolved  
23 what action the client wants the lawyer to take. For example, a lawyer who receives from

24 opposing counsel an offer of settlement in a civil controversy or a proffered plea bargain in a  
25 criminal case must promptly inform the client of its substance unless the client has previously  
26 indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to  
27 accept or to reject the offer. See Rule 1.2(a).

28 [3] Paragraph (a)(2) requires the lawyer to reasonably consult with the client about the means to  
29 be used to accomplish the client's objectives. In some situations - depending on both the  
30 importance of the action under consideration and the feasibility of consulting with the client -  
31 this duty will require consultation prior to taking action. In other circumstances, such as during a  
32 trial when an immediate decision must be made, the exigency of the situation may require the  
33 lawyer to act without prior consultation. In such cases the lawyer must nonetheless act  
34 reasonably to inform the client of actions the lawyer has taken on the client's behalf.

35 Additionally, paragraph (a)(3) requires that the lawyer keep the client reasonably informed about  
36 the status of the matter, such as significant developments affecting the timing or the substance of  
37 the representation.

38 [4] A lawyer's regular communication with clients will minimize the occasions on which a client  
39 will need to request information concerning the representation. When a client makes a reasonable  
40 request for information, however, paragraph (a)(4) requires prompt compliance with the request,  
41 or if a prompt response is not feasible, that the lawyer, or a member of the lawyer's staff,  
42 acknowledge receipt of the request and advise the client when a response may be expected.

43 ~~Client telephone calls should be promptly returned or acknowledged.~~ A lawyer shall promptly  
44 respond to or acknowledge client communications. The timeliness of a lawyer's communication  
45 must be judged by all the controlling factors. "Prompt" communication with the client does not

46 equate to "instant" communication with the client and is sufficient if reasonable under the  
47 relevant circumstances.

#### 48 Explaining Matters

49 [5] The client should have sufficient information to participate intelligently in decisions  
50 concerning the objectives of the representation and the means by which they are to be pursued, to  
51 the extent the client is willing and able to do so. Adequacy of communication depends in part on  
52 the kind of advice or assistance that is involved. For example, where there is time to explain a  
53 proposal made in a negotiation, the lawyer should review all important provisions with the client  
54 before proceeding to an agreement. In litigation a lawyer should explain the general strategy and  
55 prospects of success and ordinarily should consult the client on tactics that are likely to result in  
56 significant expense or to injure or coerce others. On the other hand, a lawyer ordinarily will not  
57 be expected to describe trial or negotiation strategy in detail. The guiding principle is that the  
58 lawyer should fulfill reasonable client expectations for information consistent with the duty to  
59 act in the client's best interests, and the client's overall requirements as to the character of  
60 representation. In certain circumstances, such as when a lawyer asks a client to consent to a  
61 representation affected by a conflict of interest, the client must give informed consent, as defined  
62 in Rule 1.0(h).

63 [6] Ordinarily, the information to be provided is that appropriate for a client who is a  
64 comprehending and responsible adult. However, fully informing the client according to this  
65 standard may be impracticable, for example, where the client is a child or suffers from  
66 diminished capacity. See Rule 1.14. When the client is an organization or group, it is often  
67 impossible or inappropriate to inform every one of its members about its legal affairs; ordinarily,  
68 the lawyer should address communications to the appropriate officials of the organization. See

69 Rule 1.13. Where many routine matters are involved, a system of limited or occasional reporting  
70 may be arranged with the client.

71 Withholding Information

72 [7] In some circumstances, a lawyer may be justified in delaying transmission of information  
73 when the client would be likely to react imprudently to an immediate communication. Thus, a  
74 lawyer might withhold a psychiatric diagnosis of a client when the examining psychiatrist  
75 indicates that disclosure would harm the client. A lawyer may not withhold information to serve  
76 the lawyer's own interest or convenience or the interests or convenience of another person. Rules  
77 or court orders governing litigation may provide that information supplied to a lawyer may not  
78 be disclosed to the client.

1 **RULE 1.4 COMMUNICATION**

2 (a) A lawyer shall:

3 (1) promptly inform the client of any decision or circumstance with respect to  
4 which the client's informed consent, as defined in Rule 1.0(h), is required by these  
5 Rules;

6 (2) reasonably consult with the client about the means by which the client's  
7 objectives are to be accomplished;

8 (3) keep the client reasonably informed about the status of the matter;

9 (4) promptly comply with reasonable requests for information; and

10 (5) consult with the client about any relevant limitation on the lawyer's conduct when  
11 the lawyer knows that the client expects assistance not permitted by the Rules of  
12 Professional Conduct or other law.

13 (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the  
14 client to make informed decisions regarding the representation.

15 The maximum penalty for a violation of this Rule is a public reprimand.

16 Comment

17 [1] Reasonable communication between the lawyer and the client is necessary for the client  
18 effectively to participate in the representation.

19 Communicating with Client

20 [2] If these Rules require that a particular decision about the representation be made by the  
21 client, paragraph (a)(1) requires that the lawyer promptly consult with and secure the client's  
22 informed consent prior to taking action unless prior discussions with the client have resolved  
23 what action the client wants the lawyer to take. For example, a lawyer who receives from



24 opposing counsel an offer of settlement in a civil controversy or a proffered plea bargain in a  
25 criminal case must promptly inform the client of its substance unless the client has previously  
26 indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to  
27 accept or to reject the offer. See Rule 1.2(a).

28 [3] Paragraph (a)(2) requires the lawyer to reasonably consult with the client about the means to  
29 be used to accomplish the client's objectives. In some situations - depending on both the  
30 importance of the action under consideration and the feasibility of consulting with the client -  
31 this duty will require consultation prior to taking action. In other circumstances, such as during a  
32 trial when an immediate decision must be made, the exigency of the situation may require the  
33 lawyer to act without prior consultation. In such cases the lawyer must nonetheless act  
34 reasonably to inform the client of actions the lawyer has taken on the client's behalf.

35 Additionally, paragraph (a)(3) requires that the lawyer keep the client reasonably informed about  
36 the status of the matter, such as significant developments affecting the timing or the substance of  
37 the representation.

38 [4] A lawyer's regular communication with clients will minimize the occasions on which a client  
39 will need to request information concerning the representation. When a client makes a reasonable  
40 request for information, however, paragraph (a)(4) requires prompt compliance with the request,  
41 or if a prompt response is not feasible, that the lawyer, or a member of the lawyer's staff,  
42 acknowledge receipt of the request and advise the client when a response may be expected. A  
43 lawyer shall promptly respond to or acknowledge client communications. The timeliness of a  
44 lawyer's communication must be judged by all the controlling factors. "Prompt" communication  
45 with the client does not equate to "instant" communication with the client and is sufficient if  
46 reasonable under the relevant circumstances.

47 Explaining Matters

48 [5] The client should have sufficient information to participate intelligently in decisions  
49 concerning the objectives of the representation and the means by which they are to be pursued, to  
50 the extent the client is willing and able to do so. Adequacy of communication depends in part on  
51 the kind of advice or assistance that is involved. For example, where there is time to explain a  
52 proposal made in a negotiation, the lawyer should review all important provisions with the client  
53 before proceeding to an agreement. In litigation a lawyer should explain the general strategy and  
54 prospects of success and ordinarily should consult the client on tactics that are likely to result in  
55 significant expense or to injure or coerce others. On the other hand, a lawyer ordinarily will not  
56 be expected to describe trial or negotiation strategy in detail. The guiding principle is that the  
57 lawyer should fulfill reasonable client expectations for information consistent with the duty to  
58 act in the client's best interests, and the client's overall requirements as to the character of  
59 representation. In certain circumstances, such as when a lawyer asks a client to consent to a  
60 representation affected by a conflict of interest, the client must give informed consent, as defined  
61 in Rule 1.0(h).

62 [6] Ordinarily, the information to be provided is that appropriate for a client who is a  
63 comprehending and responsible adult. However, fully informing the client according to this  
64 standard may be impracticable, for example, where the client is a child or suffers from  
65 diminished capacity. See Rule 1.14. When the client is an organization or group, it is often  
66 impossible or inappropriate to inform every one of its members about its legal affairs; ordinarily,  
67 the lawyer should address communications to the appropriate officials of the organization. See  
68 Rule 1.13. Where many routine matters are involved, a system of limited or occasional reporting  
69 may be arranged with the client.

70 Withholding Information

71 [7] In some circumstances, a lawyer may be justified in delaying transmission of information  
72 when the client would be likely to react imprudently to an immediate communication. Thus, a  
73 lawyer might withhold a psychiatric diagnosis of a client when the examining psychiatrist  
74 indicates that disclosure would harm the client. A lawyer may not withhold information to serve  
75 the lawyer's own interest or convenience or the interests or convenience of another person. Rules  
76 or court orders governing litigation may provide that information supplied to a lawyer may not  
77 be disclosed to the client.

1 **RULE 1.17 SALE OF LAW PRACTICE**

2 A lawyer or a law firm may sell or purchase a law practice, including good will, if the following  
3 conditions are satisfied:

4 (a) Reserved.

5 (b) The practice is sold as an entirety to another lawyer or law firm;

6 (c) Actual written notice is given to each of the seller's clients regarding:

7 (1) the proposed sale;

8 (2) the terms of any proposed change in the fee arrangement authorized by  
9 paragraph (d);

10 (3) the client's right to retain other counsel or to take possession of the file;  
11 and

12 (4) the fact that the client's consent to the sale will be presumed if the client  
13 does not take any action or does not otherwise object within ninety (90) days of  
14 receipt of the notice.

15 If a client cannot be given notice, the representation of that client may be transferred to  
16 the purchaser only upon entry of an order so authorizing by a court having jurisdiction.

17 The seller may disclose to the court in camera information relating to the representation  
18 only to the extent necessary to obtain an order authorizing the transfer of a file.

19 (d) The fees charged clients shall not be increased by reason of the sale. The  
20 purchaser may, however, refuse to undertake the representation unless the client consents  
21 to pay the purchaser fees at a rate not exceeding the fees charged by the purchaser for  
22 rendering substantially similar services prior to the initiation of the purchase negotiations.

23 The maximum penalty for a violation of this Rule is a public reprimand.

24 Comment

25 [1] The practice of law is a profession, not merely a business. Clients are not commodities that  
26 can be purchased and sold at will. Pursuant to this Rule, when another lawyer or firm takes over  
27 the representation, the selling lawyer or firm may obtain compensation for the reasonable value  
28 of the practice as may withdrawing partners of law firms. See Rules 5.4: Professional  
29 Independence of a Lawyer and 5.6: Restrictions on Right to Practice.

30 Termination of Practice by the Seller

31 [2] The requirement that all of the private practice be sold is satisfied if the seller in good faith  
32 makes the entire practice available for sale to the purchaser. The fact that a number of the seller's  
33 clients decide not to be represented by the purchaser but take their matters elsewhere, therefore,  
34 does not result in a violation. Neither does a return to private practice as a result of an  
35 unanticipated change in circumstances result in a violation. For example, a lawyer who has sold  
36 the practice to accept an appointment to judicial office does not violate the requirement that the  
37 sale be attendant to cessation of practice if the lawyer later resumes private practice upon being  
38 defeated in a contested or a retention election for the office.

39 [3] Reserved.

40 [4] Reserved.

41 Single Purchaser

42 [5] The Rule requires a single purchaser. The prohibition against piecemeal sale of a practice  
43 protects those clients whose matters are less lucrative and who might find it difficult to secure  
44 other counsel if a sale could be limited to substantial fee-generating matters. The purchaser is  
45 required to undertake all client matters in the practice, subject to client consent. If, however, the  
46 purchaser is unable to undertake all client matters because of a conflict of interest in a specific

47 matter respecting which the purchaser is not permitted by Rule 1.7: Conflict of Interest or  
48 another rule to represent the client, the requirement that there be a single purchaser is  
49 nevertheless satisfied.

50 Client Confidences, Consent and Notice

51 [6] Negotiations between seller and prospective purchaser prior to disclosure of information  
52 relating to a specific representation of an identifiable client no more violate the confidentiality  
53 provisions of Rule 1.6: Confidentiality of Information than do preliminary discussions  
54 concerning the possible association of another lawyer or mergers between firms, with respect to  
55 which client consent is not required. Providing the purchaser access to client-specified detailed  
56 information relating to the representation, such as the client's ~~and to the~~ file, however, requires  
57 client consent. The Rule provides that before such information can be disclosed by the seller to  
58 the purchaser the client must be given actual written notice of the contemplated sale, including  
59 the identity of the purchaser and any proposed change in the terms of future representation, and  
60 must be told that the decision to consent or make other arrangements must be made within 90  
61 days. If nothing is heard from the client within that time, consent to the sale is presumed.

62 [7] A lawyer or law firm ceasing to practice cannot be required to remain in practice because  
63 some clients cannot be given actual notice of the proposed purchase. Since these clients cannot  
64 themselves consent to the purchase or direct any other disposition of their files, the Rule requires  
65 an order from a court having jurisdiction authorizing their transfer or other disposition. The  
66 Court can be expected to determine whether reasonable efforts to locate the client have been  
67 exhausted, and whether the absent client's legitimate interests will be served by authorizing the  
68 transfer of the file so that the purchaser may continue the representation. Preservation of client  
69 confidences requires that the petition for a court order be considered in camera.

70 [8] All the elements of client autonomy, including the client's absolute right to discharge a  
71 lawyer and transfer the representation to another, survive the sale of the practice.

#### 72 Fee Arrangements Between Client and Purchaser

73 [9] The sale may not be financed by increases in fees charged the clients of the practice. Existing  
74 agreements between the seller and the client as to fees and the scope of the work must be  
75 honored by the purchaser, unless the client consents. The purchaser may, however, advise the  
76 client that the purchaser will not undertake the representation unless the client consents to pay  
77 the higher fees the purchaser usually charges. To prevent client financing of the sale, the higher  
78 fee the purchaser may charge must not exceed the fees charged by the purchaser for substantially  
79 similar services rendered prior to the initiation of the purchase negotiations.

80 [10] The purchaser may not intentionally fragment the practice which is the subject of the sale by  
81 charging significantly different fees in substantially similar matters. Doing so would make it  
82 possible for the purchaser to avoid the obligation to take over the entire practice by charging  
83 arbitrarily higher fees for less lucrative matters, thereby increasing the likelihood that those  
84 clients would not consent to the new representation.

#### 85 Other Applicable Ethical Standards

86 [11] Lawyers participating in the sale of a law practice are subject to the ethical standards  
87 applicable to involving another lawyer in the representation of a client. These include, for  
88 example, the seller's obligation to exercise competence in identifying a purchaser qualified to  
89 assume the practice and the purchaser's obligation to undertake the representation competently  
90 (see Rule 1.1: Competence); the obligation to avoid disqualifying conflicts, and to secure client  
91 consent after consultation for those conflicts which can be agreed to (see Rule 1.7: Conflict of

92 Interest); and the obligation to protect information relating to the representation (see Rules 1.6  
93 and 1.9).

94 [12] If approval of the substitution of the purchasing lawyer for the selling lawyer is required by  
95 the rules of any tribunal in which a matter is pending, such approval must be obtained before the  
96 matter can be included in the sale (see Rule 1.16: Declining or Terminating Representation).

#### 97 Applicability of the Rule

98 [13] This Rule applies to the sale of a law practice by representatives of a deceased, disabled or  
99 disappeared lawyer. Thus, the seller may be represented by a non-lawyer representative not  
100 subject to these Rules. Since, however, no lawyer may participate in a sale of a law practice  
101 which does not conform to the requirements of this Rule, the representatives of the seller as well  
102 as the purchasing lawyer can be expected to see to it that they are met.

103 [14] Admission to or retirement from a law partnership or professional association, retirement  
104 plans and similar arrangements, and a sale of tangible assets of a law practice, do not constitute a  
105 sale or purchase governed by this Rule.

106 [15] This Rule does not apply to the transfers of legal representation between lawyers when such  
107 transfers are unrelated to the sale of a practice.



1 **RULE 1.17 SALE OF LAW PRACTICE**

2 A lawyer or a law firm may sell or purchase a law practice, including good will, if the following  
3 conditions are satisfied:

4 (a) Reserved.

5 (b) The practice is sold as an entirety to another lawyer or law firm;

6 (c) Actual written notice is given to each of the seller's clients regarding:

7 (1) the proposed sale;

8 (2) the terms of any proposed change in the fee arrangement authorized by  
9 paragraph (d);

10 (3) the client's right to retain other counsel or to take possession of the file;  
11 and

12 (4) the fact that the client's consent to the sale will be presumed if the client  
13 does not take any action or does not otherwise object within ninety (90) days of  
14 receipt of the notice.

15 If a client cannot be given notice, the representation of that client may be transferred to  
16 the purchaser only upon entry of an order so authorizing by a court having jurisdiction.

17 The seller may disclose to the court in camera information relating to the representation  
18 only to the extent necessary to obtain an order authorizing the transfer of a file.

19 (d) The fees charged clients shall not be increased by reason of the sale. The  
20 purchaser may, however, refuse to undertake the representation unless the client consents  
21 to pay the purchaser fees at a rate not exceeding the fees charged by the purchaser for  
22 rendering substantially similar services prior to the initiation of the purchase negotiations.

23 The maximum penalty for a violation of this Rule is a public reprimand.

24 Comment

25 [1] The practice of law is a profession, not merely a business. Clients are not commodities that  
26 can be purchased and sold at will. Pursuant to this Rule, when another lawyer or firm takes over  
27 the representation, the selling lawyer or firm may obtain compensation for the reasonable value  
28 of the practice as may withdrawing partners of law firms. See Rules 5.4: Professional  
29 Independence of a Lawyer and 5.6: Restrictions on Right to Practice.

30 Termination of Practice by the Seller

31 [2] The requirement that all of the private practice be sold is satisfied if the seller in good faith  
32 makes the entire practice available for sale to the purchaser. The fact that a number of the seller's  
33 clients decide not to be represented by the purchaser but take their matters elsewhere, therefore,  
34 does not result in a violation. Neither does a return to private practice as a result of an  
35 unanticipated change in circumstances result in a violation. For example, a lawyer who has sold  
36 the practice to accept an appointment to judicial office does not violate the requirement that the  
37 sale be attendant to cessation of practice if the lawyer later resumes private practice upon being  
38 defeated in a contested or a retention election for the office.

39 [3] Reserved.

40 [4] Reserved.

41 Single Purchaser

42 [5] The Rule requires a single purchaser. The prohibition against piecemeal sale of a practice  
43 protects those clients whose matters are less lucrative and who might find it difficult to secure  
44 other counsel if a sale could be limited to substantial fee-generating matters. The purchaser is  
45 required to undertake all client matters in the practice, subject to client consent. If, however, the  
46 purchaser is unable to undertake all client matters because of a conflict of interest in a specific

47 matter respecting which the purchaser is not permitted by Rule 1.7: Conflict of Interest or  
48 another rule to represent the client, the requirement that there be a single purchaser is  
49 nevertheless satisfied.

50 Client Confidences, Consent and Notice

51 [6] Negotiations between seller and prospective purchaser prior to disclosure of information  
52 relating to a specific representation of an identifiable client no more violate the confidentiality  
53 provisions of Rule 1.6: Confidentiality of Information than do preliminary discussions  
54 concerning the possible association of another lawyer or mergers between firms, with respect to  
55 which client consent is not required. Providing the purchaser access to detailed information  
56 relating to the representation, such as the client's file, however, requires client consent. The Rule  
57 provides that before such information can be disclosed by the seller to the purchaser the client  
58 must be given actual written notice of the contemplated sale, including the identity of the  
59 purchaser and any proposed change in the terms of future representation, and must be told that  
60 the decision to consent or make other arrangements must be made within 90 days. If nothing is  
61 heard from the client within that time, consent to the sale is presumed.

62 [7] A lawyer or law firm ceasing to practice cannot be required to remain in practice because  
63 some clients cannot be given actual notice of the proposed purchase. Since these clients cannot  
64 themselves consent to the purchase or direct any other disposition of their files, the Rule requires  
65 an order from a court having jurisdiction authorizing their transfer or other disposition. The  
66 Court can be expected to determine whether reasonable efforts to locate the client have been  
67 exhausted, and whether the absent client's legitimate interests will be served by authorizing the  
68 transfer of the file so that the purchaser may continue the representation. Preservation of client  
69 confidences requires that the petition for a court order be considered in camera.

70 [8] All the elements of client autonomy, including the client's absolute right to discharge a  
71 lawyer and transfer the representation to another, survive the sale of the practice.

#### 72 Fee Arrangements Between Client and Purchaser

73 [9] The sale may not be financed by increases in fees charged the clients of the practice. Existing  
74 agreements between the seller and the client as to fees and the scope of the work must be  
75 honored by the purchaser, unless the client consents. The purchaser may, however, advise the  
76 client that the purchaser will not undertake the representation unless the client consents to pay  
77 the higher fees the purchaser usually charges. To prevent client financing of the sale, the higher  
78 fee the purchaser may charge must not exceed the fees charged by the purchaser for substantially  
79 similar services rendered prior to the initiation of the purchase negotiations.

80 [10] The purchaser may not intentionally fragment the practice which is the subject of the sale by  
81 charging significantly different fees in substantially similar matters. Doing so would make it  
82 possible for the purchaser to avoid the obligation to take over the entire practice by charging  
83 arbitrarily higher fees for less lucrative matters, thereby increasing the likelihood that those  
84 clients would not consent to the new representation.

#### 85 Other Applicable Ethical Standards

86 [11] Lawyers participating in the sale of a law practice are subject to the ethical standards  
87 applicable to involving another lawyer in the representation of a client. These include, for  
88 example, the seller's obligation to exercise competence in identifying a purchaser qualified to  
89 assume the practice and the purchaser's obligation to undertake the representation competently  
90 (see Rule 1.1: Competence); the obligation to avoid disqualifying conflicts, and to secure client  
91 consent after consultation for those conflicts which can be agreed to (see Rule 1.7: Conflict of

92 Interest); and the obligation to protect information relating to the representation (see Rules 1.6  
93 and 1.9).

94 [12] If approval of the substitution of the purchasing lawyer for the selling lawyer is required by  
95 the rules of any tribunal in which a matter is pending, such approval must be obtained before the  
96 matter can be included in the sale (see Rule 1.16: Declining or Terminating Representation).

#### 97 Applicability of the Rule

98 [13] This Rule applies to the sale of a law practice by representatives of a deceased, disabled or  
99 disappeared lawyer. Thus, the seller may be represented by a non-lawyer representative not  
100 subject to these Rules. Since, however, no lawyer may participate in a sale of a law practice  
101 which does not conform to the requirements of this Rule, the representatives of the seller as well  
102 as the purchasing lawyer can be expected to see to it that they are met.

103 [14] Admission to or retirement from a law partnership or professional association, retirement  
104 plans and similar arrangements, and a sale of tangible assets of a law practice, do not constitute a  
105 sale or purchase governed by this Rule.

106 [15] This Rule does not apply to the transfers of legal representation between lawyers when such  
107 transfers are unrelated to the sale of a practice.

1 **GRPC RULE 5.3 RESPONSIBILITIES REGARDING NONLAWYER ASSISTANTS**

2 With respect to a nonlawyer employed or retained by or associated with a lawyer:

3 (a) a partner, and a lawyer who individually or together with other lawyers possesses  
4 managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in  
5 effect measures giving reasonable assurance that the person's conduct is compatible with the  
6 professional obligations of the lawyer;

7 (b) a lawyer having direct supervisory authority over the nonlawyer shall make  
8 reasonable efforts to ensure that the person's conduct is compatible with the professional  
9 obligations of the lawyer;

10 (c) a lawyer shall be responsible for conduct of such a person that would be a violation  
11 of the Georgia Rules of Professional Conduct if engaged in by a lawyer if:

12 (1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the  
13 conduct involved; or

14 (2) the lawyer is a partner in the law firm in which the person is employed, or  
15 has direct supervisory authority over the person, and knows of the conduct at a time when  
16 its consequences can be avoided or mitigated but fails to take reasonable remedial action;

17 and

18 (d) a lawyer shall not allow any person who has been suspended or disbarred and who  
19 maintains a presence in an office where the practice of law is conducted by the lawyer, to:

20 (1) represent himself or herself as a lawyer or person with similar status; or

21 (2) provide any legal advice to the clients of the lawyer either in person, by  
22 telephone or in writing.

23 The maximum penalty for a violation of this Rule is disbarment.

24 Comment

25 [1] Lawyers generally employ assistants in their practice, including secretaries, investigators, law  
26 student interns, and paraprofessionals. Such assistants, whether employees or independent  
27 contractors, act for the lawyer in rendition of the lawyer's professional services. A lawyer should  
28 give such assistants appropriate instruction and supervision concerning the ethical aspects of their  
29 employment, particularly regarding the obligation not to disclose information relating to  
30 representation of the client, and should be responsible for their work product. The measures  
31 employed in supervising nonlawyers should take account of the fact that they do not have legal  
32 training and are not subject to professional discipline.

33 [2] Paragraph (a) requires lawyers with managerial authority within a law firm to make  
34 reasonable efforts to establish internal policies and procedures designed to provide reasonable  
35 assurance that nonlawyers in the firm will act in a way compatible with the Georgia Rules of  
36 Professional Conduct. See Comment [1] to Rule 5.1. Paragraph (b) applies to lawyers who have  
37 supervisory authority over the work of a nonlawyer. Paragraph (c) specifies the circumstances in  
38 which a lawyer is responsible for conduct of a nonlawyer that would be a violation of the Georgia  
39 Rules of Professional Conduct if engaged in by a lawyer.

40 [3] The prohibitions of paragraph (d) are designed to prevent the unauthorized practice of law in a  
41 law office by a person who has been suspended or disbarred. A lawyer who allows a suspended or  
42 disbarred lawyer to work in a law office must exercise special care to ensure that the former  
43 lawyer complies with these Rules, and that clients of the firm understand the former lawyer's role.

44 Nonlawyers Outside the Firm

45 [4] A lawyer may use nonlawyers outside the firm to assist the lawyer in rendering legal services  
46 to the client. Examples include the retention of an investigative or paraprofessional service, hiring

47 a document management company to create and maintain a database for complex litigation,  
48 sending client documents to a third party for printing or scanning, and using an Internet-based  
49 service to store client information. When using such services outside the firm, a lawyer must make  
50 reasonable efforts to ensure that the services are provided in a manner that is compatible with the  
51 lawyer's professional obligations. The extent of this obligation will depend upon the  
52 circumstances, including the education, experience and reputation of the nonlawyer; the nature of  
53 the services involved; the terms of any arrangements concerning the protection of client  
54 information; and the legal and ethical environments of the jurisdictions in which the services will  
55 be performed, particularly with regard to confidentiality. See also Rules 1.1 (competence), 1.2  
56 (allocation of authority), 1.4 (communication with client), 1.6 (confidentiality), 5.4 (a)  
57 (professional independence of the lawyer), and 5.5 (a) (unauthorized practice of law). When  
58 retaining or directing a nonlawyer outside the firm, a lawyer should communicate directions  
59 appropriate under the circumstances to give reasonable assurance that the nonlawyer's conduct is  
60 compatible with the professional obligations of the lawyer.

61 [5] Where the client directs the selection of a particular nonlawyer service provider outside the  
62 firm, the lawyer ordinarily should agree with the client concerning the allocation of responsibility  
63 for monitoring as between the client and the lawyer. See Rule 1.2. When making such an  
64 allocation in a matter pending before a tribunal, lawyers and parties may have additional  
65 obligations that are a matter of law beyond the scope of these Rules.



1 **GRPC RULE 5.3 RESPONSIBILITIES REGARDING NONLAWYER ASSISTANTS**

2 With respect to a nonlawyer employed or retained by or associated with a lawyer:

3 (a) a partner, and a lawyer who individually or together with other lawyers possesses  
4 managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in  
5 effect measures giving reasonable assurance that the person's conduct is compatible with the  
6 professional obligations of the lawyer;

7 (b) a lawyer having direct supervisory authority over the nonlawyer shall make  
8 reasonable efforts to ensure that the person's conduct is compatible with the professional  
9 obligations of the lawyer;

10 (c) a lawyer shall be responsible for conduct of such a person that would be a violation  
11 of the Georgia Rules of Professional Conduct if engaged in by a lawyer if:

12 (1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the  
13 conduct involved; or

14 (2) the lawyer is a partner in the law firm in which the person is employed, or  
15 has direct supervisory authority over the person, and knows of the conduct at a time when  
16 its consequences can be avoided or mitigated but fails to take reasonable remedial action;  
17 and

18 (d) a lawyer shall not allow any person who has been suspended or disbarred and who  
19 maintains a presence in an office where the practice of law is conducted by the lawyer, to:

20 (1) represent himself or herself as a lawyer or person with similar status; or

21 (2) provide any legal advice to the clients of the lawyer either in person, by  
22 telephone or in writing.

23 The maximum penalty for a violation of this Rule is disbarment.

24 Comment

25 [1] Lawyers generally employ assistants in their practice, including secretaries, investigators, law  
26 student interns, and paraprofessionals. Such assistants, whether employees or independent  
27 contractors, act for the lawyer in rendition of the lawyer's professional services. A lawyer should  
28 give such assistants appropriate instruction and supervision concerning the ethical aspects of their  
29 employment, particularly regarding the obligation not to disclose information relating to  
30 representation of the client, and should be responsible for their work product. The measures  
31 employed in supervising nonlawyers should take account of the fact that they do not have legal  
32 training and are not subject to professional discipline.

33 [2] Paragraph (a) requires lawyers with managerial authority within a law firm to make  
34 reasonable efforts to establish internal policies and procedures designed to provide reasonable  
35 assurance that nonlawyers in the firm will act in a way compatible with the Georgia Rules of  
36 Professional Conduct. See Comment [1] to Rule 5.1. Paragraph (b) applies to lawyers who have  
37 supervisory authority over the work of a nonlawyer. Paragraph (c) specifies the circumstances in  
38 which a lawyer is responsible for conduct of a nonlawyer that would be a violation of the Georgia  
39 Rules of Professional Conduct if engaged in by a lawyer.

40 [3] The prohibitions of paragraph (d) are designed to prevent the unauthorized practice of law in a  
41 law office by a person who has been suspended or disbarred. A lawyer who allows a suspended or  
42 disbarred lawyer to work in a law office must exercise special care to ensure that the former  
43 lawyer complies with these Rules, and that clients of the firm understand the former lawyer's role.

44 Nonlawyers Outside the Firm

45 [4] A lawyer may use nonlawyers outside the firm to assist the lawyer in rendering legal services  
46 to the client. Examples include the retention of an investigative or paraprofessional service, hiring

47 a document management company to create and maintain a database for complex litigation,  
48 sending client documents to a third party for printing or scanning, and using an Internet-based  
49 service to store client information. When using such services outside the firm, a lawyer must make  
50 reasonable efforts to ensure that the services are provided in a manner that is compatible with the  
51 lawyer's professional obligations. The extent of this obligation will depend upon the  
52 circumstances, including the education, experience and reputation of the nonlawyer; the nature of  
53 the services involved; the terms of any arrangements concerning the protection of client  
54 information; and the legal and ethical environments of the jurisdictions in which the services will  
55 be performed, particularly with regard to confidentiality. See also Rules 1.1 (competence), 1.2  
56 (allocation of authority), 1.4 (communication with client), 1.6 (confidentiality), 5.4 (a)  
57 (professional independence of the lawyer), and 5.5 (a) (unauthorized practice of law). When  
58 retaining or directing a nonlawyer outside the firm, a lawyer should communicate directions  
59 appropriate under the circumstances to give reasonable assurance that the nonlawyer's conduct is  
60 compatible with the professional obligations of the lawyer.

61 [5] Where the client directs the selection of a particular nonlawyer service provider outside the  
62 firm, the lawyer ordinarily should agree with the client concerning the allocation of responsibility  
63 for monitoring as between the client and the lawyer. See Rule 1.2. When making such an  
64 allocation in a matter pending before a tribunal, lawyers and parties may have additional  
65 obligations that are a matter of law beyond the scope of these Rules.

1 **RULE 5.4 PROFESSIONAL INDEPENDENCE OF A LAWYER**

2 (a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:

3 (1) an agreement by a lawyer with the lawyer's firm, partner, or associate may  
4 provide for the payment of money, over a reasonable period of time after the  
5 lawyer's death, to the lawyer's estate or to one or more specified persons;

6 (2) a lawyer or law firm who purchases the practice of a deceased, disabled,  
7 or disappeared lawyer may, pursuant to the provisions of Rule 1.17, pay to the  
8 estate or other representative of that lawyer the agreed-upon purchase price; ~~and~~

9 (3) a lawyer or law firm may include nonlawyer employees in a compensation  
10 or retirement plan, even though the plan is based in whole or in part on a profit-  
11 sharing arrangement; ~~and~~

12 (4) a lawyer may share court-awarded legal fees with a nonprofit organization  
13 that employed, retained or recommended employment of the lawyer in the matter;

14 (5) a lawyer who undertakes to complete unfinished business of a deceased  
15 lawyer may pay to the estate of the deceased lawyer that proportion of the total  
16 compensation which fairly represents the services rendered by the deceased  
17 lawyer; and

18 ~~(56)~~ a lawyer may pay a referral fee to a bar-operated non-profit lawyer referral  
19 service where such fee is calculated as a percentage of legal fees earned by the  
20 lawyer to whom the service has referred a matter pursuant to Rule 7.3. Direct  
21 Contact with Prospective Clients.

22 (b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of  
23 the partnership consist of the practice of law.

24 (c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer  
25 to render legal services for another to direct or regulate the lawyer's professional  
26 judgment in rendering such legal services.

27 (d) A lawyer shall not practice with or in the form of a professional corporation or  
28 association authorized to practice law for a profit, if:

29 (1) a nonlawyer owns any interest therein, except that a fiduciary  
30 representative of the estate of a lawyer may hold the stock or interest of the  
31 lawyer for a reasonable time during administration;

32 (2) a nonlawyer is a corporate director or officer thereof; or

33 (3) a nonlawyer has the right to direct or control the professional judgment of  
34 a lawyer.

35 (e) A lawyer may:

36 (1) Provide legal services to clients while working with other lawyers or law  
37 firms practicing in, and organized under the rules of, other jurisdictions, whether  
38 domestic or foreign, that permit non-lawyers to participate in the management of  
39 such firms, have equity ownership in such firms, or share in legal fees generated  
40 by such firms; and

41 (2) Share legal fees arising from such legal services with such other lawyers  
42 or law firms to the same extent as the sharing of legal fees is permitted under  
43 applicable Georgia Rules of Professional Conduct.

44 ~~(3)~~ The activities permitted under ~~the preceding portion of this~~ paragraph (e) are  
45 subject to the following:

46 (i1) The association shall not compromise or interfere with the lawyer's  
47 independence of professional judgment, the client-lawyer relationship between  
48 the client and the lawyer, or the lawyer's compliance with these Rules; and  
49 (ii2) Nothing in this paragraph (e) is intended to affect the lawyer's obligation  
50 to comply with other applicable Rules of Professional Conduct, or to alter the  
51 forms in which a lawyer is permitted to practice, including but not limited to the  
52 creation of an alternative business structure in Georgia.

53 The maximum penalty for a violation of this Rule is disbarment.

54 **Comment**

55 [1] The provisions of this Rule express traditional limitations on sharing fees. These limitations  
56 are to protect the lawyer's professional independence of judgment. Where someone other than the  
57 client pays the lawyer's fee or salary, or recommends employment of the lawyer, that  
58 arrangement does not modify the lawyer's obligation to the client. As stated in paragraph (c),  
59 such arrangements should not interfere with the lawyer's professional judgment.

60 [2] The provisions of paragraph (e) and (f) of this Rule are not intended to allow a Georgia  
61 lawyer or law firm to create or participate in alternative business structures (ABS) in Georgia.  
62 An alternative business structure is a law firm where a non-lawyer is a manager of the firm, or  
63 has an ownership-type interest in the firm. A law firm may also be an ABS where another body  
64 is a manager of the firm, or has an ownership-type interest in the firm. This Rule only allows a  
65 Georgia lawyer to work with an ABS outside of the state of Georgia and to share fees for that  
66 work.

1 **RULE 5.4 PROFESSIONAL INDEPENDENCE OF A LAWYER**

2 (a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:

3 (1) an agreement by a lawyer with the lawyer's firm, partner, or associate may  
4 provide for the payment of money, over a reasonable period of time after the  
5 lawyer's death, to the lawyer's estate or to one or more specified persons;

6 (2) a lawyer or law firm who purchases the practice of a deceased, disabled,  
7 or disappeared lawyer may, pursuant to the provisions of Rule 1.17, pay to the  
8 estate or other representative of that lawyer the agreed-upon purchase price;

9 (3) a lawyer or law firm may include nonlawyer employees in a compensation  
10 or retirement plan, even though the plan is based in whole or in part on a profit-  
11 sharing arrangement;

12 (4) a lawyer may share court-awarded legal fees with a nonprofit organization  
13 that employed, retained or recommended employment of the lawyer in the matter;

14 (5) a lawyer who undertakes to complete unfinished business of a deceased  
15 lawyer may pay to the estate of the deceased lawyer that proportion of the total  
16 compensation which fairly represents the services rendered by the deceased  
17 lawyer; and

18 (6) a lawyer may pay a referral fee to a bar-operated non-profit lawyer referral  
19 service where such fee is calculated as a percentage of legal fees earned by the  
20 lawyer to whom the service has referred a matter pursuant to Rule 7.3. Direct  
21 Contact with Prospective Clients.

22 (b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of  
23 the partnership consist of the practice of law.

24 (c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer  
25 to render legal services for another to direct or regulate the lawyer's professional  
26 judgment in rendering such legal services.

27 (d) A lawyer shall not practice with or in the form of a professional corporation or  
28 association authorized to practice law for a profit, if:

29 (1) a nonlawyer owns any interest therein, except that a fiduciary  
30 representative of the estate of a lawyer may hold the stock or interest of the  
31 lawyer for a reasonable time during administration;

32 (2) a nonlawyer is a corporate director or officer thereof; or

33 (3) a nonlawyer has the right to direct or control the professional judgment of  
34 a lawyer.

35 (e) A lawyer may:

36 (1) Provide legal services to clients while working with other lawyers or law  
37 firms practicing in, and organized under the rules of, other jurisdictions, whether  
38 domestic or foreign, that permit non-lawyers to participate in the management of  
39 such firms, have equity ownership in such firms, or share in legal fees generated  
40 by such firms; and

41 (2) Share legal fees arising from such legal services with such other lawyers  
42 or law firms to the same extent as the sharing of legal fees is permitted under  
43 applicable Georgia Rules of Professional Conduct.

44 (f) The activities permitted under paragraph (e) are subject to the following:



45 (1) The association shall not compromise or interfere with the lawyer's  
46 independence of professional judgment, the client-lawyer relationship between  
47 the client and the lawyer, or the lawyer's compliance with these Rules; and

48 (2) Nothing in this paragraph (e) is intended to affect the lawyer's obligation  
49 to comply with other applicable Rules of Professional Conduct, or to alter the  
50 forms in which a lawyer is permitted to practice, including but not limited to the  
51 creation of an alternative business structure in Georgia.

52 The maximum penalty for a violation of this Rule is disbarment.

53 **Comment**

54 [1] The provisions of this Rule express traditional limitations on sharing fees. These limitations  
55 are to protect the lawyer's professional independence of judgment. Where someone other than the  
56 client pays the lawyer's fee or salary, or recommends employment of the lawyer, that  
57 arrangement does not modify the lawyer's obligation to the client. As stated in paragraph (c),  
58 such arrangements should not interfere with the lawyer's professional judgment.

59 [2] The provisions of paragraph (e) and (f) of this Rule are not intended to allow a Georgia  
60 lawyer or law firm to create or participate in alternative business structures (ABS) in Georgia.  
61 An alternative business structure is a law firm where a non-lawyer is a manager of the firm, or  
62 has an ownership-type interest in the firm. A law firm may also be an ABS where another body  
63 is a manager of the firm, or has an ownership-type interest in the firm. This Rule only allows a  
64 Georgia lawyer to work with an ABS outside of the state of Georgia and to share fees for that  
65 work.

1   **RULE 7.1 COMMUNICATIONS CONCERNING A LAWYER'S SERVICES**

2           (a)   A lawyer ~~shall not make a false or misleading communication about the lawyer or~~  
3           ~~the lawyer's services, may advertise through all forms of public media and through~~  
4           ~~written communication not involving personal contact so long as the communication is~~  
5           ~~not false, fraudulent, deceptive or misleading.~~ By way of illustration, but not limitation, a  
6           communication is false, ~~fraudulent, deceptive~~ or misleading if it:

7                   (1)   contains a material misrepresentation of fact or law or omits a fact  
8                   necessary to make the statement considered as a whole not materially misleading;

9                   (2)   is likely to create an unjustified expectation about results the lawyer can  
10                  achieve, or states or implies that the lawyer can achieve results by means that  
11                  violate the Georgia Rules of Professional Conduct or other law;

12                  (3)   compares the lawyer's services with other lawyers' services unless the  
13                  comparison can be factually substantiated;

14                  (4)   fails to include the name of at least one lawyer responsible for its content;

15                  or

16                  (5)   contains any information regarding contingent fees, and fails to  
17                  conspicuously present the following disclaimer:

18                  "Contingent attorneys' fees refers only to those fees charged by attorneys for their  
19                  legal services. Such fees are not permitted in all types of cases. Court costs and  
20                  other additional expenses of legal action usually must be paid by the client."

21                  (6)   contains the language 'no fee unless you win or collect' or any similar  
22                  phrase and fails to conspicuously present the following disclaimer:

23

24 "No fee unless you win or collect" [or insert the similar language used in the  
25 communication] refers only to fees charged by the attorney. Court costs and other  
26 additional expenses of legal action usually must be paid by the client. Contingent  
27 fees are not permitted in all types of cases.

28 (b) A public communication for which a lawyer has given value must be identified as  
29 such unless it is apparent from the context that it is such a communication.

30 (c) A lawyer retains ultimate responsibility to insure that all communications  
31 concerning the lawyer or the lawyer's services comply with the Georgia Rules of  
32 Professional Conduct.

33 The maximum penalty for a violation of this Rule is disbarment.

34 Comment

35 [1] This rule governs the content of all communications about a lawyer's services, including the  
36 various types of advertising permitted by Rules 7.3 through 7.5. Whatever means are used to  
37 make known a lawyer's services, statements about them should be truthful.

38 [2] The prohibition in sub-paragraph (a)(2) of this Rule 7.1: Communications Concerning a  
39 Lawyer's Services of statements that may create "unjustified expectations" would ordinarily  
40 preclude advertisements about results obtained on behalf of a client, such as the amount of a  
41 damage award or the lawyer's record in obtaining favorable verdicts, and advertisements  
42 containing client endorsements. Such information may create the unjustified expectation that  
43 similar results can be obtained for others without reference to the specific factual and legal  
44 circumstances.

45 Affirmative Disclosure

46

47 [3] In general, the intrusion on the First Amendment right of commercial speech resulting from  
48 rationally-based affirmative disclosure requirements is minimal, and is therefore a preferable  
49 form of regulation to absolute bans or other similar restrictions. For example, there is no  
50 significant interest in failing to include the name of at least one accountable attorney in all  
51 communications promoting the services of a lawyer or law firm as required by sub-paragraph  
52 (a)(5) of Rule 7.1: Communications Concerning a Lawyer's Services. Nor is there any substantial  
53 burden imposed as a result of the affirmative disclaimer requirement of sub-paragraph (a)(6)  
54 upon a lawyer who wishes to make a claim in the nature of "no fee unless you win." Indeed, the  
55 United States Supreme Court has specifically recognized that affirmative disclosure of a client's  
56 liability for costs and expenses of litigation may be required to prevent consumer confusion over  
57 the technical distinction between the meaning and effect of the use of such terms as "fees" and  
58 "costs" in an advertisement.

59 [4] Certain promotional communications of a lawyer may, as a result of content or circumstance,  
60 tend to mislead a consumer to mistakenly believe that the communication is something other  
61 than a form of promotional communication for which the lawyer has paid. Examples of such a  
62 communication might include advertisements for seminars on legal topics directed to the lay  
63 public when such seminars are sponsored by the lawyer, or a newsletter or newspaper column  
64 which appears to inform or to educate about the law. Paragraph (b) of this Rule 7.1:  
65 Communications Concerning a Lawyer's Services would require affirmative disclosure that a  
66 lawyer has given value in order to generate these types of public communications if such is in  
67 fact the case.

68 Accountability

69

70 [5] Paragraph (c) makes explicit an advertising attorney's ultimate responsibility for all the  
71 lawyer's promotional communications and would suggest that review by the lawyer prior to  
72 dissemination is advisable if any doubts exist concerning conformity of the end product with  
73 these Rules. Although prior review by disciplinary authorities is not required by these Rules,  
74 lawyers are certainly encouraged to contact disciplinary authorities prior to authorizing a  
75 promotional communication if there are any doubts concerning either an interpretation of these  
76 Rules or their application to the communication.

1 **RULE 7.1 COMMUNICATIONS CONCERNING A LAWYER'S SERVICES**

2 (a) A lawyer shall not make a false or misleading communication about the lawyer or  
3 the lawyer's services.. By way of illustration, but not limitation, a communication is false  
4 or misleading if it:

5 (1) contains a material misrepresentation of fact or law or omits a fact  
6 necessary to make the statement considered as a whole not materially misleading;

7 (2) is likely to create an unjustified expectation about results the lawyer can  
8 achieve, or states or implies that the lawyer can achieve results by means that  
9 violate the Georgia Rules of Professional Conduct or other law;

10 (3) compares the lawyer's services with other lawyers' services unless the  
11 comparison can be factually substantiated;

12 (4) fails to include the name of at least one lawyer responsible for its content;  
13 or

14 (5) contains any information regarding contingent fees, and fails to  
15 conspicuously present the following disclaimer:

16 "Contingent attorneys' fees refers only to those fees charged by attorneys for their  
17 legal services. Such fees are not permitted in all types of cases. Court costs and  
18 other additional expenses of legal action usually must be paid by the client."

19 (6) contains the language 'no fee unless you win or collect' or any similar  
20 phrase and fails to conspicuously present the following disclaimer:

21  
22 "No fee unless you win or collect" [or insert the similar language used in the  
23 communication] refers only to fees charged by the attorney. Court costs and other

24 additional expenses of legal action usually must be paid by the client. Contingent  
25 fees are not permitted in all types of cases.

26 (b) A public communication for which a lawyer has given value must be identified as  
27 such unless it is apparent from the context that it is such a communication.

28 (c) A lawyer retains ultimate responsibility to insure that all communications  
29 concerning the lawyer or the lawyer's services comply with the Georgia Rules of  
30 Professional Conduct.

31 The maximum penalty for a violation of this Rule is disbarment.

32 Comment

33 [1] This rule governs the content of all communications about a lawyer's services, including the  
34 various types of advertising permitted by Rules 7.3 through 7.5. Whatever means are used to  
35 make known a lawyer's services, statements about them should be truthful.

36 [2] The prohibition in sub-paragraph (a)(2) of this Rule 7.1: Communications Concerning a  
37 Lawyer's Services of statements that may create "unjustified expectations" would ordinarily  
38 preclude advertisements about results obtained on behalf of a client, such as the amount of a  
39 damage award or the lawyer's record in obtaining favorable verdicts, and advertisements  
40 containing client endorsements. Such information may create the unjustified expectation that  
41 similar results can be obtained for others without reference to the specific factual and legal  
42 circumstances.

43 Affirmative Disclosure

44

45 [3] In general, the intrusion on the First Amendment right of commercial speech resulting from  
46 rationally-based affirmative disclosure requirements is minimal, and is therefore a preferable

47 form of regulation to absolute bans or other similar restrictions. For example, there is no  
48 significant interest in failing to include the name of at least one accountable attorney in all  
49 communications promoting the services of a lawyer or law firm as required by sub-paragraph  
50 (a)(5) of Rule 7.1: Communications Concerning a Lawyer's Services. Nor is there any substantial  
51 burden imposed as a result of the affirmative disclaimer requirement of sub-paragraph (a)(6)  
52 upon a lawyer who wishes to make a claim in the nature of "no fee unless you win." Indeed, the  
53 United States Supreme Court has specifically recognized that affirmative disclosure of a client's  
54 liability for costs and expenses of litigation may be required to prevent consumer confusion over  
55 the technical distinction between the meaning and effect of the use of such terms as "fees" and  
56 "costs" in an advertisement.

57 [4] Certain promotional communications of a lawyer may, as a result of content or circumstance,  
58 tend to mislead a consumer to mistakenly believe that the communication is something other  
59 than a form of promotional communication for which the lawyer has paid. Examples of such a  
60 communication might include advertisements for seminars on legal topics directed to the lay  
61 public when such seminars are sponsored by the lawyer, or a newsletter or newspaper column  
62 which appears to inform or to educate about the law. Paragraph (b) of this Rule 7.1:

63 Communications Concerning a Lawyer's Services would require affirmative disclosure that a  
64 lawyer has given value in order to generate these types of public communications if such is in  
65 fact the case.

66 Accountability

67

68 [5] Paragraph (c) makes explicit an advertising attorney's ultimate responsibility for all the  
69 lawyer's promotional communications and would suggest that review by the lawyer prior to



70 dissemination is advisable if any doubts exist concerning conformity of the end product with  
71 these Rules. Although prior review by disciplinary authorities is not required by these Rules,  
72 lawyers are certainly encouraged to contact disciplinary authorities prior to authorizing a  
73 promotional communication if there are any doubts concerning either an interpretation of these  
74 Rules or their application to the communication.

1 **RULE 9.4: JURISDICTION AND RECIPROCAL DISCIPLINE**

2 (a) Jurisdiction. Any lawyer admitted to practice law in this jurisdiction, including  
3 any formerly admitted lawyer with respect to acts committed prior to resignation,  
4 suspension, disbarment, or removal from practice on any of the grounds provided in Rule  
5 4-104 of the State Bar of Georgia, or with respect to acts subsequent thereto that amount  
6 to the practice of law or constitute a violation of the Georgia Rules of Professional  
7 Conduct or any Rules or Code subsequently adopted by the Supreme Court of Georgia in  
8 lieu thereof, and any Domestic or Foreign Lawyer specially admitted by a court of this  
9 jurisdiction for a particular proceeding and any Domestic or Foreign Lawyer who  
10 practices law or renders or offers to render any legal services in this jurisdiction, is  
11 subject to the disciplinary jurisdiction of the State Bar of Georgia.

12 (b) Reciprocal Discipline. Upon being suspended or disbarred in another jurisdiction,  
13 a lawyer admitted to practice in Georgia shall promptly inform the Office of the General  
14 Counsel of the State Bar of Georgia of the discipline. Upon notification from any source  
15 that a lawyer within the jurisdiction of the State Bar of Georgia has been suspended or  
16 disbarred in another jurisdiction, the Office of the General Counsel shall obtain a certified  
17 copy of the disciplinary order and file it with the Clerk of the State Disciplinary Boards.  
18 Nothing in this Rule shall prevent a lawyer suspended or disbarred in another jurisdiction  
19 from filing a Petition for Voluntary Discipline under Rule 4-227.

20 (1) Upon receipt of a certified copy of an order demonstrating that a lawyer  
21 admitted to practice in Georgia has been disbarred or suspended in another  
22 jurisdiction, the Clerk of the State Disciplinary Boards shall assign the matter a  
23 State Disciplinary Board docket number.

24 (2) The Clerk of the State Disciplinary Boards shall issue a notice to the  
25 respondent that shall show the date of the disbarment or suspension in the other  
26 jurisdiction and shall include a copy of the order therefor. The notice shall direct  
27 the respondent to show cause to the State Disciplinary Review Board within 30  
28 days from service of the notice why the imposition of substantially similar  
29 discipline in this jurisdiction would be unwarranted. The notice shall be served  
30 upon the respondent pursuant to Rule 4-203.1, and any response thereto shall be  
31 served upon the Office of the General Counsel.

32 (3) If neither party objects within 30 days, the State Disciplinary Review  
33 Board shall recommend imposition of substantially similar discipline and shall  
34 file that recommendation with the Supreme Court of Georgia within 60 days after  
35 the time for the filing of objections expires. The Office of the General Counsel or  
36 the respondent may object to imposition of substantially similar discipline by  
37 demonstrating that:

38 (i) The procedure was so lacking in notice or opportunity to be heard  
39 as to constitute a deprivation of due process; or

40 (ii) There was such infirmity of proof establishing the misconduct as to  
41 give rise to the clear conviction that the court could not, consistent with its  
42 duty, accept as final the conclusion on that subject; or

43 (iii) The discipline imposed would result in grave injustice or be  
44 offensive to the public policy of the jurisdiction; or

45 (iv) The reason for the original disciplinary status no longer exists; or

46 (v)

- 47 (A) The conduct did not occur within the state of Georgia; and,  
48 (B) The discipline imposed by the foreign jurisdiction exceeds  
49 the level of discipline allowed under these Rules; or  
50 (vi) The discipline would if imposed in identical form be unduly severe  
51 or would require action not contemplated by these Rules.

52 If the State Disciplinary Review Board finds that it clearly appears upon the face  
53 of the record from which the discipline is predicated that any of those elements  
54 exist, the State Disciplinary Review Board shall make such other recommendation  
55 to the Supreme Court of Georgia as it deems appropriate. The burden is on the  
56 party seeking different discipline in this jurisdiction to demonstrate that the  
57 imposition of the same discipline is not appropriate.

58 (4) The State Disciplinary Review Board may consider exceptions from either  
59 the Office of the General Counsel or the respondent on the grounds enumerated at  
60 paragraph (b) (3) of this Rule and may in its discretion grant oral argument.

61 Exceptions and briefs shall be filed with the State Disciplinary Review Board  
62 within 30 days of service of the Notice of Reciprocal Discipline. The responding  
63 party shall have 30 days after service of the exceptions within which to respond.

64 The State Disciplinary Review Board shall file its report and recommendation  
65 within 60 days of receiving the response to exceptions.

66 (5) In all other aspects, a final adjudication in another jurisdiction that a  
67 lawyer, whether or not admitted in that jurisdiction, has been guilty of  
68 misconduct, or has been removed from practice on any of the grounds provided in  
69 Rule 4-104 of the State Bar of Georgia, shall establish conclusively the

70 misconduct or the removal from practice for purposes of a disciplinary proceeding  
71 in this State.

72 (6) Discipline imposed by another jurisdiction but of a lesser nature than  
73 disbarment or suspension may be considered in aggravation of discipline in any  
74 other disciplinary proceeding.

75 (7) For good cause, the Chair of the State Disciplinary Review Board in a  
76 reciprocal discipline proceeding may make an interim recommendation to the  
77 Supreme Court of Georgia that the respondent be immediately suspended pending  
78 final disposition. The maximum penalty for a violation of this Rule is disbarment.

79 (8) For purposes of this Rule, the word “jurisdiction” means any State,  
80 Territory, country, or federal court.

81 Comment

82

83 [1] If a lawyer suspended or disbarred in one jurisdiction is also admitted in another jurisdiction  
84 and no action can be taken against the lawyer until a new disciplinary proceeding is instituted,  
85 tried, and concluded, the public in the second jurisdiction is left unprotected against a lawyer  
86 who has been judicially determined to be unfit. Any procedure that so exposes innocent clients to  
87 harm cannot be justified. The spectacle of a lawyer disbarred in one jurisdiction yet permitted to  
88 practice elsewhere exposes the profession to criticism and undermines public confidence in the  
89 administration of justice.

90 [2] Reserved.

91 [3] The imposition of discipline in one jurisdiction does not mean that Georgia and every other  
92 jurisdiction in which the lawyer is admitted must necessarily impose discipline. The State

93 Disciplinary Review Board has jurisdiction to recommend reciprocal discipline ~~on the basis of~~  
94 ~~public discipline imposed by~~when a lawyer is suspended or disbarred in a jurisdiction in which  
95 the ~~respondent lawyer~~ is licensed or otherwise admitted.

96 [4] A judicial determination of misconduct by the respondent in another jurisdiction is  
97 conclusive, and not subject to re-litigation in the forum jurisdiction. The State Disciplinary  
98 Review Board should recommend substantially similar discipline unless it determines, after  
99 review limited to the record of the proceedings in the foreign jurisdiction, that one of the grounds  
100 specified in paragraph (b) (3) exists. ~~This Rule applies whether or not the respondent is admitted~~  
101 ~~to practice in the foreign jurisdiction. See also Rule 8.5, Comment [1].~~

102 [5] For purposes of this Rule, the suspension or placement of a lawyer on inactive status in  
103 another jurisdiction because of want of sound mind, senility, habitual intoxication or drug  
104 addiction, to the extent of impairment of competency as a lawyer shall be considered a  
105 disciplinary suspension under the Rules of the State Bar of Georgia.

1 **RULE 9.4: JURISDICTION AND RECIPROCAL DISCIPLINE**

2 (a) Jurisdiction. Any lawyer admitted to practice law in this jurisdiction, including  
3 any formerly admitted lawyer with respect to acts committed prior to resignation,  
4 suspension, disbarment, or removal from practice on any of the grounds provided in Rule  
5 4-104 of the State Bar of Georgia, or with respect to acts subsequent thereto that amount  
6 to the practice of law or constitute a violation of the Georgia Rules of Professional  
7 Conduct or any Rules or Code subsequently adopted by the Supreme Court of Georgia in  
8 lieu thereof, and any Domestic or Foreign Lawyer specially admitted by a court of this  
9 jurisdiction for a particular proceeding and any Domestic or Foreign Lawyer who  
10 practices law or renders or offers to render any legal services in this jurisdiction, is  
11 subject to the disciplinary jurisdiction of the State Bar of Georgia.

12 (b) Reciprocal Discipline. Upon being suspended or disbarred in another jurisdiction,  
13 a lawyer admitted to practice in Georgia shall promptly inform the Office of the General  
14 Counsel of the State Bar of Georgia of the discipline. Upon notification from any source  
15 that a lawyer within the jurisdiction of the State Bar of Georgia has been suspended or  
16 disbarred in another jurisdiction, the Office of the General Counsel shall obtain a certified  
17 copy of the disciplinary order and file it with the Clerk of the State Disciplinary Boards.  
18 Nothing in this Rule shall prevent a lawyer suspended or disbarred in another jurisdiction  
19 from filing a Petition for Voluntary Discipline under Rule 4-227.

20 (1) Upon receipt of a certified copy of an order demonstrating that a lawyer  
21 admitted to practice in Georgia has been disbarred or suspended in another  
22 jurisdiction, the Clerk of the State Disciplinary Boards shall assign the matter a  
23 State Disciplinary Board docket number.

24 (2) The Clerk of the State Disciplinary Boards shall issue a notice to the  
25 respondent that shall show the date of the disbarment or suspension in the other  
26 jurisdiction and shall include a copy of the order therefor. The notice shall direct  
27 the respondent to show cause to the State Disciplinary Review Board within 30  
28 days from service of the notice why the imposition of substantially similar  
29 discipline in this jurisdiction would be unwarranted. The notice shall be served  
30 upon the respondent pursuant to Rule 4-203.1, and any response thereto shall be  
31 served upon the Office of the General Counsel.

32 (3) If neither party objects within 30 days, the State Disciplinary Review  
33 Board shall recommend imposition of substantially similar discipline and shall  
34 file that recommendation with the Supreme Court of Georgia within 60 days after  
35 the time for the filing of objections expires. The Office of the General Counsel or  
36 the respondent may object to imposition of substantially similar discipline by  
37 demonstrating that:

38 (i) The procedure was so lacking in notice or opportunity to be heard  
39 as to constitute a deprivation of due process; or

40 (ii) There was such infirmity of proof establishing the misconduct as to  
41 give rise to the clear conviction that the court could not, consistent with its  
42 duty, accept as final the conclusion on that subject; or

43 (iii) The discipline imposed would result in grave injustice or be  
44 offensive to the public policy of the jurisdiction; or

45 (iv) The reason for the original disciplinary status no longer exists; or

46 (v)



- 47 (A) The conduct did not occur within the state of Georgia; and,  
48 (B) The discipline imposed by the foreign jurisdiction exceeds  
49 the level of discipline allowed under these Rules; or  
50 (vi) The discipline would if imposed in identical form be unduly severe  
51 or would require action not contemplated by these Rules.

52 If the State Disciplinary Review Board finds that it clearly appears upon the face  
53 of the record from which the discipline is predicated that any of those elements  
54 exist, the State Disciplinary Review Board shall make such other recommendation  
55 to the Supreme Court of Georgia as it deems appropriate. The burden is on the  
56 party seeking different discipline in this jurisdiction to demonstrate that the  
57 imposition of the same discipline is not appropriate.

58 (4) The State Disciplinary Review Board may consider exceptions from either  
59 the Office of the General Counsel or the respondent on the grounds enumerated at  
60 paragraph (b) (3) of this Rule and may in its discretion grant oral argument.

61 Exceptions and briefs shall be filed with the State Disciplinary Review Board  
62 within 30 days of service of the Notice of Reciprocal Discipline. The responding  
63 party shall have 30 days after service of the exceptions within which to respond.

64 The State Disciplinary Review Board shall file its report and recommendation  
65 within 60 days of receiving the response to exceptions.

66 (5) In all other aspects, a final adjudication in another jurisdiction that a  
67 lawyer, whether or not admitted in that jurisdiction, has been guilty of  
68 misconduct, or has been removed from practice on any of the grounds provided in  
69 Rule 4-104 of the State Bar of Georgia, shall establish conclusively the

70 misconduct or the removal from practice for purposes of a disciplinary proceeding  
71 in this State.

72 (6) Discipline imposed by another jurisdiction but of a lesser nature than  
73 disbarment or suspension may be considered in aggravation of discipline in any  
74 other disciplinary proceeding.

75 (7) For good cause, the Chair of the State Disciplinary Review Board in a  
76 reciprocal discipline proceeding may make an interim recommendation to the  
77 Supreme Court of Georgia that the respondent be immediately suspended pending  
78 final disposition. The maximum penalty for a violation of this Rule is disbarment.

79 (8) For purposes of this Rule, the word “jurisdiction” means any State,  
80 Territory, country, or federal court.

81 Comment

82

83 [1] If a lawyer suspended or disbarred in one jurisdiction is also admitted in another jurisdiction  
84 and no action can be taken against the lawyer until a new disciplinary proceeding is instituted,  
85 tried, and concluded, the public in the second jurisdiction is left unprotected against a lawyer  
86 who has been judicially determined to be unfit. Any procedure that so exposes innocent clients to  
87 harm cannot be justified. The spectacle of a lawyer disbarred in one jurisdiction yet permitted to  
88 practice elsewhere exposes the profession to criticism and undermines public confidence in the  
89 administration of justice.

90 [2] Reserved.

91 [3] The imposition of discipline in one jurisdiction does not mean that Georgia and every other  
92 jurisdiction in which the lawyer is admitted must necessarily impose discipline. The State

93 Disciplinary Review Board has jurisdiction to recommend reciprocal discipline when a lawyer is  
94 suspended or disbarred in a jurisdiction in which the lawyer is licensed or otherwise admitted.

95 [4] A judicial determination of misconduct by the respondent in another jurisdiction is  
96 conclusive, and not subject to re-litigation in the forum jurisdiction. The State Disciplinary  
97 Review Board should recommend substantially similar discipline unless it determines, after  
98 review limited to the record of the proceedings in the foreign jurisdiction, that one of the grounds  
99 specified in paragraph (b) (3) exists.

100 [5] For purposes of this Rule, the suspension or placement of a lawyer on inactive status in  
101 another jurisdiction because of want of sound mind, senility, habitual intoxication or drug  
102 addiction, to the extent of impairment of competency as a lawyer shall be considered a  
103 disciplinary suspension under the Rules of the State Bar of Georgia.

1 **Rule 4-219. Publication and Protective Orders**

2 (a) In cases in which a lawyer is publicly reprimanded, suspended, disbarred, or voluntarily  
3 surrenders his license, with the exception of interim suspensions issued pursuant to Bar Rule 4-  
4 204.3 (d), the Office of the General Counsel shall publish notice of the discipline in a local  
5 newspaper or newspapers. The Office of the General Counsel shall publish notice of all public  
6 discipline on the official State Bar of Georgia website, including the respondent's full name and  
7 business address, the nature of the discipline imposed and the effective dates.

8 (b)

9 (1) After a final judgment of disbarment or suspension, including a disbarment or  
10 suspension on a Notice of Discipline, the respondent shall immediately cease the practice  
11 of law in Georgia and shall, within 30 days, notify all clients of his inability to represent  
12 them and of the necessity for promptly retaining new counsel, and shall take all actions  
13 necessary to protect the interests of his clients. Within 45 days after a final judgment of  
14 disbarment or suspension, the respondent shall certify to the Court that he has satisfied  
15 the requirements of this Rule. Should the respondent fail to comply with the requirements  
16 of this Rule, the Supreme Court of Georgia, upon its own motion or upon motion of the  
17 Office of the General Counsel, and after 10 days' notice to the respondent and proof of  
18 his failure to notify or protect his clients, may hold the respondent in contempt and,  
19 pursuant to Rule 4-228, order that a member or members of the State Bar of Georgia take  
20 charge of the files and records of the respondent and proceed to notify all clients and to  
21 take such steps as seem indicated to protect their interests. Motions for reconsideration  
22 may be taken from the issuance or denial of such protective order by either the  
23 respondent or by the State Bar of Georgia.

24 (2) After a final judgment of disbarment or suspension under Part IV of these Rules  
25 the respondent shall take such action necessary to cause the removal of any indicia of the  
26 respondent as a lawyer, legal assistant, legal clerk or person with similar status. In the  
27 event the respondent should maintain a presence in an office where the practice of law is  
28 conducted, the respondent shall not represent himself as a lawyer or person with similar  
29 status and shall not provide any legal advice to clients of the law office.

1 **Rule 4-219. Publication and Protective Orders**

2 (a) In cases in which a lawyer is publicly reprimanded, suspended, disbarred, or voluntarily  
3 surrenders his license, with the exception of interim suspensions issued pursuant to Bar Rule 4-  
4 204.3 (d), the Office of the General Counsel shall publish notice of the discipline in a local  
5 newspaper or newspapers. The Office of the General Counsel shall publish notice of all public  
6 discipline on the official State Bar of Georgia website, including the respondent's full name and  
7 business address, the nature of the discipline imposed and the effective dates.

8 (b)

9 (1) After a final judgment of disbarment or suspension, including a disbarment or  
10 suspension on a Notice of Discipline, the respondent shall immediately cease the practice  
11 of law in Georgia and shall, within 30 days, notify all clients of his inability to represent  
12 them and of the necessity for promptly retaining new counsel, and shall take all actions  
13 necessary to protect the interests of his clients. Within 45 days after a final judgment of  
14 disbarment or suspension, the respondent shall certify to the Court that he has satisfied  
15 the requirements of this Rule. Should the respondent fail to comply with the requirements  
16 of this Rule, the Supreme Court of Georgia, upon its own motion or upon motion of the  
17 Office of the General Counsel, and after 10 days' notice to the respondent and proof of  
18 his failure to notify or protect his clients, may hold the respondent in contempt and,  
19 pursuant to Rule 4-228, order that a member or members of the State Bar of Georgia take  
20 charge of the files and records of the respondent and proceed to notify all clients and to  
21 take such steps as seem indicated to protect their interests. Motions for reconsideration  
22 may be taken from the issuance or denial of such protective order by either the  
23 respondent or by the State Bar of Georgia.

24 (2) After a final judgment of disbarment or suspension under Part IV of these Rules  
25 the respondent shall take such action necessary to cause the removal of any indicia of the  
26 respondent as a lawyer, legal assistant, legal clerk or person with similar status. In the  
27 event the respondent should maintain a presence in an office where the practice of law is  
28 conducted, the respondent shall not represent himself as a lawyer or person with similar  
29 status and shall not provide any legal advice to clients of the law office.

1 **Rule 4-220. Notice of Punishment or Acquittal; Administration of Reprimands**

2 (a) Upon a final judgment of disbarment or suspension, notice of the action taken shall be  
3 given by the Office of the General Counsel of the State Bar of Georgia to the clerks of all courts  
4 of record in this State and to the Membership Department of the State Bar of Georgia, and the  
5 name of the respondent in question shall be stricken from the rolls of said courts and from the  
6 rolls of the State Bar of Georgia for the prescribed period.

7 (b) State Disciplinary Review Board Reprimands shall be prepared by the Office of the  
8 General Counsel based upon the record. State Disciplinary Review Board Reprimands shall be  
9 issued by the Chair of the State Disciplinary Review Board, or his designee, at a regular meeting  
10 of the Board.

11 (c) Public Reprimands shall be prepared by the Office of the General Counsel based upon the  
12 record in the case. They shall be read in open court in the presence of the respondent by the judge  
13 of ~~the a~~ Superior Court in the county ~~in of which~~ the respondent's address as shown on the  
14 Membership Records of the State Bar of Georgia or as otherwise ordered by ~~resides or the county~~  
15 ~~in which the disciplinary infraction occurred, with the location to be specified by the Special~~  
16 ~~Master subject to the approval of~~ the Supreme Court of Georgia. Notice of issuance of the  
17 reprimand shall be published in advance in the legal organ of the county of the respondent's  
18 address as shown on the Membership Records of the State Bar of Georgia, and provided to the  
19 complainant in the underlying case.

20 (d) After a Public Reprimand has been administered, a certificate reciting the fact of the  
21 administration of the reprimand and the date of its administration shall be filed with the Supreme  
22 Court of Georgia. There shall be attached to such certificate a copy of the reprimand. Both the  
23 certificate and the copy of the reprimand shall become a part of the record in the disciplinary



24 proceeding.

25 (e) In the event of a final judgment in favor of the respondent, the State Bar of Georgia shall,  
26 if directed by the respondent, give notice thereof to the clerk of the Superior Court in the county  
27 in which the respondent resides.

1 **Rule 4-220. Notice of Punishment or Acquittal; Administration of Reprimands**

2 (a) Upon a final judgment of disbarment or suspension, notice of the action taken shall be  
3 given by the Office of the General Counsel of the State Bar of Georgia to the clerks of all courts  
4 of record in this State and to the Membership Department of the State Bar of Georgia, and the  
5 name of the respondent in question shall be stricken from the rolls of said courts and from the  
6 rolls of the State Bar of Georgia for the prescribed period.

7 (b) State Disciplinary Review Board Reprimands shall be prepared by the Office of the  
8 General Counsel based upon the record. State Disciplinary Review Board Reprimands shall be  
9 issued by the Chair of the State Disciplinary Review Board, or his designee, at a regular meeting  
10 of the Board.

11 (c) Public Reprimands shall be prepared by the Office of the General Counsel based upon the  
12 record in the case. They shall be read in open court in the presence of the respondent by the judge  
13 of a Superior Court in the county of the respondent's address as shown on the Membership  
14 Records of the State Bar of Georgia or as otherwise ordered by the Supreme Court of Georgia.  
15 Notice of issuance of the reprimand shall be published in advance in the legal organ of the county  
16 of the respondent's address as shown on the Membership Records of the State Bar of Georgia,  
17 and provided to the complainant in the underlying case.

18 (d) After a Public Reprimand has been administered, a certificate reciting the fact of the  
19 administration of the reprimand and the date of its administration shall be filed with the Supreme  
20 Court of Georgia. There shall be attached to such certificate a copy of the reprimand. Both the  
21 certificate and the copy of the reprimand shall become a part of the record in the disciplinary  
22 proceeding.

23 (e) In the event of a final judgment in favor of the respondent, the State Bar of Georgia shall,

- 24 if directed by the respondent, give notice thereof to the clerk of the Superior Court in the county
- 25 in which the respondent resides.

1 **RULE 14-3.1 GENERALLY**

2 (a) Appointment and Terms. The Standing Committee shall be appointed by the Supreme  
3 Court of Georgia, and shall consist of 23 members, ~~11-12~~ of whom shall be non-lawyers and 11  
4 whom shall be lawyers and members in good standing of the State Bar of Georgia. The non-  
5 lawyer members should be geographically representative of the State. The lawyer members shall  
6 be appointed by the Supreme Court of Georgia and shall include at least one member from each  
7 judicial district. The Supreme Court of Georgia shall appoint a chair and at least ~~1~~one vice-chair  
8 of the Standing Committee, ~~both of whom may be nonlawyers~~. Eight of the members of the  
9 Standing Committee shall constitute a quorum. All appointments to the Standing Committee shall  
10 be for a term of ~~three~~3 years, except that it shall be the goal of the initial appointments that one-  
11 third (~~1/3~~) of the terms of the members appointed will expire annually. The members who  
12 initially serve terms of less than ~~3~~three years shall be eligible for immediate reappointment. No  
13 member shall be appointed to more than ~~2~~two full consecutive terms.

14 (b) Duties. It shall be the duty of the Standing Committee to receive and evaluate District  
15 Committee reports and to determine whether litigation should be instituted in Superior Court  
16 against any alleged offender. The Standing Committee may approve civil injunctive proceedings,  
17 civil or criminal contempt proceedings, a combination of injunctive and contempt proceedings, or  
18 such other action as may be appropriate. In addition, the duties of the Standing Committee shall  
19 include, but not be limited to:

- 20 (1) ~~the~~ consideration and investigation of activities that may, or do, constitute the  
21 unlicensed practice of law;
- 22 (2) ~~the~~ supervision of the District Committees, which shall include, but not be limited  
23 to:

- 24 (A) prescribing rules of procedure for District Committees;
- 25 (B) assigning reports of unlicensed practice of law for investigation;
- 26 (C) reassigning or withdrawing matters previously assigned, exercising final  
27 authority to close cases not deemed by the Standing Committee to then warrant  
28 further action by the State Bar of Georgia for unlicensed practice of law, and  
29 closing cases proposed to be resolved by a cease and desist affidavit where staff  
30 counsel objects to the closing of the case or the acceptance of a cease and desist  
31 affidavit by the District Committee;
- 32 (D) joining with a District Committee in a particular investigation; ~~and~~
- 33 (E) request~~ing~~ staff investigators, staff counsel, and voluntary bar counsel to  
34 conduct investigations on behalf of or in concert with the District Committees; and
- 35 (F) suspending District Committee members and chairs for cause and  
36 appointing a temporary District Committee chair where there has been a  
37 suspension, resignation, or removal, pending the appointment of a replacement  
38 chair by the Supreme Court of Georgia;
- 39 (3) ~~the~~ initiation and supervision of litigation, including the delegation of  
40 responsibility to staff, or ~~C~~counsel for the State Bar of Georgia to prosecute such litigation;
- 41 (4) ~~the~~ giving ~~of~~ advice regarding the unlicensed practice of law policy to the officers,  
42 Board of Governors, staff, sections, or committees of the State Bar of Georgia as  
43 requested; and
- 44 (5) furnishing any and all information, confidential records, and files regarding  
45 pending or closed investigations of unlicensed practice of law to any state or federal law  
46 enforcement or regulatory agency, United States Attorney, District Attorney, Solicitor, the

47 Georgia Office of Bar Admissions and equivalent entities in other jurisdictions, the State  
48 Disciplinary Board of the State Bar of Georgia and equivalent entities in other  
49 jurisdictions where there is or may be a violation of state or federal law or the Rules of  
50 Professional Conduct of the State Bar of Georgia, or when required by law or court order.

1 **RULE 14-4.1 GENERALLY**

2

3 (a) Appointment and Terms. Each District Committee shall be appointed by the Supreme  
4 Court of Georgia and shall consist of not fewer than ~~3~~three members, ~~at least one-third no more~~  
5 ~~that 49 percent~~ of whom shall be ~~nonlawyers~~lawyers and members in good standing of the State  
6 Bar of Georgia. All appointees shall be residents of the judicial district or have their principal  
7 office in the district. The terms of the members of District Committees shall be for three years  
8 from the date of appointment by the Supreme Court of Georgia or until such time as their  
9 successors are appointed, except that it shall be the goal of the initial appointments that one-third  
10 ~~(1/3)~~ of the terms of the members appointed will expire annually. The members who initially  
11 serve terms of less than two years shall be eligible for immediate reappointment. Continuous  
12 service of a member shall not exceed six years. The expiration of the term of any member shall  
13 not disqualify that member from concluding any investigations pending before that member. Any  
14 member of a District Committee may be removed from office by the Supreme Court of Georgia.

15

16 (b) Committee Chair. ~~For each District Committee there shall be a chair designated by the~~The  
17 Supreme Court of Georgia shall designate a chair for each District Committee. The chair of each  
18 District Committee may designate ~~A~~a vice-chair and secretary ~~may be designated by the chair of~~  
19 ~~each District Committee~~. The chair shall be a non-lawyer member or a lawyer member in good  
20 standing with~~of~~ the State Bar of Georgia.

21

22 (c) Quorum. Three members of the District Committee or a majority of the members,  
23 whichever is less, shall constitute a quorum.

24

25 (d) Panels. The ~~C~~chair of a District Committee may divide that ~~C~~committee into panels of not  
26 fewer than ~~3~~three members, ~~1~~one of whom must be a ~~non~~lawyer member in good standing with  
27 the State Bar of Georgia. The ~~3~~three-member panel shall elect ~~1~~one of its members to preside over  
28 the panel's actions. If the chair or vice-chair of the District Committee is a member of a ~~3~~three-  
29 member panel, the chair or vice- chair shall be the presiding officer.

30

31 (e) Duties. It shall be the duty of each District Committee to investigate, with dispatch, all  
32 reports of unlicensed practice of law and to make prompt written report of its investigation and  
33 findings to staff counsel. In addition, the duties of the District Committee shall include, but not be  
34 limited to:

35

36 (1) closing cases not deemed by the District Committee to warrant further action by  
37 the State Bar of Georgia;

38

39 (2) closing cases proposed to be resolved by a cease and desist affidavit; and

40

41 (3) forwarding to staff counsel recommendations for litigation to be reviewed by the  
42 Standing Committee.

43

44 (f) District Committee Meetings. District Committees should meet at regularly scheduled  
45 times. Either the chair or vice-chair may call special meetings. District Committees should meet  
46 as often as necessary during any period when the ~~C~~committee has ~~1~~one or more pending cases



47 assigned for investigation and report. The time, date and place of scheduled meetings should be  
48 set in advance by agreement between each Committee and staff counsel. Meetings may be  
49 conducted by telephone conference or by any other technology available and agreed upon by the  
50 Committee. Any participant, including staff counsel, may participate in the meeting by telephone  
51 conference or any other technology agreed upon by the Committee.

1 **RULE 14-3.1 GENERALLY**

2 (a) Appointment and Terms. The Standing Committee shall be appointed by the Supreme  
3 Court of Georgia, and shall consist of 23 members, 12 of whom shall be non-lawyers and 11  
4 whom shall be lawyers and members in good standing of the State Bar of Georgia. The non-  
5 lawyer members should be geographically representative of the State. The lawyer members shall  
6 be appointed by the Supreme Court of Georgia and shall include at least one member from each  
7 judicial district. The Supreme Court of Georgia shall appoint a chair and at least one vice-chair of  
8 the Standing Committee. Eight of the members of the Standing Committee shall constitute a  
9 quorum. All appointments to the Standing Committee shall be for a term of three years, except  
10 that it shall be the goal of the initial appointments that one-third of the terms of the members  
11 appointed will expire annually. The members who initially serve terms of less than three years  
12 shall be eligible for immediate reappointment. No member shall be appointed to more than two  
13 full consecutive terms.

14 (b) Duties. It shall be the duty of the Standing Committee to receive and evaluate District  
15 Committee reports and to determine whether litigation should be instituted in Superior Court  
16 against any alleged offender. The Standing Committee may approve civil injunctive proceedings,  
17 civil or criminal contempt proceedings, a combination of injunctive and contempt proceedings, or  
18 such other action as may be appropriate. In addition, the duties of the Standing Committee shall  
19 include, but not be limited to:

- 20 (1) consideration and investigation of activities that may, or do, constitute the  
21 unlicensed practice of law;
- 22 (2) supervision of the District Committees, which shall include, but not be limited to:

23

- 24 (A) prescribing rules of procedure for District Committees;
- 25 (B) assigning reports of unlicensed practice of law for investigation;
- 26 (C) reassigning or withdrawing matters previously assigned, exercising final  
27 authority to close cases not deemed by the Standing Committee to then warrant  
28 further action by the State Bar of Georgia for unlicensed practice of law, and  
29 closing cases proposed to be resolved by a cease and desist affidavit where staff  
30 counsel objects to the closing of the case or the acceptance of a cease and desist  
31 affidavit by the District Committee;
- 32 (D) joining with a District Committee in a particular investigation;
- 33 (E) requesting staff investigators, staff counsel, and voluntary bar counsel to  
34 conduct investigations on behalf of or in concert with the District Committees; and
- 35 (F) suspending District Committee members and chairs for cause and  
36 appointing a temporary District Committee chair where there has been a  
37 suspension, resignation, or removal, pending the appointment of a replacement  
38 chair by the Supreme Court of Georgia;
- 39 (3) initiation and supervision of litigation, including the delegation of responsibility to  
40 staff, or counsel for the State Bar of Georgia to prosecute such litigation;
- 41 (4) giving advice regarding the unlicensed practice of law policy to the officers, Board  
42 of Governors, staff, sections, or committees of the State Bar of Georgia as requested; and
- 43 (5) furnishing any and all information, confidential records, and files regarding  
44 pending or closed investigations of unlicensed practice of law to any state or federal law  
45 enforcement or regulatory agency, United States Attorney, District Attorney, Solicitor, the  
46 Georgia Office of Bar Admissions and equivalent entities in other jurisdictions, the State

47 Disciplinary Board of the State Bar of Georgia and equivalent entities in other  
48 jurisdictions where there is or may be a violation of state or federal law or the Rules of  
49 Professional Conduct of the State Bar of Georgia, or when required by law or court order.

1 **RULE 14-4.1 GENERALLY**

2

3 (a) Appointment and Terms. Each District Committee shall be appointed by the Supreme  
4 Court of Georgia and shall consist of not fewer than three members, no more than 49 percent of  
5 whom shall be lawyers and members in good standing of the State Bar of Georgia. All appointees  
6 shall be residents of the judicial district or have their principal office in the district. The terms of  
7 the members of District Committees shall be for three years from the date of appointment by the  
8 Supreme Court of Georgia or until such time as their successors are appointed, except that it shall  
9 be the goal of the initial appointments that one-third of the terms of the members appointed will  
10 expire annually. The members who initially serve terms of less than two years shall be eligible for  
11 immediate reappointment. Continuous service of a member shall not exceed six years. The  
12 expiration of the term of any member shall not disqualify that member from concluding any  
13 investigations pending before that member. Any member of a District Committee may be  
14 removed from office by the Supreme Court of Georgia.

15

16 (b) Committee Chair. The Supreme Court of Georgia shall designate a chair for each District  
17 Committee. The chair of each District Committee may designate a vice-chair and secretary. The  
18 chair shall be a non-lawyer member or a lawyer member in good standing with the State Bar of  
19 Georgia.

20

21 (c) Quorum. Three members of the District Committee or a majority of the members,  
22 whichever is less, shall constitute a quorum.

23

24 (d) Panels. The chair of a District Committee may divide that committee into panels of not  
25 fewer than three members, one of whom must be a lawyer member in good standing with the State  
26 Bar of Georgia. The three-member panel shall elect one of its members to preside over the panel's  
27 actions. If the chair or vice-chair of the District Committee is a member of a three-member panel,  
28 the chair or vice- chair shall be the presiding officer.

29

30 (e) Duties. It shall be the duty of each District Committee to investigate, with dispatch, all  
31 reports of unlicensed practice of law and to make prompt written report of its investigation and  
32 findings to staff counsel. In addition, the duties of the District Committee shall include, but not be  
33 limited to:

34

35 (1) closing cases not deemed by the District Committee to warrant further action by  
36 the State Bar of Georgia;

37

38 (2) closing cases proposed to be resolved by a cease and desist affidavit; and

39

40 (3) forwarding to staff counsel recommendations for litigation to be reviewed by the  
41 Standing Committee.

42

43 (f) District Committee Meetings. District Committees should meet at regularly scheduled  
44 times. Either the chair or vice-chair may call special meetings. District Committees should meet  
45 as often as necessary during any period when the committee has one or more pending cases  
46 assigned for investigation and report. The time, date and place of scheduled meetings should be

47 set in advance by agreement between each committee and staff counsel. Meetings may be  
48 conducted by telephone conference or by any other technology available and agreed upon by the  
49 committee. Any participant, including staff counsel, may participate in the meeting by telephone  
50 conference or any other technology agreed upon by the committee.

1 **Rule 16-101. PREAMBLE AND ESTABLISHMENT OF THE INSTITUTE OF**  
2 **CONTINUING LEGAL EDUCATION.**

3 Pursuant to an asset agreement executed on December 30, 2016, between the Institute of  
4 Continuing Legal Education in Georgia, an unincorporated Georgia nonprofit association, and  
5 the State Bar of Georgia Foundation, Inc. a Georgia nonprofit corporation<sup>1</sup>, the Institute of  
6 Continuing Legal Education of the State Bar of Georgia (“ICLE”) is hereby established as a  
7 program of the State Bar of Georgia. The purpose of ICLE is to promote a well-organized,  
8 properly planned, and adequately supported program of continuing legal education by which  
9 members of the legal profession may enhance their skills, keep abreast of developments in the  
10 law, ethics, and professionalism, engage in the study and research of the law, and disseminate the  
11 knowledge thus obtained.  
12

---

<sup>1</sup> These assets were subsequently transferred to the Institute for Continuing Legal Education of the State Bar of Georgia, LLC on December 31, 2018. The Institute for Continuing Legal Education of the State Bar of Georgia, LLC is a not for profit limited liability company owned solely by the State Bar of Georgia and managed by a Board of Managers composed of the members of the Executive Committee of the State Bar of Georgia.



1 **Rule 16-103. POWER AND DUTIES OF THE ICLE BOARD.**

2 The ICLE Board shall have the following powers and duties:

3 (a) to prepare a proposed budget for the annual operation of ICLE;

4 (b) to develop policies and Internal Operating Procedures for the operation of the  
5 Board;

6 (c) to recommend topics and speakers to the Director for continuing legal education  
7 (“CLE”) programs to be sponsored by the State Bar of Georgia or its Sections;

8 (d) to review qualifications requirements for proposed speakers and provide  
9 recommendations for any proposed changes;

10 (e) to encourage CLE programming by the Sections of the State Bar of Georgia;

11 (f) to review evaluations from CLE programs and to make recommendations for  
12 improvements; and

13 (g) to submit an annual informational report to the State Bar of Georgia Board of  
14 Governors describing ICLE’s activity for the year, including programs presented,  
15 attendance, and income generated from each program.

16

1 **Rule 16-104. DIRECTOR.**

2 The Executive Director of the State Bar of Georgia, ~~with the advice and consent of the ICLE~~  
3 ~~Board,~~ shall ~~hire~~be responsible for the employment of a Director for ICLE and shall serve as the  
4 immediate supervisor of the Director. All employment decisions concerning the Director shall be  
5 made after considering the advice of the ICLE Board, when practical. The Director shall oversee  
6 the day-to-day operations of ICLE.

7

1 **Rule 16-105. FINANCES.**

2 (a) ICLE shall fund its operations from the fees that it charges for CLE programs and  
3 may use any of ~~its~~the surplus funds held by the Institute of Continuing Education of the  
4 State Bar of Georgia, L.L.C. to fund the purpose of ICLE. Its funds and accounts shall be  
5 maintained by the State Bar of Georgia separately from other funds or accounts of the  
6 State Bar of Georgia. The State Bar of Georgia, after consultation with the ICLE Board,  
7 may charge ICLE for its costs in housing and administering ICLE as determined by the  
8 State Bar of Georgia Board of Governors.

9 (b) The Board shall provide a financial report to the State Bar of Georgia Board of  
10 Governors at each of its meetings and shall provide an audit report to the State Bar of  
11 Georgia Board of Governors at the Annual Meeting each year.

1 **Rule 16-101. PREAMBLE AND ESTABLISHMENT OF THE INSTITUTE OF**  
2 **CONTINUING LEGAL EDUCATION.**

3 Pursuant to an asset agreement executed on December 30, 2016, between the Institute of  
4 Continuing Legal Education in Georgia, an unincorporated Georgia nonprofit association, and  
5 the State Bar of Georgia Foundation, Inc. a Georgia nonprofit corporation<sup>1</sup>, the Institute of  
6 Continuing Legal Education of the State Bar of Georgia (“ICLE”) is hereby established as a  
7 program of the State Bar of Georgia. The purpose of ICLE is to promote a well-organized,  
8 properly planned, and adequately supported program of continuing legal education by which  
9 members of the legal profession may enhance their skills, keep abreast of developments in the  
10 law, ethics, and professionalism, engage in the study and research of the law, and disseminate the  
11 knowledge thus obtained.

12

---

<sup>1</sup> These assets were subsequently transferred to the Institute for Continuing Legal Education of the State Bar of Georgia, LLC on December 31, 2018. The Institute for Continuing Legal Education of the State Bar of Georgia, LLC is a not for profit limited liability company owned solely by the State Bar of Georgia and managed by a Board of Managers composed of the members of the Executive Committee of the State Bar of Georgia.

1 **Rule 16-103. POWER AND DUTIES OF THE ICLE BOARD.**

2 The ICLE Board shall have the following powers and duties:

3 (a) to prepare a proposed budget for the annual operation of ICLE;

4 (b) to develop policies and Internal Operating Procedures for the operation of the  
5 Board;

6 (c) to recommend topics and speakers to the Director for continuing legal education  
7 (“CLE”) programs to be sponsored by the State Bar of Georgia or its Sections;

8 (d) to review qualifications requirements for proposed speakers and provide  
9 recommendations for any proposed changes;

10 (e) to encourage CLE programming by the Sections of the State Bar of Georgia;

11 (f) to review evaluations from CLE programs and to make recommendations for  
12 improvements; and

13 (g) to submit an annual informational report to the State Bar of Georgia Board of  
14 Governors describing ICLE’s activity for the year, including programs presented,  
15 attendance, and income generated from each program.

16

1 **Rule 16-104. DIRECTOR.**

2 The Executive Director of the State Bar of Georgia shall be responsible for the employment of a  
3 Director for ICLE and shall serve as the immediate supervisor of the Director. All employment  
4 decisions concerning the Director shall be made after considering the advice of the ICLE Board,  
5 when practical. The Director shall oversee the day-to-day operations of ICLE.

6

1 **Rule 16-105. FINANCES.**

2 (a) ICLE shall fund its operations from the fees that it charges for CLE programs and  
3 may use any of the surplus funds held by the Institute of Continuing Education of the  
4 State Bar of Georgia, L.L.C. to fund the purpose of ICLE. Its funds and accounts shall be  
5 maintained by the State Bar of Georgia separately from other funds or accounts of the  
6 State Bar of Georgia. The State Bar of Georgia, after consultation with the ICLE Board,  
7 may charge ICLE for its costs in housing and administering ICLE as determined by the  
8 State Bar of Georgia Board of Governors.

9 (b) The Board shall provide a financial report to the State Bar of Georgia Board of  
10 Governors at each of its meetings and shall provide an audit report to the State Bar of  
11 Georgia Board of Governors at the Annual Meeting each year.

*State Bar of Georgia*

**Statement of Investment Policy**

**March 2019**  
**(as approved by Investment Committee on 3/5/2019)**



## **GENERAL INFORMATION**

**Entity name:** State Bar of Georgia

**Description:** The State Bar of Georgia exists to foster among the members of the Bar of this state the principles of duty and service to the public; to improve the administration of justice; and to advance the science of law.

**Fund's purpose:** The Fund consists of assets designated by the Board for investment.

## **SCOPE OF STATEMENT**

This Statement of Investment Policy ('Policy' or "SIP") reflects the investment policy, objectives, and constraints of the fund.

To assure continued relevance of the guidelines, objectives, and financial status as established in this statement of investment policy, the State Bar of Georgia plans to review investment policy at least annually.

## **PURPOSE OF STATEMENT**

The State Bar of Georgia sets this statement of investment policy forth in order to:

1. Define and assign the responsibilities of all involved parties.
2. Establish a clear understanding for all involved parties of the investment goals and objectives of Fund assets.
3. Offer guidance and limitations to all Investment Managers regarding the investment of Fund assets.
4. Establish a basis for evaluating investment results.
5. Establish the relevant investment horizon for which the Fund assets will be managed.

The statement is not a binding contract; rather, it is a summary of understanding that provides guidance to all involved parties. It is intended to be sufficiently specific to be meaningful, yet flexible enough to be practical.

## **DELEGATION OF AUTHORITY**

### **Board of Governors of State Bar of Georgia**

The governing body of the Fund is the Board of Governors ("Board"), who have overall responsibility for Policy. As such, the Board is authorized to delegate certain responsibilities to others. The Board has delegated responsibility for the investment of the Fund's assets to the Investment Committee, which may further delegate certain responsibilities to appropriate experts.

### **Responsibility of the Board of Governors**

- Approve investment policy.
- Ensure that the costs are appropriate and reasonable in relation to the assets, the purposes of the institution, and the skills available to the institution.

- Make reasonable effort to verify facts relevant to the management and investment of the Fund assets.

### **Investment Committee**

The Board has established the Investment Committee (“Committee”). The Committee is responsible for directing management of Fund assets and monitoring compliance with their policies and guidelines. While the Board bears ultimate responsibility for the Fund, the Committee shall recommend to the Board the general policy for the State Bar of Georgia and shall be responsible for day-to-day guidance, monitoring and oversight with the assistance of Bar Executive Staff as provided below:

#### **Responsibility of the Committee** (primary and as may be delegated to Bar Executive Staff)

- Develop, review and present a Statement of Investment Policy to the Board.
- Develop, review and recommend the overall asset allocation for the Fund, as well as funding level for each manager or strategy in the Fund.
- Approve the investment allocation of Fund assets, both strategic and potential tactical asset allocation changes.
- Review the performance in light of the Fund’s investment objectives.
- Appoint, evaluate and remove investment managers for the assets.
- Appoint, evaluate and remove other service providers, such as Investment Management Consultant and Custodian, that it deems necessary.
- Approve compensation changes with all service providers; control and account for all investment expenses.
- Review the reports of the investment management consultant, and the custodian and other reports on the financial condition of the Fund.
- Manage and monitor all defined risks in the portfolio with assistance of the Investment Management Consultant.
- Report recommendations and conclusions to the Board of Governors.

As such, the Committee is also authorized to delegate certain responsibilities to Bar Executive staff and professional experts in various fields. These include, but are not limited to:

#### **Responsibility of Bar Executive Staff (Executive Director, Chief Financial Officer)**

- Oversee investments made by/through delegated parties to confirm their adherence to the investment guidelines in this SIP.
- Communicate changes, if any, to the investing objectives, to the Investment Management Consultant or other delegated parties servicing the portfolio in whole or in part.
- Receive, review and retain the reports of the investment management consultant, and the custodian and other reports on the financial condition of the Fund.

### **Investment Management Consultant(s)**

The Investment Management Consultant’s role is that of a non-discretionary advisor to the Investment Committee of the State Bar of Georgia. Investment advice concerning the investment management of Fund assets will be offered by the Investment Management Consultant, and will be consistent with the investment objectives, policies, guidelines and constraints as established in this statement.

**Responsibility of the Investment Management Consultant(s)**

- Assist in the development and periodic review of investment policy and objectives.
- Assist in the development and periodic review of asset allocation strategy. Recommend strategic and tactical asset allocation changes within the guidelines of the policy.
- Review the capital markets in light of the Fund's investment objectives.
- Assist in the management and tracking of risks in the portfolio.
- Implement portfolio rebalancing upon direction of the Committee within the guidelines of the policy.
- Assist in compensation negotiations with investment managers, custodians and other service providers. Assist the Investment Committee in the determination, understanding, negotiation and accountability of all Fund investment costs.
- Conduct investment manager searches, make recommendations, provide "due diligence" or research on Investment Managers.
- Provide the performance of the total Fund and Investment Manager(s) to assist the Committee with the ability to determine the progress toward the investment objectives.
- Communicate matters of policy, manager research, and manager performance.
- Communicate matters of policy and investment direction to the investment managers when necessary.
- Review Fund investment history, historical capital markets performance and the contents of this investment policy statement with any newly appointed members of the Committee.
- The Investment Management Consultant must operate without any undisclosed conflict of interest.

**Investment Manager(s)**

Each Investment Manager will have full discretion to make all investment decisions for the assets placed under its jurisdiction and within guidelines as defined by the SIP of their stated investment methodology.

**Responsibility of the Investment Manager(s)**

- Investment managers are required to maintain prudent diversification and manage the risk of their portfolios.
- Discretionary investment management including decisions to buy, sell, or hold individual securities, and to alter asset allocation within the guidelines as defined by the SIP of their stated methodology.
- Report, on a timely basis, monthly investment performance results.
- Communicate any major changes to economic outlook, investment strategy, or any other factors that affect implementation of investment process, or the investment objective progress of the Fund's investment management.
- Inform the Investment Management Consultant regarding any qualitative change to investment management organization: Examples include changes in portfolio management personnel, ownership structure, investment philosophy, etc.
- Meet with the Investment Management Consultant and/or Investment Committee as needed.
- The Investment Manager must operate without any undisclosed conflicts of interest.

### **Custodian(s)**

The custodian(s) will physically (or through agreement with a sub-custodian) maintain possession of securities owned by the Fund, collect dividend and interest payments, redeem maturing securities, and effect receipt and delivery following purchases and sales. The custodian(s) may also perform regular accounting of all assets owned, purchased, or sold, as well as movement of assets into and out of the Fund accounts.

### **Other Professional Experts**

Additional specialists such as attorneys, auditors and others may be employed by the Committee to assist in meeting its responsibilities and obligations to administer Fund assets prudently.

## **GENERAL INVESTMENT PRINCIPLES**

1. The Fund shall be invested with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in like capacity and familiar with such matters would use in the investment of a fund of like character and with like aims.
2. The Board and Committee understand that risk is present in all types of securities and investment styles and recognize that some risk is necessary to produce long-term investment results that are sufficient to meet the Fund's objectives. However, the investment managers are to make reasonable efforts to control risk, and will be evaluated regularly to ensure that the risk assumed is commensurate with the given investment style and objectives.
3. Investment managers are expected to adhere to the investment management styles for which they were hired. Managers will be evaluated regularly for adherence to investment discipline.

## **INVESTMENT OBJECTIVES**

Fund assets represent cash and investments, all of which may be spent within the next five years, and Operating Cash, which is planned to be spent within the next twelve months. Therefore, the Fund has a short-term investment horizon, and the primary objectives of the Fund shall be:

- **Liquidity** - To ensure the ability to meet all expected or unexpected cash flow needs by investing in securities which can be sold readily and efficiently.
- **Preservation of Capital** - To minimize the probability of loss of principal over the investment horizon. Emphasis is placed on minimizing volatility rather than maximizing return.
- **Income and Growth** - To achieve a balanced return of current income and modest growth of principal.

### **Asset Allocation:**

An estimate of operating cash flows should be provided and updated regularly by the Committee or the CFO of the Bar to the Investment Management Consultant.

- **Operating Cash** The Board may designate an operating reserve which may be allocated to cash, money market funds, or fixed income securities with maturity or weighted average life (WAL) less than one year.

- **Reserve Assets** (Fund assets in excess of estimated Operating Cash) may be allocated to fixed income securities with maturity or WAL up to five years.

Fixed income securities are limited to five year maturity or average expected life.

Fixed income securities at the time of purchase must be rated investment grade (no lower than BBB- / Baa3).

Currently, equity securities are prohibited.

**Eligible Investments:**

1. Money Market Mutual Funds\*
2. Certificates of Deposit
3. Commercial Paper
4. Obligations of the U.S. Treasury, states and their political subdivisions and municipalities
5. Obligations of U.S. Federal Agencies, state agencies and their political subdivisions and municipalities
6. Mortgage-backed securities (MBS) issued by U.S. government agencies or government-sponsored enterprises (GSE).
7. U.S. Corporate Bonds, debentures, or other forms of corporate debt
8. Bonds issued in the U.S. by foreign entities that are traded on U.S. exchanges and in U.S. dollars (“Yankee Bonds”)
9. Commercial Mortgage Backed Securities (“CMBS”)
10. Asset-Backed Securities (“ABS”) and Mortgage-Backed Securities (“MBS”) issued by non-governmental entities (“non-agency”)
11. Collateralized Mortgage Obligations (“CMO”)
12. Fixed Income Mutual Funds and Fixed Income Exchange-Traded Funds (ETFs) registered with the Securities and Exchange Commission of the United States under the Investment Company Act of 1940\*

\* With respect to the inclusion of mutual funds, exchange-traded funds (ETFs) or commingled vehicles, the Committee understands that the Investment Management Consultant does not have any control over the management or portfolio composition of such funds. While the Investment Management Consultant will use best efforts to recommend funds with investment objectives and policies that, at the aggregate portfolio level, are generally consistent with the SIP restrictions, the Committee understands that individual portfolio holdings may not at all times be consistent with the restrictions.

**Prohibited Investments:**

1. Equity investments including Equity mutual funds and Equity exchange-traded funds (ETFs)
2. Preferred stock and convertible bonds
3. Direct mortgages or privately-held real estate
4. Real Estate Investment Trusts (REITs)
5. Master Limited Partnerships (MLPs)
6. Commodities or commodity futures
7. Short sales and margin purchases

8. Oil, gas, mineral or other types of leases
9. Futures, options, and other derivative securities
10. Hedge funds and limited partnerships
11. Auction Rate Bonds

## **SPECIFIC INVESTMENT GOALS**

Over a five-year time horizon, it is the return goal of the aggregate Fund assets to exceed U.S. inflation, as measured by the Consumer Price Index (CPI). This investment goal is the objective of the aggregate Fund, and is not meant to be imposed on each investment account (if more than one account is used). The goal of each investment manager, over the investment horizon, shall be to:

1. Meet or exceed the market index, or blended market index, selected and agreed upon by the Committee that most closely corresponds to the style of investment management.
2. Display an overall level of risk in the portfolio that is consistent with the risk associated with the benchmark specified above. Risk will be measured by the standard deviation of returns, as well as other statistical measures such as beta and capture ratios; and portfolio characteristics such as duration, sector positioning, and credit quality.

## **INVESTMENT POLICIES AND PROCEDURES**

### **Risk**

The Committee realizes that there are many ways to define risk. It believes that any person or organization involved in the process of managing the State Bar of Georgia's assets understands how it defines risk so that the assets are managed in a manner consistent with the Fund's objectives and investment strategy as designed in this statement of investment policy. The Committee defines risk as:

- The possibility of downside surprise in investment returns and the permanent loss of capital.

To measure risk for the management of the investment portfolio, a variety of risk characteristics and measures will be considered and evaluated. These risk measurements will be included in the quarterly performance reports. For the basis of comparison, a broad fixed income index is used as the benchmark. The risk benchmark for the total fund is:

- Bloomberg Barclays 1-3 Year Government/Credit Index.

### **Asset Allocation**

The Committee shall invest the Fund using asset allocation that is designed to meet the Fund's liquidity needs and long-term goals. The allocation will be based on the objectives of the Fund set forth in this policy statement.

Due to the need for diversification and the longer funding periods for certain investment strategies, the Committee recognizes that an extended period of time may be required to fully implement the asset allocation plan. It is expected that market value fluctuations will cause deviations from the target allocations to occur.

The strategic asset allocation outlined in the Asset Allocation Addendum reflects an expected

portfolio at the beginning of the fiscal year, as cash receipts build and assets are at their highest level. As a fiscal year progresses, operating cash will be drawn down; towards the end of the fiscal year, operating cash may represent a minimal portion of the portfolio.

The Asset Allocation Addendum utilizes Modern Portfolio Theory with inputs provided and the methodology outlined in the addendum. The purpose and objective of this analysis is to illustrate and compare the risk and return characteristics of the portfolio's strategic asset allocation in line with investment objectives. There are inherent limitations for any analysis predicated on probabilistic forecast of the behavior of the forward capital markets. That being said, the statistical analysis outlined in the appendix does provide valuable insight to the risk and return characteristics of the portfolio.

The strategic asset allocation targets are subject to modification and change based on recommendations from the Investment Management Consultant and approval of the investment committee.

### **Rebalancing**

From time to time, market conditions may cause the Fund's investment in various asset classes to vary from the approved allocation. The investment portfolio will be reviewed quarterly or upon request by the State Bar Investment Committee or State Bar staff and rebalanced, within guidelines, when any asset class is outside the minimum or maximum policy allocation.

### **Liquidity**

Liquidity is the time to convert a security to cash at little or no loss; maximums are put on each liquidity category based on the overall cash needs of the client. Certain investment strategies have different liquidity characteristics. To better define the liquidity of various investment strategies, the follow definitions will apply:

- Liquid: Marketable securities with daily liquidity or up to one-week, depending on capital market conditions.

## **SELECTION OF INVESTMENT MANAGERS**

The Committee's selection of Investment Manager(s) must be based on prudent due diligence procedures. The Manager selection process should include both quantitative and qualitative characteristics. A qualifying investment manager must be a registered investment advisor under the Investment Advisors Act of 1940 ("Act"), or an entity that qualifies for an exemption under the Act. The Investment Committee will use the services of a qualified Investment Management Consultant to assist in the Manager Selection and evaluation process.

### **Investment Manager Risk:**

Investment managers are required to maintain prudent diversification and manage the risk of their portfolios. The Investment Management Consultant will maintain responsibility for the evaluation of the diversification and risk management of the investment managers and their continued due-diligence to assure the investment managers are operating according to the stated investment methodology approved by the Investment Management Consultant and Investment Committee. In the evaluation of investment managers, the following risk factors and exposures will be considered but not be limited to the following:

**Fixed Income Managers**

- Evaluating methodology of security selection and portfolio construction
- Benchmark used for performance evaluation
- Role of manager in the portfolio
- The overall duration and yield of the portfolio in relation to various specific benchmarks
- Diversification in economic sectors
- Diversification in the type of fixed-income securities
- The quality of the Securities
- Allocation to foreign securities

**PERFORMANCE MEASUREMENT**

Performance reports generated by the Investment Management Consultant shall be compiled quarterly and communicated to the Committee for review. Performance measurement will focus on the evaluation of meeting the specific investment goals identified above.

Investment managers shall be reviewed regularly regarding performance, personnel, strategy, research capabilities, organizational and business matters, and other qualitative factors that may impact their ability to achieve desired investment results.



**INVESTMENT POLICY REVIEW**

To assure continued relevance of the guidelines, objectives, financial status and capital markets expectations as established in this statement of investment policy, the Committee plans to review investment policy at least annually.

This statement of investment policy is adopted on \_\_\_\_\_, \_\_\_\_ 2019 by the State Bar of Georgia.

_____	_____
_____	_____
_____	_____
_____	_____



# State Bar of Georgia

To: Bar Officers  
Finance Committee

From: Ron Turner

Date: March 1, 2019

Re: January 2019 Financial Statements-Bar Operations and Bar Center

Attached please find the January 2019 financial statements. These financial statements are presented at a summary level for clarity and to convey overall trends. Full departmental detail is attached at year-end (6/30) and upon request.

Line item variance explanations follow. Department managers are expected to specify savings elsewhere in their budgets when exceeding a line item, unless there was a budgeting error. Line item variances < **\$100** are not explained to conserve your time.

As a way of providing additional information, we have added an additional column to the attached financial statements. This column is labeled as "Remaining Balance of Budget" and represents the difference between the total annual budget and the actual amount incurred to date.

**New and revised items are highlighted in bold.**

Unless otherwise indicated herein, because the budget overages are very minimal at this time, savings will be realized in each department to offset these overages.

Administration (ADM)

ADM-Hourly PT is over budget by \$441 as this account was not originally budgeted. This expense occurred as a former employee came back to the Bar for a couple of days to assist her replacement in transitioning to her position.

ADM-Miscellaneous is over budget by \$204. This overage is due to donation made in memory of Chief Justice Hines.

ADM-Computer Software exceeded the budget by \$339. This overage is primarily due to the purchase of one software program that was not budgeted for.

Office of General Counsel (OGC)

OGC-Computer Hardware exceeded the budget by \$802. The cost of each computer and warranty program exceeded the original cost per unit causing this overage.

Office of General Counsel (OGC) - Continued

OGC-Contract Labor is over budget by \$3,483 as costs for this account was not originally budgeted. This budget overage will be made up in the salaries line item.

Communications (COM)

COM-Computer Hardware exceeded the budget by \$246 as these costs were incurred for a new employee for which computer monitors were purchased. This purchase was not originally budgeted.

Supplemental Directory exceeded the budget by \$146. This overage occurred primarily because an increase in paper and postage costs above the amounts originally anticipated.

Law Practice Management (LPM)

LPM – Overtime was over budget **\$341** mainly due to staffing needs for the Solo and Small Firm Seminar that the department produced. The Seminar's income more than offset the unbudgeted overtime.

LPM-Solo and Small Firm exceeded the budget by \$7,854. This overage is because the department agreed to cover costs in the amount of \$12,800 for ICLE associated with the Solo and Small Firm Conference. This assistance for ICLE was not included in the original budget. However, the original budget for LPM included a net profit of \$13,000 from all of its revenues, including revenue from Solo and Small Firm (offset by Solo and Small Firm expenses). After considering the \$12,800 transfer from LPM to ICLE, this same net profit is **\$14,243**. Therefore, the net profit is **\$1,243** greater than anticipated.

Young Lawyers (YLD)

YLD – Seminars and Training is over budget by \$475. This overage is because this expenditure was not originally budgeted.

YLD – Computer Software is over budget by \$477 as this expenditure was not originally budgeted.

YLD – Brochure exceeded the budget by \$435. This overage is primarily the result of the following four reasons: (1) an increase in the quantity printed by 500 (2) an increase in the quantity mailed by 836 (3) an increase in postage costs and (4) an increase in the cost of paper that was not anticipated. The overage in this account should be offset by savings in the YLD Newsletter account.

Unauthorized Practice of Law (UPL)

UPL-Computer Hardware exceeded the budget by \$350 due to the purchase of two printers. These new printers replaced other printers that were older and were beginning to malfunction. The cost of replacing these two printers is less than the cost of repairing them.

Coastal Georgia Office (SAV)

SAV – Equipment maintenance was over the budget by **\$1,151** due to repairs associated with the projector. The projector was damaged and was replaced as there was a roof leak and this damaged the equipment. The damage was not budgeted for and was not covered by the landlord. In addition, insurance coverage was reviewed to determine if insurance would cover the replacement. However, the cost of the damage and replaced equipment was less than the insurance deductible.

Miscellaneous

OBI (Office of Bar Investigators) Conference was over budget by \$487. This overage will be made up via savings realized in the Office of General Counsel budget.

Conference Center (CONF)

**CONF Videoconferencing Support is over budget by \$750 due to an underbudget for this line item.**

Bar Center – Parking

**Lanier – Repairs and Maintenance was over the budget by \$1,540. This budget overage was primarily due to repairs of life/safety equipment associated with the parking deck. These repairs were not originally budgeted for.**

Lanier – Garage Insurance was over budget by **\$1,999**. This overage is due to under-budgeting by the subcontractor.

Shared Office Overhead

Shared office allocations exceed actual expense by approximately **\$94,100**. Shared Supplies, Kitchen, and Accounting expenses were lower than budget. This is a positive variance—good news. This number will fluctuate throughout the year.

Please give me a call at (404) 527-8748 if you have any questions regarding the attached financial statements.

cc: Jeff Davis  
Cassie Hallstrom  
Sharon Bryant  
Paula Frederick

3/1/2019

**State Bar of Georgia Consolidated Revenues and Expenditures as of January 31, 2019  
Operations and Bar Center Combined**

Activity	2018-19 Net Dues			Actual 2017-18			YTD 2018-19			Budget 2018-19			
	#	Membr.	%	Amount	#	Membr.	%	Amount	% of Bud	#	Membr.	%	Amount
Active	38,802	77.1		\$9,717,063	39,293	77.3		\$9,866,677	99.5%	39,750	77.4		\$9,917,000
Innovative	8,936	17.8		\$1,128,875	8,900	17.5		\$1,134,774	99.5%	9,050	17.6		\$1,140,300
Associates/Affiliate	15	0.0		\$1,300	14	0.0		\$1,400	63.6%	22	0.0		\$2,200
Foreign Legal Cnslt	6	0.0		\$1,500	6	0.0		\$1,512	100.0%	6	0.0		\$1,512
Students	287	0.6		\$0	298	0.6		\$0	0.0%	280	0.6		\$0
Emeritus	2,274	4.5		\$0	2,333	4.6		\$0	0.0%	2,250	4.4		\$0
Late Fees				\$247,405				\$174,735	72.8%				\$240,000
Prior Years Dues				\$8,424				\$1,363	19.5%				\$7,000
<b>Total License &amp; Dues</b>	<b>50,320</b>	<b>100.0</b>		<b>\$11,104,567</b>	<b>50,844</b>	<b>100.0</b>		<b>\$11,180,461</b>	<b>98.9%</b>	<b>51,358</b>	<b>100.0</b>		<b>\$11,308,012</b>
Alloc. Section Fees				\$196,015				\$191,196	100.0%				\$191,196
CSF Expense Reimb.				\$73,000				\$42,583	58.3%				\$73,000
Advertising & Sales				\$100,301				\$13,693	16.6%				\$82,700
Membership Income				\$146,603				\$83,963	70.6%				\$119,000
Interest Income				\$65,474				\$60,194	26.8%				\$225,000
Miscellaneous				\$3,204				\$4,148	207.4%				\$2,000
Total Bar Revenue				\$11,689,164				\$11,576,238	96.5%				\$12,000,908
Total Bar Expenses				\$13,106,634				\$7,579,447	53.7%				\$14,116,469
<b>SBG Net Gain (Loss) (Note 1)</b>				<b>(\$1,417,470)</b>				<b>\$3,996,791</b>					<b>(\$2,115,561)</b>
Bar Center Revenue				\$3,943,792				\$2,101,922	52.2%				\$4,023,536
Bar Center Expenses				\$2,650,784				\$1,418,123	54.6%				\$2,597,598
<b>Bar Center Net Gain (Loss)</b>				<b>\$1,293,008</b>				<b>\$683,799</b>					<b>\$1,425,938</b>
Combined Revenue				\$15,632,956				\$13,678,160	85.4%				\$16,024,444
Combined Expenses				\$15,757,418				\$8,997,570	53.8%				\$16,714,067
<b>Combined Net Income (Loss)</b>				<b>(\$124,462)</b>				<b>\$4,680,590</b>					<b>(\$689,623)</b>

**Note 1 - The budget for 2018-2019 excludes the amount of any officer expense carryovers.**

**State Bar of Georgia**  
**Summary of Dues and Voluntary Contributions**  
**At January 31**

Total Number of Members at  
 Apr 30 of prev Bar year (active and inactive) 47,029 47,442 46,659

	<b>2018-19</b> Dues Season May 2018 - April 2019	<b>2017-18</b> Dues Season April 2017 - March 2018	<b>2016-17</b> Dues Season May 2016 - March 2017
<b>Dues</b>			
Active - Number Paid	36,762	39,244	38,614
Inactive - Number Paid	<u>8,135</u>	<u>8,839</u>	<u>8,780</u>
Total Number Paid	<u>44,897</u>	<u>48,083</u>	<u>47,394</u>
Percent Paid	<u>95.47%</u>	<u>101.35%</u>	<u>101.58%</u>
Total Amount Paid - Active and Inactive	<u>10,139,803</u>	<u>10,830,135</u>	<u>10,572,825</u>

**Georgia Legal Services**

Number Paid	<u>3,189</u>	<u>2,743</u>	<u>2,412</u>
Percent of Total Members Paid	<u>7.10%</u>	<u>5.70%</u>	<u>5.09%</u>
Amount Paid	<u>295,192</u>	<u>312,251</u>	<u>276,487</u>
Average Amount Paid	<u>\$ 93</u>	<u>\$ 114</u>	<u>\$ 115</u>

**Legislative**

Number Paid	<u>5,338</u>	<u>5,811</u>	<u>5,948</u>
Percent of Total Members Paid	<u>11.89%</u>	<u>12.09%</u>	<u>12.55%</u>
Amount Paid	<u>494,856</u>	<u>546,905</u>	<u>557,991</u>
Average Amount Paid	<u>\$ 93</u>	<u>\$ 94</u>	<u>\$ 94</u>

**Original Projected 2018-19 Dues Year Totals**

<b>Georgia Legal Services</b>	<u>\$ 320,000</u>
<b>Legislative</b>	<u>\$ 550,000</u>

**Contribution Amounts by Dues Year**

	<b>GLSP</b>	<b>Legislative</b>
2018 - 2019	<u>\$ 295,192</u>	<u>\$ 494,856</u>
2017 - 2018	<u>\$ 312,251</u>	<u>\$ 546,905</u>
2016 - 2017	<u>\$ 276,487</u>	<u>\$ 557,991</u>
2015 - 2016	<u>\$ 264,492</u>	<u>\$ 565,004</u>
2014 - 2015	<u>\$ 255,713</u>	<u>\$ 640,505</u>
2013 - 2014	<u>\$ 241,362</u>	<u>\$ 691,736</u>
2012 - 2013	<u>\$ 244,707</u>	<u>\$ 685,283</u>
2011 - 2012	<u>\$ 240,678</u>	<u>\$ 656,254</u>
2010 - 2011	<u>\$ 241,772</u>	<u>\$ 657,526</u>
2009 - 2010	<u>\$ 235,276</u>	<u>\$ 650,806</u>
2008 - 2009	<u>\$ 249,480</u>	<u>\$ 660,570</u>
2007 - 2008	<u>\$ 264,255</u>	<u>\$ 1,235,022</u>
2006 - 2007	<u>\$ 295,646</u>	<u>\$ 802,482</u> \$100 Contribution
2005 - 2006	<u>\$ 751,762</u>	<u>\$ 159,480</u> \$25 Contribution
2004 - 2005	<u>\$ 170,210</u>	<u>\$ 273,613</u> \$20 Contribution

February 28, 2019  
State Bar of Georgia  
Income Statement YTD - Operations  
For the Seven Months Ending January 31, 2019

	YTD Actual	Annual Budget	Ytd % of Bud	Last Year
<b>Revenues</b>				
Dues - Active	\$ 9,868,189	\$ 9,917,000	99.51	9,718,563
Dues - Inactive	1,134,774	1,140,300	99.52	1,128,875
Dues - Misc. Types	1,400	3,712	37.72	1,300
Dues - Late Fees	176,098	247,000	71.29	255,829
<b>Total Dues &amp; Licenses</b>	<b>11,180,461</b>	<b>11,308,012</b>	<b>98.87</b>	<b>11,104,567</b>
Section Expense Reimb.	191,196	161,018	118.74	196,015
CSF Expense Reimb.	42,583	73,000	58.33	73,000
Advertising and Sales	13,693	82,700	16.56	100,301
Membership Income	46,913	74,000	63.40	78,303
Pro Hac Vice	236,726	275,000	86.08	348,700
Pro Hac Vice Contra	(199,676)	(230,000)	86.82	(280,400)
Savannah Misc Income	1,050	0	0.00	700
Interest Income	60,194	225,000	26.75	65,474
Miscellaneous Revenues	3,098	2,000	154.90	2,504
<b>Total Revenues</b>	<b>11,576,238</b>	<b>11,970,730</b>	<b>96.70</b>	<b>11,689,164</b>
<b>Expenses</b>				
Administration	1,367,334	2,458,400	55.62	2,277,279
Management Info Systems	387,695	706,303	54.89	544,636
General Counsel	2,068,550	3,871,271	53.43	3,487,780
Consumer Assistance Pgm.	336,645	589,012	57.15	549,638
Communications	442,653	896,664	49.37	805,698
Lawyer's Assistance Program	31,553	62,500	50.48	56,832
Fee Arbitration	306,860	576,621	53.22	504,993
Law Practice Management	246,258	465,034	52.95	429,308
Sections	114,077	191,196	59.66	179,043
Savannah Office	144,819	263,198	55.02	238,590
Tifton Office	105,211	187,052	56.25	173,369
Young Lawyers	292,268	534,296	54.70	502,477
Unauthorized Practice of Law	478,500	836,628	57.19	790,020
Law Related Education	215,475	381,878	56.43	347,026
High School Mock Trial	85,127	129,653	65.66	127,570
MLAP	68,457	117,733	58.15	3,762
Pro Bono	123,793	212,216	58.33	212,216
Fastcase	228,521	238,000	96.02	216,418
Officers' Expenses	85,677	204,709	41.85	56,633
BASICS Program Contribution	150,000	150,000	100.00	140,000
Resource Center Contribution	110,332	110,332	100.00	110,332
Military/Vets Pro Bono	0	0	0.00	103,254
Other Expenses	189,642	1,063,401	17.83	1,249,760
<b>Total Expenses</b>	<b>7,579,447</b>	<b>14,246,097</b>	<b>53.20</b>	<b>13,106,634</b>
<b>Net Income</b>	<b>\$ 3,996,791</b>	<b>(\$ 2,275,367)</b>	<b>(175.65)</b>	<b>(1,417,470)</b>

3/1/2019

**State Bar of Georgia - Bar Center  
Revenues and Expenditures - Executive Summary  
For the Seven Months Ended January 31, 2019**

Activity	Actual 2017-18		YTD 2018-19		Budget 2018-19
	Actual	% Budget	Actual	% Budget	
<b>Income and Cash Receipts</b>					
BC-CCLC Contribution	\$ 1,310,643	37.7%	\$500,000	37.7%	\$1,325,000
BC-Interest Income	\$21,196	20.1%	\$20,147	20.1%	\$100,000
BC-Member Assessment	\$289,900	86.6%	\$195,973	86.6%	\$226,250
BC-Operating Budget Transfer	\$616,188	58.3%	\$366,632	58.3%	\$628,512
BC-Misc Income	\$1,087	46.3%	\$463	46.3%	\$1,000
CONF-Room Rentals and Various Charges	\$20,297	37.4%	\$9,727	37.4%	\$26,000
C & W-Rental Income	\$1,331,358	59.0%	\$793,590	59.0%	\$1,345,632
LANIER-Parking Revenues	\$353,123	58.0%	\$215,390	58.0%	\$371,142
<b>Total Income and Cash Receipts</b>	<b>\$3,943,792</b>	<b>52.2%</b>	<b>\$2,101,922</b>	<b>52.2%</b>	<b>\$4,023,536</b>
<b>Expenses and Cash Disbursements</b>					
BC-Building Rehabilitation	\$268,496	5.3%	\$5,330	5.3%	\$100,000
BC-Conferece Floor Renovations	\$0	97.8%	\$18,590	97.8%	\$19,000
BC-Tenant Improvements	\$59,486	#DIV/0!	\$0	#DIV/0!	\$0
BC-Furniture and Equipment	\$107,654	75.0%	\$53,627	75.0%	\$71,500
BC-Architect and Design	\$0	0.0%	\$0	0.0%	\$0
BC-Loss on Disposal/Retirement	\$14,758	0.0%	\$0	0.0%	\$0
BC-Parking Deck Construction/Due Diligence	\$13,350	0.0%	\$0	0.0%	\$20,000
BC-Subbasement Buildout	\$1,900	0.0%	\$0	0.0%	\$0
BC-Median and Landscaping	\$0	#DIV/0!	\$0	#DIV/0!	\$0
BC-Woodrow Wilson Exhibit and Law Museum	\$0	0.0%	\$0	0.0%	\$2,500
BC-President's Conference Room	\$0	0.0%	\$0	0.0%	\$5,000
BC-Law Related Education	\$10,048	#DIV/0!	\$0	#DIV/0!	\$0
BC-Third Floor Contingency	\$37,190	0.0%	\$0	0.0%	\$0
BC-2nd Floor Buildout	\$414,262	56.3%	\$259,227	56.3%	\$460,513
CONF-Conference Center Operating Expenses	\$1,429,681	56.1%	\$898,655	56.1%	\$1,603,196
C & W-Building Operating Expenses	\$293,959	57.8%	\$182,694	57.8%	\$315,889
LANIER-Parking Deck Operating Expenses	\$2,650,784	54.6%	\$1,418,123	54.6%	\$2,597,598
<b>Total Expenses and Cash Disbursements</b>	<b>\$12,933,008</b>	<b>54.6%</b>	<b>\$6,833,799</b>	<b>54.6%</b>	<b>\$12,425,938</b>
<b>Net Cash Flow</b>	<b>\$1,293,008</b>		<b>\$683,799</b>		<b>\$1,425,938</b>
BC - Bar Center					
CONF - Conference Center					
C & W - Cushman & Wakefield					



State Bar of Georgia  
Investment Performance Comparison  
2005-2019

	Yields				Period End Balances									
	All MMKT	Georgia Bank CD's	BOA/MIL Inv Port	SunTrust Inv Port	Blended Yield	All Cash/MMKT**	Georgia Bank CD's	Fidelity MMKT	BOA/MIL MMKT*	Synovus MMKT	ServisFirst MMKT	SunTrust Cash/MMKT	Total Book Investments	Total Cash and Investments**
January 2018	0.49%	0.00%	0.00%	N/A	0.49%	26,368,387	-	9	7,413,355	10,978,328	2,301,406	5,675,289	-	26,368,387
February 2018	0.48%	0.00%	0.00%	N/A	0.48%	24,692,195	-	9	6,263,528	10,583,337	2,303,172	5,542,149	-	24,692,195
March 2018	0.52%	0.00%	0.00%	N/A	0.52%	22,885,305	-	9	6,547,765	9,492,436	2,305,129	4,539,866	-	22,885,305
Averages, 1Q18	0.50%	0.00%	0.00%	N/A	0.50%	24,648,629	-	9	6,741,549	10,351,367	2,303,235	5,252,468	-	24,648,629
April 2018	0.46%	0.00%	0.00%	N/A	0.46%	26,302,905	-	9	6,755,535	9,500,630	2,307,024	7,739,706	-	26,302,905
May 2018	0.45%	0.00%	0.00%	N/A	0.45%	26,469,946	-	9	6,360,902	9,509,106	2,308,984	8,290,945	-	26,469,946
June 2018	0.41%	0.00%	0.00%	N/A	0.41%	31,455,446	-	9	5,831,331	9,517,315	2,310,893	13,695,908	-	31,455,446
Averages, 2Q18	0.44%	0.00%	0.00%	N/A	0.44%	28,076,099	-	9	6,349,256	9,509,017	2,308,964	9,908,853	-	28,076,099
July 2018	0.53%	0.00%	0.00%	N/A	0.53%	32,473,042	-	9	6,214,484	9,525,805	2,312,846	14,419,888	-	32,473,042
August 2018	0.57%	0.00%	0.00%	N/A	0.57%	32,448,709	-	-	6,112,832	9,525,805	2,312,846	14,437,236	-	32,448,709
September 2018	0.85%	0.00%	0.00%	N/A	0.85%	28,921,917	-	-	4,233,728	9,534,364	2,314,812	13,370,191	-	28,921,917
Averages, 3Q18	0.65%	0.00%	0.00%	N/A	0.65%	31,281,223	-	3	5,520,348	9,528,658	2,313,502	14,095,772	-	31,281,223
October 2018	0.75%	0.00%	0.00%	N/A	0.75%	31,284,842	-	-	6,051,811	9,546,125	2,316,715	13,370,191	-	31,284,842
November 2018	0.79%	0.00%	0.00%	N/A	0.79%	29,563,047	-	-	6,093,045	9,570,082	2,320,590	11,579,330	-	29,563,047
December 2018	0.81%	0.00%	0.00%	N/A	0.81%	28,731,610	-	-	6,078,069	9,582,281	2,322,562	10,748,698	-	28,731,610
Averages, 4Q18	0.79%	0.00%	0.00%	N/A	0.79%	29,859,933	-	-	6,074,309	9,566,163	2,319,955	11,899,406	-	29,859,933
Averages, 2018	0.60%	0.00%	0.00%	N/A	0.60%	28,466,446	-	-	6,171,366	9,738,801	2,311,414	10,289,125	-	28,466,446
January 2019	0.85%	0.00%	0.00%	N/A	0.85%	27,796,514	-	-	6,006,464	9,584,494	2,333,038	9,862,518	-	27,796,514

\* Includes CCLC  
\*\* Includes CCLC, Client Security Fund and Bar Center Operating Accts

**State Bar of Georgia**  
**Cornerstones of Freedom Fund**  
**Activity Report**  
**Fiscal Year Through January 31, 2019**

<b>7/1/18 Beginning Balance</b>	<b><u>\$ 600,000</u></b>
Interest Income on Fund	1,302
Expenditures:	
Writing Services	24,591
Virtual Law Museum	50,000
Media Monitoring	661
Access to Justice Campaign	-
iCivics	1,000
Schoolgroup Travel-LRE	9,629
Media Campaign--Need Lawyers	262,981
Wellness Program and Website	-
Miscellaneous	-
<b>Total Expenditures</b>	<b><u>348,862</u></b>
<b>Net Balance 1/31/19</b>	<b><u><u>\$ 252,440</u></u></b>
<b>Replenishment</b>	
<b>Needed From Surplus</b>	<b><u><u>\$ 347,560</u></u></b>
<b>At June 30, 2019</b>	

**State Bar of Georgia**  
**Legislative Fund**  
**Activity Report**  
**Fiscal Year Through January 31, 2019**

<b>7/1/18 Beginning Balance</b>	<b><u>\$ 1,257,657</u></b>
Interest Income on Fund	5,545
Contributions	543,435
Expenditures:	
Staff and Contract Lobbyists	241,297
Legislative Committee Expense	1,030
Grassroots Efforts	4,791
Travel	2,449
Legislative Guests/Meetings	-
Shared Office Allocation	9,823
Computer Hardware	-
Miscellaneous	640
<b>Total Expenditures</b>	<b><u>260,030</u></b>
<b>Net Fund Balance 1/31/19</b>	<b><u><u>\$ 1,546,607</u></u></b>

## 2018-2019 State Bar Budget Timetable (for the 2019-2020 State Bar Budget)

- Week of Dec. 3, 2018** Budget Timetable and the Budget Request Forms are sent to President-elect, YLD President-elect, Committee/Program Chairs and Bar staff directors.
- Fri. – Jan. 4, 2019** **Deadline** for submission of all new budget requests to be submitted to Executive Director, Chief Operating Officer or Chief Financial Officer. **Non-emergency requests received after this date will be held for consideration in the 2019-2020 budget cycle.**
- Thrs. – Jan. 17, 2019 **Programs Committee** reviews any new budget requests from existing State Bar programs and any requests for new programs. Proponents are requested to appear to orally present and justify their requests. Meeting time: 10:00 am.
- Thrs. – Jan. 17, 2019 **Personnel Committee** reviews any new staffing and compensation change requests. Proponents requested to appear to orally present and justify their requests. Meeting time: 12:30 pm.
- Wed. - Feb. 6, 2019 **Finance Committee** reviews the recommendations of the Programs and Personnel Committees (the review is limited to their financial impact on dues and budget) and recommends the 2019-2020 dues level to the Executive Committee for the February 20 Executive Committee meeting. Proponents, having already been heard, do not attend. (Note: [EC agenda deadline Feb. 11](#)). Meeting time – 11:00 am.

*(Dates below are determined by the Exec. Comm. meeting schedule and subject to change)*

- Wed. - Feb. 20, 2019 **Executive Committee** receives the recommendations of the Programs and Personnel Committees, and the Finance Committee's draft budget (including its report on the financial impact of those recommendations) and recommends the 2019-2020 dues level to the Board of Governors for the March 31 Board meeting. (Note: [Board agenda deadline is March 6](#))
- Sat. – March 30, 2019 **Board of Governors** sets the 2019-2020 dues level at the Spring Board Meeting (Ritz Carlton Lake Oconee-Greensboro).
- April 17, 2019 **Finance Committee** recommends the 2019-2020 proposed budget to the Executive Committee for the May 3 Executive Committee meeting. (Note: [EC agenda deadline is April 23](#).)
- Fri. - May 3, 2019 **Executive Committee** recommends the 2019-2020 proposed budget to the Board of Governors for the June 8 Board meeting. (Note: [Board agenda deadline is May 15](#))
- Sat. - June 8, 2019 **Board of Governors** receives 2019-2020 final draft budget for approval at the Annual Board Meeting (Orlando, FL).

### Overview of the Budget Process:

1. Programs Committee recommends **substantial program changes** (additions, changes, or deletions) to the Executive Committee.
2. Personnel Committee recommends staffing for **existing programs** to the Executive Committee.
3. Finance Committee recommends a draft budget to the Executive Committee, including the financial impact of the recommendations of the Programs and Personnel Committees. It does not hear from proponents or repeat the work of the Programs and Personnel Committees, but instead advises on the financial results of their work.
4. Executive Committee reviews the recommendations of all three committees and suggests dues level and budget to the Board of Governors.
5. Board of Governors sets the dues level, check-offs, and section fees at its Spring Meeting, and sets the 2019-2020 budget at its Annual Meeting after a hearing open to all members.

Institute of Continuing Legal Education  
Statement of Financial Position  
December 31, 2018

	December 31, 2018
Assets	
Current Assets:	
Cash-Money Market	\$ 1,235,138
Cash-Checking	804,123
Prepaid Deposits and Other	126,797
Investments at Synovus (Note 1)	2,178,608
Total Current Assets	4,344,666
Property and Equipment:	
Furniture and Equipment	208,282
Accumulated Depreciation	(85,448)
Total Property and Equipment	122,834
Total Assets	\$ 4,467,500
Liabilities and Net Assets	
Current Liabilities:	
Accounts Payable	\$ 401,973
Accrued Payroll and Payroll Taxes	67,868
Deferred Revenue	166,312
Total Liabilities	636,153
Net Assets:	
Undesignated Fund Balance	3,318,377
Board Designated Fund Balance	165,136
Reserve - Building & Equipment	225,000
Land, Buildings & Equipment	122,834
Total Net Assets	3,831,347
Total Liabilities and Net Assets	\$ 4,467,500

Institute of Continuing Legal Education  
Statement of Operating Revenues and Expenditures  
Six Months Ended December 31, 2018 with Budget Fiscal Year Ended June 30, 2019

	<u>December 31, 2018</u>	<u>Budget Fiscal Year Ended June 30, 2019</u>
Revenue	\$ 2,417,513	\$ 5,000,000
Program Expenditures	1,659,003	2,875,010
Margin	<u>758,510</u>	<u>2,124,990</u>
Recurring Expenses:		
Payroll, Payroll Taxes and Benefits	714,444	1,546,206
Software, Hardware and Communications	56,567	133,715
Credit Card and Bank Fees	60,643	160,000
Professional Fees	-	25,000
Office Supplies, Freight and General	15,772	17,000
Seminars, Training, and Meetings	9,416	38,700
Equipment and Furniture Maintenance	1,792	10,200
Business Insurance	13,533	25,000
Shared Office Expense	151,551	303,103
Total Recurring Expenses	<u>1,023,718</u>	<u>2,258,924</u>
	(265,208)	
Depreciation	(24,642)	
Investment Income (Loss)	38,881	
Net Income (Loss)	<u>\$ (250,969)</u>	<u>\$ (133,934)</u>

Institute of Continuing Legal Education  
Notes to Statement of Financial Position  
December 31, 2018

Note 1:

Investments at Synovus are as follows:

	December 31, 2018
Cost	\$ 2,177,129
Mark to Market	1,479
Market Value	<u>\$ 2,178,608</u>

**Draft  
Minutes  
Finance Committee Meeting  
February 6, 2019  
State Bar Building  
Atlanta, Georgia**

Members Present

Nancy J. Whaley (Chair), Dennis C. Sanders (Vice Chair), Elizabeth Fite (Ex Officio), Donna Barwick, Ivy Cadle, Lyonnnette M. Davis, Patricia A. Gorham, Amy V. Howell, Dawn M. Jones, Shondeana G. Morris, Elise B. Myers and Martin E. Valbuena attended in person. William T. Davis (Ex Officio), Darrell L. Sutton (Ex Officio), Joseph W. Dent, Damon E. Elmore, Elena Kaplan, Jonathan B. Pannell and Daniel B. Snipes attended via telephone.

Staff Present

Jeff Davis, Executive Director; Paula Frederick, General Counsel; Sharon Bryant, Chief Operating Officer; and Ron Turner, Chief Financial Officer, were present from the State Bar staff.

Welcome

Chairperson Nancy J. Whaley welcomed the Finance Committee members to their first meeting of the Bar year and each person introduced themselves. Chairperson Whaley gave an overview of the Committee, the purpose of this meeting (dues determination in particular), and the Bar's financial history. In addition, Ms. Whaley discussed the need for a meeting in March 2019 to discuss an update on various matters. The matters to be discussed will include reserves, Client Security Fund, budget for ICLE, transfer of rent from Bar to Bar Center, Cornerstones of Freedom and the Information Technology Department.

Program Committee Minutes

Mr. Sutton reviewed the outcome of the January 17, 2019 Programs Committee meeting. The Programs Committee recommendations were to:

- (1) Fund the iCivics Committee's \$12,000 request for the 2019-2020 Bar year and all future years until either the iCivics committee requests additional funding or substantially changes its scope and purpose.
- (2) Fund \$40,000 for the Judicial Council Access to Justice Committee's Justice for All Strategic Plan for the 2019-2020 Bar year, matching last year's funding request. The Program Committee expressed concerns about using mandatory Bar dues to pay the salary of someone employed by an outside agency, especially when funding can be obtained from other sources such as the Judicial Council lobbying for state funds, the Council of Superior Court Judges, and law library funds.
- (3) Fund \$10,000 for the Pro Bono Project/Access to Justice Committee request for the 2019-2020 Bar year.



**Draft**  
**Finance Committee Meeting**  
**February 6, 2019 Meeting Minutes**  
**Page Two**

Personnel Committee Recommendations

Mr. Sutton reviewed the recommendations of the Personnel Committee, which met on January 17, 2019.

The recommendations were:

- (1) Equity adjustments (above the cost of living and discretionary merit increases) for four positions with a total impact of \$24,291.
- (2) Cost of living increase of 2.2% according to the annual formula.
- (3) Discretionary merit increase of 0.8%.

Approximately \$186,000 maximum impact for items (2) and (3) above.

State Bar of Georgia November 30, 2018 Financial Statements and Financial Reporting Package

Ron Turner reviewed the November 30, 2018 financial package including the Bar's Combined Revenues and Expenditures Statement, Summary of Dues and Voluntary Contributions, Cornerstones of Freedom Report, Legislative Fund and Investment Performance all as of November 30, 2018.

Audit Timetables

Mr. Turner discussed the audit timetable associated with the June 30, 2018 audit along with the anticipated start date of the June 30, 2019 audit to be in the fall of 2019. Mauldin and Jenkins were the auditors for June 30, 2018 and will continue to be the auditors for 2019.

Dues History and Background

Chairperson Whaley and Mr. Turner also reviewed the history of Bar dues and the concept of indexing. Indexing is the practice of increasing dues to fund new programs.

Budget Timetable

Chairperson Whaley discussed the 2019-2020 Bar Operating Budget timetable. The timetable necessitated a dues recommendation by the Finance Committee to the Executive Committee for their February 20, 2019 meeting and a budget recommendation to the Executive Committee for their May 3, 2019 meeting.

Dues Projections and Unfunded Programs

Mr. Turner reviewed a summary of recent non-assessed programs and their effect on the per-member cost that has not been funded by member dues.

2019-2020 Combined, Operating and Bar Center Budgets

Mr. Turner reviewed the budget assumptions used for the 2019-2020 State Bar Operating Budget and Bar Center Budget. The budget will be amended for review and proposed for Committee approval at the April 2019 Finance Committee meeting.

**Draft**  
**Finance Committee Meeting**  
**February 6, 2019 Meeting Minutes**  
**Page Three**

2019-2020 Dues Recommendation

The Committee discussed the 2019-2020 State Bar of Georgia member dues recommendation, in light of the Bar's current financial status, the recommendations of the Programs Committee and the recommendations of the Personnel Committee.

The dues motion was made and unanimously approved as follows: Finance Committee recommends to the Executive Committee that active member dues shall increase by \$2 to \$254 and inactive member dues shall increase by \$1 to \$127 for 2019-2020.

Status of Investment Manager Discussions

Mr. Turner provided the current status of the discussions with the investment manager in that they are drafting an investment policy for review by the Investment Committee. Such draft investment policy will be presented at the next Investment Committee meeting which is currently anticipated to be March 5, 2019.

Next Meeting Dates

The Committee agreed to meet again on Tuesday, March 12, 2019 at 11:00 AM to further discuss reserves, Client Security Fund, budget for ICLE, transfer of rent from Bar to Bar Center, Cornerstones of Freedom and the Information Technology Department.

In addition, the Committee agreed to meet again on Wednesday, April 17, 2019 at 11:00 AM to review the State Bar Operating Budget and Bar Center Budget.

Adjournment

There being no further business, the meeting was adjourned.

**State Bar of Georgia  
Dues and Revenue History**

<b>Dues History:</b>		<b>Year End 6-30</b>	<b>Active &amp; Inactive Members</b>
\$75	8 Years	1976-1983	6/30/83 = 15,000
\$90	4 Years	1984-1987	6/30/87 = 19,425
\$110	2 Years	1988-1989	6/30/89 = 20,193
\$135	6 Years	1990-1995	6/30/95 = 26,320
\$150	5 years	1996-2000	6/30/00 = 30,694
\$175	3 years	2001-2003	6/30/03 = 33,706
\$190	1 year	2004	6/30/04 = 34,717
\$208	1 year	2005	6/30/05 = 35,704
\$218	1 year	2006	6/30/06 = 36,694
\$230	2 years	2008	6/30/08 = 38,852
\$236**	3 years	2009-2011	6/30/11 = 42,334
\$238	1 year	2011-2012	6/30/12 = 42,957
\$240	1 year	2012-2013	6/30/13 = 44,184
\$246***	1 year	2013-2014	6/30/14 = 45,143
\$248	3 years	2014-2017	6/30/17 = 47,967
\$250	1 year	2017-2018	6/30/18 = 48,046
\$252	1 year	2018-2019	Budgeted 6/30/19 = 49,108

**History of Dues Cap**

The first cap was set at \$150 by Supreme Court Order, dated January 25, 1983. Prior to then, every dues change had to be done by a separate Supreme Court Order. The cap was raised to \$250 by Supreme Court Order, dated September 14, 1995. The cap was raised again to \$350 by Supreme Court Order, dated January 7, 2009.

\*\*One time dues credit of \$20 per active member (\$10 inactive) approved by Board of Governors, reducing net active dues to \$216 (\$108 inactive) for 2008-09 only.  
 \*\*\*One time dues credit of \$2 per active member (\$1 inactive) approved by Board of Governors, reducing net active dues to \$244 (\$122 inactive) for 2013-14 only.

**State Bar of Georgia  
Dues and Revenue History**

Year	Total Revenue	\$ Increase	% Increase	Dues Rate	History of Dues Indexing and Program Accountability *		Annual Surplus (Deficit)	
					Dues Indexing			Total Expenditures
					%	\$		
1992-93	\$3,334,777	\$115,329	3.6%	\$135			\$ 5,198,542	\$ (7,079)
1993-94	\$3,571,459	\$236,682	7.1%	\$135			\$ 5,279,323	\$ 803,857
1994-95	\$3,889,932	\$318,473	8.9%	\$135			\$ 5,567,740	\$ 503,790
1995-96	\$4,354,349	\$464,417	11.9%	\$150			\$ 5,837,776	\$ 564,149
1996-97	\$4,593,984	\$239,635	5.5%	\$150			\$ 6,193,333	\$ 1,248,305
1997-98	\$4,891,840	\$297,856	6.5%	\$150			\$ 7,441,085	\$ 988,231
1998-99	\$5,007,430	\$115,590	2.4%	\$150			\$ 7,910,506	\$ 1,291,785
1999-00	\$5,191,463	\$184,033	3.7%	\$150			\$ 8,299,389	\$ 1,330,946
2000-01	\$6,083,180	\$891,717	17.2%	\$175			\$ 10,496,996	\$ (1,279,832)
2001-02	\$6,071,530	\$ (11,650)	-0.2%	\$175			\$ 9,623,930	\$ 282,355
2002-03	\$6,172,176	\$100,646	1.7%	\$175			\$ 9,916,253	\$ (50,549)
2003-04	\$6,757,482	\$585,306	9.5%	\$190			\$ 10,402,265	\$ (369,718)
2004-05	\$7,958,621	\$1,201,139	17.8%	\$208			\$ 10,824,527	\$ (444,064)
2005-06	\$8,429,316	\$470,695	5.9%	\$218			\$ 11,564,635	\$ (736,023)
2006-07	\$9,202,291	\$772,975	9.2%	\$230			\$ 12,284,888	\$ (1,223,813)
2007-08	\$9,630,335	\$428,044	4.7%	\$230			\$ 12,346,511	\$ (1,234,087)
2008-09**	\$9,217,164	\$ (413,171)	-4.3%	\$236			\$ 12,393,776	\$ (1,033,230)
2009-10	\$9,906,285	\$689,121	7.5%	\$236			\$ 13,106,634	\$ (1,417,470)
2010-11	\$9,865,704	\$ (40,581)	-0.4%	\$236			\$ 14,116,469	\$ (2,115,561)
2011-12	\$10,042,547	\$176,843	1.8%	\$238			\$ 12,284,888	\$ (1,223,813)
2012-13	\$10,380,463	\$337,916	3.4%	\$240			\$ 12,346,511	\$ (1,234,087)
2013-14	\$10,828,612	\$448,149	4.3%	\$246			\$ 12,393,776	\$ (1,033,230)
2014-15	\$11,061,075	\$232,463	2.2%	\$248			\$ 13,106,634	\$ (1,417,470)
2015-16	\$11,112,424	\$51,349	0.5%	\$248			\$ 14,116,469	\$ (2,115,561)
2016-17	\$11,360,546	\$248,122	2.3%	\$248			\$ 12,284,888	\$ (1,223,813)
2017-18	\$11,689,164	\$328,618	2.9%	\$250			\$ 12,346,511	\$ (1,234,087)
2018-19 (budgeted)	\$12,000,908	\$311,744	2.7%	\$252			\$ 12,393,776	\$ (1,033,230)

\* Dues changed from cycle (large increases every few years) to indexing (small increases more frequently) with mandatory new program approval by Board of Governors on April 5, 2003.

\*\*One time dues credit of \$20 per active member (\$10 inactive) approved by Board of Governors, reducing net active dues to \$216 (\$108 inactive) for 2008-09 only.

\*\*\*Unrestricted and board designated reserves. Does not include restricted funds, such as CCLC, Client Security Fund, Legislative Fund, Sections, and Bar Center.

# One time dues credit of \$2 per active member (\$1 inactive) approved by Board of Governors, reducing net active dues to \$244 (\$122 inactive) for 2013-14 only.



# State Bar of Georgia

**BAR NUMBER:**  
**STATUS:**

# 2019-2020 LICENSE FEE AND ASSESSMENTS NOTICE DUE JULY 1, 2019

**PAY ONLINE AT WWW.GABAR.ORG**  
Or mail to P.O. Box 102054, Atlanta, GA 30368-2054  
TAX ID NUMBER: 58-0939623

**QUESTIONS?**  
PHONE: 404-527-8777 or 800-334-6865  
EMAIL: membership@gabar.org  
WEB: www.gabar.org

**SEE MANDATORY ASSESSMENTS/  
FEES AND OTHER IMPORTANT  
RULES ON THE REVERSE SIDE.**

## SUMMARY

**A. \$ \_\_\_\_ (+) Your Amount Includes:**  
*License Fee: Active or Inactive*  
Mandatory Clients' Security Fund Assessment of  
Mandatory Bar Facility Assessment of  
Mandatory Professionalism Fee of (Active only)

**B. \$ 100 (+) Optional Legislative & Public Education Fund  
Contribution**  
 *Not funded by Bar license fees, this voluntary  
contribution is the only support the program receives to  
help ensure that the profession is well represented in  
supporting or opposing issues relating to the practice of  
law. The voluntary contribution included on Line B may  
be deducted below on Line C.*

**C. \$ \_\_\_\_ (-) Deduct Legislative & Public Education Fund Contribution**

**D. \$ \_\_\_\_ (+) Section Dues**

**E. \$ \_\_\_\_ (+) Georgia Legal Services Program Contribution**  
 *GLSP is a nonprofit law firm that provides civil legal  
services for low income persons, creating equal access  
to justice and opportunities out of poverty. Suggested  
contributions are \$300 per year; \$100 for younger lawyers.  
Or, pledge \$ \_\_\_\_ to be fulfilled later. Thank you!*

**F. \$ \_\_\_\_ (+) Late Fee (After 8/1)**

**\$ \_\_\_\_ TOTAL PAYMENT**



## PAYMENT SCHEDULE

**JUL 1** Fees due for 2019-20 Bar year (July 1, 2019,  
through June 30, 2020)

**AUG 1** \$75 late fee if USPS postmark is after 11:59  
p.m. (EDT) on August 1

**SEPT 1** Ineligible to practice

**JAN 1** \$175 late fee if USPS postmark is after 11:59  
p.m. (EST) on January 1



## CREDIT CARD PAYMENTS

The State Bar of Georgia is unable to accept faxed or emailed  
license fee notices for credit card charges. Credit card payments  
using Visa, Mastercard and American Express can be made at  
www.gabar.org or by completing the section below.

\_\_\_\_\_  
CREDIT CARD NUMBER

\_\_\_\_\_  
EXPIRATION DATE

\_\_\_\_\_  
AMOUNT AUTHORIZED TO CHARGE (REQUIRED)

## SECTION DUES (C)

Section memberships from last year are marked with an "X". Please  
check all desired sections for this year and place the total on Line C in  
the summary. For section descriptions go to www.gabar.org.

___ \$25 Administrative (02)	___ \$35 Fiduciary (10)
___ \$20 Agriculture (31)	___ \$20 Franchise & Distribution (50)
___ \$20 Animal (51)	___ \$40 General Practice & Trial (11)
___ \$20 Antitrust (03)	___ \$10 Government Attorneys (44)
___ \$15 Appellate Practice (42)	___ \$25 Health (36)
___ \$15 Aviation (04)	___ \$15 Immigration (46)
___ \$35 Bankruptcy (05)	___ \$15 Individual Rights (12)
___ \$20 Bike (59)	___ \$35 Intellectual Property (18)
___ \$20 Business (06)	___ \$25 International (14)
___ \$20 Child Protection & Advocacy (55)	___ \$20 Judicial (47)
___ \$25 Class Action (61)	___ \$20 Labor & Employment (15)
___ \$35 Constitutional Law (56)	___ \$25 Law & Economics (58)
___ \$25 Construction Law (60)	___ \$10 Legal Economics (26)
___ \$25 Consumer (48)	___ \$10 Local Government (16)
___ \$25 Corporate Counsel (28)	___ \$15 Military/Veterans (17)
___ \$20 Creditors' Rights (39)	___ \$25 Nonprofit (53)
___ \$20 Criminal (07)	___ \$25 Product Liability (33)
___ \$20 Dispute Resolution (38)	___ \$15 Professional Liability (54)
___ \$25 E-Discovery (57)	___ \$35 Real Property (19)
___ \$20 Elder (40)	___ \$15 School & College (30)
___ \$35 Eminent Domain (43)	___ \$10 Senior (41)
___ \$20 Employee Benefits (52)	___ \$20 Taxation (20)
___ \$25 Entertainment & Sports (25)	___ \$25 Privacy & Technology (27)
___ \$25 Environmental (08)	___ \$15 Tort & Insurance Practice (13)
___ \$20 Equine (49)	___ \$30 Workers' Compensation (21)
___ \$35 Family (09)	

## NOTICE OF DESIGNATED ATTORNEY

I hereby nominate the following State Bar of Georgia member(s) to assist  
with coordinating the return of client files and property in the event I  
become an "absent attorney" as defined under Rule 4-228(a) of the  
Georgia Rules of Professional Conduct. I have discussed this with the  
person(s) named below, and they are willing to be considered to serve in  
this capacity. (See insert for additional information.)

\_\_\_\_\_  
NAME

\_\_\_\_\_  
STATE BAR NUMBER

\_\_\_\_\_  
NAME

\_\_\_\_\_  
STATE BAR NUMBER



## YOUR LICENSE = MEMBER FEE BENEFITS

FIND OUT MORE AT [www.gabar.org](http://www.gabar.org).

» Free Parking at the Bar Center in Atlanta

» Free Legal Research with Fastcase

» Robust Bar website at [www.gabar.org](http://www.gabar.org):

- Change Your Address
- Check CLE Status
- Order Letters of Good Standing
- Search the Member Directory
- Pay Bar License Fees
- Online Vendor Directory

» Insurance Offerings

» Conference Center

» Resource Library

» Satellite Offices (Savannah and Tifton)

» Access to Multiple Bar Programs:

- Lawyer Assistance Program
- Law Practice Management Program
- Wellness Program



**MORE**

### RULE 1-202. CLASSES OF MEMBERS

Membership in the State Bar of Georgia shall consist of five classes: active, foreign law consultant, emeritus, disabled and inactive. The bylaws shall make provision for the registration of each active member and the location of his or her principal office for the practice of law, the registration of each foreign law consultant and the location of his or her principal office, and the registration of emeritus and inactive members and their mailing addresses. Only active members and emeritus members may vote on any State Bar matter or election or nominate an active member for office. Emeritus members can vote only in person or electronically.

(a) **Inactive Members.** All lawyers who are neither engaged in the practice of law nor holding themselves out as practicing attorneys nor occupying any public or private position in which they may be called upon to give legal advice or counsel, to examine the law or to pass upon the legal effect of any act, document, or law may be inactive members at their election. Members who are in military service may be inactive if they so elect.

(b) **Active Members.** Active members shall be all other lawyers including judges but excluding foreign law consultants. Only active members of the State Bar of Georgia in good standing may hold office in the State Bar of Georgia.

(c) **Foreign Law Consultants.** Foreign Law Consultants shall be those persons, who are licensed under the Rules Governing Admission to the Practice of Law as adopted by the Supreme Court of Georgia.

(d) **Emeritus Members.** Any member in good standing of the State Bar of Georgia who will attain the age of 70 years in a Bar year and who shall have been admitted to the practice of law for at least 25 years, five years of which must be as a member in good standing of the State Bar of Georgia, may request emeritus status from the State Bar upon petition to and approval by the Membership Department. When approved, the member shall hold emeritus status. An emeritus member of the State Bar shall not be required to pay dues or annual fees, and may not hold office in the State Bar of Georgia. An emeritus member of the State Bar of Georgia shall not be privileged to practice law except that an emeritus member may handle pro bono cases referred by either an organized pro bono program recognized by the Pro Bono Project of the State Bar of Georgia or a non-profit corporation that delivers legal services to the poor. An emeritus member may be reinstated to active or inactive membership upon application to the Membership Department and payment of non-prorated dues for the year in which the emeritus members return to active or inactive service.

(e) **Disabled Members.** Any member of the State Bar of Georgia may petition the Executive Committee for disabled status provided the member meets one of the following criteria:

- (1) the member has been determined to be permanently disabled by the Social Security Administration; or
- (2) the member is in the process of applying to the Social Security Administration for permanent disability status; or
- (3) the member has been determined to be permanently disabled or disabled for a period in excess of one year by an insurance company and is receiving payments pursuant to a disability insurance policy; or
- (4) the member has a signed statement from a medical doctor that the member is permanently disabled, or disabled for a period in excess of one year, and unable to practice law.

Upon the Executive Committee's grant of the member's petition for disability status, the disabled member shall be treated as an inactive member of the State Bar of Georgia and shall not be privileged to practice law. A member holding disabled status shall not be required to pay dues or annual fees. A disabled member shall continue in such status until the member requests reinstatement by written application to the Membership Department of the State Bar of Georgia.

### RULE 1-208. RESIGNATION FROM MEMBERSHIP

(a) Resignation while in good standing. A member of the State Bar of Georgia in good standing may, under oath, petition the Executive Committee for leave to resign from the State Bar of Georgia. Upon acceptance of such petition by the Executive Committee by majority vote, such person shall not practice law in this state nor be entitled to any privileges and benefits accorded to active members of the State Bar of Georgia in good standing unless such person complies with part (f) or part (g) of this Rule. See [www.gabar.org/rules](http://www.gabar.org/rules) for the complete Rule.

### RULE 1-506. CLIENTS' SECURITY FUND ASSESSMENT

- (a) The State Bar of Georgia is authorized to assess each member a fee of \$100. This \$100 fee may be paid in minimum annual installments of \$25 for a period of four years. Each new member of the State Bar of Georgia will also be assessed a similar amount upon admission to the State Bar of Georgia. This fee shall be used only to fund the Clients' Security Fund and shall be in addition to the annual license fee as provided in Rule 1-501 through Rule 1-502.
- (b) For a member who joins the State Bar of Georgia after taking the Georgia Bar Examination, the Clients' Security Fund Assessment shall be due and payable in \$25 installments on July 1 of each year, beginning with the second full fiscal year following the year of admission, until the balance of \$100 is paid. The failure of a member to pay the minimum annual installments shall subject the member to the same penalty provisions, including late fees and suspension of membership, as pertain to the failure to pay the annual license fee as set forth in Bar Rules 1-501 and 1-501.1. See [www.gabar.org/rules](http://www.gabar.org/rules) for the complete Rule.

### RULE 1-507. BAR FACILITY ASSESSMENT

- (a) The State Bar of Georgia is authorized to assess each member of the State Bar of Georgia a fee of \$200. This \$200 fee may be paid in minimum annual installments of \$50 for a period of four years. This fee shall be used to maintain and operate the State Bar offices and shall be in addition to the annual license fee as provided in Rule 1-501 through Rule 1-502 and the Clients' Security Fund Assessment as provided in Rule 1-506.
- (b) For a member who joins the State Bar of Georgia after taking the Georgia Bar Examination, the Bar Facility Assessment shall be due and payable in \$50 installments on July 1 of each year, beginning with the second full fiscal year following the year of admission, until the balance of \$200 is paid. The failure of a member to pay the minimum annual installments shall subject the member to the same penalty provisions, including late fees and suspension of membership, as pertain to the failure to pay the annual license fee as set forth in Bar Rules 1-501 and 1-501.1. See [www.gabar.org/rules](http://www.gabar.org/rules) for the complete Rule.

### PROFESSIONALISM FEE

The Chief Justice's Commission on Professionalism was created in 1989 by the Supreme Court of Georgia. Since 1998, a \$15 per hour professionalism fee has been charged. The Commission has determined that the Court-mandated surcharge shall be a \$15 per year fee for unlimited professionalism courses taken for CLE credit. The surcharge shall be assessed annually on the license fee notice for all active members.

### TRANSCRIPTS/BAR APPLICATIONS

Requests for copies of applications to practice law in Georgia and for transcripts from the Bar Exam should be addressed to the Office of Bar Admissions at 404-656-3490. Additional information can be obtained from their website at [www.gabaradmissions.org](http://www.gabaradmissions.org).

### NOTICE OF DEDUCTIBILITY

Pursuant to Sections 162(e) and 6033(e) of the Internal Revenue code, certain lobbying and political expenses are not deductible and information concerning their non-deductibility must be communicated by tax-exempt organizations to their members. In compliance with these requirements, the voluntary contribution to the Legislative & Public Education Fund is not tax deductible.

### APPLICABILITY OF RULES

See [www.gabar.org/rules](http://www.gabar.org/rules) for a complete set of all State Bar of Georgia Rules.

### NOTE

Disabled members needing printed materials in alternative format can call Membership at 404-527-8777 or 800-334-6865.

**STATE BAR OF GEORGIA  
EXECUTIVE COMMITTEE  
MINUTES**

**Thursday, December 6, 2018/12:00 p.m.  
State Bar Building/Atlanta, GA**

Members Participating:

Kenneth B. Hodges, III, President; Darrell L. Sutton, President-elect; Elizabeth Louise Fite; Secretary; Dawn M. Jones, Treasurer; Rizza O'Connor, YLD President; William T. Davis, YLD President-elect; Nicole C. Leet, YLD Immediate Past President (by phone); Sally B. Akins (by phone); Tony DelCampo; Amy V. Howell; David S. Lipscomb; Frank Strickland; and Nicki Vaughan.

Members Absent:

Buck Rogers, Immediate Past President.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Sarah Coole, Director of Communications; Jeff Davis, Executive Director; Paula Frederick, General Counsel; Christine Butcher Hayes, Director of Governmental Affairs; Bill NeSmith, Deputy General Counsel; and Ron Turner, Chief Financial Officer.

Call to Order

President Ken Hodges called the meeting to order at 12:05 p.m. Members of the Executive Committee in attendance are indicated above.

Future Meetings

President Ken Hodges reviewed the Future Meetings Schedule.

Executive Committee Minutes

By unanimous voice vote, the Executive Committee approved the November 7, 2018 meeting minutes, as revised, and the November 12, 2018 meeting minutes, as revised.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Executive Committee approved the following resignation requests by unanimous voice vote: Jenny Bounngaseng-142631, Thomas G. Cross-198415, Luis A. Aguilar-005725, Alexandra Cross-190065, Jenny Godwin-298850.

Members Requesting Disabled Status

Pursuant to State Bar Rule 1-202, the Executive Committee, by unanimous voice vote, approved one request for disabled status.

### Session Lobbyist Contracts for 2019 & Legislative Funding

Following a report by Governmental Affairs Director Christine Butcher Hayes, the Executive Committee, by majority voice vote, approved retaining the services of Mark Middleton/Mark M. Middleton, PC at a cost of \$40,000, and Roy B. Robinson, III/R.B. Robinson Company, LLC at a cost of \$48,000, as legislative consultants from January 1, 2019-April 30, 2019. The cost will be paid from the voluntary Legislative and Public Education Fund.

General Counsel Paula Frederick reported that the Supreme Court granted certiorari in *Fleck v. Ketch*, the North Dakota case involving use of dues by the mandatory bar. The Court remanded the case to the 8<sup>th</sup> U.S. Circuit Court of Appeals in light of the high court's ruling in *Janus v. AFSCME* (585 U.S. \_\_\_\_, 2018), a case involving use of mandatory union fees. After discussion the Executive Committee voted to change the Legislative and Public Education Fund contribution to an opt-in on the dues notice. The Executive Committee will discuss the issue again at the March Executive Committee meeting.

### CCLC Recommendation to Eliminate the Over Age 70 CLE Exemption

Deputy General Counsel Bill NeSmith reported that at the October meeting of the Commission on Continuing Lawyer Competency (CCLC), the Commission unanimously voted to eliminate the age 70 CLE exemption. David Lipscomb reported that he contacted CCLC Chair Damon Elmore to discuss the issue and prefers to table it until the Executive Committee receives more detailed information concerning the discussion by, and information presented to, the CCLC. Amy Howell reported that she also talked to Damon and agrees that more information is needed before a decision can be made by the Executive Committee. By majority voice vote, the Executive Committee tabled the issue so as to obtain more information on the matter.

### ICLE Transfer of Assets from State Bar Foundation to LLC

Following a report by Deputy General Counsel Bill NeSmith on the transfer of ICLE assets from the State Bar of Georgia Foundation to an LLC, the Executive Committee, by unanimous voice vote, approved the Asset Transfer Agreement (Exhibit A) documents.

### Member Benefits Committee Recommendations

President Ken Hodges reported that the Member Benefits Committee has recommended to the Executive Committee that it allow Members Benefits, Inc. to create a member-sponsored association health plan, and to allow Member Benefits, Inc. to be referred to as "the State Bar of Georgia Private Insurance Exchange." Executive Director Jeff Davis stated that his concern is the Bar needs to be clear that Member Benefits, Inc. is a Bar-endorsed insurance provider and is not a State Bar program. He further reported that we need to better co-brand the offerings of Member Benefits, Inc. No motion was taken on either request. Instead, the Executive Committee, by unanimous voice vote, asked that the Member Benefits Committee look at how Members Benefits, Inc. is co-branding its



products on its website and recommend changes that would make it more clear to Bar members that this is not a State Bar program, but a Bar-recommended insurance broker.

### Report on the Status of Indigent Defense Representation in the Misdemeanor Court of Georgia

Nicki Vaughan reported on the Indigent Defense Committee's Report of the Status of Indigent Defense Representation in the Misdemeanor Courts of Georgia that studied the status of legal representation for indigent persons in the misdemeanor courts. The committee found that many defendants are unrepresented in misdemeanor cases where the right to counsel is clear. The report outlines actions that can be taken to increase awareness of the value of and need for lawyers in misdemeanor cases. Some local jurisdictions already have the authority to put many of the recommendations in place, and some have already done so. The Executive Committee took no action on the recommendations, but supports the Indigent Defense Committee continuing its work in this area.

### Executive Session

Following a motion, second, and a hand vote of 7 in favor to 6 opposed, the Executive Committee went into Executive Session to discuss the proposed State Bar of Georgia Officer Reimbursement Policy. Thereafter, the Executive Committee, by unanimous voice vote, moved out of Executive Session.

By unanimous voice vote, with President-elect Darrell Sutton and Treasurer Dawn Jones abstaining, the Executive Committee approved the proposed State Bar of Georgia Officer Reimbursement Policy, as revised (Exhibit B). The Executive Committee also discussed that any remaining Officer account funds designated as roll-overs would end on December 31, and Officers will have up to 45 days in which to submit their receipts for 2018 expenses subject to reimbursement.

### ACL/Legislative & Elections Report

Director of Governmental Affairs Christine Butcher Hayes reported on the recent meeting of the Advisory Committee on Legislation.

### 2018-2019 State Bar Budget Timetable

The Executive Committee received a copy of the 2018-2019 Budget Timetable outlining the process for the preparation of the 2019-2020 State Bar budget.

### Board of Governors Minutes

The Executive Committee received a copy of the minutes of the Board of Governors meeting on November 2, 2018 and made one revision.

### July 2018 Georgia Bar Examination Results

The Executive Committee received a copy of the July 2018 Georgia Bar Examination

General Statistics Overall Summary.

Old Business

Deputy General Counsel Bill NeSmith reported that the Lawyer Assistance Program (LAP) Committee made two minor changes to the proposed LAP rules that did not change the substance of the revisions made previously by the Executive Committee. By unanimous voice vote, the Executive Committee approved the changes.

Treasurer Dawn Jones reported that in follow up with the need to look at Annual Meeting locations early on, she has a site visit planned to view Wild Dunes Resort on the Isle of Palms in South Carolina.

New Business

There was no old business.

Adjournment

There being no further business the meeting was adjourned at 3:30 p.m.

  
Elizabeth D. Fite, Secretary

Approved:  
  
Kenneth B. Hodges, III, President

**D-R-A-F-T**  
**STATE BAR OF GEORGIA**  
**EXECUTIVE COMMITTEE**  
**MINUTES**

**Wednesday, February 20, 2019/12:00 p.m.**  
**State Bar Building/Atlanta, GA**

Members Participating:

Kenneth B. Hodges, III, President; Darrell L. Sutton, President-elect; Dawn M. Jones, Treasurer; Elizabeth Louise Fite, Secretary; Buck Rogers, Immediate Past President (by phone); Rizza O'Connor, YLD President; William T. Davis, YLD President-elect; Nicole C. Leet, YLD Immediate Past President; Sally B. Akins; Tony DelCampo; Amy V. Howell; David S. Lipscomb; Frank Strickland; and Nicki Vaughan.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Sarah Coole, Director of Communications; Jeff Davis, Executive Director; Paula Frederick, General Counsel; Christine Butcher Hayes, Director of Governmental Affairs; Bill NeSmith, Deputy General Counsel; and Ron Turner, Chief Financial Officer.

Call to Order

President-elect Darrell Sutton, presiding pursuant to designation by President Ken Hodges, called the meeting to order at 12:14 p.m. Members of the Executive Committee in attendance are indicated above.

Future Meetings

President-elect Darrell Sutton reviewed the Future Meetings Schedule.

Executive Committee Minutes

By unanimous voice vote, the Executive Committee approved the minutes of the December 6, 2018 Executive Committee meeting.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Executive Committee approved the following resignation requests by unanimous voice vote: Jay Allen Boelter-088512, Carol Eller Kirby-243625, Ruth Harris Goldsmith-300220, Joan Perkins Shaker-572249, Michael Douglas McRobbie-240341, Joshua Franklin Naylor-535782, Steven Kendall Snider-141573, S. Rhea Hudson Sheldon-374696, Damon Verner Pike-002965, Bret Nelson Bogenschneider-065385, Megan Carr Douthat-460469.

Commission on Continuing Lawyer Competency (CCLC) Recommendation to Eliminate the Over Age 70 CLE Exemption

Following a report by CCLC Chair Aasia Mustakeem on a recommendation from the CCLC to eliminate the over age 70 CLE exemption, the Executive Committee, by unanimous voice vote, approved recommending the elimination of the exemption to the Board of Governors.

Members Requesting Disabled Status

Pursuant to State Bar Rule 1-202, the Executive Committee, by unanimous voice vote, approved two requests for disabled status.

Survey to Bar Members Re: E-Filing

Governmental Affairs Director Christine Butcher Hayes reported on a request from Chief Justice Harold Melton and the Judicial Council Technology Committee to conduct a survey of our members about civil E-filing. The survey will gather information on issues that have arisen thus far and the results will be given to the Technology Committee. The Executive Committee, by unanimous voice vote, approved conducting the survey.

#### Client Security Fund Recommendation

President-elect Darrell Sutton presented a proposal from the Clients' Security Fund Board of Trustees recommending that all dues paying lawyers pay \$10 each year into the fund in addition to the current assessments paid by new lawyers. This would provide an additional \$570,000 into the fund each year. Current rules require the Bar to impose a mandatory assessment on all members equal to the pro rata share of the difference between the fund balance and \$1 million (not to exceed \$25 per member). The aggregate amount that can be paid to all claimants in one year is \$50,000. As of December 2018 the fund balance was \$1,472,189 and the average burn rate over the last five years was \$378,000 per year. In the last three years the fund paid over \$490,000, yet the new lawyers' assessment only brings in around \$150,000 per year.

A motion to eliminate the new lawyers' assessment and instead assess all lawyers \$15 each year was withdrawn. The Executive Committee postponed any further action on the proposal until it has an opportunity to further explore the issue in March at the Executive Committee/Supreme Court joint meeting.

#### Amendments to Bylaws and Rules (Summary of Proposed Rule Changes)

Following a report by General Counsel Paula Frederick, the Executive Committee took the following action on proposed amendments to the Bylaws and Rules (Exhibit A):

##### Proposed Bylaws and Rules

- 1) Rule 1.0 Terminology and Definitions: Recommended both revised definitions to the Board of Governors by majority voice
- 2) Rule 1.17 Sale of Law Practice: Recommended to the Board of Governors by unanimous voice vote
- 3) Rule 1.4 Communication: Recommended to the Board of Governors by unanimous voice vote
- 4) Rule 4-203.1 Uniform Service Rule: Withdrawn
- 5) Rule 4-219. Publication and Protective Orders: Recommended to the Board of Governors by unanimous voice vote
- 6) Rule 4-220. Notice of Punishment or Acquittal; Administration of Reprimands: Recommended to the Board of Governors by unanimous voice vote
- 7) GRPC Rule 5.3 Responsibilities Regarding Nonlawyer Assistants: Recommended to the Board of Governors by unanimous voice vote
- 8) Rule 5.4 Professional Independence of a Lawyer: Recommended to the Board of Governors by majority voice vote
- 9) Rule 7.1 Communications Concerning a Lawyer's Services: Recommended to the Board of Governors by unanimous voice vote
- 10) Rule 9.4 Jurisdiction and Reciprocal Discipline: Recommended to the Board of Governors by unanimous voice vote

- 11) Rules 16-101 through 16-105 Preamble and Establishment of the Institute of Continuing Legal Education: Recommended to the Board of Governors by unanimous voice vote
- 12) Bylaws Article 1, Section 9: Recommended to the Board of Governors by unanimous voice vote
- 13) Bylaws Article, Section 10: Withdrawn

#### Revisions to Unlicensed Practice of Law (UPL) Rules

Following a report by Deputy General Counsel Bill NeSmith, the Executive Committee, by unanimous voice vote, approved recommending to the Board of Governors proposed changes to UPL Rules 14-3.1 and Rule 14-4.1 (Exhibit B) regarding the composition of the UPL Standing and District Committees.

#### Commission on Continuing Lawyer Competency (CCLC) Recommendation to Eliminate Rule 8-104(1) of the Transition into Law Practice Program (TILPP)

Following a report by Executive Director Jeff Davis, the Executive Committee, by unanimous voice vote, approved recommending to the Board of Governors the elimination of Rule 8-104(1) (Exhibit C) of the TILPP as recommended by CCLC.

#### Lawyer Assistance Program (LAP) Language Clarification

LAP Chair Jeff Kuester presented proposed language clarifications to the services offered to Bar members through the LAP as follows:

##### Help is a Phone Call Away

~~Bar members are entitled to up to Six~~ clinical assessment and support sessions ~~are available to Bar member during each calendar year per issue per year, and for~~ assistance with referrals to a wide-range of public and private resources and community programs that are the most cost effective, feasible and appropriate options available for their treatment and recovery.

##### LAP Confidential Services

~~Up to Six~~ non-emergency clinical assessment and support sessions ~~per issue~~ per calendar year.

The Executive Committee had no issue with dropping the “per issue” or using the per “calendar” year. It did ask for clarification on the last part of the proposed language with respect to situations that are “critical” 24-hour versus situations that are “non-emergency.” The Executive Committee also asked if CorpCare can track if lawyers being referred to privately funded help after using six sessions are indicating they cannot afford that and wish they could get more services. Jeff said he would take those questions back to the LAP Committee.

#### Proposed Rule on Registration of In-House Counsel

General Counsel Paula Frederick presented a draft rule on registration of in-house counsel. Before proceeding with a rule change, she would like to seek guidance from the Supreme Court of Georgia about where in the Bar Rules this best fits. She suggested circulating the draft rule to our Corporate Counsel Section, the Association of Corporate Counsel, and the International Trade in Legal Services Committee (for input on the implications for foreign in-house counsel) for feedback, and also asked the Executive Committee for its comments.

### Professional Liability Insurance

President-elect Darrell Sutton reported on the results of a survey sent to the Cobb County Bar Association regarding mandatory professional liability insurance. There were 150 responses to the survey out of the approximately 1,000 Cobb Bar members to whom the survey was sent. The results showed that approximately just as many respondents as not favor required professional liability insurance, but approximately two-thirds of respondents were opposed to requiring any forms of disclosure.

General Counsel Paula Frederick reported that the Professional Liability Insurance (PLI) Committee met February 19th and voted to recommend to the Board of Governors that lawyers be required to be covered by professional liability insurance. The proposed Rule 1-210, which is based on an ABA model rule, would go in the portion of the Bar rules that deal with governance and not in the Rules of Professional Conduct. Enforcement of the insurance requirement would be by administrative suspension. Paula is helping the PLI Committee put together a detailed report for the Board of Governors on everything it has looked at and who it has talked to reach its recommendation. Paula also reported that President Ken Hodges plans to send an email about this issue to the Bar membership on February 22<sup>nd</sup>.

The Executive Committee had a lengthy discussion about the issue. The main concern expressed was that the process needs to be slowed to allow more time for deliberation. This is a complex matter that needs more vetting, and we need to provide a reason and support for doing this. The Executive Committee also had concerns about the proposal as a whole and felt that any publication to the Bar members or the Board of Governors is premature. Since the Executive Committee had enough questions amongst itself about the proposal, it was suggested that no action be taken until the matter can be explored further at the Executive Committee/Supreme Court joint meeting in March. Furthermore, the Executive Committee feels there are too many unanswered questions about this recommendation and proposed rule for this to come for a vote, even as early as the Annual Meeting's Friday or Saturday Board of Governors meetings. President-elect Darrell Sutton agreed to convey the Executive Committee's concerns to President Ken Hodges.

### Legislative Contribution/Dues Statement

The Executive Committee reviewed a copy of the proposed 2019-2020 License Fee and Assessment Notice. A motion to adopt the proposed 2019-2020 License Fee and Assessment Notice, with an optional legislative and public advocacy fund contribution and a few other minor changes, was approved by majority voice vote.

### Proposed Investment Policy

Executive Director Jeff Davis presented a Statement of Investment Policy from Greystone Consulting that was formulated based on the Bar's current investment policy and input from the Investment Committee. Jeff would like this to be an action item at the March Board of Governors meeting, and Greystone Consulting investment managers will be present to answer any questions. Before taking any action, the Executive Committee asked for feedback on the policy from the Finance Committee chair, Nancy Whaley. The policy will be added to the agenda of a subsequent Executive Committee meeting, or an interim meeting by phone, for consideration.

### Policy Concerning Use of the State Bar Conference Center

Following a report by Executive Director Jeff Davis, the Executive Committee, by unanimous voice vote, approved a proposed Conference Center Policy, Terms of Use and Process for the State Bar Conference Center, subject to some minor wordsmithing.

### Request for Funding Projects of the Law-Related Education (LRE) Program from the Tom Marshall Fund

Following a report by Executive Director Jeff Davis, the Executive Committee, by unanimous voice vote, approved using money in the Tom Marshall Fund to fund the 5<sup>th</sup> and last year of the LRE Virtual Law Museum project in the amount of \$72,000, and up to \$20,000 for Journey Through Justice Program bus

transportation (requested by schools over 100 miles outside of Atlanta) in the 2019-2020 Bar year.

Web 360° Tour of the State Bar of Georgia

Executive Director Jeff Davis reported on a proposal by Global Web Advisors to produce a virtual 360° tour of the State Bar Center at a cost of \$5,780. The Executive Committee, by majority voice vote, approved the proposal.

Proposal from Bar Organizational Consultant

President-elect Darrell Sutton presented a proposal from Pathfinder Executive Consulting for a State Bar of Georgia Assessment. Following a discussion about the benefit and timing of an assessment, no motion was made on the proposal.

Request for Sponsorship

The Executive Committee reviewed a 1) \$2,500 sponsorship request from the Southern Center for Human Rights *Justice Taking Root* event on May 7, 2019, and 2) \$2,500 sponsorship request from Georgia Appleseed for its 11<sup>th</sup> annual *Good Apple* event on April 24, 2019. Following the State Bar of Georgia Sponsorship Guidelines, the Executive Committee took the following action:

Southern Center for Human Rights Sponsorship Request

- 1) By majority voice vote, determined that the State Bar’s financial sponsor is Keller-permissible, but
- 2) By a hand vote of 4 in favor to 6 opposed, determined that the State Bar’s participation as a financial sponsor does not advance the goals of the Bar.

Georgia Appleseed Sponsorship Request

- 1) By majority voice vote, determined that the State Bar’s financial sponsor is Keller-permissible, but
- 2) By a hand vote of 4 in favor to 6 opposed, determined that the State Bar’s participation as a financial sponsor does not advance the goals of the Bar.

Standing Executive Committee Policy 500 (Email Policy)

The Executive Committee, by unanimous voice vote, approved proposed changes to Standing Executive Committee Policy 500 (Email Policy) (Exhibit E).

Treasurer’s Report

Treasurer Dawn Jones reported on the Bar’s finances. She referred the Executive Committee to the report on variations to the budget and the other financials included in the agenda. She reported that the Finance Committee, at its February meeting, recommended a \$2 increase in dues for the 2019-2020 Bar year. The Finance Committee is meeting again in March to get more information on Bar Center transfers, the IT Department, the 2019-2020 ICLE budget, the Clients’ Security Fund, the Cornerstones of Freedom, and a summary of reserves and surplus. The Finance Committee will recommend the 2019-2020 budget at its April meeting.

The Executive Committee received copies of the Consolidated (Operational and Bar Center) Revenues and Expenditures Report as of December 31, 2018; Income Statement YTD for the Six Months Ended December 31, 2018; Bar Center Revenues and Expenditures Report for the Six Months Ended December 31, 2018; Summary of Dues and Voluntary Contributions at December 31, 2018; Legislative Fund and Cornerstones of Freedom Fund Activity Reports through December 31, 2018; and an Investment Performance Comparison 2005-2018.

2019-2020 Dues Recommendation to the Board of Governors and Other Dues Items

The Executive Committee, by unanimous voice vote, adopted the Finance Committee recommendation for a \$2 license fee increase, and approved submitting the following recommendation to the Board of Governors for approval:

- 1) License fees at \$254 for active members and \$127 for inactive members, which reflects a \$2 dues increase from the previous Bar year; and
- 2) Section dues to be reflected on the dues statement ranging from \$10-\$40; and
- 3) Continuation of assessments required by Bar Rules regarding the Clients' Security Fund (\$100 @ \$25/year) and Bar Center Facility (\$200 @ \$50/year). Such assessments begin with the second full fiscal year following a member's year of admission; and
- 4) Professionalism Fee (\$15) mandated by the Supreme Court; and
- 5) Continuation of a \$100 opt-out contribution for the Legislative and Public Education Fund; and
- 6) A suggested \$300 opt-in provision for individual contributions (\$100 for young lawyers) for the Georgia Legal Services Program.

YLD Report

YLD President Rizza O'Connor reported on the activities of the YLD. The YLD Intellectual Property Committee is conducting a signature in-house counsel program on February 21. The Leadership Academy is meeting in Vidalia on March 8 with a program on the importance of pro bono and community service. It will feature a wills clinic for first responders, farm factory tours, and dinner. Other upcoming events include 1) the Intrastate Moot Court Competition on March 22 at Emory, 2) annual Signature Fundraiser on April 13, 3) Build a Better Georgia Day on May 4, and 4) National High School Mock Trial Competition in Athens on May 16-18. The YLD Spring Meeting in Washington, D.C. on April 25-29 will include a swearing-in ceremony at the U.S. Supreme Court and a meeting with U.S. Supreme Court Justice Clarence Thomas, a CLE, group dinners, and various capitol tours. Lastly, the 2019 Legal Food Frenzy will take place April 22-May 3.

Executive Director's Report

Executive Director Jeff Davis provided no additional report.

ACL/Legislative Report

Director of Governmental Affairs Christine Butcher Hayes reported that Chief Justice Harold Melton delivered the State of the Judiciary on February 19th. She reported that crossover day is March 7 and *sine die* April 2. Following that, she provided an update on the Bar's legislative agenda. She also announced the introduction of two additional bills of interest to the legal profession: H.B. 239 and H.B. 256. H.B. 239 is enabling legislation for the business court, which was approved by constitutional amendment during the November 2018 general election. The bill was drafted and introduced by Representative Chuck Efstrotation. Rep. Efstrotation has also taken the bill to the State Bar's Business Court Committee and received constructive feedback. The State Bar has not been asked to take a position on the bill. H.B. 256, filed last Friday, provides for a constitutional amendment permitting a limit on damages at trial. Christine said she will keep us abreast of any movement on the bill. Lastly, Christine reported that the annual Executive Committee dinner with the Senate Judiciary Committee will take place Tuesday, February 26, and the same dinner with the House Judiciary Committee will be held March 12.



Office of General Counsel Report

Due to the sensitive nature of ongoing litigation involving the State Bar, General Counsel Paula Frederick's litigation report was performed in Executive Session.

Executive Session

Following a motion, second, and unanimous voice vote, the Executive Committee went into Executive Session to discuss pending litigation. Thereafter, the Executive Committee, by unanimous voice vote, moved out of Executive Session.

Georgia Legal Services Program Report to the Georgia Bar Foundation

The Executive Committee received a copy of the Report to the Georgia Bar Foundation Trustees from Georgia Legal Services Program.

Board of Governors Minutes

The Executive Committee received a copy of the minutes of the January 12, 2019 Board of Governors meeting.

Old Business

There was no old business.

New Business

President Ken Hodges reported that he forwarded to Governmental Affairs Director Christine Butcher Hayes proposed legislation from the South Georgia self-help law library that would help it generate fees. Christine reported that the legislation needs to go through the Bar's legislative process for possible introduction next year. The Executive Committee concurred.

Adjournment

There being no further business, the meeting was adjourned at 4:50 p.m.

---

Elizabeth L. Fite, Secretary

---

Kenneth B. Hodges, III, President



To: Members, Board of Governors

From: Paula Frederick

Date: March 2019

Re: Quarterly Report of the Office of the General Counsel

---

I am pleased to report on the activity of the Office of the General Counsel for the period since the Midyear meeting.

Discipline: During February 2019 the Office of the General Counsel received 187 filed Grievances. The Supreme Court of Georgia entered orders in four disciplinary cases during the month. The Year-to-Date Report on Lawyer Regulation (covering the period May 1, 2018 through February 28, 2019) appears at page 3 of this memorandum.

Rule Changes: There will be a number of rule change proposals on the agenda for your meeting in March:

Disciplinary Rules--

- Rule 1.0 Terminology. The proposal adds a definition of “prospective client” and amends the definition of “written.”
- Rule 1.4, Comment 4—amends a reference to “telephone calls” to account for new communication methods.
- Rule 1.17, Comment 6—Sale of a Law Practice. The proposal clarifies the timing of revealing confidential information while negotiating for sale of a practice.
- Rule 5.3, Comments 4 and 5. Nonlawyer Assistants. Clarifies a lawyer’s responsibilities when using outside service providers.
- Rule 5.4(a)(4)—Professional Independence. Allows a lawyer to share a fee with a nonprofit organization under some circumstances.
- Rule 7.1(a)—Advertising. Reorganizes the rule to state at the beginning that ads must be true and not misleading.
- Rule 9.4—Reciprocal Discipline. Provides for imposition of reciprocal discipline for suspensions and disbarments only.
- Rule 4-219(a)—removes interim suspensions from the requirement that public discipline be published in a local paper.

- Rule 4-220(c)—Notice of Punishment. Clarifies the process for issuing public reprimands.

Other Bar Rules on the Board agenda:

- Rules 16-101 through 16-105 are housekeeping amendments to the ICLE rules.
- Bylaws Article 1 Section 9 creates a new membership category for Retired Status members.
- Changes to the rules governing the Unlicensed Practice of Law will add more nonlawyer members to the UPL committees.

Committees and other meetings:

- Professional Liability Insurance Committee—the Committee met several times after the Midyear meeting. OGC staff conducted research and drafted proposed rules for the committee’s review.
- OGC Overview Committee—the Committee met January 15, 2019. It hopes to establish a regular meeting schedule and to help OGC with issues related to staffing, succession planning, and establishing priorities.
- Bar Security Committee—This committee, comprised of Bar staff, is working on a security plan for the Bar Center and staff.
- Insurance issues—Bar counsel, the CFO and ED met with the Bar’s insurance brokers to discuss renewal strategy for the Bar’s various insurance policies.
- International Trade in Legal Services—the ITLS subcommittee on anti-money laundering met in February.
- Wellness Task Force—OGC staff meet with the Wellness Task Force and its subcommittees to provide advice on rule changes and other areas where the work of the Task Force overlaps with the disciplinary process.

CLE Presentations: OGC lawyers and staff served as presenters at several Continuing Legal Education programs since January:

- *Ethics Update 2019*, Atlanta Bar Construction Law Section;
- *Ethics and Social Media*, ICLE Child Advocacy Seminar;
- *The Path to Lawyer Wellbeing*, ABA Midyear meeting;
- *Advanced Debt Collection*, Creditors Rights Section;
- *Ethics for Clinical Students*, Emory Law School;
- *Ethically Managing Your Social Media Presence*, Atlanta Bar Estate Planning & Probate Section;
- *Lawyer Wellness/Lawyers First Aid Toolkit*, ICLE seminar;
- *Ethics Update 2019*, ICLE Products Liability Seminar;
- *Ethics Update 2019*, Columbus Bar Association;
- *How to Stay out of Trouble*, ICLE Beginning Lawyers Program
- *Lawyers Behaving Badly II*, Lawyers Club of Atlanta;
- *Ethics for Government Lawyers*, Office of the Atlanta City Attorney;
- *Interpreting Bank Records*, National Organization of Bar Counsel;

**Year-to-Date Report on Lawyer Regulation**

**May 1, 2018 through February 28, 2019**

Grievance forms sent back to Office of General Counsel for screening .....	1785
Grievances pending as of 4/30/18.....	<u>254</u>

TOTAL.....2039

Grievances referred to State Disciplinary Board members.....	114
Grievances being screened by Grievance Counsel (GC) .....	550
Grievances closed by Grievance Counsel.....	1340
Grievances moved to moot status by GC after attorney was disbarred .....	35

TOTAL.....2039

**Regulatory Action May 1, 2018 through February 28, 2019**

	<u>Attorneys</u>	<u>Cases</u>
Letters of Admonition Accepted	7	7
Confidential/Investigative Panel Reprimands Administered	6	7
Review Panel Reprimands	0	0
Public Reprimands	1	1
Suspensions	28	34
Disbarments/Voluntary Surrenders	<u>12</u>	<u>20</u>
TOTAL	54	69
Reinstatements Granted	7	7
Reinstatements Denied	0	0

# Memorandum

**To: Board of Governors of the State Bar of Georgia**  
**From: M. Christopher Pitts, Director of the Military Legal Assistance Program**  
**Date: March 6, 2019**  
**Subject: Report on the Military Legal Assistance Program**

---

(1) **Overview:** I am pleased to announce that, at the time of the Spring 2019 Board of Governor's Meeting, the Military Legal Assistance Program will be co-hosting its first legal clinic in Columbus Georgia with the Georgia Legal Services Program of Columbus. I am grateful to Rhudina Nelson, the pro bono coordinator in Columbus, for her assistance with not only securing a location for the clinic, but also helping arrange publicity for the event. I am also forever grateful to the attorneys who are volunteering to help with this event. These attorneys include those from Columbus, Atlanta, Athens, and Albany.

I believe that the future of this program will hinge upon these clinics for a number of reasons. First, I believe that because a large majority of our cases are family law, a clinical setting, such as the one this event provides, will help increase the amount of family law cases that our volunteer lawyers can handle pro bono. Such clinics will allow our attorneys to assist with helping servicemembers and eligible veterans fill out the forms pro-se and gather what may be needed to ensure their case's advancement on the docket. Second, I believe such clinics will help establish a "community-feel" to the program, which can serve as a way of increasing morale among the volunteer attorneys and incentivize participation. Finally, I believe these clinics will help serve areas that, at this time, are underserved by volunteer lawyers. Many rural areas in Georgia have fewer and fewer attorneys based in those areas. Additionally, many military bases are having support staff cut, leaving those servicemembers dependent on other, further away, bases for help. In particular, there is no longer a legal assistance office on the Marine Corps base in Albany. As a result, the law library in Albany and other bases around Georgia are having to assist those marines who need legal help. To this end, my goal is to have a second clinic later this year in Albany or the coastal Georgia area.

It should be noted that this program is helped by the members of the Committee and the Military/Veterans Law Section who have supported servicemembers and veterans in a variety of ways. These include:

- **Legal Assistance Clinics staffed by law students and attorney mentors** have been established at three colleges of law: Emory University in February 2013, Georgia State University in November 2014, and the University of Georgia in August 2018.
- **Legal Assistance Clinics at VA medical facilities** have been established at five locations: Augusta, Carrollton, Decatur, Fort McPherson, Rome, and soon-to-be Savannah. Volunteer lawyers staff those legal assistance clinics.
- **VA Accreditation CLE programs** have been conducted at least annually the past eight years for lawyers who desire to become accredited initially or to maintain their accreditation (required biennially) in order to handle VA benefit award cases. The most recent VA CLE program was held on October 11, 2018, in Atlanta.

- **CLE trips** abroad, with self-supporting funds from participating lawyers, were planned and carried out under sponsorship of the Mil/Vets Law Section and with coordinating help from the MLAP Committee: **one to Normandy, France**, in 2014, in part commemorating the **70<sup>th</sup> Anniversary of the D-Day Landings**, and **one to Belgium and France**, in 2017, commemorating the **100<sup>th</sup> Anniversary of The First World War**.

(2) **Updates to MLAP Eligibility Criteria:** The Military Legal Assistance Program Committee is still amending and revising the eligibility criteria for the program. At this time, the program helps: (a) Active duty, active reservists, and National Guard members ranked e-5 and below; (b) All service members for issues related to deployment; (c) Military retirees and service-connected disabled (100%) veterans facing a financial hardship. Financial hardship is presumed if their income is at or below 200% of the Federal Poverty Level; (d) All veterans with issues related to VA benefits where attorneys fees would not otherwise be recoverable.

Case exclusions: With the goal in mind that the Program is to help service members and veterans who cannot afford legal help, no referrals for cases where there is no barrier for initial legal help; i.e., contingency fee cases, personal injury, malpractice, social security, etc.

The Military Legal Assistance Program committee has formed an ad hoc subcommittee to review these eligibility criteria and suggest further changes as necessary. Are those changes made, they will be submitted.

(3) **Attorney Recruitment:** In addition to the 149 new attorney volunteers for our program, we have also been focusing on getting recommitments from attorneys who have already volunteered for our program. Once final results have been obtained, that number will be reported.

(4) **MLAP Cases Processed:** Below is a summary of the number and types of requests for legal assistance received and referred to lawyers under the State Bar's Military Legal Assistance Program. Under the program, **a total of 2,253 cases have been processed**. A summary of cases processed by the MLAP by category follows:

Family Law		1,149 (including 59 previous)
Divorce	487	
Divorce Enforcement	28	
Child Support	150	
Guardianship/Adoption	124	
Child Custody/Visitation	298	
TPO	1	
Other	2	
Consumer Law		142
Housing/Property		152
Foreclosure		26
Veterans Benefits/Disability		306
Wills/Estates/Probate		126
Employment/USERRA/SCRA		59
Bankruptcy		29

Insurance	21
Property Damage	3
Contract	10
Injury-related	66
Immigration	4
Discharge Upgrade	1
Department of Defense Benefits	1
Non-profit Formation	1
Other	<u>157</u>
	2,253

(5) **Other Reporting Data:** MLAP has begun trying to accumulate other data concerning the cases handled, including: (1) whether the case will be taken pro bono or reduced-fee; and (2) number of pro bono hours worked. The goal is to try and provide a baseline of how many cases are being handled pro bono versus reduced fee so that future years can measure any rises in pro bono case ratios. Currently, we have a 47% percent response rate from the attorneys from who we request a follow up on the cases they receive from this program. The goal is to have a 12-month baseline for the number of low bono and pro bono cases from 2018-19 in order to assess how to further sculpt the program.

(6) **Co-Sponsored Clinics:** Again, our first clinic co-sponsored with Georgia Legal Services will take place on March 30, 2019 from 9am until 2pm at the Antioch Baptist Church, 2500 14<sup>th</sup> Avenue, Columbus, GA 31901. I'll be excited to announce the results of this clinic at the next meeting.

M. Christopher Pitts  
 Director  
 Military Legal Assistance Program

**CONSUMER ASSISTANCE PROGRAM**  
**STATE BAR OF GEORGIA**

March 5, 2019

The Consumer Assistance Program (CAP) continues to serve both the public and members of the Bar, as it has since 1995. So far during this fiscal year CAP has handled around 6,284 new or “unique” contacts (calls, letters, emails, and faxes), an average of approximately 785.5 per month. This does not include repeat calls, letters, emails, or follow- up contacts. CAP itself has handled 81.15% of these contacts. The remaining 18.85% have been referred via grievance to the Office of General Counsel (OGC) for investigation. It is beyond the scope of CAP’s responsibility to investigate or handle allegations of serious ethical misconduct.

CAP’s staff consists of three administrative assistants and two attorneys. CAP directly answers “live” about 97% of the calls received. The CAP Helpline is used when no one is available to answer calls live or for calls that come in after business hours. Calls that are not answered live are returned within the same or the next working day. CAP’s response to the voluminous mail, emails, and faxes, is usually within one day.

CAP’s two attorneys often contact members of the Bar by telephone, fax, or letter, at the request of clients. It is generally helpful for attorneys to receive a confidential, non-disciplinary courtesy call, letting the attorneys know that their clients have contacted the Bar with various complaints or concerns. In order to facilitate communication between clients and attorneys, CAP notifies attorneys that their clients wish to hear from them, do not understand what is happening on their cases, need updates on case status, or, in the case of former clients, need their files. Realizing that CAP has heard only one side of the situation, CAP does not presume to advise attorneys on how to practice law or assert the client’s position as true and correct.

Additionally, OGC now refers certain grievances to CAP for handling. Since July of 2018 OGC has referred approximately 250 grievances to CAP. Such grievances against attorneys often involve many of the issues stated above-- return of file, updating client on case status, communications between client and



attorney, etc. These can be handled and then dismissed by CAP when the attorneys respond to CAP and comply with the Georgia Rules of Professional Conduct as requested by CAP.

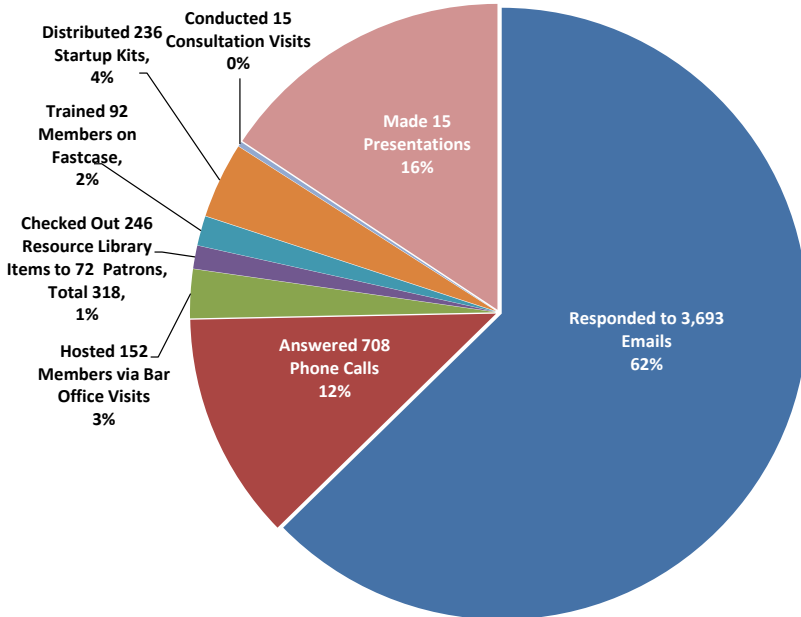
CAP is the contact point of the Bar for persons complaining about attorneys who are delinquent in paying their court ordered child support. Under OCGA 19-6-28.1 an attorney obligated to pay child support can be administratively suspended from the practice of law, if the custodial parent submits a certified copy of an order verifying the arrearage. The suspension is lifted once certain requirements are met in accordance with the OCGA and the Georgia Rules of Professional Conduct. There has been one such case during this year.

CAP continues to remain within its annual budget of \$584,716, and it is anticipated that it will continue to do so.

# Law Practice Management Program

(Abbreviated report for the 2018-2019 Bar Year)

## Members Served by LPMP Total Number of Members Served – 5,893 July 1, 2018 – March 4, 2019



### Office Visits/Phone Calls/Emails

A total of **152** members visited LPMP. There were **12** startup discussions, **120** walk-in visits, and **6** visits to the software library conducted by the Program. In addition, LPM distributed **236** *Starting Your Georgia Law Practice* booklets as requested by attorneys, as well as, answered and responded to **708** phone calls and **3,693** emails to and from members.

### Consultations

There were **15** general consultation visits during this period in Atlanta, Covington, Decatur, Duluth, Fulton, Jackson, Marietta and Sandy Springs. Firms assisted were in solo practice (9 firms); 2-4 attorney firms (5 firms); and 5-9 attorney firms (1 firm).

### Resource Library

Our lending library has a grand total of **1,565** books, CDs, and DVDs for checkout to members and their staff with an option to pick up materials at the Bar Center or to be mailed. During this period, there were a total of **246** checkouts by **72** patrons.

### Speaking Engagements

There were a total of **15** completed and scheduled programs during this period. The Program's staff has given **12** continuing legal education and special presentations to Georgia lawyers and other related groups. These presentations have been held in various local and national venues; and have been made directly to at least **925** Georgia Bar members. **3** programs are scheduled at a future date.

**State Bar of Georgia – Private Exchange Report**

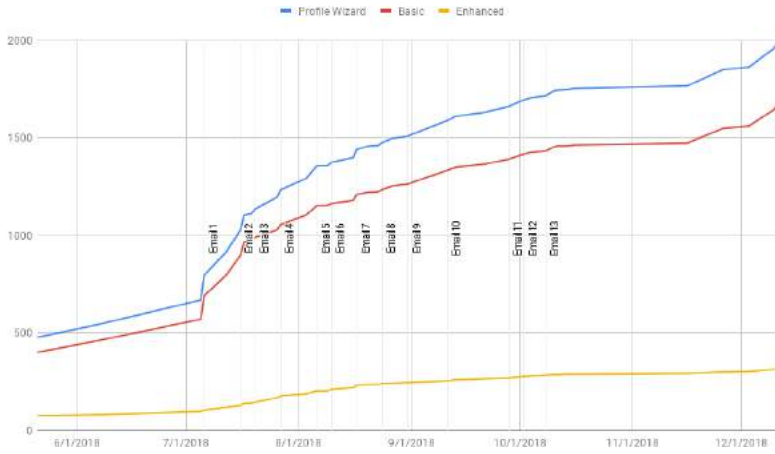
March 4, 2019

<b>INDIVIDUAL MARKETPLACE</b>		
Individual Visits	22,587	Individuals that have visited the Individual Marketplace Registration page at least once
Individual Registrations	17,661	Individuals that have registered to begin shopping for benefits
Product Enrollments	3,360	Total Individual Product Enrollments
<ul style="list-style-type: none"> <li>Medical</li> </ul>	1,592	Total Individual Major Medical, Short-Term Medical and Limited Medical Enrollments
<ul style="list-style-type: none"> <li>Medicare Supplement</li> </ul>	16	Total Individual Medicare Supplement Enrollments
<ul style="list-style-type: none"> <li>Dental</li> </ul>	546	Total Individual Dental Enrollments
<ul style="list-style-type: none"> <li>Vision</li> </ul>	264	Total Individual Vision Enrollments
<ul style="list-style-type: none"> <li>Teladoc</li> </ul>	118	Total Individual Teladoc Enrollments
<ul style="list-style-type: none"> <li>LifeLock</li> </ul>	33	Total Individual LifeLock Enrollments
<ul style="list-style-type: none"> <li>Life/AD&amp;D</li> </ul>	533	Total Individual Life/AD&D Enrollments
<ul style="list-style-type: none"> <li>Disability</li> </ul>	202	Total Individual Disability Enrollments
<ul style="list-style-type: none"> <li>Long-Term Care</li> </ul>	56	Total Individual Long-Term Care Enrollments

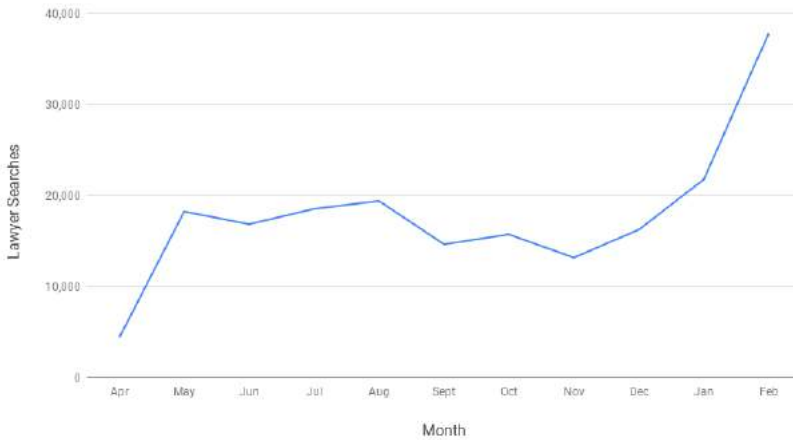
<b>EMPLOYER GROUP EXCHANGE</b>		
Employer Visits	1,852	Employers that have visited the Employer Registration page at least once
Employer Registrations	499	Employers that have submitted a quote request to initiate the sales process
Product Enrollments	710	Total Product Enrollments
<ul style="list-style-type: none"> <li>Medical</li> </ul>	397	Total Medical Enrollments
<ul style="list-style-type: none"> <li>Ancillary</li> </ul>	239	Total Ancillary Enrollments
<ul style="list-style-type: none"> <li>Workers' Comp</li> </ul>	14	Total Workers' Comp Enrollments
<ul style="list-style-type: none"> <li>Professional Liability</li> </ul>	58	Total Professional Liability Enrollments
<ul style="list-style-type: none"> <li>Cyber Security</li> </ul>	2	Total Cyber Security Enrollments

**CloudLawyers Report**

The State Bar of Georgia began its partnership with CloudLawyers.com to develop its new *Find a Lawyer* directory and provide members with an enhanced membership directory listing. Since inception, and as of March 5<sup>th</sup>, 2,232 members went through the CloudLawyers profile wizard and 341 members have elected Enhanced Profiles. To date, over 197,090 searches have been performed to find Georgia lawyers utilizing this service.



**State Bar of Georgia Searches**



**Fastcase Report**

During this period, a grand total of **92** members and **2** staff person have attended Fastcase CLE seminars.

Since the 2010 when the State Bar of Georgia decided to offer our members Fastcase, **1,903** attorneys and **103** staff members have attended Fastcase live training. Others have taken advantage of webinar training.

Over the past 8 years, 27,385 members have logged on at least once with an increase of 270 first time users this period: Over 50% of our members have used Fastcase since January 1, 2011.

**Fastcase Usage Report**  
*July 1, 2018 – March 5, 2019*

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Total
First Time Logins	101	72	63	74	73	80	106	78	647
Total Logins	16,180	18,074	14,857	16,218	12,932	11,139	15,723	15,562	120,685
Total Users Who Logged In	3,683	3,806	3,566	3,628	3,360	3,125	3,653	3,667	28,488
Searches Conducted	80,669	98,040	82,343	81,908	77,102	63,049	86,415	85,600	655,126
Documents Viewed	124,152	145,798	125,174	126,174	115,810	95,934	131,026	129,743	993,811
Documents Printed	12,395	12,706	12,447	14,107	12,548	9,823	12,813	13,143	99,982
Total Transactions	<b>237,180</b>	<b>278,496</b>	<b>238,450</b>	<b>242,109</b>	<b>221,825</b>	<b>183,150</b>	<b>249,736</b>	<b>247,793</b>	<b>1,898,739</b>

**Fastcase Report**

Fastcase Reported Problems	
Member Reported Issue(s)	Fastcase Response / Resolutions
<p><b>7/17/18 – 8/3/18</b>  <b>Members Reported:</b>                      4 reports of outdated code.</p>	<p><b>7/17/18 -8/3/18</b>  <b>FC Response:</b> On July 14, 2017, the source was updated. Catch lines will take additional time to update.</p>
<p><b>08/01/18</b>  <b>Member Inquired:</b>                      Several calls reporting FC not working.</p>	<p><b>08/01/18</b>  <b>FC Response:</b> The servers experienced intermittent issues. Engineers are working to address the issues.</p>
<p><b>9/6/18</b>  <b>Member Inquired:</b>                      Fastcase intermittent down times</p>	<p><b>9/6/18</b>  <b>FC Response:</b> Due to Mercury (FC) 7 launch, the website is being updated.</p>
<p><b>9/18/18</b>  <b>Member Inquired:</b>                      Fastcase missing descriptive language in <b>GA Code</b>, exceedingly difficult to find law if you don't already know the appropriate code section.</p>	<p><b>9/19/18</b>  <b>FC Response:</b> Currently working to update new tag lines.</p>
<p><b>10/22/18</b>  <b>Member Inquired:</b>                      When will code be updated.</p>	<p><b>10/22/18</b>  <b>FC Response:</b> Fastcase is no longer prohibited in publishing catch lines in the Georgia Statutes. Members received an email detailing same. An update will be made in July 2019 based upon publication on the Georgia General Assembly website.</p>
<p><b>11/30/18</b>                      Fastcase catch line project completed.</p>	<p><b>11/30/18</b>  <b>FC Response:</b> Fastcase catch lines for Georgia have been updated.</p>
<p><b>1/9/19</b>  <b>Member Comment:</b> Member called saying he couldn't log in.</p>	<p><b>1/9/19</b>  <b>FC Response:</b> It will be back up within 15 min.</p>
<p><b>2/20/19</b>  <b>Member Comment:</b> Member called with complaint that FC was not showing results as normal and some cases seemed to be missing.</p>	<p><b>2/20/19</b>  <b>FC Response:</b> Site was being updated so moving slowly, Also, noticing a pattern on day and time when the system seems to be slow. Working on getting that fixed.</p>
<p><b>2/21/19</b>                      Fastcase training was disrupted by intermittent crashing. Several members complained of the same.</p>	<p><b>2/22/19</b>                      Was told that they system has experienced crashes due to particular member searches; working on finding what the problem is and correcting.</p>

<b>PUBLISHED ARTICLES 2018-2019</b>			<b>Circulation</b>
<b>Date</b>	<b>Newspaper</b>	<b>Headline</b>	
5/24/2018	Wilkinson County Post, Irwinton	Congratulations to Judge Trenton Brown on appointment to Ga. Court of Appeals	1,250
6/3/2018	Islander, St. Simons Island	Congratulations to Glynn County Bar Association on successful Law Day event	3,479
6/19/2018	Statesboro Herald	Snipes re-elected to Board of Governors of State Bar of Georgia	8,000
6/20/2018	Elberton Star	Campbell re-elected to State Bar's board	3,002
6/21/2018	Times, Gainesville	Kudos to Gainesville-Northeastern Bar on successful Law Day event	5,000
6/23/2018	Douglas County Sentinel, Douglasville	Congratulations to newly appointed district attorney Bar Tenders (Sutton & Jones)	1,608
6/23/2018	Times, Gainesville	Hall public defender re-elected to executive committee of State Bar	5,000
6/24/2018	Savannah Morning News	Savannah lawyer named to State Bar Board	23,876
6/25/2018	Daily Report	Ga. Legal Community Mourns Mari	2,850
6/25/2018	Daily Report	Evans Congratulated on Confirmation as Ambassador to Luxembourg	2,850
6/25/2018	South Metro Neighbor	College Park legal eagles soar above competition (Dalley, BOG, LFF)	24,200
6/26/2018	Rome News-Tribune	Georgia legal community mourns loss of Judge Robert Walther	9,583
6/27/2018	Adel News-Tribune	Judge Tomlinson re-elected to Board of Governors of State Bar of Georgia	2,940
6/28/2018	Atlanta Daily World	Marian Cover Dockery Receives Randolph Thrower Lifetime Achievement Award	16,000
6/28/2018	Atlanta Daily World	State Bar of Georgia recognizes Commitment to Equality Award Recipients	16,000
6/28/2018	Forsyth County News, Cumming	Forsyth County judge re-elected to State Bar board	7,500
6/28/2018	Atkinson County Citizen, Pearson	Judge Tomlinson re-elected to Board of Governors of State Bar of Georgia	952
6/29/2018	The Champion, Decatur	Congratulations to DeKalb Bar Association on successful Law Day event	594
6/30/2018	Daily Tribune News, Cartersville	A Somber Celebration: Legal community remembers Mari (Dent re-elected to Board of Governors)	4,900
7/1/2018	Albany Herald	Georgia Bar president praises attorney	10,530
7/1/2018	Albany Herald	Business Briefs: Brunswick-based attorney re-elected to state bar board	11,066
7/2/2018	Brunswick News	Blue Ridge Bar Association praised for Law Day 2018	3,963
7/3/2018	Cherokee Tribune & Ledger-News, Canton	Receives Honor (Oconee Circuit Bar)	4,718
7/4/2018	Dodge County News, Eastman	Judge Tomlinson re-elected to Board of Governors of State Bar of Georgia	1,176
7/4/2018	Lanier County Advocate, Lakeland	Congratulations to district attorney on appointment to state board	7,607
7/4/2018	Houston Home Journal, Perry	Marietta attorney honored by State Bar of Georgia's Young Lawyers Division	12,611
7/6/2018	Marietta Daily Journal	State Bar honors Child Protection section led by Gainesville attorney	5,000
7/7/2018	Times, Gainesville	Judge Edwards honored	3,947
7/7/2018	Griffin Daily News	Garner reappointed to state council (letter to editor)	9,583
7/8/2018	Rome News-Tribune	Cobb attorneys, judge elected to Board of Governors of State Bar of Georgia	12,611
7/9/2018	Marietta Daily Journal	Area attorneys re-elected to Board of Governors of State Bar of Georgia	4,235
7/9/2018	Union-Recorder, Milledgeville	Oconee Judicial Circuit Bar Association honored by State Bar of Georgia	630
7/11/2018	Wheeler County Eagle, Alamo	Judge Joy Parks considered for Superior Court seat	4,592
7/11/2018	White County News, Cleveland		

7/11/2018	Covington News	Brian 'Buck' Rogers completes term as president of State Bar of Georgia	4,010
7/11/2018	Tifton Gazette	Letter to the Editor: Congratulations to Tifton Circuit Bar Association	3,338
7/12/2018	Augusta Chronicle	Judge Palmer elected to Board of Governors of State Bar of Georgia	26,284
7/12/2018	Forsyth County News, Cumming	Forsyth County lawyer honored by State Bar of Georgia	7,500
7/14/2018	Augusta Chronicle	Biz Bits (Bill Keogh, Jack Long)	26,284
7/14/2018	Coastal Courier, Hinesville	Stafford on Bar Board of Govs.	5,500
7/14/2018	Gwinnett Daily Post, Lawrenceville	Gwinnett County Bar Association honored at annual state meeting	65,722
7/15/2018	Times, Gainesville	Alexander re-elected to State Bar of Ga.'s Board of Governors	5,000
7/18/2018	Dodge County News, Eastman	McLaughlin re-elected to the State Bar of Georgia Board of Governors	4,718
7/19/2018	Star Press, Muncie (IN)	Friends and Neighbors (Damon Elmore)	13,500
7/21/2018	Valdosta Daily Times	Area attorneys re-elected to Board of Governors of State Bar of Georgia	7,894
7/25/2018	Dahlonega Nugget	Congratulations to new Enotah Circuit Superior Court judge	4,278
7/25/2018	The Citizen, Fayetteville	Bar association honored by state	14,500
7/26/2018	White County News, Cleveland	Congratulations to new Superior Court judge	4,592
7/26/2018	Eatonton Messenger	Congratulations to new Ocmulgee Circuit Superior Court judge	5,260
7/26/2018	Hartwell Sun	Congratulations (Judge Watson)	4,289
7/26/2018	Franklin County Citizen, Lavonia	State Bar congratulates Judge Watson	2,902
7/26/2018	Sylvania Telephone	Congrats new Ogeechee Circuit Superior Court judge	1,703
7/27/2018	Statesboro Herald	Congratulations to new Superior Court judge	8,000
7/28/2018	Union-Recorder, Milledgeville	Congratulations to new superior court judge	4,235
7/30/2018	Albany Herald	Judge Victoria Darrisaw lauded for judicial appointment	10,530
8/1/2018	North Georgia News, Blairsville	Congrats to Judge Parks	11,050
8/1/2018	Cobb Business Journal, Marietta	Attorney honored by State Bar of Georgia's Young Lawyers Division	5,000
8/1/2018	Millen News	Letter to the Editor: Congratulations to new Superior Court judge	3,000
8/2/2018	Courier Herald, Dublin	Congratulations to Judge Bobbitt on state board reappointment	9,086
8/2/2018	Savannah Morning News	Akins Elected to Executive Committee of State Bar of Georgia	23,876
8/3/2018	Times, Gainesville	Letter: Congratulations to Hall attorneys on appointments to commission	5,000
8/4/2018	Savannah Morning News	Judge worthy of state board reappointment	23,876
8/5/2018	Marietta Daily Journal	Kudos for district attorney on appointment by Gov. Deal	12,611
8/7/2018	Douglas County Sentinel, Douglasville	Georgians will benefit from Emerson's service on board	1,608
8/7/2018	Dunwoody Crier	Talk Back to the Crier (Dunwoody Bar Association)	23,000
8/9/2018	Savannah Morning News	Savannah Bar Association earns Best Newsletter Award	23,876
8/10/2018	The Champion, Decatur	Congratulations to DeKalb judge, attorney on state board appointments	594
8/15/2018	Business in Savannah	Savannah Bar Association earns newsletter award	5,000
8/22/2018	Marietta Daily Journal	Congrats to Philip Peacock on state board appointment	12,611
8/23/2018	Daily Report	Bar President Congratulates Comer Yates on State Board Appointment	2,850
8/23/2018	Douglas County Sentinel, Douglasville	Congratulations to Judge Walker on award from Supreme Court	1,608



8/23/2018	Franklin County Citizen, Lavonia	Legal community mourns loss of Dan Strickland	2,902
8/29/2018	Daily Report	State Bar Congratulates Georgia Supreme Court Appointee	2,850
9/7/2018	Brunswick News	Congratulations to Judge Baker on confirmation	11,066
9/7/2018	Savannah Morning News	Trump made right choice in Judge Baker	23,876
9/13/2018	Daily Report	State Bar Congratulates New Chief Justice Harold Melton	2,850
9/14/2018	Covington News	Congratulations to Frank Turner on state board reappointment	4,010
9/19/2018	Marietta Daily Journal	Congrats to local lawyer (Michael Wall)	12,611
9/20/2018	Daily Citizen, Dalton	Congratulations to Charlie Bethel, newly appointed state Supreme Court Justice	7,428
9/22/2018	Daily Report	State Bar Congratulates New Presiding Justice David Nahmias	2,850
9/26/2018	Moultrie Observer	Congratulations to Kirbo for state re-appointment	3,826
10/3/2018	Savannah Morning News	Congrats to attorney on appointment (Jim Pannell)	23,876
10/4/2018	Sylvania Telephone	Congrats Judge Woodrum; welcome Judge Bennett	1,703
10/11/2018	Daily Report	New Members Named for Chief Justice's Commission	2,850
10/11/2018	Polk County Standard Journal, Cedartown	New Members Join Chief Justice's Commission on Professionalism	1,687
11/14/2018	Marietta Daily Journal	Georgia legal community mourns loss of Hines	12,611
11/14/2018	Daily Report	Georgia Legal Community Mourns Loss of Chief Justice Harris Hines	2,850
11/16/2018	The Champion, Decatur	Congratulations to newly appointed Georgia secretary of state	594
11/18/2018	Albany Herald	Letter to the Editor: Middleton reappointed to state position	10,530
11/28/2018	Tifton Gazette	Georgia's legal community mourns loss of Eunice Mixon	3,338
12/11/2018	Union-Recorder, Milledgeville	Hodges: Congrats to newly appointed Baldwin County solicitor general	4,235
12/19/2018	Polk County Standard Journal, Cedartown	Congratulations to new Tallapoosa Circuit Superior Court judge	1,687
12/31/2018	Marietta Daily Journal	Congratulations to Cobb attorney on election to national post	12,611
1/2/2019	Early County News, Blakely	Congratulations to Judge Bishop on retirement	2,524
1/24/2019	Gwinnett Daily Post, Lawrenceville	Donn Peevy fondly remembered by legal community	65,722
2/19/2019	Daily Report	Congratulations to New Members of Judicial Nominating Commission	2,607
		<b>TOTAL CIRCULATION</b>	<b>873,373</b>

# CHIEF JUSTICE'S COMMISSION ON PROFESSIONALISM

Hon. Harold D. Melton Chief Justice  
Supreme Court of Georgia, Chair



Karlise Y. Grier  
Executive Director

## Memorandum

TO: State Bar of Georgia Board of Governors  
FROM: Karlise Y. Grier, Executive Director  
RE: Chief Justice's Commission on Professionalism  
DATE: March 30, 2019

As the Commission celebrates its 30<sup>th</sup> Anniversary in 2019, the Commission looks forward to continuing its work of engaging judges and lawyers on professionalism issues through a variety of initiatives, a few of which are highlighted below.

### **Professionalism at the State Bar 2019 Mid-Year Meeting**

The Bar's 2019 mid-year meeting in Macon, Georgia presented the perfect opportunity for the Commission to kick off its 30<sup>th</sup> Anniversary year. The Commission's activities at the mid-year meeting included a CLE seminar and a Town Hall Meeting.

### **CLE at State Bar's Mid-Year Meeting**

Justice Sarah Hawkins Warren opened the Commission's CLE, which was held on January 10, 2019. The CLE looked at Professionalism "Then and Now," using Chief Justice Thomas O. Marshall's 1988 *Consultation on Professionalism and the Practice of Law* as the springboard for the CLE discussion. Justice Warren gave a personal perspective ("Now") on professionalism and the relationship between lawyers and judges based on remarks given by former State Bar President Cubbedge Snow at the 1988 *Consultation on Professionalism* ("Then"). Mr. Snow was a native and lifelong resident of Macon, Georgia. At least one of the CLE attendees, also a resident of Macon, observed that he appreciated Justice Warren paying homage to Mr. Snow by remembering his contributions to Georgia's professionalism movement. After Justice Warren concluded her opening remarks, Commission member Rebecca Grist moderated a panel of speakers that included Board of Governor's member Attorney Shiriki Cavitt, and Commission members Professor Pat Longan, Honorable Rizza O'Connor and Justice Warren. The panel

engaged in thoughtful discussion on several professionalism topics and also engaged members of the CLE audience, which included Justice Michael Boggs.

### **Town Hall Meeting at State Bar's Mid-Year Meeting**

The Commission also hosted a town hall meeting on professionalism on January 12, 2019, as part of the State Bar's Mid-Year meeting. The Commission convened leaders of the State Bar of Georgia for a facilitated town hall session focused on professionalism. Specifically, the purpose of the 2.5-hour session was to: 1) Identify opportunities for the Commission to make the greatest possible impact on civil and criminal access to justice; and 2) Discover the most significant professionalism issues attorneys and/or judges face and the supports they need from the Commission to address them. Prior to the Town Hall Meeting, the Commission's Executive Director worked with the facilitator, Nadine Doyle of Doyle Strategies, to develop the format and content that was used at the Town Hall Meeting. At the conclusion of the Town Hall Meeting, all of the attendees who were present unanimously agreed that they would recommend a future Commission Town Hall Meeting to a colleague. The Commission is grateful to everyone who attended the Town Hall meeting including Chief Justice Harold D. Melton, Justice Sarah Hawkins Warren, Judge Christopher McFadden, Judge Carla Wong McMillian, Judge Steve Goss, Judge Paige Reese Whitaker, Judge Kathy Palmer, and Judge Susan Edlein; Commission Members, Rebecca Grist and Pat Longan; State Bar Executive Committee members, Dawn Jones, Elizabeth Fite (Commission Member), and Nicki Vaughan (Commission Member); Board of Governors Members, Shiriki Cavitt, Allegra Lawrence Hardy, Javoyne Hicks, Joyce Gist Lewis, Claudia Saari (Commission Member), R. Gary Spencer (Committee Member), and Kathleen Womack; and State Bar Committee on Professionalism members Joshua Bosin, and Jabu Sengova. Other participants included Ira Foster, General Counsel for the Georgia Legal Services Program.

### **20<sup>th</sup> Annual Justice Robert Benham Awards for Community Service**

Nominations for the 20<sup>th</sup> Annual Justice Robert Benham Awards for Community Service closed on December 3, 2018. For the first time in its history, the Commission only accepted nomination applications electronically. The Benham Awards Selection Committee (Janet G. Watts, Chair; Elizabeth Fite; Laverne Lewis Gaskins; Michael D. Hobbs, Jr.; W. Seaborn Jones; Joy Lampley Fortson; Hon. Chung H. Lee; William J. Liss; and Brenda Carol Youmas) met on December 14, 2018, to select the honorees. The Lifetime Award honorees for the 20<sup>th</sup> Annual Benham Awards are as follows: The Honorable P. Harris Hines of Marietta and the Honorable Willie Lovett, Jr. of Atlanta. The district honorees for the 20<sup>th</sup> Annual Benham Awards are as follows: Mr. Robert F. Mikell, *Statesboro*; Mr. Christopher Cohilas, *Albany*; Ms. Christina Folsom, *Valdosta*; Ms.

*Memorandum to State Bar Committee on Professionalism*  
*March 30, 2019*  
*Page 3 of 6*

Cheryl L. Milton, *Macon*; The Honorable Clarence F. Seeliger, *Decatur*; Mr. Gordon Lane Joyner, *Atlanta*; Ms. Deepa Subramanian, *Atlanta*; Ms. Stephanie Leigh Steele, *Marietta*; Ms. Julia Greene, *Gainesville*; Ms. Regina Michelle Quick, *Watkinsville*.

The awards ceremony was co-sponsored this year by the Ronald J. Freeman Black Law Students Association at the Georgia State University College of Law and was held on Saturday, March 9, 2019, from 6:30 p.m. – 11:00 p.m. at the Georgia State University Student Center’s First Floor Ballroom. In keeping with Justice Benham’s desire to foster camaraderie between lawyers and judges, the State Bar’s Creative Connections Sub-Committee of the Committee on Professionalism, chaired by Joshua I. Bosin, secured lawyer and judge volunteers to display their artistic talents during the awards ceremony. Confirmed musical entertainment for the Creative Connections portion of the program included: Norman Barnett, Laurel Boatright, Kevin Wilson, Abbey Martin, and several other members of the Atlanta Bar Association Bard Show Performers; Hon. Chung Lee and the Korean American Saxophone Ensemble; Judge Gail Tusan and “Always Wanted to Dance”; Patricia Buonodono, Brad Ketch, and GSU Student, Vonciel T. Bryant. Confirmed visual artists included: Rosalind Rubens Newell, O.V. Brantley, and award recipient Cheryl L. Milton (quilts); Phil Sandick (photography) and Judge Phinia Aten (painting). Justice Robert Benham was also invited to participate as a visual artist (toys, woodwork, sketches). The “after party” entertainment featured the Specific Deviations Band (Cobb County Superior Court Judge LaTain Kell, attorney Vic Valmus, Attorney Jeremy Abernathy, and a few other attorneys and judges). Once again this year, Commission member, Judge Carla Wong McMillian, served as the Commission’s “Guest Tweeter.” The Commission is grateful to all of the many people (approximately 100) who volunteered to make the 20<sup>th</sup> Annual Justice Robert Benham Awards for Community Service a huge success. The Commission also spearheaded a community service project as part of the awards ceremony this year, thanks to a suggestion from Commission member, Judge Susan Edlein. The Commission created food baskets that were used as table centerpieces. The food staples in the baskets were donated to the Atlanta Community Food Bank. The Awards Ceremony would not have been possible without the generous assistance of all of the sponsors as follows.

**Community Service Sponsor**  
**Don C. Keenan**  
**Keenan Law Firm**

## **Libation Sponsors**

### **Gold**

Hon. J. Antonio DelCampo  
DelCampo & Grayson, LLC

William C. Gentry  
Gentry Law Firm LLC

### **Silver**

H. Emily George  
George & Wallach, L.L.L.P.

Hon. Patricia Killingsworth  
BAY Mediation & Arbitration Services

### **Bronze**

Ann Baird Bishop

June Rowan Bishop

Sponsler Bishop Koren & Hammer PA

Laverne Gaskins

Additional information about the program is located on the Commission’s website at [www.cjcpga.org](http://www.cjcpga.org).

### **2018 Convocation on Professionalism and the Global Community**

The Commission’s 2018 Convocation: *Professionalism and the Global Community* took place on November 30, 2018, at the Porsche Experience Center in Atlanta, Georgia. Chief Justice Harold D. Melton opened the Convocation by sharing some wonderful insights on professionalism. He encouraged lawyers to aspire toward professionalism, not just to make the profession look good, but because it is the “right thing to do.” Commission member, Judge Meng Lim, served as one of the panelists who discussed an “Overview of the Global Community.” With the assistance and guidance of several Commission members (the late Chief Justice Hines, Chief Justice Melton, Adwoa Seymour, Paula Frederick, Clark Cunningham, Maria Mackay, Tony DelCampo, Judge Carla McMillian), and other Convocation planning committee members/supporters (Susan Coppedge, Michael Wu, Teresa Roseborough), the Commission confirmed several wonderful speakers and moderators for the event, including the Ambassador to Luxembourg, the Honorable J. Randolph Evans; the Director of the Department of Justice Executive Office of Immigration Review, Mr. James McHenry; the former United States Ambassador-at-Large to Monitor and Combat Trafficking in Persons, the Honorable Susan Coppedge; and the Consul General for Mexico, the Honorable Javier Diaz de León. To ensure the Convocation included high-quality discussion of professionalism concepts throughout the day, the Commission’s Executive Director developed suggested talking points and conducted planning calls with each of the panels listed on the agenda.

The Convocation’s written materials included many wonderful papers from several Convocation speakers on the topic “What Professionalism Means to Me.” In addition, the Commission’s Contract

*Memorandum to State Bar Committee on Professionalism*  
*March 30, 2019*  
*Page 5 of 6*

Attorney, Leslie Stewart, wrote a paper entitled *How to Avoid a Cultural Minefield in Your Law Practice When Working With International Clients or Colleagues* that explored professionalism and cross-cultural understanding. The paper was edited by the Commission's Executive Director for inclusion in the Convocation's written materials.

A total of 116 individuals were registered for the event, and at times throughout the day, there was standing room only in the seminar room. At least one attendee stated that the *Convocation* was the best CLE she had ever attended. The Commission's Executive Director appreciates the support of every Commission member who attended the event. Several Commission members, advisors and liaisons introduced the various panels throughout the day. The Commission thanked its sponsors for the event as follows.

**Silver**  
Squire Patton Boggs

**Bronze**  
Alston & Bird  
Miller & Martin

The Commission also extends its sincerest gratitude to Judge Carla McMillian, Jennifer Davis, Maria Mackay, Dee Dee Worley, and Leslie Stewart for providing additional staff support throughout the day. ICLE (Tangela King, Sanford Tucker, Becky Hall, Deloise Matthews, Rebecca Taylor, and Jared Haralson) also provided invaluable staff support during the event throughout the day. The Commission's Executive Director is also deeply grateful to Commission member, Adwoa Seymour, for securing two of the three sponsorships the Commission received for the event.

### **Commission Website and Social Media**

The Commission continues to work on enhancing the new Commission website, [www.cjcpga.org](http://www.cjcpga.org). In addition, the Commission is becoming much more active on its social media platforms. Please look for the Commission's new social media logo and follow the Commission on social media. In addition, share your thoughts and ideas on content for the Commission's social media platforms, and post, tweet, or tag us when you are on your social media!

**Twitter:** <https://twitter.com/CJCPGA>

**LinkedIn:** <https://www.linkedin.com/company/cjcpga/>

**Facebook:** <https://www.facebook.com/CJCPGA>

*Memorandum to State Bar Committee on Professionalism*  
*March 30, 2019*  
*Page 6 of 6*

**YouTube:** <https://www.youtube.com/user/cjcpga/videos>

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



The above summary highlights some of the Commission's work. The Commission looks forward to engaging judges and lawyers on professionalism issues in 2019, during its 30<sup>th</sup> Anniversary year.