



State Bar
of Georgia

BOG BOARD BOOK

2021 Midyear Meeting

This book serves as the agenda and materials for the State Bar of Georgia's 2021 Midyear Meeting, being held virtually via Zoom.



State Bar of Georgia

285th BOARD OF GOVERNORS MEETING

Saturday, January 9, 2021

9:00 a.m. – 12:30 p.m.

Zoom Webinar:

<https://gabar.zoom.us/j/97495483180?pwd=Yk80NTc2MFI1N2NWaHRJT251SHF0dz09>

Meeting ID: 974 9548 3180

Passcode: 896930

Dress: Camera-Ready Business Casual

AGENDA

Topics

Presenter

1) ADMINISTRATION

- | | | |
|--|------------------------------------|-------|
| a) Welcome and Call to Order | Dawn M. Jones | 1-5 |
| | President/GSU College of Law '00 | |
| b) Pledge of Allegiance..... | Catherine Koura, BOG Member | |
| | GSU College of Law '01 | |
| c) Invocation..... | Joyce Gist Lewis, BOG Member | |
| | GSU College of Law '99 | |
| d) Recognition of Special Guests..... | Lisa Liang, BOG Member | |
| | GSU College of Law '08 | |
| e) Roll Call..... | Tony DelCampo..... | 6-12 |
| | Secretary | |
| f) Future Meetings Schedule (2020-21)..... | Dawn M. Jones | 13-14 |
| g) Future Meetings Schedule (2021-22)..... | Elizabeth L. Fite, President-Elect | |

2) MIDYEAR MEMBERS’ MEETING ACTION ITEMS – *All active State Bar of Georgia*

Members are invited to attend and vote in the Midyear Members’ Meeting.

a) Summary of Proposed Bylaws Changes Dawn M. Jones/..... 15-33
Bill NeSmith

- (1) Article I Members. Section 4. Failure to Register
- (2) Article I Members. Section 9. Retired Member
- (3) Article II Meeting of Members. Section 1. Annual Meeting
- (4) Article III Board of Governors. Section 11. Meetings
- (5) Article IX Sections. Section 3. Other Sections – Purposes
- (6) Article IX Sections. Section 4. Establishment of Sections
- (7) Article IX Sections. Section 5. Abolition of Sections

Plenary session is concluded, and Board of Governors meeting commences.

3) ACTION

a) Minutes of the 284th Meeting of the Board of Governors
on October 24, 2020.....Tony DelCampo.....34-40

b) Summary of Proposed Rules Changes.....Bill NeSmith 41-96

- (1) Rule 1-601 (Chapter 6, Bylaws)
- (2) Rule 1.0 Terminology and Definitions
- (3) Rule 3.8 Special Responsibilities of a Prosecutor
- (4) Rule 8.4 Misconduct
- (5) Rule 9.3 Cooperation with Disciplinary Authority
- (6) Rule 4-202 Receipt of Grievance; Initial Review by Bar Counsel
- (7) Rule 4-203 Powers and Duties
- (8) Rule 4-204 Investigation and Disposition by State Disciplinary Board
- (9) Rule 4-204.1 Notice of Investigation
- (10) Rule 4-203.3 Answer to Notice of Investigation Required
- (11) Rule 4-208.2 Notice of Discipline; Contents; Service
- (12) Rule 4-208.4 Formal Complaint Following Notice of Rejection of Discipline
- (13) Rule 4-222 Limitation
- (14) Rule 4-223 Advisory Opinions
- (15) Rule 4-224 Expungement of Records
- (16) Rule 10-106 Eligible Claims

<u>Topics</u>	<u>Presenter</u>	<u>Page No.</u>
c) Approval of New Section.....	Paula Frederick.....	97-114
(1) Religious Liberty Law Section		
d) Amendments to Section Bylaws.....	Bill NeSmith	115-127
(1) Animal Law Section		
(2) Entertainment and Sports Law Section		
e) Nominations of ABA Delegates.....	Dawn M. Jones	
2-year terms September 2021 – August 2023		
(1) Expired Term of Lester Tate, Post 2		
(2) Expired Term of Donna Barwick, Post 4		
f) Nominations of State Bar Officers	Dawn M. Jones	
(nominations = 5 minutes, seconds = 2 minutes)		
(1) Office of Secretary		
(2) Office of Treasurer		
(3) Office of President-Elect		

4) LEGISLATION

a) Advisory Committee on Legislation	R. Javoyne Hicks, Chair ..	128-251
New Legislative Proposals (action)		
(1) Committee to Promote Inclusion in the Profession		
Support for Judicial Council Budget Request for FY 2022		
Funding for Civil Legal Services Grants for Victims of Domestic Violence		
(2) Indigent Defense Committee		
Support for Judicial Council Budget Request for FY 2022		
Funding for Georgia Resource Center		
(3) Real Property Section		
Remote Online Notary Legislation		
(4) Fiduciary Section		
Codification of Psychiatric Advance Directive		
(5) General Practice and Trial Section		
Proposed State Bar Support for Digital Court Reporting Legislation		
(6) Appellate Section		
Draft Superior and State Court Appellate Practice Act		
(7) Dispute Resolution Section		
Uniform Mediation Act (SB 464 -2020)		
b) Legislative Update	Christine Butcher Hayes	

Topics

Presenter

Page No.

5) INFORMATIONAL REPORTS

- a) President’s Report..... Dawn M. Jones
- b) Executive Director’s Report Damon E. Elmore
- c) Treasurer’s Report.....Sally Akins, Treasurer 252-263
- d) Bar Center Assessment.....Bill Barwick/Hal Daniel/
Ben Easterlin/Patrise Perkins Hooker/Charlie Lester/Lester Tate (Bar Center
Committee Members; *SBOG Past Presidents*) and Dawn M. Jones 264-276
- e) Young Lawyers DivisionBert D. Hummel..... 277-284
YLD President
- f) ICLE Update.....Michelle West
ICLE Director
- g) Georgia Legal Services Program.....Rick Ruffolo.....285-287
Executive Director
- h) Seeking Equal Justice and Addressing Racism.....Anita Wallace Thomas
and Racial Bias Committee Chair

6) WRITTEN REPORTS

- a) Executive Committee.....288-300
 - (1) September 11, 2020 Minutes
 - (2) September 25, 2020 Minutes
 - (3) October 8, 2020 Minutes
 - (4) October 13, 2020 Minutes
- b) Office of General Counsel.....301-303
- c) Law Practice Management.....304-309
- d) Media Report.....310-311
- e) Attorney Wellness Committee Report.....312-314

<u>Topics</u>	<u>Presenter</u>	<u>Page No.</u>
f) Chief Justice’s Commission on Professionalism Report.....		315-326
g) Georgia Diversity Program Report.....		327-332

7) SPECIAL PRESENTATION

Executive Director Jeff Davis (2014-2020).....Dawn M. Jones
 GSU College of Law '91

8) CLOSING

- a) Old Business Dawn M. Jones
- b) New Business Dawn M. Jones
- c) Announcements Dawn M. Jones
- d) Executive Session Dawn M. Jones
- e) Remarks / Q&A / Comments / Suggestions
- f) Adjournment

TIPS FOR USING ZOOM

for State Bar of Georgia virtual meetings



JOINING

- Click on the link you were emailed to join the meeting.
- Enter your name so we will have an accurate report of your attendance and voting.
- For audio, it will ask if you want to join via a phone call (and it gives you a number) or with computer audio. Only choose computer audio if you are certain your computer/laptop has a microphone in addition to sound. (Otherwise if you want to talk, we won't be able to hear you.)



SPEAKING

- We won't be able to see or hear you, unless you click the icon of the hand in your menu bar to "raise your hand" and are then unmuted by the host.
- Once the meeting's leader asks for discussion or comments, the host will unmute you, one at a time, to speak.
- Once the host unmutes you, everyone will be able to hear you, and you can turn on your camera if you would like.



VOTING

- If you **ONLY** participate by calling in, and you do not use your computer or smart device for visuals, you will **NOT** be able to vote.
- Otherwise, a poll will pop up on your screen, and you should click on your answer.



ASKING QUESTIONS

- The host will leave the Q&A open and try to answer questions, or ask one of the panelists to answer.
- You can wait and "raise your hand," and the host will call on you.
- Even if the chat feature is enabled during the meeting, questions will not be answered via the chat feature.

Subject to the meeting leader's request, the Q&A and chat feature may be disabled during meetings.



ADDITIONAL RESOURCES

- If you would like more specific details, check out the following resources:
Getting Started with Zoom:
<https://support.zoom.us/hc/en-us/categories/200101697>
Joining and participating in a webinar:
<https://support.zoom.us/hc/en-us/articles/115004954946-Joining-and-participating-in-a-webinar-attendee->

If you have any issues or questions, please reach out to Sarah Coole, State Bar of Georgia Director of Communications, at sarahc@gabar.org.



2021 MIDYEAR MEETING

State Bar of Georgia
Board of Governors | Jan. 7-9

VIRTUAL MEETING



Registration deadline: Wednesday, Dec. 30, 2020

SCHEDULE OF EVENTS

THURSDAY, JAN. 7

9 a.m. – 12 p.m.	ICLE Rebroadcast— Professionalism, Ethics and Malpractice
10 a.m. – 12 p.m.	Joint Meeting of the Military/ Veterans Law Section & Military Legal Assistance Committee
12 – 2 p.m.	Appellate Practice Section Midyear Meeting
1 – 3 p.m.	State Disciplinary Review Board Meeting
3:30 – 4:30 p.m.	Family Law Section Executive Committee Meeting
4:30 – 5:30 p.m.	Family Law Section CLE

FRIDAY, JAN. 8

8 – 9 a.m.	Past Presidents' Meeting
10 – 11 a.m.	Elections Committee Meeting
10 – 11 a.m.	Senior Lawyers Section Meeting
10 a.m. – 1 p.m.	State Disciplinary Board Meeting
11 a.m. – 12:30 p.m.	ICLE Board Meeting
1 – 2:30 p.m.	2021 YLD Leadership Academy— Session 1
1 – 3 p.m.	Law Practice Management Advisory Committee Meeting
1:30 – 2:30 p.m.	Professional Liability Insurance Committee Meeting
2:45 – 3:45 p.m.	YLD Ethics CLE—Social Media & Client Communications
3 – 3:30 p.m.	YLD Nominating Committee Meeting
3 – 5 p.m.	Disciplinary Rules & Procedures Committee Meeting
3 – 5 p.m.	Member Benefits Committee Meeting
4 – 5 p.m.	SOLACE Committee Meeting
4 – 5:30 p.m.	YLD General Session
6 – 7 p.m.	Board of Governors Virtual Networking Breakout Rooms

SATURDAY, JAN. 9

9 a.m. – 12:30 p.m.	Board of Governors Meeting
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FIND US ON SOCIAL MEDIA

	@statebarofgeorgia
	@statebarofga
	@statebarofga
	@state-bar-of-georgia



ZOOM LINKS:

Information will be sent to registered attendees closer to the scheduled events.



ATTIRE:

Camera-ready attire is appropriate for all meetings and events.

SPECIAL THANKS TO OUR CORPORATE SPONSOR

5-GAVEL

MB | MemberBenefits

EVENT HIGHLIGHTS & CLE

BOARD OF GOVERNORS VIRTUAL NETWORKING

Friday, Jan. 8 | 6 – 7 p.m. (All are welcome)

Please join us for Friday night's Board of Governors Virtual Networking events as you interact with fellow Bar members.

- ▶ *Musical Bingo* | Using the same concept as traditional bingo, letters and numbers are replaced with song titles and artists. Players compete to win based on their knowledge of music and the unpredictability of the game. Each game consists of different music rounds that feature various decades, genres and themes.

- ▶ *Curated Wine-Tasting Session with Scout & Cellar* | Choose one of two tasting options: Two bottles of wine for \$50 (and shipping) or four bottles of wine for \$89 (and shipping). Participants must order through Scout & Cellar representative Jacqueline Butler at yourwineagent@gmail.com by Dec. 20 to ensure that their order is delivered on time.

- ▶ *Yoga & Mindfulness Session* | Join us for a relaxing yoga and mindfulness session, led by Kellyn O. McGee, State Bar TILPP director and accomplished yoga instructor. Take a break from the grind with demonstrated techniques.

YOUNG LAWYERS DIVISION

YLD Leadership Academy—Session 1

Friday, Jan. 8 | 1 – 2:30 p.m.

The newest class of the YLD Leadership Academy will meet for the first session. Participants will spend time getting to know one another and all about the YLD. We'll hear from past presidents of the YLD on why participation in the organization is vital to the success of young attorneys. (Leadership Academy participants only.)

YLD Ethics CLE

Friday, Jan. 8 | 2:45 – 3:45 p.m.

State Bar of Georgia Deputy General Counsel Jenny Mittelman will present "Social Media and Client Communications." (1 hour of CLE credit, including 1 ethics hour, has been applied for.) *To learn more and register for this CLE, visit <https://www.gabar.org/calendar/eventdetail.cfm?id=15098443>.*

YLD Nominating Committee

Friday, Jan. 8 | 3 – 3:30 p.m.

Members of the YLD Nominating Committee will meet to nominate candidates for the 2021 State Bar of Georgia YLD elections.

YLD General Session

Friday, Jan. 8 | 4 – 5:30 p.m.

The YLD General Session is open to all members. YLD officers will give reports, and members of the council will provide updates about projects and events.

ICLE REBROADCAST

Professionalism, Ethics and Malpractice

Thursday, Jan. 7 | 9 a.m. – 12 p.m.

Kick-off the year with ICLE's Professionalism, Ethics and Malpractice rebroadcast. Use this opportunity to obtain most of your specialty hours for the year at once. This program provides ethical and professionalism updates and considerations for attorneys given the current pandemic. ICLE looks forward to your attendance.

Speaker: Jeffrey M. Smith, Greenberg Traurig LLP

To learn more about the speaker and to register, please visit www.gabar.org/professionalism-ethics-malpractice.

Approved for 3 general CLE hours, including 2 hours of ethics and 1 hour of professionalism. (Attendees are responsible for paying for this CLE through ICLE program registration.)

Registration closes at 5 p.m. the day before the program. Should you miss the registration deadline, the webcast will be available for purchase 48 hours after the program at www.gabar.org/professionalism-ethics-malpractice.

REGISTRATION FORM

Please complete and remit the registration form by Wednesday, Dec. 30, checking all events you plan to attend.
Zoom links and information will be sent to registered attendees closer to the scheduled events.

Online registration is available at www.gabar.org.

ATTENDEE INFORMATION

Bar Number _____

Name _____

Nickname _____

Spouse/Guest Name _____

Address _____

City/State/Zip _____

Email _____

SPECIAL NEEDS

ADA: If you qualify for assistance under the Americans with Disabilities Act, please email johns@gabar.org for assistance.

REGISTRATION OPTIONS

Board of Governors Functions Qty.

- Board of Governors Virtual Networking
- Breakout Rooms: *Please choose one only.*
- Musical Bingo N/C _____
- Curated Wine-Tasting with Scout & Cellar N/C _____
- Participants must place wine orders through Scout & Cellar representative Jacqueline Butler at yourwineagent@gmail.com by Dec. 20.*
- Yoga & Mindfulness Session N/C _____
- Board of Governors Meeting N/C _____

Committee Functions

- Disciplinary Rules & Procedures Committee N/C _____
- ICLE Board Meeting N/C _____
- Joint Meeting of the Military/Veterans Law Section & Military Legal Assistance Committee N/C _____
- Law Practice Management Advisory Committee N/C _____
- Member Benefits Committee N/C _____
- Professional Liability Insurance Committee N/C _____
- SOLACE Committee N/C _____

Section Events

- Appellate Practice Meeting N/C _____
- Family Law CLE N/C _____

CLE

- ICLE Rebroadcast—Professionalism, Ethics and Malpractice
Register for this CLE at www.gabar.org/professionalism-ethics-malpractice.

Related Organizations/Other Functions

- YLD Ethics CLE—Social Media & Client Communications
Register for this CLE at <https://www.gabar.org/calendar/eventdetail.cfm?id=15098443>.
- YLD General Session N/C _____

Total Quantity: _____

Please email completed registration forms to gakiik@gabar.org.



Board of Governors Attendance Record

	1-19	3-19	6-19	6-19	6-19	10-19	1-20	4-20	6-20	10-20
	ATL	Greensboro	Fri.	Orlando	Sat.	Savannah	ATL	Zoom Webinar	Zoom Webinar	Zoom Webinar
Sarah Brown Akins	•	e	•	•	•	•	•	•	•	•
Mark W. Alexander	•	•	•	•	•	•	•	•	•	•
Kent Edward Altom	•	•	•	•	•	e	•	•	•	•
Anthony B. Askew	•	•	•	•	•	u	•	•	•	•
Philip Augustine	n/a	n/a	n/a	•	•	•	e	•	e	e
JaDawnya Cintelle Baker	•	•	•	•	•	e	e	•	•	•
Nina M. Baker	•	•	•	•	•	•	•	•	•	u
Eric A. Ballinger	•	•	•	•	•	•	•	•	•	•
Donna G. Barwick	•	•	u	u	u	u	•	•	•	•
Tracee R. Benzo	•	•	e	e	e	•	•	•	•	•
James D. Blitch IV	•	u	e	e	e	•	•	•	u	•
Joshua I. Bosin	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•
Sherry Boston	•	•	•	•	•	•	•	•	•	•
Ashley Mackin Brodie	n/a	n/a	n/a	n/a	•	e	•	•	•	•
Thomas R. Burnside	u	u	•	•	•	•	u	•	u	•
Stephanie D. Burton	•	•	•	•	•	•	•	•	•	•
Ivy Neal Cadle	•	•	•	•	•	•	•	•	•	•
Richard D. Campbell	•	•	u	u	u	•	•	•	•	•
David L. Cannon	u	•	u	•	•	•	u	•	•	u
Carl S. Cansino	•	•	•	•	•	•	•	•	•	e
Chris M. Carr	•	•	u	u	u	u	•	•	•	•
Carol V. Clark	•	•	e	e	e	•	•	•	•	•
Edward R. Collier	•	•	u	u	u	e	•	•	•	u
Christopher S. Connelly	•	•	•	•	•	e	e	u	u	•
Martin L. Cowen III	•	•	•	•	•	•	•	•	•	•
Susan W. Cox	•	e	•	•	•	•	e	•	•	•

To request an excused absence, please email Secretary Tony DelCampo (tony@dclawfirm.com)

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	ATL	Greensboro	Fri.	Sat.	Savannah	ATL	Zoom Webinar	Zoom Webinar	Zoom Webinar
Kenneth B. Crawford	n/a	n/a	Orlando	Orlando	n/a	n/a	n	•	•
Terrence Lee Croft	•	•	u	u	e	•	•	•	•
Gerald Davidson Jr.	e	•	•	•	•	•	•	•	•
C. Lee Davis	n/a	n/a	n/a	n/a	n/a	•	•	•	•
J. Anderson Davis	•	e	•	•	e	•	•	•	e
Randall H. Davis	e	e	•	•	•	•	•	•	•
William T. Davis	•	•	•	•	•	•	•	•	•
J. Antonio Delcampo	e	•	•	•	•	•	•	•	•
Scott Dewitt Delius	e	e	•	•	•	•	e	•	•
Joseph W. Dent	•	•	•	•	•	•	•	•	•
Foy R. Devine	•	•	•	•	u	•	u	•	u
Daniel S. Digby	e	•	•	•	e	•	•	•	•
Danny L. Durham	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•
Susan E. Edlein	•	u	•	•	e	•	•	•	•
Christopher Edwards	n/a	n/a	n/a	e	•	•	•	•	•
Archibald A. Farrar	•	•	•	•	•	•	•	•	•
Elizabeth L. Fite	•	•	•	•	•	•	•	•	•
Ira L. Foster	n/a	n/a	n/a	•	u	•	•	•	•
Harold Eugene Franklin Jr.	n/a	n/a	n/a	•	•	•	•	•	•
Gregory A. Futch	•	•	•	•	u	•	•	•	•
Keigh E. Gammage	•	•	u	•	•	•	•	u	•
William C. Gentry	•	•	•	•	•	•	•	•	•
Michael G. Geoffroy	•	u	•	•	u	•	•	•	•
Walter J. Gordon Sr.	e	•	e	e	•	•	•	•	•
Patricia A. Gorham	•	•	•	•	e	•	•	•	•
John Haubenreich	•	•	•	•	•	•	•	•	•

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	ATL	Greensboro	Fri.	Orlando	Sat.	Savannah	ATL	Zoom Webinar	Zoom Webinar	Zoom Webinar
Elissa B. Haynes	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n	•	•
Patrick H. Head	•	•	•	•	•	•	•	e	•	•
Lawton C. Heard, Jr.	•	•	•	•	•	e	•	•	•	•
Render M. Heard Jr.	•	u	u	u	u	•	•	•	e	•
Matthew J. Hennessy	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n	•	•
Thomas W. Herman	•	•	•	•	•	e	e	•	•	•
R. Javoynne Hicks	•	•	•	•	•	•	•	•	•	•
Donna S. Hix	•	•	e	e	e	•	•	u	•	•
Michael D. Hobbs	•	•	u	u	u	u	•	•	•	•
Amy V. Howell	•	•	•	•	•	•	•	•	•	•
Bert Hummel IV	n/a	n/a	n/a	n/a	•	•	•	•	•	•
James W. Hurt	•	u	u	•	•	e	•	u	u	u
Christopher Huskins	•	•	•	•	•	u	•	u	u	•
Stacey K. Hydrick	•	•	•	•	•	•	e	•	•	•
James T. Irvin	•	u	u	•	•	•	•	•	•	•
William Dixon James	•	•	•	•	•	•	•	•	•	•
Curtis S. Jenkins	•	•	u	u	u	u	u	•	•	u
Francys Johnson Jr.	n/a	n/a	n/a	n/a	•	•	•	•	•	•
Charles Michael Johnson	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•
Larry Michael Johnson	•	u	u	u	u	•	e	•	u	•
Lester B. Johnson, III	•	e	•	•	•	•	•	•	•	•
Shiriki L. Cavitt Jones	•	•	•	•	•	•	•	•	•	•
Dawn M. Jones	•	•	•	•	•	•	•	•	•	•
Austin O. Jones	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n	•	u
Jennifer A. Jordan	•	e	u	u	u	•	•	u	•	u
Zahra S. Karinshak	e	•	e	e	e	e	•	•	•	•

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John F. Kennedy	•	•	•	•	•	•	•	u	•
Barry E. King	•	•	•	•	u	•	•	•	•
Judy C. King	•	•	•	•	•	•	•	•	•
Seth Kirschenbaum	•	u	•	•	•	•	•	•	•
Catherine Koura	•	•	•	•	e	•	u	•	•
Edward B. Krugman	•	e	e	e	•	e	•	•	•
Jeffrey R. Kuester	•	•	•	•	e	•	•	•	•
Allegra Lawrence-Hardy	•	•	•	e	•	•	•	•	•
Nicole C. Leet	•	e	•	•	•	•	•	•	•
Katie K. Leonard	•	•	•	•	e	•	•	•	•
Dawn Renee Levine	•	u	•	•	•	•	•	•	•
Joyce Gist Lewis	•	•	•	•	•	•	•	•	•
Lisa Katsuko Liang	n/a	n/a	n/a	•	•	u	•	•	•
David S. Lipscomb	•	•	•	•	•	•	•	•	•
John R. B. Long	•	•	•	•	•	•	•	•	•
Dax Eric Lopez	•	•	•	•	e	•	•	•	•
Ronald A. Lowry	e	•	u	u	u	•	u	u	u
John Bell Manly	•	•	•	•	e	•	e	•	u
Hugh J. McCullough	n/a	n/a	n/a	n/a	n/a	n/a	n	•	•
Graham Elliott McDonald	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•
Letitia A. McDonald	•	•	•	•	e	•	•	•	•
Brad J. McFall	•	e	u	u	e	•	•	•	•
Michael D. McRae	•	•	e	e	e	•	u	u	u
Terry L. Miller	•	•	•	•	•	•	•	•	•
William J. Monahan	e	•	•	•	•	•	•	u	•
Shondeana Crews Morris	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•

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John T. Mroczko	u	u	u	u	u	u	u	u	u	u
Laura J. Murphree	•	•	•	•	•	e	•	•	•	•
Sam G. Nicholson	•	•	e	e	e	•	•	•	e	•
Paul Wain Painter III	n/a	n/a	n/a	u	u	•	•	•	•	•
Amanda Rourk Clark Palmer	n/a	n/a	n/a	n/a	n/a	u	•	•	•	•
Jonathan B. Pannell	•	•	•	•	•	•	•	•	•	•
Joy Renea Parks	u	•	•	•	•	•	•	•	•	•
Tabitha Edwina Payne	n/a	n/a	n/a	e	e	•	•	•	•	•
Brandon Lee Peak	n/a	n/a	n/a	e	e	e	e	•	•	•
Thomas A. Peterson, IV	e	•	u	u	u	u	u	u	u	•
Will H. Pickett, Jr.	•	u	u	u	u	e	u	u	u	•
Robert Allen Plumb Jr.	•	•	•	•	•	•	•	•	•	•
Kathryn Lauranne Powers	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•
Jill Pryor	•	e	e	e	e	•	e	•	•	•
William M. Ragland	•	•	•	•	•	e	•	•	•	•
James L. Roberts, IV	e	•	•	u	u	e	•	•	•	•
Tina S. Roddenbery	•	•	•	•	•	•	•	•	•	•
Joseph Roseborough	•	•	•	•	•	•	•	•	•	•
Wesley Charles Ross	n/a	n/a	•	•	•	•	•	•	•	•
Claudia S. Saari	•	•	•	•	•	e	•	•	•	•
Dennis C. Sanders	•	•	•	•	•	e	•	•	•	•
Alex Musole Shalishali	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•
H. Burke Sherwood	•	•	u	•	•	•	•	•	•	•
Mitchell McKinley Shook	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•
Robert H. Smalley, III	•	•	•	•	•	u	•	•	•	•
Philip C. Smith	•	•	•	•	•	•	•	u	•	•

To request an excused absence, please email Secretary Tony DelCampo (tony@dclawfirm.com)

Board of Governors Attendance Record

	1-19	3-19	6-19	6-19	10-19	1-20	4-20	6-20	10-20
	ATL	Greensboro	Fri. Orlando	Sat. Orlando	Savannah	ATL	Zoom Webinar	Zoom Webinar	Zoom Webinar
R. Rucker Smith	•	•	•	•	•	•	•	•	•
Daniel B. Snipes	•	•	e	e	u	•	•	u	•
R. Gary Spencer	•	e	•	•	•	•	•	•	•
H. Craig Stafford	e	•	u	u	•	•	•	•	•
Lawton E. Stephens	•	e	•	•	e	u	•	•	•
Donna Coleman Stribling	•	•	•	•	•	•	•	•	•
C. Deen Strickland	•	u	•	•	•	u	•	•	•
Frank B. Strickland	•	•	•	•	e	•	•	•	•
Joseph C. Summer, Jr.	u	•	•	•	•	•	u	•	•
Darrell L. Sutton	•	•	•	•	•	•	•	•	•
Jason W. Swindle	•	•	u	u	•	•	•	u	•
Michael B. Terry	•	•	•	•	•	•	•	•	•
Anita W. Thomas	•	e	u	•	u	•	u	u	•
Edward D. Tolley	•	•	u	u	e	•	•	u	u
Clayton Tomlinson	u	•	u	•	•	u	•	u	•
Chris P. Twyman	•	•	•	•	•	•	•	•	•
William Underwood III	u	u	•	•	•	•	•	•	•
Martin E. Valbuena	•	•	•	•	•	•	•	•	•
Nicki N. Vaughan	•	•	•	•	•	e	•	•	•
Carl A. Veline, Jr.	•	•	u	u	•	•	•	•	•
J. Henry Walker	•	•	•	•	u	•	•	•	•
Janice M. Wallace	•	•	•	•	•	•	•	•	•
Amy Carol Walters	•	•	e	e	•	•	•	•	•
Harold B. Watts	•	•	•	•	u	•	•	•	u
John P. Webb	•	•	•	•	•	•	•	•	•
Christopher F. West	•	u	•	•	u	u	u	u	u

To request an excused absence, please email Secretary Tony DelCampo (tony@dcglawfirm.com)

Board of Governors Attendance Record

	1-19	3-19	6-19 Fri.	6-19 Sat.	10-19	1-20	4-20	6-20	10-20
	ATL	Greensboro	Orlando	Orlando	Savannah	ATL	Zoom Webinar	Zoom Webinar	Zoom Webinar
Nancy J. Whaley	e	•	•	•	•	•	•	•	•
Paige Reese Whitaker	•	•	•	•	•	•	•	•	•
Martha Wilson Williams	n/a	•	•	•	•	•	•	•	•
Douglas Woodruff	e	•	e	e	e	•	•	•	•
• - attended meeting				u - unexcused absence					

Future Meetings Schedule

(12/17/2020)



Executive Committee

January 29, 2021	Virtual – 1 p.m.
February 26, 2021	Bar Center – 1 p.m.
April 15-16, 2021	Supreme Court/Executive Committee Joint Meeting, Bar Center
May 14, 2021	Bar Center – 1 p.m.

Board of Governors

Spring 2021	March 19-21, 2021	Brasstown Valley Resort & Spa Young Harris, GA (Joint with the YLD)
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 2021	March 19-21, 2021	Brasstown Valley Resort & Spa Young Harris, GA (Joint with the BOG)
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

Midyear 2021	Feb. 10-16, 2021	Chicago, IL
Annual 2021	Aug. 5-10, 2021	Toronto, ONT

Savannah Boat Ride

April 23, 2020	Savannah, GA
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Southern Conference Meetings

2021	Oct. 20-24, 2021	Grand Floridian Resort Orlando, FL
2022	Oct. 27-30, 2022	Omni Resorts, Barton Creek Austin, TX
2023	Oct. 19-22, 2023	The Greenbrier Hotel White Sulphur Springs, WV
2024	Mississippi	
2025	South Carolina	
2026	Alabama	
2027	Maryland	



MEMORANDUM

To: Members of the State Bar of Georgia

From: Bill NeSmith

Date: January 9, 2021

Re: Proposed Bylaw Changes

Below is a short explanation of the proposed bylaws changes on the agenda for the January 9, 2021, Midyear Members Meeting:

1. **Article I Members. Section 4. Failure to Register.** The proposed changes to this bylaw will make the State Bar bylaw match the Office of Bar Admission's time limits. Currently, this bylaw provides more time than is allowed by Bar Admission's rules. *NOTE: This bylaw was submitted to the Executive Committee after the deadline for publication of this Board book. I will report on the decision of the Executive Committee at the Midyear meeting.*
2. **Article I Members. Section 9. Retired Member.** This proposed change is a new bylaw that adds a new category of member, Retired Member. Retired Member status is available to almost any State Bar member; however, it is written to provide an honorable departure from the practice of law, especially for those lawyers that may be suffering from cognitive issues.
3. **Article II Meeting of Members. Section 1. Annual Meeting.** This proposed change updates the current bylaw by adding "and Midyear" to the title and providing more clarity about member meetings. The proposed change allows for electronic meetings and electronic voting. Due to the pandemic, the State Bar of Georgia is operating electronic meetings by the authority of an order from the Supreme Court of Georgia.
4. **Article III Board of Governors. Section 11. Meetings.** This proposed change is mainly housekeeping and removes the "three meeting minimum and allows the Board to decide on how many meetings it will have in a year. The proposed change allows for electronic meetings and electronic voting. Due to the pandemic, the State Bar of Georgia is operating electronic meetings by the authority of an order from the Supreme Court of Georgia.
5. **Article IX Sections. Section 3. Other Sections – Purposes.** The changes to this bylaw are mainly housekeeping but add the requirement that sections of the State Bar of Georgia must be created under Article IX.
6. **Article IX Sections. Section 4. Establishment of Sections.** The proposed changes to this bylaw clarify the existing internal requirements for creating a new section. The proposed changes require that new sections follow the model bylaws established by the State Bar of

Georgia for sections and require Bar numbers of those wishing to start a new section. Other changes are housekeeping.

7. **Article IX Sections. Section 5. Abolition of Sections.** This proposed change to the bylaw provides much needed and increased clarity about sunsetting a noncomplying section. The current bylaw offers no criteria for abolishing a section, including the disposition of any leftover funds in the section account that is maintained by the State Bar of Georgia.

1 ARTICLE I. MEMBERS. (redlined)

2 Section 4. Failure to Register.

3 (1) A person who is otherwise eligible to practice law or practice as a foreign law consultant as
4 defined in the Rules of the State Bar of Georgia, but who failed to register as required by the Rules
5 and Article I, Section 1 of these Bylaws, shall be entitled to register at any time for a period one
6 year after the day upon which the person first became eligible upon the following terms and
7 conditions:

8 (a) the payment of the dues for the year in which the applicant registers, together with unpaid
9 dues for any previous year, ~~should the period of time in which the applicant failed to register,~~
10 extend between two fiscal years of the State Bar, plus a late fee of \$100.00; and

11 (b) the submission of an affidavit stating that the applicant's failure to sooner register was
12 not intended as a violation of the State Bar Rules, that the applicant was not aware of the
13 requirements of the Rules ~~with respect to~~ concerning registration, that the applicant has not
14 practiced law in Georgia during the period between the time the applicant first became
15 eligible and the day the applicant submits the affidavit, and that the applicant will submit to
16 the jurisdiction of the State Disciplinary Board for any complaints or grievances filed
17 regarding the applicant's conduct for the period between eligibility and registration; or

18 (c) in the event the applicant cannot aver that he or she did not practice law in Georgia during
19 the period between the time the applicant first became eligible and the day the applicant
20 actually registered, the applicant shall submit an affidavit stating that the applicant's failure
21 to sooner register was not intended as a violation of the State Bar Rules, ~~and that the~~
22 applicant was not aware of the requirements of the Rules ~~with respect to~~ concerning
23 registration. The affidavit shall also provide a detailed description of the applicant's practice
24 of law during the period, ~~and state that the applicant will submit to the jurisdiction of the~~
25 State Disciplinary Board for any complaints or grievances filed regarding the applicant's
26 conduct for the period between eligibility and registration. A copy of the affidavit shall be
27 supplied to either the Standing Committee or District Committee for the Unauthorized
28 Practice of Law.

29 (2) A person who is otherwise eligible to practice law or practice as a foreign law consultant as
30 defined in the Rules of the State Bar of Georgia, but who failed to register within one year, but
31 less than three years of the date the applicant was first eligible as required by the Rules and these

32 Bylaws, shall be entitled to register ~~within five years of becoming eligible~~ upon the following
33 terms and conditions:

34 (a) the payment of the dues for the year in which the applicant registers, payment of all
35 unpaid dues for all past years at the active member level, and payment of a late fee of \$100
36 for the year in which the applicant registers plus \$100 per year for all past years;

37 (b) submission of a determination of fitness from the Board to Determine Fitness of Bar
38 Applicants; and

39 (c) the submission of an affidavit stating that the applicant's failure to sooner register was
40 not intended as a violation of the State Bar Rules, that the applicant was not aware of the
41 requirements of the Rules ~~with respect to~~ concerning registration, that the applicant has not
42 practiced law in Georgia during the period between the time the applicant first became
43 eligible and the day the applicant submits the affidavit, and that the applicant will submit to
44 the jurisdiction of the State Disciplinary Board for any complaints or grievances filed
45 regarding the applicant's conduct for the period between eligibility and registration; or

46 (d) in the event the applicant cannot aver that he or she did not practice law in Georgia during
47 the period between the time the applicant first became eligible and the day the applicant
48 submits the affidavit, the applicant shall submit an affidavit stating that the applicant's failure
49 to sooner register was not intended as a violation of the State Bar Rules and that the applicant
50 was not aware of the requirements of the Rules ~~with respect to~~ concerning registration. The
51 affidavit shall also provide a detailed description of the applicant's practice of law during
52 the period; and state that the applicant will submit to the jurisdiction of the State Disciplinary
53 Board for any complaints or grievances filed regarding the applicant's conduct for the period
54 between eligibility and registration. A copy of the affidavit shall be supplied to the Board to
55 Determine Fitness of Bar Applicants and either the Standing Committee or District
56 Committee for the Unauthorized Practice of Law

57 (3) A person who is otherwise eligible to practice law or practice as a foreign law consultant in
58 Georgia as defined in the Rules of the State Bar, but who failed to register within ~~five~~ three years
59 of the date the applicant was first eligible must follow the rules of the Office of Bar Admissions
60 for admission to the practice of law in this state.

61 ~~years of the date the applicant was first eligible as required by the Rules and these Bylaws, may~~
62 ~~apply to the Executive Committee for permission to register without reapplying to the Office of~~

63 ~~Bar Admissions. The Executive Committee shall have complete discretion in considering such~~
64 ~~application and may impose such requirements, restrictions and qualifications, including penalty~~
65 ~~fees and past dues, upon the applicant as it deems appropriate. In the event the Executive~~
66 ~~Committee denies or refuses to consider such waiver application, the person shall be required to~~
67 ~~reapply to the Office of Bar Admissions.~~

1 ARTICLE I. MEMBERS. (clean)

2 Section 4. Failure to Register.

3 (1) A person who is otherwise eligible to practice law or practice as a foreign law consultant as
4 defined in the Rules of the State Bar of Georgia, but who failed to register as required by the Rules
5 and Article I, Section 1 of these Bylaws, shall be entitled to register at any time for a period one
6 year after the day upon which the person first became eligible upon the following terms and
7 conditions:

8 (a) the payment of the dues for the year in which the applicant registers, together with unpaid
9 dues for any previous year, should the period of time in which the applicant failed to register,
10 extend between two fiscal years of the State Bar, plus a late fee of \$100.00; and

11 (b) the submission of an affidavit stating that the applicant's failure to sooner register was
12 not intended as a violation of the State Bar Rules, that the applicant was not aware of the
13 requirements of the Rules concerning registration, that the applicant has not practiced law
14 in Georgia during the period between the time the applicant first became eligible and the
15 day the applicant submits the affidavit, and that the applicant will submit to the jurisdiction
16 of the State Disciplinary Board for any complaints or grievances filed regarding the
17 applicant's conduct for the period between eligibility and registration; or

18 (c) in the event the applicant cannot aver that he or she did not practice law in Georgia during
19 the period between the time the applicant first became eligible and the day the applicant
20 actually registered, the applicant shall submit an affidavit stating that the applicant's failure
21 to sooner register was not intended as a violation of the State Bar Rules and that the applicant
22 was not aware of the requirements of the Rules concerning registration. The affidavit shall
23 also provide a detailed description of the applicant's practice of law during the period and
24 state that the applicant will submit to the jurisdiction of the State Disciplinary Board for any
25 complaints or grievances filed regarding the applicant's conduct for the period between
26 eligibility and registration. A copy of the affidavit shall be supplied to either the Standing
27 Committee or District Committee for the Unauthorized Practice of Law.

28 (2) A person who is otherwise eligible to practice law or practice as a foreign law consultant as
29 defined in the Rules of the State Bar of Georgia, but who failed to register within one year, but
30 less than three years of the date the applicant was first eligible as required by the Rules and these
31 Bylaws, shall be entitled to register upon the following terms and conditions:

32 (a) the payment of the dues for the year in which the applicant registers, payment of all
33 unpaid dues for all past years at the active member level, and payment of a late fee of \$100
34 for the year in which the applicant registers plus \$100 per year for all past years;

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38 not intended as a violation of the State Bar Rules, that the applicant was not aware of the
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41 day the applicant submits the affidavit, and that the applicant will submit to the jurisdiction
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47 to sooner register was not intended as a violation of the State Bar Rules and that the applicant
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49 also provide a detailed description of the applicant's practice of law during the period and
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51 complaints or grievances filed regarding the applicant's conduct for the period between
52 eligibility and registration. A copy of the affidavit shall be supplied to the Board to
53 Determine Fitness of Bar Applicants and either the Standing Committee or District
54 Committee for the Unauthorized Practice of Law

55 (3) A person who is otherwise eligible to practice law or practice as a foreign law consultant in
56 Georgia as defined in the Rules of the State Bar, but who failed to register within three years of
57 the date the applicant was first eligible must follow the rules of the Office of Bar Admissions for
58 admission to the practice of law in this state.

1 ARTICLE I MEMBERS (redlined)

2 Section 9. Retired Status Member

3 (a) Any member of the State Bar of Georgia who is not engaged in the active practice
4 of law in any state, district, or territory of the United States may transfer to Retired Status by
5 submitting a request in writing to the Executive Director and General Counsel of the State Bar of
6 Georgia. Upon approval by the Executive Director and General Counsel the Membership
7 Department shall transfer the member to Retired status. A member in Retired status shall not be
8 entitled to practice law in this state and may not practice law in any other jurisdiction. Further,
9 such members shall not be eligible to vote or hold office in the State Bar of Georgia. Any member
10 transferred to Retired status shall be relieved of their membership fees and CLE obligations.

11 (b) A request for Retired status must be unqualified, is irrevocable and permanent. A
12 member in Retired status will appear in the State Bar of Georgia member directory as "Retired."

13 (c) A member of the State Bar of Georgia with a pending disciplinary matter may
14 transfer to Retired status with the consent of the Office of the General Counsel. Grievances
15 received after a member has transferred to retired status may be investigated and prosecuted
16 through the disciplinary process at the option of the Office of the General Counsel.

17 (d) Members who are suspended from the practice of law because of failure to meet
18 CLE requirements or failure to pay Bar membership fees are not eligible for Retired status until
19 the suspension is lifted.

20

1 ARTICLE I MEMBERS (clean)

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15 received after a member has transferred to retired status may be investigated and prosecuted
16 through the disciplinary process at the option of the Office of the General Counsel.

17 (d) Members who are suspended from the practice of law because of failure to meet
18 CLE requirements or failure to pay Bar membership fees are not eligible for Retired status until
19 the suspension is lifted.

1 ARTICLE II MEETINGS OF MEMBERS (redlined)

2 Section 1. Annual and Midyear Meeting.

3 (a) The members of the State Bar of Georgia shall meet at least once each Bar year at a
4 time and place designated by the Board of Governors. That meeting shall~~may~~ be
5 called held at either the Annual Meeting or Midyear meeting or both.

6 (b) The members of the State Bar of Georgia may meet at other times during the Bar year
7 as designated by the Board of Governors.

8 (c) The Board of Governors, or in its absence, the Executive Committee, may vote to hold
9 a meeting of members by electronic means as deemed prudent or necessary.

10 (d) A meeting of members may be held at a location designated by the Board of Governors,
11 or by electronic means, including but not limited to telephone conferencing and live
12 video conferencing, subject to any limitations established by the Board of Governors.

13 (e) If approved by the Board of Governors, any meeting of members may be held
14 electronically by live video conferencing, social media broadcast, or by any other
15 electronic means approved by the Board of Governors.

16 (a)(f) Any voting required by the membership shall be conducted electronically with a
17 ballot provided directly to the member or available on the official website of the State
18 Bar of Georgia. Instructions for electronic voting will be provided to every member
19 and posted on the official State Bar of Georgia website at least ten days before any
20 meeting to be held electronically.

21 ARTICLE II MEETINGS OF MEMBERS (clean)

22 Section 1. Annual and Midyear Meeting.

23 (a) The members of the State Bar of Georgia shall meet at least once each Bar year at a
24 time and place designated by the Board of Governors. That meeting may be held at
25 either the Annual or Midyear meeting or both.

26 (b) The members of the State Bar of Georgia may meet at other times during the Bar year
27 as designated by the Board of Governors.

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35 electronic means approved by the Board of Governors.

36 (f) Any voting required by the membership shall be conducted electronically with a ballot
37 provided directly to the member or available on the official website of the State Bar of
38 Georgia. Instructions for electronic voting will be provided to every member and
39 posted on the official State Bar of Georgia website at least ten days before any meeting
40 to be held electronically.

1 ARTICLE III BOARD OF GOVERNORS (redlined)

2 Section 11. Meetings.

3 (a) The Board of Governors shall meet during or immediately after the adjournment of the
4 annual meeting of the members or on the following day, as the incoming President may
5 direct. There ~~shall~~ may be ~~at least three~~ additional regular meetings of the Board each year
6 at such times and places as may be fixed by the Board or its President.

7 (b) Special meetings may be called by the President. Upon the request of ~~twenty~~ 20 members
8 of the Board of Governors, the President or the Executive Director shall give notice of a
9 special meeting not less than ~~ten~~ 10 nor more than ~~twenty~~ 20 days after such request is
10 received. Each member of the Board shall ~~have~~ receive at least ~~ten~~ 10 days' notice by email
11 of each meeting of the Board of Governors, other than ~~the~~ a meeting held in conjunction
12 with the annual or midyear meetings.

13 ~~(a)~~ (c) If deemed prudent or necessary, the Board of Governors may conduct any meeting
14 by any electronic means that allows for discussion, debate, and voting.

1 ARTICLE III BOARD OF GOVERNORS (clean)

2 Section 11. Meetings.

3 (a) The Board of Governors shall meet during or immediately after the adjournment of the
4 annual meeting of the members or on the following day, as the incoming President may
5 direct. There may be additional regular meetings of the Board each year at such times and
6 places as may be fixed by the Board or its President.

7 (b) Special meetings may be called by the President. Upon the request of 20 members of the
8 Board of Governors, the President or the Executive Director shall give notice of a special
9 meeting not less than 10 nor more than 20 days after such request is received. Each member
10 of the Board shall receive at least 10 days notice by email of each meeting of the Board of
11 Governors, other than a meeting held in conjunction with the annual or midyear meetings.

12 (c) If deemed prudent or necessary, the Board of Governors may conduct any meeting by any
13 electronic means that allows for discussion, debate, and voting.

1 ARTICLE IX SECTIONS (redlined)

2 Section 3. Other Sections - Purposes.

3 Other sections may be created for members of the ~~bar~~ State Bar of Georgia interested in a
4 specialized area of law or practice. Each section must be created per this Article and shall have
5 powers and duties consistent with the Rules and Bylaws of the State Bar of Georgia, subject to the
6 approval of the Board of Governors.

1 ARTICLE IX SECTIONS (redlined)

2 Section 3. Other Sections - Purposes.

3 Other sections may be created for members of the State Bar of Georgia interested in a specialized
4 area of law or practice. Each section must be created per this Article and shall have powers and
5 duties consistent with the Rules and Bylaws of the State Bar of Georgia, subject to the approval of
6 the Board of Governors.

1 ARTICLE IX SECTIONS. (redlined)

2 Section 4. Establishment of Sections.

3 The Board of Governors may establish a new section dedicated to an area of law or practice not
4 duplicated by any other section of the State Bar of Georgia. Every application to the Board for the
5 establishment of a new section shall set forth:

6 (a) the area of law or practice to which the proposed section is to be dedicated which shall
7 be within the purposes of the State Bar;

8 (b) a statement of the need for the proposed section;

9 (c) the proposed bylaws for the government of the section that follow the standard bylaws
10 for sections as established by the State Bar of Georgia; and

11 (d) the names, and addresses, and Bar numbers of at least ten members applying for the
12 creation of the section.

1 ARTICLE IX SECTIONS. (clean)

2 Section 4. Establishment of Sections.

3 The Board of Governors may establish a new section dedicated to an area of law or practice not
4 duplicated by any other section of the State Bar of Georgia. Every application to the Board for the
5 establishment of a new section shall set forth:

6 (a) the area of law or practice to which the proposed section is to be dedicated which shall
7 be within the purposes of the State Bar;

8 (b) a statement of the need for the proposed section;

9 (c) the proposed bylaws for the government of the section that follow the standard bylaws
10 for sections as established by the State Bar of Georgia; and

11 (d) the names, address, and Bar numbers of at least ten members applying for the creation
12 of the section.

1 ARTICLE IX SECTIONS. (redlined)

2 Section 5. Abolition of Sections.

3 (a) Upon notice by mail to the members of a section established under this Article, the Board
4 of Governors, by a majority vote, may abolish a section.

5 (b) Notice to the section shall be to the last known leadership and members of the section either
6 by mail or email and by posting a notice of intent to abolish a section on the official website of the
7 State Bar of Georgia.

8 (c) A section may be abolished if:

9 (1) the section has been inactive for three or more years;

10 (2) the section has repeatedly failed to follow its bylaws or the bylaws of the State Bar of
11 Georgia.

12 (3) the section engages in actions and activities or promotes positions that are not germane
13 to the scope and purpose of the State Bar of Georgia.

14 (d) Upon the Board of Governors voting to abolish a section, any remaining funds collected
15 by the State Bar of Georgia on behalf of the section shall be moved from the section account into
16 the general operating account of the State Bar of Georgia.

1 ARTICLE IX SECTIONS. (clean)

2 Section 5. Abolition of Sections.

3 (a) Upon notice to a section established under this Article, the Board of Governors, by a
4 majority vote, may abolish a section.

5 (b) Notice to the section shall be to the last known leadership and members of the section either
6 by mail or email and by posting a notice of intent to abolish a section on the official website of the
7 State Bar of Georgia.

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9 (1) the section has been inactive for three or more years;

10 (2) the section has repeatedly failed to follow its bylaws or the bylaws of the State Bar of
11 Georgia.

12 (3) the section engages in actions and activities or promotes positions that are not germane
13 to the scope and purpose of the State Bar of Georgia.

14 (d) Upon the Board of Governors voting to abolish a section, any remaining funds collected
15 by the State Bar of Georgia on behalf of the section shall be moved from the section account into
16 the general operating account of the State Bar of Georgia.

D-R-A-F-T
STATE BAR OF GEORGIA
BOARD OF GOVERNORS
MEETING MINUTES
Saturday, October 24, 2020 at 9:00 a.m.
(Zoom Webinar)

The 284th meeting of the Board of Governors of the State Bar of Georgia was held at the date and time and in the format shown. President Dawn M. Jones presided.

Welcome and Call to Order

Dawn called the meeting to order at 9:01 a.m. She asked the Board members to observe a moment of silence for those we have lost to our Bar since the last Board of Governors meeting.

Invocation

R. Gary Spencer delivered the invocation.

Recognition of Special Guests

Alexia Davis, President of the Augusta Bar Association, welcomed Board members and guests on behalf of the Augusta Bar and conveyed her hope that the Board can meet physically in Augusta sometime soon. She recognized the members of the judiciary, the past presidents of the State Bar, and other special guests in attendance.

Housekeeping Rules

Dawn reviewed some housekeeping rules and tips for using Zoom.

Roll Call

Secretary Tony DelCampo reported that we are keeping attendance through the Zoom sign-in. He asked Board members to check the Board of Governors Attendance Record and to let him know if their attendance is listed incorrectly.

The list of Board of Governors members in attendance is attached as Exhibit A.

Future Meetings Schedule

Dawn reviewed the Future Meetings Schedule. She reported that as plans stand today we will have an in-person Board of Governors meeting at the Midyear Meeting, but means for participating virtually will also be provided. She asked everyone to note the calendar dates and contact her or Michelle Garner if they have any questions.

Minutes of the 283rd Meeting of the Board of Governors

Tony presented the minutes of the Board of Governors meeting held June 13, 2020 via Zoom webinar. Following a motion and second the Board of Governors approved the minutes, as revised, by unanimous poll vote.

Proposed Rules Changes

Following a report by Deputy General Counsel Bill NeSmith, the Board of Governors took action on the following proposed Rules amendments (Exhibit B):

- 1) Rule 1-303. Meetings, Rule 1.801. Annual Meeting, and Rule 1-801.1. Midyear Meeting: By majority poll vote, approved recommending to the Supreme Court of Georgia; and
- 2) Rule 1-802. Special Meeting: By unanimous poll vote, approved recommending to the Supreme Court of Georgia; and

3) Rule 1-803. Notice: By majority poll vote, approved recommending to the Supreme Court of Georgia as revised.
Rule 1-601. (Bylaws) was removed from the agenda and will be presented at the Midyear Meeting.

Approval of New Religious Liberty Law Section

Following a report by General Counsel Paula Frederick and a discussion by the Board of Governors, a motion and second to table action on this agenda item until the Midyear Meeting, in order to have one or more of the section’s organizers present at the meeting to answer questions, was approved by majority poll vote.

Appointments to the Commission on Continuing Lawyer Competency (CCLC)

The Board of Governors approved the reappointment of Judge Shondeana Morris (2021-2023) and the appointment of Shiriki Cavitt (2021-2023) to the CCLC by unanimous poll vote.

Appointments to the Chief Justice’s Commission on Professionalism (CJCP)

The Board of Governors approved the appointments of LaToya Simone Bell (2020-2023) and Francys Johnson, Jr., (2020-2023) to the CJCP by unanimous poll vote.

Approval of President’s Appointments to the Formal Advisory Opinion Board (FAOB)

The Board of Governors approved the appointments of Christian J. Steinmetz, III (2020-2021), Alfreda Lynette Sheppard (2020-2022), and Bert D. Hummel (2020-2021) to the FAOB by majority poll vote.

Officer Reimbursement Policy

Following a report by Dawn, the Board of Governors approved the revised Officer Reimbursement Policy (Exhibit C) by majority poll vote.

Election of Executive Director

Following a report by Dawn on the selection of the new Executive Director, she recognized and thanked the members of the Senior Staff Search Committee for their service in this effort. Thereafter, she introduced Damon Elmore who addressed the Board of Governors.

A motion and second to elect Damon E. Elmore as the next Executive Director to succeed Jeff Davis, was approved by majority poll vote.

Survey

Dawn reported there is no survey item for discussion since the Board of Governors dinner survey was sent out in advance. It is important that everyone reply by the deadline.

Advisory Committee on Legislation (ACL)

Following a report by ACL chair Javoyné Hicks, the Board of Governors took action on the following proposed legislation:

Legislative Proposal

Germane to Purposes
of the Bar

Support on Merits
2/3 Majority

- 1) Support for FY 2022 Judicial Council Budget Request-\$325,326 to Fund Civil Legal Services Grants for Kinship Care Families

Passed by majority poll vote

Passed by majority poll vote

Javoyné reported that the Uniform Mediation Act was resubmitted for consideration at the September 15 ACL meeting, but since language in the bill is still being worked on, it is expected to be back on the

agenda at the December 1 ACL meeting. There was also discussion on digital court reporting legislation from the Judicial Council of Georgia and a draft Superior and State Court Appellate Practice Act.

Dawn reported that one of her goals this year is to continue the conversation about the need for legislative funding and funding for the Georgia Legal Services Program (GLSP). You will receive updates from both about their funding efforts. The website was recently updated to ensure you are able to make a contribution now or at any time throughout the year.

Legislative Update and Funding

Director of Governmental Affairs Christine Butcher Hayes reported that at the end of last year's session HB 865, the Fiduciary Law Section's Title 53 bill, passed and was signed into law by the Governor. SB 464, the Georgia Uniform Mediation Act, passed in the Senate, but didn't make it out of committee in the House. We had good success on funding initiatives, but with COVID-19, the judicial branch did receive some cuts. The Indigent Defense Committee worked hard for sustained funding for the appellate division of the Georgia Public Defenders Council. Christine reported we are losing three lawyer-legislators in the Senate and one in the House, and she encouraged everyone to go out and vote.

Rusty Sewell reported that Christine did an excellent job in covering everything and agreed with her that everyone go vote, and after the elections, go meet with their legislative representatives.

The Board of Governors received the minutes of the ACL meeting held September 15, 2020.

Georgia Legal Services Program (GLSP) and Funding

GLSP Executive Director Rick Rufolo thanked all the State Bar members who continue to support GLSP through financial and pro bono efforts. He reported on the importance of the Kinship Care program, a collaboration with the Atlanta Legal Aid Society that has greatly benefitted children throughout the state. The program primarily helps grandparents who have custody of their grandchildren and reached 79 counties. Rick said GLSP, whose staff is currently working remotely, continues to meet significant challenges and help vulnerable Georgians. In the last three months calls to the GLSP intake line have increased by 20%. Issues of unemployment benefits, evictions, and domestic violence have been exacerbated by the global pandemic. As of the end of September, over \$400,000 in contributions were made to GLSP; however, only 7% of Bar members are contributing. Rick said he appreciates Dawn's support and Jeff's team in getting more information out on the need to support GLSP.

The BOG received a written report on the contributions made to date to GLSP.

President's Report

Dawn reported she is grateful to have spoken to various bar associations this year, and has more presentations scheduled. It gives her an opportunity to talk about what our Bar is doing and how to get involved. She continues to welcome dialogue and efforts to have conversations, and welcomes positive and not-so-positive comments and feedback.

Dawn reported that she created a COVID-19 Virtual Planning Committee chaired by Shiriki Cavitt to assist her and Bar staff in planning and implementing virtual, hybrid, and in-person meetings and events during the COVID-19 pandemic. Assistance includes the use of technology and imaginative planning to ensure the business of the Bar continues fully in as safe and a creative manner as possible so that all Bar members continue to work together effectively, foster relationships between members and support each other. The committee created last evening's virtual connections with breakout rooms to check-in, chat and touch base with fellow board members. Dawn said we are constantly looking at innovative and creative way to serve you as members of the Bar.

Dawn reported she was meeting twice a week with senior staff, and now once a week on a scheduled basis to discuss the business of the Bar.

Dawn reported that the Bar is actively represented in various roles on the Judicial Council and other entities to provide feedback and comments.

Dawn reported that the Executive Committee meets regularly so that the work of the Bar between Board of Governors meetings is handled efficiently and effectively. She referred Board members to the Executive Committee minutes in the agenda book for more information.

Dawn reported that the State Bar building remains closed, but when we do re-open, there is a phase-in plan in place. We continue to follow the Georgia Department of Health, CDC recommendations, and science. The Board surveys help us remain on the same page, and we all want to meet in person as soon as it is humanely possible. In the meantime, we are planning a hybrid meeting in January because we know not everyone may want to meet in person. Dawn asked that any suggestions you have as a Board member or from your constituents be shared with her and the Executive Committee. We can't prevent the spread of COVID-19, but we can mitigate it.

Dawn reported that there are some committees and sections that are not fully active, but her goal is to make sure they do the best they can in this virtual world.

In the communication vein, Dawn reported there is a monthly calendar of events posted on the website where you will find most Bar events and meetings. *Monthly Touches*, headed by the Wellness Committee and supported by Lawyers Living Well and the Lawyer Assistance Programs, is designed to improve communications through the Bar to support our members physically, spiritually, and mentally.

Dawn reported that her theme this year is to sustain a sound Bar by 1) continuing a high level of service to the membership through committees, sections, and other work, 2) being financially responsible, and 3) supporting our members through COVID-19 and social injustice. Randy Davis thanked Dawn for her leadership, Sarah for running the meetings, Jeff for his service, and Damon for coming on board.

Treasurer's Report

Treasurer Sally Akins reported on the Bar's finances and investments.

The Board of Governors received copies of the combined Operations and Bar Center Consolidated Revenues and Expenditures Report as of June 30, 2020; Reconciliation of Net Income (Loss) per Budget to Actual Final Net Income (Loss) for Year Ended June 30, 2020; Bar Center Revenues and Expenditures Summary as of June 30, 2020; Income Statement YTD (Operations) as of June 30, 2020; Status and Use of Cash Investments as of June 30, 2020; Board-Designated and Donor Temporarily Restricted Net Assets as of June 30, 2020; Summary of Members and Voluntary Contributions to GLSP Paid through June 30, 2020; Summary of Members and Voluntary Legislative Contributions Paid through June 30, 2020; Legislative Activity Report from July 1, 2019 through June 30, 2020; Clients' Security Fund Report as of June 30, 2020, and ICLE Income Statement as of June 30, 2020.

Young Lawyers Division

YLD President Bert Hummel reported on how the YLD continues to serve its members in the changing landscape. He thanked Jeff for everything he has done for the Bar and what he will continue to do in the transition to new leadership under Damon Elmore. The YLD is still not conducting in-person meetings, but it has moved forward serving its members. There have been a number of committee meetings, CLE

panel discussions, and even expansion of some programs. The YLD Summer meeting in September was one of the highest attended meetings and a large number were first-time attendees.

Two of the YLD's biggest programs are just weeks away. The first is the Georgia Poll Workers programs. The CCLC approved up to 6 hours of CLE credit for the poll worker training and working at the polls. Poll workers have been asked to donate their poll worker stipends to the Public Interest Internship Program (PIIP), to help furnish grants to law students who complete an internship program with a public interest organization. The second is the Deputy Registrars Program. A list of active volunteer attorneys will be provided to the Secretary of State's office and be trained on how to work out any issues that voters experienced with absentee voting in Fulton and DeKalb Counties. He put a website link for both programs in the chat for anyone interested in volunteering.

Bert said he is encouraged by the wellness initiatives that have been implemented at YLD general sessions and at committee meetings. Community service projects are being conducted through committees. The Women in the Profession Committee will be hosting an expanded clinic for first-responders, nurses, and teachers throughout the entire month of November with Atlanta Legal Aid. The YLD is sponsoring the National Moot Court Competition on November 5, and a request for judges will be sent out soon. The Disaster Relief Committee has teamed up with FEMA and regional disaster relief managers across Georgia to disseminate information on the front end about the steps people can take in case of a disaster and how they can get relief. Bert extended an invite to Board members to attend an upcoming YLD meeting. The YLD Fall Meeting will be a virtual meeting on November 14.

The Board of Governors also received a written report from the YLD.

Professional Liability Insurance Committee

Committee chair Chris Twyman reported on the work of the Professional Liability Insurance (PLI) Committee. It has modified the draft rules and there are five options under consideration. Option One-A would require all lawyers in private practice to disclose on their dues statement whether they have PLI, and the information would be published in the member's listing in the online Membership Directory. Option One-B would also require disclosure, but the information would not be published. Option Two would include all of the provisions of Option One-A, but encourage lawyers not covered by PLI to take a voluntary online self-assessment course provided by the Bar. Option Three would include all of the provisions of Option One-A and Two, but the self-assessment course would be mandatory. Option Four would require lawyers to be covered by a PLI policy. The committee also amended the provision that required the coverage to be non-eroding so that it applies to policies with minimal limits. Option Five is an option to not take any action on the matter.

Chris invited Board members to provide comments on the options and their thoughts on the publication of the information. The committee will bring a recommendation to the Board of Governors so members can consider it and share it with their constituents before a vote is taken. The committee also believes it is best to debate this matter at an in-person meeting.

Chris thanked the committee members, and Paula and her staff, for all of their hard work, and asked that comments also be sent to the President.

Seeking Equal Justice and Addressing Racism & Racial Bias Committee

Committee chair Anita Wallace Thomas reported the committee is developing programming that addresses the issues stated in the committee's mission. She reported on the first in a series of Courageous Conversations, plans for small group conversations convened by committee members to come together and take these conversations across the state. The committee is also going to engage other bar committees

to work on addressing, identifying, and eradicating racism and racial bias. The next courageous conversation will discuss confederate monuments. Sheffield Hale, President of the Atlanta History Center, will participate but we are looking for someone who has a very strong opinion about those monuments staying in tack and willing to engage in the conversation. Anita asked the Board members to reach out to her or Gary Spencer with any ideas or thoughts they have.

COVID Task Force Update

President-elect Elizabeth Fite reported on the Judicial COVID Task Force, an ad hoc committee of Judicial Council of Georgia, that is chaired by Judge Shawn LaGrua. It has been hard at work creating guidelines, assembling resources, and acting as a think tank to assist courts in conducting remote proceedings, restoring in-court proceedings, jury trials and grand jury proceedings. The Task Force worked with judges and other key stakeholders - court reporting agencies, court interpreters, public health officials, expert witness, ventilation system experts, technology experts - and surveyed other jurisdictions in compiling its guidelines. The Task Force also created guidelines pertaining to discovery, motion issues, hearings, trials and screening procedures. It collected draft orders, Zoom information, and video tutorials that are available in a centralized location and on the State Bar's website. All of the information is downloadable.

Elizabeth presented a PSA highlighting the importance of jury trials, serving as a juror, and the safety protocols undertaken.

ABA Model Rule 8.4(g)

Professor Tanya Washington, Georgia State University School of Law, reported on ABA Model Rule 8.4(g), which specifically prohibits harassment and discrimination in a lawyer's conduct related to the practice of law. Since its promulgation, 29 states have adopted comments regarding discrimination and four states have adopted the rule in its entirety. Six states have declined to adopt the rule so it is not without controversy. She discussed the model rule's strengths and deficiencies.

Dawn said if we do nothing else, ultimately her hope is that these discussions become a part of our meetings. It is not her intent for us to support a model rule, but there have been a lot of comments made by Bar members pertaining to these important issues.

Chief Justice's Commission on Professionalism (CJCP)

CJCP Executive Director Karlise Grier reported the Commission has worked very hard to promote professionalism, and she thanked Chief Justice Harold Melton for his leadership on the Commission. The sixth free professionalism CLE was held yesterday. To date, 5,000 Bar members have participated in the professionalism CLEs this year. She hopes to sponsor one more in December.

Karlise referred the Board of Governors to the August *Georgia Bar Journal* featuring the CCJP's article on *The Necessity of Unparalleled Unity*. She said we all need to be more mindful of what we are saying and how we say it.

Judge Render Heard reported on the rescheduled Suicide Awareness Program slated for April 30, 2021, that was to be held at the Bar Center earlier this year. It will be available free to all participants either as a hybrid meeting or virtual meeting.

Judge Shondeanna Morris, chair of the Suicide Prevention and Awareness Committee, reported that the Wellness Committee and the Lawyer Assistance Program (LAP) Committee are collaborating on the program. She reported the First Monthly Touch, *Help is There, Why Don't We Use It*, will be October 28, and the annual Out of Darkness Walk is November 8. There is a State Bar of Georgia Lawyers Living

Well team for the virtual walk. Judge Morris reminded everyone to *Use Your 6* prepaid counseling sessions per calendar year offered by the LAP.

The Board of Governors received a written report from the CJCP.

Executive Committee Minutes

The Board of Governors received copies of the Executive Committee meeting minutes from May 18 2020, June 5-6, 2020, June 19, 2020, July 17, 2020, and August 14-15, 2020.

Law Practice Management Program

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

Communications Media Report

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

Old Business

There was no old business.

New Business

There was no new business.

Announcements

Dawn recognized Sharon Bryant, who is retiring at the end of the month, and presented her with a gift and resolution.

Adjournment

There being no further business, the meeting was adjourned at. 12:47 p.m.

J. Antonio (Tony) DelCampo

Dawn M. Jones, President



MEMORANDUM

To: Board of Governors
From: Bill NeSmith
Date: January 9, 2021
Re: Proposed Rules Changes

Below is a short explanation of the proposed rules changes on the agenda for the January 9, 2021 Board of Governor's Midyear Meeting:

1. **Rule 1-601 (Chapter 6, Bylaws).** This proposed change simplifies the current rule for better readability and clarity.
2. **Rule 1.0 Terminology and Definitions.** This proposed change is primarily housekeeping changes and replaces the terms "Grievance/Memorandum of Grievance" with Grievance. Memorandum of Grievance is defined later at line 48. This substantive change begins at line 48, where a new definition of "Memorandum of Grievance" is inserted as a new subsection (o). The remainder of the changes is lettering the subsections.
3. **Rule 3.8 Special Responsibilities of a Prosecutor.** This proposed change to Rule 3.8 brings Georgia's rule closer to the ABA Model Rule. New subparts (h) and (i) require prosecutors to act when they discover new evidence that "creates a reasonable likelihood" that a convicted defendant did not actually commit the crime they were convicted for. This obligation stems from the prosecutor's role as a minister of justice. The proposed amendment has been approved by representatives of the District Attorneys' Association, the Solicitor Generals' Association, and the Georgia Association of Criminal Defense Lawyers. *NOTE: This Rule was submitted to the Executive Committee after the deadline for publication of this Board book. I will report on the decision of the Executive Committee at the Midyear meeting.*
4. **Rule 8.4 Misconduct.** This proposed change at line 26 removes redundant language and refers the reader to the definitions in Rule 1.0.
5. **Rule 9.3 Cooperation with Disciplinary Authority.** This proposed change is housekeeping only, substituting the terminology of "grievance" to the broader term of "matter."
6. **Rule 4-202 Receipt of Grievance; Initial Review by Bar Counsel.** Besides some housekeeping changes, this proposed change simplifies and streamlines the procedures for bringing a grievance against and lawyer. The change allows the Office of the General Counsel to bring a grievance based upon "credible information from any source" and the procedures that the

Office of the General Counsel must follow to move forward with credible information from any source. Beginning at line 23, the reference to rights of action has been removed.

7. **Rule 4-203 Powers and Duties.** These proposed changes are mainly housekeeping, such as changing the word “grievance” to “matters.” As in the proposed change to Rule 4-202 supra, beginning at line 10, the reference to rights of action has been removed.

8. **Rule 4-204 Investigation and Disposition by State Disciplinary Board.** The proposed changes to this rule are housekeeping only.

9. **Rule 4-204.1 Notice of Investigation.** The proposed changes to this rule direct the reader to the definition of “written description” as provided in Rule 4-202(a). The remainder of the changes is housekeeping changes.

10. **Rule 4-203.3 Answer to Notice of Investigation Required.** The proposed changes to this rule are housekeeping only, changing the wording “grievance” to “matter or matters.”

11. **Rule 4-208.2 Notice of Discipline; Contents; Service.** The proposed changes to the Rule add language directing the reader to 4-202(a) to define “written description.”

12. **Rule 4-208.4 Formal Complaint Following Notice of Rejection of Discipline.** The proposed changes to this rule are housekeeping only.

13. **Rule 4-222 Limitation.** The proposed changes to this rule direct the reader to the definition of “written description” as provided in Rule 4-202(a). Subsection (b) adds clarity to the procedure and time limitation of the referral of a matter to the State Disciplinary Board.

14. **Rule 4-223 Advisory Opinions.** The proposed changes to this rule are housekeeping only, changing the wording “grievance” to “matter or matters.”

15. **Rule 4-224 Expungement of Records.** The proposed changes to this rule are housekeeping only, changing the wording “grievance” to “matter or matters,” and changing the name “Consumer” to “Client” Assistance Program.

16. **Rule 10-106 Eligible Claims.** This proposed change is to the Client Security Fund Rules. At line 800, the proposed change removes the language that requires that there must be a final disposition of a grievance before the trustees can pay a claim.

1 Rule 1-601 (redlined)

2 The State Bar of Georgia may adopt or amend the bylaws at any members meeting not inconsistent
3 with these rules or the bylaws.; ~~at its first annual meeting, shall adopt bylaws as directed herein,~~
4 ~~and at such meeting and any subsequent annual, annual midyear, or special meeting may adopt~~
5 ~~such other bylaws not inconsistent herewith as it may deem necessary and proper and may amend~~
6 ~~its bylaws from time to time.~~

- 1 Rule 1-601 (clean)
- 2 The State Bar of Georgia may adopt or amend the bylaws at any members meeting not inconsistent
- 3 with these rules or the bylaws.
- 4

1 RULE 1.0. TERMINOLOGY AND DEFINITIONS (redlined)

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 occurs
5 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 person,
7 denotes informed consent that is given in writing by the person, or a writing that a lawyer
8 promptly transmits to the person confirming an oral informed consent. See paragraph (l)
9 for the definition of "informed consent." If it is not feasible to obtain or transmit the writing
10 at the time the person gives informed consent, then the lawyer must obtain or transmit it
11 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)~~1. a guilty plea;

17 ~~(2)~~2. a plea of nolo contendere;

18 ~~(3)~~3. a verdict of guilty;

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

20 ~~(5)~~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 States
24 or the District of Columbia but not authorized by the Supreme Court of Georgia or its rules
25 to practice law in the state of Georgia.

26 (g) "Firm" or "law firm" denotes a lawyer or lawyers in a private firm, law partnership,
27 professional corporation, sole proprietorship or other association authorized to practice law
28 pursuant to Bar Rule 1-203 (d); or lawyers employed in a legal services organization or the
29 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 or
34 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 conduct
37 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 rules
46 to practice law in the state of Georgia including persons admitted to practice in this state
47 pro hac vice.
- 48 (o) “Memorandum of Grievance” denotes an allegation of unethical conduct against a
49 lawyer filed in writing with the Office of the General Counsel and containing the name and
50 signature of the complainant or initiated pursuant to Rule 4-203 (2).
- 51 (p) “Nonlawyer” denotes a person not authorized to practice law by either the:
52 ~~(1)~~1. Supreme Court of Georgia or its rules (including pro hac vice admission),
53 or
54 ~~(2)~~2. duly constituted and authorized governmental body of any other state or
55 territory of the United States, or the District of Columbia, or
56 ~~(3)~~3. duly constituted and authorized governmental body of any foreign nation.
- 57 (pg) “Notice of Discipline” denotes a notice by the State Disciplinary Board that the
58 respondent will be subject to a disciplinary sanction for violation of one or more Georgia
59 Rules of Professional Conduct unless the respondent affirmatively rejects the notice.

60 (~~ef~~) “Partner” denotes a member of a partnership, a shareholder in a law firm organized
61 pursuant to Bar Rule 1-203 (d), or a member of an association authorized to practice law.
62 (~~fs~~) “Petition for Voluntary Surrender of License” denotes a Petition for Voluntary
63 Discipline in which the respondent voluntarily surrenders his license to practice law in this
64 state. A voluntary surrender of license is tantamount to disbarment.
65 (~~st~~) “Probable Cause” denotes a finding by the State Disciplinary Board that there is
66 sufficient evidence to believe that the respondent has violated one or more of the provisions
67 of Part IV, Chapter 1 of the rules.
68 (~~tu~~) “Prospective Client” denotes a person who consults with a lawyer about the
69 possibility of forming a client-lawyer relationship with respect to a matter.
70 (~~uv~~) “Public Proceedings” denotes any proceeding under these rules that has been filed
71 with the Supreme Court of Georgia.
72 (~~wv~~) “Reasonable” or “reasonably” when used in relation to conduct by a lawyer denotes
73 the conduct of a reasonably prudent and competent lawyer.
74 (~~wx~~) “Reasonable belief” or “reasonably believes” when used in reference to a lawyer
75 denotes that the lawyer believes the matter in question and that the circumstances are such
76 that the belief is reasonable.
77 (~~xy~~) “Reasonably should know” when used in reference to a lawyer denotes that a
78 lawyer of reasonable prudence and competence would ascertain the matter in question.
79 (~~yz~~) “Respondent” denotes a person whose conduct is the subject of any disciplinary
80 investigation or proceeding.
81 (~~zaa~~) “Screened” denotes the isolation of a lawyer from any participation in a matter
82 through the timely imposition of procedures within a firm that are reasonably adequate
83 under the circumstances to protect information that the isolated lawyer is obligated to
84 protect under these rules or other law.
85 (~~aabb~~) “Substantial” when used in reference to degree or extent denotes a material matter
86 of clear and weighty importance.
87 (~~bccb~~) “Tribunal” denotes a court, an arbitrator in an arbitration proceeding or a legislative
88 body, administrative agency or other body acting in an adjudicative capacity. A legislative
89 body, administrative agency or other body acts in an adjudicative capacity when a neutral

90 official, after the presentation of evidence or legal argument by a party or parties, will
91 render a legal judgment directly affecting a party's interests in a particular matter.
92 (eedd) "Writing" or "written" denotes a tangible or electronic record of a communication
93 or representation, including but not limited to handwriting, typewriting, printing,
94 photostating, photography, audio or video recording and electronic communications. A
95 "signed" writing includes an electronic sound, symbol or process attached to or logically
96 associated with a writing and executed or adopted by a person with the intent to sign the
97 writing.

98 Comment

99 ...

100

1 RULE 1.0. TERMINOLOGY AND DEFINITIONS (clean)

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 occurs
5 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 person,
7 denotes informed consent that is given in writing by the person, or a writing that a lawyer
8 promptly transmits to the person confirming an oral informed consent. See paragraph (l)
9 for the definition of "informed consent." If it is not feasible to obtain or transmit the writing
10 at the time the person gives informed consent, then the lawyer must obtain or transmit it
11 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 seq., or
21 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 States
24 or the District of Columbia but not authorized by the Supreme Court of Georgia or its rules
25 to practice law in the state of Georgia.

26 (g) "Firm" or "law firm" denotes a lawyer or lawyers in a private firm, law partnership,
27 professional corporation, sole proprietorship or other association authorized to practice law
28 pursuant to Bar Rule 1-203 (d); or lawyers employed in a legal services organization or the
29 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 or
34 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” denotes an allegation of unethical conduct filed against a lawyer.
- 37 (k) “He,” “Him” or “His” denotes generic pronouns including both male and female.
- 38 (l) “Informed consent” denotes the agreement by a person to a proposed course of
39 conduct after the lawyer has communicated adequate information and explanation about
40 the material risks of and reasonably available alternatives to the proposed course of
41 conduct.
- 42 (m) “Knowingly,” “known,” or “knows” denotes actual knowledge of the fact in
43 question. A person’s knowledge may be inferred from the circumstances.
- 44 (n) “Lawyer” denotes a person authorized by the Supreme Court of Georgia or its rules
45 to practice law in the state of Georgia including persons admitted to practice in this state
46 pro hac vice.
- 47 (o) “Memorandum of Grievance” denotes an allegation of unethical conduct against a
48 lawyer filed in writing with the Office of the General Counsel and containing the name and
49 signature of the complainant or initiated pursuant to Rule 4-203 (2).
- 50 (p) “Nonlawyer” denotes a person not authorized to practice law by either the:
51 1. Supreme Court of Georgia or its rules (including pro hac vice admission), or
52 2. duly constituted and authorized governmental body of any other state or territory
53 of the United States, or the District of Columbia, or
54 3. duly constituted and authorized governmental body of any foreign nation.
- 55 (q) “Notice of Discipline” denotes a notice by the State Disciplinary Board that the
56 respondent will be subject to a disciplinary sanction for violation of one or more Georgia
57 Rules of Professional Conduct unless the respondent affirmatively rejects the notice.
- 58 (r) “Partner” denotes a member of a partnership, a shareholder in a law firm organized
59 pursuant to Bar Rule 1-203 (d), or a member of an association authorized to practice law.

- 60 (s) "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 this
62 state. A voluntary surrender of license is tantamount to disbarment.
- 63 (t) "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 provisions
65 of Part IV, Chapter 1 of the rules.
- 66 (u) "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 (v) "Public Proceedings" denotes any proceeding under these rules that has been filed
69 with the Supreme Court of Georgia.
- 70 (w) "Reasonable" or "reasonably" when used in relation to conduct by a lawyer denotes
71 the conduct of a reasonably prudent and competent lawyer.
- 72 (x) "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 such
74 that the belief is reasonable.
- 75 (y) "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 (z) "Respondent" denotes a person whose conduct is the subject of any disciplinary
78 investigation or proceeding.
- 79 (aa) "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 (bb) "Substantial" when used in reference to degree or extent denotes a material matter
84 of clear and weighty importance.
- 85 (cc) "Tribunal" denotes a court, an arbitrator in an arbitration proceeding or a legislative
86 body, administrative agency or other body acting in an adjudicative capacity. A legislative
87 body, administrative agency or other body acts in an adjudicative capacity when a neutral
88 official, after the presentation of evidence or legal argument by a party or parties, will
89 render a legal judgment directly affecting a party's interests in a particular matter.

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

96 Comment

97 [1] Bar Rule 4-110 includes additional definitions for terminology used in the procedural section
98 of these rules.

99 Confirmed in Writing

100 [1A] If it is not feasible to obtain or transmit a written confirmation at the time the client gives
101 informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter. If
102 a lawyer has obtained a client's informed consent, the lawyer may act in reliance on that consent
103 so long as it is confirmed in writing within a reasonable time thereafter.

104 Firm

105 [2] Whether two or more lawyers constitute a firm within paragraph (e) can depend on the specific
106 facts. For example, two practitioners who share office space and occasionally consult or assist each
107 other ordinarily would not be regarded as constituting a firm. However, if they present themselves
108 to the public in a way that suggests that they are a firm or conduct themselves as a firm, they should
109 be regarded as a firm for purposes of the rules. A group of lawyers could be regarded as a firm for
110 purposes of the rule that the same lawyer should not represent opposing parties in litigation, while
111 it might not be so regarded for purposes of the rule that information acquired by one lawyer is
112 attributed to another. The terms of any formal agreement between associated lawyers are relevant
113 in determining whether they are a firm, as is the fact that they have mutual access to information
114 concerning the clients they serve. Furthermore, it is relevant in doubtful cases to consider the
115 underlying purpose of the rule that is involved.

116 [3] With respect to the law department of an organization, including the government, there is
117 ordinarily no question that the members of the department constitute a firm within the meaning of
118 the Georgia Rules of Professional Conduct. There can be uncertainty, however, as to the identity
119 of the client. For example, it may not be clear whether the law department of a corporation
120 represents a subsidiary or an affiliated corporation, as well as the corporation by which the

121 members of the department are directly employed. A similar question can arise concerning an
122 unincorporated association and its local affiliates.

123 [4] Similar questions can also arise with respect to lawyers in legal aid and legal services
124 organizations. Depending upon the structure of the organization, the entire organization or
125 different components of it may constitute a firm or firms for purposes of these rules.

126 Fraud

127 [5] When used in these rules, the terms "fraud" or "fraudulent" refers to conduct that is
128 characterized as such under the substantive or procedural law of the applicable jurisdiction and has
129 a purpose to deceive. This does not include merely negligent misrepresentation or negligent failure
130 to apprise another of relevant information. For purposes of these rules, it is not necessary that
131 anyone has suffered damages or relied on the misrepresentation or failure to inform.

132 Informed Consent

133 [6] Many of the Georgia Rules of Professional Conduct require the lawyer to obtain the informed
134 consent of a client or other person (e.g., a former client or, under certain circumstances, a
135 prospective client) before accepting or continuing representation or pursuing a course of conduct.
136 See, e.g., Rules 1.2 (c), 1.6 (a) and 1.7 (b). The communication necessary to obtain such consent
137 will vary according to the rule involved and the circumstances giving rise to the need to obtain
138 informed consent. The lawyer must make reasonable efforts to ensure that the client or other person
139 possesses information reasonably adequate to make an informed decision. Ordinarily, this will
140 require communication that includes a disclosure of the facts and circumstances giving rise to the
141 situation, any explanation reasonably necessary to inform the client or other person of the material
142 advantages and disadvantages of the proposed course of conduct and a discussion of the client's or
143 other person's options and alternatives. In some circumstances it may be appropriate for a lawyer
144 to advise a client or other person to seek the advice of other counsel. A lawyer need not inform a
145 client or other person of facts or implications already known to the client or other person;
146 nevertheless, a lawyer who does not personally inform the client or other person assumes the risk
147 that the client or other person is inadequately informed and the consent is invalid. In determining
148 whether the information and explanation provided are reasonably adequate, relevant factors
149 include whether the client or other person is experienced in legal matters generally and in making
150 decisions of the type involved, and whether the client or other person is independently represented
151 by other counsel in giving the consent. Normally, such persons need less information and

152 explanation than others, and generally a client or other person who is independently represented
153 by other counsel in giving the consent should be assumed to have given informed consent.

154 [7] Obtaining informed consent will usually require an affirmative response by the client or other
155 person. In general, a lawyer may not assume consent from a client's or other person's silence.
156 Consent may be inferred, however, from the conduct of a client or other person who has reasonably
157 adequate information about the matter. A number of Rules require that a person's consent be
158 confirmed in writing. *See Rules 1.7 (b) and 1.9 (a)*. For a definition of "writing" and "confirmed
159 in writing," see paragraphs (s) and (b). Other Rules require that a client's consent be obtained in a
160 writing signed by the client. *See, e.g., Rules 1.8 (a) (3) and (g)*. For a definition of "signed," see
161 paragraph (s).

162 Screened

163 [8] This definition applies to situations where screening of a personally disqualified lawyer is
164 permitted to remove imputation of a conflict of interest under Rules 1.11 and 1.12.

165 [9] The purpose of screening is to assure the affected parties that confidential information known
166 by the personally disqualified lawyer remains protected. The personally disqualified lawyer should
167 acknowledge the obligation not to communicate with any of the other lawyers in the firm with
168 respect to the matter. Similarly, other lawyers in the firm who are working on the matter should be
169 informed that the screening is in place and that they may not communicate with the personally
170 disqualified lawyer with respect to the matter. Additional screening measures that are appropriate
171 for the particular matter will depend on the circumstances. To implement, reinforce and remind all
172 affected lawyers of the presence of the screening, it may be appropriate for the firm to undertake
173 such procedures as a written undertaking by the screened lawyer to avoid any communication with
174 other firm personnel and any contact with any firm files or other materials relating to the matter,
175 written notice and instructions to all other firm personnel forbidding any communication with the
176 screened lawyer relating to the matter, denial of access by the screened lawyer to firm files or other
177 materials relating to the matter and periodic reminders of the screen to the screened lawyer and all
178 other firm personnel.

179 [10] In order to be effective, screening measures must be implemented as soon as practical after a
180 lawyer or law firm knows or reasonably should know that there is a need for screening.

181 Writing

182 [11] The purpose of this definition is to permit a lawyer to use developing technologies that
183 maintain an objective record of a communication that does not rely upon the memory of the lawyer
184 or any other person. *See OCGA § 10-12-2(8).*

1 RULE 3.8 SPECIAL RESPONSIBILITIES OF A PROSECUTOR (redlined)

2 The prosecutor in a criminal case shall:

3 (a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable
4 cause;

5 (b) refrain from making any effort to prevent the accused from exercising a reasonable effort
6 to obtain counsel;

7 ~~(c) Reserved.~~

8 (c) comply with Rule 4.2;

9 (d) make timely disclosure to the defense of all evidence or information known to the
10 prosecutor that tends to negate the guilt of the accused or that mitigates the offense;

11 (e) exercise reasonable care to prevent persons who are under the direct supervision of the
12 prosecutor from making an extrajudicial statement that the prosecutor would be prohibited
13 from making under subsection (g) of this rule;

14 (f) not subpoena a lawyer in a grand jury or other criminal proceeding to present evidence
15 about a past or present client unless the prosecutor reasonably believes:

16 (1) the information sought is not protected from disclosure by any applicable privilege;

17 (2) the evidence sought is essential to the successful completion of an ongoing
18 investigation or prosecution; and

19 (3) there is no other feasible alternative to obtain the information; ~~and~~

20 (g) except for statements that are necessary to inform the public of the nature and extent of the
21 prosecutor's action and that serve a legitimate law enforcement purpose, refrain from
22 making extrajudicial comments that have a substantial likelihood of heightening public
23 condemnation of the accused.

24 (h) When a prosecutor knows of new, credible and material evidence creating a reasonable
25 likelihood that a convicted defendant did not commit an offense of which the defendant
26 was convicted, the prosecutor shall:

27 (1) promptly disclose that evidence to an appropriate court or authority, and

28 (2) if the conviction was obtained in the prosecutor's jurisdiction,

29 (i) promptly disclose that evidence to the defendant unless a court authorizes delay, and

30 (ii) undertake further investigation, or make reasonable efforts to cause an
31 investigation, to determine whether the defendant was convicted of an offense that the
32 defendant did not commit.

33 (i) When a prosecutor knows of clear and convincing evidence establishing that a defendant
34 in the prosecutor's jurisdiction was convicted of an offense that the defendant did not
35 commit, the prosecutor shall seek to remedy the conviction.

36 The maximum penalty for a violation of this rule is ~~a public reprimand~~ disbarment.

37 Comment

38 [1] A prosecutor has the responsibility of a minister of justice and not simply that of an
39 advocate. This responsibility carries with it specific obligations to see that the defendant is
40 accorded procedural justice and that guilt is decided upon the basis of sufficient evidence.
41 Precisely how far the prosecutor is required to go in this direction is a matter of debate and
42 varies in different jurisdictions. Many jurisdictions have adopted the ABA Standards of
43 Criminal Justice Relating to the Prosecution Function, which in turn are the product of
44 prolonged and careful deliberation by lawyers experienced in both criminal prosecution and
45 defense. Applicable law may require other measures by the prosecutor and knowing disregard
46 of those obligations or a systematic abuse of prosecutorial discretion could constitute a
47 violation of Rule 8.4: Misconduct.

48 [2] Reserved.

49 [3] Reserved.

50 [4] Paragraph (f) is intended to limit the issuance of lawyer subpoenas in grand jury and other
51 criminal proceedings to those situations in which there is a genuine need to intrude into the
52 client-lawyer relationship.

53 [5] Paragraph (g) supplements Rule 3.6: Trial Publicity, which prohibits extrajudicial
54 statements that have a substantial likelihood of prejudicing an adjudicatory proceeding. In the
55 context of a criminal prosecution, a prosecutor's extrajudicial statement can create the
56 additional problem of increasing public condemnation of the accused. Although the
57 announcement of an indictment, for example, will necessarily have severe consequences for
58 the accused, a prosecutor can, and should, avoid comments which have no legitimate law
59 enforcement purpose and have a substantial likelihood of increasing public opprobrium of the

60 accused. Nothing in this Comment is intended to restrict the statements which a prosecutor
61 may make which comply with Rule 3.6 (b) or 3.6 (c): Trial Publicity.

62 [6] Reserved.

63 [7] When a prosecutor knows of new, credible and material evidence creating a reasonable
64 likelihood that a person outside the prosecutor's jurisdiction was convicted of a crime that the
65 person did not commit, paragraph (h) requires prompt disclosure to the court or other
66 appropriate authority, such as the chief prosecutor of the jurisdiction where the conviction
67 occurred. If the conviction was obtained in the prosecutor's jurisdiction, paragraph (h) requires
68 the prosecutor to examine the evidence and undertake further investigation to determine
69 whether the defendant is in fact innocent or make reasonable efforts to cause another
70 appropriate authority to undertake the necessary investigation, and to promptly disclose the
71 evidence to the court and, absent court authorized delay, to the defendant. Consistent with the
72 objectives of Rules 4.2 and 4.3, disclosure to a represented defendant must be made through
73 the defendant's counsel, and, in the case of an unrepresented defendant, would ordinarily be
74 accompanied by a request to a court for the appointment of counsel to assist the defendant in
75 taking such legal measures as may be appropriate.

76 [8] Under paragraph (i), once the prosecutor knows of clear and convincing evidence that the
77 defendant was convicted of an offense that the defendant did not commit, the prosecutor must
78 seek to remedy the conviction. Necessary steps may include disclosure of the evidence to the
79 defendant, requesting that the court appoint counsel for an unrepresented indigent defendant
80 and, where appropriate, notifying the court that the prosecutor has knowledge that the
81 defendant did not commit the offense of which the defendant was convicted.

82 [9] A prosecutor's independent judgment, made in good faith, that the new evidence is not of
83 such nature as to trigger the obligations of sections (h) and (i), though subsequently determined
84 to have been erroneous, does not constitute a violation of this Rule.

85

1 RULE 3.8 SPECIAL RESPONSIBILITIES OF A PROSECUTOR

2 The prosecutor in a criminal case shall:

- 3 (a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable
4 cause;
- 5 (b) refrain from making any effort to prevent the accused from exercising a reasonable effort
6 to obtain counsel;
- 7 (c) comply with Rule 4.2;
- 8 (d) make timely disclosure to the defense of all evidence or information known to the
9 prosecutor that tends to negate the guilt of the accused or that mitigates the offense;
- 10 (e) exercise reasonable care to prevent persons who are under the direct supervision of the
11 prosecutor from making an extrajudicial statement that the prosecutor would be prohibited
12 from making under subsection (g) of this rule;
- 13 (f) not subpoena a lawyer in a grand jury or other criminal proceeding to present evidence
14 about a past or present client unless the prosecutor reasonably believes:
- 15 (4) the information sought is not protected from disclosure by any applicable privilege;
- 16 (5) the evidence sought is essential to the successful completion of an ongoing
17 investigation or prosecution; and
- 18 (6) there is no other feasible alternative to obtain the information;
- 19 (g) except for statements that are necessary to inform the public of the nature and extent of the
20 prosecutor's action and that serve a legitimate law enforcement purpose, refrain from
21 making extrajudicial comments that have a substantial likelihood of heightening public
22 condemnation of the accused.
- 23 (h) When a prosecutor knows of new, credible and material evidence creating a reasonable
24 likelihood that a convicted defendant did not commit an offense of which the defendant
25 was convicted, the prosecutor shall:
- 26 (1) promptly disclose that evidence to an appropriate court or authority, and
- 27 (2) if the conviction was obtained in the prosecutor's jurisdiction,
- 28 (i) promptly disclose that evidence to the defendant unless a court authorizes delay, and
- 29 (ii) undertake further investigation, or make reasonable efforts to cause an
30 investigation, to determine whether the defendant was convicted of an offense that the
31 defendant did not commit.

32 (i) When a prosecutor knows of clear and convincing evidence establishing that a defendant
33 in the prosecutor's jurisdiction was convicted of an offense that the defendant did not
34 commit, the prosecutor shall seek to remedy the conviction.

35 The maximum penalty for a violation of this rule is disbarment.

36 Comment

37 [1] A prosecutor has the responsibility of a minister of justice and not simply that of an
38 advocate. This responsibility carries with it specific obligations to see that the defendant is
39 accorded procedural justice and that guilt is decided upon the basis of sufficient evidence.
40 Precisely how far the prosecutor is required to go in this direction is a matter of debate and
41 varies in different jurisdictions. Many jurisdictions have adopted the ABA Standards of
42 Criminal Justice Relating to the Prosecution Function, which in turn are the product of
43 prolonged and careful deliberation by lawyers experienced in both criminal prosecution and
44 defense. Applicable law may require other measures by the prosecutor and knowing disregard
45 of those obligations or a systematic abuse of prosecutorial discretion could constitute a
46 violation of Rule 8.4: Misconduct.

47 [2] Reserved.

48 [3] Reserved.

49 [4] Paragraph (f) is intended to limit the issuance of lawyer subpoenas in grand jury and other
50 criminal proceedings to those situations in which there is a genuine need to intrude into the
51 client-lawyer relationship.

52 [5] Paragraph (g) supplements Rule 3.6: Trial Publicity, which prohibits extrajudicial
53 statements that have a substantial likelihood of prejudicing an adjudicatory proceeding. In the
54 context of a criminal prosecution, a prosecutor's extrajudicial statement can create the
55 additional problem of increasing public condemnation of the accused. Although the
56 announcement of an indictment, for example, will necessarily have severe consequences for
57 the accused, a prosecutor can, and should, avoid comments which have no legitimate law
58 enforcement purpose and have a substantial likelihood of increasing public opprobrium of the
59 accused. Nothing in this Comment is intended to restrict the statements which a prosecutor
60 may make which comply with Rule 3.6 (b) or 3.6 (c): Trial Publicity.

61 [6] Reserved.

62 [7] When a prosecutor knows of new, credible and material evidence creating a reasonable
63 likelihood that a person outside the prosecutor's jurisdiction was convicted of a crime that the
64 person did not commit, paragraph (h) requires prompt disclosure to the court or other
65 appropriate authority, such as the chief prosecutor of the jurisdiction where the conviction
66 occurred. If the conviction was obtained in the prosecutor's jurisdiction, paragraph (h) requires
67 the prosecutor to examine the evidence and undertake further investigation to determine
68 whether the defendant is in fact innocent or make reasonable efforts to cause another
69 appropriate authority to undertake the necessary investigation, and to promptly disclose the
70 evidence to the court and, absent court authorized delay, to the defendant. Consistent with the
71 objectives of Rules 4.2 and 4.3, disclosure to a represented defendant must be made through
72 the defendant's counsel, and, in the case of an unrepresented defendant, would ordinarily be
73 accompanied by a request to a court for the appointment of counsel to assist the defendant in
74 taking such legal measures as may be appropriate.

75 [8] Under paragraph (i), once the prosecutor knows of clear and convincing evidence that the
76 defendant was convicted of an offense that the defendant did not commit, the prosecutor must
77 seek to remedy the conviction. Necessary steps may include disclosure of the evidence to the
78 defendant, requesting that the court appoint counsel for an unrepresented indigent defendant
79 and, where appropriate, notifying the court that the prosecutor has knowledge that the
80 defendant did not commit the offense of which the defendant was convicted.

81 [9] A prosecutor's independent judgment, made in good faith, that the new evidence is not of
82 such nature as to trigger the obligations of sections (h) and (i), though subsequently determined
83 to have been erroneous, does not constitute a violation of this Rule.

84

1 RULE 8.4 MISCONDUCT (redlined)

2 (a) It shall be a violation of the Georgia Rules of Professional Conduct for a lawyer to:

3 (1) violate or knowingly attempt to violate the Georgia Rules of Professional Conduct,
4 knowingly assist or induce another to do so, or do so through the acts of another;

5 (2) be convicted of a felony;

6 (3) be convicted of a misdemeanor involving moral turpitude where the underlying
7 conduct relates to the lawyer's fitness to practice law;

8 (4) engage in professional conduct involving dishonesty, fraud, deceit or
9 misrepresentation;

10 (5) fail to pay any final judgment or rule absolute rendered against such lawyer for
11 money collected by him or her as a lawyer within ten days after the time appointed in the
12 order or judgment;

13 (6)

14 (i) state an ability to influence improperly a government agency or official by
15 means that violate the Georgia Rules of Professional Conduct or other law;

16 (ii) state an ability to achieve results by means that violate the Georgia Rules of
17 Professional Conduct or other law;

18 (iii) achieve results by means that violate the Georgia Rules of Professional
19 Conduct or other law;

20 (7) knowingly assist a judge or judicial officer in conduct that is a violation of
21 applicable rules of judicial conduct or other law; or

22 (8) commit a criminal act that relates to the lawyer's fitness to practice law or reflects
23 adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer, where the lawyer
24 has admitted in judicio, the commission of such act.

25 (b)

26 (1) For purposes of this Rule, ~~conviction shall include any of the following accepted~~
27 ~~by a court, whether or not a sentence has been imposed; conviction shall have the meaning~~
28 set forth in Rule 1.0 (e).

29 ~~— a guilty plea;~~

30 ~~— a plea of nolo contendere;~~

31 ~~— a verdict of guilty; or~~

32 ~~— a verdict of guilty but mentally ill.~~

33 (2) The record of a conviction or disposition in any jurisdiction based upon a guilty
34 plea, a plea of nolo contendere, a verdict of guilty or a verdict of guilty but mentally ill, or
35 upon the imposition of first offender probation shall be conclusive evidence of such
36 conviction or disposition and shall be admissible in proceedings under these disciplinary
37 rules.

38 (c) This Rule shall not be construed to cause any infringement of the existing inherent right of
39 Georgia Superior Courts to suspend and disbar lawyers from practice based upon a conviction of
40 a crime as specified in paragraphs (a) (1), (a) (2) and (a) (3) above.

41 (d) Rule 8.4 (a) (1) does not apply to any of the Georgia Rules of Professional Conduct for
42 which there is no disciplinary penalty.

43 The maximum penalty for a violation of Rule 8.4 (a) (1) is the maximum penalty for the specific
44 Rule violated. The maximum penalty for a violation of Rule 8.4 (a) (2) through (c) is disbarment.

45

46 Comment

47 . . .

1 RULE 8.4 MISCONDUCT (clean)

2 (a) It shall be a violation of the Georgia Rules of Professional Conduct for a lawyer to:

3 (1) violate or knowingly attempt to violate the Georgia Rules of Professional Conduct,
4 knowingly assist or induce another to do so, or do so through the acts of another;

5 (2) be convicted of a felony;

6 (3) be convicted of a misdemeanor involving moral turpitude where the underlying
7 conduct relates to the lawyer's fitness to practice law;

8 (4) engage in professional conduct involving dishonesty, fraud, deceit or
9 misrepresentation;

10 (5) fail to pay any final judgment or rule absolute rendered against such lawyer for
11 money collected by him or her as a lawyer within ten days after the time appointed in the
12 order or judgment;

13 (6)

14 (i) state an ability to influence improperly a government agency or official by
15 means that violate the Georgia Rules of Professional Conduct or other law;

16 (ii) state an ability to achieve results by means that violate the Georgia Rules of
17 Professional Conduct or other law;

18 (iii) achieve results by means that violate the Georgia Rules of Professional
19 Conduct or other law;

20 (7) knowingly assist a judge or judicial officer in conduct that is a violation of
21 applicable rules of judicial conduct or other law; or

22 (8) commit a criminal act that relates to the lawyer's fitness to practice law or reflects
23 adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer, where the lawyer
24 has admitted in judicio, the commission of such act.

25 (b)

26 (1) For purposes of this Rule, conviction shall have the meaning set forth in Rule 1.0

27 (e).

28 (2) The record of a conviction or disposition in any jurisdiction based upon a guilty
29 plea, a plea of nolo contendere, a verdict of guilty or a verdict of guilty but mentally ill, or
30 upon the imposition of first offender probation shall be conclusive evidence of such

31 conviction or disposition and shall be admissible in proceedings under these disciplinary
32 rules.

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34 Georgia Superior Courts to suspend and disbar lawyers from practice based upon a conviction of
35 a crime as specified in paragraphs (a) (1), (a) (2) and (a) (3) above.

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37 which there is no disciplinary penalty.

38 The maximum penalty for a violation of Rule 8.4 (a) (1) is the maximum penalty for the specific
39 Rule violated. The maximum penalty for a violation of Rule 8.4 (a) (2) through (c) is disbarment.

40

41 Comment

42 [1] The prohibitions of this Rule as well as the prohibitions of Bar Rule 4-102 prevents a lawyer
43 from attempting to violate the Georgia Rules of Professional Conduct or from knowingly aiding
44 or abetting, or providing direct or indirect assistance or inducement to another person who violates
45 or attempts to violate a rule of professional conduct. A lawyer may not avoid a violation of the
46 rules by instructing a nonlawyer, who is not subject to the rules, to act where the lawyer cannot.

47 [2] This Rule, as its predecessor, is drawn in terms of acts involving "moral turpitude" with,
48 however, a recognition that some such offenses concern matters of personal morality and have no
49 specific connection to fitness for the practice of law. Here the concern is limited to those matters
50 which fall under both the rubric of "moral turpitude" and involve underlying conduct relating to
51 the fitness of the lawyer to practice law.

52 [3] Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses
53 involving fraud and the offense of willful failure to file an income tax return. However, some kinds
54 of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses
55 involving "moral turpitude." That concept can be construed to include offenses concerning some
56 matters of personal morality, such as adultery and comparable offenses, that have no specific
57 connection to fitness for the practice of law. Although a lawyer is personally answerable to the
58 entire criminal law, a lawyer should be professionally answerable only for offenses that indicate
59 lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty,
60 breach of trust, or serious interference with the administration of justice are in that category. A

61 pattern of repeated offenses, even ones of minor significance when considered separately, can
62 indicate indifference to legal obligation.

63 [4] Reserved.

64 [5] A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief
65 that no valid obligation exists. The provisions of Rule 1.2(d) concerning a good faith challenge to
66 the validity, scope, meaning or application of the law apply to challenges of legal regulation of the
67 practice of law.

68 [6] Persons holding public office assume responsibilities going beyond those of other citizens. A
69 lawyer's abuse of public office can suggest an inability to fulfill the professional role of lawyers.
70 The same is true of abuse of positions of private trust such as trustee, executor, administrator,
71 guardian, agent and officer, director or manager of a corporation or other organization.

1 Rule 9.3. Cooperation With Disciplinary Authority (redlined)
2 During the investigation of a ~~grievance filed under~~matter pursuant to these ~~R~~rules, the lawyer
3 complained against shall respond to disciplinary authorities in accordance with State Bar Rules.
4
5 The maximum penalty for a violation of this ~~R~~rule is a public reprimand.
6
7 Comment
8 ...

1 Rule 9.3 Cooperation With Disciplinary Authority (clean)

2 During the investigation of a matter pursuant to these rules, the lawyer complained against shall
3 respond to disciplinary authorities in accordance with State Bar Rules.

4

5 The maximum penalty for a violation of this rule is a public reprimand.

6

7 Comment

8 [1] Much of the work in the disciplinary process is performed by volunteer lawyers and lay
9 persons. In order to make good use of their valuable time, it is imperative that the lawyer
10 complained against cooperate with the investigation. In particular, the lawyer must file a sworn
11 response with the member of the Investigative Panel charged with the responsibility of
12 investigating the complaint.

13 [2] Nothing in this Rule prohibits a lawyer from responding by making a Fifth Amendment
14 objection, if appropriate. However, disciplinary proceedings are civil in nature and the use of a
15 Fifth Amendment objection will give rise to a presumption against the lawyer.

16

1 Rule 4-202 Receipt of Grievances; Initial Review by Bar Council (redlined)

2 ~~(a) — Grievances shall be filed in writing with the Office of the General Counsel of the State Bar~~
3 ~~of Georgia. In lieu of a Memorandum of Grievance the Office of~~ The Office of the General
4 Counsel may begin an investigation upon receipt of a Memorandum of Grievance, an Intake Form
5 from the Consumer-Client Assistance Program ~~conductor~~ credible information from any source. ~~-~~
6 ~~All grievances must include the name of the complainant and must be signed by the complainant.~~

7 ~~(ba) The Office of the General Counsel may investigate. If the investigation is based upon~~
8 receipt of credible information ~~from any source after notifying~~ the Office of the General Counsel
9 must first notify the respondent lawyer and ~~providing~~ provide a written description of the
10 information that serves as the basis for the investigation.

11 ~~(b) The Office of the General Counsel may~~ also deliver the information ~~it obtains~~ from any
12 source to the State Disciplinary Board for initiation of a grievance under Rule 4-203 (2).

13 (c) The Office of the General Counsel shall be empowered to collect evidence and information
14 concerning any grievance matter under investigation. The screening process may include
15 forwarding ~~a copy of the grievance~~ information received to the respondent ~~in order~~ so that the
16 respondent may respond ~~to the grievance~~.

17 (d) The Office of the General Counsel may request the Chair of the State Disciplinary Board
18 to issue a subpoena as provided by OCGA § 24-13-23 requiring a respondent or a third party to
19 produce documents relevant to the matter under investigation. Subpoenas shall be enforced in the
20 manner provided at Rule 4-221 (c).

21 (e) Upon completion of its screening of a grievance matter, the Office of the General Counsel
22 shall be empowered to dismiss those grievance matters that do not present sufficient merit to
23 proceed. ~~Rejection of such grievances by the Office of the General Counsel shall not deprive the~~
24 ~~complaining party of any right of action he might otherwise have at law or in equity against the~~
25 ~~respondent.~~

26 (f) Those grievance matters that appear to allege a violation of Part IV, Chapter 1 of the
27 Georgia Rules of Professional Conduct may be forwarded to the State Disciplinary Board pursuant
28 to Rule 4-204. In lieu of forwarding a matter to the State Disciplinary Board, the Office of the
29 General Counsel may refer a matter to the Consumer-Client Assistance Program so that it may
30 direct the complaining party to appropriate resources.

1 Rule 4-202 Receipt of Grievances; Initial Review by Bar Counsel (clean)
2 The Office of the General Counsel may begin an investigation upon receipt of a Memorandum of
3 Grievance, an Intake Form from the Client Assistance Program or credible information from any
4 source.

5 (a) If the investigation is based upon receipt of credible information, the Office of the General
6 Counsel must first notify the respondent lawyer and provide a written description of the
7 information that serves as the basis for the investigation.

8 (b) The Office of the General Counsel may also deliver the information from any source to the
9 State Disciplinary Board for initiation of a grievance under Rule 4-203 (2).

10 (c) The Office of the General Counsel shall be empowered to collect evidence and information
11 concerning any matter under investigation. The screening process may include forwarding
12 information received to the respondent so that the respondent may respond.

13 (d) The Office of the General Counsel may request the Chair of the State Disciplinary Board
14 to issue a subpoena as provided by OCGA § 24-13-23 requiring a respondent or a third party to
15 produce documents relevant to the matter under investigation. Subpoenas shall be enforced in the
16 manner provided at Rule 4-221 (c).

17 (e) Upon completion of its screening of a matter, the Office of the General Counsel shall be
18 empowered to dismiss those matters that do not present sufficient merit to proceed.

19 (f) Those matters that appear to allege a violation of Part IV, Chapter 1 of the Georgia Rules
20 of Professional Conduct may be forwarded to the State Disciplinary Board pursuant to Rule 4-204.
21 In lieu of forwarding a matter to the State Disciplinary Board, the Office of the General Counsel
22 may refer a matter to the Client Assistance Program so that it may direct the complaining party to
23 appropriate resources.
24

1 Rule 4-203 Powers and Duties (redlined)

2 In accordance with these Rules, the State Disciplinary Board shall have the following powers and
3 duties:

4 (1) to receive and evaluate any and all written grievances against lawyers and to frame such charges
5 and grievances as shall conform to the requirements of these Rules. A copy of ~~any grievance~~the
6 information serving as the basis for investigation or proceedings before the State Disciplinary
7 Board shall be furnished to the respondent by the procedures set forth in Rule 4-203.1;

8 (2) to initiate grievances on its own motion, to require additional information from a complainant,
9 where appropriate, and to dismiss and reject ~~such grievances as they may~~matters that seem
10 unjustified, frivolous, or patently unfounded. ~~However, the rejection of a grievance by the State~~
11 ~~Disciplinary Board shall not deprive the complaining party of any right of action he might~~
12 ~~otherwise have at law or in equity against the respondent;~~

13 (3) to issue letters of instruction when dismissing a grievancematter;

14 (4) to delegate the duties of the State Disciplinary Board enumerated in paragraphs (1), (2), (8),
15 (9), (10), and (11) hereof to the Chair of the State Disciplinary Board or such other members as
16 the State Disciplinary Board or its Chair may designate subject to review and approval by the full
17 State Disciplinary Board;

18 (5) to conduct Probable Cause investigations, to collect evidence and information concerning
19 grievancesmatters under investigation, and to certify grievancesmatters to the Supreme Court of
20 Georgia for hearings by Special Masters as hereinafter provided;

21 (6) to prescribe its own Rules of conduct and procedure;

22 (7) to receive, investigate, and collect evidence and information, and review and accept or reject
23 Petitions for Voluntary Discipline pursuant to Rule 4-227 (b) (1);

24 (8) to sign and enforce, as hereinafter described, subpoenas for the appearance of persons and the
25 production of documents, things and records at investigations both during the screening process
26 and the State Disciplinary Board's investigation;

27 (9) to issue a subpoena as provided in this Rule whenever a subpoena is sought in this State
28 pursuant to the law of another jurisdiction for use in lawyer discipline or disability proceedings,
29 where the issuance of the subpoena has been duly approved under the law of the other jurisdiction.

30 Upon petition for good cause the State Disciplinary Board may compel the attendance of witnesses
31 and production of documents in the county where the witness resides or is employed or elsewhere

32 as agreed by the witness. Service of the subpoena shall be as provided in the Georgia Civil Practice
33 Act. Enforcement or challenges to the subpoena shall be as provided at Rule 4-221 (c);
34 (10) to extend the time within which a formal complaint may be filed;
35 (11) to issue Formal Letters of Admonition and Confidential Reprimands as hereinafter provided;
36 (12) to issue a Notice of Discipline providing that unless the respondent affirmatively rejects the
37 notice, the respondent shall be sanctioned as ordered by the Supreme Court of Georgia;
38 (13) to refer a lawyer who appears to be impaired for an evaluation by an appropriate medical or
39 mental health professional; and
40 (14) to use the staff of the Office of the General Counsel in performing its duties.
41

1 Rule 4-203 Powers and Duties (clean)

2 In accordance with these Rules, the State Disciplinary Board shall have the following powers and
3 duties:

4 (1) to receive and evaluate any and all written grievances against lawyers and to frame such charges
5 and grievances as shall conform to the requirements of these Rules. A copy of the information
6 serving as the basis for investigation or proceedings before the State Disciplinary Board shall be
7 furnished to the respondent by the procedures set forth in Rule 4-203.1;

8 (2) to initiate grievances on its own motion, to require additional information from a complainant,
9 where appropriate, and to dismiss and reject matters that seem unjustified, frivolous, or patently
10 unfounded;

11 (3) to issue letters of instruction when dismissing a matter;

12 (4) to delegate the duties of the State Disciplinary Board enumerated in paragraphs (1), (2), (8),
13 (9), (10), and (11) hereof to the Chair of the State Disciplinary Board or such other members as
14 the State Disciplinary Board or its Chair may designate subject to review and approval by the full
15 State Disciplinary Board;

16 (5) to conduct Probable Cause investigations, to collect evidence and information concerning
17 matters under investigation, and to certify matters to the Supreme Court of Georgia for hearings
18 by Special Masters as hereinafter provided;

19 (6) to prescribe its own Rules of conduct and procedure;

20 (7) to receive, investigate, and collect evidence and information, and review and accept or reject
21 Petitions for Voluntary Discipline pursuant to Rule 4-227 (b) (1);

22 (8) to sign and enforce, as hereinafter described, subpoenas for the appearance of persons and the
23 production of documents, things and records at investigations both during the screening process
24 and the State Disciplinary Board's investigation;

25 (9) to issue a subpoena as provided in this Rule whenever a subpoena is sought in this State
26 pursuant to the law of another jurisdiction for use in lawyer discipline or disability proceedings,
27 where the issuance of the subpoena has been duly approved under the law of the other jurisdiction.

28 Upon petition for good cause the State Disciplinary Board may compel the attendance of witnesses
29 and production of documents in the county where the witness resides or is employed or elsewhere
30 as agreed by the witness. Service of the subpoena shall be as provided in the Georgia Civil Practice
31 Act. Enforcement or challenges to the subpoena shall be as provided at Rule 4-221 (c);

- 32 (10) to extend the time within which a formal complaint may be filed;
- 33 (11) to issue Formal Letters of Admonition and Confidential Reprimands as hereinafter provided;
- 34 (12) to issue a Notice of Discipline providing that unless the respondent affirmatively rejects the
- 35 notice, the respondent shall be sanctioned as ordered by the Supreme Court of Georgia;
- 36 (13) to refer a lawyer who appears to be impaired for an evaluation by an appropriate medical or
- 37 mental health professional; and
- 38 (14) to use the staff of the Office of the General Counsel in performing its duties.
- 39

1 Rule 4-204 Investigation and Disposition by State Disciplinary Board-Generally (redlined)

2 (a) Each grievancematter that presents sufficient merit to proceed may be referred with a
3 Notice of Investigation to the State Disciplinary Board for investigation and disposition in
4 accordance with its Rules. The Clerk of the State Disciplinary Boards shall assign a lawyer member
5 of the State Disciplinary Board to be responsible for the investigation. The Office of the General
6 Counsel shall simultaneously assign a staff investigator to assist the State Disciplinary Board
7 member with the investigation. If the investigation of the State Disciplinary Board establishes
8 Probable Cause to believe that the respondent has violated one or more of the provisions of Part
9 IV, Chapter 1 of these Rules, it shall:

- 10 (1) issue a Formal Letter of Admonition;
- 11 (2) issue a Confidential Reprimand;
- 12 (3) issue a Notice of Discipline;
- 13 (4) refer the case to the Supreme Court of Georgia for hearing before a Special Master
14 and file a formal complaint with the Supreme Court of Georgia, all as hereinafter provided;
- 15 or
- 16 (5) refer a respondent for evaluation by an appropriate medical or mental health
17 professional pursuant to Rule 4-104 upon the State Disciplinary Board's determination that
18 there is cause to believe the lawyer is impaired.

19 All other cases may be either dismissed by the State Disciplinary Board or referred to the
20 ConsumerClient Assistance Program so that it may direct the complaining party to appropriate
21 resources.

22 (b) The primary investigation shall be conducted by the member of the State Disciplinary
23 Board responsible for the investigation, assisted by the staff of the Office of the General Counsel,
24 upon request of the State Disciplinary Board member. The Board of Governors of the State Bar of
25 Georgia shall fund the Office of the General Counsel so that the Office of the General Counsel
26 will be able to adequately investigate and prosecute all cases.

27

1 Rule 4-204 Investigation and Disposition by State Disciplinary Board-Generally (clean)

2 (a) Each matter that presents sufficient merit to proceed may be referred with a Notice of
3 Investigation to the State Disciplinary Board for investigation and disposition in accordance with
4 its Rules. The Clerk of the State Disciplinary Boards shall assign a lawyer member of the State
5 Disciplinary Board to be responsible for the investigation. The Office of the General Counsel shall
6 simultaneously assign a staff investigator to assist the State Disciplinary Board member with the
7 investigation. If the investigation of the State Disciplinary Board establishes Probable Cause to
8 believe that the respondent has violated one or more of the provisions of Part IV, Chapter 1 of
9 these Rules, it shall:

10 (1) issue a Formal Letter of Admonition;

11 (2) issue a Confidential Reprimand;

12 (3) issue a Notice of Discipline;

13 (4) refer the case to the Supreme Court of Georgia for hearing before a Special Master
14 and file a formal complaint with the Supreme Court of Georgia, all as hereinafter provided;

15 or

16 (5) refer a respondent for evaluation by an appropriate medical or mental health
17 professional pursuant to Rule 4-104 upon the State Disciplinary Board's determination that
18 there is cause to believe the lawyer is impaired.

19 All other cases may be either dismissed by the State Disciplinary Board or referred to the Client
20 Assistance Program so that it may direct the complaining party to appropriate resources.

21 (b) The primary investigation shall be conducted by the member of the State Disciplinary
22 Board responsible for the investigation, assisted by the staff of the Office of the General Counsel,
23 upon request of the State Disciplinary Board member. The Board of Governors of the State Bar of
24 Georgia shall fund the Office of the General Counsel so that the Office of the General Counsel
25 will be able to adequately investigate and prosecute all cases.

26

- 1 Rule 4-204.1 Notice of Investigation (redlined)
- 2 (a) A Notice of Investigation shall accord the respondent reasonable notice of the charges
- 3 against him and a reasonable opportunity to respond to the charges in writing. The Notice shall
- 4 contain:
- 5 (1) a statement that the grievance or written description pursuant to Bar Rule 4-202 (a)
- 6 is being transmitted to the State Disciplinary Board;
- 7 (2) a copy of the grievance or written description pursuant to Bar Rule 4-202 (a);
- 8 (3) a list of the Rules that appear to have been violated;
- 9 (4) the name and address of the State Disciplinary Board member assigned to
- 10 investigate the grievance matter and a list of the State Disciplinary Board members; and
- 11 (5) a statement of the respondent's right to challenge the competency, qualifications or
- 12 objectivity of any State Disciplinary Board member.
- 13 (b) The form for the Notice of Investigation shall be approved by the State Disciplinary Board.
- 14 (c) The Office of the General Counsel shall cause the Notice of Investigation to be served upon
- 15 the respondent pursuant to Rule 4-203.1.
- 16

1 Rule 4-204.1 Notice of Investigation (clean)

2 (a) A Notice of Investigation shall accord the respondent reasonable notice of the charges
3 against him and a reasonable opportunity to respond to the charges in writing. The Notice shall
4 contain:

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6 is being transmitted to the State Disciplinary Board;

7 (2) a copy of the grievance or written description pursuant to Bar Rule 4-202 (a);

8 (3) a list of the Rules that appear to have been violated;

9 (4) the name and address of the State Disciplinary Board member assigned to
10 investigate the matter and a list of the State Disciplinary Board members; and

11 (5) a statement of the respondent's right to challenge the competency, qualifications or
12 objectivity of any State Disciplinary Board member.

13 (b) The form for the Notice of Investigation shall be approved by the State Disciplinary Board.

14 (c) The Office of the General Counsel shall cause the Notice of Investigation to be served upon
15 the respondent pursuant to Rule 4-203.1.

16

1 Rule 4-204.3. Answer to Notice of Investigation Required (redlined)

2 (a) The respondent shall deliver to the State Disciplinary Board member assigned to
3 investigate the grievancematter a written response under oath to the Notice of Investigation within
4 30 days of service.

5 (b) The written response must address specifically all of the issues set forth in the Notice of
6 Investigation.

7 (c) The State Disciplinary Board member assigned to investigate the grievancematter may, in
8 the State Disciplinary Board member's discretion, grant extensions of time for the respondent's
9 answer. Any request for extension of time must be made in writing, and the grant of an extension
10 of time must also be in writing. Extensions of time shall not exceed 30 days and should not be
11 routinely granted.

12 (d) In cases where the maximum sanction is disbarment or suspension and the respondent fails
13 to properly respond within the time required by these Rules, the Office of the General Counsel
14 may seek authorization from the Chair or Vice-Chair of the State Disciplinary Board to file a
15 motion for interim suspension of the respondent.

16 (1) When an investigating member of the State Disciplinary Board notifies the Office
17 of the General Counsel that the respondent has failed to respond and that the respondent
18 should be suspended, the Office of the General Counsel shall, with the approval of the
19 Chair or Vice-Chair of the State Disciplinary Board, file a Motion for Interim Suspension
20 of the respondent. The Supreme Court of Georgia shall enter an appropriate order.

21 (2) When the State Disciplinary Board member and the Chair or Vice-Chair of the State
22 Disciplinary Board determine that a respondent who has been suspended for failure to
23 respond has filed an appropriate response and should be reinstated, the Office of the
24 General Counsel shall file a Motion to Lift Interim Suspension. The Supreme Court of
25 Georgia shall enter an appropriate order. The determination that an adequate response has
26 been filed is within the discretion of the investigating State Disciplinary Board member
27 and the Chair of the State Disciplinary Board.

28

1 Rule 4-204.3. Answer to Notice of Investigation Required (clean)

2 (a) The respondent shall deliver to the State Disciplinary Board member assigned to
3 investigate the matter a written response under oath to the Notice of Investigation within 30 days
4 of service.

5 (b) The written response must address specifically all of the issues set forth in the Notice of
6 Investigation.

7 (c) The State Disciplinary Board member assigned to investigate the matter may, in the State
8 Disciplinary Board member's discretion, grant extensions of time for the respondent's answer.
9 Any request for extension of time must be made in writing, and the grant of an extension of time
10 must also be in writing. Extensions of time shall not exceed 30 days and should not be routinely
11 granted.

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13 to properly respond within the time required by these Rules, the Office of the General Counsel
14 may seek authorization from the Chair or Vice-Chair of the State Disciplinary Board to file a
15 motion for interim suspension of the respondent.

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17 of the General Counsel that the respondent has failed to respond and that the respondent
18 should be suspended, the Office of the General Counsel shall, with the approval of the
19 Chair or Vice-Chair of the State Disciplinary Board, file a Motion for Interim Suspension
20 of the respondent. The Supreme Court of Georgia shall enter an appropriate order.

21 (2) When the State Disciplinary Board member and the Chair or Vice-Chair of the State
22 Disciplinary Board determine that a respondent who has been suspended for failure to respond has
23 filed an appropriate response and should be reinstated, the Office of the General Counsel shall file
24 a Motion to Lift Interim Suspension. The Supreme Court of Georgia shall enter an appropriate
25 order. The determination that an adequate response has been filed is within the discretion of the
26 investigating State Disciplinary Board member and the Chair of the State Disciplinary Board.

27

1 Rule 4-208.2 Notice of Discipline; Contents; Service (redlined)

2 (a) The Notice of Discipline shall include:

3 (1) the Rules that the State Disciplinary Board found the respondent violated;

4 (2) the allegations of facts that, if un rebutted, support the finding that such Rules have
5 been violated;

6 (3) the level of public discipline recommended to be imposed;

7 (4) the reasons why such level of discipline is recommended, including matters
8 considered in mitigation and matters considered in aggravation, and such other
9 considerations deemed by the State Disciplinary Board to be relevant to such
10 recommendation;

11 (5) the entire provisions of Rule 4-208.3 relating to rejection of a Notice of Discipline.
12 This may be satisfied by attaching a copy of the Rule to the Notice of Discipline and
13 referencing the same in the notice;

14 (6) a copy of the Memorandum of Grievance or written description pursuant to Bar
15 Rule 4-202 (a); and

16 (7) a statement of any prior discipline imposed upon the respondent, including
17 confidential discipline under Rules 4-205 to 4-208.

18 (b) The Notice of Discipline shall be filed with the Clerk of the Supreme Court of Georgia,
19 and a copy of the Notice of Discipline shall be served upon the respondent pursuant to Rule 4-
20 203.1.

21 (c) The Office of the General Counsel shall file documents evidencing service with the Clerk
22 of the Supreme Court of Georgia.

23 (d) The level of disciplinary sanction in any Notice of Discipline rejected by the respondent or
24 the Office of the General Counsel shall not be binding on the Special Master, the State Disciplinary
25 Board or the Supreme Court of Georgia in subsequent proceedings in the same matter.

1 Rule 4-208.2 Notice of Discipline; Contents; Service (clean)

2 (a) The Notice of Discipline shall include:

3 (1) the Rules that the State Disciplinary Board found the respondent violated;

4 (2) the allegations of facts that, if un rebutted, support the finding that such Rules have
5 been violated;

6 (3) the level of public discipline recommended to be imposed;

7 (4) the reasons why such level of discipline is recommended, including matters
8 considered in mitigation and matters considered in aggravation, and such other
9 considerations deemed by the State Disciplinary Board to be relevant to such
10 recommendation;

11 (5) the entire provisions of Rule 4-208.3 relating to rejection of a Notice of Discipline.
12 This may be satisfied by attaching a copy of the Rule to the Notice of Discipline and
13 referencing the same in the notice;

14 (6) a copy of the Memorandum of Grievance or written description pursuant to Bar
15 Rule 4-202 (a); and

16 (7) a statement of any prior discipline imposed upon the respondent, including
17 confidential discipline under Rules 4-205 to 4-208.

18 (b) The Notice of Discipline shall be filed with the Clerk of the Supreme Court of Georgia,
19 and a copy of the Notice of Discipline shall be served upon the respondent pursuant to Rule 4-
20 203.1.

21 (c) The Office of the General Counsel shall file documents evidencing service with the Clerk
22 of the Supreme Court of Georgia.

23 (d) The level of disciplinary sanction in any Notice of Discipline rejected by the respondent or
24 the Office of the General Counsel shall not be binding on the Special Master, the State Disciplinary
25 Board or the Supreme Court of Georgia in subsequent proceedings in the same matter.

26

1 Rule 4-208.4 Formal Complaint Following Notice of Rejection of Discipline (redlined)

2 (a) The Office of the General Counsel shall file with the Clerk of the Supreme Court of Georgia
3 a formal complaint and a Petition for Appointment of Special Master within 30 days following the
4 filing of a Notice of Rejection. The Notice of Discipline shall operate as the notice of finding of
5 Probable Cause by the State Disciplinary Board.

6 (b) The Office of the General Counsel may obtain extensions of time for the filing of the formal
7 complaint from the Chair of the State Disciplinary Board or his designee.

8 (c) After the rejection of a Notice of Discipline and prior to the time of the filing of the formal
9 complaint, the State Disciplinary Board may reconsider the grievancematter and take appropriate
10 action.

1 Rule 4-208.4 Formal Complaint Following Notice of Rejection of Discipline (clean)

2 (a) The Office of the General Counsel shall file with the Clerk of the Supreme Court of Georgia
3 a formal complaint and a Petition for Appointment of Special Master within 30 days following the
4 filing of a Notice of Rejection. The Notice of Discipline shall operate as the notice of finding of
5 Probable Cause by the State Disciplinary Board.

6 (b) The Office of the General Counsel may obtain extensions of time for the filing of the formal
7 complaint from the Chair of the State Disciplinary Board or his designee.

8 (c) After the rejection of a Notice of Discipline and prior to the time of the filing of the formal
9 complaint, the State Disciplinary Board may reconsider the matter and take appropriate action.

1 Rule 4-222 Limitation (redlined)

2 (a) No proceeding under Part IV, Chapter 2, shall be brought unless a Memorandum of
3 Grievance, ~~or a Consumer~~written description pursuant to Rule 4-202 (a), or a Client Assistance
4 Program referral form has been received at the State Bar of Georgia headquarters or instituted
5 pursuant to these Rules within four years after the commission of the act; provided, however, this
6 limitation shall be tolled during any period of time, not to exceed two years, that the offender or
7 the offense is unknown, the offender's whereabouts are unknown, or the offender's name is
8 removed from the roll of those authorized to practice law in this State.

9 (b) Referral of a matter to the State Disciplinary Board ~~by the Office of the General Counsel~~
10 shall occur within 12 months of ~~the~~ receipt of the Memorandum of Grievance ~~at~~by the Office of
11 the General Counsel or notification to the Respondent of the State Bar of Georgia headquarters or
12 institution of an investigationwritten description pursuant to Rule 4-202 (a).

13

1 Rule 4-222 Limitation (clean)

2 (a) No proceeding under Part IV, Chapter 2, shall be brought unless a Memorandum of
3 Grievance, a written description pursuant to Rule 4-202 (a), or a Client Assistance Program referral
4 form has been received at the State Bar of Georgia headquarters or instituted pursuant to these
5 Rules within four years after the commission of the act; provided, however, this limitation shall be
6 tolled during any period of time, not to exceed two years, that the offender or the offense is
7 unknown, the offender's whereabouts are unknown, or the offender's name is removed from the
8 roll of those authorized to practice law in this State.

9 (b) Referral of a matter to the State Disciplinary Board shall occur within 12 months of receipt
10 of the Memorandum of Grievance by the Office of the General Counsel or notification to the
11 Respondent of the written description pursuant to Rule 4-202 (a).

12

1 Rule 4-223. Advisory Opinions (redlined)

2 (a) Any Formal Advisory Opinion issued pursuant to Rule 4-403 which is not thereafter
3 disapproved by the Supreme Court of Georgia shall be binding on the State Bar of Georgia, the
4 State Disciplinary Board, and the person who requested the opinion, in any subsequent disciplinary
5 proceeding involving that person. Formal Advisory Opinions which have been approved or
6 modified by the Supreme Court pursuant to Rule 4-403 shall also be binding in subsequent
7 disciplinary proceedings which do not involve the person who requested the opinion.

8 (b) It shall be considered as mitigation to any ~~grievance~~matter being investigated under these
9 rules that the respondent has acted in accordance with and in reasonable reliance upon a written
10 Informal Advisory Opinion requested by the respondent pursuant to Rule 4-40 1 or a Formal
11 Advisory Opinion issued pursuant to Rule 4-403, but not reviewed by the Supreme Court of
12 Georgia.

1 Rule 4-223. Advisory Opinions (clean)

2 (a) Any Formal Advisory Opinion issued pursuant to Rule 4-403 which is not thereafter
3 disapproved by the Supreme Court of Georgia shall be binding on the State Bar of Georgia, the
4 State Disciplinary Board, and the person who requested the opinion, in any subsequent disciplinary
5 proceeding involving that person. Formal Advisory Opinions which have been approved or
6 modified by the Supreme Court pursuant to Rule 4-403 shall also be binding in subsequent
7 disciplinary proceedings which do not involve the person who requested the opinion.

8 (b) It shall be considered as mitigation to any matter being investigated under these rules that
9 the respondent has acted in accordance with and in reasonable reliance upon a written Informal
10 Advisory Opinion requested by the respondent pursuant to Rule 4-401 or a Formal Advisory
11 Opinion issued pursuant to Rule 4-403, but not reviewed by the Supreme Court of Georgia.

12

1 Rule 4-224 Expungement of Records (redlined)

2 (a) The record of any ~~grievancematter~~ against a respondent under these Rules which does not
3 result in discipline against the respondent shall be expunged by the Office of the General Counsel
4 in accordance with the following:

5 (1) those ~~grievancesmatters~~ closed by the Office of the General Counsel after screening
6 pursuant to Rule 4-202 (e) shall be expunged after one year;

7 (2) those ~~grievancesmatters~~ dismissed by the State Disciplinary Board after a Probable
8 Cause investigation pursuant to Rule 4-204 (a) shall be expunged after two years; and

9 (3) those complaints dismissed by the Supreme Court of Georgia after formal
10 proceedings shall be expunged after two years.

11 (b) Definition. The term “expunge” shall mean that all records or other evidence of the
12 existence of the complaint shall be destroyed.

13 (c) Effect of Expungement. After a file has been expunged, any response to an inquiry
14 requiring a reference to the matter shall state that any record of such matter has been expunged
15 and, in addition, shall state that no inference adverse to the respondent is to be drawn on the basis
16 of the incident in question. The respondent may answer any inquiry requiring a reference to an
17 expunged matter by stating that the ~~grievancematter~~ or formal complaint was dismissed and
18 thereafter expunged.

19 (d) Retention of Records. Upon application to the State Disciplinary Board by the Office of
20 the General Counsel, for good cause shown, with notice to the respondent and an opportunity to
21 be heard, records that would otherwise be expunged under this Rule may be retained for such
22 additional period of time not exceeding three years as the Board deems appropriate. Counsel may
23 seek a further extension of the period for which retention of the records is authorized whenever a
24 previous application has been granted for the maximum period permitted hereunder.

25 (e) A lawyer may respond in the negative when asked if there are any complaints against the
26 lawyer if the matter has been expunged pursuant to this Rule. Before making a negative response
27 to any such inquiry, the lawyer shall confirm that the record was expunged and shall not presume
28 that any matter has been expunged.

29 (f) A lawyer may respond in the negative when asked if ~~the lawyerhe~~ has ever been
30 professionally disciplined or determined to have violated any professional disciplinary rules if all

- 31 ~~grievances filed~~matters against the lawyer have either been referred to the ~~Consumer~~Client
32 Assistance Program, dismissed, or dismissed with a letter of instruction.

1 Rule 4-224 Expungement of Records (clean)

2 (a) The record of any matter against a respondent under these Rules which does not result in
3 discipline against the respondent shall be expunged by the Office of the General Counsel in
4 accordance with the following:

5 (1) those matters closed by the Office of the General Counsel after screening pursuant
6 to Rule 4-202 (e) shall be expunged after one year;

7 (2) those matters dismissed by the State Disciplinary Board after a Probable Cause
8 investigation pursuant to Rule 4-204 (a) shall be expunged after two years; and

9 (3) those complaints dismissed by the Supreme Court of Georgia after formal
10 proceedings shall be expunged after two years.

11 (b) Definition. The term “expunge” shall mean that all records or other evidence of the
12 existence of the complaint shall be destroyed.

13 (c) Effect of Expungement. After a file has been expunged, any response to an inquiry
14 requiring a reference to the matter shall state that any record of such matter has been expunged
15 and, in addition, shall state that no inference adverse to the respondent is to be drawn on the basis
16 of the incident in question. The respondent may answer any inquiry requiring a reference to an
17 expunged matter by stating that the matter or formal complaint was dismissed and thereafter
18 expunged.

19 (d) Retention of Records. Upon application to the State Disciplinary Board by the Office of
20 the General Counsel, for good cause shown, with notice to the respondent and an opportunity to
21 be heard, records that would otherwise be expunged under this Rule may be retained for such
22 additional period of time not exceeding three years as the Board deems appropriate. Counsel may
23 seek a further extension of the period for which retention of the records is authorized whenever a
24 previous application has been granted for the maximum period permitted hereunder.

25 (e) A lawyer may respond in the negative when asked if there are any complaints against the
26 lawyer if the matter has been expunged pursuant to this Rule. Before making a negative response
27 to any such inquiry, the lawyer shall confirm that the record was expunged and shall not presume
28 that any matter has been expunged.

29 (f) A lawyer may respond in the negative when asked if the lawyer has ever been
30 professionally disciplined or determined to have violated any professional disciplinary rules if all

31 matters against the lawyer have either been referred to the Client Assistance Program, dismissed,
32 or dismissed with a letter of instruction.

1 Rule 10-106 Eligible Claims (redlined)

2 (a) The loss must be caused by the dishonest conduct of the lawyer and shall have arisen out
3 of and because of a lawyer-client relationship, or a fiduciary relationship, between the lawyer and
4 the claimant.

5 (b) As used in these Rules, "dishonest conduct" means wrongful acts committed by a lawyer
6 in the nature of theft or embezzlement of money or the wrongful taking or conversion of money,
7 property or other things of value.

8 (c) There must be a final disposition ~~of a grievance filed with the State Disciplinary Board of~~
9 ~~the State Bar of Georgia~~ resulting in indefinite suspension, disbarment, or voluntary surrender of
10 license.

11 (d) The claim shall be filed no later than two years after the date of final disciplinary action by
12 the Supreme Court of Georgia. In the event disciplinary action cannot be prosecuted due to the
13 fact that the attorney is either deceased or cannot be located, the claim shall be filed no later than
14 five years after the dishonest conduct was first discovered by the applicant; provided, however,
15 the claim shall be filed no later than seven years after the dishonest conduct occurred.

16 (e) Except as provided by part (f) of this Rule, the following losses shall not be reimbursable:

17 (1) losses incurred by spouses, children, parents, grandparents, siblings, partners,
18 associates and employees of lawyer(s) causing the losses;

19 (2) losses covered by any bond, surety agreement, or insurance contract to the extent
20 covered thereby, including any loss to which any bonding agent, surety or insurer is
21 subrogated, to the extent of that subrogated interest;

22 (3) losses incurred by any financial institution, which are recoverable under a "banker's
23 blanket bond" or similar commonly available insurance or surety contract;

24 (4) losses incurred by any business entity controlled by the lawyer, or any person or
25 entity described in part (e) (1) hereof;

26 (5) losses incurred by any governmental entity or agency;

27 (6) losses incurred by corporations or partnerships, including general or limited.

28 (f) In cases of extreme hardship or special and unusual circumstances, the Board may, in its
29 discretion, recognize a claim that otherwise would be excluded under these Rules in order to
30 achieve the purpose of the Fund.

31 (g) In cases where it appears that there will be unjust enrichment, or the claimant unreasonably
32 or knowingly contributed to the loss, the Board, in its discretion, may deny the claim.

33 (h) The Board shall require the applicant to exhaust his or her civil remedies unless the Board
34 determines that the pursuit of the civil claim is not feasible or practical.

35

1 Rule 10-106 Eligible Claims (clean)

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3 of and because of a lawyer-client relationship, or a fiduciary relationship, between the lawyer and
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20 subrogated, to the extent of that subrogated interest;

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22 blanket bond" or similar commonly available insurance or surety contract;

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24 entity described in part (e) (1) hereof;

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28 discretion, recognize a claim that otherwise would be excluded under these Rules in order to
29 achieve the purpose of the Fund.

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31 or knowingly contributed to the loss, the Board, in its discretion, may deny the claim.

32 (h) The Board shall require the applicant to exhaust his or her civil remedies unless the Board
33 determines that the pursuit of the civil claim is not feasible or practical.



MEMORANDUM TO: Members, Board of Governors
FROM: Paula Frederick
DATE: December 11, 2020
RE: Application to Create Religious Liberty Law Section

Article IX, Sections 3 and 4 of the Bylaws set forth the procedure for creating new Sections. They provide as follows:

Section 3. Other Sections - Purposes.

Other sections may be created for members of the bar interested in a specialized area of law or practice. Each section shall have powers and duties consistent with the Rules and Bylaws of the State Bar, subject to the approval of the Board of Governors.

Section 4. Establishment of Sections.

The Board of Governors may establish a new section dedicated to an area of law or practice not duplicated by any other section of the State Bar. Every application to the Board for the establishment of a new section shall set forth:

- a. the area of law or practice to which the proposed section is to be dedicated which shall be within the purposes of the State Bar;
- b. a statement of the need for the proposed section;
- c. the proposed bylaws for the government of the section; and
- d. the names and addresses of at least ten members applying for creation of the section.

The application and proposed bylaws for a new Religious Liberty Law Section are attached. Pursuant to the request of the Board at the Fall meeting, I have invited the members who filed the application to attend the Midyear meeting to answer questions about the application.

pjf

HEADQUARTERS

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Fax 404-527-8717
www.gabar.org

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**APPLICATION TO CREATE A RELIGIOUS LIBERTY LAW SECTION OF THE
STATE BAR OF GEORGIA**

APPLICATION

Pursuant to Article IX, Section 4 of the State Bar Handbook of the State Bar of Georgia, the 104 undersigned members in good standing of the State Bar of Georgia respectfully request the Board of Governors of the State Bar of Georgia to approve the creation of a new Section of the State Bar of Georgia to be known as the *Religious Liberty Law Section*.

**THE AREA OF LAW OR PRACTICE TO WHICH THE SECTION IS TO BE
DEDICATED**

The area of law and practice to which the Section is to be dedicated is Religious Liberty Law.

NEED FOR THE PROPOSED RELIGIOUS LIBERTY LAW SECTION

A. Religious Liberty Law is an Important and Specialized Area of Practice.

Religious liberty is guaranteed by the First Amendment to the U.S. Constitution, as well as the Georgia Constitution (Ga. Const. Art. I, Sec. I., Para. III; Ga. Const. Art. I, Sec. I., Para. IV).

Religious liberty is often referred to as our “first liberty” (see, for example, *The First Liberty*, William Lee Miller, Georgetown University Press, 2003 and the 2015 *Annual Report of the United States Commission on International Religious Freedom*, page 2, stating “religious freedom is our nation’s first freedom”).

Given the fact that, in 2017, nearly 80% of Americans identified themselves with a specific religion (<https://news.gallup.com/poll/224642/2017-update-americans-religion.aspx>), it is not surprising that religion intersects with the law at a great many levels. Indeed, legal issues involving religious liberty are becoming more and more common, in both the public and private sectors.

The Supreme Court of the United States has recently addressed religious issues on numerous occasions. See, for example, *Town of Greece, N.Y. v. Galloway*, 134 S.Ct. 1811 (2014)(legislative prayer); *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751 (2014)(religious liberty rights of closely held for-profit corporations); *Holt v. Hobbs*, 135 S.Ct. 853 (2015)(religious rights of prisoners); *EEOC v. Abercrombie & Fitch*, 135 S.Ct. 2028 (2015)(religious accommodation in employment); *Reed v. Town of Gilbert, Ariz.*, 135 S.Ct. 2218 (2015)(free speech rights of a church); *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, 138

S.Ct. 1719 (2018)(religious beliefs as a defense to public accommodation discrimination claims); *American Humanist Association v. American Legion*, 139 S.Ct. 2067 (2019)(Establishment Clause implications of cross-shaped war memorial on public property).

Due to the fact that the law relating to religious liberty is both complicated and fluid, attorneys in many different fields of practice will be faced with an ever-increasing number of religious liberty law-related issues and, without adequate education and resources, will not be armed with the professional knowledge necessary to competently address and handle these issues. Among the practice areas affected are:

(a) **Employment/Labor Law.** Religion-based EEOC complaints have more than doubled over the past 15 years (*Religious-Discrimination Claims on the Rise: Complaints Include Dress Codes, Working on the Sabbath, Handling Alcohol*,” Melanie Trotman, *The Wall Street Journal*, Oct. 27, 2013). And different rules apply to religious and non-religious employers (*Conlon v. Intervarsity Christian Fellowship*, 777 F.3d 829 (6th Cir. 2015)(right of faith-based groups to make employment decisions consistent with their beliefs).

(b) **Family Law.** Religious liberty issues arise often in the family law and parental rights contexts, including such issues as a parent’s right to determine the religious upbringing of his or her children (*Religion as Factor in Child Custody Cases*, 124 A.L.R.5th 203 (Originally published in 2004)). Such issues are not uncommon, especially given the fact that interfaith marriages are on the rise and that marriages between spouses of different faiths dissolve at a much higher rate than marriages between spouses of the same faith. <http://www.washingtonpost.com/wp-dyn/content/article/2010/06/04/AR2010060402011.html>. Religious liberty issues also arise in contexts where parental rights are pitted against government interference with those rights, including with respect to a child’s education and medical treatment. Religious law issues are also becoming more common in foster care and adoption contexts.

(c) **Business Law.** There are many recent and pending cases around the country addressing the controversial legal issue of whether a commercial establishment may decline business for religious reasons. See, for example, *Masterpiece Cake Shop v. Colorado Civil Rights Commission*, 138 S.Ct. 1719 ; *Elane Photography, LLC v. Willock* (New Mexico); *State of Washington v. Arlene’s Flowers* (Washington); *Hands On Originals v. Lexington-Fayette Urban County Human Rights Commission* (Kentucky); *Brush & Nib Studio v. City of Phoenix* (Arizona); *Stormans, Inc. v. Wiesman* (Washington); *Telescope Media Group v. Lindsey* (Minnesota); *Country Mill Farms v. City of East Lansing* (Michigan). Attorneys in increasing numbers will undoubtedly be called upon to represent business owners in this and other religion-related contexts.

(d) **Real Estate and Land Use Law.** Local governments and religious organizations are often faced with land use and zoning issues related to religion, including actions brought

pursuant to the federal Religious Land Use and Institutionalized Persons Act (RLUIPA), which was enacted in order to protect religious liberty.

(e) **Government and Public Law.** Governmental bodies, public schools, and public employers are often confronted with both Establishment and Free Exercise of religion issues, including what sorts of religious activities and displays are allowed on public property; whether and what sorts of religious accommodations must be made for public employees; and what sorts of religious exercise rights public school students, faculty, and administrative employees have.

(f) **Tax Law.** Many provisions of federal, state, and local income and property tax laws relate specifically to religion, premised upon respect for religious liberty.

(g) **International Law.** The 193 member states of the United Nations – including the United States – have agreed to promote and encourage respect for human rights and fundamental freedoms. These rights and freedoms include the freedom of thought, conscience, and religion or belief, which is protected and affirmed in numerous international instruments, including the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights, and the 1981 Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief. In 1988 the United States Congress unanimously enacted the International Religious Freedom Act, which seeks to make religious freedom a higher priority in U.S. foreign policy.

And this is just the tip of the iceberg.

B. Religious Liberty Law Sections Have Been Created in Other State Bar Associations.

The increasing importance of, and growing interest in, religious liberty law is evidenced by the activities of other bar associations around the country. For example:

- the State Bar of Arizona has created a Religious Liberty Law Section;
- the Michigan Bar Association has created a Religious Liberty Law Section;
- the Civil Rights and Social Justice Section of the American Bar Association has established a Religious Freedom Committee which “*addresses the liberty interest that was a founding purpose of our nation – the ‘First Freedom,’ freedom of religion.*”

Many state and local bar associations and other legal organizations have sponsored an ever-increasing number of CLEs addressing religious liberty law topics. For example:

- the Arizona Bar Association Religious Liberty Law Section has sponsored multiple CLEs on a variety of religious liberty law topics, including: “*In Search of a More Perfect Union:*

When Rights of Religious Liberty and Anti-Discrimination Collide” (June 16, 2017); “*Who Prays: Unsettled Questions for Legislative Prayer*” (October 20, 2017); “*Religious Speech in Public Schools*” (February 27, 2018); “*Religion and the Workplace: Navigating the Issues for Employers and Employees*” (June 29, 2018); “*In God We Trust?: Government Endorsement of Religion*” (September 14, 2018); “*Inclusion: The Legal Landscape Affecting Religion and People of Faith*” (June 28, 2019); “*Representing Churches, Synagogues, Gurdwaras, Mosques & Temples: Tips and Practical Takeaways for Outside Counsel*” (November 20, 2019); and *Trinity Lutheran, Espinoza and Beyond: Establishment of Religion or Discrimination Against Religion?* (March 16, 2020).

- the Religious Liberty Section of the Michigan Bar Association has sponsored several CLEs on religious liberty law topics, including “*Religious Liberty Issues in Public Schools*” (2018), “*When Legal Protections to Religious Freedom and Sexual Freedom Collide*” (2019), and “*Religious Liberty Issues in Michigan: Where Do We Go From Here?*”(2019).

- the Chicago Bar Association has sponsored several CLEs on religion and the law, including “*When Church and State Collide: Defending Religious Freedom*” (June 22, 2012), “*Religious Expression in the Public Square*” (December 19, 2012), and “*End of Life: Ethical Concerns, Religious Perspectives and Civil Law*” (October 6, 2014);

- the Colorado Bar Association sponsored a three-part series of CLEs entitled: “*Religious Liberty – Our First Freedom*”, covering the topics “*Religious Expression in Public Schools During the Holidays*” (December 3, 2012), “*Hercules Meets Obamacare: Does the Affordable Care Act Violate a Company’s Religious Liberty?*” (February 19, 2013), and “*School Vouchers: Student Choice or Establishment of Religion?*” (April 16, 2013);

- the Law School at the University of Missouri, Kansas City has sponsored three Annual Law and Religious Freedom Conferences, in 2017, 2018, and 2019;

- the North Carolina Bar Association Foundation presented “*Hobby Lobby, Town of Greece and Hosanna Tabor: The U.S. Supreme Court’s Recent Religion Cases*” (January 29, 2015);

- the Pennsylvania Bar Institute presented “*Legal Concerns For People And Entities of Faith*” (July 7, 9, and 10, 2015).

- In July of 2015, the ABA presented a CLE titled “*Religious Freedom: Rising Threats to a Fundamental Human Right*”; on January 22, 2016, the ABA presented a CLE titled: “*Start the Morning with a Prayer – Religion in Schools*” and in February, 2016, the ABA presented a CLE titled “*Accommodating Religious Attire: The Ethical Implications of EEOC v. Abercrombie’s ‘Notice’ Requirements.*”

C. A New Section Dedicated to Religious Liberty Law Would Not Duplicate Any Other Section of the State Bar and Would Provide Georgia Attorneys With Legal Education and Support Not Provided by Any Other Section.

The State Bar of Georgia has no Section dedicated to addressing the law of religious liberty. In fact, it appears that no other Section of the State Bar of Georgia has addressed religious liberty law topics at all, presumably because such Sections do not consider religious liberty law within their purview, are not interested in religious liberty law topics, or do not deem themselves qualified to address such topics

As noted above, religious liberty law issues cut across a wide spectrum of legal practice areas, and there is no Section of the State Bar of Georgia dedicated to comprehensively addressing the issues of religious liberty law and treating religious liberty law as a specialized area of practice.

Therefore, a Religious Liberty Law Section would not be dedicated to an area of law or practice duplicated by any other Section of the State Bar. A Religious Liberty Law Section would provide currently unavailable education and support to attorneys faced with religious liberty law issues across a wide spectrum of practice areas.

D. The Purposes of the Proposed Religious Liberty Law Section are Within the Purposes of the State Bar of Georgia.

The State Bar of Georgia exists to foster among the members of the Georgia Bar the principles of duty and service to the public, to improve the administration of justice, and to advance the science of law. <https://gabar.org/aboutthebar/index.cfm>. And Article IX, Section 4 of the State Bar Handbook provides that, in addition to a Young Lawyers Division and a Senior Lawyers Section, “[o]ther sections may be created for members of the bar interested in a specialized area of law or practice.”

The Religious Liberty Law Section of the State Bar of Georgia is formed to educate, to discuss, and to disseminate information regarding, as well as to advance and to protect, the basic human and constitutional right of religious liberty through law. To those ends, the mission of the Religious Liberty Law Section will be:

- To further the interest of the State Bar of Georgia and of the legal profession as a whole in all ways related to religious liberty law;
- To advance and protect the basic human and constitutional right of religious liberty through law;
- To promote throughout the State of Georgia the education of members of the State Bar and the public about issues related to religious liberty law by organizing presentations on various topics relating to religious liberty law; sponsoring and presenting lectures, workshops, and publications, such as newsletters, on religious liberty topics; and presenting continuing legal education programs on topics related to religious liberty law;

- To promote religious liberty law among Georgia attorneys as a specialized field of practice;
- To provide a forum for developing relations and exchanges of viewpoints with persons and organizations having related interests in the field of religious liberty law;
- To encourage and facilitate debate within the legal profession on religious liberty issues;
- To cooperate with other Sections of the State Bar of Georgia in matters concerning religious liberty law;
- To encourage and to support mutual respect for, and understanding of, differing religious belief systems and practices and how they relate to religious liberty law; and
- To inform the Board of Governors on matters appropriate for Board action.

Representative topics of interest to the Section would include, but not be limited to: the legal and philosophical foundations of religious liberty; the history of religious liberty and religious liberty law; the Establishment Clause of the U.S. Constitution, including religion and public schools, religious expression on government property, and religious exercise by government officials and bodies in public venues; the Free Exercise Clause of the U.S. Constitution, including religious practice and conscience claims in the public and private sectors and the intersection of religious liberty claims and anti-discrimination laws; religious liberty protections in the Georgia Constitution; statutory religious liberty protections, including Religious Freedom Restoration acts, federal and state Equal Access acts, and the Religious Land Use and Institutionalized Persons Act; religious discrimination under Title VII, Title IX and other federal and state laws; international religious liberty protections; and current religious liberty violations at both the domestic and international levels.

Therefore, the purposes of the proposed Religious Liberty Law Section are within the purposes of the State Bar of Georgia.

E. There is Widespread Support for the Creation of a Religious Liberty Law Section.

The high level of interest in religious liberty law among Georgia attorneys is evidenced by the fact that 104 Georgia-licensed attorneys are supporting this application to establish a State Bar of Georgia Religious Liberty Law Section. That is more attorneys than belong to eight already existing Sections, including Animal Law (96 members), Bike Law (47 members), Class Action (4 members), Construction Law (56 members), Equine Law (52 members), Individual Rights (84 members), Law and Economics (19 members), and Legal Economics (52 members).

Thus, there is more than sufficient support among Georgia attorneys to justify the creation of a Religious Liberty Law Section in the State Bar of Georgia.

PROPOSED BYLAWS

The proposed Bylaws for the Religious Liberty Law Section are attached hereto as Exhibit A.

APPLICANTS

The names and addresses of 10 State Bar of Georgia members applying for creation of a Religious Liberty Law Section are set forth below. The names and bar numbers of 92 additional State Bar of Georgia members who support creation of a Religious Liberty Law Section are also set forth.

REQUESTED BOARD ACTION

It is respectfully requested that the Board approve the creation of a new State Bar of Georgia Section to be known as the “Religious Liberty Law Section.”

Respectfully submitted,

Cortney S. Alexander (#142690), 271 17th Street, NW, Suite 1400, Atlanta, GA 30363

David N. Baker (#033075) 914 Collier Road NW, #2205, Atlanta, GA 30318

R. Wayne Bond (#066759), 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339

Vernadette R. Broyles (#593026) 5425 Peachtree Parkway, Suite 110, Norcross, GA 30092

David D. Dennison (#218105) 24 Pinewood Avenue, Savannah, GA 31406

Esther Slater McDonald (#649005) 1075 Peachtree Street, N.E., Suite 2500, Atlanta, GA 30309

Blake W. Meadows (#569729) 115 Kylemore Court, Tyrone, GA 30290

D. Kent Shelton (#640545) 305 Lawrence Street, Marietta, GA 30060

Mathew K. Titus (#479107) 5755 North Point Parkway, Suite 69, Alpharetta, GA 30022

Mark L. Wells (#747822) 4245 Amberglade Court, Norcross, GA 30092

In addition to the foregoing 10 members of the State Bar of Georgia, the following additional 94 members of the State Bar of Georgia also support the creation of a State Bar of Georgia Religious Liberty Law Section:

Drew Ashby #455020

Dale S. Austin	#940626
Daniel H. Baquerizo	#563664
Travis C. Barham	#753251
Robert Barker	#037651
Deanna L. Baxam	#902508
Timothy Belz	#049787
Craig E. Bertschi	#055739
Wendell R. Bird	#057875
Bryan W. Bockhop	#065127
Benjamin J. Bogos	#853291
Tyler Bridgers	#160740
Richard L. Brittain	#083275
Kevin Broyles	#090259
Birney Bull	#094180
Bruce N. Cameron	#105357
Scott Campbell	#142384
Dan Castro	#116157
Rebecca D. Clements	#411059
Eric D. Cochling	#172420
Chris Conway	#823011
David Cortman	#188810
Casey C. Crumbley	#741428
Matthew Drew DeMott	#217655
Antionette Nichole Duck	#193261
Anne Elizabeth Goodgame	#931337

C. Edward Goodgame	#300543
Rory T. Gray	#880715
Michael Gumprecht	#903081
Alan Hamilton	#320698
Ben C. Hand	#322660
Denise Harle	#176758
Brett B. Harvey	#335170
Jerry Hester	#349850
J. B. Hilliard	#235051
W. Hunter Holliday	#362520
Chad A. Hunt	#378492
Robyn W. Iler	#382050(Inactive)
Jennifer L. Jack	#385858
Lindsey Kesler	#454747(Inactive)
Steve Kyle	#430700
John Legg	#218035
S. Fenn Little, Jr.	#454360
Terry L. Lloyd	#455349
Kevin J. Loechl	#755710
Harris G. Martin	#940358
Keri M. Martin	#679803
Terry N. Massey	#476140
Emily Joy Matson	#639447
Jonathan Terry McCants	#480485
Aaron K. McCullough	#398116

Josh McKoon	#495878
McLaine Merrick	#791458
J. Philip Milam	#505150
Mark P. Miller	#435146
Chae Mims	#936767
Daniel Murray	#443852
Heidi G. Neal	#784194
Henry L. Perry	#573216
Jennifer Peterson	#601355
Kort D. Peterson	#225108
Victoria Cuneo Powell	#353975
John E. Price	#142012
Scott Pryor	#589155
Ryan P. Reavis	#585240
Morgan M. Robertson	#609750
Jane W. Robbins	#738415
Rebecca D. Ross	#615122
Stuart Roth	#615650(Inactive)
Adam Sanders	#126280
Sherlyn Selassie	#933858
John Matthew Sharp	#607842
Jeffrey A. Shaw	#557870
Jeff Shiver	#001303
Ben Shoemaker	#958395
Timothy T. Silvester	#109544

Kathleen C. Simon	#142410(Inactive)
Brandon Smith	#732793
Travis W. Smith	#153045
Charles C. Stebbins	#667350
Christopher R. Stovall	#621780
R. Scott Tewes	#702677
G. William Thackston, Jr.	#703100
Maxwell K. Thelen	#311404
Kevin H. Theriot	#373095
Benjamin R. Thomsen	#783046
Joel Thornton	#643040
Kory Verdonck	#452640
Kristen K. Waggoner	#127116
William Thomas Watts, Jr.	#742310
George M. Weaver	#743150
Anna Wetzel	#905359
Juli Wisotsky	#246135
Troy G. Woollen	#567866

Approved by the Board of Governors
 this ___ day of _____, 20__

PROPOSED BYLAWS

**STATE BAR OF GEORGIA
RELIGIOUS LIBERTY LAW SECTION**

BYLAWS

ARTICLE I

Name and Purpose

Section 1: The name of this Section shall be the “Religious Liberty Law Section.”

Section 2: The purpose of this Section is to increase the awareness, further the knowledge, and foster professionalism and excellence, of members of the State Bar of Georgia and the general public in the field of religious liberty law. To that end, the Section’s purposes are set forth in its Mission Statement and include, among others:

- To further the interest of the State Bar of Georgia and of the legal profession as a whole in all ways related to religious liberty law;
- To promote throughout the State of Georgia the education of members of the State Bar and the public about issues related to religious liberty law, by organizing presentations on various topics relating to religious liberty law, by sponsoring and by presenting lectures, workshops, and publications such as newsletters, on religious liberty topics, and by presenting continuing legal education programs on topics related to religious liberty law;
- To promote religious liberty law among Georgia attorneys as a specialized field of practice;
- To provide a forum for developing relations and exchanges of viewpoints with persons and organizations having related interests in the field of religious liberty law;
- To encourage and facilitate debate within the legal profession on religious liberty issues;
- To cooperate with other Sections of the State Bar of Georgia in matters concerning religious liberty law; and
- To encourage and to support mutual respect for, and understanding of, differing religious belief systems and practices and how they relate to religious liberty law.

ARTICLE II

Membership and Dues

Section 1: In order to be a member of this Section one must be a member in good standing of the State Bar of Georgia. Any member of the State Bar of Georgia, upon request and payment of annual Section dues for the current year, shall be enrolled as a member of this Section. Thereafter, such dues shall be paid in advance each year at the time of the payment of dues to the State Bar of Georgia. Members so enrolled and whose dues are so paid shall constitute the membership of this Section. Any member whose annual dues shall be past due shall cease to be a member and shall be removed from the rolls of the Section, subject to reinstatement at any time upon the payment of dues for the current year.

Section 2: The annual Section dues payable by each member of this Section shall be established from time to time by the ~~Executive Committee~~ Section leadership and ~~approved by the Board of Governors of the State Bar of Georgia~~ voted on by a quorum of members.

ARTICLE III

Officers

Section 1: The Officers of the Section shall be a Chairperson, a Vice Chairperson, a Secretary, and a Treasurer, all of whom shall be members in good standing of the Section.

Section 2: Each Officer shall hold office for a one (1) year term beginning at the close of the Annual Meeting of the Section at which the Officer is elected and ending at the close of the next succeeding Annual Meeting of the Section and until his or her successor shall have been elected and qualified. If a vacancy shall arise in the office of Vice Chairperson, Secretary, or Treasurer, the Chairperson shall appoint a successor for the unexpired term(s). If a vacancy shall arise in the office of Chairperson, the Vice Chairperson shall become Chairperson for the unexpired term. If a vacancy shall arise in the office of the Chairperson and there shall, at the same time, exist a vacancy in the office of Vice Chairperson, the Executive Committee of the Section shall appoint a successor Chairperson and Vice Chairperson for the unexpired terms.

Section 3: The Chairperson shall preside at all meetings of the Section and all meetings of the Executive Committee, appoint appropriate committees of the Section to serve during the Chairperson's term, plan and supervise the program of the Section at its annual meeting, and perform all other executive and administrative duties necessary or proper to the organization and functioning of the Section, including any duty as from time to time may be prescribed by the Section or by the State Bar of Georgia.

Section 4: The Vice Chairperson shall assist the Chairperson and, in the absence or disability of the Chairperson, shall perform the duties of the Chairperson.

Section 5: The Secretary shall keep minutes of all meetings of the Section, maintain the permanent records, give notices of meetings and perform such other duties as may be prescribed by the Chairperson.

Section 6: The Treasurer shall maintain the budget of the Section, update the income and expenses of the Section, ensure that the bills of the Section are paid, maintain contact with the Section Liaison of the State Bar of Georgia for purposes of maintaining the budget, and report on the budget at the annual meeting or when otherwise requested by the Chairperson.

Section 7: Upon the organization of the Section, the ~~President of the State Bar of Georgia shall appoint from among the~~ attorneys filing the application for the creation of the Section shall elect a Chairperson, a Vice Chairperson, a Secretary, and a Treasurer to serve until the close of the next annual meeting of the State Bar of Georgia.

ARTICLE IV

Actions and Meetings of the Section

Section 1: An Annual Meeting of the Section shall be held each year at or about the time ~~and place~~ of the Annual Meeting of the State Bar of Georgia, the date, time, and location to be fixed by the Chairperson. If deemed prudent or necessary, the Section may conduct any meeting by any electronic means that allows for discussion, debate and voting.

Section 2: Special Meetings, if any, of the Section may be called by the Chairperson, to be convened at such time and place and with such agenda and order of business as may be fixed by the Chairperson.

Section 3: Ten (10) members of the Section present at any Annual or Special meeting of the Section shall constitute a quorum for the transaction of business. Only members physically or electronically present at an Annual or Special meeting of the Section count towards a quorum.

Section 4: All actions of the Section shall be by a majority vote of the Executive Committee, except for actions of the Section submitted to members of the Section present at any properly called Annual or Special Meeting of the Section which actions shall be by majority vote of the members present and voting. Only members physically or electronically present may vote on Section business at any Annual or Special meeting of the Section.

Section 5: Notice of the date, time, and place of each Annual or Special meeting of the Section shall be given to each member of the Section on the rolls of the Section in the office of the State Bar of Georgia. In the absence of actual notice sent at least ten (10) days in advance of any meeting, written or printed notice sent by United States Mail or by e-mail no less than ten (10) days in advance of such scheduled meeting sent to the member's address or e-mail address on record in

the office of the State Bar of Georgia, shall constitute due, adequate, and sufficient notice of such meeting of this Section. Further, any such notice may be included with other written or printed material mailed or e-mailed to all of the members of the State Bar of Georgia or any part thereof which includes all members of the Section and such notice shall also be due, adequate, and sufficient notice of such meeting of this Section.

Section 6: There shall be no voting by proxy at any Annual or Special Meeting of the Section. The Section may discuss matters by email; however, all voting must be done by live conference, videoconference, or teleconference. The Chair may determine when the email discussion period will end and set the time for a live conference, videoconference, or teleconference.

ARTICLE V

Executive Committee

Section 1: The Executive Committee of the Section shall consist of the four Officers of the Section and three (3) other members of the Section by the Chairperson, whose terms shall be coexistent with that of the Chairperson.

Section 2: The Executive Committee shall have full authority to act for the Section in any way in which the Section itself would be authorized to act and any such action taken by the Executive Committee pursuant to this provision shall be reported to the members of the Section at the next Annual Meeting of the Section.

Section 3: The Executive Committee may convene in person, by telephone, or by a combination of both, and may take Section action in person, by telephone, or by email.

Section 4: The Executive Committee may form subcommittees to perform Section business and may appoint members of the Section to serve on those subcommittees, answerable to the Executive Committee.

ARTICLE VI

Elections

Section 1: Elections for Officers of the Section shall be held once per ~~calendar~~ Bar year at the Annual Meeting of the Section. The members, including Officers, shall nominate one or more members of the Section qualified to hold each of the Offices of the Section for the ensuing terms of Office.

Section 2: The names of all members of the Section nominated for each Office shall be submitted to the Section at large, by United States mail or email. In the event that more than one candidate is

nominated for an Office, ballots shall be cast until there shall be a majority of the members of the Section present and voting at the Annual Meeting favoring the election of a designated member to that Office. In the event there is only one candidate for an Office, voting for that Office at the Annual Meeting may be by voice vote.

ARTICLE VII

Finances

Section 1: Funds of the Section shall be deposited in the treasury of the State Bar of Georgia and shall be disbursed by the Treasurer of the State Bar of Georgia to pay bills of the Section which have been approved for payment by any Officer of the Section.

Section 2: Funds of the Section shall be expended for such purposes related to the activities of the Section as from time to time shall be authorized by the Section's Executive Committee.

Section 3: Officers and members of the Section shall not be compensated for services thereto.

Section 4: A financial report of the funds of the Section shall be rendered at each annual meeting thereof. This Section shall have the same fiscal year as the State Bar of Georgia.

ARTICLE VIII

Miscellaneous

Section 1: The Section shall from time to time conduct programs for ~~the~~ continuing education in the area of religious liberty law, but may coordinate its efforts in this regard with other Sections of the State Bar of Georgia.

Section 2: ~~The Section may from time to time, S~~ubject to the Rules, Bylaws and Standing Board policies of the State Bar of Georgia, the Section may from time to time sponsor, promote, study or review proposed legislation. ~~The Section may from time to time report on its legislative activities to the State Bar of Georgia.~~

ARTICLE IX

Effective Date and Amendment

Section 1: These Bylaws shall become effective upon approval by the Board of Governors of the State Bar of Georgia.

Section 2: These Bylaws may be amended by a majority vote of the members of the Section present at any properly called meeting at which a quorum is present, and subsequent approval thereof by the Board of Governors of the State Bar of Georgia.

Signed, sealed and subscribed before the undersigned this the ___ day of _____, 2021.

Witness

CHAIRPERSON

PRESIDENT

SECRETARY

STATE BAR OF GEORGIA ANIMAL LAW SECTION BYLAWS

Presented to the Section on May 1, 2014 and approved by the Section on May 1, 2014 and July 1, 2014. Article VI presented to the section in April 2019 and approved at the Annual Meeting on May 9, 2019.

STATE BAR OF GEORGIA

ARTICLE I

Section 1: The name of this Section shall be the "Animal Law Section."

Section 2: The purpose of this Section shall be to provide membership to licensed attorneys in the state of Georgia so that they may develop their legal knowledge, skills, and professional abilities in the area of Animal Law in order to render better service to their clients and the general public. The section shall provide networking and educational opportunities to its members. The Animal Law Section will provide a needed forum for members to exchange ideas, study, and understand laws, regulations, and case law pertaining to all areas of Animal Law.

ARTICLE II

Membership and Dues

Section 1: Each member of this Section shall be a member in good standing of the State Bar. Any member of the State Bar, upon request and payment of annual Section dues for the current year, shall be enrolled as a member of this Section. Thereafter, such dues shall be paid in advance each year at the time of the payment of dues to the State Bar. Members so enrolled and whose dues are so paid shall constitute the membership of this Section. Any member whose annual dues shall be more than six (6) months past due thereupon shall cease to be a member and shall be dropped from the rolls of the Section, subject to reinstatement at any time upon the payment of dues on the current year.

Section 2: The annual Section dues payable by each member of this Section shall be established from time to time by the Officers and approved by the Board of Governors of the State Bar of Georgia.

ARTICLE III

Officers

Section 1: The Officers of the Section shall be a Chairperson, a Vice Chairperson, a Secretary, and a Treasurer all of whom shall be members in good standing of the Section.

Section 2: Each Officer shall hold office for a term beginning at the close of the annual meeting of the Section at which he is elected and ending at the close of the next succeeding annual meeting of the Section and until his successor shall have been elected and qualified. If a vacancy

shall arise in the office of Chairperson, the Vice Chairperson shall become Chairperson for the unexpired term. If a vacancy shall arise in the office of the Chairperson and there then also shall exist a vacancy in the office of Vice Chairperson, the President of the State Bar of Georgia shall appoint a successor Chairperson for the unexpired term.

Section 3: The Chairperson shall preside at all meetings of the Section, appoint appropriate committees of the Section to serve during his or her term as Chairperson, plan and supervise the program of the Section at its annual meeting, and perform all executive and administrative duties necessary or proper to the organization and functioning of the Section, including any duty as from time to time may be prescribed by the Section or by the State Bar

Section 4: The Vice Chairperson shall assist the Chairperson and in the absence or disability of the Chairperson, shall perform the duties of the Chairperson.

Section 5: The Secretary shall keep minutes of all meetings of the Section, maintain the permanent records, give notices of meetings and perform such other duties as may be prescribed by the Chairperson.

Section 6: The Treasurer shall maintain the budget of the Section, update the income and expenses of the Section, ensure that the bills of the Section are paid, maintain contact with the Section Liaison of the State Bar of Georgia for purposes of maintaining the budget, and report on the budget at the annual meeting.

ARTICLE IV

Meetings of the Section

Section 1: An annual meeting of the Section shall be held each year at or about the time and place of the Annual Meeting of the State Bar; the date, time, and meeting room to be fixed by the Chairperson.

Section 2: A Special Meeting of the Section may be called by the Chairperson to be convened at such time and place and with such program and order of business as may be fixed by the Chairperson.

Section 3: Ten percent of the membership of the Section present (or able to vote by proxy) at any meeting shall constitute a quorum for the transaction of business, with the exception of administrative decisions as made by the Executive Board.

Section 4: All action of the Section shall be by a majority vote of the members of the Section present at any properly called meeting at which a quorum is present.

Section 5: Notice of the time and place of each meeting of the Section shall be given to each member of the Section on the rolls of the Section in the office of the State Bar of Georgia. In the absence of actual notice sent by at least ten (10) days in advance of any meeting, written or printed notice sent by United State Mail or by e-mail no less than ten (10) days in advance of such scheduled meeting sent to the member's address or e-mail address on record in the office of the State Bar of Georgia shall constitute due, adequate, and sufficient notice of such meeting of

this Section. Further, any such notice may be included with other written or printed material mailed or e-mailed to all of the members of the State Bar of Georgia or any part thereof which includes all members of the Section. Such notice shall also be due, adequate, and sufficient notice of such meeting of this Section.

ARTICLE V

Executive Committee

Section 1: Between meetings of the Section the Executive Committee of the Section shall consist of the four Officers of the Section and one other member of the Section, if the Chairperson so chooses, appointed by the Chairperson, whose term shall be co-existent with that of the Chairperson.

Section 2: The Executive Committee shall have full authority to act for the Section in any way in which the Section itself would be authorized to act and any such action taken by the Executive Committee pursuant to this provision shall be reported to the members of the Section at the next Annual Meeting of the Section.

ARTICLE VI

Elections and Fiscal Year Terms

Section 1: As herein described, elections for open positions of Officers for the Section shall take place each year at the Annual Meeting of the Section (usually held in May) - or at any time, provided that the elected official takes office no later than the beginning of the State Bar of Georgia's Fiscal Year (July 1). The term of each officer shall begin on July 1 immediately following the end of the State Bar's Fiscal Year. Each officer's term in each respective particular position shall end on the subsequent June 30th, as qualified.

Section 2: "Automatic" Annual Placements of Section Officers: Unless exigent circumstances arise in which an officer must resign his/her position prior to the end of a Fiscal Year, each Officer shall serve in the position to which he or she was elected for a period of no more than one year. In keeping with Article III, Section 2 of these Bylaws, when a vacancy shall arise in the office of Chairperson either before or at the end of one Fiscal Year period, the current Vice Chairperson shall automatically become the Chairperson for the new term (including for any portion of vacancy during an unexpired term of the Chairperson, if applicable). When a vacancy shall arise in the office of Vice-Chairperson either before or at the end of one year Fiscal Year period, the Secretary shall automatically become the Vice-Chairperson for the new FY term (including for any portion of vacancy during an unexpired term of the Vice-Chairperson, if applicable). When a vacancy shall arise in the office of Secretary either before or at the end of the one year Fiscal Year period, the Treasurer shall become Secretary for the new term (including for any portion of vacancy during an unexpired term of the Secretary, if applicable).

Section 3: Prior to the end of each Fiscal Year, as current Officers automatically move to a higher position on the Board, nominations shall be sought from the active Section members to fill vacant Board positions, such as Secretary or Treasurer. No Officer shall be able to serve in

the same position that he or she had previously held within the prior four (4) years unless one of the following events should occur:

- (a) a mid-year change occurs during the last five months of a fiscal year term - whereby each officer automatically advances in his or her position. The officers may remain to serve the Section in that capacity for the following year provided that elections are held to fill the vacant slot(s) then created;
- (b) there are no nominations by any Section member for any position on the Board. In the rare situation that no Section members wish to serve on the Board for any particular year, either the current Board officers will rotate their positions the following Fiscal Year until nominees come forward or the Executive Director of the State Bar of GA shall appoint a Chairperson for the following fiscal year.

Section 4: No Board member of one Fiscal Year may cause or create any action nor make any contracts that would bind the next Fiscal Year's Board in any manner.

ARTICLE VII

Finances

Section 1: Funds of the Section shall be deposited in the treasury of the State Bar of Georgia and shall be disbursed by the treasurer of the State Bar of Georgia to pay bills of the Section which have been approved for payment by any Officer of the Section.

Section 2: Funds of the Section shall be expended for such purposes related to the activities of the Section as from time to time shall be authorized by the Section's Executive Committee.

Section 3: Officers and members of the Section shall not be compensated for services

Section 4: A financial report of the funds of the Section shall be rendered at each annual meeting thereof. This Section shall have the same fiscal year as the State Bar.

ARTICLE VIII

Miscellaneous

Section 1: The Section shall from time to time conduct programs for the continuing education in the world and field of Animal Law, but may coordinate its efforts in this regard with the other Sections of the State Bar of Georgia.

Section 2: The Section may from time to time, subject to the Rules, Bylaws and Standing Board Policies of the State Bar, sponsor, promote, study or review proposed legislation. The Section may from time to time report on its legislative activities to the State Bar.

ARTICLE IX

Effective Date and Amendment

Section 1: These Bylaws shall become effective upon approval by the Board of Governors of the State Bar.

Section 2: These Bylaws may be amended by a majority vote of the members of the Section present at any properly called meeting at which a quorum is present and subsequent approval thereof by the Board of Governors of the State Bar.

Current by-law to be deleted:

ARTICLE VI

Elections

Section 1: Elections shall be held once per calendar year. The officers of the section shall solicit nominations from the members at large, and notify the members of the voting process, deadline for nominations, and the final date of the elections. The members, including officers, shall nominate one or more members of the Section as qualified to hold each of the offices of the Section for the ensuing terms of office.

Section 2: The names of all members of the Section nominated for each office shall be submitted to the section at large, by United States mail or email, and ballots shall be cast until there shall be a majority of the members of the Section present favoring the election of a designated member to an office.

New Proposed By-law:

Elections and Fiscal Year Terms

Section 1: As herein described, elections for open positions of Officers for the Section shall take place each year at the Annual Meeting of the Section (usually held in May) - or at any time, provided that the elected official takes office no later than the beginning of the State Bar of Georgia's Fiscal Year (July 1).

The term of each officer shall begin on July 1 immediately following the end of the State Bar's Fiscal Year. Each officer's term in each respective particular position shall end on the subsequent June 30th, as qualified.

Section 2: "Automatic" Annual Placements of Section Officers: Unless exigent circumstances arise in which an

Officer must resign his/her position prior to the end of a Fiscal Year, each Officer shall serve in the position to which he or she was elected for a period of no more than one year. In keeping with Article III, Section 2 of these Bylaws, when a vacancy shall arise in the office of Chairperson either before or at the end of one Fiscal Year period, the current Vice Chairperson shall automatically become Chairperson for the new term (including for any portion of vacancy during an unexpired term of the Chairperson, if applicable). When a vacancy shall arise in the office of Vice-Chairperson either before or at the end of one year Fiscal Year period, the Secretary shall automatically become Vice-Chairperson for the new FY term (including for any portion of vacancy during an unexpired term of the Vice-Chairperson, if applicable). When a vacancy shall arise in the office of Secretary either before or at the end of the one year Fiscal Year period, the Treasurer shall become Secretary for the new term (including for any portion of vacancy during an unexpired term of the Secretary, if applicable).

Section 3: Prior to the end of each Fiscal Year, as current Officers automatically move to a higher position on the Board, nominations shall be sought from the active Section members to fill vacant Board positions, such as Secretary or Treasurer. No Officer shall be able to serve in the same position that he or she had previously held

within the prior four (4) years unless one of the following events should occur:

- (a) a mid-year change occurs during the last five months of a fiscal year term - whereby each officer automatically advances in his or her position. The officers may remain to serve the Section in that capacity for the following year provided that elections are held to fill the vacant slot(s) then created;
- (b) there are no nominations by any Section member for any position on the Board. In the rare situation that no Section members wish to serve on the Board for any particular year, either the current Board officers will rotate their positions the following Fiscal Year until nominees come forward or the Executive Director of the State Bar of GA shall appoint a Chairperson for the following fiscal year.

Section 4: No Board member of one Fiscal Year may cause or create any action nor make any contracts that would bind the next Fiscal Year's Board in any manner.

PROPOSED AMENDMENTS TO ENTERTAINMENT & SPORTS LAW SECTION BYLAWS- Proposed deletions contained within [brackets]; proposed insertion are underlined. This header to be removed when ultimately adopted or rejected.

SECTION BYLAWS
ENTERTAINMENT & SPORTS LAW
STATE BAR OF GEORGIA

ARTICLE I

Name and Purposes

Section 1: The name of this Section shall be the Entertainment and Sports Law Section.

Section 2: The purpose of this Section shall be to promote the objects of the State Bar of Georgia within the field of Entertainment and Sports Law to sponsor actively the continuing education of the members of the State Bar of Georgia in this field; to study, review or initiate proposed legislation or administrative policy for the improvement of the law and practice in the field and to make appropriate recommendations thereon to the State Bar of Georgia; all pursuant to Article XIV of the Bylaws of the State Bar of Georgia as they presently exist.

~~ARTICLE III~~
Membership and Dues

Section 1: Each member of this Section shall be a member in good standing of the State Bar of Georgia. Any member of the State Bar of Georgia, upon request and payment of annual Section dues of \$~~25~~50 for the current year, shall be enrolled as a member of this Section. Thereafter, such dues shall be paid in advance each year at the time of the payment of dues to the State Bar of Georgia. Members so enrolled and whose dues are so paid shall constitute the membership of this Section. Any member whose annual dues shall me more than six (6) months past due thereupon shall cease to be a member and shall be dropped from the rolls of the Section, subject to reinstatement at any time upon the payment of dues for the current year.

~~ARTICLE III~~III
Officers

Section 1: The officers of the Section shall be a Chair, Vice Chair – Entertainment; Vice Chair – Sports; Secretary; Member-At-Large – Sports; Member-At-Large – Entertainment; and Immediate Past Chairperson, Chairperson Elect, Vice Chairperson of Entertainment, Vice Chairperson of Sports and a Secretary, all of whom shall be members of the Section in good standing.

PROPOSED AMENDMENTS TO ENTERTAINMENT & SPORTS LAW

SECTION BYLAWS- Proposed deletions contained within [brackets]; proposed insertion are underlined. This header to be removed when ultimately adopted or rejected.

Section 2: Each officer shall hold office for a term beginning at ~~the close of the annual meeting of the Section at which time he/she is such officer's elected~~ and ending two years later ~~at the close of the annual meeting of the Section and/or until the a~~ successor shall have been elected and qualified. If a vacancy shall arise in the office of Chairperson, Chairperson elect Vice Chair – Entertainment will become Chairperson. If the Vice Chair – Entertainment person is unable to serve as Chairperson, then the Vice Chairperson – Sports of Entertainment shall become Chairperson. In the event the Vice Chairperson – Sports of Entertainment is unable to serve as Chairperson, the Vice Chairperson of Sports Member-At-Large - Entertainment shall become Chairperson. If the Chairperson of Sports Member-At-Large – Entertainment is unable to serve as Chairperson, then the Member-At-Large – Sports shall become Chair. If Member-At-Large – Sports is unable to serve as Chair, then the Secretary shall serve as Chairperson.

Section 3: The Chairperson shall preside at all meetings of the Section, shall appoint appropriate committees of the Section to serve during his/her term as Chairperson, shall plan and supervise the program of the Section at its annual meeting, and perform all executive and administrative duties necessary or proper to the organization and functioning of the Section, including any duty as from time to time may be prescribed by the Section or by the State Bar of Georgia.

Section 4: The Vice Chair - Entertainment person shall assist the Chairperson and, in the absence or disability of the Chairperson, shall perform the duties of the Chairperson.

Section 5: The Secretary shall keep minutes of all meetings of the Section, maintain the permanent records, give notices of meetings, and perform such other duties as may be prescribed by the Chairperson.

Section 6: ~~The Chairperson may serve no more than two (2) consecutive terms as the Chairperson. There shall be a Chairperson elect whose term shall run concurrently with~~ the Chairperson. The Chairperson Elect shall become the Chairperson at the conclusion of the current Chairperson's term of office, or immediately, should the Chairperson be unable to serve as the Chairperson.

ARTICLE ~~IV~~^{IV}

Meetings Of The Section

Section 1: An annual meeting of the Section shall be held each year ~~at or about the time of each Midyear Meeting of the State Bar of Georgia and in the vicinity of the same place~~; the date, time, and meeting place to be fixed by the Chairperson.

Section 2: A Special Meeting of the Section may be called by the Chairperson to be convened at such time and place and with such program and order of business as may be fixed by the Chairperson.

PROPOSED AMENDMENTS TO ENTERTAINMENT & SPORTS LAW SECTION BYLAWS- Proposed deletions contained within [brackets]; proposed insertion are underlined. This header to be removed when ultimately adopted or rejected.

Section 3: Ten (10) members of the Section present at any meeting shall constitute a quorum for the transaction of business.

Section 4: All actions of the Section shall be by a majority vote of the members of the Section present (unless email and/or absentee voting is enacted by the Chair) at any properly called meeting at which a quorum is present.

Section 5: At least ten (10) days written notice of the time and place of each meeting of the Section shall be given by mailing or emailing the same to each member of the Section on the rolls of the Section in the office of the State Bar of Georgia at the member's address as the same appears in said office. However, it shall not be required that any such notice be by a specifically separate mailing; the same may be included in other written or printed material which is being distributed by mail to all members of the State Bar of Georgia or to any part thereof which is inclusive of all of the members of the Section.

ARTICLE V

Executive Committee

Section 1: The Executive Committee of the Section shall consist of the five-seven officers of the Section ~~and two other members of the Section appointed by the Chairperson, whose term shall be co-existent with that of the Chairperson.~~

Section 2: The Executive Committee shall have full authority to act for the Section in any way in which the Section itself would be authorized to act and any such action taken by the Executive Committee pursuant to this provision shall be reported to the members of the Section at the next Annual Meeting of the Section.

ARTICLE VI

Elections

Section 1: ~~Prior to each annual meeting of the Section, t~~The Chairperson shall call for nominations and self-nomination of members of the Section at least four weeks prior to the date that has been set by the Chair for the election of officers of the Section. The Chair and Immediate Past Chair shall then appoint not less than three ~~(3)~~ members of the Section to ~~be a nominating committee which shall nominate one or more members of the Section as qualified to hold each of the offices of the Section for the ensuing terms of office, join with the Chair and Immediate Past Chair to select which of the nominated and self-nominated members are qualified to be listed as candidates to hold the offices of Chair; Vice Chair – Entertainment; Vice Chair – Sports; Secretary; Member-At-Large – Sports; Member-At-Large – Entertainment. The role of Chair may only be filled by a member of the Section who has previously served at least one immediately preceding term on the Executive Committee unless no one from the then-current Executive Committee accepts a nomination~~The report of the nominating committee shall be made to the annual meeting; thereafter, and prior to the election of officers, any member of the Section present at the annual meeting may nominate any other member of the Section for election to any of the offices. At least one week prior to the date that has been set by the Chair for the

PROPOSED AMENDMENTS TO ENTERTAINMENT & SPORTS LAW
SECTION BYLAWS- Proposed deletions contained within [brackets]; proposed insertion are underlined. This header to be removed when ultimately adopted or rejected.

election of officers of the Section, the Chair shall announce the candidates for the available offices to the members of the Section.

Section 2: The Chair shall announce the date of the meeting to hold the election, or the date by which votes must be submitted to the Section, as determined by the Chair. The names of all members of the Section nominated for each office either by nominating committee or from the floor shall be submitted to the annual meeting and ballots shall be cast until there shall be a majority of the members of the Section present favoring the election of a designated member to an office. Voting shall may be viva-voce, in writing, or by email and/or absentee voting as determined by the Chair and the nominee for an office with the lowest number of votes in any ballot shall be dropped from consideration on the next succeeding ballot, provided that any annual meeting, by majority vote of the members of the Section present, may require written secret ballots or otherwise modify the procedure governing any election.

ARTICLE V ~~III~~

Finances

Section 1: Funds of the Section shall be deposited in the treasury of the State Bar of Georgia and shall be disbursed by the Treasurer of the State Bar of Georgia to pay bills of the Section which have been approved for payment by any officer of the Section.

Section 2: Funds of the Section shall be expended for such purposes related to the activities of the Section as from time to time shall be authorized by the Section 's Executive Committee.

Section 3: Officers and members of the Section shall not be compensated for services thereto.

Section 4: A financial report of the funds of the Section shall be rendered at each annual meeting thereof. This Section shall have the same fiscal year as the State Bar of Georgia.

ARTICLE VIII ~~VIII~~

Miscellaneous

Section 1: This Section shall from time to time conduct programs for the continuing education in the world and field of Entertainment & Sports Law but shall coordinate its efforts in this regard with the other Sections of the State Bar of Georgia.

Section 2: This Section may from time to time sponsor, promote, study or review proposed legislation and report thereon to the State Bar of Georgia.

~~Sections of the State Bar of Georgia.~~

ARTICLE IX

Effective Date and Amendment

Section 1: These Bylaws shall become effective upon approval by the Board of Governors of the State Bar of Georgia.

PROPOSED AMENDMENTS TO ENTERTAINMENT & SPORTS LAW

SECTION BYLAWS- Proposed deletions contained within [brackets]; proposed insertion are underlined. This header to be removed when ultimately adopted or rejected.

Section 2: These Bylaws may be amended by a majority vote of the members of the Section ~~present at any properly called meeting at which a quorum is present~~ and subsequent approval thereof by the Board of Governors of the State Bar of Georgia.

Amendment to Article III • Officers

~~The Chairperson may serve no more than two (2) consecutive terms as the Chairperson. There shall be a Chairperson elect whose term shall run concurrently with the Chairperson. The Chairperson Elect shall become the Chairperson at the conclusion of the current Chairperson's term of office, or immediately, should the Chairperson be unable to serve as the Chairperson.~~

ADVISORY COMMITTEE ON LEGISLATION

2020-2021

MINUTES OF MEETING 2

December 1, 2020

via Zoom Conference

The first meeting of the 2020-2021 State Bar of Georgia Advisory Committee on Legislation (“ACL”) was held on Tuesday, December 1, 2020 via Zoom Video Conferencing.

ATTENDANCE

The following members and liaisons were present via Zoom: Javoyné Hicks (Chair), Kyle Williams (Vice Chair), Dawn M. Jones (State Bar President/Exec Committee Liaison), Mark Alexander, Shatorree Bates, Tracee Benzo, Joshua Bosin, Thomas Burnside, Bill Clark, Cynthia Clanton, Carol Clark, Andy Davis, Lee Davis, Joseph Dent, Miguel Dominguez, Rep. Barry Fleming, Mills Fleming, William Fagan, Patti Gorham, Lawton Heard, Amy Howell, Curtis Jenkins, Judge Lisa Jones, Shiriki Jones, Sen. Jen Jordan, Joyce Gist Lewis, Graham McDonald, Rep. Mary Margaret Oliver, Brandon Peak, Jourdan Read, Dan Snipes, Judge Lawton Stephens, Jason Swindle, Judge Wes Taylor, Nancy Whaley, Judge Paige Reese Whitaker, Christine Butcher Hayes (Staff Liaison), Rusty Sewell (Legislative Consultant), Mark Middleton (Legislative Consultant), and Roy Robinson (Legislative Consultant).

Other stakeholders present and participating via Zoom included: Anna Arceneaux, Judge Charles Auslander, Judge JaDawnya Baker, Rob Brannen, Bob Bray, Brandon Bullard, Wick Cauthorn, Sarah Coole, Jeff Davis, Nick Djuric, Mary Donovan, Damon Elmore, Daron Enns, Elizabeth Fite, Ira Foster, Paula Frederick, Natalie Glaser, Shelby Guilbert, Robert Hughes, Amy Huskins, Eric Johnson, Tracy Johnson, Cheryl Karounos, Vicky Kimbrell, Kyle King, Anne Kirkhope, Alison Lerner, Tracy Mason, Steve McKinney, Shaton C. Menzie, Evan Meyers, Mark Middleton, Daniel Munster, Presiding Justice David Nahmias, Bill NeSmith, Wanda Segars, Robert Smith, Judge Rucker Smith, Terry Stolow, Amy Rudolph, Jimmonique Rodgers, Rick Rufolo, Kirsten Wallace, Shannon Weathers, and Emily Youngo.

CALL TO ORDER

ACL Chair Javoyné Hicks called the meeting to order at 10:00 AM. Roll call was taken using Zoom’s video recording and chat features.

APPROVAL OF MINUTES

The minutes of the September 15, 2020 meeting was unanimously approved.

KELLER REVIEW

Paula Frederick, General Counsel of the State Bar of Georgia, presented a review of *Keller v. State Bar of California*, 496 U.S. 1 (1990). Before the State Bar's Board of Governors, Executive Committee, or Advisory Committee on Legislation takes a position on any legislative matter, it must do a *Keller* vote. The legislative proposal must be germane to the purpose of the State Bar, which are (1) regulating the legal profession, and (2) improving the quality of legal services. Paula also briefly discussed the pending lawsuits challenging mandatory bar associations throughout the country, further emphasizing the need to analyze legislative positions under the *Keller* analysis. She stated that upon review, it did not appear that any of the current proposals before the committee ran afoul of the *Keller* standard because they were issues that are unique to the legal profession and the practice of law.

LEGISLATIVE MATTERS

The ACL reviewed the following new proposals. Proposals approved by the ACL will be considered by the Board of Governors at its Midyear Meeting on January 9, 2021.

1. Support for the Judicial Council Budget Request for FY 2022 Funding for the Georgia Resource Center.

Anna Arceneaux, Executive Director of the Georgia Resource Center presented this proposal on behalf of the Indigent Defense Committee. The Georgia Resource Center was initially started by bar members, law schools, and other stakeholders. Georgia and Alabama are presently the only states that don't provide counsel in post-conviction proceedings. The proposal requests the traditional state appropriation of \$800,000 to the Administrative Office of the Courts to fund the Georgia Appellate Practice and Educational Resource Center. In FY 2021, the legislature cut the appropriation to the Resource Center by 25% due to revenue declines resulting from the COVID-19 pandemic. The Resource Center is looking to have the full appropriation of \$800,000 restored in the FY 22 budget.

The *Keller* vote was unanimous. The vote supporting this proposal was unanimous. The Board of Governors will consider this proposal on January 9, 2021.

2. Support for the Judicial Council Budget Request for FY 2022 Funding for Civil Legal Services Grants for Victims of Domestic Violence.

Shaton Menzie presented this proposal on behalf of the Committee to Promote Inclusion in the Profession. The proposal asks for \$1,677,172 in funding to the Administrative Office of the Courts for grants to legal services providers for representation of victims of domestic violence. The legislature has historically appropriated \$2.5 million for these grants, but the appropriation was reduced by approximately \$1 million in FY 21 because of pandemic-related budget cuts. The FY 22 request asks for an increase of \$175,000. The State Bar was

instrumental in initiating this state appropriation for legal services and has supported the funding request for over 20 years.

The *Keller* vote was unanimous. The vote supporting this proposal was unanimous. The Board of Governors will consider this proposal on January 9, 2021.

3. Support for the Codification of an Psychiatric Advanced Directives.

Kyle King, Nick Djuric, and Dan Munster from the Fiduciary Section presented this proposal. The intent of the proposal is to fill a gap in current agency law related to advance psychiatric directives. The current medical advance directive in OCGA 31-32-4 expressly excludes matters related to mental health and behavioral health.

The *Keller* vote was unanimous. The vote supporting this proposal was unanimous. The Board of Governors will consider this proposal on January 9, 2021.

4. Support for Remote Online Notary Legislation.

Amy Huskins and Rob Brannen presented this proposal on behalf of the Real Property Section. Rep. Joseph Gullet has proposed legislation to bring remote online notarization (“RON”) to Georgia. The Real Property Section has expressed concerns that the draft lacks the fraud protections and recordkeeping requirements that are in the national model act. It is likely that these provisions will be necessary to get title insurance companies and mortgage bankers onboard with the bill in Georgia. The Real Property Section encourages the State Bar to support the bill with the necessary provisions from the model act, particularly the fraud protections.

The *Keller* vote was unanimous. The committee supported this proposal by a vote of 21-3. The Board of Governors will consider this proposal on January 9, 2021.

5. Support for Digital Court Reporting Legislation

Wick Cawthorn from the General Practice and Trial Section and Allison Lerner from the Judicial Council/Administrative Office of the Courts presented a proposed update to the court reporting laws that would create a blended statute that modernizes Georgia’s court reporting laws to recognize digital court reporting. The proposed bill includes small fixes to the eFiling systems so that court reporters can more easily file transcripts. The proposal also addresses storage of evidence and other topics in the court reporting statute.

The *Keller* vote was unanimous. The committee supported this proposal by a vote of 19-2. The Board of Governors will consider this proposal on January 9, 2021.

6. Draft Superior and State Court Appellate Practice Act

Brandon Bullard from the Appellate Law Section and Darron Enns of the Judicial Council/Administrative Office of the Courts presented this proposal for review by the committee. The primary goal of the proposed legislation is to clarify the current certiorari review procedure under OCGA 5-4-1 et seq which invokes the appellate jurisdiction of a superior or state court. A subcommittee of the Judicial Council has completed the draft and solicited comment from the State Bar membership, including the Bar's Appellate Section.

The *Keller* vote was unanimous. The vote supporting this proposal was unanimous. The Board of Governors will consider this proposal on January 9, 2021.

2. Support for the Uniform Mediation Act

Steve McKinney and Shelby Guilbert presented this proposal on behalf of the Dispute Resolution Section. The proposal has been approved by the Judicial Council of Georgia and was previously supported by the State Bar ahead of the 2019 and 2020 legislative sessions. The proposal was filed as SB 464 during the 2020 legislative session and sponsored by Senator John Kennedy.

The proposal would provide a statutory structure for private mediations. The proposal would (1) provide legal consistency and clarity, (2) promote consumer protection through disclosures, and (3) enhance Georgia's reputation as a leader in the mediation space. Similar rules are already in place for court-ordered mediation. Currently, the Georgia ADR rules provide a privilege but it does not extend to private mediations. Parties to a private mediation agreement would be able to waive out of the provisions of the statute if they choose to do so. There were no significant changes between the proposal as submitted and SB 464 as passed in the Georgia Senate in February 2020. The Uniform Mediation Act has been adopted in eleven states and introduced in NY, MA, CT, and MN.

The Georgia Trial Lawyers Association (GTLA) had some issues with SB 464 when it was in the House Judiciary Committee. GTLA representatives met with members of the Dispute Resolution Section after the September 15th ACL meeting to discuss their issues with the bill. The section plans to clarify certain definitions in the legislation. Members of GTLA stated that they believed the legislation as previously drafted weakens mediation communication in Georgia but they plan to work with everyone to improve the law in this area.

The *Keller* vote was unanimous. The committee voted to support this proposal 19-6. The Board of Governors will consider this proposal on January 9, 2021.

ELECTION AND POLITICAL UPDATE

Rusty Sewell and Mark Middleton gave a brief political update. They briefly discussed the

results of the November 3, 2020 general election and the upcoming January 5, 2021 runoff for both of Georgia's US Senate seats.

The Senate now has 8 lawyer-legislators out of 56 total senators, which is a net loss of 2 attorneys in that chamber due to retirements. The House now has 24 lawyer-legislators out of 180 total House members, a net gain of 2 attorneys. A complete list of all the lawyer-legislators for the 2021-2022 legislative term will be included in the Midyear Board Book.

UPDATES FROM THE JUDICIARY

Tracy Mason with the Administrative Office of the Courts briefly discussed the Judicial Council's legislative agenda for the upcoming session, which will likely include legislation that allows local courts to toll statutory speedy trial deadlines during a state of emergency.

FUTURE MEETINGS

The Chair reported that State Bar President Dawn Jones may request that the ACL convene by phone during the 2021 session to discuss and vet legislation of interest to the State Bar.

ADJOURNMENT

With no further business before the committee, Chair Javoyne Hicks adjourned the meeting at 12:06 PM.

2021-2022 Lawyer-Legislators

Senate

8 attorneys out of a total of 56 Senators

net loss of 2 attorneys for 2021-2022 after retirements this year

Sen. Bill Cowsert (R- Athens)
Sen. Bo Hatchett (R- Cornelia) **
Sen. Jen Jordan (D- Atlanta)
Sen. Harold Jones (D- Augusta)
Sen. John Kennedy (R- Macon)
Sen. Elena Parent (D- Decatur)
Sen. Brian Strickland (R- McDonough)
Sen. Blake Tillery (R- Vidalia)

House

24 attorneys out of a total of 180 House members

net gain of 2 new lawyer-legislators for 2021-2022

Rep. William Boddie (D- East Point)
Rep. James Burchett (R- Waycross)
Rep. David Dreyer (D- Atlanta)
Rep. Chuck Efstrotation (R- Dacula)
Rep. Stacey Evans (D- Atlanta)**
Rep. Barry Fleming (R- Harlem)
Rep. Stan Gunter (R- Blairsville)**
Rep. Scott Holcomb (D- Atlanta)
Rep. Trey Kelley (R- Cedartown)
Rep. Dar'shun Kendrick (D- Lithonia)
Rep. Zulma Lopez (D- Atlanta)**
Rep. Rob Leverett (R- Elberton)**
Rep. Marvin Lim (D- Norcross)**
Rep. Josh McLaurin (D- Sandy Springs)
Rep. Beth Moore (D- Peachtree Corners)
Rep. Mary Margret Oliver (D- Decatur)
Rep. Sam Park (D- Lawrenceville)
House Speaker David Ralston (R- Blue Ridge)
Rep. Bert Reeves (R- Marietta)
Rep. Bonnie Rich (R- Suwanee)
Rep. Shea Roberts (D- Atlanta)**
Rep. Tyler Paul Smith (R- Bremen)**
Rep. Mike Wilensky (D- Dunwoody)
Rep. Matt Wilson (D- Brookhaven)

** Indicates a newly-elected lawyer-legislator

Advisory Committee on Legislation (ACL) Funding Proposal Form

FORM B

For proposals seeking State Bar support for appropriations and state funding.

Name of Proposal: Civil Legal Services to Victims of Domestic Violence

Name of Section/Committee submitting this proposal: Committee to Promote Inclusion in the Profession

1. Please provide (a) the purpose of the funding, (b) the requested amount, and (b) the name of the state agency that received and administers this funding from the legislature.

(a) the purpose of this funding is to provide civil legal services to victims of domestic violence throughout Georgia. Georgia Legal Services and Atlanta Legal Aid receive the majority of the finding and they primarily, represent lower and moderate income victims in protective orders, divorce, child custody, and child support cases. They also represent victims in obtaining financial benefits, healthcare, and legal services related to housing and employment. (b) \$1,677,172 total, including this request for increase of \$175,000. This additional funding will restore portions of the amount reduced by funding cuts in the last legislative session. (c) the state agency that receives and administers these funds is the Judicial Council of Georgia through the Administrative Office of the Courts.

2. Please provide a brief background on this appropriations request, including whether the request seeks an increase from the previous fiscal year.

These funds were reduced by almost \$1 million dollars in FY 2021. That reduction will result in drastically fewer attorneys available statewide to survivors in need of legal representation. Victims who are self-represented are at a severe disadvantage when their batterers are represented. Early reports show domestic violence rates have increased during the COVID-19 pandemic with at least one metro Atlanta police department receiving an estimated 36% increase in domestic violence reports from March 2020 to April 2020, resulting in a greater need of legal services.

3. Has the State Bar supported this appropriation in the past?

Yes, this proposal has been supported by the Bar since it was originally proposed and funded 1999.

4. Provide a statement of the issues to be addressed by this appropriation.

The funding would restore some of the domestic violence civil legal services grant funding, which was previously funded at \$2.5 million in fiscal year 2020. The restored funding will support civil legal services agencies to provide civil legal services to low income domestic violence victims and their families, including children. Services include representation at protective order hearings to protect survivors and help them successfully escape abuse, legal services related to the family's economic security and stability inducing benefits, housing issues, and employment-related issues, as well as legal services to related to education and healthcare. Excluded services include criminal defense, deportation proceedings, and indirect legal services such as attorney training.

5. Why should the State Bar take an official position to support or oppose this funding?

Victims without legal representation are at a serious disadvantage when litigating safety, custody, support, property, and financial security. Victims also need holistic legal representation to protect their families, including healthcare, food security, and unemployment benefits. Victims can end up homeless or returning to violent homes without legal representation to help them secure their housing. These are issues of safety for our community and access to justice for survivors.

6. Describe how support for this appropriation (1) regulates the legal profession, or (2) improves the quality of legal services.¹

This funding supports access to the courts to provide safety and protection to Georgians who are risk of family violence by making lawyers more available and cost effective. The proposal seeks to allow more citizens access to rights and remedies afforded them by the state legislature.

7. Are there any potential proponents or opponents of this appropriation, including, but not limited to, other State Bar sections, specialty bar associations, governmental entities, and outside interest groups? If so, please list them here.

For many years, the Committee to Promote Inclusion in the Profession has supported this proposal to help ensure that Georgians have access to justice. We are not aware of any other state bar sections, specialty bar associations, governmental or outside interest groups opposed to this proposal.

8. Which other State Bar committees or sections may have an interest in this appropriation? The Child Advocacy and Protection Section. Have you provided interested State Bar committees/sections with a copy of this request? Yes. If so, have they provided any comments? No.

9. What is the recommendation that your section/committee wishes to be adopted by the State Bar? We ask for support for the Judicial Council's recommended appropriation of \$1,502,172 and FY2022 Enhancement Request of \$175,000 for a total request of \$1,677,172.

¹ The State Bar reviews all proposals for compliance with the standard set out by the United States Supreme Court in *Keller v. State Bar of California*, 496 U.S. 1 (1990).

10. Please attach any additional information that the committee may find helpful in assessing this request.

The Promoting Inclusion in the Profession letter of support and the Judicial Council White Paper are attached.



September 14, 2020

Ms. Christine Butcher Hayes
Director of Governmental Affairs
State Bar of Georgia
104 Marietta Street N.E.
Atlanta, GA 30303

RE: Legislative Proposal: Victims of Domestic Violence Funding

Dear Ms. Butcher Hayes:

I write on behalf of the *Committee to Promote Inclusion in the Profession (CPIP)* to request the State Bar of Georgia's endorsement of legislation that would provide an appropriation for civil legal services to low-income victims of domestic violence. Each year the Committee seeks the endorsement of the State Bar of Georgia for this legislation, which provides for an appropriation to non-profit organizations that provide civil legal services to low-income Georgians. It is our Committee's understanding that for the State Bar of Georgia to endorse this legislation for the upcoming fiscal year, the proposal must be renewed before the Advisory Committee on Legislation. As a result, our Committee wishes to again propose an appropriation of \$2.5 million for victims of domestic violence. In addition, we understand that the Judicial Council is also making this specific dollar request in its budget and we ask that the Advisory Committee on Legislation support the same.

In 1998, the General Assembly appropriated \$2 million as part of the Administrative Office of the Court's budget. The funds were appropriated for use in providing civil legal services to low-income victims of domestic violence. That year, the General Assembly recognized the importance of providing legal services to victims of domestic violence, and has provided funding to do so every year since that time. Last year's appropriation was \$2.5 million and we are asking for support in the same amount this year.

This funding helps to provide that legal assistance that serves a need that would otherwise go unmet. In addition, studies show that for each \$1 spent on temporary protective orders, states save \$30.75 in avoided costs for law enforcement, hospital, incarceration, and other public costs. (*Hawkins, N, Perspectives on Civil Protective Orders in Domestic Violence Cases, NJ Journal, No. 266 p.8*). The Judicial Council is again committed to support this level of funding and the State Bar should stand with it.

The Committee to Promote Inclusion in the Profession is aware of no opposition to this proposal for the appropriation of \$2.5 million for this fiscal year. It is our Committee's understanding that we do not need to submit the specific language for the legislation at this time because this is a budget item. Furthermore, this proposal satisfies the *Keller* criteria because it is within the scope and purposes of the State Bar of Georgia to advance the administration of justice. It also is consistent with past actions by the Board of Governors in support of access to legal services by the poor. If you have any questions regarding this matter, please contact us further.

HEADQUARTERS

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229-387-0446 · 800-330-0446
Fax 229-382-7435



State Bar
of Georgia

Lawyers Serving the Public and the Justice System

Thank you for your consideration of our request.

Very truly yours,

Sharon C. Menzie
Co-Chair, Committee to Promote
Inclusion in the Profession

Katie S. Dodd
Co-chair, Committee to Promote
Inclusion in the Profession

SCM/KSD/sb

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GEORGIA RESOURCE CENTER PROPOSAL

Advisory Committee on Legislation (ACL)

2020-2021 Legislative Proposal Form

FORM B

For proposals seeking State Bar support for appropriations and state funding.

Name of Proposal: Georgia Appellate Practice and Educational Resource Center, Inc.

Name of Section/Committee submitting this proposal: Indigent Defense

- 1. Please provide (a) the purpose of the funding, (b) the requested amount, and (b) the name of the state agency that received and administers this funding from the legislature.**

This Proposal seeks continued State Bar support for adequate state funding for the Resource Center, specifically that continuation funding of eight hundred thousand dollars (\$800,000) be included in the budget of the Judicial Council for the next session of the General Assembly. This funding comprises the majority of the funding for the Resource Center. State Bar support for the Resource Center remains critical, and, as always, deeply appreciated.

- 2. Please provide a brief background on this appropriations request, including whether the request seeks an increase from the previous fiscal year.**

The Georgia Resource Center respectfully requests support for a continuation of baseline funding of \$800,000, which the General Assembly has awarded the Resource Center each year from FY 2002 to FY 2008 and from FY 2013 to FY 2020. In FY 2021, as with all entities within the Judicial Council, the Resource Center's legislative funding was reduced to \$775,000, due to budget shortfalls related to the coronavirus pandemic. The Resource Center absorbed this decrease in its baseline funding through reduced travel and other operational expenses given the staff's remote work. As the Resource Center anticipates a return to more normal operations by the start of FY 2022, its baseline funding needs will return to pre-pandemic levels. This funding allows the Resource Center to employ five full-time attorneys (including its Executive Director), one part-time attorney, two full-time investigators, two part-time investigators, and an office manager.

- 3. Has the State Bar supported this appropriation in the past?**

For the past thirty-two (32) years, the State Bar of Georgia has actively supported the Resource Center's legislative proposal. The formal and active support for this legislative proposal by the State Bar is crucial to obtain continued funding from the General Assembly, so that the important work of the Resource Center can

GEORGIA RESOURCE CENTER PROPOSAL

continue.

4. Provide a statement of the issues to be addressed by this appropriation.

Georgia is the only state in the country that does not provide a statutory procedure or constitutional right to the appointment and compensation of counsel in state habeas corpus proceedings.¹ This poses an especially acute problem in capital cases where post-conviction review has been recognized to be a critical stage in the death penalty appellate process.² The Resource Center is mandated to oversee *all* capital post-conviction cases in Georgia, either through direct representation or through support of pro bono counsel.³ As the Supreme Court has recognized, capital habeas corpus proceedings are among the most complex in the legal field and require intensive investigation and litigation by experienced attorneys and investigators.⁴ The responsibilities of Resource Center staff also extend to advocating for clemency after prisoners have exhausted their habeas appeals and face execution. At all of the stages of proceedings, the Resource Center's workload continues to be voluminous and labor-intensive. While clemency hearings and state habeas proceedings are very different, both entail complex investigations that place enormous demands on the Resource Center's staff and budget. *See* Guideline 10.7, ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases (counsel at every stage, including clemency, "have an obligation to conduct thorough and independent investigations relating to the issues of both guilt and penalty").

5. Why should the State Bar take an official position to support or oppose this funding?

Endorsement of this proposal is consistent with the purposes of the State Bar of Georgia. Members of the bar are uniquely qualified to analyze the technical and public policy issues inherent in this proposal and can fulfill a duty of public service by examining these issues and making a statement to the General Assembly. Endorsement of this proposal will also improve the administration of justice in appellate and post-conviction capital proceedings in Georgia. Improving the administration of justice is one of the three foundational purposes of the State Bar. *See* Rule 1-103.

¹ *See Gibson v. Turpin*, 270 Ga. 855 (1999). By the slimmest of margins, the Supreme Court of Georgia held that death sentenced inmates had no constitutional right to counsel in state habeas corpus proceedings. The court noted that a statute providing for state-funded counsel might be a good policy, but that absent legislative enactment of such a provision, state-funded counsel was not constitutionally compelled.

² *See, e.g., Murray v. Giarratano*, 492 U.S. 1, 24, 26 (1989).

³ The Resource Center is currently responsible for overseeing 45 cases from 26 counties across the state.

⁴ *See Martinez v. Ryan*, 132 S. Ct. 1309, 1317 (2012) (effective counsel is necessary in order to vindicate constitutional rights in post-conviction proceedings).

GEORGIA RESOURCE CENTER PROPOSAL

6. Describe how support for this appropriation (1) regulates the legal profession, or (2) improves the quality of legal services.

The Resource Center has been found to be the most efficient and cost-effective means of moving capital cases to final adjudication⁵ and is a necessary safeguard against wrongful execution.⁶ By providing representation at this stage, moreover, the Resource Center allows Georgia's capital punishment system to function expeditiously (in particular by streamlining federal habeas review) in bringing these cases to final resolution. The Resource Center is not an anti-death penalty organization. Rather, the Resource Center seeks to promote the core principle of providing equal access to justice. This is reflected in the Lawyer's Creed: to "strive to improve the law and our legal system [and] to make the laws and our legal system available to all."

The Resource Center's representation on behalf of its clients has also improved the quality of legal services for all indigent people on death row. For example, the Resource Center's litigation in *Wilson v. Sellers*, decided in 2018 by the United States Supreme Court, made an important clarification in how federal courts review state court decisions in habeas corpus proceedings.

The work of the Georgia Resource Center has not gone unnoticed. The Resource Center's efforts on behalf of its clients earned it the 2012 Indigent Defense Award by the Georgia Association of Criminal Defense Lawyers. In addition, the Resource Center received the 2013 Legal Legends Award by the American Constitution Society in recognition of its integral role in protecting the rights of indigent death-sentenced prisoners and ensuring fairness in the administration of capital punishment in Georgia. In August of 2013, the Resource Center was honored with the Deirdre O'Brien Award for Outstanding Advocacy on Behalf of Persons with Intellectual Disabilities from the ARC of Georgia.

⁵ A performance audit requested by the Georgia Senate Appropriations Committee and conducted by the Department of Audits in 2005 found that Resource Center attorneys handled more cases and expended less money per case than similar organizations providing post-conviction representation to death-sentenced prisoners in other states.

⁶ According to a Columbia University study of error rates in capital cases from 1973 to 1995, Georgia had an 80% reversal rate. See James S. Liebman et al., *A Broken System: Error Rates in Capital Cases, 1973-1995* (June 12, 2000), available at https://b3cdn.net/ncadp/c2c493b8dfab81a0ed_9adm679fe.pdf. Since 1996, 62 death penalty cases have resulted in relief. During that same period, 56 executions have been carried out. Accordingly, for every one execution carried out in Georgia since 1996, approximately 1.11 death sentences have been reversed. The significance of this rate of error is obvious: proving that the system can be fundamentally fair only if there is a Resource Center to provide checks and balances to the system in state and federal habeas review.

GEORGIA RESOURCE CENTER PROPOSAL

- 7. Are there any potential proponents or opponents of this appropriation, including, but not limited to, other State Bar sections, specialty bar associations, governmental entities, and outside interest groups? If so, please list them here.**

The State Bar of Georgia has supported full funding for the Resource Center since its inception in 1988. Indeed, the State Bar of Georgia was one of three recipients in the United States of the 1988 Harrison Tweed Award from the American Bar Association for its work in establishing the Resource Center. The Georgia Supreme Court has also supported funding for the Resource Center, as has the Board of Governors and the Judicial Council of Georgia.

There are no known opponents of this proposal.

- 8. Which other State Bar committees or sections may have an interest in this appropriation?**

The following other committees or sections which may have an interest in the legislation: the Advisory Committee on Legislation; the Criminal Law Section; the Indigent Defense Committee; the Access to Justice Committee; and the Individual Rights Section of the State Bar. These committees and sections have previously supported funding for the Resource Center.

- a. Have you provided interested State Bar committees/sections with a copy of this request? If so, have they provided any comments?**

Yes, we have provided a copy of this request to the Access to Justice and Indigent Defense Committees. We will provide any comments from these committees as we receive them.

- 9. What is the recommendation that your section/committee wishes to be adopted by the State Bar?**

The core state funding of \$800,000 allows the Resource Center to maintain the minimum staff necessary to fulfill its mandate to provide adequate legal services to Georgia's indigent clients on death row and take on additional cases that will enter the system in FY 2021 and FY 2022, including those of prisoners who are approaching final adjudication of their legal claims and facing the need to prepare for clemency proceedings. The effectiveness, efficiency, and credibility of Georgia's death penalty system depend on an adequately-staffed and sufficiently-funded Resource Center, but without continuation of baseline funding, the Resource Center would be forced to lay off legal staff.

Accordingly, the Board of Directors of the Georgia Resource Center petitions the State Bar of Georgia for endorsement of continuation funding of \$800,000 for the

GEORGIA RESOURCE CENTER PROPOSAL

Resource Center and that such funding be placed in the budget of the Judicial Council for the next session of the General Assembly.

10. Please attach any additional information that the committee may find helpful in assessing this request.

Over the years, beyond the critical baseline funding of the Georgia legislature, the Resource Center had received monies from two additional primary sources: 1) the Georgia State Bar and/or the Georgia Bar Foundation and 2) vouchers from federal court representation. The Georgia State Bar, a founding partner and strong supporter of the Resource Center since its inception in 1988, has provided direct financial assistance of approximately \$110,000 per year to the Resource Center from FY 2012 to the current FY 2021. In the past, the Georgia Bar Foundation had provided grants to the Resource Center, but these grants were discontinued in FY 2012 when the economic downturn devastated its IOLTA revenues. In FY 2019, the Georgia Bar Foundation awarded the Center a grant of \$60,000, and in FY 2020, the Bar Foundation awarded a grant of \$110,000, in large part to provide staff with modest and long-overdue salary adjustments, and in order to offer a competitive (though still below market) salary in recruiting a new Executive Director. In FY 2021, the Bar Foundation awarded the Center a grant of \$100,000.

Federal court compensation is received in periodic amounts that vary substantially according to the number of federal habeas cases which are approaching resolution at any given time, and the time it takes the courts to fulfill payment vouchers. In FY 2020, the federal revenue was \$395,163, and in FY 2019, the revenue was \$214,490. The Resource Center estimates a revenue of \$350,000 in federal court compensation for work representing Georgia state prisoners in federal capital habeas cases in FY 2021.

**Advisory Committee on Legislation (ACL)
Support or Opposition Form**

FORM C

For legislation originating outside the State Bar that
seeks State Bar support or opposition.

Name of Proposal: Remote Online Notarization Statute Comments

Name of Section/Committee submitting this proposal: Real Property Law Section

1. Does this proposal seek to support or oppose legislation that has already been filed pre-filed in the General Assembly for the 2021 session, or legislation that has been proposed by an outside interest group, corporation, government agency, or individual to be filed during the 2021 legislative session? YES or NO

a. If yes, attach a copy of the pending legislation or outside proposal.

Yes. A copy of the legislation that is anticipated to be presented and filed during the 2021 Legislative Session by Rep. Joseph Gullett of District 19, Rep. Rogers of District 10, Rep. Jones of District 25, Rep. Reeves of District 34 and Rep. Washburn of District 141 (LC-48-2348S/LC-48-0151 (2020 HB 785) is attached as Exhibit A (“Draft Bill”). The proposed redline changes to the Draft Bill drafted by the Real Property Section are attached as Exhibit B (“Real Property Section Proposed Redline Changes”). The Real Property Section requests that the ACL and State Bar of Georgia Board of Governors support the Real Property Section Proposed Redline Changes, which positively assist in the practice of law in the State of Georgia, including, without limitation, the additional fraud protections that are included within the Real Property Section Proposed Redline Changes. These Real Property Section Proposed Redline Changes would be presented to the 2021 Georgia General Assembly if the Draft Bill is actually introduced in this upcoming 2021 Legislative Session.

As a point of clarification, the ACL and State Bar of Georgia Board of Governors

approved a prior version of the Real Property Section Proposed Redline Changes for the 2020 Legislative Session. During the 2020 Legislative Session, the Real Property Section worked directly with the Draft Bill's lead sponsor as well as House Legislative Committees and other interested parties in fine tuning revisions to the Draft Bill. The 2020 Draft Bill was not approved out of the Judiciary House Committee and did not have a vote for crossover. The lead sponsor of the Draft Bill has forwarded to the 2020 interested parties a new Draft Bill for 2021 that includes some but not all of the provisions that were previously agreed to be added to the Draft Bill from discussions in early 2020, including, but not limited to the concept of unofficial witnesses in a document to be recorded in the real property records, provisions regarding the unauthorized practice of law, and other requirements of the notary approval process that are otherwise part of the Model Act as defined herein. Thus, the Real Property Section requests that its Real Property Section Proposed Redline Changes be approved for the 2021 Draft Bill. The 2021 Real Property Section Proposed Redline Changes include additional provisions that were discussed with the lead sponsor and various interested parties over the course of 2020 following the 2020 legislative session and further includes many provisions also requested by the Georgia Superior Court Clerk's Cooperative Authority ("GSCCCA").

[As a further point of clarification, the Draft Bill and the Real Property Section Proposed Redline Changes only relate to Remote Online Notarization and do not legislate the concept of Remote In-Person Notarization ("RIN"). RIN is the act of notarization of a document by Zoom, Skype or other camera technology in which the signatory and the notary are in separate locations, but the document that is signed is returned in original form with original wet signatures to the notary so that the notary can then add to the original document its original wet notarial seal. RIN notarizations are currently separately allowed under the Governor's current Emergency Order and accompanying current Georgia Supreme Court Emergency Orders.]

2. If no legislation is presently pending, provide a statement of the issues to be addressed by the proposed bill.

ANSWER: The Draft Bill is intended to create a Remote Online Notary Statute (“RON Statute”) in Georgia that creates a class of notary publics who may notarize and witness the execution of documents remotely by computer video conference, without the principal being present in the same room and with all signatures executed and notarized by electronic/digital signatures, i.e., not with “wet signatures” (“RON”). The Draft Bill would apply to every type of document to be notarized by a Georgia notary, including, without limitation, business licenses, building permits, hunting licenses, wills, powers of attorney, trusts, end-of-life directives, real estate security deeds, real estate deeds, quitclaim deeds, real estate and other affidavits, loan documents, auto loans, and any other type of instrument that otherwise requires a notarization. The Draft Bill proposes that the GSCCCA be granted the power to create regulations in connection with the implementation of the Draft Bill; however, representatives of GSCCCA have indicated that they may not have draft regulations ready for distribution in time for the 2021 Legislative Session. The Real Property Section Proposed Redline Changes of the Draft Bill includes within the four corners of the Draft Bill additional fraud protections, as well as additional procedural requirements for the RON notary not otherwise provided in separate regulations, as well as the protections regarding real estate and other types of documents requiring an unofficial witness and references to the unauthorized practice of law.

3. Give a brief summary of the existing law on this issue, including citations to applicable case law addressed in the pending or proposed legislation.

*The Draft Bill, as proposed to be substituted and amended by the Real Property Section Proposed Redline Changes, will require amendment of and/or additions to the following current Code Sections:
Article 2 of Chapter 6 of Title 15 of Official Code of Georgia Annotated*

(“O.C.G.A.”), Article 1 of Chapter 17 of Title 45 of O.C.G.A., Article 1 of Chapter 2 of Title 44 of O.C.G.A., and Article 4 of Chapter 18 of Title 50 of O.C.G.A., including the following: amending O.C.G.A. Sections 15-6-94, 45-17-1, 45-17-6, 45-17-8.1, 45-17-9, 45-17-17, 45-17-18, 50-18-72, and by creating new code sections 45-17-8.3, 45-17-4, 45-17-8.5, 45-17-8.6, 45-17-8.7, 45-17-8.8, 45-17-8.9, 45-17-8.10, 45-17-8.11, and 44-2-31.

The Draft Bill in its current format could create confusion regarding the ability of RON notaries to oversee the closing process in violation of current Georgia Supreme Court Advisory Opinions regarding the Unauthorized Practice of Law.

4. Does this proposal seek to codify current case law or seek to modify a statute based on a recent Georgia appellate decision?

The Draft Bill seeks to modify the existing statutes and regulations affecting the appointment and actions of Georgia notaries, as well as the types of documents that are to be notarized by a Georgia RON. The Draft Bill further changes the process by which real property documents are witnessed, notarized and recorded and/or filed in the appropriate real property and/or personal property records. The Draft Bill would affect the Unauthorized Practice of Law Advisory Opinions issued from time to time by the Georgia Supreme Court’s Advisory Opinions, including Formal Advisory Opinion 13-1 issued by order of the Georgia Supreme Court pursuant to Docket S14U0705. A more detailed explanation of aspects of the practice of law that will be affected by the Draft Bill is attached hereto as Exhibit C.

5. Why should the State Bar take an official position to support or oppose this proposal?

ANSWER: The Draft Bill does not contain all of the pertinent fraud protections proposed by the national “Mortgage Bankers Association-American Land Title Association Model Legislation for Remote Online Notarization” (“Model Act”). All other States that have adopted similar RON Statutes (approximately 25 States have already adopted a RON Statute), with several States that have pending RON

bills up for the next legislative session pending COVID delays, other than Virginia, have expressly included the fraud protections required by the Model Act. Substantially all of the national title insurance underwriters currently refuse to underwrite any real estate document that is notarized by a Virginia RON, because the fraud protections as required by the Model Act are not part of the Virginia RON Statute. Because of this refusal to insure documents notarized by a Virginia RON by the national title insurance industry, many or most national banking institutions that make, sell or buy mortgage and other real estate loans, together with many state and federal banking regulators, refuse to participate in loans if the loan document(s) are notarized by a Virginia RON because the fraud protections as required by the Model Act are not part of the Virginia RON Statute. To avoid the same scenarios with any proposed Georgia documents to be notarized by a Georgia RON, the pertinent fraud protections required by the Model Act have been added in redline version as part of the Real Property Section Proposed Redline Changes to the Draft Bill.

6. Describe how the pending or proposed legislation (1) regulates the legal profession, or (2) improves the quality of legal services?¹

ANSWER: The Draft Bill will affect the practice of law, including, without limitation, the likelihood of RON notaries attempting to participate in the real estate closing process in a manner that constitutes the unauthorized practice of law as described in various Georgia Supreme Court Formal Advisory Opinions. Even if the RON bill is passed, the Real Property Section has doubts whether the Georgia Supreme Court Formal Advisory Opinions would allow an attorney to close a transaction utilizing communication technology and intends to request a parallel Formal Advisory Opinion. If the Draft Bill in its current draft format is adopted, then the Georgia real estate and banking industry will likely be materially affected, because of the current refusal by national title underwriters and national financial institutions and financial regulators to accept RON documents signed by a RON

¹ The State Bar reviews all proposals for compliance with the standard set out by the United States Supreme Court in *Keller v. State Bar of California*, 496 U.S. 1 (1990).

pursuant to a statute that does not require all pertinent fraud protections established by the State in which the RON is granted notarial appointment.

- 7. Are there any potential proponents or opponents of the proposal or pending legislation, including, but not limited to, other State Bar sections, specialty bar associations, governmental entities, and outside interest groups? If so, please list them below.**

ANSWER: Yes. Other associations, trade groups and other interests groups have expressed to the Real Property Section of the State Bar interest in and concerns regarding the Draft Bill in its current format. These groups include the Fiduciary Section of the Georgia State Bar, Southeast Land Title Association (SLTA), the Georgia Real Estate Closing Attorneys Association (GRECAA), at least 3 of the national title insurance underwriters, lobbyists involved with financial institutions doing business in Georgia, the auto dealers association doing business in Georgia, Building Owners and Managers Association (BOMA), Zillow, and other interest groups.

- 8. Which other State Bar committees or sections may have an interest in the legislation or proposal?**

- a. Have you provided interested State Bar committees/sections with a copy of this proposal? If so, have they provided any comment?**

ANSWER: Yes. The Real Estate Section has been in direct communication with the Fiduciary Section. The Fiduciary Section has expressed their concern with the current form of the proposed Draft Bill, and the co-chairs of the Fiduciary Section have informed the Real Property Section that the Fiduciary Section will take the stance that the Draft Bill, if and when filed, must exclude all wills, codicils and testamentary trusts. The Real Property Section has contacted as well the chairs of the Business Law, Family Law and Health Law Sections regarding the Draft Bill.

- 9. What is the recommendation that your section/committee wishes to be adopted by the State Bar?**

ANSWER: The Real Property Section requests that the State Bar of Georgia, acting through the ACL and the Board of Governors, support the Real Property Section Proposed Redline Changes to the Draft Bill and advocate for their inclusion in any proposed remote online notary legislation.

*CONTACT INFORMATION FOR REAL PROPERTY SECTION LEGISLATIVE
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Exhibit A-Draft Bill

20

LC 48 0151

House Bill 785

By: Representatives Gullett of the 19th, Jones of the 25th, Rogers of the 10th, Reeves of the 34th, and Washburn of the 141st

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated,
2 relating to clerks of superior courts, so as to provide for electronic notarizations and remote
3 online notarizations; to revise the powers of the Georgia Superior Court Clerks' Cooperative
4 Authority; to provide that the Georgia Superior Court Clerks' Cooperative Authority shall
5 provide rules and regulations for electronic notarizations and remote online notarizations; to
6 amend Article 1 of Chapter 17 of Title 45 of the Official Code of Georgia Annotated, relating
7 to general provisions regarding notaries public, so as to provide for procedures and
8 requirements for electronic notarizations and remote online notarizations; to provide
9 definitions; to provide for electronic journaling; to provide for rules and regulations; to
10 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
11 other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to
15 clerks of superior courts, is amended by revising paragraphs (8) and (9) and by adding a new
16 paragraph to subsection (d) of Code Section 15-6-94, relating to the Georgia Superior Court
17 Clerks' Cooperative Authority, as follows:

18 ~~(8)~~ To exercise any power granted by the laws of this state to public or private
19 corporations which is not in conflict with the public purpose of the authority; and
20 ~~(9)~~ To provide rules and regulations for electronic notarization and remote online
21 notarization pursuant to Article 1 of Chapter 17 of Title 45; and
22 ~~(9)(10)~~ To do all things necessary or convenient to carry out the powers conferred by this
23 Code section and to carry out such duties and activities as are specifically imposed upon
24 the authority by law.^f

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SECTION 2.

25

26 Article 1 of Chapter 17 of Title 45 of the Official Code of Georgia Annotated, relating to
 27 general provisions regarding notaries public, is amended by revising Code Section 45-17-1,
 28 relating to definitions, as follows:

29 45-17-1.

30 As used in this article, the term:

31 (1) 'Attesting' and 'attestation' are synonymous and mean the notarial act of witnessing
 32 or attesting a signature or execution of a deed or other written instrument, where such
 33 notarial act does not involve the taking of an acknowledgment, the administering of an
 34 oath or affirmation, the taking of a verification, or the certification of a copy.

35 (2) 'Credentia analysis' means a process or service operating according to criteria
 36 approved by the Georgia Superior Court Clerks' Cooperative Authority through which
 37 a third person affirms the validity of a government-issued identification credential
 38 through review of public or proprietary data sources.

39 (3) 'Electronic' means relating to technology having electrical, digital, magnetic,
 40 wireless, optical, electromagnetic, or similar capabilities.

41 (4) 'Electronic document' means information that is created, generated, sent,
 42 communicated, received, or stored by electronic means.

43 (5) 'Electronic journal' means a record kept by the notary to track and document every
 44 notarial act performed, as provided by subsection (a) of Code Section 45-17-8.5.

45 (6) 'Electronic notarization' means a notary's notarization of electronic records that
 46 include the notary's and the document signer's electronic signatures.

47 (7) 'Electronic record' means information that is created, generated, sent, communicated,
 48 received, or stored by electronic means.

49 (8) 'Electronic seal' means information within a notarized electronic document that
 50 confirms the remote notary public's name, jurisdiction, and commission expiration date
 51 and generally corresponds to information in notary seals used on paper documents.

52 (9) 'Electronic signature' means an electronic sound, symbol, or process attached to or
 53 logically associated with an electronic record and executed or adopted by a person with
 54 the intent to sign the electronic document.

55 ~~(10)~~ (10) 'Notarial act' means any act that a notary public is authorized by law to perform
 56 and includes, without limitation, attestation, the taking of an acknowledgment, the
 57 administration of an oath or affirmation, the taking of a verification upon an oath or
 58 affirmation, and the certification of a copy.

59 ~~(11)~~ (11) 'Notarial certificate' means the notary's documentation of a notarial act.

60 (12) 'Notary' and 'notary public' mean a person who has been appointed by a superior
 61 court clerk pursuant to Code Section 45-17-2.3.

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- 62 (13) 'Principal' means a person:
 63 (A) Whose electronic signature is notarized in a remote online notarization; or
 64 (B) Who is making an oath or affirmation or an acknowledgment other than in the
 65 capacity of a witness for the remote online notarization.
- 66 (14) 'Remote notarization' means a notarial act performed by means of two-way video
 67 and audio conference technology that meets the standards adopted under this article.
- 68 (15) 'Remote notary public' means a notary public who has complied with the rules and
 69 regulations adopted by the Georgia Superior Court Clerks' Cooperative Authority to
 70 perform remote electronic notarizations under this article.
- 71 (16) 'Remote online notarial certificate' is the electronic form of an acknowledgment,
 72 jurat, verification on oath or affirmation, or verification of witness or attestation that is
 73 completed by a notary performing a remote online notarization and:
- 74 (A) Contains the online notary public's electronic signature, electronic seal, title, and
 75 commission expiration date;
- 76 (B) Contains other required information concerning the date and place of the remote
 77 online notarization;
- 78 (C) Otherwise conforms to the requirements for an acknowledgment, jurat, verification
 79 on oath or affirmation, or verification of witness or attestation under the laws of this
 80 state; and
- 81 (D) Indicates that the person making the acknowledgment or oath or affirmation
 82 appeared remotely online.
- 83 (17) 'Remote presentation' means transmission to the remote notary public through
 84 communication technology of an image of a government-issued identification credential
 85 that is of sufficient quality to enable the remote notary public to:
- 86 (A) Identify the individual seeking the remote notary public's services; and
 87 (B) Perform credential analysis."

88 **SECTION 3.**

89 Said article is further amended by revising Code Section 45-17-6, relating to seal of office,
 90 as follows:
 91 '45-17-6.

- 92 (a)(1) For the authentication of his or her notarial acts, each notary public must provide
 93 a seal of office, which seal shall have for its impression his name, the words 'Notary
 94 Public,' the name of the state, and the county of his residence; or it shall have for its
 95 impression his name and the words 'Notary Public, Georgia, State at Large.' Notaries
 96 commissioned or renewing their commission after July 1, 1985, shall provide a seal of
 97 office which shall have for its impression the notary's name, the words 'Notary Public,'

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98 the name of the state, and the county of his the notary's appointment. The embossment
 99 of notarial certificates by the notary's seal shall be authorized but not necessary;³ and the
 100 use of an electronic seal for purposes of electronic notarization or remote online
 101 notarization or a rubber or other type stamp shall, for other purposes, be sufficient for
 102 imprinting the notary's seal on notarial certificates. A scrawl shall not be a sufficient
 103 notary seal. An official notarial act must be documented by the notary's seal.

104 (2) No document executed prior to July 1, 1986, which would otherwise be eligible for
 105 recording in the real property records maintained by any clerk of superior court or
 106 constitute record notice or actual notice of any matter to any person shall be ineligible for
 107 recording or fail to constitute such notice because of noncompliance with the requirement
 108 that the document contain a notary seal.

109 (b) It shall be unlawful for any person, firm, or corporation to supply a notary public seal
 110 to any person unless the person has presented the duplicate original of the certificate
 111 commissioning the person as a notary public. It shall be unlawful for any person to order
 112 or obtain a notary public seal unless such person is commissioned as a notary public."

113 **SECTION 4.**

114 Said article is further amended by revising subsection (a) of Code Section 45-17-8.1, relating
 115 to signature and date of notarial act, as follows:

116 "(a) Except as otherwise provided in this Code section, in documenting a notarial act, a
 117 notary public shall sign on the notarial certification, electronically in the case of electronic
 118 notarization or remote online notarization or by hand in ink in all other cases, only and
 119 exactly the name indicated on the notary's commission and shall record on the notarial
 120 certification the exact date of the notarial act."

121 **SECTION 5.**

122 Said article is further amended by adding new Code sections to read as follows:

123 "45-17-8.3.

124 (a) The Georgia Superior Court Clerks' Cooperative Authority by rule shall develop and
 125 maintain standards for remote notarization in accordance with this article, including, but
 126 not limited to, standards for credential analysis and identity proofing.

127 (b) The Georgia Superior Court Clerks' Cooperative Authority may confer with any
 128 appropriate state agency on matters relating to equipment, security, and technological
 129 aspects of the remote notarization standards.

130 (c) The rules provided for under subsection (a) of this Code section shall be adopted no
 131 later than January 1, 2021, and may thereafter be modified, amended, or supplemented.

238 (e) A remote notarial act meeting the requirements of this Code section satisfies the
 239 requirement of any law of this state relating to a notarial act that requires a principal to
 240 appear or personally appear before a notary or that the notarial act be performed in the
 241 presence of a notary, except for a notarial act pursuant to a law governing the creation and
 242 execution of wills, codicils, or express trusts.

243 45-17-8.9.

244 (a) A remote notary public or the remote notary public's employer may charge a fee for
 245 performance of remote notarization in an amount not to exceed \$25.00 per remote
 246 notarization.

247 (b) Except as provided by subsection (c) of this Code section, a remote notary public
 248 whose commission terminates shall destroy or delete the coding, disk, certificate, card,
 249 software, or password that enables electronic affixation of the remote notary public's
 250 official electronic signature or seal.

251 (c) A person who, without authorization, knowingly obtains, conceals, damages, destroys,
 252 or deletes the certificate, disk, coding, card, program, software, or hardware enabling a
 253 remote notary public to affix an official electronic signature or seal shall upon conviction
 254 be guilty of a misdemeanor and punished pursuant to Code Section 45-17-20.^e

SECTION 6.

255 Said article is further amended by revising Code Section 45-17-9, relating to where notarial
 256 acts may be exercised, as follows:

257 ^e45-17-9.

258 Notarial acts may be exercised in or from any county in the this state.^e

SECTION 7.

260 Said article is further amended by revising Code Section 45-17-17, relating to resignation of
 261 commission, return of papers, and destruction of seal, as follows:

262 ^e45-17-17.

263 A person who wishes to resign a notarial commission shall send a signed letter of
 264 resignation to the appointing clerk of superior court, with a copy to the Georgia Superior
 265 Court Clerks' Cooperative Authority, and all papers of appointment. The resigning notary
 266 public shall destroy or delete the official notarial seal.^e

SECTION 8.

267 This Act shall become effective upon its approval by the Governor or upon its becoming law
 268 without such approval.

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271

SECTION 9.

272 All laws and parts of laws in conflict with this Act are repealed.

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_____ offers the following
substitute to HB785:

A BILL TO BE ENTITLED AN ACT

- 1 To amend Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia
Annotated,
- 2 relating to clerks of superior courts, so as to provide for electronic in-person
notarizations and remote
- 3 online notarizations; to revise the powers of the Georgia Superior Court Clerks'
Cooperative
- 4 Authority; to provide that the Georgia Superior Court Clerks' Cooperative
Authority shall
- 5 provide rules and regulations for electronic in-person notarizations, remote
online notarizations, execution of electronic documents by witnesses, and
qualifications for appointment as a remote online notary; to
- 6 amend Article 1 of Chapter 17 of Title 45 of the Official Code of Georgia Annotated,
relating
- 7 to general provisions regarding notaries public, so as to provide for
procedures and
- 8 requirements for electronic in-person notarizations and remote online
notarizations; to provide
- 9 definitions; to provide for electronic journaling; to provide for rules and
regulations; to amend Article 1 of Chapter 2 of Title 44 of the Official Code of
Georgia Annotated, relating to recordation of instruments, so as to provide for
the requirements of a witness; to amend Article 4 of Chapter 18 of Title 50 of
the Official Code of Georgia Annotated, relating to inspection of public records,
so as to provide that disclosure of audiovisual recordings of the performance
of a remote online notarization process shall not be required; to
- 10 provide for related matters; to provide an effective date; to repeal conflicting
laws; and for
- 11 other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 SECTION 1.

14 Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated,
relating to

15 clerks of superior courts, is amended by revising paragraphs (8) and (9) and by
adding a new

16 paragraph to subsection (d) of Code Section 15-6-94, relating to the Georgia
Superior Court

17 Clerks' Cooperative Authority, as follows:

18 "(8) To exercise any power granted by the laws of this state to public
or private

19 corporations which is not in conflict with the public purpose of the authority;
and

20 (9) To provide rules and regulations for electronic in-person notarization,
remote online

21 notarization, execution of electronic documents by witnesses, and
qualifications for appointment as a remote online notary pursuant to Article 1
of Chapter 17 of Title 45; and

22 ~~(9)(10) To do all things necessary or convenient to carry out the powers conferred
by this~~

23 Code section and to carry out such duties and activities as are specifically
imposed upon

24 the authority by law."

SECTION 2.

- 25 Article 1 of Chapter 17 of Title 45 of the Official Code of Georgia Annotated,
relating to
- 26 general provisions regarding notaries public, is amended by revising Code Section
45-17-1,
- 27 relating to definitions, as follows:
- 28 "45-17-1.
- 29 As used in this article, the term:
- 30 (1) 'Appear' or 'personally appear' or 'in the presence of' means: (a) being in the
same physical location as another person and close enough to see, hear,
communicate with, and exchange tangible identification credentials with such
person; or (b) interacting with another individual by means of communication
technology that complies with the provisions of this article.
- 31 (2) 'Attesting' and 'attestation' and 'attested' are synonymous and mean the
notarial act of witnessing
- 32 or attesting a signature or execution of a deed or other written instrument,
where such
- 33 notarial act does not involve the taking of an acknowledgment, the administering
of an
- 34 oath or affirmation, the taking of a verification, or the certification of a copy.
- 35 (3) 'Communication technology' means an electronic device or process that allows
a remote online notary public physically located in this state and a remotely
located individual to communicate with each other simultaneously by sight and
sound and which, as necessary, makes reasonable accommodations for individuals
with vision, hearing, or speech impairments.
- 36 (4) 'Credential analysis' means a process or service operating according to
standards established by the Georgia Superior Court Clerks' Cooperative
Authority through which
- 37 a third person or entity affirms the validity of a government-issued
identification credential
- 38 through review of public or proprietary data sources.
- 39 (5) 'Digital Signature' means an electronic signature that embeds registered
personal key infrastructure technology into the signing process and provides
for the authentication of the identity of remote online notary public,
confirmation of the signed document's contents and for the non-repudiation of
the notary's digital signature. The digital signature is to be made pursuant to
and associated with a digital certificate, issued by a trusted service provider,

which is attached to or logically associated with an electronic document and adopted by a notary public with the intent to sign an electronic document in the official capacity as a notary. A digital signature is, and shall be, made in compliance with the Digital Signature Standard of the National Institute of Standards and Technology as may be amended from time to time.

- 40 (6) 'Electronic' means relating to technology having electrical, digital,
41 magnetic,
42 wireless, optical, electromagnetic, or similar capabilities.
43 (7) 'Electronic document' or 'electronic record' means information that is
44 created, generated, sent,
45 communicated, received, or stored by electronic means.
46 (8) 'Electronic journal' means a record kept by the remote online notary to track
47 and document every
48 notarial act performed, as provided by subsection (a) of Code Section 45-17-8.5.
49 (9) 'Electronic in-person notarization' means a notarization of an electronic
50 record when the signee or signees of the record are in the physical presence of the
51 notary and that
52 include the notary's electronic notarial certificate, the notary's digital signature,
53 and electronic signatures of each signee.
54 (10) 'Electronic notarial certificate' means the electronic form of an
55 acknowledgment, jurat, verification on oath or affirmation, or verification of
witness or attestation that is completed by a notary performing an electronic in-
person notarization and:
(A) Contains the notary public's digital signature, electronic seal, title and
commission expiration date;
(B) Otherwise conforms to the requirements for an acknowledgment, jurat,
verification on oath or affirmation, or verification of witness or attestation under
the laws of this state.
56
57 (11) 'Electronic seal' means information within a notarized electronic
58 document that
59 confirms the notary public's or remote online notary public's name, jurisdiction
60 commission expiration date, and remote online notary's identifying notary
61 commission number.
62
63 (12) 'Electronic signature' means an electronic sound, symbol, or process

- attached to or
- 56 logically associated with an electronic record and executed or adopted by a person
with
- 57 the intent to sign the electronic document or record.
- 58 (13) 'Identity proofing' means a process or service operating according to
standards established by the Georgia Superior Court Clerks' Cooperative
Authority through which a third person affirms the identity of a person by means
of:
- 59 (A) dynamic knowledge-based authentication such as a review of personal
information from public or proprietary data sources; or
- 60 (B) biometric data such as, but not limited to, facial recognition, voiceprint analysis
or fingerprint analysis.
- 61 (2)(14) 'Notarial act' means any official act that a notary public is authorized by law
to perform
- 62 and includes, without limitation, attestation, the taking of an acknowledgment,
the
- 63 administration of an oath or affirmation, the taking of a verification upon an
oath or
- 64 affirmation, and the certification of a copy.
- 65 (15) 'Notarial certificate' means the notary's documentation of a notarial act.
- 66 (16) 'Notary' and 'notary public' mean a person who has been appointed by a
superior
- 67 court clerk pursuant to Code Section 45-17-2.3.

- 68 (17) 'Original appointment' means a notary public appointment other than a
69 remote
70 online notary public appointment.
- 71 (18) 'Principal' means a person:
72 (A) Whose electronic signature is to be notarized in an electronic in-person
73 notarization or a remote online notarization; or
74 (B) Who is to make an oath or affirmation or an acknowledgment other than
75 in the
76 capacity of a witness for a document which is to be notarized by an electronic in-person
77 notarization or a remote online notarization.
- 78 (19) 'Real estate document' means any instrument, document or deed entitled
79 to recordation in the real estate records or lien indices or recording records of
80 the clerk of superior court of any county in this state, and any instrument or
81 document executed in connection with the conveyance of land whether
82 recorded or not.
- 83 (20) 'Remote online notarial certificate' is the electronic form of an
84 acknowledgment,
85 jurat, verification on oath or affirmation, or verification of witness or attestation
86 that is
87 completed by a remote online notary performing a remote online notarization
88 and:
89 (A) Contains the remote online notary public's digital signature, electronic seal,
90 title, and commission expiration date;
91 (B) Contains the date and location of the principal and the location of the remote
92 online notary;
93 (C) Otherwise conforms to the requirements for an acknowledgment, jurat,
94 verification
95 on oath or affirmation, or verification of witness or attestation under the laws
96 of this
97 state;
98 (D) Indicates that the principal making the acknowledgment, oath,
99 affirmation, verification, or attestation
100 appeared remotely online; and
101 (E) That the principal affirmatively agreed to electronic execution and remote

online notarization.

88 (21) 'Remote online notarization' or 'remote online notarial act' means a
notarial act performed by means of communication technology according to the
provisions of this article and that meets the standards adopted pursuant to this

89 article.

90 (22) 'Remote online notary public' means a notary public who has been
commissioned

91 as a remote online notary public to perform remote online

92 notarizations under this article.

93 (23) 'Remote presentation' means transmission to the remote online notary
public through

94 communication technology of an image of a government-issued identification
credential

95 that is of sufficient quality to enable the remote online notary public to:

96 (A) Identify the individual seeking the remote online notary public's services;
and

97 (B) Perform credential analysis.

98 (24) 'Remotely located individual' means an individual who is not in the
physical presence of the remote online notary public."

99 (25) 'Repository' means a third-party business entity authorized to transact
business in this state that is in the business of retaining electronic journals and
audiovisual copies of remote online notarizations according to Code Section
45-17-8.5."

100 SECTION 3.

101 Said article is further amended by revising Code Section 45-17-6, relating to seal
of office,

102 as follows:

103 "45-17-6.

10⁴(a)(1) For the authentication of his or her notarial acts, each notary public must provide
10⁵ a seal of office, which seal shall have for its impression his name, the words "Notary

106 Public,' the name of the state, and the county of his residence, or it shall have for
its
107 impression his name and the words 'Notary Public Georgia State at Large'
Notaries
108 commissioned or renewing their commission after July 1, 1985, shall provide a seal
of
109 office which shall have for its impression the notary's name, the words 'Notary
Public,'
110 the name of the state, and the county of his the notary's appointment. The
embossment
111 of notarial certificates by the notary's seal shall be authorized but not necessary.
A rubber or other type stamp shall be sufficient for imprinting the notary's
112 seal on paper notarial certificates. A scrawl shall not be a sufficient notary seal.
An official
113 notarial act must be documented by the notary's seal. An electronic seal shall be
used for purposes of any electronic in-person notarization or remote online
notarization.
114 (2) No document executed prior to July 1, 1986, which would otherwise be eligible
for
115 recording in the real property records maintained by any clerk of superior
court or
116 constitute record notice or actual notice of any matter to any person shall be
ineligible for
117 recording or fail to constitute such notice because of noncompliance with the
requirement
118 that the document contain a notary seal.
119 (b) It shall be unlawful for any person, firm, or corporation to supply a notary
public seal
120 to any person unless the person has presented the duplicate original of the
certificate
121 commissioning the person as a notary public. It shall be unlawful for any person
to order
122 or obtain a notary public seal unless such person is commissioned as a notary
public."

123 SECTION 4.

- 124 Said article is further amended by revising subsection (a) of Code Section 45-17-
8.1, relating
- 125 to signature and date of notarial act, as follows:
- 126 "(a) Except as otherwise provided in this Code section, in documenting a notarial
act, a
- 127 notary public shall sign on the notarial certification, electronically in the case of
electronic in-person
- 128 notarization or remote online notarization or by hand in ink in all other cases,
only and
- 129 exactly the name indicated on the notary's commission and shall record on the
notarial
- 130 certification the exact date of the notarial act."

131 SECTION 5.

- 132 Said article is further amended by adding new Code sections to read as follows:
"45-17-8.3.
- 133 (a) The Georgia Superior Court Clerks' Cooperative Authority shall adopt
rules,
- 134 regulations, and standards for remote online notarization, electronic in-person
notarization, execution of electronic documents by witnesses, and qualifications
for appointment as a remote online notary public in accordance with this article,
including, but not
- 135 limited to, standards for credential analysis and identity proofing.

- 136 (b) The Georgia Superior Court Clerks' Cooperative Authority may confer
 137 with any
 138 appropriate state agency on matters relating to equipment, security, and
 139 technological
 140 aspects of the remote online notarization standards.
 141 (c) The Georgia Superior Court Clerks' Cooperative Authority shall consider when
 142 adopting, amending and repealing its rules, regulations and standards:
 143 (1) Standards and practices of other jurisdictions;
 144 (2) The most recent standards established by national standard setting bodies;
 145 and
 146 (3) The views of interested persons and government officials and entities.
 147 (d) The rules provided for under subsection (a) of this Code section shall be
 148 adopted no
 149 later than January 1, 2022, and may thereafter be modified, amended, or
 150 supplemented.
 151 45-17-8.4.
 152 (a) Appointment as a notary public in this state shall be a requirement and
 153 condition precedent for appointment as a remote online notary public.
 154 (b) Effective January 1, 2022, a person who meets the qualifications for becoming
 155 a notary public of this state desiring to be appointed as
 156 a remote online notary public shall submit an application to the clerk of
 157 superior court of the county of the applicant's current residence. In the event that
 158 such applicant is the holder of an unexpired notary commission issued from a
 159 county other than the county of the applicant's current residence, the applicant
 160 shall officially resign the unexpired commission and make new application to the
 161 clerk of superior court for the county of current residence for both a notary
 162 commission and commission as a remote online notary public. An application may
 163 request both an original appointment or renewal and a remote online notary
 164 public appointment. The
 165 application for a remote online notary public appointment shall set forth the
 166 declaration that
 167 the notary meets the qualifications for remote online notarization as provided
 168 by this article.
 169 (b) Before each application for appointment as a remote online notary, an

individual shall complete a course of instruction approved by the Georgia Superior Court Clerks' Cooperative Authority and pass an examination based on such course. The content of the course shall include notarial rules and procedures, and ethical obligations pertaining to electronic notarization and remote online notarization in this article or in any other law or official guideline of this state. The course may be taken in conjunction with any course required by the clerk of superior court for an original appointment. The standards for such course shall be developed and maintained by the Georgia Superior Court Clerks' Cooperative Authority.

- 154 (c) Such application for appointment as a remote online notary shall include, but
 155 not be
 156 limited to:
 157 (1) the applicant's legal name to be used in acting as a notary public;
 158 (2) email address of the applicant;
 159 (3) telephone number of the applicant;
 160 (4) proof of successful completion by the applicant of the course and examination
 161 required under subsection (b)
 162 (5); a physical
 163 residential address of the applicant in this state;
 164 (6) evidence that the errors and omissions insurance coverage prescribed by this
 165 article for the performance of remote online notarial acts has been issued;
 166 (7) the identity of the technology provider
 167 the remote online notary public intends to use for remote online notarization and
 168 the repository
 169 to be used by such notary for maintenance of his or her electronic journal and
 170 audiovisual
 171 recordings. The technology provider, communication technology, and repository
 172 selected by the remote online notary must conform to the Georgia Superior Court
 173 Clerks' Cooperative Authority's standards developed under this article;
 174 (8) a certification that the applicant will comply with the standards developed by
 175 the Georgia Superior Court Clerks' Cooperative Authority under this article;
 176 (9) disclosure of any and all license or commission revocations or other
 177 disciplinary actions against the applicant; and
 178 (10) any other information, evidence, or declaration requested by the clerk of
 179 superior court.
 180 (d) The fee for submitting an application to be appointed as a remote online
 181 notary shall be the same fee as for an

- 171 application for an original appointment pursuant to Code Section 45-17-4. One
172 fee shall be collected for:
- 173 (1) An application for a commission as a remote online notary public; or
174 (2) An application for a notary commission renewal and a commission as a remote
175 online notary public; or
176 (3) An application for an original or new notary commission and commission as a
177 remote online notary public.
- 178 (e) Upon the applicant's fulfillment of the requirements for appointment under
179 this Chapter, the clerk of superior court may approve the appointment, and upon
180 approval shall issue to the applicant a unique remote online notary commission
181 number.
- 182 (f) The clerk of superior court may reject an application for appointment under
183 this article if the applicant fails to comply with any section of this Chapter.
- 184 (g) Unless terminated pursuant to this article, the term of commission to perform
185 remote
186 online notarization shall coincide with the term of the original appointment or
187 any renewal thereof.
- 188 (h) Upon approval of the application to be a remote online notary public by the
189 clerk of
190 superior court, such notary shall:
- 191 (1) Be authorized to perform remote online notarization pursuant to this article;
192 (2) Maintain an errors and omissions insurance policy in an amount of
193 \$25,000.00;
194 (3) Maintain a residential domicile and physical presence in this state; and
195 (4) Immediately notify the appointing clerk of superior court, with a copy to
196 the Georgia Superior Court Clerks' Cooperative Authority, of any change in the
197 information provided in the remote online notary public application, including,
198 but not limited
199 to, legal name, email address, telephone number, physical residential address, any
200 change
201 of identity of the technology or repository provider, and the name and address
202 of the
203 repository used by such notary for maintenance of his or her electronic
204 journal and
205 audiovisual recording.

- 190 45-17-8.5.
- 191 (a) Each remote online notary public shall keep a secure, permanent, tamper
192 electronic journal with entries for each remote online notarization in a format
193 conforming with such rules as may be adopted by the Georgia
194 Superior Court Clerks' Cooperative Authority. A journal entry shall be made for
195 each
196 remote online notarization which shall at a minimum include:
- 197 (1) The date and time of the remote online notarization;
- 198 (2) The type of notarial act;
- 199 (3) The type, the title, or a description of the electronic document or proceeding;
- 200 (4) The name and address of each principal involved in the transaction or
201 proceeding;
- 202 (5) The evidence of identity presented for each principal involved in the
203 transaction or
204 proceeding in the form of:
- 205 (A) Notation of the type of identification document provided to the remote
206 online
207 notary public pursuant to the credential analysis; and
- 208 (B) A description and results of each identity proofing performed;
- 209 (6) The physical location of the principal of the document at the time of
210 notarization;
- 211 (7) The physical location of the notary at the time of notarization; and
- 212 (8) The fee, if any, charged for the notarization.
- 213 (b) The electronic journal shall be retained and maintained for at least ten years
214 after the
215 date of the last remote online notarial transaction performed.
- 216 (c) Each remote online notary public shall cause an electronic copy of each
217 electronic
218 journal entry to be immediately transmitted to and retained by a third party
219 repository for retention.
- 220 Each repository

212 receiving any journal or journal entry shall securely retain and maintain such
213 journal for a minimum
214 of ten years following the last submission of a remote online notarial journal
215 entry.
216 (d) Each remote online notary public shall create an audiovisual recording of
217 the
218 performance of the remote online notarial act as evidence of participant identity,
219 type of participant identification presented, and the validity of the notarial act.
220 (e) Each remote online notary public shall cause an electronic copy of each
221 audiovisual
222 recording to be immediately transmitted to and retained by a third party
223 repository.
224 Each repository
225 receiving any audiovisual recording shall securely retain and maintain such
226 recording for a
227 minimum of ten years following submission of the last remote online audiovisual
228 recording submitted by a notary.
229 (f) The Georgia Superior Court Clerks' Cooperative Authority shall establish:
230 (1) standards for the retention of an audiovisual copy of the performance of the
231 remote online notarial act;
232 (2) procedures for preservation of the audiovisual copy and the electronic journal
233 if the remote online notary public dies or is adjudicated incompetent or if the
234 remote online notary public's commissions or authority to perform notarial acts
235 is otherwise terminated; and
236 (3) standards for third party repositories for the retention of the audiovisual copy
237 and electronic journal
238 (g) A remote online notary public shall take reasonable steps to:
239 (1) Ensure the integrity, security, and authenticity of each remote online
240 notarizations;
241 (2) Maintain a backup of each electronic journal required by subsection (a) of this
242 Code
243 section and the recording required by subsection (d) of this Code section; and
244 (3) Protect the backup record from unauthorized use.

- 231 45-17-8.6.
- 232 (a) A notary public physically located in this state may perform electronic in-
person notarization
- 233 in accordance with this
- 234 Article and rules and regulations adopted by the Georgia Superior Court Clerks'
Cooperative Authority
- 235 for a person who is in the physical presence of the notary public.
- 236 (b) A remote online notary public physically located in this state may perform
remote online notarization using communication technology in accordance with
this Article and rules and regulations adopted by the Georgia Superior Court
Clerk's Cooperative Authority for a remotely located person who is physically
located;
- 237 (1) In this state;
- 238 (2) Outside this state but within the United States; or
- 239 (3) Outside the United States if:
- 240 (A) The remote online notary public has no actual knowledge that the act of
making
- 241 the statement or signing the electronic record is prohibited in the jurisdiction in
which the person
- 242 is located; and
- 243 (B) The person placing his or her electronic signature on the electronic record
confirms
- 244 to the remote online notary public that the requested remote online notarial
act and the electronic
- 245 record;
- 246 (i) Are part of or pertain to a matter that is to be filed with or is currently
before a
- 247 court, governmental entity, or other entity in the United States;
- 248 (ii) Relate to property located in the United States; or
- 249 (iii) Relate to a transaction that is substantively connected to the United States.
- 250 45-17-8.7.
- 251 (a) A notary public and a remote online notary public shall take reasonable steps

to ensure that any registered device or digital certificate
252 used to create an electronic signature or the notary's digital signature is
current, valid and has not been revoked or terminated by
253 the device's or certificate's issuing or registering authority.
254 (b) The duties of the notary public and the remote notary public, in addition to
the duties provided for in Code
255 Section 45-17-8, are to:
256 (1) Keep his or her electronic record, electronic signature, and electronic
257 seal secure and under his or her exclusive control;
258 (2) Not allow another person to use his or her electronic record, electronic
signature, or
259 electronic seal. A remote notary public may use the remote notary public's
digital
260 signature only for performing electronic in-person notarization or remote online
notarization;
261 (3) Attach his or her digital signature and seal to the electronic notarial certificate
of
262 an electronic document in a manner that is conducive to independent
verification and
263 renders evident any subsequent change or modification to the electronic
document; and
264 (4) Immediately notify an appropriate law enforcement agency and appointing
clerk of
265 superior court, with a copy to the Georgia Superior Court Clerks' Cooperative
Authority,
266 of the theft or vandalism of the notary's electronic record, electronic
signature, or
267 electronic seal. A notary public or a remote online notary public shall immediately
notify the appointing clerk of

- 268 superior court, with a copy to the Georgia Superior Court Clerks' Cooperative
269 Authority,
270 if his or her electronic record, electronic signature, or electronic seal has been lost
or used
271 by another person.
- 272 45-17-8.8.
273 (a) In performing a remote online notarization, a remote online notary public shall
verify the identity of
274 a principal creating an electronic signature at the time that the signature is taken
by using secure
275 communication technology that meets the requirements of this article and any
rules adopted
276 under this article. Identity shall be verified by each of the following:
277 (1) Remote presentation by the person creating the electronic signature of
278 a valid
279 government-issued identification credential, including a passport or driver's
license, that
280 contains the signature and a photograph of the person;
281 (2) Credential analysis; and
282 (3) Successful verified identity proofing.
- 283 (b) The remote online notary public's communication technology provider and
repository shall take reasonable steps to ensure that the communication
284 technology used for a remote online notarization is secure from unauthorized
interception. Each provider of communication technology products or services for
remote online notarization in this state shall cause such product or services to
comply with all provision of this article and any rules relating to remote online
notarization. Prior to providing remote online notary public products or services,
a communication technology provider shall present a certificate of compliance to
the remote online notary public affirming that such products and services comply
with the provision of this article and any rules promulgated pursuant to this
article.
- 285 (c) A remote online notary public shall require his or her communication
technology provider used to comply with all requirements of this article and any
rules that may be adopted pursuant to this article.

284 (d) A remote online notarial act meeting the requirements of this Code section
satisfies the
285 requirement of any law of this state relating to a notarial act that requires a
principal to
286 appear or personally appear before a notary or that the notarial act be performed
in the
287 presence of a notary, except for a notarial act pursuant to a law governing the
creation and
288 execution of wills, codicils, or testamentary trusts.
289 (e) An electronic document executed by a principal and notarized under this
article by a
290 remote online notary public is deemed to be executed in this state.

291 45-17-8.9.

292 (a) A remote online notary public or the remote online notary public's employer
may charge a fee for
293 performance of remote online notarization in an amount not to exceed \$25.00
per remote
294 notarization.

295 (b) Except as provided by subsection (c) of this Code section, a notary public or
a remote online notary public
296 whose commission terminates shall destroy or delete the coding, disk,
certificate, card,
297 software, or password that enables electronic affixation of the notary public's
or remote online notary public's
298 official digital signature and electronic seal.

- 299 (c) A person who, without authorization, knowingly obtains, conceals, damages,
destroys,
- 300 or deletes the certificate, disk, coding, card, program, software, or hardware
enabling a notary public or a
- 301 remote online notary public to affix a digital signature or electronic seal shall
upon conviction
- 302 be guilty of a misdemeanor and punished pursuant to Code Section 45-17-20,
- 303 45-17-8.10.
- 304 (a)(l) Nothing in this article shall be construed to alter or supersede the law as
set forth
- 305 under Article 3 of Chapter 19 of Title 15 or any opinion or ruling by the Supreme
Court
- 306 of Georgia pertaining to the unauthorized practice of law in this state, including,
but not limited to, the requirement that a licensed Georgia attorney supervise
a real estate closing for real property located in this state.
- 307 (2) A remote online notary public shall be prohibited from rendering services
or advice that
- 308 constitutes the practice of law in this state.
- 309
- 310 45-17-8.11
- 311 (a) Any public official in this state, including all public officials of county and
municipal government entities, shall be authorized to accept as an original a
reproduction of any document executed using electronic signatures or
electronic signatures and remote online notarization as provided in this article.
- 312 (b) Any requirement that an instrument, document or real estate document be
attested or acknowledged by a notary public and the requirement of
confirmation of identity of the document signer, oath taker, or affirmant
contained in 45-17-8 is satisfied by a remote online notarial act meeting the
requirements of this article.
- 313 (c) Except for remote online notarization of real estate documents, which are
specifically excepted from this provision in subsection (d) below, a remote
online notarial act performed by a remote online notary public commissioned
or registered in another state has the same effect under the law of this state as
if performed by a notary public appointed in this state.
- 314 (d) A remote online notary public commissioned or registered in another state

shall not use remote online notarization to attest or acknowledge a real estate document.

- 315 (e) A notary public or a remote online notary public shall not perform any notarial act by electronic in-person notarization or by remote online notarization if the notarial act is pursuant to a law governing the creation and execution of any will, codicil or testamentary trust. "

316 SECTION 6.

317 Said article is further amended by revising Code Section 45-17-9, relating to where notarial

318 acts may be exercised, as follows:

319 "45-17-9.

320 Notarial acts may be exercised in ~~or from~~ any county in ~~the~~ this state."

321 SECTION 7.

322 Said article is further amended by revising Code Section 45-17-17, relating to resignation of

323 commission, return of papers, and destruction of seal, as follows:

324 "45-17-17.

325 A person who wishes to resign a notarial commission shall send a signed letter of

326 resignation to the appointing clerk of superior court, with a copy to the Georgia Superior

327 Court Clerks' Cooperative Authority, and all papers of appointment. The resigning notary

328 public shall destroy or delete the official notarial seal."

329 SECTION 8.

330 Said article is further amended by revising Code Section 45-17-18, relating to the expiration of notary commission as follows:

331 "45-17-18

332 A notary public whose commission expires and who does not apply for renewal of such commission or whose application for renewal of a commission is denied shall destroy or delete the official notary seal."

333 SECTION 9.

334 **Article 1 of Chapter 2 of Title 44 of the Official Code of Georgia Annotated, relating to recordation and registration of deeds and other instruments is**

amended by adding a new Code Section to read as follows:

335 "44-2-31

336 (a) Any requirement that an instrument, document, deed or real estate
document be witnessed, attested or acknowledged by an unofficial witness is
satisfied if:

- (1) The witness is physically present with the principal, personally sees
the principal execute the instrument, document or deed and executes
the instrument, document or deed by hand in ink; or
- (2) The witness is physically present with the principal, personally sees
the principal electronically execute the instrument, document or real
estate document, or is physically present in this state and sees the
principal electronically execute the instrument, document or real
estate document by the use of communication technology in
accordance with Chapter 17 of Title 45, and electronically executes
the instrument, document, or real estate document by the use of
communication technology in accordance with Chapter 17 of Title
45.

(b) Terms used in this Code Section are as defined in Code Section 45-17-
1."

337

338

339

SECTION 10

340 Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated,
relating to inspection of public records, is amended by revising paragraph (12)
of subsection (a) of Code Section 50-18-72 as follows:

341 "(12) ~~Reserved~~; Records consisting of any audiovisual recording of the

342 performance of a remote online notarization process as provided for by Code

343 Section 45-17-8.5;"

344

SECTION 11

345 This Act shall become effective upon its approval by the Governor or upon its
becoming law

346 without such approval.

347

SECTION 12.

348 All laws and parts of laws in conflict with this Act are repealed.

Exhibit B-2 Additional Aggregate Redline by Real Property Section to
Current Version of Draft Bill

DM213344682.1

20 LC 48-0151

offers the following

substitute to HB785:

House Bill 785

By: Representatives Gullett of the 19th, Jones of the 25th, Rogers of the 10th, Reeves of the 34th, and Washburn of the 141st

A BILL TO BE

ENTITLED

AN ACT

- 1 ~~1~~ To amend Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated,
- 2 ~~2~~ relating to clerks of superior courts, so as to provide for electronic in-person notarizations and remote
- 3 ~~3~~ online notarizations; to revise the powers of the Georgia Superior Court Clerks' Cooperative
- 4 ~~4~~ Authority; to provide that the Georgia Superior Court Clerks' Cooperative Authority shall
- 5 ~~5~~ provide rules and regulations for electronic in-person notarizations ~~and~~, remote online notarizations, execution of electronic documents by witnesses, and qualifications for appointment as a remote online notary; to
- 6 ~~6~~ amend Article 1 of Chapter 17 of Title 45 of the Official Code of Georgia Annotated, relating
- 7 ~~7~~ to general provisions regarding notaries public, so as to provide for procedures and
- 8 ~~8~~ requirements for electronic in-person notarizations and remote online notarizations; to provide
- 9 ~~9~~ definitions; to provide for electronic journaling; to provide for rules and regulations; to amend Article 1 of Chapter 2 of Title 44 of the Official Code of Georgia Annotated, relating to recordation of instruments, so as to provide for the requirements of a witness; to amend Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to inspection of public records, so as to provide that disclosure of audiovisual recordings of the performance of a remote online notarization process shall not be required; to
- 10 ~~10~~ provide for related matters; to provide an effective date; to repeal conflicting

laws; and for

11 ~~11~~ other purposes.

12 ~~12~~
GENERAL ASSEMBLY OF GEORGIA:

BE IT ENACTED BY THE

13 ~~13~~

SECTION 1.

14 ~~14~~ Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to

15 ~~15~~ clerks of superior courts, is amended by revising paragraphs (8) and (9) and by adding a new

16 ~~16~~ paragraph to subsection (d) of Code Section 15-6-94, relating to the Georgia Superior Court

17 ~~17~~ Clerks' Cooperative Authority, as follows:

18 ~~18~~ "(8) To exercise any power granted by the laws of this state to public or private

19 ~~19~~ corporations which is not in conflict with the public purpose of the authority; and

20 ~~20~~ (9) To provide rules and regulations for electronic in-person notarization and remote online

21 ~~21~~ notarization, execution of electronic documents by witnesses, and qualifications for appointment as a remote online notary pursuant to Article 1 of Chapter 17 of Title 45; and

22 ~~22~~ (9)(10) To do all things necessary or convenient to carry out the powers conferred by this

23 ~~23~~ Code section and to carry out such duties and activities as are specifically imposed upon

24 ~~24~~ the authority by law."

H. B. 785

- 1 -

25 SECTION 2.

- 25 26 Article 1 of Chapter 17 of Title 45 of the Official Code of Georgia Annotated, relating to
- 26 27 general provisions regarding notaries public, is amended by revising Code Section 45-17-1,
- 27 28 relating to definitions, as follows:
- 28 29 "45-17-1.
- 29 30 As used in this article, the term:
- 30 (1) 'Appear' or 'personally appear' or 'in the presence of' means: (a) being in the same physical location as another person and close enough to see, hear, communicate with, and exchange tangible identification credentials with such person; or (b) interacting with another individual by means of communication technology that complies with the provisions of this article.
- 31 34 (12) 'Attesting' and 'attestation' and 'attested' are synonymous and mean the notarial act of witnessing
- 32 32 or attesting a signature or execution of a deed or other written instrument, where such
- 33 33 notarial act does not involve the taking of an acknowledgment, the administering of an
- 34 34 oath or affirmation, the taking of a verification, or the certification of a copy.
- 35 (3) 'Communication technology' means an electronic device or process that allows a remote online notary public physically located in this state and a remotely located individual to communicate with each other simultaneously by sight and sound and which, as necessary, makes reasonable accommodations for individuals with vision, hearing, or speech impairments.
- 36 (24) 'Credential analysis' means a process or service operating according to criteria standards established 36 ~~approved~~ by the Georgia Superior Court Clerks' Cooperative Authority through which
- 37 37 a third person or entity affirms the validity of a government-issued identification credential
- 38 38 through review of public or proprietary data sources.
- 39 (5) 'Digital Signature' means an electronic signature that embeds registered personal key infrastructure technology into the signing process and provides for the authentication of the identity of remote online notary public, confirmation of the signed document's contents and for the non-repudiation of the notary's digital signature. The digital signature is to be made pursuant to

and associated with a digital certificate, issued by a trusted service provider, which is attached to or logically associated with an electronic document and adopted by a notary public with the intent to sign an electronic document in the official capacity as a notary. A digital signature is, and shall be, made in compliance with the Digital Signature Standard of the National Institute of Standards and Technology as may be amended from time to time.

- 40 ~~39 (36) 'Electronic' means relating to technology having electrical, digital, magnetic,~~
- 41 ~~40 wireless, optical, electromagnetic, or similar capabilities.~~
- 42 ~~41 (47) 'Electronic document' or 'electronic record' means information that is created, generated, sent,~~
- 43 ~~42 communicated, received, or stored by electronic means.~~
- 44 ~~43 (58) 'Electronic journal' means a record kept by the remote online notary to track and document every~~
- 45 ~~44 notarial act performed, as provided by subsection (a) of Code Section 45-17-8.5.~~
- 46 ~~45 (69) 'Electronic in-person notarization' means a notary's notarization of an electronic records record when the signee or signees of the record are in the physical presence of the notary and that~~
- 47 ~~46 include the notary's and the document signer's electronic notarial certificate, the notary's digital signature, and electronic signatures of each signee.~~
- ~~47 (7) 'Electronic record' means information that is created, generated, sent, communicated,~~
- ~~48 received, or stored by electronic means.~~
- 48 (10) 'Electronic notarial certificate' means the electronic form of an acknowledgment, jurat, verification on oath or affirmation, or verification of witness or attestation that is completed by a notary performing an electronic in-person notarization and:
- 49 (A) Contains the notary public's digital signature, electronic seal, title and commission expiration date;
- 50 (B) Otherwise conforms to the requirements for an acknowledgment, jurat, verification on oath or affirmation, or verification of witness or attestation under the laws of this state.
- 51
- 52 ~~49 (811) 'Electronic seal' means information within a notarized electronic document that~~
- 53 ~~50 confirms the notary public's or remote online notary public's name,~~

jurisdiction, and commission expiration date, and remote online notary's identifying notary commission number.

51 ~~and generally corresponds to information in notary seals used on paper documents.~~

54

55 52 (912) 'Electronic signature' means an electronic sound, symbol, or process attached to or

56 53 logically associated with an electronic record and executed or adopted by a person with

57 54 the intent to sign the electronic document or record.

58 (13) 'Identity proofing' means a process or service operating according to standards established by the Georgia Superior Court Clerks' Cooperative Authority through which a third person affirms the identity of an individual by means of:

59 (A) dynamic knowledge-based authentication such as a review of personal information from public or proprietary data sources; or

60 (B) biometric data such as, but not limited to, facial recognition, voiceprint analysis or fingerprint analysis.

61 55 (2)(~~1014~~) 'Notarial act' means any official act that a notary public is authorized by law to perform

62 56 and includes, without limitation, attestation, the taking of an acknowledgment, the

63 57 administration of an oath or affirmation, the taking of a verification upon an oath or

64 58 affirmation, and the certification of a copy.

65 59 (3)(~~1115~~) 'Notarial certificate' means the notary's documentation of a notarial act.

66 60 (~~1216~~) 'Notary' and 'notary public' mean a person who has been appointed by a superior

67 61 court clerk pursuant to Code Section 45-17-2.3.

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- 68 (17) 'Original appointment' means a notary public appointment other than a remote
online notary public appointment.
- 20 69 LC 48 0151
- 70 62 ~~(1318)~~ 'Principal' means a person:
- 71 63 (A) Whose electronic signature is to be notarized in an electronic in-person
notarization or a remote online notarization; or
- 72 64 (B) Who is making to make an oath or affirmation or an acknowledgment
other than in the
- 73 65 capacity of a witness for the a document which is to be notarized by an electronic in-
person notarization or a remote online notarization.
- 74 (19) 'Real estate document' means any instrument, document or deed entitled
to recordation in the real estate records or lien indices or recording records of
the clerk of superior court of any county in this state, and any instrument or
document executed in connection with the conveyance of land whether
recorded or not.
- 66 ~~(14) 'Remote notarization' means a notarial act performed by means of two-way video~~
~~and audio conference technology that meets the standards adopted under this article.~~
- 67
- 68 ~~(15) 'Remote notary public' means a notary public who has complied with the rules~~
~~and~~
- 69 ~~regulations adopted by the Georgia Superior Court Clerks' Cooperative Authority to~~
~~perform remote electronic notarizations under this article.~~
- 70
- 75 71 ~~(1620)~~ 'Remote online notarial certificate' is the electronic form of an
acknowledgment,
- 76 72 jurat, verification on oath or affirmation, or verification of witness or
attestation that is
- 77 73 completed by a remote online notary performing a remote online
notarization and;
- 78 74 (A) Contains the remote online notary public's electronic digital signature,
electronic seal,
- 79 title, and 75 commission expiration date;
- 80 76 (B) Contains ~~other required information concerning the date and~~
~~place~~ location of the principal and the location of the remote
- 81 77 online notarization; notary;

- 82 78 (C) Otherwise conform to the requirements for an acknowledgment, jurat,
verification
- 83 79 on oath or affirmation, or verification of witness or attestation under the
laws of this
- 84 80 state; and
- 85 81 (D) Indicates that the person principal making the acknowledgment, or,
oath, or, affirmation, verification, or attestation
- 86 82 appeared remotely online; and
- 87 (E) That the principal affirmatively agreed to electronic execution and remote
online notarization.
- 88 (21) 'Remote online notarization' or 'remote online notarial act' means a
notarial act performed by means of communication technology according to the
provisions of this article and that meets the standards adopted pursuant to this
- 89 article.
- 90 (22) 'Remote online notary public' means a notary public who has been
commissioned
- 91 as a remote online notary public to perform remote online
- 92 notarizations under this article.
- 93 83 (1723) 'Remote presentation' means transmission to the remote online
notary public through
- 94 84 communication technology of an image of a government-issued identification
credential
- 95 85 that is of sufficient quality to enable the remote online notary public to:
- 96 86 (A) Identify the individual seeking the remote online notary public's
services; and
- 97 87 (B) Perform credential analysis."
- 98 (24) 'Remotely located individual' means an individual who is not in the
physical presence of the remote online notary public."
- 99 (25) 'Repository' means a third-party business entity authorized to transact
business in this state that is in the business of retaining electronic journals and
audiovisual copies of remote online notarizations according to Code Section
45-17-8.5."

100 88

SECTION 3.

101 ~~89~~ Said article is further amended by revising Code Section 45-17-6, relating to seal of office,

102 ~~90~~ as follows:

103 ~~91~~ "45-17-6.

~~92 (a)(1) For the authentication of his or her notarial acts, each notary public must provide~~

~~10(Add) For the authentication of his or her notarial acts, each notary public must provide ~~as~~
~~Notary~~~~

~~10(Add) of office, which seal shall have for its impression his name, the words "Notary~~

- 106 ~~94~~ Public,' the name of the state, and the county of his residence; or it shall have for its
- 107 ~~95~~ impression his name and the words '~~Notary Public;~~ Georgia, State at Large.'
Notaries
- 108 ~~96~~ commissioned or renewing their commission after July 1, 1985, shall provide a seal of
- 109 ~~97~~ office which shall have for its impression the notary's name, the words 'Notary Public,'

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98 the name of the state, and the county of his the notary's appointment. The embossment

99 of notarial certificates by the notary's seal shall be authorized but not necessary; ~~and the~~
~~. A rubber or other type stamp shall be sufficient for~~ ~~100 use of an electronic seal for purposes of~~
~~electronic notarization or remote online~~

~~101~~ ~~notarization or a rubber or other type stamp shall, for other purposes, be sufficient for~~

110 ~~102~~ imprinting the notary's

111 seal on paper notarial certificates. A scrawl shall not be a sufficient ~~103~~
 notary seal. An official

112 notarial act must be documented by the notary's seal. An electronic seal shall be used for purposes of any electronic in-person notarization or remote online notarization.

113 ~~104~~(2) No document executed prior to July 1, 1986, which would otherwise be eligible for

114 ~~105~~ recording in the real property records maintained by any clerk of superior court or

115 ~~106~~ constitute record notice or actual notice of any matter to any person shall be ineligible for

116 ~~107~~ recording or fail to constitute such notice because of noncompliance with the requirement

117 ~~108~~ that the document contain a notary seal.

118 ~~109~~(b) It shall be unlawful for any person, firm, or corporation to supply a notary public seal

119 ~~110~~ to any person unless the person has presented the duplicate original of the certificate

120 ~~111~~ commissioning the person as a notary public. It shall be unlawful for any person to order

121 ~~112~~ or obtain a notary public seal unless such person is commissioned as a notary public."

122 ~~113~~

SECTION 4.

123 ~~114~~ Said article is further amended by revising subsection (a) of Code Section 45-17-8.1, relating

124 ~~115~~ to signature and date of notarial act, as follows:

- 125 ~~116~~(a) Except as otherwise provided in this Code section, in documenting a notarial act, a
- 126 ~~117~~notary public shall sign on the notarial certification, electronically in the case of electronic in-person
- 127 ~~118~~notarization or remote online notarization or by hand in ink in all other cases, only and
- 128 ~~119~~exactly the name indicated on the notary's commission and shall record on the notarial
- 129 ~~120~~certification the exact date of the notarial act."

130 ~~121~~ **SECTION 5.**

122 Said article is further amended by adding new Code sections to read as follows:

- 131 ~~123~~ "45-17-8.3.
- 132 ~~124~~(a) The Georgia Superior Court Clerks' Cooperative Authority ~~by rule~~ shall ~~develop and adopt rules,~~
- 133 ~~125~~maintain regulations, and standards for remote online notarization, electronic in-person notarization, execution of electronic documents by witnesses, and qualifications for appointment as a remote online notary public in accordance with this article, including, but not
- 134 ~~126~~not limited to, standards for credential analysis and identity proofing.

- 135 ~~127~~(b) The Georgia Superior Court Clerks' Cooperative Authority may confer with any
- 136 ~~128~~appropriate state agency on matters relating to equipment, security, and technological
- 137 ~~129~~aspects of the remote online notarization standards.
- 130 ~~(e) The rules provided for under subsection (a) of this Code section shall be adopted no~~
- 138 (c) The Georgia Superior Court Clerks' Cooperative Authority shall consider when adopting, amending and repealing its rules, regulations and standards;
- 139 (1) Standards and practices of other jurisdictions;
- 140 (2) The most recent standards established by national standard setting bodies; and
- 141 (3) The views of interested persons and government officials and entities.
- 142 ~~(d) The rules provided for under subsection (a) of this Code section shall be adopted no~~
- 143 ~~131~~later than January 1, 2021~~2022~~, and may thereafter be modified, amended, or supplemented.
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- 144 45-17-8.4.
- 145 (a) Appointment as a notary public in this state shall be a requirement and condition precedent for appointment as a remote online notary public.
- 146 (b) Effective January 1, 2022, a person who meets the qualifications for becoming a notary public of this state desiring to be appointed as
- 147 a remote online notary public shall submit an application to the clerk of
- 148 superior court of the county of the applicant's current residence. In the event that such applicant is the holder of an unexpired notary commission issued from a county other than the county of the applicant's current residence, the applicant shall officially resign the unexpired commission and make new application to the clerk of superior court for the county of current residence for both a notary commission and commission as a remote online notary public. An application may
- 149 request both an original appointment or renewal and a remote online notary public appointment. The
- 150 application for a remote online notary public appointment shall set forth the declaration that
- 151 the notary meets the qualifications for remote online notarization as provided by

this article.

- 152 (b) Before each application for appointment as a remote online notary, an individual shall complete a course of instruction approved by the Georgia Superior Court Clerks' Cooperative Authority and pass an examination based on such course. The content of the course shall include notarial rules and procedures, and ethical obligations pertaining to electronic notarization and remote online notarization in this article or in any other law or official guideline of this state. The course may be taken in conjunction with any course required by the clerk of superior court for an original appointment. The standards for such course shall be developed and maintained by the Georgia Superior Court Clerks' Cooperative Authority.
- 153 (c) Such application for appointment as a remote online notary shall include, but not be
- 154 limited to:
- 155 (1) the applicant's legal name to be used in acting as a notary public;
- 156 (2) email address of the applicant;
- 157 (3) telephone number of the applicant;
- 158 (4) proof of successful completion by the applicant of the course and examination required under subsection (b)
- 159 (5); a physical
- 160 residential address of the applicant in this state;
- 161 (6) evidence that the errors and omissions insurance coverage prescribed by this article for the performance of remote online notarial acts has been issued;
- 162 (7) the identity of the technology provider
- 163 the remote online notary public intends to use for remote online notarization and the repository
- 164 to be used by such notary for maintenance of his or her electronic journal and audiovisual
- 165 recordings. The technology provider, communication technology, and repository selected by the remote online notary must conform to the Georgia Superior Court Clerks' Cooperative Authority's standards developed under this article;
- 166 (8) a certification that the applicant will comply with the standards developed by the Georgia Superior Court Clerks' Cooperative Authority under this article;
- 167 (9) disclosure of any and all license or commission revocations or other disciplinary actions against the applicant; and
- 168 (10) any other information, evidence, or declaration requested by the clerk of superior court._____

- 169 (d) The fee for submitting an application to be appointed as a remote online
notary shall be the same fee as for an
- 170 application for an original appointment pursuant to Code Section 45-17-4. One
fee shall be collected for:
- 171 (1) An application for a commission as a remote online notary public; or
- 172 (2) An application for a notary commission renewal and a commission as a remote
online notary public; or
- 173 (3) An application for an original or new notary commission and commission as a
remote online notary public.
- 174 (e) Upon the applicant's fulfillment of the requirements for appointment under
this Chapter, the clerk of superior court may approve the appointment, and upon
approval shall issue to the applicant a unique remote online notary commission
number.
- 175 (f) The clerk of superior court may reject an application for appointment under
this article if the applicant fails to comply with any section of this Chapter.
- 176 (g) Unless terminated pursuant to this article, the term of commission to perform
remote
- 177 online notarization shall coincide with the term of the original appointment or
any renewal thereof.
- 178 (h) Upon approval of the application to be a remote online notary public by the
clerk of
- 179 superior court, such notary shall:
- 180 (1) Be authorized to perform remote online notarization pursuant to this article;
- 181 (2) Maintain an errors and omissions insurance policy in an amount of
\$25,000.00;
- 182 (3) Maintain a residential domicile and physical presence in this state; and
- 183 (4) Immediately notify the appointing clerk of superior court, with a copy to
the Georgia Superior Court Clerks' Cooperative Authority, of any change in the
- 184 information provided in the remote online notary public application, including,
but not limited
- 185 to, legal name, email address, telephone number, physical residential address, any
change
- 186 of identity of the technology or repository provider, and the name and address
of the
- 187 repository used by such notary for maintenance of his or her electronic
journal and

- 189 45-17-8.5.
- 190 (a) Each remote online notary public shall keep a secure, permanent, tamper
evident
- 191 electronic journal with entries for each remote online notarization in a format
conforming with such rules as may be adopted by the Georgia
- 192 Superior Court Clerks' Cooperative Authority. A journal entry shall be made for
each
- 193 remote online notarization which shall at a minimum include:
- 194 (1) The date and time of the remote online notarization;
- 195 (2) The type of notarial act;
- 196 (3) The type, the title, or a description of the electronic document or proceeding;
- 197 (4) The name and address of each principal involved in the transaction or
proceeding;
- 198 (5) The evidence of identity presented for each principal involved in the
transaction or
- 199 proceeding in the form of:
- 200 (A) Notation of the type of identification document provided to the remote
online
- 201 notary public pursuant to the credential analysis; and
- 202 (B) A description and results of each identity proofing performed; (6) The physical
location of the principal of the document at the time of notarization;
- 203 (7) The physical location of the notary at the time of notarization; and
- 204 (8) The fee, if any, charged for the notarization.
- 205 (b) The electronic journal shall be retained and maintained for at least ten years
after the
- 206 date of the last remote online notarial transaction performed.
- 207 (c) Each remote online notary public shall cause an electronic copy of each
electronic
- 208 journal entry to be immediately transmitted to and retained by a third party
repository for retention.
- 209 Each repository
- 210 receiving any journal or journal entry shall securely retain and maintain such

journal for a minimum
211 of ten years following the last submission of a remote online notarial journal
entry.
212 (d) Each remote online notary public shall create an audiovisual recording of
the
213 performance of the remote online notarial act as evidence of participant identity,
214 type of participant identification presented, and the validity of the notarial act.
215 (e) Each remote online notary public shall cause an electronic copy of each
audiovisual
216 recording to be immediately transmitted to and retained by a third party
repository
217 . Each repository
218 receiving any audiovisual recording shall securely retain and maintain such
recording for a
219 minimum of ten years following submission of the last remote online audiovisual
recording submitted by a notary.
220 (f) The Georgia Superior Court Clerks' Cooperative Authority shall establish:
221 (1) standards for the retention of an audiovisual copy of the performance of the
remote online notarial act;
222 (2) procedures for preservation of the audiovisual copy and the electronic journal
if the remote online notary public dies or is adjudicated incompetent or if the
remote online notary public's commissions or authority to perform notarial acts
is otherwise terminated; and
223 (3) standards for third party repositories for the retention of the audiovisual copy
and electronic journal
224 (g) A remote online notary public shall take reasonable steps to:
225 (1) Ensure the integrity, security, and authenticity of each remote online
notarizations;
226 (2) Maintain a backup of each electronic journal required by subsection (a) of this
Code
227 section and the recording required by subsection (d) of this Code section; and
228 (3) Protect the backup record from unauthorized use.

- 229 45-17-8.6.
- 230 (a) A notary public physically located in this state may perform electronic in-
person notarization
- 231 in accordance with this
- 232 Article and rules and regulations adopted by the Georgia Superior Court Clerks'
Cooperative Authority
- 233 for a person who is in the physical presence of the notary public.
- 234 (b) A remote online notary public physically located in this state may perform
remote online notarization using communication technology in accordance with
this Article and rules and regulations adopted by the Georgia Superior Court
Clerk's Cooperative Authority for a remotely located person who is physically
located:
- 235 (1) In this state;
- 236 (2) Outside this state but within the United States; or
- 237 (3) Outside the United States if:
- 238 (A) The remote online notary public has no actual knowledge that the act of
making
- 239 the statement or signing the electronic record is prohibited in the jurisdiction in
which the person
- 240 is located; and
- 241 (B) The person placing his or her electronic signature on the electronic record
confirms
- 242 to the remote online notary public that the requested remote online notarial
act and the electronic
- 243 record:
- 244 (i) Are part of or pertain to a matter that is to be filed with or is currently
before a
- 245 court, governmental entity, or other entity in the United States;
- 246 (ii) Relate to property located in the United States; or
- 247 (iii) Relate to a transaction that is substantively connected to the United States.
- 248 21745-17-8.7.
- 249 (a) A notary public and a remote online notary public shall take reasonable steps

to ensure that any registered device or digital certificate
250 used to create an electronic signature or the notary's digital signature is
current, valid and has not been revoked or terminated by
251 the device's or certificate's issuing or registering authority.
252 (b) The duties of the notary public and the remote notary public, in addition to
the duties provided for in Code
253 Section 45-17-8, are to:
254 (1) Keep his or her electronic record, electronic signature, and electronic
255 seal secure and under his or her exclusive control;
256 (2) Not allow another person to use his or her electronic record, electronic
signature, or
257 electronic seal. A remote notary public may use the remote notary public's
digital
258 signature only for performing electronic in-person notarization or remote online
notarization;
259 (3) Attach his or her digital signature and seal to the electronic notarial certificate
of
260 an electronic document in a manner that is conducive to independent
verification and
261 renders evident any subsequent change or modification to the electronic
document; and
262 (4) Immediately notify an appropriate law enforcement agency and appointing
clerk of
263 superior court, with a copy to the Georgia Superior Court Clerks' Cooperative
Authority,
264 of the theft or vandalism of the notary's electronic record, electronic
signature, or
265 electronic seal. A notary public or a remote online notary public shall immediately
notify the appointing clerk of

- 266 superior court, with a copy to the Georgia Superior Court Clerks' Cooperative Authority,
- 267 if his or her electronic record, electronic signature, or electronic seal has been lost or used
- 268 by another person.
- 269 45-17-8.8.
- 270 (a) In performing a remote online notarization, a remote online notary public shall verify the identity of
- 271 a principal creating an electronic signature at the time that the signature is taken by using secure
- 272 communication technology that meets the requirements of this article and any rules adopted
- 273 under this article. Identity shall be verified by each of the following:
- 274 (1) Remote presentation by the person creating the electronic signature of a valid
- 275 government-issued identification credential, including a passport or driver's license, that
- 276 contains the signature and a photograph of the person;
- 277 (2) Credential analysis; and
- 278 (3) Successful verified identity proofing.
- 279 (b) The remote online notary public's communication technology provider and repository shall take reasonable steps to ensure that the communication
- 280 technology used for a remote online notarization is secure from unauthorized interception. Each provider of communication technology products or services for remote online notarization in this state shall cause such product or services to comply with all provision of this article and any rules relating to remote online notarization. Prior to providing remote online notary public products or services, a communication technology provider shall present a certificate of compliance to the remote online notary public affirming that such products and services comply with the provision of this article and any rules promulgated pursuant to this article.
- 281 (c) A remote online notary public shall require his or her communication technology provider used to comply with all requirements of this article and any rules that may be adopted pursuant to this article.

- 282 ~~238~~(e d) A remote online notarial act meeting the requirements of this Code section satisfies the
- 283 ~~239~~requirement of any law of this state relating to a notarial act that requires a principal to
- 284 ~~240~~appear or personally appear before a notary or that the notarial act be performed in the
- 285 ~~241~~presence of a notary, except for a notarial act pursuant to a law governing the creation and
- 286 ~~242~~execution of wills, codicils, or ~~expres~~testamentary trusts.
- 287 (e) An electronic document executed by a principal and notarized under this article by a
- 288 remote online notary public is deemed to be executed in this state.
- 289 ~~243~~45-17-8.9.
- 290 ~~244~~(a) A remote online notary public or the remote online notary public's employer may charge a fee for
- 291 ~~245~~performance of remote online notarization in an amount not to exceed \$25.00 per remote
- 292 ~~246~~notarization.
- 293 ~~247~~(b) Except as provided by subsection (c) of this Code section, a ~~remote~~ notary public or a remote online notary public
- 294 ~~248~~whose commission terminates shall destroy or delete the coding, disk, certificate, card,
- 295 ~~249~~software, or password that enables electronic affixation of the ~~remote~~ notary public's or remote online notary public's
- 296 ~~250~~official ~~electronic~~digital signature ~~or~~and ~~electronic~~ seal.

- 297 251 (c) A person who, without authorization, knowingly obtains, conceals,
damages, destroys,
- 298 252 or deletes the certificate, disk, coding, card, program, software, or
hardware enabling a notary public or a
- 299 253 remote online notary public to affix an official electronic digital
signature or electronic seal shall upon conviction
- 300 254 be guilty of a misdemeanor and punished pursuant to Code Section
45-17-20.
- 301 45-17-8.10.
- 302 (a)(i) Nothing in this article shall be construed to alter or supersede the law as
set forth
- 303 under Article 3 of Chapter 19 of Title 15 or any opinion or ruling by the Supreme
Court
- 304 of Georgia pertaining to the unauthorized practice of law in this state, including,
but not limited to, the requirement that a licensed Georgia attorney supervise
a real estate closing for real property located in this state.
- 305 (2) A remote online notary public shall be prohibited from rendering services
or advice that
- 306 constitutes the practice of law in this state.
- 307
- 308 45-17-8.11
- 309 (a) Any public official in this state, including all public officials of county and
municipal government entities, shall be authorized to accept as an original a
reproduction of any document executed using electronic signatures or
electronic signatures and remote online notarization as provided in this
article.
- 310 (b) Any requirement that an instrument, document or real estate document
be attested or acknowledged by a notary public and the requirement of
confirmation of identity of the document signer, oath taker, or affirmant
contained in 45-17-8 is satisfied by a remote online notarial act meeting the
requirements of this article.
- 311 (c) Except for remote online notarization of real estate documents, which are
specifically excepted from this provision in subsection (d) below, a remote
online notarial act performed by a remote online notary public commissioned
or registered in another state has the same effect under the law of this state

as if performed by a notary public appointed in this state.

312 (d) A remote online notary public commissioned or registered in another state shall not use remote online notarization to attest or acknowledge a real estate document.

313 (e) A notary public or a remote online notary public shall not perform any notarial act by electronic in-person notarization or by remote online notarization if the notarial act is pursuant to a law governing the creation and execution of any will, codicil or testamentary trust."

314 **255** **SECTION 6.**

315 **256** Said article is ~~farther~~further amended by revising Code Section 45-17-9, relating to where notarial

316 **257** acts may be exercised, as follows:

317 **258** "45-17-9.

318 **259** Notarial acts may be exercised in or from any county in ~~the~~ this state."

319 **260** **SECTION 7.**

320 **261** Said article is further amended by revising Code Section 45-17-17, relating to resignation of

321 **262** commission, return of papers, and destruction of seal, as follows:

322 **263** "45-17-17.

323 **264** A person who wishes to resign a notarial commission shall send a signed letter of

324 **265** resignation to the appointing clerk of superior court, with a copy to the Georgia Superior

325 **266** Court Clerks' Cooperative Authority, and all papers of appointment. The resigning notary

326 **267** public shall destroy or delete the official notarial seal."

327 **268** **SECTION 8.**

328 Said article is further amended by revising Code Section 45-17-18, relating to the expiration of notary commission as follows:

329 "45-17-18

330 A notary public whose commission expires and who does not apply for renewal of such commission or whose application for renewal of a commission is denied shall destroy or delete the official notary seal."

331 **SECTION 9.**

332 Article 1 of Chapter 2 of Title 44 of the Official Code of Georgia Annotated, relating to recordation and registration of deeds and other instruments is amended by adding a new Code Section to read as follows:

333 "44-2-31

334 (a) Any requirement that an instrument, document, deed or real estate document be witnessed, attested or acknowledged by an unofficial witness is satisfied if:

- (1) The witness is physically present with the principal, personally sees the principal execute the instrument, document or deed and executes the instrument, document or deed by hand in ink; or
- (2) The witness is physically present with the principal, personally sees the principal electronically execute the instrument, document or real estate document, or is physically present in this state and sees the principal electronically execute the instrument, document or real estate document by the use of communication technology in accordance with Chapter 17 of Title 45, and electronically executes the instrument, document, or real estate document by the use of communication technology in accordance with Chapter 17 of Title 45.

(b) Terms used in this Code Section are as defined in Code Section 45-17-1."

335

336

337

SECTION 10

338 Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to inspection of public records, is amended by revising paragraph (12) of subsection (a) of Code Section 50-18-72 as follows:

339 "(12) ~~Reserved;~~ Records consisting of any audiovisual recording of the

340 performance of a remote online notarization process as provided for by Code

341 Section 45-17-8.5;"

342

SECTION 11

343 269 This Act shall become effective upon its approval by the Governor or upon its becoming law

344 270 without such approval.

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²⁰ 345 271

SECTION 912.

LC 48-0151

346 272

All laws and parts of laws in conflict with this Act are repealed.

H. B. 785

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Exhibit C-Unauthorized Practice of Law Additional Provisions

Additional UPL Concerns Arising from the Formal Advisory Opinion 13-1:

A Lawyer may not ethically conduct a “witness only” closing. Unless parties to a transaction are handling it pursuant to Georgia’s pro se exemption, Georgia law requires that a lawyer handle a residential real estate closing (see O.C.G.A § 15-19-50, UPL Advisory Opinion No. 2003-2 and Formal Advisory Opinion No. 86-5). When handling a real estate closing in Georgia a lawyer does not absolve himself/herself from liability for either malpractice or violations of the Georgia Rules of Professional Conduct by claiming that he/she has acted only as a witness and not as an attorney. (See UPL Advisory Opinion No. 2003-2 and Formal Advisory Opinion No. 04-1).

A Lawyer who receives funds in connection with a real estate closing must deposit them into and disburse them from his/her IOLTA account or the IOLTA account of another Lawyer. (See Georgia Rule of Professional Conduct 1.15(II) and Formal Advisory Opinion No. 04-1).

In order to protect the public from those not properly trained or qualified to render those services, Lawyers are required to “be in control of the closing process from beginning to end.”

A Lawyer who purports to handle a closing in the limited role of a witness violates the Georgia Rules of Professional Conduct.

The Lawyer’s failure to review closing documents can facilitate foreclosure fraud, problems with title, and other errors that may not be detected until years later when the owner of a property attempts to refinance, sell or convey it.

A Lawyer must provide competent representation and must exercise independent professional judgment in rendering advice. When a Lawyer agrees to serve as a mere figurehead, so that it appears there is a Lawyer “handling” a closing, the Lawyer violates his/her obligations under the Georgia Rules of Professional Conduct.

Because UPL Advisory Opinion No. 2003-2 and the Supreme Court Order adopting it require (subject to the pro se exception) that only a Lawyer can close a real estate transaction, the Lawyer in signing the closing statement or accepting the closing documents would be found to be doing so in his or her capacity as a Lawyer. Therefore when a Lawyer purports to act merely as a witness, this is a misrepresentation of the Lawyer’s role in the transaction. Georgia Rule of Professional Conduct 8.4 provides that it is professional misconduct for an attorney to engage in “conduct involving . . . misrepresentation.”

Other persons may provide attorneys with paralegal and clerical services, so long as “at all times the attorney receiving the information or services shall maintain full professional and direct responsibility to his clients for the information and services received.”

While the Supreme Court has not explicitly enumerated what all of those events are, they may include, but not be limited to: (i) rendering an opinion as to title and the resolution of any defects in marketable title; (ii) preparation of deeds of conveyance, including warranty deeds, quitclaim

deeds, deeds to secure debt, and mortgage deeds; (iii) overseeing and participating in the execution of instruments conveying title; (iv) supervising the recordation of documents conveying title; and (v) in those situations where the Lawyer receives funds, depositing and disbursing those funds in accordance with Rule 1.15(II). Even if some of these steps are performed elsewhere, the Lawyer maintains full professional and direct responsibility for the entire transaction and for the services rendered to the client.

If a Lawyer receives funds on behalf of the client or in any other fiduciary capacity, he/she must deposit the funds into, and administer them from, an IOLTA account. A Lawyer violates the Georgia Rules of Professional Conduct when he/she delivers closing proceeds to a title company or to a third party settlement company for disbursement instead of depositing them into and disbursing them from an attorney escrow account.

**Advisory Committee on Legislation (ACL)
Legislative Proposal Form**

FORM A

For proposed legislation drafted by a State Bar committee or section and
lobbied by the State Bar's legislative team.

*****PROPOSALS SUBMITTED UNDER THIS FORM MUST ATTACH A DRAFT
OF THE PROPOSED LEGISLATION AS IT WOULD APPEAR IN THE GEORGIA
CODE*****

Name of Proposal: *Codification of Psychiatric Advance Directive*

Name of Section Submitting This Proposal: *Fiduciary Law Section*

- 1. Provide a statement of the issues to be addressed by the proposed bill,
including why this proposed revision is needed in Georgia.**

The proposed bill does not seek to revise any current law. It seeks to enhance our Mental Health code (Title 37) by codifying a medical Advance Directive which is specific to mental health and behavioral health matters. This legislation is needed in Georgia because our current medical Advance Directive (§31-32-4) expressly excludes matters related to mental health and behavioral health.

- 2. Is this a model bill from the Uniform Law Commission, American Law Institute, or another entity that drafts model legislation? YES or NO**
- a. **Please include relevant information on the model act, including when it was created and other states that have adopted it.**

The proposed legislation does not originate from any uniform act.

3. Give a brief summary of the existing law on this issue, including citations to applicable case law addressed in the proposed legislation.

Since Title 31 was revised and updated in 2007, an agent's authority to make medical decisions, including decisions relating to mental health, has been defined as follows (see O.C.G.A. § 31-32-7(e)(1)):

- (1) The health care agent is authorized to consent to and authorize or refuse, or to withhold or withdraw consent to, any and all types of medical care, treatment, or procedures relating to the physical or mental health of the declarant, including any medication program, surgical procedures, life-sustaining procedures, or provision of nourishment or hydration for the declarant, but not including psychosurgery, sterilization, or involuntary hospitalization or treatment covered by Title 37;

While 2007 brought about significant change in some areas of Georgia agency law, one thing that remained virtually unchanged was an agent's authority to make medical decisions, including decisions relating to mental health. Thus, the law prior to 2007 was almost identical to current law (see former O.C.G.A. § 31-36-10(b)(1)):

- (1) The agent is authorized to consent to and authorize or refuse, or to withhold or withdraw consent to, any and all types of medical care, treatment, or procedures relating to the physical or mental health of the principal, including any medication program, surgical procedures, life-sustaining or death-delaying treatment, or provision of nourishment and fluids for the principal, but not

including psychosurgery, sterilization, or involuntary hospitalization or treatment covered by Title 37.

Georgia's current statutory medical directive, known as the Georgia Advance Directive for Health Care (ADHC), was codified with the 2007 revisions to Title 31. The form expressly highlights limitations on the agent's authority to make decisions relating to mental health (see O.C.G.A. § 31-32-4)

I understand that under Georgia law:

-- My health care agent does not have the power to make health care decisions for me regarding psychosurgery, sterilization, or treatment or involuntary hospitalization for mental or emotional illness, developmental disability, or addictive disease.

In light of the above, it becomes clear that Georgia law has for decades consistently limited an agent's authority to make certain decisions relating to mental health.

See *Doctors Hospital of Augusta, LLC v. Alicea*, 299 Ga. 315, 323(2)(b) n.9 (2016) as a reported case involving Georgia law governing the decision-making authority of an agent under a medical advance directive.

4. Does this proposal seek to codify current case law or seek to modify a statute based on a recent appellate decision?

As outlined in the answer to Question 3, current Georgia law places certain restrictions on an agent's authority to make decisions relating to mental health. The proposed legislation, supported by mental health advocates and medical providers alike, seeks to soften these restrictions by creating a statutory advance directive

which is specific to mental health matters. From this standpoint, it might be said that the proposed legislation seeks to modify O.C.G.A. § 31-32-7 as it relates to the definition of an agent's authority to make certain medical decisions. While this is true, the proposed changes are not based on any particular case law or recent appellate decision. They are based on the fact that current Georgia law leaves a gap which leaves those with a mental health diagnosis unable to designate an agent to make decisions in times of mental health crisis. Thus, where current law stops, the proposed legislation would proceed farther by covering certain medical issues that are expressly excluded from our current Advance Directive for Healthcare.

5. Will this proposed legislation have a fiscal impact on the state?

No, not to the knowledge of the Fiduciary Law Section.

6. Describe how the pending or proposed legislation (1) regulates the legal profession, or (2) improves the quality of legal services.¹

Codifying this statutory form and correlating law would provide the legal profession with a meaningful starting point when preparing an estate plan for clients with a mental health diagnosis. Currently, attorneys in Georgia must advise clients with a mental health diagnosis that they cannot prepare a medical advance directive specific to their medical issues, thus limiting to an extent the scope of work that Georgia's estate planning attorneys are able to perform. Giving attorneys this new tool would place them in a position to better assist clients with a mental health diagnosis who desire have greater control of their medical care.

Perhaps more importantly, passage of this bill would arm attorneys that represent clients in mental health crisis (involuntary commitment / emergency guardianship) with a tool that sets expectations and facilitates

¹ The State Bar reviews all proposals for compliance with the standard set out by the United States Supreme Court in *Keller v. State Bar of California*, 496 U.S. 1 (1990).

resolution of challenges that can arise with medical providers and well-meaning family members alike.

Finally, codification of a psychiatric advance directive would send the message that we take mental health issues seriously in Georgia. In supporting this bill, the Bar would be helping to reduce the stigma that has long clouded public perception of those who suffer from mental illness. This issue is particularly relevant during the COVID-19 pandemic as more and more people have begun to experience depression, anxiety, and other mental health issues.

7. Has another group attempted to pass similar legislation in the past? Is there another interest group that may be suited to lobby this bill?

There have been at least six prior occasions on which similar legislation was introduced. The most recent occasion on which such a bill was introduced was 2017 (HB607). The Georgia Psychiatric Physician's Association has supported prior bills like this one.

8. Why should the State Bar use its resources to lobby this proposal on behalf of the legal profession?

See response to Question 6 above.

9. Are there any potential proponents or opponents of the proposal or pending legislation, including, but not limited to, other State Bar sections, specialty bar associations (ie- the trial lawyers or real estate closing attorneys), governmental entities, and outside interest groups? If so, please list them below.

The Fiduciary Law Section is thus far aware of only one outside interest group that might oppose the proposed legislation – the Georgia Hospital

Association (GHA). We have been in communication with GHA and sought to address their stated concerns, but these efforts feel incomplete. It is therefore entirely possible that GHA will oppose this legislation. At best, it is our estimation that GHA might remain neutral.

The Fiduciary Law Section is unaware of whether any other State Bar section has supported or opposed bills similar to this in the past. A copy of the proposed legislation will be provided to the Health Law Section.

The Fiduciary Law Section has been working closely with various mental health advocacy groups and medical associations which support this legislation, including but not limited to:

- A. Medical Association of Georgia
- B. Georgia Psychiatric Physicians Association
- C. Georgia Advocacy Office
- D. National Alliance on Mental Illness
- E. Mental Health America of Georgia
- F. Georgia Mental Health Consumer Network
- G. The Carter Center Mental Health Program
- H. Georgia Behavioral Health Services Coalition
- I. Georgia Behavioral Health Planning Advisory Council
- J. Georgia Mental Health Policy Partnership

10. Have you circulated this legislative proposal to all of the members of your own section or committee? If so, have they provided any comments?

The proposed legislation is being circulated to the entire Fiduciary Law Section for comment and revision.

11. Which other State Bar committees or sections may have an interest in the legislation or proposal?

The Health Law section might have an interest in the proposed legislation. A copy of this proposal will be submitted to the Health Law section.

a. Have you provided interested State Bar committees/sections with a

copy of this proposal? If so, have they provided any comments?

A copy of this proposal will be submitted to the Health Law section.

12. What is the recommendation that your section or committee wishes to be adopted by the State Bar?

The Fiduciary Law Section wishes the State Bar to support the proposed legislation.

The Fiduciary Law Section proposes introducing a bill identical to 2017 House Bill 607 (attached) apart from the following two changes:

Substitute the following in place of Lines 256-261:

“(c) In the event a provider or facility is unwilling at any time for one or more of the reasons set forth in paragraph (1) of subsection (a) of this Code section to comply with a declarant’s wishes as set forth in the directive or with the decision of such declarant’s agent, if an agent has been appointed, then the declarant’s agent, and otherwise the declarant’s next of kin or legal guardian, shall arrange for such declarant’s transfer to another provider or facility if the requested care would be delivered by that other provider or facility.”

Insert the following between Lines 710 and 711:

“(PART FOUR is required for any of PARTS ONE, TWO, OR THREE to be effective. This part requires your signature and the signature of two witnesses who observe you signing the document, and no one who is your named agent may be one of the witnesses. You must complete PART FOUR if you have filled out any other part of this form.)”

House Bill 607

By: Representatives Gardner of the 57th, Oliver of the 82nd, Willard of the 51st, Dreyer of the 59th, and Welch of the 110th

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 37 of the Official Code of Georgia Annotated, relating to mental health, so
 2 as to provide for a psychiatric advance directive; to provide for a competent adult to express
 3 his or her mental health care treatment preferences and desires directly through instructions
 4 written in advance and indirectly through appointing an agent to make mental health care
 5 decisions on behalf of that person; to provide a short title; to provide for a purpose statement;
 6 to provide for definitions; to provide for the scope, use, and authority of a psychiatric
 7 advance directive; to provide for the appointment, powers, duties, and access to information
 8 of a mental health agent; to provide for limitations on serving as a mental health agent and
 9 an agent's ability to withdraw as agent; to provide for revocation of a psychiatric advance
 10 directive; to provide for the use and effectiveness of a psychiatric advance directive; to
 11 provide for the responsibilities and duties of physicians and other providers using a
 12 psychiatric advance directive; to provide for civil and criminal immunity under certain
 13 circumstances; to provide a statutory psychiatric advance directive form; to provide for
 14 construction of such form; to amend Code Section 16-5-5 and Title 31 of the Official Code
 15 of Georgia Annotated, relating to assisted suicide and notification of licensing board
 16 regarding violation and health, respectively, so as to include cross-references to the
 17 psychiatric advance directive and provide for consistent terminology; to provide for related
 18 matters; to repeal conflicting laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20

PART I

21

PSYCHIATRIC ADVANCE DIRECTIVE

22

SECTION 1-1.

24 **SECTION 1-2.**

25 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by
26 adding a new chapter to read as follows:

27 **CHAPTER 11**28 **37-11-1.**

29 This chapter is enacted in recognition of the fundamental right of an individual to have
30 power over decisions relating to his or her mental health care as a matter of public policy.

31 **37-11-2.**

32 As used in this chapter, the term:

33 (1) 'Capable' means a declarant is not incapable of making mental health care decisions.

34 (2) 'Competent adult' means a person of sound mind who is 18 years of age or older or
35 is an emancipated minor.

36 (3) 'Declarant' means the person who has executed a psychiatric advance directive
37 authorized by this chapter.

38 (4) 'Facility' means a hospital, skilled nursing facility, hospice, institution, home,
39 residential or nursing facility, treatment facility, and any other facility or service which
40 has a valid permit or provisional permit issued under Chapter 7 of this title or which is
41 licensed, accredited, or approved under the laws of any state, and includes hospitals
42 operated by the United States government or by any state or subdivision thereof.

43 (5) 'Incapable of making mental health care decisions' means that, in the opinion of a
44 physician or licensed psychologist who has personally examined a declarant, or in the
45 opinion of a court, a declarant lacks the capacity to understand the risks and benefits of,
46 and the alternatives to, a mental health care decision under consideration and is unable
47 to give or communicate rational reasons for mental health care decisions because of
48 impaired thinking, impaired ability to receive and evaluate information, or other cognitive
49 disability.

50 (6) 'Mental health agent' or 'agent' means a person appointed by a declarant to act for and
51 on behalf of such declarant to make decisions related to mental health care when such
52 declarant is incapable of making mental health care decisions. Such term shall include
53 any alternate mental health agent appointed by a declarant.

54 (7) 'Mental health care' means any care, treatment, service, or procedure to maintain,

59 (9) 'Provider' means any person administering mental health care who is licensed,
60 certified, or otherwise authorized or permitted by law to administer mental health care in
61 the ordinary course of business or the practice of a profession, including, but not limited
62 to, professional counselors, psychologists, clinical social workers, and clinical nurse
63 specialists in psychiatric and mental health; a physician; or any person acting for any such
64 authorized person.

65 (10) 'Psychiatric advance directive' or 'directive' means a written document voluntarily
66 executed by a person in accordance with the requirements of Code Section 37-11-8.

67 37-11-3.

68 (a) A competent adult may execute a psychiatric advance directive containing mental
69 health care preferences, information, or instructions regarding his or her mental health care
70 that authorizes and consents to a provider or facility acting in accordance with such
71 directive. A directive may include consent to or refusal of specified mental health care.

72 (b) A psychiatric advance directive may include, but shall not be limited to:

73 (1) The names and telephone numbers of individuals to contact in the event a declarant
74 has a mental health crisis;

75 (2) Situations that have been known to cause a declarant to experience a mental health
76 crisis;

77 (3) Responses that have been known to de-escalate a declarant's mental health crisis;

78 (4) Responses that may assist a declarant to remain in such declarant's home during a
79 mental health crisis;

80 (5) The types of assistance that may help stabilize a declarant if it becomes necessary to
81 enter a facility; and

82 (6) Medications a declarant is taking or has taken in the past and the effects of such
83 medications.

84 (c) A psychiatric advance directive may include a mental health agent.

85 (d) If a declarant chooses not to appoint an agent, the instructions and desires of a
86 declarant as set forth in the directive shall be followed to the fullest extent possible by
87 every provider or facility to whom the directive is communicated, subject to the right of the
88 provider or facility to refuse to comply with the directive as set forth in Code Section
89 37-11-11.

90 (e) A person shall not be required to execute or refrain from executing a directive as a

95 durable power of attorney for health care creating a health care agency under the former
96 Chapter 36 of Title 31, as such chapter existed on and before June 30, 2007, health care
97 proxy, or living will that a declarant executed prior to executing a psychiatric advance
98 directive to the extent that such other documents relate to mental health care and are
99 inconsistent with the psychiatric advance directive.

100 (g) No provision of this chapter shall be construed to bar use by a declarant of an advance
101 directive for health care under Chapter 32 of Title 31.

102 37-11-4.

103 (a) A declarant may designate a competent adult to act as his or her agent to make
104 decisions about his or her mental health care. An alternative agent may also be designated.

105 (b) An agent shall have no authority to make mental health care decisions when a declarant
106 is capable.

107 (c) The authority of an agent shall continue in effect so long as the directive appointing
108 such agent is in effect or until such agent has withdrawn.

109 (d) An agent appointed by a declarant:

110 (1) Shall be authorized to make any and all mental health care decisions on behalf of
111 such declarant which such declarant could make if such declarant were capable;

112 (2) Shall exercise granted powers in a manner consistent with the intent and desires of
113 such declarant. If such declarant's intentions and desires are not expressed or are unclear,
114 the agent shall act in such declarant's best interests, considering the benefits, burdens, and
115 risks of such declarant's circumstances and mental health care options;

116 (3) Shall not be under any duty to exercise granted powers or to assume control of or
117 responsibility for such declarant's mental health care; but, when granted powers are
118 exercised, the agent shall be required to use due care to act for the benefit of such
119 declarant in accordance with the terms of the psychiatric advance directive;

120 (4) Shall not make a mental health care decision different from or contrary to such
121 declarant's instruction if such declarant is capable at the time of the request for consent
122 or refusal of mental health care;

123 (5)(A) May make a mental health care decision different from or contrary to such
124 declarant's instruction in such declarant's psychiatric advance directive if:

125 (i) Such declarant's provider or facility determines in good faith at the time of consent
126 or refusal of mental health care that the mental health care requested or refused in the

131 (III) In the opinion of the provider or facility, inconsistent with reasonable medical
132 standards to benefit such declarant or has proven ineffective in treating such
133 declarant's mental health condition; and

134 (ii) The mental health care requested or refused in the directive's instructions is
135 unlikely to be delivered by another provider or facility in the community under the
136 circumstances.

137 (B) In the event the agent exercises authority under one of the circumstances set forth
138 in subparagraph (A) of this paragraph, the agent shall exercise the authority in a manner
139 consistent with the intent and desires of such declarant. If such declarant's intentions
140 and desires are not expressed or are unclear, the agent shall act in such declarant's best
141 interests, considering the benefits, burdens, and risks of such declarant's circumstances
142 and mental health care options;

143 (6) Shall not delegate authority to make mental health care decisions; and

144 (7) Has the following general powers, unless expressly limited in the psychiatric advance
145 directive:

146 (A) To sign and deliver all instruments, negotiate and enter into all agreements, and do
147 all other acts reasonably necessary to exercise the powers granted to the agent;

148 (B) To consent to, authorize, refuse, or withdraw consent to any providers and any type
149 of mental health care of such declarant, including any medication program;

150 (C) To request and consent to admission or discharge from any facility; and

151 (D) To contract for mental health care and facilities in the name of and on behalf of
152 such declarant, and the agent shall not be personally financially liable for any services
153 or mental health care contracted for on behalf of such declarant.

154 (e) A court may remove a mental health agent if it finds that an agent is not acting in
155 accordance with the declarant's treatment instructions as expressed in his or her directive.

156 37-11-5.

157 (a) Except to the extent that a right is limited by a directive or by any state or federal law
158 or regulation, an agent shall have the same right as a declarant to receive information
159 regarding the proposed mental health care and to receive, review, and consent to disclosure
160 of medical records, including records relating to the treatment of a substance use disorder,
161 relating to that mental health care. All of a declarant's mental health information and
162 medical records shall remain otherwise protected under state and federal privilege, and this

167 records that the agent deems relevant to the exercise of the agent's powers, whether the
168 records relate to mental health or any other medical condition and whether they are in the
169 possession of or maintained by any physician, psychiatrist, psychologist, therapist, facility,
170 or other health care provider, despite contrary provisions of any other statute or rule of law.
171 (c) The authority given an agent by this Code section shall include all rights that a
172 declarant has under the federal Health Insurance Portability and Accountability Act of
173 1996, P.L. 104-191, and its implementing regulations regarding the use and disclosure of
174 individually identifiable health information and other medical records.

175 37-11-6.

176 The following persons shall not serve as a declarant's agent:

177 (1) Such declarant's provider or an employee of that provider unless such employee is
178 a family member, friend, or associate of such declarant and is not directly involved in
179 such declarant's mental health care; or

180 (2) An employee of the Department of Behavioral Health and Developmental Disabilities
181 or of a local public mental health agency or of any organization that contracts with a local
182 public mental health authority unless such employee is a family member, friend, or
183 associate of such declarant and is not directly involved in such declarant's mental health
184 care.

185 37-11-7.

186 An agent may withdraw by giving written notice to a declarant. If such declarant is
187 incapable of making mental health care decisions, such agent may withdraw by giving
188 written notice to the provider or facility that is providing mental health care to the declarant
189 at the time of the agent's withdrawal. Any provider or facility that receives an agent's
190 withdrawal shall document the withdrawal as part of such declarant's medical record.

191 37-11-8.

192 (a) A psychiatric advance directive shall be effective only if it is signed by the declarant
193 and witnessed by two competent adults, but such witnesses shall not be required to be
194 together or present when such declarant signs the directive. The witnesses shall attest that
195 the declarant is known to them, appears to be of sound mind, is not under duress, fraud, or
196 undue influence, and signed his or her directive in the witness's presence or acknowledges

- 201 (c) The following persons shall not serve as witnesses to the signing of a directive:
- 202 (1) A provider who is providing mental health care to the declarant at the time such
- 203 directive is being executed or an employee of such provider unless such employee is a
- 204 family member, friend, or associate of such declarant and is not directly involved in the
- 205 declarant's mental health care;
- 206 (2) An employee of the Department of Behavioral Health and Developmental Disabilities
- 207 or of a local public mental health agency or of any organization that contracts with a local
- 208 public mental health authority unless such person is a family member, friend, or associate
- 209 of such declarant and is not directly involved in the declarant's mental health care; or
- 210 (3) A person selected to serve as the declarant's mental health agent.
- 211 (d) A person who witnesses a psychiatric advance directive in good faith and in
- 212 accordance with this chapter shall not be civilly liable or criminally prosecuted for actions
- 213 taken by an agent.
- 214 (e) A copy of a directive executed in accordance with this Code section shall be valid and
- 215 have the same meaning and effect as the original document.
- 216 37-11-9.
- 217 A directive may be revoked in whole or in part by a declarant at any time so long as such
- 218 declarant is capable. A provider or facility that receives a revocation shall document the
- 219 revocation of a directive as part of a declarant's medical record.
- 220 37-11-10.
- 221 (a) Upon being presented with a psychiatric advance directive, a provider or facility shall
- 222 make the directive a part of a declarant's medical record. Any revocation of the directive
- 223 communicated to a provider or facility by a capable declarant shall also be documented in
- 224 such declarant's medical record.
- 225 (b) In the absence of specific knowledge of the revocation or invalidity of a directive, a
- 226 provider or facility providing mental health care to a declarant may presume that a person
- 227 who executed a psychiatric advance directive in accordance with this chapter was of sound
- 228 mind and acted voluntarily when executing such directive and may rely upon a psychiatric
- 229 advance directive or a copy of that directive.
- 230 (c) A provider or facility shall be authorized to act in accordance with a directive when a
- 231 declarant is incapable of making mental health care decisions.

234 37-11-11.

235 (a)(1) When acting under the authority of a directive, a provider or facility shall comply
236 with it to the fullest extent possible unless the requested mental health care is:

237 (A) Unavailable;

238 (B) Medically contraindicated in a manner that would result in substantial harm to the
239 declarant if administered; or

240 (C) In the opinion of the provider or facility, inconsistent with reasonable medical
241 standards to benefit the declarant or has proven ineffective in treating such declarant's
242 mental health condition.

243 (2) In the event that a part of a directive is unable to be followed due to any of the
244 circumstances set forth in paragraph (1) of this subsection, all other parts of such
245 directive shall be followed.

246 (b) If a provider or facility is unwilling at any time for one or more of the reasons set forth
247 in paragraph (1) of subsection (a) of this Code section to comply with a declarant's wishes
248 as set forth in the directive or with the decision of such declarant's agent, such provider or
249 facility shall:

250 (1) Document the reason for not following the directive in such declarant's medical
251 record; and

252 (2) Promptly notify such declarant and his or her agent, if one is appointed in the
253 directive, or otherwise such declarant's next of kin or legal guardian, of the refusal to
254 follow the directive or instructions of the agent and document the notification in such
255 declarant's medical record.

256 (c) In the event a provider or facility is unwilling at any time for one or more of the
257 reasons set forth in paragraph (1) of subsection (a) of this Code section to comply with a
258 declarant's wishes as set forth in the directive or with the decision of such declarant's agent,
259 if an agent has been appointed, the agent, and otherwise the next of kin or legal guardian
260 of such declarant, shall arrange for such declarant's transfer to another provider or facility
261 if the requested care would be delivered by that other provider or facility.

262 (d) A provider or facility unwilling at any time for one or more of the reasons set forth in
263 paragraph (1) of subsection (a) of this Code section to comply with a declarant's wishes as
264 set forth in the directive or with the decision of a declarant's mental health agent shall
265 continue to provide reasonably necessary consultation and care in connection with the
266 pending transfer.

269 (f) Nothing in this chapter shall be construed to require a provider or facility to provide
270 mental health care for which a declarant or a third-party payor is unable or refuses to
271 ensure payment.

272 37-11-12.

273 (a) Each provider, facility, or any other person who acts in good faith reliance on any
274 instructions contained in a directive or on any direction or decision by a mental health
275 agent shall be protected and released to the same extent as though such person had
276 interacted directly with a capable declarant.

277 (b) Without limiting the generality of the provisions of subsection (a) of this Code section,
278 the following specific provisions shall also govern, protect, and validate the acts of a
279 mental health agent and each such provider, facility, and any other person acting in good
280 faith reliance on such instruction, direction, or decision:

281 (1) No provider, facility, or person shall be subject to civil liability, criminal prosecution,
282 or discipline for unprofessional conduct solely for complying with any instructions
283 contained in a directive or with any direction or decision by a mental health agent, even
284 if death or injury to the declarant ensues;

285 (2) No provider, facility, or person shall be subject to civil liability, criminal prosecution,
286 or discipline for unprofessional conduct solely for failure to comply with any instructions
287 contained in a directive or with any direction or decision by a mental health agent, so
288 long as such provider, facility, or person informs such agent of its refusal or failure to
289 comply with the directive and continues to provide reasonably necessary consultation and
290 care in connection with a pending transfer;

291 (3) If the actions of a provider, facility, or person who fails to comply with any
292 instruction contained in a directive or with any direction or decision by a mental health
293 agent are substantially in accord with reasonable medical standards at the time of consent
294 or refusal of mental health care and such provider, facility, or person cooperates in the
295 transfer of the declarant pursuant to subsection (d) of Code Section 37-11-11, such
296 provider, facility, or person shall not be subject to civil liability, criminal prosecution, or
297 discipline for unprofessional conduct for failure to comply with the psychiatric advance
298 directive;

299 (4) No mental health agent who, in good faith, acts with due care for the benefit of the
300 declarant and in accordance with the terms of a directive, or who fails to act, shall be

305 advance directive unless such provider, facility, or agent had actual knowledge of the
306 revocation; and

307 (6) In the event a declarant has appointed a health care agent in accordance with Chapter
308 32 of Title 31, no provider, facility, or person who relies in good faith on the direction of
309 such health care agent shall be subject to civil liability, criminal prosecution, or discipline
310 for unprofessional conduct for complying with any direction or decision of such health
311 care agent in the event the declarant's condition is subsequently determined to be a mental
312 health care condition.

313 37-11-13.

314 A law enforcement officer who uses a declarant's valid psychiatric advance directive and
315 acts in good faith reliance on the instructions contained in such directive shall not be
316 subject to criminal prosecution or civil liability for any harm to such declarant that results
317 from a good faith effort to follow such directive's instructions.

318 37-11-14.

319 (a) The provisions of this chapter shall not apply to or invalidate a valid psychiatric
320 advance directive executed prior to July 1, 2017.

321 (b) The use of the form set forth in Code Section 37-11-15 or a similar form after July 1,
322 2017, in the creation of a psychiatric advance directive shall be deemed lawful and, when
323 such form is used and it meets the requirements of this chapter, it shall be construed in
324 accordance with the provisions of this chapter.

325 (c) Any person may use another form for a psychiatric advance directive so long as the
326 form is substantially similar to, otherwise complies with the provisions of this chapter, and
327 provides notice to a declarant substantially similar to that contained in the form set forth
328 in Code Section 37-11-15. As used in this subsection, the term 'substantially similar' may
329 include forms from other states.

330 37-11-15.

331 **'GEORGIA PSYCHIATRIC ADVANCE DIRECTIVE**

332 By: _____ Date of Birth: _____
333 (Print Name) (Month/Day/Year)

337 has a valid permit or provisional permit issued under Chapter 7 of Title 37 of the Official
 338 Code of Georgia Annotated or which is licensed, accredited, or approved under the laws
 339 of any state, and includes hospitals operated by the United States government or by any
 340 state or subdivision thereof.

341 (2) "Provider" means any person administering mental health care who is licensed,
 342 certified, or otherwise authorized or permitted by law to administer mental health care
 343 in the ordinary course of business or the practice of a profession, including, but not
 344 limited to, professional counselors, psychologists, clinical social workers, and clinical
 345 nurse specialists in psychiatric and mental health; a physician; or any person acting for
 346 any such authorized person.

347 This psychiatric advance directive has four parts:

348 PART ONE STATEMENT OF INTENT AND TREATMENT PREFERENCES.

349 This part allows you to state your intention for this document and state
 350 your treatment preferences and consent if you have been determined
 351 to be incapable of making informed decisions about your mental health
 352 care. PART ONE will become effective only if you have been
 353 determined in the opinion of a physician or licensed psychologist who
 354 has personally examined you, or in the opinion of a court, to lack the
 355 capacity to understand the risks and benefits of, and the alternatives
 356 to, a mental health care decision under consideration and you are
 357 unable to give or communicate rational reasons for mental health care
 358 decisions because of impaired thinking, impaired ability to receive and
 359 evaluate information, or other cognitive disability. Reasonable and
 360 appropriate efforts will be made to communicate with you about your
 361 treatment preferences before PART ONE becomes effective. You
 362 should talk to your family and others close to you about your intentions
and treatment preferences.

363 PART TWO MENTAL HEALTH AGENT. This part allows you to choose
 364 someone to make mental health care decisions for you when you
 365 cannot make mental health care decisions for yourself. The person you

368 PART THREE OTHER RELATED ISSUES. This part allows you to give important
369 information to people who may be involved with you during a mental
370 health care crisis.

371 PART FOUR EFFECTIVENESS AND SIGNATURES. This part requires your
372 signature and the signatures of two witnesses. You must complete
373 PART FOUR if you have filled out any other part of this form.

374 You may fill out any or all of the first three parts listed above. You must fill out PART
375 FOUR of this form in order for this form to be effective.

376 You should give a copy of this completed form to people who might need it, such as your
377 mental health agent, your family, and your physician. Keep a copy of this completed form
378 at home in a place where it can easily be found if it is needed. Review this completed form
379 periodically to make sure it still reflects your preferences. If your preferences change,
380 complete a new psychiatric advance directive.

381 Using this form of psychiatric advance directive is completely optional. Other forms of
382 psychiatric advance directives may be used in Georgia.

383 You may revoke this completed form at any time that you are capable of making informed
384 decisions about your mental health care. If you choose to revoke this form, you should
385 communicate your revocation to your providers, your agents, and any other person to
386 whom you have given a copy of this form. This completed form will replace any advance
387 directive for health care, durable power of attorney for health care, health care proxy, or
388 living will that you have completed before completing this form to the extent that such other
389 documents relate to mental health care and are inconsistent with the information contained
390 in this form.

391
392

<p>PART ONE: STATEMENT OF INTENT AND TREATMENT PREFERENCES</p>
--

398 thinking, impaired ability to receive and evaluate information, or other cognitive disability.
399 Reasonable and appropriate efforts will be made to communicate with you about your
400 treatment preferences before PART ONE becomes effective. PART ONE will be effective
401 even if PARTS TWO or THREE are not completed. If you have not selected a mental
402 health agent in PART TWO, or if your mental health agent is not available, then PART
403 ONE will communicate your treatment preferences to your providers or a facility providing
404 care to you. If you have selected a mental health agent in PART TWO, then your mental
405 health agent will have the authority to make health care decisions for you regarding
406 matters guided by your treatment preferences and other factors described in this PART.]

407 **(1) STATEMENT OF INTENT**

408 I, (your name) _____, being of sound mind, willfully and
409 voluntarily make this psychiatric advance directive as a means of expressing in advance
410 my informed choices and consent regarding my mental health care in the event I become
411 incapable of making informed decisions on my own behalf. I understand this document
412 becomes effective if it is determined by a physician or licensed psychologist who has
413 personally examined me, or in the opinion of a court, that I lack the capacity to
414 understand the risks, benefits, and alternatives to a mental health care treatment decision
415 under consideration and I am unable to give or communicate rational reasons for my
416 mental health care treatment decisions because of impaired thinking, impaired ability to
417 receive and evaluate information, or other cognitive disability.

418 If I am deemed incapable of making mental health care decisions, I intend for this
419 document to constitute my advance authorization and consent, based on my past
420 experiences with my illness and knowledge gained from those experiences, for treatment
421 that is medically indicated and consistent with the preferences I have expressed in this
422 document.

423 I understand this document continues in operation only during my incapacity to make
424 mental health care decisions. I understand I may revoke this document only during
425 periods when I am mentally capable.

426 I intend for this psychiatric advance directive to take precedence over any advance

431 living will that I have executed prior to executing this form to the extent that such other
432 documents relate to mental health care and are inconsistent with this executed document.

433 In the event that a decision maker is appointed by a court to make mental health care
434 decisions for me, I intend this document to take precedence over all other means of
435 determining my intent while I was competent.

436 It is my intent that a person or facility involved in my care shall not be civilly liable or
437 criminally prosecuted for honoring my wishes as expressed in this document or for
438 following the directions of my agent.

439 **(2) INFORMATION REGARDING MY SYMPTOMS**

440 The following are symptoms or behaviors I typically exhibit when escalating toward a
441 mental health crisis. If I exhibit any of these symptoms or behaviors, an evaluation is
442 needed regarding whether or not I am incapable of making mental health care decisions:

443 _____
444 _____
445 _____

446 The following may cause me to experience a mental health crisis or to make my
447 symptoms worse:

448 _____
449 _____
450 _____

451 The following techniques may be helpful in de-escalating my crisis:

452 _____
453 _____
454 _____

455 When I exhibit the following behaviors, I would like to be evaluated to determine
456 whether or not I have regained the capacity to make my mental health care decisions:

457 _____
458 _____
459 _____

463 Name and telephone numbers:
 464 _____
 465 _____
 466 _____

467 I prefer and consent to treatment from the following clinicians:
 468 Names:
 469 _____
 470 _____
 471 _____

472 I refuse to be treated by the following clinicians:
 473 Names:
 474 _____
 475 _____
 476 _____

477 **(4) TREATMENT INSTRUCTIONS**

478 **Medications**

479 I am currently using and consent to continue to use the following medications (include
 480 all medications, whether for mental health care treatment or general health care
 481 treatment):
 482 _____
 483 _____
 484 _____

485 If additional medications become necessary, I prefer and consent to take the following
 486 medications:
 487 _____
 488 _____
 489 _____

490 I cannot tolerate the following medications because:
 491 _____
 492 _____
 493 _____

494 I am allergic to the following medications:

498 If my preferred medications cannot be given and I have not appointed an agent in PART
 499 TWO to make an alternative decision for me, I want my treating physician to choose an
 500 alternative medication that would best meet my mental health needs, subject to any
 501 limitations I have expressed in my treating instructions above. (Check "yes" if you agree
 502 with this statement and "no" if you disagree with this statement.) Yes _____ No _____

503 In the event I need to have medication administered, I would prefer and consent to the
 504 following methods (Check "yes" or "no" and list a reason for your request if you have
 505 one.):

506 Medication in pill form: Yes _____ No _____

507 Reason: _____

508 Liquid medication: Yes _____ No _____

509 Reason: _____

510 Medication by injection: Yes _____ No _____

511 Reason: _____

512 Covert medication

513 (without my knowledge in drink or food): Yes _____ No _____

514 Reason: _____

515 **Hospitalization is Not My First Choice**

516 It is my intention, if possible, to stay at home or in the community with the following
 517 supports:

518 _____

519 _____

520 _____

521 If I need outpatient therapy, I prefer and consent to it being provided by:

522 _____

523 _____

524 _____

525 Additional instructions that may help me avoid a hospitalization:

526 _____

527 _____

528 _____

532 _____
 533 _____
 534 _____

535 I refuse to be treated at the following facilities:

536 _____
 537 _____
 538 _____

539 Reason(s) for wishing to avoid the above facilities:

540 _____
 541 _____
 542 _____

543 I generally react to being hospitalized as follows:

544 _____
 545 _____
 546 _____

547 Staff at a facility can help me by doing the following:

548 _____
 549 _____
 550 _____

551 I give permission for the following people to visit me:

552 _____
 553 _____
 554 _____

555 **Additional Interventions** *(Please place your initials in the blanks)*

556 I prefer the following interventions as indicated by my initials and consent to any
 557 intervention where I have initialed next to "yes."

558 Seclusion: _____ Yes _____ No _____

559 Reason: _____

560 Physical restraints: _____ Yes _____ No _____

561 Reason: _____

562 Experimental treatment: _____ Yes _____ No _____

563 Reason: _____

566 Any limitations on consent to the administration of electroconvulsive therapy:
 567 _____
 568 _____
 569 _____

570 Other instructions as to my preferred interventions:
 571 _____
 572 _____
 573 _____

574 **(5) ADDITIONAL STATEMENTS**

575 *[This section is optional. This PART will be effective even if this section is left blank.*
 576 *This section allows you to state additional treatment preferences, to provide additional*
 577 *guidance to your mental health agent (if you have selected a mental health agent in PART*
 578 *TWO), or to provide information about your personal and religious values about your*
 579 *medical treatment. Understanding that you cannot foresee everything that could happen*
 580 *to you, you may want to provide guidance to your mental health agent (if you have*
 581 *selected a mental health agent in PART TWO) about following your treatment*
 582 *preferences.]*
 583 _____
 584 _____
 585 _____

PART TWO: MENTAL HEALTH AGENT

586

587 *[PART ONE will be effective even if PART TWO is not completed. If you do not wish to*
 588 *appoint an agent, do not complete PART TWO. A provider who is directly involved in*
 589 *your health care or any employee of that provider may not serve as your mental health*
 590 *agent unless such employee is your family member, friend, or associate and is not directly*
 591 *involved in your health care. An employee of the Department of Behavioral Health and*
 592 *Developmental Disabilities or of a local public mental health agency or of any*
 593 *organization that contracts with a local public mental health authority may not serve as*
 594 *your mental health agent unless such person is your family member, friend, or associate*
 595 *and is not directly involved in your health care. If you are married, a future divorce or*

600 **(6) MENTAL HEALTH AGENT**

601 I select the following person as my mental health agent to make mental health care
602 decisions for me:

603 Name: _____

604 Address: _____

605 Telephone Numbers: _____

606 (Home, Work, and Mobile)

607 Agent's Acceptance: I have read this form, and I certify that I do not, have not, and will
608 not provide mental health care and treatment for: (your name) _____

609 I accept the designation as agent for: (your name) _____

610 (Agent's signature and date) _____

611 **(7) BACK-UP MENTAL HEALTH AGENT**

612 *(This section is optional. PART TWO will be effective even if this section is left blank.)*

613 If my mental health agent cannot be contacted in a reasonable time period and cannot be
614 located with reasonable efforts or for any reason my mental health agent is unavailable
615 or unable or unwilling to act as my mental health agent, then I select the following, each
616 to act successively in the order named, as my back-up mental health agent(s):

617 Name: _____

618 Address: _____

619 Telephone Numbers: _____

620 (Home, Work, and Mobile)

621 Back-up Agent's Acceptance: I have read this form, and I certify that I do not, have not,
622 and will not provide mental health care and treatment for: (your name)

623 _____

624 I accept the designation as agent for: (your name) _____

625 (Back-up agent's signature and date) _____

626 Name: _____

627 Address: _____

628 Telephone Numbers: _____

629 (Home, Work, and Mobile)

633 I accept the designation as agent for: (your name) _____

634 (Back-up agent's signature and date) _____

635 **(8) GENERAL POWERS OF MENTAL HEALTH AGENT**

636 My mental health agent will make mental health care decisions for me when I have been
 637 determined in the opinion of a physician or licensed psychologist who has personally
 638 examined me, or in the opinion of a court, to lack the capacity to understand the risks and
 639 benefits of, and the alternatives to, a mental health care decision under consideration and
 640 I am unable to give or communicate rational reasons for my mental health care decisions
 641 because of impaired thinking, impaired ability to receive and evaluate information, or
 642 other cognitive disability.

643 My mental health agent will have the same authority to make any mental health care
 644 decision that I could make. My mental health agent's authority includes, for example, the
 645 power to:

- 646 •Request and consent to admission or discharge from any facility;
- 647 •Request, consent to, authorize, or withdraw consent to any type of provider or mental
 648 health care that is consistent with my instructions in PART ONE of this form and
 649 subject to the limitations set forth in Section (4) of PART ONE; and
- 650 •Contract for any health care facility or service for me, and to obligate me to pay for
 651 these services (and my mental health agent will not be financially liable for any services
 652 or care contracted for me or on my behalf).

653 My mental health agent will be my personal representative for all purposes of federal or
 654 state law related to privacy of medical records (including the Health Insurance Portability
 655 and Accountability Act of 1996) and will have the same access to my medical records
 656 that I have and can disclose the contents of my medical records to others for my ongoing
 657 mental health care.

658 My mental health agent may accompany me in an ambulance or air ambulance if in the
 659 opinion of the ambulance personnel protocol permits a passenger, and my mental health
 660 agent may visit or consult with me in person while I am in a facility if its protocol permits
 661 visitation.

664 I understand that under Georgia law:

665 •My mental health agent may refuse to act as my mental health agent; and

666 •A court can take away the powers of my mental health agent if it finds that my mental
667 health agent is not acting in accordance with my treatment instructions given in my
668 directive.

669 **(9) GUIDANCE FOR MENTAL HEALTH AGENT**

670 In the event my directive is being used, my agent should first look at my instructions as
671 expressed in PART ONE. If a situation occurs for which I have not expressed a
672 preference, or in the event my preference is not available, my mental health agent should
673 think about what action would be consistent with past conversations we have had, my
674 treatment preferences as expressed in PART ONE, my religious and other beliefs and
675 values, and how I have handled medical and other important issues in the past. If what
676 I would decide is still unclear, then my mental health agent should make decisions for me
677 that my mental health agent believes are in my best interests, considering the benefits,
678 burdens, and risks of my current circumstances and treatment options.

679 I impose the following limitations on my agent's authority to act on my behalf:

680 _____
681 _____
682 _____

683 **(10) WHEN SPOUSE IS MENTAL HEALTH AGENT AND THERE HAS BEEN**
684 **A DIVORCE OR ANNULMENT OF OUR MARRIAGE**

685 [Initial if you agree with this statement; leave blank if you do not.]

686 _____ I desire the person I have named as my agent, who is now my spouse, to
687 remain as my agent even if we become divorced or our marriage is annulled.

688

PART THREE: OTHER RELATED ISSUES

689 [PART THREE is optional. This psychiatric advance directive will be effective even if
690 PART THREE is left blank.]

691 **(11) GUIDANCE FOR LAW ENFORCEMENT**

692 I typically react to law enforcement in the following ways:

693 _____

694 _____

695 _____

696 The following person(s) may be helpful in the event of law enforcement involvement:

697 Name: _____ Telephone Number: _____

698 Relationship: _____

699 Name: _____ Telephone Number: _____

700 Relationship: _____

701 **(12) HELP FROM OTHERS**

702 The following people are part of my support system (child care, pet care, getting my mail,
703 paying my bills, etc.) and should be contacted in the event of a crisis:

704 Name: _____ Telephone Number: _____

705 Responsibility: _____

706 Name: _____ Telephone Number: _____

707 Responsibility: _____

708 Name: _____ Telephone Number: _____

709 Responsibility: _____

710

PART FOUR: EFFECTIVENESS AND SIGNATURES
--

711 This psychiatric advance directive will become effective only if I have been determined
712 in the opinion of a physician or licensed psychologist who has personally examined me,
713 or in the opinion of a court, to lack the capacity to understand the risks and benefits of,
714 and the alternatives to, a mental health care decision under consideration and I am unable
715 to give or communicate rational reasons for my mental health care decisions because of
716 impaired thinking, impaired ability to receive and evaluate information, or other cognitive
717 disability.

718 This form revokes any psychiatric advance directive, advance directive for health care,
719 durable power of attorney for health care, health care proxy, or living will that I have

722 Unless I have initialed below and have provided alternative future dates or events, this
723 psychiatric advance directive will become effective at the time I sign it and will remain
724 effective until my death.

725 _____ (Initials) This psychiatric advance directive will become effective on or
726 upon (date) _____ and will terminate on or upon (date) _____.

727 [You must sign and date or acknowledge signing and dating this form in the presence of
728 two witnesses.

729 Both witnesses must be of sound mind and must be at least 18 years of age, but the
730 witnesses do not have to be together or present with you when you sign this form.

731 A witness:

732 •Cannot be a person who was selected to be your mental health agent or back-up
733 mental health agent in PART TWO;

734 •Cannot be a provider who is providing mental health care to you at the time you
735 execute this directive or an employee of such provider unless the witness is your family
736 member, friend, or associate and is not directly involved in your mental health care;
737 and

738 •Cannot be an employee of the Department of Behavioral Health and Developmental
739 Disabilities or of a local public mental health agency or of any organization that
740 contracts with a local public mental health authority unless the witness is your family
741 member, friend, or associate and is not directly involved in your mental health care.]

742 By signing below, I state that I am of sound mind and capable of making this psychiatric
743 advance directive and that I understand its purpose and effect.

744 _____
745 (Signature of Declarant) (Date)

746 The declarant signed this form in my presence or acknowledged signing this form to me.
747 Based upon my personal observation, the declarant appeared to be of sound mind and
748 mentally capable of making this psychiatric advance directive and signed this form
749 willingly and voluntarily.

752 Print Name: _____

753 Address: _____

754 _____

755 (Signature of Second Witness)

(Date)

756 Print Name: _____

757 Address: _____

758 *[This form does not need to be notarized.]^o*

PART II

CROSS-REFERENCES

SECTION 2-1.

762 Code Section 16-5-5 of the Official Code of Georgia Annotated, relating to assisted suicide
763 and notification of licensing board regarding violation, is amended by revising paragraphs
764 (3) and (4) of subsection (c) as follows:

765 "(3) Any person prescribing, dispensing, or administering medications or medical
766 procedures pursuant to, without limitation, a living will, a durable power of attorney for
767 health care, an advance directive for health care, a psychiatric advance directive, a
768 Physician Orders for Life-Sustaining Treatment form pursuant to Code Section 31-1-14,
769 or a consent pursuant to Code Section 29-4-18 or 31-9-2 when such actions are calculated
770 or intended to relieve or prevent a patient's pain or discomfort but are not calculated or
771 intended to cause such patient's death, even if the medication or medical procedure may
772 have the effect of hastening or increasing the risk of death;

773 (4) Any person discontinuing, withholding, or withdrawing medications, medical
774 procedures, nourishment, or hydration pursuant to, without limitation, a living will, a
775 durable power of attorney for health care, an advance directive for health care, a
776 psychiatric advance directive, a Physician Orders for Life-Sustaining Treatment form
777 pursuant to Code Section 31-1-14, a consent pursuant to Code Section 29-4-18 or 31-9-2,
778 or a written order not to resuscitate; or^o

783 "(1) Any adult, for himself or herself, whether by living will, advance directive for health
784 care, psychiatric advance directive under Chapter 11 of Title 37, or otherwise;

785 (1.1) Any person authorized to give such consent for the adult under an advance directive
786 for health care or durable power of attorney for health care under Chapter 32 of this title
787 or psychiatric advance directive under Chapter 11 of Title 37;"

788 **SECTION 2-3.**

789 Said title is further amended by revising paragraph (3) of PART ONE of the form contained
790 in Code Section 31-32-4, relating to the advance directive for health care form, as follows:

791 **"(3) GENERAL POWERS OF HEALTH CARE AGENT**

792 My health care agent will make health care decisions for me when I am unable to
793 communicate my health care decisions or I choose to have my health care agent
794 communicate my health care decisions.

795 My health care agent will have the same authority to make any health care decision that
796 I could make. My health care agent's authority includes, for example, the power to:

- 797 •Request and consent to admission or discharge from any hospital, skilled nursing
798 facility, hospice, or other health care facility or service;
- 799 •Request, consent to, withhold, or withdraw any type of health care; and
- 800 •Contract for any health care facility or service for me, and to obligate me to pay for
801 these services (and my health care agent will not be financially liable for any services
802 or care contracted for me or on my behalf).

803 My health care agent will be my personal representative for all purposes of federal or
804 state law related to privacy of medical records (including the Health Insurance Portability
805 and Accountability Act of 1996) and will have the same access to my medical records
806 that I have and can disclose the contents of my medical records to others for my ongoing
807 health care.

808 My health care agent may accompany me in an ambulance or air ambulance if in the
809 opinion of the ambulance personnel protocol permits a passenger, and my health care
810 agent may visit or consult with me in person while I am in a hospital, skilled nursing
811 facility, hospice, or other health care facility or service if its protocol permits visitation.

814 I understand that under Georgia law:
 815 •My health care agent may refuse to act as my health care agent;
 816 •A court can take away the powers of my health care agent if it finds that my health
 817 care agent is not acting properly; and
 818 •My health care agent does not have the power to make health care decisions for me
 819 regarding psychosurgery, sterilization, or involuntary treatment or involuntary
 820 hospitalization for mental or emotional illness, developmental disability, or addictive
 821 disease."

822 **SECTION 2-4.**

823 Said title is further amended in subsection (a) of Code Section 31-32-10, relating to
 824 immunity from liability or disability action, by deleting "and" at the end of paragraph (4), by
 825 replacing the period with "; and" at the end of paragraph (5), and by adding a new paragraph
 826 to read as follows:

827 "(6) In the event a declarant has appointed a mental health agent in accordance with
 828 Chapter 11 of Title 37, no health care provider, health care facility, or person who relies
 829 in good faith on the direction of such mental health agent shall be subject to civil liability,
 830 criminal prosecution, or discipline for unprofessional conduct for complying with any
 831 direction or decision of such mental health agent in the event the declarant's condition is
 832 subsequently determined to be a health care condition."

833 **PART III**

834 **REPEALER**

835 **SECTION 3-1.**

836 All laws and parts of laws in conflict with this Act are repealed.

**Advisory Committee on Legislation (ACL)
Support or Opposition Form**

FORM C

For legislation originating outside the State Bar that
seeks State Bar support or opposition.

*Name of Proposal: **Update and Modernization of the Court Reporting Act of Georgia and Related Statutes***

*Name of Section/Committee submitting this proposal: **General Practice & Trial***

1. Does this proposal seek to support or oppose legislation that has already been filed pre-filed in the General Assembly for the 2021 session, or legislation that has been proposed by an outside interest group, corporation, government agency, or individual to be filed during the 2021 legislative session? YES or NO

a. If yes, attach a copy of the pending legislation or outside proposal.

This is a proposal to seek support on legislation that has been proposed by the Judicial Council of Georgia. See attached.

2. If no legislation is presently pending, provide a statement of the issues to be addressed by the proposed bill.

This proposal would comprehensively update and modernize the Court Reporting Act of Georgia and related statutes to address the worsening shortage of court reporters and modernize the industry, including: authorizing the use of digital recording systems in courts and providing for the Judicial Council to promulgate rules to govern their use; creating a new licensing category, Certified Transcriptionist, and provide for regulation by the Georgia Board of Court Reporting; leaving each and every judge the individual discretion whether to use a Certified Court Reporter or a digital recording system in their courtroom. It would also remove the fee court reporters currently must pay to e-file transcripts of court proceedings; authorize the filing of original deposition transcripts as e-filed originals; and remove court reporters from the list of persons who may keep physical evidence during the post-conviction phase of a trial. Additionally, it would alter

the composition of the Georgia Board of Court Reporting to include representatives from each class of court and modernize the Court Reporting Act to allow the Board to promulgate rules to alleviate the shortage of court reporters in the state by allowing more flexible licensing, such as the ability to go into inactive status and return in a similar manner to attorneys.

3. Give a brief summary of the existing law on this issue, including citations to applicable case law addressed in the pending or proposed legislation.

The Court Reporting Act has not been updated since the early 1990s, and those updates were minor. It substantially is the same as it was in the 1970s, and this has led to confusion in the courts and in the industry as terminology and industry standards have changed in the intervening half-century. The proposal makes it clear that digital recording systems are authorized to be used to make the official record under certain conditions that will ensure that the resulting transcript is as accurate as that created by a court reporter.

The code sections impacted are OCGA §§ 5-6-41, 5-6-48, 9-11-29.1, 9-11-30, 9-14-50, 15-5-21, 15-6-11, 15-7-47, 15-12-83; OCGA §§ 15-14-1 through -7 inclusive; OCGA §§ 15-14-21 through -24; OCGA 15-14-26, -28, -29 through -33, and -35-36; OCGA §§ 17-5-55, 17-8-5; and OCGA §§ 29-4-12 and 29-5-12.

4. Does this proposal seek to codify current case law or seek to modify a statute based on a recent Georgia appellate decision?

No.

5. Why should the State Bar take an official position to support or oppose this proposal?

The worsening court reporter shortage has resulted in significant delays in transcript production time and difficulties in finding court reporter coverage for court proceedings. Explicitly permitting courts to use digital recording systems to take down court proceedings, which are now routinely in use in the federal courts and in most other states across the country, frees up court reporters to take down high-stakes proceedings like jury trials and to complete transcripts timely.

6. Describe how the pending or proposed legislation (1) regulates the legal profession,

or (2) improves the quality of legal services?¹

The proposal does not regulate the legal profession, but the drafters hope that it might improve the quality of legal services by reducing transcript production time and increasing the availability of qualified court reporters for jury trials and other high-stakes court proceedings for which a transcript will be needed.

Access to the appellate courts is an access to justice issue, and when litigants must wait months if not years for transcripts to be produced, this impacts their ability to seek justice from the appellate courts. The Judicial Council's hope is that this proposal will increase the availability of transcripts generally by authorizing individual judges to decide whether to use a digital recording system for low-level and routine proceedings, which can result in transcripts of smaller matters that might not otherwise be taken down. Additionally, this frees up skilled court reporters to be available to take down higher stakes proceedings like jury trials and dispositive motions and to produce those transcripts in a timely fashion. Many states have moved away from using live court reporters to take down proceedings like calendar calls, misdemeanor probation revocations, etc., and using high-quality, reliable digital recording systems for these proceedings frees up court reporting resources for higher-stakes matters.

7. Are there any potential proponents or opponents of the proposal or pending legislation, including, but not limited to, other State Bar sections, specialty bar associations, governmental entities, and outside interest groups? If so, please list them below.

Since July 2019, the Judicial Council has shared this proposal with interested stakeholders, including all classes of court, the Georgia Court Reporter's Association, ACCG, GMA, GACDL, GPDC, PAC, and the Attorney General's Office. Prior to this recommendation for support, the Judicial Council presented this proposal as an informational item at both the December 2019 and September 2020 ACL meetings.

¹ The State Bar reviews all proposals for compliance with the standard set out by the United States Supreme Court in *Keller v. State Bar of California*, 496 U.S. 1 (1990).

8. Which other State Bar committees or sections may have an interest in the legislation or proposal?

Appellate Practice, Family Law, Criminal Law

- a. **Have you provided interested State Bar committees/sections with a copy of this proposal? If so, have they provided any comment?**

No

9. What is the recommendation that your section/committee wishes to be adopted by the State Bar?

The General Practice & Trial Section recommends the State Bar support the Judicial Council's proposal to Update and Modernize the Court Reporting Act of Georgia and related statutes.

1 TITLE 5. APPEAL AND ERROR

2

3 CHAPTER 6. Certiorari and Appeals to Appellate Courts Generally

4

5 5-6-41. Preparation of record for appeal; reporting of evidence and other matter; when narrative
6 form used.

7

8 (a) In all felony cases, ~~all proceedings evidence, and proceedings~~ shall be either:

9

10 1. ~~reported taken down and prepared by a certified court reporter as provided in Code~~
11 ~~Section 17-8-5 or as otherwise provided by law, or:~~

11

12 2. recorded via a digital recording system as provided for by the Rules of the Board of
13 Court Reporting, Chapter 14 of Title 15, and by any applicable uniform rules.

13

14 (b) In all misdemeanor cases, the trial judge may, in the judge's discretion, require the reporting
15 and transcribing of ~~all proceedings evidence and proceedings~~ by a certified court reporter on
16 terms prescribed by the trial judge, or in the alternative, may require the recording of
17 proceedings by a digital recording system as provided for by the Rules of the Board of Court
18 Reporting, Chapter 14 of Title 15, and any applicable uniform rules.

19

20 (c) In all civil cases tried in the superior and city ~~state~~ courts, in the Georgia State-wide Business
21 Court, and in any other court, the judgments of which are subject to review by the Supreme
22 Court or the Court of Appeals, the trial judge thereof may require the parties to have the
23 proceedings ~~and evidence~~ reported by a court reporter or recorded by a digital recording system
24 as provided for by the Rules of the Board of Court Reporting and any applicable uniform rules,
25 the costs thereof to be borne equally between them; and, where an appeal is taken which draws
26 in question the transcript of the ~~evidence and proceedings~~, it shall be the duty of the appellant
27 to have the transcript prepared at the appellant's expense by a certified court reporter or a
28 certified transcriptionist. Where it is determined that the parties, or either of them, are financially
29 unable to pay the costs of reporting or transcribing, the judge may, in the judge's discretion,
30 authorize trial of the case unreported; and, when it becomes necessary for a transcript of ~~the~~
31 ~~evidence and proceedings~~ to be prepared, it shall be the duty of the moving party to prepare the
32 transcript from recollection or otherwise.

33

34 (d) Where a trial in any civil or criminal case is ~~reported taken down~~ by a court reporter or
35 recorded by a digital recording system as provided for by Rules of the Board of Court Reporting,
36 Chapter 14 of Title 15, and any applicable uniform rules, all motions, colloquies, objections,
37 rulings, evidence, whether admitted or stricken on objection or otherwise, copies or summaries
38 of all documentary evidence, the charge of the court, and all other proceedings which may be
39 called in question on appeal or other posttrial procedure shall be taken down or recorded
40 reported; and, where the ~~report proceeding~~ is transcribed, all such matters shall be included in
41 the written transcript, it being the intention of this article that all these matters appear in the
42 record. Where matters occur which were not taken down ~~reported~~, such as objections to oral
43 argument, misconduct of the jury, or other like instances, the court, upon motion of either party,
44 shall require that a transcript of these matters be made and included as a part of the record. The
45 transcript of proceedings shall not be reduced to narrative form unless by agreement of counsel;
46 but, where the trial is not reported or the transcript of the proceedings for any other reason is not

47 available and the evidence is prepared from recollection, it may be prepared in narrative form.

48

49 (e) Where a civil or criminal trial is ~~reported taken down~~ by a certified court reporter or recorded
50 via a digital recording system as provided for by the Rules of the Board of Court Reporting and
51 the evidence and proceedings are then transcribed, the certified court reporter or certified
52 transcriptionist shall complete the transcript and file the original and one copy thereof with the
53 clerk of the trial court, together with the ~~court reporter's~~ certificate attesting to the correctness
54 thereof. In criminal cases where the accused was convicted of a capital felony, an additional
55 digital or paper copy shall be ~~filed for~~ sent to the Attorney General, for which the court reporter
56 shall receive compensation from the Department of Law as provided by law. The original
57 transcript shall be transmitted to the appellate court as a part of the record on appeal; and a one
58 copy will be retained in the trial court, both as referred to in Code Section 5-6-43. Upon filing
59 by the reporter or transcriptionist, the transcript shall become a part of the record in the case and
60 need not be approved by the trial judge.

61

62

63 5-6-48 Dismissal of appeals generally prohibited

64

65 (f) Where it is apparent from the notice of appeal, the record, the enumeration of errors, or any
66 combination of the foregoing, what judgment or judgments were appealed from or what errors
67 are sought to be asserted upon appeal, the appeal shall be considered in accordance therewith
68 notwithstanding that the notice of appeal fails to specify definitely the judgment appealed from
69 or that the enumeration of errors fails to enumerate clearly the errors sought to be reviewed. An
70 appeal shall not be dismissed nor consideration thereof refused because of failure of the certified
71 court reporter or certified transcriptionist to file the transcript ~~of evidence and proceedings~~
72 within the time allowed by law or order of court unless it affirmatively appears from the record
73 that the failure was caused by the appellant.

74

75

76 TITLE 9. CIVIL PRACTICE

77

78 CHAPTER 11. Civil Practice Act

79

80 9-11-29.1. When depositions and discovery materials required to be filed with court

81

82 (a) Depositions and other discovery material otherwise required to be filed with the court under
83 this chapter shall not be required to be so filed unless:

84

85 (1) Required by local uniform rule of court;

86

87 ...

88 (b) When depositions and other discovery material are filed with the clerk of court as provided
89 in subsection (a) of this Code section, the clerk of court shall retain such original documents and
90 materials as provided for by the Judicial Council's Records Retention Schedule and any other
91 applicable record-keeping rule approved by the Supreme Court of Georgia, until final disposition,
92 either by verdict or appeal, of the action in which such materials were filed. The clerk of court
shall be authorized thereafter to destroy such materials upon microfilming or digitally imaging

93 ~~such materials and maintaining such materials in a manner that facilitates retrieval and~~
94 ~~reproduction, so long as the microfilm and digital images meet the standards established by the~~
95 ~~Division of Archives and History of the University System of Georgia; provided, however, that~~
96 ~~the clerk of court shall not be required to microfilm or digitally image depositions that are not~~
97 ~~used for evidentiary purposes during the trial of the issues of the case in which such depositions~~
98 ~~were filed.~~

99

100

101 9-11-30. Depositions upon oral examination.

102

103 (f) Certification and filing by officer; inspection and copying of exhibits; copy of deposition.

104

105 (1)(A) The officer shall certify that the witness was duly sworn by the officer and that the
106 deposition is a true record of the testimony given by the witness. This certificate shall ~~be in writing~~
107 ~~and accompany the record of the deposition. The officer shall then securely seal the deposition in~~
108 ~~an envelope marked with the title of the action, the court reporter certification number, and~~
109 ~~“Deposition of (here insert name of witness)” and shall promptly file it the transcript and~~
110 ~~certificate with the court in which the action is pending or deliver it to the party taking the~~
111 ~~deposition, as the case may be, in accordance with Code Section 9-11-29.1.~~

112

112 (B) . . .

113 (2) Upon payment of ~~reasonable charges therefor~~ as provided by the rules of the Board of Court
114 Reporting, the officer shall furnish a copy of the deposition to any party or to the deponent.

115

116

117 TITLE 9 CIVIL PRACTICE

118

119 CHAPTER 14. Habeas Corpus

120

121 9-14-50 Transcription of Trial.

122

123 All trials held under this article shall be recorded using a digital recording system as provided for
124 by the Rules of the Board of Court Reporting and transcribed by a certified transcriptionist, or
125 taken down and transcribed by a certified court reporter, as designated by the superior court
126 hearing the case.

127

128

129 TITLE 15. COURTS

130

131 CHAPTER 5. Administration of Courts of Record Generally

132

133 15-5-21 Promulgation of rules and regulations providing for fees of court reporters and for
134 form and style of transcripts.

135

136 (a) The Board of Court Reporting ~~Judicial Council~~ shall promulgate rules and regulations which
137 shall:

138

- 139 (1) Provide for and set the fees to be charged by all official certified court reporters in this state
- 140 for attending any court proceeding or judicial proceeding other than federal court
- 141 proceedings, taking down proceedings and reording transcribing the proceeding evidence;
- 142
- 143 (2) Provide for and set the fees to be charged by all ~~official court reporters~~ certified
- 144 transcriptionists in this state for ~~furnishing transcripts of the evidence and for other~~
- 145 ~~proceedings furnished by the official court reporters~~ in all civil and criminal cases in this
- 146 state;
- 147
- 148 (3) Provide for a minimum per diem fee for ~~official certified court reporters in this state for~~
- 149 ~~attending any court proceeding or judicial proceeding other than federal court~~, which fee
- 150 may be supplemented by the various counties within the circuits to which the court
- 151 reporters are assigned; and
- 152
- 153 (4) Provide for the form and style of the transcripts, which shall be uniform throughout the
- 154 state.
- 155
- 156 (b) The Board of Court Reporting Judicial Council shall amend its rules and regulations providing
- 157 for and setting the fees to be charged by all ~~official certified court reporters and certified~~
- 158 transcriptionists whenever the ~~board council~~ shall deem it necessary and proper.
- 159
- 160 (c) This Code section shall not apply to those court reporters ~~taking and furnishing transcripts of~~
- 161 ~~depositions or taking down and transcribing nonjudicial functions or any hearing held pursuant~~
- 162 ~~to Title 29 and Title 37 outside of a courthouse as defined in subsection (a)(1) of Code Section~~
- 163 ~~16-11-127, nor to any independent contracts of any reporters. The Board of Court Reporting shall~~
- 164 ~~not promulgate rules setting fees to be charged for the takedown of or for the original transcript~~
- 165 ~~of a deposition. The Board of Court Reporting shall promulgate rules setting fees to be charged~~
- 166 ~~for copies of depositions.~~
- 167
- 168 (d) A rule or regulation promulgated by the Board of Court Reporting Judicial Council pursuant
- 169 to this Code section shall not become effective unless that ~~board council~~ provides to the
- 170 chairperson of the Judiciary Committee of the House of Representatives, the chairperson of the
- 171 Judiciary, Non-civil Committee of the House of Representatives, the chairperson of the Judiciary
- 172 Committee of the Senate, and the chairperson of the Special Judiciary Committee of the Senate,
- 173 at least 30 days prior to the date that the council intends to adopt such rule or regulation, written
- 174 notice which includes an exact copy of the proposed rule or regulation and the intended date of
- 175 its adoption. ~~After July 1, 1986, no rule or regulation adopted by the Judicial Council pursuant to~~
- 176 ~~this Code section shall be valid unless adopted in conformity with this subsection.~~ A proceeding
- 177 to contest any rule or regulation on the grounds of noncompliance with this subsection must be
- 178 commenced within two years from the effective date of the rule or regulation.
- 179

180

181 TITLE 15. COURTS

182

183 CHAPTER 7. State Courts of Counties

184

185 15-7-47. Reporting of trials

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- (a) ~~Court reporting personnel~~ A certified court reporter, or a digital recording system operated in compliance with the rules of the Board of Court Reporting, Chapter 14 of Title 15, and by the Uniform Rules of State Court, shall be made available for the reporting of civil and criminal trials in state courts, subject to the laws governing same in the superior courts of this state. The judge shall have discretion as to whether to provide a certified court reporter or whether to utilize a digital recording system.
- (b) Reporting The taking down or recording of any trial may be waived by consent of the parties.
- (c) Appointment of a court reporter or reporters, as defined in Article 2 of Chapter 14 of this title, for court proceedings in each court shall be made by the judge thereof; the compensation and allowances of reporters for the courts shall be paid by the county governing authority and shall be the same as that for reporters of the superior courts of this state.

TITLE 15. COURTS

CHAPTER 11. Juvenile Code

15-11-17. Hearings; full and complete records of all words during proceedings; sitting as juvenile court judge.

- (a) All hearings under this chapter shall be conducted by the court without a jury. Any hearing may be adjourned from time to time within the discretion of the court.
- (b) Except as otherwise provided, all hearings shall be conducted in accordance with Title 24. Proceedings shall be ~~recorded by stenographic notes taken down by a certified court reporter or by a digital recording system as provided for by the Rules of the Board of Court Reporting, and must be electronic, mechanical, or other appropriate means~~ capable of accurately capturing a full and complete verbatim record of all words spoken during the proceedings.

TITLE 15. COURTS.

CHAPTER 12. JURIES, Article 4, Grand Juries

15-12-83 Court reporters

- ...
- (g) The district attorney may utilize a digital recording system as provided for by the Rules of the Board of Court Reporting to record grand jury proceedings.

TITLE 15. COURTS

CHAPTER 14. COURT REPORTERS, Article 1. General Provisions

15-14-1. Appointment; removal; oath of office; duties

ADDENDUM

Draft of Georgia Uniform Mediation Act (formerly S.B. 464 as passed by the Senate)

After discussion with other constituents of the Bar, the following changes are being considered:

Line 32: Add "including a representative of a party."

The definition of "nonparty participant" would then read as follows:

(5) "Nonparty participant" means a person, other than a mediation party or mediator, that participates in a mediation, *including a representative of a party*.

This change addresses the absence of a definition for "a representative of a party" which is referenced at line 118.

Lines 156-157: Add "subsection (b) of Code Section 24-4-408 or"

Code Section 9-17-7 would then read as follows:

Unless subject to Article 4 of Chapter 18 of Title 50, relating to open records, mediation communications are also confidential to the extent agreed by the parties or provided by *subsection (b) of Code Section 24-4-408* or other law or rule of this state.

This change addresses a concern that this legislation might be interpreted as having an impact on the evidentiary exclusion provision of the evidentiary code. Although the UMA recognizes other statutory mechanisms for confidentiality, this express reference to 24-4-408 makes clear that the evidentiary exclusion mechanism stands apart from the UMA's privilege mechanism.

Lines 197-201: Changes to be made in consultation with General Assembly Legislative Counsel.

Some concern has been expressed that this provision may conflict with the nondelegation doctrine. This issue can probably be addressed with some reference to the applicable date of the applicable federal law.



State Bar of Georgia

To: Bar Officers
Finance Committee

From: Ron Turner 

Date: November 18, 2020

Re: October 2020 Financial Statements-Bar Operations and Bar Center

Attached please find the October 2020 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.

New and revised items are highlighted in bold.

Computer Hardware – In most cases computer hardware has exceeded the budget for the year for every department. This overage is primarily due to the following reasons associated with COVID-19: (1) additional hardware was purchased for many staff. It has been the policy of the Bar to rotate computer hardware every three years. However, due to COVID-19 and with Bar staff working 100% remotely from home, a decision was made to rotate the computers for half of the Bar in 2020-2021 and the remaining one-half of the Bar in 2021-2022. (2) it was determined that the most efficient means of working remotely would be to use laptops and related equipment (i.e. docking stations, etc.) rather than desktop computers. When Bar staff returns to work from the office, these laptops will be used in the office as well. The budget comprehended the three-year rotation policy along with the purchase of desktop computers rather than laptops.

Unless specifically noted in a comment related to each department, it is anticipated that savings will be realized in other line items within the department so that the department, in total, will not be over budget.

Savings will be realized in each department to offset these overages.

Administration

Bank fees exceeded the budget by **\$869** primarily due to the decrease in interest rates on compensating balances that the Bar has on deposit with the financial institution. The Bar receives a credit against charges for amounts held at the financial institution. This credit offsets the amount of balance based charges from the financial institution. Due to the decrease in interest rates the amount of the credit decreased, and thus the amount of bank fees increased.

Communications

The supplemental directory budget was \$6,000, however, actual costs were \$6,674. This item exceeded the budget primarily due to the following: (1) a better quality of paper was used in the current year and (2) a different vendor was used last year as compared to the current year.

High School Mock Trial (HSMT)

Subscriptions and books (Zoom subscriptions) exceeds budget by \$138. This overage is because this expenditure was not originally budgeted.

Other Bar Center Operations

Rehabilitation costs exceeded the budget by approximately \$47,527 primarily due to the installation of a new video and security system for the Bar building and related elevators. This was a continuing project from the prior fiscal year. The Executive Committee approved the security system and video cameras as a necessary upgrade even though it was not anticipated in the budget.

Shared Office Overhead

Shared office allocations exceed actual expense by approximately \$8,200. This is a positive variance. This number will fluctuate throughout the year.

Please give me a call at (404) 527-8748 or my cell number at 678-761-5889 if you have any questions regarding the attached financial statements.

cc: Jeff Davis
Cassie Hallstrom
Paula Frederick

11/17/2020

State Bar of Georgia
Consolidated Revenues and Expenditures
Operations and Bar Center Combined
For the Current Period Ending October 31, 2020

Category	Year Ending 6/30/2020 Actual	Year To Date 10/31/2020 Actual	% of Budget	Year Ending 6/30/2021 Annual Budget
Membership Numbers				
Active Members	39,892	39,878	99.20 %	40,200
Inactive Members	8,713	8,701	100.59 %	8,650
Provisional Members	15	198	79.20 %	250
Associates/Affiliates	17	17	121.43 %	14
Foreign Legal Consultants	6	6	100.00 %	6
Students	362	359	89.75 %	400
Emeritus	3,127	3,181	107.83 %	2,950
Total Membership Numbers	52,132	52,340	99.75 %	52,470
Revenue				
Dues Active	\$ 10,097,880	\$ 9,794,635	95.92 %	\$ 10,210,800
Dues Inactive	1,127,351	1,031,308	93.88 %	1,098,550
Dues Provisional	2,159	22,987	72.40 %	31,750
Dues Associates	1,550	1,200	85.71 %	1,400
Dues Foreign Legal Consultant	1,524	1,270	83.33 %	1,524
Dues Late Fees	248,175	550	0.25 %	220,000
Dues NSF Check Fee	140	160	53.33 %	300
Dues Prior Years	6,615	338	5.63 %	6,000
Total License & Dues	\$ 11,485,394	\$ 10,852,448	93.80 %	\$ 11,570,324
CLE Contribution to SBG	\$ 0	\$ 0	0.00 %	\$ 300,000
Section Expense Reimbursement	\$ 190,644	\$ 187,835	100.00 %	\$ 187,835
CSF Expense Reimbursement	\$ 73,000	\$ 24,333	33.33 %	\$ 73,000
Advertising and Sales	\$ 49,895	\$ 17,416	38.53 %	\$ 45,200
Membership Income	\$ 129,012	\$ 53,187	43.96 %	\$ 121,000
Interest Income	\$ 462,171	\$ 75,106	44.18 %	\$ 170,000
Miscellaneous Revenues	\$ 30,976	\$ 205	3.47 %	\$ 5,900
Total Bar Revenue	\$ 12,421,092	\$ 11,210,530	89.88 %	\$ 12,473,259
Total Bar Expenses	\$ 12,183,113	\$ 4,000,640	31.23 %	\$ 12,809,340
SBG Net Gain (Loss)	\$ 237,979	\$ 7,209,890	(2,145.28) %	\$ (336,081)
Total Bar Center Operations Revenue	\$ 3,241,522	\$ 1,025,707	31.74 %	\$ 3,231,138
Total Bar Center Operations Expenses	\$ 2,589,261	\$ 816,299	30.45 %	\$ 2,680,546
Total Bar Center Operations Net Gain (Loss)	\$ 652,261	\$ 209,408	38.03 %	\$ 550,592
Combined Revenue	\$ 15,662,614	\$ 12,236,237	77.92 %	\$ 15,704,397
Combined Expenses	\$ 14,772,374	\$ 4,816,939	31.10 %	\$ 15,489,886
Total Combined Net Income (Loss)	\$ 890,240	\$ 7,419,298	3,458.70 %	\$ 214,511
Legend				
<div style="display: flex; justify-content: space-between; padding: 0;"> <div style="width: 30%;">■ Bar Operations</div> <div style="width: 30%;">■ Bar Center</div> <div style="width: 30%;">■ Combined Bar Operations and Bar Center</div> </div>				
<i>Note: Non-Cash depreciation expense is excluded from this schedule.</i>				

11/16/2020

State Bar of Georgia
Total Bar Center Operations
Revenues and Expenditures - Executive Summary
For the Current Period Ending October 31, 2020

Category	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Bar Center Income and Cash Receipts							
Bar Center Assessments	(\$50)	(5.00) %	\$0	0.00 %	\$1,000	\$1,000	\$1,150
Conference Center Copier	0	0.00 %	0	0.00 %	850	850	506
Gain/Loss on Investments	0	0.00 %	0	0.00 %	0	0	0
Gain/Loss Investments Interest Allocation	0	0.00 %	(4,556)	0.00 %	0	4,556	96,937
CLE Contributions to Bar Center	0	0.00 %	500,000	37.74 %	1,325,000	825,000	1,322,797
Interest Income	0	0.00 %	23,612	36.89 %	64,000	40,388	92,296
Bar Center Income and Cash Receipts	\$ (50)	(0.00) %	\$ 519,056	37.32 %	\$ 1,390,850	\$ 871,794	\$ 1,513,686
Bar Center Expenses and Cash Disbursements							
Bond Premium Amortization	0	0.00 %	6,555	54.63 %	12,000	5,445	16,918
Investment Service Fees	0	0.00 %	3,908	32.57 %	12,000	8,092	13,312
Parking Deck Construction	0	0.00 %	0	0.00 %	0	0	2,510
Conference Center Contingency	0	0.00 %	0	0.00 %	0	0	37
Conference Center Renovations	0	0.00 %	26,038	47.86 %	54,400	28,362	29,299
Audio Video, Furniture and Equipment	0	0.00 %	15,629	97.68 %	16,000	371	0
Rehabilitation	0	0.00 %	47,527	0.00 %	0	(47,527)	350,650
President's Boardroom	0	0.00 %	0	0.00 %	5,000	5,000	610
Bar Center Expenses and Cash Disbursements	0	0.00 %	99,657	100.26 %	99,400	(257)	413,336
Bar Center Combined Net Cash Flow	\$ (50)	(0.00) %	\$ 419,399	32.48 %	\$ 1,291,450	\$ 872,051	\$ 1,100,350
Conference Center Income and Expenses							
Room Rentals and Various Charges	0	0.00 %	0	0.00 %	15,800	15,800	12,284
Conference Center Operating Expenses	31,976	7.13 %	126,736	28.26 %	448,526	321,790	428,618
Conference Center Combined Net Cash Flow	\$ (31,976)	7.39 %	\$ (126,736)	29.29 %	\$ (432,726)	\$ (305,990)	\$ (416,334)
Rental Income and Expenses							
Rental Income	125,322	8.66 %	501,289	34.63 %	1,447,488	946,199	1,422,142
Building Operating Expenses	138,733	7.68 %	542,815	30.07 %	1,805,430	1,262,615	1,477,412
Rental Combined Net Cash Flow	\$ (13,411)	3.75 %	\$ (41,526)	11.60 %	\$ (357,942)	\$ (316,416)	\$ (55,270)
Parking Income and Expenses							
Parking Income	80	0.02 %	5,362	1.42 %	377,000	371,638	293,411
Parking Deck Operating Expenses	12,759	3.90 %	47,091	14.39 %	327,190	280,099	269,894
Parking Combined Net Cash Flow	\$ (12,679)	(25.45) %	\$ (41,729)	(83.78) %	\$ 49,810	\$ 91,539	\$ 23,517
Total Bar Center Operations Net Gain (Loss)	\$ (68,116)	(10.56) %	\$ 209,408	38.03 %	\$ 550,592	\$ 341,185	\$ 652,263

Note: Non-Cash depreciation expense and gain/loss on disposal of fixed assets are excluded from this schedule.

11/17/2020

State Bar of Georgia
Income Statement YTD - Operations
For the Current Period Ending October 31, 2020

	<u>YTD Actual</u>	<u>Annual Budget</u>	<u>YTD % of Budget</u>	<u>Prior Year</u>
Revenues				
Dues - Active	\$ 9,794,635	\$ 10,210,800	95.92 %	\$ 10,097,880
Dues - Inactive	1,031,308	1,098,550	93.88 %	1,127,351
Dues - Provisional	22,987	31,750	72.40 %	2,159
Dues - Misc. Types	2,470	2,924	84.47 %	3,074
Dues - Late Fees	1,048	226,300	0.46 %	254,930
Total Dues & Licenses	10,852,448	11,570,324	93.80 %	11,485,394
CLE Contributions to SBG	0	300,000	0.00 %	0
Section Expense Reimbursement	187,835	187,835	100.00 %	190,644
CSF Expense Reimbursement	24,333	73,000	33.33 %	73,000
Advertising and Sales	17,416	45,200	38.53 %	49,895
Membership Income	19,887	71,000	28.01 %	73,711
Pro Hac Vice	84,700	290,000	29.21 %	310,501
Pro Hac Vice Contra	(51,400)	(240,000)	21.42 %	(255,200)
Interest Income	75,106	170,000	44.18 %	462,171
Miscellaneous Revenues	205	5,900	3.47 %	30,976
Total Revenues	11,210,530	12,473,259	89.88 %	12,421,092
Expenses				
Administration	841,923	2,502,712	33.64 %	2,455,429
General Counsel	1,350,573	4,338,494	31.13 %	4,230,188
Communications	281,221	885,005	31.78 %	912,876
Lawyer's Assistance Program	42,500	85,000	50.00 %	63,712
Fee Arbitration	183,053	559,460	32.72 %	526,262
Law Practice Management	148,927	438,714	33.95 %	428,555
Sections	63,237	187,834	33.67 %	186,025
Savannah Office	82,259	258,120	31.87 %	251,416
Tifton Office	44,501	140,558	31.66 %	163,851
Young Lawyers	111,567	457,434	24.39 %	334,875
Unauthorized Practice of Law	277,441	842,308	32.94 %	845,741
Law Related Education	95,172	385,461	24.69 %	369,794
High School Mock Trial	27,777	159,730	17.39 %	127,920
MLAP	0	0	0.00 %	120,663
Pro Bono	70,739	212,216	33.33 %	212,216
Fastcase	122,605	244,000	50.25 %	240,436
Officers' Expenses	370	112,677	0.33 %	34,461
BASICS Program Contribution	37,500	37,500	100.00 %	150,000
Resource Center Contribution	110,332	110,332	100.00 %	110,332
Other Expenses	100,705	851,785	11.82 %	527,919
Unallocated Services	8,237	0	0.00 %	(109,558)
Total Expenses	4,000,639	12,809,340	31.23 %	12,183,113
Net Income	\$ 7,209,891	\$ (336,081)	(2,145.28) %	\$ 237,979

11/17/2020

State Bar of Georgia
Income Statement YTD - Operations
For the Current Period Ending October 31, 2020

	<u>YTD Actual</u>	<u>Annual Budget</u>	<u>YTD % of Budget</u>	<u>Prior Year</u>
Other Expenses				
BOG and Member Meetings	6,133	380,000	1.61 %	99,990
Supreme Court Meetings	0	45,000	0.00 %	33,553
Executive Committee Meetings	3,532	60,000	5.89 %	43,333
Southern Conference	0	0	0.00 %	50,359
State Disciplinary Board Lawyers	0	20,000	0.00 %	30,000
Elections	0	39,685	0.00 %	34,082
Dues Notice	609	40,000	1.52 %	34,724
Letters of Good Standing	534	2,900	18.41 %	2,526
Bar Membership Cards	1,633	11,100	14.71 %	9,355
50 Year Certificates	0	2,000	0.00 %	2,075
Membership Database Project	0	13,000	0.00 %	0
Recruitment Costs	32,500	100,000	32.50 %	0
State Bar Committees	0	29,000	0.00 %	27,113
Strategic Plan	0	0	0.00 %	40,000
Georgia Diversity Program	0	20,000	0.00 %	20,000
Conference Sponsorship	0	0	0.00 %	4,000
ABA Delegate Breakfast	0	2,500	0.00 %	2,591
1st Floor Office Furniture Project	0	14,100	0.00 %	0
Commitment to Equality Awards	2,500	2,500	100.00 %	2,500
Bond Premium Amortization	28,795	34,000	84.69 %	45,882
Investment Service Fees	24,469	36,000	67.97 %	35,836
Access to Justice/Pro Bono	0	0	0.00 %	10,000
Other Expenses	<u>100,705</u>	<u>851,785</u>	<u>11.82 %</u>	<u>527,919</u>

State Bar of Georgia
Status and Use of Cash and Investments as of October 31, 2020

Cash and Investments - October 31, 2020 - Bar **30,140,338**

Less:

Georgia Bar Foundation Cash Included in Above Amount (7,419)
CCLC Cash Included in Above Amount (5,406,987)

Net Cash Available for State Bar **24,725,931**

Use of Cash:

Less:

Board Designated - See Separate Schedule Attached (8,770,701)
Temporarily Restricted - See Separate Schedule Attached (2,365,030)

Total Board Designated and Temporarily Restricted **(11,135,731)**

Other - Cash Allocated:

Collection of Outstanding Accounts Receivable 141,616
Payment of Accounts Payable (164,030)
Payment of Accrued Vacation (659,481)
Deferred Income (2,500)
Payment of Credit Card Bill (10,096)
Payment of Accrued Salary (498,410)
Payment of Accrued Taxes (38,128)
Other Accrued Expenses (primarily pension) (232,780)
Payment to Client Security Fund (922,956)
Operational Expenses for Remaining Bar Year (8,488,467)
Additional Revenue for Bar Operations (Excluding Bar Center) 962,729
Net Amount to be received from Related Entities 96,130

Total Other - Cash Allocated **(9,816,373)**

Estimated Cash and Investments - June 30, 2021 - Bar **3,773,827**

Cash and Investments - October 31, 2020 - Bar Center **161,796**

Other Cash Allocated - Bar Center:

Collection of Outstanding Accounts Receivable 80,485
Payment of Accounts Payable 0
Deferred Income (10,195)
Other Accrued Expenses (120,103)
Receipt of Contribution from CCLC (to Bar Center) 341,184

Total Other - Cash Allocated - Bar Center **291,371**

Estimated Cash and Investments - June 30, 2021 - Bar Center **453,167**

Total Estimated Cash Balance at June 30, 2021 **4,226,994**

Note: The above schedule reflects the status of cash and investments as of the month end indicated above. There are no other State Bar funds or investments held in any institution that are not included on this schedule.

Also included in the above are the following assumptions: (1) Actual expenses for 2020 - 2021 would be 97.5% of budget. This is for Bar operations only and not Bar Center. (2) Additional revenue for Bar operations is based upon the assumption of achieving additional revenue through June 30, 2021 to equal 100% of the total budgeted revenue. (3) Bar Center would contribute additional cash flow through June 30, 2021 to equal their budget.

11/16/2020

State Bar of Georgia
Board-Designated and Donor Temporarily Restricted Net Assets
For the Current Period Ending October 31, 2020

	2018 June 30	2019 June 30	2020 June 30	2020 October 31
Board Designated				
General Operations - Bar	2,750,000	2,750,000	2,750,000	2,750,000
General Operations - Bar Center	2,000,000	2,000,000	2,000,000	2,000,000
Litigation	300,000	300,000	300,000	271,877
Cornerstones of Freedom	600,000	0	0	0
Sections	2,660,285	2,793,143	3,097,034	3,615,511
YLD Meetings	33,481	29,716	87,819	133,313
Total Board-Designated excludes ICLE	8,343,766	7,872,859	8,234,853	8,770,701
Donor Temporarily Restricted				
Legislative	1,257,657	1,285,674	1,096,521	1,696,042
Law Related Education/Marshall fund	312,580	316,570	233,708	233,985
High School Mock Trial	9,018	14,095	15,486	15,504
National Mock Trial	20,161	0	0	0
Basics Program	65,414	67,032	69,517	119,628
Younger Lawyers	154,216	125,032	170,213	150,403
Lawyers Assistance	30,454	32,553	34,698	34,706
Georgia Diversity Program	17,588	18,957	13,596	5,767
Bar Media Conference	21,247	18,697	20,839	20,864
Justice Hunstein's Portrait	0	7,813	15,152	15,170
Law Day	6,276	6,356	6,517	6,525
Access to Justice	1,437	1,456	1,493	1,495
iCivics Program	(245)	603	868	869
Promote Inclusion	10,235	11,120	14,211	14,729
State Bar of Georgia Foundation	1,280	0	100	34,516
Military Vet Pro Bono	13,680	13,854	14,711	14,827
Unauthorized Practice of Law	100,518	0	0	0
Total Donor Temporarily Restricted	2,021,516	1,919,812	1,707,630	2,365,030
Net Board Designated and Donor Temporarily Restricted	10,365,282	9,792,671	9,942,483	11,135,731

State Bar of Georgia
Summary of Members and Voluntary Legislative Contributions
With Contributions Paid Through October 31, 2020

Dues	2020-21 Dues Season	2019-20 Dues Season	2018-19 Dues Season
Total Number of Members at Apr 30 of Previous Bar year (active and inactive)	48,538	47,964	47,029
Active - Number Paid	38,744	40,379	36,888
Inactive - Number Paid	8,142	8,929	8,123
Total Number of Members With Dues Paid	46,886	49,308	45,011
Percent of Total Members With Dues Paid	96.6%	102.8%	95.7%
Number of Members Who Made A Contribution	8,045	3,704	5,339
Percent of Members Who Made A Contribution	17.2%	7.5%	11.9%
Total Contribution Amount	\$ 740,506	\$ 322,708	\$ 494,906
Average Amount Paid	\$ 92	\$ 87	\$ 93

Legislative Contribution Amounts by Dues Year

2020 - 2021	\$ 740,506
2019 - 2020	\$ 322,708
2018 - 2019	\$ 494,906
2017 - 2018	\$ 546,905
2016 - 2017	\$ 557,991
2015 - 2016	\$ 565,004
2014 - 2015	\$ 640,505
2013 - 2014	\$ 691,736
2012 - 2013	\$ 685,283
2011 - 2012	\$ 656,254

Purpose: The purpose of the above schedule is to reflect donations to the Legislative Fund for each period shown. The information reflects the total number of members who have made a contribution along with applicable percentages.

The number of members shown above is not the same as the number of members at the end of the month. The number of members above reflect the members who paid during the dues season indicated above. The dues season does not correspond to the fiscal year but starts in advance of the fiscal year. In addition, if members change status (active, inactive, emeritus, etc), this change will be reflected in the membership counts at month end but will not be reflected in the above schedule.

State Bar of Georgia
Summary of Members and Voluntary Contributions to Georgia Legal Services Program (GLSP)
With Contributions Paid Through October 31, 2020

Dues	2020-21 Dues Season	2019-20 Dues Season	2018-19 Dues Season
Total Number of Members at Apr 30 of Previous Bar year (active and inactive)	48,538	47,964	47,029
Active - Number Paid	38,744	40,379	36,888
Inactive - Number Paid	8,142	8,929	8,123
Total Number of Members With Dues Paid	46,886	49,308	45,011
Percent of Total Members With Dues Paid	96.6%	102.8%	95.7%
Number of Members Who Made A Contribution	3,387	3,001	3,197
Percent of Members Who Made A Contribution	7.2%	6.1%	7.1%
Total Contribution Amount	\$ 425,061	\$ 366,674	\$ 295,454
Average Contribution Amount	\$ 125	\$ 122	\$ 92

GLSP Contribution Amounts by Dues Year

2020 - 2021	\$ 425,061
2019 - 2020	\$ 366,674
2018 - 2019	\$ 295,454
2017 - 2018	\$ 312,251
2016 - 2017	\$ 276,487
2015 - 2016	\$ 264,492
2014 - 2015	\$ 255,713
2013 - 2014	\$ 241,362
2012 - 2013	\$ 244,707
2011 - 2012	\$ 240,678

Purpose: The purpose of the above schedule is to reflect donations to the Georgia Legal Services Program for each period shown. The information reflects the total number of members who have made a contribution along with applicable percentages.

The number of members shown above is not the same as the number of members at the end of the month. The number of members above reflect the members who paid during the dues season indicated above. The dues season does not correspond to the fiscal year but starts in advance of the fiscal year. In addition, if members change status (active, inactive, emeritus, etc), this change will be reflected in the membership counts at month end but will not be reflected in the above schedule.

State Bar of Georgia
Legislative Activity Report
From July 1, 2020 Thru October 31, 2020

July 1, 2020 Beginning Balance **\$ 1,096,521**

Income:

Interest Income	4,550
Gain/Loss on Investments	(878)
Contributions	743,075

Total Income **746,747**

Expenditures:

Staff and Contract Lobbyists	137,867
Shared Office Allocation	5,173
Computer Hardware	1,414
Miscellaneous	2,772

Total Expenditures **147,226**

Net Donor Temporarily Restricted Balance at October 31, 2020 **\$ 1,696,042**

11/14/2020

Client Security Fund
Summary of Client Security Fund Activity
For the Current Period Ending October 31, 2020

	2017 June 30	2018 June 30	2019 June 30	2020 June 30	2020 October 31
Fund Balance, Beginning of Year	2,035,238	1,836,994	1,450,249	1,031,012	1,009,586
Income:					
Interest Income	8,007	8,028	11,922	13,214	3,214
Gain/Loss Investment Interest Allocation	(142)	0	4,544	13,064	(620)
Client Security Fund Assessments	153,863	144,628	102,884	85,896	63,079
Restitution Income	5,386	25,250	30,451	30,027	5,455
Total Income:	167,114	177,906	149,801	142,201	71,128
Transfer from Others:					
Transfer from State Bar of Georgia	0	0	0	0	0
Transfer from Commission on Continuing Lawyer Competency	0	0	0	388,000	0
Total Transfer from Others:	0	0	0	388,000	0
Expenses:					
Restricted Expenses	(73,000)	(73,032)	(73,000)	(73,000)	(24,333)
Client Security Fund Claims Payments	(292,358)	(491,619)	(496,038)	(474,387)	(132,000)
Bond Premium Amortization	0	0	0	(2,341)	(893)
Investment Service Fees	0	0	0	(1,899)	(532)
Total Expenses:	(365,358)	(564,651)	(569,038)	(551,627)	(157,758)
Net Income	(198,244)	(386,745)	(419,237)	(21,426)	(86,630)
Fund Balance, End of Period	1,836,994	1,450,249	1,031,012	1,009,586	922,956

D-R-A-F-T

Bar Center Committee Meeting
Wednesday, December 18, 1996
Bar Headquarters/Federal Reserve Building
Atlanta, Georgia

Minutes

Members Present

Frank C. Jones; Harold T. Daniel, Jr.; J. Ralph Beard; Harold G. Clarke; David H. Gambrell; Cubbedge Snow, Jr.; J. Douglas Stewart; J. Henry Walker, IV; Gene Mac Winburn; and Joel O. Wooten, Jr..

Members Absent

Robert M. Brinson; Thomas R. Burnside, Jr.; A. Gus Cleveland; Gerald M. Edenfield; Edward T.M. Garland; William R. Jenkins; J. Alvin Leaphart; Frank Love, Jr.; Nolie J. Motes; Carol R. Naughton; James L. Pannell; Rudolph N. Patterson; Bob Reinhardt; and Robert W. Chasteen, Jr.

Guests Present

Bart Abstein and Randy Merrill of CB Commercial.

Staff Present:

Cliff Brashier; Sue Harvey; and Sharon L. Bryant.

Overview

Frank C. Jones outlined the search results to date for a proposed Bar Center and announced that the search is now centered around the Federal Reserve Building, located at 104 Marietta Street in the central business district of Atlanta. Cliff Brashier provided a description of the Federal Reserve Building and the surrounding site. Randy Merrill of CB Commercial reported on the development expected to take place in the area in the near future, which includes a new arena for the Atlanta Hawks, parking expansion and office complex proposed by Ted Turner; renovation of the 101 Marietta Building; a conference hotel; expansion of the World Congress Center; and a development by Coca-Cola beside Centennial Park, to name a few. Thereafter the meeting adjourned to the Federal Reserve Building for a tour by committee members.

Federal Reserve Building

Following a tour of the Federal Reserve Building, Gene Montezinos of Thompson, Ventulett, Stainback & Associates, Inc., presented a site plan, floor plans, and the proposed front entrance to the building; and Bart Abstein of CB Commercial presented an occupancy cost analysis. The committee, by unanimous voice vote, approved a motion recommending to the Supreme Court of Georgia and the Board of Governors, subject to their approval, the pursuit of the Federal Reserve Building, which would be paid in part with a member assessment of \$200 paid over 4 years at \$50 per year, or \$250 paid over 5 years at \$50 per year.

Adjournment

Thereafter, the meeting was adjourned.

**STATE BAR OF GEORGIA
BOARD OF GOVERNORS
MINUTES
Midyear Meeting/January 11, 1997
Ritz-Carlton
Atlanta, Georgia**

The 156th meeting of the Board of Governors of the State Bar of Georgia was held at the time, date and location shown above. Ben F. Easterlin, IV, presided.

Special Recognition

Ben F. Easterlin, IV, recognized the Past Presidents of the State Bar, members of the judiciary, and other special guests in attendance as listed on the attached roll.

Roll Call

Rudolph N. Patterson circulated the attached roll (Exhibit A) for signature. 124 of the 137 members of the Board of Governors were present.

Previous Minutes

The minutes of the 155th meeting of the Board of Governors of the State Bar of Georgia held November 1, 1996, at the Ritz-Carlton, Amelia Island, Florida, were approved as submitted by unanimous voice vote.

Special Presentation

Ben F. Easterlin, IV, presented a resolution in appreciation for service to Barney L. Brannen, Jr., retiring Director of ICLE.

Standards of the Profession Committee

John T. Marshall reported on the activities of the Standards of the Profession Committee which is studying the feasibility of an internship or other supervised program for lawyers entering the practice of law.

Bar Governance Committee

R. Chris Phelps reported on the activities of the Bar Governance Committee, which is studying, among other things, the size and composition of the Board of Governors, a meeting attendance requirement for Board members, guidelines for Sections to ensure they are adequately serving their members, the size and composition of the Executive Committee, and contested elections.

Treasurer's Report

William E. Cannon, Jr., provided the Income Statement by Department for the four months ending October 31, 1996.

YLS Report

J. Henry Walker shared information about the many activities of the committees of the Younger Lawyers Section. He also announced that the Section's Executive Council, at its Midyear Meeting, unanimously approved the following motion supporting the purchase of the Federal Reserve Building:

So moved, that the Younger Lawyers Section of the State Bar of Georgia, having reviewed and discussed the proposal, gives its full support to the purchase of the Federal Reserve Building to be used as the State Bar of Georgia Bar Center. The YLS supports the purchase because it represents an outstanding, possibly, once-in-a-lifetime, opportunity for the Bar to own its own Bar Center. We believe the purchase of the Federal Reserve Building to be fiscally responsible. We also believe that it will help the Bar provide top-quality, cost-effective services to Georgia lawyers well into the 21st Century. The YLS Officers, Directors and Executive Council, representing the 8,600+ members of the Younger Lawyers Section, urge the State Bar Board of Governors to approve the purchase of the Federal Reserve Building at its Midyear Meeting on January 11, 1997.

Bar Admissions

Bucky Askew provided a General Statistics Summary of the July 1996 Georgia Bar examination and an overview of 2 changes in the examination. A higher score will be required for passing and a specific practice portion of the exam has been added.

Georgia Legal Services

Ben F. Easterlin, IV, presented Phyllis Holmen, Executive Director of the Georgia Legal Services Program, a check in the amount of \$223,000 representing contributions from attorneys and law firms to help provide civil legal services to the poor.

Chief Justice's Commission on Professionalism

The Board of Governors approved the appointments of J. Edward Allen, Jr., and Walter W. Kelley to the Chief Justice's Commission on Professionalism.

Legislation

George E. Mundy reported on the recommended legislative proposals for the 1997 Session of the General Assembly. The Board of Governors then took the following action on legislative matters to be presented during the upcoming session:

Legislative Proposal

Germane to Purposes of Bar

Support on Merits 2/3 Majority

1. Proposals by Executive Committee:

(a) Attorneys Issuing Subpoenas

Passed by unanimous
voice vote

Passed by unanimous
voice vote

- | | | |
|--|--------------------------------|--------------------------------|
| (b) Pretrial Review in Death Penalty Cases | Passed by unanimous voice vote | Passed by unanimous voice vote |
| 2. Proposal by Council of Superior Court Judges: Six-Person Civil Juries in Superior Court | Proposal withdrawn | |
| 3. Proposals by Judicial Procedure & Administration Committee: | | |
| (a) Expansion of Court of Appeals | Passed by unanimous voice vote | Passed by unanimous voice vote |
| (b) Venue Under Long-Arm Statute | Passed by unanimous voice vote | Passed by unanimous voice vote |
| 4. Proposals by Corporate & Banking Law Section: | | |
| (a) Corporate Code Revision | Passed by unanimous voice vote | Passed by unanimous voice vote |
| (b) Revision of LLC and Partnership Act | Passed by unanimous voice vote | Passed by unanimous voice vote |
| 5. Proposal by Fiduciary Law Section: | | |
| (a) Amendments to Probate Code | Passed by unanimous voice vote | Passed by unanimous voice vote |
| 6. Georgia Appellate Practice and Educational Resource Center Funding Request | Passed by unanimous voice vote | Passed by unanimous voice vote |

Organization of the State Bar Committee

H. James Winkler reported that the Rules and Bylaws Amendments to be considered at this Board meeting are not in conflict with any other Rule, Regulation or Bylaw of the State Bar.

Topic

Disciplinary Rules & Procedures Committee:

(a) Emergency Suspension (Rule 4-108)

Action

Motion to approve passed by unanimous voice vote

(b) Special Masters (Rules 4-209.1 and 4-209.2)

Motion to approve passed by unanimous voice vote

- | | |
|--|---|
| (c) Uniform Service (Rule 4-203.1) | Motion to approve passed by unanimous voice vote |
| Organization of the State Bar Committee: | |
| (a) Formal Advisory Opinion Board (Rule 4-402) | Proposed amendment tabled |
| (b) Re-election to Board of Governors (Bylaw Article VII, Section 2) | Motion to approve passed by unanimous voice vote |
| (c) Standing and Special Committees (Rule 1-702, Bylaws Article VII, Sections 1 and 2) | Motion to approve passed by unanimous voice vote |
| Specialization/Certification | Motion to table passed by unanimous voice vote |
| Child Support/License (Exhibit B) | Motion to approve, as amended, passed by unanimous voice vote |

Public Service Foundation

The Board of Governors received proposed amendments to the Public Service Foundation.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Board of Governors, by unanimous voice vote, approved the resignation requests of the following members:

John J. Bruner	090700	Diana D. Mercado	214295
Kenneth T. Cuccinelli, II	200020	Vanessa Marie Moore	520990
Ronald Wallace McNutt	498770	David L. Smith	655550

Bar Facility Committee

Aasia Mustakeem reported on the findings of the Bar Facility Committee. She identified lease alternatives for the Bar and provided Board members with a Comparative Lease Summary.

Bar Headquarters

Following a tour by Board members of the Federal Reserve Building, Chief Justice Robert Benham introduced Justices Carley, Fletcher, Sears and Thompson, and expressed the Supreme Court's support for a Bar Center and the Court's consensus that the Federal Reserve Building meets most, if not all, of its criteria for a Bar Center. He stated: "Home is a place that when you go there, they have to take you in. We need a home we can call our own." Frank C. Jones summarized the activities of the Bar Center Committee and its search for a Bar Center, which ultimately focused on the Federal Reserve Building. He announced that the Federal Reserve Building had accepted a non-binding bid from the Bar to purchase the Federal Reserve Building at a cost of \$9,004,000. He also reported that the Federal Reserve will continue to occupy the building until 2001 and pay a net rent to the building's owner of \$812,000 per year. Randy

Merrill, of CB Commercial, provided information on the proximity of the building to points of interest, and anticipated growth, in the surrounding area. Ray C. Hoover, of the architectural firm of Thompson, Ventulett, Stainback & Associates, Inc., summarized the building's existing floor plans, proposed plans for Bar and tenant space, and a proposed front entrance design. Bart Abstein, of CB Commercial, presented a Budget and Occupancy Cost Analysis of the Federal Reserve Building based on the above purchase price. Cliff Brashier outlined the many ancillary costs Bar members will save utilizing a Bar Center that provides adequate CLE and meeting facilities for its members.

Subsequent to the above presentations and full discussion by Board members, the Board of Governors, by majority voice vote (with very few dissenting votes), approved a Bar Center Resolution, as amended (Exhibit C), authorizing the purchase of the Federal Reserve Building, and implementation of an assessment of \$200 per member payable over your (4) years, in accordance with the budget, State Bar Rule 1-102 and State Bar Rule 1-507 attached to the Resolution, subject to Supreme Court approval.

Executive Committee Minutes

The Board of Governors received copies of the minutes of the October 28, 1996; and November 14, 1996, Executive Committee meetings.

Future Meetings

The next meeting of the Board of Governors will be held March 22, 1997, at the Mills House Hotel in Charleston, South Carolina.

Sections

The Board received a written report from the Intellectual Property Section.

Georgia Bar Foundation/IOLTA

The Board received a written report on the activities of the Georgia Bar Foundation and IOLTA to date.

Old Business

No other old business items were raised.

New Business

Walter C. Hartridge presented a resolution (Exhibit D) on behalf of the Eastern Judicial Circuit urging that the State Bar of Georgia return the Annual Meeting to the city of Savannah.

Adjournment

There being no further business, the meeting was adjourned.

Rudolph N. Patterson, Secretary

Approved:

Ben F. Easterlin, IV, President

BAR CENTER RESOLUTION

The Board of Governors of the State Bar of Georgia adopts and recommends to the Supreme Court of the Georgia the following:

RESOLVED, the State Bar of Georgia is authorized to purchase, renovate, and operate the Federal Reserve Bank Building on Marietta Street in Atlanta, Georgia (the "property") in accordance with the budget attached hereto as Exhibit A and State Bar Rule 1-102 as amended and attached hereto as Exhibit B;

FURTHER RESOLVED, the State Bar of Georgia is authorized to fund the purchase, renovation, and operation of the property in full or in part by:

- a. implementing an assessment of present and future members beginning in the 1997-98 fiscal year of \$200.00 per member, payable over four (4) years; as authorized by new State Bar Rule 1-507 attached hereto as Exhibit C.
- b. borrowing funds and incurring debt in an amount up to \$9,004,000.00 payable at an interest rate not to exceed nine percent (9%) and over a term not to exceed twenty-five (25) years, the exact terms of the loan within such limits to be approved by the State Bar President;
- c. securing such debt with the property and the sources of funds specified on the budget attached as Exhibit A;
- d. leasing or renting portions of the property to other parties;
- e. accepting contributions, donations, and grants from other parties; and
- f. utilization of the State Bar Facilities Reserve and the other funds specified on the budget attached as Exhibit A.

FURTHER RESOLVED, the President and Secretary of the State Bar of Georgia are authorized to enter into such agreements and to execute such further agreements, instruments, certificates and other documents as may be necessary to carry out the foregoing.

Exhibit C

Proposed Amendment to Bar Rule 1-102

Rule 1-102. Powers.

The State Bar of Georgia shall be a legal entity; may sue and be sued; shall have perpetual existence; may contract; may own real property and personal property may purchase, receive, lease, acquire, own, hold, improve, use, and otherwise deal with real and personal property and any legal or equitable interest in property, wherever located; may sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property; may adopt and use an official seal; shall establish a principal office; and shall have such other powers, privileges and duties as may be reasonable and necessary for the proper fulfillment of its purposes.

Exhibit B
Exhibit C

1. Authorized the President to secure blanket fidelity bonds for the Bar's Officers and staff handling State Bar funds.
2. Directed the State Bar and related entities to open appropriate accounts with such banks in Atlanta, Georgia, but excluding any banks that do not participate in the IOLTA Program, and other such depositories as may be recommended by the Finance Committee and designated by the Executive Committee of the Board of Governors of the State Bar of Georgia, said depository currently being Merrill Lynch, and that the persons whose titles are listed below are authorized to sign an agreement to be provided by such banks and customary signature cards, and that the said banks are hereby authorized to pay or otherwise honor any check drafts, or other orders issued from time to time for debit to said accounts when signed by two of the following: Treasurer, Secretary, President, Immediate Past President, President-elect, Executive Director, General Counsel, and Officer Manager provided either the President, Secretary, or Treasurer shall sign all checks or vouchers, and that said accounts can be reconciled from time to time by said persons or their designees. The authority herein given is to remain irrevocable so as said banks are concerned until they are notified in writing, acknowledge receipt thereof.
3. Designated the employment of an independent auditing firm, to be selected, to audit the financial records of the State Bar for the fiscal year 2009-2010.

2010-2011 State Bar Budget with Board Restrictions

Following a presentation by Treasurer Ruffin and President Tate, the Board of Governors, by a hand vote of 92 in favor to 22 opposed, approved the 2010-2011 State Bar Budget as submitted (Exhibit D) with the inclusion of a one-year sunset for the State Bar's funding of the BASICS Program.

Building Debt

Following a report by President Tate concerning the merits of paying off the debt on the State Bar Building this year, the Board of Governors, by majority voice vote, approved the early payoff. The debt, of approximately \$4.5 million, will be paid from the Bar Center reserves. The original promissory note from SunTrust Bank, as amended and restated on July 29, 2005, was for \$7.2 million at 5.2% annual interest with a term ending on July 29, 2015.

Military Legal Assistance Program

Following a report by Committee Chair Buck Ruffin, the Board of Governors took the following action on a proposed resolution urging the U.S. Congress to preserve a legal assistance office to provide legal services to military personnel:

1. By unanimous voice vote, found the subject matter to be within the legitimate purposes of the Bar; and
2. By unanimous voice vote, approved the following resolution:

Resolution of the State Bar of Georgia

WHEREAS, the State Bar of Georgia has historically been, and continues to be, dedicated to America's promise of justice for all; and

WHEREAS, Fort Gillem and Fort McPherson, United States Army installations located in Forest Park and in East Point, Georgia, respectively, are scheduled to close and be reduced to a military

D-R-A-F-T
STATE BAR OF GEORGIA
BOARD OF GOVERNORS
MINUTES
August 12, 2010
State Bar Building/Atlanta, GA

The 232nd meeting of the Board of Governors of the State Bar of Georgia was held at the date and location shown above. S. Lester Tate, III, President, presided.

Special Recognition

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

Roll Call

Secretary Robin Frazer Clark circulated the attached roll (Exhibit A) for signature.

Previous Board of Governors Minutes

The minutes of the Board of Governors meetings held June 18 and 19, 2010, were approved as submitted by unanimous voice vote.

Future Meetings Schedule

The Board of Governors received a copy of the Future Meetings Schedule. President-elect Ken Shigley announced that the 2012 Annual Meeting will be held in Savannah at the Westin Savannah Harbor Golf Resort and Spa.

State Bar Building Note Burning Ceremony

President Tate announced that the State Bar terminated the Bar Center note swap and paid off the Bar Center note for \$4,196,435.12 plus swap termination costs on Thursday, June 24, 2010, in accordance with the direction of the Board of Governors. Thereafter, he provided a brief history of the Bar's decade-long process to establish a Bar Center, and presented video clips from the State Bar Building dedication ceremony, and ceremoniously burned the note.

Judicial Section's Legislator Award

Judge Pamela Boles and Judge Anne Workman presented the Judicial Section's Spirit of Justice Award to Representative Wendell Willard for his enduring and dedicated service to the lawyers of Georgia and to the judiciary.

Transition into Law Practice Program (TILLP)

President Tate announced that the TILLP was selected as one of two recipients of the ABA's E. Smythe Gambrell Professionalism Award. Program director Doug Ashworth thanked the many people involved in the program's creation and success, and presented the award (\$3,500 check to the State Bar) to President Tate. Past President David Gambrell, whose father this award is named after, provided some remarks about his father.

BPC Financial

Following a report by Judge Gordon Zeese, the Board of Governors, by unanimous voice vote, approved the Members Benefits Committee's recommendation that BPC be allowed to include, as a member benefit, Disability and Long-Term Care insurance.

- 2) Following a motion to approve proposed amendments to Part XII-Consumer Assistance Program (shown below) and subsidiary motions to amend Rule 12-106. Procedures at lines 22-23 to include the proposed stricken language, and remove the word “screening” at line 19, a motion to approve the changes, as amended, and recommend them to the Supreme Court of Georgia passed by unanimous voice vote (Exhibit C):

Part XII-Consumer Assistance Program

- a. Rule 12-105. Supervision
- b. Rule 12-106. Procedures
- c. Rule 12-107. Confidentiality of Proceedings
- d. Rule 12-108. Disclosure
- e. Rule 12-109. Immunity

Dues 2018-2019

Following a report by Treasurer Darrell Sutton and discussion by members of the Board of Governors, the Board of Governors, by unanimous voice vote, approved increasing active member dues by \$2 to \$252 and inactive member dues by \$1 to \$126 for the 2018-2019 Bar year.

Thereafter, the Board of Governors, by unanimous voice vote, approved the following other dues statement items:

1. Section dues to be reflected on the dues statement ranging from \$10-\$35; and
2. Continuation of assessments required by Bar Rules regarding the Clients’ Security Fund (\$100 @ \$25/year) and Bar Center Facility (\$200 @ \$50/year); and
3. Professional Fee (\$15) mandated by the Supreme Court; and
4. Continuation of a \$100 opt-out contribution for the Legislative and Public Education Fund; and
5. A suggested \$300 opt-in provision for individual contributions (\$100 for young lawyers) for the Georgia Legal Services Program.

Henry Walker asked the Executive Committee to look at the continuation of the Bar Center Facility assessment next year with the idea of eliminating it. Eric Ballinger reminded the Board of Governors that there are building maintenance costs the Bar incurs in operating the Bar Center. Executive Director Jeff Davis reported that the Bar Facility and Clients’ Security assessments for young lawyers have been deferred to their first full year in practice. Executive Committee member David Lipscomb pointed out that the Bar has several million dollars in reserves to cover building maintenance costs so the Bar Facility assessment is no longer needed. Treasurer Darrell Sutton said that the Finance Committee will discuss these points next year.

Treasurer Darrell Sutton reported that the dues notice includes a \$15 professionalism fee that will now be a \$15 per year fee for unlimited professionalism courses taken for CLE credit. He also reported that, new this year, the dues statement includes a succession plan designated attorney section for members to identify a colleague to coordinate the return of client files in the event they cannot.

The Board of Governors received a copy of the Finance Committee Minutes of February 7, 2018, Dues and Revenue History, the Chief Justice’s Commission on Professionalism’s Annual Professionalism Surcharge on Bar Dues Statement, and a copy of the 2018-2019 Bar Dues Notice.

Statement of Investment Policy

Investment Committee Chair Donna Barwick, and Garry Bridgemann from Graystone Consulting, presented a Statement of Investment Policy. The policy is based on the Bar's current investment policy and input from Graystone Consulting, the Investment Committee, and Finance Committee Chair Nancy Whaley. The Board of Governors approved the Statement of Investment Policy (Exhibit B) by unanimous voice vote.

Treasurer's Report

Treasurer Dawn Jones reported on the Bar's finances. She presented membership counts by age and gender, and referred to other material in the agenda book.

Finance Committee Chair Nancy Whaley reported on changes that are being made to the financial reports. The new format, shown in the agenda book, will reflect the Bar's combined revenue, combined expenses, and combined net income (loss) as line items on the consolidated revenue and expenditure report. There will be a separate page indicating designated reserves versus surplus, and we will no longer reflect designated monies as it inflates what we believe are reserves. She reported that Bar operations reserves are negative, but the Bar Center is profitable and helping us keep dues lower. Treasurer Dawn Jones reported that the Finance Committee had two meetings to review and discuss the new format and educate itself on how accounting terms are used.

Henry Walker said that while it would be helpful to have a full presentation on this at the next Board meeting, he believes we need to sunset the Bar Facility assessment on new lawyers. He stated that when the assessment was implemented, it was to only be assessed until the Bar Center debt was paid off, and new members are the least able to afford to pay it. This same issue has been raised in the past by other Board members. A motion and second to sunset the Bar Facility Assessment beginning now so that it will not be reflected on the 2019-2020 License Fee Notice was passed by majority voice vote.

The Board of Governors received copies of the Consolidated (Operational and Bar Center) Revenues and Expenditures Report as of January 31, 2019; Income Statement YTD-Operations for the Seven Months Ended January 31, 2019; Bar Center Revenues and Expenditures Report for the Seven Months Ended January 31, 2019; Summary of Dues and Voluntary Contributions at January 31, 2019; Legislative Fund and Cornerstones of Freedom Fund Activity Reports through January 31, 2019; an Investment Performance Comparison 2005-2019; and a copy of the 2018-2019 Budget Timetable (for the 2019-2020 State Bar Budget).

ICLE Budget Report

Treasurer Dawn Jones reported on ICLE's finances and referred the Board members to the information in the Board agenda.

The Board of Governors received a copy of the ICLE Statement of Financial Position as of December 31, 2018, Statement of Operating Revenue and Expenditures for the Six Months Ended December 31, 2018 with Budget Fiscal Year Ended June 30, 2019, and Notes to Statement of Financial Position as of December 31, 2018.

License Fees 2019-2020

Following a report by Treasurer Dawn Jones, the Board of Governors, by majority voice vote, adopted the Finance and Executive Committees recommendations for a \$2 license fee increase so that license fees will be reflected at \$254 for active members and \$127 for inactive members for the 2019-2020 Bar year.

Approval of other Dues Items



December 11, 2020

Board of Governors,

I am pleased to give you an update on what we have accomplished to date in the 2020-21 Bar year and on our future plans. The YLD is committed to continually promoting the mission of our Bar through its younger members, who number nearly 10,000.

The YLD continues to offer our award-winning programs to our members, communities, and profession, by adopting virtual platforms, remaining flexible, and staying engaged to meet the changing needs of our benefactors. In this update, I will provide a committee by committee report along with an update from each of our local affiliates. However, before those reports, I am pleased to report that the YLD has some recent accomplishments as well.

Our commitment to service continues under the social media hashtag - #PurposeThroughService – and already this year it has attached itself to some new and worthy causes. First, the YLD engaged our members in the first ever, Poll Worker Program, which was designed to meet the needs of a growing electorate, decrease in poll workers due to COVID, and new voting systems. The program offered CLE credit to volunteers who met certain criteria and we had overwhelming support of the non-partisan program from leaders of the State Bar, the judiciary, the Secretary of State's Office, and local community leaders across Georgia.

The program was such a success that some of our volunteers were unable to participate due to the outpouring of volunteers. However, through our Board of Directors, Chris Bruce, Jamie McDowell, Andy Navartil, Donovan Eason, Miracle Rankin, and some local leaders, we also promoted a new position at polling precincts known as a Deputy Registrar. This position was unique and allowed the Deputy Registrar volunteer to cancel out voters who registered as “absentee” and allow them to vote in person, so long as their vote had not been tallied. This volunteer position was specifically created for attorneys in Georgia and was used in Fulton County during the General Election. The YLD is helping to promote the volunteer position during the Senate Run Off Elections and we hope to see it grow to new counties. In all, we saw hundreds of State Bar members sign up for this program and we believe their efforts aided in the efficiency of polling locations on Election Day.

The YLD's Women in the Profession Committee, Chairs Jena Emory and Lindsey Macon, hosted a Wills Clinic for teachers, nurses, first responders, and other frontline workers during the months of November and December. As a way to give back to those who have served on the frontlines of this pandemic, the YLD's Women in the Profession Committee teamed with Atlanta Legal Aid to virtually prepare estate planning documents for teachers, nurses, and other frontline workers throughout the months of November and December. In an effort to keep safe distances and practice protocols, all volunteers met virtually with their clients who had signed up for the program through Atlanta Legal Aid. Once again, there were over 80 volunteer attorneys who all drafted and executed estate planning documents for at least one client who worked in a role on the frontline of the COVID-19 pandemic. The program was such a success that there has already been a second event planned for Spring 2021 to serve even more of our bravest citizens.

The YLD Newsletter produced one of the largest and diverse newsletters to date in December. The YLD Review Editors, Ashley Akins and LaKeisha Randall, did a phenomenal job soliciting articles over an expansive list of topics from a diverse group of authors. The edition also has a focus on wellness, racial and social issues, and update on practice areas during the age of COVID-19. These topics were all important to our members as referenced in a number of surveys conducted by the YLD during our meetings this year. The YLD will continue to offer a wide-ranging scope of content and continue our push to incorporate perspectives from volunteer Bar associations and the Multi-Bar Leadership Council.

The YLD Disaster Relief Committee also expanded its reach to meet the needs of those potentially effected by natural disasters in 2020-2021. The weather reports indicated an active storm season and those predictions proved accurate. Luckily, Georgia was able to avoid most of the damage brought by these storms, but the YLD was prepared in the event that the storms hit Georgia. The committee established new contacts with the Georgia Emergency Management Agency (GEMA) and identified regional contacts to assist in delivering legal services to the communities in the event that a disaster struck. Perhaps more importantly, the YLD worked with American Bar Association's Disaster Relief Committee to update our game plan, programming, and procedures to better equip our citizens with information prior to a disaster hitting Georgia. We look forward to building the relationships with the State of Georgia and the American Bar Association to bring our citizens fast-acting relief in the event of a natural disaster.

The YLD Board of Directors, Committee Chairs, local affiliate leaders, and Council of Representatives, along with other YLD leaders will participate in Implicit Bias Training during the Midyear Meeting. The training will be conducted by Dr. Ansley Booker of Mercer University with a focus on raising awareness to certain biases we possess. The training session will be followed by the Inclusion in the Profession's sponsored break out rooms designed to discuss the program and build upon the discussions of the greater group in a smaller, more intimate setting. This will be the first event in a series of training sessions, panels, programming, and discussions put on by the YLD and the Inclusion in the Profession Committee. The program is designed to continue to have more in-depth, productive discussions amongst our leaders and members about certain biases, racial, and social issues, and to promote awareness of the issues.

The YLD has also worked with law schools across Georgia and the Southeast to meet the need for virtual programming for advocacy programs such as moot court and mock trial. The YLD has already co-hosted the Region V National Moot Court Competition put on by the NYC Bar Association and the American College of Trial Lawyers. This prestigious program is nationally-recognized and brings about the best competitors from law schools across the country in oral advocacy. The program was entirely virtual this year and the YLD was able to recruit judges for every round to oversee the competition. The YLD looks to implement similar formats for the Intrastate Competition and other competitions later in the Bar year.

The YLD also selected our 20 participants for the 2021 Leadership Academy. This year's class represents a very diverse group – geographically, practice area, racially, and experience level. This year's class will also have a unique opportunity to collaborate with the yet-to-graduate 2020 Leadership Academy Class. Both classes will combine into one during the third, fourth, and fifth session, with the ultimate goal of everyone graduating at the Annual Meeting at Isle of Palms in June 2021. We look forward to having our first session virtually at the Midyear Meeting and hopefully seeing everyone in-person for the Spring Meeting at Brasstown Valley.

Finally, the YLD continues to promote wellness at each of our general sessions and committee meetings. Not only have we encouraged participation in physical activities, the YLD has had various speakers present on topics of wellness at a number of our meetings. The goal for this year is to ensure that our members are aware of the stresses brought about by 2020 including those caused by the pandemic, racial and social issues, and the added stresses of remote-working. Our programming is designed to remove the stigma associated with discussing mental health issues and to encourage participation in State Bar

programs such as the #UseYourSix Campaign, the Attorney Wellness Committee, and other resources within the Lawyers Living Well program. Each meeting we have has a dedicated speaker to wellness activities and we will continue this into the 2021 Bar year. Additionally, our programming offers monthly opportunities for wellness activities and *The YLD Review* has at least one article dedicated to wellness.

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:

YLD Advocates for Students with Disabilities Committee

Sydney Ford and Jack Grote, Co-Chairs

The YLD Advocates for Students with Disabilities Committee hosted a panel on Oct. 20 that focused on how student evaluations are conducted and implemented during COVID.

We are currently working on planning our next event to take place in February and are taking any suggestions from YLD members who have something they want to learn about in regards to advocating for students with disabilities.

YLD Community Service Projects Committee

DeVondrel Banks, Andy Navratil and Kayla Winters Strozier, Co-Chairs

On Sept. 29, the YLD Community Service Projects Committee hosted a panel discussion via Zoom about the benefits of and how to serve on a nonprofit organization's board of directors. The panel was broadcast on Facebook Live and is archived on the YLD's Facebook page for future viewing. In October and November, the committee helped recruit attorneys to be part of the YLD's Poll Worker Program.

In December, in lieu of recruiting YLD volunteers to assist with a holiday toy drive, the committee is encouraging YLD members to be a "Secret Santa" for some of the 8,000 children and youth in foster care in Georgia through the Georgia Division of Family & Children Service's toy drive. Volunteers can give money online or purchase specific toys via a virtual shopping website where you can search for children's wish lists by gender, age and county.

Looking ahead to 2021, the YLD Community Service Projects Committee is exploring hosting a virtual resume builder workshop with the Gateway Center. The YLD has assisted individuals facing homelessness through the Gateway Center's in-person resume workshops in previous years and we hope to find a way to volunteer again despite the challenges of COVID-19.

YLD Family Law Committee

Sam Lennon and Amy Saul, Co-Chairs

On Sept. 24 from 1-5 p.m., the committee joined DeKalb Volunteer Lawyers Foundation (DVLV) for a TPO Bootcamp, a virtual CLE to train volunteers for DVLV's TPO program. The CLE was a huge success, with more than 20 participants. We will be hosting our first YLD Family Law Committee soon – the date and time is still TBD, but it will most likely be via Zoom.

YLD Inclusion in the Profession Committee

Chanel Chauvet, Alexis Hamilton and Mishael Najm, Co-Chairs

The YLD Inclusion in the Profession Committee is planning a virtual event next year with ACLU of Georgia's political director, attorney Christopher Bruce. The committee is also planning to collaborate

with YLD President Bert Hummel to facilitate an implicit bias training for the Midyear Meeting that will include the Leadership Academy and YLD leadership. The goal of the Inclusion in the Profession Committee is to be a resource for young lawyers from all backgrounds, and the committee welcomes opportunities to work in partnership with other committees and groups within the Georgia Bar as well as other professional associations. Anyone wishing to contact the YLD Inclusion in the Profession Committee can email the co-chairs at inclusionlpa@gmail.com.

YLD Leadership Academy

Sara Fish, Taylor Hanks and Nicole McArthur, Co-Chairs

After holding a virtual informational session to raise awareness about the program and application in mid-November, the Leadership Academy co-chairs reviewed our pool of applicants and selected a class of 20 participants for next year's Leadership Academy. The class members were notified of their acceptance on Nov. 30. All 20 participants accepted.

We are also working on planning specific programming for our first session in January, which will coincide with the Bar's Midyear virtual meeting on Jan. 8 and provide Leadership Academy participants with their ethics CLE credit. We are also looking out to the rest of the year to plan pandemic-flexible programming and volunteer opportunities for the 2021 class.

YLD Legal Food Frenzy Committee

Morgan Lyndall and Veronica Rogusky, Co-Chairs

The Legal Food Frenzy Committee is still looking for Regional Representatives in the Gainesville, Athens, Dalton (NW Ga), and Augusta areas. If you are interested in serving as a Regional Representative for the 10th Annual Legal Food Frenzy, please contact Morgan Lyndall (morgan@butlerfirm.com) and Veronica Rogusky (veronica.rogusky@eeoc.gov).

YLD Legislative Affairs Committee

James Cox, Tyler Mashburn and Philip Pendergrass, Co-Chairs

The YLD Legislative Affairs Committee is excited for another year of promoting education and involvement in the state legislative process! We are still planning and deciding events to come, especially given the pandemic, but will at least have our recurring YLD Day at the Capitol and also be collaborating with the State Bar's Governmental Affairs team. We hope everyone is navigating these difficult times safely and looking forward to a year full of opportunities and growth. Stay tuned!

YLD Litigation Committee

Carlos Fernandez and Kate Reddy, Co-Chairs

On Nov. 11, the YLD Litigation Committee held its first virtual meeting where members were able to introduce themselves and participate in a scavenger hunt. Pursuant to some creative semantics, Lashawn McQueen and her 'lava lamp' won the virtual scavenger hunt and will now be getting dinner on us. At the meeting the committee touched upon what to expect this year from its co-chairs. For those of you who could not join us, we still want to hear from you regarding what kind of programming you would like to see in 2021. Please reach out to Kate and Carlos at kr@kaplanlawga.com and carlos.fernandez@fultoncountyga.gov to discuss further.

On Nov. 18, the YLD Litigation Committee held its "Virtual Litigation 101" event presented by The Butler Law Firm's Morgan Lyndall who discussed the changing landscape of virtual litigation and provided tips/techniques on how to litigate successfully in light of these changes.

Then, on Dec. 8, the committee kicked off its Virtual Interview Series with an interview of Baker Donelson's Joe D. Whitley who discussed his career in white collar criminal defense and his experience working with newer attorneys. He also shared some advice for new attorneys and answered questions as part of a Q&A session.

Finally, pursuant to iron fist wielding YLD President Hummel's wellness directive (we love you Bert!), the YLD Litigation Committee began sending its members healthy, but still tasty, recipes every Wednesday for its 'Wellness Wednesdays.' Each recipe was and will be drawn up by Emory Hospital's Allison Sykora, R.D. On Dec. 15, at 5:30 p.m., Sykora will put on a live cooking event where she will be taking to the kitchen to show viewers how to make a seasonal treat for the upcoming holidays.

YLD Public Interest Internship Program Committee

Andy Navratil and Jamie Rush, Co-Chairs

In October, YLD President Bert Hummel and a Public Interest Internship Program (PIIP) committee co-chair presented information about the YLD and the summer PIIP grants via Zoom to students and staff members at Georgia's law schools. The presentation was recorded and shared with each law schools' career services team so that students who could not attend can learn about the PIIP grants. In October and November, the PIIP committee also assisted with the YLD's Poll Worker Program, whereby attorneys served as poll workers on the November general election, earned CLE credit and agreed to donate their poll worker pay to fund additional summer 2021 PIIP grants.

The YLD is sponsoring the Atlanta Volunteer Lawyers Foundation's Saturday Lawyer Program on Dec. 12. YLD attorneys will interview low-income tenants facing landlord-tenant issues and potentially represent the tenant pro bono. The PIIP Committee is leading the YLD's efforts to recruit volunteer attorneys.

This spring the PIIP committee will solicit applications for the summer 2021 PIIP grants from Georgia law students and recent graduates and will assemble a team of YLD volunteers to review applicants and select the grant recipients.

YLD Solo Practice/Small Firm Committee

Hermise Pierre and Chelsea Wilkerson, Co-Chairs

The Solo/Small Firm Committee will host two events and a mentoring program. The committee understands the financial impact small businesses encountered during this COVID-19 pandemic. Our goal is to host two CLEs and/or events on marketing and financial empowerment. The committee will also spearhead The Donald Lee Hollowell School to Law Pipeline and Mentoring Program at a local high in the metro Atlanta area.

YLD Real Estate Law Committee

Gabrielle Espy, Richard Sarrell and Katie Sayne, Co-Chairs

The YLD Real Estate Law Committee observed Landlord-Tenant Law Week by hosting two virtual events on Nov. 10 and Nov. 12. Erin Willoughby of Atlanta Legal Aid and Michael Dunham of Dunham Legal spoke about landlord-tenant law, landlord and tenant representation and the continuance of evictions in Georgia after the CDC's order.

In January, the committee is planning two events. First is Home Buying Law Week with real estate agent Tyler Stanley and closing attorney Lindsay Smithson, who will speak about the 101s behind purchasing property from their respective professions. The second is Transition into the Practice of Real Estate Law. Three panelists will speak about their transition into the practice of real estate law, and hope to provide

guidance and advice to other young lawyers who may be transitioning or wish to transition into real estate practice.

On Feb. 16, 2021, beginning at noon, the committee will offer Bankruptcy Law for the Real Estate Attorney with Matthew Ray Brooks of Troutman Pepper. Brooks will speak about basic bankruptcy law situations that the real estate lawyer may encounter.

YLD Women in the Profession Committee
Jena Emory and Lindsey Macon, Co-Chairs

We are excited to share with you what the YLD Women in the Profession (WIP) Committee is planning for the 2020-21 Bar year!

September Back to School Blues

The YLD Women in the Profession Committee announced our first event of the 2020-21 Bar year—a panel on juggling many of the pressures of the world we’re living in today while being a working woman, mother or mother-to-be. Our panelists for this event were Sarah Adle, a plaintiffs’ personal injury attorney with Harris Lowry Manton LLP in Atlanta, Georgia; Bethaney Embry, a plaintiffs’ personal injury attorney and owner of The Embry Law Firm in Douglasville, Georgia; Samantha Mullis, a civil defense attorney with Goodman McGuffey in Atlanta, Georgia; and Winter Wheeler, a civil litigator and neutral with Miles Mediation & Arbitration in Atlanta, Georgia. This one-hour Zoom panel took place on Wednesday, Sept. 30, 2020, from 12-1 p.m. Thank you to Lindsey Macon for planning this event.

Clinic with Atlanta Legal Aid

For the month of November, the YLD partnered with Atlanta Legal Aid to draft wills, powers of attorney and advance directives for teachers, school staff, first responders and medical staff. This virtual clinic was sponsored by the YLD Women in the Profession Committee. Atlanta Legal Aid provided a virtual training from on Friday, Oct. 30, 2020, which was eligible for 2 Hours of CLE credit. The training was recorded and available for viewing at a later time. The virtual clinic was initially scheduled to run from Nov. 1-30, 2020, but was extended until Dec. 15. We are excited to partner with the YLD and Atlanta Legal Aid for this virtual clinic, and look forward to hopefully offering another virtual clinic in 2021 for anyone interested.

December

On Dec. 3, the WIP Committee co-hosted a lunch and learn entitled “Mediation in Personal Injury and Workers’ Compensation” with the YLD Workers’ Compensation Committee. The event featured two speakers: Pamela (Ela) Orenstein Basto, who works as a mediator focusing primarily on workers’ compensation claims with Jane Cibik Mediations; and Winter Wheeler, who works as a mediator with Miles Mediation & Arbitration and focuses on mediation in the personal injury space. The event had 21 attendees, who were able to receive 1 hour of trial practice CLE credit. Our gracious panelists even agreed to an extra 15 minutes of questions.

January

On Jan. 11, 2021, in the evening, the WIP Committee is planning a virtual meal prepping cooking class along with the Family Law Committee. More details to come.

2021

The WIP Committee is also working on events in 2021, including lunch and learns and (hopefully) social events.

YLD Workers' Compensation Committee

Oliver Ladd and Elizabeth Phrampus, Co-Chairs

The YLD Workers' Compensation Committee held a general introductory meeting on Oct. 17, 2020, to discuss event plans for the remainder of the year, via Zoom. On Dec. 3, 2020, the committee co-hosted a virtual lunch and learn CLE event on the use of mediation in workers' compensation and personal injury law, along with the Women in the Profession Committee.

For the beginning of 2021, the committee has a virtual mindfulness workshop in the planning stages. The committee has confirmed it will be hosted by Jeena Cho, author of *The Anxious Lawyer*. Given Ms. Cho's experience assisting lawyers with obtaining a more well-balanced life, the event is sure to be of interest to a large number of YLD members, and furthers the YLD wellness initiative. In furthering the YLD community service initiative, the committee will be partnering with a local 501(c)(3), and asking that any members interested in attending the workshop donate what they can to the organization. The committee is also in the process of planning a lunch and learn, featuring one of the State Board of Workers' Compensation judges as guest speaker, for the first quarter of 2021.

YLD AFFILIATES

Augusta YLD

The Augusta YLD is presently dormant with everything going on. We have plans to resume leadership meetings in January to plan a kickoff event in the early spring, but are waiting and watching COVID closely as not to waste any of our limited resources until we can meet with full participation.

Houston County YLD

This year, while many of our events have been canceled, we had the opportunity to contribute to paying off the student lunch debt in Houston County by donating funds that would have been used for this year's events.

In 2021, we plan to have cocktails and conversations, our annual Barbecue and our Christmas Party. We always give to Toys for Tots during the holidays and will continue to do this as well.

Savannah YLD

Despite the challenges of 2020, the Savannah Bar Association's Young Lawyers Division has continued its dual mission of offering networking opportunities to young attorneys and supporting the community through service projects. This year the YLD raised \$529 for America's Second Harvest of Coastal Georgia as part of Georgia's Ninth Annual Legal Food Frenzy. Statewide, the Savannah YLD ranked 22nd in the Legal Organization Category for Total Points with 2,118 total points and 20th in the Legal Organization Category for Points Per Person with 52 points per person; this point total was equivalent to 2,118 meals. Additionally, on June 13, 2020, seven YLD members volunteered at Second Harvest's Savannah Volunteer Center. The volunteers prepared bags of breakfast food, with each bag containing a carton of milk, a juice box, and a packet of cereal.

In October and November, the Savannah YLD held its first two socially distanced happy hours of the year. The first was held on Oct. 29 at Electric Moon Skytop Lounge, a rooftop bar at Savannah's new Plant Riverside District, and the second took place on Nov. 19 at the outdoor patio of Abe's on Lincoln, an Abraham Lincoln-themed tavern. Also on Nov. 19, the SBA held its first luncheon since the onset of the pandemic, and the YLD belatedly presented awards in honor of Law Day, which is normally held on May 1 of each year to celebrate the role of law in our society. Savannah YLD President Samuel L. Mikell presented the Judge Edward Hester Award to Angela Hollinger, the Liberty Bell Award to Sheriff John

Wilcher, the Robbie Robinson Award to Amy Lee Copeland and the John B. Miller Award to Andre Pretorius.

Looking ahead, the Savannah YLD plans to celebrate the holidays by holding an outdoor tacky sweater party on Dec. 18. Community service also remains a priority. In the coming year, the Savannah YLD will continue to work with America's Second Harvest of Coastal Georgia and plans to support Chatham County's Family Justice Center, which helps victims of domestic violence, through pro bono service. Follow the Savannah YLD's activities in the SBA's monthly newsletter, *The Citation*, accessible at www.savannahbar.org.

MEETINGS

Summer Meeting | Sept. 26 | Zoom and Facebook Live

The YLD Summer General Session was held on Saturday, Sept. 26, via Zoom and Facebook Live. More than 80 people registered for this virtual webinar. More than 30 of the registrants were first-time attendees.

Fall Meeting | Nov. 13-14 | Zoom and Facebook Live

On Friday, Nov. 13, the YLD held a virtual happy hour and trivia event on Zoom. The General Session took place on Saturday, Nov. 14.

Midyear Meeting | Jan. 7-8 | Zoom and Facebook Live

Despite the move to an all virtual format, the YLD is planning some great events for the Midyear Meeting including an event with Social Standup on Thursday evening and a full day of events on Friday. This will also be the first session of the 2021 Leadership Academy.

Spring Meeting | March 19-21 | Young Harris, Georgia

The YLD Spring Meeting will be held in conjunction with the State Bar's Annual Meeting at Brasstown Valley Resort & Spa. The YLD is planning a CLE, a service project, a General Session and a group dinner. The 2021 YLD Leadership Academy will have their third session of activities.

Annual Meeting | June 10-13 | Isle of Palms, South Carolina

The YLD Annual Meeting will be held in conjunction with the State Bar's Annual Meeting at Wild Dunes Resort. The YLD is planning a CLE, a service project, a General Session and a group dinner. The 2020 and 2021 classes of the YLD Leadership Academy will have their closing session and graduation ceremony.

Thank you again for your continued support and please let me know how the YLD can better serve you.

Sincerely,



Bert Hummel
2020-21 YLD President

To: Members, Board of Governors

From: Rick Rufolo, Executive Director, Georgia Legal Services Program

Date: December 2020

Re: Update from Georgia Legal Service Program

Providing pro bono services is an integral part of who we are as lawyers. It is our moral and ethical obligation to give back to those most in need. At GLSP, we are making improvements to our pro bono program so that volunteer lawyers become an integral part of GLSP's delivery of legal services. As we continue to build relationships with lawyers around the state, we are developing new approaches to volunteer engagement. We are investing in several signature projects in the areas of consumer law, disaster legal assistance, housing preservation, records restrictions, and veterans' assistance. Let me highlight two of our signature projects:

GEORGIA LEGAL SERVICES PROGRAM HOUSING PRO BONO PROJECT

Even before the Coronavirus (COVID-19) spread, many Georgians outside of metro Atlanta were paying a high percentage of their income for rent, often for substandard housing. The economic crisis caused by the pandemic has resulted in a dramatic increase in unemployment for millions of Americans, including our clients, most of whom work hourly jobs and live paycheck to paycheck. Low-

income tenants face a higher risk of eviction in the wake of the pandemic due to sickness, loss of income, and reduced wages.

The focus of our housing work aligns with our mission, which is to provide access to justice and opportunities out of poverty for low-income Georgians. Through our Pro Bono Housing Project, volunteers assist tenants with issues surrounding unsubsidized rental housing. Volunteer attorneys are currently needed to provide advice and brief services to tenants with low incomes outside of metro Atlanta who are at risk of eviction. From anywhere, volunteer lawyers can provide advice and brief services including but not limited to drafting letters to landlords requesting repairs, advising tenants on remedies in response to repair issues, negotiating security deposit reimbursements, drafting settlement agreements, and assistance with other private landlord tenant matters. For more information or to volunteer, contact GLSP Pro Bono Housing Development Attorney, Ashley Clark at aclark@glsp.org.

MILITARY LEGAL ASSISTANCE PROGRAM

The Military Legal Assistance Program (MLAP) seeks to assist low-income Georgians with a variety of civil legal needs that offer unique legal issues because of the client's status as a service-member or veteran. In the area of housing, this can range from issues dealing with leases because of a change in permanent duty station, issues seeking adapted housing related to a veteran's disability, or predatory VA home loan practices. MLAP also connects service-members and

veterans to pro bono attorneys on issues of VA benefits, consumer issues related to a client's status as a service-member, and other issues.

Currently, MLAP provides assistance to these Georgians in two ways. First, pro bono attorneys may provide advice and counsel, brief writing, and other services for the service-member or veteran. Second, MLAP has partnered with the University of Georgia School of Law's Veterans Legal Clinic to offer rotating remote legal clinic services in small-town and rural Georgia. These remote-clinics offer clinic services to service-members and veterans who may not have access to the internet but allows them to connect to a pro bono attorney for consultations over video-conferencing software. To volunteer, you may contact Christopher Pitts, Coordinating Attorney for MLAP, at cpitts@glsp.org

We appreciate the ongoing support of the Georgia Bar and its members.

Everyone can make a difference in the lives of others. Please join the GLSP Team today and let's make a difference together.

**STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE MEETING
MINUTES
Friday, September 11, 2020 at 1:00 p.m.
Via Zoom Meeting**

Members Participating:

Dawn M. Jones, President; Elizabeth Louise Fite, President-elect; Sally B. Akins, Treasurer; Tony DelCampo, Secretary; Darrell L. Sutton, Immediate Past President; Bert D. Hummel, IV, YLD President; Elissa B. Haynes, YLD President-elect; William T. Davis, YLD Immediate Past President; Ivy N. Cadle; R. Javoyne Hicks; Amy V. Howell, David S. Lipscomb; Martin Valbuena, and Nicki Vaughan.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Sarah Coole, Director of Communications; Jeff Davis, Executive Director; Paula Frederick, General Counsel; Michelle Garner, Director of Meetings; Cassie Hallstrom, Executive Administrator; Christine Butcher Hayes, Director of Governmental Affairs; Bill NeSmith, Deputy General Counsel; and Ron Turner, Chief Financial Officer.

Call to Order

President Dawn M. Jones called the meeting to order at 1:05 p.m. Members of the Executive Committee in attendance are indicated above.

Future Meetings

Dawn reported that discussions continue regarding the status of the Midyear and Spring Board of Governors Meetings. Negotiations with meeting locations are being held to ensure social distancing guidelines can be met and safe dining options provided.

Dawn also reported that a Special Called Meeting of the Board of Governors will occur on Friday, September 18, 2020 for an election on the chosen candidate to fill the open Executive Director position. In addition, board members and any guests present will complete a survey regarding future meetings and what specific concerns they have in regards to the COVID-19 pandemic.

Dawn reminded the Executive Committee that decisions on meeting in person will be made based on the current COVID-19 status in whatever location a meeting is planned.

Executive Committee Minutes

Secretary Tony DelCampo presented the minutes of the Executive Committee meeting held August 14-15, 2020. The Executive Committee approved the minutes by unanimous vote.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Executive Committee approved the following resignation requests by unanimous voice vote: Cynthia Calhoun-102876, Susan McKay-478270, Kathleen Willis-766744, Allison Pierre-993728, Haley Boyette-073222, Robert Bertsson-054960, Therese Smythe-216170

Members Requesting Disabled Status

Pursuant to State Bar Rule 1-202, the Executive Committee approved one request for disabled status by unanimous vote.

Nomination of Executive Director to Board of Governors

Dawn reported that Immediate Past-President Darrell Sutton put together a Senior Staff Search Committee six months ago. The committee is a diverse group of 20 individuals consisting of Past-Presidents, Executive

Committee members, State Bar staff members, other past Executive Committee members and Board of Governors members. The Search Committee voted to hire the firm of Young Mayden, LLC in June as a search consultant for the open Executive Director position. Approximately fifty-one applications were received for the position. A smaller group was then formed consisting of Dawn M. Jones, Darrell Sutton, Elizabeth Fite and Paula Frederick to narrow down the applicants, with the assistance of the search firm. Twenty applications were then presented to the Search Committee and seven were chosen for interviews. A candidate was selected as the recommended candidate for the Executive Director position by majority vote of the search committee with the assistance of Barbara Mayden, Search Consultant. Salary negotiations with the candidate will be complete before the Board of Governors meets on September 18, 2020 to formally elect the candidate.

Dawn reiterated the need for confidentiality regarding the chosen Executive Director candidate as well as other applicants for the position.

Following a motion, second, and unanimous voice vote, the Executive Committee met in Executive Session to discuss the nomination. Thereafter, by unanimous voice vote, the Executive Committee emerged from Executive Session.

By majority vote, the Executive Committee approved recommending the candidate presented by the Search Committee to the Board of Governors for approval.

Amendments to Rules

Following a report by Deputy General Counsel Bill NeSmith, the Executive Committee took the following action on proposed Rules amendments (Exhibit A):

- 1) Rule 1-303. Meetings: Recommended to the Board of Governors by unanimous vote.
- 2) Rule 1-601 (Bylaws): Recommended to the Board of Governors by unanimous vote.
- 3) Rule 1-801. Annual Meeting: Recommended to the Board of Governors by unanimous vote.
- 4) Rule 1-801.1. Midyear Meeting: Recommended to the Board of Governors by unanimous vote.
- 5) Rule 1-802. Special Meetings: Recommended to the Board of Governors by unanimous vote.
- 6) Rule 1-803. Notice: Recommended to the Board of Governors, as revised, by unanimous vote.
- 7) Article II. Section 1. Annual Meeting: Recommended to the Board of Governors by unanimous vote.
- 8) Article III. Board of Governors. Section II. Meetings: Recommended to the Board of Governors by unanimous vote.
- 9) Article IX. Sections. Section 3. Other Sections - Purposes: Recommended to the Board of Governors by unanimous vote.
- 10) Article IX. Sections. Section 4. Establishment of Sections: Recommended to the Board of Governors by unanimous vote.
- 11) Article IX. Sections. Section 5. Abolition of Sections: Recommended to the Board of Governors by unanimous vote.

Amendments to Section Bylaws

Following a report by Bill NeSmith, the Executive Committee took the following action on proposed Section Bylaws amendments:

- 1) Animal Law Section: Approved the proposed amendments, as revised, by unanimous vote. The revised Bylaws will go back to the Section for review and comment.
- 2) Entertainment and Sports Law Section: Approved the proposed amendments, as revised, by unanimous vote. The revised Bylaws will go back to the Section for review and comment.

Request for New Religious Liberty Law Section

General Counsel Paula Frederick reported that she suggested some minor changes to the bylaws for the proposed new Section, and the proponents have agreed to those changes. The proposed bylaws, as revised, are consistent with the Rules and Bylaws of the State Bar.

Following a motion, second, and unanimous voice vote, the Executive Committee met in Executive Session for further discussion. Thereafter, by unanimous voice vote, the Executive Committee emerged from Executive Session.

By unanimous vote, the Executive Committee took no action on the request, but approved including the request for the new Religious Liberty Law Section on the agenda for the Fall Board of Governors Meeting.

Presidents Report

Dawn reported on the newly formed Virtual Meetings Committee consisting of Shiriki Jones (chair), Meetings Director Michelle Garner, AV Coordinator Kyle Gause, Communications Director Sarah Coole, Administrative Assistant Gakii Kassamba, Mark Effron, Wesley Ross and Eric Ballinger. The committee's purpose is to assist with virtual event planning for all bar related events or meetings. Dawn wants to have as many fully functioning virtual events as possible and include social aspects at the meetings.

Dawn gave an update on weekly administrative meetings that occur every Tuesday with Paula, Jeff, Sharon, Michelle and herself. Recent discussions have included planning towards reopening the State Bar of Georgia to the public in phases as the courts begin opening for juries in October.

Executive Director's Report

Executive Director Jeff Davis reported that the State Bar remains closed to the public. Last week ICLE had a very successful live stream event of CLEs, one of which Paula spoke on ethics and professionalism. He said that all of the policies and protocols were followed during the limited use of the conference center.

Jeff reported there is an extensive plan in place to reopen the bar. He suspects there will be pressure from the courts for the bar to reopen when the courts open for jury trials in October so the situation will continue to be monitored.

Jeff reported that the Georgia Public Defender's Council has extended their lease through March 1, 2021 with the possibility of an additional 3-month extension, which is good for the bar financially.

Jeff reported that he spoke to John Bell, Chair of the Georgia Legal History Foundation, and the Woodrow Wilson exhibit will be relocated to one of Wilson's childhood homes in Augusta, Georgia.

Jeff reported that the Bar Center Committee met and they have reached out to the Atlanta Bar Association regarding their possible tenancy at the State Bar. The Bar Center Committee also discussed other possible leads for new tenants as well.

Treasurer's Report

Treasurer Sally Akins reported the finance department is busy getting the end of the year fiscal numbers together and those should be ready in the next couple of weeks. She said she will be able to report on that further at the next meeting of the Executive Committee.

Office of General Counsel Report

Paula reported that the grievance process is behind due to the building closure and judicial stays. Staff has made progress on catching up. Recently Zoom depositions and hearings have been taking place. The Office of General Counsel's annual report will be ready in the next month.

YLD Report

YLD President Bert Hummel reported that the YLD Committee Chair Orientation occurred the Friday before Labor Day. Ideas were discussed for projects and community service initiatives for the year that can still be accomplished with the new, but familiar Zoom culture.

Bert reported that CCLC has approved up to 6 hour CLE credit for the new poll worker training program. Bert encourages anyone who is interested to get the word out to their local bars or organizations.

Bert reported the YLD Newsletter is going to go to print and is expanding its content to include a more well-rounded submission of articles.

The YLD Disaster Relief Program is rolling out this month as it is Disaster Awareness Month. Donovan Eason from Savannah has teamed up with GEMA and will coordinate with regional coordinators for marketing purposes.

A community service clinic in coordination with Georgia Legal Services Program will be held September 28, 2020 in the Chattahoochee court circuit, offering a records restriction program to the public. Women in the Profession Committee is working with Georgia Legal Aid to put on a clinic. Will Davis is working on a clinic for teachers, nurses and first responders. Ashley Akins is setting up a reading to school children program for virtual learning students. Also, the Communications Department is working to move forward with podcasting for the YLD.

Bert reported that during the Committee & Section Chair Orientation, feedback was being received from members who want to get back to in person meetings. Dawn responded that the Bar's website will be updated monthly to provide relevant information to our members about the Bar. She stated that the Bar will continue to follow CDC guidelines and only move forward with in person meetings when the situation allows for that.

Advisory Committee on Legislation/Legislative Report

Governmental Affairs Director Christine Butcher Hayes reported that the first ACL meeting is on Tuesday, September 15, 2020. Javoyne Hicks is the current ACL chair. The Uniform Mediation Act, which did not pass last session, will be re-submitted due to the new biennium and will have to pass through the entire process again. Two informative proposals will be presented by the Judicial Council, one on court reporting and the other is the Superior and State Court Appellate Practice Act. In addition, the two annual funding proposals for victims of domestic violence and Kinship Care will be included. A line item will also be included to open up discussion on legislation for the upcoming session about anything that has affected the practice of law during the COVID-19 pandemic. One of those issues will be online notaries but that proposal won't come through until December.

Whistleblower Policy

Paula reported on Standing Board Policy 900. The policy covers Board members, officers, directors and staff and serves to protect those who "whistleblow" from retaliation. Amy Howell asked if the policy is part of the

normal training process. Jeff advised the policy is provided in the new Board Members Handbook. Paula stated that the policy was not previously a part of the employee handbook, but has now been included. Amy asked when or how often that handbook is provided to staff. Paula and Jeff responded the handbook is provided and an acknowledgement form is signed upon hiring and when any amendments to the handbook are made.

Professional Liability Insurance Committee

David Lipscomb reported that the committee met last month and they decided to conduct another survey with restructured options and voted to make a recommendation to the Board of Governors, but wants to do so at an in-person meeting,

Paula reported that Judge Ken Hodges wants to define what disclosure means in the rule. The discussions over the past two years have involved a disclosure requirement for lawyers who do not have malpractice insurance noted on the Bar's website. The new option being discussed by the committee is disclosing to the bar, but not having it reported anywhere. Chris Twyman will give a report at the Fall Board of Governors meeting.

David reported there is major discussion to be had as far as disclosing in advance to clients or prior to the client filing a lawsuit and if it is the latter how much information should be disclosed. Mandatory disclosure but keeping the information confidential may not be a viable option. David said the update by Chris at the Fall Board of Governors meeting will give the Board advance notice that the issue will be presented in the future as an action item.

Judicial COVID Taskforce

President-Elect Elizabeth Fite reported that the most recent Judicial Emergency Order allows for grand juries in circuits where judges are comfortable with doing so, and local committees are being formed to make recommendations on the way things should operate under the current circumstances taking into consideration the limitations of that specific area. The taskforce has compiled a list of resources which are located on the AOC's website/COVID Taskforce page. It includes information on sanitizing, remote jury selection, in-person jury selection, and a technology page with demonstrations. The resources were designed with judges in mind but they are for everyone and can be shared. Elizabeth is working with Michelle Barclay at the AOC to compile a list of free or low cost resources. The next round of information to come out will be the jury guidelines such as virtual jury selections and jury selections at alternate sites. Dawn requested that a link to the AOC/COVID Taskforce information be posted on the Bar's website.

Seeking Equal Justice and Addressing Racism & Racial Bias Committee

Paula reported on the initial meeting of the committee. Sarah has agreed to help with the committee's events and presence on the Bar's website. The committee will be doing a series of "Courageous Conversations" with the first being on September 30, 2020 with C.K. Hoffer, National Bar Association President, and Jonathan Ringel of the Daily Report. The focus will be the Daily Report's coverage of the funeral service for U.S. Representative John Lewis, which featured a headline that black lawyers found to be biased. The paper's editorial board met with a number of lawyers and took steps to address their concerns.

The next meeting will be held in conjunction with the Fall Meeting of the Board of Governors.

Access to Justice and Indigent Defense Committee

Nicki Vaughn reported the Access to Justice Committee has met and members are in the process of signing up to work on sub-committees. Also, the Indigent Defense Committee does not meet during the summer and was supposed to meet next week but has been postponed a week as to not conflict with the Special Called Board of Governors Meeting.

Committee Updates

Dawn is requesting that all Executive Committee liaisons reach out to their respective committees and check on them if they have not been met by the Fall Board of Governors meeting. She stressed the importance of helping committees get active despite current COVID circumstances. Executive Committee liaisons should be prepared to give an update on their committee's at the next meeting following the Fall Board of Governors meeting.

Amy Howell asked for a reminder of the staff liaisons. Sarah responded all committees are listed on the bar's website which includes the name of the staff liaison, and Dawn requested the information be sent out again as a reminder.

Announcements

David commended Christine for the work she does for the Bar and said it demonstrates the wisdom in hiring her and bringing some of the lobbying in-house.

Bert reported he and his wife should have a new baby by Tuesday and they are very excited. The gender will be a surprise.

Christine shared that she has eight weeks left of pregnancy and that the committee will be the first to know when the baby arrives

Old Business

There was no old business.

New Business


There was no new business.

Adjournment

There being no further business, the meeting was adjourned at 5:06 p.m.

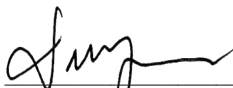
Re-Adjournment of the Executive Committee Meeting

Dawn re-adjourned the Executive Committee meeting at 5:15 p.m. so that members could schedule the next EC meeting for October 8, 2020 at 10:00 a.m. that will be cancelled if it is not needed. Said meeting was set by motion, a second, and a unanimous vote after discussion comparing everyone's schedule was held. Thereafter, the meeting was adjourned at 5:16 p.m.



Tony DelCampo, Secretary

Approved:



Dawn M. Jones, President

**STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE MEETING
MINUTES
Friday, September 25, 2020 at 2:00 p.m.
Via Zoom Meeting**

Members Participating:

Dawn M. Jones, President; Elizabeth Louise Fite, President-elect; Sally B. Akins, Treasurer; Tony DelCampo, Secretary; Darrell L. Sutton, Immediate Past President; Bert D. Hummel, IV, YLD President; William T. Davis, YLD Immediate Past President; Ivy N. Cadle; David S. Lipscomb; Martin Valbuena; and Nicki Vaughan.

Call to Order

After obtaining the required 2/3 vote in favor of holding the special called Executive Committee meeting, Jones called the meeting to order at 2:05 p.m. Members of the Executive Committee in attendance are indicated above. Staff did not attend this meeting.

Nomination of Executive Director to Board of Governors

Dawn reported that a conditional agreement had been reached with the Executive Director candidate regarding a compensation package, with the assistance of the search firm consultant and knowledge of the Supreme Court, and prior discussion Dawn had with General Counsel Paula Frederick. The package requires approval of the Executive Committee before the candidate is presented to the Board of Governors for a final vote. She described the process of determining the appropriate salary range, including market comparables provided by search firm consultant Barbara Mayden (shared with the EC electronically), salary histories for senior bar staff for the past seven years, current payroll information (shared with the EC electronically), State Bar organizational charts (shared with the EC electronically), and previously discussed core competencies, characteristics and skills required of an Executive Director coming into today's current COVID-19, remote working environment. Dawn also shared discussions she recently held with Paula and Jeff Davis regarding their opinions involving the new Executive Director compensation package.

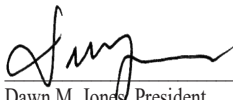
Following a motion, second, and unanimous voice vote, the Executive Committee met in Executive Session to discuss the package. Thereafter, by unanimous voice vote, the Executive Committee emerged from Executive Session. Soon after, following a motion, second, and unanimous voice vote, the Executive Committee met in Executive Session for a second time to discuss the package. Thereafter, by unanimous voice vote, the Executive Committee emerged from Executive Session again.

By majority vote, the Executive Committee voted to table until October 8, 2020, the date of the next scheduled Executive Committee meeting, a decision on the Executive Director candidate compensation package.


Adjournment

There being no further business, the meeting was adjourned at 4:03 p.m.

Approved:



Dawn M. Jones, President



Tony DelCampo, Secretary

D-R-A-F-T
STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE MEETING
MINUTES
Thursday, October 8, 2020 at 10:00 a.m.
Zoom Meeting

Members Participating:

Dawn M. Jones, President; Elizabeth Louise Fite, President-elect; Sally B. Akins, Treasurer; Tony DelCampo, Secretary; Darrell L. Sutton, Immediate Past President; Bert D. Hummel, IV, YLD President; Elissa B. Haynes, YLD President-elect; William T. Davis, YLD Immediate Past President; Ivy N. Cadle; R. Javoyne Hicks; Amy V. Howell, David S. Lipscomb; and Nicki Vaughan.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Sarah Coole, Director of Communications; Jeff Davis, Executive Director; Paula Frederick, General Counsel; Michelle Garner, Director of Meetings; Cassie Hallstrom, Executive Administrator; Christine Butcher Hayes, Director of Governmental Affairs; Bill NeSmith, Deputy General Counsel; and Ron Turner, Chief Financial Officer.

Call to Order

President Dawn M. Jones called the meeting to order at 10:03 a.m. Members of the Executive Committee in attendance are indicated above.

Future Meetings

Dawn reported that the Fall Board of Governors agenda book and meeting brochure are at the printer, and she thanked Sarah and Michelle Garner for their work on those. In addition to the virtual Board meeting, there will be various committee meetings, two CLE seminars, and social activities in lieu of the BOG dinner. Dawn encouraged everyone to register and encourage their colleagues to do the same.

Dawn stated there was nothing new to report about the Midyear Meeting. Right now, the Board of Governors meeting will be a hybrid meeting (virtual and in-person) and there will be a full set of events around the meeting. Dawn reported the survey was very informative and reiterates that the stats and information we are using to make our decision about moving forward safely with meetings are on point.

Dawn reported the joint Spring Board of Governors/YLD Meeting at Brasstown Valley Resort is also moving forward, so we are not cancelling any other contracts right now.

Executive Committee Minutes

Secretary Tony DelCampo presented the minutes of the Executive Committee meetings held September 11 and September 25, 2020. The Executive Committee approved the minutes by unanimous vote.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Executive Committee approved the following resignation requests by unanimous voice vote: Ashley Reckford-603710, Matthew Cassel-116020, Leif Jensen-391280, Jamie Martin-473207, Rebecca O'Connor-199022, Jeffrey Beyle-056325, David Shallenberger-631450, Greg Landau-433240, Constance Young-141841, Daphne Lancaster-432603, Ryan Huschka-993353.

Members Requesting Disabled Status

Pursuant to State Bar Rule 1-202, the Executive Committee unanimously approved two requests for disabled status.

Member Status Appeal

Following a report Bill NeSmith, the Executive Committee took the following action on member status appeals:

- 1) Stephen Franklin Abney: Unanimously approved waiving late and reinstatement fees, but required him to complete Fitness.
- 2) Robert Kinz: Unanimously approved giving him until June 30, 2021 to complete Fitness and be reinstated without taking the Bar exam due to timing issues created by the COVID-19 pandemic.
- 3) Din Khary Duggan: By a hand vote of 8 in favor to 5 opposed, granted late registration on the condition that all past dues, including any late fees and penalties, for the past twelve years be paid, and required he be recertified through Fitness.

Team Building

Tanya Washington, Professor of Law at Georgia State University College of Law, presented a team building program for the Executive Committee and senior staff. ICLE Director Michelle West and Human Resources Director Sandra Dixon joined the Executive Committee for the team building program.

Executive Director Candidate Package

Following a motion, second, and unanimous voice vote, the Executive Committee met in Executive Session to discuss the new Executive Director package. Thereafter, by unanimous voice vote, the Executive Committee emerged from Executive Session.

While in Executive Session the Executive Committee agreed, by majority vote, to make a counter-offer to the Executive Director candidate.

President's Report

Dawn made reference to the future Executive Committee meetings reflected on the Future Meetings Schedule and said, based on the amount of time we have spent to date in EC meetings, to expect those to be 4-hour meetings starting at 1:00 p.m.

Dawn reported that she had a speaking engagement this morning with the Atlanta Bar Family Law Section where there were numerous questions about allies and working on social justice issues. She will be speaking to the Gwinnett Bar, and to the Cobb Women in the Bar in December. She continues to receive great feedback on the work of the Seeking Equal Justice and Addressing Racism & Racial Bias Committee, and the statement made by the State Bar. There are a large number of bar members who want to get involved.

Dawn reported she continues to meet at least weekly with Jeff, Paula and Sharon, but remains in constant contact as needed.

Dawn reported that on Saturday an emergency order will be issued from the Supreme Court that suggests that courts move forward with in-person jury trials, and it will include guidelines for doing so. The next meeting of the Judicial Council is October 19.

Dawn reported that the Fall Board agenda and meeting brochure will be sent out electronically. She said when everyone receives the agenda they will see that Rick Rufalo and Christine Hayes are both listed, and will be listed on each BOG meeting agenda, in Dawn's attempts to increase contributions to GLSP and the Bar's public advocacy and legislative funds that have been trending down for several years. Jeff is making certain that contributions can be made online to those two entities any time during the year, and we will keep reminding everyone to do so. On the Fall Board agenda, there is a discussion by Professor Washington on ABA Model Rule 8.4(g) prohibiting discrimination and harassment in the practice of law. It's on the agenda to be a discussion item only as it relates to what we are doing at the Bar. Dawn's vision is to help us continue the conversation on

social injustice. Dawn also reported that the Seeking Equal Justice and Addressing Racism & Racial Bias Committee's first *Courageous Conversation* took place.

Dawn reported that she and Christine are meeting with the Governor's Executive Counsel David Dove in December to talk about what the Bar is thinking going into this legislative session and to investigate and discuss ways in which we can partner. If anyone has thoughts on this Dawn asked that they send them to Christine. They will also be discussing the space leased at the Bar Center by GPDC.

Dawn announced the Strategic Plan item has been removed from the agenda for the sake of time.

Executive Director's Report

Executive Director Jeff Davis reported ICLE is continuing to live stream CLEs, which are also being recorded and distributed through webcasts. He expressed his thanks to Michele West and her ICLE team.

Jeff reported that we have been working with the Judicial Council on PSAs related to jury trials, called *Justice Needs Jurors*, and they are in production now.

Jeff reported that we continue to do the work of Bar virtually and, so far, we are not seeing any issues that we haven't been able to address. We are working on making payments to GLSP and the legislative fund more prominent on the website.

Jeff reported that this is unlike any Executive Committee before as it is the last meeting Sharon will be with us after 41 years of service at the Bar.

Advisory Committee on Legislation/Legislative Report

Christine reported the Advisory Committee on Legislation met on September 15. ACL chair Javoyne Hicks ran a great efficient meeting with 80+ people in attendance. The ACL voted on funding for kinship care to legal services for Board of Governors support. The mediation bill and funding for victims of domestic violence will be presented at the next ACL meeting. Christine reminded everyone that general election early voting starts Monday.

Treasurer's Report

Treasurer Sally Akins stated that Ron would discuss the year-end financials.

The Executive Committee received the Consolidated (Operational and Bar Center) Revenues and Expenditures Report as of June 30, 2020; Bar Center Revenues and Expenditures Report as of June 30, 2020; Income Statement YTD-Operations as of Ended June 30, 2020; Status and Use of Cash and Investment as of June 30, 2020; Board-Designated and Donor Temporarily Restricted Net Assets as of June 30, 2020; Summary of Members and Voluntary Legislative Contributions Paid Through June 30, 2020; Summary of Members and Voluntary Contributions to GLSP Paid through June 30, 2020; Summary of Members and Voluntary Legislative Contribution Paid through June 30, 2020; Legislative Activity Report from July 1, 2019-June 30, 2020; Clients' Security Fund Activity Report as of June 30, 2020, and the ICLE Income Statement Ending June 30, 2020.

End of Year (2019-2020) Budget Report

Ron reported on the State Bar of Georgia Reconciliation of Net Income (Loss) Budget to Actual Final Net Income (Loss) for Fiscal Year Ended June 30, 2020 report. He also reported we used \$388,000 of the \$500,000 grant from CCLC for the Clients' Security Fund (CSF).

Office of General Counsel Report

Paula reported her office has finally gathered its statistics to put together the OGC annual report and the numbers

look good. The statistics reflected in the report will be for the period of May 1, 2019 through April 30, 2020, and will include reports on the Formal Advisory Opinion Board, Clients' Security Fund, State Disciplinary Board and State Review Board and a whole host of other things.

Paula reported her office is getting increasing requests to serve as CLE speakers.

Paula reported that she is submitting on behalf of the Professional Liability Insurance (PLI) Committee a grant request seeking funds from the Chief Justice's Commission on Professionalism for programming for a Georgia-specific management-based assessment test. The assessment test will be available to lawyers on a voluntary basis to help them determine if they have proper risk-assessment safeguards in place and to help them reduce being subject to a malpractice case. The start-up cost is \$13,000 to develop a Georgia-specific risk assessment program that will cover 18 topic areas. Whether or not the PLI Committee passes self-assessments, she believes it would be very helpful to our members.

Bill NeSmith reported on rules changes for the CSF that would change the bottom threshold of the CSF fund balance. Currently the most that can be spent in a Bar year is \$100,000. When the fund balance gets below \$1 million threshold, it triggers an assessment, and the fund's current burn rate has gotten close to the threshold. The fund is sitting on a \$1 million reserve that if freed up, could assist more clients that we could be helping. The CSF is trying to figure out how we can spend at least the \$500,00 annually without triggering an assessment as well as how to continue funding it. Ivy Cadle reported the rules have largely been vetted by the CSF Board of Trustees.

YLD Report

YLD President Bert Hummel reported on the activities of the YLD. The YLD Women in the Profession Committee has been working on a wills program for nurses and teachers, and there will be a training session for it on October 30. The volunteer poll workers program across Georgia has been a great success. Some counties are having to turn away some volunteers, so now the YLD is creating a list of active attorneys that can be trained through the Secretary of State's office and be present at the polls to help voters who elected to receive absentee ballot, but never received it, by changing their voter status so they can vote at their polls. The YLD Executive Committee and Board of Directors recently met with various breakout sessions. The YLD conducted a survey at its General Session on virtual meetings, racial bias, and stress around COVID-19. Eighty attendees participated in the YLD Summer Meeting with a lot of those being first-time attendees. About 65% of the survey participants indicated a desire for in-person meetings so going forward the YLD plans to hold hybrid meetings. The YLD is also working on programming for implicit bias training and a program on elections laws in general, runoffs, and other issues. In the meantime, YLD committees continue to work on their projects.

Judicial COVID Taskforce

Elizabeth reported that the COVID Task Force is still meeting, but is mostly working on guidelines now. Jury trials will be able to move forward beginning on Saturday, but there will be a lag time getting those set up. Elizabeth said there is still a need to have a repository for complaints, concerns, or suggestions being raised by attorneys as the courts move forward with jury trials.

Committee Updates

David reported the 1) Judicial Procedure and Administration Committee met and is looking at modifications to Rules 9.1 and 9.2 that deal with video conferencing, 2) Disciplinary Rules and Procedures Committee has meeting on October 23 and is looking at the advertising and marketing rules and the possibility of an anti-bias rule, and 3) Professional Liability Insurance Committee met in August and chair Chis Twyman will give a report at Fall Board meeting. The committee is hoping to present a recommendation to the Board to Governors at the Midyear Meeting.

Javoyne reported that the Wellness Committee's *Monthly Touches* are actively being done, and the committee would like Dawn to record an introduction for those.

Old Business

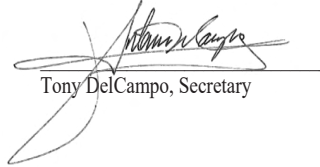
There was no old business.

New Business

There was no new business.

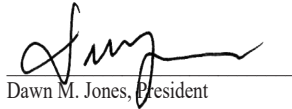
Adjournment

There being no further business, the meeting was adjourned at 2:25 p.m.



Tony DelCampo, Secretary

Approved:



Dawn M. Jones, President

STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE SPECIAL CALLED MEETING
MINUTES
Tuesday, October 13, 2020, 7:00 p.m.
Via Zoom Meeting

Present:

President Dawn M. Jones, President-Elect Elizabeth Fite, Treasurer Sally Akins, Secretary Tony Del Campo, Immediate Past President Darrell Sutton, YLD President Bert Hummel, YLD President-Elect Elissa Haynes, YLD Immediate Past President Will Davis, David Lipscomb, Martin Valbuena, Ivy Cadle, Nicki Vaughn.

Call to Order:

After obtaining the required 2/3 vote in favor of holding the special called Executive Committee meeting, Jones called the meeting to order at 7:09 p.m. Members of the Executive Committee in attendance are indicated above. Staff did not attend this meeting.


It was moved, seconded and voted unanimously to go into Executive Session.

It was moved, seconded and voted unanimously to come out of Executive Session.

Upon coming out of Executive Session, it was announced that the following motion was moved, seconded and passed by majority vote (12:1) of the Executive Committee:

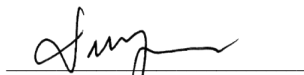
To extend an offer to Damon Elmore as Executive Director of the State Bar of Georgia for [redacted] salary plus moving expenses of up to \$10,000.00, and employee benefits previously discussed per HR benefits sheet; and upon acceptance of the offer and hiring as Executive Director of the State Bar of Georgia, that his first priority is to turn his attention to improving the financial position of the Bar given the retirement of senior bar staff, concerns facing a mandatory bar, and the present COVID-19 pandemic.

This offer will be subject to a final vote of the recommended ED Candidate, Damon Elmore, at the upcoming Board of Governors meeting on October 24. Virtual meet and greets will be scheduled in advance of the BOG meeting next week.



Tony DelCampo, Secretary

Approved:



Dawn M. Jones, President



To: Members, Board of Governors

From: Paula Frederick

Date: January 2021

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.

Client Assistance: The Client Assistance Program continues to average more than 50 calls each day, handling 8,800 calls and letters since January 1. Poor communication is the number one cause of complaints and it seems that the pandemic has exacerbated communication problems between lawyers and clients.

Discipline: The State Disciplinary Board has held its meetings by Zoom since March. Members are investigating 83 matters, with an additional 474 undergoing initial screening in the Office of the General Counsel. The Year-to-Date Report on Lawyer Regulation (covering the period May 1, 2020 through October 31, 2020) 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 January; they appear elsewhere in the Board book. Most are housekeeping amendments required by the procedural changes to the disciplinary process.

Formal Advisory Opinion Board: Proposed Formal Advisory Opinion 20-1, a rewrite of opinion 94-3 (communication with former employees of a represented entity), is pending for comment by members of the Bar. The Board met in November and declined to issue an opinion on request 19-1, regarding the propriety of Google Ad Words/Competitive Keyword Advertising. It has accepted one request for drafting--Request 20-R2 regarding mandatory arbitration clauses in fee contracts.

Receiverships: Since the annual meeting we have filed two new petitions appointing receivers. We have received several inquiries which did not result in the Bar having to appoint or serve as receiver, and we continue to encourage lawyers to designate another lawyer to serve as successor counsel in the event of sudden death or disability.

Trust Account Overdrafts: Since January we have received 246 overdraft notices from financial institutions. After an initial inquiry 150 of them required additional investigation.

Committees and other meetings:

- Clients' Security Fund--the Trustees met to review claims on September 9, 2020. At that meeting they paid claims totaling \$168,000. We have received 20 new claims since that meeting.
- Professional Liability Insurance Committee—the Committee will meet in conjunction with the Midyear meeting of the Board, but has asked to present its final recommendations to the Board at an in-person meeting.
- OGC Overview Committee—the Committee met November 17. It is helping the Office develop a succession plan.
- International Trade in Legal Services—the committee met in November, and continues to meet regularly.

CLE Presentations: OGC lawyers and staff have served as presenters at nine Continuing Legal Education programs since the Annual meeting.

**Year-to-Date Report on Lawyer Regulation
May 1, 2020 through October 31, 2020**

Grievance forms sent to the Office of the General Counsel for screening.....	806
Grievances pending as of 4/30/20	<u>474</u>
TOTAL.....	1280
Grievances referred to State Disciplinary Board members	32
Grievances being screened by Grievance Counsel (GC)	414
Grievances closed by Grievance Counsel	812
Grievances moved to moot status by GC after attorney was disbarred.....	22
TOTAL.....	1280

Regulatory Action May 1, 2020 through October 31, 2020

	<u>Attorneys</u>	<u>Cases</u>
Letters of Admonition Accepted	8	8
Confidential Reprimands Administered	3	3
Review Board Reprimands	0	0
Public Reprimands	1	1
Suspensions	10	12
Disbarments/Voluntary Surrenders	<u>9</u>	<u>10</u>
TOTAL	31	34
Reinstatements Granted	1	1
Reinstatements Denied	0	0

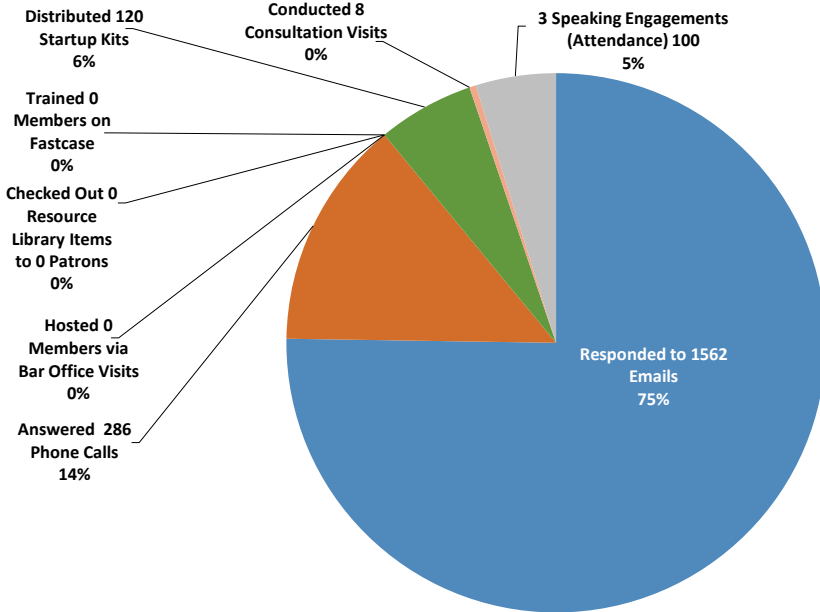
Law Practice Management Program

(Abbreviated report for the 2020-2021 Bar Year)

Members Served by LPMP

Total Number of Members Served – 2,080

July 1, 2020 – November 30, 2020



Office Visits/Phone Calls/Emails

A total of **0** members visited LPMP. There were **4** startup discussions, **0** walk-in visits, and **0** visits to the software library conducted by the Program. In addition, LPM distributed **120** *Starting Your Georgia Law Practice* booklets as requested by attorneys, as well as, answered and responded to **286** phone calls and **1562** emails to and from members.

Consultations

There were **8** general consultation virtual visits during this period assisting members in Chatham, Clayton, Cobb, Decatur and Fulton counties. Firms assisted were in solo practice (**6** firms); 2-4 attorney firms (- firm); 5-9 attorney firms (- firms); 10+ attorney firms (**2** firms).

Resource Library

Our lending library has a grand total of **1,618** 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 **0** checkouts by **0** patrons.

Speaking Engagements

There were a total of **3** completed and scheduled programs during this period. The Program's staff has given **0** 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 **100** Georgia Bar members. **2** programs are scheduled at a future date.

State Bar of Georgia – Private Exchange Report

November 30, 2020

WEBSITE ANALYTICS		
Total Users	49,663	Unique individual visits to the Private Exchange
Total Sessions	69,150	Website visits to the Private Exchange
Total Pageviews	197,136	Page views on the Private Exchange

INDIVIDUAL ENROLLMENTS		
Total Enrollments	4,110	Individual Product Enrollments
• Medical	1,793	Individual Major Medical, Short-Term Medical and Limited Medical Enrollments
• Medicare Supplement	18	Individual Medicare Supplement Enrollments
• Dental	603	Individual Dental Enrollments
• Vision	301	Individual Vision Enrollments
• Teladoc	388	Individual Teladoc Enrollments
• LifeLock	34	Individual LifeLock Enrollments
• Life/AD&D	691	Individual Life/AD&D Enrollments
• Disability	215	Individual Disability Enrollments
• Long-Term Care	67	Individual Long-Term Care Enrollments

EMPLOYER ENROLLMENTS		
Product Enrollments	977	Employer Product Enrollments
• Medical	549	Medical Enrollments
• Ancillary	275	Ancillary Enrollments
• Workers' Comp	14	Workers' Comp Enrollments
• Professional Liability	137	Professional Liability Enrollments
• Cyber Security	2	Cyber Security Enrollments

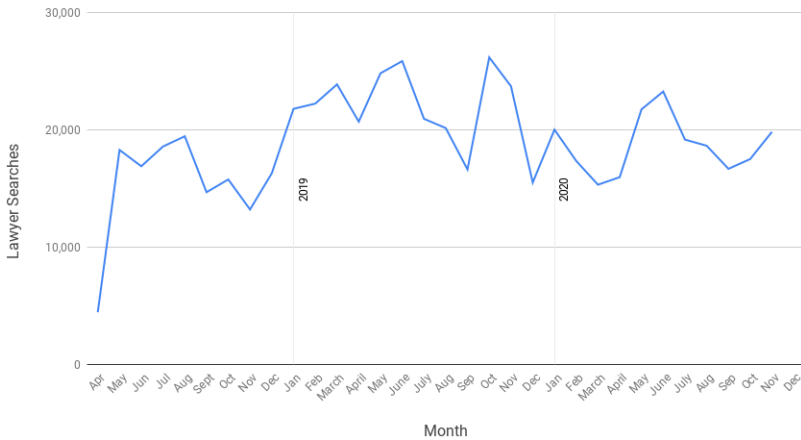
CloudLawyers Report

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.

Over **605,045** searches have been performed to find Georgia lawyers utilizing this service. The directory is also maintaining a steady stream of page views and to date **1,105,237** pages have been viewed in the directory. Over **1,542** messages were sent to Georgia lawyers through contact forms on the lawyers' profiles since January in addition to the potential clients who contact a lawyer directly from the phone number and email address on the lawyers' profile.

Since inception, and as of December 4th, **3,612** (increase of 125 members) logged into their CloudLawyers' profile.

State Bar of Georgia Searches



Fastcase Report
July 1, 2020 – November 30, 2020

During this period **311** members have logged into Fastcase for the first time. **14,836** total users have logged in this period.

Since implementation, **2,507** attorneys and **114** staff members have attended Fastcase live training. Others have taken advantage of webinar training.

Since implementation, **29,181** members have logged on at least once with an increase of **311** first time users this period: Over 50% of our members have used Fastcase since it was available as a bar member benefit.

A one-hour webinar Georgia specific was produced by Erin Page and hosted by Sheila Baldwin in October, 2020. We plan to use this for our member in a virtual CLE.

Starting in September 2020, Fastcase released their newest version, Fastcase 7.6 — Mars.

- Newest version displays research results clearly, improved visuals.
- Now more usable: on any device, at any screen size, on any browser.
- New Left-Side Navigation Bar allows you to hide or show the content so you can see what you most want to view.
- History and Bookmarks page re-designed to make it simple to review prior searches and documents, grab a saved document, or re-run your saved searches.

Fastcase managers observed litigation decreasing at the onset of COVID-19 and utilization across the board went down as firms and courts temporarily closed in many parts of the country. They are starting to see a swing back up. At the same time, members taking part in webinars increased exponentially.

Fastcase Partner Usage Report

July 1, 2020 – November 30, 2020

	Jul	Aug	Sept	Oct	Nov	Total
First Time Logins	66	65	64	55	51	301
Total Logins	11,167	12,069	11,559	11,347	9,767	55,909
Total Users Who Logged In	2,994	3,050	3,014	2,982	2,796	14,836
Searches Conducted	37,568	42,002	37,255	42,280	35,880	194,985
Documents Viewed	116,678	135,059	118,245	108,736	153,543	632,261
Documents Printed	10,652	11,649	9,898	39,718	32,920	104,837
Total Transactions	179,125	203,894	180,035	205,118	234,957	1,003,129

Fastcase Report

Fastcase Reported Problems	
Member Reported Issue(s)	Fastcase Response / Resolutions
<p>01/10/20 Members Comments: Member expressed desire to have Fastcase training in other bar locations such as Tifton.</p>	<p>1/12/20 Bar Response: This request was passed on and currently we are planning to do a tech roadshow in several parts of Georgia which will include Fastcase training.</p>
<p>01/20/2020 Members Comments: Member was having trouble with printing cases in Fastcase using word or pdf. The downloaded case will not open properly, gives error that file cannot be found.</p>	<p>01/21/2020 Fastcase Response: Erin from Fastcase instructed our member on how to update his web browser Firefox. The member tried this but it was not the problem. Finally, the member discovered that he had an old message under details from one of the court filing services and once deleted he was able to open his case to a word or pdf file.</p>
<p>01/22/2020 Members Comments: Member had trouble with printing cases.</p>	<p>01/22/2020 Bar Response: The member was instructed on how to clear their cache.</p>
<p>01/29/2020 My Comments: The authority check report does not show citing cases in the relevant paragraph and has been noted several times. This makes it useless and requires users to be redirected to the old Fastcase 6. Multiple emails have been sent to FC with test research obtained over several months to provide accurate reporting of trouble areas members have experienced.</p>	<p>01/21/2020 Fastcase Response: Fastcase repeatedly reported they would escalate reported problems to the developers but the problem persists. In January and February Erin Page at Fastcase worked on testing, which showed the problem 9 out of 10 times.</p>
<p>2/11/2020 My Comments: Multiple emails have been sent to FC with test research obtained over several months to provide accurate reporting of trouble areas members have experienced.</p>	<p>2/11/2020 Fastcase Response: In January and February Erin Page at Fastcase worked on testing, which showed the problem 9 out of 10 times. This test provided pertinent information which was not readily seen when using the authority check report.</p>
<p>2/12/2020 My Comments: The stem word suffocat* was not picked up for highlighting within the body of the case below? Re-ran the search using suffocate* and this case doesn't come up. Then the full word suffocation was used and the highlighting took effect.</p>	<p>2/12/2020 Fastcase Response: The search system and the highlighting system are currently running as two separate programs and the search system is more sophisticated than the highlighting system at the moment. So the highlighting is not currently handling the wildcards that the search system is. The current plan is to get those to the same point (which is supposed to happen in 1-2 months).</p>
<p>2/20/2020 My Comments: Fewer members are contacting me about their dislike of Fastcase 7 as they either take classes or take advantage of our department resources by phone, email or by using resources offered by Fastcase.</p>	<p>02/20/2020 Fastcase Response: Erin Page has been invaluable in assisting me and our members in the best practices when using Fastcase. She also sends my concerns to the dev team and gets back with me in a timely manner.</p>

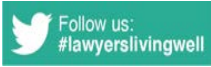
<p>2/27/2020 My Comments: Had a discussion with Damien Riehl, director and lead for integration of the Fastcase Legal Research platform at the ABA TECHSHOW. A number of concerns were discussed. He was able to clearly see the problems and understand the concerns.</p>	<p>02/27/2020 Fastcase Response: Mr. Riehl got his phone out during our conversation on the exhibit floor and sent direction to the development team to fix the design problems and unstable areas of the cite. Upon return from the TECHSHOW the changes are not yet in effect.</p>
<p>03/02/2020 Members Comments: To be blunt, I hate the new FastCase. It is the most difficult research tool I have ever used. If we're spending money on benefits to members, let's spend it on something better than FastCase.</p>	<p>3/4/2020 My Response: A comment was sent to Fastcase to help a member personally by phone. The member was appreciative and plans to attend FC classes. He was also glad he could return to Fastcase 6 which he preferred.</p>
<p>05/01/2020 Members Comments: Over the past year, multiple requests were made for Jury Verdict information and Pattern Jury Instructions.</p>	<p>05/01/2020 Fastcase Response: In regards to secondary sources, a purchase of a license to the data or publication would be prohibitively expensive and not justified to add to our library without an increase in cost.</p>
<p>11/09/2020 Member Comment: The authority check on the main case, gives a list of cases on the side, but I don't see a preview/blurb that shows how the main case is cited, as I used to see in Fastcase 6. So I have been clicking on each case in the authority list one-by-one, which then shows the search terms in the main screen.</p>	<p>11/09/2020 My Response: This is truly one of the big problems with FC7 and a request has been made for this issue to be corrected. In the meantime, you have to go back to FC6 to use this very helpful function. The complaint was sent to FC and a request made to urge this to be a priority fix.</p>

PUBLISHED ARTICLES 2020-2021			Circulation
Date	Newspaper	Headline	
6/15/2020	Daily Citizen-News, Dalton	Miller reelected to Board of Governors of State Bar of Georgia	6,409
6/16/2020	Cherokee Tribune, Canton	Cherokee judge re-elected to board of state bar association	3,929
6/16/2020	Marietta Daily Journal	Cobb attorneys re-elected to Board of Governors of State Bar of Georgia	10,334
6/17/2020	Adel News Tribune	Judge Tomlinson re-elected to Board of Governors of State Bar of Georgia	2,490
6/17/2020	Albany Herald	Joe Dent re-elected to serve on State Bar's board of governors	9,569
6/17/2020	Lanier County Advocate, Lakeland	Tomlinson re-elected to Board of Governors	1,055
6/19/2020	Georgia Star	Dawn M. Jones Installed as 58th President of State Bar of Georgia	5,000
6/19/2020	Rome News-Tribune	Andy Davis re-elected to board of governors of State Bar of Georgia	9,556
6/20/2020	Walton Tribune, Monroe	Jones elected to Bar's governors	4,249
6/21/2020	Albany Herald	Camilla attorney re-elected to State Bar's board of governors	9,569
6/21/2020	Augusta Chronicle	John R.B. "Jack" Long / Danny L. Durham	18,314
6/23/2020	Douglas County Sentinel, Douglasville	Crawford elected to Board of Governors	1,918
6/23/2020	Marietta Daily Journal	Around Town: (Dawn Jones / Elissa Haynes)	10,334
6/24/2020	Savannah Tribune	Dawn M. Jones Installed as 58th President of State Bar of Georgia	10,000
6/25/2020	Union-Recorder, Milledgeville	Area attorneys re-elected to Board of Governors of State Bar of Georgia	3,592
6/26/2020	Coastal Courier, Hinesville	Craig Stafford Re-Elected to Board of Governors of State Bar of Georgia	4,000
6/29/2020	Daily Report	Georgia Legal Community Mourns Loss of John Sweet	2,243
7/1/2020	Dodge County News, Eastman	Daniels named treasurer	3,877
7/3/2020	Walton Tribune, Monroe	Letter: Legal community mourns loss of Jones	4,249
7/4/2020	Gwinnett Daily Post, Lawrenceville	Lawrenceville attorneys re-elected to State Bar of Georgia's Board of Governors	57,342
7/5/2020	Statesboro Herald	Dan Snipes re-elected to Board of Governors for the State Bar of Georgia	7,200
7/10/2020	Savannah Morning News	Savannah attorneys honored by State Bar of Georgia's Young Lawyers Division	16,322
7/15/2020	Northeast Georgian, Cornelia	Congratulations to Judge Caudel	5,228
7/15/2020	Daily Citizen-News, Dalton	Congratulations to area attorneys for Georgia Legal Food Frezy	6,409
7/19/2020	Gwinnett Daily Post, Lawrenceville	Gwinnett County attorney honored by State Bar of Georgia Young Lawyers Division	57,342
7/23/2020	Valdosta Daily Times	Davis: S.Ga. Lawyers praised for Food Frezy work	6,933
7/23/2020	Newton Citizen, Covington	Letter: Georgia legal community mourns loss of Judge Horace Johnson Jr.	1,160
8/5/2020	Daily Report	Georgia Legal Community Owes Debt of Gratitude to Rep. John Lewis	2,243
8/9/2020	Gwinnett Daily Post, Lawrenceville	Letter: Georgia legal community mourns loss of Judge Ramon Alvarado	57,342
8/9/2020	Augusta Chronicle	Biz Bits for Aug. 9 - Awards, achievements in metro Augusta business community	18,314
8/18/2020	Daily Report	Ga. Legal Community Mourns Loss of Richard Shafritz	2,243
8/19/2020	LaGrange Daily News	Georgia legal community mourns loss of John Taylor	1,692
8/31/2020	Atlanta Jewish Times	Letter to the Editor (Richard Shafritz)	10,737
9/2/2020	Press-Sentinel, Jesup	Happy birthday to Hubert Howard	4,059
9/2/2020	Metter Advertiser	Congratulations to new Superior Court judge	1,627

9/17/2020	Albany Herald	State Bar Young Lawyers organization offers free legal assistance	9,569
9/17/2020	Rockdale Citizen, Conyers	State Bar Young Lawyers organization offers free legal assistance	1,495
9/17/2020	Henry Herald, McDonough	State Bar Young Lawyers organization offers free legal assistance	1,250
9/29/2020	Daily Report	Congratulations to Chief Justice Melton on Auburn University honor	2,243
9/29/2020	Daily Report	Congratulations to GSU Law's Charity Scott on Retirement	2,243
9/30/2020	Moultre Observer	Letter to the Editor: Congratulations to new judge	3,138
10/5/2020	Savannah Morning News	Saddened by loss of local legal legend	16,322
10/7/2020	Herald-Leader, Fitzgerald	Your opinions... (Judge Wilcox)	4,285
10/27/2020	Covington News	State Bar of Georgia congratulates Judge McCamy	2,915
10/31/2020	Walton Tribune, Monroe	Gov. Kemp makes wise choice with his selection of Cheveda McCamy	4,249
11/6/2020	DeKalb Champion	Congratulations to new Doraville Municipal Court judges	494
12/3/2020	Daily Report	Georgia Legal Community Mourns Loss of Justice George Carley	2,243
		TOTAL CIRCULATION	427,326

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Please do not reply to this automatic e-mail.



December 9, 2020

Vol. 1, No. 1

In this Newsletter...

SPOTLIGHT: [Social Well-Being](#)

READ: [Work-Life Balance](#)

LISTEN: [Dawn Jones](#)

#SustainaSoundBar

BE WELL: [#UseYour6](#)

FOLLOW: [Social Media](#)

Welcome to the first installment of the Lawyers Living Well quarterly newsletter! Here you'll find brief snippets of noteworthy news, articles, well-being spotlights and events, to encourage you to be well.

To opt-in to receive future newsletters from Lawyers Living Well, [click here](#).

Spotlight: Social Well-Being

We all could use a little bit of connection right now.

We've spent the better part of this year apart, and there's no end in sight, so we're offering an opportunity to connect and learn from one another virtually. The State Bar's Wellness Committee has created a **series of monthly "touches,"** virtual events where you can interact with other Bar members, learn from guest speakers and even have a little fun.



Your social well-being, including interacting with others in the legal profession, is an important dimension of your overall well-being, and, for many, it has been put under intense strain during this pandemic season. You may be feeling lonely, overwhelmed, bewildered or just need to have a little non-work interaction with others. We invite you to take advantage of this chance to connect—even if it's through a screen—to improve your own health and help others improve theirs.

Read: Work-Life Balance

Ever heard of the "Integrated Life" model?

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In the August issue of the *Georgia Bar Journal*, attorney Plamen Russev suggests an alternative to work-life balance in **"Why Work-Life Balance is Impossible to Achieve and What We Can Do Instead."**

> [READ THE ARTICLE](#)



Listen: Dawn Jones

This summer, the Attorney Wellness Committee partnered with the Lawyers Assistance Program (LAP) to create the [Lawyers Living Well podcast](#), hosted by LAP Committee Chair Lynn Garson. Guests include Chief Justice Harold Melton, former State Bar Presidents Hon. Ken Hodges and Darrell Sutton, and more.



NEW EPISODE on [#LLWPod](#): Garson sits down with State Bar President

Dawn Jones to discuss racial injustice, Jones' perspective on COVID-19 and her "wellness wish list" for the future.

> [LISTEN NOW](#)

#SustainaSoundBar

Regardless of the hurdles, challenges, loss and pain that this year has brought us, and not knowing what the future holds, President Jones believes that if we work together and support each other, Georgia's legal community can **#SustainaSoundBar**. If you have any ideas, comments or questions for President Jones, please email president@gabar.org.

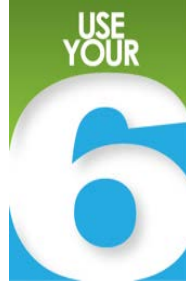


Be Well: #UseYour6

Studies have shown that attorneys deal with higher rates of depression, anxiety and substance use issues than other

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professionals. Through the Lawyer Assistance Program, all State Bar of Georgia members in good standing are entitled to six prepaid clinical sessions per calendar year with a licensed counselor. All sessions are strictly confidential and administered through CorpCare Associates, Inc., an outside clinical contractor.



Call the LAP Hotline any day of the year, 24/7, to speak with a counselor or schedule an appointment: 1-800-327-9631.

> [LEARN MORE](#)

Follow: Social Media

Stay in the loop on all Lawyers Living Well info, activities and more by following the State Bar of Georgia on social media! Look for the hashtag #LawyersLivingWell.

[Facebook](#) | [Instagram](#) | [Twitter](#) | [LinkedIn](#)



Disclaimer: The State Bar of Georgia and Attorney Wellness Task Force do not endorse or make representations with respect to the services, products, articles or resources listed in this e-newsletter. This e-newsletter is a service to our members and the public. We make no warranty or guarantee concerning content accuracy in this e-newsletter or on other sites to which we link.



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Atlanta, Georgia

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Houston Circuit Public Defenders Office
Warner Robins, GA

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Macon, Georgia

Ms. Maria F. Mackay
Watkinsville, Georgia

The Honorable Shondeana Crews Morris
Superior Court of DeKalb County
Decatur, Georgia

Mr. Andrew Alan Pinson
Georgia Office of the Attorney General
Atlanta, Georgia

The Honorable William M. Ray, II
U.S. District Court, Northern District of Georgia
Atlanta, Georgia

The Honorable Clyde L. Reese III
Court of Appeals of Georgia
Atlanta, Georgia

Mrs. Adwoa Ghartey-Tague Seymour
Cox Enterprises, Inc.
Atlanta, Georgia

Assistant Dean Rita A. Sheffey
Emory University School of Law
Atlanta, Georgia

Mrs. Nicki Noel Vaughan
Northeastern Judicial Circuit Public Defender's Office
Gainesville, Georgia

Dr. Monica Willis-Parker
Emory University School of Medicine
Atlanta, Georgia

Supreme Court of Georgia Advisor
The Honorable Sarah Hawkins Warren
Supreme Court of Georgia
Atlanta, Georgia

Staff
Karlise Y. Grier
Executive Director

TO: Board of Governors of the State Bar of Georgia
FROM: Karlise Yvette Grier
Executive Director, Chief Justice's Commission on Professionalism
DATE: January 9, 2021
RE: Chief Justice's Commission on Professionalism

The Chief Justice's Commission on Professionalism (Commission), the first body of its kind in the nation, was created in 1989 by the Supreme Court of Georgia with the primary charge to enhance professionalism among Georgia's judges and lawyers. Chief Justice Harold D. Melton serves as the current Chair of the Commission. A brief update regarding the Commission follows.

SUICIDE AWARENESS PROGRAM

The Commission has rescheduled its Suicide Awareness Program for **Friday, April 30, 2021**. The planning team includes **Judge Clyde L. Reese III**, Court of Appeals of Georgia (State Bar of Georgia SOLACE Committee Co-Chair); **Judge Render Heard**, Juvenile Courts of the Tifton Judicial Circuit (State Bar of Georgia SOLACE Committee Co-Chair); **Judge Shondeana Crews Morris**, Superior Court of DeKalb County (State Bar of Georgia Suicide Awareness and Prevention Committee Chair); and **Ms. Layne Brides** (Staff, SOLACE Committee). **Ms. Sally Q. Yates** has once again agreed to serve as the moderator of the program. An additional confirmed speaker is **Mrs. Dee Goss**. The Commission will provide additional information about the program as it becomes available. A flyer about the program is attached hereto and incorporated by reference as "Exhibit A." For registration information and updates about the program, visit <http://cjcpga.org/suicide-awareness-program/>.

UNPARALLELED UNITY CLE

The Commission anticipates hosting a CLE entitled "*The Necessity of Unparalleled Unity*" in conjunction with the State Bar of Georgia's Spring Board of Governors meeting, which is scheduled for March 19 – 21, 2021. State Bar of Georgia President and Commission member, **Ms. Dawn M. Jones**, is the Program Chair. **Professor Tanya Washington** of the Georgia State University College of Law is the confirmed moderator for the CLE. **Justice Carla Wong McMillian** is a confirmed panelist for the program. The Commission will provide additional details about the program as they become available.

21ST ANNUAL JUSTICE ROBERT BENHAM AWARDS FOR COMMUNITY SERVICE

Since 1998, the Commission has presented the Justice Robert Benham Awards for Community Service to honor lawyers and judges in Georgia who have made significant contributions to their communities and who demonstrate the positive contributions of members of the Bar beyond their legal or official work. To ensure the health and safety of everyone involved, the Commission postponed the awards ceremony for the 21st Annual Justice Robert Benham Awards for Community Service that was previously scheduled for March 14, 2020, after the World Health Organization declared COVID-19 (the Coronavirus disease) a pandemic. The Commission is in the process of rescheduling the awards ceremony for the 21st Annual Justice Robert Benham Awards for Community Service for Saturday, June 26, 2021.

COMMISSION DECEMBER 2020 CLE: PROFESSIONALISM & TECHNOLOGY

The Commission held its final free CLE of 2020 on December 17, 2020, from 2:00 p.m. – 5:00 p.m. via the Zoom.us platform. During the CLE, participants discussed how professionalism and technology impact everything from jury trials to social media. The Program Chair was **the Honorable T. Russell McClelland**, Vice-Chair of the Judicial Council COVID-19 Task Force; Chair of the Task Force’s Civil Sub-Committee; Chief Judge, State Court of Forsyth County, and Immediate-Past President of the Council of State Court Judges. Additional program information is available at <http://cjcpga.org/121720-cjcp-cle/>. The Commission will provide a final report on the CLE for the Spring BOG meeting.

COMMISSION GRANTS

The Commission’s Grants Committee led by **Judge Susan Edlein** accepted Grant Applications for programs or projects that promote legal professionalism from September 28, 2020, through October 19, 2020. The full Commission met on November 13, 2020, to make final decisions regarding grant awards, and decided to award two grants. The first award, in the amount of \$50,000 is to support the “Justice Needs Jurors” public service announcements that will be produced and disseminated by the Judicial Council COVID-19 Task Force. The second award, in a confirmed amount of \$15,000 – with a total possible grant amount of \$38,000, depending on documented need – is to support Record Restriction/Expungement Clinics throughout Georgia. A coalition of partners, which includes the Judicial Council’s Access to Justice Committee, the Georgia Justice Project, the Georgia Legal Services Program and the Pro Bono Resource Center will organize and conduct the clinics. The Commission will disburse grant funds in January 2021.

FINAL REPORT REGARDING COMMISSION CLE IN OCTOBER 2020: WHAT JUDGES CAN DO TO IMPROVE THE LAW AND THE LEGAL SYSTEM: WHAT LAWYERS NEED TO KNOW ABOUT JUDICIAL PROFESSIONALISM

On October 23, 2020, the Commission scheduled its sixth free CLE entitled *What Judges May Do to Improve the Law and the Legal System: What Lawyers Need to Know About Judicial Professionalism*. The CLE was held as part of the State Bar of Georgia’s Fall Board of Governors Meeting. The speakers were the **Honorable Michael P. Boggs**, Justice, Supreme Court of Georgia, and **Mr. Charles “Chuck” P. Boring**, Director, Judicial Qualifications Commission. Commission member, **Ms. Adwoa Ghartey-Tagoes Seymour**, moderated the program. The Commission hosted the CLE on the Zoom Webinar platform. According to the Zoom report

generated for the CLE, the CLE was attended by 393 “Unique Viewers.” The Commission reported attendance for 389 attorneys to the State Bar of Georgia’s Commission on Continuing Legal Education Department. To view the complete materials for the CLE, please visit: <http://cjcpgea.org/102320-cjcp-cle/>.

PROFESSIONALISM PAGE ARTICLES

One of the ways the Commission communicates with State Bar members is through its Professionalism Page that appears in each issue of the Georgia Bar Journal, which is published six times per year. You are invited to read the Professionalism Page articles for the October 2020 and December 2020 Georgia Bar Journals written by the Commission’s Executive Director. A copy of each article is attached hereto and incorporated by reference as “Exhibit B” and “Exhibit C” respectively.

Commission Website and Social Media

The Commission enjoys communicating with judges and lawyers on its website, www.cjcpgea.org and on its social media platforms. Connect with us!

Facebook: <https://www.facebook.com/CJCPGA>

Twitter: <https://twitter.com/CJCPGA>

LinkedIn: <https://www.linkedin.com/company/cjcpgea/>

YouTube: <https://www.youtube.com/user/cjcpgea/videos>



EXHIBIT A

www.cjcpgea.org



THE CHIEF JUSTICE'S
COMMISSION ON PROFESSIONALISM

SUICIDE AWARENESS PROGRAM



FRIDAY, APRIL 30, 2021 | 2 - 5 P.M.

LIVE AT THE STATE BAR OF
GEORGIA ATLANTA OFFICE

VIA VIDEO CONFERENCE TO TIFTON
AND SAVANNAH STATE BAR OFFICES*



Sally Quillian Yates
MODERATOR

CONFIRMED/INVITED SPEAKERS:

Dr. Alex Crosby	Ms. Robin Frazer Clark
Hon. William "Bill" Reinhardt	Hon. Wesley B. Taylor
Ms. R. Javoyne Hicks	Mrs. Dee Goss
Dr. Ben Hunter	Dr. Mark Swancutt
Ms. Lynn Garson	Ms. Rachael Holloman
Mr. Eric Lang	

3 CLE HOURS INCLUDING 1 PROFESSIONALISM HOUR



REMINDER TO ALL BAR MEMBERS

You are entitled to six prepaid clinical personal counseling sessions per calendar year through the Lawyer Assistance Program of the State Bar of Georgia. #UseYour6

FOR HELP: Bar members may contact the Bar's Lawyer Assistance Program confidential hotline at **800-327-9631** or call the Georgia Crisis Access Line at **1-800-715-4225**.

TAKE ACTION TODAY

If you are thinking of hurting yourself, or if you are concerned that someone you know may be suicidal, contact the National Suicide Prevention Lifeline by phone at **1-800-273-TALK (8255)**.

CO-SPONSORED BY:

Judicial Council/Administrative Office of the Courts | State Bar of Georgia SOLACE Committee | State Bar of Georgia Wellness Committee | State Bar of Georgia Suicide Prevention Committee | Drew Eckl Farnham Georgia Department of Behavioral Health & Developmental Disabilities

Learn more by contacting CJCP
at kygrrier@cjcpga.org.

*Additional locations may be announced.



State Bar
of Georgia

EXHIBIT B

www.cjcpgeorgia.org



Professionalism in the Midst of Stress: Show The World Who We Are

Even with all the stress of 2020, many Georgia lawyers and judges have demonstrated remarkable professionalism. On behalf of the Chief Justice's Commission on Professionalism, I thank you for showing the world who we really are.

BY KARLISE Y. GRIER

When 2020 began on the first day in January, many people planned for a year that has not existed. Instead, the year has turned into a surreal experience with a COVID-19 pandemic that most of us could never have imagined. For many of us, including both lawyers and judges, the pandemic has created numerous unexpected personal and professional challenges, uncertainty and fear. If a pandemic alone were not enough of a challenge, it arrived during a presidential election year, a time that historically has divided Americans, and during a time when Americans are increasingly discussing issues of race and justice. In the midst of struggling with all of these challenges, we as lawyers and judges have also had to find ways to fulfill obligations to those we serve. In short, for a myriad of reasons, 2020 has been a stressful year for many of us in the legal community.

I have been disheartened by some of the responses to the stress caused by this current climate. For example, a few days before I wrote this article, I came across a public post on social media in which several attorneys called a group of at-

torneys "racists" because the group supported a particular presidential candidate. As I read all of the comments (more than 200 of them), many of which were made by attorneys that I personally know, and some of whom held leadership positions in the profession, I was personally saddened and disappointed. I was saddened and disappointed to see attorneys publicly attacking one another, sometimes using profane language, on a public page, one that any current or potential client, judge, law student or other member of the public could access. I would have been equally saddened and disappointed if the page were "private." We, as lawyers and judges, are a professional community. *We are better than this*, I thought, and I did not believe that any of the comments I saw on social media had shown the world who we are as a *community of legal professionals*.

If we as lawyers were not stuck in our homes with very limited in-person, face-to-face interaction because of the pandemic, would we say such things to one another? Did the lawyers who posted the comments consider that they represented not only themselves but the organizations





... as I reflected on what has transpired thus far this year, I was also truly inspired and heartened by the acts of professionalism I saw from many Georgia lawyers and judges.

that they serve (whether volunteer or paid), and the legal profession as a whole? In an example from my own life, during the pre-pandemic days when I would go to church or Bible study, I was often addressed as "Attorney Grier" instead of by my first name. In other words, even in my personal life, I still represented the profession to which I belong.

In "A Lawyer's Creed and the Aspirational Statement on Professionalism," lawyers and judges are encouraged to reflect on the idea of how they present themselves, both personally and professionally, as shown in the following statements:

- To preserve the dignity and the integrity of our profession by my conduct. The dignity and the integrity of our profession is an inheritance that must be maintained by each successive generation of lawyers.¹
- To model for others, and particularly for my clients, the respect due to those we call upon to resolve our disputes and the regard due to *all participants* in our dispute resolution processes.²

- Be courteous and civil in *all* communications.³
- To consider the effect of my conduct on the image of our systems of justice.⁴

As I wrote this article, self-isolating by sitting in my home alone to help fight COVID-19, I committed to more diligently reflect on and strive to live according to the aspirational goals listed above. I committed to being more thoughtful about what I say and how I say it, whether in correspondence, virtual conferences, hearings, on social media or (when the time comes) face to face. And as I wrote, I hoped each Georgia lawyer and judge would join me in doing the same.

Nevertheless, as I reflected on what has transpired thus far this year, I was also truly inspired and heartened by the acts of professionalism of many Georgia lawyers and judges. The judiciary, led by Chief Justice Harold D. Melton, quickly responded to the pandemic in March, issuing a series of Judicial Emergency Orders. In May, the Judicial Council of Georgia, chaired by Chief Justice Melton, established the Judicial COVID-19

Task Force to address the challenges of ensuring access to the courts in the midst of the pandemic. Both civil and criminal lawyers, who often take opposing sides in court cases, worked with one another and with judges from across the state to develop a Georgia Court Reopening Guide.⁵ The State Bar of Georgia established a committee to identify and address issues with the delivery of legal services resulting from the pandemic. Georgia's 9th Annual Legal Food Frenzy, spearheaded by Attorney General Chris Carr and the Young Lawyers Division of the State Bar of Georgia, raised a record-breaking \$852,090 as a result of the contributions of more than 220 law firms, legal organizations, in-house counsel and courts across Georgia,⁶ even while law firms and other organizations were cutting hours and pay.⁷

In April, June and August, the Chief Justice's Commission on Professionalism (Commission) provided five free professionalism CLEs to help attorneys learn how to address the rapidly changing legal environment during the pandemic with professionalism.⁸ The combined total attendance reported for all five CLEs was more than 5,200 attendees.⁹ The CLE in April, "Moving Forward with Professionalism In the Midst of A Public Health Emergency," contained numerous mental health resources that attorneys could use to help themselves and their clients during these stressful times.¹⁰ The CLEs were made possible because of the hard work and dedication of Chief Justice Melton; several Commission members and advisors, including Justice Sarah Hawkins Warren, Hon. Clyde Reese, Hon. Susan Edlein, State Bar President-Elect Elizabeth Fite, Rebecca Grist, YLD President Bert Hummel, State Bar President Dawn M. Jones and Claudia Saari; and numerous other lawyers and judges who served as CLE panelists and planners.

Further, the Commission continued with its regular work. In August, the State

Bar of Georgia Committee on Professionalism (COP), with staff support from the Commission, organized the 28th Law School Orientations on Professionalism (Orientations). A total of 200 lawyers and judges served as leaders facilitating small group discussions among more than 1,000 mostly 1L students about professionalism and how professionalism applies in law school. Because of the pandemic, all group leaders participated virtually regardless of which of the five Georgia law schools at which they volunteered, and the Orientations were again a great success, despite physical distancing. The Commission was grateful to the law students and COP members who helped to refine the Orientations' hypothetical problems; the volunteer lawyers and judges who served as group leaders; and the law school professors and administrators who created a new paradigm for hosting the Orientations.

Even with all the stress of 2020, many Georgia lawyers and judges have demonstrated remarkable professionalism. On behalf of the Chief Justice's Commission on Professionalism, I thank you for showing the world who we really are. ●



Karlise Y. Grier

Executive Director
Chief Justice's Commission
on Professionalism
kygrier@cjcpga.org

Endnotes

1. Chief Justice's Commission on Professionalism, *A Lawyer's Creed and Aspirational Statement on Professionalism* at Lines 64 – 66.
2. *Id.* at Lines 51 – 53 (emphasis added).
3. *Id.* at Line 108 (emphasis added).
4. *Id.* at Line 157.
5. *Georgia Court Reopening Guide* (visited September 18, 2020) [https://georgiacourts.gov/wp-content/](https://georgiacourts.gov/wp-content/uploads/2020/06/Georgia-Court-Reopening-Guide-FINAL.pdf)

6. Georgia Legal Food Frenzy, *How It Works, Awards* (visited September 4, 2020) <https://galegalfoodfrenzy.org/how-it-works/awards/>.
7. See, e.g., Jonathan Ringel, *Hard Realities: As Firms Cut Pay, Food Banks Need More Help Than Ever*, DAILY REPORT (April 15, 2020) <https://www.law.com/dailyreportonline/2020/04/15/hard-realities-as-firms-cut-pay-food-banks-need-more-help-than-ever/>.
8. For complete information regarding speakers, panelists, and program materials, see Chief Justice's Commission on Professionalism, *Professionalism During A Time of Physical Distancing*, <http://cjcpga.org/popup040620/> (CLE date of April 6, 2020); Chief Justice's Commission on Professionalism, *Getting the Deal Done with Professionalism During A Time of Physical Distancing*, <http://cjcpga.org/popup041620/> (CLE date of April 16, 2020); Chief Justice's Commission on Professionalism, *Moving Forward with Professionalism In the Midst of A Public Health Emergency*, <http://cjcpga.org/moving-forward/> (CLE date of April 28, 2020); Chief Justice's Commission on Professionalism, *Criminal Justice, Professionalism, and Coronavirus*, https://criminal_justice_professionalism_coronavirus.eventbrite.com (CLE date of June 11, 2020); 5) Chief Justice's Commission on Professionalism, *Professionalism and the Georgia Court Reopening Guide*, <http://cjcpga.org/reopening-guide/> (CLE date of August 7, 2020).
9. CLE attendance number is the number of attorneys who attended each CLE for CLE credit and counts some individual attorneys more than one time, if the attorney attended multiple CLEs.
10. Mental health resources are available on the Commission's website at <http://cjcpga.org/moving-forward/>.

EXHIBIT C

www.cjcpgea.org



I Double Dare You: My Professionalism Challenge

We as a legal community can get through this difficult time. You can get through this difficult time. If you need help, get help—I double dare you—and know that it is okay to do so.

BY KARLISE Y. GRIER



Sometimes the challenge of professionalism is determining the best course of action among a sea of options in a “gray area” where there is no clear right or wrong answer. More often than not for me, however, during the month of November, professionalism entails simply doing the right thing when I know what is expected of me as a lawyer.

November is always a challenging month for me because it is the month during which my mother died—eight days before my birthday. I’ve still not quite forgiven her for that. November is the month that kicks off the holiday season, and I always have to get through the anniversary of my mother’s death before launching into Thanksgiving and all the holiday cheer that follows. Last year, 2019, was actually a good year for me and I had a busy, guilt-free and happy holiday season from Thanksgiving through the new year. But as 2020 and the 20th anniversary of my mother’s passing dawned, I suspected that this year would be difficult for me. There is something different about those years with the zeros at the end. Grieving as a lawyer can be especially challenging. There is a statement in “A Lawyer’s Creed” and the “Aspirational Statement on Professionalism” that I quite frankly, in all complete honesty, hate. It reads: “As a lawyer, I will aspire: (a) To put fidelity to clients and, through clients, to the common good, before selfish interests.” That is a lot to live up to, and for me especially during the month of November. It seems to strip away my need as a lawyer to be simply human. And yet, I do recognize that there is a harsh truth in the statement that we as lawyers do need to try to aspire to that goal.

My mother encouraged me to open my solo law practice, which I did in February 2000.¹ A few months later she died and I found myself struggling to nurture a fledgling law practice in the midst of grief. Whether I felt like it or not, I still had to show up for court appearances, meet fil-

ing deadlines, answer the phone and talk to people. I had to try and be polite, even when (or especially when) I felt angry for reasons that had nothing to do with my clients, opposing counsel, judges or court staff, or the case. Misleading, painful dreams consisting of my mother still being alive and then waking up to the stark truthful reality of her death were fairly common in those days. I didn't have the option of calling in sick to ask to be excused from a court appearance because I had a painful dream and did not feel like getting out of bed the next morning. Clients were counting on me and to them whatever was happening in court that day was the most important thing in their lives. The right thing to do was to get up, get dressed and strive to look somewhat presentable, make my face as pleasant as possible—and be on time, prepared and polite. I had to set aside my human selfish interests. Being a good lawyer is not easy. Striving to be a good lawyer who aspires to act with professionalism feels almost impossible at times. But we do it. Thousands and thousands of lawyers do it on a regular basis. And in this crazy pandemic year when many lawyers and judges are facing emotional turmoil and challenges I cannot imagine, I still write to encourage you and to say we can get through this difficult time and we can persevere with professionalism.

I write from experience when I say that we as lawyers and judges can get through difficult times and still fulfil our obligations with professionalism. But I also speak from

experience when I say that we cannot always do it alone. I don't often reflect on the November that ended with my mother's unexpected death from a stroke because it is painful. But this year, I feel it is necessary for me to do so, with the hope that it will help other lawyers. The first Tuesday in November 2000, my mother, a retired high school math teacher, had worked as a poll manager at our local polling precinct. Less than three weeks later, she was buried, not yet even knowing who would become president of the United States because of hanging chads. My loss happened just that quickly. Many, many lawyers helped me in countless ways during that difficult time, but 20 years later there are two who I recall specifically asking for help with certain things. One lawyer I called even though she was not a close friend because she worked for a hospital and I had questions about life support. She took my call and told me difficult news that I did not want to hear because I had to hear it. Another lawyer, a friend, came to the hospital even though it was her birthday and handled for me the ordeal of answering questions about my mother's health insurance and how the hospital was going to get paid, while I was trying to absorb the fact that my mother who I had just talked to earlier was in ICU. I truly believe that it is because of that lawyer friend that I am not currently serving a long jail sentence for doing bodily harm to the poor hospital staff lady who was just doing her job. It was a terrible time.

I needed help and when I asked for help, other lawyers were there to help me. After my mother died, I also spent some time in counseling. I write from personal experience when I say we as lawyers sometimes need help that even other lawyers cannot give us. I write from personal experience when I say it is okay for us as lawyers to need help. It is okay for us as lawyers to ask for help. It is okay for us as lawyers to get help. As Georgia lawyers, we are fortunate to have programs like SOLACE, and Lawyers Helping Lawyers and the Lawyer Assistance Program to help us when we need assistance.² Don't be afraid to get the help that is available to us. Whatever your personal November challenge may be, you can get through it, and you can get through it with professionalism. If you are feeling isolated, stressed, anxious, depressed, angry, sad or all of those things, you are not alone in your feelings. Trust me when I tell you that many other lawyers and judges are feeling the same things. We as a legal community can get through this difficult time. You can get through this difficult time. If you need help, get help—I double dare you—and know that it is okay to do so.



Karlise Y. Grier

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Chief Justice's Commission
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THE CHIEF JUSTICE'S
COMMISSION ON PROFESSIONALISM

SUICIDE AWARENESS PROGRAM

APRIL 30, 2021 | 2 - 5 P.M.

Learn more at www.cjcpga.org.

Feeling stressed, worried or lonely?

Members of the State Bar of Georgia can contact the Bar's Lawyer Assistance Program confidential hotline at 800-327-9631, for a variety of counseling needs. #UseYour6

If you are thinking of hurting yourself, or if you are concerned that someone you know may be suicidal, contact the Georgia Crisis and Access Line at 1-800-715-4225 or the National Suicide Prevention Lifeline by phone 1-800-273-TALK (8255) or via chat at www.suicidpreventionlifeline.org/chat.



State Bar of Georgia

GEORGIA DIVERSITY PROGRAM

Established in 1993 by State Bar Past President Charles T. Lester, Jr. and the Honorable Marvin Arrington, Sr., the mission of the State Bar of Georgia Diversity Program is to provide support to, and to promote the inclusion of and advocate for the advancement of all members of the State Bar of Georgia regardless of race, nationality, ethnicity, religion, sex, gender identity, sexual orientation, disability or age.

The Georgia Diversity Program (GDP) is a membership-based program tasked with presenting diversity, equity and inclusion programming for all members of the Bar. GDP members consist of Georgia law firms, in-house legal departments and individual lawyers. Individual lawyers from each member organization or individual serve on the GDP's Steering Committee. The Steering Committee assists the Executive Director by providing talent, time, ideas, resources and connections that result in the programs produced every year.

As we all know, this year has been challenging on many levels. Like many organizations, GDP had to revise its plans and pivot to meet the challenge. While we could not produce the full slate of programming, the year ended with an excellent program highlighting many of the issues raised this year. In addition, we are in the process of planning a full slate of programs for 2021. This report will briefly touch on the purpose of each program and broadly highlight programming for 2021.

The programs produce each year are the following: the Business Development Symposium; the Judiciary and Summer Associate Reception; the High School Pipeline Program; Straight Talk; and the Fall Learning Lab.

Business Development Symposium (BDS)

The purpose of the BDS is to assist mid to upper-level law firm associates and new partners as they move through the pipelines of their respective firms by producing programming aimed at business development. The BDS also provides programming for in-house counsel business development.

Judiciary and Summer Associate Reception

This reception is an opportunity for summer associates and interns throughout the metro area to come together with members of the Georgia judiciary and lawyers for a vertical and horizontal networking opportunity.

High School Pipeline Program (Atlanta and Macon)

The High School Pipeline Program was created in 2006 by Marian Cover Dockery, Esq. The program is produced in partnership with John Marshall Law School and The Leadership Institute for Women of Color Attorneys. Since its creation, more than 200 high school students have participated in the program. For 10 days, the students engage in lunchtime workshops on different themes, including, but not limited to, study skills techniques, getting and staying organized, what it means to be a lawyer, social media etiquette and how to handle credit (Credit 101). Every year the students attend a presentation and storytelling skills workshop at The Alliance Theater. In addition, the students have an opportunity to meet with a sitting judge and sometimes experience a live trial. In 2019, J. Tom Morgan, former DeKalb County District Attorney, Professor and Author, presented a workshop on his book: *Ignorance Is No Defense: A Teenager's Guide to Georgia Law*. Each student received a copy of the book. Additionally, a writing and grammar curriculum is created by a local teacher who works with the students throughout the program. The program culminates in a written and oral speech competition. With the help of the teacher and volunteer lawyers, the students are prepared for the competition.

In 2019, the High School Pipeline Program made its debut in Macon, Ga. The one-week pilot program was warmly received by the Macon legal community. The Macon program was produced in partnership with Southwest High School and the Macon chapter of Alpha Phi Alpha Fraternity. GDP replicated the Atlanta program on a smaller scale. GDP plans to continue and grow the Macon program.

For more information about the High School Pipeline Program, See "Where Are They Now?" attached to this report.

STRAIGHT TALK

Straight Talk is a new program that debuted on September 17, 2019. The first program: Straight Talk: A Candid Conversation About a General Counsel's Quest to Diversity Outside Counsel, was a candid conversation between Curtis Mack, Esq. (Ret. Partner, McGuireWoods, LLP) and Jim Kerr, Esq. (Executive Vice President, Chief Legal Officer and Chief Compliance Officer, Southern Company). Curtis and Jim shared their stories about their commitments to diversifying the legal landscape, and specifically between general counsel and outside counsel. The discussion also included Curtis and Jim's intentional and effective strategies to move the needle forward, obstacles they encountered to achieving diversity and their creative approaches to overcoming these obstacles. The conversation was moderated by Anita Wallace Thomas, Esq. of Nelson, Mullins Scarborough & Riley, LLP.

GDP Fall Learning Lab f/k/a/ GDP Fall CLE

For many years this CLE was the signature event which included a seated luncheon and guest speaker. In an effort to adjust some of the programs, the Fall CLE was renamed: GDP Fall Learning Lab. The 2019 event was a working breakfast and training. The workshop was presented by Brad Wilkinson of Bradleyew Management Consulting and focused on implicit bias and microinequities. Due to the pandemic, this year's program was streamed via the Bar's Zoom webinar platform. This year's program: Advancing Diversity, Equity, Inclusion & Justice in

2021 consisted of two panel discussions. The first panel discussion: Diversity, Equity, Inclusion and the Bench: Perspectives from Jurists and Advocates was moderated by The Hon. Dax Lopez. Chief Justice Harold D. Melton, Chief Judge Berryl A. Anderson and Judge-Elect Shermela Williams participated as panelists. The second panel discussion: Law Firms and In-house: Where Diversity, Equity and Inclusion Intersect with Social Justice. The discussion was moderated by Kathleen O. Currey, Esq., Partner, Parker Hudson Rainer & Dobbs, LLP. The panelists included D'Andrea Morning, Vice President, Corporate Compliance, Grady Health Systems, Tara Jackson, Associate, Akerman, LLP, J.C. Roper, Partner, Drew Eckl & Farnham and Yendelela Neely Holston, Partner and Chief Diversity Officer, Kilpatrick Townsend & Stockton, LLP. The program was well received by 68 participants and would not have been possible without the contributions of several sponsors.

Plans are in the works for 2021 programs. The goals for 2021 include, producing all of the above-listed programs, reaching out to similarly aligned Georgia Bar Committees to produce programming and increase GDP's reach so that members throughout the state are included in advancing the work of diversity, equity and inclusion.

For additional information, please see the following attached as a part of this report:

1. GDP Informational Video
2. High School Pipeline Program: Where Are They Now?
3. 2020 GDP program flyer



STATE BAR OF GEORGIA DIVERSITY PROGRAM MISSION STATEMENT

Established in 1993 by State Bar Past President **Charles T. Lester, Jr.** and the **Honorable Marvin Arrington, Sr.**, the mission of the State Bar of Georgia Diversity Program (GDP) is to provide support to, and to promote the inclusion of and advocate for the advancement of all members of the State Bar of Georgia regardless of race, nationality, ethnicity, religion, sex, gender identity, sexual orientation, disability or age.

GDP MEMBERSHIP BENEFITS

- Leadership opportunities for new and younger lawyers
- Speaking opportunities
- Access to the GDP network
- Firm and/or individual recognition in the Georgia Bar Journal and marketing materials
- Social media recognition
- Host and sponsor opportunities
- Complimentary tickets to GDP signature events
- Recognition at GDP events
- CLE credits
- Opportunities to participate in excellent, innovative and relevant programming

GDP MEMBERS

Aaron's, Inc.
Akerman, LLP
Arnall Golden Gregory LLP
Byrne, Davis & Hicks, P.C.
Elarbee, Thompson,
Sapp & Wilson, LLP
Equifax

Eversheds Sutherland
Georgia Power
Hall, Booth & Smith, P.C.
Kilpatrick Townsend &
Stockton LLP
KPPB Law
Mary Bulls, Esq.

Morris Manning & Martin, LLP
Nelson Mullins Riley &
Scarborough LLP
Parker Hudson
Rainer & Dobbs LLP
Rhonda Sadler-Collins, Esq.
Rick Goerss, Esq.

Schweber Green
Law Group
Swift, Currie, McGhee &
Hiers, LLP
Troutman Pepper
Hamilton Sanders LLP



FOR MORE INFORMATION, PLEASE CONTACT:

REBECCA CHRISTIAN SMITH, ESQ.
Executive Director, State Bar of Georgia Diversity Program
gadiversityprogram@gmail.com • (404) 822-3856

A HISTORY OF COMMITMENT

Parker, Hudson, Rainer & Dobbs has been a member of the steering committee for the Georgia Bar Diversity Program for over 10 years and it is a cornerstone of our diversity program. Being active on the steering committee provides a great opportunity to network with attorneys and diversity professionals from other local firms and companies. We learn from each other, achieving a better understanding of where the legal community is as it relates to diversity and inclusion and what we can do to improve equality. Our attorneys find the programming to be an excellent supplement to the diversity and inclusion programming that we provide internally and they find great meaning in their participation in the high school pipeline program. We view our participation on the committee as an investment in the inclusive legal community that we want to see, and our firm obtains direct tangible benefits from our participation on the committee and attendance at the programs.

KATHLEEN O. CURREY

Partner, Parker, Hudson, Rainer & Dobbs LLP



2020 CALENDAR OF EVENTS *

**NON-PROFIT BOARD SERVICE AND
PROFESSIONAL DEVELOPMENT**
Winter 2020

**HIGH SCHOOL
PIPELINE PROGRAM (MACON)**
June/July 2020

BUSINESS DEVELOPMENT SYMPOSIUM
April 2020

**SUMMER ASSOCIATE AND
JUDICIARY RECEPTION**
June 2020

STRAIGHT TALK
May 2020

FALL LEARNING LAB
November 2020

**HIGH SCHOOL
PIPELINE PROGRAM (ATLANTA)**
May/June 2020

** Programming for 2020 is currently being developed. Events and event details will be updated.*

Georgia Diversity Program Informational Video

(Click the link below to view online.)



<https://drive.google.com/file/d/1X-4CY7SitrmG5WaOuhTZdB8Q3JZbLRQK/view>