



State Bar
of Georgia

BOG BOARD BOOK

**2019 Fall Meeting
Savannah, Ga.**

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



State Bar of Georgia

280th BOARD OF GOVERNORS MEETING

Saturday, October 19, 2019

9:00AM – 12:00PM

DeSoto Hotel

Savannah, Georgia

Dress: Business Casual

AGENDA

<u>Topics</u>	<u>Presenter</u>	<u>Page No.</u>
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1) ADMINISTRATION

- | | | |
|--|-----------------------------------|-------|
| a) Welcome and Call to Order | Darrell Sutton, President..... | 1-4 |
| b) Invocation and Pledge of Allegiance | Genevieve Navare/
Jacob Navare | |
| c) Recognition of Past Presidents, Judges
and Special Guests..... | Darrell Sutton | |
| d) Roll Call (by signature)..... | Sally Akins, Secretary | 5-11 |
| e) Future Meetings Schedule..... | Darrell Sutton..... | 12-13 |

2) ACTION

- | | | |
|---|--------------------|--|
| a) Minutes of the 278 th & 279 th Meeting | Sally Akins | 14-26
of the Board of Governors on June 7-8, 2019 |
| b) Proposed Rules Changes | Bill NeSmith | 27-70 |
| (1) Executive Summary | | |
| (2) Rule 1-702 Standing Committees; Special Committees | | |
| (3) Rule 4-204.1 Notice of Investigation | | |
| (4) Rule 1.1 Competence | | |
| (5) GRPC Rule 1.6 Confidentiality of Information | | |

<u>Topics</u>	<u>Presenter</u>	<u>Page No.</u>
(6) Rule 1.15(III) Record Keeping; Trust Account Overdraft Notification; Examination of Records		
(7) Rule 1.18 Duties to Prospective Client		
(8) Rule 1.0 Terminology and Definitions		
c) Approval of New Section	Bill NeSmith	71-76
(1) Cannabis & Hemp Law Section		
d) Approval of Bylaws Changes for Section.....	Bill NeSmith	77-82
(1) Appellate Practice Section		
e) Appointments to Commission on Continuing	Darrell Sutton	
Lawyer Competency (CCLC)		
(1) Reappointment of Kent Altom, 2020-2022		
(2) Reappointment of Anne Kaufold-Wiggins, 2020-2022		

3) LEGISLATION

a) Advisory Committee on Legislation	Amy Howell, Chair.....	83-168
New Legislative Proposals (action)		
(1) Support for FY 2021 Judicial Council Budget Request – \$750,000 to Fund Civil Legal Services Grants for Kinship Care Families		
(2) Support for FY 2021 Judicial Council Budget Request - \$2,500,000 to Fund Civil Legal Services for Victims of Domestic Violence		
(3) Proposed Amendments to the Uniform Power of Attorney Act		
a) Legislative Update	Christine Butcher Hayes Rusty Sewell	

4) INFORMATIONAL REPORTS

a) Reports on Program Assessments	Darrell Sutton.....	169-191
	Martin Valbuena, Chair, Programs	
(1) Presentation from BASICS	Seth Kirschenbaum/Michael Terry	
(2) Presentation from iCivics.....	Evelyn Davis	
(3) Report from MLAP	Jay Elmore	

<u>Topics</u>	<u>Presenter</u>	<u>Page No.</u>
b) President’s Report.....	Darrell Sutton	
c) Treasurer’s Report.....	Elizabeth Fite, Treasurer ...	192-211
d) Young Lawyers Division	Will Davis, YLD President ...	212-215
e) Standing Executive Committee Policy 100	Paula Frederick	216-219
Amicus Brief Policy		
f) Professional Liability Insurance	Darrell Sutton/ Committee Report	Chris Twyman, Chair, PLI Committee
g) SOLACE Committee.....	Clyde Reese	
Suicide Awareness Program - April 28, 2020		

5) WRITTEN REPORTS

a) Executive Committee Minutes		220-249
(1) May 3, 2019		
(2) May 21, 2019		
(3) August 1, 2019		
(4) September 6-7, 2019		
(5) October 2, 2019		
b) Annual Meeting Evaluation Results		250-309
c) Chief Justice’s Commission on Professionalism		310-319
d) Client Assistance Program		320-321
e) Law Practice Management Program.....		322-326
f) Military Legal Assistance Program		327-329
g) Media Report.....		330-331

Topics

Presenter

Page No.

6) CLOSING

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

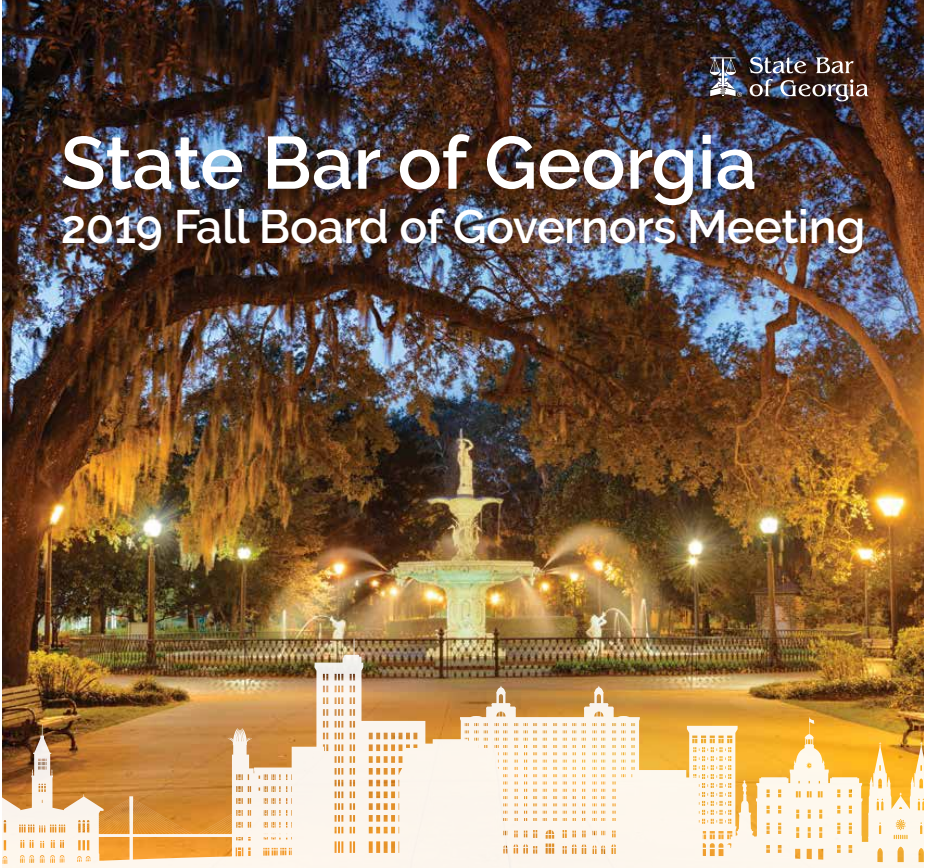
IMPORTANT:

Please join us at the Professional Liability Committee Town Hall Meeting on Friday, October 18, 2019 from 3:30PM – 5PM.



State Bar of Georgia

2019 Fall Board of Governors Meeting



The DeSoto Savannah

Savannah, Georgia • Oct. 18-20

Hotel cut-off date • Friday, Sept. 27

Registration cut-off date • Friday, Oct. 11

Schedule of Events

FRIDAY, OCT. 18

- 9:30 a.m. - 2 p.m. State Disciplinary Board Meeting
- 10 - 11 a.m. Senior Lawyers Committee
- 11:30 a.m. - 12:30 p.m. ICLE Board Meeting
- 12:30 - 3:30 p.m. Commission on Continuing Lawyer Competency Meeting
- 2 - 3 p.m. Professional Liability Insurance Committee
- 3 - 5 p.m. ICJE Fall Quarterly Board of Trustees Meeting
- 3:30 - 5 p.m. Town Hall Meeting—Professional Liability Insurance
- 3:30 - 5 p.m. Member Benefits Committee
- 6:30 - 9:30 p.m. Board of Governors Reception and Dinner

SATURDAY, OCT. 19

- 8 - 8:55 a.m. SOLACE Committee
- 9 a.m. - 12 p.m. Board of Governors Meeting
- 1 - 4 p.m. College Football Viewing Party at the DeSoto Savannah
- 4 - 5:30 p.m. Historical Walking Tour

Attire

Casual dress for all Friday and Saturday events, other than the Board of Governors meeting, which will be business casual.



Hotel Accommodations

The DeSoto Savannah
www.thedesotosavannah.com
15 E. Liberty St.
Savannah, GA 31401
912-232-9000
Cut-off date • Friday, Sept. 27

A beloved Savannah landmark that has played host to presidents, local personalities and visitors since 1890, the DeSoto Savannah Hotel will host the 2019 Fall Board of Governors meeting. A block of rooms has been reserved, with a standard room offered at the discounted rate of \$229 per night (plus applicable 13 percent tax, \$5 transportation government fee and \$1 city fee).

To make a reservation, please call the hotel at 844-257-3520 and indicate that you are with the State Bar of Georgia Board of Governors Fall Meeting, code BOG, or you may book online at bit.ly/DeSotoSavannah_Res. Reservations must be made by Friday, Sept. 27, as rooms will be on a space and rate availability basis after this date.

Hotel Check-in/Check-out Time
Check-in • 4 p.m.
Check-out • 11 a.m.





Recreation and Social Events

Board of Governors Reception and Dinner
Friday, Oct. 18 • 6:30 p.m.

Please join us Friday evening for drinks followed by dinner. The Board of Governors Reception and Dinner provides an excellent opportunity to relax and network with fellow Board members and guests.

College Football Viewing Party at the DeSoto Savannah
Saturday, Oct. 19 • 1 - 4 p.m.

Join your fellow college football fans at the DeSoto Savannah for a college football viewing party. Cost to attend includes light hors d'oeuvres and two drink tickets.

Historical Walking Tour

Saturday, Oct. 19 • 4 - 5:30 p.m.

Savannah is full of history, and what better way to experience it than on a walking tour? Meet in the hotel lobby at 4 p.m. to follow our guide as we take a stroll through Savannah's history. Family members and children welcome!

Savannah Entertainment

Savannah has so much to see and enjoy, and fall is one of the best times to be in town. Offering so many things to do within walking distance of the hotel, check out www.savannah.com, www.visitsavannah.com and www.thesotosavannah.com/savannah-ga for suggestions and information about food, fun and local flavor.



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5 GAVEL

MB | MemberBenefits

3 GAVEL

LAWPAY
AN AFFIDAVIT SOLUTION

Registration Form

Please complete and remit the registration form by Friday, Oct. 11, checking all events you plan to attend, including "no charge" functions.

Attendee Information

Bar Number _____

Name _____

Nickname _____

Spouse/Guest Name _____

Address _____

City/State/Zip _____

Email _____

Special Needs

Dietary Restrictions

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

Refund/Cancellation Policy

Meeting registration cancellation deadline is Friday, Oct. 11, for refunds. Cancellations will receive a full refund, less a \$25 administrative charge. Absolutely no refunds will be accepted after Friday, Oct. 11. Cancellation requests should be emailed to michelleg@gabar.org; faxed to 404-527-8717; or mailed to State Bar of Georgia, Attn. Michelle Garner, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303.



Registration Options

		Qty.
Board of Governors Functions		
<input type="checkbox"/> Board of Governors Dinner – Friday	\$70	_____
<input type="checkbox"/> Board of Governors Meeting – Saturday	N/C	_____

Committee Functions

<input type="checkbox"/> Commission on Continuing Lawyer Competency	N/C	_____
<input type="checkbox"/> ICLE Board Meeting	N/C	_____
<input type="checkbox"/> Member Benefits Committee	N/C	_____
<input type="checkbox"/> Professional Liability Insurance Committee	N/C	_____
<input type="checkbox"/> Senior Lawyers Committee	N/C	_____
<input type="checkbox"/> SOLACE Committee	N/C	_____
<input type="checkbox"/> Town Hall Meeting— Professional Liability Insurance	N/C	_____

Related Organization Functions

<input type="checkbox"/> ICJE Quarterly Board of Trustees Meeting	N/C	_____
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Recreation and Social Events

<input type="checkbox"/> College Football Viewing Party	\$25	_____
<input type="checkbox"/> Historical Walking Tour	\$10	_____

Total Fees: _____

Payment Information

Registrations will be processed on a first-come, first-served basis. Visa, MasterCard and American Express are accepted. Fax registration with credit card information to 404-527-8717. Please make checks payable to the State Bar of Georgia and mail to: Michelle Garner, Director of Meetings, Fall BOG Meeting, State Bar of Georgia, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303-2743.

Credit Card Information

Please bill my: Visa MasterCard AMEX

 Credit Card Number

 Exp. Date

 Name as it appears on the card (Please print)

 Signature

Online registration is available at www.gabar.org.

Board of Governors Attendance Record

	6-17	6-17	10-17	1-18	3-18	6-18	6-18	6-18	11-18	1-19	3-19	6-19	6-19
	Fri.	Sat.	Jekyll	ATL	Greensboro	Fri.	Amelia	Sat.	Pine Mtn	ATL	Greensboro	Fri.	Sat.
	Jekyll	Jekyll	Jekyll	ATL	Greensboro	Amelia	Amelia	Amelia	Pine Mtn	ATL	Greensboro	Orlando	Orlando
Sarah Brown Akins	•	•	•	•	•	•	•	•	•	•	e	•	•
Mark W. Alexander	•	•	•	•	•	•	•	•	•	•	•	•	•
Kent Edward Altom	•	•	e	•	•	•	•	•	•	•	e	•	•
Anthony B. Askew	•	•	•	•	•	•	•	•	•	•	•	•	•
Philip Augustine	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•
JaDawnya Cintelle Baker	•	•	•	e	•	•	e	•	•	•	•	•	•
Nina M. Baker	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•	•
Eric A. Ballinger	•	•	•	•	•	•	•	•	•	•	•	•	•
Donna G. Barwick	•	•	•	•	u	•	•	•	•	•	•	u	u
Tracee R. Benzo	•	•	•	•	•	•	•	•	e	•	•	e	e
James D. Blich IV	n/a	•	•	•	•	•	•	•	•	•	u	e	e
Sherry Boston	•	•	•	•	•	•	•	•	e	•	•	•	•
Ashley Mackin Brodie	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•
Thomas R. Burnside	•	•	e	•	•	u	u	u	•	u	u	•	•
Stephanie D. Burton	•	•	u	•	•	•	•	•	•	•	•	•	•
Ivy Neal Cadle	n/a	•	•	•	•	e	e	e	•	•	•	•	•
Richard D. Campbell	•	•	u	•	•	•	•	•	e	•	•	u	u
David L. Cannon	•	•	u	•	u	u	u	u	u	u	•	u	•
Carl S. Cansino	•	•	•	•	•	•	•	•	•	•	•	•	•
Chris M. Carr	•	u	u	•	•	•	u	u	u	•	•	u	u
Shiriki L. Cavitt	n/a	n	•	•	•	•	•	•	•	•	•	•	•
Carol V. Clark	•	•	•	•	•	•	•	•	•	•	•	e	e
Edward R. Collier	e	e	•	•	e	u	u	u	•	•	•	u	u
Christopher S. Connelly	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•	•

To request an excused absence, please email Secretary Sally B. Akins (sakins@EPRA-Law.com)

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	Jekyll	Jekyll	Jekyll	ATL	Greensboro	Amelia	Amelia	Amelia	Pine Mtn	ATL	Greensboro	Orlando	Orlando
Martin L. Cowen III	•	•	•	•	•	•	•	•	•	•	•	•	•
Susan W. Cox	•	e	u	•	•	•	•	•	•	•	e	•	•
Terrence Lee Croft	e	e	e	•	•	e	e	e	•	•	•	u	•
David P. Darden	•	•	•	•	•	e	e	e	•	•	•	•	•
Gerald Davidson Jr.	•	•	u	•	•	•	•	•	e	e	•	•	•
J. Anderson Davis	e	e	•	•	•	•	•	•	e	•	e	•	•
Randall H. Davis	•	•	•	e	•	•	•	•	•	e	e	•	•
William T. Davis	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•	•
J. Antonio Delcampo	•	•	•	•	e	•	•	•	•	e	•	•	•
Scott Dewitt Deltus	•	•	•	•	•	•	•	•	•	e	e	•	•
Joseph W. Dent	•	•	•	•	•	•	•	•	•	•	•	•	•
Foy R. Devine	•	•	•	u	•	•	•	•	e	•	•	•	•
Daniel S. Digby	n/a	n	n/a	n/a	n/a	n/a	n/a	•	•	e	•	•	•
Susan E. Edlein	•	•	•	•	•	•	•	•	•	•	u	•	•
Christopher Edwards	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	e
Archibald A. Farrar	•	•	e	•	•	e	e	e	•	•	•	•	•
D. Kirk Farrar	e	e	•	u	•	u	u	u	•	•	u	•	•
Elizabeth L. Fite	•	•	•	•	•	•	•	•	•	•	•	•	•
Ira L. Foster	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•
Harold Eugene Franklin Jr.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•
Gregory A. Futch	e	e	u	•	•	•	•	•	u	•	•	•	•
Keigh E. Gammage	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	u	•
William C. Gentry	•	•	•	•	•	•	•	•	•	•	•	•	•
Michael G. Geoffroy	n/a	n/a	n/a	•	•	u	u	u	u	•	u	•	•

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	Jekyll	Jekyll	Jekyll	ATL	Greensboro	Amelia	Amelia	Amelia	Pine Mtn	ATL	Greensboro	Orlando	Orlando
Walter J. Gordon Sr.	u	u	u	•	u	•	•	•	•	e	•	e	•
Patricia A. Gorham	e	e	•	•	•	e	e	e	•	•	•	•	•
Thomas F. Gristina	•	•	•	•	u	•	•	•	•	u	e	•	•
John Haubenreich	•	•	•	•	•	•	•	•	•	•	•	•	•
Patrick H. Head	•	•	•	•	•	•	•	•	•	•	•	•	•
Lawton C. Heard, Jr.	•	•	•	u	•	•	•	•	•	•	•	•	•
Render M. Heard Jr.	•	•	•	•	e	•	•	•	•	•	u	u	u
Thomas W. Herman	u	u	•	u	•	•	•	•	•	•	•	•	•
R. Javoynne Hicks	•	•	•	•	•	•	•	•	•	•	•	•	•
Donna S. Hix	•	•	e	•	•	e	e	e	•	•	•	e	e
Michael D. Hobbs	u	u	e	u	u	u	•	•	u	•	•	u	u
Kenneth B. Hodges	•	•	•	•	•	•	•	•	•	•	•	•	•
J. Marcus E. Howard	•	•	e	•	e	•	•	•	e	•	u	•	•
Amy V. Howell	•	•	•	•	•	•	•	•	e	•	•	•	•
Bert Hummel IV	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
James W. Hurt	•	u	•	u	•	•	•	•	u	•	u	u	•
Christopher Huskins	u	•	u	•	•	u	u	u	u	•	•	•	•
Stacey K. Hydrick	•	•	e	•	•	•	•	•	•	•	•	•	•
James T. Irvin	•	•	•	•	•	•	•	•	e	•	u	u	•
William Dixon James	u	u	•	•	e	•	•	•	•	•	•	•	•
Curtis S. Jenkins	•	•	•	•	•	u	•	•	u	•	•	u	u
Francys Johnson Jr.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Charles Michael Johnson	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Larry Michael Johnson	n/a	•	•	u	•	u	u	u	•	•	u	u	u

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	Jekyll	Jekyll	Jekyll	ATL	Greensboro	Amelia	Amelia	ATL	Pine Mtn	ATL	Greensboro	Orlando	Orlando
Lester B. Johnson, III	•	•	e	•	•	u	•	•	e	•	e	•	•
Dawn M. Jones	•	•	•	•	•	•	•	•	•	•	•	•	•
Michael R. Jones, Sr.	u	u	e	u	•	u	u	u	•	u	•	u	u
Jennifer A. Jordan	•	•	u	•	e	•	•	•	e	•	e	u	u
Zahra S. Karinshak	n/a	n/a	n/a	n/a	n/a	n/a	•	e	e	e	•	e	e
John F. Kennedy	•	•	u	•	•	•	•	•	u	•	•	•	•
William J. Keogh, III	•	•	•	u	u	•	•	•	e	•	e	•	•
Barry E. King	•	•	•	•	•	•	•	•	•	•	•	•	•
Judy C. King	•	•	e	•	•	•	•	•	•	•	•	•	•
Seth Kirschenbaum	•	•	•	•	e	•	•	•	•	•	u	•	•
Catherine Koura	e	e	e	•	•	•	•	•	e	•	•	•	•
Edward B. Krugman	e	e	e	•	•	e	e	•	•	•	e	e	e
Jeffrey R. Kuester	•	•	•	•	e	•	•	•	•	•	•	•	•
Allegra Lawrence-Hardy	•	•	•	•	•	•	•	•	e	•	•	•	e
Nicole C. Leet	•	•	•	•	•	•	•	•	•	•	•	•	•
Katie K. Leonard	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	u	•	•
Ryan R. Leonard	e	•	•	•	•	•	•	•	•	•	•	•	•
Dawn Renee Levine	•	•	u	•	•	•	•	•	•	•	u	•	e
Joyce Gist Lewis	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•	•	•
Lisa Katsuko Liang	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•
David S. Lipscomb	•	•	•	•	•	•	•	•	•	•	•	•	•
John R. B. Long	n/a	n/a	n/a	n/a	n/a	n/a	•	•	e	•	•	•	•
Dax Eric Lopez	•	•	e	•	•	•	e	•	e	•	•	•	•
Ronald A. Lowry	e	•	e	e	•	e	e	e	•	e	•	u	u

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	Jekyll	Jekyll	Jekyll	ATL	Greensboro	Amelia	Amelia				Orlando	Orlando
John Bell Manly	•	•	•	u	•	•	•	•	•	•	•	•
Ana Maria Martinez	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•	•
Letitia A. McDonald	•	•	u	•	e	•	•	u	•	•	•	•
Brad J. McFall	u	u	u	•	•	u	u	e	•	e	u	u
Michael D. McRae	u	u	e	u	•	u	•	•	•	•	e	e
Terry L. Miller	•	•	•	•	•	•	•	•	•	•	•	•
William J. Monahan	•	•	•	e	•	•	•	•	e	•	•	•
John T. Mroczko	n/a	•	u	•	u	u	u	u	u	u	u	u
Laura J. Murphree	•	•	e	•	•	•	•	•	•	•	•	•
Sam G. Nicholson	•	•	•	u	•	e	•	e	•	•	e	e
Rizza O'Connor	•	•	•	•	•	•	•	•	•	•	•	•
John Thomas O'Neal	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•
Paul Wain Painter III	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	u
Amanda Rourk Clark Palmer	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•
Kathy Stephens Palmer	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•	•
Jonathan B. Pannell	•	•	•	e	•	•	•	e	•	•	•	•
Joy Renea Parks	•	•	•	•	•	•	•	•	u	•	•	•
Tabitha Edwina Payne	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	e
Brandon Lee Peak	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	e
Thomas A. Peterson, IV	n/a	•	•	e	•	•	•	•	e	•	u	u
Will H. Pickett, Jr.	u	u	u	u	u	u	u	u	•	•	u	u
Robert Allen Plumb Jr.	n/a	•	•	u	•	•	•	•	•	•	•	•
Jill Pryor	e	e	e	e	•	e	e	e	•	e	e	e
William M. Ragland	•	•	e	•	e	•	•	e	•	•	•	•

To request an excused absence, please email Secretary Sally B. Akins (sakins@EPRA-Law.com)

Board of Governors Attendance Record

	6-17	6-17	10-17	1-18	3-18	6-18	6-18	11-18	1-19	3-19	6-19	6-19
	Fri.	Sat.	Jekyll	ATL	Greensboro	Fri.	Sat.	Pine Mtn	ATL	Greensboro	Fri.	Sat.
	Jekyll	Jekyll	Jekyll	ATL	Greensboro	Amelia	Amelia	Pine Mtn	ATL	Greensboro	Orlando	Orlando
James L. Roberts, IV	n/a	n/a	n/a	n/a	•	•	•	•	e	•	•	u
Tina S. Roddenbery	•	•	e	•	•	•	•	•	•	•	•	•
Joseph Roseborough	u	u	•	•	u	•	•	u	•	•	•	•
Wesley Charles Ross	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•
Claudia S. Saari	•	•	•	•	•	•	•	•	•	•	•	•
Dennis C. Sanders	•	•	e	•	•	•	•	e	•	•	•	•
H. Burke Sherwood	•	•	•	u	u	•	•	e	•	•	u	•
Robert H. Smalley, III	•	•	•	•	e	•	•	•	•	•	•	•
Philip C. Smith	•	e	•	•	•	•	•	•	•	•	•	•
R. Rucker Smith	•	•	•	•	•	•	u	•	•	•	•	•
Daniel B. Snipes	•	•	e	•	•	e	e	e	•	•	e	e
R. Gary Spencer	•	•	•	•	e	•	•	•	•	e	•	•
H. Craig Stafford	•	•	•	e	•	•	•	e	e	•	u	u
Lawton E. Stephens	e	e	e	e	•	•	•	e	•	e	•	•
Donna Coleman Stribling	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•	•
C. Deen Strickland	•	•	•	u	•	•	•	•	•	u	•	•
Frank B. Strickland	•	•	•	•	•	e	e	•	•	•	•	•
Joseph C. Sumner, Jr.	•	•	•	•	•	•	•	u	u	•	•	•
Darrell L. Sutton	•	•	•	•	•	•	•	e	•	•	•	•
Jason W. Swindle	•	•	•	u	•	•	•	u	•	•	u	u
Michael B. Terry	•	•	•	•	•	•	•	•	•	•	•	•
Anita W. Thomas	u	u	•	•	e	u	•	e	•	e	u	•
Edward D. Tolley	u	•	•	u	•	•	u	u	•	•	u	u
Clayton Tomlinson	•	•	•	u	•	u	•	•	u	•	•	•

To request an excused absence, please email Secretary Sally B. Akins (sakins@EPRA-Law.com)

Future Meetings Schedule (9/27/19)



Executive Committee

Nov. 21, 2019 1 p.m.	Rome, GA
Jan. 2020 12 p.m.	New Supreme Court Building Atlanta, GA
Feb. 27-28, 2020 12 p.m.	Supreme Court/Executive Committee Joint Meeting; Barnsley Resort, Adairsville, GA
May 7, 2020 12 p.m.	Bar Center Atlanta, GA
Sept. 11-13, 2020	Executive Committee Extended Meeting Wild Dunes Resort, Isle of Palms, SC

Board of Governors

Midyear 2020	January 9-11, 2020	The Georgian Terrace Hotel & Fox Theatre Atlanta, GA
Spring 2020	March 27-29, 2020	Château Élan Winery & Resort Braselton, GA
Annual 2020	June 11-14, 2020	Sandestin Golf & Beach Resort Miramar Beach, FL
Annual 2021	June 10-13, 2021	Wild Dunes Resort Isle of Palms, SC
Annual 2022	June 2-5, 2022	Omni Amelia Island Resort Amelia Island, FL

Young Lawyers Division

Fall 2019	November 15-17, 2019	Lanier Islands Legacy Lodge Buford, GA
Midyear 2020	January 9-11, 2020	The Georgian Terrace Hotel & Fox Theatre Atlanta, GA
Spring 2020	April 24-26, 2020	Graduate Athens Athens, GA
Annual 2020	June 11-14, 2020	Sandestin Golf & Beach Resort Miramar Beach, FL
Annual 2021	June 10-13, 2021	Wild Dunes Resort Isle of Palm, SC
Annual 2022	June 2-5, 2022	Omni Amelia Island Resort Amelia Island, FL

American Bar Association Meetings

Midyear 2020	Feb. 12-18, 2020	Austin, TX
Annual 2020	Aug. 6-11, 2020	Toronto, Ontario, Canada
Midyear 2021	Feb. 10-16, 2021	Chicago, IL
Annual 2021	Aug. 5-10, 2021	Chicago, IL

Savannah Boat Ride

2020	April 24
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Southern Conference Meetings

2020	October 15-18	Moody Gardens Hotel Spa & Convention Center Galveston Island, TX
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D-R-A-F-T
STATE BAR OF GEORGIA
BOARD OF GOVERNORS
MEETING MINUTES
Friday, June 7, 2019/9:00 a.m.
Ritz-Carlton Orlando, Grande Lakes/Orlando, FL

The 278th meeting of the Board of Governors of the State Bar of Georgia was held at the date and location shown above. Ken Hodges, President, presided.

Special Recognition

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

Recognition of Retiring Executive Committee Members and Retiring Board Members

President Ken Hodges recognized the following retiring Executive Committee and Board of Governors members: Immediate Past President Buck Rogers; YLD Immediate Past President Nicole Leet; Diane E. Bessen-Atlanta Circuit, Post 1; Kathleen M. Womack-Atlanta Circuit, Post 3; Phyllis J. Holmen-Atlanta Circuit, Post 25; Samuel M. Matchett-Atlanta Circuit, Post 37; William C. Rumer-Chattahoochee Circuit, Post 2; H. Emily George-Clayton Circuit, Post 1; Roy B. Huff Jr.-Griffin Circuit, Post 2; Robert V. Rodatus-Gwinnett Circuit, Post 3; Gregory W. Edwards-Member At Large, Post 1; Shondeana Genean Morris-Member At Large, Post 2; Wilson B. Mitcham Jr.-Ocmulgee Circuit, Post 2; Stephanie Kirijan Cooper-Out of State, Post 1; Joshua Clark Bell-South Georgia Circuit, Post 2.

Roll Call

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

Minutes of the 277th Meeting of the Board of Governors

President Ken Hodges presented the minutes of the Board of Governors meeting held March 30, 2019, at the Ritz-Carlton Reynolds at Lake Oconee, in Greensboro, GA. By unanimous voice vote, the Board of Governors approved the minutes.

Future Meetings Schedule

President-elect Darrell Sutton reported that he would review the Future Meetings Schedule at tomorrow's Board of Governors meeting.

Awards and Presentations

The following State Bar awards and presentations were made:

Military Legal Assistance Program (MLAP)

MLAP Chair Jay Elmore presented the Marshall-Tuttle Award to Norman Zoller.

Transition into Law Practice Program (TILPP)

TILPP Director Michelle West presented the John T. Marshall Mentor Award to Cara R. Mitchell.

Juvenile Law and Child Advocacy Awards

Nicki Vaughan presented the Judge Willie Lovett Award for Advancing the Field of Juvenile Law to the Honorable Bradley J. Boyd and Attorney Nathan A. Hayes.

Chief Justice Harris Hines Award for Outstanding Advocacy for Children in Dependency Proceedings

Supreme Court Justice David Nahmias presented the award to Attorney Anissa Patton, Fulton County Office of the Child Attorney and Jasmine Spratling, Forsyth County DFCS case manager.

Check Presentation to Georgia Legal Services (GLSP)

President Ken Hodges presented a \$563,438 check to Ira Foster, GLSP General Counsel, which represents contributions made by Bar members this Bar year for the GLSP Justice for All Campaign.

Recognition of Corporate Sponsor

President Ken Hodges recognized the Bar's Five-Gavel Corporate Sponsor, Member Benefits, Inc.

President Ken Hodges presented the following awards:

Local and Voluntary Bar Awards

Thomas R. Burnside, Jr. Excellence in Bar Leadership Award: Jacqueline F. Bunn

Award of Merit: Walton County Bar Association (under 50 members), Blue Ridge Bar Association (101-250 members), Georgia Association of Black Women Attorneys (251-500 members), Atlanta Bar Association (501 or more members)

Law Day Award of Achievement: Blue Ridge Bar Association (101-250 members), Cobb County Bar Association (501 or more members)

Best Newsletter: Gwinnett County Bar Association (101-250 members), Georgia Defense Lawyers Association (501 or more members)

Best Website: Walton County Bar Association (under 50 members), Gwinnett County Bar Association (101-250 members), Georgia Association of Black Women Attorneys (251-500 members), Cobb County Bar Association (501 or more members)

President's Cup Award: Georgia Association of Black Women Attorneys

Sections

Section of the Year: Family Law Section

Section Awards of Achievement: Animal Law and Intellectual Property

State of the Supreme Court of Georgia

The Honorable Harold Melton, Chief Justice of the Supreme Court of Georgia, delivered the State of the Supreme Court of Georgia address.

State of the Court of Appeals of Georgia

The Honorable Stephen Dillard, Chief Judge of the Court of Appeals of Georgia, delivered the State of the Court of Appeals of Georgia address.

State of the Office of Governor

Executive Counsel David Dove delivered the State of the Office of Governor on behalf of Governor Brian Kemp.

State of the Georgia House Judiciary Committee

Representative Barry Fleming, Chair of the House Judiciary Committee, reported on the activities of the House Judiciary Committee.

State of the Georgia Senate Special Judiciary Committee

President Ken Hodges announced that Senator Jen Jordan, Chair of the Senate Judiciary Committee, will present her report at tomorrow's Board of Governors meeting.

Memorials

President Ken Hodges presented the Memorials report.

Young Lawyers Division

YLD President Rizza O'Connor reported on the activities of the YLD this past year. She stated it was a busy and productive year with the YLD holding 133 events, much of those held outside of the Atlanta metropolitan area, and devoting hundreds of hours in community service projects. The YLD cosponsored the Georgia Legal Food Frenzy that raised 1.7 million pounds of food this year. The annual Signature Fundraiser held on April 13 raised \$47,000 for its beneficiary, Lawyers for Equal Justice. Championship

teams from across the United States competed in the National High School Mock Trial Championship in Athens on May 17-18. The YLD Spring Meeting was held in Washington, DC, on April 26-29 where a group of young lawyers were sworn in to the Supreme Court of the United States, and the YLD received personal visits from Justices Clarence Thomas, Brent Kavanaugh, and Ruth Bader Ginsburg. Rizza thanked the Board of Governors members for their support and stated it has been an honor to serve as the YLD President. Lastly, Rizza reported that she is excited and encouraged for YLD President-elect Will Davis' upcoming leadership.

The Board of Governors also received a written report on the activities of the YLD this Bar year.

State Disciplinary Board

Chair Melody Glouton reported on the activities of the State Disciplinary Board and recognized the current Board members.

State Disciplinary Review Board

Chair Tony Askew reported on the activities of the State Disciplinary Review Board and recognized the current Board members.

Formal Advisory Opinion Board

Chair Jeff Schneider reported on the activities of the Formal Advisory Opinion Board.

President's Address

Following an introduction by Immediate Past President Buck Rogers, President Ken Hodges delivered the President's Address (Exhibit B).

Adjournment

There being no further business, the meeting was adjourned at 11:05 a.m.

Elizabeth L. Fite, Secretary

Kenneth B Hodges, III, President

D-R-A-F-T
STATE BAR OF GEORGIA
BOARD OF GOVERNORS
MEETING MINUTES
Saturday, June 8, 2019/9:00 a.m.
Ritz-Carlton Reynolds Orlando, Grande Lakes/Orlando, FL

The 279th meeting of the Board of Governors of the State Bar of Georgia was held at the date and location shown above. Darrell Sutton, President, presided.

Special Recognition

Sutton recognized the members of the judiciary, the past-presidents of the State Bar, and other special guests in attendance.

Welcome to New Officers and Board Members

Sutton recognized the new Officers and Board of Governors members.

Roll Call

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

Future Meetings Schedule

Sutton reviewed the Future Meetings Schedule.

Approval of President's Appointments to the State Disciplinary Boards

The Board of Governors approved the following presidential appointments to the State Disciplinary Boards by unanimous voice vote:

State Disciplinary Board

Christopher Sutton Connelly, Summerville (2019-2022)

Casey Carter Santas, Duluth (2019-2022)

Lay Member: Michael A. Fuller, Macon (2019-2022)

State Disciplinary Review Board

Northern District: Aimee Lynn Pickett, Atlanta (2019-2022)

Middle District: Caroline Whitehead Herrington, Macon (2019-2022)

Southern District: Paul Threlkeld, Savannah (2020-2022); Jack Long, Augusta (2019-2020)

Lay Member: Clarence Pennie, Kennesaw (2019-2022)

Formal Advisory Opinion Board

Member-at-Large: David N. Lefkowitz, Athens (2019-2021)

Member-at-Large: Edward B. Krugman, Atlanta (2019-2021)
Georgia Defense Lawyers Assoc.: Jacob Edward Daly, Atlanta (2019-2021)
Young Lawyers Division: Elissa Blache Haynes, Atlanta (2019-2021)
Atlanta's John Marshall Law School: Prof. Jeffrey Van Detta, Atlanta (2019-2021)
Mercer University School of Law: Prof. Patrick E. Longan, Macon (2019-2021)
University of Georgia Law School: Prof. Lonnie Brown, Jr., Athens (2019-2021)
State Disciplinary Review Board: Alfreda Sheppard, Albany (2019-2020)

Approval of 2019-2020 Standing, Special & Program Committees and Boards

The Board of Governors approved the proposed 2019-2020 Standing, Special & Program Committees and Boards by unanimous voice vote.

President's Address

Following an introduction by Immediate Past President Ken Hodges, Sutton delivered the President's Address (Exhibit B).

Nominations to the Judicial Qualifications Commission (JQC)

Following a report by Sutton, the Board of Governors, by unanimous voice vote, approved the following list of nominees, as revised, to the Judicial Qualifications Commission, which was submitted by the JQC Nominating Committee: Christopher Paul Twyman, LaRae Dixon Moore, Samuel S. Olens, Matthew Glen Moffett, Scott Dewitt Delius, and Robert Laurence Barr, Jr. The names will be provided to Governor Brian Kemp for consideration.

Treasurer's Report

Treasurer Elizabeth Fite reported on the Bar's finances and investments. She discussed the efforts undertaken by Chief Financial Officer Ron Turner and the Finance Committee, chaired by Nancy Whaley, to redesign the financial reports so they are easier to read and understand. Before reviewing the redesigned financial reports, Elizabeth reported on the structures of the different entities under the aegis of the State Bar which are the Institute of Continuing Legal Education (ICLE), the Commission on Continuing Lawyer Competency (CCLC), and the Chief Justice's Commission Professionalism (CJCP). She also reported that the Cornerstones of Freedom reserve fund, used for the Bar's PSA campaign, is being eliminated and some expenses will be reallocated to other line items in the budget because we will be using the PSAs created this year and previous years in the 2019-2020 Bar year. David Cannon suggested that the next year's Bar license fee notice include an indication of the reserve balance for the Legislative and Public Advocacy fund.

The Board of Governors received copies of the combined Operations and Bar Center Consolidated Revenues and Expenditures Report as of March 31, 2019; Bar Center Revenues and Expenditures Summary for the Nine Months Ended March 31, 2019; Status and Use of Cash Investments as of March 31, 2019; Board-Designated and Donor Temporarily Restricted Net Assets as of March 31, 2019; Summary of Members and Voluntary Contributions to GLSP Paid through March 31, 2019; Summary of Members and Voluntary Legislative Contributions Paid through March 31, 2019; Legislative Activity Report from July 1, 2019 through March 31, 2019; and Cornerstones of Freedom Activity Report from July 1, 2018 through March 31, 2019.

2019-2020 State Bar Budget

Treasurer Elizabeth Fite presented the Fiscal Year 2019-2020 Proposed Consolidated Budget and ICLE Budget (Exhibit C), which the Board of Governors approved by unanimous voice vote. The proposed Consolidated Budget reflects the following:

- 1) License fees at \$254 for active members and \$127 for inactive members, which represents a \$2 increase in actives dues and a \$1 increase in inactive dues;
- 2) Section dues to be reflected on the license fee statement ranging from \$10-\$40; and
- 3) Continuation of the assessment required by Bar Rules regarding the Clients' Security Fund (\$100 @ \$25/year, beginning with the second full fiscal year following a member's year of admission); and
- 4) Professionalism Fee (\$15) (mandated by the Supreme Court); and
- 5) Continuation of a \$100 voluntary contribution for the Legislative and Public Education Fund; and
- 6) A suggested \$300 individual contribution (\$100 for young lawyers) for the Georgia Legal Services Program.

Financial Resolutions

As required by Article V, Section 8 of the Bylaws, the Board of Governors approved the following financial resolutions by unanimous voice vote:

- 1) That the President be authorized to secure a blanket fidelity bond to cover all officers, employees and other persons handling State Bar funds as is required by Article V, Section 8 of the Bylaws.

- 2) That the State Bar of Georgia and related entities open appropriate accounts with such banks in Georgia, but excluding any bank that does not participate in the IOLTA Program, and other such depositories as may be recommended by the Finance Committee and/or Investment Committee, and designated by the Executive Committee of the Board of Governors of the State Bar of Georgia, 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: the Treasurer, the President, the Immediate Past President, the Executive Director, the Office Manager and the General Counsel, provided either the President or the 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 of such revocation of authority and in writing, acknowledge receipt thereof.

- 3) That Mauldin & Jenkins be designated as the independent auditing firm to audit the financial records of the State Bar of Georgia for the fiscal year 2018-2019.

Executive Director Election

The Board of Governors elected Jeff Davis as Executive Director for the 2019-2020 Bar year by unanimous voice vote.

Election Schedule 2019-2020

The Board of Governors approved the proposed 2019-2020 Elections Schedule (Exhibit D) by unanimous voice vote.

Executive Committee Election

The Executive Committee election was held with the following results after the Board of Governors accepted the slate of candidates by unanimous voice vote:

One-Year Term 2019-2020

Nominations:

Candidate: Ivy N. Cadle
Nominator: Judge Kathy S. Palmer
Seconded: Shiriki Cavitt Jones

Results:

Elected by acclamation for a one-year term

Two-Year Term 2019-2021

Nominations:

Candidate: John R.B. (Jack) Long

Nominator: Carl R. Varnedoe

Seconded: C. Sutton Connelly

Candidate: R. Javoyné Hicks
term

Elected by majority ballot vote for a two-year

Nominator: R. Gary Spencer

Seconded: Dennis C. Sanders

Candidate: David S. Lipscomb
term

Elected by majority ballot vote for a two-year

Nominator: Michael G. Geoffroy

Seconded: Nicole C. Leet

Candidate: Amy V. Howell
term

Elected by majority ballot vote for a two-year

Nominator: Judge Dax E. Lopez

Seconded: Thomas R. Burnside, III

Chief Justice's Commission on Professionalism Appointment

By unanimous voice vote, the Board of Governors approved the appointment of Dr. Monica Willis-Parker for a three-year term to the Chief Justice's Commission on Professionalism.

ICJE Board Appointment

By unanimous voice vote, the Board of Governors approved the appointment of President-elect Dawn Jones to the ICJE Board of Trustees for a three-year term.

Revised Officer Reimbursement Policy

Following a report by Sutton, the Board of Governors, with President-elect Dawn Jones abstaining, approved the revised Officer Reimbursement Policy (Exhibit E) by unanimous voice vote,

Proposed Amendment – TILPP Rule 8.104 Education Requirements and Exemptions

This item was tabled.

Proposed Amendment – Part XII – Client Assistance Program Preamble, Rule 12-101, Rule 12-102

Following a report by Sutton, the Board of Governors approved recommending to the Supreme Court of Georgia proposed amendments (Exhibit F) to Part XII Client Assistance Program (formerly Consumer Assistance Program) Rules 12-101 and 12-102 by unanimous voice vote.

Approval Appointments to the ICLE Board

By unanimous voice vote, the Board of Governors approved the following presidential appointments for three-year terms to the ICLE Board of Trustees: Carol V. Clark; Harold T. Daniel, Jr.; Allegra J. Lawrence Hardy; and Kenneth B. Hodges.

Young Lawyers Division

YLD President Will Davis reported that he is excited to be the YLD President. He said that he became active in the YLD in 2012 with the support of his then employer, GLSP. Will stated that his main focus will be to build upon and grow the great projects of the YLD. He plans to start with the YLD membership by letting the members know that the YLD is there for them and that the YLD offers tremendous opportunities to work together across the state to make a statewide impact. He will also work closely with the ten YLD affiliates. Will announced that his Summer Meeting will be at the King & Prince on St. Simons Island in August, the Fall Meeting will be at Lake Lanier Islands in November, and the Spring Meeting will be in Athens on the last week in April. He wants to encourage more YLD members to participate by letting them know that the meetings are accessible and over one weekend. Will also asked the Board of Governors to sponsor a young lawyer in their firm or community to attend a YLD meeting. He reported that the YLD will continue to work on its signature projects, including its Build a Better Georgia Day and the High School Mock Trial program. He stated that he has assigned two of his board members to reach out to the specialty bars so they and the YLD can work together on projects, and the YLD will continue to take a lead in diversity and innovation. Will said that the YLD has given a lot to him both professionally and personally and he has made good friendships. He will continue to reach out to the lawyers across the state to get behind the YLD and work for the profession. Lastly, Will reported that he looks forward to working with his slate of officers, and he gave a quick shout out to the Leadership Academy members.

Georgia Legal Services Board Appointments

Following a report by President-elect Dawn Jones, the Board of Governors approved the appointments of Darrell Sutton, Demetrius Tannel Locket, and William Hulbert Gregory, IV, for two-year terms to the Georgia Legal Service Board of Trustees by unanimous voice vote.

Georgia Bar Foundation Report

There was no report.

Legislative Report

Governmental Affairs Director Christine Butcher Hayes reported that the Bar successfully lobbied the passing of both the family law bill and guardianship rewrite bill. She stated that she was grateful for the support of the Bar's contract lobbyists Rusty Sewell, Mark Middleton, and Roy Robinson. She reported that the Bar is moving forward with the coming year's legislative agenda, and we will continue to produce quality legislation thoroughly vetted by the Advisory Committee on Legislation that will be chaired by Amy Howell. She also reported that we will continue to be missionaries to encourage lawyers to run for the legislature. Lastly, Christine thanked Immediate Past President Ken Hodges, the Executive Committee, and the Board of Governors for their support of the legislative program.

National High School Mock Trial Competition Report

Michael Nixon reported on the National High School Mock Trial Championship Competition that took place May 16-18 2019, in Athens. Immediate Past President Ken Hodges recognized Michael for his outstanding job in planning and running the competition.

State of the Georgia Senate Special Judiciary Committee

Senator Jen Jordan, Chair of the Senate Special Judiciary Committee, reported on the activities of that committee. She also encouraged Board of Governors members to run for legislative office.

Executive Committee Minutes

The Board of Governors received a copy of the minutes of the Executive Committee meeting held at Callaway Gardens on March 16-18, 2019.

Office of General Counsel

The Board of Governors received a written memorandum from the Office of the General Counsel with a link to access online the Annual Report of the Office of General Counsel.

Insurance Committee

The Board of Governors received a written report from the Insurance Committee.

Consumer Assistance Program

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

Fee Arbitration Program

The Board of Governors received a written report from the Fee Arbitration Program.

Law Practice Management Program

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

Military Legal Assistance Program

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

Unlicensed Practice of Law Program

The Board of Governors received a written report on the Formal Investigations undertaken by the Unlicensed Practice of Law Program.

Communications Media Report

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

Georgia Legal Services Program Report

The Board of Governors received a written report from Georgia Legal Services.

Transition into Law Practice Program

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

Chief Justice's Commission on Professionalism

The Board of Governors received a written report from the Chief Justice's Commission on Professionalism.

The Arc of Justice Institute

The Board of Governors received a written report from the *Arc of Justice* Institute.

Old Business

There was no old business.

New Business

Sutton thanked the Cobb Judicial Circuit's Board of Governors delegation for their support, and the nine YLD Past Presidents who are members of the Board for their support and guidance.

Remarks/Q&A/Comments/Suggestions

Sutton opened the floor to remarks, questions, comments and suggestions.

Adjournment

There being no further business, the meeting was adjourned at 12:00 p.m.

Sarah (Sally) B. Akins

Darrell L. Sutton, President



MEMORANDUM

To: Board of Governors
From: Bill NeSmith
Date: October 19, 2019
Re: Proposed Rule Changes

Below is a short explanation of the proposed rules changes on the agenda for the October 19, 2019, Board of Governors Fall Meeting:

1. **Rule 1-702. Standing Committees; Special Committees.** These proposed changes to this rule are housekeeping changes, with the most important change allowing the posting of a statement of purpose on the official State Bar of Georgia website, instead of in the Bar Directory, which is no longer published.
2. **Rule 4-204.1. Notice of Investigation.** The current rule requires an NOI to include a copy of a grievance, but the new procedural rules allow an investigation upon receipt of credible information, and there is not always a grievance in the file. This change allows a case to proceed to an NOI based upon the receipt of credible evidence or the receipt of a grievance form.
3. **RULE 1.1 COMPETENCE.** The proposed changes to Comments [6] and [7] (lines 31 through 42) add new ABA language highlighting the need to be competent in technology and the importance of wellness in maintaining competence.
4. **GRPC RULE 1.6 CONFIDENTIALITY OF INFORMATION.** A new exception to the Rule (lines 70 through 74 and 83 through 88) and new comments 18-19 clarify the need for and the timing of a conflicts check when changing employment or firm structure. Comments 22-25 highlight the need to protect client information from a data breach or other inadvertent disclosure to third parties.

The Disciplinary Rules and Procedures Committee and the Executive Committee voted to revise Comments 1, 4A and 4B if Rule 1.18 is approved by the Board of Governors and subsequently by the Supreme Court of Georgia.

5. **RULE 1.15(III) RECORD KEEPING; TRUST ACCOUNT OVERDRAFT NOTIFICATION; EXAMINATION OF RECORDS.** The substantive change comes at line 254 through 255 and 258 through 259. It eliminates the three-day grace period for banks to report dishonored checks from lawyer trust accounts.

6. **RULE 1.18 DUTIES TO PROSPECTIVE CLIENT.** This is a new rule that clarifies a lawyer's obligations to people who consult with but do not hire, the lawyer. It is essentially the ABA Model Rule without the provision for screening since Georgia's rule on screening is different.

7. **RULE 1.0. TERMINOLOGY AND DEFINITIONS.** At line 342 through 343, the definition of "Prospective Client" is added to reflect the addition of Rule 1.18. The remainder of the changes are housekeeping.

1 **Rule 1-702. Standing Committees; Special Committees**

2 Unless otherwise provided in these ~~Rules~~rules, there shall be standing and special
3 committees, which shall be composed of such members, serving such terms,
4 appointed in such manner, and having such duties as the bylaws may provide. A
5 statement of the purpose of each committee shall be published annually ~~in~~on the
6 official State Bar of Georgia Directorywebsite.

7 **Rule 4-204.1. Notice of Investigation**

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

11 (1) a statement that the grievance or written description pursuant to Bar
12 Rule 4-202 (b) is being transmitted to the State Disciplinary Board;

13 (2) a copy of the grievance or written description pursuant to Bar Rule 4-
14 202 (b);

15 (3) a list of the rules that appear to have been violated;

16 (4) the name and address of the State Disciplinary Board member assigned
17 to investigate the grievance matter and a list of the State Disciplinary Board
18 members; and

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

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

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

25
26

27 **RULE 1.1 COMPETENCE**

28 . . .

29 Comment

30 *Maintaining Competence*

31 ~~[6] To maintain the requisite knowledge and skill, a lawyer should engage in~~
32 ~~continuing study and education.~~ To maintain the requisite knowledge and skill, a
33 lawyer should keep abreast of changes in the law and its practice, including the
34 benefits and risks associated with relevant technology, engage in continuing study
35 and education, and comply with all continuing legal education requirements to
36 which the lawyer is subject.

37

38 [7] A lawyer's mental, emotional, and physical well-being impacts the lawyer's
39 ability to represent clients and to make responsible choices in the practice of law.
40 Maintaining the mental, emotional, and physical ability necessary for the
41 representation of a client is an important aspect of maintaining competence to
42 practice law. See also Rule 1.16 (a) (2).

43 . . .

44

45 **GRPC RULE 1.6 CONFIDENTIALITY OF INFORMATION** *(the DRPC*
46 *committee voted to make changes to Comment 1, 4A and 4B if Rule 1.18 is passed*
47 *by the Supreme Court of Georgia.)*

48 (a) A lawyer shall maintain in confidence all information gained in the
49 professional relationship with a client, including information which the client has
50 requested to be held inviolate or the disclosure of which would be embarrassing or
51 would likely be detrimental to the client, unless the client gives informed consent,
52 except for disclosures that are impliedly authorized in order to carry out the
53 representation, or are required by these Rules or other law, or by order of the Court.

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(b)

(1) A lawyer may reveal information covered by paragraph (a) which the lawyer reasonably believes necessary:

- (i) to avoid or prevent harm or substantial financial loss to another as a result of client criminal conduct or third party criminal conduct clearly in violation of the law;
- (ii) to prevent serious injury or death not otherwise covered by subparagraph (i) above;
- (iii) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;
- (iv) to secure legal advice about the lawyer's compliance with these Rules.
- (v) to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.

(2) In a situation described in paragraph (b) (1), if the client has acted at the time the lawyer learns of the threat of harm or loss to a victim, use or disclosure is permissible only if the harm or loss has not yet occurred.

(3) Before using or disclosing information pursuant to paragraph (b) (1) (i) or (ii), if feasible, the lawyer must make a good faith effort to

81 persuade the client either not to act or, if the client has already acted, to
82 warn the victim.

83 ~~(e) — The lawyer may, where the law does not otherwise require, reveal~~
84 ~~information to which the duty of confidentiality does not apply under paragraph (b)~~
85 ~~without being subjected to disciplinary proceedings.~~

86 ~~(d) The lawyer shall reveal information under paragraph (b) as the applicable law~~
87 ~~requires.~~

88 ~~(c)e~~—The duty of confidentiality shall continue after the client-lawyer
89 relationship has terminated.

90

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

92 Comment

93 [1] The lawyer is part of a judicial system charged with upholding the law. One of
94 the lawyer's functions is to advise clients so that they avoid any violation of the law
95 in the proper exercise of their rights. See Rule 1.18. *** (approved if Rule 1.18 is*
96 *passed by The Supreme Court of Georgia).*

97

98 [2] The observance of the ethical obligation of a lawyer to hold inviolate
99 confidential information of the client not only facilitates the full development of
100 facts essential to proper representation of the client but also encourages people to
101 seek early legal assistance.

102

103 [3] Almost without exception, clients come to lawyers in order to determine what
104 their rights are and what is, in the maze of laws and regulations, deemed to be legal
105 and correct. The common law recognizes that the client's confidences must be
106 protected from disclosure. Based upon experience, lawyers know that almost all
107 clients follow the advice given, and the law is upheld.

108 [4] A fundamental principle in the client-lawyer relationship is that the lawyer
109 maintain confidentiality of information relating to the representation. The client is
110 thereby encouraged to communicate fully and frankly with the lawyer even as to
111 embarrassing or legally damaging subject matter.

112
113 [4] A fundamental principle in the client-lawyer relationship is that the lawyer
114 maintain confidentiality of information relating to the representation. The client is
115 thereby encouraged to communicate fully and frankly with the lawyer even as to
116 embarrassing or legally damaging subject matter.

117 ~~[4A] Information gained in the professional relationship includes information gained
118 from a person (prospective client) who discusses the possibility of forming a client-
119 lawyer relationship with respect to a matter. Even when no client-lawyer
120 relationship ensues, the restrictions and exceptions of these Rules as to use or
121 revelation of the information apply, e.g. Rules 1.9 and 1.10. *** (approved at 1/11/19
122 meeting only if Rule 1.18 is passed by The Supreme Court of Georgia).*~~

123
124 [4B] A person becomes a prospective client by consulting with a lawyer about the
125 possibility of forming a client-lawyer relationship with respect to a matter. Whether
126 communications, including written, oral, or electronic communications, constitute a
127 consultation depends on the circumstances. For example, a consultation is likely to
128 have occurred if a person provides information in response to a lawyer's invitation
129 to submit information about a potential representation, unless the lawyer's invitation
130 includes clear and reasonably understandable warnings and cautionary statements
131 that limit the lawyer's obligations. A consultation may occur in person or through
132 the lawyer's advertising in any medium. In contrast, a consultation does not occur if
133 a person provides information to a lawyer in response to advertising that merely
134 describes the lawyer's education, experience, areas of practice, and contact

135 information, or provides legal information of general interest. Such a person
136 communicates information unilaterally to a lawyer, without any reasonable
137 expectation that the lawyer is willing to discuss the possibility of forming a client-
138 lawyer relationship, and is thus not a "prospective client." Moreover, a person who
139 communicates with a lawyer for the purpose of disqualifying the lawyer is not a
140 "prospective client." *** (at 1/11/19 meeting Committee voted not to add 4B if Rule*
141 *1.18 is passed by The Supreme Court of Georgia).*

142 . . .

143 Detection of Conflicts of Interest

144 [18] Paragraph (b)(1)(v) recognizes that lawyers in different firms may need to
145 disclose limited information to each other to detect and resolve conflicts of interest,
146 such as when a lawyer is considering an association with another firm, two or more
147 firms are considering a merger, or a lawyer is considering the purchase of a law
148 practice. See Rule 1.17, Comment [6]. Under these circumstances, lawyers and law
149 firms are permitted to disclose limited information, but only once substantive
150 discussions regarding the new relationship have occurred. Any such disclosure
151 should ordinarily include no more than the identity of the persons and entities
152 involved in a matter, a brief summary of the general issues involved, and
153 information about whether the matter has terminated. Even this limited information,
154 however, should be disclosed only to the extent reasonably necessary to detect and
155 resolve conflicts of interests that might arise from the possible new relationship.
156 Moreover, the disclosure of any information is prohibited if it would compromise
157 the attorney-client privilege or otherwise prejudice the client (e.g., the fact that a
158 corporate client is seeking advice on a corporate takeover that has not been publicly
159 announced; that a person has consulted a lawyer about the possibility of divorce
160 before the person's intentions are known to the person's spouse; or that a person has
161 consulted a lawyer about a criminal investigation that has not led to a public

162 charge). Under those circumstances, paragraph (a) prohibits disclosure unless the
163 client or former client gives informed consent. A lawyer’s fiduciary duty to the
164 lawyer’s firm may also govern a lawyer’s conduct when exploring an association
165 with another firm and is beyond the scope of these rules.

166
167 [19] Any information disclosed pursuant to paragraph (b)(1)(v) may be used or
168 further disclosed only to the extent necessary to detect and resolve conflicts of
169 interest. Paragraph (b) (1) (v) does not restrict the use of information acquired by
170 means independent of any disclosure pursuant to paragraph (b) (1) (v). Paragraph
171 (b) (1) (v) also does not affect the disclosure of information within a law firm when
172 the disclosure is otherwise authorized, see Comment [7], such as when a lawyer in a
173 firm discloses information to another lawyer in the same firm to detect and resolve
174 conflicts of interest that could arise in connection with undertaking a new
175 representation.

176
177 Disclosures Otherwise Required or Authorized

178 [18-20] The attorney-client privilege is differently defined in various jurisdictions. If
179 a lawyer is called as a witness to give testimony concerning a client, absent waiver
180 by the client, paragraph (a) requires the lawyer to invoke the privilege when it is
181 applicable. The lawyer must comply with the final orders of a court or other tribunal
182 of competent jurisdiction requiring the lawyer to give information about the client.

183
184 [19-21] The Rules of Professional Conduct in various circumstances permit or
185 require a lawyer to disclose information relating to the representation. See Rules 2.2
186 2.3, 3.3 and 4.1. In addition to these provisions, a lawyer may be obligated or
187 permitted by other provisions of law to give information about a client. Whether

188 another provision of law supersedes Rule 1.6 is a matter of interpretation beyond the
189 scope of these rules, but a presumption should exist against such a supersession.

190

191 [22] Paragraph (b) permits disclosure only to the extent the lawyer reasonably
192 believes the disclosure is necessary to accomplish one of the purposes specified.
193 Where practicable, the lawyer should first seek to persuade the client to take suitable
194 action to obviate the need for disclosure. In any case, a disclosure adverse to the
195 client's interest should be no greater than the lawyer reasonably believes necessary
196 to accomplish the purpose. If the disclosure will be made in connection with a
197 judicial proceeding, the disclosure should be made in a manner that limits access to
198 the information to the tribunal or other persons having a need to know it and
199 appropriate protective orders or other arrangements should be sought by the lawyer
200 to the fullest extent practicable.

201

202 [23] Paragraph (b) permits but does not require the disclosure of information
203 relating to a client's representation to accomplish the purposes specified. In
204 exercising the discretion conferred by this rule, the lawyer may consider such
205 factors as the nature of the lawyer's relationship with the client and with those who
206 might be injured by the client, the lawyer's own involvement in the transaction and
207 factors that may extenuate the conduct in question. A lawyer's decision not to
208 disclose as permitted by paragraph (b) does not violate this rule. Disclosure may be
209 required, however, by other rules. Some rules require disclosure only if such
210 disclosure would be permitted by paragraph (b). See Rules 1.2(d), 4.1(b), and 8.1.
211 Rule 3.3, on the other hand, requires disclosure in some circumstances regardless of
212 whether such disclosure is permitted by this rule. See Rule 3.3 (b).

213

214 Acting Competently to Preserve Confidentiality

215 [24] A lawyer should make reasonable efforts to prevent the inadvertent or
216 unauthorized disclosure of, or unauthorized access to, information covered by this
217 Rule. A lawyer should make reasonable efforts to safeguard information relating to
218 the representation of a client against unauthorized access by third parties and against
219 inadvertent or unauthorized disclosure by the lawyer or other persons who are
220 participating in the representation of the client or who are subject to the lawyer's
221 supervision. See Rules 1.1, 5.1 and 5.3. Factors to be considered in determining the
222 reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity
223 of the information, the likelihood of disclosure if additional safeguards are not
224 employed, the cost of employing additional safeguards, the difficulty of
225 implementing the safeguards, and the extent to which the safeguards adversely
226 affect the lawyer's ability to represent clients (e.g., by making a device or important
227 piece of software excessively difficult to use). Whether a lawyer may be required to
228 take additional steps to safeguard a client's information in order to comply with
229 other law, such as state and federal laws that govern data privacy or that impose
230 notification requirements upon the loss of, or unauthorized access to, electronic
231 information, is beyond the scope of these rules.

232

233 [25] When transmitting a communication that includes information relating to the
234 representation of a client, the lawyer should take reasonable precautions to prevent
235 the information from coming into the hands of unintended recipients. This duty,
236 however, does not require that the lawyer use special security measures if the
237 method of communication affords a reasonable expectation of privacy. Special
238 circumstances, however, may warrant special precautions. Factors to be considered
239 in determining the reasonableness of the lawyer's expectation of confidentiality
240 include the sensitivity of the information and the extent to which the privacy of the
241 communication is protected by law or by a confidentiality agreement. Whether a

242 lawyer may be required to take additional steps in order to comply with other law,
243 such as state and federal laws that govern data privacy, is beyond the scope of these
244 rules.

245 **RULE 1.15(III) RECORD KEEPING; TRUST ACCOUNT OVERDRAFT**
246 **NOTIFICATION; EXAMINATION OF RECORDS**

247 ...

248 (c) Procedure:

249 ...

250 (2) Timing of Reports:

251 (i) The financial institution shall file a report with the Office of the
252 General Counsel of the State Bar of Georgia in every instance where
253 a properly payable instrument is presented against a lawyer trust
254 account containing insufficient funds. and said instrument is not
255 honored within three business days of presentation.

256 (ii) The report shall be filed with the Office of the General Counsel
257 within fifteen 15 days of the date of the presentation of the
258 instrument, even if the instrument is subsequently honored. after the
259 three business days provided in (2) (i) above.

260 ...

261 **RULE 1.18 DUTIES TO PROSPECTIVE CLIENT**

262 (a) A person who consults with a lawyer about the possibility of forming a
263 client-lawyer relationship with respect to a matter is a prospective client.

264 (b) Even when no client-lawyer relationship ensues, a lawyer who has
265 learned information from a prospective client shall not use or reveal that
266 information, except as Rule 1.9 would permit with respect to information of a
267 former client.

268 (c) A lawyer subject to paragraph (b) shall not represent a client with
269 interests materially adverse to those of a prospective client in the same or a
270 substantially related matter if the lawyer received information from the prospective
271 client that could be significantly harmful to that person in the matter, except as
272 provided in paragraph (d). If a lawyer is disqualified from representation under this
273 paragraph, no lawyer in a firm with which that lawyer is associated may knowingly
274 undertake or continue representation in such a matter, except as provided in
275 paragraph (d).

276 (d) When the lawyer has received disqualifying information as defined in
277 paragraph (c), representation is permissible if both the affected client and the
278 prospective client have given informed consent, confirmed in writing.

279

280 Comment

281 [1]—Prospective clients, like clients, may disclose information to a lawyer, place
282 documents or other property in the lawyer's custody, or rely on the lawyer's advice.
283 A lawyer's consultations with a prospective client usually are limited in time and
284 depth and leave both the prospective client and the lawyer free (and sometimes
285 required) to proceed no further. Hence, prospective clients should receive some but
286 not all of the protection afforded clients.

287 [2]—A person becomes a prospective client by consulting with a lawyer about the
288 possibility of forming a client-lawyer relationship with respect to a
289 matter.- Whether communications, including written, oral, or electronic
290 communications, constitute a consultation depends on the circumstances.- For
291 example, a consultation is likely to have occurred if a lawyer, either in person or
292 through the lawyer's advertising in any medium, specifically requests or invites the
293 submission of information about a potential representation without clear and

294 reasonably understandable warnings and cautionary statements that limit the
295 lawyer's obligations, and a person provides information in response. See also
296 Comment [4].- In contrast, a consultation does not occur if a person provides
297 information to a lawyer in response to advertising that merely describes the lawyer's
298 education, experience, areas of practice, and contact information, or provides legal
299 information of general interest. Such a person communicates information
300 unilaterally to a lawyer, without any reasonable expectation that the lawyer is
301 willing to discuss the possibility of forming a client-lawyer relationship, and is thus
302 not a "prospective client." Moreover, a person who communicates with a lawyer for
303 the purpose of disqualifying the lawyer is not a "prospective client."

304 [3]-It is often necessary for a prospective client to reveal information to the lawyer
305 during an initial consultation prior to the decision about formation of a client-lawyer
306 relationship. The lawyer often must learn such information to determine whether
307 there is a conflict of interest with an existing client and whether the matter is one
308 that the lawyer is willing to undertake. Paragraph (b) prohibits the lawyer from
309 using or revealing that information, except as permitted by Rule 1.9, even if the
310 client or lawyer decides not to proceed with the representation. The duty exists
311 regardless of how brief the initial conference may be.

312 [4]-In order to avoid acquiring disqualifying information from a prospective client,
313 a lawyer considering whether or not to undertake a new matter should limit the
314 initial consultation to only such information as reasonably appears necessary for that
315 purpose. Where the information indicates that a conflict of interest or other reason
316 for non-representation exists, the lawyer should so inform the prospective client or
317 decline the representation. If the prospective client wishes to retain the lawyer, and
318 if consent is possible under Rule 1.7, then consent from all affected present or
319 former clients must be obtained before accepting the representation.

β20 [5]—A lawyer may condition a consultation with a prospective client on the person's
321 informed consent that no information disclosed during the consultation will prohibit
322 the lawyer from representing a different client in the matter. See Rule 1.0(l) for the
323 definition of informed consent. If the agreement expressly so provides, the
324 prospective client may also consent to the lawyer's subsequent use of information
325 received from the prospective client.

β26 [6]—Even in the absence of an agreement, under paragraph (c), the lawyer is not
327 prohibited from representing a client with interests adverse to those of the
328 prospective client in the same or a substantially related matter unless the lawyer has
329 received from the prospective client information that could be significantly harmful
330 if used in the matter.

β31 [7]—Under paragraph (c), the prohibition in this Rule is imputed to other lawyers as
332 provided in Rule 1.10, but, under paragraph (d), imputation may be avoided if the
333 lawyer obtains the informed consent, confirmed in writing, of both the prospective
334 and affected clients.

β35 [8]—For the duty of competence of a lawyer who gives assistance on the merits of a
336 matter to a prospective client, see Rule 1.1. For a lawyer's duties when a prospective
337 client entrusts valuables or papers to the lawyer's care, see Rule 1.15.

338
339 **RULE 1.0. TERMINOLOGY AND DEFINITIONS**

340

341 . . .

342 (t) “Prospective Client” denotes a person who consults with a lawyer about
343 the possibility of forming a client-lawyer relationship with respect to a matter.

344

β45 (tu) “Public Proceedings” denotes any proceeding under these Rules that has
346 been filed with the Supreme Court of Georgia.

347

β48 (hv) “Reasonable” or “reasonably” when used in relation to conduct by a
349 lawyer denotes the conduct of a reasonably prudent and competent lawyer.

350

β51 (vw) “Reasonable belief” or “reasonably believes” when used in reference to
352 a lawyer denotes that the lawyer believes the matter in question and that the
353 circumstances are such that the belief is reasonable.

354

β55 (wx) “Reasonably should know” when used in reference to a lawyer denotes
356 that a lawyer of reasonable prudence and competence would ascertain the matter in
357 question.

358

β59 (wy) “Respondent” denotes a person whose conduct is the subject of any
360 disciplinary investigation or proceeding.

361

β62 (yz) “Screened” denotes the isolation of a lawyer from any participation in a
363 matter through the timely imposition of procedures within a firm that are reasonably
364 adequate under the circumstances to protect information that the isolated lawyer is
365 obligated to protect under these Rules or other law.

366

β67 (zaa) “Substantial” when used in reference to degree or extent denotes a
368 material matter of clear and weighty importance.

369

β70 (aabb) “Tribunal” denotes a court, an arbitrator in an arbitration proceeding or
371 a legislative body, administrative agency or other body acting in an adjudicative
372 capacity. A legislative body, administrative agency or other body acts in an
373 adjudicative capacity when a neutral official, after the presentation of evidence or
374 legal argument by a party or parties, will render a legal judgment directly affecting a
375 party's interests in a particular matter.

376

β77 (bbcc) “Writing” or “written” denotes a tangible or electronic record of a
378 communication or representation, including handwriting, typewriting, printing,
379 photostating, photography, audio or video recording and e-mail. A “signed” writing
380 includes an electronic sound, symbol or process attached to or logically associated
381 with a writing and executed or adopted by a person with the intent to sign the writing.

1 **Rule 1-702. Standing Committees; Special Committees**

2 Unless otherwise provided in these rules, there shall be standing and special
3 committees, which shall be composed of such members, serving such terms,
4 appointed in such manner, and having such duties as the bylaws may provide. A
5 statement of the purpose of each committee shall be published annually on the
6 official State Bar of Georgia website.

7

8 **Rule 4-204.1. Notice of Investigation**

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

12 (1) a statement that the grievance or written description pursuant to
13 Bar Rule 4-202 (b) is being transmitted to the State Disciplinary Board;

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

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

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

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

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

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

27

28 **RULE 1.1 COMPETENCE**

29 A lawyer shall provide competent representation to a client. Competent
30 representation as used in this rule means that a lawyer shall not handle a matter
31 which the lawyer knows or should know to be beyond the lawyer's level of
32 competence without associating another lawyer who the original lawyer reasonably
33 believes to be competent to handle the matter in question. Competence requires the
34 legal knowledge, skill, thoroughness and preparation reasonably necessary for the
35 representation.

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

37

38 Comment

39 *Legal Knowledge and Skill*

40 [1A] The purpose of these rules is not to give rise to a cause of action nor to create
41 a presumption that a legal duty has been breached. These rules are designed to
42 provide guidance to lawyers and to provide a structure for regulating conduct
43 through disciplinary agencies. They are not designed to be a basis for civil liability.

44

45 [1B] In determining whether a lawyer employs the requisite knowledge and skill in
46 a particular matter, relevant factors include the relative complexity and specialized
47 nature of the matter, the lawyer's general experience, the lawyer's training and
48 experience in the field in question, the preparation and study the lawyer is able to
49 give the matter and whether it is feasible to refer the matter to, or associate or
50 consult with, a lawyer of established competence in the field in question. In many
51 instances, the required proficiency is that of a general practitioner. Expertise in a
52 particular field of law may be required in some circumstances.

53

54 [2] A lawyer need not necessarily have special training or prior experience to
55 handle legal problems of a type with which the lawyer is unfamiliar. A newly
56 admitted lawyer can be as competent as a practitioner with long experience. Some
57 important legal skills, such as the analysis of precedent, the evaluation of evidence
58 and legal drafting, are required in all legal problems. Perhaps the most fundamental
59 legal skill consists of determining what kind of legal problems a situation may
60 involve, a skill that necessarily transcends any particular specialized knowledge. A
61 lawyer can provide adequate representation in a wholly novel field through
62 necessary study. Competent representation can also be provided through the
63 association of a lawyer of established competence in the field in question.

64

65 [3] In an emergency a lawyer may give advice or assistance in a matter in which
66 the lawyer does not have the skill ordinarily required where referral to or
67 consultation or association with another lawyer would be impractical. Even in an
68 emergency, however, assistance should be limited to that reasonably necessary in
69 the circumstances, for ill-considered action under emergency conditions can
70 jeopardize the client's interest.

71

72 [4] A lawyer may accept representation where the requisite level of competence
73 can be achieved by reasonable preparation. This applies as well to a lawyer who is
74 appointed as counsel for an unrepresented person subject to Rule 6.2: Accepting
75 Appointments.

76

77 *Thoroughness and Preparation*

78 [5] Competent handling of a particular matter includes inquiry into and analysis of
79 the factual and legal elements of the problem, and use of methods and procedures
80 meeting the standards of competent practitioners. It also includes adequate

81 preparation. The required attention and preparation are determined in part by what
82 is at stake; major litigation and complex transactions ordinarily require more
83 elaborate treatment than matters of lesser consequence.

84

85 *Maintaining Competence*

86 [6] To maintain the requisite knowledge and skill, a lawyer should keep abreast of
87 changes in the law and its practice, including the benefits and risks associated with
88 relevant technology, engage in continuing study and education, and comply with
89 all continuing legal education requirements to which the lawyer is subject.

90

91 [7] A lawyer's mental, emotional, and physical well-being impacts the lawyer's
92 ability to represent clients and to make responsible choices in the practice of law.
93 Maintaining the mental, emotional, and physical ability necessary for the
94 representation of a client is an important aspect of maintaining competence to
95 practice law. See also Rule 1.16 (a) (2).

96

97 **GRPC RULE 1.6 CONFIDENTIALITY OF INFORMATION**

98 (a) A lawyer shall maintain in confidence all information gained in the
99 professional relationship with a client, including information which the client has
100 requested to be held inviolate or the disclosure of which would be embarrassing or
101 would likely be detrimental to the client, unless the client gives informed consent,
102 except for disclosures that are impliedly authorized in order to carry out the
103 representation, or are required by these rules or other law, or by order of the Court.

104 (b)

105 (1) A lawyer may reveal information covered by paragraph (a)
106 which the lawyer reasonably believes necessary:

- 107 (i) to avoid or prevent harm or substantial financial loss to
108 another as a result of client criminal conduct or third party criminal
109 conduct clearly in violation of the law;
- 110 (ii) to prevent serious injury or death not otherwise covered
111 by subparagraph (i) above;
- 112 (iii) to establish a claim or defense on behalf of the lawyer in
113 a controversy between the lawyer and the client, to establish a defense
114 to a criminal charge or civil claim against the lawyer based upon
115 conduct in which the client was involved, or to respond to allegations
116 in any proceeding concerning the lawyer's representation of the client;
- 117 (iv) to secure legal advice about the lawyer's compliance with
118 these rules.
- 119 (v) to detect and resolve conflicts of interest arising from the
120 lawyer's change of employment or from changes in the composition
121 or ownership of a firm, but only if the revealed information would not
122 compromise the attorney-client privilege or otherwise prejudice the
123 client.
- 124 (2) In a situation described in paragraph (b) (1), if the client has acted at
125 the time the lawyer learns of the threat of harm or loss to a victim, use or
126 disclosure is permissible only if the harm or loss has not yet occurred.
- 127 (3) Before using or disclosing information pursuant to paragraph (b) (1)
128 (i) or (ii), if feasible, the lawyer must make a good faith effort to persuade
129 the client either not to act or, if the client has already acted, to warn the
130 victim.
- 131 (c) The duty of confidentiality shall continue after the client-lawyer relationship
132 has terminated.
- 133 The maximum penalty for a violation of this rule is disbarment.

134

135 Comment

136 [1] The lawyer is part of a judicial system charged with upholding the law. One of
137 the lawyer's functions is to advise clients so that they avoid any violation of the law
138 in the proper exercise of their rights. See Rule 1.18.

139

140 [2] The observance of the ethical obligation of a lawyer to hold inviolate
141 confidential information of the client not only facilitates the full development of
142 facts essential to proper representation of the client but also encourages people to
143 seek early legal assistance.

144

145 [3] Almost without exception, clients come to lawyers in order to determine what
146 their rights are and what is, in the maze of laws and regulations, deemed to be legal
147 and correct. The common law recognizes that the client's confidences must be
148 protected from disclosure. Based upon experience, lawyers know that almost all
149 clients follow the advice given, and the law is upheld.

150

151 [If Rule 1.18 is approved by the Supreme Court of Georgia]

152 [4] A fundamental principle in the client-lawyer relationship is that the lawyer
153 maintain confidentiality of information relating to the representation. The client is
154 thereby encouraged to communicate fully and frankly with the lawyer even as to
155 embarrassing or legally damaging subject matter.

156

157 [If Rule 1.18 is not approved by the Supreme Court of Georgia]

158 [4] A fundamental principle in the client-lawyer relationship is that the lawyer
159 maintain confidentiality of information relating to the representation. The client is

160 thereby encouraged to communicate fully and frankly with the lawyer even as to
161 embarrassing or legally damaging subject matter.

162

163 [4A] Information gained in the professional relationship includes information
164 gained from a person (prospective client) who discusses the possibility of forming
165 a client-lawyer relationship with respect to a matter. Even when no client-lawyer
166 relationship ensues, the restrictions and exceptions of these rules as to use or
167 revelation of the information apply, e.g. Rules 1.9 and 1.10.

168

169 [4B] A person becomes a prospective client by consulting with a lawyer about the
170 possibility of forming a client-lawyer relationship with respect to a
171 matter. Whether communications, including written, oral, or electronic
172 communications, constitute a consultation depends on the circumstances. For
173 example, a consultation is likely to have occurred if a person provides information
174 in response to a lawyer's invitation to submit information about a potential
175 representation, unless the lawyer's invitation includes clear and reasonably
176 understandable warnings and cautionary statements that limit the lawyer's
177 obligations. A consultation may occur in person or through the lawyer's
178 advertising in any medium. In contrast, a consultation does not occur if a person
179 provides information to a lawyer in response to advertising that merely describes
180 the lawyer's education, experience, areas of practice, and contact information, or
181 provides legal information of general interest. Such a person communicates
182 information unilaterally to a lawyer, without any reasonable expectation that the
183 lawyer is willing to discuss the possibility of forming a client-lawyer relationship,
184 and is thus not a "prospective client." Moreover, a person who communicates with
185 a lawyer for the purpose of disqualifying the lawyer is not a "prospective client."

186

187 [5] The principle of confidentiality is given effect in two related bodies of law, the
188 attorney-client privilege (which includes the work product doctrine) in the law of
189 evidence and the rule of confidentiality established in professional ethics. The
190 attorney-client privilege applies in judicial and other proceedings in which a
191 lawyer may be called as a witness or otherwise required to produce evidence
192 concerning a client. The rule of client-lawyer confidentiality applies in situations
193 other than those where evidence is sought from the lawyer through compulsion of
194 law. Rule 1.6 applies not merely to matters communicated in confidence by the
195 client but also to all information gained in the professional relationship, whatever
196 its source. A lawyer may not disclose such information except as authorized or
197 required by the Rules of Professional Conduct or other law. See also Scope. The
198 requirement of maintaining confidentiality of information gained in the
199 professional relationship applies to government lawyers who may disagree with the
200 client's policy goals.

201

202 Authorized Disclosure

203 [6] A lawyer is impliedly authorized to make disclosures about a client when
204 appropriate in carrying out the representation, except to the extent that the client's
205 instructions or special circumstances limit that authority. In litigation, for example,
206 a lawyer may disclose information by admitting a fact that cannot properly be
207 disputed, or in negotiation by making a disclosure that facilitates a satisfactory
208 conclusion.

209

210 [7] Lawyers in a firm may, in the course of the firm's practice, disclose to each
211 other information relating to a client of the firm, unless the client has instructed
212 that particular information be confined to specified lawyers.

213

214 [7A] A lawyer's confidentiality obligations do not preclude a lawyer from securing
215 confidential legal advice about the lawyer's personal responsibility to comply with
216 these Rules. In most situations, disclosing information to secure such advice will
217 be impliedly authorized for the lawyer to carry out the representation. Even when
218 the disclosure is not impliedly authorized paragraph (b) (1) (iv) permits such
219 disclosure because of the importance of a lawyer's compliance with the Rules of
220 Professional Conduct.

221

222 Disclosure Adverse to Client

223 [8] The confidentiality rule is subject to limited exceptions. In becoming privy to
224 information about a client, a lawyer may foresee that the client intends serious
225 harm to another person. The public is better protected if full and open
226 communication by the client is encouraged than if it is inhibited.

227

228 [9] Several situations must be distinguished. First, the lawyer may not knowingly
229 assist a client in conduct that is criminal or fraudulent. See Rule 1.2 (d). Similarly,
230 a lawyer has a duty under Rule 3.3 (a) (4) not to use false evidence.

231

232 [10] Second, the lawyer may have been innocently involved in past conduct by the
233 client that was criminal or fraudulent. In such a situation the lawyer has not
234 violated Rule 1.2 (d), because to "knowingly assist" criminal or fraudulent conduct
235 requires knowing that the conduct is of that character.

236

237 [11] Third, the lawyer may learn that a client intends prospective conduct that is
238 criminal and likely to result in death or substantial bodily harm. As stated in
239 paragraph (b) (1), the lawyer has professional discretion to reveal information in
240 order to prevent such consequences. The lawyer may make a disclosure in order to

241 prevent death or serious bodily injury which the lawyer reasonably believes will
242 occur. It is very difficult for a lawyer to "know" when such a heinous purpose will
243 actually be carried out, for the client may have a change of mind.

244

245 [12] The lawyer's exercise of discretion requires consideration of such factors as
246 the nature of the lawyer's relationship with the client and with those who might be
247 injured by the client, the lawyer's own involvement in the transaction and factors
248 that may extenuate the conduct in question. Where practical, the lawyer should
249 seek to persuade the client to take suitable action. In any case, a disclosure adverse
250 to the client's interest should be no greater than the lawyer reasonably believes
251 necessary to the purpose. A lawyer's decision not to take preventive action
252 permitted by paragraph (b) (1) does not violate this rule.

253

254 Withdrawal

255 [13] If the lawyer's services will be used by the client in materially furthering a
256 course of criminal or fraudulent conduct, the lawyer must withdraw, as stated in
257 Rule 1.16 (a) (1).

258

259 [14] After withdrawal the lawyer is required to refrain from making disclosure of
260 the client's confidences, except as otherwise provided in Rule 1.6. Neither this rule
261 nor Rule 1.8 (b) nor Rule 1.16 (d) prevents the lawyer from giving notice of the
262 fact of withdrawal, and the lawyer may also withdraw or disaffirm any opinion,
263 document, affirmation, or the like.

264

265 [15] Where the client is an organization, the lawyer may be in doubt whether
266 contemplated conduct will actually be carried out by the organization. Where

267 necessary to guide conduct in connection with this Rule, the lawyer may make
268 inquiry within the organization as indicated in Rule 1.13 (b).

269

270 Dispute Concerning a Lawyer's Conduct

271

272 [16] Where a legal claim or disciplinary charge alleges complicity of the lawyer in
273 a client's conduct or other misconduct of the lawyer involving representation of the
274 client, the lawyer may respond to the extent the lawyer reasonably believes
275 necessary to establish a defense. The same is true with respect to a claim involving
276 the conduct or representation of a former client. The lawyer's right to respond
277 arises when an assertion of such complicity has been made. Paragraph (b) (1) (iii)
278 does not require the lawyer to await the commencement of an action or proceeding
279 that charges such complicity, so that the defense may be established by responding
280 directly to a third party who has made such an assertion. The right to defend, of
281 course, applies where a proceeding has been commenced. Where practicable and
282 not prejudicial to the lawyer's ability to establish the defense, the lawyer should
283 advise the client of the third party's assertion and request that the client respond
284 appropriately. In any event, disclosure should be no greater than the lawyer
285 reasonably believes is necessary to vindicate innocence, the disclosure should be
286 made in a manner which limits access to the information to the tribunal or other
287 persons having a need to know it, and appropriate protective orders or other
288 arrangements should be sought by the lawyer to the fullest extent practicable.

289

290 [17] If the lawyer is charged with wrongdoing in which the client's conduct is
291 implicated, the rule of confidentiality should not prevent the lawyer from
292 defending against the charge. Such a charge can arise in a civil, criminal or
293 professional disciplinary proceeding, and can be based on a wrong allegedly

294 committed by the lawyer against the client, or on a wrong alleged by a third
295 person; for example, a person claiming to have been defrauded by the lawyer and
296 client acting together. A lawyer entitled to a fee is permitted by paragraph (b) (1)
297 (iii) to prove the services rendered in an action to collect it. This aspect of the rule
298 expresses the principle that the beneficiary of a fiduciary relationship may not
299 exploit it to the detriment of the fiduciary. As stated above, the lawyer must make
300 every effort practicable to avoid unnecessary disclosure of information relating to a
301 representation, to limit disclosure to those having the need to know it, and to obtain
302 protective orders or make other arrangements minimizing the risk of disclosure.

303

304 Detection of Conflicts of Interest

305 [18] Paragraph (b) (1) (v) recognizes that lawyers in different firms may need to
306 disclose limited information to each other to detect and resolve conflicts of interest,
307 such as when a lawyer is considering an association with another firm, two or more
308 firms are considering a merger, or a lawyer is considering the purchase of a law
309 practice. See Rule 1.17, Comment [6]. Under these circumstances, lawyers and law
310 firms are permitted to disclose limited information, but only once substantive
311 discussions regarding the new relationship have occurred. Any such disclosure
312 should ordinarily include no more than the identity of the persons and entities
313 involved in a matter, a brief summary of the general issues involved, and
314 information about whether the matter has terminated. Even this limited
315 information, however, should be disclosed only to the extent reasonably necessary
316 to detect and resolve conflicts of interests that might arise from the possible new
317 relationship. Moreover, the disclosure of any information is prohibited if it would
318 compromise the attorney-client privilege or otherwise prejudice the client (e.g., the
319 fact that a corporate client is seeking advice on a corporate takeover that has not
320 been publicly announced; that a person has consulted a lawyer about the possibility

321 of divorce before the person's intentions are known to the person's spouse; or that
322 a person has consulted a lawyer about a criminal investigation that has not led to a
323 public charge). Under those circumstances, paragraph (a) prohibits disclosure
324 unless the client or former client gives informed consent. A lawyer's fiduciary duty
325 to the lawyer's firm may also govern a lawyer's conduct when exploring an
326 association with another firm and is beyond the scope of these rules.

327

328 [19] Any information disclosed pursuant to paragraph (b) (1) (v) may be used or
329 further disclosed only to the extent necessary to detect and resolve conflicts of
330 interest. Paragraph (b) (1) (v) does not restrict the use of information acquired by
331 means independent of any disclosure pursuant to paragraph (b) (1) (v). Paragraph
332 (b) (1) (v) also does not affect the disclosure of information within a law firm when
333 the disclosure is otherwise authorized, see Comment [7], such as when a lawyer in
334 a firm discloses information to another lawyer in the same firm to detect and
335 resolve conflicts of interest that could arise in connection with undertaking a new
336 representation.

337

338 Disclosures Otherwise Required or Authorized

339 [20] The attorney-client privilege is differently defined in various jurisdictions. If a
340 lawyer is called as a witness to give testimony concerning a client, absent waiver
341 by the client, paragraph (a) requires the lawyer to invoke the privilege when it is
342 applicable. The lawyer must comply with the final orders of a court or other
343 tribunal of competent jurisdiction requiring the lawyer to give information about
344 the client.

345

346 [21] The Rules of Professional Conduct in various circumstances permit or require
347 a lawyer to disclose information relating to the representation. See Rules 2.3, 3.3

348 and 4.1. In addition to these provisions, a lawyer may be obligated or permitted by
349 other provisions of law to give information about a client. Whether another
350 provision of law supersedes Rule 1.6 is a matter of interpretation beyond the scope
351 of these Rules, but a presumption should exist against such a supersession.

352

353 [22] Paragraph (b) permits disclosure only to the extent the lawyer reasonably
354 believes the disclosure is necessary to accomplish one of the purposes specified.
355 Where practicable, the lawyer should first seek to persuade the client to take
356 suitable action to obviate the need for disclosure. In any case, a disclosure adverse
357 to the client's interest should be no greater than the lawyer reasonably believes
358 necessary to accomplish the purpose. If the disclosure will be made in connection
359 with a judicial proceeding, the disclosure should be made in a manner that limits
360 access to the information to the tribunal or other persons having a need to know it
361 and appropriate protective orders or other arrangements should be sought by the
362 lawyer to the fullest extent practicable.

363

364 [23] Paragraph (b) permits but does not require the disclosure of information
365 relating to a client's representation to accomplish the purposes specified. In
366 exercising the discretion conferred by this Rule, the lawyer may consider such
367 factors as the nature of the lawyer's relationship with the client and with those who
368 might be injured by the client, the lawyer's own involvement in the transaction and
369 factors that may extenuate the conduct in question. A lawyer's decision not to
370 disclose as permitted by paragraph (b) does not violate this Rule. Disclosure may
371 be required, however, by other Rules. Some Rules require disclosure only if such
372 disclosure would be permitted by paragraph (b). See Rules 1.2 (d), 4.1 (b), and 8.1.
373 Rule 3.3, on the other hand, requires disclosure in some circumstances regardless
374 of whether such disclosure is permitted by this Rule. See Rule 3.3 (b).

375

376 Acting Competently to Preserve Confidentiality

377 [24] A lawyer should make reasonable efforts to prevent the inadvertent or
378 unauthorized disclosure of, or unauthorized access to, information covered by this
379 Rule. A lawyer should make reasonable efforts to safeguard information relating
380 to the representation of a client against unauthorized access by third parties and
381 against inadvertent or unauthorized disclosure by the lawyer or other persons who
382 are participating in the representation of the client or who are subject to the
383 lawyer's supervision. See Rules 1.1, 5.1 and 5.3. Factors to be considered in
384 determining the reasonableness of the lawyer's efforts include, but are not limited
385 to, the sensitivity of the information, the likelihood of disclosure if additional
386 safeguards are not employed, the cost of employing additional safeguards, the
387 difficulty of implementing the safeguards, and the extent to which the safeguards
388 adversely affect the lawyer's ability to represent clients (e.g., by making a device
389 or important piece of software excessively difficult to use). Whether a lawyer may
390 be required to take additional steps to safeguard a client's information in order to
391 comply with other law, such as state and federal laws that govern data privacy or
392 that impose notification requirements upon the loss of, or unauthorized access to,
393 electronic information, is beyond the scope of these rules.

394

395 [25] When transmitting a communication that includes information relating to the
396 representation of a client, the lawyer should take reasonable precautions to prevent
397 the information from coming into the hands of unintended recipients. This duty,
398 however, does not require that the lawyer use special security measures if the
399 method of communication affords a reasonable expectation of privacy. Special
400 circumstances, however, may warrant special precautions. Factors to be considered
401 in determining the reasonableness of the lawyer's expectation of confidentiality

402 include the sensitivity of the information and the extent to which the privacy of the
403 communication is protected by law or by a confidentiality agreement. Whether a
404 lawyer may be required to take additional steps in order to comply with other law,
405 such as state and federal laws that govern data privacy, is beyond the scope of
406 these rules.

407

408 **RULE 1.15(III) RECORD KEEPING; TRUST ACCOUNT OVERDRAFT**
409 **NOTIFICATION; EXAMINATION OF RECORDS**

410

411 (a) Required Bank Accounts: Every lawyer who practices law in Georgia
412 and who receives money or other property on behalf of a client or in any other
413 fiduciary capacity shall maintain, in an approved financial institution as defined by
414 this rule, a trust account or accounts, separate from any business and personal
415 accounts. Funds received by the lawyer on behalf of a client or in any other
416 fiduciary capacity shall be deposited into this account. The financial institution
417 shall be in Georgia or in the state where the lawyer's office is located, or elsewhere
418 with the written consent and at the written request of the client or third person.

419 (b) Description of Accounts:

420 (1) A lawyer shall designate all trust accounts, whether
421 general or specific, as well as all deposit slips and checks drawn
422 thereon, as an "Attorney Trust Account," "Attorney Escrow Account"
423 "IOLTA Account" or "Attorney Fiduciary Account." The name of the
424 attorney or law firm responsible for the account shall also appear on
425 all deposit slips and checks drawn thereon.

426 (2) A lawyer shall designate all business accounts, as well as
427 all deposit slips and all checks drawn thereon, as a "Business
428 Account," a "Professional Account," an "Office Account," a "General

429 Account," a "Payroll Account," "Operating Account" or a "Regular
430 Account."

431 (3) Nothing in this rule shall prohibit a lawyer from using
432 any additional description or designation for a specific business or
433 trust account including fiduciary accounts maintained by the lawyer as
434 executor, guardian, trustee, receiver, agent or in any other fiduciary
435 capacity.

436 (c) Procedure:

437 (1) Approved Institutions:

438 (i) A lawyer shall maintain his or her trust account only in a
439 financial institution approved by the State Bar of Georgia,
440 which shall annually publish a list of approved institutions.

441 (A) Such institutions shall be located within the state
442 of Georgia, within the state where the lawyer's office is
443 located, or elsewhere with the written consent and at the
444 written request of the client or third-person. The
445 institution shall be authorized by federal or state law to
446 do business in the jurisdiction where located and shall be
447 federally insured. A financial institution shall be
448 approved as a depository for lawyer trust accounts if it
449 abides by an agreement to report to the Office of the
450 General Counsel whenever any properly payable
451 instrument is presented against a lawyer trust account
452 containing insufficient funds, and the instrument is not
453 honored. The agreement shall apply to all branches of the
454 financial institution and shall not be canceled except
455 upon 30 days notice in writing to the Office of the

456 General Counsel. The agreement shall be filed with the
457 Office of the General Counsel on a form approved by the
458 State Disciplinary Board. The agreement shall provide
459 that all reports made by the financial institution shall be
460 in writing and shall include the same information
461 customarily forwarded to the depositor when an
462 instrument is presented against insufficient funds. If the
463 financial institution is located outside of the state of
464 Georgia, it shall also agree in writing to honor any
465 properly issued State Bar of Georgia subpoena.

466 (B) In addition to the requirements above, the financial
467 institution must also be approved by the Georgia Bar
468 Foundation and agree to offer IOLTA Accounts in
469 compliance with the additional requirements set out in
470 Part XV of the Rules of the State Bar of Georgia.

471 (ii) The Georgia Bar Foundation may waive the provisions of
472 this rule in whole or in part for good cause shown. A lawyer or
473 law firm may appeal the decision of the Georgia Bar
474 Foundation by application to the Supreme Court of Georgia.

475 (2) Timing of Reports:

476 (i) The financial institution shall file a report with the Office
477 of the General Counsel of the State Bar of Georgia in every
478 instance where a properly payable instrument is presented
479 against a lawyer trust account containing insufficient funds.

480 (ii) The report shall be filed with the Office of the General
481 Counsel within 15 days of the date of the presentation of the
482 instrument, even if the instrument is subsequently honored.

483 (3) Nothing shall preclude a financial institution from charging a
484 particular lawyer or law firm for the reasonable cost of producing the reports
485 and records required by this rule.

486 (4) Every lawyer and law firm maintaining a trust account as
487 provided by these rules is hereby and shall be conclusively deemed to have
488 consented to the reporting and production requirements mandated by this
489 rule and shall indemnify and hold harmless each financial institution for its
490 compliance with the aforesaid reporting and production requirements.

491 (d) Effect on Financial Institution of Compliance: The agreement by a
492 financial institution to offer accounts pursuant to this rule shall be a procedure to
493 advise the State Disciplinary Board of conduct by lawyers and shall not be deemed
494 to create a duty to exercise a standard of care or a contract with third parties that
495 may sustain a loss as a result of lawyers overdrawing lawyer trust accounts.

496 (e) Availability of Records: A lawyer shall not fail to produce any of the
497 records required to be maintained by these rules at the request of the State
498 Disciplinary Board or the Supreme Court of Georgia. This obligation shall be in
499 addition to and not in lieu of the procedures contained in Part IV of these rules for
500 the production of documents and evidence.

501 (f) Audit for Cause: A lawyer shall not fail to submit to an Audit for
502 Cause conducted by the State Disciplinary Board pursuant to Bar Rule 4-111.
503 The maximum penalty for a violation of this rule is disbarment.

504 Comment

505 [1] Each financial institution wishing to be approved as a depository of client trust
506 funds must file an overdraft notification agreement with the Office of the General

507 Counsel of the State Bar of Georgia. The State Bar of Georgia will publish a list of
508 approved institutions at least annually.

509

510 [2] The overdraft agreement requires that all overdrafts be reported to the Office of
511 the General Counsel of the State Bar of Georgia whether or not the instrument is
512 honored. It is improper for a lawyer to accept "overdraft privileges" or any other
513 arrangement for a personal loan on a client trust account, particularly in exchange
514 for the institution's promise to delay or not to report an overdraft. The institution
515 must notify the Office of the General Counsel of all overdrafts even where the
516 institution is certain that its own error caused the overdraft or that the matter could
517 have been resolved between the institution and the lawyer within a reasonable
518 period of time.

519

520 [3] The overdraft notification provision is not intended to result in the discipline of
521 every lawyer who overdraws a trust account. The lawyer or institution may explain
522 occasional errors. The provision merely intends that the Office of the General
523 Counsel receive an early warning of improprieties so that corrective action,
524 including audits for cause, may be taken.

525

526 Waiver

527 [4] A lawyer may seek to have the provisions of this rule waived if the lawyer or
528 law firm has its principal office in a county where no bank, credit union, or savings
529 and loan association will agree or has agreed to comply with the provisions of this
530 rule. Other grounds for requesting a waiver may include significant financial or
531 business harm to the lawyer or law firm, such as where the unapproved bank is a
532 client of the lawyer or law firm or where the lawyer serves on the board of the
533 unapproved bank.

534

535 [5] The request for a waiver should be in writing, sent to the Georgia Bar
536 Foundation, and should include sufficient information to establish good cause for
537 the requested waiver.

538

539 [6] The Georgia Bar Foundation may request additional information from the
540 lawyer or law firm if necessary to determine good cause.

541

542 Audits

543 [7] Every lawyer's financial records and trust account records are required records
544 and therefore are properly subject to audit for cause. The audit provisions are
545 intended to uncover errors and omissions before the public is harmed, to deter
546 those lawyers who may be tempted to misuse client's funds and to educate and
547 instruct lawyers as to proper trust accounting methods. Although the auditors will
548 be employed by the Office of the General Counsel of the State Bar of Georgia, it is
549 intended that disciplinary proceedings will be brought only when the auditors have
550 reasonable cause to believe discrepancies or irregularities exist. Otherwise, the
551 auditors should only educate the lawyer and the lawyer's staff as to proper trust
552 accounting methods.

553

554 [8] An audit for cause may be conducted at any time and without advance notice if
555 the Office of the General Counsel receives sufficient evidence that a lawyer poses
556 a threat of harm to clients or the public. The Office of the General Counsel must
557 have the written approval of the Chairman of the State Disciplinary Board and the
558 President-elect of the State Bar of Georgia to conduct an audit for cause.

559

560

561 **Rule 1.18: Duties to Prospective Client**

562 (a) A person who consults with a lawyer about the possibility of forming
563 a client-lawyer relationship with respect to a matter is a prospective client.

564 (b) Even when no client-lawyer relationship ensues, a lawyer who has
565 learned information from a prospective client shall not use or reveal that
566 information, except as Rule 1.9 would permit with respect to information of a
567 former client.

568 (c) A lawyer subject to paragraph (b) shall not represent a client with
569 interests materially adverse to those of a prospective client in the same or a
570 substantially related matter if the lawyer received information from the prospective
571 client that could be significantly harmful to that person in the matter, except as
572 provided in paragraph (d). If a lawyer is disqualified from representation under this
573 paragraph, no lawyer in a firm with which that lawyer is associated may knowingly
574 undertake or continue representation in such a matter, except as provided in
575 paragraph (d).

576 (d) When the lawyer has received disqualifying information as defined in
577 paragraph (c), representation is permissible if both the affected client and the
578 prospective client have given informed consent, confirmed in writing.

579 **Comment**

580 [1] Prospective clients, like clients, may disclose information to a lawyer, place
581 documents or other property in the lawyer's custody, or rely on the lawyer's advice.
582 A lawyer's consultations with a prospective client usually are limited in time and
583 depth and leave both the prospective client and the lawyer free (and sometimes
584 required) to proceed no further. Hence, prospective clients should receive some but
585 not all of the protection afforded clients.

586 [2] A person becomes a prospective client by consulting with a lawyer about the
587 possibility of forming a client-lawyer relationship with respect to a matter.
588 Whether communications, including written, oral, or electronic communications,
589 constitute a consultation depends on the circumstances. For example, a
590 consultation is likely to have occurred if a lawyer, either in person or through the
591 lawyer's advertising in any medium, specifically requests or invites the submission
592 of information about a potential representation without clear and reasonably
593 understandable warnings and cautionary statements that limit the lawyer's
594 obligations, and a person provides information in response. See also Comment [4].
595 In contrast, a consultation does not occur if a person provides information to a
596 lawyer in response to advertising that merely describes the lawyer's education,
597 experience, areas of practice, and contact information, or provides legal
598 information of general interest. Such a person communicates information
599 unilaterally to a lawyer, without any reasonable expectation that the lawyer is
600 willing to discuss the possibility of forming a client-lawyer relationship, and is thus
601 not a "prospective client." Moreover, a person who communicates with a lawyer
602 for the purpose of disqualifying the lawyer is not a "prospective client."

603 [3] It is often necessary for a prospective client to reveal information to the lawyer
604 during an initial consultation prior to the decision about formation of a client-
605 lawyer relationship. The lawyer often must learn such information to determine
606 whether there is a conflict of interest with an existing client and whether the matter
607 is one that the lawyer is willing to undertake. Paragraph (b) prohibits the lawyer
608 from using or revealing that information, except as permitted by Rule 1.9, even if
609 the client or lawyer decides not to proceed with the representation. The duty exists
610 regardless of how brief the initial conference may be.

611 [4] In order to avoid acquiring disqualifying information from a prospective client,
612 a lawyer considering whether or not to undertake a new matter should limit the
613 initial consultation to only such information as reasonably appears necessary for
614 that purpose. Where the information indicates that a conflict of interest or other
615 reason for non-representation exists, the lawyer should so inform the prospective
616 client or decline the representation. If the prospective client wishes to retain the
617 lawyer, and if consent is possible under Rule 1.7, then consent from all affected
618 present or former clients must be obtained before accepting the representation.

619 [5] A lawyer may condition a consultation with a prospective client on the
620 person's informed consent that no information disclosed during the consultation
621 will prohibit the lawyer from representing a different client in the matter. See Rule
622 1.0(l) for the definition of informed consent. If the agreement expressly so
623 provides, the prospective client may also consent to the lawyer's subsequent use of
624 information received from the prospective client.

625 [6] Even in the absence of an agreement, under paragraph (c), the lawyer is not
626 prohibited from representing a client with interests adverse to those of the
627 prospective client in the same or a substantially related matter unless the lawyer
628 has received from the prospective client information that could be significantly
629 harmful if used in the matter.

630 [7] Under paragraph (c), the prohibition in this Rule is imputed to other lawyers as
631 provided in Rule 1.10, but, under paragraph (d), imputation may be avoided if the
632 lawyer obtains the informed consent, confirmed in writing, of both the prospective
633 and affected clients.

634 [8] For the duty of competence of a lawyer who gives assistance on the merits of a
635 matter to a prospective client, see Rule 1.1. For a lawyer's duties when a
636 prospective client entrusts valuables or papers to the lawyer's care, see Rule 1.15.

637

638 **RULE 1.0. TERMINOLOGY AND DEFINITIONS**

639

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

643

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

646

647 (c) "Confirmed in writing" when used in reference to the informed consent
648 of a person, denotes informed consent that is given in writing by the person, or a
649 writing that a lawyer promptly transmits to the person confirming an oral informed
650 consent. See paragraph (l) for the definition of "informed consent." If it is not
651 feasible to obtain or transmit the writing at the time the person gives informed
652 consent, then the lawyer must obtain or transmit it within a reasonable time
653 thereafter.

654

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

658

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

661

662 (1) a guilty plea;

663

664 (2) a plea of nolo contendere;

665

666 (3) a verdict of guilty; or

667

668 (4) a verdict of guilty but mentally ill.

669

670 (f) “Domestic Lawyer” denotes a person authorized to practice law by the
671 duly constituted and authorized governmental body of any State or Territory of the
672 United States or the District of Columbia but not authorized by the Supreme Court
673 of Georgia or its Rules to practice law in the State of Georgia.

674

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

679

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

684

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

689

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

692

693 (k) “He,” “him” or “his” denotes generic pronouns including both male and
694 female.

695

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

700

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

703

704 (n) “Lawyer” denotes a person authorized by the Supreme Court of
705 Georgia or its Rules to practice law in the State of Georgia including persons
706 admitted to practice in this State pro hac vice.

707

708 (o) “Nonlawyer” denotes a person not authorized to practice law by either
709 the:

709

710 (1) Supreme Court of Georgia or its Rules (including pro hac vice
711 admission), or

712

713 (2) duly constituted and authorized governmental body of any other
714 State or Territory of the United States, or the District of Columbia, or

715

716 (3) duly constituted and authorized governmental body of any
717 foreign nation.

718

719 (p) “Notice of Discipline” denotes a Notice by the State Disciplinary Board
720 that the respondent will be subject to a disciplinary sanction for violation of one or
721 more Georgia Rules of Professional Conduct unless the respondent affirmatively
722 rejects the notice.

723

724 (q) “Partner” denotes a member of a partnership, a shareholder in a law
725 firm organized pursuant to Rule 1-203 (d), or a member of an association authorized
726 to practice law.

727

728 (r) “Petition for Voluntary Surrender of License” denotes a Petition for
729 Voluntary Discipline in which the respondent voluntarily surrenders his license to
730 practice law in this State. A voluntary surrender of license is tantamount to
731 disbarment.

732

733 (s) “Probable Cause” denotes a finding by the State Disciplinary Board that
734 there is sufficient evidence to believe that the respondent has violated one or more
735 of the provisions of Part IV, Chapter 1 of the Bar Rules.

736

737 (t) “Prospective Client” denotes a person who consults with a lawyer about
738 the possibility of forming a client-lawyer relationship with respect to a matter.

739

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

742

743 (v) “Reasonable” or “reasonably” when used in relation to conduct by a
744 lawyer denotes the conduct of a reasonably prudent and competent lawyer.

745

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

749

750 (x) “Reasonably should know” when used in reference to a lawyer denotes
751 that a lawyer of reasonable prudence and competence would ascertain the matter in
752 question.

753

754 (y) “Respondent” denotes a person whose conduct is the subject of any
755 disciplinary investigation or proceeding.

756

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

761

762 (aa) “Substantial” when used in reference to degree or extent denotes a
763 material matter of clear and weighty importance.

764

765 (bb) “Tribunal” denotes a court, an arbitrator in an arbitration proceeding or
766 a legislative body, administrative agency or other body acting in an adjudicative
767 capacity. A legislative body, administrative agency or other body acts in an
768 adjudicative capacity when a neutral official, after the presentation of evidence or
769 legal argument by a party or parties, will render a legal judgment directly affecting
770 a party’s interests in a particular matter.

771

772 (cc) “Writing” or “written” denotes a tangible or electronic record of a
773 communication or representation, including handwriting, typewriting, printing,
774 photostating, photography, audio or video recording and e-mail. A “signed” writing
775 includes an electronic sound, symbol or process attached to or logically associated
776 with a writing and executed or adopted by a person with the intent to sign the writing.

777

**BYLAWS FOR THE
CANNABIS LAW SECTION
STATE BAR OF GEORGIA**

ARTICLE I

Identification and Purpose

Section 1: This Section shall be known as the “**Cannabis & Hemp Law Section**,” and shall be hereinafter designated simply as the “**Section**.”

Section 2: The general purpose of the Section shall be the promotion of the objectives of the State Bar of Georgia (hereinafter the “**State Bar**”) within the field of hemp and cannabis law. To that end, the purposes of this Section shall be:

- a. to from time to time conduct programs for the continuing legal education (CLE) of legal practitioners in the field of this Section;
- b. to sponsor nonpartisan educational programs for the lawyers (and the general public) on current issues affecting hemp and cannabis laws and policies, and to foster and maintain learning and provide a public service through the education of attorneys and private citizens;
- c. to provide a forum for members of the profession to consider and discuss the legal issues surrounding the changing legal landscape regarding the regulation of hemp and cannabis in Georgia;
- d. to recognize the interrelationship between hemp and cannabis law and various other areas of law including employment, torts, contracts, criminal, administrative, regulatory, municipal, trusts and estates, real property and constitutional;
- e. to participate in legislative, executive and judicial processes by informing the Section members about issues affecting and relating to the purposes of the Section;
- f. to help support attorneys in their professional endeavors and the personal stresses that come with practicing law in such an unsettled area; and
- g. to sponsor nonpartisan educational programs for (i) rural farmers, (ii) rural businesses, (iii) the attorneys that serve each of the foregoing groups, and (iv) any other underserved populations within the State of Georgia that are operating in hemp and cannabis industry and that are in legal deserts within the State of Georgia.

Upon approval of the Board of the Section, take such further action as may be necessary to present the views of the Section to the appropriate court, executive office or legislative body for consideration.

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, amount to be set by Section leadership and voted on by a quorum, for the current year, shall be enrolled as a member of this Section provided, however, that annual dues shall be no less than the minimum annual dues set by the Board of Governors of the State Bar. 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 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.

ARTICLE III

Officers

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

- a. **Chairperson.** The Chairperson (or the Vice Chairperson and the Secretary), in the absence of the Chairperson, shall preside at all meetings of the Section. The Chairperson shall appoint the chair and members of all committees of the Section who are to hold office during the term of the Chairperson. The Chairperson shall plan and superintend the programs of the Section during the term of the Chairperson. The Chairperson shall superintend the performance of all activities of the Section.
- b. **Vice Chairperson.** The Vice Chairperson shall aid the Chairperson in the performance of the Chairperson's responsibilities in such manner and to such extent as the Chairperson may request. The Vice Chairperson shall perform such further duties and have such further powers as usually pertain to the office. In case of the death, resignation, or disability of the Chairperson, the Vice Chairperson shall perform the duties of the Chairperson for the remainder of the Chairperson's term or disability, as the case may be.
- c. **Secretary.** The Secretary shall consult with and assist all the officers of the Section in the work of the Section generally, in the manner and to the extent they may request. The Secretary shall be the liaison between the Section and the State Bar of Georgia staff regarding the retention and maintenance of books, papers, documents, and other property pertaining to the work of the Section and in the custody of the State Bar of Georgia. The

Secretary shall keep a true record of the proceedings of all meetings of the Section and of the Board, whether assembled or acting under submission. The Secretary, in conjunction with the Chairperson shall attend generally to the business of the Section.

- d. **Budget Officer.** The Budget Officer, in conjunction with the Chairperson, shall be responsible for the Section's financial requirements. The Budget Officer shall prepare a budget. The Budget Officer shall monitor all accounts of Section funds, revenues, and expenditures.

Section 2: Each Officer shall hold office for a term beginning at the close of the annual meeting of the Section at which they are 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 Chair, the Vice Chairperson shall become Chair 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 immediate past Chairperson shall appoint a successor Chair 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 their 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: Upon the organization of the Section, the President of the State Bar shall appoint a Chairperson, a Vice Chairperson and a Secretary to serve until the close of the next annual meeting of the State Bar. During the first year of the Section's existence, the President of the State Bar of Georgia shall have the powers of the immediate past Chairperson.

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

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: At least ten (10) days written notice of the time and place of each meeting of the Section shall be given by mailing same to each member of the Section on the rolls of the Section in the Office of the State Bar 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 or to any part thereof which is inclusive of all of the members of the Section.

ARTICLE V

Executive Committee

Section 1: Between meetings of the Section the Executive Committee of the Section shall consist of the three Officers of the Section and three 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, the Chairperson shall 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. 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.

Section 2: 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 be viva-voce 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 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.

ARTICLE VIII

Miscellaneous

Section 1: The Section shall from time to time conduct programs for the continuing education in the world and field of this Section, but shall 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.

Signed, sealed and subscribed before the undersigned this the [•] day of [•], 2019.

Witness

CHAIRPERSON

Approved by the Board of Governors the _____ day of _____, 20__.

PRESIDENT

SECRETARY

1 **BYLAWS FOR THE APPELLATE PRACTICE SECTION STATE BAR OF GEORGIA**

2 **ARTICLE I**

3 **Section 1:** The name of this Section is the "Appellate Practice Section."

4 **Section 2:** The purpose of this Section is to foster professionalism and excellence in appellate
5 advocacy and to encourage improvements in the appellate process.

6 **ARTICLE II**

7 Membership and Dues

8 **Section 1:** Each member of this Section shall be a member in good standing of the State Bar of
9 Georgia (or "State Bar"). Any member of the State Bar, upon request and payment of annual Section
10 dues of \$45~~20~~ for the current year, shall be enrolled as a member of this Section. Thereafter, such
11 dues shall be paid in advance each year at the time of the payment of dues to the State Bar. Members
12 so enrolled and whose dues are so paid shall constitute the membership of this Section. Any member
13 whose annual dues shall be more than six (6) months past due thereupon shall cease to be a member
14 and shall be dropped from the rolls of the Section, subject to reinstatement at any time upon the
15 payment of dues on the current year.

16 **ARTICLE III**

17 Officers

18 **Section 1:** The Officers of the Section shall be a Chair, a ~~Vice-Vice~~-Chair, a Secretary, a Treasurer,
19 and an Immediate Past Chair, all of whom shall be members in good standing of the State Bar and the
20 Section.

21 **Section 2:** Each Officer shall hold office for a term beginning at the close of the annual meeting of
22 the Section at which he is elected and ending at the close of the next succeeding annual meeting of the
23 Section and until his successor shall have been elected and qualified. The Immediate Past Chair shall
24 hold office for a term beginning at the close of the annual meeting of the section at which his term as
25 chair ends. If a vacancy ~~shall arise~~arises in the office of Chair, the ~~Vice-Vice~~-Chair shall become
26 Chair for the unexpired term. If a vacancy ~~shall arise~~s in the office of the Chair and there then also
27 shall exist a vacancy in the office of ~~Vice-Vice~~-Chair, the Immediate Past Chair shall appoint a
28 successor Chair for the unexpired term.

29 **Section 3:** The Chair shall preside at all meetings of the Section, appoint appropriate committees of
30 the Section to serve during his or her term as Chair, plan and supervise the program of the Section at
31 its annual meeting, and perform all executive and administrative duties necessary or proper to the
32 organization and functioning of the Section; including any duty as from time to time may be
33 prescribed by the Section or by the State Bar.
34

35 **Section 4:** The ~~Vice-Vice~~-Chair shall assist the Chair and in the absence or disability of the
36 Chair, shall perform the duties of the Chair.

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

39 **Section 6:** The Treasurer shall assist the Chair with the budget or other financial issues as assigned by
40 the Chair. Upon the organization of the Section, the President of the State Bar shall appoint a Chair, a
41 Vice Chair and a Secretary to serve until the close of the next annual meeting of the State Bar. During
42 the first year of the section's existence, the President of the State Bar of Georgia shall have the
43 powers of the Immediate Past Chair as defined in section 2.

44

ARTICLE IV

45

Meetings of the Section

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

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

50 **Section 3:** Ten ~~(40)~~ members of the Section present at any meeting shall constitute a quorum for
51 the transaction of business.

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

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

61

ARTICLE V

62

Executive Committee

63 **Section 1:** Between meetings of the Section the Executive Committee of the Section shall consist of
64 the ~~five~~ Officers of the Section and such other three ~~other~~ members of the Section appointed by
65 the Chair, whose term shall be co-existent with that of the Chair and shall not exceed two appointees.

66
67 **Section 2:** The Executive Committee shall have full authority to act for the Section in any way in
68 which the Section itself would be authorized to act and any such action taken by the Executive
69 Committee pursuant to this provision shall be reported to the members of the Section at the next
70 Annual Meeting of the Section.

71

ARTICLE VI

72

Elections

73 **Section 1:** Before each annual meeting of the Section, the Chair shall appoint not less than three [3]
74 members of the Section to be a nominating committee which shall nominate one or more members of
75 the Section as qualified to hold each of the offices of the Section for the ensuing terms of office. If
76 the Chair does not appoint a nominating committee, the Executive Committee shall nominate one or
77 more members of the Section as qualified to hold each of the offices of the Section for the ensuing
78 terms of office. The report of the nominating committee shall be made to the annual meeting;
79 thereafter, and prior to the election of Officers, any member of the Section present at the annual
80 meeting may nominate any other member of the Section for election to any of the offices.

81 **Section 2:** The names of all members of the Section nominated for each office by either the
82 nominating committee or from the floor shall be submitted to the annual meeting and ballots shall be
83 cast until a majority of the Section members present elect each officer. Voting shall be by voice, and
84 the nominee for an office with the lowest number of votes in any ballot shall be dropped from
85 consideration on the next succeeding ballot, provided that at any annual meeting, the members by
86 majority vote of those present may require written secret ballots or otherwise modify the procedure
87 governing any election.

88

ARTICLE VII

89

Finances

90

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 Section Officer.

93

Section 2: Section funds 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.

95

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

96

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

98

ARTICLE VIII

99

Miscellaneous

100

101

102

103

Section 1: The Section shall from time to time conduct programs for the continuing education in appellate practice, and shall coordinate its efforts in this regard with the other Sections of the State Bar of Georgia.

104

105

106

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.

107

ARTICLE IX

108

Effective Date and Amendment

109

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

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112

113

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.

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ARTICLE IV

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45 the Annual Meeting of the State Bar; the date, time and meeting room to be fixed by the Chair.

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47 and place and with such program and order of business as may be fixed by the Chair.

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49 transaction of business.

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

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

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ARTICLE V

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Executive Committee

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62 the five Officers of the Section and such other members of the Section appointed by the Chair,
63 whose term shall be co-existent with that of the Chair and shall not exceed two appointees.

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

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ARTICLE VI

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73 the Section as qualified to hold each of the offices of the Section for the ensuing terms of office. If
74 the Chair does not appoint a nominating committee, the Executive Committee shall nominate one or
75 more members of the Section as qualified to hold each of the offices of the Section for the ensuing
76 terms of office. The report of the nominating committee shall be made to the annual meeting;
77 thereafter, and prior to the election of Officers, any member of the Section present at the annual
78 meeting may nominate any other member of the Section for election to any of the offices.

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80 nominating committee or from the floor shall be submitted to the annual meeting and ballots shall be
81 cast until a majority of the Section members present elect each officer. Voting shall be by voice, and
82 the nominee for an office with the lowest number of votes in any ballot shall be dropped from
83 consideration on the next succeeding ballot, provided that at any annual meeting, the members by
84 majority vote of those present may require written secret ballots or otherwise modify the procedure
85 governing any election.

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ARTICLE VII

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90 been approved for payment by any Section Officer.

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

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ARTICLE VIII

97

Miscellaneous

98

99 **Section 1:** The Section shall from time to time conduct programs for the continuing education in
100 appellate practice and shall coordinate its efforts in this regard with the other Sections of the State
101 Bar.

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

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ARTICLE IX

106

Effective Date and Amendment

107 **Section 1:** These Bylaws became effective upon approval by the Board of Governors of the State
108 Bar.

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

ADVISORY COMMITTEE ON LEGISLATION

2019-2020

MINUTES OF MEETING 1

September 11, 2019

State Bar of Georgia Headquarters

Atlanta, GA

The first meeting of the 2019-2020 State Bar of Georgia Advisory Committee on Legislation (“ACL”) was held on Wednesday, September 11, 2019 at the State Bar of Georgia headquarters in Atlanta, Georgia.

ATTENDANCE

The following members and liaisons were present: Amy Howell (Chair), Mark Alexander, Tracee Benzo, Joshua Bosin, William Clark, J. Anderson Davis, C. Lee Davis, Elizabeth Fite, Michael Geoffroy, Patricia Gorham, Jennifer Jordan, Joyce Gist Lewis, Graham McDonald, Jonathan Pannell, Derrick Pope, Daniel Snipes, Frank Strickland, Nancy Whaley, Judge Paige Whitaker, Rep. Mary Margret Oliver, and Christine Butcher Hayes (staff liaison).

The following members and liaisons participated via conference call: Javoyne Hicks (Vice-Chair), Jennifer Alewine, Thomas Burnside, Edward Collier, Will Fagan, Thomas Fleming, Lawton Heard, Eugene Allen Richardson, Dennis Sanders, Judge Lawton Stephens, Carl Varnedoe, Henry Walker, Thomas Worthy, Meagan Hanson, David Dove, Rep. Barry Fleming, Judge Troy Russell McClelland, Judge Juliette Scales, and Judge Dale Sammuels.

Others present or participating by phone included: Rusty Sewell (consultant), Wanda Segars (consultant), Mark Middleton (consultant), Paula Frederick, Bill NeSmith, Jeff Davis, Tracy Mason, Tyler Mashburn, Cheryl Karounos, Bob Bray, Shannon Weathers, Eric John, Vicky Kimbrell, Ryan Davis, Nick Djuric, Kyle King, Amy Huskin, Vanessa Goggins, Emily Youngo, Robert Smith, and Katie Peosock.

CALL TO ORDER

ACL Chair Amy Howell called the meeting to order at 10:02 AM. Roll call was taken by signature. Persons attending the meeting, including those participating by phone, introduced themselves.

APPROVAL OF MINUTES

The minutes of the November 27, 2018 meeting were 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 seven pending lawsuits challenging mandatory bar associations throughout the country, further emphasizing the need to analyze legislative positions under the *Keller* analysis.

LEGISLATIVE MATTERS

The ACL reviewed the following new proposals. The proposals that were approved by the ACL will be considered by the Board of Governors at its fall meeting in Savannah, Georgia on October 19, 2019.

1. Support for FY 2021 Judicial Council Budget Request - \$750,000 to Fund Civil Legal Services Grants for Kinship Care Families.

Vicky Kimbrell presented the proposal on behalf of the Access to Justice Committee. The legislature appropriated \$375,000 for these grants in FY 2020, which was half of what was requested. The Access to Justice Committee is asking that the legislature award the full \$750,000 appropriation in the amended FY 2020 budget and the FY 2021 budget. Georgia currently has thousands of displaced children, which is largely linked to the current opioid crisis. These grants are used for civil legal services for kinship care, so that family members can get the legal support they need to care for displaced children, including power of attorney, custody arrangements, legal help for special education issues. The funding is appropriated by the General Assembly and administered to civil legal service organizations by the Administrative Office of the Courts (AOC). The AOC distributes the funds to each organization based on poverty population throughout the state.

The *Keller* vote was unanimous. The vote supporting this proposal was unanimous. The Board of Governors will consider this proposal on October 19, 2019

2. Support for FY 2021 Judicial Council Budget Request - \$2,500,000 to Fund Civil Legal Services Grants for Kinship Care Families for Victims of Domestic Violence.

Vicky Kimbrell presented this proposal on behalf of the Committee to Promote Inclusion in the Profession. The proposal asks for renewed funding of \$2.5 million to the Administrative Office of the Courts for grants to legal services providers for representation of victims of domestic violence. The *Keller* vote was unanimous. The vote supporting this proposal was unanimous. The Board of Governors will consider this proposal on October 19, 2019.

3. Proposed Amendments to the Uniform Power of Attorney Act.

Nick Djuric and Kyle King presented this proposal on behalf of the Fiduciary Section. The Board of Governors will consider this proposal on October 19, 2019. A subcommittee of the Fiduciary Section has worked on these revisions over the past few years. Some of the proposed changes were made to conform existing law to the probate code, trust code, and guardianship code changes that have been made over the past 8 years. Other proposed changes arise out of court decisions and issues that have arisen through practice.

The proposal does not include some subjects that have come up in appellate cases and at the legislature like in *terrorem* clauses and self-settled asset protection trusts.

The presenters indicated that there were some minor changes that may need to be made to the proposal based on feedback from the probate court judges and other State Bar sections. However, given the length of the proposed legislation, the committee discussed the need to get the bill drafted and find a bill sponsor before the legislative session begins in January 2020.

The *Keller* vote was unanimous. The vote supporting this proposal was unanimous. The Board of Governors will consider this proposal on October 19, 2019.

DISCUSSION OF 2019 CARRYOVER LEGISLATION

Christine Butcher Hayes discussed the Uniform Mediation Act proposal, which was approved by ACL at its November 27, 2018 meeting and subsequently approved by the Board of Governors in January 2019. The legislative team worked with the House Judiciary Committee staff and was unable to get the bill drafted before Crossover Day. The Dispute Resolution Section and legislative staff have worked over the summer to put together a draft that will be filed in January for the 2020

session.

ACL and the Board of Governors do not need to vote again on the Uniform Mediation Act. Under Standing Board Policy 100, a legislative position adopted by the State Bar shall remain an official position during the full biennial session of the General Assembly.

POTENTIAL LEGISLATION OF INTEREST IN 2020

Vanessa Goggins and Amy Huskin of the Real Property Section discussed potential legislation on remote online notaries. They presented different protections and provisions that have been included in similar legislation in other states and encouraged stakeholders with the bar to give input on how this legislation could affect their practice area.

ELECTION AND POLITICAL UPDATE

Rusty Sewell and Mark Middleton gave a brief political update. They discussed the Governor's proposed 4% budget cut for the next 6 months and proposed 6% cut for the 2021 fiscal year. They also discussed the resignation of US Senator Johnny Isakson and the Governor's search to appoint his replacement at the end of November.

UPDATES FROM THE JUDICIARY

Tracy Mason with the Administrative Office of the Courts discussed the August 23, 2019 Judicial Council meeting. The Judicial Council's Workload Assessment Committee recommended nine new judgeships for the upcoming year. New judgeships must be approved by the legislature. The Judicial Council also approved proposed legislation that would update the state's court reporting laws.

FUTURE MEETINGS

Chair Amy Howell stated that the committee will meet again on December 5, 2019 at 10:00 AM in Atlanta.

ADJOURNMENT

With no further business before the committee, Chair Amy Howell adjourned the meeting at 11:27 AM.

**Advisory Committee on Legislation (ACL)
2019-2020 Legislative Proposal Form**

FORM B

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

Name of Proposal: Legislative Enhancement of Current Appropriation for the Civil Legal Services to Kinship Care Families Project

Name of Section/Committee submitting this proposal: Access to Justice Committee

- 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 State Bar support to secure funding for legal services for vulnerable children in Georgia through a FY 2020 amended appropriation and FY2021 Enhancement Request of \$375,000 from the General Assembly to the Judicial Council.

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

The FY 2020 Budget Request by the Judicial Council and supported by the State Bar of Georgia was \$750,000 of which \$375,000 was appropriated. This Judicial Council request seeks to restore \$375,000 based on results achieved.

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

The State Bar supported the original full request of \$750,000 for FY2020.

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

This funding will provide additional grant funds to organizations for attorneys to provide holistic legal services for kinship caregivers throughout Georgia. Attorneys will be able to secure legal custody for caregivers who step up to care for children at risk of being taken into care by the State.

Additionally, these attorneys can provide access to financial benefits, healthcare support, educational supports, and safe housing for at risk children by assuring they receive the legal representation they need.

It is expected over 750 new cases would be opened each year with this new funding.

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

Without the civil legal services that this funding would provide, children in kinship care would continue to face increased social, legal, and financial issues. Many kinship families are low-income households and face complex issues, such as access to care benefits, threat of evictions, and education access - issues that are only resolvable through the assistance of an attorney. Without this support, fewer children will be able to remain in kinship care and instead, will be placed in foster care at an increased cost to the state. The state's justice system would better serve the public and the taxpayer.

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

This proposal improves the quality of legal services by making lawyers more available and legal services 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.

We believe the Family Law Section, the Child Protection and Advocacy Section and the Children and the Courts Committee may be proponents of this proposal.

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

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).

We are not aware of any other sections or committees that may have an interest in this proposal.

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

We have notified the chairs of the aforementioned entities. We have not received comments as yet.

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

The Access to Justice Committee asks for the Bar's legislative support for the Judicial Council's FY2020 amended appropriation and FY2021 Enhancement Request of \$375,000 for Civil Legal Services to Kinship Care Families.

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



MEMORANDUM

TO: Hon. R. Javoyne Hicks, Co- Chair, Advisory Committee on Legislation
Amy Viera Howell, Co-Chair, Advisory Committee on Legislation

FROM: Michael L. Monahan, Access to Justice Committee Liaison

RE: Legislative Funding Proposal

DATE: August 31, 2019

**Bar Legislative Support for the Judicial Council’s Request for FY 2020
Funding for Civil Legal Services to Kinship Care Families**

1. This Proposal seeks State Bar support to secure funding for legal services for vulnerable children in Georgia through a FY 2020 amended appropriation and FY2021 Enhancement Request from the General Assembly to the Judicial Council. The proposal is attached as **Exhibit A**.
2. Given the needs faced by Georgia children and the budget limitations faced by the legal aid organizations that help Georgia’s at-risk low-income children, the State Bar of Georgia Access to Justice Committee requests State Bar support for a budget enhancement of \$375,000 to the Judicial Council for grant funds to be used to provide civil legal services to low-income children with specific legal needs.
3. There are no known opponents of the proposed legislative budget request.
4. We have solicited comments from the other sections and committees of the State Bar, and no other section or committee is believed to have an interest in this proposed legislation. The notice of this proposal to relevant sections is attached as **Exhibit B**.
5. The Access to Justice Committee recommends this proposal be adopted by the State Bar of Georgia. See attached support letter, **Exhibit C**.

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Fax 404-527-8717
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**JUDICIAL COUNCIL OF GEORGIA
FY 2020 AMENDED REQUEST FORM
FY 2021 ENHANCEMENT REQUEST FORM**

REQUEST SUMMARY:

For use as talking points during conversations with funding and policy making bodies to include the Judicial Council, General Assembly, and Office of the Governor.

1. Which Program is requesting this Enhancement? Supreme Court Committee on Justice for Children

Judicial Council - Administrative Office of the Courts

2. Enhancement Name/Descriptor:

Civil Legal Services to Kinship Care Families

FISCAL YEAR	Current state funds received	Amount Requesting	If granted, new state funding level
<input checked="" type="checkbox"/> Amended FY 2020	\$375,000	\$375,000	\$750,00
<input type="checkbox"/> FY 2021	\$	\$	\$

3. What will the enhancement accomplish?

- This funding will provide additional grant funds to organizations for attorneys to provide holistic legal services for kinship caregivers throughout Georgia. Attorneys will be able to secure legal custody for caregivers who step up to care for children at risk of being taken into care by the State.
- Additionally, these attorneys can provide access to financial benefits, healthcare support, educational supports, and safe housing for at risk children by assuring they receive the legal representation they need.
- It is expected over 750 new cases would be opened each year with this new funding.

4. What is unable to be accomplished without the enhancement?

- Without the civil legal services that this funding would provide, children in kinship care would continue to face increased social, legal, and financial issues. Many kinship families are low-income households and face complex issues, such as access to care benefits, threat of evictions, and education access - issues that are only resolvable through the assistance of an attorney. Without this support, fewer children will be able to remain in kinship care and instead, will be placed in foster care at an increased cost to the state.

5. Does the enhancement include salaried staff and/or operations, which includes contractors? No

- Salaried staff
- Operating Funds (includes contractors)



**JUDICIAL COUNCIL OF GEORGIA
 FY 2020 AMENDED REQUEST FORM
 FY 2021 ENHANCEMENT REQUEST FORM**

Budget Categories	FY 2020 Amended Request	FY 2021 Enhancement Request
Personnel Services:	\$ -	\$ -
Operating Costs:		
Postage		
Motor Vehicle Expenses		
Printing, Publications, Media		
Supplies and Materials		
Repairs and Maintenance		
Equipment < \$5,000		
Water/Sewage		
Energy		
Rents Other Than Real Estate		
Insurance and Bonding		
Freight		
Other Operating		
Travel – Employee		
Real Estate Rentals		
Professional Services (Per Diem)		
Professional Services (Expenses)		
Other Contractual Services (Non State)		
Contracts – State Orgs		
IT Expenses		
Voice/Data Communications		
Grants	\$ 375,000.00	
Indirect Costs		
Transfers		
Total Operating Budget	\$ 375,000.00	\$ -
TOTAL OVERALL BUDGET	\$ 375,000.00	\$ -
State Funds		
Other Budgeted Funds		



**JUDICIAL COUNCIL OF GEORGIA
FY 2020 AMENDED REQUEST FORM
FY 2021 ENHANCEMENT REQUEST FORM**

Which Program is requesting this Enhancement?

Judicial Council - Administrative Office of the Courts

Part 1 – Detailed Explanation of Request

1. Proposal:

This funding will provide additional support to providers of civil legal services for kinship caregivers and at risk children. Kinship care refers to full-time, non-parental care of children by grandparents, relatives, and sometimes family friends, without the assistance of parents. Relatives and other caregivers often struggle to provide for these new members of the household, who often arrive in their care following trauma or crisis.

Kinship caregiver needs include legal custody. Attorneys can also provide access to financial benefits, educational access, government support, and safe housing for at risk children by assuring they receive the legal representation needed. This funding would provide these kinship caregivers with the much needed legal assistance to ensure the home remains safe, stable, and sustainable for the children in their care.

Certain services would be specifically excluded, including:

- Class action suits;
- Criminal defense;
- Deportation proceedings;
- Juvenile delinquency;
- Indirect legal services – such as training;
- Matters to be adjudicated in courts outside of Georgia; and
- Other proceedings not related to the safety, stability, or economic security of the at risk child or kinship care family.

2. Geographic Impact: Where does the request impact the state?

Statewide or list counties below:

Rural areas and counties with limited access to legal services

3. Current Status:

a. What is the budget unit currently doing to address this issue?

Currently, \$375,000 is approved to be granted through this program to providers of civil legal services for kinship caregivers and at risk children.

b. Will those activities continue if this request is funded? Yes.

3



**JUDICIAL COUNCIL OF GEORGIA
FY 2020 AMENDED REQUEST FORM
FY 2021 ENHANCEMENT REQUEST FORM**

4. Supporting Data:

- a. Provide any supporting data, evaluations, and/or research for this request.

[Will include data collected from providers after the first grants are awarded July 1, 2019]

As of March 2019, 13,308 children are in state sponsored foster care. A much larger number are informally placed with relatives and other caregivers. In 2015, the Georgia House Study Committee on Grandparents Raising Grandchildren and Kinship Care issued a report identifying the special needs of children in kinship care relationships. Census data from the American Community Survey 2016 indicate 40,814 Georgia grandparents are raising grandchildren. An Administration for Children and Families (ACF) report indicates that almost 1/2 co-residing Georgia grandparents are primary caregivers, nearly 1/2 are 60 years of age or older, and about 1/3 live in poverty.

- b. Include information on similar successful programs or evaluations in other jurisdictions that are relevant to this request.

Atlanta Legal Aid has a Kinship Care Unit consisting of 2 attorneys and 1 paralegal. In 2017, Atlanta Legal Aid as a whole handled 1721 cases for kinship caregivers, impacting 3,403 children. Of those cases, the Kinship Care Unit handled 224 of those cases, impacting 457 children.

5. Performance Measures:

- a. What measures are or will be used to evaluate the impact of this change?

Providers measure the success of the project by reporting semi-annually to the Judicial Council on the numbers of children and at-risk families served, including the types of legal representation provided. They will also provide reports on the demographics of those served, including geographic location, gender and racial breakdown and the amount of financial benefits secured for the family.

- b. If an enhancement, what is the projected cost savings or return on investment?

Studies report that informal kinship caregivers save U.S. taxpayers an estimated \$4 billion annually by caring for kin that would otherwise fall into the custody of the state. Providing civil legal services to these households increases the stability and effectiveness of care for children in care, and thereby decreasing the need, and associated costs, for DFCS involvement, including placements in non-kinship foster care homes.

- c. What efficiencies will be realized?

This funding reduces the need for intrusion by the state into the family, and reduces the high costs to the state and the devastating impact on children from intervention by: formalizing the relationship between



**JUDICIAL COUNCIL OF GEORGIA
FY 2020 AMENDED REQUEST FORM
FY 2021 ENHANCEMENT REQUEST FORM**

the child and the caregiver, helping families access economic support, helping families access supports for children living with disabilities, and helping families with estate planning to protect the child's stability if the caregiver passes away.

6. Stakeholders & Constituents:

- a. Describe the constituent and stakeholder groups affected by this change (e.g., board members, advocates/interest groups, service providers, other agencies, other governmental entities).

Constituents and stakeholders include: Division of Families and Children Services, kinship caregivers, children in kinship care homes, legislators, community leaders, the private bar, juvenile judges, and other child-focused agencies and coalitions in Georgia, especially in rural and remote areas.

- b. Which are likely to support this request?

All stakeholders are likely to support this request because they each see the need to secure more stable and sustainable kinship care homes through legal services.

- c. Which are likely to oppose this request?

The Council is unaware of any opposition to this request.

- d. Which have not voiced support or opposition? None.

7. Legislation or Rule Change:

- a. Is legislation or a rule change required if this request is implemented? If so, please explain.

No.

- b. Is this request a result of a legislation or rule change? If so, please explain.

No.

8. Alternatives:

What alternatives were considered and why are they not viable?

Because the cost of civil legal services is too high for most of the kinship caregivers in Georgia, these families, unfortunately, have no other alternative.

Part 2 - BUDGET



**JUDICIAL COUNCIL OF GEORGIA
FY 2020 AMENDED REQUEST FORM
FY 2021 ENHANCEMENT REQUEST FORM**

9. Requested and Projected Resources:

a. For enhancements and certain base adjustments, describe the additional resources are you requesting. **Ensure descriptions and amounts align with the budget chart on page 2.*

b. Positions: (full-time/part-time, education required, qualifications, overview of general duties, and salaries)

c. Operational needs:

d. What are your out-year projections?

10. Methodology/Assumptions:

a. Provide the methodology and assumptions behind the requested amount and out-year projections.

The \$375,000 will cover services approximately equivalent to 5 lawyers across the state to provide legal services for one year (twelve months).

b. How did you arrive at the amounts?

Based on Atlanta Legal Aid's current budget covering 2 attorneys and 1 paralegal.

c. What time period does the request cover (i.e., the number of months)?
Twelve months.

11. Federal and Other Funds: Describe the impact on federal and/or other funds related to this request (amount, policy etc.).

None

Part 3 - OTHER INFORMATION

12. Discuss any historical or other relevant factors that should be considered.

Beginning in 1999, the Georgia General Assembly appropriated funds to the Judicial Council of Georgia for grants to provide civil legal services to victims of family violence. The Judicial Council adopted general guidelines to govern the granting of these funds which are filed with the Georgia Secretary of State. It has also delegated to its Judicial Council Standing Committee on Grants (Grants Committee) the duty of accepting and evaluating grant applications and awarding grants.



**JUDICIAL COUNCIL OF GEORGIA
FY 2020 AMENDED REQUEST FORM
FY 2021 ENHANCEMENT REQUEST FORM**

The Grants Committee will oversee any new appropriation for civil legal services to aid kinship care and at risk children. The Grants Committee will award these funds starting July 1. Seventy-five percent of the grant money will be awarded pursuant to the poverty population guidelines, which is based on the most current estimates from the U.S. Census, and twenty-five percent of the grant money will be awarded to special needs areas. Special needs categories (such as homelessness or rural counties with fewer than ten attorneys) may also be considered.

Grant proposals will be considered from non-profit providers of civil legal services for kinship caregivers and at risk children in Georgia. Providers may apply for funds from both categories.

Grants will be awarded for a one-year term. Each of Georgia's forty-nine circuits will be included. The amount of funds available for distribution to grantees may change each year based on the amount of funds appropriated to the Judicial Council/Administrative Office of the Courts and the cost of the administrative oversight of these funds.

In no event shall a grantee provide free legal services to a client whose income exceeds 200% of the federal poverty guidelines.



TO: Nicki Noel Vaughan, Chair
Child Protection and Advocacy Section
nvaughan@hallcounty.org

Ivory Tertenia Brown, Chair
Family Law Section
ivorybrown@aol.com

Melissa D. Carter, Co-Chair
Children and the Courts Committee
melissa.d.carter@emory.edu

Amy Viera Howell, Co-Chair
Children and the Courts Committee
amy.howell@dbhdd.ga.gov

FROM: Michael L. Monahan, Liaison, Access to Justice Committee

RE: Legislative Funding Proposal

DATE: August 31, 2019

The State Bar's Access to Justice Committee has voted to request the State Bar include in its 2020 legislative package support for the Judicial Council's request for funding for civil legal services for children.

We believe your section or committee may have an interest in this request.

I have attached the letter of support from the Access to Justice Committee to the Bar's Advisory Committee on Legislation and the Judicial Council budget request document.

If your committee or section wishes to comment, please contact the Bar's director of Government Affairs, Christine Butcher Hayes.

Attachments

Judicial Council Budget request
Access to Justice Committee letter

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Atlanta, GA 30303-2743
404-527-8700 · 800-334-6865
Fax 404-527-8717
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August 31, 2019

Christine Butcher Hayes
Director
Governmental Affairs
State Bar of Georgia
104 Marietta Street, Suite 100
Atlanta, GA 30303

RE: Legislative Proposal – Civil Legal Services to Kinship Care Families

Dear Christine:

I write on behalf of the Access to Justice Committee to request the State Bar of Georgia's endorsement of legislation that would provide an additional appropriation for the *Civil Legal Services to Kinship Care Families Project* which received Bar legislative support last year but was funded at \$375,000 rather than the requested \$750,000. The Access to Justice Committee believes that additional funding for this project will result in better access to education, medical care, placement, and support services for these children and will improve outcomes for both children and their families. Attached is the proposal for consideration by the Bar's Advisory Committee on Legislation which sets out the parameters of the proposal and the guidelines for the grant project that would be administered by the Administrative Office of the Courts. Accordingly, our Committee wishes to recommend additional Funding in the amount of \$375,000 which has been requested by the Judicial Council.

The Committee recognizes the serious civil legal needs faced by families where children are cared for by grandparents, relatives, and other family. Recent data shows that Georgia has more than 300,000 children living with kin. The benefits of supporting these children in kinship care are well documented and show that kinship care homes provide safer, more stable and nurturing homes for children suffering from the trauma of separation. These children are less likely to experience behavioral problems, psychiatric disorders, and school disruptions. (*State of Georgia, House of Representatives Study Committee on Grandparents Raising Grandchildren and Kinship Care*, 2015, p.4). Additionally, kinship care not only serves the children and their families, but saves the state money in avoiding foster care placement and expediting educational, healthcare, and other support services for these children.

The Access to Justice Committee is not aware of any opposition to this proposal for the additional appropriation of \$375,000 for the project. Further, this proposal to provide civil legal services for children in kinship care satisfies the *Keller* criteria because it is

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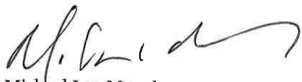
Christine Butcher Hayes
Legislative Proposal
Page two
August 31, 2019

within the scope and purposes of the State Bar of Georgia to advance the administration of justice.

It is also consistent with the State Bar's Strategic Plan on access to justice and 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 feel free to contact me for additional information.

Thank you for your consideration of our request.

Yours truly,



Michael Leo Monahan
Liaison
Access to Justice Committee

Cc: Hon. Jill Pryor, Chair, Access to Justice Committee

Advisory Committee on Legislation (ACL) 2019-2020 Legislative Proposal Form

FORM B

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

Name of Proposal: Legislative Proposal for Domestic Violence Funding

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

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

(a) The purpose of the funding is to provide civil legal services for victims of domestic violence across Georgia. (b) The requested amount is \$2.5 million and (c) the Administrative Office of the Courts receives and administers this funding from the legislature.

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

This funding has been appropriated by the legislature since 1998 and the current amount requested is the same as the amount appropriate last year. No increase is sought.

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

The Bar has supported this appropriation every year since the initial award in 1999.

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

The funds are used to provide civil legal services to low income victims of

domestic violence. Since 1998, the General Assembly has recognized the importance of providing legal services to victims using access to the courts and to protect victims and families across Georgia.

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

The State Bar has supported this funding since its inception as a statement of providing access to and the protection of the courts. In 2018, 143 Georgians died as a result of domestic violence across Georgia. Studies show the most effective way to combat domestic violence in our communities is through a coordinated community response, which includes lawyers and our judicial system.

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

Family violence not only effects victims, but their children, and our communities. Family violence often spills out into communities resulting in death and destruction outside families into the legal profession and our schools and our workplaces. By providing trained and effective civil legal representation for survivors, the courts can more effectively protect victims and hold batterers accountable.

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.

We are not aware of any opposition to this appropriation.

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 this appropriation? Unknown

- a. Have you provided interested State Bar committees/sections with a copy of this request? 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?

The Committee to Promote Inclusion in the Profession asks the State Bar to support the full appropriation of \$2.5 million to provide civil legal services for victims of domestic violence.

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

We understand that the committee is not required to submit official language because this is budget item. Furthermore, the 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.



September 3, 2019

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

RE: Legislative Proposal – 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, NIJ 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.

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P.O. Box 1390
Tifton, GA 31793-1390
229-387-0446 · 800-330-0446
Fax 229-382-7435



Thank you for your consideration of our request.

Very truly yours,

Jana J. Edmondson-Cooper
Co-Chair, Committee to Promote
Inclusion in the Profession

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

JJE-C/SCM/sb
enclosure

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Atlanta, GA 30303-2743
404-527-8700 · 800-334-6865
Fax 404-527-8717
www.gabar.org

COASTAL GEORGIA OFFICE

18 E. Bay St.
Savannah, GA 31401-9910
912-239-9910 · 877-239-9910
Fax 912-239-9970

SOUTH GEORGIA OFFICE

244 E. 2nd St. (31794)
P.O. Box 1390
Tifton, GA 31793-1390
229-387-0446 · 800-330-0446
Fax 229-382-7435

Advisory Committee on Legislation (ACL) 2019-2020 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: **Revisions to Title 53 and Related Code Sections**

Name of Section/Committee 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.**

Over the past 20 years, the General Assembly has made significant changes to the law of wills, probate, administration of estates, guardianships, trusts, and powers of attorney in Georgia. The Probate Code was revised in 1998, the Guardianship Code was revised in 2005, the Trust Code was revised in 2010 and again in 2018, and during the same period, the Revised Uniform Fiduciary Access to Digital Assets Act, Uniform Power of Attorney Act, and Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act have been enacted. Over the past two years, the Code Revision Committee of the Fiduciary Law Section examined Title 53 and related Code sections and drafted the proposed legislation, which makes changes to the Code based on the experience of fiduciary lawyers and court decisions arising out of the original Code revisions. Some of the changes should have been made to conform existing law to the original Code revisions, some of the changes correct mistakes in drafting, and some of the changes address problems that became obvious only after years of experience with the original Code revisions. In addition, the proposed legislation also makes some

reforms to the Code based on the recommendations of lawyers practicing fiduciary law in Georgia.

2. **Is this a model bill from the Uniform Law Commission, American Law Institute, or another entity that drafts model legislation?** 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 is not a uniform act, but some of the provisions in the proposed legislation are modeled on provisions in the Uniform Prudent Investor Act (1994), Uniform Trust Code (2000), Uniform Trust Decanting Act (2015), and Uniform Directed Trust Act (2017).

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

The following is a summary of the proposed legislation:

Probate Court jurisdiction: The amendments to Code Sections 9-4-4, 9-4-5, 15-9-47, 15-9-60, 15-9-126, 15-9-127, 19-3-65, 19-3-66, 53-2-20, 53-2-27, 53-7-75, 53-8-15, and 53-12-6 and the addition of proposed Code Section 9-4-11 clarify, codify, expand, and protect jurisdiction concerning default judgments, year's support proceedings, and assent to the devise (in all Probate Courts) and concerning declaratory judgments involving fiduciaries, court costs and fees, DNA testing, construction of wills, trust matters, and other proceedings (in Article 6 Probate Courts).

Last wills and testaments: The addition of proposed Code Sections 53-4-4 and 53-4-5 would codify longstanding common law allowing incorporation of existing documents into wills by reference and provide for giving effect to separate personal property memoranda

referred to in wills. The amendments to Code Sections 53-4-20 and 53-4-24 clarify that will execution formalities require physical presence. The amendments to Code Section 53-4-68 clarify what actions do not violate a “no contest” clause in a will. The repeal of Code Section 53-4-75 removes federal estate and generation-skipping tax provisions designed to address the temporary 2010 repeal.

Probate of wills, Probate Court procedures, and administration of

estates: The amendments to Code Sections 9-11-17, 13-5-30, 15-9-17, 15-9-122, 15-9-123, 19-6-7, 53-4-63, 53-5-2, 53-5-3, 53-5-7, 53-5-19 through 53-5-22, 53-5-50, 53-5-51, 53-6-14, 53-6-15, 53-6-22, 53-6-30, 53-6-31, 53-6-62, 53-7-1, 53-7-5, 53-7-6, 53-7-8, 53-7-11, 53-7-13, 53-7-15, 53-7-41, 53-7-50, 53-7-54 through 53-7-56, 53-7-60, 53-7-62, 53-7-63, 53-7-71, 53-7-74, 53-8-10, 53-8-11, 53-8-13, 53-9-2, 53-9-20, 53-10-5, 53-11-1, 53-11-3 through 53-11-6, 53-11-9, and 53-11-10 and the addition of proposed Code Sections 9-3-36, 53-5-52, 53-5-53, 53-6-32, 53-7-24, and 53-13-4 update terminology, correct errors, and clarify provisions regarding time and procedure for notice and payment of estate debts, who may offer a will for probate, when a will may be offered for probate, service and appeals in Probate Court proceedings, conclusiveness of probate, procedures for setting aside probate, powers of personal representatives and temporary administrators, delegation of those powers, provisions applicable to temporary administrators, and various other procedural matters. Several of these changes address recent appellate court decisions that appear contrary to legislative intent (*Leone Hall Price Found. v. Baker*, 276 Ga. 318 (2003); *In re Estate of Jones*, 815 S.E.2d 599 (Ga. Ct. App. 2018)). In addition to restoring the conclusiveness of solemn form probate, these changes also increase the time for filing a caveat to the same 30 days applicable in most other civil matters. The amendments to Code

Section 53-5-25 and the addition of proposed Code Section 53-5-27 revise judicial and non-judicial probate settlement agreement provisions to mirror those found in the Trust Code.

Year's support: The amendments to Code Sections 7-1-239, 50-27-21, 50-27-102, 53-3-1, 53-3-4 through 53-3-8, 53-3-12, and 53-3-13 and the addition of proposed Code Section 53-3-21 strengthen and secure the primacy of the venerable right to year's support for surviving spouses and minor children by safeguarding small accounts of deceased intestate depositors, clearly subordinating inferior debts, protecting the divestment of property taxes, providing for the appointment of temporary administrators to protect the surviving family members' rights, and cleaning up inexact language.

Trust Code: The amendments to 53-12-7, 53-12-8, 53-12-9, 53-12-61, 53-12-62, and 53-12-500 through 53-12-50 clarify and expand provisions relating to representation of trust beneficiaries, nonjudicial settlement agreements, modification of trusts, trust decanting, and trust directors that were first added to the Trust Code in 2018. The amendments to 53-12-8 and 53-12-170 clarify the definition of "charitable trusts" and how charitable trusts and charitable interests in noncharitable trusts are represented in trust matters. The amendment to 53-12-82 addresses an appellate court decision relating to creditor rights to revocable trusts that appears contrary to legislative intent (*Morris v. Morris*, 756 S.E.2d 616 (Ga. Ct. App. 2014)). The amendments to Code Section 53-12-22 clarify what actions do not violate a "no contest" clause in a trust. The amendment to 53-12-210 corrects a drafting error that was made in the provisions relating to compensation of trustees when those provisions were revised in 2018. The amendments to 53-12-241, 53-12-243, and 53-12-340 revise the Prudent Investor Rule to mirror language in the widely adopted Uniform Prudent Investor Act (1994).

Miscellaneous provisions: The amendments to Code Sections 10-6B-3, 10-6B-40, and 10-6B-52 bring Georgia Power of Attorney Act provisions into line with pre-existing statutes regarding real property transfers and Medicaid qualification trusts while correcting errors in the Code. The amendment to Code Section 10-12-3 adds express trusts to the Title 53 exemption from electronic signature statutes. The amendments to Code Section 15-9-4 bring Article 6 Probate Court qualifications back into line with Superior and State Court qualifications following the 2017 amendments to the latter. The addition of proposed Code Section 53-1-9 preserves un-codified common law and equitable principles using language similar to that appearing in the Trust Code. Provisions regarding powers incorporated by reference under Code Section 53-12-261 and 53-12-263 have been modified to bring those powers and Code Sections 10-6-4, 10-6-86, 10-6B-5, 10-6B-40, 53-7-68, and 53-8-14 into compliance with one another. Finally, the amendments to Code Sections 23-2-58 and 53-13-2 clarify definitions.

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

See above description of the proposed legislation.

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

The proposed legislation was designed to improve the provision of

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).

legal services relating to wills, trusts, and administration of estates, and to the administration of estates and trusts in the courts, especially the probate courts.

- 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?**

No, not to the knowledge of the Fiduciary Law Section.

- 8. Why should the State Bar use its resources to lobby this proposal on behalf of the legal profession?**

The State Bar used its resources to lobby passage of the revised Probate Code of 1998, the revised Guardianship Code of 2005, the revised Trust Code of 2010, the Trust Code revisions, Revised Uniform Fiduciary Access to Digital Assets Act, and the Uniform Power of Attorney Act revisions in 2018. The State Bar should use its resources to lobby this proposed legislation because it makes changes to Title 53 and related Code sections that are based on the experience of fiduciary lawyers and court decisions arising out of the original Code revisions, in addition to reforms to the Code based on the recommendations of lawyers practicing fiduciary law in Georgia.

- 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.**

No, not to the knowledge of the Fiduciary Law Section.

- 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?

This proposal 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 Elder Law Section and the probate judges will have an interest in the proposed legislation.

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

This proposal is being circulated to a committee of probate judges with whom the Fiduciary Law Section has worked on prior legislation.

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.

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**Fiduciary Law Section - Code Revision Committee
DRAFT BILL FOR 2020 SESSION**

REVISIONS TO TITLE 53

Title 53 (WILLS, TRUSTS, AND ADMINISTRATION OF ESTATES)

Chapters 1 to 11 (REVISED PROBATE CODE OF 1998)

Chapter 1 (GENERAL PROVISIONS)

~~53-1-9~~

Chapter 2 (DESCENT AND DISTRIBUTION)

53-2-20

53-2-27

Chapter 3 (YEAR'S SUPPORT)

~~53-3-1~~

53-3-4

53-3-5

53-3-6

53-3-7

53-3-8

53-3-12

53-3-13

~~53-3-21~~

Chapter 4 (WILLS)

~~53-4-4~~

~~53-4-5~~

53-4-20

53-4-24

53-4-63

53-4-68

53-4-75

Chapter 5 (PROBATE)

53-5-2

53-5-3

53-5-17

53-5-19

53-5-20

~~53-5-21~~

53-5-22

53-5-25

~~53-5-27~~

53-5-50

53-5-51

~~53-5-52~~

~~53-5-53~~

Chapter 6 (ADMINISTRATORS AND PERSONAL REPRESENTATIVES)

53-6-14

53-6-15

53-6-22

53-6-30

53-6-31

53-6-62

Chapter 7 (ADMINISTRATION OF ESTATES GENERALLY)

53-7-1

53-7-5

~~53-7-6~~

~~53-7-11~~

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53-7-13

53-7-15

53-7-24

53-7-41

53-7-50

53-7-54

53-7-55

53-7-56

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53-7-62

53-7-63

53-7-68

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53-7-75

Chapter 8 (INVESTMENTS, SALES, AND CONVEYANCES)

53-8-10

53-8-11

53-8-13

53-8-14

53-8-15

Chapter 9 (MISSING PERSONS AND PERSONS BELIEVED TO BE DEAD)

53-9-2

53-9-20

Chapter 10 (SIMULTANEOUS DEATH)

53-10-5

Chapter 11 (PROCEEDINGS IN PROBATE COURT)

53-11-1

53-11-3

53-11-4

53-11-5

53-11-6

53-11-9

53-11-10

Chapter 12 (THE REVISED GEORGIA TRUST CODE OF 2010)

Article 1 (GENERAL PROVISIONS)

53-12-6

53-12-7

53-12-8

53-12-9

Article 2 (CREATION AND VALIDITY OF EXPRESS TRUSTS)

53-12-22

Article 4 (REFORMATION, MODIFICATION, DIVISION, CONSOLIDATION, AND TERMINATION OF TRUSTS)

53-12-61

53-12-62

Article 5 (SPENDTHRIFT PROVISIONS AND CREDITORS' RIGHTS AND CLAIMS)

53-12-82

Article 9 (CHARITABLE TRUSTS)

53-12-170

Article 11 (TRUSTEES)

53-12-210

Article 13 (TRUSTEES' POWERS AND DUTIES)

53-12-241

53-12-243

53-12-261

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53-12-263
Article 16 (TRUST INVESTMENTS)
53-12-340
Article 18 (TRUST DIRECTORS)
53-12-500
53-12-501
53-12-502
53-12-503
53-12-504
53-12-505
53-12-506
Chapter 13 (REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT)
53-13-2
~~53-13-4~~

REVISIONS TO RELATED CODE SECTIONS

Title 7 (BANKING AND FINANCE)
Chapter 1 (FINANCIAL INSTITUTIONS)
7-1-239

Title 9 (CIVIL PRACTICE)
~~Chapter 3 (LIMITATIONS OF ACTIONS)~~
~~9-3-36~~
Chapter 4 (DECLARATORY JUDGMENTS)
9-4-4
9-4-5
~~9-4-11~~
Chapter 11 (CIVIL PRACTICE ACT)
9-11-17

Title 10 (COMMERCE AND TRADE)
Chapter 6 (AGENCY)
10-6-4
10-6-86
Chapter 6B (GEORGIA POWER OF ATTORNEY ACT)
10-6B-3
10-6B-40
~~10-6B-52~~
Chapter 12 (UNIFORM ELECTRONIC TRANSACTIONS ACT)
10-12-3

Title 13 (CONTRACTS)
Chapter 5
13-5-30

Title 15 (COURTS)
Chapter 9 (PROBATE COURTS)
15-9-4
15-9-17
15-9-47
15-9-60
15-9-86
15-9-122
15-9-123
15-9-126

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15-9-127

Title 19 (DOMESTIC RELATIONS)

Chapter 3 (MARRIAGE GENERALLY)

19-3-65

19-3-66

Chapter 6 (ALIMONY AND CHILD SUPPORT)

19-6-7

Title 23 (EQUITY)

Chapter 2

23-2-58

Title 50 (STATE GOVERNMENT)

Chapter 27 (LOTTERY FOR EDUCATION)

50-27-21

50-27-102

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§ 53-1-9.

Except to the extent that the principles of common law and equity governing wills, trusts, and the administration of estates are modified by this title or another provision of law, those principles remain the law of this state.

§ 53-2-20. Jurisdiction of probate or superior court

The identity or interest of any heir may be resolved judicially upon application to the probate court that has jurisdiction by virtue of a pending administration or that would have jurisdiction in the event of an administration of the estate of the decedent. Alternatively, the petition may be filed in the superior court of the county where the probate court having jurisdiction, as defined in this Code section, is located: provided, however, that, if the petition is filed in connection with a contested proceeding to determine a purported heir's entitlement to a year's support from the decedent's estate pursuant to Chapter 3 of this title, such petition must be filed in the probate court having jurisdiction. The proceedings for the determination of such questions shall conform to the requirements set forth in this article.

§ 53-2-27. DNA testing for kinship; procedure; costs

(a)(1) When the kinship of any party in interest to a decedent is in controversy in any proceeding under this article, a ~~superior~~ court may order the removal and testing of deoxyribonucleic acid (DNA) samples from the remains of the decedent and from any party in interest whose kinship to the decedent is in controversy for purposes of comparison and determination of the statistical likelihood of such kinship. The ~~superior~~ court may order the disinterment of the decedent's remains if reasonably necessary to obtain such samples. ~~if~~

(2) Except as otherwise provided in paragraph (3) of this subsection and in paragraph (5) of subsection (a) of Code Section 15-9-127, if the proceedings are pending in the probate court, the motion shall be transferred to the superior court for determination.

(3) A probate court subject to Article 6 of Chapter 9 of Title 15 shall have jurisdiction over motions seeking an order for disinterment and DNA testing under this Code section and may enter orders thereon without transferring the motion to the superior court.

(b) The order may be made only on motion for good cause shown and upon notice to all parties in interest and shall specify the time, place, manner, conditions, and scope of the removal and testing of samples, and the person or persons by whom it is to be made. Such motion, when made by a party in interest, shall be supported by affidavit setting forth:

(1) The factual basis for a reasonable belief that the party in interest whose kinship to the decedent is in controversy is or is not so related; and

(2) If disinterment of the decedent's remains is sought, the factual basis for a reasonable belief that reliable DNA samples from the decedent are not otherwise reasonably available from any other source.

(c) Upon request, the movant shall deliver to all parties in interest a copy of a detailed written report of the tester and of any other expert involved in the determination of such statistical likelihood setting out his or her findings, including the results of all tests made and conclusions or opinions based thereon.

(d) The costs of obtaining and testing of such samples, including the costs of disinterment and reinterment of the remains of the decedent, if necessary, as well as the costs of providing the report, shall be assessed against and paid by the moving party.

§ 53-3-1. Preference and entitlement

(a) As used in this chapter, the terms "child" or "children" mean any minor child who would be entitled to inherit if the child's parent died intestate.

(b) Among the necessary expenses of administration and to be preferred before all other debts or demands, except as specifically provided otherwise in this chapter and notwithstanding any other provision of law to the contrary, is the provision of year's support for the family.

(c) The surviving spouse and minor children of a testate or intestate decedent are entitled to year's support in the form of property for their support and maintenance for the period of 12 months from the date of the decedent's death.

§ 53-3-4. "Homestead" defined; taxes and tax liens

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(a) As used in this Code section, the term “homestead” shall have the same meaning as set forth in Code Section 48-5-40.

(b)

(1) In solvent and insolvent estates, all taxes and liens for taxes accrued for years prior to the year of the decedent’s death against the homestead set apart and against any equity of redemption applicable to the homestead set apart shall be divested as if the entire title were included in the year’s support. Additionally, as elected in the petition, property taxes accrued in the year of the decedent’s death or in the year in which the petition for year’s support is filed or, if the petition is filed in the year of the decedent’s death, in the year following the filing of the petition shall be divested if the homestead is set apart for year’s support; provided, however, that, if the property taxes elected in the petition pursuant to this paragraph are paid after the filing of the petition but prior to the entry of the order setting apart the homestead for year’s support, the property taxes accrued in the year following the year elected in the petition shall be divested instead.

(2) In solvent and insolvent estates, if the homestead is not claimed, all taxes and liens for taxes accrued for years prior to the year of the decedent’s death against the real property set apart and against any equity of redemption applicable to the real property set apart shall be divested as if the entire title were included in the year’s support. Additionally, as elected in the petition, property taxes accrued in the year of the decedent’s death or in the year in which the petition for year’s support is filed or, if the petition is filed in the year of the decedent’s death, in the year following the filing of the petition shall be divested if the real property is set apart for year’s support; provided, however, that, if the property taxes elected in the petition pursuant to this paragraph are paid after the filing of the petition but prior to the entry of the order setting apart the real property for year’s support, the property taxes accrued in the year following the year elected in the petition shall be divested instead.

§ 53-3-5. Filing of petition

(a) Upon the death of any individual leaving an estate solvent or insolvent, the surviving spouse or a guardian or other person acting in behalf of the surviving spouse or in behalf of a minor child may file a petition for year’s support in the probate court having jurisdiction over the decedent’s estate. If the petition is brought by a guardian acting on behalf of a minor child, no additional guardian ad litem shall be appointed for such minor child unless ordered by the court.

(b) The petition shall set forth, as applicable, the full name of the surviving spouse, the full name and birthdate of each surviving minor child and a schedule of the property, including household furniture, ~~which that~~ the petitioner proposes to have set aside apart as year’s support. The petition shall describe fully and accurately describe any real property the petitioner proposes to have set aside apart as year’s support with a legal description sufficient under the laws of this state to pass title to the real property.

(c) A petition for year’s support shall be filed within 24 months of the date of death of the decedent.

§ 53-3-6. Issuance of citation and publication of notice; mailing of petition to tax commissioner

(a) As used in this Code section, the term “interested person” means the decedent’s children, spouse, other heirs, beneficiaries, devisees, legatees, and creditors; and any others having a property right in or claim against the estate of the decedent ~~which that~~ may be affected by the year’s support proceedings.

(b) Upon the filing of the petition, the probate court shall issue a citation and publish a notice in the official newspaper of the county in which the petition is made once a week for four weeks, citing all interested persons concerned to show cause by a day date certain why the petition for year’s support should not be granted.

(c)

(1) If there is a personal representative of the decedent’s estate, then, in addition to the issuance of citation and publication of notice required by subsection (b) of this Code section, the probate court shall cause a copy of the citation to be served by first-class mail to the personal representative of the decedent’s estate. ~~The~~ Such service copy of the citation shall be mailed not less fewer than 21 days prior to the date and time for objections to be filed shown in the citation.

(2) If there is no personal representative of the decedent’s estate, then, in addition to the issuance of citation and publication of notice required by subsection (b) of this Code section, the petitioner or the attorney for the petitioner shall file with the probate court an affidavit, upon oath, showing the name, last known address, and age if less than age 18 of each interested person and stating that the petitioner or the attorney for the petitioner has listed all known interested persons and has made reasonable inquiry to ascertain the names, last known addresses, and ages of all interested persons. The probate court shall serve by first-class mail a copy of the citation to each interested person

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shown on the affidavit not ~~less~~fewer than 21 days prior to the date and time for objections to be filed shown in the citation.

(3) If the sole personal representative of the decedent's estate and the petitioner or the guardian of the petitioner are the same person, then paragraph (2) of this subsection shall govern as if the decedent's estate had no personal representative.

(d) The probate court shall serve by first-class or interoffice mail, as applicable, a copy of the petition within five days of its filing ~~to~~on the tax commissioner or tax collector of any county in this state in which real property proposed to be set apart as year's support is located.

§ 53-3-7. Hearing and determination

(a) If no objection is made after the publication of the notice, or, if made, is disallowed or withdrawn, the probate court shall enter an order setting asideapart as year's support the property applied for in the petition.

(b) If objection is made, the probate court shall hear the petition and, upon the evidence submitted, shall determine the property to be set asideapart as year's support according to the standards set out in subsection (c) of this Code section. If an appeal is taken, pending the appeal the petitioners shall be furnished with necessities by the personal representative or temporary administrator of the estate, as allowed by the probate court.

(c) If objection is made to the amount or nature of the property proposed to be set asideapart as year's support, the court shall set apart an amount sufficient to maintain the standard of living that the surviving spouse and each minor child had prior to the death of the decedent, taking into consideration the following:

(1) The support available to the individual for whom the property is to be set apart from sources other than year's support, including but not limited to the principal of any separate estate and the income and earning capacity of that individual;

~~(2) The solvency of the estate; and~~

(2) The solvency of the estate; provided, however, that, if the decedent dies having a deposit in a financial institution that is applied to the payment of the funeral expenses and expenses of the last illness of the decedent under subsection (c) of Code Section 7-1-239, any effect such payment may have on the solvency of the estate shall not operate adversely to the surviving spouse or any minor child in the determination of the amount to be set apart as year's support; and

(3) Such other relevant criteria as the court deems equitable and proper.

The petitioner for year's support shall have the burden of proof in showing the amount necessary for year's support.

§ 53-3-8. Minor children by different spouses

(a) If the decedent leaves a minor child or minor children by ~~different spouses~~an individual or individuals other than the surviving spouse, the probate court shall specify the portion going to the minor child or children of ~~the former spouse or spouses, which~~such individual or individuals, and the portion so specified shall vest in that child or those children.

(b) If the decedent leaves minor children and the surviving spouse is the parent of the minor children, the probate court may in its discretion specify separate portions for the minor children and the surviving spouse if the court deems the award of separate portions to be in the best interests of the parties, and the portions shall vest separately in the surviving spouse and the children.

§ 53-3-12. Fees

~~(a) The fees of the probate court shall be paid by the petitioner for year's support out of the fund set apart~~ for such petitioner or for the surviving spouse or a minor child in whose behalf the petitioner acted pursuant to subsection (a) of Code Section 53-3-5.

~~(b) The probate court may issue a writ of fieri facias against the personal representative~~ or temporary administrator of the estate for the amount awarded as provided in subsection (a) of this Code section.

(c) The issuance by the probate court of a writ of fieri facias against the temporary administrator of the estate as provided in subsection (b) of this Code section shall be deemed a proper order under Code Section 53-7-4 for the payment by the temporary administrator of the amount awarded as provided in subsection (a) of this Code section.

§ 53-3-13. Sale or conveyance of property by personal representative prior to award

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The right of a surviving spouse or minor child to year's support from the estate of a decedent shall be barred by a sale or conveyance made prior to the award of year's support by the personal representative or temporary administrator of the estate under authority of a court of competent jurisdiction or under power in a will; provided, however, that the sale or conveyance shall bar year's support and rights to year's support only as to the property sold or conveyed.

§ 53-3-21.

If there is no personal representative of the decedent's estate, the probate court may appoint a temporary administrator, as provided in Code Section 53-6-30, to perform the duties of a personal representative under subsection (b) of Code Section 53-3-7 or under subsection (b) of Code Section 53-3-12; provided, however, that the appointment of such temporary administrator shall not alter or affect the citation, notice, and mailing requirements of Code Section 53-3-6.

§ 53-4-4.

(a) Any writing in existence when a will is executed may be incorporated into the will by reference if the language of the will manifests this intent and describes the writing sufficiently to permit its identification.

(b) This Code section shall not be construed to imply that the common law does not permit the incorporation of an extrinsic document into a will by reference in the manner authorized under subsection (a) of this Code section.

§ 53-4-5.

(a) A written statement or list meeting the requirements of subsection (b) of this Code section shall dispose of items of tangible personal property, other than money, not otherwise specifically disposed of by the testator's will. If more than one otherwise effective writing exists, then, to the extent of any conflict among the writings, the provisions of the most recent writing revoke the inconsistent provisions of each prior writing.

(b) A written statement or list meets the requirements of this subsection if such writing:

(1) is signed and dated by the testator;

(2) describes the items and the beneficiaries with reasonable certainty; and

(3) is referred to in the testator's will.

The writing may be referred to as one to be in existence at the time of the testator's death; it may be prepared before or after the execution of the will; it may be altered by the testator after its preparation, provided that it is signed and dated on the date of such alteration; and it may be a writing that has no significance apart from its effect on the dispositions made by the will.

§ 53-4-20. Required writing; signing; witnesses; codicil

(a) A will shall be in writing and shall be signed by the testator or by some other individual in the testator's physical presence and at the testator's express direction. A testator may sign by mark or by any name that is intended to authenticate the instrument as the testator's will.

(b) A will shall be attested and subscribed in the physical presence of the testator by two or more competent witnesses. A witness to a will may attest by mark. Another individual may not subscribe the name of a witness, even in that witness's presence and at that witness's direction.

(c) A codicil shall be executed by the testator and attested and subscribed by witnesses with the same formality as a will.

§ 53-4-24. Self-proved will or codicil

(a) At the time of its execution or at any subsequent date during the lifetime of the testator and the witnesses, a will or codicil may be made self-proved and the testimony of the witnesses in the probate regarding such will may be made unnecessary by the affidavits of the testator and the attesting witnesses made before a notary public- in the notary public's physical presence. The affidavit and certificate provided in subsection (b) of this Code section shall be the only prerequisites of a self-proved will or codicil.

(b) The affidavit shall be evidenced by a certificate, affixed with the official seal of the notary public, that is attached or annexed to the will or codicil, in form and content substantially as follows: * * *

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(c) A self-proved will or codicil may be admitted to probate without the testimony of any subscribing witness, but otherwise it shall be treated no differently from a will or codicil that is not self-proved. In particular, without limiting the generality of the foregoing sentence, a self-proved will or codicil may be contested, revoked, or amended in exactly the same fashion as a will or codicil that is not self-proved.

§ 53-4-63. Payment of debts of testator

- (a) Unless otherwise directed, the debts of the testator and the expenses of administration of the estate shall be paid out of the residuum. Unless otherwise provided in the will, a residuary gift or any part thereof, including a residuary gift to a surviving spouse in lieu of year's support, shall be deemed a gift of the net residuum or part thereof remaining after all debts of the testator and expenses of administration of the estate, including taxes, have been paid.
- (b) If the residuum proves to be insufficient for the payment of the testator's debts of the testator and the expenses of administration of the estate, then general testamentary gifts shall abate pro rata to make up the deficiency. If general testamentary gifts are insufficient, then demonstrative testamentary gifts shall abate in the same manner. If both general and demonstrative gifts are insufficient, then specific gifts shall abate in the same manner.
- (c) After the estate assets in the executor's hands of the personal representative are exhausted, a creditor may proceed against each beneficiary for that beneficiary's pro rata share of the debts to the extent a testamentary gift has been distributed to that beneficiary.
- (d) Realty and personalty shall be equally liable for the payment of debts.
- (e) Unless otherwise expressly directed in the will, nothing in this Code section shall be deemed to limit any rights to reimbursement for federal estate taxes, generation-skipping transfer taxes, or any other taxes that may be available to personal representatives under federal law.

§ 53-4-68. Conditions that are impossible, illegal, or against public policy; conditions in terrorem

- (a) Conditions in a will that are impossible, illegal, or against public policy shall be void.
- (b) A condition in terrorem shall be void unless there is a direction in the will as to the disposition of the property if the condition in terrorem is violated, in which event the direction in the will shall be carried out. except as otherwise provided in subsection (c) of this Code section.
- (c) A condition in terrorem shall not be enforceable against an interested person for:
- (1) Bringing an action for interpretation or enforcement of a will;
 - (2) Bringing an action to determine whether a particular challenge would violate a condition in terrorem;
 - (3) Bringing an action for an accounting, for removal, or for other relief against a personal representative; or
 - (4) Entering into a settlement agreement.

§ 53-4-75. Construction of wills and trust instruments referring to federal estate and generation-skipping transfer tax laws

- (a) For purposes of this Code section, the term "effective date for federal estate and generation-skipping transfer taxes" means the earlier of January 1, 2011, or the first date after December 31, 2009, including a date before the date on which this Code section became effective, upon which the federal estate tax and generation-skipping transfer tax laws apply to estates of decedents dying on such date and to generation-skipping transfers on such date.
- (b) A provision of a will or trust instrument of a testator or settlor dying after December 31, 2009, and before the effective date for federal estate and generation-skipping transfer taxes that:
- (1) Refers to the "federal estate tax," "gross estate," "unified credit," "estate tax exemption," "applicable exemption amount," "applicable credit amount," "deduction," "charitable deduction," "value for federal estate tax purposes," "federal generation-skipping transfer tax," "generation-skipping transfer," "applicable exclusion amount," "generation-skipping transfer tax exemption," "GST exemption," "skip person," "direct skip," "transferor," "marital deduction," "maximum marital deduction," "unlimited marital deduction," or any similar provision of the federal estate or generation-skipping transfer tax laws;
 - (2) Refers to any chapter or section of the Internal Revenue Code of 1986 relating to the federal estate tax or generation-skipping transfer taxes or to terms defined or used in such chapters or sections; or
 - (3) Provides for determining the amount of a bequest, distribution, allocation, or division of property of an estate or trust based on the amount that is exempt from or can pass free of federal estate tax or federal generation-skipping transfer tax
- shall be deemed to refer to the federal estate and generation-skipping transfer tax laws as such laws applied to

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estates of decedents dying on December 31, 2009, and to generation-skipping transfers on December 31, 2009.

(e) Subsection (b) of this Code section shall not apply to:

- (1) A provision of a will or trust instrument that is executed or amended after December 31, 2009; or
 - (2) A provision of a will or trust instrument, whenever executed or amended, that manifests an intention that such provision should be construed in a manner other than as provided in subsection (b) of this Code section.
- (d) A court may construe a will or trust instrument to determine whether subsection (b) of this Code section applies to a provision of a will or trust instrument or whether the will or trust instrument manifests an intention that such provision should be construed in a manner other than as provided in subsection (b) of this Code section. A petition for construction of a will or trust instrument under this Code section may be filed by the personal representative, beneficiary, or trustee and shall be commenced within one year of the death of the testator or settlor.

§ 53-5-2. Right to offer will for probate; "interested person" defined

- (a) The right to offer a will for probate shall belong to the executor, if one is named. If for any reason the executor fails to offer the will for probate with reasonable promptness, or if no executor is named, any interested person may offer the will for probate. ~~As used in this Code section, the term "interested person" shall include, but shall not be limited to, any legatee, devisee, creditor of the decedent, purchaser from an heir of the decedent, an administrator appointed for the decedent prior to the discovery of the will, and any individual making a claim under an earlier will.~~
- (b) ~~As used in subsection (a) of this Code section, the term "interested person" shall include, but shall not necessarily be limited to, any heir of the decedent; legatee, devisee, or beneficiary under the will; creditor of the decedent; purchaser from an heir of the decedent; administrator or temporary administrator appointed for the estate of the decedent prior to the discovery of the will; trustee or beneficiary of a testamentary trust established by the will or of a trust to which the will makes a devise or bequest, as provided by subsection (a) of Code Section 53-12-101; individual making a claim under, or having standing to caveat to the probate of, an earlier will; and agent, conservator, guardian, guardian ad litem, or other fiduciary or appropriate representative of such person.~~

§ 53-5-3. Time limitation

- (a) A will shall not be offered for probate following the expiration of five years from the earlier of:
- (1) The latest date on which a petition is filed for:
 - (1) ~~The~~ the appointment of a personal representative of the decedent's estate; ~~or~~
 - (2) ~~An~~ an order that no administration is necessary on the decedent's estate; an award of year's support from the decedent's estate, or the probate of a different will; or
 - (2) The date of entry of a final order granting any petition of the sort described in paragraph (1) of this subsection that the remains in continuing force and effect.
 - (b) ~~The offering of a will of a testator who died prior to January 1, 1998, may be offered for probate at least until December 31, 2002 following the entry of an order of the sort described in paragraph (2) of subsection (a) of this Code section shall constitute a claim against a decedent's estate that arose before the death of the decedent for purposes of Code Section 9-3-36.~~
- (c) ~~As used in this Code section, the term "will" includes a codicil.~~

§ 53-5-17. Procedure

- (a) A will may be proved in common form upon the testimony of a single subscribing witness and without service or notice to anyone. If the will is self-proved, compliance with signature requirements for execution is presumed and other requirements for execution are presumed without the testimony of any subscribing witness.
- (b) The petition to probate a will in common form shall set forth the same information required in a petition to probate a will in solemn form. The petition shall conclude with a prayer for the issuance of letters testamentary.

§ 53-5-19. When conclusive upon parties in interest

Probate in common form shall become conclusive upon all parties in interest four years from the time of date the order admitting such will to probate in common form is entered by the court in such proceeding, except upon minor heirs who require proof in solemn form and interpose a caveat within four years after reaching the age of majority.

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In such case, if the will is refused probate in solemn form and no prior will is admitted to probate, an intestacy shall be declared only as to the minor or minors and not as to others whose right to caveat is barred by the lapse of time.

§ 53-5-20. Conclusiveness

(a) Probate in solemn form is conclusive upon all ~~parties notified~~ persons served with notice, including persons waiving service of notice or served with notice through a guardian ad litem or other appropriate representative, and upon all beneficiaries under the will who are represented by the ~~executor~~ personal representative.

(b) As to heirs and other persons required to be served with notice by Code Section 53-5-22 who are not effectively ~~notified~~ served with notice in a manner adequate to satisfy subsection (a) of this Code section, a proceeding to probate in solemn form shall otherwise be as conclusive as if probate had been in common form.

(c) Except as otherwise provided in subsections (a) and (b) of this Code section, a proceeding to probate in solemn form is conclusive against all persons, regardless of service or notice, six months from the date the order admitting such will to probate in solemn form is entered by the court in such proceeding.

§ 53-5-21. Procedure

(a) A will may be proved in solemn form after ~~due~~ service of notice upon the persons required to be served, upon the testimony of all the witnesses in life and within the jurisdiction of the court, or by proof of their signatures and that of the testator as provided in Code Section 53-5-23. ~~The;~~ provided, however, that the testimony of only one witness shall be required to prove the will in solemn form if no caveat is filed. If a will is self-proved, compliance with signature requirements and other requirements of execution is presumed subject to rebuttal without the necessity of the testimony of any witness upon filing the will and affidavit annexed or attached thereto.

(b) The petition to probate a will in solemn form shall set forth the full name, the place of domicile, and the date of death of the testator; the mailing address of the petitioner; the names, ages or majority status, and addresses of ~~the surviving spouse and of all the other~~ heirs, stating ~~their~~ each such heir's relationship to the testator; and whether, to the knowledge of the petitioner, any other proceedings with respect to the probate of another purported will of the testator are pending in this state and, if so, the names and addresses of the propounders and the names, addresses, and ages or majority status of the beneficiaries under the other purported will. If a testamentary guardian is being appointed in accordance with subsection (b) of Code Section 29-2-4, the names and mailing addresses of any persons required to be served with notice pursuant to such Code section shall be provided by the petitioner. In the event full particulars are lacking, the petition shall state the reasons for any omission. The petition shall conclude with a prayer for issuance of letters testamentary. If all of the heirs acknowledge service of the petition and notice and shall in their acknowledgment assent thereto, and if there are no other proceedings pending in this state with respect to the probate of another purported will of the decedent, the will may be probated and letters testamentary thereupon may issue without further delay; provided, however, that letters of guardianship shall only be issued in accordance with Code Section 29-2-4.

§ 53-5-22. Notice

(a) Probate in solemn form requires ~~due~~ service of notice ~~to~~ on all the heirs of the testator; and, if there is any other purported will of the testator for which probate proceedings are pending in this state, ~~then such notice shall also be given to~~ on all the beneficiaries under and propounders of such purported will. Service of ~~a~~ notice of ~~a~~ petition for probate in solemn form shall be by personal service if the party resides in this state and is known and shall be served at least ~~ten~~ 30 days before probate is to be made, except that, if ~~such service of notice is~~ waived, the ~~ten~~ 30-day provision shall not apply.

(b) For purposes of ~~giving~~ serving notice ~~to~~ on beneficiaries under a purported will for which probate proceedings are pending in this state, notice shall be ~~given to~~ served on:

(1) Each beneficiary:

(A) Who has a present interest, including but not limited to a vested remainder interest but not including trust beneficiaries where there is a trustee; and

(B) Whose identity and whereabouts are known or may be determined by reasonable diligence;

(2) The duly ~~acting~~ guardian ~~constituted~~ conservator of each individual beneficiary with a present interest or power, other than a mere trust beneficiary, who is not sui juris, or, if any such beneficiary has no duly constituted conservator, then on such beneficiary's guardian; and

(3) Each trustee.

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~~Notice~~Service of notice shall not be required in the case of a person whose interest, even though vested, cannot be possessed until the passage of time or the happening of a contingency. The probate court may, on the motion of any party in interest or on its own motion, modify the service of notice required in the case of numerous beneficiaries of the same or similar class where the value of each testamentary gift is, or appears to be, nominal. ~~Upon~~Upon the motion of any party in interest or upon its own motion, the court may determine whether the interest of any beneficiary required to be ~~notified~~served with notice under this subsection is adequately represented, including any contingent interest of a beneficiary, and if such representation is found to be inadequate, the court may appoint a guardian ad litem to represent each beneficiary or order such other service of notice as may be appropriate to a beneficiary of a contingent interest. If a trustee named in the will indicates a refusal to represent the beneficiaries of the testamentary trust, the court may order that notice be ~~given~~served directly ~~to~~on the beneficiaries of the trust. The provisions of Code Section 53-12-8 shall be applicable to a trust beneficiary required to be served with notice or represented under this subsection.

(c) Service of a notice of petition for probate in solemn form shall be in accordance with the provisions of Chapter 11 of this title and, if made personally or by mail, shall include a copy of the petition and of the will for which probate is sought. If service is to be made by publication, the published notice shall set forth the court, the time the order for service by publication was granted, the name of the decedent, the fact that a petition has been filed seeking the probate of the will of the decedent in solemn form, and the name of the petitioner who seeks letters testamentary or the continuance in force of any letters testamentary previously granted. The notice shall command all parties to whom it is directed to file objection, if there is any.

§ 53-5-25. Settlement agreement

(a) ~~Upon petition of~~(1) As used in this Code section, the interested parties, any superior court on appeal or term "court" means any probate court which that is so authorized by Article 6 of Chapter 9 of Title 15 or any superior court on appeal or transfer from a probate court that is not so authorized.

(2) As used in this Code section, the term "interested persons" means all persons whose interests would be affected by the approval of a settlement agreement in the manner provided in this Code section.

(b) The court may approve a settlement agreement under which probate is granted or denied, or providing for a disposition of the property contrary to the terms of the will, if all interested persons consent and any duly qualified personal representative or temporary administrator is served with notice of the petition to approve such settlement agreement.

(c) A proceeding to approve a settlement agreement under this Code section may be commenced by an interested person or by any duly qualified personal representative or temporary administrator. Service of notice of a petition to approve a settlement agreement under this Code section shall be made in the manner provided by Chapter 11 of this title to all the interested persons, any duly qualified personal representative or temporary administrator, and such other persons as the court may direct.

(d) Approval of any settlement agreement that provides for the probate of the will, the sustaining of the caveat, or the disposition of the property contrary to the terms of the will shall be after such additional service of notice and such hearing, notice of which shall be given as the court may direct, at which in the exercise of its sound discretion. At any such hearing, the court may require or receive such evidence is introduced and at which as the court finds as a matter of fact that may deem appropriate and may determine whether there is a bona fide contest or controversy.

(e) All individuals interested persons who are sui juris and affected by such a settlement agreement shall be authorized to enter into such a settlement agreement, which shall be assented to in writing by all the heirs of the testator and by all sui juris beneficiaries affected by such a settlement such interested persons.

(f) All individuals interested persons who are not sui juris, or who are unborn beneficiaries, heirs, or persons or unknown, shall be represented in such proceedings by an independent guardian ad litem. It shall be the duty of the guardian ad litem to investigate the proposed settlement and report to the court the such guardian's findings and recommendations. The court shall take the recommendations into consideration but shall not be bound by such recommendations; provided, however, that, for purposes of subsection (b) of this Code section, the guardian ad litem's recommendation that the court approve the settlement agreement shall constitute consent to the settlement agreement by the guardian ad litem on behalf of all interested persons represented by such guardian.

~~(g)~~(g) If a trust designated in the will to take an interest in real or personal property would have such interest affected by the settlement agreement, the provisions of such agreement affecting such interest must satisfy the requirements of Code Section 53-12-61 in order to be binding on the trust, the trustee, and the trust beneficiaries.

(h) A judgment entered by the court and based upon approving the settlement agreement shall be conclusive in the same manner as probate in solemn form, as provided by Code Section 53-5-20.

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(i) Entering into or petitioning a court regarding a settlement agreement under this Code section shall not constitute a violation of a condition in terrorem under Code Section 53-4-68.

§ 53-5-27.

(a) Except as provided in subsection (b) of this Code section, the personal representative nominated in the will or duly qualified so to serve and all persons whose interests would be affected may enter into a binding nonjudicial settlement agreement with respect to any matter involving a will.

(b) A nonjudicial settlement agreement shall be valid only to the extent it does not violate a material intention of the testator under Article 6 of Chapter 4 of this title and includes terms and conditions that properly could be approved by the court under Code Section 53-5-25 or other applicable law.

(c) A nonjudicial settlement agreement entered into in accordance with this Code section shall be final and binding on all parties to such agreement, including individuals not sui juris, unborn beneficiaries or heirs, individuals, and persons unknown who are represented before the court by the guardian ad litem appointed for that purpose who may represent and bind such parties under Code Section 53-5-25 or 53-11-2, as if ordered by a court with competent jurisdiction over the will, the estate of the decedent, and the parties.

(d) Any person bound by a nonjudicial settlement agreement under subsection (c) of this Code section may request that the court approve such agreement, determine whether the representation provided under Code Section 53-5-25 or 53-11-2 was adequate, determine whether such agreement violates a material intention of the testator under Article 6 of Chapter 4 of this title, determine whether such agreement contains terms and conditions the court properly could have approved, or make any other similar determination.

(e) If a trust designated in the will to take an interest in real or personal property would have such interest affected by the nonjudicial settlement agreement, the provisions of such agreement affecting such interest must satisfy the requirements of Code Section 53-12-9 in order to be binding on the trust, the trustee, and the trust beneficiaries.

(f) Entering into or petitioning a court regarding a nonjudicial settlement agreement under this Code section shall not constitute a violation of a condition in terrorem under Code Section 53-4-68."

§ 53-5-50. Original jurisdiction

(a) The probate court shall have original jurisdiction over any ~~action~~ petition to vacate, set aside, or amend its order admitting a will to probate ~~which alleges:~~

(1) ~~That another~~ (b) A petition under subsection (a) of this Code section may be brought in the probate court to vacate, set aside, or amend its order admitting a will ~~to~~ probate based upon:

(1) Another will being entitled to be admitted to probate; ~~or~~

(2) ~~That a~~ A codicil to the probated will ~~is~~ being entitled to be admitted to probate;

(b3) Lack of jurisdiction;

(4) Fraud, accident, or mistake or the acts of the adverse party unmixed with the negligence or fault of the petitioner; or

(5) A nonamendable defect that appears upon the face of the record or pleadings.

(c)(1) Any such ~~action~~ petition based upon paragraph (1) of subsection (b) of this Code section shall be combined with a petition to probate in solemn form the other will ~~or~~.

(2) Any such petition based upon paragraph (2) of subsection (b) of this Code section shall be combined with a petition to probate in solemn form the codicil. ~~The~~

(3) In any such petition based upon paragraph (1) or (2) of subsection (b) of this Code section, the court shall consider the petition to probate in solemn form together with the ~~action~~ petition to vacate, set aside, or amend; and the court shall grant relief as is appropriate with respect to each matter.

(d) In any such petition based upon paragraph (5) of subsection (b) of this Code section, it is not sufficient that the pleadings fail to state a claim upon which relief can be granted, but the pleadings must affirmatively show no claim in fact existed.

§ 53-5-51. Contents of petition; service of notice; issuance of relief

(a) ~~The~~ A petition made pursuant to Code Section 53-5-50 shall set forth the allegations on which ~~the action~~ such petition is based and the name and address of the then acting personal representative, if any, of the estate, or, if none, the beneficiaries of the previously probated will required to be served by Code Section 53-5-22. ~~The~~ Such petition shall conclude with a prayer for the issuance of an order vacating, setting aside, or amending the earlier probate;

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and, if such petition is based upon paragraph (1) or (2) of subsection (b) of Code Section 53-5-50, for the probate of the ~~new~~ newly propounded will or codicil in solemn form; and for the issuance of new letters testamentary.

(b) The beneficiaries under the previously probated will shall be represented in the action by the then acting personal representative, if any; and service of notice upon the personal representative in the same manner as provided for by law under Chapter 11 of this title shall be the equivalent of service of notice upon the beneficiaries.

(c) If there is no then acting personal representative, ~~the~~ such petition and the citation issued thereon shall be served upon the beneficiaries who are required to be served by Code Section 53-5-22 of the previously probated will, in the same manner as upon the heirs, unless all such parties assent to ~~the~~ such petition.

(d) If the then acting personal representative acknowledges service of ~~the~~ such petition and notice and assents to the relief in the acknowledgment of service of such petition and notice, the relief upon ~~the~~ prayed for in such petition may issue without delay. In the event there is no then acting personal representative, if all the beneficiaries acknowledge service of ~~the~~ such petition and notice and assent in their acknowledgments, ~~the~~ such relief may issue without delay.

§ 53-5-52.

(a) A petition based upon paragraph (1) or (2) of subsection (b) of Code Section 53-5-50 shall be brought before:

(1) The probate of the previously probated will becomes conclusive upon the petitioner under Code Section 53-5-19 or Code Section 53-5-20; and

(2) The expiration of the time within which the newly propounded will must be offered for probate under Code Section 53-5-3.

(b) A petition based upon paragraph (3) of subsection (b) of Code Section 53-5-50 may be brought at any time.

(c) In all other instances, a petition made pursuant to this article shall be brought within three years from entry of the order admitting a will to probate.

(d) The filing of a petition made pursuant to this article shall constitute a claim against a decedent's estate that arose before the death of the decedent for purposes of Code Section 9-3-36.

§ 53-5-53:

The provisions of this article shall govern in proceedings in the probate court to vacate, set aside, or amend an order admitting a will to probate, and the provisions of Code Section 9-11-60 shall not be applicable to such proceedings.

§ 53-6-14. Selection by beneficiaries

(a) For purposes of this Code section, a beneficiary who is capable of expressing a choice is one:

(1) Who has a present interest, including but not limited to a vested remainder interest but not including trust beneficiaries where there is a trustee; and

(2) Whose identity and whereabouts are known or may be determined by reasonable diligence.

(b) An administrator with the will annexed may be unanimously selected by the beneficiaries of the will who are capable of expressing a choice unless the sole beneficiary is the decedent's surviving spouse and an action for divorce or separate maintenance was pending between the decedent and the surviving spouse at the time of death. When no such unanimous selection is made, the probate court shall make the appointment that will best serve the interests of the estate, considering the following preferences:

(1) Any beneficiary or the trustee of any trust that is a beneficiary under the will; or

(2) Those persons listed in paragraphs (3) through (5) of Code Section 53-6-20.

(c) For purposes of this Code section, a beneficiary's choice is expressed by:

(1) That beneficiary, if sui juris;

(2) That beneficiary's guardian or, if none, the person having custody of the beneficiary if conservator, if the beneficiary is not sui juris, or, if such beneficiary who is not sui juris has no conservator, then by that beneficiary's guardian;

(3) The trustee of a trust that is a beneficiary under the will, where there is a trustee;

(4) The beneficiaries of a trust that is a beneficiary under the will, where there is no trustee; provided, however, that for purposes of this paragraph, a trust beneficiary may be represented as provided in Code Section 53-12-8; or

(45) The personal representative of a deceased beneficiary receiving a present interest under the will.

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§ 53-6-15. Petition for letters of administration with will annexed

(a) Every petition for letters of administration with the will annexed shall be made in accordance with the procedures set forth in Code Section 53-5-21 if the will has not yet been admitted to probate and shall include a prayer for issuance of letters of administration with the will annexed. ~~TheSuch~~ petition shall set forth the names, addresses, and ages or majority status of the beneficiaries who are capable of expressing a choice, as defined in subsection (a) of Code Section 53-6-14, and the circumstances giving rise to the need for an administrator with the will annexed. ~~TheSuch~~ petition ~~and the citation issued thereon~~ shall be served ~~by the court~~ on the beneficiaries of the will who are capable of expressing a choice in the manner ~~described in~~ provided by Chapter 11 of this title. If the petition for letters of administration with the will annexed is based upon the expiration of a reasonable time for any nominated executor to qualify, any nominated executor who has failed to qualify shall also be served with notice by the court in the manner provided by Chapter 11 of this title.

(b) If the will has been admitted to probate, the petition for letters of administration with the will annexed shall set forth the names, addresses, and ages or majority status of the beneficiaries who are capable of expressing a choice, as described in subsection (a) of Code Section 53-6-14, the date on which the will was admitted to probate, and the circumstances giving rise to the need for an administrator with the will annexed. ~~TheSuch~~ petition ~~and the citation issued thereon~~ shall be served by the court on the beneficiaries of the will and the ~~executor~~ personal representative, if any, of the estate of any deceased executor whose death created the vacancy in the manner ~~described in~~ provided by Chapter 11 of this title.

(c) In the case of an estate partially administered and unrepresented because of the death of the previous executor, the judge shall determine whether the interest of the first estate and the persons interested in the first estate will be served by the appointment of an administrator with the will annexed or ~~of~~ the executor, if any, appointed under the will of the deceased previous executor.

§ 53-6-22. Notice

Notice of the petition for letters of administration shall be ~~mailed~~ served by the court by first-class mail ~~to~~ on each heir with a known address at least 1330 days prior to the date on or before which any objection is required to be filed. If there is any heir whose current address is unknown or any heir who is unknown, notice shall be served on any such heir by being published in the official newspaper of the county in which the petition is made once each week for four weeks prior to the week ~~which~~ that includes the date on or before which any objection must be filed.

§ 53-6-30. Power of court; appointment of administrator; appeal

(a) The probate court may at any time and without service or notice to anyone grant temporary letters of administration on an unrepresented estate to continue in full force and effect until the temporary administrator is discharged or a personal representative is appointed.

(b) The probate court may appoint such person as temporary administrator as the court determines to be in the best interests of the estate. Pending an issue of devisavit vel non upon any paper propounded as a will ~~which~~ that has not been admitted to probate in common form, the executor nominated in the purported will shall have preference in the appointment of a temporary administrator.

(c) There shall be no appeal from an order granting temporary letters of administration, either to the superior court under subsection (a) of Code Section 5-3-2 or to the Supreme Court or the Court of Appeals under subsection (a) of Code Section 15-9-123.

§ 53-6-31. Power of administrator

(a) A temporary administrator may bring an action for the collection of debts or for personal property of the decedent. If a personal representative is appointed pending the action, the personal representative may be made a party in lieu of ~~substituted for~~ the temporary administrator. ~~as a party in the manner provided by Article 4 of Chapter 11 of Title 9.~~

(b) A temporary administrator shall have the power to collect and preserve the assets of the estate and to expend funds for this purpose if approved by the judge of the probate court after such notice as the judge deems necessary; provided, however, that nothing in this subsection shall limit or reduce the notice requirements imposed by Code Sections 53-6-64 and 53-7-4.

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§ 53-6-32.

(a) Every temporary administrator, upon qualification (which qualification may be done at any time), shall take and subscribe an oath or affirmation in substantially the following form:

"I do solemnly swear (or affirm) that , deceased, died (testate) (intestate) and with an estate that is currently unrepresented, so far as I know or believe, and that I will well and truly administer on all the estate of the Deceased and discharge to the best of my ability all my duties as Temporary Administrator. So help me God."

(b) The oath or affirmation of a temporary administrator as provided in subsection (a) of this Code section may be subscribed before the judge or clerk of any probate court of this state. The probate court appointing the temporary administrator shall have the authority to grant a commission to a judge or clerk of any court of record of any state to administer the oath or affirmation.

§ 53-6-62. Extra compensation

(a) A personal representative may petition the probate court for compensation that is greater than that allowed under Code Section 53-6-60. Service of notice of the petition for extra compensation shall be made ~~to~~ on all the heirs of an intestate decedent or ~~to~~ on any affected beneficiaries under the will of a testate decedent. Service of notice shall be made in the manner ~~described in~~ provided by Chapter 11 of this title and shall direct the parties served to file any written objections to the extra compensation with the probate court within ~~ten~~ 30 days.

(b) After hearing any objection filed by the heirs or beneficiaries of the estate, the probate court shall allow such extra compensation as the court deems reasonable; provided, however, that if no such objection is filed or any such objection is dismissed or withdrawn, the court, in its discretion, may enter an order allowing such extra compensation as the court deems reasonable without a hearing. The allowance of extra compensation shall be conclusive as to all parties in interest.

(c) If the amount of compensation that is specified in a testator's will is less than the amount allowed under Code Section 53-6-60, the personal representative may petition for greater compensation in the manner ~~described in~~ provided in subsection (a) of this Code section.

§ 53-7-1. General powers and duties of personal representative; additional powers

(a) The duties and powers of the personal representative commence upon qualification. Such powers relate back to give acts performed by the personal representative prior to qualification that are beneficial to the estate the same effect as those acts performed after qualification. The personal representative may ratify and accept on behalf of the estate acts that are done by others that would have been proper acts for the personal representative. A personal representative is a fiduciary who, in addition to the specific duties imposed by law, is under a general duty to settle the estate as expeditiously and with as little sacrifice of value as is reasonable under all of the circumstances. The personal representative shall use the authority and powers conferred by law, by the terms of any will under which the personal representative is acting, by any order of court in proceedings to which the personal representative is a party, and by the rules generally applicable to fiduciaries to act in the best interests of all persons who are interested in the estate and with due regard for their respective rights.

(b) (1) As part of the petition for letters testamentary, letters of administration with the will annexed, or letters of administration or by separate petition, the beneficiaries of a testate estate or the heirs of an intestate estate may, by unanimous consent, authorize but not require the probate court to grant to the personal representative any of the powers contained in Code Section 53-12-261; provided, however, that the grant by the probate court of the powers provided by paragraph (1) of subsection (b) of Code Section 53-12-261 shall not authorize the personal representative to bind the estate by any warranty in any conveyance or contract in violation of subsection (a) of Code Section 53-8-14.

(2) With respect to any beneficiary of a testate estate or heir or an intestate estate who is not sui juris, the consent required by paragraph (1) of this subsection may be given by the such beneficiary's or heir's duly constituted conservator, or, if such beneficiary or heir has no duly constituted conservator, then by such beneficiary's or heir's guardian. The personal representative of a deceased beneficiary or heir shall be authorized to consent on behalf of that such deceased beneficiary or heir.

(3) The grant of powers shall only be provided for in paragraph (1) of this subsection shall be ordered only after publication of a citation in the official newspaper of the county in which the petition is made and only after the time for filing objections has elapsed either without any objection being timely filed or, if any such objection is timely filed, upon each such objection being dismissed or withdrawn. The citation shall be sufficient if it states generally that the petition requests that powers contained in Code Section 53-12-261 be granted.

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§ 53-7-5. Powers, duties, and liabilities if more than one personal representative; safe deposit boxes or receptacles

(a) If more than one personal representative is qualified and unless the will provides otherwise:

(1) The personal representatives must act by their unanimous action; provided, however, that while a personal representative is unable to act because of inaccessibility, illness, or other incapacity, or when a vacancy occurs for any other reason, the remaining personal representatives may act as if they were the only personal representatives if necessary to administer the estate; and

(2) The personal representatives may delegate in writing to one or more of them the authority to act for all of them; provided, however, that such delegation must satisfy the requirements of Code Sections 10-6B-5 and 10-6B-40, and that all the personal representatives shall remain liable for the actions of the personal representative who is authorized to act.

(b) If more than one personal representative is qualified and unless the will provides otherwise, a personal representative is liable for a breach committed by another personal representative:

(1) By participating in a breach of fiduciary duty committed by the other personal representative;

(2) By approving, knowingly acquiescing in, or concealing a breach of fiduciary duty committed by the other personal representative;

(3) By negligently enabling the other personal representative to commit a breach of fiduciary duty; or

(4) By neglecting to take reasonable steps to compel the other personal representative to redress a breach of fiduciary duty in a case where the personal representative knows or reasonably should have known of the breach of trust.

(c) When safe deposit boxes or receptacles are leased or rented to fiduciaries, including executors, administrators, guardians, trustees, custodians, receivers, and the like, the fiduciary or fiduciaries, as lessee or renter, may authorize the entering of the box or receptacle by one or fewer than all of them or by any other person without the presence or consent of the fiduciary or fiduciaries. Upon receipt of the written authorization, the bank or lessor may without liability authorize access to the box or receptacle in accordance with such authorization. Upon cancellation of the authorization, the bank or lessor may require the presence of all lessees or renters for access.

§ 53-7-6. Power to borrow money, make and fulfill contracts, provide legal counsel, continue decedent's business, and perform other acts

(a) Except as otherwise provided in the will or granted by the probate court pursuant to paragraph (1) of subsection (b) of Code Section 53-7-1, a personal representative is authorized:

(1) To borrow money and to bind the estate by the execution of a promissory note for money borrowed and to pledge any or all the property of the estate for the payment of such a promissory note by mortgage, trust deed, deed to secure debt, or other security instrument, for the purpose of paying any gift, estate, inheritance, income, sales, or ad valorem taxes due the United States, the state, or any municipality or county of the state ~~which~~that constitute a claim or demand against the estate; provided, however, that a personal representative who desires to borrow money shall file a petition with the probate court, setting forth the facts and specifying the amount to be borrowed, the purpose for which the same shall be used, the rate of interest to be paid, the property to be pledged as security and the period of time over which the loan is to be repaid and, upon service of notice and hearing of the petition, an order granting leave to borrow the money and encumber the estate shall be entered and such order shall be binding, final, and conclusive as to all interested parties;

(2) To make contracts for labor or service for the benefit of the estate upon such terms as the personal representative deems best and all such contracts made in good faith shall be a charge upon and bind the estate whenever such contracts are approved by the probate court after service of notice;

(3) To fulfill, as far as possible, the executory contracts and comply with the executed contracts of the decedent, including contracts for the sale of land or bonds to make title to land, and shall have a corresponding right to demand the same of parties contracted with; provided, however, that if the personal skill of the decedent entered into the consideration of the contract and the decedent's death renders execution impossible, the contract, though entire, shall be considered divisible and closed at the decedent's death and any partial execution by the decedent shall authorize and require a corresponding compliance by the other contracting party;

(4) To provide competent legal counsel for the estate according to the needs of the estate and, in such cases, either the personal representative or the attorney employed may, by petition to the probate court duly and citation served on the other, obtain a judgment fixing the attorney's fees and expenses;

(5) To continue the business of the decedent for the 12 months following qualification of the personal representative,

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after which the personal representative may petition for permission to continue the business under such terms and conditions as the probate court may specify after service of notice; and

(6) To petition the probate court for permission to perform such other acts as may be in the best interests of the estate after service of notice.

(b) Service of notice of any petition to the probate court under subsection (a) of this Code section shall be made in the manner provided by Chapter 11 of this title. The probate court, in its discretion, may, but shall not be required to, conduct a hearing on any such petition.

§ 53-7-8. Support and education of minor heirs and beneficiaries without guardians

Whenever a personal representative has paid all the debts of the decedent and all claims against the estate, and property due minor heirs or beneficiaries for whom no one applies to be guardianconservator is left in the personal representative's hands, the personal representative may, under the direction of the probate court, apply so much of the minor's share of the decedent's estate as may be necessary for support and education as guardiansconservators are allowed by law to do.

§ 53-7-11. Allowable defenses; action originating in lifetime of decedent

When the cause of action originated in the lifetime of the decedent, a personal representative may make any defense or pleading whiehat the decedent could have made if alive.

§ 53-7-13. Service of process

(a) In any action or proceeding brought pursuant to this article, service of any notice, writ, or process shall be made in the manner provided by Chapter 11 of this title if Chapter 11 of this title is applicable under Code Section 53-11-1. If Chapter 11 of this title is not applicable to such action or proceeding under Code Section 53-11-1, such service shall be made in the manner provided by Chapter 11 of Article 9 unless Chapter 11 of Title 9 is not applicable to such action or proceeding under Code Section 9-11-81.

(b) In all cases where there are two or more personal representatives and one or more of them removes beyond the limits of this state, service of any notice, writ, or process upon those remaining in the state shall be as effectual and complete, for all purposes whatever, as though such service had been made upon all of the personal representatives.

§ 53-7-15. Applicability of provisions relating to sureties on guardians' bonds

The provisions of law governing the situation in which the surety on a guardian's or conservator's bond dies, becomes insolvent, removes beyond the limits of this state, from other cause becomes insufficient, or desires to be relieved as surety shall be applicable to sureties on personal representatives' bonds.

§ 53-7-24.

The provisions of this article are applicable to temporary administrators in the same manner as provided for personal representatives.

§ 53-7-41. Notice for creditors to render accounts; failure of creditors to give notice of claims

(a) The personal representative shall be allowed six months from the date of the qualification of the first personal representative to serve in which to ascertain the condition of the estate.

(b) Every personal representative shall, within 60 days from the date of qualification, publish a notice directed generally to all of the creditors of the estate to notify the personal representative of their claims and render an account of their demands- for payment thereon. The personal representative's notice shall be published once a week for four weeks in the official newspaper of the county in which the personal representative qualified. No particular form shall be required for creditors to notify the personal representative of their claims, and such notification of a creditor's claim shall be sufficient for purposes of this Code section if given in writing, providing an account number or other identifying information or itemization adequate to establish the indebtedness as an obligation of the estate, and stating the principal balance and any applicable interest or other additional charges lawfully owed. An invoice or account statement satisfying the requirements of the preceding sentence of this subsection and generated

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by a creditor in the ordinary course of such creditor's business shall constitute sufficient notification to the personal representative of such creditor's claim if the personal representative actually receives such notification of the claim or if such creditor files such notification with the probate court having jurisdiction over the decedent's estate or sends such notification of the claim by electronic transmission, other form of wire or wireless communication, or by first-class mail or private carrier to the address of the decedent, the personal representative, or the attorney representing the personal representative; provided, however, that a notification of a claim sent by a creditor by electronic communication to an account for which the decedent is the user shall constitute sufficient notification to the personal representative of such creditor's claim only if the content of such electronic communication lawfully is disclosed to the personal representative pursuant to Chapter 13 of this title. As used in this subsection, the terms "account", "content of an electronic communication", "electronic communication", and "user" shall have the meaning provided by Code Section 53-13-2.

(c) After receiving sufficient notification of a creditor's claim under subsection (b) of this Code section, the personal representative may require reasonable additional proof or accounting from such creditor prior to paying such creditor's claim, but such requirement by the personal representative shall not affect adversely the timeliness of such creditor's notification to the personal representative of the creditor's claims.

(d) Creditors who fail to give notice of claims notify the personal representative of their claims in the manner provided by subsection (b) of this Code section within three months from the date of publication of the personal representative's last notice shall lose all rights to an equal participation with creditors of equal priority to whom distribution is made before notices sufficient notification of such claims is brought given to the personal representative, and they may not hold the personal representative liable for a misappropriation of the funds. If, however, there are assets in the hands of the personal representative sufficient to pay such debts and if no claims of greater priority are unpaid, the assets shall be thus appropriated notwithstanding failure to give notice of such creditors timely to notify the personal representative of their claims.

§ 53-7-50. Petition by personal representative for discharge; citation and publication; hearing; subsequently discovered estate

(a) A personal representative who has fully performed all duties or who has been allowed to resign may petition the probate court for discharge from the office and from all liability. The petition shall state that the personal representative has fully administered the estate of the decedent and shall set forth the names and addresses of all known heirs of an intestate decedent or beneficiaries of a testate decedent, including any persons who succeeded to the interest of any heir or beneficiary who died after the decedent died, and shall name which of the heirs or beneficiaries is or should be represented by a guardian. The petition shall state that the personal representative has paid all claims against the estate or shall enumerate which claims of the estate have not been paid and the reason for such nonpayment. The petition shall also state that the personal representative has filed all necessary inventory and returns or, alternatively, has been relieved of such filings by the testator, the heirs or beneficiaries, or the probate court.

(b)

(1) Subject to paragraphs (2) and (3) of this subsection, upon the filing of a petition for discharge, citation shall issue to all heirs or beneficiaries, as provided in Chapter 11 of this title, requiring them to file any objections to the discharge, except that in all cases a citation shall be published one time in the newspaper in which sheriff's advertisements are published in the county in which the petition is filed at least ten days prior to the date on or before which any objection is required to be filed. Any creditors whose claims are disputed or who have not been paid in full due to insolvency of the estate shall be served in accordance with Chapter 11 of this title.

(2) Notwithstanding paragraph (1) of this subsection, it shall not be necessary to notify serve with notice any heir or beneficiary who has relieved the personal representative of all liability or any heir or beneficiary with respect to whom the personal representative has been relieved of all further liability in a binding proceeding such as a settlement of accounts pursuant to Code Sections 53-7-60 through 53-7-63 or an intermediate report pursuant to Code Sections 53-7-73 through 53-7-76.

(3) For purposes of this Code section, a beneficiary is a person, including a trust, who is designated in a will to take an interest in real or personal property and who (A) has a present interest, including but not limited to a vested remainder interest but not including a trust beneficiary where there is a trustee who is not also the personal representative seeking discharge and (B) whose identity and whereabouts are known or may be determined by reasonable diligence. For purposes of this Code section, a trust beneficiary may be represented as provided in Code Section 53-12-8.

(c) If any party in interest files objection to the discharge, a hearing shall be held. If as a result of the hearing, the

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probate court is satisfied that the personal representative has faithfully and honestly discharged the office, an order shall be entered releasing and discharging the personal representative from all liability. If no objections are filed, the probate court shall enter the order for discharge without further proceedings or delay. Any heir or beneficiary or creditor who is a minor at the time of the discharge and who is not represented by a guardian may, within two years of reaching the age of majority, commence suit against the personal representative and such discharge shall be no bar to the action.

(d) If other property of the estate is discovered after an estate has been settled and the personal representative discharged, the probate court, upon petition of any interested person and upon such service or notice as it directs, may appoint the same personal representative or a successor personal representative to administer the subsequently discovered estate. If a new appointment is made, unless the probate court orders otherwise, the provisions of this title shall apply as appropriate; but no claim previously barred may be asserted in the subsequent administration.

(e) A personal representative may petition the court solely for discharge from office by filing the petition described in subsection (a) of this Code section and by giving serving notice by publication one time in the official county newspaper and by first-class mail to all creditors of the estate whose claims have not been paid informing them of their right to file an objection and be heard as described in subsection (c) of this Code section.

§ 53-7-54. Breach of fiduciary duty

(a) If a personal representative or temporary administrator commits a breach of fiduciary duty or threatens to commit a breach of fiduciary duty, a beneficiary of a testate estate or heir of an intestate estate shall have a cause of action:

- (1) To recover damages;
- (2) To compel the performance of the personal representative's or temporary administrator's duties;
- (3) To enjoin the commission of a breach of fiduciary duty;
- (4) To compel the redress of a breach of fiduciary duty by payment of money or otherwise;
- (5) To appoint another personal representative or temporary administrator to take possession of the estate property and administer the estate;
- (6) To remove the personal representative or temporary administrator; and
- (7) To reduce or deny compensation to the personal representative or temporary administrator.

(b) When estate assets are misapplied and can be traced in the hands of persons affected with notice of misapplication, a constructive trust shall attach to the assets.

(c) The provision of remedies for breach of fiduciary duty by this Code section does not prevent resort to any other appropriate remedy provided by statute or common law.

(d) In any action or proceeding brought pursuant to this Code section, service of notice or process shall be made in the manner provided by Chapter 11 of this title if Chapter 11 of this title is applicable under Code Section 53-11-1. If Chapter 11 of this title is not applicable to such action or proceeding under Code Section 53-11-1, such service shall be made in the manner provided by Chapter 11 of Article 9 unless Chapter 11 of Title 9 is not applicable to such action or proceeding under Code Section 9-11-81.

§ 53-7-55. Revocation of letters of personal representative or other sanctions

(a) Upon the petition of any person having an interest in the estate or whenever it appears to the probate court that good cause may exist to revoke the letters of a personal representative or impose other sanctions, the court shall cite the personal representative to answer to the charge. Upon investigation, the court may, in the court's discretion:

- (1) Revoke the personal representative's letters;
- (2) Require additional security;
- (3) Require the personal representative to appear and submit to a settlement of accounts following the procedure set forth in Article 6 of this chapter, regardless of whether ~~or not~~ the personal representative has first resigned or been removed and regardless of whether ~~or not~~ a successor fiduciary has been appointed; or
- (4) Issue such other order as in the court's judgment is appropriate under the circumstances of the case.

(b) In any proceeding brought pursuant to this Code section, service of notice shall be made in the manner provided by Chapter 11 of this title.

§ 53-7-56. Resignation

(a) A personal representative may resign:

- (1) In the manner and under the circumstances described in the will;

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(2) Upon petition to the probate court, showing that the resignation has been requested in writing by all heirs of an intestate estate or all beneficiaries of a testate estate; or

(3) Upon petition to the probate court, showing to the satisfaction of the court that:

(A) The personal representative is unable to continue serving due to age, illness, infirmity, or other good cause;

(B) Greater burdens have developed upon the office of personal representative than those ~~which were that~~ originally ~~were~~ contemplated or should have been contemplated when the personal representative was qualified and the additional burdens would work a hardship upon the personal representative;

(C) Disagreement exists between one or more of the beneficiaries or heirs and the personal representative in respect to the personal representative's management of the estate, which disagreement and conflict appear deleterious to the estate;

(D) The resignation of the personal representative will result in or permit substantial financial benefit to the estate;

(E) The resigning personal representative is one of two or more acting personal representatives and the other personal representatives will continue in office with no adversity to the estate contemplated; or

(F) The resignation would not be disadvantageous to the estate.

(b) A personal representative's petition to resign shall be made to the probate court and the court shall cause citation to issue and service shall of notice to be made upon all the heirs of an intestate estate or the beneficiaries of a testate estate in the manner provided by Chapter 11 of this title.

§ 53-7-60. Jurisdiction

(a) The superior court shall have concurrent jurisdiction with the probate court over the settlement of accounts of personal representatives.

(b) The provisions of this part are applicable to temporary administrators in the same manner as provided for personal representatives.

§ 53-7-62. Appearance before court; failure of personal representative to appear; right to appeal

(a) Any person interested as an heir or beneficiary of an estate or the probate court may, after the expiration of six months from the granting of letters, cite the personal representative to appear before the probate court for a settlement of accounts. Alternatively, if the personal representative chooses, the personal representative may cite all the heirs or beneficiaries and all persons who claim to be creditors whose claims the personal representative disputes or cannot pay in full to be present at the settlement of the personal representative's accounts by the court. The settlement shall be conclusive upon the personal representative and upon all the heirs or beneficiaries and all remaining persons who claim to be creditors who receive ~~notice of the hearing~~ service of notice of the settlement proceeding in the probate court and the hearing in the manner provided by subsection (b) of this Code section or by Chapter 11 of this title. The court may, in the court's discretion, give the personal representative additional time to settle the estate.

(b) If the personal representative fails or refuses to appear as cited, the probate court may proceed without the appearance of the personal representative. If the personal representative has been required to give bond, the surety on such bond shall be bound by the settlement if the surety is ~~given~~ served with notice by personal service of the settlement proceeding in the probate court. If one or more unsuccessful attempts at service are made by the sheriff or the sheriff's deputies upon the personal representative at the last address of the personal representative in the court records and it appears to the probate court that further attempts are likely to be futile, then service ~~of notice~~ shall be sufficient upon the personal administrator for purposes of this Code section if the citation is mailed by first-class mail to such address.

(c) Any party to the settlement shall have the right to appeal.

§ 53-7-63. Making and enforcing final settlement

Upon proof of issuance of citation and service of notice pursuant to Code Section 53-7-62, the probate court may proceed to make an account, hear evidence upon any contested question, and make a final settlement between the personal representative and the heirs or beneficiaries. The settlement may be enforced by a judgment, writ of fieri facias, execution, or attachment for contempt.

§ 53-7-68. Mailing of return to heirs and beneficiaries; relieving personal representative of duty to file return

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(a) Upon filing the annual return with the probate court, the personal representative shall mail by first-class mail a copy of the return, but not the vouchers, to each heir of an intestate estate or each beneficiary of a testate estate. It shall not be necessary to mail a copy of the return to any heir or beneficiary who is not sui juris or for the court to appoint a guardian for such person. The personal representative shall file a verified statement with the probate court stating that all required mailings of the return to heirs or beneficiaries have been made.

(b) Any heir or beneficiary may waive individually the right to receive a copy of the annual return by a written statement that is delivered to the personal representative. Such waiver may be revoked in writing at any time.

(c) By unanimous written consent, the heirs of an intestate estate or the beneficiaries of a testate estate may authorize the probate court to relieve the personal representative from filing annual returns with them or with the court or both, in the same manner as provided in subsection (b) of Code Section 53-7-1. Any such unanimous written consent, regardless of the date of execution, ~~which that~~ relieves the personal representative from filing annual returns with the court shall also relieve the personal representative from sending a copy of the return to the ~~beneficiaries~~ heirs or beneficiaries; but a personal representative shall furnish to the heirs or beneficiaries, at least annually, a statement of receipts and disbursements.

§ 53-7-71. Return of nonresident or deceased personal representative

(a) The return of a nonresident personal representative may be admitted to record upon affidavit of the personal representative's surety.

(b) If a personal representative is dead, the personal representative of the estate of the deceased personal representative or, if at any time there is no such personal representative of the estate of the deceased personal representative, any surety on the bond of the deceased personal representative may make returns of the accounts of ~~the~~ such deceased personal representative in the same manner and with the same effect as if the deceased personal representative were living.

§ 53-7-74. Filing of objections to intermediate report; continuation of hearing; appeal

At or before the time fixed for hearing, any parties at interest may file objections to the personal representative's report, actions, and accounting, in which case the hearing on the accounting shall ~~be~~ automatically be continued until a date certain, when, subject to the probate court's power to grant continuances, the same shall be heard as other cases pending in the probate court with like right of appeal to the superior court; ~~in~~ In such case, an appeal by consent may be taken to the superior court. ~~Such; provided, however, that such~~ appellate procedures shall not apply to cases provided for by Article 6 of Chapter 9 of Title 15. The parties at interest who have been served ~~appropriately~~ with notice as provided in subsection (c) of Code Section 53-7-73 and who have filed no objections to the report and accounting need not be served with notice of an appeal or any other or further proceedings, and their consent shall not be required for an appeal to the superior court.

§ 53-7-75. Construction of will by superior court

~~The probate court, upon its own motion or upon the motion of any party in interest~~ (a) Except as otherwise provided in subsection (b) of this Code section and in paragraph (7) of subsection (a) of Code Section 15-9-127, whenever it appears that a question of construction of a will is involved in the accounting, ~~the probate court, upon its own motion or upon the motion of any party in interest,~~ shall enter an order transferring the accounting to the superior court for the determination of all such questions, which shall be presented to, heard, and determined by the superior court as appeals from the probate court are presented, heard, and determined.

(b) A probate court subject to Article 6 of Chapter 9 of Title 15 shall have jurisdiction over questions of construction of a will involved in the accounting and may determine all such questions without transferring the accounting to the superior court.

(c) The probate court may suspend further proceedings pending a final ~~decision~~ determination of the ~~superior court~~ questions of construction.

(d) After a final determination of the questions of construction, the probate court shall proceed with the accounting.

§ 53-8-10. Authority of personal representative; petition by temporary administrator

(a) Subject to the provisions of this article, a personal representative may sell, rent, lease, exchange, or otherwise dispose of property, whether personal, real, or mixed, for the purpose of payment of debts, for distribution of the

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estate; or for any other purpose that is in the best interest of the estate; provided, ~~however,~~ that nothing in this article shall be construed to limit, enlarge, or change any authority, power, restriction, or privilege specifically provided by will or incorporated into a will or otherwise granted to the personal representative in accordance with the provisions of subsection (b) of Code Section 53-7-1.

(b) A temporary administrator is authorized to petition the probate court for leave to sell or otherwise deal with property of the estate following the procedures described in this article; provided, ~~however,~~ that good cause is shown.

§ 53-8-11. Property that is perishable, liable to deteriorate, or expensive to keep

Perishable property, property that is liable to deteriorate from keeping, or property that is expensive to keep shall be sold as early as practicable and in such manner as the probate court shall determine to be in the best interest of the estate; after such service of notice and opportunity for hearing, if any, as the probate court shall deem practicable under the circumstances.

§ 53-8-13. General procedures

(a) A personal representative desiring to sell, rent, lease, exchange, or otherwise dispose of property other than property that is perishable, liable to deteriorate, or expensive to keep or listed stocks and bonds shall file a petition with the probate court stating the property involved and the interests in such property, the specific purpose of the transaction; the proposed price, if any; and all other terms or conditions proposed for the transaction and ~~a list of listing the~~ names, addresses, and ages or majority status of all heirs ~~in of~~ an intestate estate or of all beneficiaries ~~in of~~ a testate estate. In the event full particulars are lacking, the petition shall state the reasons for any such omission.

(b) Upon the filing of the petition, by the personal representative, the court shall issue a citation and serve notice ~~shall be given to~~ the heirs of an intestate estate or the affected beneficiaries of a testate estate in accordance with the provisions of Chapter 11 of this title.

(c) If no written objection by a person so ~~notified~~ served with notice is filed within the appropriate period of time following the service of such notice, as provided by Chapter 11 of this title, the probate court shall order such sale summarily in the manner and terms petitioned. If timely written objection is filed, the court shall hear the matter and grant or deny the petition for sale or make such other order as is in the best interest of the estate, which may require the sale to be private or at public outcry including confirmation of the sale by the court or otherwise. An appeal shall lie to the superior court in the manner, under the restrictions, and with the effect provided for appeals from the probate court in other cases.

(d) A personal representative shall make a full return to the probate court of every sale, specifying the property sold, the purchasers, the amounts received, and the terms of the sale.

(e) The recital in the personal representative's deed of compliance with ~~legal~~ the provisions of this Code section shall be prima-facie evidence of the facts recited.

(f) Where a personal representative sells real property under the provisions of this Code section, liens on such real property may be divested and transferred to the proceeds of the sale as a condition of the sale.

§ 53-8-14. Warranty; personal liability of personal representative

~~A personal representative (a) Regardless of whether a personal representative has the powers provided by paragraph (1) of subsection (b) of Code Section 53-12-261 or by the corresponding provision of any statute incorporated pursuant to subsection (d) of Code Section 53-12-263 or otherwise has similar such powers, and regardless of whether such powers are granted by a probate court or are enumerated in or incorporated by reference into a will by a testator, a personal representative may not bind the estate by any warranty in any conveyance or contract, nor (b) A personal representative shall a personal representative not be bound personally bound by such covenant by any warranty in any conveyance or contract,~~ unless the intention to create a personal liability is distinctly expressed.

§ 53-8-15. Passage of title to heirs or beneficiaries; assent of personal representative

(a) The title to all property of an estate being in the personal representative for the payment of debts and other purposes of administration, title to property in the estate does not pass to the heirs or beneficiaries until the personal

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representative assents thereto in evidence of the distribution of the property to them, except as otherwise provided in Code Section 53-2-7.

(b) Such assent may be express or may be presumed from the conduct of the personal representative. Assent should be evidenced in writing as a deed of conveyance to real property, bill of sale conveying tangible personal property, or an assignment or transfer of interests in intangible personal property.

(c) In the absence of prior assent, the discharge of a personal representative shall be conclusive evidence of the personal representative's assent.

(d) At any time after the lapse of one year from the date of qualification of the personal representative, an heir or beneficiary who is entitled to the distribution of property from an estate may, personally or by guardian, cite the personal representative in the probate court to show cause why assent should not be given and may compel such assent by an equitable proceeding, a guardian:

(1) Cite the personal representative in the probate court to show cause why assent should not be given after service of notice in accordance with Chapter 11 of this title; and

(2) Subject to Code Section 23-1-4, compel such assent by an equitable proceeding.

§ 53-9-2. Filing and contents of petition; publication of notice

(a) A petition for administration of the estate, for the probate in common form or solemn form of the will, for year's support, or for an order that no administration is necessary may be filed for the estate of a missing individual whose death may be presumed or established in the probate court as provided in Code Section 53-9-1. The petition may be made by anyone who would be entitled to file such petition on the estate of the missing individual if the missing individual were known to be dead and shall be filed in the county in which the estate of the missing individual would be administered were the missing individual known to be dead.

(b) In addition to complying with all of the requirements for petitions pertaining to the administration of an estate or the probate of a will or year's support or an order that no administration is necessary, as appropriate, the petition regarding the estate of a missing individual who is believed to be dead shall set forth the circumstances under which the individual disappeared, what inquiry has been made as to the individual's whereabouts, and such evidence as shall be offered, if necessary, for the purpose of proving death by a preponderance of the evidence.

(c) If the court finds the petition to be in compliance with the requirements set forth in subsection (b) of this Code section, the court shall issue an order directing that a ~~notice~~citation issue and be published once a week for four weeks in the official newspaper of the county in which the petition is made giving notice that on a ~~day stated~~date certain, which shall be at least 90 days after the first publication of ~~the notice~~such citation, evidence will be heard by the court concerning the alleged absence of the individual presumed to be dead and the circumstances and duration of such absence and requiring the missing individual, if alive, or any other person to produce and present to the court evidence that the missing individual is still in life. The ~~notice~~publication of citation required by this subsection may be combined with any other service of notice required for the issuance of letters ~~of testamentary or letters of administration~~, an order for year's support, or an order that no administration is necessary. ~~The or directed by the court pursuant to Code Section 53-11-5. Such service of~~ notice shall be ~~served~~made as provided in Chapter 11 of this title on all individuals who would be heirs if the missing individual were known to be dead. The order may also direct that the petitioner make a search for the missing individual and shall specify the manner in which the search is to be conducted to ensure that, in light of the circumstances of the particular case, a diligent and reasonable effort has been made to locate the missing individual. The order may prescribe any methods of search deemed by the judge to be adequate and appropriate, including but not limited to publishing notices in newspapers in appropriate locations and making inquiry of governmental agencies and of the missing individual's relatives and friends and at the missing individual's last place of abode or other appropriate places.

§ 53-9-20. Presumption or proof of death

If an individual who is domiciled outside this state and possessed of any interest in or claim to or against real or personal property or cause of action located in this state shall have been absent for a period of time under circumstances whereby, pursuant to the law of the place in which the individual is domiciled, the individual is presumed to be dead, and a court of competent jurisdiction in the place of domicile has entered a final order or decree that the individual is presumed to be dead, the provisions of this title shall apply in every respect as if the individual in fact had died. If the individual shall have been absent for a period of not ~~less~~fewer than four years and shall not have been declared dead in the domiciliary jurisdiction, the individual may be declared dead in this state pursuant to the provisions of Article 1 of this chapter, as if a domiciliary of this state, for purposes of the property

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interests or claims or causes of action located in this state.

§ 53-10-5. Applicability of chapter

This chapter shall not apply in the case of wills, trusts, deeds, contracts of insurance, or any other situation where provision is made for distribution of property different from that provided in this chapter or where provision is made for a presumption as to survivorship ~~which that~~ results in a distribution of property different from that provided in this chapter.

§ 53-11-1. Applicability of, and compliance with, provisions

Except as otherwise specifically provided, the provisions of this chapter shall apply to any proceeding in the probate court that arises under Chapters 1 through 10, 12, and 13 of this title. Compliance with the provisions of this chapter shall be deemed to be sufficient for proceedings in the probate court arising under Chapters 1 through 10, 12, and 13 of this title except as otherwise provided in those chapters and in Chapter 11 of Title 9 and Chapter 9 of Title 15.

§ 53-11-3. Personal service; generally

- (a) Except as otherwise prescribed by law or directed by the probate judge, a party in interest who is a resident of this state is entitled to personal service of any petition and citation for proceedings that are subject to the provisions of this chapter.
- (b) Except as otherwise provided in this Code section, personal service shall be made by delivery of a copy of the petition and citation by the sheriff or some other lawful officer at least ~~ten~~30 days before the hearing, except that, if waived in writing, ~~or if shortened by the~~the probate court upon good cause shown, the 30-day provision shall not apply. An entry of such service shall be made on the original and the copy for the party served.
- (c) A party who is in the military service may be served by any commissioned officer who shall file with the probate court a certificate stating that copies of the petition and citation were served in person.
- (d) Individuals who are not sui juris shall be served as provided in this chapter or as provided in Code Section 15-9-17.
- (e) When personal service is required by this Code section, unless otherwise directed by the probate court, service may be made by registered or certified mail or statutory overnight delivery if the petitioner so requests in the petition. The court shall cause a copy of the petition and the citation to be sent by registered or certified mail or statutory overnight delivery with return receipt requested and with delivery restricted to addressee only. If the return receipt is not signed by the addressee, dated at least ~~ten~~21 days before the date specified in the citation: (except where shortened by the court upon good cause shown), and received by the court before the date specified in the citation for the filing of objections, service shall be made as otherwise required by this Code section.

§ 53-11-4. Service where person or residence unknown, or resides outside state

- (a) Except as otherwise prescribed by law or directed by the probate judge pursuant to Code Section 53-11-5, the provisions of this Code section shall apply in cases when a person to be served with notice of a proceeding covered by this chapter has a known current residence address outside this state, or whose current residence address is unknown.
- (b) Unless all such persons have known current residence addresses, the probate court shall order service of notice to be perfected by publication of the citation in the newspaper in which sheriff's advertisements are published in the county in which the petition is made. The citation shall be published once a week for four weeks prior to the date on which objections must be filed. The records of the court shall show the persons notified served with notice and the character of the such service of notice given. The published citation shall be directed to the person to be served with such notice.
- (c) If the current residence address of such a person is known, the court shall cause service ~~shall of notice to~~ be made by mailing by certified or registered mail or statutory overnight delivery, return receipt requested, a copy of the petition and the citation.
- (d) When service of notice by publication is ordered by the court pursuant to this Code section, compliance with the provisions of this Code section relating to a person to be notified served with notice who is known but whose current residence address is unknown shall be equivalent to personal service of a copy of the petition and citation when the

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fact appears in the records of the court showing the persons ~~notified served with notice~~ and the character of ~~the such service of notice given~~. In the case of a known person whose current residence address is unknown, that person's name shall appear in the records of the court, and such records shall show as to that person's compliance with this Code section. In any case in which service of ~~notice~~ by publication is granted ~~by the court~~, one order for ~~service of notice~~ by publication shall be sufficient and the published citation shall be directed as provided in subsection (b) of this Code section.

§ 53-11-5. Additional service or notice

~~On the motion of any party in interest or on its own motion, the~~ probate ~~judge~~ court may direct any additional service ~~of citation or other~~ notice or extend the time to respond with respect to any proceedings covered by this chapter as the judge may determine to be proper in the interests of due process and reasonable opportunity for any party or interest to be heard.

§ 53-11-6. Waiver or acknowledgment of service or notice; consent to granting of relief or entry of order

(a) Service ~~of citation or other~~ notice may be waived or acknowledged before or after the filing of the petition. The waiver or acknowledgment shall be in a writing signed by the person to be served ~~with notice~~ or some person authorized by the person to be served ~~with such notice~~, shall be sworn to or affirmed before the probate court or a notary public, and shall be filed with the probate court.

(b) Except as otherwise prescribed by law, the written consent of a party to the granting of any relief or the entry of any order sought in a proceeding ~~covered by this chapter~~, whether executed before or after the filing of the petition, shall constitute a waiver and acknowledgment of ~~notice and~~ service of ~~notice of~~ the proceedings, waiver of ~~any other or further citation or service of notice~~, entry of appearance, answer admitting all allegations of fact set forth in the petition as true and correct, and consent to the granting of the relief or the order sought.

(c) A person in military service, regardless of age, shall be permitted to make any waiver, acknowledgment, or consent described in this Code section.

§ 53-11-9. Issuance of citation upon filing of petition; contents; meaning

(a) Upon the filing of a petition, a citation shall be issued ~~by the court and~~ addressed to the persons required to be served ~~or entitled with notice or who otherwise are to be served with notice~~; provided, however, if all ~~parties such persons~~ have acknowledged service of ~~notice~~ and assented to the petition, no ~~such~~ citation need issue. ~~The Such~~ citation shall state that any objection must be made in writing and shall designate the date on or before which objections must be filed in the probate court. ~~The Such~~ citation also shall state whether the hearing will take place on a certain date or be specially scheduled for a later date. With respect to all proceedings under this title, ~~the any such~~ citation, ~~if any~~, may state that if no objections are filed the petition may be granted without a hearing.

(b) For purposes of this chapter, the words "citation" and "notice" shall have the same meaning unless the context otherwise requires.

~~(c) Wherever appearing in this title with respect to proceedings in the probate court covered by this chapter:~~

~~(1) "Service of notice", "given notice", "due notice", "notified", and similar words and phrases of the same import shall mean service of petition and citation in a manner provided by applicable law, and shall include acknowledgment or waiver of such service and such service upon a guardian ad litem or other appropriate representative, unless the context otherwise requires;~~

~~(2) "The official county newspaper", "the newspaper in which sheriff's advertisements are published", "the official newspaper of the county in which the petition is made", "the official newspaper of the county in which the personal representative qualified", and similar words and phrases of the same import shall mean the journal or newspaper qualified or designated as the official legal organ of the county of the probate court having jurisdiction in such proceeding pursuant to Code Section 9-13-142;~~

~~(3) "Published", "publication", "service by publication", "notice shall be published", and similar words and phrases of the same import shall mean publication in the official legal organ described in paragraph (2) of this subsection unless the context otherwise requires;~~

~~(4) "Beneficiary" shall include "devisee" and "legatee" unless the context otherwise requires;~~

~~(5) Any hearing called for in any proceeding shall be within the court's sound discretion and shall not be required if no caveat or objection is timely filed and thereafter maintained unless the context otherwise requires; and~~

~~(6) Any requirement that no caveat or objection be filed;~~

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(A) Shall be satisfied by the dismissal or withdrawal of all caveats or objections so filed unless the context otherwise requires; and

(B) May, in the court's sound discretion, be satisfied by the failure of any party served with notice to file a caveat or objection in a timely manner unless the context so requires.

§ 53-11-10. Date by which objections must be filed or on which hearing will be held

(a) Except as otherwise prescribed by law, or as shortened by the judge upon good cause shown or directed by the judge pursuant to Code Section 53-11-5, with respect to any particular proceeding, the date on or before which any ~~objection~~person is required to ~~be filed~~file any objection shall be not ~~less~~fewer than ~~ten~~ten30 days after the date ~~the~~such person is personally served with notice. For ~~persons~~a person within the continental United States who ~~are~~is served with notice by registered or certified mail or statutory overnight delivery, return receipt requested, the date on or before any objection is required to be filed by such person shall not be ~~less~~fewer than ~~thirty~~ten30 days from the date of mailing of such service of notice by the court; provided, however, that if a return receipt from any recipient is received by the court within ~~thirty~~ten30 days from ~~the~~such date of mailing of such service of notice, the date on or before any objection is required to be filed by such recipient shall be ~~ten~~ten21 days from the date of receipt of such service of notice shown on such return receipt. For a person outside the continental United States who is served with notice by registered or certified mail or statutory overnight delivery, return receipt requested, the date on or before any objection is required to be filed by such person shall not be ~~less~~fewer than 30 days from the date the service of the citation is mailed by the court; provided, however, that if the return receipt from any recipient is received by the court during such 30-day period, the date on or before which any objection is required to be filed by such recipient shall not be earlier than ~~ten~~ten21 days from the date of such recipient's receipt of such service of notice shown on such return receipt. For a person served with notice by publication, the date on or before which any objection is required to be filed shall be no ~~sooner~~earlier than the first day of the week following such service by publication of citation once each week for four weeks.

(b) Except as otherwise prescribed by law or directed by the judge with respect to any particular proceeding, the date on which any required hearing shall be held shall be the date by which any objection is required to be filed or such later date as the probate court may specify. When the matter is set for hearing on a date that was not specified in the citation, the probate court shall ~~send~~serve by first-class mail a notice of the date, time, and place of the hearing to the petitioner and all parties who have ~~serve~~filed responses to the petition at the addresses given by them in their pleadings.

§ 53-12-6. Jurisdiction

(a) Trusts are peculiarly subjects of equity jurisdiction. Suits by or against a trustee which sound at law may be filed in a court of law.

(b) Actions concerning the construction, ~~or administration, or internal affairs~~ of a trust, or for a court to take any actions authorized by the provisions of this chapter, shall be maintained in superior court except as otherwise provided in Code Section 15-9-127.

(c) Any action by or against the trustee or to which the trustee is a party may be maintained in any court having jurisdiction over the parties and the subject matter, except as otherwise provided in subsection (b) of this Code section or in Code Section 15-9-127.

§ 53-12-7. When trust and chapter conflict

(a) The effect of the provisions of this chapter may be varied by the trust instrument except:

- (1) As to any requirements relating to the creation and validity of express trusts as provided in Article 2 of this chapter;
- (2) As to the effect of the rules relating to spendthrift trusts as provided in Article 5 of this chapter;
- (3) As to the power of the beneficiaries to modify a trustee's compensation as provided in Code Section 53-12-210;
- (4) As to the duty of a trustee to administer the trust and to exercise discretionary powers in good faith as provided in Code Sections 53-12-240 and 53-12-260;
- (5) As to the effect of a provision relieving a trustee from liability as provided in Code Section 53-12-303; and
- (6) As to the periods of limitation on actions as provided in Code Sections 53-12-45 and 53-12-307.

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(7) As to the effect of the rules relating to trust directors as provided in Article 18 of this chapter.

(b) Nothing in a trust instrument shall prohibit or limit a court from taking any actions authorized by the provisions of this chapter.

§ 53-12-8. Notice to person permitted to bind another person; consent on behalf of another person; representation of others

(a) Notice to a person who may represent and bind another person under this Code section shall have the same effect as if notice were given directly to such other person.

(b) The consent of a person who may represent and bind another person under this Code section shall be binding on the person represented unless the person represented objects to such representation before such consent would otherwise have become effective. Consent shall include, but shall not be limited to, an action related to the granting of powers to a trustee, modification or termination of a trust, a trustee's duty to report, entry into a binding nonjudicial settlement agreement, a trustee's compensation, the conversion of a trust to a unitrust, the appointment, resignation, or removal of a trustee, and other similar actions.

(c) Except as otherwise provided in Code Section 53-12-61, a person who under this Code section may represent a settlor who lacks capacity may receive notice and give a binding consent on such settlor's behalf.

(d) A settlor may not represent and bind a beneficiary under this Code section with respect to the termination or modification of a trust under Article 4 of this chapter.

(e) To the extent there is no conflict of interest between the holder of a power of appointment and the persons represented with respect to the particular question or dispute, such holder may represent and bind persons whose interests are as permissible appointees, as takers in default, or are otherwise subject to the power.

(f) To the extent there is no conflict of interest between the representative and the person represented or among those being represented with respect to a particular question or dispute:

(1) A conservator may represent and bind the estate that the conservator controls;

(2) A guardian may represent and bind his or her ward if a conservator of such ward's estate has not been appointed;

(3) An agent having authority to act with respect to the particular question or dispute may represent and bind the principal;

(4) A trustee may represent and bind the beneficiaries of the trust;

~~(5) A trust director may represent and bind the beneficiaries of the trust on a question or dispute relating to the trust director's powers of direction;~~

~~(6) A person designated in the trust instrument to receive notice and provide consent on behalf of a beneficiary may represent and bind a beneficiary~~

(7) A personal representative of a decedent's estate may represent and bind persons interested in such estate; and

~~(8) An ancestor may represent and bind an ancestor's minor or unborn descendant if a conservator or guardian for such descendant has not been appointed.~~

(g) Unless otherwise represented, a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by another having a substantially identical interest with respect to a particular question or dispute, but only to the extent there is no conflict of interest between the representative and the person represented with respect to such particular question or dispute.

(h) A person who on the date of determination would be eligible to receive distributions of income or principal from the trust upon the termination of the interests of all persons then currently eligible to receive distributions of income or principal may represent and bind contingent successor ~~remainder~~-beneficiaries, ~~including, but not limited to, charitable entities~~; with respect to matters in which there is no conflict of interest between the representative and the persons represented with respect to a particular question or dispute.

~~(i) A charitable entity may represent and bind another person and be represented by a person under this Code section in the same manner as an individual.~~

~~(j) A person who is represented under this Code section may represent and bind another person under this Code section.~~

~~(k) Any person whose interests would be affected may request that the court determine whether an interest is represented under this Code section or whether the representation is adequate. If the court determines that an interest is not represented under this Code section, or that the otherwise available representation might be inadequate, the court may appoint a representative to receive notice, give consent, and otherwise represent, bind, and act on behalf of a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable. A representative may be appointed to represent several persons or interests. A~~

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representative may act on behalf of the individual represented with respect to any matter arising under this chapter, regardless of whether a judicial proceeding concerning the trust is pending. In making decisions, a representative may consider the general benefit accruing to the living members of the individual's family.

(l) A person who may represent and bind another person under this Code section does not represent and bind such other person unless the representation is stated in the notice received by or the consent given by the representative.
(m) The interests of unascertainable charitable beneficiaries of a trust that is not a charitable trust shall be represented as provided in Code Section 53-12-174 for the beneficiaries under a charitable trust.

§ 53-12-9. "Interested persons" defined; binding nonjudicial settlement agreement

~~(a) As used in this Code section, the term "interested persons" means the trustee and all other persons whose consent would be required in order to achieve a binding settlement were the settlement to be approved by the court.~~

~~(b) Except as provided in subsection (e)~~ of this Code section, the ~~interested person~~ trustee and all other persons whose interests would be affected may enter into a binding nonjudicial settlement agreement with respect to any matter involving ~~the~~ trust.

~~(e)~~ A nonjudicial settlement agreement:

(1) Shall be valid only to the extent it does not violate a material purpose of the trust and includes terms and conditions that could be properly approved by the court under this Code or other applicable law; and

(2) Shall not be valid with respect to any modification or termination of a ~~noncharitable~~ irrevocable trust when the settlor's consent would be required in ~~order~~ proceeding to achieve a binding settlement, if approve such ~~settlement were to be approved by a court~~ modification or termination under Code Section 53-12-61 ~~(b)~~.

~~(c) A nonjudicial settlement agreement entered into in accordance with this Code section shall be final and binding on all parties to such agreement, including individuals not sui juris, unborn beneficiaries, and persons unknown who are represented by a person who may represent and bind such parties under Code Section 53-12-8, as if ordered by a court with competent jurisdiction over the trust, the trust property, and the parties.~~

~~(d) Any interested person~~ person bound by a nonjudicial settlement agreement under subsection (c) of this Code section may request ~~that~~ the court approve a ~~nonjudicial settlement~~ such agreement, determine whether the representation as provided in Code Section 53-12-8 was adequate, ~~or determine whether such agreement violates a material purpose of the trust,~~ determine whether such agreement contains terms and conditions the court could have properly approved, ~~or make any other similar determination.~~

~~(e) An~~ Entering into or petitioning a court regarding a nonjudicial settlement agreement entered into in accordance with ~~under~~ this Code section shall be ~~final and binding on the interested persons as if ordered by a court with competent jurisdiction over the trust, the trust property, and the interested persons~~ not constitute a violation of a condition in terrorem under Code Section 53-12-22.

§ 53-12-22. Trust purposes and conditions in terrorem

(a) A trust may be created for any lawful purpose.

(b) A condition in terrorem shall be void unless there is a direction in the trust instrument as to the disposition of the property if the condition in terrorem is violated, in which event the direction in the trust instrument shall be carried out, ~~except as otherwise provided in subsection (c) of this Code section.~~

~~(c) A condition in terrorem shall not be enforceable against an individual for:~~

(1) Bringing an action for interpretation or enforcement of a trust instrument;

(2) Bringing an action to determine whether a particular challenge would violate a condition in terrorem;

(3) Bringing an action for an accounting, for removal, or for other relief against a trustee; or

(4) Entering into a settlement agreement.

§ 53-12-61. Power to direct modification, consolidation, division, or termination; petition to modify or terminate noncharitable irrevocable trust; proceeding to approve proposed modification or termination; distribution of trust property under order for termination

(a) The trust instrument may confer upon a trustee or other person a power to modify, ~~consolidate, divide,~~ or terminate the trust without court approval.

(b) During the settlor's lifetime, the court shall approve a petition to modify or terminate a ~~noncharitable~~ irrevocable trust, even if the modification or termination is inconsistent with a material purpose of the trust, if the settlor and all ~~the~~ qualified beneficiaries consent to such modification or termination and the trustee has received

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notice of the proposed modification or termination. A settlor's power to consent to such trust's modification or termination may be exercised by:

- (1) An agent under a power of attorney only to the extent expressly authorized by the power of attorney and the ~~terms~~provisions of the trust;
 - (2) The settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized; or
 - (3) The settlor's guardian with the approval of the court supervising the guardianship if an agent is not so authorized and a conservator has not been appointed.
- (c) Following the settlor's death the court shall approve a petition to:
- (1) Modify ~~a noncharitable~~an irrevocable trust if all ~~the~~qualified beneficiaries consent, the trustee has received notice of the proposed modification, and the court concludes that modification is not inconsistent with any material purpose of such trust; and
 - (2) Terminate ~~a noncharitable~~an irrevocable trust if all ~~the~~qualified beneficiaries consent, the trustee has received notice of the proposed termination, and the court concludes that continuance of such trust is not necessary to achieve any material purpose of such trust.
- (d) The court may, upon petition:
- (1) Modify the trust if, owing to circumstances not anticipated by the settlor, modification would further the purposes of such trust;
 - (2) Modify the administrative provisions of a trust if continuation of such trust under its existing provisions would impair such trust's administration;
 - (3) Modify the trust by the appointment of an additional trustee or special fiduciary if such appointment is necessary or helpful to the administration of such trust;
 - (4) Modify the trust to achieve the settlor's tax objectives, with such modification to have either prospective or retroactive effect;
 - (5) Order the division of a single trust into two or more trusts or the consolidation of two or more trusts, whether created by the same or different trust instruments or by the same or different persons, into a single trust if the division or consolidation would be helpful to the administration of such trust or trusts; or
 - (6) Terminate a trust and order distribution of the trust property if the:
 - (A) Costs of administration are such that the continuance of such trust, the establishment of such trust if it is to be established, or the distribution from a probate estate would defeat or substantially impair the purposes of such trust;
 - (B) Purpose of such trust has been fulfilled or become illegal or impossible to fulfill; or
 - (C) Continuance of such trust would impair the accomplishment of the purposes of such trust.
- (e) A proceeding to approve a proposed modification or termination under this Code section may be commenced by a trustee or beneficiary. A proceeding to approve a proposed modification or termination under subsection (b) of this Code section may be commenced by a trustee, beneficiary, or settlor. In the case of an unfunded testamentary trust, a petition for modification or termination under this Code section may be filed by the personal representative of the settlor's estate.
- ~~(f) No later than 30 days after filing the petition for modification or termination, notice~~(f) Notice of a petition to modify or terminate a trust under subsection (d) of this Code section shall be given to the settlor, if living, the trustee, any trust director, all qualified beneficiaries, any holder of a power of appointment over the trust property, and such other persons as the court may direct.
- (g) The court may modify or terminate a trust as provided in this Code section regardless of whether it contains spendthrift provisions or other similar protective provisions.
- (h) An order under subsection (d) of this Code section shall conform as nearly as practicable to the intention of the settlor.
- (i) Distribution of the trust property under an order for termination shall be made to or among the current beneficiaries and the vested remainder beneficiaries, or, if there are no vested remainder beneficiaries, among the current beneficiaries and the contingent remainder beneficiaries. The order shall specify the appropriate share, if any, of each current and remainder beneficiary who is to share in the proceeds of the trust so as to conform as nearly as practicable to the intention of the settlor. The order may direct that the interest of a minor beneficiary, or any portion thereof, be converted into qualifying property and distributed to a custodian pursuant to Article 5 of Chapter 5 of Title 44, "The Georgia Transfers to Minors Act."
- (j) For purposes of this chapter, modification of a trust includes the consolidation or division of a trust.
- (k) Subsections (b) and (c) of this Code section shall not apply to charitable trusts.
- (l) Petitioning for or consenting to a modification or termination under this Code section shall not constitute a violation of a condition in terrorem under Code Section 53-12-22.

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§ 53-12-62. Power of trustee to invade principal of original trust

(a) As used in this Code section, the term:

(1) "Original trust" refers to the trust from which principal is being distributed.

(2) "Second trust" refers to the trust to which assets are being distributed from the original trust, whether a separate trust or an amended version of the original trust.

(b)

(1) As used in this subsection, the term "current beneficiary" means a person who, on the date of distribution to the second trust, is a distributee or permissible distributee of trust income or principal.

(2) Unless the original trust instrument expressly provides otherwise, a trustee, other than a person who contributed property to the trust, with authority to invade the principal of the original trust to make distributions to or for the benefit of one or more of the beneficiaries may also, independently or with court approval, exercise such authority by distributing all or part of the principal of the original trust to a trustee of a second trust; provided, however, that the second trust shall not include as a:

(A) Current beneficiary any person that is not a current beneficiary of income or principal of the original trust; or

(B) Beneficiary any person that is not a beneficiary of the original trust.

(c) Except as provided in this Code section, a trustee may exercise the power to invade the principal of the original trust under subsection (b) of this Code section without the consent of the settlor or the beneficiaries of the original trust if such trustee provides written notice of such trustee's decision to exercise the power to such settlor, if living, any trust director, and those persons then entitled to annual reports from the trustee of the original trust under Code Section 53-12-243(b), taking into account the provisions of the original trust and subsections (c) and (d) of Code Section 53-12-243. Such notice shall:

(1) Describe the manner in which such trustee intends to exercise such power;

(2) Specify the date such trustee proposes to distribute to the second trust; and

(3) Be delivered at least ~~60~~30 days before the proposed distribution to the second trust.

(d) The exercise of the power to invade the principal of the original trust under subsection (b) of this Code section shall be by an instrument in writing, signed and acknowledged by the trustee, and filed with the records of the original trust.

(e) The exercise of the power to invade the principal of the original trust under subsection (b) of this Code section shall not extend the permissible period of the rule against perpetuities that applies to such original trust.

~~(f) The exercise of the power to invade the principal of the original trust under subsection (b) of this Code section by a trustee who is also a beneficiary shall be subject to the limitations of Code Section 53-12-270.~~

(g) This Code section shall not be construed to abridge the right of any trustee who has a power of invasion to distribute property in further trust that arises under any other law or under common law, and nothing in this Code section shall be construed to imply that the common law does not permit the exercise of a power to invade the principal of a trust in the manner authorized under subsection (b) of this Code section.

(gh) A second trust may confer a power of appointment upon a beneficiary of the original trust to whom or for the benefit of whom the trustee has the power to distribute the principal of such original trust. For purposes of this subsection, the permissible appointees of the power of appointment conferred upon a beneficiary may include persons who are not beneficiaries of such original trust or second trust.

(hi) If any contribution to the original trust qualified for the annual exclusion under Section 2503(b) of the federal Internal Revenue Code, as it existed on February 1, 2018, the marital deduction under Section 2056(a) or 2523(a) of the federal Internal Revenue Code, as it existed on February 1, 2018, or the charitable deduction under Section 170(a), 642(c), 2055(a), or 2522(a) of the federal Internal Revenue Code, as it existed on February 1, 2018, is a direct skip qualifying for treatment under Section 2642(c) of the federal Internal Revenue Code, as it existed on February 1, 2018, or qualified for any other specific tax benefit that would be lost by the existence of the authorized trustee's authority under subsection (b) of this Code section for income, gift, estate, or generation-skipping transfer tax purposes under the federal Internal Revenue Code, then the authorized trustee shall not have the power to distribute the principal of a trust pursuant to subsection (b) of this Code section in a manner that would prevent the contribution to the original trust from qualifying for such exclusion, deduction, or other tax benefit or would reduce such exclusion, deduction, or other tax benefit that was originally claimed with respect to such contribution.

(ij) The exercise of the power to invade the principal of the original trust under subsection (b) of this Code section shall be subject to the following limitations:

(1) The second trust need not qualify as a grantor trust for federal income tax purposes, even if the original trust does qualify as a grantor trust, except that if such original trust qualifies as a grantor trust because of the application

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of Section 672(f)(2)(A) of the federal Internal Revenue Code, as it existed on February 1, 2018, such second trust may not include or omit a term that, if included in or omitted from the original trust instrument, would have prevented such original trust from qualifying under such section;

(2) ~~The~~Unless the settlor objects in a writing delivered to the trustee before the date the trustee proposes to distribute from the original trust to the second trust, such second trust may qualify as a grantor trust for federal income tax purposes, even if ~~thesuch~~such original trust does not so qualify, except that if such original trust does not so qualify and such second trust will so qualify, in whole or in part, with respect to the settlor, such second trust shall grant such settlor or another person a power that would cause such second trust to cease to be a grantor trust for federal income tax purposes ~~unless such settlor objects in a writing delivered to the trustee before the date the trustee proposes to distribute from such original trust to such second trust~~; and

(3) When both the original trust and the second trust qualify as grantor trusts for federal income tax purposes and such original trust grants the settlor or another person the power to cause such original trust to cease to be a grantor trust, such second trust shall grant an equivalent power to the settlor or another person unless such settlor objects in a writing delivered to the trustee before the date the trustee proposes to distribute from such original trust to such second trust.

(~~jk~~) During any period when the original trust owns stock in a Subchapter "S" corporation as defined in Section 1361(a)(1) of the federal Internal Revenue Code, as it existed on February 1, 2018, an authorized trustee shall not exercise a power authorized by subsection (b) of this Code section to distribute part or all of the stock of the Subchapter "S" corporation to a second trust that is not a permitted shareholder under Section 1361(c)(2) of the federal Internal Revenue Code, as it existed on February 1, 2018.

(~~kl~~) A trustee or other person that reasonably relies on the validity of a distribution of property of the original trust to the second trust under subsection (b) of this Code section or any other law or common law shall not be liable for any action or failure to act as a result of such reliance.

(~~lm~~) This Code section shall not create or imply a duty for a trustee to exercise a power conferred by this Code section.

(~~mn~~) If exercise of the power to invade the principal of the original trust would be effective under subsection (b) of this Code section except that the second trust in part does not comply with this Code section, such exercise of the power shall be effective, a provision in such second trust that is not permitted under this Code section shall be void to the extent necessary to comply with this Code section, and a provision required by this Code section to be in such second trust that is not contained in such second trust shall be deemed to be included in such second trust to the extent necessary to comply with this Code section.

(~~no~~) The settlor of the original trust shall be deemed to be the settlor of the second trust with respect to the portion of the principal of the original trust subject to the exercise of the power to invade the principal of such original trust under subsection (b) of this Code section.

(~~op~~) A debt, liability, or other obligation enforceable against property of the original trust shall be enforceable to the same extent against the property when held by the second trust after exercise of the power to invade the principal of such original trust under subsection (b) of this Code section.

(~~pq~~) This Code section shall apply to any trust the meaning and effect of whose trust provisions are determined by the law of this state.

(~~r~~) This Code section shall not apply to ~~a trust held solely for charitable purpose trusts.~~

§ 53-12-82. Rules for trusts; consideration of assets of an inter vivos marital trust following death

(a) ~~Whether or not~~(1) As used in this subsection, the term "creditor" means:

(A) With respect to subparagraphs (A) and (B) of paragraph (2) of this subsection, those creditors of a settlor whose claims against the property of the trust are governed by this article, including those creditors identified in subsection (d) of Code Section 53-12-80; and

(B) With respect to subparagraph (C) of paragraph (2) of this subsection, those creditors of the estate of a deceased settlor whose claims against the property of the estate are governed by Article 4 of Chapter 7 of this title, including those creditors identified in Code Section 53-7-40.

(2) Regardless of whether the trust instrument contains a spendthrift provision, the following rules shall apply:

(~~1A~~) During the lifetime of the settlor, the property of a revocable trust shall be subject to claims of the settlor's creditors;

(~~2B~~) With respect to an irrevocable trust:

(A) Creditors or assignees of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit during the settlor's life or that could have been distributed to or for the settlor's benefit immediately

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prior to the settlor's death, provided that, if a trust has more than one settlor, the amount the creditors or assignees of a particular settlor may reach shall not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution; and

~~(Bii)~~ The portion of a trust that can be distributed to or for the settlor's benefit pursuant to the power of a trustee, whether arising under the trust ~~agreement~~instrument or any other law, to make a distribution to or for the benefit of a settlor for the purpose of reimbursing the settlor in an amount equal to any income taxes payable on any portion of the trust principal and income that is treated as the settlor's individual income under applicable law shall not be considered an amount that can be distributed to or for the settlor's benefit during the settlor's life or that could have been distributed to or for the settlor's benefit immediately prior to the settlor's death; ~~and.~~

~~(3C)~~ After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities shall be paid, ~~the:~~

~~(i)~~ The property of a trust that was revocable at the settlor's death or had become irrevocable as a result of the settlor's incapacity shall be subject to claims of the ~~settlor's~~creditors of the settlor's estate to the extent the settlor's probate estate is inadequate; ~~and~~

~~(ii)~~ Payments that would not be subject to the claims of the ~~settlor's~~creditors of the settlor's estate if made by way of beneficiary designation to persons other than the settlor's estate shall not be made subject to such claims by virtue of this Code section unless otherwise provided in the trust instrument.

(b) (1) As used in this subsection, the term:

(A) "Inter vivos marital trust" means:

(i) A trust described in Section 2523(e) of the Internal Revenue Code of 1986, as it existed on February 1, 2018;

(ii) A trust for which the election described in Section 2523(f) of the Internal Revenue Code of 1986, as it existed on February 1, 2018, has been made; or

(iii) Another trust to the extent such trust's assets are attributable to a trust described in division (i) or (ii) of this subparagraph.

(B) "Settlor's spouse" means the spouse of the settlor at the time of the creation of an inter vivos marital trust, regardless of whether such spouse is married to the settlor at the time of such spouse's death.

(2) Subject to Article 4 of Chapter 2 of Title 18, after the death of the settlor's spouse, the assets of an inter vivos marital trust shall be deemed to have been contributed by the settlor's spouse and not by the settlor.

§ 53-12-170. Definition; charitable purposes

(a) A charitable trust is a trust in which the settlor provides that the trust property shall be used exclusively for charitable purposes.

(b) Charitable purposes shall include:

(1) The relief of poverty;

(2) The advancement of education;

(3) The advancement of ethics and religion;

(4) The advancement of health;

(5) The advancement of science and the arts and humanities;

(6) The protection and preservation of the environment;

(7) The improvement, maintenance, or repair of cemeteries, other places of disposition of human remains, and memorials;

(8) The prevention of cruelty to animals;

(9) Governmental purposes; and

(10) Other similar subjects having for their object the relief of human suffering or the promotion of human civilization.

~~(e) If the settlor provides for both charitable and noncharitable purposes, the provisions relating to the charitable purposes shall be governed by this article.~~

§ 53-12-210. Compensation of trustee

(a) Trustees shall be compensated in accordance with either the trust instrument or any separate written agreement between the trustee and the settlor. After the settlor's death or incapacity or while the trust is irrevocable, the trust instrument or the agreement relating to such trustee's compensation may be modified as follows:

(1) ~~All~~The trustee and all qualified beneficiaries may by unanimous consent modify the trust instrument or agreement relating to the trustee's compensation without receiving the approval of any court; ~~and/or~~

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(2) By petition pursuant to Code Section 53-12-61.

(b) If there is no provision for trustee compensation in the trust instrument and there is no separate written agreement between the trustee and the settlor relating to such trustee's compensation, a separate written agreement relating to such trustee's compensation may be entered into between such trustee and the qualified beneficiaries as follows:

(1) ~~All~~The trustee and all qualified beneficiaries may by unanimous consent enter into an agreement relating to such trustee's compensation without receiving the approval of any court; or

(2) Any qualified beneficiary may petition the court to approve an agreement relating to such trustee's compensation. Such petition shall be served upon all qualified beneficiaries.

(c) In cases other than those described in subsections (a) and (b) of this Code section, the trustee shall be entitled to compensation as follows:

(1) With respect to a corporate trustee, its published fee schedule, provided such fees are reasonable under the circumstances; and

(2) With respect to an individual trustee:

(A) One percent of cash and the fair market value of any other principal asset received upon the initial funding of the trust and at such time as additional principal assets are received; and

(B) An annual fee calculated in accordance with the following schedule based upon the cash and the market value of the other principal assets valued as of the last day of the trust accounting year prorated based on the length of service by such trustee during that year: * * *

§ 53-12-241. Duty of prudent administration

(a) In administering a trust, the trustee shall exercise the judgment and care of a prudent person acting in a like capacity and familiar with such matters, considering the purposes, provisions, distribution requirements, and other circumstances of the trust.

(b) A trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in Article 16 of this chapter.

§ 53-12-243. Duty to provide reports and accounts

(a) On reasonable request by any qualified beneficiary, the trustee shall provide the qualified beneficiary with a report of information, to the extent relevant to that beneficiary's interest, about the assets, liabilities, receipts, and disbursements of the trust, the acts of the trustee, and the particulars relating to the administration of such trust, including the trust provisions that describe or affect such beneficiary's interest.

(b)

(1) A trustee shall account at least annually, at the termination of the trust, and upon a change of trustees to each ~~qualified~~ beneficiary of an irrevocable trust to whom income is required or authorized in the trustee's discretion to be distributed currently, and to any person who may revoke the trust. At the termination of the trust, the trustee shall also account to each remainder beneficiary. Upon a change of trustees, the trustee shall also account to the successor trustee. In full satisfaction of this obligation, the trustee may deliver the accounting to the guardian or conservator of any ~~qualified~~ beneficiary who is not sui juris.

(2) An accounting furnished to a ~~qualified~~ beneficiary pursuant to paragraph (1) of this subsection shall contain a statement of receipts and disbursements of principal and income that have occurred during the last complete fiscal year of the trust or since the last accounting to that beneficiary and a statement of the assets and liabilities of the trust as of the end of the accounting period.

(c) A trustee shall not be required to report information or account to a ~~qualified~~ beneficiary who has waived in writing the right to a report or accounting and has not withdrawn that waiver.

(d) Subsections (a) and (b) of this Code section shall not apply to the extent that the ~~terms~~provisions of the trust provide otherwise or the settlor of the trust directs otherwise in a writing delivered to the trustee.

§ 53-12-261. Powers of trustee; limitation based on fiduciary duties

(a) A trustee of an express trust, without court authorization, shall be authorized to exercise:

(1) Powers conferred by the trust instrument; and

(2) Except as limited by the trust instrument:

(A) All powers over the trust property that an unmarried competent owner has over individually owned property;

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(B) Any other powers appropriate to achieve the proper investment, management, and distribution of the trust property; and

(C) Any other powers conferred by this chapter.

(b) Without limiting the authority conferred by subsection (a) of this Code section, a trustee of an express trust, without court authorization, shall be authorized:

(23) To employ and compensate, out of income or principal or both and in such proportion as the fiduciary shall deem advisable, persons deemed by the fiduciary needful to advise or assist in the administration of the estate or trust, including, but not limited to, agents, accountants, brokers, attorneys at law, attorneys in fact, investment brokers, rental agents, realtors, appraisers, and tax specialists; and to do so without liability for any neglect, omission, misconduct, or default of ~~the any such~~ agent or representative, ~~provided such person was~~ selected and retained with due care on the part of the fiduciary; provided, however, that, if an attorney in fact is appointed by a power of attorney to which Chapter 6B of Title 10 is applicable under Code Section 10-6B-81, the exercise of the fiduciary powers of the trustee by the attorney in fact shall be subject to Code Section 10-6B-40;

(29) To make, modify, and execute contracts and other instruments, under seal or otherwise, as the fiduciary deems advisable; ~~and,~~

~~(30) To serve without making and filing inventory and appraisal, without filing any annual or other returns or reports to any court, and without giving bond; but a personal representative shall furnish to the income beneficiaries, at least annually, a statement of receipts and disbursements-~~

(c) The exercise of a power shall be subject to the fiduciary duties prescribed by this ~~chapter~~article.

(d) If a ~~testator incorporates by reference into a will or a~~ probate court grants to a personal representative any ~~or all~~ of the powers contained in this Code section, then ~~as:~~

(1) ~~As~~ used in this Code section, the term:

~~(1) "Beneficiary" includes a distributee of the estate;~~

~~(2) "Trust" includes the estate held by the personal representative; and~~

~~(3) "Trustee" or "fiduciary" includes the personal representative.~~

(A) "Beneficiary" includes a distributee of the estate;

(B) "Trust" includes the estate held by the personal representative; and

(C) "Trustee" or "fiduciary" includes the personal representative; and

(2) A conferral upon a personal representative of the powers provided by paragraph (1) of subsection (b) of this Code section shall not authorize such personal representative to bind the estate by any warranty in any conveyance or contract in violation of subsection (a) of Code Section 53-8-14.

§ 53-12-263. Incorporation of powers by reference

(a) By an expressed intention of the testator or settlor contained in a will or in a trust instrument in writing whereby an express trust is created, any or all of the powers or any portion thereof enumerated in this part, as they exist at the time of the signing of the will by the testator or at the time of the signing by the first settlor who signs the trust instrument, may be, by appropriate reference made thereto, incorporated in the will or other written instrument with the same effect as though such language were set forth verbatim in the trust instrument.

(b) At any time after the execution of a revocable trust, the settlor or anyone who is authorized by the trust instrument to modify the trust may incorporate any or all of the powers or any portion thereof enumerated in this part, as they exist at the time of the incorporation.

(c) Incorporation of one or more of the powers contained in this part, by reference to the appropriate portion of Code Section 53-12-261, shall be in addition to and not in limitation of the common-law or statutory powers of the fiduciary.

(d)

(1) A provision in any will or trust instrument which incorporates powers by citation to Georgia Laws 1973, page 846; Code 1933, Section 108-1204 (Harrison); former Code Section 53-12-232 or 53-15-3; or Code Section 15-12-261, which were in effect at the time the trust was created and which was valid under the law in existence at the time the will was signed by the testator or at the time of the signing by the first settlor who signed the trust instrument shall be effective notwithstanding the subsequent repeal or amendment of such statute.

(2) A provision in any will or trust instrument which was signed by the testator or by the first settlor to sign after June 30, 1991, but before July 1, 1992, and which incorporates powers by citation to former Code Section 53-15-3 in effect on the date of such signing shall be deemed to mean and refer to the corresponding powers contained in

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former Code Section 53-12-232.

(e) If any or all of the powers contained in this part are incorporated by reference into a will by a testator, ~~then as used in this part the term or granted to a personal representative by a probate court, then:~~

(1) ~~“Beneficiary” includes a distributee of As used in this part, the estate term:~~

(1) “Beneficiary” includes a distributee of the estate;

(2) “Trust” includes the estate held by the personal representative; and

(3) “Trustee” or “fiduciary” includes the personal representative(2) “Trust” includes the estate held by the personal representative; and

(3) “Trustee” or “fiduciary” includes the personal representative.

; and

(2) A conferral upon a personal representative of the powers provided by paragraph (1) of subsection (b) of Code Section 53-12-261 or by the corresponding provision of any statute incorporated pursuant to subsection (d) of this Code section shall not authorize such personal representative to bind the estate by any warranty in any conveyance or contract in violation of subsection (a) of Code Section 53-8-14.

§ 53-12-264. Granting of powers by qualified beneficiaries

The qualified beneficiaries of a trust that omits any of the powers in Code Section 53-12-261 may by unanimous consent authorize but not require the court to grant to the trustee those powers.

§ 53-12-340. Investment standard

(a) In investing and managing trust property, a trustee shall exercise the judgment and care under the circumstances then prevailing of invest and manage trust assets as a prudent person acting in a like capacity and familiar with such matters; investor would, by considering the purposes, provisions, and distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

(b) A trustee’s investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust: portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(bc) Among the factors that a trustee shall consider in investing and managing trust assets are such of the following as are relevant to the trust or its beneficiaries:

(1) General economic conditions;

(2) The possible effect of inflation or deflation;

(3) Anticipated tax consequences;

(4) The attributes of the portfolio,

(5) The expected return from income and appreciation;

(6) Needs for liquidity, regularity of income, and preservation or appreciation of capital;

(7) An asset’s special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries or to the settlor;

(8) The anticipated duration of the trust; and

(9) Any special circumstances.

(e)d) In investing and managing trust assets, the trustee may consider a beneficiary’s personal values, including but not limited to a beneficiary’s desire to engage in sustainable investing strategies that align with social, environmental, governance or other values or beliefs of the beneficiary.

(c) Any determination of liability for investment performance shall consider not only the performance of a particular investment but also the performance of the portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(e)f) A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(g) A trustee may invest in any kind of property or type of investment consistent with the standards of this article.

(h) A trustee who has special investment skills or expertise shall have a duty to use those special skills or expertise.

A trustee who is named trustee in reliance upon such trustee’s representation that such trustee has special investment skills or expertise shall be held liable for failure to make use of such degree of skill or expertise.

(e) A trustee may invest in any kind of property or type of investment consistent with the standards of this article.

(ff)i) In investing and managing trust assets, a trustee may only incur costs that are appropriate and reasonable in

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relation to the assets, the purposes of the trust, and the skills of the trustee.

(j) A trustee that is a bank or trust company shall not be precluded from acquiring and retaining the securities of or other interests in an investment company or investment trust because the bank or trust company or an affiliate provides services to the investment company or investment trust as investment adviser, custodian, transfer agent, registrar, sponsor, distributor, manager, or otherwise and receives compensation for such services, if the costs are otherwise appropriate and reasonable in relation to the assets.

§ 53-12-500. Definitions

As used in this article, the term:

(1) "Directed trustee" means a trustee that is subject to a trust director's power of direction.

(2) "Power of appointment" means a power that enables a person, acting in a nonfiduciary capacity, ~~to:~~

~~(A) To designate a recipient of either an ownership interest in or another power of appointment over trust property;~~
~~(B) To rescind or terminate either an ownership interest in or another power of appointment over trust property; and~~
~~(C) To determine when a beneficiary shall have the rights granted under Code Sections 53-12-242 and 53-12-243 or similar rights granted under the governing instrument.~~

(3) "Power of direction" means a power over a trust granted to a person by the trust instrument to the extent the power is exercisable ~~while the person is not serving in a capacity other than~~ as a trustee. Such term includes a power over the administration of the trust or the investment, management, or distribution of the trust property; a power to consent to a trustee's actions, whether through exercise of an affirmative power to consent or through nonexercise of a veto power over a trustee's actions, ~~when where~~ a trustee may not act without such consent; ~~a power to represent a beneficiary, other than a power under Code Section 53-12-8; and, except as otherwise provided in the trust instrument, any all~~ further powers appropriate to the exercise or nonexercise of such powers. ~~held by the trust director pursuant to Code Section 53-12-502(a).~~ Such term shall exclude the powers described in subsection (b) of Code Section 53-12-501.

(4) "Trust director" means a person that is granted a power of direction by a trust to the extent the power is exercisable ~~while the person is not serving in a capacity other than~~ as a trustee, regardless of ~~how whether~~ the trust instrument refers to such person as a trust director and regardless of whether the person is a beneficiary or settlor of the trust.

§ 53-12-501. Application of article; construction of trust instrument

(a) This article shall apply when the trust instrument evidences the settlor's intent to provide for the office and function of a trust director, regardless of the terms used to describe such office and functions.

(b) This article shall not apply to:

(1) A power of appointment;

(2) A power to appoint or remove a trustee or trust director;

(3) A power of a settlor to revoke the trust or amend the trust instrument;

(4) A power of a beneficiary over a trust to the extent the exercise or nonexercise of the power affects the beneficial interest of the beneficiary or a person represented by the beneficiary under Code Section 53-12-8 with respect to the exercise or nonexercise of the power; or

(5) A power over a trust if both:

(A) The ~~terms of the trust provide~~ instrument provides such power is held in a nonfiduciary capacity; and

(B) Such power must be held in a nonfiduciary capacity to achieve the settlor's tax objectives.

(c) Except as otherwise provided in the trust instrument, for purposes of this Code section a power ~~that is both granted to a person to designate a recipient of an ownership interest in or power of appointment and a power of direction shall be deemed over trust property that is exercisable in a capacity other than as a trustee is~~ a power of appointment and not a power of direction.

§ 53-12-502. Authority, procedures, and powers of trust directors

(a) ~~Subject to~~ Except as otherwise provided in this Code section, a trust instrument may grant powers of direction to a trust director.

(b) ~~A trust director shall be subject to the same rules as a trustee in a like position and under similar circumstances~~ Except as otherwise provided in the trust instrument, when a trust instrument grants powers of direction to a trust director, the trust director shall have any further powers appropriate to the exercise or nonexercise

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of a power of direction regarding:

~~(1) A payback provision in the trust necessary to comply with the reimbursement requirements of Medicaid law in Section 1917 of the Social Security Act, 42 U.S.C. Section 1396p(d)(4)(A), as it existed on February 1, 2018, and regulations issued thereunder; and~~ direction, which may include, without limitation:

~~(2) A charitable interest in the trust.~~

~~(e)(1) The power to enter into a binding nonjudicial settlement agreement under Code Section 53-12-9;~~

~~(2) The power to file a petition for reformation under Code Section 53-12-60; [and]~~

~~(3) The power to commence a proceeding to approve a proposed modification or termination under Code Section 53-12-61(c); and~~

~~(4) The power to obtain advice and compensate advisors from trust property under Code Section 53-12-261(23).~~

~~(c) A trust director shall have the powers related to accounting under Article 12 of this Chapter.~~

~~(d) A trust director's power of direction shall be subject to Code Section 53-12-81 related to creditors' rights and discretionary distributions.~~

~~(e) The powers of direction of a trust director who is also a beneficiary shall be subject to the limitations of Code Section 53-12-270.~~

~~(df) In the case of a power to modify the trust:~~

~~(1) The duties or liabilities of a trustee may not be enlarged without the trustee's express consent; and~~

~~(2) A trustee shall not be liable for failing to act in accordance with a modification or termination of a trust of which the trustee had no notice.~~

§ 53-12-503. Role of directors; petitioning court for instructions

(a) Except as otherwise provided in this ~~Code section~~ article, with respect to a power of direction:

~~(1) A trust director shall have the same fiduciary duty and liability in the exercise or nonexercise of the power of direction as a trustee in a like position and under similar circumstances; and,~~

~~(2) The trust instrument may vary the~~ (b) Where a trust director individually holds a power of direction, the trust director shall not have the liability of a cotrustee, whether under Code section 53-12-305 or otherwise, with respect to a trustee or other trust director. Where a trust director holds a power of direction jointly with a trustee or other trust director, the trust director shall have the liability of a cotrustee, whether under Code section 53-12-305 or otherwise, with respect to a trustee or other trust director regarding the actions of that trustee or other trust director that are within the scope of the jointly held power.

~~(c) Except as otherwise provided in the trust instrument, a trust director shall not have the duties imposed by Code Sections 53-12-242 and 53-12-243(b).~~

~~(d) Without limiting the scope of section (a) of this Code section,~~

~~(1) The trust instrument may vary a trust director's duty or liability to the same extent the trust instrument could vary the duty or liability of a trustee in a like position and under similar circumstances;~~

~~(b)(2) An action against a trust director for breach of trust must be commenced within the same limitation period as under Code Section 53-12-307 for an action for breach of trust against a trustee in a like position and under similar circumstances;~~

~~(3) A report or accounting shall have the same effect on the limitation period for an action against a trust director for breach of trust that the report or accounting would have under Code Section 53-12-307 in an action for breach of trust against a trustee in a like position and under similar circumstances;~~

~~(4) Code Sections 53-12-42 and 53-12-43 shall apply to a trust director in the same manner as to a trustee in a like position and under similar circumstances; and~~

~~(5) Code Section 53-12-62(l) shall apply to a trust director in the same manner as to a trustee in a like position and under similar circumstances.~~

~~(e) A trust instrument may make the existence of a trust director's power of direction contingent upon the occurrence of certain events, including, but not limited to, a request to the trust director from a beneficiary or other similar party~~ a request to the trust director from a beneficiary or other similar party. A trust instrument may also provide that a trust director's power of direction terminates or is rescinded upon the occurrence of certain events, including but not limited to the passage of a specified period of time after a request. For purposes of Code section 53-12-501, when a power of direction is contingent upon a request to a trust director from a person identified in the trust instrument, such person shall be deemed to hold a power of appointment.

~~(ef) A trust instrument may empower a trust director to delegate a power of direction to a trustee and provide that, upon written acceptance of such delegation by the trustee, the trustee shall assume the fiduciary duties and liabilities conferred by the power of direction until such time as the trust director or trustee terminates the delegation by~~

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written notice. Except as otherwise provided in the trust instrument, during the time a power of direction is delegated in accordance with this subsection, the directed trustee making such delegation shall not be subject to a fiduciary obligation to monitor the trustee's exercise or nonexercise of the delegated power.

(dg) Subject to subsection (g) of this Code section, a trust director shall:

(1) Keep trustees and other trust directors reasonably informed of the exercise or nonexercise of the trust director's power of direction to the extent such exercise or nonexercise is relevant to the party's powers and duties regarding the trust; ~~and~~

(2) Respond to reasonable requests from trustees and other trust directors for information to the extent such information is relevant to the party's powers and duties regarding the trust.

(eh) A trust director acting in reliance on information provided by a trustee or another trust director shall not be liable for a breach of trust to the extent the breach resulted from such reliance, unless ~~by so acting~~ the trust director ~~engages~~acts in ~~willful misconduct~~bad faith.

(fi) Except as otherwise provided in the trust instrument, if a trust director is licensed, certified, or otherwise authorized or permitted by law other than this article to provide health care in the ordinary course of the trust director's business or practice of a profession, to the extent the trust director acts in such capacity, the trust director shall have no duty or liability under this article.

(gj) (1) Except as otherwise provided in the trust instrument, a trust director shall not have a duty to:

(A) Monitor a trustee or another trust director regarding matters outside the scope of the trust director's powers of direction; or

(B) Inform or give advice to a settlor, beneficiary, trustee, or another trust director concerning an instance in which the director might have acted differently ~~than from~~ a trustee or another trust director.

(2) By taking one of the actions described in paragraph (1) of this subsection, a trust director ~~shall~~does not assume any of the duties excluded by this subsection.

(hk) A trust instrument may impose a duty or liability on a trust director in addition to the duties and liabilities under this Code section.

(il) A trust director that has reasonable doubt about a duty imposed by this Code section may petition the court for instructions.

§ 53-12-504.53-12-503.1.

A trust director is subject to the same rules as a trustee in a like position and under similar circumstances in the exercise or nonexercise of a power of direction regarding:

(1) A payback provision in the trust necessary to comply with the reimbursement requirements of Medicaid law in Section 1917 of the Social Security Act, 42 U.S.C. Section 1396p(d)(4)(A), as amended, and regulations issued thereunder; and

(2) A charitable interest in the trust.

53-12-504. Directed trustees; role; trustee's duty as to directed trustee; petitioning court for instructions

(a) Unless compliance by the directed trustee would clearly constitute ~~willful misconduct~~an act committed in bad faith on the part of the directed trustee, a directed trustee shall take reasonable action to comply with a trust director's exercise or nonexercise of a power of direction and shall not be liable for such action. A directed trustee must not comply with a trust director's exercise or nonexercise of a power of direction to the extent that compliance by the directed trustee would clearly constitute an act committed in bad faith.

~~(b) Subject to~~For purposes of subsection (ea) of this Code section, a directive from a trust director shall be within the scope of the trust director's powers of direction if the directed trustee ~~shall~~believes in good faith that the directive is within the trust director's powers of direction.

~~(4) Account at least annually~~(c) Subject to subsection (f) of this Code section, a directed trustee shall:

(1) Except as provided otherwise in the trust instrument, provide information to a trust director as if the trust director were a qualified beneficiary of an irrevocable trust to whom income is required or authorized in the trustee's discretion to be distributed; and

(2) Respond to reasonable requests from a trust director for information to the extent such information is relevant to the ~~party's interest in or~~ trust director's powers and duties regarding the trust.

(ed) A directed trustee acting in reliance on information provided by a trust director shall not be liable for a breach of trust to the extent the breach resulted from such reliance, unless by so acting the directed trustee ~~engages~~acts in

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~~willful misconduct~~bad faith.

~~(d)~~ A trustee shall not be liable for a failure to sufficiently report or provide information to a beneficiary or other party when such failure is related to the failure of a trust director to provide information to the trustee.

~~(e)~~ (1) Except as otherwise provided in the trust instrument, a trustee shall not have a duty to:

(A) Monitor, investigate, review, or evaluate a trust director, including a trust director's actions or inactions;

(B) Provide any accountings, reports, or other information to a trust director beyond that required by subsection (b) of this Code Section;

(C) Advise a trust director regarding the scope, nature, execution, standard of care, potential liability, or other aspects of their status as trust director;

(D) ~~Take~~Take compliance with a direction from the trust director would constitute an act committed in bad faith, ~~take~~ any action in response to ~~willful misconduct by the trust director~~such direction other than the refusal to comply with such direction;

(E) Attempt to compel a trust director to act or not act;

(F) Petition the court regarding a trust director's action, inaction, capacity, or any similar matter; or

(G) Inform or give advice to a settlor, beneficiary, trustee, or trust director concerning an instance in which the trustee might have acted differently than the trust director.

(2) By taking one of the actions described in paragraph (1) of this ~~Code section~~subsection, a directed trustee does not assume any of the duties excluded by this subsection.

~~(f)~~ An exercise of a power of direction under which a trust director may release a trustee from liability for breach of trust shall not be effective if the release was induced ~~by willful misconduct~~in bad faith or ~~by~~ the provision of false or incomplete information by the trustee.

~~(g)~~(h) A trust instrument may impose a duty or liability on a directed trustee in addition to the duties and liabilities under this Code section.

~~(i)~~ A directed trustee that has reasonable doubt about a duty imposed by this Code section may petition the court for instructions.

§ 53-12-505. Relief from duty and liability

A trust instrument may relieve a cotrustee from duty and liability with respect to another cotrustee's exercise or nonexercise of a power of the other cotrustee to the same extent that a directed trustee is relieved from duty and liability with respect to a trust director's power of direction under this article.

§ 53-12-506. Statutory provisions applicable to trust directors; defenses available to trust directors; jurisdiction

(a) ~~Except as otherwise provided in the trust instrument, the~~The rules applicable to a trustee ~~shall~~ apply to a trust director regarding:

(1) ~~Appointment and vacancies under~~ Code Section 53-12-204~~6~~ relating to jurisdiction;

(2) ~~Acceptance under~~ Except for the first sentence of Code Section 53-12-202;

(3) ~~Giving~~200 relating to powers with respect to the title to property, Article 11 of this chapter relating to the appointment and acceptance of a bond under Code Section 53-12-203;

(4) ~~Co-trustees under~~ Code Section 53-12-204;

(5) ~~Compensation, trustee compensation, and reimbursement of expenses under~~ Code Sections 53-12-210 through 53-12-214;

(6) ~~Resignation under~~ Code Section 53-12-220;

(7) ~~Removal under~~ Code Section 53-12-221~~;~~resignation and removal; and

(8) ~~Service under~~ Code Section 53-12-320.

(3) Article 15 of this chapter relating to nonresidents and foreign entities acting as trustees.

(b) In an action against a trust director for breach of trust, the trust director may assert the same defenses a trustee in a like position and under similar circumstances could assert in an action for breach of trust against the trustee.

(c) By accepting appointment as a trust director of a trust subject to this article, a trust director submits to personal jurisdiction of the courts of this state regarding any matter related to a power or duty of a trust director. This subsection shall not preclude use of another method to obtain jurisdiction over a trust director.

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§ 53-13-2. Definitions

As used in this chapter, the term:

(1) "Account" means an arrangement under a terms-of-service agreement in which a custodian provides goods or services to the user.

(2) ~~(A)~~ "Agent" means an attorney in fact granted authority under a durable or nondurable power of attorney, including a person granted authority to act in the place of an individual under Chapter 6B of Title 10 and a person serving under a financial power of attorney created pursuant to Article 7 of Chapter 6 of Title 10 as it existed on June 30, 2017.

~~(B)~~ Such term shall not include ~~a~~:

~~(i)~~ A health care agent, as defined in paragraph (6) of Code Section 31-32-2, ~~nor a~~;

~~(ii)~~ A person serving under a conditional power of attorney, as defined in subsection (a) of Code Section 10-6-6, unless the conditional power of attorney has become effective at a specified time or on the occurrence of a specified event or contingency; ~~nor~~

~~(iii)~~ A person to whom power and authority regarding the care and custody of a child, including temporary written permission to seek emergency medical treatment or other services for a child, has been delegated under Article 4 of Chapter 9 of Title 19.

(3) "Catalogue of electronic communications" means information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person.

(4) (A) "Conservator" means a person appointed:

(i) Pursuant to Code Section 7-1-640 or 7-1-643;

(ii) By a court to manage the estate of a living individual; or

(iii) By a court pursuant to Article 2 of Chapter 9 of this title to manage the estate of an individual who is missing or believed to be dead.

(B) Such term shall include a guardian of the property appointed prior to July 1, 2005, but shall not include a conservator appointed pursuant to paragraph (1) of Code Section 9-16-4 unless the order appointing such conservator expressly so states and the proceeding pursuant to Chapter 16 of Title 9 in which such conservator is appointed concerns specific property consisting of or including digital assets.

(5) "Content of an electronic communication" means information concerning the substance or meaning of the communication which:

(A) Has been sent or received by a user;

(B) Is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and

(C) Is not readily accessible to the public.

(6) "Court" means the probate court.

(7) "Custodian" means a person that engages in the transmission of, maintains, processes, receives, or stores a digital asset or electronic communication of another person.

(8) "Designated recipient" means a person chosen by a user using an online tool to administer digital assets of the user.

(9) "Digital asset" means an electronic record in which an individual has a right or interest. Such term shall not include an underlying asset or liability unless the asset or liability is itself an electronic record.

(10) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(11) "Electronic communication" has the meaning set forth in 18 U.S.C. Section 2510(12), effective January 1, 2018.

(12) "Electronic communication service" means a custodian that provides to a user the ability to send or receive an electronic communication.

(13) "Fiduciary" means an original, additional, or successor personal representative, conservator, agent, or trustee.

(14) "Information" includes data, text, images, videos, sounds, codes, computer programs, software, and databases.

(15) "Online tool" means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

(16) "Person" means an individual, estate, business or nonprofit entity, corporation, business trust, trust, partnership, limited liability company, association, unincorporated organization, joint venture, commercial entity, joint-stock company, public corporation, government or governmental subdivision, agency, instrumentality, other legal or commercial entity.

(17) "Personal representative" means an original, additional, or successor executor, administrator, county

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administrator, or administrator with the will annexed, or ~~special administrator~~ a person legally authorized to perform substantially the same functions.

(18) "Power of attorney" means a writing or other record that grants a person authority to act in the place of an individual, including a conditional power of attorney, as defined in subsection (a) of Code Section 10-6-6, a power of attorney created pursuant to Chapter 6B of Title 10, and a financial power of attorney created pursuant to Article 7 of Chapter 6 of Title 10 as it existed on June 30, 2017.

(19) "Principal" means an individual who grants authority to a person to act in the place of such individual in a power of attorney.

(20) "Protected person" means an individual for whom a conservator has been appointed, including a minor, as defined in Code Section 29-1-1, and a ward, as defined in Code Section 29-1-1. Such term shall include an individual for whom a petition for the appointment of a conservator is pending, including both a proposed ward, as defined in Code Section 29-1-1, and a respondent, as defined in Code Section 29-11-2.

(21) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(22) "Remote computing service" means a custodian that provides to a user computer-processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. Section 2510(14), in effect on January 1, 2018.

(23) "Terms-of-service agreement" means an agreement that controls the relationship between a user and a custodian.

(24) "Trustee" means a person with legal title to property under a trust instrument, as defined in Code Section 53-12-2, that creates a beneficial interest in another. Such term shall include an original, additional, or successor trustee.

(25) "User" means a person whose digital asset or electronic communication is carried, maintained, processed, received, or stored by a custodian or to which a custodian provides services.

(26) "Will" means the legal declaration of an individual's testamentary intention regarding such individual's property or other matters. Such term shall include all codicils to such legal declaration, a testamentary instrument that only appoints an executor, and an instrument that revokes or revises a testamentary instrument.

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§ 53-13-4.

In any proceeding brought pursuant to this chapter, service of notice shall be made in the manner provided by Chapter 11 of this title.

§ 7-1-239. Definitions; payment of large deposits of deceased intestate depositors; affidavit for disbursement; form for affidavit.

(a) As used in this Code section, the term:

- (1) "Affidavit of the provider" means the form provided for in subsection (e) of this Code section.
- (2) "Financial institution" means any federally chartered financial institution or state chartered financial institution, including, but not limited to, those chartered by states other than the State of Georgia whose deposits are federally insured.
- (b) Except as provided in subsection (c) of this Code section and in Article 8 of this chapter, whenever any person dies intestate having a deposit of not more than \$15,000.00 in a financial institution, such financial institution, upon receipt of an affidavit, shall be authorized to pay the proceeds of such deposit directly to the following individuals:
 - (1) To the surviving spouse;
 - (2) If no surviving spouse, to the children pro rata;
 - (3) If no children or surviving spouse, to the father and mother pro rata; or
 - (4) If none of the above, then to the brothers and sisters of the decedent pro rata.

Such affidavit shall state that such individuals qualify as the proper relation to the decedent as specified in this subsection, there is no known will of the decedent, and that there are no other known corresponding claimant or claimants to such deposit.

(c) Except as provided in Article 8 of this chapter and in paragraph (2) of subsection (d) of this Code section, if no application for the deposit is made by any person named in subsection (b) of this Code section within 45 days from the death of the intestate depositor, the financial institution shall be authorized to apply not more than \$15,000.00 of the deposit of such deceased depositor in payment of the funeral expenses and expenses of the last illness of such deceased depositor upon the receipt of itemized statements of such expenses and the affidavit of the providers of such services that the itemized statements are true and correct and have not been paid. ~~The~~Except as otherwise provided in paragraph (2) of subsection (d) of this Code section, the financial institution shall pay such expenses in the order ~~received after~~of priority provided by Code Section 53-7-40 following the expiration of six months from the death of the depositor.

~~(d) Payments pursuant to (d) (1) Except as otherwise provided in paragraph (2) of this subsection, payments made in compliance with~~ this Code section shall operate as a complete acquittal and discharge to the financial institution of liability from any suit, claim, or demand of whatever nature by any heir, distributee, creditor of the decedent, or any other person. ~~The~~Except as otherwise provided in paragraph (2) of this subsection, the financial institution may rely on a properly executed affidavit in disbursing the funds in accordance with this Code section.

(2) The protection provided by paragraph (1) of this subsection does not extend to payments made after a financial institution has received written notification from any party able to request present payment or from the legal representative of any such party to the effect that payments in accordance with the provisions of this Code section should not be permitted. The service of notice upon the financial institution of a proceeding in the probate court in the estate of the deceased intestate depositor in accordance with Chapter 11 of Title 53 shall constitute written notice satisfying the requirements of the preceding sentence of this paragraph: provided, however, that such service of notice shall not be the exclusive manner by which such written notification may be given.

(3) The financial institution may rely on a written notification satisfying the requirements of paragraph (2) of this subsection in refusing to disburse the funds as requested in an affidavit of the provider. Payments thereafter made pursuant to an order entered by the probate court having jurisdiction over the estate of the deceased intestate depositor shall operate as a complete acquittal and discharge to the financial institution of liability from any suit, claim, or demand of whatever nature by any heir, distributee, or creditor of the decedent or any other person.

(4) Nothing in this subsection shall relieve the liability of or limit the availability of any remedies against any provider of services giving an affidavit in the form provided for in subsection (e) of this Code section for any violation of Code Section 16-10-71, Code Section 53-6-2, or other applicable law.

(e) A document substantially in the following form shall be used as the affidavit of the providers of services of funeral expenses and expenses of last illnesses of deceased depositors:

"State of Georgia County of
STATUTORY AFFIDAVIT FORM

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from attests that
(Claimant) (Facility)
died on the day of , 20 .
(Deceased)

On information and belief, the Deceased has funds on deposit with .
(Financial Institution)

Under O.C.G.A. § 7-1-239, such Financial Institution is authorized to pay the proceeds of the Deceased's deposits, but in no event more than \$15,000.00, directly to the following persons identified, collectively, as potential recipient(s):

1. To the surviving spouse;
2. If no surviving spouse, to the children pro rata;
3. If no children or surviving spouse, to the father and mother pro rata; or
4. If none of the above, then to the brothers and sisters of the decedent pro rata.

Except as provided for by Article 8 in Title 7 of the O.C.G.A., if no request for the Deceased's deposit is made by a potential recipient(s) within 45 days from the Deceased's death, the Financial Institution is authorized to release up to \$15,000.00 for funeral expenses and expenses of the last illness of the Deceased upon the receipt of itemized statements of such expenses and this executed attestation.

The Claimant attests that there is no known will of the Deceased and there is no known potential recipient of the Deceased's deposits. The Claimant also attests that funeral expenses or expenses of the last illness in the amount of \$ were incurred related to the Deceased and that true and correct copies of the itemized receipts fully supporting such amount are attached to this affidavit. Finally, the Claimant further attests that such expenses have not been paid as of the date of execution of this affidavit.

Pursuant to O.C.G.A. § 7-1-239, the Claimant submits this form in order to receive payment in the amount of \$ (shall not exceed \$15,000.00) for outstanding funeral expenses or expenses of the last illness of the Deceased.

Signature of Claimant

Sworn and subscribed

before me this day

of , 20 .

Notary public (SEAL)

My commission expires: .”

§ 9-3-36.

(a) In no event may claims against a decedent's estate which arose before the death of the decedent be brought more than six years after the date of the decedent's death.

(b) Subsection (a) of this Code section is intended to create a six-year statute of ultimate repose and abrogation.

(c) Nothing in this Code shall be construed as placing a limitation on the time for commencing a proceeding to enforce any mortgage, pledge, or other lien upon property owned by a decedent immediately prior to the decedent's death.

§ 9-4-4. Declaratory judgments involving fiduciaries

(a) Without limiting the generality of Code Sections 9-4-2, 9-4-3, 9-4-5 through 9-4-7, and 9-4-9, any person interested as or through an executor, administrator, personal representative, trustee, guardian, conservator, or other fiduciary, creditor, devisee, distributee, legatee, heir, ward, next of kin, or beneficiary in the administration of a trust or of the estate of a decedent, a minor, an incapacitated person, a protected person, a person who is otherwise legally incompetent because of mental illness or intellectual disability, or an insolvent may have a declaration of rights or legal relations in respect thereto and a declaratory judgment:

- (1) To ascertain any class of creditors, devisees, legatees, heirs, next of kin, beneficiaries, or others;
- (2) To direct the executor, administrator, ~~or trustee~~, or other fiduciary to do or abstain from doing any particular act in his or her fiduciary capacity; ~~or~~

(3) To determine title to property in which the trust or estate has or is purported to have an ownership or other interest; or

(4) To determine any question arising in the administration of the estate or trust, including questions of construction of wills, trust instruments, and other writings.

(b) The enumeration in subsection (a) of this Code section does not limit or restrict the exercise of general powers

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conferred in Code Section 9-4-2 in any proceeding covered thereby where declaratory relief is sought in which a judgment or decree will terminate the controversy or remove the uncertainty.

§ 9-4-5. Filing and service; time of trial; drawing of jury

A proceeding instituted under this chapter shall be filed and served as are other cases in the superior courts of this state ~~and; provided, however, that a proceeding instituted in the probate court pursuant to paragraph (1) of subsection (a) of Code Section 15-9-127 shall be filed and served in the manner provided for proceedings in the probate courts of this state in Chapter 11 of Title 53. A proceeding instituted under this chapter~~ may be tried at any time designated by the court not earlier than 20 days after the service thereof, unless the parties consent in writing to an earlier trial. If there is an issue of fact ~~which~~that requires a submission to a jury, the jury may be drawn, summoned, and sworn either in regular term or specially for the pending case.

§ 9-4-11.

A declaratory judgment proceeding brought in the probate court as provided in paragraph (1) of subsection (a) of Code Section 15-9-127 may be combined with or made a part of any proceeding properly before the probate court to the greatest extent that does not infringe the exclusive jurisdiction of the superior courts pursuant to Article VI, Section IV, Paragraph I of the Constitution of this state.

§ 9-11-17. Real party in interest; capacity

(a) Real party in interest. Every action shall be prosecuted in the name of the real party in interest. ~~An executor, an A personal representative, a temporary administrator, a guardian, a conservator,~~ a bailee, a trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may bring an action in his own name without joining with him the party for whose benefit the action is brought; and, when a statute so provides, an action for the use or benefit of another shall be brought in the name of the state. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.:"

(b) Capacity to bring or defend an action. The capacity of an individual, including one acting in a representative capacity, to bring or defend an action shall be determined by the law of this state. The capacity of a corporation to bring or defend an action shall be determined by the law under which it was organized, unless a statute of this state provides to the contrary.

(c) Infants or incompetent persons. Whenever an infant or incompetent person has a representative, such as a general guardian, committee, conservator, or other like fiduciary, the representative may bring or defend an action on behalf of the infant or incompetent person. If an infant or incompetent person does not have a duly appointed representative, he may bring an action by his next friend or by a guardian ad litem. The court shall appoint a guardian ad litem for an infant or incompetent person not otherwise represented in an action or shall make such other order as it deems proper for the protection of the infant or incompetent person. No next friend shall be permitted to receive the proceeds of any personal action, in the name and on behalf of an infant, or incompetent person, until such next friend shall have entered into a sufficient bond to the Governor, for the use of the infant and the infant's representatives, conditioned well and fully to account for and concerning such trust, which bond may be sued on by order of the court in the name of the Governor and for the use of the infant. Such bond shall be approved by the court in which the action is commenced and such approval shall be filed in such clerk's office.

§ 10-6-4. Fiduciaries may convey by attorneys in fact

~~Executors, administrators~~(a) Personal representatives, guardians, conservators, and trustees are authorized to sell and convey property by attorneys in fact in all cases where they may lawfully sell and convey in person.

(b) When a personal representative, guardian, conservator, or trustee exercising the authority conferred by subsection (a) of this Code section appoints an attorney in fact by a power of attorney to which Chapter 6B of Title 10 is applicable under Code Section 10-6B-81, the exercise of fiduciary powers by such attorney in fact under such power of attorney shall be subject to Code Section 10-6B-40.

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§ 10-6-86. Liability of person signing instrument as agent or fiduciary

An instrument signed by one as agent, trustee, conservator, guardian, administrator, executor, or the like, without more, shall be the individual undertaking of the maker, except as otherwise provided ~~with regard to negotiable instruments~~ by Code Section 11-3-402, 13-5-30, 29-2-21, 29-3-21, 29-4-22, 29-5-22, 53-8-14, and 53-12-308, such words being generally words of description.

§ 10-6B-3. Applicability

This chapter shall apply to all powers of attorney except:

- (1) A power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;
- (2) A power to make health care decisions;
- (3) Any delegation of voting, management, or similar rights related to the governance or administration of an entity or business, including, but not limited to, delegation of voting or management rights;
- (4) A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose;
- (5) ~~Powers of attorney~~ A power that only grant grants authority with respect to a single transaction or series of related transactions involving real estate the transfer or disposition of identified real or personal property;
- (6) Powers of attorney provided for under Titles 19 and 33; and
- (7) As set forth in Code Section 10-6B-81.

§ 10-6B-40. Agent authority that requires specific grant; granting of general authority

(a) (1) An agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

(A) Create, fund, amend, revoke, or terminate an inter vivos trust, other than a trust created pursuant to 42 U.S.C. Section 1396p(d)(4)(B) as provided under subsection (d) of Code Section 53-12-20;

(B) Make a gift;

(C) Create or change rights of survivorship;

(D) Create or change a beneficiary designation;

(E) Authorize another person to exercise authority granted under the power of attorney;

(F) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;

(G) Exercise fiduciary powers, other than those associated with an ownership interest as provided under paragraph (14) of Code Section 10-6B-48, that the principal has authority to delegate;

(H) Exercise authority over the content of electronic communications, as such term is defined in Code Section 53-13-2, sent or received by the principal; or

(I) Renounce an interest in property, including a power of appointment.

(2) A failure to grant authority under subparagraphs (1)(A) through (1)(D) of this subsection shall not prevent an agent from accessing information, depositing money, or withdrawing money, pursuant to the agent's other authority and in accordance with the agent's duties to the principal, from a revocable trust or an account or other banking arrangement with a bank or other financial institution.

(b) Notwithstanding a grant of authority:

(1) To do an act described in subsection (a) of this Code section, unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, or descendant of the principal, shall not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise; and

(2) To exercise a fiduciary power described in subparagraph (a)(1)(G) of this Code section, an agent may only exercise those fiduciary powers of the principal that are expressly and clearly identified in the power of attorney. In identifying such fiduciary powers, the principal shall specify the persons for which the principal acts as a fiduciary. If such persons are not individuals, the principal shall specify only the estate, trust, or other legal or commercial entity for which the principal acts as a fiduciary. With respect to such an entity, the principal shall not be required to

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specify additional persons such as beneficiaries, members, partners, or other similar persons.

(c) Subject to subsections (a), (b), (d), and (e) of this Code section, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in Code Sections 10-6B-43 through 10-6B-55.

(d) Unless the power of attorney otherwise provides, a grant of authority to make a gift shall be subject to Code Section 10-6B-56.

(e) Subject to subsections (a), (b), and (d) of this Code section, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority shall control.

(f) Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this state and whether or not the authority is exercised or the power of attorney is executed in this state.

(g) An act performed by an agent pursuant to a power of attorney shall have the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

(h) A power of attorney shall not authorize an agent to:

- (1) Execute or revoke any will or codicil for the principal;
- (2) Make an affidavit as to the personal knowledge of the principal; or
- (3) Vote in any public election on behalf of the principal.

§ 10-6B-52. Personal and family maintenance

(a) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance shall authorize the agent to:

(1) Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when the power of attorney is executed or later born:

(A) The principal's minor children;

(B) The principal's adult children who are pursuing a postsecondary school education and are under 25 years of age;

(C) The principal's parents or the parents of the principal's spouse, if the principal had established a pattern of such payments or indicated a clear intent to make such payments;

(D) The principal's minor ~~dependents~~descendants who are not also the principal's children, if the principal had established a pattern of such payments or indicated a clear intent to make such payments;

(E) The principal's adult descendants who are under 25 years of age, not the principal's children, and pursuing a postsecondary school education, if the principal had established a pattern of such payments or indicated a clear intent to make such payments; and

(F) Any other individuals legally entitled to be supported by the principal;

(2) Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party;

(3) Provide living quarters for the individuals described in paragraph (1) of this subsection by:

(A) Purchase, lease, or other contract; or

(B) Paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals;

(4) Provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for individuals described in paragraph (1) of this subsection to enable such individuals to maintain their customary standard of living;

(5) Pay expenses for necessary health care and custodial care on behalf of the individuals described in paragraph (1) of this subsection;

(6) Act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act, Sections 1171 through 1179 of the Social Security Act, 42 U.S.C. Section 1320d, in effect on February 1, 2018, and applicable regulations in effect on February 1, 2018, in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the laws of this state to consent to health care on behalf of the principal;

(7) Continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them, for the individuals described in paragraph (1) of this subsection;

(8) Maintain credit and debit accounts for the convenience of the individuals described in paragraph (1) of this subsection and open new accounts; and

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- (9) Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue contributions to those organizations.
- (b) Authority with respect to personal and family maintenance shall be neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under this chapter.

§ 10-12-3. Applicability to electronic records and signatures relating to a transaction

- (a) Except as otherwise provided in subsection (b) of this Code section, this chapter shall apply to electronic records and electronic signatures relating to a transaction.
- (b) This chapter shall not apply to a transaction to the extent it is governed by:
- (1) A law governing the creation and execution of wills, codicils, or testamentary trusts or express trusts governed by Chapter 12 of Title 53;
 - (2) Title 11 other than Code Section 11-1-306, Article 2, and Article 2A; or
 - (3) The Uniform Computer Information Transactions Act.
- (c) This chapter shall apply to an electronic record or electronic signature otherwise excluded from the application of this chapter under subsection (b) of this Code section to the extent it is governed by a law other than those specified in subsection (b) of this Code section.
- (d) A transaction subject to this chapter shall also be subject to other applicable substantive law.
- (e) A governmental agency which is a party to a transaction subject to this chapter shall also be further subject to the records retention requirements for state and local government records established by state law.

§ 13-5-30. Agreements required to be in writing

- (a) To make the following obligations binding on the promisor, the promise must be in writing and signed by the party to be charged therewith or some person lawfully authorized by him or her:
- (1) A promise by ~~an executor, administrator or conservator~~, guardian, personal representative, or trustee to answer damages out of his or her own estate;
 - (2) A promise to answer for the debt, default, or miscarriage of another;
 - (3) Any agreement made upon consideration of marriage;
 - (4) Any contract for sale of lands, or any interest in, or concerning lands;
 - (5) Any agreement that is not to be performed within one year from the making thereof;
 - (6) Any promise to revive a debt barred by a statute of limitation; and
 - (7) Any commitment to lend money.
- (b) Any agreement to modify, alter, cancel, repeal, revoke, release, or rescind a promise, agreement, contract, or commitment provided for in subsection (a) of this Code section must be in writing and signed by all parties to such agreement; provided, however, that if the party against whom enforcement of such agreement under this subsection is sought admits in a pleading, in testimony, or otherwise in court, that the agreement was made, then such agreement is enforceable if valid in all other respects.

§ 15-9-4. Additional judicial eligibility requirements in certain counties

- (a) No individual elected judge of the probate court in any county provided for in this Code section shall engage in the private practice of law.
- (b) Except as otherwise provided by subsection (c) of this Code section, in any county of this state having a population of more than 90,000 persons according to the United States decennial census of 2010 or any future such census and in which the probate court of such county meets the definition of a probate court as provided by Article 6 of this chapter, no ~~person~~individual shall be judge of the probate court unless at the time of election, in addition to the qualifications required by law, he or she has attained the age of 30 years ~~and~~, has been admitted to practice law for seven years preceding election, is a member in good standing with the State Bar of Georgia, and has been duly reinstated to the practice of law in the event of his or her disbarment therefrom.
- (c) A judge of the probate court holding such office on or after June 30, 2000, shall continue to hold such office and shall be allowed to seek reelection for such office. Notwithstanding the requirement that in certain counties the judge of the probate court be admitted to practice law for seven years preceding election, no decision, judgment, ruling or other official action of any judge of the probate court shall be overturned, denied, or overruled based solely on this requirement for qualification, election, and holding the office of judge of the probate court.

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§ 15-9-17. Serving a minor or incapacitated adult

(a) Notwithstanding the provisions of Code Section 15-9-122 or any other provision of law to the contrary, in any action before the probate court in which the service of notice on a minor or an incapacitated adult is required by law or ordered by the probate court, such service of notice may be made by:

(1) Mailing by the probate court of a copy of the document to be served to the minor or incapacitated adult by certified mail or statutory overnight delivery, return receipt requested; and

(2) Serving the legal guardian or guardian ad litem of such minor or incapacitated adult if such legal guardian or guardian ad litem:

(A) Acknowledges receipt of such service; and

(B) Certifies that he or she has delivered a copy of the document so served to the minor or incapacitated adult.

(b) The acknowledgment of service and certification of the legal such guardian or guardian ad litem and the certificate of the service by mailing to the on such minor or incapacitated adult shall be filed with the probate court as proof of such service of notice.

(c) As used in this Code section, the term "guardian" shall have the same meaning provided in Code Section 53-1-2.

§ 15-9-47. Default judgments

Notwithstanding any provisions of Chapter 11 of Title 9, iff in any case pending before the probate court an answer, caveat, or other responsive pleading has not been filed within the time required by law or by lawful order of the court, the case shall automatically become in default unless the time for filing the answer, caveat, or other responsive pleading has been extended as provided by law. The petitioner at any time thereafter shall be entitled to verdict and judgment by default, in open court or in chambers, as if every item and paragraph of the petition or other pleadings filed in the matter were supported by proper evidence. At any time before final judgment, the court, in its discretion, upon payment of costs, may allow the default to open for providential cause preventing the filing of required pleadings or for excusable neglect or where the judge, from all the facts, shall determine that a proper case has been made for the default to open, on terms to be fixed by the court. In order for the default to be thus opened, the showing shall be made under oath, shall set up a meritorious defense, shall offer to plead instanter, and shall announce ready to proceed with the hearing in the matter. The provisions of Code Section 9-11-55 shall not be applicable to proceedings pertaining to defaults in the probate court.

§ 15-9-60. Fees

(a) The judges or clerks of the probate courts of this state shall be entitled to charge and collect the sums enumerated in this Code section.

(b) All sums that the probate courts may be required to collect pursuant to Code Sections 15-23-7, 15-9-60.1, and 36-15-9 and all other sums as may be required by law shall be in addition to the sums provided in this Code section. The sums provided for in this Code section are exclusive of costs for service of process, fees for publication of citation or notice, or any additional sums as may be provided by law.

(c) The fees provided for in this Code section shall be paid into the county treasury less and except only such sums as are otherwise directed to be paid by law, which sums shall be remitted as provided by law by either the probate court or the county.

(d) Subject to the provisions of Code Section 15-9-61, and except for the filing of a proceeding in which the filing party also files with the court a sworn affidavit that the party is unable because of indigence to pay the cost of court, all sums specified in this Code section shall be paid to the court at the time of filing or as thereafter incurred for services rendered. In accordance with Code Section 15-9-61, the judges of the probate courts are entitled to an advance cost of \$30.00 for deposit to be made before filing any proceeding.

(e) Cost in decedent's estates:

(1) Except as otherwise provided, the cost in an initial proceeding regarding the estate of a decedent or of a missing individual believed to be dead shall be \$130.00 for all services rendered by the judge or clerk of the probate court through the entry of the final order on such initial proceedings, exclusive of recording charges;

(2) As used in this subsection, the term "initial proceeding" shall mean the first proceeding filed in the probate court in connection with or regarding the estate of a decedent or of a missing individual believed to be dead, including, but not necessarily limited to, the following proceedings: petition for temporary letters of administration; petition for letters of administration; petition to probate will in common form; petition to probate will in solemn form; petition to probate will in solemn form and for letters of administration with will annexed; petition for order declaring no

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administration necessary; petition for year's support; petition for presumption of death of missing individual believed to be dead; any proceeding for ancillary administration by a foreign personal representative; or any other proceeding by which the jurisdiction of the probate court is first invoked with regard to the estate of a decedent or of a missing individual believed to be dead;

(3) As used in this subsection, the term "initial proceeding" shall not include a petition to establish custodial account for missing heir, a petition to enter a safe-deposit box, or any other petition or proceeding for which a specific cost is otherwise set forth in this Code section;

(4) Except as otherwise provided, the cost shall be \$75.00 for all services rendered by the judge or clerk of the probate court through the entry of the final order, exclusive of recording charges, in any of the proceedings listed in paragraph (2) of this subsection filed subsequent to the filing of an initial proceeding regarding the estate of the same decedent or missing individual believed to be dead;

(5) Except as otherwise provided, the cost shall be \$50.00 for all services rendered by the judge or clerk of the probate court through the entry of the final order, exclusive of recording charges, for the filing of the following proceedings or pleadings regarding the estate of a decedent or of a missing individual believed to be dead: petition for letters of administration with will annexed (will previously probated); petition of personal representative for leave to sell property; petition for leave to sell perishable property; petition for leave to sell or encumber property previously set aside as year's support; petition by administrator for waiver of bond, grant of certain powers, or both; petition for discharge; petition by personal representative for approval of a division in kind; petition to determine heirs; petition by personal representative for direction under will; petition by personal representative to compromise a disputed claim or debt; petition by or against personal representative for an accounting or final settlement; petition to resign as personal representative and for the appointment of a successor; petition to remove a personal representative and for the appointment of a successor; citation against a personal representative for failure to make returns or for alleged mismanagement of estate; a caveat, objection, or other responsive pleading by which the proceeding becomes contested filed by any person to whom notice or citation has been issued; petition or motion to intervene as an interested party; and any other petition application, motion, or other pleading for which no specific cost is set forth in this Code section filed regarding the estate of a decedent or of a missing individual believed to be dead;

(6) Except as otherwise provided, the cost shall be \$25.00 for all services rendered by the judge or clerk of the probate court through the entry of the final order, exclusive of recording charges, for the filing of the following proceedings, pleadings, or documents regarding the estate of a decedent or of a missing individual believed to be dead: petition to change accounting period; petition to enter a safe-deposit box; petition or motion for attorneys' fees; petition or motion of personal representative for extra compensation; or inventory, appraisalment, or annual, intermediate, or final returns of personal representatives; and

(7) Except as otherwise provided, the cost shall be \$10.00 for all services rendered by the judge or clerk of the probate court, exclusive of recording charges, for the filing of the following proceedings, pleadings, or documents regarding the estate of a decedent or of a missing person believed to be dead: notice of claim or claim of a creditor, if such notice or claim is filed with and accepted by the court; declination to serve of nominated personal representative; or renunciation of right of succession.

(f) Costs in minor guardianship and conservatorship matters:

(1) Except as otherwise provided, the cost in a proceeding regarding the person, property, or person and property of a minor shall be \$75.00 for all services rendered by the judge or clerk of the probate court through the entry of the final order on such proceeding, exclusive of recording charges, including, but not necessarily limited to, the following proceedings: petition for temporary letters of guardianship of ~~the person of a~~ minor; petition for letters of guardianship ~~of person, property, conservatorship,~~ or ~~person~~ guardianship and property conservatorship of a minor by person other than natural guardian; petition for letters of ~~guardianship of property conservatorship~~ of a minor, by natural guardian, with bond -- personal property over \$5,000.00; petition for order that natural guardian not be required to become legally qualified ~~guardian of the property conservator;~~ application of guardian, ~~conservator,~~ or guardian and conservator for letters of dismissal; or any other proceeding by which the jurisdiction of the probate court is first invoked with regard to the person, property, or person and property of a minor; and

(2) Except as otherwise provided, the costs for all services rendered by the judge or clerk of the probate court shall be as set forth below for the following proceedings, pleadings, or documents regarding the person, property, or person and property of a minor, exclusive of recording charges:

- (A) Petition of guardian conservator for leave to sell.....\$ 70.00
- (B) Petition to compromise doubtful claim of minor.....70.00
- (C) Petition for leave to encroach on corpus.....30.00
- (D) Petition to change accounting period.....25.00

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- (E) Inventory or annual, intermediate, or final return (each)....30.00
- (F) Petition or motion for attorneys' fees.....70.00
- (G) Petition to terminate temporary guardianship of minor.....30.00
- (H) Any other petition, application, motion, or other pleading for which no specific cost is set forth in this Code section filed regarding an existing guardianship or conservatorship of a minor.....30.00
- (g) Costs in adult guardianship and conservatorship matters:
 - (1) Except as otherwise provided, the cost in a proceeding regarding the person, property, or person and property of an adult alleged to be incapacitated shall be \$150.00 for all services rendered by the judge or clerk of the probate court through the entry of the final order on such proceeding, exclusive of recording charges, including, but not necessarily limited to, the following proceedings: petition for the appointment of an emergency guardian, conservator, or guardian and conservator for an alleged gravely incapacitated adult; petition for the appointment of an emergency and permanent guardian, conservator, or guardian and conservator for an alleged gravely incapacitated adult; petition for the appointment of a guardian, conservator, or guardian and conservator for an alleged incapacitated adult; or any other proceeding by which the jurisdiction of the probate court is first invoked with regard to an adult alleged to be incapacitated; and
 - (2) Except as otherwise provided, the cost for all services rendered by the judge or clerk of the probate court shall be as set forth below for the following proceedings, pleadings, or documents regarding the person, property, or person and property of an incapacitated adult, exclusive of recording charges:
 - (A) Petition of guardianconservator for leave to sell.....\$ 70.00
 - (B) Petition to compromise doubtful claim..... 70.00
 - (C) Petition for leave to encroach on corpus.....30.00
 - (D) Petition to change accounting period.....25.00
 - (E) Inventory or annual, intermediate, or final return (each)....30.00
 - (F) Petition or motion for attorneys' fees.....70.00
 - (G) Petition to terminate or modify guardianship or conservatorship of incapacitated adult.....70.00
 - (H) Application of guardian or conservator for letters of dismission.....75.00
 - (I) Any other petition, application, motion, or other pleading for which no specific cost is set forth in this Code section filed regarding an existing guardianship or conservatorship of an adult....70.00
 - (h) Costs in matters involving sterilization, involuntary treatment, habilitation, or temporary placement:
 - (1) Except as otherwise provided, the cost in a proceeding filed under Chapter 20 of Title 31, Chapter 36A of Title 31, or Chapter 3, 4, or 7 of Title 37 shall be \$130.00 for all services rendered by the judge or clerk of the probate court through the entry of the final order on such proceeding, exclusive of recording charges;
 - (2) There shall be no cost assessed for the receipt and consideration of affidavits in support of an order to apprehend under Part 1 of Article 3 of Chapter 3 of Title 37 or Part 1 of Article 3 of Chapter 7 of Title 37 or for the issuance of the order to apprehend; and
 - (3) There shall be no cost assessed for the receipt and consideration of a petition in support of an order to apprehend under Part 3 of Article 3 of Chapter 3 of Title 37 or Part 3 of Article 3 of Chapter 7 of Title 37 or for the issuance of the order to apprehend a patient alleged to be in noncompliance with an involuntary outpatient treatment order.
 - (i) Costs for hearings in contested matters:
 - (1) For conducting trials of contested matters or for formal hearing on the denial of an application for a weapons carry license before the probate court, the cost shall be \$30.00 per one-half day or portion thereof;
 - (2) There shall be no additional cost for the initial hearing in adult guardianship or conservatorship matters or in matters involving sterilization, involuntary treatment, habilitation, or involuntary placement; and
 - (3) There shall be no cost for any hearing in an uncontested matter.
 - (j) Custodial accounts. For each account accepted by the judge of the probate court as custodian for a minor, incapacitated adult, or missing or unknown heir or beneficiary, there shall be a one-time fee of 8 percent of the fund deducted from the fund when first accepted.
 - (k) Miscellaneous costs. Except as otherwise provided, the judge or clerk of the probate court shall be entitled to the following costs for the proceedings, pleading, documents, or services itemized:
 - (1) Application for writ of habeas corpus.....\$ 75.00
 - (2) Petition to establish lost papers, exclusive of recording charges....50.00
 - (3) Petition for or declaration of exemptions.....25.00

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- (4) Petition to change birth certificate.....75.00
- (5) For all services rendered by the judge or clerk of the probate court through the entry of the final order, exclusive of recording charges, for any application or petition by which the jurisdiction of the probate court is first invoked for which no cost is set forth in this Code section or other applicable law..70.00
- (6) Issuance of any order, including a rule nisi, in any matter for which the costs set forth in this Code section do not include all services to be rendered by the judge or clerk of the probate court, exclusive of recording charges.....30.00
- (7) Motions, amendments, or other pleadings filed in any matter for which the cost set forth in this Code section does not include all services to be rendered by the judge or clerk of the probate court, exclusive of recording charges, and no other cost is set forth in this Code section.....15.00
- (8) For processing appeals to superior court, exclusive of recording charges.....30.00
- (9) For issuance of writ of fieri facias (fi.fa.).....10.00
- (10) Reserved.
- (10) For all services rendered by the judge or clerk of the probate court in the exercise of concurrent jurisdiction pursuant to Code Section 15-9-127 for which no cost is set forth in this Code section. The sums charged shall be the same as those charged for such services in the superior court pursuant to Code Section 15-6-77 or other applicable law.
- (11) For issuance of permit to discharge fireworks.....30.00
- (12) Application for weapons carry license (exclusive of fees charged by other agencies for the examination of criminal records and mental health records).....30.00
- (13) For issuance of a replacement weapons carry license.....6.00
- (13.1) For issuance of personal identification cards to judges or Justices.
The fee shall be determined by The Council of Probate Court Judges of Georgia pursuant to Code Section 15-25-3.
- (14) Application for marriage license if the applicants have completed premarital education pursuant to Code Section 19-3-30.1...No fee
- (14.1) Application for a marriage license if the applicants have not completed premarital education pursuant to Code Section 19-3-30.1.....40.00
- (15) For the safekeeping of a will.....15.00
- (16) For issuance of a veteran's license.....No fee
- (17) For issuance of a peddler's license.....15.00
- (18) For issuance of a certificate of residency.....10.00
- (19) Registration of junk dealer.....10.00
- (20) Certification of publication of application for insurance company charter.....10.00
- (21) Recording of marks and brands, each.....15.00
- (22) Exemplification.....15.00
- (23) Certification under seal of copies (plus copy cost).....10.00
- (24) Certified copies of letters of personal representative, temporary administrator, conservator, or guardian, each, including copy cost.....10.00
- (25) For issuance of a subpoena, each.....10.00
- (26) For filing and recording of oath or bond of any official, officer, or employee of any municipality or authority within the county, each.....10.00
- (27) For filing and recording of oath or bond of county official or

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- officer.....No fee
- (28) For examination of records or files by employee of the probate court to provide abstract of information contained therein or to provide copies therefrom, per estate or name.....10.00
- (29) Recording, per page.....2.00
- (30) Copies, per page.....1.00

§ 15-9-86. Verified petitions; notice and service thereof

Every application made to the judge of the probate court for the granting of any order shall be by verified petition in writing, stating the ground of such application and the order sought. Unless otherwise provided by law, if service of notice of the application such petition, other than by citation published in the official newspaper of the county in which the petition is made, is necessary under the law or in the judgment of the judge of the probate court on the motion of any party in interest or on the court's own motion, the judge shall cause a copy of the application petition, together with a citation to show cause, if any, why the petition should not be granted and notice of the date, time, of, and place for filing any objections or for holding a final hearing, to be served by the sheriff or some lawful officer upon each party who resides in this state and to be mailed served by the probate court mailing by registered or certified mail or statutory overnight delivery, return receipt requested, to each party who resides outside this state at a known address, at least ten 30 days, plus three days if mailed, before the any objection is required to be filed by such party or before a final hearing is held. An entry of such service of notice shall be made on the original. In extraordinary cases, where it is necessary to act before such service of notice can be given, the judge of the probate court shall so direct the proceedings as to make no final order until service of notice has been given.

§ 15-9-122. Applicability of laws and rules

Unless provided to the contrary by Code Section 9-11-81 or by Titles 29 and 53, the general laws and rules of practice, pleading, procedure, and evidence which that are applicable to the superior courts of this state shall be applicable to and govern in civil cases in the probate courts.

§ 15-9-123. Appeal

- (a) Either party to a civil case in the probate court shall have the right of appeal to the Supreme Court or the Court of Appeals from any decision made by the probate court, except an order appointing a temporary administrator, as provided by Chapter 6 of Title 5.
- (b) The general laws and rules of appellate practice and procedure which that are applicable to cases appealed from the superior courts of this state shall be applicable to and govern appeals of civil cases from the probate courts.

§ 15-9-126. Fees

For services rendered in jury trials, in the probate court's exercise of concurrent jurisdiction pursuant to Code Section 15-9-127, and in appeals to the Supreme Court or Court of Appeals, if a fee is not prescribed by Code Section 15-9-60, the judge or clerk of the probate court shall be entitled to charge and collect the same fees sums as that those of the clerk of the superior court provided in Code Section 15-6-77 or other applicable law for similar services in superior court.

§ 15-9-127. Concurrent jurisdiction with superior courts

- (a) Probate courts subject to this article shall have concurrent jurisdiction with superior courts with regard to the proceedings for:
- (1) Declaratory judgments involving fiduciaries pursuant to Code Sections 9-4-4, 9-4-5, 9-4-6, 9-4-8, 9-4-9, and 9-4-~~61~~;
 - (2) Tax motivated estate planning dispositions of wards' property pursuant to Code Sections 29-3-36 and 29-5-36;
 - (3) Approval of settlement agreements pursuant to former Code Section 53-3-22 as such existed on December 31, 1997, if applicable, or Code ~~Section~~Sections 53-5-25, 53-5-27, or 53-12-9;
 - (4) Appointment of new trustee to replace trustee pursuant to Code Section 53-12-201;
 - (5) Acceptance of the resignation of a trustee upon written request of the beneficiaries pursuant to Code Section 53-

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~~(6) Acceptance of resignation of a trustee upon petition of the trustee pursuant to Code Section 53-12-220;~~

~~(7)(4) Adjudication of actions concerning trusts and trustees authorized by the provisions of Chapter 12 of Title 53;~~

~~(5) Motions seeking an order for disinterment and deoxyribonucleic acid (DNA) testing as provided in Code Section 53-2-27;~~

~~(8) ~~Conversion~~ (6) Adjudication of petitions to ~~construe a unitrust~~ power of attorney, review an agent's conduct, and related matters pursuant to ~~grant appropriate relief under~~ Code Section 53-12-362 ~~10-6B-16~~; and~~

~~(97) Adjudication of petitions for direction or construction of a will or trust instrument pursuant to Code Sections 23-2-92, 53-4-55, 53-4-56, 53-7-75, or 53-12-27 or other applicable law.~~

~~(b) In civil cases, probate courts subject to this article may:~~

~~(1) Apply equitable principles;~~

~~(2) Hear evidence on and decide any contested question; and~~

~~(3) Issue such orders as are appropriate under the circumstances.~~

~~(c) Probate courts subject to this article shall have and may exercise the jurisdiction and authority conferred by subsections (a) and (b) of this Code section to the greatest extent that does not infringe the exclusive jurisdiction of the superior courts pursuant to Article VI, Section 23-2-92IV, Paragraph I of the Constitution of this state.~~

§ 19-3-65. Powers of superior court judge in appointing and removing trustees and protecting trust estate

~~The Subject to Code Sections 15-9-127, 23-1-4, and 53-12-6, the~~ judge of the superior court of the county of a spouse's domicile may at any time, upon petition, exercise equitable powers in appointing, removing, or substituting trustees or in granting any order for the protection of the trust estate, exercising a wise discretion as to the terms on which the appointment shall be made or on which the order shall be granted.

§ 19-3-66. Enforcement of marriage contracts, postnuptial settlements, and antenuptial agreements

(a) Marriage contracts and postnuptial settlements shall be enforced at the instance of all persons in whose favor there are limitations of the estate.

(b) Antenuptial agreements may be enforced by a court of equity at the instance of:

(1) The parties to the marriage; or

(2) The offspring of the marriage and their heirs at any time after the death of a spouse, subject to Code Sections 15-9-30, 23-1-4, and 53-7-40; provided, however, that when enforced at the instance of such offspring and their heirs, the court may enforce in favor of other persons.

§ 19-6-7. Interest in deceased party's estate after grant of permanent alimony

After permanent alimony is granted, upon the death of the party liable for the alimony the other party shall not be entitled to any further interest in the estate of the deceased party by virtue of the marriage contract between the parties; ~~however, such permanent provision shall be continued to the other party or a portion of the deceased party's estate equivalent to the permanent provision shall be set apart to the other party provided, however, that such permanent provision shall constitute a judgment created during the lifetime of the deceased party under paragraph (6) of Code Section 53-7-40 and the claim of the other party to such permanent provision shall be paid accordingly by the personal representative of the deceased party's estate as provided in Article 4 of Chapter 7 of Title 53. The personal representative may address such claim by continuing payments to the other party pursuant to such permanent provision, by setting apart a portion of the deceased party's estate equivalent to such permanent provision to the other party, or in any other manner provided by Code Section 53-7-44 or 53-7-45.~~

§ 23-2-58. Confidential relations defined

Any relationship shall be deemed confidential, whether arising from nature, created by law, or resulting from contracts, where one party is so situated as to exercise a controlling influence over the will, conduct, and interest of another or where, from a similar relationship of mutual confidence, the law requires the utmost good faith, such as the relationship between partners, ~~principal and agent, etc.;~~ principal and agent; guardian or conservator and ward; personal representative or temporary administrator and heir, legatee, devisee, or beneficiary; trustee and beneficiary; and similar fiduciary relationships.

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§ 50-27-21. Preservation of lottery proceeds by retailers; accounting procedures; preference accorded proceeds of insolvent retailers

(a) All proceeds from the sale of the lottery tickets or shares shall constitute a trust fund until paid to the corporation either directly or through the corporation's authorized collection representative. A lottery retailer and officers of a lottery retailer's business shall have a fiduciary duty to preserve and account for lottery proceeds and lottery retailers shall be personally liable for all proceeds. Proceeds shall include unsold instant tickets received by a lottery retailer and cash proceeds of the sale of any lottery products, net of allowable sales commissions and credit for lottery prizes sold to or paid to winners by lottery retailers. Sales proceeds and unused instant tickets shall be delivered to the corporation or its authorized collection representative upon demand.

(b) The corporation shall require retailers to place all lottery proceeds due the corporation in accounts in institutions insured by the Federal Deposit Insurance Corporation not later than the close of the next banking day after the date of their collection by the retailer until the date they are paid over to the corporation. At the time of such deposit, lottery proceeds shall be deemed to be the property of the corporation. The corporation may require a retailer to establish a single separate electronic funds transfer account where available for the purpose of receiving moneys from ticket or share sales, making payments to the corporation, and receiving payments for the corporation. Unless otherwise authorized in writing by the corporation, each lottery retailer shall establish a separate bank account for lottery proceeds which shall be kept separate and apart from all other funds and assets and shall not be commingled with any other funds or assets.

(c) Whenever any person who receives proceeds from the sale of lottery tickets or shares in the capacity of a lottery retailer becomes insolvent ~~or dies insolvent~~, the proceeds due the corporation from such person ~~or his estate~~ shall have preference over all debts or demands.

(d) Whenever any person who receives proceeds from the sale of lottery tickets or shares in the capacity of a lottery retailer dies insolvent, the proceeds due the corporation from such person's estate shall have preference over all debts or demands except the provision of year's support for such person's family.

§ 50-27-102. Role of corporation; implementation and certification; separation of funds and accounting; disputes

(a) Upon successful implementation and certification of the Class B accounting terminal under the provisions of Code Section 50-27-101, and for the first fiscal year thereafter, the corporation shall:

(1) Retain 5 percent of the net receipts;

(2) Provide, within five business days of receipt, 47.5 percent of the net receipts to the location owner and location operator for the cost associated with allowing the Class B machines to be placed; and

(3) Provide, within five business days of receipt, 47.5 percent of the net receipts to the operator holding the Class B master license for the cost of securing, operating, and monitoring the machines.

(b) In each fiscal year after the implementation and certification required by subsection (a) of this Code section, the corporation's share shall increase 1 percent, taken evenly from the location owner or location operator and the operator, to a maximum of 10 percent.

(c) The corporation shall require location owners and location operators to place all bona fide coin operated amusement machine proceeds due the corporation in a segregated account in institutions insured by the Federal Deposit Insurance Corporation not later than the close of the next banking day after the date of their collection by the retailer until the date they are paid over to the corporation. At the time of such deposit, bona fide coin operated amusement machine proceeds shall be deemed to be the property of the corporation. The corporation may require a location owner or location operator to establish a single separate electronic funds transfer account where available for the purpose of receiving proceeds from Class B machines, making payments to the corporation, and receiving payments for the corporation. Unless otherwise authorized in writing by the corporation, each bona fide coin operated amusement machine location owner or location operator shall establish a separate bank account for bona fide coin operated amusement machine proceeds which shall be kept separate and apart from all other funds and assets and shall not be commingled with any other funds or assets. Whenever any person who receives proceeds from bona fide coin operated amusement machines becomes insolvent ~~or~~, the proceeds due the corporation from such person shall have preference over all debts or demands. Whenever any person who receives proceeds from bona fide coin operated amusement machines dies insolvent, the proceeds due the corporation from such person or his or her person's estate shall have preference over all debts or demands. except the provision of year's support for such person's family. If any financial obligation to the corporation has not been timely received, the officers, directors, members, partners, or shareholders of the location owner or location operator shall be personally liable for the moneys owed to the corporation.

DRAFT BILL

(d)

(1) As a condition of the license issued pursuant to this article, no master licensee or location owner or location operator shall replace or remove a Class A or Class B bona fide coin operated amusement machine from a location until the master licensee and location owner or location operator certify to the corporation that there are no disputes regarding any agreement, distribution of funds, or other claim between the master licensee and location owner or location operator; provided, however, that this certification shall not be required if a master licensee is replacing its own Class A or Class B bona fide coin operated amusement machine at a location. If either the master licensee or location owner or location operator is unable to make the certification required by this Code section, the corporation shall refer the dispute to a hearing officer as set forth in this subsection.

(2) The corporation shall have jurisdiction of all disputes between and among any licensees or former licensees whose licenses were issued pursuant to this article relating in any way to any agreement involving coin operated amusement machines, distribution of funds, tortious interference with contract, other claims against a subsequent master license holder or location owner, or any other claim involving coin operated amusement machines; provided, however, that this paragraph shall not apply to any agreement which expired on or before April 10, 2013. Except as provided in paragraph (1) of this subsection, the corporation shall refer any dispute certified by any master licensee against any other master licensee or any location owner or location operator or by any location owner or location operator against any master licensee to a hearing officer. For the purpose of service on licensees with respect to disputes, each licensee or former licensee shall register and keep current with the corporation the name of an agent and his or her address and an e-mail address which shall be made available to any licensee on request. Service by registered mail, courier delivery, or overnight mail delivered to the agent's registered address and to the e-mail address shall be adequate service on the licensee for a hearing on the dispute. All disputes subject to the provisions of this Code section certified by a master licensee, location owner, or location operator shall be decided by a hearing officer approved or appointed by the corporation. The corporation shall adopt rules and regulations governing the selection of hearing officers after consultation with the Bona Fide Coin Operated Amusement Machine Operator Advisory Board. Costs of the hearing officer's review, including any hearing set pursuant to this Code section, shall be shared equally between the parties in the dispute unless provided otherwise in the agreement or by the hearing officer; provided, however, that the corporation shall not be responsible for any of the costs associated with the dispute resolution mechanism set forth in this Code section. If any party fails to timely pay the costs of the hearing officer's review within ten days of service of notice of costs by the hearing officer, the hearing officer shall grant a default judgment on liability against the nonpaying party. The hearing officer shall then consider evidence related to damages or any other relief and shall render judgment based upon a preponderance of the evidence.

(3) The corporation shall also adopt rules governing the procedure, evidentiary matters, and any prehearing discovery applicable to disputes resolved pursuant to this Code section. Such rules shall be consistent with the Georgia Arbitration Code, and the corporation shall consult the Bona Fide Coin Operated Amusement Machine Operator Advisory Board regarding the procedures or rules adopted pursuant to this subsection. Notwithstanding Code Section 9-9-9, such procedures and rules shall include at least the right of notice to produce books, writings, and other documents or tangible things; depositions; and interrogatories.

(4) If requested by the master licensee or the location owner or location operator, the hearing officer shall conduct a hearing as to the dispute, but in no case unless extended by the hearing officer for good cause shall the hearing officer conduct a hearing more than 90 days after he or she has been appointed or selected to decide the dispute. No Class B bona fide coin operated amusement machine that is subject to the dispute resolution mechanism required by this Code section shall be removed from the terminal by a master licensee, location owner, or location operator or otherwise prevented by a master licensee, location owner, or location operator from play by the public until a final decision is entered and all appellate rights have been exhausted, or until the master licensee and location owner or location operator agree to a resolution, whichever occurs first.

(5) The decision of the hearing officer may be appealed to the chief executive officer or his or her designee. The chief executive officer shall not reverse a finding of fact of the hearing officer if any evidence supports the hearing officer's conclusion. The chief executive officer shall not reverse a conclusion of law of the hearing officer unless it was clearly erroneous, arbitrary, and capricious or exceeded the hearing officer's jurisdiction. The decision of the chief executive officer may be appealed to the Superior Court of Fulton County, which court shall not reverse the chief executive officer's findings of fact unless it is against the weight of the evidence as set forth in Code Section 5-5-21, and the chief executive officer's legal conclusions shall not be set aside unless there is an error of law.

State Bar of Georgia
Cash Activity Projection For 2019-2020 and Subsequent Years
Based Upon 2019 - 2020 Budget

Based upon budgeted members for 2019 - 2020 year, every \$2 increase in dues would equal \$87,750 in additional dues revenues.

This \$2 increase equates to approximately an increase of 0.79%.

	Projected 2019-2020 Currently - Dues \$254	Projected Dues Increase - \$2 Per Year to \$256 per year	Projected Dues Increase - \$6 Per Year to \$260 per year	Projected Dues Increase - \$10 Per Year to \$264 per year	Projected Dues To Break Even
Estimated Activity for 2019 - 2020					
Estimated Combined Income (See Note 1 below)	15,050,078				
Estimated Combined Expenses (See Note 2 below)	<u>(15,565,154)</u>				
Estimated Net Income (Loss) for 2019 - 2020	<u>(515,077)</u>				
Estimated Activity for 2020 - 2021 (Year 1)					
					Dues \$276
Estimated Combined Income (See Notes 1 and 3 below)		15,087,212	15,087,212	15,087,212	15,087,212
Estimated Combined Expenses (See Notes 2 and 4 below)		(16,109,935)	(16,109,935)	(16,109,935)	(16,109,935)
Increase in Bar Membership from 2019 - 2020 year (See Note 5 below)		139,904	142,090	144,276	150,834
Effect of Increase in Dues (See Note 6 below)		87,750	263,250	438,750	965,250
Estimated Net Income (Loss) for 2020 - 2021		<u>\$ (795,069)</u>	<u>\$ (617,383)</u>	<u>\$ (439,697)</u>	<u>\$ 93,361</u>
Estimated Activity for 2021 - 2022 (Year 2)					
					Dues \$284
Estimated Combined Income (See Notes 1 and 3 below)		15,124,717	15,124,717	15,124,717	15,124,717
Estimated Combined Expenses (See Notes 2 and 4 below)		(16,673,782)	(16,673,782)	(16,673,782)	(16,673,782)
Increase in Bar Membership (See Note 5 below)		279,808	284,180	288,552	310,412
Effect of Increase in Dues (See Note 6 below)		87,750	263,250	438,750	1,316,250
Estimated Net Income (Loss) for 2021 - 2022		<u>\$ (1,181,507)</u>	<u>\$ (1,001,635)</u>	<u>\$ (821,763)</u>	<u>\$ 77,597</u>
Estimated Activity for 2022 - 2023 (Year 3)					
					Dues \$292
Estimated Combined Income (See Notes 1 and 3 below)		15,162,597	15,162,597	15,162,597	15,162,597
Estimated Combined Expenses (See Notes 2 and 4 below)		(17,257,365)	(17,257,365)	(17,257,365)	(17,257,365)
Increase in Bar Membership (See Note 5 below)		419,712	426,270	432,828	478,734
Effect of Increase in Dues (See Note 6 below)		87,750	263,250	438,750	1,667,250
Estimated Net Income (Loss) for 2022 - 2023		<u>\$ (1,587,305)</u>	<u>\$ (1,405,247)</u>	<u>\$ (1,223,189)</u>	<u>\$ 51,217</u>
Estimated Activity for 2023 - 2024 (Year 4)					
					Dues \$300
Estimated Combined Income (See Notes 1 and 3 below)		15,200,857	15,200,857	15,200,857	15,200,857
Estimated Combined Expenses (See Notes 2 and 4 below)		(17,861,372)	(17,861,372)	(17,861,372)	(17,861,372)
Increase in Bar Membership (See Note 5 below)		559,616	568,360	577,104	655,800
Effect of Increase in Dues (See Note 6 below)		87,750	263,250	438,750	2,018,250
Estimated Net Income (Loss) for 2023 - 2024		<u>\$ (2,013,150)</u>	<u>\$ (1,828,906)</u>	<u>\$ (1,644,662)</u>	<u>\$ 13,534</u>
Estimated Activity for 2024 - 2025 (Year 5)					
					Dues \$310
Estimated Combined Income (See Notes 1 and 3 below)		15,239,498	15,239,498	15,239,498	15,239,498
Estimated Combined Expenses (See Notes 2 and 4 below)		(18,486,520)	(18,486,520)	(18,486,520)	(18,486,520)
Increase in Bar Membership (See Note 5 below)		699,520	710,450	721,380	847,075
Effect of Increase in Dues (See Note 6 below)		87,750	263,250	438,750	2,457,000
Estimated Net Income (Loss) for 2024 - 2025		<u>\$ (2,459,752)</u>	<u>\$ (2,273,322)</u>	<u>\$ (2,086,892)</u>	<u>\$ 57,853</u>
Total Net Income (Loss) for 5 years		<u>\$ (8,036,783)</u>	<u>\$ (7,126,493)</u>	<u>\$ (6,216,203)</u>	<u>\$ 292,762</u>

Notes: The assumptions used in the above calculation are as follows:

- (1) The Bar will achieve 99% of its budgeted revenue and the Bar Center will achieve 100% of its revenue for each year.
- (2) The Bar's expenses will be 96.4% of budget and the Bar Center's expenses will be 98.0% of budget. Such percentages are based upon actual results for 2017-2018 year (most recent year completed and audited).
- (3) There will be a 1% increase in revenue each year except for Bar dues which are shown separately herein.
- (4) Expenses will increase at a rate of 3.5% for the 2020 - 2021 year from the 2019 - 2020 year. This rate is based upon an extrapolation of the Consumer Price Index for All Urban Consumers for the South area. Given that the same calculation for the 2019 - 2020 budget indicated a rate of 3.0%, the 3.5% rate was deemed reasonable for purposes of this estimate.
- (5) The increase in Bar membership for each year will be the same as estimated for 2019 - 2020 (i.e. 442 active and 209 inactive) paying the applicable amounts for active and inactive members.
- (6) The effect of increase in dues is calculated based upon an increase applicable to budgeted members (excluding increase in Bar Membership shown in Note 5 above).

Note: Above excludes payments for Client Security Fund

CASH ACTIVITY PROJECTION:

\$2 INCREASE EACH YEAR (no changes to programming)

	2020-21	2021-22	2022-23	2023-24	2024-25
	\$256	\$258	\$260	\$262	\$264
<i>Total net loss:</i>	(\$795,069)	(\$1,181,507)	(\$1,587,305)	(\$2,013,150)	(\$2,459,752)
					Total net loss: (\$8,036,783)

BALANCED BUDGET: FEES (no changes to programming)

	2020-21	2021-22	2022-23	2023-24	2024-25
	\$276	\$284	\$292	\$300	\$310
	\$93,361	\$77,597	\$51,217	\$13,534	\$57,053
<i>Total net income:</i>					\$292,762

BALANCED BUDGET: FEES & ASSESSMENTS (no changes to programming)

	2020-21	2021-22	2022-23	2023-24	2024-25
	\$306	\$314	\$322	\$330	\$340
	\$93,361	\$77,597	\$51,217	\$13,534	\$57,053
<i>Total net income:</i>					\$292,762



State Bar of Georgia

BAR NUMBER:
STATUS:

2019-2020 LICENSE FEE AND ASSESSMENTS NOTICE DUE JULY 1, 2019

PAY ONLINE AT WWW.GABAR.ORG
Or mail to P.O. Box 102054, Atlanta, GA 30368-2054
TAX ID NUMBER: 58-0939623

QUESTIONS?
PHONE: 404-527-8777 or 800-334-6865
EMAIL: membership@gabar.org
WEB: www.gabar.org

SUMMARY

A. \$ 269

SUMMARY

A. \$ 269 (+) Your Amount Includes:

License Fee: Active \$254 or Inactive \$127
Mandatory Professionalism Fee of \$15 (Active <70 only)
Bar Facility Assessment of \$0 (See note on back)

- C. \$ (-) Deduct Legislative & Public Education Fund Contribution
 - D. \$ (+) Section Dues
 - E. \$ (+) Georgia Legal Services Program Contribution
GLSP is a nonprofit law firm that provides civil legal services for low income persons, creating equal access to justice and opportunities out of poverty. Suggested contributions are \$300 per year, \$100 for younger lawyers. Or, please \$ _____ to be fulfilled later. Thank you!
 - F. \$ (+) Late Fee (After 8/1)
- \$ 269. TOTAL PAYMENT**

PAYMENT SCHEDULE

- JUL 1 Fees due for 2019-20 Bar year (July 1, 2019, through June 30, 2020)
- AUG 1 \$75 late fee if USPS postmark is after 11:59 p.m. (EST) on August 1
- SEPT 1 Ineligible to practice
- JAN 1 \$17.5 late fee if USPS postmark is after 11:59 p.m. (EST) on January 1

CREDIT CARD PAYMENTS

The State Bar of Georgia is unable to accept faxed or emailed license fee notices for credit card charges. Credit card payments using Visa, Mastercard and American Express can be made at www.gabar.org or by completing the section below.

CREDIT CARD NUMBER

EXPIRATION DATE AMOUNT AUTHORIZED TO CHARGE (REQUIRED)

\$15 Arbitration (04)	\$15 Immigration (16)
\$35 Bankruptcy (05)	\$15 Individual Rights (12)
\$20 Filer (09)	\$35 Intellectual Property (18)
\$20 Business (06)	\$25 International (14)
\$20 Child Protection & Advocacy (55)	\$20 Judicial (47)
\$25 Class Action (61)	\$20 Labor & Employment (15)
\$35 Constitutional Law (56)	\$25 Law & Economics (08)
\$25 Construction Law (60)	\$10 Legal Economics (26)
\$25 Consumer (48)	\$10 Local Government (16)
\$25 Corporate Counsel (28)	\$15 Military/Veterans (17)
\$20 Creditors' Rights (39)	\$25 Nonprofit (58)
\$20 Criminal (07)	\$25 Product Liability (33)
\$20 Dispute Resolution (38)	\$15 Professional Liability (54)
\$25 E Discovery (57)	\$35 Real Property (19)
\$20 Elder (46)	\$15 School & College (30)
\$35 Eminent Domain (43)	\$10 Senior (41)
\$20 Employee Benefits (52)	\$20 Taxation (20)
\$25 Entertainment & Sports (25)	\$25 Privacy & Technology (27)
\$25 Environmental (08)	\$15 Tort & Insurance Practice (13)
\$20 Equine (49)	\$30 Workers' Compensation (21)
\$35 Family (09)	

NOTICE OF DESIGNATED ATTORNEY

I hereby nominate the following State Bar of Georgia member(s) to assist with coordinating the return of client files and property in the event I become an "absent attorney" as defined under Rule 4-2.28(i) of the Georgia Rules of Professional Conduct. I have discussed this with the person(s) named below, and they are willing to be considered to serve in this capacity. (See insert for additional information.)

NAME STATE BAR NUMBER

NAME STATE BAR NUMBER



State Bar of Georgia

BAR NUMBER:
STATUS:

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PAY ONLINE AT WWW.GABAR.ORG
Or mail to P.O. Box 102054, Atlanta, GA 30368-2054
TAX ID NUMBER: 58-0939623

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PHONE: 404-527-8777 or 800-334-6865
EMAIL: membership@gabar.org
WEB: www.gabar.org

SUMMARY

A. \$ 306

SUMMARY

A. \$ 306 (+) Your Amount Includes:

License Fee: Active \$276 or Inactive \$138
Mandatory Clients' Security Fund Assessment of \$15
Mandatory Professionalism Fee of \$15 (Active <70 only)
Bar Facility Assessment of \$0 (See note on back)

- C. \$ (-) Deduct Legislative & Public Education Fund Contribution
 - D. \$ (+) Section Dues
 - E. \$ (+) Georgia Legal Services Program Contribution
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NAME STATE BAR NUMBER

NAME STATE BAR NUMBER

Definition of Ratings

Letter Grades A-C (Prioritizing programs and other Bar expenditures)

Core - A

- Essential for regulating the profession
- Essential for protecting the public
- Essential for improving the quality of legal services available to Georgians

Highly Desirable - B

- Highly valuable benefit to members in their professional lives
- The mandatory Bar is best suited to carry out, though others may conduct similar programs.
- Improves access to justice/quantity of legal services
- Provides necessary infrastructure for core functions or required by governing documents

Desirable, but Not Essential - C

- Educates the public about the value of lawyers and the legal system
- Addresses a need or issue facing the legal profession, the system of justice, or the public
- Other entities could/should handle; State Bar brings no unique value
- Member benefit that helps lawyers in their personal lives
- Improves laws and legal procedure

Number Grades 1-4 (Rating how well each program/Bar expenditure fulfills its purpose; “Bang for the Buck.” Consider funding source(s))

1. Exceptional

- Exceptional value for funds provided
- Great benefit to members, the public, and/or the justice system

2. Excelling

- Good value for the cost
- Provides measurably good, significant member service
- Provides measurably good, significant public service or service to the system of justice

3. Satisfactory

- Adequate, expected products/programming for funds provided, but could increase products/deliverables
- The Bar’s role is as a convener, a collaborative resource for other entities
- Could better leverage funds or should seek funding elsewhere

4. Below Satisfactory

- Not delivering adequate member service, product, programming in light of funds provided
- Not using resources or performing tasks efficiently
- Duplicative of other entities

**Programs Committee Meeting
Monday, July 15, 2019 – 11:00 am
State Bar of Georgia
Atlanta, Georgia**

Minutes

Members Present

Martin Enrique Valbuens (Chair), Sally B. Akins (by phone), Treasurer Elizabeth L. Fite, Monica K. Gilroy, R. Javoyne Hicks, YLD President-elect Bert D. Hummel, IV (by phone), President-elect Dawn M. Jones, Graham E. McDonald (by phone), and Kellyn O. McGee (by videoconference).

Committee Members Absent

Jonathan B. Pannell (Vice Chair), YLD Past President Nicole C. Leet, Carl R. Varnedoe, and Jeffrey S. Ward.

Executive Committee Liaison

President Darrell Sutton.

Staff Present

Sharon L. Bryant, Jeff Davis, Paula Frederick, and Christine Butcher Hayes.

Overview of the Programs Committee Function

Committee Chair Martin Valbuena reported that the Programs Committee will be using a different rating and procedure from what has been done in past years. President Darrell Sutton said the assumptions are that 1) the Bar has spent down its excess reserve funds to the point that we are looking at a license fee increase in the spring that will be more than the \$2 increase we have been doing, 2) that we have to be able to say we have gone through and made a full and comprehensive assessment of Bar programs to determine essential and non-essential programs, and 3) as background information, unified bars are involved in litigation at both the state and federal level, including the *Fleck* case pending in the U.S. Supreme Court.

State Bar of Georgia Programs Chart

Darrell Sutton reviewed the Programs Chart. The Programs Committee will determine those programs which are core or highly desirable to the mission and purposes of the Bar and those which are not essential. That will help the committee suggest where cuts can be made.

Definition of Ratings

General Counsel Paula Frederick reported that she adapted for the committee's use the rating system used by the ABA to review its programs. Each program will be designated a

letter grade (prioritizing programs and other Bar expenditures) and a number grade (rating how well each program/Bar expenditure fulfills its purpose; bang for the buck, consider funding resources) as follows:

A-Core: Essential for regulating the profession, essential for protecting the public, essential for improving the quality of legal services available to Georgians.

B-Highly Desirable: Highly valuable benefit to members in their professional lives, the mandatory Bar is best suited to carry out, though others may conduct similar programs, improves access to justice/quantity of legal services, provides necessary infrastructure for core functions or required by governing documents.

C- Desirable, but Not Essential: Educates the public about the value of lawyers and the legal system. addresses a need or issue facing the legal profession, the system of justice, or the public, other entities could/should handle; State Bar brings no unique value, member benefit that helps lawyers in their personal lives, improves laws and legal procedure.

1-Exceptional: Exceptional value for funds provided, great benefit to members, the public, and/or the justice system.

2-Excelling: Good value for the cost, provides measurably good, significant member service, provides measurably good, significant public service or service to the system of justice.

3-Satisfactory: Adequate, expected products/programming for funds provided, but could increase products/deliverables, the Bar's role is as a convener, a collaborative resource for other entities, could better leverage funds or should seek funding elsewhere.

4-Below Satisfactory: Not delivering adequate member service, product, or programming in light of funds provided, not using resources or performing tasks efficiently, duplicative of other entities

Darrell reported that while at the same time the Programs Committee is reviewing the Bar's programs, the Unified Bar Committee is making an assessment regarding *Keller*, and each committee's recommendation will be presented to the Executive Committee at the September Executive Committee meeting, as the recommendations could affect some Bar programs and we need time to hear from the proponents of those programs before the license fees are set at the Spring Board of Governors meeting. Treasurer Elizabeth Fite

asked if we will provide the Board of Governors with each program's indexed cost per member, and Darrell said we would.

Bar Programs Rated

Discipline: A-1

Paula provided an overview of the Office of General Counsel, which has twenty-nine staff and an annual budget of \$4.547M. That costs includes the Client Assistance Program (formerly the Consumer Assistance Program), the compensated Special Masters and Coordinating Special Master, and the Review Panel Counsel. Components of the office include the Office of General Counsel, the State Disciplinary Board, the State Disciplinary Review Board, Client Assistance Program, Ethics Helpline, Ethics Opinion, and Ethics Education. Paula regularly evaluates her office based on national standards collected by the ABA from other bars, and comparatively our discipline system comes out very well and spends comparatively less than other states. The revamped disciplinary rules took effect in January 1, and while Paula feels like the discipline process has improved due to the compensated Special Masters, her office is still struggling with impaired lawyers where the lawyer does not cooperate. The number of disciplinary cases is going down because they are able to spend more time at the front end, especially with CAP now being part of the screening process. Paula said we should see better results this time next year. Discipline is an essential function for a mandatory bar and the ethics functions are core to the purposes of the State Bar.

- 1) A motion and second to rate Discipline as an A-Core passed by unanimous voice vote.
- 2) A motion and second to rate Discipline as a 1-Exceptional passed by unanimous voice vote.

Unlicensed Practice of Law (UPL): B-1

Executive Director Jeff Davis provided an overview of the UPL program, which has six staff and an annual budget of \$855k. Jeff reported that the Supreme Court created and delegated the State Bar to staff the UPL program, which addresses the investigation and prosecution of UPL in Georgia. Jeff said there are already criminal laws that prohibit UPL, and while some solicitors and district attorneys are diligent about prosecuting UPL, for others it is not a priority or they are not equipped to do so, but the UPL staff is. Like the disciplinary system, UPL plays an essential part in protecting the public from potential wrong-doers.

- 1) A motion and second to rate UPL an A-Core failed by a hand vote of 4 in favor to 5 opposed.

- 2) A motion and second to rate UPL a B-Highly Desirable was approved by a hand vote of 5 in favor to 3 opposed (the 3 opposed would rate it an A by reason of helping the public and improving the quality of legal services).
- 3) A motion and second to rate UPL as a 1-Exceptional was approved by unanimous voice vote.

Clients' Security Fund (CSF): C-3

Paula provided an overview of the CSF, which is handled by the Office of General Counsel using a third of a paralegal's time, and has an annual budget of \$73k. The program handles clients' claims submitted as a result of disbarred lawyers' dishonest conduct. The fund, which is currently funded through a mandatory assessment on new lawyers, is being depleted due to the increasing number of claims and the dollar amount of those claims. The aggregate amount that can be distributed each year is \$350,000, with a cap on claims of \$25,000, and if the fund drops below \$1 million, Bar rules provide for an automatic assessment per State Bar member. There is a proposal to eliminate the new lawyers' assessment and instead assess all lawyers \$15/year to sustain the fund. Even though the State Bar is trying to do something positive, because it cannot make the claimants whole and the process is lengthy, it opens up the program to more criticism and dissatisfied and frustrated claimants. Paula said her office is also trying to eliminate the 3-day grace period on overdrafts of trust accounts to ensure that overdraft notification occurs immediately to the Bar.

- 1) A motion and second to rate CSF a B-Highly Desirable passed by unanimous voice vote.
- 2) A motion and second to rate CSF a 3-Satisfactory passed by unanimous voice vote.

Law Practice Management (LPM): B-1

Chief Operating Officer Sharon Bryant provided an overview of the LPM program, which has four staff and an annual budget of \$736k. That cost consists of a departmental budget \$465k and a Fastcase budget for \$274k. Components of the program include Practice Resources and a Resource Library, Office Consultations, Fastcase Training, Member Benefits (including the Individual Marketplace and Employer Group Exchange), Job Resources, and Cloud Lawyers (enhanced member directory). The program also conducts an annual 2-day Solo, Small-Firm Institute where attorneys receive a full year's worth of CLE credit and learn the latest in legal office management techniques, law office technology updates and substantive law changes. The institute typically attracts 500+ attendees. The program also has a discipline piece wherein lawyers are encouraged to go through a consultation in mitigation of discipline.

- 1) A motion and second to rate LPM a B-Highly Desirable passed by unanimous voice vote.
- 2) A motion and second to rate LPM a 2-Excelling failed by a hand vote of 2 in favor to 5 opposed.
- 3) A motion to rate LMP a 1-Exceptional passed by majority voice vote.

Lawyer Assistance Program (LAP): B-3

Sharon provided an overview the Lawyer Assistance Program, which has an annual budget of \$63k. The program receives support from the LAP Committee, staff support from Sharon, and out-sourced clinical support from CorpCare, an independent mediation and counseling center staffed by certified and licensed mental health providers. Bar members can receive up to six (6) prepaid clinical sessions per calendar year. Clients assisted by the LAP in 2018 totaled 274. The LAP also conducts an annual CLE on wellness, and recently created the *Lawyers Helping Lawyers* Peer Volunteer Program, a confidential online peer support initiative.

- 1) A motion and second to rate LAP a B-Highly Desirable passed by a hand vote of 5 in favor to 4 opposed (the 4 opposed would rate it a C).
- 2) A motion and second to rate LAP a 3-Satisfactory passed by a hand vote of 7 in favor to 1 opposed (the 1 opposed would rate it a 1).

Attorney Wellness: C-2

Jeff provided an overview of Attorney Wellness, which has no budget and is supported by the Attorney Wellness Committee and Communications staff. Components of the program include the Lawyers Living Well website that provides resources to Bar members on mental, physical, and social well-being. It touches on some of the same issues under the LAP, and also includes the SOLACE and the Suicide Prevention and Awareness.

- 1) A motion and second to rate Attorney Wellness a B-Highly Desirable failed by hand vote of 3 in favor to 5 opposed.
- 2) A motion and second to rate Attorney Wellness a C-Desirable but Not Essential passed by hand vote of 5 in favor to 3 opposed (the 3 opposed would rate it a B).
- 3) A motion and second to rate Attorney Wellness a 1-Exception failed by a hand vote of 4 in favor to 4 opposed.
- 4) A motion and second to rate Attorney Wellness a 2-Excelling, passed by a hand vote of 6 in favor to 2 opposed (the 2 opposed would rate it a 1).

Other Discussion

Paula was asked to add the criteria “protective of the public” under the letter Grade B.

Future Meeting Dates

Future meetings dates are July 29 and August 12. Committee members were also asked to hold August 26 in case the committee cannot get through the remaining program reviews by August 12 or it wants to go back for a retrospective.

Adjournment

There being no further business, the meeting was adjourned.

**Programs Committee Meeting
Monday, July 29, 2019 – 11:00 am
State Bar of Georgia
Atlanta, Georgia**

Minutes

Members Present

Martin Enrique Valbuena (Chair), Sally B. Akins, Treasurer Elizabeth L. Fite, Monica K. Gilroy, R. Javoyne Hicks (by phone), YLD President-elect Bert D. Hummel, IV, President-elect Dawn M. Jones (by phone), YLD Past President Nicole C. Leet, and Jeffrey S. Ward (by phone).

Committee Members Absent

Jonathan B. Pannell (Vice Chair), Graham E. McDonald, and Carl R. Varnedoe.

Executive Committee Liaison

President Darrell Sutton.

Staff Present

Sharon L. Bryant, Jeff Davis, Paula Frederick, Christine Butcher Hayes, and Ron Turner.

Approval of the Minutes

The minutes of the Programs Committee meeting on July 15, 2019 were approved, as revised, by unanimous voice vote.

Bar Programs Rated

Commission on Continuing Legal Education (CCLC): A-2

Executive Director Jeff Davis provided an overview of the CCLC, a separate commission created by the Supreme Court of Georgia that sets the minimum CLE requirements, accredits CLE providers, and tracks attorney compliance. It has its own budget funded by user fees of \$4/per CLE credit hour. Also under the purview of the CCLC is the Transition into Law Practice Program (TILPP), which is the mandatory CLE requirement for all newly admitted lawyers. Together with TILPP, the CCLC has 8 staff and an annual budget of \$2.321M. Of that \$2.321M budget, CCLC contributes \$2 of the \$4/per CLE credit hour user fee to the Bar Center for purposes of operating the 3rd Floor Conference Center that is devoted primarily to continuing legal education. Doing so allows ICLE and other Georgia non-profit and Bar-affiliated CLE providers to use the meeting space without a fee, and helps defray the costs of maintaining the Conference Center. CCLC has approximately a \$6M surplus built up over many years due to cost controls and no additional staffing.

It is now in the process of spending down that surplus, and lowered the per CLE credit hour fee from \$5 to \$4 effective this Bar year.

- 1) A motion and second to rate CCLC as an A-Core passed by unanimous voice vote.
- 2) A motion and second to rate CCLC as a 2-Excelling passed by unanimous voice vote.

Institute of Continuing Legal Education (ICLE): B-2

Jeff provided an overview of the ICLE program, which has 15 staff, an annual budget of \$5.174M, and revenue of \$5.300M. ICLE became a Bar program when the Bar took in the assets of ICLE and moved its operations from Athens. It came with a surplus, and under the asset transfer arrangement, the surplus remains with ICLE. ICLE's budget does not come from license fees, but is funded exclusively by registration fees for CLE programs. In its first two years at the Bar, ICLE operated in a deficit due to start-up costs, legal fees other costs, but this year it will be revenue positive. The Bar's goal is for ICLE to be net neutral, and we will be adjusting CLE registration fees accordingly; however, ICLE registration fees are still below market compared to other bar associations. We hope to also reduce programming costs by 10-15%. While ICLE is not a mandatory program of the Bar, its function is to ensure quality legal education at reasonable costs to Bar members so as to help them meet their mandatory CLE requirements.

- 1) A motion and second to rate ICLE a B-Highly Desirable was approved by a hand vote of 8 in favor to 2 opposed (the 2 opposing votes would rate it a C by reason of it having operated on its own for years, and there are other CLE providers offering CLE at reasonable costs).
- 2) A motion and second to rate ICLE as a 2-Excelling was approved by unanimous voice vote.

Meetings: B-2

Sharon Bryant provided an overview of Meetings, which has 2 staff and an annual net budget of \$871k. The budget subsidizes registration fees and costs for four Board of Governors meetings, the Midyear and Annual members' meetings, the Executive Committee meetings, the Executive Committee/Supreme Court Joint Meeting, and the Executive Committee/Court of Appeals meeting. Also reflected in the budget is \$50k for the Southern Conference of Bar Presidents that is being hosted this year by Georgia. In this strong economy, hotel rates, costs, and demand are going to continue to run high. The only way to lower the cost of meetings is to raise registration fees, eliminate some meetings, or change the meeting formats.

- 1) A motion and second to rate Meetings an A-Core failed by a hand vote of 4 in favor to 6 opposed.
- 2) A motion and second to rate Meetings a B-Highly Desirable was approved by a hand vote of 6 in favor to 4 opposed (the 4 opposing votes would rate it an A).
- 3) A motion and second to rate Meetings a 1-Exceptional failed by a hand vote of 2 in favor to 8 opposed.
- 4) A motion and second to rate Meetings a 2-Excelling passed by a hand vote of 9 in favor to 1 opposed (the 1 opposing vote would rate it a 1).

Satellite Offices: B-2

Sharon provided an overview of the Coastal Georgia Office and the South Georgia Office. The Coastal Georgia Office has 2 staff and an annual budget of \$270k, and the South Georgia office has 1.5 staff and an annual budget of \$192k, for a combined budget of \$462k. Both offices serve many purposes and office usage reports for the last 18 months show heavy usage of both offices by Bar members. The offices are used for client and miscellaneous meetings, depositions, mediations and arbitrations, and CLE training. The staff also handle consumer calls and walk-ins. The offices provide Bar members greater access to State Bar resources, help members satisfy their CLE requirements, allow mediations to take place in a neutral location, and allow solo practitioner to meet with clients. Both offices provide a valuable service to Bar members.

- 1) A motion and second to rate the Satellite Offices a B-Highly Desirable passed by unanimous voice vote.
- 2) A motion and second to rate the Satellite Offices a 2-Excelling passed by unanimous voice vote.

Young Lawyers Division (YLD): B-2

YLD President-elect Bert Hummel provided an overview of the YLD, which has 2 staff and an annual budget of \$494k. Membership in the YLD is automatic and there are no dues to join. For most Bar members, the YLD is their first introduction to the Bar, and it provides them a great opportunity for networking, mentorships, and enhances their professional lives. The YLD has numerous programs that benefit the profession, the YLD, and the public. It has standing committees that somewhat mirror the Bar's committees and sections. It is also involved in improving access to legal services through initiatives such as the Wills Clinics, Due Justice Do 50, and the Public Interest Internship Program. The YLD is the service arm of the Bar and conducts a number of community service projects around the state including Build a Better Georgia Day, the Legal Food Frenzy, and the annual Signature Fundraiser.

- 1) A motion and second to rate YLD a B-Highly Desirable passed by a unanimous voice vote.
- 2) A motion and second to rate YLD a 2-Excelling passed by a hand vote of 9 in favor to 1 opposed (the 1 opposed would rate it a 1).

High School Mock Trial (HSMT): C-1

Jeff and Bert provided an overview of the High School Mock Trial program, which has 1 staff and an annual net budget of \$154k. While it is a program of the YLD, it is treated as a separate program and funded separately. This statewide program brings together teams of high school students participating in mock trials around the state in various competitions – Regionals, Districts, State. The team that wins state goes to the National High School Mock Trial Championship. The HSMT program also conducts an annual Law Academy. This year the program successfully hosted the National High School Mock Trial Championship in Athens.

- 1) A motion and second to rate HSMT a C-Desirable but Not Essential passed by unanimous voice.
- 2) A motion and second to rate HSMT a 1-Exceptional passed by unanimous voice vote.

Law-Related Education (LRE): C-3

Sharon provided an overview of the LRE program, which has 3 staff and an annual budget of \$388k. The LRE program teaches young people about the law and provides instruction concerning legal rights and responsibilities. It also serves teachers in their effort to teach about the law in their classes by developing curriculum-related materials for grade K-12. Components of the LRE program include the Journey Through Justice field trips, participated by 8,765 students this year, teacher workshops that reached 250 teachers, the Virtual Museum of Law that offers the same experience as being at the Bar Center’s Museum of Law, Curriculum Resources through an online resource called LiveBinders that offers a variety of legal topics to teachers, a Civics and Law Honor Roll, and a SkillsUSA Criminal Justice Quiz Bowl.

- 1) A motion and second to rate LRE a C-Desirable but Not Essential passed by unanimous voice.
- 2) A motion and second to rate LRE a 3-Satisfactory passed by unanimous voice vote.

Legislation: B-1

Christine Butcher Hayes provided an overview of the legislative program, which has 1 staff, 3 contract lobbyists, and an annual budget of \$553k. The budget does

not come from license fees, but comes from voluntary contributions to the Legislative and Public Advocacy Fund. The Bar's legislative program provides advocacy and education on state legislative issues affecting the practice of law. It deals with section-specific bills and general practice bills. It also tracks and reviews all legislation filed during the session. Funding is down 41% this year, with most contributions coming from solo practitioners or small firms. The legislative program does a good job of watching out for the profession as a whole.

- 1) A motion and second to rate Legislation a B-Highly Desirable, passed by unanimous voice.
- 2) A motion and second to rate Legislation a 1-Exceptional passed by unanimous voice vote.

Membership: A-1

Jeff provided an overview of Membership. This department has 5 staff and an annual budget of \$889k. It was noted that this budget includes \$197k in credit card fees. Membership is responsible for all 50,000+ membership records, and is the official record of disciplinary history. It handles all license fee payments, the annual dues notice, new member enrollment packages, mailing lists, and it administers Bar elections. Membership also works with other departments on such things as CLE suspensions. It handles approximately 20,000 membership record changes per month and a heavy phone volume.

- 1) A motion and second to rate Membership an A-Core passed by unanimous voice vote.
- 2) A motion and second to rate Membership a 1-Exceptional passed by unanimous voice vote.

Other Discussion

There was no other discussion.

Adjournment

There being no further business, the meeting was adjourned at 2:00 p.m.

D-R-A-F_T
Programs Committee Meeting
Monday, August 12, 2019 – 11:00 am
State Bar of Georgia
Atlanta, Georgia

Minutes

Members Present

Martin Enrique Valbuena (Chair), Jonathan B. Pannell (Vice Chair) (by videoconference), Treasurer Elizabeth L. Fite, Monica K. Gilroy, President-elect Dawn M. Jones (by phone), Graham E. McDonald (by phone), and YLD Past President Nicole C. Leet.

Committee Members Absent

Sally B. Akins, YLD President-elect Bert D. Hummel, IV, and Carl R. Varnedoe.

Executive Committee Liaison

President Darrell Sutton.

Staff Present

Sharon L. Bryant, Jeff Davis, and Ron Turner.

Approval of the Minutes

The minutes of the Programs Committee meeting on July 29, 2019 were approved by unanimous voice vote.

Bar Programs Rated

Communications: A-2

Chief Operating Office Sharon Bryant and Executive Director Jeff Davis provided an overview of the Communications Department, which has a staff of 5 and an annual budget of \$1.013M. The budget includes \$318k for publications, \$55k for a media consultant, and \$30k for website maintenance and consulting. All of Bar's publications and media relations are coordinated by the Communications Department and its various committees. Publications include the *Georgia Bar Journal*, published bi-monthly, the Supplemental Directory, board books, and various program newsletters and brochures. This department is also responsible for upgrading and maintaining the State Bar website, coordinating the Bar's PSA campaigns and the annual awards program, and manages the Bar's social media channels. It provides support not only to all departments and programs of the Bar, but also to the Bar's officers, executive committee and Board of Governors. It is the vehicle the Bar uses to communicate to its members. Communications staff also provide support to several Standing and Special Committees.

- 1) A motion and second to rate Communications an A-Core was approved by unanimous voice vote.
- 2) A motion and second to rate Communications a 2-Excelling was approved by unanimous voice vote.

Fee Arbitration Program: C-3

Sharon provided an overview of the Fee Arbitration Program, which has a staff of four, a contract attorney, and an annual budget of \$593k. The voluntary program handles the resolution of fee disputes between attorney and clients, and between lawyers in such things as sharing of fee sharing, and partnership dissolution. The disputed fee amount has to exceed \$750, and the fee dispute cannot be the subject of litigation in court at the time the petition is filed. Approximately 112 new disputes are reported to the program each month. The Fee Arbitration Committee, Bar staff, and the parties are able to resolve a majority of those without having to go through the full arbitration process. While up to 25 hearings are scheduled each month, due to last minute settlements, hearings and awards are required in about 8 cases per month. The client (whether petitioner or respondent) agrees to be bound by the results of the arbitration. If the respondent attorney does not agree to be bound, the Committee may determine that it is in the best interest of the public and legal profession to accept jurisdiction and move forward with a hearing. Petitions filed in the last two year totaled 1,103. The average amount of the petitions was \$11,902 and the average amount of the awards was \$7,127. The length of time from filing to the award was 8 months, and the length of time from filing to settlement was 4 months. There are 22 cases open in collection with the program's contract attorney.

- 1) A motion and second to rate Fee Arbitration a C-Desirable but Not Effective was approved by unanimous voice vote.
- 2) A motion and second to rate Fee Arbitration a 3-Satisfactory was approved by unanimous voice vote.

Sections: B-1

Sharon provided an overview of Sections which has 2 staff and an annual budget of \$191k, paid by Section member assessments and not mandatory license fees. There are 51 sections representing various practice areas of the legal profession. They provide services to the legal profession and the public, and are a conduit for information in particular areas of law. While some sections are more active than others, many provide newsletters, CLE programs, and other opportunities to exchange ideas with other practitioners. At least 11 Sections hold large annual institutes for their members. Section staff maintain all sections accounts and sponsorship dollars, attend most section events, including after-hour events, section

executive committee meetings, and manage all section communications. Staff conduct an annual Sections Chair Orientation and assist with revitalizing less active sections.

- 1) A motion and second to rate Sections a B-Highly Desirable was approved by unanimous voice vote.
- 2) A motion and second to rate Sections a 1-Exceptional was approved by unanimous voice vote.

Pro Bono Project /Legal Services: C-3

Jeff provided an overview of the Pro Bono Project, which has a staff of three and an annual budget of \$270k. The Pro Bono Project is the only program within the Bar serving the pro bono lawyer, the organized bar, and legal aid and pro bono programs through technical support, web-based services and direct contact. It allows the public to be directed to the appropriate legal assistance program, attorney referral program, or social service agency, and maintains a strong support network for volunteer lawyers. It also provides information to lawyers on what civil pro bono programs are available when they want to volunteer, and gives technical assistance to Bar sections, the YLD and local voluntary bar associations when they want to develop or revise a pro bono program. The Pro Bono Project maintains a statewide directory of all civil legal aid and pro bono programs and provides referrals to several thousand callers each year who contact the State Bar for legal help. The Pro Bono Project hosts the statewide volunteer lawyer support website, provides online support to lawyers, and helps legal aid programs implement technology solutions.

- 1) A motion and second to rate the Pro Bono Project a C-Desirable but Not Essential was approved by unanimous voice vote.
- 2) A motion and second to rate the Pro Bono Project a 3-Satisfactory was approved by unanimous voice vote.

Military Legal Assistance Program (MLAP): C-2

Jeff provided an overview of the Military Legal Assistance Program, which has a staff of one and an annual budget of \$130k. It is a pro bono lawyer referral for active duty, reservists and National Guard members ranked e-5 and below, for all service members with issues facing deployment, for military retirees and service-connected disabled veterans facing a financial hardship, and for all veterans with issues related to VA benefits where attorney's fees would not otherwise be recoverable. Since the program's inception 2,283 cases have been processed, which equates to about 240-250 cases per year. The MLAP, working in conjunction with the Military/Veterans Law Section, has also helped establish three legal assistance clinics at Emory, Georgia State, and the University of Georgia, helped staff legal

assistance clinics at the VA medical facilities a five locations, and conducted an annual VA accreditation CLE program. New this year, the MLAP hosted a Military/Veterans Law Clinic with Georgia Legal Services of Columbus where veterans seeking assistance with VA benefits matter, discharge upgrades and family law matters were helped.

- 1) A motion and second to rate MLAP a C-Desirable but Not Essential was approved by majority voice vote (the 2 opposing votes would rate it a B).
- 2) A motion and second to rate MLAP a 1-Exceptional failed by a voice vote of 3 in favor to 4 opposed.
- 3) A motion and second to rate MLAP a 2- Excelling was approved by majority voice vote (one opposing vote would rate it a 1, and the other opposing vote would rate it a 3).

Georgia Diversity Program: B-2

Sharon provided an overview of the George Diversity Program (GDP), which is operated by an independent contractor (no Bar staff) at an annual cost of \$20k. The GDP provides support to, and promotes the inclusion of, all members of the State Bar regardless of race, nationality, ethnicity, religion, sex, gender identity, sexual orientation, disability or age. The primary sources of funds are from members' voluntary dues and revenue from CLE programs. Dues are on a sliding scale based on law firm size and range from \$1,700 for firms of more than 25 attorneys down to \$160 for solo practitioners. The program provides forums to discuss recent diversity and inclusion developments in the legal profession, an annual CLE on diversity and inclusion trends, strategies, policies and initiatives that corporate, government and not-for-profit legal departments and law firms have successfully implemented, presents an annual business development symposium that promotes inclusion of women and minorities on outside counsel teams that serve corporate and government clients, develops relationships with corporate in-house and government counsel, presents an annual judicial and summer associates reception, and coordinates an annual high school pipeline program. President-elect Dawn Jones stated that she believes the GDP is core to the mission of the State Bar and helps improve the justice system and the provision of quality of legal services to Georgians through its programming and events, by encouraging, supporting and highlighting law students, lawyers and judges of various races, religions, ethnicities, sexual orientation and gender identities who reflect our diverse clients and communities.

- 1) A motion and second to rate GDP a B-Highly Desirable was approved by majority voice vote (the one opposing vote would rate it an A).

- 2) A motion and second to rate GDP a 1-Exceptional failed by a voice vote of 3 in favor to 4 opposed.
- 3) A motion and second to rate GDP a 2-Excelling was approved by majority voice vote (the one opposing vote would rate it a 1).

BASICS: C-4

Sharon Bryant provided an overview of the BASICS Program, which is operated by an independent contractor (no Bar staff) at an annual cost of \$150k. BASICS, which has been Bar Program since 1976, aids and steers inmates in the direction of self-rehabilitation. The BASICS World of Work curriculum is a 10-week course taught in 21 transitional centers around the State of Georgia by 25 instructors. The classes assist soon-to-be-released inmates with developing career, educational and/or work plans, preparing resumes, setting goals, and teaching interviewing techniques. Upon release, it assists with job research, applying for colleges or vocational schools, completing or changing personal action plans, as well as developing financial plans. This decreases the likelihood that these individuals will return to jail.

- 4) A motion and second to rate BASICS a C-Desirable but Not Essential was approved by unanimous voice vote.
- 5) A motion and second to rate BASICS a 4-Below Satisfactory was approved by majority voice vote (the one opposing vote would rate it a 3).

The Georgia Resource Center: C-3

Jeff provided an overview of the Georgia Appellate Practice & Educational Resource Center that the State Bar contributes \$103k to annually. The Resource Center provides free representation to indigent death-sentenced prisoners in Georgia who are in state and federal habeas corpus proceedings challenging their capital convictions and death sentences. Georgia is the only state in the country which does not provide a right to counsel for death-sentenced inmates in post-conviction proceedings and The Resource Center was established in 1988 to provide such representation. The Bar took over the annual contribution when the Georgia Bar Foundation could no longer provide it, while at the same time The Resource Center was dealing with state funding cuts. Those cuts were eventually restored and The Resource Center receives \$800k+ funding from the state. Jeff believes the state could pick up the funding difference and that the Bar's legislative program can help in that effort

- 1) A motion and second to rate The Georgia Resource Center a C-Desirable but Not Essential, was approved by unanimous voice.
- 2) A motion and second to rate The Resource Center a 3-Satisfactory was approved by unanimous voice vote.

Chief Justice’s Commission on Professionalism: B-4

Jeff provided an overview of the Chief Justice’s Commission on Professionalism (CJCP), which is a commission of the State Bar of Georgia. It is funded by a \$15 per member, per year active lawyer assessment. Now that the Bar collects the money and remits it to the CJCP, we thought it worthy of discussion; however, the Bar does not control any part of the money or the CJCP.

- 1) A motion and second to rate the Chief Justice’s Commission on Professionalism a B-Highly Desirable was approved by unanimous voice vote, with Martin Valbuena abstaining.
- 2) A motion and second to rate the Chief Justice’s Commission on Professionalism a 4-Below Satisfactory was approved by majority voice vote (the one opposing vote would rate it a 2).

Other Discussion

President Darrell Sutton thanked everyone for their time and being active participants in the review process. Darrell reminded the committee that the Unified Bar Committee will be assessing programs in the context of *Keller*, and both committee’s recommendations will be presented to the Executive Committee in September. Any resulting recommendations from that meeting will be presented as an informational item to the Board of Governors at its Fall meeting.

Martin asked what the feeling was for another meeting on August 26 for a retrospective look at the ratings. The general consensus of those present was that a fourth meeting was not needed, but Sharon was asked to send out the updated Chart of Programs by Thursday of this week for members to review, and they are to let her know by no later than Monday whether or not they wish to meet on August 26. Members that indicate they want to meet were asked to let Sharon know which programs they specifically want to revisit.

Adjournment

There being no further business, the meeting was adjourned at 2:00 p.m.

State Bar of Georgia Consolidated Revenues and Expenditures
Projection Information for 2019-2020 and for 2020-2021

Category	2019-20 Net Dues		FY 19-20 Budget		Ashville Meeting		Projected 20-21 With Potential Budget Changes		Dues \$256		After NC with Potential Changes		Projected 20-21 With Potential Budget Changes		Dues \$258		Projected 20-21 With Potential Budget Changes		Dues \$260					
	# Memb.	Amount	# Memb.	Amount	# Memb.	Amount	# Memb.	Amount	# Memb.	Amount	# Memb.	Amount	# Memb.	Amount	# Memb.	Amount	# Memb.	Amount	# Memb.	Amount				
Active	39,400	\$10,007,600	39,400	\$10,007,600	39,400	\$10,086,400	39,400	\$10,165,200	39,400	\$10,244,000	39,400	\$10,322,800	39,400	\$10,401,600	39,400	\$10,480,400	39,400	\$10,559,200	39,400	\$10,638,000	39,400	\$10,716,800		
Inactive	8,950	\$1,136,650	8,950	\$1,136,650	8,950	\$1,145,600	8,950	\$1,154,550	8,950	\$1,163,500	8,950	\$1,172,450	8,950	\$1,181,400	8,950	\$1,190,350	8,950	\$1,199,300	8,950	\$1,208,250	8,950	\$1,217,200	8,950	\$1,226,150
Additional Members - Active	442	\$113,152	442	\$113,152	442	\$113,152	442	\$113,152	442	\$113,152	442	\$113,152	442	\$113,152	442	\$113,152	442	\$113,152	442	\$113,152	442	\$113,152	442	\$113,152
Additional Members - Inactive	209	\$26,752	209	\$26,752	209	\$26,752	209	\$26,752	209	\$26,752	209	\$26,752	209	\$26,752	209	\$26,752	209	\$26,752	209	\$26,752	209	\$26,752	209	\$26,752
Associates/Affiliate	14	\$1,400	14	\$1,400	14	\$1,400	14	\$1,400	14	\$1,400	14	\$1,400	14	\$1,400	14	\$1,400	14	\$1,400	14	\$1,400	14	\$1,400	14	\$1,400
Foreign Legal Consultant	6	\$1,524	6	\$1,524	6	\$1,524	6	\$1,524	6	\$1,524	6	\$1,524	6	\$1,524	6	\$1,524	6	\$1,524	6	\$1,524	6	\$1,524	6	\$1,524
Students	275	\$0	275	\$0	275	\$0	275	\$0	275	\$0	275	\$0	275	\$0	275	\$0	275	\$0	275	\$0	275	\$0	275	\$0
Emeritus	2,250	\$0	2,250	\$0	2,250	\$0	2,250	\$0	2,250	\$0	2,250	\$0	2,250	\$0	2,250	\$0	2,250	\$0	2,250	\$0	2,250	\$0	2,250	\$0
Late Fees		\$187,000		\$187,000		\$187,000		\$187,000		\$187,000		\$187,000		\$187,000		\$187,000		\$187,000		\$187,000		\$187,000		\$187,000
Priority Years Dues		\$2,500		\$2,500		\$2,500		\$2,500		\$2,500		\$2,500		\$2,500		\$2,500		\$2,500		\$2,500		\$2,500		\$2,500
Total License & Dues	50,895	\$11,336,674	50,895	\$11,336,674	51,546	\$11,564,340	51,546	\$11,653,195	51,546	\$11,742,050	51,546	\$11,830,905	51,546	\$11,919,760	51,546	\$12,008,615	51,546	\$12,097,470	51,546	\$12,186,325	51,546	\$12,275,180	51,546	\$12,364,035
Section Expense Reimbursement		\$190,644		\$190,644		\$190,644		\$190,644		\$190,644		\$190,644		\$190,644		\$190,644		\$190,644		\$190,644		\$190,644		\$190,644
CSF Expense Reimbursement		\$73,000		\$73,000		\$73,000		\$73,000		\$73,000		\$73,000		\$73,000		\$73,000		\$73,000		\$73,000		\$73,000		\$73,000
Advertising and Sales		\$45,200		\$45,200		\$44,748		\$44,748		\$44,748		\$44,748		\$44,748		\$44,748		\$44,748		\$44,748		\$44,748		\$44,748
Membership Income		\$119,500		\$119,500		\$119,488		\$119,488		\$119,488		\$119,488		\$119,488		\$119,488		\$119,488		\$119,488		\$119,488		\$119,488
Interest Income		\$100,000		\$100,000		\$99,990		\$99,990		\$99,990		\$99,990		\$99,990		\$99,990		\$99,990		\$99,990		\$99,990		\$99,990
Miscellaneous		\$4,500		\$4,500		\$4,500		\$4,500		\$4,500		\$4,500		\$4,500		\$4,500		\$4,500		\$4,500		\$4,500		\$4,500
Total Bar Revenue		\$11,869,518		\$11,869,518		\$12,097,119		\$12,094,492		\$12,183,347		\$12,272,202		\$12,361,057		\$12,449,912		\$12,538,767		\$12,627,622		\$12,716,477		\$12,805,332
Total Bar Expenses		\$13,466,283		\$13,466,283		\$13,435,849		\$12,582,933		\$12,582,933		\$12,582,933		\$12,582,933		\$12,582,933		\$12,582,933		\$12,582,933		\$12,582,933		\$12,582,933
SBG Net Gain (Loss)		(\$1,596,765)		(\$1,596,765)		(\$1,338,730)		(\$888,441)		(\$399,586)		(\$310,731)		(\$211,876)		(\$132,921)		(\$54,166)		14,845		113,745		222,642
Total Bar Center Operations Revenue		\$3,185,888		\$3,185,888		\$3,217,747		\$3,217,747		\$3,217,747		\$3,217,747		\$3,217,747		\$3,217,747		\$3,217,747		\$3,217,747		\$3,217,747		\$3,217,747
Total Bar Center Operations Expenses		\$2,636,385		\$2,636,385		\$2,674,085		\$2,674,085		\$2,674,085		\$2,674,085		\$2,674,085		\$2,674,085		\$2,674,085		\$2,674,085		\$2,674,085		\$2,674,085
Total Bar Center Operations Net Gain (Loss)		\$549,503		\$549,503		\$543,662		\$543,662		\$543,662		\$543,662		\$543,662		\$543,662		\$543,662		\$543,662		\$543,662		\$543,662
Combined Revenue		\$15,055,406		\$15,055,406		\$15,314,866		\$15,314,866		\$15,314,866		\$15,314,866		\$15,314,866		\$15,314,866		\$15,314,866		\$15,314,866		\$15,314,866		\$15,314,866
Combined Expenses		\$16,102,868		\$16,102,868		\$16,108,935		\$16,108,935		\$16,108,935		\$16,108,935		\$16,108,935		\$16,108,935		\$16,108,935		\$16,108,935		\$16,108,935		\$16,108,935
Combined Net Income (Loss)		(\$1,047,462)		(\$1,047,462)		(\$794,069)		(\$794,069)		(\$794,069)		(\$794,069)		(\$794,069)		(\$794,069)		(\$794,069)		(\$794,069)		(\$794,069)		(\$794,069)



State Bar of Georgia

To: Bar Officers
Finance Committee

From: Ron Turner

Date: September 24, 2019

Re: June 2019 Financial Statements-Bar Operations and Bar Center

Attached please find the June 2019 financial statements. These financial statements are presented at a summary level for clarity and to convey overall trends. **As June 30 is the year-end of the Bar, full departmental detail is attached. The amounts provided in the attached financial statements are subject to final audit.**

Line item variance explanations follow. Department managers are expected to specify savings elsewhere in their budgets when exceeding a line item, unless there was a budgeting error. Line item variances < **\$100** are not explained to conserve your time.

As a way of providing additional information, we have added an additional column to the attached financial statements. This column is labeled as "Remaining Balance of Budget" and represents the difference between the total annual budget and the actual amount incurred to date.

New and revised items are highlighted in bold.

Salaries – In certain cases salaries by have exceeded the budget minimally in certain departments due to a timing issue. Raises are given the first full pay period in the new fiscal year. Sometimes that may result in a slight shifting of the expenses from one year versus another year.

Unless specifically noted in a comment related to each department, savings were realized in other line items within the department so that the department, in total, was not over budget.

Administration (ADM)

ADM - Hourly PT is over budget by \$441 as this account was not originally budgeted. This expense occurred as a former employee came back to the Bar for a couple of days to assist her replacement in transitioning to her position.

ADM - Overtime exceeded the budget by \$304 primarily due to additional overtime incurred at the annual meeting.

ADM - Miscellaneous is over budget by **\$894**. This overage is primarily due to donations made in memory of Chief Justice Hines **and in memory of Doug Stewart**.

Administration (ADM)

ADM - Computer Software exceeded the budget by \$339. This overage is primarily due to the purchase of one software program that was not budgeted for.

ADM - Membership Software License was \$4,142 over budget primarily due to an increase in the cost for the membership software database. A new 5-year contract was entered into beginning in March 2018, which was after the date that the budget estimate was made.

ADM - Furniture/Equipment exceeded the budget by \$699 due to the purchase of a shredder. This purchase was not included in the original budget.

Management Information Systems (MIS)

MIS - Computer Software is over budget by \$1,564. This overage is primarily a result of unanticipated additional software in the amount of approximately \$4,250. This software was required to complete the Disaster Recovery Failover Center in our Savannah office.

MIS - Contract Labor exceeded the budget by \$3,040 primarily as a result of a major server room air conditioning unit repair for approximately \$2,100 that was unexpected and unbudgeted.

MIS - Furniture/Equipment is over budget by \$568 due to the purchase of a chair that was not originally budgeted for.

Office of General Counsel (OGC)

OGC – Overtime is over budget by \$336 primarily due to additional time associated with the annual meeting in Orlando.

OGC-Supplies is over budget by **\$1,113**. This overage is primarily due to the following: (1) the purchase of headsets that were not included in the original budget and (2) underbudgeting for the year.

OGC-Computer Hardware exceeded the budget by \$1,460. The cost of each computer and warranty program exceeded the original cost per unit causing this overage.

OGC-Software exceeded the budget by \$875. This is primarily due to the purchase of licenses for clickers.

OGC-Contract Labor is over budget by **\$10,384** as costs for this account was not originally budgeted. This budget overage **was** made up in the salaries line item.

Communications (COM)

COM-Salaries and taxes and benefits are over budget by a combined amount of \$23,488. This overage was due to an employee being charged to communications that was not originally anticipated when the budget was prepared. This overage

Communications (COM) - Continued

COM - Postage and Freight is over budget by **\$336** primarily due to postage and mailing costs associated with membership certificates (see related membership certificate comment below).

COM - Staff travel was over budget by \$1,814 primarily because when the budget was set, it was anticipated that the department head would attend certain meetings but not all Executive Committee meetings. Subsequently, at the request of the Bar's officers, it was requested that the department head attend all Executive Committee meetings.

COM - Computer Hardware exceeded the budget by \$246 as these costs were incurred for a new employee for which computer monitors were purchased. This purchase was not originally budgeted.

COM - Furniture/Equipment is over budget by \$269 due to the purchase of a chair that was not originally budgeted for.

Membership Certificates exceeded the budget by **\$921**. **This overage occurred due to the preparation of additional membership certificates beyond the original estimated amount.** However, this overage along with the overage from postage and freight above were made up as the income associated with these membership certificates was also greater than the budgeted amount.

Supplemental Directory exceeded the budget by \$146. This overage occurred primarily because an increase in paper and postage costs above the amounts originally anticipated.

Law Practice Management (LPM)

LPM – Overtime was over budget **\$487** mainly due to staffing needs for the Solo and Small Firm Seminar that the department produced. The Seminar's income more than offset the unbudgeted overtime.

LPM – Subscriptions and books were over budget by \$853 due to unexpected costs for renewing subscriptions for purchasing a renewing resource for the Resource Library.

LPM - Solo and Small Firm exceeded the budget by **\$8,188**. This overage is because the department agreed to cover costs in the amount of \$12,800 for ICLE associated with the Solo and Small Firm Conference. This assistance for ICLE was not included in the original budget. However, the original budget for LPM included a net profit of \$13,000 from all of its revenues, including revenue from Solo and Small Firm (offset by Solo and Small Firm expenses). After considering the \$12,800 transfer from LPM to ICLE, this same net profit is **\$19,210**. Therefore, the net profit is **\$6,210** greater than anticipated.

Young Lawyers (YLD)

YLD – Seminars and Training is over budget by \$874. This overage is because this

Young Lawyers (YLD) - Continued

YLD – Staff travel is over budget by \$1,189 due to additional travel costs associated with NABE, assistance at the National High School Mock Trial event in Athens along with additional costs associated with the annual meeting.

YLD – Computer Software is over budget by \$477 as this expenditure was not originally budgeted.

YLD – Brochure exceeded the budget by \$435. This overage is primarily the result of the following four reasons: (1) an increase in the quantity printed by 500 (2) an increase in the quantity mailed by 836 (3) an increase in postage costs and (4) an increase in the cost of paper that was not anticipated. The overage in this account should be offset by savings in the YLD Newsletter account.

Unauthorized Practice of Law (UPL)

UPL-Computer Hardware exceeded the budget by \$350 due to the purchase of two printers. These new printers replaced other printers that were older and were beginning to malfunction. The cost of replacing these two printers is less than the cost of repairing them.

Coastal Georgia Office (SAV)

SAV – Equipment maintenance was over the budget by **\$3,377** primarily due to repairs associated with the projector and the ice maker. The projector was damaged and was replaced as there was a roof leak and this damaged the equipment. The damage was not budgeted for and was not covered by the landlord. In addition, insurance coverage was reviewed to determine if insurance would cover the replacement. However, the cost of the damage and replaced equipment was less than the insurance deductible.

SAV – Rent & Utilities was budgeted at \$59,000. However, actual costs were \$63,917. Thus, there is a budget overage of \$4,917. This overage was due to a shortfall when the budget was originally made combined with increased costs of rent and utilities.

SAV – Facilities maintenance exceeded the budget by **\$489**. This overage is due to unanticipated bathroom repairs of approximately \$1,150.

South Georgia Office (TIF)

TIF – Telephone was over budget by \$218 primarily due to increased costs and usage.

TIF – Equipment Maint/Rental exceeded the budget by \$190 due to repairs performed for additional internet connectivity purposes.

High School Mock Trial (HSMT)

In total, HSMT was \$20,864 over budget. This overage was due primarily to the following factors: (1) the costs of the National High School Mock trial program in Athens was anticipated to be revenue/cost neutral in that specific donations would cover all of the costs. However, total actual costs incurred exceeded total revenue by \$10,204 and (2) it was originally budgeted that HSMT would obtain donations (other than donations for the national event in Athens) in the amount of \$40,000. Actual donations made were \$15,753.

Sections

Sections – salaries along with taxes and benefits were over budget by a combined amount of \$5,938. This overage was because for a portion of the year the Bar was paying for both a former section department head and the current department head.

Military Legal Assistance Program (MLAP)

MLAP supplies and printing was in excess of the budget by \$375 and \$441 respectively. These overages were primarily because this was the first budget prepared for MLAP and appropriate historical information from which to base the budget upon was not available.

MLAP - Furniture/Equipment is over budget by \$402 due to the purchase of a white board presentation cabinet that was not originally budgeted for.

Miscellaneous

Board of Governors Meetings

The Board of Governors meetings were over budget by \$157,932 due to the following: (1) costs incurred at the annual meeting were at an amount that was in excess of the originally anticipated amounts (2) costs for food, beverage and venues for all meetings have risen dramatically in a short period of time and (3) additional security and EMT personnel at events.

First Floor Painting/Rehab was budgeted at \$22,770. However, actual costs were \$49,000. Thus, actual costs exceeded the budget by \$26,230. Savings were realized in the First Floor Furniture Project in the amount of \$56,736 to cover this budget overage.

OBI (Office of Bar Investigators) Conference was over budget by \$487. This overage will be made up via savings realized in the Office of General Counsel budget.

Southern Conference Meeting was over budget by \$373. This is an expense associated with the upcoming Southern Conference meeting which will be held in Atlanta in October 2019. A budget was not established for this expense for the 2018-2019 Bar year. Savings will be realized in other meetings line items.

Bond Premium Amortization exceeded the budget by \$2,959. This non-cash expense was not originally budgeted.

Conference Center (CONF)

CONF – After Hrs Security exceeded the budget by **\$1,738** primarily due to costs associated with personnel performing after hours cleaning for the Conference Center.

CONF – Furniture Repairs & Maintenance was over the budget by **\$1,837** primarily due to the following: (1) additional costs associated with cleaning of the carpets and (2) when the budget was originally established the new agreement with the carpet vendor had not been entered into. The costs associated with the new agreement were greater than those originally budgeted.

CONF - Videoconferencing Support is over budget by \$750 due to an underbudget for this line item.

CONF – Furniture/Equipment is over budget by \$218 due to the purchase of a chair that was not originally included in the budget.

Bar Center

Third Floor Contingency exceeded the budget by \$5,780. These costs were incurred for the development of a Web360 tour of the State Bar. Such costs were originally not contemplated for the 2018 – 2019 year.

Third floor renovations exceeded the budget by **\$74,304**. This account is in excess of the budget primarily due to electrical work performed for the installation of electrical outlets on the third floor including switches, floor scans, floor cores and installation of conduit and wiring. The costs were incurred in order to increase WiFi capacity on the third floor to enhance the capabilities for additional usage of wireless devices for continuing education courses.

AV & Equipment exceeded the budget by \$166 primarily due to the purchase of new security cameras. This purchase was not originally anticipated in the budget.

Cushman & Wakefield (C&W)

C&W – Personnel Management Salary – The actual costs incurred exceeded the budget by **\$11,518**. This expense was under-budgeted by the subcontractor.

C&W – Management Fees – The actual costs exceeded the budget by \$1,241 primarily because of underbudgeting by the subcontractor.

C&W – R&M Plumbing was over budget by **\$15,411** primarily due to **the following: (1)** repairs necessary for backflow preventors. These are required to be tested each year and have not failed. However, in the testing performed in the current year they failed and were required to be repaired or replaced to be in conformity with building codes. **(2) removal and repair of a booster pump system. This repair was not anticipated in the current fiscal year.**

Cushman & Wakefield (C&W) - Continued

C&W – R&M Tools/Radios – Actual costs incurred were \$3,573 while the budgeted amount was \$3,000. These additional costs were incurred primarily as a result of the following two factors: (1) the pressure washer broke and could not be repaired economically compared to the purchase of a new one. As such, a new pressure washer was purchased at a cost of approximately \$1,082. (2) the radios broke and new radios were purchased at a cost of \$356.

C&W – Elevators – Actual costs were \$27,128 while the budgeted amount was \$26,000. This budget overage occurred primarily because of an elevator entrapment issue that occurred. This issue was not originally anticipated. In addition, this event occurred when the elevator company was in overtime to release and repair this condition.

C&W – R&M Rubbish – The actual costs incurred exceeded the budget by \$293 primarily due to an increase in monthly costs that was not originally anticipated.

C&W – Cleaning exceeded the budget by \$1,189 primarily due to additional cleaning supplies that were inadvertently purchased by the subcontractor. These additional supplies are being used in the 2019-2020 fiscal year.

Parking

Lanier – Salaries, **payroll taxes and workman's comp** all exceeded the budget by **\$15,925, \$474 and \$573 respectively. These expenses were all under-budgeted by the subcontractor. However, these costs were also over budget due to special events in which additional personnel for parking was needed. These events included the Super Bowl along with the NCAA basketball tournament. The Bar's special event revenue exceeded the budgeted amount by \$25,436 which more than compensated for these additional costs.**

Lanier – Repairs and Maintenance was over the budget by **\$11,440**. This overage occurred primarily as a result **of the following: (1) an emergency repair on the elevator controller air handler in the amount of \$4,641; (2) repairs of life/safety equipment associated with the parking deck and (3) an upgrade to the credit card software system in the amount of \$2,330. This upgrade was required because the old system was processing credit cards very slowly and there was also a possibility that the software was going to shut down. All of these repairs were not originally budgeted for.**

Lanier – Garage Insurance and payroll processing were over budget by **\$4,570 and \$403** respectively. These overages are primarily due to under-budgeting by the subcontractor.

Lanier – Incentive management fees exceeded the budget by \$2,269. This is primarily due to incentive fees earned during Super Bowl week and due to other special events. These fees were earned based upon the significant increase in parking revenue associated with the Super Bowl and the other special events that occurred.

Shared Office Overhead

Shared office allocations exceed actual expense by approximately **\$149,800**. Shared Supplies, Accounting **and Receptionist** expenses were lower than budget. This is a positive variance—good news. This number will fluctuate throughout the year.

Please give me a call at (404) 527-8748 if you have any questions regarding the attached financial statements.

cc: Jeff Davis
Cassie Hallstrom
Sharon Bryant
Paula Frederick

State Bar of Georgia Consolidated Revenues and Expenditures as of June 30, 2019
Operations and Bar Center Combined

Category	2018-19 Net Dues	FY 17-18 Actual			FY 18-19 Actual Thru 6/30/19				FY 18-19 Budget		
		# Memb.	%	Amount	# Memb.	%	Amount	% of Bud	# Memb.	%	Amount
Active	\$252	38,802	77.1	\$9,717,063	39,193	76.8	\$9,895,027	99.8%	39,750	77.4	\$9,917,000
Inactive	\$126	8,936	17.8	\$1,128,875	8,838	17.3	\$1,144,650	100.4%	9,050	17.6	\$1,140,300
Associates/Affiliate	\$100	15	0.0	\$1,300	13	0.0	\$1,400	63.6%	22	0.0	\$2,200
Foreign Legal Consultant	\$252	6	0.0	\$1,500	6	0.0	\$1,512	100.0%	6	0.0	\$1,512
Students	\$0	287	0.6	\$0	274	0.5	\$0	0.0%	280	0.6	\$0
Emeritus	\$0	2,274	4.5	\$0	2,745	5.4	\$0	0.0%	2,250	4.4	\$0
Late Fees				\$247,405			\$198,050	82.5%			\$240,000
Prior Years Dues				\$8,424			\$5,550	79.3%			\$7,000
Total License & Dues		50,320	100.0	\$11,104,567	51,069	100.0	\$11,246,189	99.5%	51,358	100.0	\$11,308,012
Section Expense Reimbursement				\$196,015			\$191,196	100.0%			\$191,196
CSF Expense Reimbursement				\$73,000			\$73,000	100.0%			\$73,000
Advertising and Sales				\$100,301			\$33,125	40.1%			\$82,700
Membership Income				\$146,603			\$158,266	133.0%			\$119,000
Interest Income				\$65,474			\$112,826	50.1%			\$225,000
Miscellaneous				\$3,204			\$18,986	949.3%			\$2,000
Total Bar Revenue				\$11,689,164			\$11,833,588	98.6%			\$12,000,908
Total Bar Expenses				\$13,106,634			\$13,265,699	94.0%			\$14,116,469
SBG Net Gain (Loss)				(\$1,417,470)			(\$1,432,111)				(\$2,115,561)
Total Bar Center Operations Revenue				\$3,943,792			\$4,042,903	100.5%			\$4,023,536
Total Bar Center Operations Expenses				\$2,650,784			\$2,500,072	96.2%			\$2,597,598
Total Bar Center Operations Net Gain (Loss)				\$1,293,008			\$1,542,831				\$1,425,938
Combined Revenue				\$15,632,956			\$15,876,491	99.1%			\$16,024,444
Combined Expenses				\$15,757,418			\$15,765,771	94.3%			\$16,714,067
Combined Net Income (Loss)				(\$124,462)			\$110,720				(\$689,623)
Legend											
Bar Operations											
Bar Center											
Combined Bar Operations and Bar Center											

9/24/2019

**State Bar of Georgia - Total Bar Center Operations
Revenues and Expenditures - Executive Summary
For the Twelve Months Thru June 30, 2019**

Category	FY 17-18 Actual	FY 18-19 Actual Thru 6/30/19		FY 18-19 Budget
		Amount	% Budget	
Bar Center Income and Cash Receipts				
CCLC Contribution	\$1,310,643	\$1,339,560	101.1%	\$1,325,000
Interest Income and Gain/Loss on Investments	\$21,196	\$75,151	75.2%	\$100,000
Member Assessment	\$289,900	\$206,173	91.1%	\$226,250
Operating Budget Transfer	\$616,188	\$628,512	100.0%	\$628,512
Miscellaneous Income	\$1,087	\$738	73.8%	\$1,000
Bar Center Income and Cash Receipts	\$2,239,014	\$2,250,134	98.7%	\$2,280,762
Bar Center Expenses and Cash Disbursements				
Building Rehabilitation	\$268,496	\$84,504	84.5%	\$100,000
Conference Floor Renovations	\$0	\$93,304	491.1%	\$19,000
Tenant Improvements	\$59,486	\$0	0.0%	\$0
Furniture and Equipment	\$107,654	\$71,666	100.2%	\$71,500
Loss on Disposal/Retirement	\$14,758	\$0	0.0%	\$0
Parking Deck Construction	\$13,350	\$0	0.0%	\$20,000
Subbasement Buildout	\$1,900	\$0	0.0%	\$0
Woodrow Wilson Exhibit and Law Museum	\$0	\$0	0.0%	\$2,500
President's Conference Room	\$0	\$2,848	57.0%	\$5,000
Third Floor Contingency	\$10,048	\$5,780	0.0%	\$0
Second Floor Buildout	\$37,190	\$0	0.0%	\$0
Bar Center Expenses and Cash Disbursements	\$512,882	\$258,102	118.4%	\$218,000
Bar Center Combined Net Cash Flow	\$1,726,132	\$1,992,032	96.6%	\$2,062,762
Conference Center Income and Expenses				
Room Rentals and Various Charges	\$20,297	\$16,113	62.0%	\$26,000
Conference Center Operating Expenses	\$414,262	\$429,192	93.2%	\$460,513
Conference Center Combined Net Cash Flow	(\$393,965)	(\$413,079)	95.1%	(\$434,513)
Rental Income and Expenses				
Rental Income	\$1,331,358	\$1,365,050	101.4%	\$1,345,632
Building Operating Expenses	\$1,429,681	\$1,493,786	93.2%	\$1,603,196
Rental Combined Net Cash Flow	(\$98,323)	(\$128,736)	50.0%	(\$257,564)
Parking Income and Expenses				
Parking Revenues	\$353,123	\$411,606	110.9%	\$371,142
Parking Deck Operating Expenses	\$293,959	\$318,992	101.0%	\$315,889
Parking Combined Net Cash Flow	\$59,164	\$92,614	167.6%	\$55,253
Total Bar Center Operations Net Gain (Loss)	\$1,293,008	\$1,542,831		\$1,425,938

Note: Non-Cash depreciation expense is excluded from this schedule.

State Bar of Georgia
Income Statement YTD - Operations
For the Twelve Months Ending June 30, 2019

	YTD Actual	Annual Budget	Ytd % of Bud	Last Year
Revenues				
Dues - Active	\$ 9,896,539	\$ 9,917,000	99.79	9,718,563
Dues - Inactive	1,144,650	1,140,300	100.38	1,128,875
Dues - Misc. Types	1,400	3,712	37.72	1,300
Dues - Late Fees	203,600	247,000	82.43	255,829
Total Dues & Licenses	11,246,189	11,308,012	99.45	11,104,567
Section Expense Reimb.	191,196	161,018	118.74	196,015
CSF Expense Reimb.	73,000	73,000	100.00	73,000
Advertising and Sales	33,125	82,700	40.05	100,301
Membership Income	79,241	74,000	107.08	78,303
Pro Hac Vice	390,701	275,000	142.07	348,700
Pro Hac Vice Contra	(311,676)	(230,000)	135.51	(280,400)
Savannah Misc Income	1,400	0	0.00	700
Interest Income	112,826	225,000	50.14	65,474
Miscellaneous Revenues	17,586	2,000	879.30	2,504
Total Revenues	11,833,588	11,970,730	98.85	11,689,164
Expenses				
Administration	2,379,514	2,458,400	96.79	2,277,279
Management Info Systems	647,023	706,303	91.61	544,636
General Counsel	3,584,217	3,871,271	92.59	3,487,780
Consumer Assistance Pgm.	575,632	589,012	97.73	549,638
Communications	805,924	896,664	89.88	805,698
Lawyer's Assistance Program	48,654	62,500	77.85	56,832
Fee Arbitration	533,451	576,621	92.51	504,993
Law Practice Management	429,778	465,034	92.42	429,308
Sections	185,181	191,196	96.85	179,043
Savannah Office	250,563	263,198	95.20	238,590
Tifton Office	178,298	187,052	95.32	173,369
Young Lawyers	481,643	534,296	90.15	502,477
Unauthorized Practice of Law	812,092	836,628	97.07	790,020
Law Related Education	363,659	381,878	95.23	347,026
High School Mock Trial	150,517	129,653	116.09	127,570
MLAP	117,501	117,733	99.80	3,762
Pro Bono	212,216	212,216	100.00	212,216
Fastcase	228,521	238,000	96.02	216,418
Officers' Expenses	116,634	204,709	56.98	56,633
BASICS Program Contribution	150,000	150,000	100.00	140,000
Resource Center Contribution	110,332	110,332	100.00	110,332
Military/Vets Pro Bono	0	0	0.00	103,254
Other Expenses	904,349	1,063,401	85.04	1,249,760
Total Expenses	13,265,699	14,246,097	93.12	13,106,634
Net Income	(\$ 1,432,111)	(\$ 2,275,367)	62.94	(1,417,470)

State Bar of Georgia
Status and Use of Cash and Investments as of June 30, 2019

Cash and Investments - June 30, 2019 **31,213,730**

Less:

CCLC Cash Included in Above Amount (7,308,236)

Net Cash Available for State Bar **23,905,494**

Use of Cash:

Less:

Board Designated - See Separate Schedule Attached (7,843,153)

Temporarily Restricted - See Separate Schedule Attached (1,903,787)

Total Board Designated and Temporarily Restricted **(9,746,940)**

Other - Cash Allocated:

Payment of Accounts Payable (1,517,886)

Payment of Accrued Vacation (530,344)

Deferred Income (7,768,804)

Payment of Credit Card Bill (29,332)

Payment of Accrued Salary (457,032)

Payment of Accrued Taxes (34,963)

Other Accrued Expenses (primarily pension) (611,981)

Payment to Client Security Fund (1,031,012)

Receipt of Contribution from CCLC (to Bar Center) 839,560

Operational Expenses for Remaining Bar Year 0

Total Other - Cash Allocated **(11,141,794)**

Estimated Cash Balance at June 30, 2019 **3,016,760**

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) no net cash is assumed for the upcoming dues year of 2019-2020. This is assumed because any income received prior to June 30, 2019 would be deferred if it related to 2019-2020 and the cash received would be used to pay for expenses in the same 2019-2020 period. (2) Bar Center would contribute additional cash flow through June 30, 2019 to equal their budget primarily as a result of the contribution from CCLC to the Bar Center in the anticipated amount of \$839,560.

**State Bar of Georgia
Board-Designated and Donor Temporarily Restricted Net Assets**

	2015 June 30	2016 June 30	2017 June 30	2018 June 30	2019 June 30
Board Designated:					
General Operations - Bar	2,750,000	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	2,000,000
Litigation	250,000	300,000	300,000	300,000	300,000
Cornerstones of Freedom	600,000	600,000	600,000	600,000	0
Sections	2,035,507	2,240,482	2,445,107	2,660,285	2,793,153
Total Board-Designated excludes Conventions and ICLE	7,635,507	7,890,482	8,095,107	8,310,285	7,843,153
Donor Temporarily Restricted :					
Legislative	1,164,049	1,166,943	1,221,403	1,256,157	1,285,874
Law Related Education/Marshall fund	318,173	319,623	320,854	312,580	316,570
High School Mock Trial	47,095	48,624	13,287	9,018	14,095
National Mock Trial	0	0	20,067	20,161	0
Basics Program	37,247	35,134	74,219	85,413	67,031
Younger Lawyers	168,673	187,426	160,992	154,216	125,032
Lawyers Assistance	25,807	24,854	24,463	30,454	16,625
Georgia Diversity Program	10,681	13,804	9,790	17,588	18,861
Bar Media Conference	18,960	20,406	21,108	21,247	18,697
Evidence Study	7,535	0	0	0	0
Justice Hunstein's Portrait	0	0	0	0	7,813
Law Day	6,196	6,223	6,247	6,276	6,356
Access to Justice	0	0	1,448	1,437	1,456
ICivics Program	555	557	559	(245)	603
Promote Inclusion	5,327	11,931	15,362	10,235	11,120
State Bar of Georgia Foundation	392	0	1,500	1,280	0
Military Vet Pro Bono	0	0	13,616	13,680	13,854
Unauthorized Practice of Law	0	0	100,050	100,518	0
Total Donor Temporarily Restricted	1,810,690	1,835,625	2,004,965	2,020,015	1,903,787
Net Board Designated & Donor Temporarily Restricted	9,446,197	9,726,007	10,100,072	10,330,300	9,746,940

Amounts for 2018 and 2019 shown herein are unaudited

State Bar of Georgia
Summary of Members and Voluntary Legislative Contributions
With Contributions Paid Through June 30, 2019

Dues	2019-20 Dues Season	2018-19 Dues Season	2017-18 Dues Season
Total Number of Members at Apr 30 of Previous Bar year (active and inactive)	47,964	47,029	47,442
Active - Number Paid	25,130	36,888	39,244
Inactive - Number Paid	5,205	8,123	8,839
Total Number of Members With Dues Paid	30,335	45,011	48,083
Percent of Total Members With Dues Paid	63.2%	95.7%	101.4%
Number of Members Who Made A Contribution	2,332	5,339	5,811
Percent of Members Who Made A Contribution	7.7%	11.9%	12.1%
Total Contribution Amount	\$ 209,612	\$ 494,906	\$ 546,905
Average Amount Paid	\$ 90	\$ 93	\$ 94

Legislative Contribution Amounts by Dues Year

2019 - 2020	\$ 209,612
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
2010 - 2011	\$ 657,526

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 June 30, 2019

Dues	2019-20 Dues Season	2018-19 Dues Season	2017-18 Dues Season
Total Number of Members at Apr 30 of Previous Bar year (active and inactive)	47,964	47,029	47,442
Active - Number Paid	25,130	36,888	39,244
Inactive - Number Paid	5,205	8,123	8,839
Total Number of Members With Dues Paid	30,335	45,011	48,083
Percent of Total Members With Dues Paid	63.2%	95.7%	101.4%
Number of Members Who Made A Contribution	1,916	3,197	2,743
Percent of Members Who Made A Contribution	6.3%	7.1%	5.7%
Total Contribution Amount	\$ 250,279	\$ 295,454	\$ 312,251
Average Contribution Amount	\$ 131	\$ 92	\$ 114

GLSP Contribution Amounts by Dues Year

2019 - 2020	\$ 250,279
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
2010 - 2011	\$ 241,772

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, 2018 Thru June 30, 2019

July 1, 2018 Beginning Balance	\$ 1,256,157
Income:	
Interest Income on Fund	13,054
Gain/Loss on Investments	5,305
Contributions	542,285
Expenditures:	
Staff and Contract Lobbyists	476,896
Legislative Committee Expense	19,759
Grassroots Efforts	8,543
Travel	4,683
Legislative Guests/Meetings	2,734
Shared Office Allocation	16,839
Miscellaneous	1,673
Total Expenditures	<u>531,127</u>
Net Donor Temporarily Restricted Balance at June 30, 2019	<u><u>\$ 1,285,674</u></u>

State Bar of Georgia
Cornerstones of Freedom Activity Report
From July 1, 2018 Thru June 30, 2019

July 1, 2018 Board Designated Beginning Balance	\$ 600,000
Income:	
Interest Income on Fund and Gain/Loss on Investments	<u>2,414</u>
Expenditures:	
Writing Services	46,483
Virtual Law Museum	71,345
Media Monitoring	661
iCivics	12,000
Schoolgroup Travel-LRE	14,288
Media Campaign--Need Lawyers	448,006
Miscellaneous	<u>20</u>
Total Expenditures	<u>592,803</u>
Amount Transferred to Operations	9,611
Net Board Designated Balance at June 30, 2019	<u>\$ -</u>



***INSTITUTE OF CONTINUING LEGAL EDUCATION
OF THE STATE BAR OF GEORGIA, LLC (ICLE)***

Institute of Continuing Legal Education of the State Bar of Georgia, LLC (ICLE)
Statement of Financial Position
June 30, 2019

Assets

Current Assets:

Cash - Money Market	\$ 1,241,278
Cash - Checking	2,183,714
Prepaid Deposits and Other	120,480
Investments at Synovus	2,234,521
Total Current Assets	<u>5,779,993</u>

Property and Equipment:

Furniture and Equipment	199,782
Accumulated Depreciation	(106,245)
Total Property and Equipment	<u>93,537</u>

Total Assets	<u><u>\$ 5,873,530</u></u>
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Liabilities and Net Assets

Current Liabilities:

Accounts Payable	\$ 470,572
Accrued Payroll and Payroll Taxes	51,840
Deferred Revenue	192,076
Total Liabilities	<u>714,488</u>

Net Assets:

Undesignated Fund Balance	4,689,260
Board Designated Fund Balance	151,245
Reserve - Building and Equipment	225,000
Land, Buildings and Equipment	93,537
Total Net Assets	<u>5,159,042</u>

Total Liabilities and Net Assets	<u><u>\$ 5,873,530</u></u>
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Note: All funds received by ICLE are generated from the payment of monies for continuing legal education classes and institutes. ICLE does not obtain any monies from the State Bar of Georgia or its dues and all of ICLE's expenses are paid only from monies that ICLE generates in the operation of its business of providing continuing legal education.

Institute of Continuing Legal Education of the State Bar of Georgia, LLC (ICLE)
Statement of Revenues and Expenses
From July 1, 2018 Thru June 30, 2019 with Budget For The Fiscal Year Ended June 30, 2019

	June 30, 2019	Budget Fiscal Year Ended June 30, 2019
Program Revenue	\$ 6,391,855	\$ 5,000,000
Program Expenditures	<u>3,275,174</u>	<u>2,875,010</u>
Net Margin on Programs	<u>3,116,681</u>	<u>2,124,990</u>
Administrative Expenses:		
Payroll, Agency Labor, Taxes and Benefits	1,384,468	1,546,206
Software, Hardware and Communications	149,828	133,715
Credit Card and Bank Fees	174,299	160,000
Professional Fees	-	25,000
Office Supplies, Freight and General	21,929	17,000
Seminars, Training and Meetings	11,996	38,700
Equipment and Furniture Maintenance	5,017	10,200
Business Insurance	28,140	25,000
Shared Office Expense	303,103	303,103
Total Expenses	<u>2,078,780</u>	<u>2,258,924</u>
Net Income (Loss) Before Other Income and Expenses	1,037,901	(133,934)
Other Income and Expenses:		
Depreciation	(48,744)	
Loss on Fixed Asset Disposal	(5,194)	
Miscellaneous Income	10,471	
Investment Income (Loss)	105,488	
Net Income (Loss)	<u>\$ 1,099,922</u>	<u>\$ (133,934)</u>

Note: All funds received by ICLE are generated from the payment of monies for continuing legal education classes and institutes. ICLE does not obtain any monies from the State Bar of Georgia or its dues and all of ICLE's expenses are paid only from monies that ICLE generates in the operation of its business of providing continuing legal education.



October 19, 2019

Board of Governors,

I am pleased to give you an update on what we have accomplished since the June Annual Meeting and to update you on the other programs that we are looking forward to for the remainder of the Bar year. We have had a busy few months promoting our programs across the state, and we are looking forward to increasing our membership and statewide activities as we approach 2020.

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

The YLD Advocates for Students with Disabilities Committee held their 2019-20 kickoff event at Steel City Pops in Decatur on Wednesday, Sept. 25.

YLD Community Service Projects Committee

YLD Community Service Projects Committee Co-Chairs Sarah Jett and Kayla Winters Strozier have many exciting events planned. On Nov. 2, YLD members will assist in decorating the Atlanta Veteran's Hospital for the Harvest Festival. They will also assist veterans in getting ready and escort them to the event. The committee is also planning a gift-wrapping volunteer project in December with the Georgia Division of Family and Children Services.

YLD Corporate Counsel Committee

The YLD Corporate Counsel Committee had their first meeting of the 2019-20 Bar year on Thursday, Oct. 3. The committee is also planning an event for mid-November.

YLD Intellectual Property Law Committee

The YLD Intellectual Property Law Committee planned a Social Networking Kickoff Event at Ted's Montana Grill in North Midtown in mid-October.

YLD Intrastate Moot Court Competition

On Wednesday, Oct. 16, the YLD Intrastate Moot Court Competition Committee began planning the 2020 competition, which is scheduled for March 13-14 at the University of Georgia. This annual competition between the Georgia law schools is in need of volunteers to assist with recruiting judges, brief grading, fundraising, drafting the moot court problem and assisting with onsite logistics at the competition in Athens this spring. No prior moot court experience is necessary to participate.

YLD Labor and Employment Law Committee

The YLD Labor and Employment Law Committee is planning an after-work reception on Thursday, Nov. 14. The committee is also working to connect with the Labor & Employment Mentorship Academy to coordinate some events for the 2019-20 Bar year.

YLD Law School Outreach Committee

YLD Law School Outreach Committee Co-Chair Kindall Browning manned a table at Mercer University School of Law's Professional Organization Fair on Thursday, Sept. 29, where she handed out "How to Get Involved in the YLD" brochures, and YLD-branded earbuds and pens. The committee looks forward to planning events with the law schools as students approach finals week at the end of Fall Semester.

YLD Litigation Committee

The YLD Litigation Committee had a lunch meeting on Tuesday, Sept. 24, at the State Bar in conjunction with the YLD Business Law Subcommittee and the YLD Judicial Law Clerk Subcommittee. On Tuesday, Oct. 22, YLD Litigation Committee Co-Chair Emily Ward will moderate "From the Bench to JAMS: The Role of Women as Jurists, Mediators and Arbitrators" at the office of JAMS Atlanta. Panelists include Hon. Wendy L. Shoob, Hon. Gail S. Tusan and Hon. Cynthia D. Wright.

YLD Solo Practice/Small Firm Committee and YLD Family Law Committee

On Tuesday, Sept. 24, the YLD Solo Practice/Small Firm Committee and YLD Family Law Committee held their joint kickoff event at City Tap. The committee discussed plans for the 2019-20 Bar year and played networking games.

YLD Women in the Profession Committee

The YLD Women in the Profession Committee began the year with coffee with Judge Debra Duncan of the Glynn County Probate Court on Friday, Aug. 23, at the YLD Summer Meeting in St. Simons Island. Judge Duncan talked about her history and how she became a judge. She also shared tips for young lawyers in the profession. Judge Duncan invited everyone to come visit her at Glynn County Probate Court.

On Sept. 18, the committee had a "Selfie" September Lunch and Learn which focused on skills to build self-confidence in and out of the courtroom. Judge Kimberly Childs from the Cobb County Superior Court was the speaker.

On Oct. 16, the committee held an Organized October Lunch and Learn. Christina Baugh, a partner at Barnes & Thornburg, is truly one of the attorneys who does it ALL and does it well. As guest speaker, Baugh provided insights to her methods for prioritizing and getting it all done.

YLD AFFILIATES

Augusta YLD

The Young Lawyers of Augusta hosted a happy hour at French Market Grille on July 18 and a bowling event at Stars and Strikes on Aug. 28. The YLA also met on Sept. 19 at the Wild Wing Café.

Cobb County YLD

The Cobb County YLD hopes to earn its third consecutive trophy at the annual Justice Jam "80s Prom" lip sync competition on Oct. 23. Competing members include Katie Leonard, Lindsey Gardner, Bert Hummel, Amanda Riedling, Nicole McArthur, Chris Cahill and Chase Elleby.

Glynn County YLD

The Glynn County YLD held their Annual Meeting in August 2019 at Ember wherein officers for the 2019-20 Bar year were elected, as follows: President Joseph Padgett, Vice President Ivy Shepherd, Treasurer Chas Whitehead, Secretary Matt Hickman, Social Co-Chairs Jacob Kitchen and Andrew Ruberti, Community Service Chair Whitney Johnson and Membership Chair Jason Wilbanks. The YLD jointed with the Glynn County Bar Association for a mixer at Tippy McSways on Sept. 26.

Macon YLD

The Macon YLD hosted a Mentor-Mentee Social at Cadence Bank on Aug. 7, as well as a happy hour at The Society Garden on Sept. 18.

Savannah YLD

The Savannah YLD began the 2019-20 year on Sept. 12 with its annual Kickoff Happy Hour at Congress Street Social Club. The Savannah YLD welcomed those lawyers new to the State Bar of Georgia, those awaiting Bar Exam results and those only new to Savannah, and afforded great networking opportunities for current and prospective members.

The year will continue with a historical trolley tour tentatively set for Oct. 17 in downtown Savannah. On Nov. 15, the YLD, the Savannah Bar Association and the Savannah YLD will welcome their newest members at the annual Chatham County Swearing-In Ceremony.

Looking towards the rest of the year, the Savannah YLD is enthusiastic for more fun and fellowship, highlighted by hosting a November happy hour and its annual “tacky sweater” Holiday Party in December.

MEETINGS

Summer Meeting in St. Simons Island, GA | Aug. 22-25

Nearly 60 young lawyers and their families attended the YLD Summer Meeting on St. Simons Island. Attendees enjoyed a weekend at The King and Prince Beach & Golf Resort which began with the YLD Board of Directors (BOD) meeting on Aug. 22. The BOD made plans for the upcoming year before the other YLD attendees arrived on Friday. Members enjoyed a CLE with past YLD President Jon Pannell, Andrew Capezzuto (general counsel for the Georgia Board of Economic Development), Stacy Watson (director, Economic & Industrial Development at Georgia Ports Authority) and Ryan Moore (president and CEO, Brunswick & Glynn County Development Authority). In addition to the first CLE, Hon. Melissa Cruthirds of the Brunswick Municipal Court provided a professionalism CLE. The YLD General Session was held on Saturday morning. Throughout the weekend, members enjoyed networking at the beach and pool, group dinners and a group outing to Redfern Village before departing on Sunday.

Fall Meeting in Buford, GA (Lake Lanier) | Nov. 15-17

The YLD Fall Meeting will be held in Buford, Georgia, at the Legacy Lodge at Lake Lanier. Details will be provided in the meeting brochure on the State Bar’s website in October, and members will be able to attend the YLD General Session, a CLE, and a volunteer opportunity at the Georgia Mountain Food Bank in Gainesville.

Midyear Meeting in Atlanta, GA | Jan. 10-12

The YLD Midyear Meeting will be held in conjunction with the State Bar’s Annual Meeting at The Georgian Terrace hotel and the Fox Theatre in Atlanta. In addition to the YLD General Session, members will be encouraged to attend the Midyear Board of Governors Meeting. The 2020 YLD Leadership Academy will kick off their year with their first session of activities.

Spring Meeting in Athens, GA | April 24-26

The YLD will gather for our Spring Meeting and enjoy the Twilight Criterium in Athens! The Graduate Athens will be our host hotel and plans for the weekend include CLE, group dinners, a possible swearing-in with the U.S. District Court for the Middle District of Georgia and enjoying the bike race downtown on Saturday night. The 2020 YLD Leadership Academy will attend the Spring Meeting as part of their programming.

NOTABLE UPCOMING EVENTS

National Moot Court Competition

The National Moot Court Competition is an annual appellate moot court competition between law schools across the Southeast including several Georgia schools. This year's competition will be held in Atlanta on Nov. 22 and 23.

Signature Fundraiser

The YLD will host its 14th Signature Fundraiser in March 2020 in Atlanta with more details to follow. The YLD looks forward to raising funds for the Georgia Legal Services Program which provides legal assistance to low-income Georgians in 154 of Georgia's 159 counties. Signature Fundraiser Committee Co-Chairs Morgan Carrin and Christina Gualtieri are looking forward to hosting a great event for a great cause!

Georgia Legal Food Frenzy

The Georgia Legal Food Frenzy is a two-week food and fund drive competition done in partnership with the Georgia Attorney General, the State Bar and YLD, and the Georgia Food Bank Association. The competition is open to everyone in the legal community to see which law firm, legal organization and corporate/in-house counsel can have the biggest impact on hunger. The competition will take place in Spring 2020, and we look forward to a great year under our YLD Legal Food Frenzy Committee Co-Chairs Morgan Lyndall and Veronica Rogusky.

Thank you again for all your support.

Sincerely,



William T. Davis
2019-20 YLD President



MEMORANDUM

TO: Members, Board of Governors

FROM: Paula Frederick

DATE: September 24, 2019

RE: Standing Executive Committee Policy 100—Amicus Brief Policy

At its September meeting the Executive Committee voted to amend Standing Executive Committee Policy 100, the Amicus Brief policy. The rule is attached. The change adds a subpart (i) that allows the Executive Committee to authorize deviations from the usual policy in order to weigh in on federal litigation regarding the unified bar.

Currently there is litigation pending in seven federal district courts regarding the constitutionality of mandatory state bar organizations. The Executive Committee is closely following these cases and would like to consider joining one or more as *amicus curiae* if and when appropriate. The requirements of the current *amicus* brief policy (requests must include 15 copies of the proposed brief, a list of all individuals and groups within the Bar who support or oppose issuance of the brief, notice to the litigants and an opportunity for them to be heard before determining whether the brief should be filed) are so onerous and time consuming they would prevent the State Bar of Georgia from being able to participate in this important national litigation.

As amended, the policy allows the Executive Committee to waive the provisions of the policy with a two-thirds vote. It requires the Committee to report the waiver to the Board at the next meeting. Requests for filing an amicus brief will still come to the Board of Governors when there is sufficient time for consideration by the Board, and as the governing authority for the Bar the Board may vote to rescind any action taken by the Executive Committee if it wishes.

pjf

1 Proposed addition to Amicus Brief policy (lines 43ff)

2 Standing Executive Committee Policy 100

3

4 **Amicus Brief Policy** (Adopted Feb. 17, 1994)

5 No *Amicus* brief shall be authorized by the Executive Committee of the

6 Board of Governors of the State Bar of Georgia except as provided by this

7 policy, unless the filing of an *Amicus* brief is requested or ordered by the

8 Georgia Court of Appeals, the Supreme Court of Georgia or any federal

9 appellate court.

10a. The request for an *Amicus* brief shall be accompanied by 15 copies of the

11 proposed brief, a list of all those individuals and groups within the Bar who

12 support the issuance of the brief, and a list of all those individuals and

13 groups within the Bar who oppose the issuance of the brief.

14b. All parties to the litigation shall be given notice of the request to file

15 an *Amicus* brief and an opportunity to be heard as to their position on the

16 granting or denying of the request.

17c. The Board of Governors shall specifically determine by a majority vote of

18 members present and voting that the subject matter of the

19 proposed *Amicus* brief is germane to the legitimate purposes of the State

20 Bar of Georgia.

21d. If the determination in section (c) above is affirmative, then at least two-
22 thirds of the members of the Board of Governors present and voting must
23 vote to approve the filing of the proposed *Amicus* brief.

24e. The Executive Committee may, by a two-thirds vote of the Committee
25 present and voting, determine that the requested filing of an *Amicus* brief
26 could not reasonably have been submitted for consideration by the Board
27 of Governors.

28f. If the determination in section (e) above is affirmative, then the Executive
29 Committee must determine by a two-thirds vote of the Committee present
30 and voting that the subject matter of the proposed *Amicus* brief is germane
31 to the legitimate purposes of the State Bar of Georgia.

32g. If the determination in sections (c) and (f) are in the affirmative the
33 Executive Committee must determine by a two-thirds vote of the
34 Committee present and voting that the proposed *Amicus* brief should be
35 filed.

36h. In determining whether to file an *Amicus* brief the Executive Committee
37 should, among other considerations, determine that:

38 1. the outcome of the litigation will affect persons other than
39 the litigants, and;

40 2. the outcome of the litigation will be of general interest to
41 the members of the State Bar of Georgia.

42

43 i. The Executive Committee may authorize deviations from this policy in
44 order for the State Bar of Georgia to file an Amicus Brief in federal litigation
45 involving the existence or organization of the unified bar. Any deviation
46 must be approved by a two-thirds vote of Executive Committee members
47 present and voting, and must be reported to the Board of Governors at its
48 next meeting.

**STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE
MINUTES
Friday, May 3, 2019/9:00 a.m.
South Georgia Office/Tifton, GA**

Members Participating:

Kenneth B. Hodges, III, President; Darrell L. Sutton, President-elect; Dawn M. Jones, Treasurer (by phone); Elizabeth Louise Fite, Secretary; Buck Rogers, Immediate Past President (by phone); Rizza O'Connor, YLD President; William T. Davis, YLD President-elect (by phone); Nicole C. Leet, YLD Immediate Past President (by phone); Tony DelCampo (by phone); Amy V. Howell; David S. Lipscomb; and Nicki Vaughan.

Members Absent:

Sally B. Akins; and Frank Strickland.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Sarah Coole, Director of Communications; Jeff Davis, Executive Director; Christine Butcher Hayes, Director of Governmental Affairs; Bill NeSmith, Deputy General Counsel; and Ron Turner, Chief Financial Officer.

Call to Order

President Ken Hodges called the meeting to order at 9:00 a.m. Members of the Executive Committee in attendance are indicated above.

Future Meetings

President Ken Hodges reviewed the Future Meetings Schedule and highlighted several upcoming Annual Meeting events.

Executive Committee Minutes

By unanimous voice vote, the Executive Committee approved the minutes, as revised, of the meeting held on March 15-16, 2019.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Executive Committee approved the following resignation requests by unanimous voice vote: James D. Roundtree-616176, Philip Derek Milks-877194, David Ray LaVance Jr.-439196. Martha Berg, LaVance-054110, David Michael Shippert-643106, Brent Aukai Beck-045797, William Michael Norton-546910, Alvin Louis Harris-330236, Kathleen D. Crane-193250, Timothy H. Allred-013195.

Members Requesting Disabled Status

Pursuant to State Bar Rule 1-202, the Executive Committee, by unanimous voice vote, approved two requests for disabled status.

State Bar of Georgia 2020 Elections Schedule

After a discussion by the Executive Committee about holding elections earlier so that newly elected Board members have more time to make plans to attend the Annual Meetings, the Executive Committee referred the matter to the Elections Committee. Thereafter, the Executive Committee approved the 2020 Election Schedule (Exhibit A) by unanimous voice vote.

Bar Rule 16-104. Director

Following a report by Deputy General Counsel Bill NeSmith, the Executive Committee, by unanimous voice vote, approved recommending to the Board of Governors a proposed change to ICLE Bar Rule 16-104. Director as shown below.

Rule 16-104. Director

The Executive Director of the State Bar of Georgia may employ a Director for ICLE to oversee the day-to-day operations of the ICLE program and shall serve as the immediate supervisor of the Director. The Executive Director shall consult with the ICLE Board regarding the hiring of a Director.

Treasurer's Report

Finance Committee Chair Nancy Whaley reported that the Finance Committee has been working on making the financial reports easier to understand and more transparent. She stated that the State Bar has spent down its reserves as was planned, but moving forward we will need to look at increasing dues over the next several years. Treasurer Dawn Jones reported that the Finance Committee also discussed looking at the expense side of the budget and having the Programs Committee meet earlier and more often during the year with the anticipation of making budget changes.

Chief Financial Officer Ron Turner reviewed the new color-coded financial reports that delineate more clearly and link together the Bar Operations, Bar Center, and the Combined Bar Operations and Bar Center budgets. He also reviewed the proposed 2019-2020 State Bar Budget, and cash projections for 2019-2020 and 2020-2021 based on budgeted activity. The report changes are going to be provided to a group of Board of Governors members for feedback, and then sent out to the full Board of Governors in advance of the June Board meeting.

Approval of 2019-2020 Proposed State Bar Budget

Following a report by Treasurer Dawn Jones, the Executive Committee, by unanimous voice vote, approved and recommended to the Board of Governors the 2019-2020 Proposed (3rd Draft) State Bar, Bar Center, and ICLE Budgets (Exhibit B). The budget reflects:

- 1) License fees at \$254 for active members and \$127 for inactive members, which reflects a \$2 license fee increase from the previous Bar year; and
- 2) Section dues to be reflected on the dues statement ranging from \$10-\$40; and

- 3) Continuation of the Clients' Security Fund (\$100 @ \$25/year) assessment required by Bar Rule. Such assessment begins with the second full fiscal year following the year of admission; and
- 4) A \$15 Professionalism Fee mandated by the Supreme Court; and
- 5) Continuation of a \$100 voluntary contribution for the Legislative and Public Education Fund; and
- 6) A suggested \$300 individual contribution (\$100 for young lawyers) for the Georgia Legal Services Program.

The Executive Committee received copies of the Consolidated (Operational and Bar Center) Revenues and Expenditures Report as of February 28, 2019; Bar Center Revenues and Expenditures Report for the Eight Months Ended February 28, 2019; Income Statement YTD-Operations for the Eight Months Ended February 28, 2019; Status and Use of Cash and Investment as of February 28, 2019; Board-Designated and Donor Temporarily Restricted Net Assets; Summary of Members and Voluntary Contributions to GLSP with Contributions Paid Through February 28, 2019; Summary of Members and Voluntary Legislative Contributions Paid Through February 28, 2019; Legislative Activity Report from July 1, 2018 through February 28, 2019; and Cornerstones of Freedom Activity Report from July 1, 2018-through February 28.

Clients' Security Fund Assessment Options

Deputy General Counsel Bill NeSmith reported on the current state of the Clients' Security Fund. Presently, funding comes from new lawyers, interest, and restitution, but the bulk comes from the assessment on new lawyers, which averages around \$150,000 per year. The average number of claims paid on the fund over the last five years is \$378,000 per year, but \$490,000 has been disbursed in two of the last three years. The CSF is recommending that the annual assessment of \$25 over 4 years for new lawyers be suspended, and that all dues paying lawyers (excluding emeritus lawyers) pay \$15 annually into the CSF. This will bring in approximately \$720,00/year to the fund. By unanimous voice vote, the Executive Committee approved forwarding the recommendation to the Board of Governors. If approved, the assessment on all dues paying lawyers would not take effect until the 2020-2021 Bar year.

iCivics Funding for 2018-19

Following a report by Executive Director Jeff Davis, the Executive Committee, by unanimous voice vote, approved utilizing the John Marshall fund for this year's iCivics Committee \$12,000 budget.

Distinguished Service Award

President Ken Hodges discussed his Distinguished Service Award recipient.

National Conference of Bar Examiners (NCBE): Testing Task Force Study

Executive Director Jeff Davis reported that the NCBE Testing Task Force is undertaking a comprehensive, future-focused study to ensure that the bar examination continues to test the knowledge, skills, and abilities required for competent entry-level legal practice in the 21st century. The study will consider the content, format, delivery method, and timing of the bar examination and the MPRE, and it will be done collaboratively, with input from stakeholders solicited throughout the study. By unanimous voice vote, the Executive Committee approved the State Bar participating in the survey.

Access to Justice Committee LSC Funding Resolution

This item was tabled.

Georgia Department of Corrections Legal Visit Policy

This item was tabled.

Sponsorship Guidelines/Request for Sponsorship

The Executive Committee, by majority voice vote, with President Ken Hodges and YLD President Rizza O'Connor abstaining, determined the requests below are *Keller* permissible, and took the following action. Executive Director Jeff Davis reminded the Executive Committee that the first request will fall within this Bar year in which we have sponsorship line item, but that we do not have a sponsorship line item in next year's budget, for which the other requests fall.

Georgia Asian Pacific American Bar Association 6th Annual GAPABA Gala on May 30, 2019

- 1) By majority voice vote, determined that the sponsorship is compliant and advances the purposes of the goals of the Bar, and
- 2) By majority voice vote, failed to approve a \$3,500 sponsorship.

Treasurer Dawn Jones went on record to say that she agreed with Tony DelCampo's earlier comments that we have not done a good job making bar associations aware about the availability of Bar sponsorships, and since we are closing the door on monies left in this year's sponsorship line item, she moved that the sponsorship requests from the Georgia Association of Black Women Attorneys and Gate City Bar Association be considered. The Executive Committee took the following action:

Georgia Association of Black Women Attorneys 2019 Glitter Gala and Auction - \$3500

- 1) By majority voice vote, determined that the sponsorship is compliant and advances the purposes of the goals of the Bar, and
- 2) By majority hand vote, failed to approve the \$3,000 sponsorship request.

Gate City Bar Association 2019 Hall of Fame Gala - \$3,000

- 1) By majority voice vote, determined that the sponsorship is compliant and advances the purposes of the goals of the Bar, and
- 2) By majority hand vote, failed to approve the \$3,000 sponsorship request.

The Executive Committee took the following action on the Georgia State School of Law Olmstead Symposium:

Georgia State School of Law Olmstead Symposium - \$2,500

- 1) By majority voice vote, determined that the sponsorship is compliant and advances the purposes of the goals of the Bar, and
- 2) By majority voice vote, approved a \$2,500 sponsorship.

President's Report

President Ken Hodges reported that he and President-elect Darrell Sutton have spoken regarding mandatory professional liability insurance, and both believe, as do others, that the issue needs further study. President-elect Sutton will continue to work with the Professional Liability Insurance Committee, which will have additional members appointed to it, to gather more information and continue to receive feedback. There will not be a vote on the issue at the June Board of Governors meeting.

YLD Report

YLD President Rizza O'Connor reported on the activities of the YLD. She thanked everyone for their generous contributions to the Signature Fundraiser, which raised over \$40,000. She reported that everyone had a good time at the Spring Meeting, especially meeting U.S. Supreme Court Justices Clarence Thomas, Brett Kavanaugh, and Ruth Bader Ginsberg at the swearing-in ceremony. She announced that tomorrow is the Build a Better Day in Georgia that will take place in each Federal Judicial District, and that in two weeks the National High School Mock Trial Competition will take place in Athens. Lastly, she reported that she is looking forward to President-elect Will Davis assuming the YLD Presidency.

Executive Director's Report

Executive Director Jeff Davis reported that the Bar's security committee met with CNN security personnel to get feedback on the security operations of the CNN Center and will be visiting CNN's command center. He will inform the Executive Committee of their recommendations as we look at installing additional security cameras, magnetic access cards for secured spaces, and other security upgrades. Jeff reported that he is still in conversation with the Prosecuting Attorneys Council about moving to the State Bar Building. Lastly, he reported that he is moving ICLE to the 1st floor so that the Georgia Public Defender Council can take over that space. Doing so will provide approximately \$80,000 in additional rental income.

ACL/Legislative Report

Director of Governmental Affairs Christine Butcher Hayes reported that the legislative session ended April 2 and we successfully passed both the family law bill and guardianship rewrite bill. Three funding requests supported by the Bar were also approved for victims of domestic violence, funding for the Georgia Appellate Resource Center, and a new appropriation for civil legal services for kinship care families.

Office of General Counsel Report

Deputy General Counsel Bill NeSmith reported that no additional litigation issues have occurred since the last report. He stated that he is about to file several motions with the Supreme Court of Georgia on rules changes.

Briefs in *Fleck v. Welch*

Executive Director Jeff Davis reported that the information in the agenda is what will be provided to the Unified Bar Committee for its May 8 meeting. He said that the 8th Circuit U.S. Court of Appeals will hear oral arguments in *Fleck v. Welch* in June. He reported that Executive Directors and General Counsel around the country are in constant communication about *Fleck* and other challenges facing bar associations.

Board of Governors Minutes

The Executive Committee received a copy of the Board of Governors minutes of March 30, 2019.

Students Learn About Juvenile Offenses - Savannah Morning News Article

The Executive Committee received a copy of a *Savannah Morning News* article about West Chatham Middle School students attending a program about juvenile justice that was presented by Deborah Craytor, the Bar's Law-Related Education Director.

2019 Commitment to Equality Awards

The Executive Committee received information on the upcoming 2019 Commitment to Equality Awards sponsored by the Committee to Promote Inclusion in the Profession.

Old Business

Deputy General Counsel Bill NeSmith reported he is working on rules changes for the Consumer Assistance Program.

Treasurer Dawn Jones stated that she has received questions from members of the JQC Nominating Committee as to when the committee will meet. Executive Director Jeff Davis said it will meet in the next few weeks to put together a list of candidates for the Board of Governors consideration. There is only one lawyer appointment to the JQC this year, which will be made by the Governor.

New Business

There was no new business.

Adjournment

There being no further business, the meeting was adjourned at 12:20 p.m.


Elizabeth D. Fite, Secretary

Approved:

Kenneth B. Hodges, III, President

**STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE
MINUTES
Tuesday, May 21, 2019/2:00 p.m.
Conference Call**

Members Participating:

Kenneth B. Hodges, III, President; Darrell L. Sutton, President-elect; Dawn M. Jones, Treasurer; Elizabeth Louise Fite, Secretary; Buck Rogers, Immediate Past President; Rizza O'Connor, YLD President; William T. Davis, YLD President-elect; Nicole C. Leet, YLD Immediate Past President; Frank Strickland; Amy V. Howell; David S. Lipscomb; and Nicki Vaughan.

Members Absent:

Sally B. Akins; and Tony DelCampo.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Sarah Coole, Director of Communications; Jeff Davis, Executive Director; Paula Frederick, General Counsel; Christine Butcher Hayes, Director of Governmental Affairs; Bill NeSmith, Deputy General Counsel; and Ron Turner, Chief Financial Officer.

Call to Order

Upon obtaining approval in advance for a specially called meeting of the Executive Committee by unanimous email vote, and after establishing a quorum, President Ken Hodges called the meeting to order at 2:00 p.m. Members of the Executive Committee in attendance are indicated above.

Request for Disability Status

The Executive Committee, by unanimous voice vote, approved one member's request for disabled status.

Access to Justice Committee LSC Funding Resolution

Following a report by President Ken Hodges, the Executive Committee took the following action:

- 1) By unanimous voice vote, found the subject matter to be within the legitimate purposes of the Bar; and
- 2) By majority voice vote, determined that immediate action was necessary since the Board of Governors will not be meeting until June 7, 2019; and

- 3) By a roll call vote of 7 in favor to 4 opposed, adopted the Access to Justice Committee LSC Funding Resolution (Exhibit A), subject to checking the validity of the statistics referred therein.

In discussions on the above, Amy Howell stated that the Executive Committee is being asked to vote on a number of matters without having clarity on the Bar's position in light of *Fleck* and other issues. General Counsel Paula Frederick stated that she believed the funding request meets *Keller* because it would improve the quality of legal services for people in Georgia. Paula also reported that the Unified Bar Committee has asked for a more in depth discussion on *Keller* when considering action requiring a *Keller* vote.

Consumer Assistance Program (CAP) Rules

Following a report by President Ken Hodges, the Executive Committee, by unanimous voice vote, approved recommending to the Board of Governors proposed rules changes, as amended, to the CAP. The proposed new rules read as follows:

Part XII – Client Assistance Program

Preamble.

The purpose of the Client Assistance Program is to respond to inquiries from the public regarding State Bar members and to assist the public through informal methods including the resolution of inquiries that may involve minor violations of the Georgia Rules of Professional Conduct.

Rule 12-101. Client Assistance Committee

The advisory responsibility for this program will be vested in the General Counsel Overview Committee.

Rule 12-102. Supervision

The Client Assistance Program shall operate under the supervision of the General Counsel of the State Bar of Georgia. Program staff may be used to help clients understand their rights, obligations, and options.

Moving Professional Liability Insurance Committee to a Standing Committee

No action taken on this matter.

Georgia Department of Corrections Legal Visit Policy

Nicki Vaughan reported that she contacted Jennifer Ammons at the Georgia Department of Corrections to discuss its recently adopted policy creating new limits on attorney visits and was told that there would no changes made to the policy. Nicki said she also talked with other people who spoke with Ms. Ammons and they all reached the same conclusion.

Old Business

There was no new old business.

New Business


Paula Frederick requested up to \$500 for a retirement party for Deputy General Counsel Bill Cobb, which was unanimously approved by the Executive Committee.

Adjournment

There being no further business, the meeting was adjourned at 2:40 p.m.



Elizabeth D. Fite, Secretary

Approved;


Kenneth B. Hodges, III, President

**STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE
MINUTES**
Thursday, August 1, 2019/12:00 p.m.
State Bar Building/Atlanta, GA

Members Participating:

Darrell L. Sutton, President; Dawn M. Jones, President-elect; Elizabeth Louise Fite, Treasurer; Kenneth B. Hodges, III, Immediate Past President (by phone); William T. Davis, YLD President; Bert D. Hummel, IV, YLD President-elect; Rizza O'Connor, YLD Immediate Past President; Tony DelCampo; Amy V. Howell (by phone); R. Javoyne Hicks; David S. Lipscomb; and Nicki Vaughan.

Members Absent:

Sally B. Akins, Secretary; and Ivy N. Cadle.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Sarah Coole, Director of Communications; Jeff Davis, Executive Director; Paula Frederick, General Counsel; Christine Butcher Hayes, Director of Governmental Affairs; Bill NeSmith, Deputy General Counsel; and Ron Turner, Chief Financial Officer.

Call to Order

Darrell Sutton called the meeting to order at 12:15 p.m. Members of the Executive Committee in attendance are indicated above.

Future Meetings

Darrell reviewed the Future Meetings Schedule.

In-Person Attendance Policy for Executive Committee Meetings

Darrell said he originally asked for attendance in person at the Executive Committee meetings to allow for more efficient and effective meetings, robust discussions, and to limit miscommunications, but asked the Executive Committee members for their thoughts. It was generally agreed that meetings are more effective in-person, but that various situations can arise that may prevent someone from doing so, including the travel required for members around the state. In those circumstances, attendance by phone should be allowed. Darrell reported that Deputy General Counsel Bill NeSmith will prepare a policy on Executive Committee meeting procedures in order to provide guidelines governing phone participation in Executive Committee meetings.

Executive Committee Minutes

By unanimous voice vote, the Executive Committee approved the minutes of the meetings held on May 3 and May 21, 2019. The Executive Committee asked that we include the accompanying exhibits to the minutes when the minutes are posted online.

Members Requesting Resignation

For the benefit of the new members, Bill NeSmith reviewed Bar Rule 1-208. Resignation from Membership. Pursuant to that rule, the Executive Committee approved the following resignation requests by unanimous voice vote: Brian N. Larson-134383; Max Theodoric Eichelberger-998275; Katherine S. Youngblood-783438; Francine Nicole Nisim-646715; Steven H. Taylor-701240; Tara Nicole Halbert-172195; Meredith K. Shaffer-551251; Lori Powell Hughes-001820; Michael U. Lee-443802; William Cristman Jr-196629; Jesse Edward Wright-204011; Zachary Peter Reibstein-295646; Robert Clay Harris-442238; Meg Deborah Goldstein-300445; Martha Salomon Henley-346976; Michael Joseph Templeton-701925; Susan J. Rickertsen-695476; John Arthur Davison-213385; Suzanne Guido-731751; Diane C. Sands-626135; Stacey Mitchell Eisenberg-242665; James M. Lord-457828; Robert Charles Lightburn-452316; Jeffrey M. Siegel-

645815; Marianne Bradley-075116; Linda Flewellen Gould-302305; Mary Bridget Burke-095630; Kevin McGill-558139; William Harry Fussell-281174; Eboni Robinson-539296; Jon Lieth Woltmann-773565; Zara Kivi Kinnunen-422140; Nancy Kay Peterson-005140; Erin Cavan Wrenn-814528; David Wallingford Hunt-378497; Chey Phleshette Blake-061582; J. Stephen Shi-642650; Allen C. Winsor-770964; Kevin R. Brehm-079337; Gregory Edward Stern-435178; Colin S. Braybrooks-078780; Jessica D. French-065760; Nicole Lynn Mitchell-225425; Scott Bradley Cooper-568138; Ryan Kenneth Crayne-504488; Ilana Zehava Sultan-691744; Stuart A. Miller-508382; Benjamin Robert Kogan-427645; Jose Eduardo Ancer-490043; Eugene Applegate Beatty-045260; Gregory John Giornelli-003560; Joel; Matthews McDonald-489409; Eric Job Seese-771052; Patrick E. Thieffry-704275

Members Requesting Disabled Status

For the benefit of the new members, Bill reviewed Bar Rule 1-202 pertaining to members requesting disabled status. Pursuant to that rule, the Executive Committee approved four requests for disabled status by unanimous voice vote. Bill also reported that he is in the process of updating the rules to add a retired status, which will impact disabled status. The Senior Lawyers Committee will be reviewing the proposed changes to these two statuses.

Members Requesting Waiver of Late Fees

After Darrell explained the deadlines for paying dues and accompanying fees, the Executive Committee took the following action on members requesting a waiver of late fees:

- 1) Jennifer Coleman: A motion to deny the request failed for lack of a second. A motion and second to waive all late and reinstatement fees and to complete Fitness failed by majority voice vote. A motion and second to require payment of all late and reinstatement fees and waive Fitness was approved by majority voice vote.
- 2) Joel Dichter: A motion and second to waive both late fees was approved by unanimous voice vote.
- 3) Alyssa Campbell Hutson: A motion and second to waive the late fee was approved by unanimous voice vote.

Members Requesting Waiver of Fitness

The Executive Committee took the following action on members requesting to waive Fitness:

- 1) Rasheena Latham Franklin: A motion and second to allow her to register with the Bar without reapplying to the Office of Bar Admissions, but to still pay all appropriate fees, was approved by unanimous voice vote.
- 2) Emily Sue Hedit: A motion and second to allow her to register with the Bar without reapplying to the Office of Bar Admissions, but to still pay all appropriate fees, was approved by unanimous voice vote.
- 3) Oliver Logan Ide: A motion and second to allow a six-month extension from July 1, 2019 for the Office of Bar Admissions to complete his Fitness was approved by unanimous voice vote.

Legislative Consultant Contracts

Following a report by Darrell, the Executive Committee, by majority voice vote, approved one-year contracts for Rusty Sewell/Capital Partners and Mark Middleton, and a session-only contract for Roy Robinson. The funds to pay the consultants come from voluntary contributions to the Legislative and Public Advocacy Fund.

Darrell further reported that he suggested to these consultants that it would benefit this Fund if they took a more active role in encouraging member contributions to the Fund, especially as these contributions continue to decline.

President-elect Dawn Jones reported her feeling that the Bar has not effectively communicated to the Board of Governors how the Fund is used.

Darrell said he also encouraged the consultants to make our membership more aware of the value the consultants bring to the Bar's legislative program.

Governmental Affairs Director Christine Butcher Hayes reported on the value of lobbyists and contract teams.

Javoyne Hicks suggested posting on the Bar website information about what the Advisory Committee on Legislation does so that members can see the benefits of supporting the legislative program, and that we also target the committees and Sections that use it the most.

Amendment to Standing Board Policy 100 - Section 1.04(h)

Following a report by Bill, the Executive Committee approved recommending to the Board of Governors the following amendment to Standing Board Policy 100 – Section 104(h) by unanimous voice vote:

Section 104(h)

(h) The Advisory Committee ~~shall~~ may review ~~all~~ legislation filed in the State Legislature which would require an amendment to the State Constitution. The Advisory Committee ~~shall~~ may determine whether the State Bar should take a position pursuant to this policy regarding the proposed constitutional amendment.

Amendments to Bylaws and Rules

Following a report by Bill, the Executive Committee took the following action on proposed Bylaws and Rules amendments:

- 1) Article 1 Members: By unanimous voice vote, recommended to the Board of Governors the proposed amendments (Exhibit A).
- 2) Article VIII Committees-Generally: By unanimous voice vote, recommended to the Board of Governors the proposed amendment (Exhibit B).
- 3) Rule 1-702. Standing Committees; Special Committees: By unanimous voice vote, recommended to the Board of Governors the proposed amendment as follows:

Rule 1-702. Standing Committees; Special Committees

Unless otherwise provided in these ~~Rules~~ rules there shall be standing and special committees, which shall be composed of such members, serving such terms, appointed in such manner, and having such duties as the bylaws may provide. A statement of the purpose of each committee shall be published annually ~~in~~ on the official State Bar of Georgia ~~Directory~~ website.

Security Committee Recommendations for Safety Upgrades

Darrell reported that the staff security committee is putting together recommended upgrades to our building security system. Executive Director Jeff Davis said that he is still awaiting final bids to review and asked that we consider this at the next Executive Committee meeting. Javoyne suggested the Executive Committee be presented a comprehensive plan so that all security upgrades can be processed at one time.

YLD Report

YLD President Will Davis reported that he is looking forward to working with YLD Immediate Past President Rizza O'Connor and YLD President-elect Bert Hummel. He reiterated that his goals this year are to increase the work of the existing programs, particularly those that are service-project oriented, such as the Wills Clinics, Build a Better Georgia Day, and the annual Signature Fundraiser. Events are being planned around the state to reach as many YLD members as possible. He reported that the YLD recently conducted its Committee Chair Orientation and he thanked the speakers who participated. He plans to continue to reach out to the Board of Governors members because there is so much to learn from them. Will announced that all of his meetings this year are in Georgia, with the next being the YLD Summer Meeting in St Simons Island on August 22-25, 2019, and everyone is invited to attend. Lastly, Will stated that he is excited to kick the year off, and asked the Executive Committee members to let him know if they have any suggestions for other YLD programs.

President's Report

Darrell reported that the Professional Liability Insurance Committee, chaired by Chris Twyman, is meeting on August 20, and will also hold a town hall meeting in conjunction with Fall Board of Governors meeting in Savannah. All Bar members in coastal Georgia will be invited to ask questions and receive information about the committee's initiative and work to date.

Darrell reported that the Programs Committee, traditionally chaired by the President-elect with one meeting in the late winter, was revamped so that the committee is now chaired by Martin Valbuena. Due to the likely need to increase license fees in the spring and the possible impact of *Fleck*, the committee has been undertaking a comprehensive review of all Bar programs, assessing and rating each program on the extent to which it meets the Bar's mission and the extent to which it delivers value. At the same time, the Unified Bar Committee is conducting a review of each program based upon *Keller*. The committees will complete their respective reviews by the end of August, and their recommendations will be merged and presented to the Executive Committee in September. The Board of Governors will be provided that information at the Fall Board of Governors meeting, along with a recommendation from the Executive Committee about what action to take considering these recommendations. Between the Fall and Midyear Board of Governors meetings, the Programs and Unified Bar committee chairs and the Bar's officers will be available to conduct meetings and teleconferences to review and discuss the information and hear from proponents of the various programs. The Board will be asked to take action on the Executive Committee's recommendation at the Midyear Meeting. This timeframe is necessary so that any alterations to Bar programs can be accounted for during budgeting for the 2020-2021 Bar year, which will occur following Midyear Meeting. Darrell suggested it would be inappropriate to recommend to membership an increase in license fee without having first performed a comprehensive analysis of all Bar programs and suggested program cuts where appropriate.

Darrell reported that he has met with many Bar members around the state to hear what they want, but for those he was unable to reach, he is launching a virtual listening tour, #shapethebar, to hear what they think about Bar programs, initiatives, and services. At the same time, we will use this initiative to inform members about what resources the Bar offers them, how the Bar serves members and the public, and ask what additional resources members believe would be beneficial. Amy Howell asked Darrell to share information about the legislative program through this initiative.

Treasurer's Report

Treasurer Elizabeth Fite reported on the Bar's finances and the Executive Committee reviewed the budget variances. Javoyne asked about the number of overages in the summary report, and Elizabeth reported that those line item overruns are a running total for the Bar year. Chief Financial Officer Ron Tuner reported that some line items may go over, but those overages are offset by savings within other line items of the

departments, and the bottom line budget does not go over. He said that most departments spend 96-98% of their budgets.

Executive Director's Report

Jeff reported that ICLE recently moved to the 1st floor from the 2nd floor, and the space it vacated is being leased to a paying tenant, the Georgia Public Defender Council. He also reported that the Criminal Justice Coordinating Council has leased unoccupied space on 4th floor, so all floors will soon be fully leased with the exception of the empty 5th floor. While we were hoping to lease that floor to a data center, we found that it is cost prohibitive to do so. Jeff reported that we went to eBooks for all ICLE seminars, which put a bit of strain on our 3rd floor meeting space, so we are in the process of extending power and USB ports across all tables in the Auditorium and Room A, as well as increasing our internet bandwidth. Jeff announced that the new ICLE Director is Michelle West, and the new TILPP Director is Kellyn McGee. He said there will be a lot of talk about *Fleck* at next week's National Conference of Bar Presidents meeting. Thereafter, Christine reported on litigation facing mandatory bar associations.

Advisory Committee on Legislation/Legislative Report

Christine reported that contributions to the Legislative and Public Advocacy Fund are down by 43%. She broke down the number of people from Sections that are asking the legislative program to support bills and found that most are not contributing to the fund. She said she is open to comments on how we can better inform our members that the legislative program operates on voluntary contributions and not license fees, and will be going to the Sections to ask for their support.

Office of General Counsel Report

General Counsel Paula Frederick reported that under our current Amicus Brief Policy there is no avenue in which to file a brief under a tight deadline, which makes it unworkable for federal litigation regarding mandatory bars. Leaving that policy in place, she believes we need a separate policy for national litigation affecting mandatory bars. She proposes that there be an Executive Committee policy, applicable only to federal litigation involving efforts to de-unify the mandatory bar, that gives the Executive Committee the authority to sign off on an Amicus Brief. The policy would need approval by the Board of Governors. The Executive Committee asked her to draft a proposed policy for the September Executive Committee meeting.

Paula referred the Executive Committee to the written Report of the Office General Counsel dated July 22, 2019. She announced that she has hired Billy Hearnburg to replace recently retired Senior Assistant General Counsel Bill Cobb. She reported on efforts to deal with the new Georgia Access to Medical Cannabis Commission that is being formed to oversee the state's medical marijuana operations and select the state's cannabis growers in light of the ethics issues created by the conflict in federal and state law. She said most jurisdictions have addressed the issue either through rules changes and ethics opinions or both.

Executive Session

Following a motion, second, and unanimous voice vote, the Executive Committee went into Executive Session to discuss pending litigation. Thereafter, a motion and second to move out of Executive Session was approved by unanimous voice vote.

Lawyer Assistance and other Wellness Programs

This item was tabled to the next meeting.

Update on Clients' Security Fund

Darrell reported that Bill is working on new rules to make effective a \$15 per member assessment for the Clients' Security Fund. That recommendation was approved by the Executive Committee at its meeting on May 3, 2019.

Satellite Office Statistics
The Executive Committee received copies of 18-month office usage reports from the South Georgia and Coastal Georgia Offices.

Board of Governors/YLD Meetings
This item was tabled.

Board of Governors Minutes
The Executive Committee received copies of the Board of Governors minutes of June 7 and June 8, 2019.

Law-Related Education Program
The Executive Committee received a copy of a tweet from Odyssey's 7th graders about their *Journey Through Justice* experience.

Law Practice Management (LPM) Program Solo & Small Firm Institute
The Executive Committee received information on LPM's upcoming Solo & Small Firm Institute on September 26-27, 2019.

Kentucky Bar Client Security Fund
The Executive Committee received information on the Kentucky Bar Clients' Security Fund.

Employee Appreciation
The Executive Committee received a copy of a member's comment about the great job the staff did at the Annual Meeting, and a petitioner commending the State Bar for providing the Fee Arbitration Program.

Old Business
There was no old business.

New Business
Tony DeCampo announced that the Georgia Hispanic Bar is hosting its 5th Annual Cocktails Around Latin America on August 24, 2019 at the Druid Hills Country Club. Attorney General Chris Carr is the keynote speaker.

Dawn reminded the Executive Committee about the email they received regarding the Association of Chiefs of Police all-day event in LaGrange designed to develop a strategy on improving relationships between police and communities.

Adjournment

There being no further business, the meeting was adjourned at 3:30 p.m.

Sarah B. (Sally) Akins, Secretary



Darrell L. Sutton, President



**STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE EXTENDED MEETING
MINUTES**

**Friday and Saturday, September 6-7, 2019/1:00 p.m.
The Omni Grove Park Inn, Asheville, NC**

Members Participating:

Darrell L. Sutton, President; Dawn M. Jones, President-elect; Elizabeth Louise Fite, Treasurer; Sally B. Akins (by phone), Secretary; Kenneth B. Hodges, III, Immediate Past President; William T. Davis, YLD President; Bert D. Hummel, IV, YLD President-elect; Rizza O'Connor, YLD Immediate Past President; Ivy N. Cadle; Tony DelCampo; Amy V. Howell; R. Javoyne Hicks; David S. Lipscomb; and Nicki Vaughan.

Guests Present:

Patrick T. O'Connor and Martin Valbuena.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Sarah Coole, Director of Communications; Jeff Davis, Executive Director; Paula Frederick, General Counsel; Christine Butcher Hayes, Director of Governmental Affairs; Bill NeSmith, Deputy General Counsel; and Ron Turner, Chief Financial Officer.

Call to Order

Darrell Sutton called the meeting to order at 1:00 p.m. Members of the Executive Committee in attendance are indicated above.

Future Meetings

Darrell reviewed the Future Meetings Schedule.

Executive Committee Minutes

By unanimous voice vote, the Executive Committee approved the minutes of the meeting held August 1, 2019.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Executive Committee approved the following resignation requests by unanimous voice vote: Daniel Lawrence Kent-415115; Bettye Ackerman-001519; Mark Alan Kalafut-132510; Benjamin Todd Hughes-375540; Brent R. Hendricks-346285; Priti Khanna-228108; Kenneth H.P. Bryk-092071; Katherine; Irene O'Connor-315199; Jennifer A. Wright-435103; Kenneth Michael Rodriguez-934138; Eun; Joo Hong-124970; Anthony Wayne Clark-126495; David Alan Shirlen-643285; Gabriel N. Finder-260340; Kevin Bradford Hall-183023; David Kris Zacharisen-782635; Stephen Noel-545360; Mark R. Swanson-694150; Susan Cramer Herring-349348; Sara Sherrer Sams-642227; Audrey L. Polk-677794; Katherine L. Henry-347825; Sara Elizabeth Goldsmith-297343; Bennett Lawrence Ross-615002; Jaclyn Courtney Platten-113250;

Thomas Ray Beindorf-173053; James H. Spalding-669005; Steven Carroll Lee-443997; Kelly Anne Grace-726548; Andrew Alden Lewis-449787; Gideon Isaac Alper-498207; Heidi M. Silcox-645970; Pennington G. Kamm-294073; Laura L. Allen-011099; Jennifer L. Boucek-069990; Kevin J. Saunders-627310.

Members Requesting Disabled Status

Pursuant to State Bar Rule 1-202, the Executive Committee, by unanimous voice vote, approved two requests for disabled status.

Members Status Appeals

The Executive Committee took the following action on member status appeals:

- 1) Allen W. Hobbs, Jr.: A motion and second to allow his registration with the Bar without reapplying to the Office of Bar Admissions, but also requiring the payment of all appropriate fees, was approved by unanimous voice vote.
- 2) Richard Lea: A motion and second approving his request for a waiver of late fee was approved by unanimous voice vote.
- 3) Matthew C. Mahoney: A motion and second denying his appeal to waive termination was approved by unanimous voice vote.

Amendments to Bylaws and Rules

Following a report by Deputy General Counsel Bill NeSmith, the Executive Committee took the following action on proposed Bylaws and Rules amendments:

- 1) Rule 1-202. Membership Status: Recommended to the Board of Governors by unanimous voice vote. (Exhibit A).
- 2) Article I Members, Section 9. Retired Status Member: Recommended to the Board of Governors by unanimous voice vote (Exhibit B).
- 3) Article 1 Members, Section 10. Members Unable to Practice due to a Disability: Recommended to the Board of Governors by unanimous voice vote (Exhibit C).
- 4) Rule 4.204.1. Notice of Investigation: Recommended to the Board of Governors by unanimous voice vote (Exhibit D).
- 5) Rule 1.15(III) Record Keeping; Trust Account Overdraft Notification; Examination of Records: Recommended to the Board of Governors by unanimous voice vote (Exhibit E).
- 6) Rule 1.0. Terminology and Definitions – Definition of “conviction” and Rule 8.4,

Misconduct: Failed to approve the proposed amendment by a voice vote of 1 in favor to 13 opposed.

- 7) Rule 1.0 Terminology and Definitions – Definition of “Prospective Client” and Rule 1.18 Duties to Prospective Client: Recommended to the Board of Governors by unanimous voice vote (Exhibit F).
- 8) Rule 1.1 Competence: Recommended to the Board of Governors by unanimous voice vote (Exhibit G).
- 9) GRPC Rule 1.6 Confidentiality of Information: Recommended to the Board of Governors by unanimous voice vote (Exhibit H).

Teleconference Guidelines

Darrell presented proposed Teleconference Guidelines. Following discussion by the Executive Committee, Darrell said he would incorporate suggested revisions and the guidelines will govern all future Executive Committee meetings.

CloudLaw Proposal and Request

Bill NeSmith presented a proposal from CloudLaw to increase members’ monthly fees for an enhanced profile from \$8 to \$10. For this new fee, members would receive a new enhanced profile that includes analytics. CloudLaw also proposed conducting a campaign advertising enhanced profiles to users who have a basic profile, encouraging them to upgrade to an enhanced profile. CloudLaw also proposed creating a partnership with the ABA-created CloudLaw’s Lawyer2Lawyer Referral Network. A motion and second that the State Bar send one email to basic subscribers informing them of the enhanced profile availability was approved by unanimous voice vote. No action was taken on the request to raise the enhanced profile cost from \$8 to \$10 per month, or on the request that we open the Lawyer2Lawyer Referral Network to Bar members. The Executive Committee expressed a preference to first gather more information about this Network.

Amicus Brief Policy

Following a report by General Counsel Paula Frederick, the Executive Committee, by majority voice vote, approved the following addition to Standing Executive Committee Policy 100:

Standing Executive Committee Policy 100

- i. The Executive Committee may authorize deviations from this policy in order for the State Bar of Georgia to file an Amicus Brief in federal litigation involving the existence or organization of the unified bar. Any deviation must be approved by a two-thirds vote of Executive Committee members present and voting, and must be reported to the Board of Governors at its next meeting.

Recommendations of the Programs and Unified Bar Committees

Darrell reminded the Executive Committee about the Finance Committee's determination in the Spring of 2019 that a dues increase will be required in order for the Bar to operate with a balanced budget in the 2020-2021 Bar year. Considering that the Bar's expenses, by and large, are the Bar's programs, Darrell instructed the Programs Committee to this summer conduct an independent review of each program. This review resulted in each program receiving two ratings: a letter rating, indicating the Programs Committee's assessment about the relationship of that program to the Bar's mission, and a number rating, indicating the Programs Committee's assessment about that program's delivery of value

At the same time, but independently, the Unified Bar Committee performed its own assessment of each program, providing from its perspective an indication about each program's relationship to the Bar's mission.

Chief Financial Officer Ron Turner prepared various financial reports, including a Cash Activity Projection for 2019-2020 and Subsequent Years, Cash Activity Projections, and Estimated Programming Costs. The Cash Activity Projection reflects an \$8M deficit at the end of the 2024-2025 Bar year if no changes are made to programming and dues increase annually by the recently customary \$2. To achieve a balanced budget with no changes to programming, dues would need to be increased to \$276 for 2020-21; \$284 for 2021-22; \$292 for 2022-23; \$300 for 2023-24; and \$310 for 2024-25. Adding the annual professionalism assessment (\$15) and proposed annual Client Security Fund assessment (\$15) to those figures, a balanced budget would require Bar members to pay \$306 for 2020-21; \$314 for 2021-22; \$322 for 2022-23; \$330 for 2023-24; and \$340 for 2024-25.

Darrell suggested it is the Executive Committee's obligation to the membership to provide the Board of Governors with recommendations about each of the Bar's programs so the Board can decide whether to make cuts and set dues accordingly.

Martin Valbuena, chair of the Programs Committee, reported that the committee used a ranking system (Exhibit I) developed by the ABA and adapted to the State Bar of Georgia. Where a vote about a particular program was not unanimous, the Committee noted what the dissenting voters would have ranked it.

Darrell added that any program set for a cut – either in part or in whole – will have an opportunity at the Fall Board of Governors meeting to make a presentation advocating why that cut should not be made. Darrell indicated his hope that between the Fall and Midyear Board of Governors Meetings, Board members will engage in discussions with him and the other officers and gather information from their constituents so they can make their final determinations about programs at the Midyear Meeting.

The Executive Committee received copies of the 1) Programs Committee meeting minutes

for July 15, July 29, and August 12, 2019; 2) Unified Bar Committee meeting minutes for August 22, 2019; 3) State Bar of Georgia Programs and Related Entities Ratings; 4) Cash Activity Projections; and 5) mock-ups of the 2019-2020 and 2020-2021 License Fee and Assessment Notices.

Executive Session

Following a motion, second, and unanimous voice vote, the Executive Committee went into Executive Session to discuss the programs assessments made by the Unified Bar Committee. Thereafter, the Executive Committee, by unanimous voice vote, voted to move out of Executive Session.

Recommendations of the Programs and Unified Bar Committees (continued)

Before the Executive Committee began its review of each program and their rankings, a motion to not consider sunseting the following programs because they have no impact on mandatory dues as a result of independent funding sources was approved by hand vote of 7 in favor to 6 opposed: Attorney Wellness, CCLC, ICLE, Legislation, and Sections.

Adjournment

By unanimous voice vote, the Executive Committee adjourned the meeting at 5:15 p.m., with plans to reconvene at 9:00 a.m. on Saturday morning, September 7, 2019.

Call to Order

On Saturday, September 7, 2019, Darrell Sutton called the meeting to order at 9:00 a.m. Members of the Executive Committee in attendance are indicated on page one.

Member Appeal

Following a report by Bill NeSmith that the Executive Committee did not have the authority to approve its waiver of Fitness for Jennifer Coleman (action taken at August 1 Executive Committee meeting), a motion to rescind the previous decision was approved by unanimous voice vote. Thereafter, a motion and second to waive all late and reinstatement fees was approved by unanimous voice vote.

Recommendations of the Programs and Unified Bar Committees (continued)

Darrell reported that based upon requests from various Executive Committee members, he asked Ron Turner to provide an indication about what impact an across-the-board program cut would have upon a balanced budget and dues. Ron reported that, assuming all programs rated A would have no reduction in costs, a 9.3% across-the-board reduction would be required for a balanced budget with a \$10 dues increase; a 13.5% reduction across-the-board would be required for a balanced budget with a \$6 dues increase; and a 17% reduction across-the-board would be required for a balanced budget with a \$2 dues increase.

Thereafter, the Executive Committee made the following recommendations to the Board

of Governors:

- 1) There was a motion and second to eliminate the BASICS program. The motion was amended to recommend eliminating the funding for the BASICS program due to *Keller* issues. The amended motion failed by unanimous voice vote, with President-elect Dawn Jones abstaining. The motion to eliminate the BASICS program was approved by majority voice vote.
- 2) A motion and second to eliminate the Bar's funding for The Resource Center was approved by unanimous voice vote.
- 3) Following a motion and second to eliminate the funding for the Pro Bono Project, an amended motion to reduce the budget to cover only the salaries, benefits, and overhead of that program did not receive a second. The original motion to eliminate the funding for the Pro Bono Project failed by a hand vote of 6 in favor to 7 opposed. A motion and second that the Pro Bono Project be subject to further review before a final recommendation is made to the Board was approved by unanimous voice vote.
- 4) A motion to eliminate the Fee Arbitration Program did not receive a second. A motion and second that the Fee Arbitration Program be subject to further review failed by majority voice vote. Darrell reported that new rules are being drafted that will make the program more efficient and cost effective, and any decision about Fee Arbitration should await those changes.
- 5) A motion and second to eliminate funding for the Law-Related Education Program failed by majority voice vote. A motion and second to eliminate funding for iCivics was approved by a hand vote of 7 in favor to 6 opposed.
- 6) Following a motion and second to eliminate funding for the Military Legal Assistance Program, an amended motion to sunset the Bar's MLAP program in recognition of the establishment of other complementary legal clinics was approved by unanimous voice vote.
- 7) A motion to eliminate funding for the High School Mock Trial Program failed for lack of a second.
- 8) A motion and second to recommend to CJCP (1) elimination of its funding because the accreditation function is now being handled by the CCLC, (2) that CJCP become an advisory commission only, and (3) that the \$15 per member assessment be eliminated, was withdrawn. A motion and second to recommend a reduction in the professionalism assessment from \$15 to \$5, following consultation with and permission from the Supreme Court, was approved by majority voice vote. A

motion and second that the Bar continue to collect this reduced \$5 professionalism fee and pass it on to the CJCP was approved by majority voice vote.

The Executive Committee also took the following action:

- 1) By unanimous voice vote, approved a motion and second to pass credit card convenience fees on to those attorneys paying their license fees by credit card, unless increased cost in lockbox fees for receiving payments by check would exceed the amount of the convenience fees.
- 2) By majority voice vote, approved a motion and second to request each program provide a plan for reducing its costs by a target of 10% across-the-board.

It was the consensus of the Executive Committee to meet again prior to the Fall Board of Governors meeting in order to hear presentations from those programs for which the Executive Committee decided to make a recommendation to the Board of Governors. [That meeting was scheduled for 9:00 a.m. October 2, 2019]

President's Report

Darrell provided no additional report.

Treasurer's Report

Treasurer Elizabeth Fite reported on the Bar's finances. She also reported that finances for the 2018-19 Bar year are in the process of being closed.

The Executive Committee received copies of the Consolidated (Operational and Bar Center) Revenues and Expenditures Report as of May 31, 2019; Bar Center Revenues and Expenditures Report for the Eleven Months Ended May 31, 2019; Income Statement YTD-Operations for the Eleven Months Ending May 31, 2019; Status and Use of Cash and Investment as of May 31, 2019; Board-Designated and Donor Temporarily Restricted Net Assets; Summary of Members and Voluntary Legislative Contributions Paid Through May 31, 2019; Summary of Members and Voluntary Contributions to GLSP with Contributions Paid Through May 31, 2019; Legislative Activity Report from July 1, 2018 through May 31, 2019; and Cornerstones of Freedom Activity Report from July 1, 2018-through May 31.

YLD Report

YLD President Will Davis reported that the YLD had a great summer meeting, which continues to grow in attendance annually. Will also reported the YLD Fall Meeting will take place November 15-17, 2019 at Lake Lanier Islands. Lastly, he reported that YLD committees are busy at work on their programs.

Executive Director's Report

Executive Director Jeff Davis said he will have a report at the next meeting, after meeting with department and program directors about budgets.

Advisory Committee on Legislation/Legislative Report

Governmental Affairs Director Christine Butcher Hayes reported that the Advisory Committee on Legislation will meet Wednesday, September 11, 2019.

Office of General Counsel Report

Paula Frederick reported about receipt of an order from the Supreme Court eliminating the JDPP and approving numerous scrivener changes.

Elections - E-Ballot

Jeff Davis provided information on the 2019 Elections. Out of a total of 41,870 ballots, 23,394 paper ballots were mailed and 1,455 were returned. By contrast 8,476 electronic ballots were sent and 3,980 returned. The cost to the Bar to produce and mail paper ballots is \$19,740.

Keller Script

At the request of the Unified Bar Committee, Paula Frederick presented a proposed script that the President and the Chair of the Advisory Committee on Legislation can use to remind members what to consider before deciding whether a proposal meets the requirements of *Keller*.

Legislative Program Marketing/Awareness Campaign/Fund Reserve

This item was tabled to the November 2019 Executive Committee meeting.

2019 Attorney Fee Survey Results

The Executive Committee received a copy of the 1) International Survey of Attorney Licensing Fees ranked by Mandatory Annual Fee and Attorney Discipline; 2) National Survey of Attorney Licensing Fees ranked by States in Order of Fee Amount, and 3) National Survey of Attorney Licensing Fees ranked by Voluntary States in Order of Fee Amounts. The surveys were compiled on July 1, 2019 by the Office of Attorney Ethics of New Jersey.

Old Business

There was no old business.

New Business

Will Davis reported that the YLD will be assisting with the 11th Circuit Judicial Conference next Spring.

Considering the recent passing of Judge Stephen Goss and September being Suicide Prevention Month, Javoyne Hicks requested that the Bar send a *Use Your 6* flyer to all Bar members.

Adjournment

There being no further business, the meeting was adjourned at 12:20 p.m.



Sarah B. (Sally) Akins, Secretary



Darrell L. Sutton, President

**STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE MEETING
MINUTES**

**Wednesday, October 2, 2019/9:00 a.m.
State Bar Building/Atlanta, Georgia**

Members Participating:

Darrell L. Sutton, President; Dawn M. Jones, President-elect; Elizabeth Louise Fite, Treasurer; Sally B. Akins, Secretary; Kenneth B. Hodges, III, Immediate Past President; Bert D. Hummel, IV, YLD President-elect; Ivy N. Cadle; Tony DelCampo; Amy V. Howell; R. Javoyne Hicks; David S. Lipscomb; and Nicki Vaughan.

Members Absent:

William T. Davis, YLD President; and Rizza O'Connor, YLD Immediate Past President.

Guest Present:

Martin Valbuena, Chair, Programs Committee.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Sarah Coole, Director of Communications; Jeff Davis, Executive Director; Paula Frederick, General Counsel; Christine Butcher Hayes, Director of Governmental Affairs; Bill NeSmith, Deputy General Counsel; and Ron Turner, Chief Financial Officer.

Call to Order

President Darrell Sutton called the meeting to order at 9:00 a.m. Members of the Executive Committee in attendance are indicated above.

Executive Committee Minutes

By unanimous voice vote, the Executive Committee approved, as revised, the minutes of the meeting held September 6-7, 2019.

State Bar Programs Presentations

Darrell reported about events that have taken place since the Executive Committee last met. First, he met with representatives of the Supreme Court to make them aware of the financial issues leading to this programs review, the process that preceded the September Executive Committee meeting, the recommendations made by the Executive Committee at that meeting, and the process to follow it.

Darrell also spoke with a representative of each impacted program, notifying them about the financial issues leading to this programs review, the process that preceded the September Executive Committee meeting, the recommendations made by the Executive Committee at that meeting, and the process to follow it, including the opportunity for each program to make a

presentation to the Executive Committee, and if necessary, the Board of Governors. This was followed by an email detailing the same information.

The Executive Committee then received presentations from the following programs.

- 1) BASICS: Seth Kirschenbaum-BASICS Committee former chair and member, Michelle Menifee-BASICS Program Director, Judge Jill Pryor

Michelle Menifee provided an overview of the BASICS program. It is a 10-week reentry program operating in 22 correctional facilities around the state. Since its inception 43 years ago, the program has graduated nearly 15,000.

Seth discussed the benefits of the program that serves a segment of the Georgia population, mainly African-Americans, who live in poverty. BASICS reduces crime and prison costs, and transforms lives by helping graduates become more productive citizens. Efforts to get the Department of Corrections (DOC) to take over the BASICS program have been unsuccessful. While the DOC recently created a reentry campus program, it only services a limited number of prisoners. When asked about other funding sources for BASICS, Seth reported the program looks for grants and had a gala that raised some limited funds.

Judge Jill Pryor provided information about the crossover between the state and federal correctional systems. She said there are very few programs like BASICS, which take a burden off the criminal justice system, save lives, and go to the core of the legal and justice system.

- 2) Georgia Appellate Practice and Education Resource Center: Amy Rudolph-President of the Board of Directors, Anna Arceneaux-Executive Director, Sara Totonchi-Executive Director, Southern Center for Human Rights, Robert Remar, Gerald P. Word-Gorgia Capital Defenders Office, Judge Jill Pryor

Amy Rudolph discussed The Resource Center mission to provide free representation to indigent death-sentenced prisoners in Georgia who are in state and federal habeas corpus proceedings. Georgia is only one of two states in the country that does not provide a right to counsel for death-sentenced inmates in post-conviction proceedings. The Resource Center was created in 1986 and provides expertise to lawyers who take on these decades-long cases.

Ms. Rudolph indicated the Resource Center furthers the Bar's goal to provide equal access to justice, and to a highly deserving segment of the population. Funding for the Resource Center has held steady for the past decade and there have been no staff raises since 2016. The Resource Center receives \$800,000 from the Georgia legislature, \$200,000-300,000 from federal vouchers, although that amount is unpredictable, and

the remainder from the Bar and the Georgia Bar Foundation. The Resource Center is facing increased costs for rent due to a change in its landlord. At the same time, it is working to improve and stabilize its financial picture, compensation parity, and update its antiquated office systems.

Ms. Rudolph expressed skepticism about another entity's ability to make-up the funding difference resulting from the Executive Committee's recommendation to eliminate the Bar's funding of the program. Ms. Rudolph also indicated that the Bar rating the program desirable but not essential will make it difficult for the Resource Center to obtain funding elsewhere, and she asked the Bar reconsider its rating and recommendation.

Darrell explained that the rating system used by the Programs Committee was not an assessment of the Resource Center's operations, work, overall value or effectiveness, but instead an assessment of the relationship the Resource Center bears to the Bar's mission and the value the Bar derives from the funds it annually contributes to the Resource Center.

- 3) State Bar of Georgia Pro Bono Project/Military Legal Assistance Program: Rick Rufolo-GLSP Executive Director, Mike Monahan-Pro Bono Project Director, Jay Elmore-MLAP Committee Chair, Norman Zoller-former MLAP Director, Judge Jill Pryor,

Rick Rufolo provided an explanation about how the funds contributed by the Bar to the Pro Bono Project are annually used.

Following that presentation, Mr. Rufolo reported about the possibility of making MLAP a program of the Pro Bono Project, with GLSP absorbing the cost attributable to MLAP. He indicated this is a feasible option.

Jay Elmore reported that MLAP is agreeable to this arrangement, assuming the Bar's continued non-financial support of MLAP. Assurance was provided the MLAP Committee and Military/Veterans Section will continue to exist and remain involved with the operation of MLAP.

Mr. Elmore reported that since its creation, MLAP has served 2,200 servicemen and veterans, created VA clinics, drafted legislation that resulted in veterans' courts, and assisted Emory, Georgia State University, and the University of Georgia with their veterans' clinics. Five hundred lawyers have volunteered to participate with MLAP in the delivery of these services. MLAP also sponsored a nationwide symposium, and supports ICLE's trainings for attorneys seeking approval to practice before the VA.

Mike Monahan reported about the overlap between the Pro Bono Project and MLAP. He currently supervises MLAP Director Christopher Pitts, who assists the Pro Bono

Project with trainings about veterans' issues. Mr. Monahan reported that this transition of MLAP provides an opportunity to enhance that synergy and collaboration.

Judge Jill Pryor reminded everyone that the Bar's strategic plan provided that access to justice is the Bar's highest priority.

Norman Zoller indicated MLAP has proven it does a great deal of good and provides an important source of business for lawyers. It is an important resource for the large population of veterans and military personnel in Georgia.

4) iCivics: Elizabeth Bradley Turner

Elizabeth Turner reported that she became involved with the Bar's iCivics program when it partnered with the Georgia Family Connection Partnership (GaFCP), a program created by Governor Zell Miller to raise Georgia's civic health through high quality civics education. It has allowed iCivics to expand its training opportunities for educators and communities across the state to teachers, after-school program leaders and others.

Ms. Turner reported that in FY '19 iCivics and GaFCP conducted 12 training sessions and attended 5 conferences for just under the iCivics \$12,000 budget. This was for travel and hard costs, while GaFCP donated the staff time. GaFCP recently updated its civic health index, which promoted the Bar and its iCivics program in 159 counties. Ms. Turner indicated that if the program did not receive funds from the Bar, they may possibly be able to locate funding from other sources.

Ms. Turner emphasized that improved civic knowledge leads to better civic engagement and a stronger democracy.

The Executive Committee received a copy of the State Bar of Georgia Programs and Related Entities, Cash Activity Projection, 2019-2020 and 2020-2021 Dues Notices, Definition of Ratings, the Programs Committee Meeting minutes of August 12, 2019, the Unified Bar Committee Meeting (draft) Minutes of August 22, 2019, and a copy of an email from Norman Zoller regarding the Military Legal Assistance Program.

Discussion

Following the directive to Bar staff to identify internal cost reductions, Darrell reviewed an itemization of these potential reductions.

The Executive Committee then received a Projection Information for 2019-2020 and for 2020-2021 report. The projected 2020-2021 budget takes into account both the staff reductions and the Executive Committee's proposed programs recommendations following the September Executive Committee meeting. These total \$1,010,133. Considering these internal budget reductions and a potential \$2 license fee increase, net income of \$212,425 is projected for 2020-

2021.

Thereafter, the Executive Committee reviewed the program recommendations it made at its September meeting, and took the following action.

- 1) A motion and second to rescind the recommendation to eliminate the BASICS program and fund it at its current level failed by a majority voice vote. A motion and second to rescind the recommendation to eliminate the BASICS program and support it at a level 10% lower than its current level, or \$135,000, failed by majority voice vote.
- 2) A motion and second to rescind the recommendation to eliminate the Bar's funding for The Resource Center and fund it at its current level was amended to fund The Resource Center at its current level, subject to a determination by the Bar about the viability of the Resource Center becoming a Bar Center tenant, with a portion of rent abatement replacing the equivalent program funding, was approved by majority voice vote.
- 3) A motion and second to rescind the recommendation to sunset MLAP was approved by unanimous voice vote. A motion and second to endorse making MLAP a program of the Pro Bono Project, which is a Bar program conducted with GLSP, and with GLSP assuming the cost associated with MLAP, was approved by unanimous voice vote.
- 4) A motion and second to rescind the recommendation to eliminate funding for the iCivics program and to fund it at its current level failed by majority voice vote.

Darrell reported that he will inform the program proponents about this action. Representatives of BASICS and iCivics will be invited to make presentations in opposition to this action to the Board of Governors at the Fall Board meeting.


Adjournment

There being no further business, the meeting was adjourned at 12:45 p.m.

Approved:



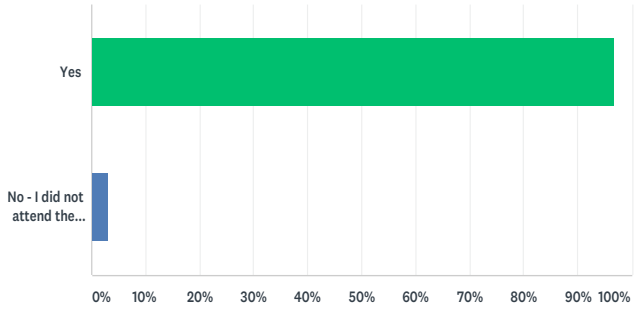
Darrell L. Sutton, President



Sarah B. (Sally) Akins, Secretary

Q1 Did you attend the annual meeting?

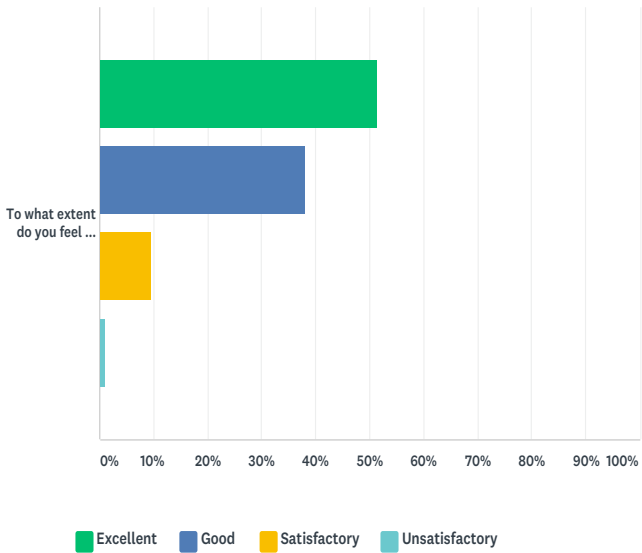
Answered: 126 Skipped: 2



ANSWER CHOICES	RESPONSES	
Yes	96.83%	122
No - I did not attend the Annual meeting	3.17%	4
TOTAL		126

Q2 MEETING OBJECTIVE: To provide participants with an educational program and networking opportunity to increase their effectiveness in the legal industry.

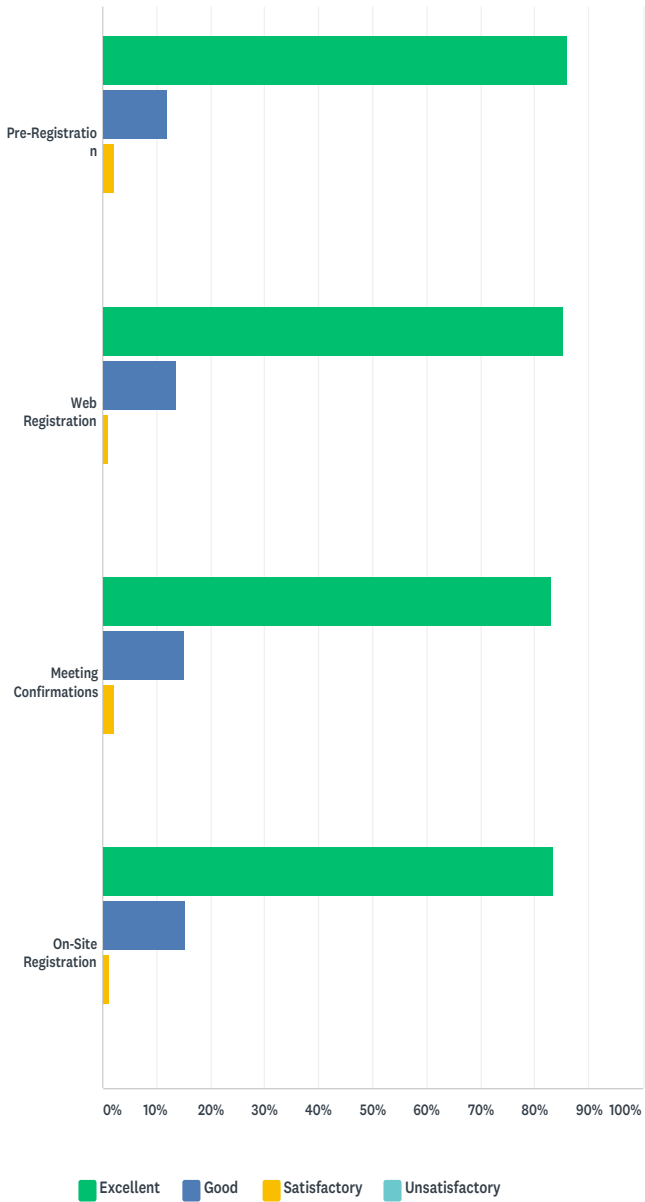
Answered: 105 Skipped: 23



	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
To what extent do you feel the above objective was met?	51.43%	38.10%	9.52%	0.95%	
	54	40	10	1	105

Q3 How would you rate the registration process?

Answered: 105 Skipped: 23



EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
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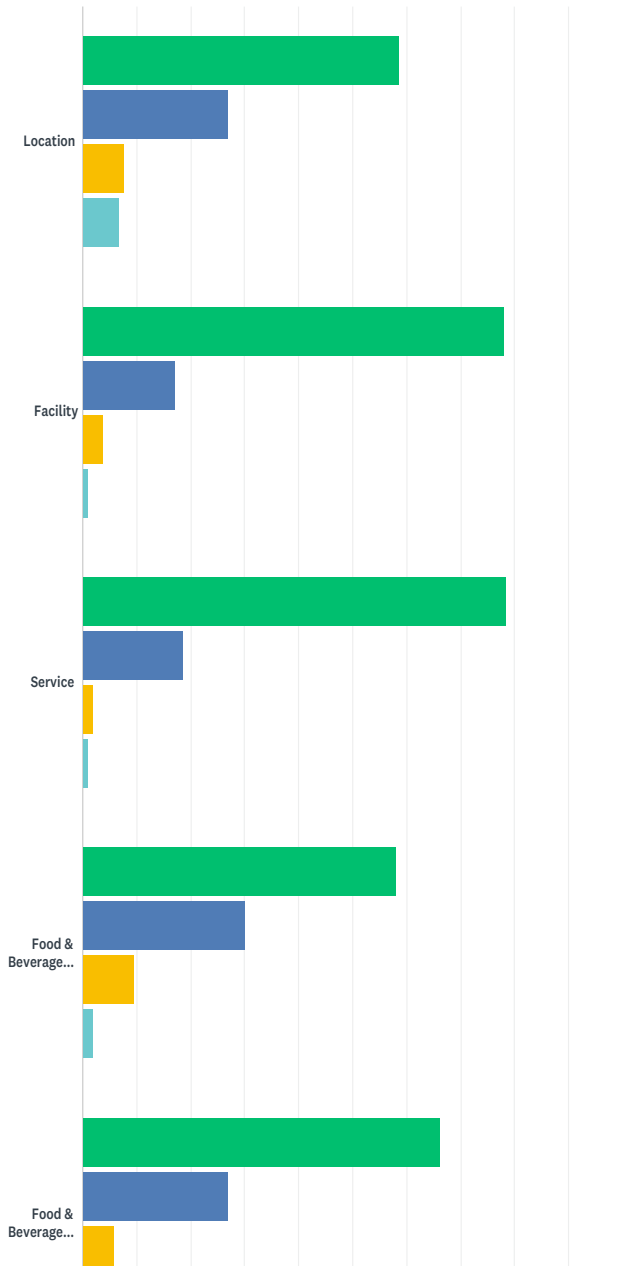
2019 Annual Meeting

Pre-Registration	86.00%	12.00%	2.00%	0.00%	100
	86	12	2	0	
Web Registration	85.42%	13.54%	1.04%	0.00%	96
	82	13	1	0	
Meeting Confirmations	83.00%	15.00%	2.00%	0.00%	100
	83	15	2	0	
On-Site Registration	83.53%	15.29%	1.18%	0.00%	85
	71	13	1	0	

#	ADDITIONAL COMMENTS	DATE
1	Michelle is the best	6/24/2019 10:22 PM
2	Bar staff did its usual great job insuring a smooth and welcoming registration process and onsite reception.	6/24/2019 10:07 AM
3	I would like an electronic version of the meeting booklet that contains all of the room numbers for events, preferably available the day before the meeting begins. Having the ability to download it from the website as a PDF is fine. This would be very helpful, especially if you are coming in for a meeting the day of the meeting. If the brochure also contained the information about where to locate the registration desks, that would also be great. I think this makes it easier for people are arriving day of for a particular meeting.	6/24/2019 9:32 AM
4	The Bar staff is the BEST! Registration is always a breeze. Michelle and Gakii are wonderful :)	6/24/2019 9:21 AM
5	Why Orlando. Pain to get there and ga bar should support ha not fla. Offensive that it out of state.	6/24/2019 9:02 AM

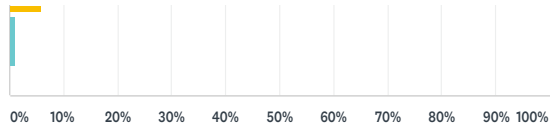
Q4 How would you rate the Ritz-Carlton Orlando, Grande Lakes?

Answered: 105 Skipped: 23



5 / 60

2019 Annual Meeting



■ Excellent
 ■ Good
 ■ Satisfactory
 ■ Unsatisfactory

	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Location	58.65% 61	26.92% 28	7.69% 8	6.73% 7	104
Facility	78.10% 82	17.14% 18	3.81% 4	0.95% 1	105
Service	78.43% 80	18.63% 19	1.96% 2	0.98% 1	102
Food & Beverage Selection	58.25% 60	30.10% 31	9.71% 10	1.94% 2	103
Food & Beverage Quality	66.35% 69	26.92% 28	5.77% 6	0.96% 1	104

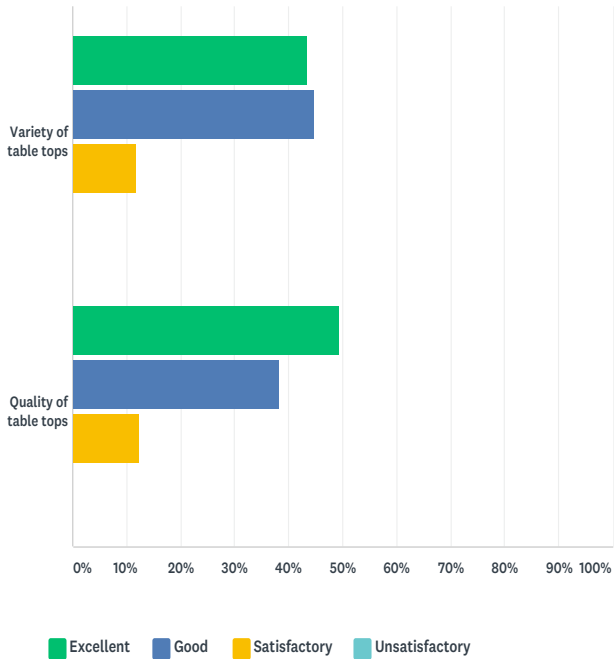
#	IF YOU HAVE SPECIFIC COMMENTS, PLEASE TELL US	DATE
1	Everything was Expensive. top notch but very expensive. 2 drinks at the bar was pushing \$40	7/8/2019 4:14 PM
2	I would prefer the meeting be in Ga.	7/1/2019 9:45 AM
3	The food was exceptional.	6/25/2019 4:50 PM
4	Was a little pricey for some of us younger attendees, but was to be expected.	6/25/2019 4:50 PM
5	Excellent venue	6/25/2019 6:59 AM
6	Michelle is the best	6/24/2019 10:22 PM
7	The room rate was good. The meeting rooms were cold, but that's to be expected.	6/24/2019 7:05 PM
8	Thought it was a great change in scenery for the annual meeting although I am looking forward to heading back to the beach next year.	6/24/2019 4:47 PM
9	200 miles from Georgia not appropriate for a mandatory bar. Cheapest thing on menu was \$25 hamburger. Felt like I was surrounded by blood suckers and I don't mean the members of the bar.	6/24/2019 4:16 PM
10	In comparing this Ritz to Lake Oconee, I feel like this Ritz is nowhere near as nice in all categories.	6/24/2019 2:38 PM
11	The catering for meetings was excellent. The choices for restaurant dining on-site were limited but overall it was an excellent location for meeting. I would go again!	6/24/2019 1:02 PM
12	While The Facilities were excellent, the location should be within Georgia for the annual meeting. The Board of Governors meeting attendance is low	6/24/2019 12:38 PM
13	While the rooms were affordable, the cost of meals and drinks was very expensive	6/24/2019 11:55 AM
14	There weren't many options for lunch other than the poolside places. The J.W. had options as well, but even those weren't great for lunch, other than the poolside restaurant.	6/24/2019 11:38 AM
15	As a person not interested in the theme parks, the drive to Orlando is not reasonable for me personally but i understand the benefit to many of the families attending.	6/24/2019 10:39 AM
16	The food at the opening event was not as good as the closing date.	6/24/2019 10:35 AM
17	Pricey on drinks.	6/24/2019 10:23 AM
18	Food and beverage selections for bar functions were excellent. Hotel restaurants were okay but having the nearby JW Marriott for more options especially a breakfast buffet on Sunday was very nice.	6/24/2019 10:07 AM

2019 Annual Meeting

19	Expensive	6/24/2019 10:02 AM
20	These were the nicest accommodations and best food of the over 10 years I have been attending.	6/24/2019 9:55 AM
21	It was far to travel, but once we got there, it was a great place to stay.	6/24/2019 9:49 AM
22	Long trip	6/24/2019 9:47 AM
23	One of the best facilities ever.	6/24/2019 9:41 AM
24	Breakfast was delicious and plentiful until late morning everyday, which was much appreciated for those who had families.	6/24/2019 9:32 AM
25	food was pricey	6/24/2019 9:28 AM
26	This was one of THE BEST facilities that we have ever arranged for a meeting. The hotel was wonderful, all food was EXCELLENT, pools were great as was the proximity to the Orlando theme parks and airport. GREAT CHOICE.	6/24/2019 9:21 AM
27	Too far from Atlanta.	6/24/2019 9:12 AM
28	Compulsory valet parking was a disappointment. Pleased that there was a discount	6/24/2019 9:10 AM
29	This was an amazing property with great service. Would love to go back.	6/24/2019 9:09 AM
30	Although expensive	6/24/2019 9:07 AM
31	The prices were a little expensive	6/24/2019 9:04 AM
32	Pricing and hotel amenities was overpriced	6/24/2019 9:01 AM

Q5 How would you rate the Exhibitors?

Answered: 96 Skipped: 32

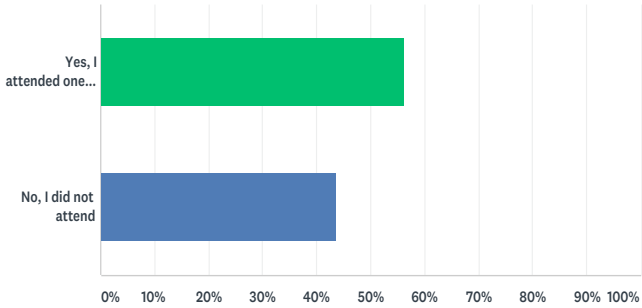


	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Variety of table tops	43.62% 41	44.68% 42	11.70% 11	0.00% 0	94
Quality of table tops	49.44% 44	38.20% 34	12.36% 11	0.00% 0	89

#	ADDITIONAL COMMENTS:	DATE
1	Smart Start was the best!	6/25/2019 1:04 PM
2	I did not visit the vendors. However, I noticed a vendor selling men's accessories and possibly clothing. I'd like to see a vendor selling women's accessories and clothing.	6/24/2019 7:05 PM
3	I did not really pay much attention to the exhibits, but as always the vendors were very generous with the great freebies and it was much appreciated.	6/24/2019 9:32 AM
4	I didn't spend any time there due to meeting requirements.	6/24/2019 9:12 AM

Q6 Did you attend any Alumni events listed?• Emory University School of Law Alumni & Friends Reception• Georgia State College of Law Reception• Mercer University School of Law Reception Honoring Incoming President Darrell Sutton• UGA School of Law Alumni Reception

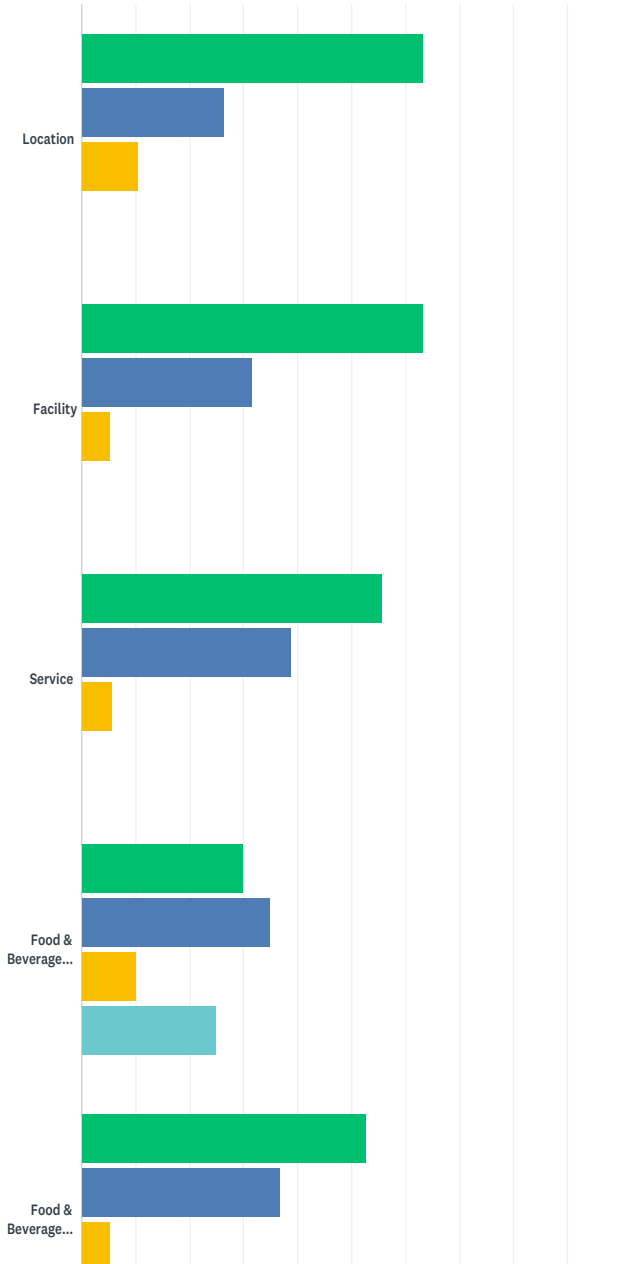
Answered: 105 Skipped: 23



ANSWER CHOICES	RESPONSES	
Yes, I attended one or multiple events	56.19%	59
No, I did not attend	43.81%	46
TOTAL		105

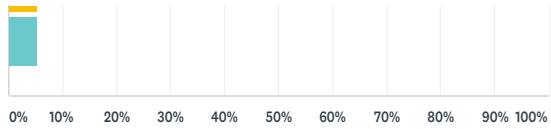
Q7 Emory University School of Law Alumni & Friends Reception

Answered: 20 Skipped: 108



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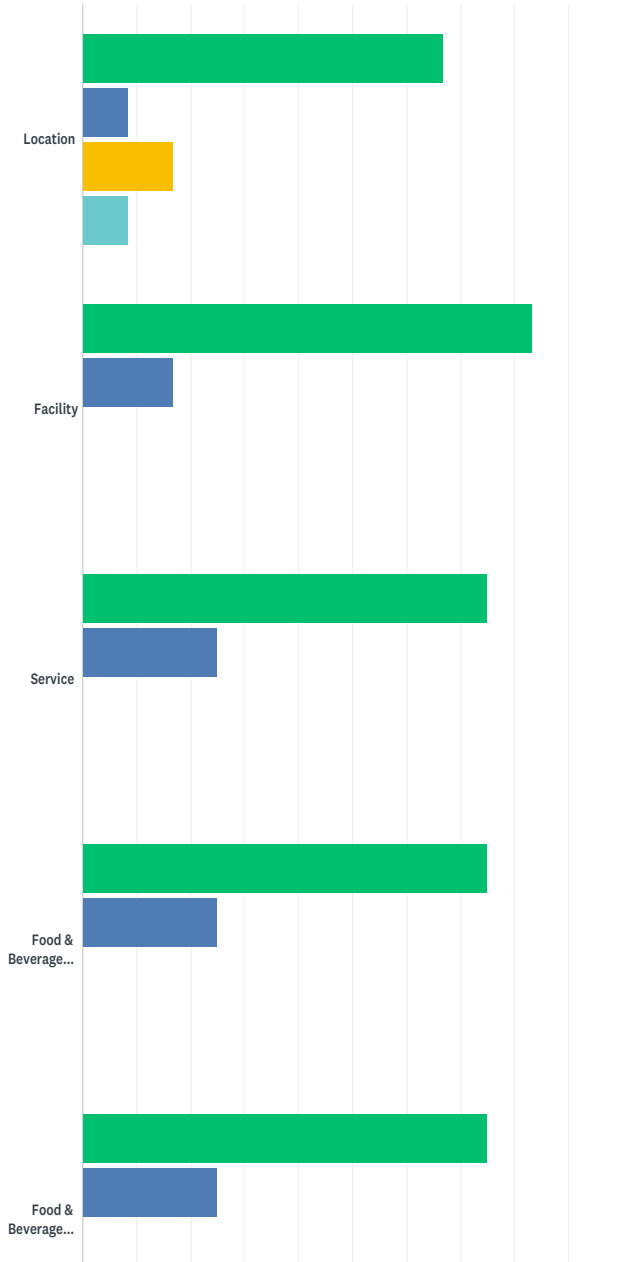
■ Excellent
 ■ Good
 ■ Satisfactory
 ■ Unsatisfactory

	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Location	63.16% 12	26.32% 5	10.53% 2	0.00% 0	19
Facility	63.16% 12	31.58% 6	5.26% 1	0.00% 0	19
Service	55.56% 10	38.89% 7	5.56% 1	0.00% 0	18
Food & Beverage Selection	30.00% 6	35.00% 7	10.00% 2	25.00% 5	20
Food & Beverage Quality	52.63% 10	36.84% 7	5.26% 1	5.26% 1	19

#	IF YOU HAVE SPECIFIC COMMENTS, PLEASE TELL US	DATE
1	Seems like the food was mainly desserts. Would prefer appetizers.	6/24/2019 7:07 PM
2	Recommend inviting all local alumni (both GA and FL bar) to increase value of event.	6/24/2019 5:26 PM
3	Did not attend	6/24/2019 10:25 AM
4	Did not attend	6/24/2019 9:06 AM

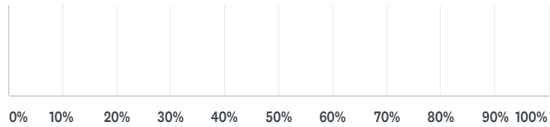
Q8 Georgia State College of Law Alumni Reception

Answered: 12 Skipped: 116



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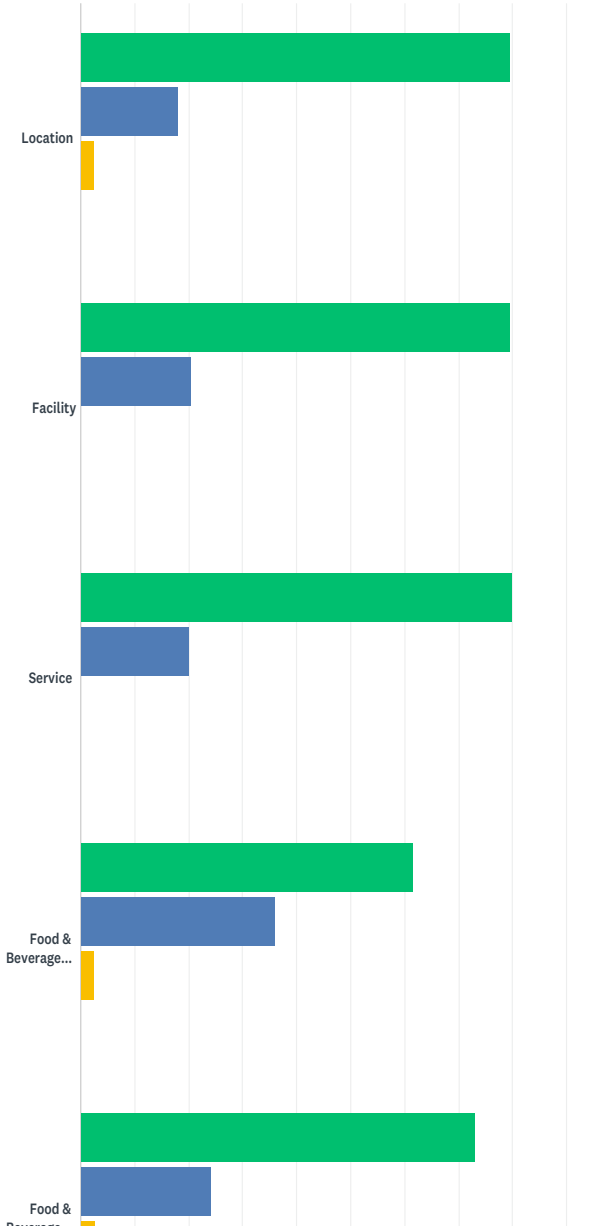
■ Excellent
 ■ Good
 ■ Satisfactory
 ■ Unsatisfactory

	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Location	66.67% 8	8.33% 1	16.67% 2	8.33% 1	12
Facility	83.33% 10	16.67% 2	0.00% 0	0.00% 0	12
Service	75.00% 9	25.00% 3	0.00% 0	0.00% 0	12
Food & Beverage Selection	75.00% 9	25.00% 3	0.00% 0	0.00% 0	12
Food & Beverage Quality	75.00% 9	25.00% 3	0.00% 0	0.00% 0	12

#	IF YOU HAVE SPECIFIC COMMENTS, PLEASE TELL US	DATE
1	Would like GSU to get a closer location next time	6/25/2019 7:00 AM
2	Did not attend.	6/24/2019 7:07 PM
3	Did not attend	6/24/2019 10:25 AM
4	Could not find location so did not attend	6/24/2019 10:08 AM
5	I never found the Georgia State reception or else I would have attended.	6/24/2019 9:50 AM
6	It was difficult to find.	6/24/2019 9:33 AM
7	The food selection at the GSU reception was far and away the best, but the location - way in the back - left much to be desired and likely contributed to low attendance.	6/24/2019 9:20 AM
8	Did not attend	6/24/2019 9:06 AM

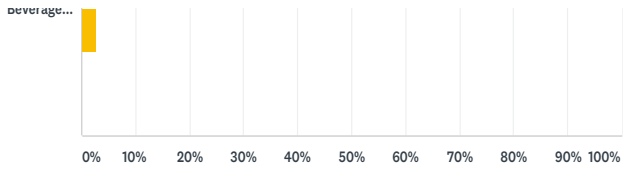
Q9 Mercer University School of Law Reception Honoring Incoming President Darrell Sutton

Answered: 39 Skipped: 89



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2019 Annual Meeting



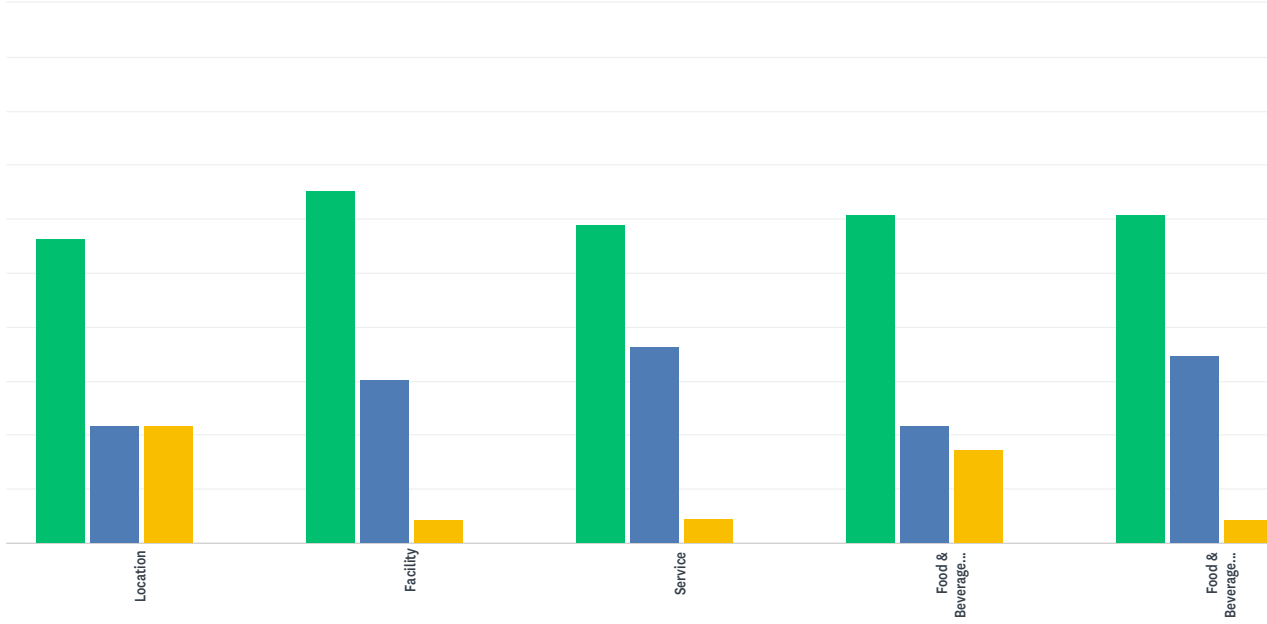
■ Excellent
 ■ Good
 ■ Satisfactory
 ■ Unsatisfactory

	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Location	79.49% 31	17.95% 7	2.56% 1	0.00% 0	39
Facility	79.49% 31	20.51% 8	0.00% 0	0.00% 0	39
Service	80.00% 28	20.00% 7	0.00% 0	0.00% 0	35
Food & Beverage Selection	61.54% 24	35.90% 14	2.56% 1	0.00% 0	39
Food & Beverage Quality	72.97% 27	24.32% 9	2.70% 1	0.00% 0	37

#	IF YOU HAVE SPECIFIC COMMENTS, PLEASE TELL US	DATE
1	Always so wonderful to be at a Mercer Law alumni event. Kind, inspiring leadership.	6/24/2019 10:41 AM
2	Fantastic spread with good drinks.	6/24/2019 9:09 AM
3	Good location, plenty of food, plenty of room for people to mingle, nice podium and sound for speeches.	6/24/2019 9:07 AM
4	Did not attend	6/24/2019 9:06 AM

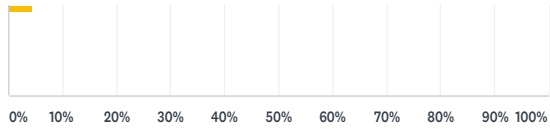
Q10 UGA School of Law Alumni Reception

Answered: 23 Skipped: 105



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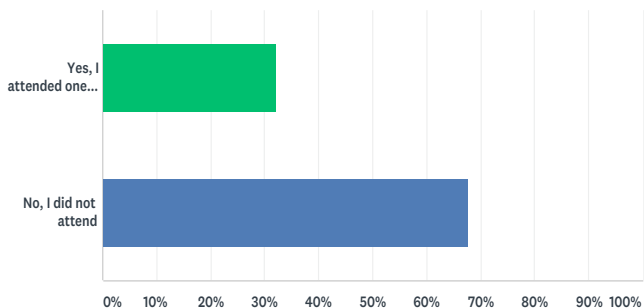


■ Excellent
 ■ Good
 ■ Satisfactory
 ■ Unsatisfactory

	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Location	56.52% 13	21.74% 5	21.74% 5	0.00% 0	23
Facility	65.22% 15	30.43% 7	4.35% 1	0.00% 0	23
Service	59.09% 13	36.36% 8	4.55% 1	0.00% 0	22
Food & Beverage Selection	60.87% 14	21.74% 5	17.39% 4	0.00% 0	23
Food & Beverage Quality	60.87% 14	34.78% 8	4.35% 1	0.00% 0	23

Q11 Did you attend any CLEs?• 21st Century Law Enforcement: Hot Topics Involving Technology, Data Protection and the Law• War Stories XIX, plus Georgia Evidence Update• Social Justice Advocacy in Action: Finding Your Passion

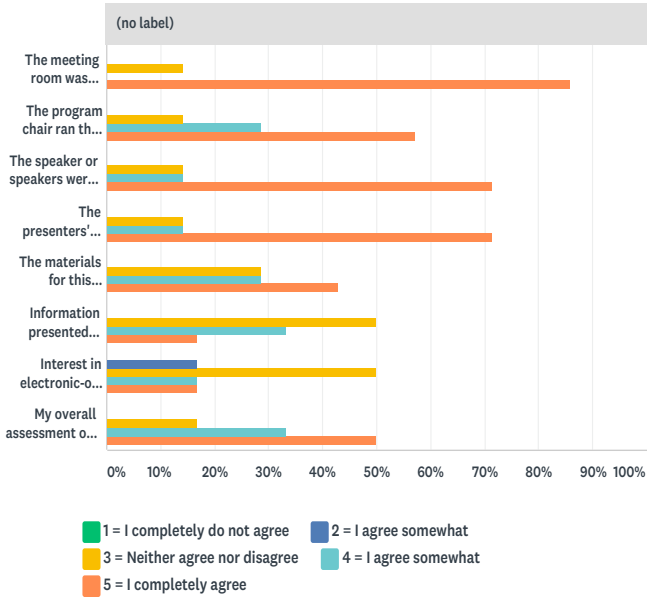
Answered: 56 Skipped: 72



ANSWER CHOICES	RESPONSES	
Yes, I attended one or multiple events	32.14%	18
No, I did not attend	67.86%	38
TOTAL		56

Q12 21st Century Law Enforcement: Hot Topics Involving Technology, Data Protection and the Law

Answered: 7 Skipped: 121



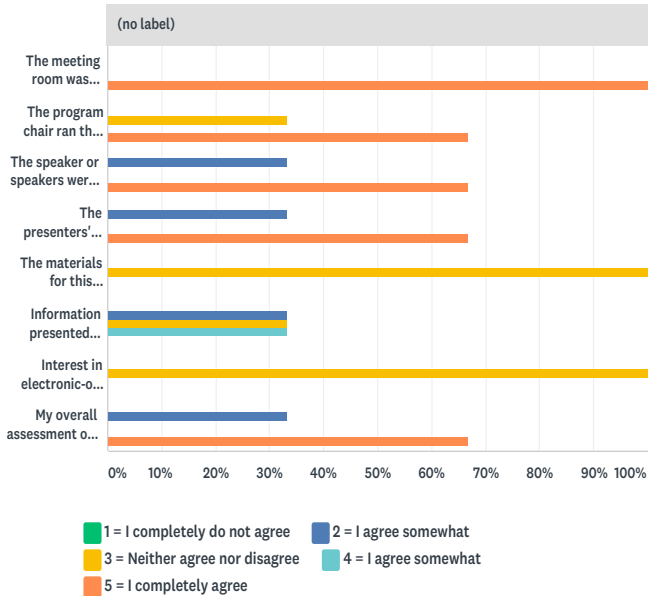
(no label)	1 = I COMPLETELY DO NOT AGREE	2 = I AGREE SOMEWHAT	3 = NEITHER AGREE NOR DISAGREE	4 = I AGREE SOMEWHAT	5 = I COMPLETELY AGREE	TOTAL
The meeting room was comfortable and clean	0.00% 0	0.00% 0	14.29% 1	0.00% 0	85.71% 6	7
The program chair ran the seminar effectively	0.00% 0	0.00% 0	14.29% 1	28.57% 2	57.14% 4	7
The speaker or speakers were clear and well organized	0.00% 0	0.00% 0	14.29% 1	14.29% 1	71.43% 5	7
The presenters' style of speaking kept me interested	0.00% 0	0.00% 0	14.29% 1	14.29% 1	71.43% 5	7
The materials for this presentation will be helpful to me	0.00% 0	0.00% 0	28.57% 2	28.57% 2	42.86% 3	7
Information presented benefited my practice	0.00% 0	0.00% 0	50.00% 3	33.33% 2	16.67% 1	6
Interest in electronic-only materials	0.00% 0	16.67% 1	50.00% 3	16.67% 1	16.67% 1	6
My overall assessment of the seminar is	0.00% 0	0.00% 0	16.67% 1	33.33% 2	50.00% 3	6

2019 Annual Meeting

#	PLEASE OFFER ADDITIONAL COMMENTS ABOUT THE SEMINAR, SPEAKER/S AND ADDITIONAL SEMINAR TOPICS YOU THINK WE SHOULD OFFER	DATE
1	Great topic and great speakers. Very interesting.	6/24/2019 10:26 AM

Q13 War Stories XIX, plus Georgia Evidence Update

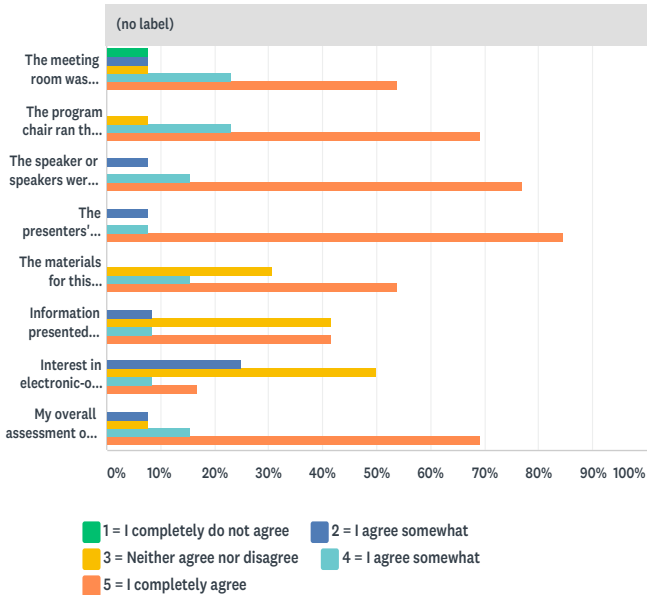
Answered: 3 Skipped: 125



(no label)	1 = I COMPLETELY DO NOT AGREE	2 = I AGREE SOMEWHAT	3 = NEITHER AGREE NOR DISAGREE	4 = I AGREE SOMEWHAT	5 = I COMPLETELY AGREE	TOTAL
The meeting room was comfortable and clean	0.00% 0	0.00% 0	0.00% 0	0.00% 0	100.00% 3	3
The program chair ran the seminar effectively	0.00% 0	0.00% 0	33.33% 1	0.00% 0	66.67% 2	3
The speaker or speakers were clear and well organized	0.00% 0	33.33% 1	0.00% 0	0.00% 0	66.67% 2	3
The presenters' style of speaking kept me interested	0.00% 0	33.33% 1	0.00% 0	0.00% 0	66.67% 2	3
The materials for this presentation will be helpful to me	0.00% 0	0.00% 0	100.00% 3	0.00% 0	0.00% 0	3
Information presented benefited my practice	0.00% 0	33.33% 1	33.33% 1	33.33% 1	0.00% 0	3
Interest in electronic-only materials	0.00% 0	0.00% 0	100.00% 3	0.00% 0	0.00% 0	3
My overall assessment of the seminar is	0.00% 0	33.33% 1	0.00% 0	0.00% 0	66.67% 2	3

Q14 Social Justice Advocacy in Action: Finding Your Passion

Answered: 13 Skipped: 115



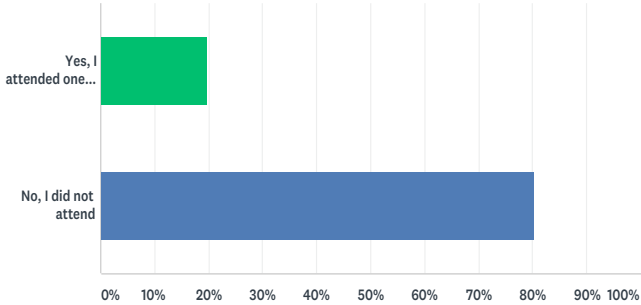
(no label)	1 = I COMPLETELY DO NOT AGREE	2 = I AGREE SOMEWHAT	3 = NEITHER AGREE NOR DISAGREE	4 = I AGREE SOMEWHAT	5 = I COMPLETELY AGREE	TOTAL
The meeting room was comfortable and clean	7.69% 1	7.69% 1	7.69% 1	23.08% 3	53.85% 7	13
The program chair ran the seminar effectively	0.00% 0	0.00% 0	7.69% 1	23.08% 3	69.23% 9	13
The speaker or speakers were clear and well organized	0.00% 0	7.69% 1	0.00% 0	15.38% 2	76.92% 10	13
The presenters' style of speaking kept me interested	0.00% 0	7.69% 1	0.00% 0	7.69% 1	84.62% 11	13
The materials for this presentation will be helpful to me	0.00% 0	0.00% 0	30.77% 4	15.38% 2	53.85% 7	13
Information presented benefited my practice	0.00% 0	8.33% 1	41.67% 5	8.33% 1	41.67% 5	12
Interest in electronic-only materials	0.00% 0	25.00% 3	50.00% 6	8.33% 1	16.67% 2	12
My overall assessment of the seminar is	0.00% 0	7.69% 1	7.69% 1	15.38% 2	69.23% 9	13

2019 Annual Meeting

#	PLEASE OFFER ADDITIONAL COMMENTS ABOUT THE SEMINAR, SPEAKER/S AND ADDITIONAL SEMINAR TOPICS YOU THINK WE SHOULD OFFER	DATE
1	The room was too small and located in a hard to find location. I was disappointing that folks had nowhere to sit.	6/25/2019 10:54 AM
2	The room was too small for the crowd.	6/24/2019 7:09 PM
3	Room was in the furthest location from the main hall and difficult to find. Due to a large number of attendees, many additional chairs had to be brought in and some people had to stand and wait. Some people came to the meeting just to attend this excellent seminar. Many people made positive comments about this seminar throughout the remainder of the meeting. Presenting groups have institutionalized the CLE addressing social justice topics to be held at subsequent annual State Bar Meetings.	6/24/2019 10:15 AM
4	Excellent historical interest though not relevant to my practice.	6/24/2019 9:49 AM
5	The meeting room location was poor. The meeting room should have been much closer to the other bar events. Mr. Moore was difficult to hear sometimes. I don't know if it was a microphone issue or just his soft voice. Please add a not applicable selection to choices.	6/24/2019 9:37 AM
6	This was a great seminar. The organizers did a great job. The material from this seminar were needed. We need more seminars like this one. The only negative was that the room was not big enough. Initially there were not enough seats for everyone.	6/24/2019 9:08 AM

Q15 Did you attend any Section events listed?• Construction Law Meeting• Construction Law Section Reception• General Practice & Trial Law Breakfast, Tradition of Excellence• General Practice & Trial Law Reception, Tradition of Excellence• Judicial Section Lunch

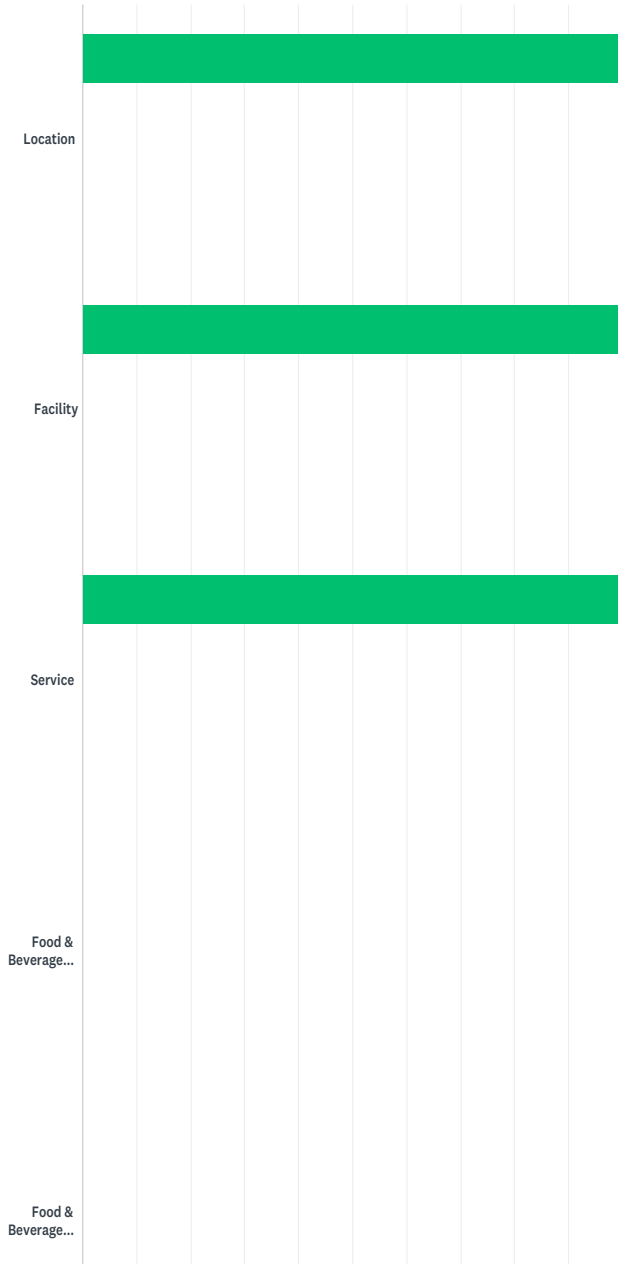
Answered: 102 Skipped: 26



ANSWER CHOICES	RESPONSES	
Yes, I attended one or multiple events	19.61%	20
No, I did not attend	80.39%	82
TOTAL		102

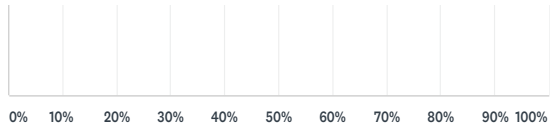
Q16 Construction Law Meeting

Answered: 1 Skipped: 127



25 / 60

2019 Annual Meeting



■ Excellent
 ■ Good
 ■ Satisfactory
 ■ Unsatisfactory

	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Location	100.00% 1	0.00% 0	0.00% 0	0.00% 0	1
Facility	100.00% 1	0.00% 0	0.00% 0	0.00% 0	1
Service	100.00% 1	0.00% 0	0.00% 0	0.00% 0	1
Food & Beverage Selection	0.00% 0	0.00% 0	0.00% 0	0.00% 0	0
Food & Beverage Quality	0.00% 0	0.00% 0	0.00% 0	0.00% 0	0

Q17 Construction Law Section Reception

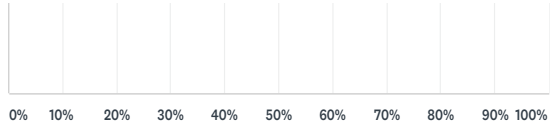
Answered: 1 Skipped: 127



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2019 Annual Meeting

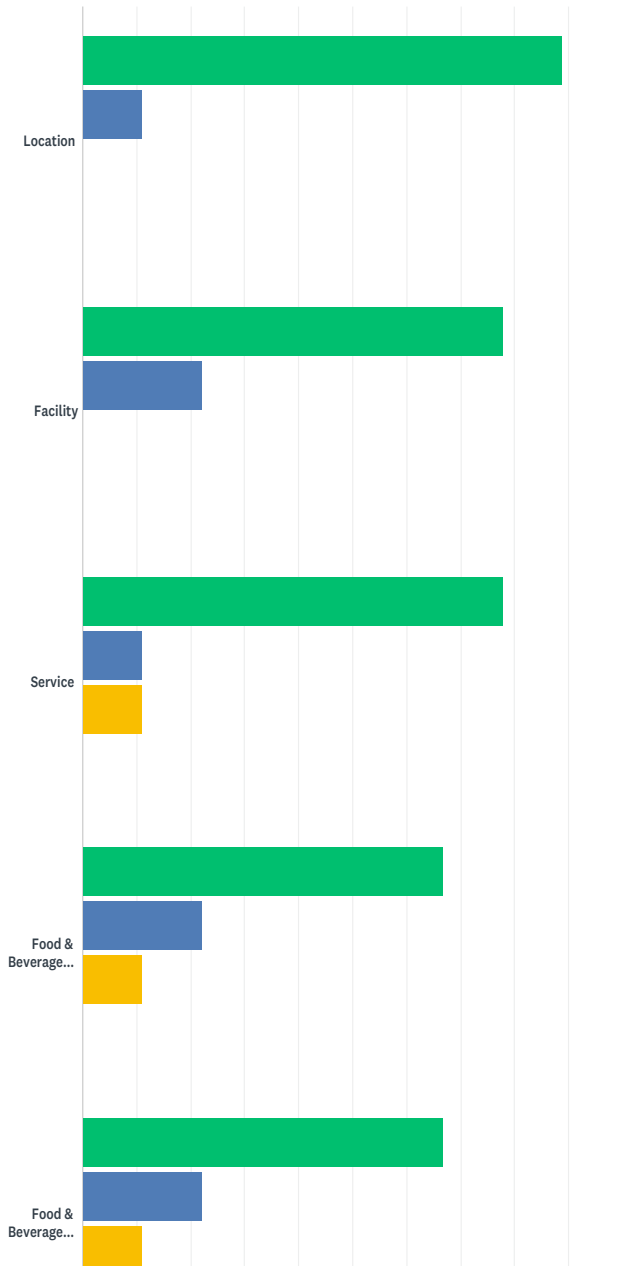


■ Excellent
 ■ Good
 ■ Satisfactory
 ■ Unsatisfactory

	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Location	100.00% 1	0.00% 0	0.00% 0	0.00% 0	1
Facility	100.00% 1	0.00% 0	0.00% 0	0.00% 0	1
Service	100.00% 1	0.00% 0	0.00% 0	0.00% 0	1
Food & Beverage Selection	100.00% 1	0.00% 0	0.00% 0	0.00% 0	1
Food & Beverage Quality	100.00% 1	0.00% 0	0.00% 0	0.00% 0	1

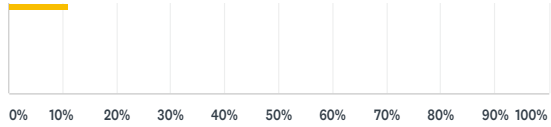
Q18 General Practice & Trial Law Breakfast, Tradition of Excellence

Answered: 9 Skipped: 119



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2019 Annual Meeting



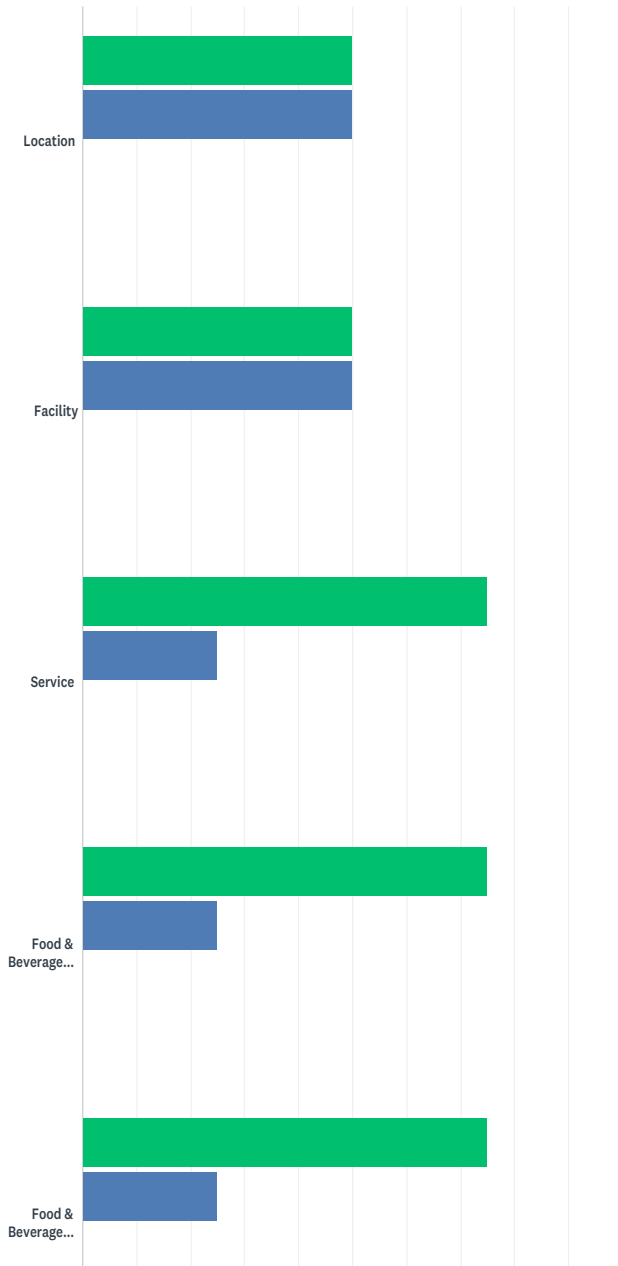
■ Excellent
 ■ Good
 ■ Satisfactory
 ■ Unsatisfactory

	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Location	88.89% 8	11.11% 1	0.00% 0	0.00% 0	9
Facility	77.78% 7	22.22% 2	0.00% 0	0.00% 0	9
Service	77.78% 7	11.11% 1	11.11% 1	0.00% 0	9
Food & Beverage Selection	66.67% 6	22.22% 2	11.11% 1	0.00% 0	9
Food & Beverage Quality	66.67% 6	22.22% 2	11.11% 1	0.00% 0	9

#	IF YOU HAVE SPECIFIC COMMENTS, PLEASE TELL US	DATE
1	This breakfast program ran entirely too long. It was sad to see the room empty out for the last 2 recipients because everyone had to leave for the plenary session.	6/24/2019 9:30 AM

Q19 General Practice & Trial Law Reception, Tradition of Excellence

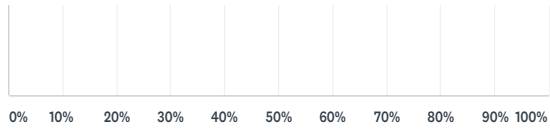
Answered: 4 Skipped: 124



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2019 Annual Meeting

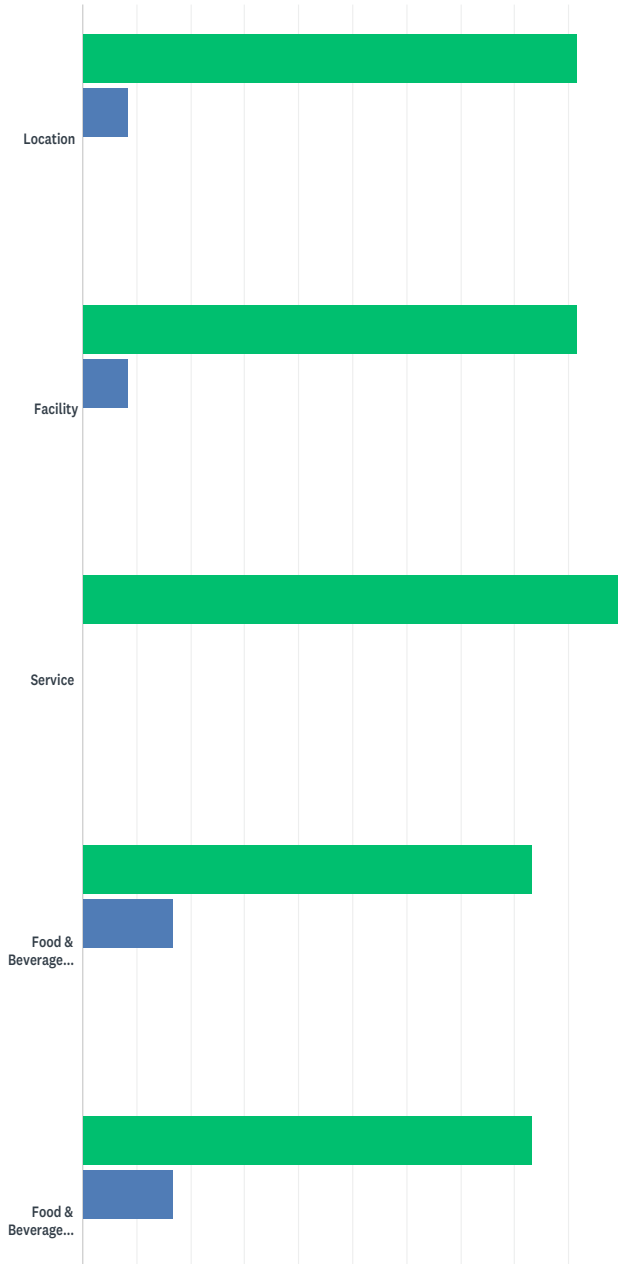


■ Excellent
 ■ Good
 ■ Satisfactory
 ■ Unsatisfactory

	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Location	50.00% 2	50.00% 2	0.00% 0	0.00% 0	4
Facility	50.00% 2	50.00% 2	0.00% 0	0.00% 0	4
Service	75.00% 3	25.00% 1	0.00% 0	0.00% 0	4
Food & Beverage Selection	75.00% 3	25.00% 1	0.00% 0	0.00% 0	4
Food & Beverage Quality	75.00% 3	25.00% 1	0.00% 0	0.00% 0	4

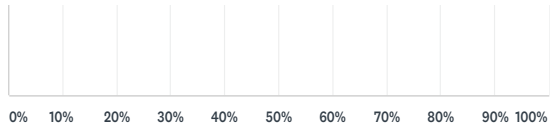
Q20 Judicial Section Lunch

Answered: 12 Skipped: 116



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2019 Annual Meeting



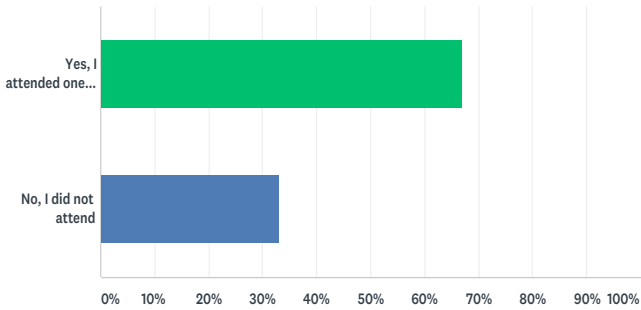
■ Excellent
 ■ Good
 ■ Satisfactory
 ■ Unsatisfactory

	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Location	91.67% 11	8.33% 1	0.00% 0	0.00% 0	12
Facility	91.67% 11	8.33% 1	0.00% 0	0.00% 0	12
Service	100.00% 12	0.00% 0	0.00% 0	0.00% 0	12
Food & Beverage Selection	83.33% 10	16.67% 2	0.00% 0	0.00% 0	12
Food & Beverage Quality	83.33% 10	16.67% 2	0.00% 0	0.00% 0	12

#	IF YOU HAVE SPECIFIC COMMENTS, PLEASE TELL US	DATE
1	Nice event	6/24/2019 10:27 AM

Q21 Did you attend any networking receptions listed?• Opening Night Festival• Bloody Mary Reception• Supreme Court/Court of Appeals Reception/Presidential Inaugural Gala

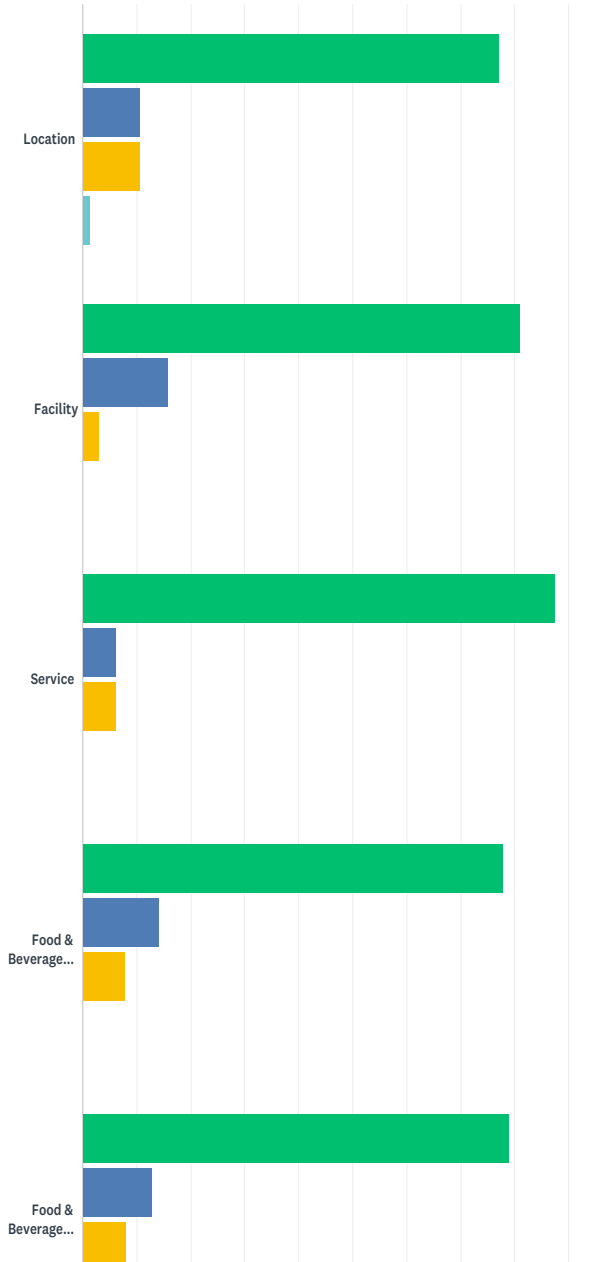
Answered: 103 Skipped: 25



ANSWER CHOICES	RESPONSES	
Yes, I attended one or multiple Receptions	66.99%	69
No, I did not attend	33.01%	34
TOTAL		103

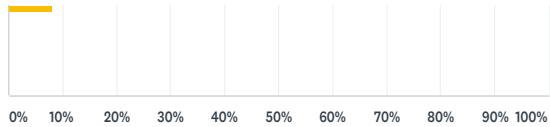
Q22 Opening Night Festival

Answered: 66 Skipped: 62



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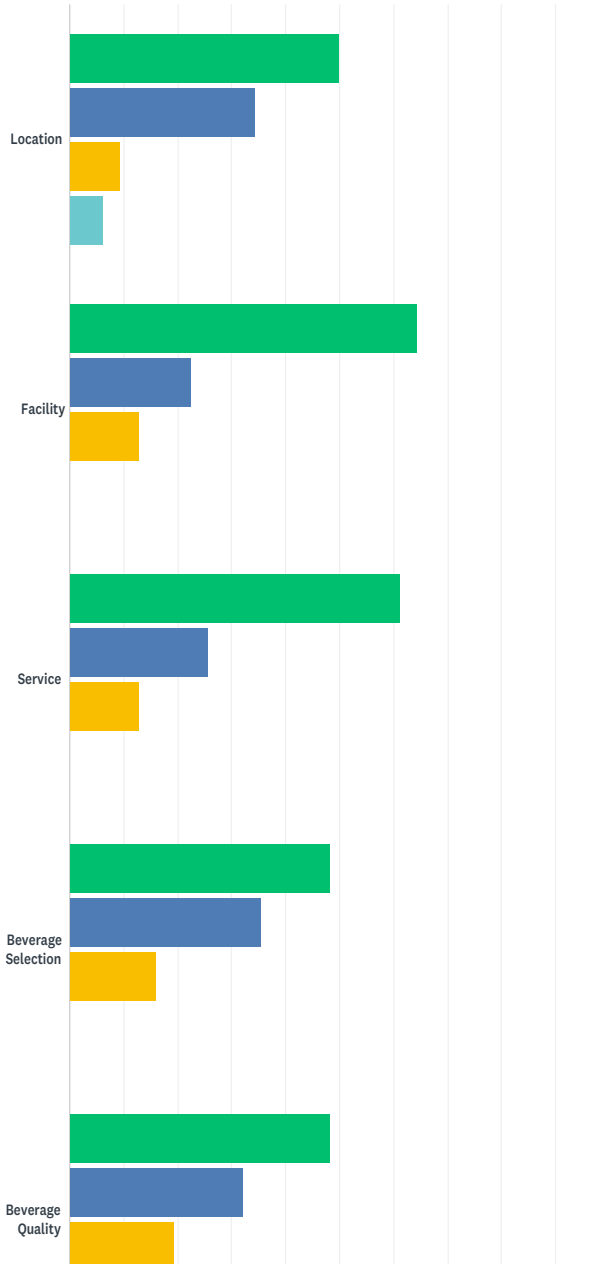
■ Excellent
 ■ Good
 ■ Satisfactory
 ■ Unsatisfactory

	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Location	77.27% 51	10.61% 7	10.61% 7	1.52% 1	66
Facility	80.95% 51	15.87% 10	3.17% 2	0.00% 0	63
Service	87.50% 56	6.25% 4	6.25% 4	0.00% 0	64
Food & Beverage Selection	77.78% 49	14.29% 9	7.94% 5	0.00% 0	63
Food & Beverage Quality	79.03% 49	12.90% 8	8.06% 5	0.00% 0	62

#	ADDITIONAL COMMENTS	DATE
1	I did not attend.	6/25/2019 4:51 PM
2	Moving indoors was a necessity, but is just not as fun an event indoors.	6/24/2019 2:42 PM
3	Was nice inside and good decision to move it in due to weather.	6/24/2019 10:28 AM
4	Music made it too loud to talk. These are networking events, not concerts.	6/24/2019 10:28 AM
5	Did not eat there.	6/24/2019 10:19 AM
6	Staff did a great job switching event to the meeting room, in light of the inclement weather.	6/24/2019 10:02 AM
7	Best vegetarian options and quality of food yet.	6/24/2019 9:57 AM
8	Even though it was moved inside, this was the best opening night reception in years. Ritz properties are A plus for these events.	6/24/2019 9:22 AM
9	All I can say is AMAZING!!! What a great party. My kids had the BEST time.	6/24/2019 9:10 AM
10	Everyone did a great job in moving from outside to inside. Very nice reception and plenty of kid-friendly activities.	6/24/2019 9:09 AM
11	Did not attend	6/24/2019 9:07 AM
12	Very kid friendly which is fine but sometimes it got to be too much that we were being run down by kids playing.	6/24/2019 9:01 AM

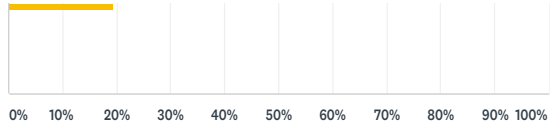
Q23 Bloody Mary Reception

Answered: 32 Skipped: 96



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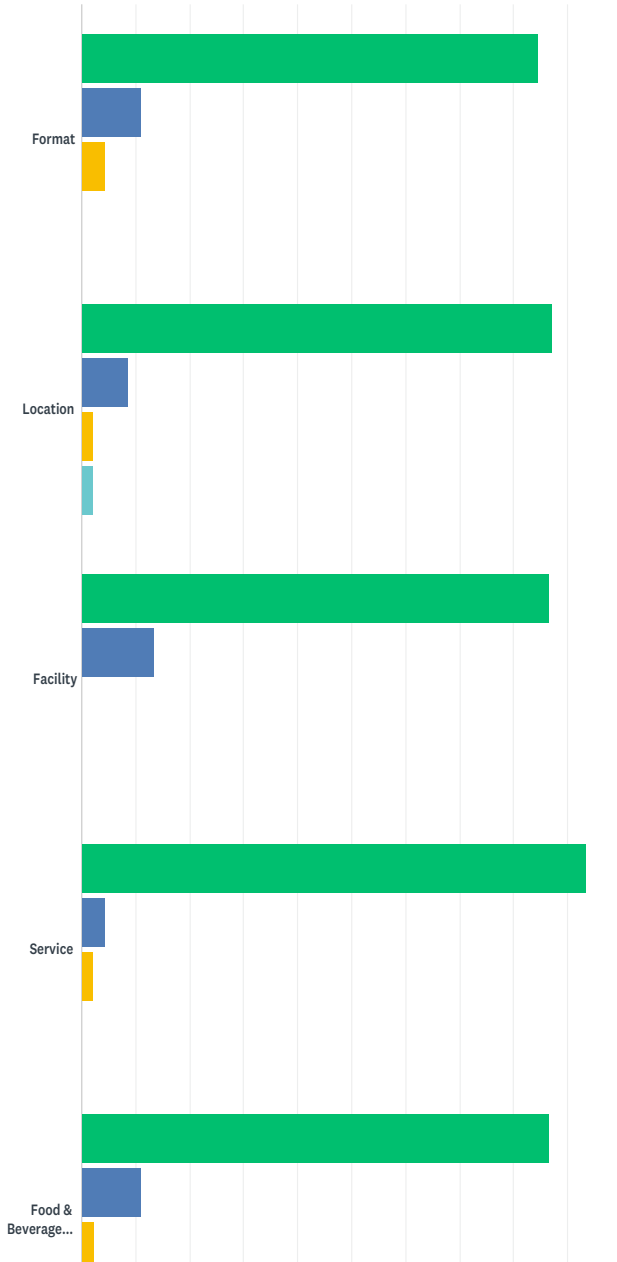
■ Excellent
 ■ Good
 ■ Satisfactory
 ■ Unsatisfactory

	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Location	50.00% 16	34.38% 11	9.38% 3	6.25% 2	32
Facility	64.52% 20	22.58% 7	12.90% 4	0.00% 0	31
Service	61.29% 19	25.81% 8	12.90% 4	0.00% 0	31
Beverage Selection	48.39% 15	35.48% 11	16.13% 5	0.00% 0	31
Beverage Quality	48.39% 15	32.26% 10	19.35% 6	0.00% 0	31

#	ADDITIONAL COMMENTS	DATE
1	I did not attend.	6/25/2019 4:51 PM
2	Happy that mimosas were served. I'm not a bloody mary person	6/24/2019 7:10 PM
3	Didn't attend	6/24/2019 10:03 AM
4	It wasn't really a 'reception' ... more like people grabbing a drink as they left the meeting.	6/24/2019 9:35 AM
5	While a tradition, the reception is just kind of "meh" after a long meeting. I'd say get rid of it.	6/24/2019 9:22 AM

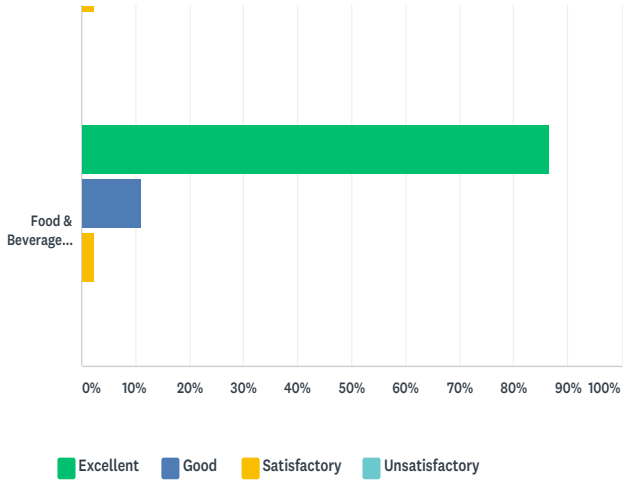
Q24 Supreme Court/Court of Appeals Reception/Presidential Gala

Answered: 47 Skipped: 81



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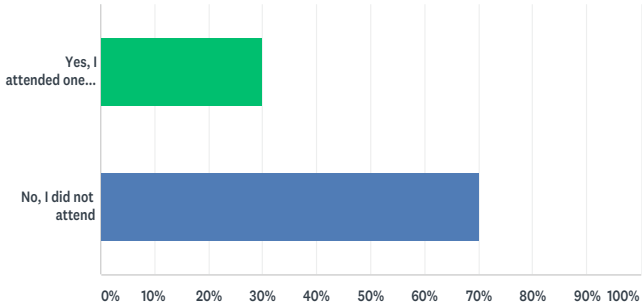


	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Format	84.44% 38	11.11% 5	4.44% 2	0.00% 0	45
Location	87.23% 41	8.51% 4	2.13% 1	2.13% 1	47
Facility	86.67% 39	13.33% 6	0.00% 0	0.00% 0	45
Service	93.48% 43	4.35% 2	2.17% 1	0.00% 0	46
Food & Beverage Selection	86.67% 39	11.11% 5	2.22% 1	0.00% 0	45
Food & Beverage Quality	86.67% 39	11.11% 5	2.22% 1	0.00% 0	45

#	ADDITIONAL COMMENTS	DATE
1	I did not attend.	6/25/2019 4:51 PM
2	The format remains one of my favorite. This year the craft beer and scotch/cigar locales were great. The band was incredible. While I didn't need them, I loved the flip flops for the women. The food was not as good as I would expect from a Ritz.	6/24/2019 2:42 PM
3	Band made it too loud to talk even in the dining area	6/24/2019 10:28 AM
4	Best vegetarian options and quality of food yet.	6/24/2019 9:57 AM
5	Was there food? Never saw it.	6/24/2019 9:42 AM
6	Great band, great food, fun photo booth. GREAT NIGHT.	6/24/2019 9:22 AM
7	Can we do it all over again, now? Wow! Best party in years.	6/24/2019 9:10 AM
8	The band and entertainment were excellent.	6/24/2019 9:10 AM

Q25 Did you attend any YLD functions listed?• YLD Leadership Academy• YLD Pool Party & Meet the Candidates Reception• YLD Dinner & Swearing-In Ceremony

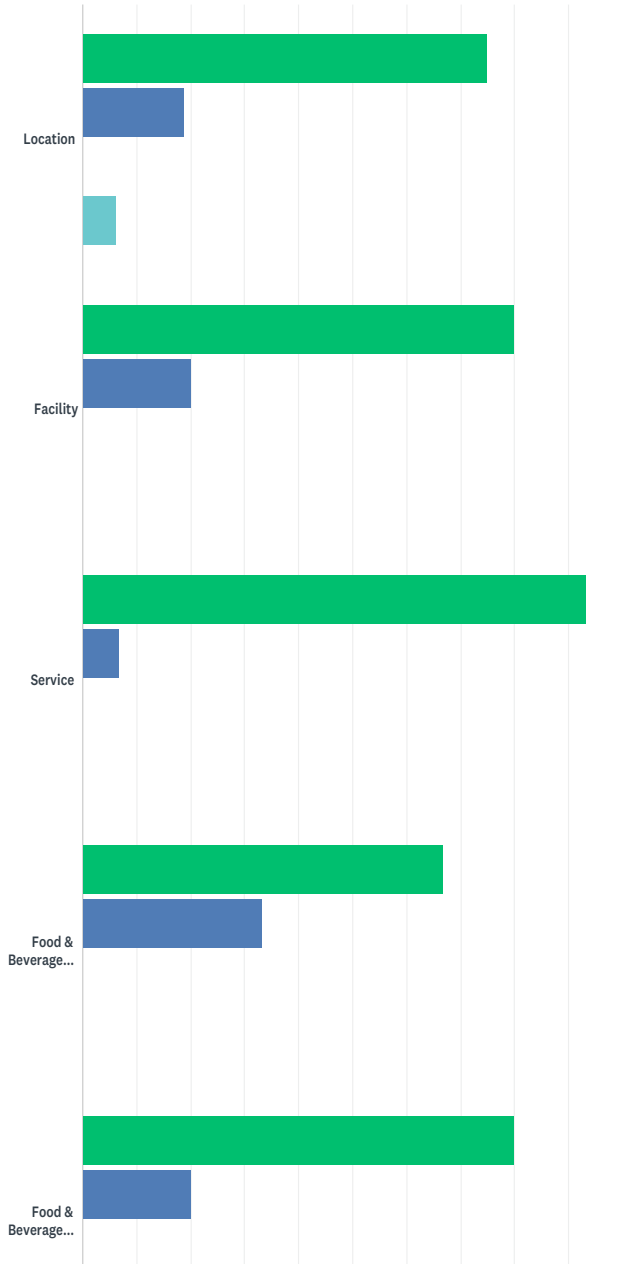
Answered: 100 Skipped: 28



ANSWER CHOICES	RESPONSES	
Yes, I attended one or multiple YLD functions/receptions	30.00%	30
No, I did not attend	70.00%	70
TOTAL		100

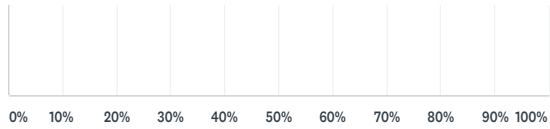
Q26 YLD Leadership Academy

Answered: 16 Skipped: 112



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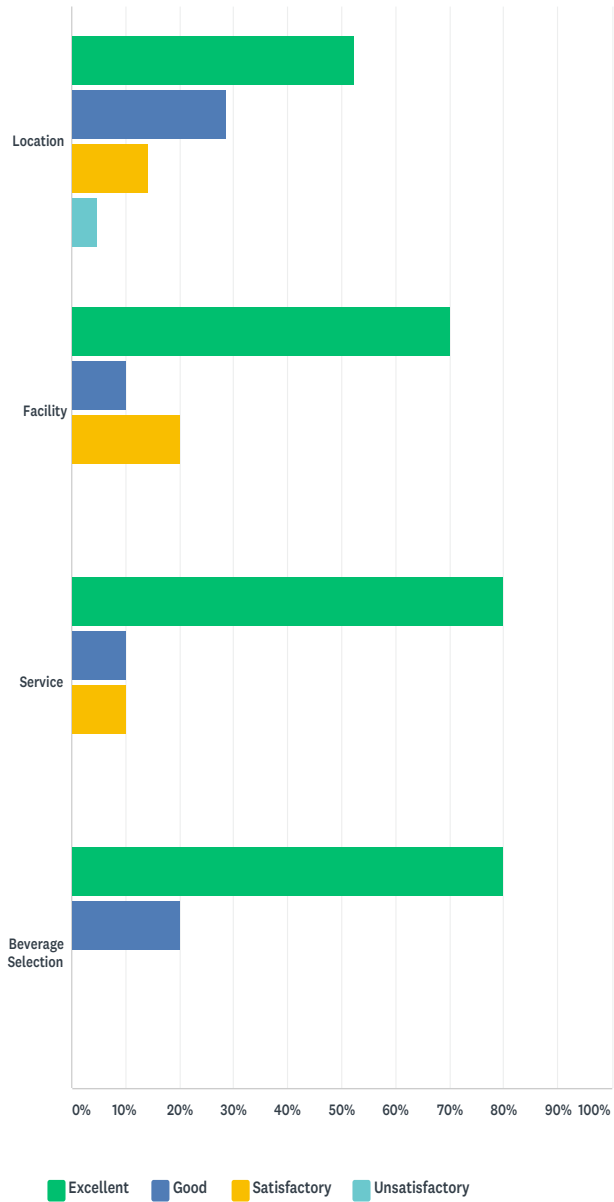
■ Excellent
 ■ Good
 ■ Satisfactory
 ■ Unsatisfactory

	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Location	75.00% 12	18.75% 3	0.00% 0	6.25% 1	16
Facility	80.00% 12	20.00% 3	0.00% 0	0.00% 0	15
Service	93.33% 14	6.67% 1	0.00% 0	0.00% 0	15
Food & Beverage Selection	66.67% 10	33.33% 5	0.00% 0	0.00% 0	15
Food & Beverage Quality	80.00% 12	20.00% 3	0.00% 0	0.00% 0	15

#	ADDITIONAL COMMENTS	DATE
1	I did not attend	6/24/2019 7:11 PM

Q27 YLD Pool Party & Meet the Candidates Reception

Answered: 21 Skipped: 107



	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
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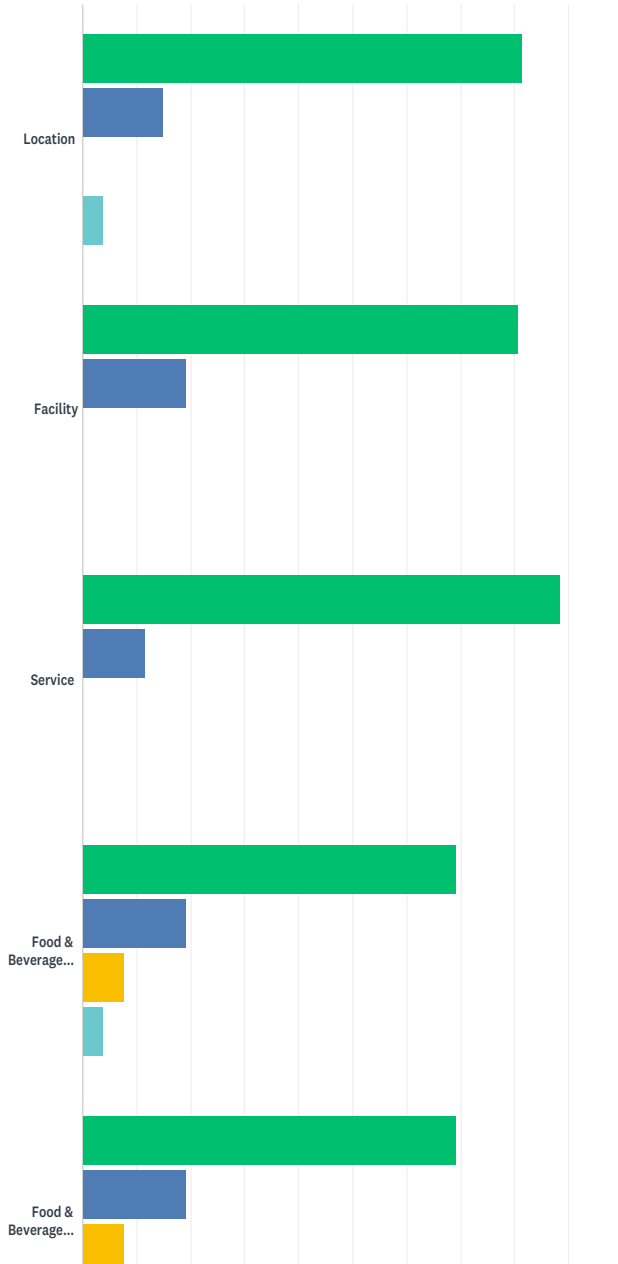
2019 Annual Meeting

Location	52.38%	28.57%	14.29%	4.76%	21
	11	6	3	1	
Facility	70.00%	10.00%	20.00%	0.00%	20
	14	2	4	0	
Service	80.00%	10.00%	10.00%	0.00%	20
	16	2	2	0	
Beverage Selection	80.00%	20.00%	0.00%	0.00%	20
	16	4	0	0	

#	ADDITIONAL COMMENTS	DATE
1	I did not attend	6/24/2019 7:11 PM
2	Having the pool party inside pretty much turned it into a drink stop.	6/24/2019 11:40 AM

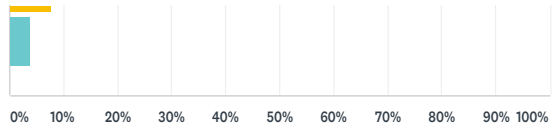
Q28 YLD Dinner & Swearing-In Ceremony

Answered: 27 Skipped: 101



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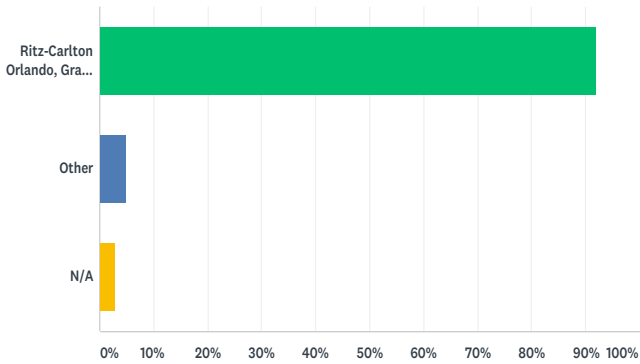
■ Excellent
 ■ Good
 ■ Satisfactory
 ■ Unsatisfactory

	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Location	81.48% 22	14.81% 4	0.00% 0	3.70% 1	27
Facility	80.77% 21	19.23% 5	0.00% 0	0.00% 0	26
Service	88.46% 23	11.54% 3	0.00% 0	0.00% 0	26
Food & Beverage Selection	69.23% 18	19.23% 5	7.69% 2	3.85% 1	26
Food & Beverage Quality	69.23% 18	19.23% 5	7.69% 2	3.85% 1	26

#	ADDITIONAL COMMENTS	DATE
1	I did not attend	6/24/2019 7:11 PM
2	Food was delicious. I wish there a better way to encourage more BOG and "Big Bar" members to attend this event each year.	6/24/2019 9:23 AM

Q29 What was your choice of accommodations?

Answered: 100 Skipped: 28

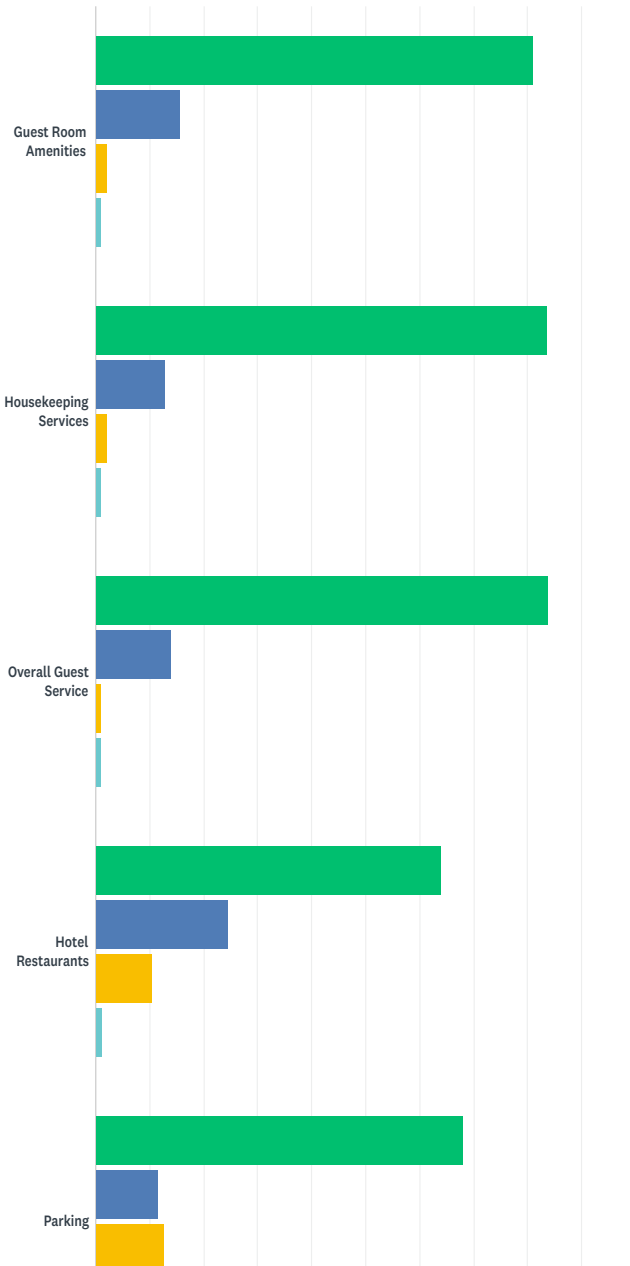


ANSWER CHOICES	RESPONSES
Ritz-Carlton Orlando, Grande Lakes	92.00% 92
Other	5.00% 5
N/A	3.00% 3
TOTAL	100

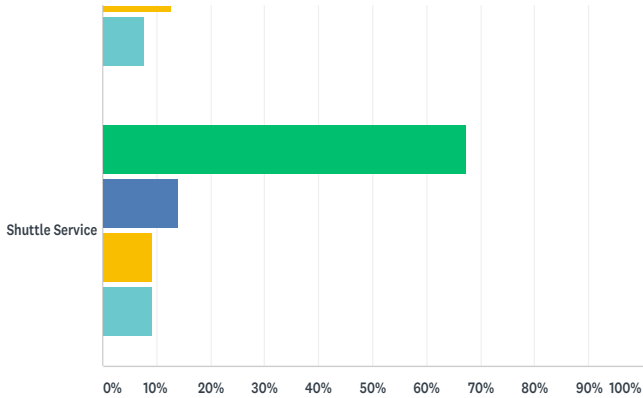
#	OTHER (PLEASE SPECIFY)	DATE
1	Not my choice.	6/24/2019 4:18 PM
2	a hotel in the state of Georgia	6/24/2019 12:39 PM
3	Rented house through Airbnb to host family members attending Tradition of Wxcellence award presentation	6/24/2019 9:51 AM
4	Hilton close by	6/24/2019 9:21 AM
5	Any place within ga. Outside is just silly. If officers want to go to Disney world. Go on your own	6/24/2019 9:04 AM
6	We stayed at a marriott 1 mile away	6/24/2019 9:02 AM

Q30 Ritz-Carlton Orlando, Grande Lakes

Answered: 96 Skipped: 32



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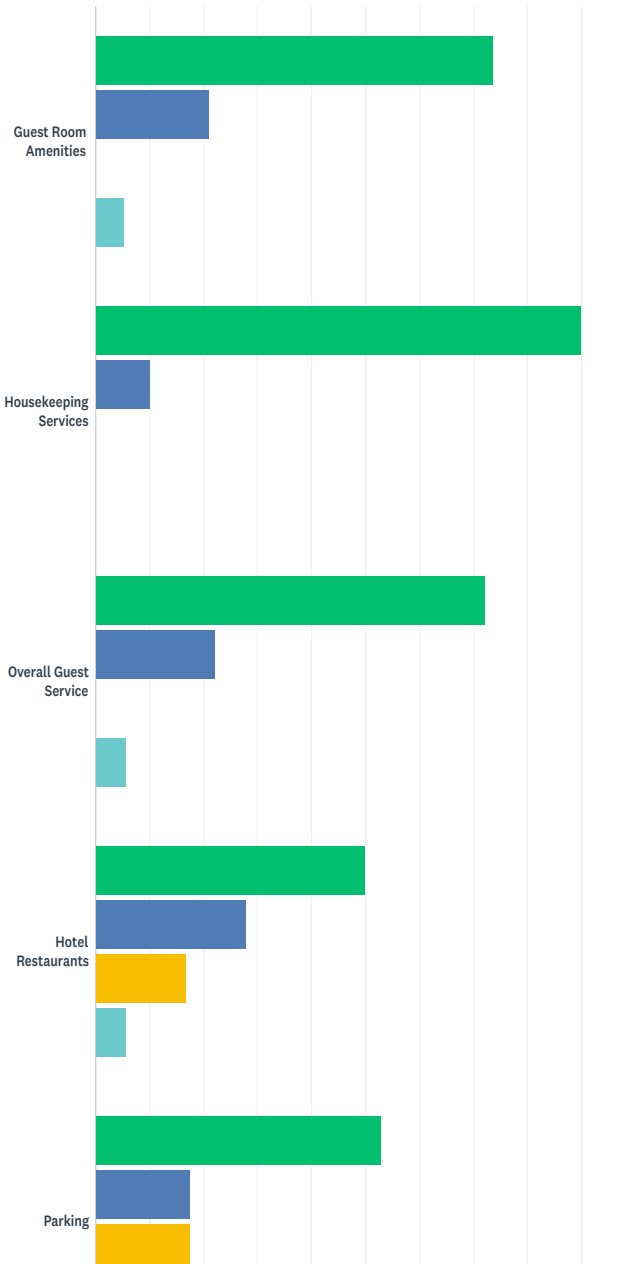
■ Excellent
 ■ Good
 ■ Satisfactory
 ■ Unsatisfactory

	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Guest Room Amenities	81.05% 77	15.79% 15	2.11% 2	1.05% 1	95
Housekeeping Services	83.70% 77	13.04% 12	2.17% 2	1.09% 1	92
Overall Guest Service	83.87% 78	13.98% 13	1.08% 1	1.08% 1	93
Hotel Restaurants	63.95% 55	24.42% 21	10.47% 9	1.16% 1	86
Parking	67.95% 53	11.54% 9	12.82% 10	7.69% 6	78
Shuttle Service	67.44% 29	13.95% 6	9.30% 4	9.30% 4	43

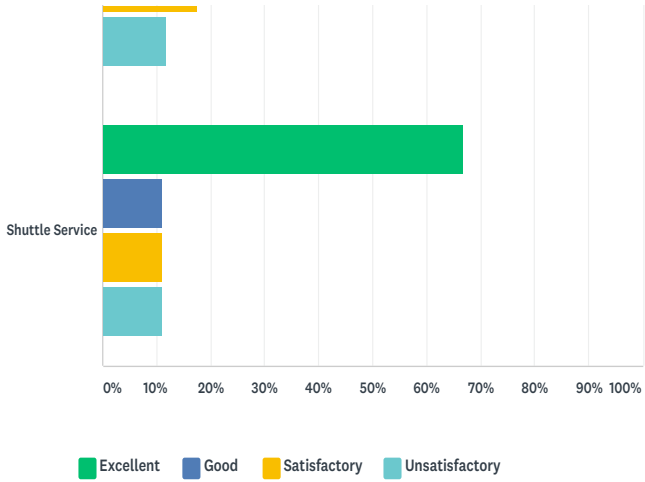
#	ADDITIONAL COMMENTS	DATE
1	excellent and great price for the room. everything else was very expensive	7/8/2019 4:16 PM
2	The Shuttle was not complimentary to the airport, and it was cheaper to use an Uber to get there and back than it was to use the Shuttle recommended. Also, the discount on the Shuttle website was better than the one provided to our group.	6/25/2019 4:53 PM
3	Valet the morning of leaving took a very long time and would have been problematic if I had a flight.	6/24/2019 11:58 AM
4	Loved the resort.	6/24/2019 10:20 AM
5	The food was excellent but very expensive. Appreciated the great room rates, however!	6/24/2019 9:58 AM
6	I would like to have had a place to go for breakfast. Also, although the room service was excellent, there was no magazine or other material that suggested places to go for meals, or activities.	6/24/2019 9:16 AM
7	Rooms were top notch.	6/24/2019 9:11 AM
8	Our hotel room was not properly serviced upon arrival (crumbs of food on furniture, hair in bathroom, etc.) and our room was not serviced on last day of stay (had to call and request)	6/24/2019 9:02 AM

Q31 Other Accommodations

Answered: 21 Skipped: 107



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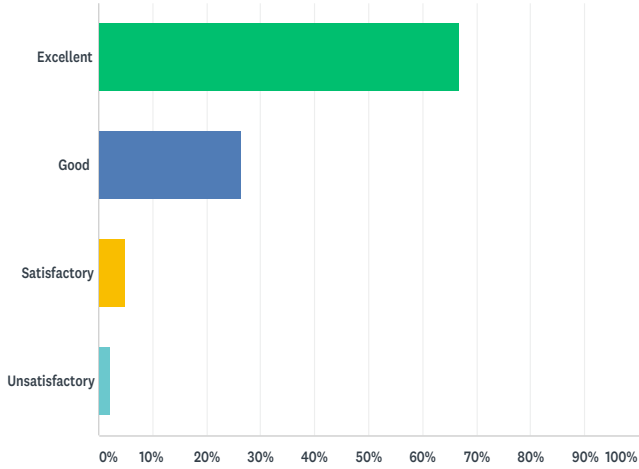


	EXCELLENT	GOOD	SATISFACTORY	UNSATISFACTORY	TOTAL
Guest Room Amenities	73.68% 14	21.05% 4	0.00% 0	5.26% 1	19
Housekeeping Services	90.00% 18	10.00% 2	0.00% 0	0.00% 0	20
Overall Guest Service	72.22% 13	22.22% 4	0.00% 0	5.56% 1	18
Hotel Restaurants	50.00% 9	27.78% 5	16.67% 3	5.56% 1	18
Parking	52.94% 9	17.65% 3	17.65% 3	11.76% 2	17
Shuttle Service	66.67% 6	11.11% 1	11.11% 1	11.11% 1	9

#	ADDITIONAL COMMENTS	DATE
1	Everything was superb.	6/24/2019 9:11 AM

Q32 In thinking about your entire event experience, please rate the overall conference below.

Answered: 99 Skipped: 29



ANSWER CHOICES	RESPONSES	
Excellent	66.67%	66
Good	26.26%	26
Satisfactory	5.05%	5
Unsatisfactory	2.02%	2
TOTAL		99

Q33 What did you like the best?

Answered: 53 Skipped: 75

#	RESPONSES	DATE
1	i think the gala event with multiple areas and buffet with multiple options is still the best version of the	7/8/2019 4:19 PM
2	The hotel	7/6/2019 9:33 AM
3	general organization	7/1/2019 9:48 AM
4	The accommodations	6/25/2019 10:05 PM
5	The networking and the food.	6/25/2019 4:57 PM
6	Gala was great.	6/25/2019 10:56 AM
7	Location and hotel	6/25/2019 7:01 AM
8	Venue and price of room.	6/24/2019 9:49 PM
9	Resort was great	6/24/2019 9:37 PM
10	Aside from the comradery, each event met its purpose. There was a good amount of down time as well.	6/24/2019 7:16 PM
11	Enjoyed the change in location. The price was also very affordable.	6/24/2019 4:50 PM
12	Pool	6/24/2019 4:25 PM
13	The Ritz staff was impeccable and so were the rooms.	6/24/2019 3:22 PM
14	Darryl's and Ken's speeches. The format for the Swearing In Gala. The pool area.	6/24/2019 2:46 PM
15	Michelle Garner's planning was outstanding as usual	6/24/2019 1:24 PM
16	The facility and guest rooms were very nice. This was an excellent location for the meeting, and I would go again if it is used in the future.	6/24/2019 1:04 PM
17	Beautiful location	6/24/2019 12:31 PM
18	The hotel	6/24/2019 12:06 PM
19	Networking	6/24/2019 11:58 AM
20	The variety afforded between the Ritz and the J.W. Great location for families.	6/24/2019 11:41 AM
21	The events: YLD dinner and Mercer Law alumni reception. The people! And the incredible breakfasts!	6/24/2019 10:45 AM
22	Amusement park availability for family time	6/24/2019 10:43 AM
23	The resort was a nice change and the food was ery good, I just wish that the event food had been better.	6/24/2019 10:43 AM
24	The Social Justice seminar	6/24/2019 10:32 AM
25	Great hotel, service, and food	6/24/2019 10:30 AM
26	Ritz and their great amenities. Kids got to experience Disney.	6/24/2019 10:29 AM
27	Accommodations and hotel quality.	6/24/2019 10:27 AM
28	Hotel. Food and Service.	6/24/2019 10:20 AM
29	Friday CLE, Saturday Gala, many networking opportunities	6/24/2019 10:19 AM
30	Swearing in Dinner	6/24/2019 10:13 AM
31	Hotel campus was excellent.	6/24/2019 10:12 AM
32	Shared pool areas and dining	6/24/2019 10:04 AM

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33	Good facility, nice amenities, plenty of entertainment options for all types of interests	6/24/2019 10:04 AM
34	Opportunity to meet new lawyers and solidify relationships.	6/24/2019 10:00 AM
35	Great resort	6/24/2019 9:52 AM
36	Well organized and high quality - as always! Michelle and Ghaki do a phenomenal job.	6/24/2019 9:40 AM
37	Networking.	6/24/2019 9:36 AM
38	resort and catering	6/24/2019 9:34 AM
39	Opening Night & Gala	6/24/2019 9:29 AM
40	The Ritz is a great hotel. Easy to navigate with a great pool, etc.	6/24/2019 9:27 AM
41	The hotel! I know that State Bar gets grief for hosting our annual meeting out of state, but Georgia simply doesn't have appropriate vacation facilities. Jekyll Island can't even begin to compare...maybe somewhere in Savannah? But that's big maybe since so many members treat this as a vacation. Ritz Grande Lakes and JW Marriott were PERFECT.	6/24/2019 9:25 AM
42	Ritz	6/24/2019 9:21 AM
43	Accommodations, the meeting rooms, attention to detail, services.	6/24/2019 9:17 AM
44	Location and facility were better than expected; the Gala was well conceived and executed.	6/24/2019 9:16 AM
45	Everything was okay.	6/24/2019 9:16 AM
46	Social justice CLE	6/24/2019 9:13 AM
47	Staying at the Ritz	6/24/2019 9:12 AM
48	Best weekend ever. All in all everything went perfectly.	6/24/2019 9:11 AM
49	Location was family friendly	6/24/2019 9:10 AM
50	The hotel itself was phenomenal	6/24/2019 9:08 AM
51	Opening Night Festival and Presidential Gala. Both were exceptional this year.	6/24/2019 9:07 AM
52	I enjoyed networking with peers and the Saturday evening Gala	6/24/2019 9:04 AM
53	Ritz	6/24/2019 9:02 AM

Q34 What did you like the least?

Answered: 47 Skipped: 81

#	RESPONSES	DATE
1	as a judge i don't want to hang out in the bar area especially friday night. I enjoy semi private conversations with other judges and lawyers over a drink or several at the old hospitality suite. The Bar was very expensive. we should add the hospitality suite back to the event from 9-midnight friday night. especially if we are in an all inclusive resort and not in Atlanta	7/8/2019 4:19 PM
2	Out of state	7/1/2019 9:48 AM
3	Not enough CLE options	6/25/2019 10:56 AM
4	Price of food and beverages	6/24/2019 9:49 PM
5	Facility and food. Very kid friendly	6/24/2019 9:37 PM
6	Far from great restaurants.	6/24/2019 9:00 PM
7	The cold facilities. Also, a couple of the rooms for the alumni events were spaced too far apart.	6/24/2019 7:16 PM
8	Location and cost	6/24/2019 4:25 PM
9	The location in Orlando without Disney seems like a bit of a waste since it is essentially a resort in the middle of a sweltering swamp without the allure of Disney. The Ritz was nice, but a resort in a closer and nicer area would have been preferred.	6/24/2019 3:22 PM
10	The food.	6/24/2019 2:46 PM
11	being in Orlando	6/24/2019 1:24 PM
12	The choice of on-site dining was limited, but it is close to other options since I drove to the meeting.	6/24/2019 1:04 PM
13	having the meeting in Florida. Georgia is the biggest state East of the Mississippi with over 12 million people. Please plan ahead and schedule the meetings inside Georgia. Not everyone is attending on a law firm's dime.	6/24/2019 12:49 PM
14	Valet only parking	6/24/2019 12:31 PM
15	Parking	6/24/2019 12:06 PM
16	Cost	6/24/2019 11:58 AM
17	Food selection outside of scheduled events and meals.	6/24/2019 11:41 AM
18	No beach	6/24/2019 11:23 AM
19	Location.	6/24/2019 10:45 AM
20	No ocean	6/24/2019 10:43 AM
21	the adult opening event food, the selection of food was not great and the food was not tasty. The children had a good selection and it was tasty.	6/24/2019 10:43 AM
22	that meeting was outside Georgia	6/24/2019 10:35 AM
23	The location - Orlando	6/24/2019 10:32 AM
24	Orlando is too far for a major Georgia Bar event	6/24/2019 10:30 AM
25	All was great.	6/24/2019 10:29 AM
26	Prices in bar.	6/24/2019 10:27 AM
27	Short pre-registration window	6/24/2019 10:13 AM
28	The breakfast food was marginal.	6/24/2019 10:12 AM
29	Expensive	6/24/2019 10:04 AM

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30	No beach	6/24/2019 10:04 AM
31	Felt turnout lower than usual.	6/24/2019 10:00 AM
32	Distance from Atlanta	6/24/2019 9:52 AM
33	Location in Orlando.	6/24/2019 9:51 AM
34	Lack of an electronic meeting booklet with room numbers. Only a hard copy is available on site once you register. I would like to be able to download the booklet in PDF.	6/24/2019 9:40 AM
35	location not at the beach	6/24/2019 9:34 AM
36	how expensive everything was	6/24/2019 9:32 AM
37	Flying to Orlando, but really not that big a deal.	6/24/2019 9:27 AM
38	The bloody mary/mimosa reception is a relic of the past. Save money and eliminate it.	6/24/2019 9:25 AM
39	Too far away	6/24/2019 9:21 AM
40	Would like to have had a cafe or the like to go for breakfast or snacks.	6/24/2019 9:17 AM
41	The drive from Atlanta is a bit far.	6/24/2019 9:16 AM
42	We need to keep our conference in the State of Georgia as much as possible. It is not good for a Georgia organization to take our commerce/tax dollars to another state and support that State. Are we the only bar organization that do? When has the State Bar of Florida held their conference in Georgia? We need to consider keeping our tax dollars in the State of Georgia.	6/24/2019 9:16 AM
43	Not being near a beach	6/24/2019 9:12 AM
44	Food and beverage at hotel was expensive.	6/24/2019 9:10 AM
45	As an exhibitor we were very unhappy with the lake of people around the exhibit hall. We felt as though the bar had events going on throughout the day that encouraged the attorneys to not even be present in the hall. We left early each day along with almost all of the other sponsors because there was just no one there.	6/24/2019 9:05 AM
46	Location. Orlando traffic worse than atl	6/24/2019 9:05 AM
47	Pricing of hotel and amenities	6/24/2019 9:03 AM

Q35 Future program or topic ideas?

Answered: 10 Skipped: 118

#	RESPONSES	DATE
1	Hold in ga	7/1/2019 9:48 AM
2	I'd like to see some programming around diversity and inclusion.	6/24/2019 7:16 PM
3	CLEs that address more common practice areas like criminal law, family law, and general practice. Maybe a LPM seminar.	6/24/2019 2:46 PM
4	A Georgia Update CLE that's more widely applicable.	6/24/2019 10:45 AM
5	Continue the Social Justice CLE. It makes the Georgia Bar look good.	6/24/2019 10:19 AM
6	Diversity on the Bench Operating an Effective Small Practice in the 21 Century Legal Trends/ Current Issues in the Law	6/24/2019 10:13 AM
7	N/A	6/24/2019 10:12 AM
8	N/A	6/24/2019 9:16 AM
9	Keep Social justice CLE	6/24/2019 9:13 AM
10	Data Privacy Hot Topics	6/24/2019 9:04 AM

Q36 Other comments or suggestions?

Answered: 11 Skipped: 117

#	RESPONSES	DATE
1	While I like Florida location, should the "Georgia" bar keep its money in Georgia.	6/24/2019 9:37 PM
2	The event should be held in Georgia and provide revenue and business to a Georgia hotel/conference center.	6/24/2019 4:27 PM
3	Mandatory bar should be meeting in Georgia. Exorbitant cost prevent many from attending which is especially bad when these bar members are picking up the tab for so many officers and staff. Used to always be held in Georgia. Very poor judgement to be meeting at Ritz Carlton 200 miles from Georgia state line.	6/24/2019 4:25 PM
4	The annual meeting of the State Bar used to be just that -- a meeting for all lawyers to attend, whether an officer, BOG member or not. The last few years, it has gotten to be just a boondoggle for the Officers and Executive committee, who aren't paying their own way. Now that Jekyll Island has a great convention center and a nice new Westin, we should have been planning to go there for several years and we should be doing lots more to get lawyers from all over the state to come. Courts should cancel court during the time of the meeting across the state and there should be a sliding scale for the costs, to encourage as many to come as possible.	6/24/2019 1:24 PM
5	This was a great experience, and would love to go back again. However, next year: back to the beach!	6/24/2019 10:12 AM
6	Mix up programming and functions to add new energy to event.	6/24/2019 10:00 AM
7	Get back to the beach!	6/24/2019 9:32 AM
8	Great Job!	6/24/2019 9:29 AM
9	The lighting was not the best in many of the meeting rooms.	6/24/2019 9:26 AM
10	We need to consider keeping our State Conference in Georgia to support our Georgia economy.	6/24/2019 9:16 AM
11	As an exhibitor we paid to be there and have face time with the participants. There were 8 companies that provided the same service as us. I think maybe limiting the amount of sponsors who provide the same services would be best. Also please encourage the participants to speak with exhibitors. Most people who walked by grabbed mints and ran away without wanting to say even a simple hello. Most of the exhibitors we talked with were all very unhappy with the way things turned out. There were multiple booths who packed up on Friday due to the lack of traffic.	6/24/2019 9:05 AM

CHIEF JUSTICE'S COMMISSION ON PROFESSIONALISM

Hon. Harold D. Melton Chief Justice
Supreme Court of Georgia, Chair



Karlise Y. Grier
Executive Director

Memorandum

TO: State Bar of Georgia Board of Governors

FROM: Karlise Y. Grier, Executive Director

RE: Chief Justice's Commission on Professionalism

DATE: October 19, 2019

As the Chief Justice's Commission on Professionalism ("Commission") celebrates its 30th Anniversary in 2019, the Commission continues to engage Georgia's judges, lawyers, and law students on professionalism issues.

2019 CONVOCATION ON PROFESSIONALISM THEN (1988) AND NOW (2019)

The Chief Justice's Commission on Professionalism will hold its 2019 Convocation entitled *Professionalism Then (1988) and Now (2019)* on **Friday, December 13, 2019**, at the Emory Conference Center Hotel. The Convocation Co-Chairs are Vice Chief Judge Carla Wong McMillian, Court of Appeals of Georgia, and Associate Dean A. James Elliott, Emory University School of Law. Currently confirmed speakers are as follows: Ms. Susan A. Cahoon; Mr. Kenneth S. Canfield; Hon. Verda M. Colvin; Ms. Raquel H. Crump; Associate Dean A. James Elliott; Mr. James C. Evans; Mr. Shelby Guilbert; Ms. Angela Hsu; Mr. Robert J. Kaufman; Ms. Amy H. Keeney; Dr. James T. Laney; Ms. Lisa K. Liang; Hon. Carla W. McMillian; Mr. Ricardo Nunez; Hon. Bonnie C. Oliver; Ms. Shalamar J. Parham; Mr. Kevin C. Patrick; Mr. Thomas G. Sampson. More speakers may be announced. Please check http://cjcpga.org/2019_professionalism_convocation/ for more information.

21ST ANNUAL JUSTICE ROBERT BENHAM AWARDS FOR COMMUNITY SERVICE

Save the Date of **Saturday, March 14, 2020**, for the 21st Annual Justice Robert Benham Awards for Community Service. Nominations for the 21st Annual Justice Robert Benham Awards for Community Service **opened on Friday, October 18, 2019, and will close at 11:59 p.m. on Monday, December 2, 2019**. Local and voluntary bar associations should consider

whether one of your bar association's past professionalism award recipients or whether one of your other bar association's members meet the eligibility criteria for the Annual Justice Robert Benham Awards for Community Service. Please share this information with the judges and attorneys in your circuit and consider whom you might nominate for the award. You may find a complete list of past Benham Community Service Award recipients at the link here: <http://cjcpga.org/benhamcsa-past-recipients/>.

For more information on the nomination eligibility criteria or to nominate a deserving lawyer or judge, please visit: <http://cjcpga.org/nominationsbenhamcsa/>.

SUICIDE AWARENESS PROGRAM

As you begin planning your spring work schedules, please save the date of **Tuesday, April 28, 2020, from 2:00 p.m. – 5:00 p.m.** for a Suicide Awareness Program that will be convened by the Chief Justice's Commission on Professionalism. The members of the planning team for the program are Judge Clyde Reese, Court of Appeals of Georgia (State Bar of Georgia SOLACE Committee Co-Chair); Judge Render Heard, Tifton County Juvenile Court (State Bar of Georgia SOLACE Committee Co-Chair), Judge Shondeana Crews Morris, Superior Court of DeKalb County (State Bar of Georgia Suicide Prevention Committee Chair) and Mr. Joe Chancey, Managing Partner, Drew Eckl Farnham. Currently confirmed speakers include Judge Bill Reinhardt, Mr. Eric Lang, Ms. Robin Frazer Clark, and Dr. Ben Hunter. Please share the flyer found at the link [here \(http://cjcpga.org/suicide-awareness-program/\)](http://cjcpga.org/suicide-awareness-program/) with your networks. A copy of the flyer is attached hereto as "Exhibit A." More details will follow in the future.

REVISED PROFESSIONALISM CLE GUIDELINES, NEW CLE PORTAL FOR CLE SPONSORS, AND NEW PARTNERSHIP WITH THE COMMISSION ON CONTINUING LAWYER COMPETENCY

On July 1, 2019, the Commission issued revised *Professionalism CLE Guidelines*. The revised guidelines give guidance to CLE Sponsors who are planning professionalism programs. In addition, the process that CLE sponsors use to apply for professionalism CLE credit has also been updated and it is now online at <http://www.georgiabar.org/CLEPortal/entry>.

The Commission on Continuing Lawyer Competency (CCLC) will now review all CLE hours for approval - including the professionalism hours (similar to what CCLC now does for trial and ethics). Questions about exemptions or written materials (as part of the approval process) should be directed to CCLC. CCLC has been asked to use the professionalism CLE guidelines of the Chief Justice's Commission on Professionalism (CJCP) as part of its approval process to the extent those guidelines are not inconsistent with other CCLC procedures. Please note that both CCLC and CJCP generally require written materials for CLE programs, even if CCLC does not require their submission as part of the approval process. Moreover, the revised

CJCP guidelines require – at a minimum – that all CLE sponsors offering professionalism credit distribute *A Lawyer's Creed and the Aspirational Statement on Professionalism* to the course attendees for every course offering professionalism credit, even if *A Lawyer's Creed and the Aspirational Statement on Professionalism* are not submitted to CCLC during the approval process.

For information about a professionalism application approval status, please contact the State Bar's CLE Department at cle@gabar.org or at (404) 527-8710. For assistance with planning a professionalism CLE program that complies with the Commission's revised Professionalism CLE Guidelines, please contact Karlise Y. Grier at the Chief Justice's Commission on Professionalism at kygrier@cjcpga.org or (404) 225-5040.

For information on the revised Professionalism CLE Guidelines and for numerous resources on planning a professionalism CLE program, see: <http://cjcpga.org/cle-sponsor-resources/>.

PROFESSIONALISM PAGE IN THE GEORGIA BAR JOURNAL

One of the ways the Commission communicates with State Bar members is through its Professionalism Page, which appears in each issue of the Georgia Bar Journal that is published 6 times per year. You are invited to read the Professionalism Page article that appeared in the June 2019 Georgia Bar Journal entitled "Honoring Georgia's Lawyers." A copy of the article is attached hereto as "Exhibit B."

LAW SCHOOL ORIENTATIONS ON PROFESSIONALISM

The Commission staffs the State Bar of Georgia (State Bar) Committee on Professionalism (Committee), and in that role supports the Committee's work on the Law School Orientations on Professionalism. The orientations are designed to provide incoming 1Ls with their first introduction to professionalism. Georgia judges and lawyers are invited to serve as "Group Leaders" during the orientations to help students learn the meaning of professionalism and why it is important for them as law students. This year, approximately 175 judges and attorneys served as Group Leaders at each of Georgia's five law schools. Judges from all classes of courts and from the Office of State Administrative Hearings served as Group Leaders.

The chart on the following page summarizes the participation in the law school orientations.

School	# Of Students	# Of Group Leaders	Date	Speakers
Atlanta's John Marshall Law School	75	26	08-17-19	Judge Eric Dunaway , Superior Court of Fulton County
Emory University School of Law	326	50	08-15-19	District Attorney Sherry Boston DeKalb County District Attorney's Office (Presiding Justice David Nahmias, Supreme Court of Georgia, administered the Oath)
Georgia State University College of Law	190	35	08-13-19	Presiding Justice David E. Nahmias Supreme Court of Georgia
Mercer University School of Law	140	35	08-09-19	Presiding Judge Stephen Louis A. Dillard Court of Appeals of Georgia
University of Georgia School of Law	215	36		Judge Timothy C. Batten, Sr. United States District Court, Northern District of Georgia
Totals	946	175 *		

- (The Group Leader total excludes judges and lawyers who participated more than once)

The Law School Orientations would not have been possible without the support and help of the planning team as follows:

State Bar Committee on Professionalism

- Mr. Robert L. Arrington, Jr., Arrington Owoo PC, Chair
- Mr. Joshua I. Bosin, Holland & Knight LLP, Vice Chair

Committee on Professionalism Law School Orientations Planning Sub-Committee

- Mr. Michael Herskowitz, U.S. Attorney's Office, Northern District of Georgia, Co-Chair
- Professor Sarah Shalf, Emory University School of Law, Co-Chair

Law Students

- Ms. Samantha Beskin, 2019 J.D., Atlanta's John Marshall Law School
- Mr. Marlan Eller, 2019 J.D., Savannah Law School
- Mr. Frederick "Eric" Johnson, 2020 J.D. Candidate, Emory University School of Law
- Ms. Teana Overton, 2020 J.D. Candidate, Atlanta's John Marshall Law School
- Mr. Addison Smith, 2020 J.D. Candidate, University of Georgia School of Law

Committee on Professionalism Members and Advisors

- Professor Nathan Chapman, University of Georgia School of Law
- Dean Hope Jamison, Atlanta's John Marshall Law School
- Professor Patrick Longan, Mercer University School of Law
- Mr. Kevin Patrick, Kevin Patrick Law
- Dean Alexis Martinez, Georgia State University College of Law

Special Thanks

- Professor Sarah Shalf, Emory University School of Law, for developing the Group Leaders Training Materials!
- Jordyn Irons, Graphic Designer (Contractor)

Thank you to all of the lawyers and judges who helped to make the 2019 Law School Orientations on Professionalism a great success!

NEW COMMISSION MEMBERS

As the Commission begins its 2019-2020 fiscal year, we wish to acknowledge the Commission members and liaison that will join the Commission for the first time during this year. They are as follows:

- Mr. William T. Davis
- The Honorable William M. Ray, II
- Mr. Darrell Lee Sutton

SOCIAL MEDIA

Please continue to check the Commission's website, www.cjcpga.org, and social media channels for the most recent news from the Commission. In addition, share your thoughts and ideas with the Commission, and post, comment, tweet, or tag us when you are on social media!

- Twitter: <https://twitter.com/CJCPGA>
- LinkedIn: <https://www.linkedin.com/company/cjcpga/>
- Facebook: <https://www.facebook.com/CJCPGA>
- YouTube: <https://www.youtube.com/user/cjcpga/videos>

CONCLUSION

The above summary highlights some of the Commission's work. The Commission looks forward to continuing to engage Georgia's judges, lawyers, and law students on professionalism issues throughout the remainder of 2019, during its 30th Anniversary year.

EXHIBIT A

THE CHIEF JUSTICE'S
COMMISSION ON PROFESSIONALISM

SUICIDE AWARENESS PROGRAM



TUESDAY, APRIL 28, 2020 | 2 - 5 P.M.

LIVE AT THE STATE BAR OF
GEORGIA ATLANTA OFFICE

VIA VIDEO CONFERENCE TO TIFTON
AND SAVANNAH STATE BAR OFFICES*

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

CO-SPONSORED BY:

State Bar of Georgia SOLACE Committee | State Bar of Georgia Wellness Committee
State Bar of Georgia Suicide Prevention Committee | Drew Eckl Farnham
Institute of Continuing Legal Education

Learn more by contacting CJCP
at allstaff@cjcpgea.org.

*Additional locations may be announced.



State Bar
of Georgia

EXHIBIT B

Honoring Georgia's Lawyers

I sincerely hope the Commission on Professionalism's work will honor Georgia's lawyers for what they do each day and will help each lawyer to become consummate professionals while they do the tireless and often thankless work of representing clients.

BY KARLISE Y. GRIER

In June of 2018, I was shaken to the core when I learned of the death of attorney Antonio Mari. I did not personally know Mari, a family law attorney who was murdered by a client's ex-husband. I had, however, as a former family law attorney of almost 18 years, personally experienced the dynamics that caused his death: enmity, anger, retribution and a myriad of other vitriolic emotions directed at you as a lawyer (by opposing parties or clients) because you are striving to do your job to the best of your ability. I wanted to take a moment in this article to pay tribute to Mari and to honor the thousands of other Georgia lawyers who are just like him, men and women who toil in the trenches every day—putting their clients interests above their own personal well-being—as they strive to provide exemplary service and excellent representation. I also wanted to commend the wonderful professionalism example set by the Bartow County Bar Association, which stepped up in the midst of this horrible tragedy to divide up and take Mari's cases and to help close down his law practice.¹



GETTY IMAGES/COM/D/NSB

According to the *Daily Report*, Mari was afraid of the pro se opposing party who ultimately killed him.² Nevertheless, Mari fulfilled his legal obligations to his client and obtained a final divorce decree for the client less than two hours before his client's ex-husband shot him to death. This balance of client interests versus personal interests is not always played out as dramatically as in Mari's case, but it is always there. Do you go to your child's soccer practice or do you first finish the brief that is due tomorrow? Do you take time to go for a walk or a run or do you take that early morning meeting with a client who can't take time off from their work as an hourly employee? Do you tell the pro bono client you are meeting with they have to leave your office and reschedule (knowing they most likely won't) because they reek of cigarette smoke and you have asthma? Do you file a motion to withdraw well in advance of trial or do you take the chance the client will pay you "in installments" as promised, knowing the client really needs a lawyer in this custody battle?

Each day, Georgia lawyers are called upon to make choices, large and small, that force them to balance their personal well-being against the interests of their clients. Striking the "correct" balance is at the heart of what we call "professionalism."³ One of the first quotes I came across when I started as executive director of the Chief Justice's Commission on Professionalism was from Karl N. Llewellyn, a jurisprudential scholar who taught at Yale, Columbia and the University of Chicago Law Schools. Prof. Llewellyn cautioned his students:

The lawyer is a [person] of many conflicts. More than anyone else in our society, he [or she] must contend with competing claims on his [or her] time

and loyalty. You must represent your client to the best of your ability, and yet never lose sight of the fact that you are an officer of the court with a special responsibility for the integrity of the legal system. You will often find, brethren and sisters, that those professional duties do not sit easily with one another. You will discover, too, that they get in the way of your other obligations—to your conscience, your God, your family, your partners, your country and all the other perfectly good claims on your energies and hearts. You will be pulled and tugged in a dozen directions at once. You must learn to handle those conflicts.⁴

I hope that, under my stewardship, the Chief Justice's Commission on Professionalism will honor Georgia's lawyers by ensuring CLE providers offer outstanding programming regarding professionalism concepts that give lawyers the opportunity to discuss the challenges (and sometimes joys) of practicing law. I look forward to continuing to recognize the amazing community service work of lawyers and judges at the Justice Robert Benham Awards for Community Service. I hope that the Commission's convocations, such as the 2018 Convocation on Professionalism and the Global Community, will continue to explore cutting-edge issues in the legal profession. I hope the Commission's work will help to embolden lawyers to stand courageously for the rule of law in our country and to provide guidance to lawyers on how to do so thoughtfully and with integrity. I look forward to the Commission's continued partnership with the State Bar of Georgia Committee on Professionalism and with Georgia's law schools as we strive to introduce law students to professionalism concepts during the Law School Orientations on Professionalism.

Too often, I think our profession focuses on the "bad" things for which lawyers may be known. I truly believe most lawyers are good, hard working men and women who want to do the best job they can for their clients in return for fair payment for their work. During my stewardship as executive director of the Commission, it is my goal to focus on and cultivate the good and the goodness in our profession that often happens without notice or comment. I am eager to help us all (myself included) grow to be the best professionals we can be. I sincerely hope the Commission's work will honor Georgia's lawyers for what they do each day and will help each lawyer to become consummate professionals while they do the tireless and often thankless work of representing clients. ●



Karlise Y. Grier

Executive Director
Chief Justice's Commission
on Professionalism
kygrier@cjcpga.org

Endnotes

1. See R. Robin McDonald, *Cartersville Attorney Gunned Down by Client's Ex-Husband*, *Daily Report*, June 22, 2018, at 1, <https://www.law.com/dailyreportonline/2018/06/21/cartersville-attorney-gunned-down-by-clients-ex-husband/> (last visited June 22, 2018).
2. See *Id.*
3. To learn more about how Georgia defines professionalism, see *A Lawyer's Creed* and the *Aspirational Statement on Professionalism* at: <http://cjcpga.org/lawyers-creed/> (last visited August 10, 2018).
4. Mary Ann Glendon, *A Nation Under Lawyers* 17 (1994).

CLIENT ASSISTANCE PROGRAM
STATE BAR OF GEORGIA

September 23, 2019

The Client Assistance Program, formerly the Consumer Assistance Program (CAP), continues to serve both the public and members of the Bar, as it has since 1995. During this past year CAP has handled around 8,989 new or “unique” contacts (calls, letters, emails, and faxes), an average of approximately 749 per month. This does not include repeat calls, letters, emails, or follow- up contacts.

CAP itself has handled 85.15% of these contacts. The remaining 14.85% have been referred via grievance to the Office of General Counsel (OGC) for investigation.

During this year CAP has assumed additional responsibilities. OGC now refers certain cases to CAP in which grievances that have actually been filed with OGC, but which can most likely be easily resolved by CAP’s attorneys directly contacting the attorney. These grievances generally involve updating the client on case status, communications between client and attorney, return of file, etc. They can be handled and then dismissed by CAP when the attorneys respond and comply with the Georgia Rules of Professional Conduct as requested by CAP.

In addition to the above referenced contact with attorneys regarding grievances, CAP’s two attorneys also contact members of the Bar by telephone or letter, at the request of clients. It is generally helpful for attorneys to receive a confidential, non-disciplinary courtesy call, letting the attorneys know that their clients have contacted the Bar with various complaints or concerns. In order to facilitate communication between clients and attorneys, CAP notifies attorneys that their clients wish to hear from them, do not understand what is happening on their cases, need updates on case status, or, in the case of former clients, need their files.

CAP's staff consists of three administrative assistants and two attorneys. CAP directly answers "live" about 97% of the calls received. The CAP Helpline is used when no one is available to answer calls live or for calls that come in after business hours. Calls that are not answered live are returned within the same or the next working day. CAP's response to the voluminous mail, emails, and faxes, is usually within one day.

CAP is the contact point of the Bar for persons complaining about attorneys who are delinquent in paying their court ordered child support. Under OCGA 19-6-28.1 an attorney obligated to pay child support can be administratively suspended from the practice of law, if the custodial parent submits a certified copy of an order verifying the arrearage. The suspension is lifted once certain requirements are met in accordance with the OCGA and the Georgia Rules of Professional Conduct. There has been one such case during this year.

CAP continues to remain within its annual budget of \$584,716, and it is anticipated that it will continue to do so.

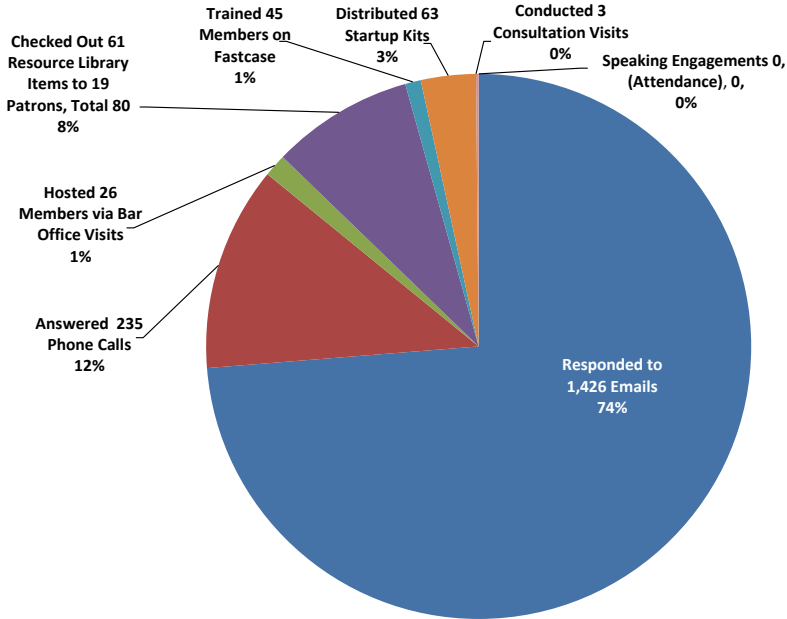
Law Practice Management Program

(Abbreviated report for the 2019-2020 Bar Year)

Members Served by LPMP

Total Number of Members Served – 1,995

July 1, 2019 – September 20, 2019



Office Visits/Phone Calls/Emails

A total of **26** members visited LPMP. There were **0** startup discussions, **26** walk-in visits, and **0** visits to the software library conducted by the Program. In addition, LPM distributed **63** *Starting Your Georgia Law Practice* booklets as requested by attorneys, as well as, answered and responded to **235** phone calls and **1,426** emails to and from members.

Consultations

There were **3** general consultation visits during this period in Clarkston, Decatur and Duluth. Firms assisted were in solo practice (3 firms); 2-4 attorney firms.

Resource Library

Our lending library has a grand total of **1,567** 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 **61** checkouts by **19** patrons.

Speaking Engagements

There were a total of **0** 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 **0** Georgia Bar members. **2** programs are scheduled at a future date.

State Bar of Georgia – Private Exchange Report
September 17, 2019

INDIVIDUAL MARKETPLACE		
Individual Visits	23,792	Individuals that have visited the Individual Marketplace Registration page at least once
Individual Registrations	18,445	Individuals that have registered to begin shopping for benefits
Product Enrollments	3,603	Total Individual Product Enrollments
<ul style="list-style-type: none"> Medical 	1,657	Total Individual Major Medical, Short-Term Medical and Limited Medical Enrollments
<ul style="list-style-type: none"> Medicare Supplement 	17	Total Individual Medicare Supplement Enrollments
<ul style="list-style-type: none"> Dental 	568	Total Individual Dental Enrollments
<ul style="list-style-type: none"> Vision 	275	Total Individual Vision Enrollments
<ul style="list-style-type: none"> Teladoc 	120	Total Individual Teladoc Enrollments
<ul style="list-style-type: none"> LifeLock 	34	Total Individual LifeLock Enrollments
<ul style="list-style-type: none"> Life/AD&D 	659	Total Individual Life/AD&D Enrollments
<ul style="list-style-type: none"> Disability 	210	Total Individual Disability Enrollments
<ul style="list-style-type: none"> Long-Term Care 	63	Total Individual Long-Term Care Enrollments

EMPLOYER GROUP EXCHANGE		
Employer Visits	2,200	Employers that have visited the Employer Registration page at least once
Employer Registrations	541	Employers that have submitted a quote request to initiate the sales process
Product Enrollments	836	Total Product Enrollments
<ul style="list-style-type: none"> Medical 	483	Total Medical Enrollments
<ul style="list-style-type: none"> Ancillary 	255	Total Ancillary Enrollments
<ul style="list-style-type: none"> Workers' Comp 	14	Total Workers' Comp Enrollments
<ul style="list-style-type: none"> Professional Liability 	82	Total Professional Liability Enrollments
<ul style="list-style-type: none"> Cyber Security 	2	Total Cyber Security Enrollments

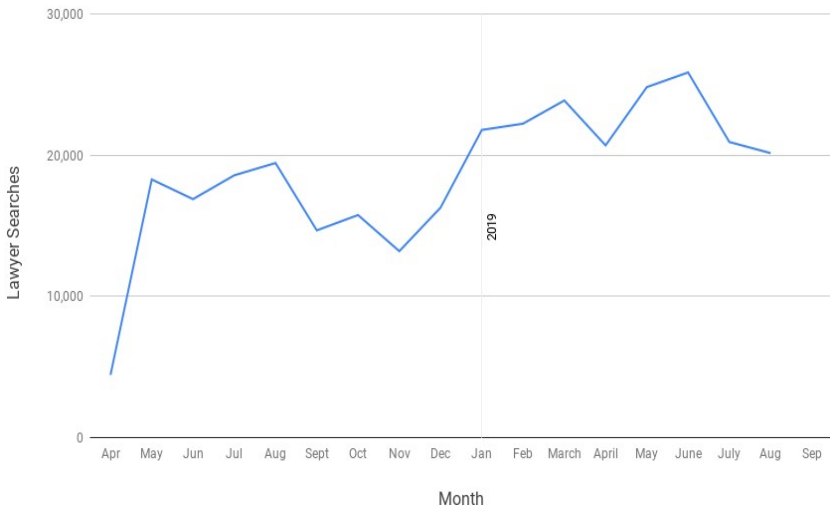
CloudLawyers Report

The State Bar of Georgia began its partnership with CloudLawyers.com to develop its new Find a Lawyer directory and provide members with an enhanced membership directory listing. Since inception, and as of September 20th, **2,738** members went through the CloudLawyers profile wizard and **261*** members have elected Enhanced Profiles. There have been **120** articles and **150** blogs added to the directory.

Over **317,752** searches have been performed to find Georgia lawyers utilizing this service. The directory is also maintaining a steady stream of pageviews and to date over **504,303** pages have been viewed in the directory. Contact thru the site's contact form have increased **184.72%** from last year. One goal that CloudLaw has this year is to get more lawyers to respond to contacts on their profile. This year only **36%** of people who contacted a lawyer through the site received a response. Additionally, CloudLaw is introducing new analytics this fall to better understand how many contacts lawyers are receiving through the directory and which form of contact potential clients prefer.

* 2 firm subscriptions expired, the contacts at the firm have since left and CloudLaw is finding the appropriate person to contact about renewing the lawyer subscriptions.

State Bar of Georgia Searches



Fastcase Report
July 1, 2019 – September 23, 2019

During this period, a grand total of 45 members and 1 staff person have attended Fastcase CLE seminars. Since January 2011, 2,057 attorneys and 104 staff members have attended Fastcase live training. Others have taken advantage of webinar training.

Since January 2011, 27,643 members have logged on at least once with an increase of 149 first time users this period: Over 50% of our members have used Fastcase since January 1, 2011.

As of October 7th, 2019 Fastcase 7 is the default opening screen for our members although they will still have the option to use the toggle switch to return to the Fastcase 6.

Fastcase 7 offers new features such as the ability to search across multiple jurisdictions and multiple material types, (cases, AG opinions, law reviews) Jurisdictions can be selected from picklists or a map with options to customize to specific types of documents from precise jurisdictions. A semantic word cloud suggests terms or concepts that commonly appear in your results list and allows you to simply click on the term and add it as a filter to your search. Visually distinct displays invite researchers to explore results in new ways. Two new free secondary material are included; Expert Witness content from Juris Pro and Lex Blog.

Four Fastcase 7 live training sessions are scheduled on the 7th and the 10th to accommodate members who express concern about accessing this new version. Fastcase will also conduct live webinar trainings on for our members on October 7 and October 8 based on the launch date of October 7 here in Georgia.

Fastcase Partner Usage Report

July 1, 2019 – August 31, 2019

	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
First Time Logins	80	69											149
Total Logins	14,406	15,241											29,647
Total Users Who Logged In	3,544	3,575											7,119
Searches Conducted	81,799	86,172											167,971
Documents Viewed	129,062	135,177											264,239
Documents Printed	12,769	13,934											26,703
Total Transactions	241,660	254,168											495,828

Fastcase Report

Fastcase Reported Problems	
Member Reported Issue(s)	Fastcase Response / Resolutions
<p>7/17/18 – 8/3/18 Members Reported: 4 reports of outdated code.</p>	<p>7/17/18 -8/3/18 FC Response: On July 14, 2017, the source was updated. Catch lines will take additional time to update.</p>
<p>08/01/18 Member Inquired: Several calls reporting FC not working.</p>	<p>08/01/18 FC Response: The servers experienced intermittent issues. Engineers are working to address the issues.</p>
<p>9/6/18 Member Inquired: Fastcase intermittent down times</p>	<p>9/6/18 FC Response: Due to Mercury (FC) 7 launch, the website is being updated.</p>
<p>9/18/18 Member Inquired: Fastcase missing descriptive language in GA Code, exceedingly difficult to find law if you don't already know the appropriate code section.</p>	<p>9/19/18 FC Response: Currently working to update new tag lines.</p>
<p>10/22/18 Member Inquired: When will code be updated.</p>	<p>10/22/18 FC Response: Fastcase is no longer prohibited in publishing catch lines in the Georgia Statutes. Members received an email detailing same. An update will be made in July 2019 based upon publication on the Georgia General Assembly website.</p>
<p>11/30/18 Fastcase catch line project completed.</p>	<p>11/30/18 FC Response: Fastcase catch lines for Georgia have been updated.</p>
<p>1/9/19 Member Comment: Member called saying he couldn't log in.</p>	<p>1/9/19 FC Response: It will be back up within 15 min.</p>
<p>2/20/19 Member Comment: Member called with complaint that FC was not showing results as normal and some cases seemed to be missing.</p>	<p>2/20/19 FC Response: Site was being updated so moving slowly. Also, noticing a pattern on day and time when the system seems to be slow. Working on getting that fixed.</p>
<p>2/21/19 Fastcase training was disrupted by intermittent crashing. Several members complained of the same.</p>	<p>2/22/19 Was told that they system has experienced crashes due to particular member searches; working on finding what the problem is and correcting.</p>
<p>4/15/19 Member Comment: Are current Georgia Rules and Regulations available in Fastcase?</p>	<p>4/15/19 Fastcase Response: We attempt to keep our libraries as up-to-date as possible. In some instances, our information is not as current as it could possibly be. Fastcase updates daily, and is constantly seeking to expand our libraries, so hopefully this content will be coming soon with planned updates. We apologize for any inconvenience this has caused. I found that Fastcase is up to date as possible but Lawriter lawsuit is an obstacle.</p>
<p>4/15/19 Fastcase sent notice that they had calls based on this incident.</p>	<p>4/15/19 The State Bar login apparently had a problem beginning sometime on 4/14/19 (Sunday) afternoon (storm related?), a key service stopped on the iMIS Application server. Logging into the iMIS Desktop program was also affected by this error.</p> <p>It was corrected about 8:30am 4/15/19</p>

Memorandum

To: Board of Governors of the State Bar of Georgia
From: M. Christopher Pitts, Director of the Military Legal Assistance Program
Date: September 24, 2019
Subject: Report on the Military Legal Assistance Program

(1) **Overview:** Over the past couple of months, the Military Legal Assistance Program has been getting increasing number of calls from the offices of veteran service organizations, the Department of Veterans Affairs, and elected officials to get a full view of the scope of the program. The take away from these conversations is consistently this: though there are plenty of resources for servicemembers and veterans in Atlanta and some select parts of Georgia, there is still a need for more legal resources in Columbus, on the coast (Savannah and Brunswick), and in South Georgia.

The second year of the revamped Military Legal Assistance Program will be focused on trying facilitate the placement of more legal resources in these particular areas. While the partnership with Georgia Legal Services will help in some degree, it still takes the volunteer efforts of the local bars to see this become a reality. At this time, MLAP foresees itself accomplishing this goal in three particular ways: (1) finding local venues to host a local legal clinic focused on provide consultations to servicemembers and veterans; (2) recruitment and scheduling of volunteer attorneys to staff these periodic clinics; (3) looking into sources of funding to help accommodate the establishment of these new clinics. The Program is excited to announce how this new focus will be realized as the details are finalized.

As an update on the Jeff Bramlett Symposium on Military Legal Assistance, the Program is still planning on conducting this program in May 2020. However, it was observed that the American Bar Association will be hosting its Equal Justice Conference in Atlanta on May 7 to 9, 2020. As such, planning is now underway to schedule MLAP's symposium in conjunction with the Equal Justice Conference as a means of increasing participation. The current plan is to have the symposium as a pre-conference to the main conference itself. Details will be released as these plans get finalized.

It should be noted that this program is helped by the members of the Committee and the Military/Veterans Law Section who have supported servicemembers and veterans in a variety of ways. These include:

- **Legal Assistance Clinics staffed by law students and attorney mentors** have been established at three colleges of law: Emory University in February 2013, Georgia State University in November 2014, and the University of Georgia in August 2018.
- **Legal Assistance Clinics at VA medical facilities** have been established at five locations: Augusta, Carrollton, Decatur, Fort McPherson, Rome, and soon-to-be Savannah. Volunteer lawyers staff those legal assistance clinics.
- **VA Accreditation CLE programs** have been conducted at least annually the past eight years for lawyers who desire to become accredited initially or to maintain their accreditation

(required biennially) in order to handle VA benefit award cases. The most recent VA CLE program was held on October 11, 2018, in Atlanta.

- **CLE trips** abroad, with self-supporting funds from participating lawyers, were planned and carried out under sponsorship of the Mil/Vets Law Section and with coordinating help from the MLAP Committee: **one to Normandy, France**, in 2014, in part commemorating the **70th Anniversary of the D-Day Landings**, and **one to Belgium and France**, in 2017, commemorating the **100th Anniversary of The First World War**.

(2) **Updates to MLAP Eligibility Criteria:** The Military Legal Assistance Program Committee is still amending and revising the eligibility criteria for the program. At this time, the program helps: (a) Active duty, active reservists, and National Guard members ranked e-5 and below; (b) All service members for issues related to deployment; (c) Military retirees and service-connected disabled (100%) veterans facing a financial hardship. Financial hardship is presumed if their income is at or below 200% of the Federal Poverty Level; (d) All veterans with issues related to VA benefits where attorneys fees would not otherwise be recoverable.

Case exclusions: With the goal in mind that the Program is to help service members and veterans who cannot afford legal help, no referrals for cases where there is no barrier for initial legal help; i.e., contingency fee cases, personal injury, malpractice, social security, etc.

The Military Legal Assistance Program committee has formed an ad hoc subcommittee to review these eligibility criteria and suggest further changes as necessary. As those changes are made, they will be submitted.

(3) **Attorney Recruitment:** Attorney involvement in the metro Atlanta area, Augusta, and Savannah remain high. New efforts are underway to help increase volunteer participation in other areas of rural Georgia.

(4) **MLAP Cases Processed:** Below is a summary of the number and types of requests for legal assistance received and referred to lawyers under the State Bar's Military Legal Assistance Program. Under the program, **a total of 2,297 cases have been processed**. A summary of cases processed by the MLAP by category follows:

Family Law		1,169 (including 59 previous)
Divorce	498	
Divorce Enforcement	28	
Child Support	152	
Guardianship/Adoption	127	
Child Custody/Visitation	301	
TPO	1	
Other	3	
Consumer Law		142
Housing/Property		155
Foreclosure		26
Veterans Benefits/Disability		316
Wills/Estates/Probate		128

Employment/USERRA/SCRA	60
Bankruptcy	29
Insurance	21
Property Damage	3
Contract	10
Injury-related	66
Immigration	4
Discharge Upgrade	8
Department of Defense Benefits	1
Non-profit Formation	1
Other	<u>158</u>
	2,297

(5) **The MLAP/Georgia Legal Services Legal Clinic:** The Georgia Legal Services Program has partnered with MLAP to help provide clinics to service-members and veterans in rural areas. Georgia Legal Services Program of Brunswick is currently interested in hosting a veterans-centric legal clinic in Brunswick and there is interest from the MLAP committee to establish a pro-bono legal clinic at the VA health clinic in Savannah. The aim is to see how both efforts in the coastal region can be combined to help provide a robust clinical program in the area.

(6) **Jeff Bramlett Symposium on Military Legal Assistance Programs 2020.** The MLAP committee approved for the planning of a Military Legal Assistance Program symposium for 2020. Because the American Bar Association is planning on conducting their 2020 Equal Justice Conference in Atlanta, it was observed that participation may be increased by having the symposium in conjunction with this Conference. As such, the current plan is to have the symposium as a pre-conference to the ABA's Equal Justice Conference from May 7 to 9, 2020.

M. Christopher Pitts
 Director
 Military Legal Assistance Program

PUBLISHED ARTICLES 2019-2020			Circulation
Date	Newspaper	Headline	
5/29/2019	Dalton Daily Citizen	Congratulations to area firms for Georgia Legal Food Frenzy success this year	6,748
5/30/2019	DeKalb Champion, Decatur	Congratulations to Decatur law firm for Georgia Legal Food Frenzy success	544
6/4/2019	Augusta Chronicle	Augusta excelled in Food Frenzy	28,830
6/5/2019	Calhoun Times	Congratulations to new Superior Court judge	3,896
6/14/2019	Gainesville Times	Letter: Congratulations to Nicki Vaughan on Georgia Applesseed Award	5,000
6/14/2019	Marietta Daily Journal	Around Town: Cobb Fills the Bar	12,287
6/15/2019	Albany Herald	Former Dougherty DA Hodges reflects on year heading State Bar Association	9,569
6/15/2019	Newnan Times-Herald	Jason Swindle re-elected to Board of Governors of State Bar of Georgia	7,540
6/15/2019	Valdosta Daily Times	Congratulations to Valdosta Bar Association on successful Law Day event	8,067
6/18/2019	Post-Searchlight, Bainbridge	Payne appointed to Board of Governors of State Bar of Georgia	4,500
6/19/2019	Polk County Standard Journal, Cedartown	McRae re-elected to Board of Governors of State Bar of Georgia	2,632
6/19/2019	Coastal Courier, Hinesville	Carl Vamedoe re-elected to Board of Governors of State Bar of Georgia	5,500
6/19/2019	Walker County Messenger, Lafayette	Catoosa County Solicitor Doug Woodruff re-elected to Board of Governors	1,862
6/19/2019	Catoosa County News, Ringgold	Catoosa County Solicitor Doug Woodruff re-elected to Board of Governors	1,310
6/20/2019	Johns Creek Herald	Fulton County native to lead State Bar of Georgia Young Lawyers Division	20,000
6/20/2019	Marietta Daily Journal	Cobb County Bar Association honored by State Bar of Georgia	12,287
6/20/2019	Savannah Morning News	Savannah attorneys re-elected to Board of Governors of State Bar of Georgia	19,652
6/21/2019	Atlanta Tribune	GABWA Earns Top Honors from State Bar of Georgia	10,000
6/22/2019	Thomasville Times-Enterprise	Valdosta attorney re-elected to state bar's board of governors	4,339
6/24/2019	Dunwoody Chier	Dunwoody resident receives State Bar of Georgia Award	18,000
6/24/2019	Statesboro Herald	Boro native Ashley Akins installed to state bar position	8,000
6/26/2019	Adel News-Tribune	Mickey Johnson Re-Elected to Board of Governors of State Bar of Georgia	3,320
6/26/2019	Savannah Morning News	Savannah attorney Waring cited by state bar for equality efforts	19,652
6/26/2019	Savannah Tribune	Savannah Attorney Receives State Bar of Georgia Commitment to Equality Award	8,000
6/27/2019	Lincoln Journal, Lincolnton	Sanders re-elected to serve on the Board of Governors	1,500
7/2/2019	Albany Herald	Underwood re-elected to Board of Governors of State Bar	9,569
7/2/2019	Johnson Journal, Wrightsville	Joseph Sumner is re-elected to Board of Governors of State Bar of Georgia	847
7/3/2019	Walton Tribune, Monroe	Walton County Bar honored	4,126
7/4/2019	Augusta Chronicle	Augusta attorneys re-elected to Board of Governors of State Bar	28,830
7/4/2019	News-Reporter, Washington	Sanders re-elected to State Bar of Ga. Board of Governors	2,246
7/6/2019	Walton Tribune, Monroe	Geoffroy elected to Bar Board of Governors	4,126
7/7/2019	Rome News-Tribune	Congratulations to Berry on selection to GNLC board	9,556
7/8/2019	Daily Report	Ga. Legal Community Mourns Loss of Professor Donald Eugene Wilkes	2,607
7/9/2019	Statesboro Herald	Susan Cox is re-elected to State Bar Board	8,000
7/11/2019	The Citizen, Fayetteville	Chief Judge Edwards elected to Board of Governors of State Bar of Georgia	5,000

7/11/2019	Hartwell Sun	Local lawyer re-elected to state bar board	4,269
7/11/2019	Pickens County Progress, Jasper	Will Pickett Jr. re-elected to Board of Governors of State Bar of GA	6,199
7/11/2019	Gwinnett Daily Post, Lawrenceville	Congratulations to Judge Tadia D. Whither	59,838
7/11/2019	Toccoa Record	Irvin is re-elected to board	3,689
7/12/2019	Daily Citizen-News, Dalton	Smalley re-elected to state bar board of governors	6,748
7/13/2019	Albany Herald	Dent honored by State Bar's Young Lawyers Division	9,569
7/14/2019	Gwinnett Daily Post, Lawrenceville	Gwinnett attorneys picked to serve on Board of Governors for State Bar	59,838
7/14/2019	Statesboro Herald	Congratulations and thanks to Judge Gary Mikell	8,000
7/15/2019	The Islander, St. Simons Island	Roberts reelected to Board of Governors State Bar of Georgia	3,421
7/15/2019	Savannah Morning News	Akins installed as State Bar of Georgia secretary	19,652
7/16/2019	The Telegraph, Macon	State Bar of Georgia leadership posts	17,854
7/17/2019	Monroe County Reporter, Forsyth	Curtis Jenkins reelected to State Bar Board of Governors	4,297
7/17/2019	Soperton News	Justice Ellington Honored by State Bar of Georgia's Young Lawyers Division	1,000
7/18/2019	Richmond County Neighbors, Augusta	Augusta attorneys re-elected to Board of Governors of State Bar	5,000
7/18/2019	Tifton Gazette	Letter to the editor: Congratulations to the Tifton Circuit Bar on successful Law	3,005
7/21/2019	Gwinnett Daily Post, Lawrenceville	Duluth attorney receives service award	59,838
7/21/2019	Newnan Times-Herald	Coweta attorney honored by Young Lawyers Division	7,540
7/22/2019	Brunswick News	Young lawyers group honored	10,927
7/24/2019	Americus Times-Recorder	Judge Rucker Smith re-elected to Board of Governors of State Bar of Georgia	1,912
8/2/2019	Savannah Morning News	Judge Moore deserving of professionalism award	19,652
8/3/2019	Marietta Daily Journal	Congratulations to new chief magistrate	12,287
8/4/2019	Marietta Daily Journal	State Bar congratulates Bob Barr	12,287
8/8/2019	Savannah Morning News	Recognizing a distinguished career	19,652
8/16/2019	Daily Report	Congratulations and thanks to Ben Easterlin	2,607
9/3/2019	Athens Banner-Herald	Congratulations to Judge Stephens on Boy Scout award presentation	8,199
9/8/2019	Albany Herald	Georgia legal community mourns loss of Judge Stephen Goss	9,569
		TOTAL CIRCULATION	674,791

