

Board Book

State Bar of Georgia
Board of Governors
Agenda Book



2016 Fall Meeting
Pine Mountain, GA



State Bar of Georgia

265th BOARD OF GOVERNORS MEETING

Friday, October 21, 2016

2:00 p.m.–5:00 p.m.

The Lodge and Spa at Callaway

Pine Mountain, Georgia

Dress: Business

AGENDA

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

- | | | |
|---|------------------------------------|-------|
| a) Welcome and Call to Order..... | Pat O'Connor, President..... | 1-4 |
| b) Invocation and Pledge of Allegiance | Scott Delius | |
| c) Recognition of Former Presidents, Judges | Pat O'Connor
And Special Guests | |
| d) Roll Call (by signature) | Darrell Sutton, Secretary..... | 5-11 |
| e) Future Meetings Schedule | Pat O'Connor | 12-13 |

2) SPECIAL RECOGNITION

- | | | |
|--|--------------|--|
| a) 100 th Anniversary of Women in the Profession..... | Pat O'Connor | |
|--|--------------|--|

3) ACTION

- | | | |
|---|----------------------|--|
| a) Minutes of the 263 rd & 264 th Meeting | Darrell Sutton | 14-24
of the Board of Governors on June 17-18, 2016 |
| b) Resolution Honoring Chief Justice Thompson | Pat O'Connor | 25-26 |

c) Appointments to the Commission on Continuing ...Pat O'Connor Lawyer Competency (CCLC)	
(1) Appointment of Kent Altom, 2017-2019	
(2) Appointment of Anne Kaufold-Wiggins, 2017-2019	
d) Bar Rules Changes.....Bill NeSmith	27-28
(1) Rule 1-501.1	29-30
(2) Rule 1-501	31-40
(3) Rule 4-402	41-44
(4) Rule 5.5.....	45-58
e) Communications Committee PSAs.....Sonjui Kumar, Co-Chair	59
f) Institute of Continuing Legal Education (ICLE)	Pat O'Connor
(1) ICLE Board of Trustees Report	Bob Kauffman, Chair
(2) State Bar ICLE Study Committee.....	Hal Daniel, Chair
(3) State Bar's Interim Relationship with ICLE	Pat O'Connor

4) LEGISLATION

a) Advisory Committee on Legislation.....Jon Pannell, Chair	60-62
New Legislative Proposals (action)	
(1) Georgia Appellate Practice and Educational Resource Center	63-72
• Funding Request	
(2) Nonprofit Law Section	73-81
• Redomestication of Nonprofit Corporations	
(3) Child Protection and Advocacy Section.....	82-86
• Juvenile Practice and Proceedings Proposal	
(4) Fiduciary Law Section	87-159
• Amendments to Georgia's Rule Against Perpetuities and Additional Methods for Modifying an Irrevocable Trust	
• Creation of a Georgia Revised Uniform Fiduciary Access to Digital Assets Act	

- b) Legislative UpdateChristine Butcher
Rusty Sewell
- c) JQC Legislative Task Force.....Buck Rogers 160
 - (1) Report of the JQC Rules Revision CommitteeEd Tolley
 - (2) Review of the Bar’s position on the JQC Amendment.....Bob Kauffman

5) INFORMATIONAL REPORTS

- a) President’s ReportPat O’Connor
- b) Treasurer’s ReportKen Hodges, Treasurer 161-197
- c) Young Lawyers Division.....Jennifer Mock 198-201
YLD President
- d) Disciplinary Rules & Procedure Committee.....John Haubenreich, Chair .. 202-203
Paula Frederick, General Counsel
- e) Aging Lawyers Task Force Report.....Darrell Sutton, Co-Chair
Bill Gentry, Co-Chair
- f) Member Benefits CommitteeJohn Kennedy, Chair
CloudLaw / Zeekbeek
- g) Law-Related Education Program andDeborah Craytor, Director
Virtual Law Museum
- h) BASICS FundraiserSeth Kirschenbaum, Chair

6) WRITTEN REPORTS

- a) Executive Committee Minutes 204-216
 - (1) May 19, 2016
 - (2) June 29, 2016
 - (3) August 16, 2016

b) Strategic Plan and Updates	217-223
c) Office of the General Counsel Report	224-226
d) Military Legal Assistance Program	227-245
e) Consumer Assistance Program.....	246-247
f) Law Practice Management Program	248-250
g) Unauthorized Practice of Law	251-252
h) Communications Update	253

7) CLOSING

a) Old Business.....	Pat O'Connor
b) New Business.....	Pat O'Connor
c) Questions/Answers; Comments/Suggestions	Board of Governors Officers Executive Committee Executive Director General Counsel
d) Adjournment	Pat O'Connor

Disciplinary Rules Q&A Session (immediately following the meeting)



State Bar of Georgia 2016 Fall Board of Governors Meeting

The Lodge and Spa at Callaway Gardens
Pine Mountain, Ga. | Oct. 21-23

Hotel Cut-off date | Friday, Sept. 30
Registration Cut-off date | Friday, Oct. 14



Schedule of Events

Friday, Oct. 21

8:30 – 11:30 a.m. | Review Panel

10 a.m. – 3 p.m. | Investigative Panel

11:30 a.m. – 12:30 p.m. | CCLC

12 – 2 p.m. | Member Benefits Committee

12 – 3 p.m. | ICJE Board Meeting

12:30 – 2 p.m. | ICLE Board Meeting

2 – 5 p.m. | Board of Governors Meeting

5 – 6 p.m.* | Disciplinary Rules and Procedures Informational Session immediately following the Board Meeting. (*Start time subject to change based on the length of the Board Meeting.)

6:30 – 9:30 p.m. | BOG Dinner

Saturday, Oct. 22

🧘 7:30 – 8:30 a.m. | Fun Run/Walk

TBD | Optional trip to Auburn to tailgate at the Auburn vs. Arkansas game**

Afternoon | On your own at the Gardens

Recreation and Social Events

Board of Governors Dinner

Friday, Oct. 21 | 6:30 p.m.

Please join us Friday evening for dinner and drinks, along with the opportunity to relax and network with fellow Board members and their guests.

🧘 Fun Run/Walk

Saturday, Oct. 22 | 7:30 a.m.

Meet at the Lodge pool for the start of this 3-mile fun run/walk. The course will take us around the beach and back.

Optional trip to tailgate in Auburn for the Auburn-Arkansas game

Saturday, Oct. 22 | TBD**

For those interested in tailgating at the Auburn-Arkansas game (UGA has a bye) we will be traveling by bus to Auburn and tailgating outside Jordan-Hare Stadium. If you wish to attend the game, we do have tickets available for purchase. Please contact Michelle Garner, michelleg@gabar.org, for information and to secure your tickets.

And if football just isn't your thing, enjoy the afternoon and explore Callaway Gardens on your own. For information on the activities the resort has to offer, please visit www.callawaygardens.com/.

**Departure time for the Auburn tailgate will depend on start time of game, which will be announced about seven days prior to the event.

Callaway Gardens Attractions

From the expansive Callaway Discovery Center to the humble Pioneer Log Cabin, you will find a world of fascinating exhibits to explore and programs to enjoy. Whether you are a first-time visitor or a frequent guest, we invite you to take advantage of this opportunity to experience Callaway Gardens. For more information about the activities below, please visit www.callawaygardens.com/things-to-do.

CALLAWAY DISCOVERY CENTER | This lakeside facility is the ideal starting point for a tour of Callaway Gardens.

CALLAWAY BROTHERS AZALEA BOWL | This 40-acre hillside garden is home to more than 3,000 hybrid azaleas. Additional plantings include 2,000 trees and shrubs that provide an array of foliage and blooms throughout the year. With wide walking paths that criss-cross the hillside gardens, the Callaway Brothers Azalea Bowl is a delightful spot for a leisurely stroll in any season.

IDA CASON CALLAWAY MEMORIAL CHAPEL | Built as a tribute to Cason Callaway's mother, the chapel was inspired by 16th-century Gothic chapels and is

highlighted by a variety of materials native to its region, including fieldstone quartz.

PIONEER LOG CABIN | The Pioneer Log Cabin offers a glimpse back to a time when life was, in many ways, much simpler—but also more difficult. In 1959, the structure was relocated from neighboring Troup County to Callaway Gardens, where it serves as a reminder of the challenges our forefathers faced on a daily basis.

MEADOWLARK GARDEN | For those looking for a peaceful stroll through nature, Meadowlark Garden—which also houses the Holly Trail—is sure to please.

Look for the 🧘 for opportunities to include wellness in your meeting experience.

Hotel Accommodations

The Lodge and Spa at Callaway Gardens
4500 Southern Pine Drive
Pine Mountain, GA 31822
706-489-3300

Cut-off date | Friday, Sept. 30

The Lodge and Spa at Callaway Gardens will be our host hotel offering discounted room rates. A block of rooms has been reserved for the meeting. Our room rate is \$179, standard room, plus applicable 13 percent taxes and \$5 transportation government fee.

To make reservations and receive our special rate, call Callaway Gardens group reservations department at 855-923-7644 and indicate that you are with the State Bar of Georgia Board of Governors Fall Meeting. Reservations must be made by Friday, Sept. 30, as rooms will be on a space and rate availability basis after this date.

Check-in | 3 p.m.

Check-out | 12 p.m.

Attire

Casual dress for all meetings.



THORNHILL HYDRANGEA GARDEN | See some of the South's favorite flowers almost year-round.

DAY BUTTERFLY CENTER | Visit the Cecil B. Day Butterfly Center, where typically 1,000 or more butterflies flutter freely about in one of North America's largest tropical butterfly conservatories.

GOLF | One of Georgia's top golf resorts, Callaway Gardens features two 18-hole golf courses.

CALLAWAY GARDENS TENNIS CENTER | Featuring 10 lighted courts (eight hard surface, two soft) tucked into a secluded, forested cove, plus a pro shop.

FISHING AND BOATING | Rent a canoe, kayak or jonboat to explore our 175-acre Mountain Creek Lake. And if you're an angler, you'll find some of the best fishing in the Southeast here and among our 12 other managed lakes. *No fishing license required.*

BICYCLING AND NATURE TRAILS | Whether on two wheels or two feet, you can explore an incredible diversity of environments on the 10-mile Discovery Bicycle Trail and seven miles of nature trails.

SPA PRUNIFOLIA | This luxurious spa retreat infuses elements of both spa and nature in a healthy, harmonious way to provide relaxation, restoration and inspiration.

Registration Form

Please complete and remit the enclosed registration form by Friday, Oct. 14, 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 is Friday, Oct. 14, for refunds. Cancellations will receive a full refund, less a \$25 administrative charge. Absolutely no refunds will be made after Friday, Oct. 14. Requests should be emailed to michelleg@gabar.org; faxed to 404-527-8717; or mailed to The State Bar of Georgia, Attn. Michelle Garner, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303.

Thank You Corporate Sponsor


5-GAVEL **MB** | MemberBenefits

Registration Options

BOG Functions		Qty:
<input type="radio"/> BOG Meeting – Friday	N/C	_____
<input type="radio"/> BOG Dinner – Friday	\$70	_____

Committee Functions		
<input type="radio"/> CCLC	N/C	_____
<input type="radio"/> Member Benefits Committee	N/C	_____

Related Organization Functions		
<input type="radio"/> ICLE Board of Trustees	N/C	_____
<input type="radio"/> ICJE Board Meeting	N/C	_____

Recreational		
<input type="radio"/>  Fun Run/Walk – Saturday	N/C	_____
<input type="radio"/> Tailgate Party in Auburn – Saturday	\$100	_____

(Includes: transportation to and from Auburn, food and drink at tailgate)
*(*Contact Michelle Garner, michelleg@gabar.org, to secure tickets to the game.)*

Total Fees Enclosed: \$ _____

Payment Information

Registrations will be processed on a first-come, first-served basis. Visa, MasterCard and American Express are accepted. Please make checks payable to 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, Fax 404-527-8717.

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

	3-14	6-14	6-14	11-14	4-15	6-15	6-15	10-15	1-16	1-16	5-16	6-16	6-16
		Fri.	Sat.	Jekyll	Brass	Stone Mtn	Stone Mtn	Sav	Buford	phone/ ATL	ATL	Fri.	6-16
	Oconee	Amelia	Amelia	ATL	e	n/a	n/a	e	n/a	n/a	ATL	Amelia	Amelia
Sarah Brown Akins	•	•	•	•	e	•	•	•	e	•	•	•	•
Mark W. Alexander	•	•	•	•	•	•	•	•	•	•	•	e	e
Kent Edward Altom	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•	•	•
Anthony B. Askew	•	•	•	•	•	•	•	•	•	•	•	•	•
Eric A. Ballinger	•	•	•	•	•	•	•	•	•	•	•	•	•
Donna G. Barwick	e	1-00	•	•	•	e	e	•	•	•	•	•	•
Joshua C. Bell	•	•	•	•	•	•	•	e	•	•	•	•	•
Tracee Ready Benzo	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•
Diane E. Bessen	e	•	•	•	e	e	•	•	•	•	•	•	•
Sherry Boston	e	•	•	e	•	•	•	e	•	•	e	•	•
Jeb T. Branham	•	•	•	•	•	e	e	•	•	•	•	•	•
Thomas Neal Brunt	•	•	•	•	•	•	•	e	•	•	•	•	•
Thomas R. Burnside	•	•	•	•	•	•	•	•	•	•	•	•	•
Stephanie D. Burton	•	•	•	e	e	•	•	•	•	•	e	•	•
JaDawnya C. Butler	•	•	•	•	•	•	•	e	•	•	e	•	•
Richard D. Campbell	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 L. Cannon	•	•	•	•	•	•	•	•	•	•	•	•	•
Carl S. Cansino	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•
Paul Todd Carroll, III	•	•	•	•	•	•	•	e	•	•	•	•	•
Carol V. Clark	•	•	•	•	e	e	•	e	•	•	•	•	•
Chris Clark	•	•	•	•	e	•	•	•	•	•	•	•	•
Edward R. Collier	•	•	•	•	e	•	e	•	•	•	•	•	•
Martin L. Cowen III	•	•	•	•	•	•	•	•	•	•	•	•	•

To request an excused absence, please email Secretary Darrell Sutton (dls@sutton-law-group.com)

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		Fri.	Sat.	Amelia	Jekyll	ATL	Brass	Stone Mtn	Fri.	Stone Mtn	Sav	Buford	ATL	ATL	Fri.	6-16
	Oconee	Amelia	Amelia	Amelia	Jekyll	ATL	Brass	Stone Mtn	Stone Mtn	Stone Mtn	Sav	Buford	ATL	ATL	Amelia	Amelia
Susan W. Cox	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Terrence Lee Croft	•	•	•	•	e	•	•	•	e	•	•	•	•	e	•	e
Matthew B. Crowder	e															
David P. Darden	•	e	e	e	e	•	•	•	•	•	•	•	•	e	•	•
Gerald Davidson Jr.	•	e	e	e	•	e	e	•	•	•	•	•	•	•	•	•
J. Anderson Davis	e	e	e	e	•	e	e	•	•	•	•	•	•	e	e	e
Randall H. Davis	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
J. Antonio Delcampo	•	•	•	•	•	•	•	•	•	•	e	•	•	•	•	•
Scott Dewitt Delius	n/a	n/a	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Joseph W. Dent	•	•	•	•	•	•	•	•	•	•	•	•	•	•	e	e
Foy R. Devine	•	•	•	•	•	•	•	•	•	•	e	•	•	•	•	•
Thomas V. Duck, III	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Susan E. Edlein	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	n/a	n/a	•
Damon E. Elmore	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Archibald A. Farrar	•	•	•	•	•	•	•	•	•	•	e	•	•	•	•	•
D. Kirk Farrar	•	•	•	•	•	e	•	•	•	•	•	e	•	•	•	•
Elizabeth L. Fite	•	e	e	e	•	•	•	•	e	•	•	e	•	•	•	•
John A. Fitzner III	•	•	•	•	e	•	e	•	•	•	•	•	•	e	e	e
Gary Stuart Freed	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•	•
Gregory A. Futch	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
William Gil Gainer	•										•	•	•	•	•	•
Laverne L. Gaskins	•	•	•	•	•	e	•	•	•	•	•	•	•	•	•	•
William C. Gentry	•	e	e	e	•	•	•	•	•	•	•	•	•	•	•	•

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	Oconee	Amelia	Amelia	Amelia	Amelia	ATL	Brass	Stone Mtn	Stone Mtn	Sav	Buford	ATL	ATL	Amelia	Amelia
Walter J. Gordon Sr.	•	•	•	•	e	e	•	•	•	•	•	•	•	•	•
Patricia A. Gorham	•	•	•	•	•	•	•	•	e	•	•	•	•	•	•
Karlise Y. Grier	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Thomas F. Gristina	e	•	•	•	e	•	•	•	•	•	•	•	•	•	•
John Kendall Gross	e	•	•	•	e	e	e	•	•	•	e	•	e	•	•
John Haubenreich	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Patrick H. Head	•	•	•	•	•	•	•	•	•	•	•	•	e	e	e
Lawton C. Heard, Jr.	•	•	•	•	•	•	•	•	e	•	•	•	•	•	•
Render M. Heard Jr.	•	•	•	•	•	•	e	•	•	•	•	•	•	•	•
Thomas W. Herman	•	•	•	•	e	•	•	•	•	•	•	•	•	•	•
R. Javoyne Hicks	•	•	•	•	e	•	e	•	•	•	•	•	•	•	•
Donna S. Hix	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Michael D. Hobbs	•	•	•	•	e	•	•	•	•	e	•	•	e	•	•
Kenneth B. Hodges	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Phyllis J. Holmen	•	•	•	•	•	•	e	•	•	•	•	•	•	•	•
J. Marcus E. Howard	e	•	•	•	e	e	•	•	•	e	•	•	•	•	•
Amy V. Howell	•	•	•	•	e	•	e	•	•	•	•	•	•	•	•
Roy B. Huff Jr.	•	e	e	e	•	•	•	•	•	e	•	•	•	e	e
James W. Hurt	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Christopher Huskins	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Stacey K. Hydriick	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	n/a	n/a
James T. Irvin	•	•	•	•	•	e	•	•	•	•	•	•	•	•	•
William Dixon James	•	e	e	e	•	•	•	•	•	e	•	•	•	•	•

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	Oconee	Amelia	Amelia	ATL	ATL	ATL	ATL	ATL	ATL	ATL	ATL	Amelia	Amelia
Curtis S. Jenkins	•	•	•	•	•	•	•	•	•	•	•	•	•
Lester B. Johnson, III	•	•	•	•	•	•	•	•	•	•	•	•	•
Dawn M. Jones	•	•	•	•	e	•	•	•	•	•	•	•	•
Michael R. Jones, Sr.	•	•	•	•	•	•	•	•	•	•	•	•	•
Jennifer A. Jordan	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•
Elena Kaplan	•	•	•	e	•	•	•	•	•	•	e	•	•
Robert J. Kauffman	•	•	•	•	•	•	•	•	•	•	•	•	•
John F. Kennedy	•	•	•	e	e	•	•	•	•	•	•	•	•
William J. Keogh, III	•	•	•	•	•	•	•	•	•	•	•	•	•
Barry E. King	•	•	•	e	•	•	•	•	•	•	•	•	•
Judy C. King	•	•	•	e	•	•	•	•	•	•	•	•	•
Seth Kirschenbaum	•	•	•	•	•	•	•	•	•	•	•	•	•
Catherine Koura	•	e	e	e	•	•	e	•	•	•	•	•	•
Edward B. Krugman	•	•	•	•	e	•	•	•	•	•	•	•	•
Jeffrey R. Kuester	•	•	•	e	•	•	•	e	•	•	•	•	•
Allegra Lawrence	•	•	•	e	e	•	•	•	•	•	•	•	•
J. Alvin Leaphart	•	•	•	•	•	•	•	•	•	•	•	e	e
Ryan R. Leonard	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•
Dawn Renee Levine	n/a	n/a	•	•	•	•	•	•	•	•	•	•	•
David S. Lipscomb	•	•	•	•	•	•	•	•	•	•	•	•	•
Dax Eric Lopez	n/a	n/a	n/a	n/a	n/a	•	n/a	•	•	•	•	•	•
John Ryd Bush Long	n/a	n/a	•	•	•	•	•	•	•	•	•	•	•
Ronald A. Lowry	•	•	•	e	•	•	•	•	•	•	•	•	•

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	Oconee	Amelia	Amelia	n/a	n/a	n/a	n/a		Buford	ATL	ATL	Amelia	Amelia
John Bell Manly	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•	•
Samuel M. Matchett	•	e	e	•	•	•	•	e	•	•	•	•	•
William R. McCracken	•	•	•	•	•	e	e		•	•	•	e	e
Letitia A. McDonald	•	•	•	•	e	•	•		•	•	•	•	•
Brad J. McFall	e			•							•		
Ashley W. McLaughlin	•	•	•	e	e	•	•	e	•	•	e		
Michael D. McRae	•	e	e	•	•	•	•		•	•	e		
Terry L. Miller	•	•	•	•	•	•	•	•	•	•	•	•	•
W. Benjamin Mitcham		•	•	e	•	•	•	•	•	•	•	•	•
Jennifer C. Mock	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•	•
William J. Monahan	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
Shondeana Morris	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•	•
Laura J. Murphree	•	•	•	•	•	•	•	•	•	•	•	•	•
Sam G. Nicholson	•	•	•	•	•	•	•	•	•	•	e	•	•
Dennis C. O'Brien	•	•	•	•	•	•	•	•	•	•	•	•	•
Patrick T. O'Connor	•	•	•	•	•	•	•	•	•	•	•	•	•
Samuel S. Olenz													
Jonathan B. Pannell	•	•	•	•	e	•	•	•	•	•	•	•	•
Joy Renea Parks	n/a	n/a	•	•	•	•	•		•	•	•	•	•
Carson Dane Perkins	•	•	•	•	•	•	•		•	•			
Will H. Pickett, Jr.	e			•	•	•	•						
W. Gregory Pope	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•	•
Jill Pryor	•	e	e	•	e	e	e		e		•	•	•

To request an excused absence, please email Secretary Darrell Sutton (dls@sutton-law-group.com)

Board of Governors Attendance Record

	3-14	6-14	6-14	6-14	11-14	1-15	4-15	6-15	6-15	10-15	1-16	1-16	5-16	6-16	6-16	
		Fri.	Sat.	Amelia	Jekyl	ATL	Brass	Stone Mtn	Stone Mtn	Sav	Buford	phone/ ATL	ATL	Amelia	Fri.	6-16
	Oconee	Amelia	Amelia	Amelia	Jekyl	ATL	Brass	Stone Mtn	Stone Mtn	Sav	Buford	ATL	ATL	Amelia	Amelia	Amelia
William M. Ragland	•	•	•	•	e	•	•	•	e	•	•	•	•	•	•	•
Robert V. Rodatus	•	e	e	e	•	•	•	e	e	•	•	•	e	•	•	•
Tina S. Roddenbery	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Brian D. Rogers	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Joseph Roseborough	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
William C. Rumer	•	•	•	•	e	•	e	e	e	•	•	•	•	•	•	•
Claudia S. Saari	•	•	•	•	•	•	•	e	e	•	•	•	•	•	•	•
Aimee P. Sanders	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	e	•	•	•	•	•
Dennis C. Sanders	•	•	•	•	e	•	•	•	•	•	•	•	•	•	•	•
H. Burke Sherwood	n/a	n/a	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Robert H. Smalley, III	•	•	•	•	•	•	•	e	e	•	•	•	•	•	•	•
Philip C. Smith	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
R. Rucker Smith	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Daniel B. Snipes	•	•	•	•	•	e	•	•	•	•	e	•	•	e	e	e
R. Gary Spencer	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•	•	•
H. Craig Stafford	e	•	•	•	•	•	•	•	•	e	•	•	•	•	•	•
Lawrence A. Staggs	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Lawton E. Stephens	•	•	•	•	e	•	•	•	•	e	•	•	•	•	•	•
C. Deen Strickland	•	•	•	•	•	•	e	•	•	e	•	•	e	•	•	•
Frank B. Strickland	e	•	•	•	e	e	e	e	e	•	•	e	•	•	•	•
Joseph C. Sumner, Jr.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•	•	•	•
Michael B. Terry	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Anita W. Thomas	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•

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Board of Governors Attendance Record

	3-14	6-14	6-14	11-14	4-15	6-15	6-15	10-15	1-16	1-16	5-16	6-16	6-16
		Fri.	Sat.	Jekyll	Brass	Stone Mtn	Stone Mtn	Sav	Buford	phone/ ATL	ATL	Fri.	Sat.
	Oconee	Amelia	Amelia	ATL	e	e	e	e	Buford	ATL	ATL	Amelia	Amelia
Dwight L. Thomas	•	•	•	•	e	•	•	e	•	•	•	•	•
Edward D. Tolley				•					•		•	•	•
Clayton Tomlinson	n/a	n/a	•	•	e	•	•	•	•	•		•	•
Martin E. Valbuena	•	•	•	•	•	•	•	•	•	•		•	•
Carl R. Varnedoe	•	•	•	•	•	•	•	•	•	•		•	•
Nicki N. Vaughan	•	•	•	•	•	•	•	•	•	•		•	•
Carl A. Veline, Jr.	•	•	•	•	•	•	•	•	•	•		•	•
J. Henry Walker	•	•	•	•	e	•	•	•	•	•		•	•
Janice M. Wallace	•	•	•	•	•	•	•	•	•	•	e	•	•
Amy Carol Walters	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•
Jeffrey S. Ward	•	•	•	•	•	•	•	•	•	•	e	•	•
Harold B. Watts	•	•	•	e	•	•	•	•	•	•	•	•	•
John P. Webb	•	•	•	•	•	•	•	•	•	•	•	•	•
Christopher F. West	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•
Nancy J. Whaley	•	•	•	•	e	•	•	•	•	•	•	•	•
Paige R. Whitaker	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•
Sandra Wisenbaker	•	•	•	e	•	•	•	•	•	•	•	e	e
Kathleen Womack	•	•	•	•	•	•	•	•	•	•	•	•	•
Douglas Woodruff	•	•	•	•	•	•	e	e	•	•	•	•	•
Gerald P. Word	e	•	•	•	e	e	e	•	•	e	•	•	•
Fred A. Zimmerman	•	•	•	•	•	•	•	•	•	•	•	•	•
• - Attended Meeting	n/a	- Not on BOG											

To request an excused absence, please email Secretary Darrell Sutton (dls@sutton-law-group.com)

Future Meetings Schedule

(9/26/2016)



Executive Committee

November 17, 2016	Bar Center, Atlanta, GA
December 15, 2016	11:00 a.m. - Little Ocmulgee State Park – Oyster Roast - Pat's Farm that evening. Accommodation's at State Park.
January 26, 2017	Bar Center, Court of Appeals Dinner, Atlanta, GA - tentative
Feb. 17-19, 2017	Joint Meeting with Supreme Court & Executive Committee, The Inn at Palmetto Bluff, Bluffton, SC
April 20-23, 2017	Executive Cmte. Meeting, Hyatt Regency, Washington, DC
May 11, 2017	Flat Creek Lodge, Swainsboro, GA - tentative

Board of Governors

Fall 2016	Oct. 21-23, 2016	The Lodge & Spa at Callaway Gardens, Pine Mountain, GA
Midyear 2017	January 5-7, 2017	The Ritz Carlton, Buckhead, GA
Spring 2017	March 31-April 2, 2017 <i>(Date changed)</i>	Ritz at Lake Oconee, Greensboro, GA
Annual 2017	June 8-11, 2017	Jekyll Island, GA
Fall 2017	Oct. 27-29, 2017	Westin, Jekyll Island, GA
Spring 2018	March 9-11, 2018	Ritz at Lake Oconee, Greensboro, GA
Annual 2018	June 7-10, 2018	Omni Amelia Island, Amelia Island, FL

Young Lawyers Division

Fall 2016	Nov. 3-6, 2016	Disney's Yacht & Beach Club Resort, Orlando, FL
Midyear 2017	January 5-7, 2017	The Ritz Carlton, Buckhead, GA
Spring 2017	March 9-12, 2017	Grove Park Inn, Asheville, NC
Annual 2017	June 8-11, 2017	Jekyll Island, GA
Annual 2018	June 7-10, 2018	Omni Amelia Island, Amelia Island, FL

American Bar Association Meetings

Midyear 2017	February 1-7, 2017	Miami, FL
Annual 2017	August 10-15, 2017	New York, NY
Midyear 2018	January 31-Feb. 6, 2018	Vancouver, British Columbia
Annual 2018	August 2-7, 2018	Chicago, IL
Midyear 2019	January 23-29, 2019	Las Vegas, NV
Annual 2019	August 8-13, 2019	San Francisco, CA
Midyear 2020	February 12-18, 2020	Austin, TX
Annual 2020	August 6-11, 2020	Toronto, Ontario, Canada
Midyear 2021	February 10-16, 2021	Orlando, FL
Annual 2021	August 5-10, 2021	Chicago, IL

Southern Conference Meetings

2016	October 13-16, 2016	Big Cedar Lodge, Branson, MO
2017	October 2017	Tennessee
2018	October 2018	Louisiana
2019	October 2019	Georgia
2020	October 2020	Florida

D-R-A-F-T
STATE BAR OF GEORGIA
BOARD OF GOVERNORS
MINUTES
Friday, June 17, 2016
Omni Amelia Island/Amelia Island, Florida

The 263rd meeting of the Board of Governors/Plenary Session of the State Bar of Georgia was held at the date and location shown above. Robert J. Kauffman, President, presided.

Special Recognition

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

Recognition of Retiring Board Members

President Bob Kauffman recognized the following retiring Board of Governors members who were not present to be recognized at the Spring Board of Governors meeting: James E. Hardy (Southern Circuit) and R. Chris Phelps (Northern Circuit).

Roll Call

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

Future Meetings Schedule

President Bob Kauffman and President-elect/Treasurer Patrick T. O'Connor referred the Board of Governors members to the Future Meetings Schedule.

Minutes of the 262nd Meeting of the Board of Governors

The minutes of the Board of Governors meeting on May 7, 2016 at the State Bar Building in Atlanta, Georgia, were approved by unanimous voice vote.

State of the Supreme Court of Georgia

The Honorable Hugh P. Thompson, 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 Sara L. Doyle, Chief Judge of the Court of Appeals of Georgia, delivered the State of the Court of Appeals of Georgia address.

State of the Georgia Law Department

Attorney General Sam Olens delivered the State of the Georgia Law Department. Thereafter, President Bob Kauffman and YLD President Jack Long assisted him in presenting the Legal Food Frenzy awards.

Presentation of the Employee of the Year Award

President Bob Kauffman, Bill NeSmith and John Shiptenko presented the Employee of the Year Award to Betty Derrickson, Office of General Counsel Paralegal.

Recognition of Corporate Sponsors

President Bob Kauffman acknowledged the State Bar's two corporate sponsors: Member Benefits (Five Gavel Sponsor) and AXA (Two Gavel Sponsor).

Awards Presentations

President Bob Kauffman presented the following State Bar awards:

Bench and Bar Committee

Thomas O. Marshall Professionalism Award: Honorable Robert Benham and Hugh B. McNatt

Local and Voluntary Bar Awards

Thomas R. Burnside, Jr. Excellence in Bar Leadership Award: Honorable Leah Ward Sears

Award of Merit: Port City 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: Dougherty Circuit Bar and Henry County Bar Associations (101-250 members), Gwinnett County Bar Association (251-500 members), Cobb County Bar Association (501 or more members)

Best New Entry: Columbus Bar Association

Best Newsletter: Henry County Bar Association (101-150 members), Georgia Association of Black Women Attorneys (251-500 members), Georgia Trial Lawyers Association (501 or more members)

Best Website: Blue Ridge Bar Association (101-250 members), DeKalb Bar Association (251-500 members), Georgia Association for Women Lawyers (501 or more members)

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

Sections

Section of the Year: Family Law Section

Awards of Achievement: Health Law and Intellectual Property Law Sections

Memorials

President Bob Kauffman presented the Memorials report.

Lawyers for Equal Justice

Immediate Past President Patrise Perkins-Hooker reported on the Lawyers for Equal Justice Incubator Program that began operations in January 2016 with the hiring of Executive Director Stephanie Everett. In March, Sara Babcock joined the program as the Pro Bono Director. A class of eight young lawyers from the law schools of Emory, Georgia State, John Marshall, University of Georgia, Mercer and Emory began training on April 1. Applications for the next class will be accepted in the fall for classes that will begin in early November.

The Board of Governors received a copy of the *Lawyers for Equal Justice 2016 Update to the Board of Governors* written report.

Young Lawyers Division (YLD) Report

YLD President Jack Long reported on the activities of the Young Lawyers Division. He thanked the YLD Officers and others who helped him during his presidency. He reported that the YLD accomplished two great projects this year: 1) the annual YLD Signature Fundraiser that raised over \$135,000 for Camp Lakeside, and 2) the annual Legal Food Frenzy that met and exceeded its goals of raising over 5 million pounds of food in the first five years of the program. He stressed the importance of promoting the principles of public service, and stated that he looks forward to working next year with incoming YLD President Jennifer Campbell Mock.

The Board of Governors received a written report on the YLD committees, programs and projects for the 2015-16 Bar year.

Investigative Panel

John Newberry reported on the activities of the Investigative Panel and recognized the current and retiring Panel members.

Review Panel

Tony Askew reported on the activities of the Review Panel and recognized the current and retiring Panel members.

Formal Advisory Opinion Board

Brad Marsh reported on the activities of the Formal Advisory Opinion Board and recognized the current Board members.

Clients' Security Fund

Paul Threlkeld reported on the activities of the Clients' Security Fund.

Attorney Wellness Task Force

Ken Hodges reported on the activities of the Attorney Wellness Task Force and displayed the program's new *Lawyers Helping Lawyers* website.

President's Address

Following an introduction by Immediate Past President Patrise Perkins-Hooker, President Bob Kauffman delivered the President's Address (Exhibit B).

President Bob Kauffman recognized and thanked retiring Executive Committee members Immediate Past President Patrise Perkins-Hooker and YLD Immediate Past President Sharri Edenfield for their work and support on behalf of the Executive Committee and the State Bar.

Adjournment

There being no further business, the meeting was adjourned.

Brian D. (Buck) Rogers, Secretary

Robert J. Kauffman, President

D-R-A-F-T
STATE BAR OF GEORGIA
BOARD OF GOVERNORS
MINUTES
Saturday, June 18, 2016
Omni Amelia Island/Amelia Island, Florida

The 264th meeting of the Board of Governors of the State Bar of Georgia was held at the date and location shown above. Patrick T. O'Connor, President, presided.

Special Recognition

President Pat O'Connor recognized the members of the judiciary, the Past Presidents of the State Bar, and other special guests in attendance.

Welcome New Officers and Board Members

President Pat O'Connor recognized the new Officers and Board of Governors members.

Roll Call

Secretary Darrell L. Sutton circulated the roll for signature. The list of those in attendance is attached as Exhibit A.

Future Meetings Schedule

President Pat O'Connor referred the Board of Governors members to 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 Board by unanimous voice vote:

Investigative Panel:

District 8: Kimberly Anne Reid, Cordele (2019)

District 9: Dana Michelle Woodall Pagan, Lawrenceville (2019)

District 10: Amanda Nichole Heath, Augusta (2019)

At-Large: Daniel S. Reinhardt, Atlanta (2019)

Formal Advisory Opinion Board:

Georgia Association Criminal Defense Lawyers: Holly Wilkinson Veal, McDonough (2018)

Georgia District Attorneys Association: Donald R. Donovan, Dallas (2018)

Emory University: Melissa D. Carter, Atlanta (2018)

Georgia State University: Nicole Gail Iannarone, Atlanta (2018)

Investigative Panel: Julayaun Maria Waters, Savannah (2017)

Review Panel: Brad Marsh, Atlanta (2017)

At-Large: Letitia A. McDonald, Atlanta (2018)

Mary A. Prebula, Atlanta (2018)

Jeffrey Hobart Schneider, Atlanta (2018)

Approval of 2016-2017 Standing and Special Committees, Program Committees and Boards

The Board of Governors approved the proposed 2016-2017 Standing and Special Committees, Program Committees and Boards by unanimous voice vote.

Report of the President

President Pat O'Connor addressed the Board of Governors with his 2016-2017 Proposed Program of Activities (Exhibit B).

Treasurer's Report

Treasurer Kenneth B. Hodges reported on the Bar's finances and investments. The Board of Governors received copies of the combined Operations and Bar Center Consolidated Revenues and Expenditures Report as of April 30, 2015; Income Statement YTD for the Ten Months Ended April 30, 2015; Bar Center Revenues and Expenditures Summary for the Ten Months Ended April 30, 2015; State Bar Balance Sheet for April 30, 2015; and the Summary of Selected Payment Information for May-April 2013-2015.

2016-2017 State Bar Budgets

Treasurer Ken Hodges presented the consolidated 2016-2017 Proposed State Bar Budget (Exhibit C) that was approved by the Board of Governors by unanimous voice vote and reflects the following:

1. Dues maintained at \$248 for active members and \$124 for inactive members, which reflects no dues increase from the previous Bar year; and
2. Section dues to be reflected on the dues statement ranging from \$10-\$35; and
3. Continuation of assessments required by Bar Rules regarding the Clients' Security Fund (\$100 @ \$25/year) and Bar Center Facility (\$200 @ \$50/year); and
4. Continuation of a \$100 opt-out contribution for the Legislative and Public Education Fund; and
5. A suggested \$300 opt-in provision for individual contributions and a \$100 opt-in provision for young lawyers' contributions 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 resolutions by unanimous voice vote:

- 1) Authorization for President to Secure Blanket Bonds for Officers and Staff
As required by Article V, Section 8 of the Bylaws, to authorize the President to secure a blanket fidelity bond to cover all officers, employees and other persons handling State Bar funds.

- 2) Designation of Depositories for General Operations of State Bar of Georgia
Pursuant to Article V, Section 6 of the Bylaws, 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 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 Secretary, the President, the Immediate Past President, the President Elect, the Executive Director, the Office Manager and the General Counsel, provided either the President, the Secretary 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 far as said banks are concerned until they are notified in writing of such revocation of authority and in writing, acknowledge receipt thereof.

- 3) Employment of Independent Auditing Firm to Audit Financial Records of State Bar for FY 2016
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 2015-2016.

Executive Director Election

The Board of Governors elected Jeff Davis as Executive Director for the 2016-2017 Bar year by unanimous voice vote.

Executive Committee Election

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

Nominations:

Candidate: Phyllis J. Holmen
Nominator: Dennis C. O'Brien
Seconded: Patricia Gorham

Results:

Elected by majority ballot vote for a two-year term

Candidate: Donna S. Hix
Nominator: Tina Shadix Roddenbery
Seconded: Joshua C. Bell

Candidate: Dawn M. Jones Elected by majority ballot vote for a two-year term
Nominator: Seth D. Kirschenbaum
Seconded: Harold B. (Scott) Watts

Candidate: Frank B. Strickland
Nominator: Shondeana Genean Morris
Seconded: Hon. Lawton E. Stephens

Candidate: Nicki Noel Vaughan Elected by majority ballot vote for a two-year term
Nominator: John G. Haubenreich
Seconded: Susan Warren Cox

Georgia Legal Services Appointments

The Board of Governors approved the reappointments of Patrick Flinn, Patricia Gorham, and Russell Bonds, and the appointments of Marquette Bryan and Keith Hill, to the Georgia Legal Services Board of Trustees, for two-year terms, by unanimous voice vote.

Chief Justice's Commission on Professionalism Appointment

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

Elections Schedule 2016-2017

President Pat O'Connor referred the Board of Governors to the 2016-2017 Elections Schedule.

YLD Report

YLD President Jennifer Campbell Mock presented an overview of her proposed program of activities for the 2016-2017 Bar year. She reported that the YLD's community service efforts will focus on children and children's services. She announced that the beneficiary of this year's Annual Signature Fundraiser will be Georgia Court Appointed Special Advocates, Inc. (Georgia CASA). She stated that she will encourage members of the Board of Governors to attend at least one YLD event at which she would like them to share with the young lawyers their experiences as leaders in their profession. She expressed that it is truly an honor to serve as the YLD President, and she looks forward to getting to know those Board of Governors members she has not yet had an opportunity to meet.

2016-17 Legislation Update

Jon Pannell reported on the legislative process for the 2016-17 Bar year. He referred the Board of Governors to the *Board Members Handbook* that has a section describing the Bar's legislative program and sets forth restrictions on establishing a legislative policy under Standing Board Policy 100. He introduced Christine Butcher, the Bar's new Director of Governmental Affairs effective July 1.

Military Legal Assistance Program (MLAP) Update

Eric Ballinger provided a report on the activities of the Military Legal Assistance Program.

Georgia Bar Foundation

Len Horton provided an update on the activities of the Georgia Bar Foundation and IOLTA.

Strategic Plan Update

President Pat O'Connor reported that he will continue to update the Board of Governors on the implementation of the Strategic Plan priorities. Since some of the priorities have been met, he announced that the Executive Committee will discuss reorganizing the priorities at its September meeting.

Executive Committee Minutes

The Board of Governors received copies of the minutes of the Executive Committee meeting held on April 15, 2016.

Office of the General Counsel

The Board of Governors received a written report on the activities of the Office of the General Counsel for Bar Year 2015-2016.

Insurance Committee

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

Consumer Assistance Program

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

Fee Arbitration Program

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

Law-Related Education Program

The Board of Governors received a written report on the activities of the Law-Related Education Program.

Law Practice Management Program

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

Committee to Promote Inclusion in the Profession

The Board of Governors received a written report on the activities of the Committee to Promote Inclusion in the Profession Committee.

Transition into Law Practice Program

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

Unlicensed Practice of Law

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

Committee on Professionalism

The Board of Governors received a written report on the activities of the Committee on Professionalism.

Chief Justice's Commission on Professionalism

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

Media Report

The Board of Governors received a copy of the 2015-16 Media Report.

Sections' Annual Reports

The Board of Governors received written reports on the activities of the following State Bar Sections: Aviation, Child Protection & Advocacy, Eminent Domain, Environmental Law, Family Law, Fiduciary Law, General Practice & Trial, Health Law, Intellectual Property Law, International Law, and Local Government Law.

Old Business

Pat O'Connor reported that the Board of Governors received a letter from Immediate Past President Bob Kauffman on what action the Bar will take concerning the constitutional amendment and enabling legislation reconstituting the Judicial Qualifications Commission (JQC). He stated that he is appointing a Task Force to formulate the Bar's

position on the legislation so as to provide the Bar with a cohesive and consistent voice. The initial list of members on the Task Force include Harold E. Franklin, Jr., Buck Rogers, Scott D. Delius, Hon. Horace Jerome Johnson, Jr., M. Pete Robinson, Dawn M. Jones, Eric A. Ballinger, and Dennis C. O'Brien.

While generally agreeing with the position taken by the Executive Committee, several Board of Governors members expressed concern about a lack of communication between the Executive Committee and the Board of Governors regarding the JQC issue, and disappointment that the Board of Governors was not allowed to have further input into how the JQC issue would be addressed. President Pat O'Connor stated that the Executive Committee will continue to improve communications with and have weigh-in by the Board of Governors. He hopes to have the Board's support in this effort.

New Business

There was no new business.

Remarks, Questions/Answers, Comments/Suggestions

The President opened up the meeting for questions and comments.

Adjournment

There being no further business, the meeting was adjourned.

Darrell L. Sutton, Secretary

Patrick T. O'Connor, President

State Bar of Georgia
Resolution Recognizing Chief Justice Hugh P. Thompson
for Outstanding Service to the Justice System
of the State of Georgia

WHEREAS, as Chief Justice of the Supreme Court of Georgia, the Honorable Hugh P. Thompson has rendered significant service to the justice system of the State of Georgia; and

WHEREAS, the Honorable Hugh P. Thompson is a native Georgian and a resident of Milledgeville, having received his undergraduate education from Emory University and Oglethorpe University and his law degree from the Walter F. George School of Law at Mercer University; and

WHEREAS, the Honorable Hugh P. Thompson was admitted to the State Bar of Georgia in 1970; and

WHEREAS, the Honorable Hugh P. Thompson gained valuable experience in private law practice while also serving as judge of both the Milledgeville City Court and Baldwin County Court (now known as the State Court); and

WHEREAS, the Honorable Hugh P. Thompson was appointed by Gov. George Busbee as Superior Court judge for the Ocmulgee Judicial Circuit in 1979 and was re-elected four times, serving 15 years in that office, including seven years as Chief Judge and one two-year term as President of the statewide Council of Superior Court Judges; and

WHEREAS, the Honorable Hugh P. Thompson was appointed by Gov. Zell Miller to the Supreme Court of Georgia on March 1, 1994, and was subsequently re-elected to consecutive six-year terms in 1994, 2000, 2006 and 2012; and

WHEREAS, the Honorable Hugh P. Thompson was elected by his colleagues as Chief Justice of the Supreme Court of Georgia in 2013; and

WHEREAS, in the course of his exemplary career, the Honorable Hugh P. Thompson has received many honors for service to the public and the justice system, including the 1994 Outstanding Alumnus Award from the Mercer University Law School, the 1993 Distinguished Service Award from the Baldwin County Bar Association, the 1988 Outstanding Public Service Award from the Milledgeville Kiwanis Club and the 1972 Distinguished Service Award from the Milledgeville Jaycees; and

WHEREAS, the Honorable Hugh P. Thompson has announced his retirement from the Supreme Court of Georgia, effective in January 2017; and

WHEREAS, the Board of Governors of the State Bar of Georgia is deeply appreciative of the numerous contributions of the Honorable Hugh P. Thompson to the rule of law, the justice system and the people of Georgia throughout his judicial career.

NOW THEREFORE BE IT RESOLVED, the State Bar of Georgia does formally recognize and express its appreciation to the Honorable Hugh P. Thompson for the strong working relationship between the Supreme Court of Georgia and the State Bar of Georgia, which has continued during his term as Chief Justice; and

BE IT FURTHER RESOLVED, the State Bar of Georgia wishes the Honorable Hugh P. Thompson and his family well in his years of retirement ahead.

Given this 21st day of October 2016.

Patrick T. O'Connor
President, State Bar of Georgia



Memorandum Concerning Proposed Rules Changes

Rule 1-501. License Fees.

This proposed rule change contains several stylistic housekeeping changes, as well as some substantive changes. The first substantive change is at the end of 1-501(b)(3). The purpose of this proposed change is to allow the Executive Committee to grant an extension of time to complete the requirements of subsection (b) for reinstatement as a member in good standing because of failure to pay annual dues. The member would have to demonstrate sufficient and reasonable cause for an extension.

Subsection (c), would allow an automatic termination of a member that has not paid dues for five consecutive years and removes the option of a hearing.

Subsection (d) addresses what is required to suspend a member for non-payment of dues and when a hearing may be requested. Another substantive change in this subsection states that financial hardship is not considered reasonable cause for non-payment of dues, with the exception of an adjudicated bankruptcy. Some of the proposed changes to subsection (d) are housekeeping changes and add clarity concerning suspension of a member for non-payment of dues.

Rule 1-501.1. License Fee – Late fee

The proposed changes to this rule are mainly housekeeping, non-substantive stylistic changes and other changes that provide clarity. However, the proposed changes include a substantive change that would allow the Executive Committee to waive any late fee imposed for non-payment of dues.

Rule 4-402. The Formal Advisory Opinion Board.

The proposed change to this rule, under subsection (b), adds a new subsection (10) which provide for the President to appoint a member of the Executive Committee to serve on the Formal Advisory Opinion Board as an active and voting member.

Rule 5.5. Unauthorized Practice of Law; Multijurisdictional Practice of Law

This proposed change to Rule 5.5 of the Georgia Rules of Professional Conduct adds a new section (l) that allows the State Bar to assess a \$100 late fee for lawyers that have been temporarily admitted to the practice of law in Georgia, *pro hac vice*, and failed to pay the annual renewal fee. For example, if a lawyer is temporarily

admitted *pro hac vice* in 2016, but the case is still ongoing in 2017, the lawyer would be required to pay the annual renewal fee of \$175 by January 15. Failure to pay the fee by January 15 would result in an additional late fee of \$100.

The proposed change also reminds a foreign or domestic lawyer, that has been admitted *pro hac vice*, they may be subject to discipline and prosecution under the unauthorized practice of law statutes of this state if they fail to pay the annual renewal and any applicable late fee.

There are several non-substantive stylistic changes to the Comments.

Rule 1-501.1. License Fees - Late Fee

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Any member who has not paid ~~his or her~~ their license fee for the Bar year, on or before August 1, shall be penalized in the amount of ~~seventy five dollars (\$75.00)~~, which will be added to the member's outstanding license fee. Any member who ~~is delinquent in his or her~~ has not paid their license fee on or after January 1 of each year shall be penalized ~~in the an~~ additional amount of ~~one hundred dollars (\$100)~~ for a total of ~~one hundred seventy five dollars (\$175)~~, which will be added to the member's outstanding license fee.

A member may submit a request for waiver of any late fees in writing to the Executive Committee of the State Bar of Georgia. Upon good cause shown, any late fee or penalty imposed by this Rule may be waived by a majority vote of the Executive Committee.

Rule 1-501.1. License Fees - Late Fee

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Any member who has not paid their license fee for the Bar year, on or before August 1, shall be penalized in the amount of \$75, which will be added to the member's outstanding license fee. Any member who has not paid their license fee on or after January 1 of each year shall be penalized an additional amount of \$100 for a total of \$175, which will be added to the member's outstanding license fee.

A member may submit a written request for waiver of any late fees in writing to the Executive Committee of the State Bar of Georgia. Upon good cause shown, any late fee or penalty imposed by this Rule may be waived by a majority vote of the Executive Committee.

Rule 1-501. License Fees

(a) Annual license fees for membership in the State Bar of Georgia shall be due and payable on July 1 of each year. Upon the failure of a member to pay the license fee by September 1, the member shall cease to be a member in good standing. When such license fees, including any late fees, costs, charges or penalties incurred by the State Bar of Georgia as the result of a cancelled or dishonored payment of any type or kind for the current and prior years have been paid in full, the member shall automatically be reinstated to the status of member in good standing, except as provided in section (b) of this Rule.

(b) In the event a member of the State Bar of Georgia is delinquent in the payment of any license fee, late fee, assessment, reinstatement fee, or cost, charge or penalty incurred by the State Bar of Georgia as a result of a cancelled or dishonored payment of any type or kind and of any nature for a period of one year, the member shall be automatically suspended, and shall not practice law in this state. The suspended member may thereafter lift such suspension only upon the successful completion of all of the following terms and conditions:

(1) payment of all outstanding dues, assessments, late fees, reinstatement fees, and any and all penalties due and owing before or accruing after the suspension of membership;

(2) provision to the membership section of the State Bar of Georgia of the following:

(i) a certificate from the Office of the General Counsel of the State Bar of Georgia that the suspended member is not presently subject to any disciplinary procedure;

(ii) a certificate from the Commission on Continuing Lawyer Competency that the suspended member is current on all requirements for continuing legal education; (iii) a determination of fitness from the Board to Determine Fitness of Bar Applicants;

(3) payment to the State Bar of Georgia of a non-waivable reinstatement fee as follows:

(i) ~~\$150.00~~ for the first reinstatement paid within the first year of suspension, plus ~~\$150.00~~ for each year of suspension thereafter up to a total of five years;

(ii) ~~\$250.00~~ for the second reinstatement paid within the first year of suspension, plus ~~\$250.00~~ for each year of suspension thereafter up to a total of five years;

(iii) ~~\$500.00~~ for the third reinstatement paid within the first year of suspension, plus ~~\$500.00~~ for each year of suspension thereafter up to a total of five years; or

(iv) ~~\$750.00~~ for each subsequent reinstatement paid within the first year of suspension, plus ~~\$750.00~~ for each year of suspension thereafter up to a total of five years.

The yearly increase in the reinstatement fee shall become due and owing in its entirety upon the first day of each next fiscal year and shall not be prorated for any fraction of the fiscal year in which it is actually paid.

A member that has been suspended pursuant to this Rule, may submit in writing to the Executive Committee, a request for an extension of time to complete any of the requirements contained in section (b). The request must state with particularity the reasons and need for the extension. The Executive Committee, upon sufficient and reasonable cause, may grant such an extension.

(c) A member suspended under subsection (b) above for a total of five years in succession shall be immediately terminated as a member without further action on the part of the State Bar of Georgia. The terminated member shall not be entitled to a hearing as set out in section (d) below. The terminated member shall be required to apply for membership to the Office of Bar Admissions for readmission to the State Bar of Georgia. Upon completion of the requirements for readmission, the terminated member shall be required to pay the total reinstatement

fee due under subsection (b) (3) above plus an additional \$750.00 as a readmission fee to the State Bar of Georgia.

(d) Prior to suspending a member under subsection (b) above, the State Bar of Georgia shall send by certified mail a notice thereof to the last known address of the member as contained in the official membership records. It shall specify the years for which the license fee is delinquent and state that unless either the fee and all penalties related thereto are paid within 60 days or a hearing to establish reasonable cause is requested within 60 days, the membership shall be suspended. If a hearing is requested, it shall be held at State Bar of Georgia Headquarters within 90 days of receipt of the request by the Executive Committee. Notice of time and place of the hearing shall be mailed at least ten days in advance. The party cited may be represented by counsel. Witnesses shall be sworn; and, if requested by the party cited, a complete electronic record or a transcript shall be made of all proceedings and testimony. The expense of the record shall be paid by the party requesting it, and a copy thereof shall be furnished to the Executive Committee. The presiding member or special master shall have the authority to rule on all motions, objections, and other matters presented in connection with the Georgia Rules of Civil Procedure, and the practice in the trial of civil cases. The party cited may not be required to testify over his or her objection.

The Executive Committee shall (1) make findings of fact and conclusions of law and shall determine whether the party cited was delinquent in violation of this Rule 1-501; and (2) upon a finding of delinquency shall determine whether there was reasonable cause for the delinquency. Financial hardship, short of adjudicated bankruptcy, shall not constitute reasonable cause. A copy of the findings and the determination shall be sent to the party cited. If it is determined that no delinquency has occurred, the matter shall be dismissed. If it is determined that delinquency has occurred but that there was reasonable cause therefor, the matter shall be deferred for one year at which time the matter will be reconsidered. If it is determined that delinquency has occurred without reasonable cause therefor, the membership shall be suspended immediately upon such determination. An appropriate notice of suspension shall be sent to the clerks of all Georgia courts and shall be published in an official publication of the State Bar of Georgia. Alleged errors of law in the proceedings or findings of the Executive Committee

or its delegate shall be reviewed by the Supreme Court. The Executive Committee may delegate to a special master any or all of its responsibilities and authority with respect to suspending membership for license fee delinquency in which event the special master shall make a report to the Committee of its findings for its approval or disapproval.

After a finding of delinquency, a copy of the finding shall be served upon the respondent attorney. The respondent attorney may file with the Court any written exceptions (supported by the written argument) said respondent may have to the findings of the Executive Committee. All such exceptions shall be filed with the Clerk of the Supreme Court of Georgia and served on the Executive Committee by service on the General Counsel within 20 days of the date that the findings were served on the respondent attorney. Upon the filing of exceptions by the respondent attorney, the Executive Committee shall within 20 days of said filing, file a report of its findings and the complete record and transcript of evidence with the Clerk of the Supreme Court of Georgia. The Supreme Court of Georgia may grant extensions of time for filing in appropriate cases. Findings of fact by the Executive Committee shall be conclusive if supported by any evidence. The Supreme Court of Georgia may grant oral argument on any exception filed with it upon application for such argument by the respondent attorney or the Executive Committee. The Supreme Court of Georgia shall promptly consider the report of the Executive Committee, exceptions thereto, and the responses filed by any party to such exceptions, if any, and enter its judgement judgment. A copy of the Supreme Court of Georgia's judgement judgment shall be transmitted to the Executive Committee and to the respondent attorney by the Supreme Court of Georgia.

Within 30 days after a final judgement judgment which suspends membership, the suspended member shall, under the supervision of the Supreme Court of Georgia, notify all clients of said suspended member's inability to represent them and of the necessity for promptly retaining new counsel, and shall take all actions necessary to protect the interests of said suspended member's clients. Should the suspended member fail to notify said clients or fail to protect their interests as herein required, the Supreme Court of Georgia, upon its motion, or upon the motion of the State Bar of Georgia, and after ten days notice to the suspended member and proof of failure to notify or protect said clients, may hold

the suspended member in contempt and order that a member or members of the State Bar of Georgia take charge of the files and records of said suspended member and proceed to notify all clients and take such steps as seem indicated to protect their interests. Any member of the State Bar of Georgia appointed by the Supreme Court of Georgia to take charge of the files and records of the suspended member under these Rules shall not be permitted to disclose any information contained in the files and records in his or her care without the consent of the client to whom such file or record relates, except as clearly necessary to carry out the order of the Supreme Court of Georgia.

Rule 1-501. License Fees

(a) Annual license fees for membership in the State Bar of Georgia shall be due and payable on July 1 of each year. Upon the failure of a member to pay the license fee by September 1, the member shall cease to be a member in good standing. When such license fees, including any late fees, costs, charges or penalties incurred by the State Bar of Georgia as the result of a cancelled or dishonored payment of any type or kind for the current and prior years have been paid in full, the member shall automatically be reinstated to the status of member in good standing, except as provided in section (b) of this Rule.

(b) In the event a member of the State Bar of Georgia is delinquent in the payment of any license fee, late fee, assessment, reinstatement fee, or cost, charge or penalty incurred by the State Bar of Georgia as a result of a cancelled or dishonored payment of any type or kind and of any nature for a period of one year, the member shall be automatically suspended, and shall not practice law in this state. The suspended member may thereafter lift such suspension only upon the successful completion of all of the following terms and conditions:

(1) payment of all outstanding dues, assessments, late fees, reinstatement fees, and any and all penalties due and owing before or accruing after the suspension of membership;

(2) provision to the membership section of the State Bar of Georgia of the following:

(i) a certificate from the Office of the General Counsel of the State Bar of Georgia that the suspended member is not presently subject to any disciplinary procedure;

(ii) a certificate from the Commission on Continuing Lawyer Competency that the suspended member is current on all requirements for continuing legal education; (iii) a determination of fitness from the Board to Determine Fitness of Bar Applicants;

(3) payment to the State Bar of Georgia of a non-waivable reinstatement fee as follows:

- (i) \$150 for the first reinstatement paid within the first year of suspension, plus \$150 for each year of suspension thereafter up to a total of five years;
- (ii) \$250 for the second reinstatement paid within the first year of suspension, plus \$250 for each year of suspension thereafter up to a total of five years;
- (iii) \$500 for the third reinstatement paid within the first year of suspension, plus \$500 for each year of suspension thereafter up to a total of five years; or
- (iv) \$750 for each subsequent reinstatement paid within the first year of suspension, plus \$750 for each year of suspension thereafter up to a total of five years.

The yearly increase in the reinstatement fee shall become due and owing in its entirety upon the first day of each next fiscal year and shall not be prorated for any fraction of the fiscal year in which it is actually paid.

A member that has been suspended pursuant to this Rule, may submit in writing to the Executive Committee, a request for an extension of time to complete any of the requirements contained in section (b). The request must state with particularity the reasons and need for the extension. The Executive Committee, upon sufficient and reasonable cause, may grant such an extension.

(c) A member suspended under subsection (b) above for a total of five years in succession shall be immediately terminated as a member without further action on the part of the State Bar of Georgia. The terminated member shall not be entitled to a hearing as set out in section (d) below. The terminated member shall be required to apply for membership to the Office of Bar Admissions for readmission to the State Bar of Georgia. Upon completion of the requirements for readmission, the terminated member shall be required to pay the total reinstatement

fee due under subsection (b) (3) above plus an additional \$750 as a readmission fee to the State Bar of Georgia.

(d) Prior to suspending a member under subsection (b) above, the State Bar of Georgia shall send by certified mail a notice thereof to the last known address of the member as contained in the official membership records. It shall specify the years for which the license fee is delinquent and state that unless either the fee and all penalties related thereto are paid within 60 days or a hearing to establish reasonable cause is requested within 60 days, the membership shall be suspended. If a hearing is requested, it shall be held at State Bar of Georgia Headquarters within 90 days of receipt of the request by the Executive Committee. Notice of time and place of the hearing shall be mailed at least ten days in advance. The party cited may be represented by counsel. Witnesses shall be sworn; and, if requested by the party cited, a complete electronic record or a transcript shall be made of all proceedings and testimony. The expense of the record shall be paid by the party requesting it, and a copy thereof shall be furnished to the Executive Committee. The presiding member or special master shall have the authority to rule on all motions, objections, and other matters presented in connection with the Georgia Rules of Civil Procedure, and the practice in the trial of civil cases. The party cited may not be required to testify over his or her objection.

The Executive Committee shall (1) make findings of fact and conclusions of law and shall determine whether the party cited was delinquent in violation of this Rule 1-501; and (2) upon a finding of delinquency shall determine whether there was reasonable cause for the delinquency. Financial hardship, short of adjudicated bankruptcy, shall not constitute reasonable cause. A copy of the findings and the determination shall be sent to the party cited. If it is determined that no delinquency has occurred, the matter shall be dismissed. If it is determined that delinquency has occurred but that there was reasonable cause therefor, the matter shall be deferred for one year at which time the matter will be reconsidered. If it is determined that delinquency has occurred without reasonable cause therefor, the membership shall be suspended immediately upon such determination. An appropriate notice of suspension shall be sent to the clerks of all Georgia courts and shall be published in an official publication of the State Bar of Georgia. Alleged errors of law in the proceedings or findings of the Executive Committee

or its delegate shall be reviewed by the Supreme Court. The Executive Committee may delegate to a special master any or all of its responsibilities and authority with respect to suspending membership for license fee delinquency in which event the special master shall make a report to the Committee of its findings for its approval or disapproval.

After a finding of delinquency, a copy of the finding shall be served upon the respondent attorney. The respondent attorney may file with the Court any written exceptions (supported by the written argument) said respondent may have to the findings of the Executive Committee. All such exceptions shall be filed with the Clerk of the Supreme Court of Georgia and served on the Executive Committee by service on the General Counsel within 20 days of the date that the findings were served on the respondent attorney. Upon the filing of exceptions by the respondent attorney, the Executive Committee shall within 20 days of said filing, file a report of its findings and the complete record and transcript of evidence with the Clerk of the Supreme Court of Georgia. The Supreme Court of Georgia may grant extensions of time for filing in appropriate cases. Findings of fact by the Executive Committee shall be conclusive if supported by any evidence. The Supreme Court of Georgia may grant oral argument on any exception filed with it upon application for such argument by the respondent attorney or the Executive Committee. The Supreme Court of Georgia shall promptly consider the report of the Executive Committee, exceptions thereto, and the responses filed by any party to such exceptions, if any, and enter its judgment. A copy of the Supreme Court of Georgia's judgment shall be transmitted to the Executive Committee and to the respondent attorney by the Supreme Court of Georgia.

Within 30 days after a final judgment which suspends membership, the suspended member shall, under the supervision of the Supreme Court of Georgia, notify all clients of said suspended member's inability to represent them and of the necessity for promptly retaining new counsel, and shall take all actions necessary to protect the interests of said suspended member's clients. Should the suspended member fail to notify said clients or fail to protect their interests as herein required, the Supreme Court of Georgia, upon its motion, or upon the motion of the State Bar of Georgia, and after ten days notice to the suspended member and proof of failure to notify or protect said clients, may hold the suspended member in contempt and order that a member or members of

the State Bar of Georgia take charge of the files and records of said suspended member and proceed to notify all clients and take such steps as seem indicated to protect their interests. Any member of the State Bar of Georgia appointed by the Supreme Court of Georgia to take charge of the files and records of the suspended member under these Rules shall not be permitted to disclose any information contained in the files and records in his or her care without the consent of the client to whom such file or record relates, except as clearly necessary to carry out the order of the Supreme Court of Georgia.

Rule 4-402. The Formal Advisory Opinion Board.

(a) The Formal Advisory Opinion Board shall consist only of active members of the State Bar of Georgia who shall be appointed by the President of the State Bar of Georgia, with the approval of the Board of Governors of the State Bar of Georgia.

(b) The members of the Formal Advisory Opinion Board shall be selected as follows:

- (1) Five members of the State Bar of Georgia at-large;
- (2) One member of the Georgia Trial Lawyers Association
- (3) One member of the Georgia Defense Lawyers Association;
- (4) One member of the Georgia Association of Criminal Defense Lawyers
- (5) One member of the Young Lawyers Division of the State Bar of Georgia;
- (6) One member of the Georgia District Attorneys Association.
- (7) One member of the faculty of each American Bar Association Accredited Law School operating within the State of Georgia;
- (8) One member of the Investigative Panel of the State Disciplinary Board; and
- (9) One member of the Review Panel of the State Disciplinary Board.
- (10) [One member of the Executive Committee of the State Bar of Georgia.](#)

(c) All members shall be appointed for terms of two years subject to the following exceptions:

(1) Any person appointed to fill a vacancy occasioned by resignation, death, disqualification, or disability shall serve only for the unexpired term of the member replaced unless reappointed;

(2) The members appointed from the Investigative Panel, ~~and~~ Review Panel of the State Disciplinary Board [and Executive Committee](#) shall serve for a term of one year;

(3) The terms of the current members of the Formal Advisory Opinion Board will terminate at the Annual Meeting of the State Bar of Georgia following the amendment of this Rule regardless of the length of each member's current term; thereafter all appointments will be as follows to achieve staggered, two-year terms:

(i) Three of the initial Association members (including the Georgia Trial Lawyers Association, the Georgia Association of Defense Lawyers, the Georgia Association of Criminal Defense Lawyers, the Georgia District Attorneys Association and the Young Lawyers Division of the State Bar of Georgia) shall be appointed to one-year terms; two of the initial Association members shall be appointed to two-year terms. As each initial term expires, the successor appointee shall be appointed for a term of two years;

(ii) Two of the initial members appointed from the State Bar of Georgia at-large (the "At-Large Members") shall be appointed to one-year terms; three of the initial At-Large Members shall be appointed to two-year terms. As each initial term expires, the successor appointee shall be appointed for a term of two years;

(iii) Two of the initial Representatives from the American Bar Association Accredited Law Schools shall be appointed to one-year terms; two of the initial law school representatives shall be appointed to two-year terms. As each initial term expires, the successor appointee shall be appointed for a term of two years;

(4) All members shall be eligible for immediate reappointment to one additional two-year term, unless the President of the State Bar of Georgia, with approval of the Board of Governors of the State Bar of Georgia, deems it appropriate to reappoint a member for one or more additional terms.

(d) The Formal Advisory Opinion Board shall annually elect a chairperson and such other officers as it may deem proper at the first meeting of the Formal Advisory Opinion Board after July 1 of each year.

(e) The Formal Advisory Opinion Board shall have the authority to prescribe its own rules of conduct and procedure.

Rule 4-402. The Formal Advisory Opinion Board.

(a) The Formal Advisory Opinion Board shall consist only of active members of the State Bar of Georgia who shall be appointed by the President of the State Bar of Georgia, with the approval of the Board of Governors of the State Bar of Georgia.

(b) The members of the Formal Advisory Opinion Board shall be selected as follows:

- (1) Five members of the State Bar of Georgia at-large;
- (2) One member of the Georgia Trial Lawyers Association
- (3) One member of the Georgia Defense Lawyers Association;
- (4) One member of the Georgia Association of Criminal Defense Lawyers
- (5) One member of the Young Lawyers Division of the State Bar of Georgia;
- (6) One member of the Georgia District Attorneys Association.
- (7) One member of the faculty of each American Bar Association Accredited Law School operating within the State of Georgia;
- (8) One member of the Investigative Panel of the State Disciplinary Board; and
- (9) One member of the Review Panel of the State Disciplinary Board.
- (10) One member of the Executive Committee of the State Bar of Georgia.

(c) All members shall be appointed for terms of two years subject to the following exceptions:

- (1) Any person appointed to fill a vacancy occasioned by resignation, death, disqualification, or disability shall serve only for the unexpired term of the member replaced unless reappointed;
- (2) The members appointed from the Investigative Panel, Review Panel of the State Disciplinary Board and Executive Committee shall serve for a term of one year;
- (3) The terms of the current members of the Formal Advisory Opinion Board will terminate at the Annual Meeting of the State Bar of Georgia following the amendment of this Rule regardless of the length of each member's current term; thereafter all appointments will be as follows to achieve staggered, two-year terms:

(i) Three of the initial Association members (including the Georgia Trial Lawyers Association, the Georgia Association of Defense Lawyers, the Georgia Association of Criminal Defense Lawyers, the Georgia District Attorneys Association and the Young Lawyers Division of the State Bar of Georgia) shall be appointed to one-year terms; two of the initial Association members shall be appointed to two-year terms. As each initial term expires, the successor appointee shall be appointed for a term of two years;

(ii) Two of the initial members appointed from the State Bar of Georgia at-large (the "At-Large Members") shall be appointed to one-year terms; three of the initial At-Large Members shall be appointed to two-year terms. As each initial term expires, the successor appointee shall be appointed for a term of two years;

(iii) Two of the initial Representatives from the American Bar Association Accredited Law Schools shall be appointed to one-year terms; two of the initial law school representatives shall be appointed to two-year terms. As each initial term expires, the successor appointee shall be appointed for a term of two years;

(4) All members shall be eligible for immediate reappointment to one additional two-year term, unless the President of the State Bar of Georgia, with approval of the Board of Governors of the State Bar of Georgia, deems it appropriate to reappoint a member for one or more additional terms.

(d) The Formal Advisory Opinion Board shall annually elect a chairperson and such other officers as it may deem proper at the first meeting of the Formal Advisory Opinion Board after July 1 of each year.

(e) The Formal Advisory Opinion Board shall have the authority to prescribe its own rules of conduct and procedure.

RULE 5.5: UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

(b) A Domestic Lawyer shall not:

(1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the Domestic Lawyer is admitted to practice law in this jurisdiction.

(c) A Domestic Lawyer, who is not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:

(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the Domestic Lawyer, or a person the Domestic Lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;

(3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the Domestic Lawyer's practice in a jurisdiction in which the Domestic Lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission; or

(4) are not within paragraphs (c) (2) or (c) (3) and arise out of or are reasonably related to the Domestic Lawyer's practice in a jurisdiction in which the Domestic Lawyer is admitted to practice.

(d) A Domestic Lawyer, who is not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that:

(1) are provided to the Domestic Lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission; or

(2) are services that the Domestic Lawyer is authorized to provide by federal law or other law of this jurisdiction.

(e) A Foreign Lawyer shall not, except as authorized by this Rule or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law, or hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. Such a Foreign Lawyer does not engage in the unauthorized practice of law in this jurisdiction when on a temporary basis the Foreign Lawyer performs services in this jurisdiction that:

(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(2) are in or reasonably related to a pending or potential proceeding before a tribunal held or to be held in a jurisdiction outside the United States if the Foreign Lawyer, or a person the Foreign Lawyer is assisting, is authorized by law or by order of the tribunal to appear in such proceeding or reasonably expects to be so authorized;

(3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceedings held or to be held in this or another jurisdiction, if the services arise out of or are reasonably related to the Foreign Lawyer's practice in a jurisdiction in which the Foreign Lawyer is admitted to practice;

(4) are not within paragraphs (2) or (3) and

(i) are performed for a client who resides or has an office in a jurisdiction in which the Foreign Lawyer is authorized to practice to the extent of that authorization; or

(ii) arise out of or are reasonably related to a matter that has a substantial connection to a jurisdiction in which the lawyer is authorized to practice to the extent of that authorization; or

(iii) are governed primarily by international law or the law of a non-United States jurisdiction.

(f) A Foreign Lawyer who is not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction subject to the following conditions:

(1) The services are provided to the Foreign Lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission; and

(2) The Foreign Lawyer is and remains in this country in lawful immigration status and complies with all relevant provisions of United States immigration laws.

(g) For purposes of the grants of authority found in (e) and (f) above, the Foreign Lawyer must be a member in good standing of a recognized legal profession in a foreign jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and subject to effective regulation and discipline by a duly constituted professional body or a public authority.

(h) A person who is not a member of the State Bar of Georgia, but who is allowed to practice law in Georgia on a limited basis pursuant to Supreme Court of Georgia Rules Part XXI, Rule 121, Provision Of Legal Services Following Determination Of Major Disaster, may provide legal services in this state to the extent allowed by said Rule.

(i) A person who is not a member of the State Bar of Georgia, but who is allowed to practice law in Georgia on a limited basis pursuant to Supreme Court of Georgia Rules Part XV, Rules 91-95, Student Practice Rule, may provide legal services in this state to the extent allowed by said Rule.

(j) A person who is not a member of the State Bar of Georgia, but who is allowed to practice law in Georgia on a limited basis pursuant to Supreme Court of Georgia Rules Part XVI, Rules 97-103, Law School Graduates, may provide legal services in this state to the extent allowed by said Rule.

(k) A person who is not a member of the State Bar of Georgia, but who is allowed to practice law in Georgia on a limited basis pursuant to Supreme Court of Georgia Rules Part XX, Rules 114-120, Extended Public Service Program, may provide legal services in this state to the extent allowed by said Rule.

(l) Any domestic or foreign lawyer that has been admitted to the practice of law in Georgia pro hac vice, pursuant to the Uniform Rules of the various classes of courts in Georgia, shall pay all required fees and costs annually as set forth in those Rules. Failure to pay the annual fee by January 15 of each year of admission pro hac vice, will result in a late fee of \$100 that must be paid no later than March 1 of that year. Failure to pay the annual fees may result in disciplinary action, and said lawyer may be subject to prosecution under the unauthorized practice of law statutes of this state.

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

Comment

[1] A lawyer may practice law only in a jurisdiction in which the lawyer is authorized to practice. A lawyer may be admitted to practice law in a jurisdiction on a regular basis or may be authorized by court rule or order or by law to practice for a limited purpose or on a restricted basis. Paragraph (a) applies to unauthorized practice of law by a lawyer, whether through the lawyer's direct action or by the lawyer assisting another person.

[2] The definition of the practice of law is established by law and varies from one jurisdiction to another. Whatever the definition, limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons. This Rule does not prohibit a lawyer from employing the services of paraprofessionals and delegating functions to them, so long as the lawyer supervises the delegated work and retains responsibility for their work. See Rule 5.3.

[3] A lawyer may provide professional advice and instruction to nonlawyers whose employment requires knowledge of the law; for example, claims adjusters, employees of financial or commercial institutions, social workers, accountants and persons employed in government agencies. Lawyers also may assist independent nonlawyers, such as paraprofessionals, who are authorized by the law of a jurisdiction to provide particular law-related services. In addition, a lawyer may counsel nonlawyers who wish to proceed pro se.

[4] Other than as authorized by law or this Rule, a Domestic Lawyer violates paragraph (b) and a Foreign Lawyer violates paragraph (e) if the Domestic or Foreign Lawyer establishes an office or other systematic and continuous presence in this jurisdiction for the practice of law. Presence may be systematic and continuous even if the Domestic or Foreign Lawyer is not physically present here. Such Domestic or Foreign Lawyer must not hold out to the public or otherwise represent that the Domestic or Foreign Lawyer is admitted to practice law in this jurisdiction. See also Rules 7.1(a) and 7.5(b).

[5] There are occasions in which a Domestic or Foreign Lawyer, who is not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction under circumstances that do not create an unreasonable risk to the interests of their clients, the public or the courts. Paragraph (c) identifies four such circumstances for the Domestic Lawyer. Paragraph (e) identifies four such circumstances for the Foreign Lawyer. The fact that conduct is not so identified does not imply that the conduct is or is not authorized. With the exception of paragraphs (d)(1) and (d)(2), this Rule does not authorize a Domestic Lawyer to establish an office or other systematic and continuous presence in this jurisdiction without being admitted to practice generally here.

[6] There is no single test to determine whether a Domestic or Foreign Lawyer's services are provided on a "temporary basis" in this jurisdiction, and may therefore be permissible under paragraph (c) or paragraph (e). Services may be "temporary" even though the Domestic or Foreign Lawyer provides services in this jurisdiction on a recurring basis, or for an extended period of time, as when the Domestic Lawyer is representing a client in a single lengthy negotiation or litigation.

[7] Paragraphs (c) and (d) apply to Domestic Lawyers. Paragraphs (e), (f) and (g) apply to Foreign Lawyers. Paragraphs (c) and (e) contemplate that the Domestic or Foreign Lawyer is authorized to practice in the jurisdiction in which the Domestic or Foreign Lawyer is admitted and excludes a Domestic or Foreign Lawyer who while technically admitted is not authorized to practice, because, for example, the Domestic or Foreign Lawyer is on inactive status.

[8] Paragraph (c)(1) recognizes that the interests of clients and the public are protected if a Domestic Lawyer associates with a lawyer licensed to practice in this jurisdiction. Paragraph (e) (1) recognizes that the interests of clients and the public are protected if a Foreign Lawyer associates with a lawyer licensed to practice in this jurisdiction. For these paragraphs to apply, however, the lawyer admitted to practice in this jurisdiction must actively participate in and share responsibility for the representation of the client.

[9] Domestic Lawyers not admitted to practice generally in a jurisdiction may be authorized by law or order of a tribunal or an administrative agency to appear before the tribunal or agency. This authority may be granted pursuant to formal rules governing admission pro hac vice or pursuant to informal practice of the tribunal or agency. Under paragraph (c)(2), a Domestic Lawyer does not violate this Rule when the Domestic Lawyer appears before a tribunal or agency pursuant to such authority. To the extent that a court rule or other law of this jurisdiction requires a Domestic Lawyer to obtain admission pro hac vice before appearing before a tribunal or administrative agency, this Rule requires the Domestic Lawyer to obtain that authority.

[10] Paragraph (c)(2) also provides that a Domestic Lawyer rendering services in this jurisdiction on a temporary basis does not violate this Rule when the Domestic Lawyer engages in conduct in anticipation of a proceeding or hearing in a jurisdiction in which the Domestic Lawyer is authorized to practice law or in which the Domestic Lawyer reasonably expects to be admitted pro hac vice. Examples of such conduct include meetings with the client, interviews of potential witnesses, and the review of documents. Similarly, a Domestic Lawyer may engage in conduct temporarily in this jurisdiction in connection with pending litigation in another jurisdiction in which the Domestic Lawyer is or reasonably expects to be authorized to appear, including taking depositions in this jurisdiction.

[11] When a Domestic Lawyer has been or reasonably expects to be admitted to appear before a court or administrative agency, paragraph (c)(2) also permits conduct by lawyers who are associated with that lawyer in the matter, but who do not expect to appear before the court or administrative agency. For example, subordinate Domestic Lawyers may conduct research, review documents, and attend meetings with witnesses in support of the Domestic Lawyer responsible for the litigation.

[12] Paragraph (c)(3) permits a Domestic Lawyer, and paragraph (e)(3) permits a Foreign Lawyer, to perform services on a temporary basis in this jurisdiction if those services are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the Domestic or Foreign Lawyer's practice in a jurisdiction in which the Domestic or Foreign Lawyer is admitted to practice. The Domestic Lawyer, however, must obtain admission pro hac vice in the case of a court-annexed arbitration or mediation or otherwise if court rules or law so requires.

[13] Paragraph (c)(4) permits a Domestic Lawyer to provide certain legal services on a temporary basis in this jurisdiction that arise out of or are reasonably related to the Domestic Lawyer's practice in a jurisdiction in which the Domestic Lawyer is admitted but are not within paragraphs (c)(2) or (c)(3). These services include both legal services and services that nonlawyers may perform but that are considered the practice of law when performed by lawyers. Paragraph (e)(4)(i) permits a Foreign Lawyer to provide certain legal services in this jurisdiction on behalf of a client who resides or has an office in the jurisdiction in which the Foreign Lawyer is authorized to practice. Paragraph (e)(4)(ii) permits a Foreign Lawyer to provide certain legal services on a temporary basis in this jurisdiction that arise out of or are reasonably related to a matter that has a substantial connection to the jurisdiction in which the Foreign Lawyer is authorized to practice. These services include both legal services and services that nonlawyers may perform but that are considered the practice of law when performed by lawyers.

[14] Paragraphs (c)(3) and (c)(4) require that the services arise out of or be reasonably related to the Domestic Lawyer's practice in a jurisdiction in which the Domestic Lawyer is admitted. Paragraphs (e)(3) and (e)(4)(ii) require that the services arise out of or be reasonably related to the Foreign Lawyer's practice in a jurisdiction in which the Foreign Lawyer is admitted to practice. A variety of factors may evidence such a relationship. These include but are not limited to the following:

- a. The Domestic or Foreign Lawyer's client may have been previously represented by the Domestic or Foreign Lawyer; or
- b. The Domestic or Foreign Lawyer's client may be resident in, have an office in, or have substantial contacts with the jurisdiction in which the Domestic or Foreign Lawyer is admitted; or
- c. The matter, although involving other jurisdictions, may have a significant connection with that jurisdiction in which the Domestic or Foreign Lawyer is admitted; or

d. Significant aspects of the Domestic or Foreign Lawyer's work in a specific matter might be conducted in the jurisdiction in which the Domestic or Foreign Lawyer is admitted or another jurisdiction; or

e. A significant aspect of a matter may involve the law of the jurisdiction in which the Domestic or Foreign Lawyer is admitted; or

f. Some aspect of the matter may be governed by international law or the law of a non-United State jurisdiction; or

g. The Lawyer's work on the specific matter in this jurisdiction is authorized by the jurisdiction in which the lawyer is admitted; or

h. The client's activities or the legal issues involve multiple jurisdictions, such as when the officers of a multinational corporation survey potential business sites and seek the services of their Domestic or Foreign Lawyer in assessing the relative merits of each; or

i. The services may draw on the Domestic or Foreign Lawyer's recognized expertise developed through the regular practice of law on behalf of clients in matters involving a particular body of federal, nationally-uniform, foreign, or international law.

[15] Paragraph (d) identifies two circumstances in which a Domestic Lawyer, who is not disbarred or suspended from practice in any jurisdiction, may establish an office or other systematic and continuous presence in this jurisdiction for the practice of law as well as provide legal services on a temporary basis. Except as provided in paragraphs (d)(1) and (d)(2), a Domestic Lawyer who establishes an office or other systematic or continuous presence in this jurisdiction must become admitted to practice law generally in this jurisdiction.

[16] Paragraph (d)(1) applies to a Domestic Lawyer who is employed by a client to provide legal services to the client or its organizational affiliates, i.e., entities that control, are controlled by, or are under common control with the employer. This paragraph does not authorize the provision of personal legal services to the employer's officers or employees. The paragraph applies to in-house corporate lawyers, government lawyers and others who are employed to render legal services to the employer. The Domestic Lawyer's ability to represent the employer outside the jurisdiction in which the Domestic Lawyer is licensed generally serves the interests of the employer and does not create an unreasonable risk to the client and others because the employer is well situated to assess the Domestic Lawyer's qualifications and the quality of the Domestic Lawyer's work.

[17] If an employed Domestic Lawyer establishes an office or other systematic presence in this jurisdiction for the purpose of rendering legal services to the employer, the Domestic Lawyer may be subject to registration or other requirements, including assessments for client protection funds and mandatory continuing legal education.

[18] Paragraph (d)(2) recognizes that a Domestic Lawyer may provide legal services in a jurisdiction in which the Domestic Lawyer is not licensed when authorized to do so by federal or other law, which includes statute, court rule, executive regulation or judicial precedent. Paragraph (e)(4)(iii) recognizes that a Foreign Lawyer may provide legal services when the services provided are governed by international law or the law of a foreign jurisdiction.

[19] A Domestic or Foreign Lawyer who practices law in this jurisdiction pursuant to paragraphs (c), (d), (e) or (f) or otherwise is subject to the disciplinary authority of this jurisdiction. See Rule 8.5(a).

[20] In some circumstances, a Domestic Lawyer who practices law in this jurisdiction pursuant to paragraphs (c) or (d) may have to inform the client that the Domestic Lawyer is not licensed to practice law in this jurisdiction. For example, that may be required when the representation occurs primarily in this jurisdiction and requires knowledge of the law of this jurisdiction. See Rule 1.4.

[21] Paragraphs (c), (d), (e) and (f) do not authorize communications advertising legal services to prospective clients in this jurisdiction by Domestic or Foreign Lawyers who are admitted to practice in other jurisdictions. Whether and how Domestic or Foreign Lawyers may communicate the availability of their services to prospective clients in this jurisdiction is governed by Rules 7.1 to 7.5.

RULE 5.5: UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

(b) A Domestic Lawyer shall not:

(1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the Domestic Lawyer is admitted to practice law in this jurisdiction.

(c) A Domestic Lawyer, who is not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:

(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the Domestic Lawyer, or a person the Domestic Lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;

(3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the Domestic Lawyer's practice in a jurisdiction in which the Domestic Lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission; or

(4) are not within paragraphs (c) (2) or (c) (3) and arise out of or are reasonably related to the Domestic Lawyer's practice in a jurisdiction in which the Domestic Lawyer is admitted to practice.

(d) A Domestic Lawyer, who is not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that:

(1) are provided to the Domestic Lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission; or

(2) are services that the Domestic Lawyer is authorized to provide by federal law or other law of this jurisdiction.

(e) A Foreign Lawyer shall not, except as authorized by this Rule or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law, or hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. Such a Foreign Lawyer does not engage in the unauthorized practice of law in this jurisdiction when on a temporary basis the Foreign Lawyer performs services in this jurisdiction that:

(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(2) are in or reasonably related to a pending or potential proceeding before a tribunal held or to be held in a jurisdiction outside the United States if the Foreign Lawyer, or a person the Foreign Lawyer is assisting, is authorized by law or by order of the tribunal to appear in such proceeding or reasonably expects to be so authorized;

(3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceedings held or to be held in this or another jurisdiction, if the services arise out of or are reasonably related to the Foreign Lawyer's practice in a jurisdiction in which the Foreign Lawyer is admitted to practice;

(4) are not within paragraphs (2) or (3) and

(i) are performed for a client who resides or has an office in a jurisdiction in which the Foreign Lawyer is authorized to practice to the extent of that authorization; or

(ii) arise out of or are reasonably related to a matter that has a substantial connection to a jurisdiction in which the lawyer is authorized to practice to the extent of that authorization; or

(iii) are governed primarily by international law or the law of a non-United States jurisdiction.

(f) A Foreign Lawyer who is not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction subject to the following conditions:

(1) The services are provided to the Foreign Lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission; and

(2) The Foreign Lawyer is and remains in this country in lawful immigration status and complies with all relevant provisions of United States immigration laws.

(g) For purposes of the grants of authority found in (e) and (f) above, the Foreign Lawyer must be a member in good standing of a recognized legal profession in a foreign jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and subject to effective regulation and discipline by a duly constituted professional body or a public authority.

(h) A person who is not a member of the State Bar of Georgia, but who is allowed to practice law in Georgia on a limited basis pursuant to Supreme Court of Georgia Rules Part XXI, Rule 121, Provision Of Legal Services Following Determination Of Major Disaster, may provide legal services in this state to the extent allowed by said Rule.

(i) A person who is not a member of the State Bar of Georgia, but who is allowed to practice law in Georgia on a limited basis pursuant to Supreme Court of Georgia Rules Part XV, Rules 91-95, Student Practice Rule, may provide legal services in this state to the extent allowed by said Rule.

(j) A person who is not a member of the State Bar of Georgia, but who is allowed to practice law in Georgia on a limited basis pursuant to Supreme Court of Georgia Rules Part XVI, Rules 97-103, Law School Graduates, may provide legal services in this state to the extent allowed by said Rule.

(k) A person who is not a member of the State Bar of Georgia, but who is allowed to practice law in Georgia on a limited basis pursuant to Supreme Court of Georgia Rules Part XX, Rules 114-120, Extended Public Service Program, may provide legal services in this state to the extent allowed by said Rule.

(l) Any domestic or foreign lawyer that has been admitted to the practice of law in Georgia *pro hac vice*, pursuant to the Uniform Rules of the various classes of courts in Georgia, shall pay all required fees and costs annually as set forth in those Rules. Failure to pay the annual fee by January 15 of each year of admission *pro hac vice*, will result in a late fee of \$100 that must be paid no later than March 1 of that year. Failure to pay the annual fees may result in disciplinary action, and said lawyer may be subject to prosecution under the unauthorized practice of law statutes of this state.

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

Comment

[1] A lawyer may practice law only in a jurisdiction in which the lawyer is authorized to practice. A lawyer may be admitted to practice law in a jurisdiction on a regular basis or may be authorized by court rule or order or by law to practice for a limited purpose or on a restricted basis. Paragraph (a) applies to unauthorized practice of law by a lawyer, whether through the lawyer's direct action or by the lawyer assisting another person.

[2] The definition of the practice of law is established by law and varies from one jurisdiction to another. Whatever the definition, limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons. This Rule does not prohibit a lawyer from employing the services of paraprofessionals and delegating functions to them, so long as the lawyer supervises the delegated work and retains responsibility for their work. See Rule 5.3.

[3] A lawyer may provide professional advice and instruction to nonlawyers whose employment requires knowledge of the law; for example, claims adjusters, employees of financial or commercial institutions, social workers, accountants and persons employed in government agencies. Lawyers also may assist independent nonlawyers, such as paraprofessionals, who are authorized by the law of a jurisdiction to provide particular law-related services. In addition, a lawyer may counsel nonlawyers who wish to proceed *pro se*.

[4] Other than as authorized by law or this Rule, a Domestic Lawyer violates paragraph (b) and a Foreign Lawyer violates paragraph (e) if the Domestic or Foreign Lawyer establishes an office or other systematic and continuous presence in this jurisdiction for the practice of law. Presence may be systematic and continuous even if the Domestic or Foreign Lawyer is not physically present here. Such Domestic or Foreign Lawyer must not hold out to the public or otherwise represent that the Domestic or Foreign Lawyer is admitted to practice law in this jurisdiction. See also Rules 7.1 (a) and 7.5 (b).

[5] There are occasions in which a Domestic or Foreign Lawyer, who is not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction under circumstances that do not create an unreasonable risk to the interests of their clients, the public or the courts. Paragraph (c) identifies four such circumstances for the Domestic Lawyer. Paragraph (e) identifies four such circumstances for the Foreign Lawyer. The fact that conduct is not so identified does not imply that the conduct is or is not authorized. With the exception of paragraphs (d)1 and (d)2, this Rule does not authorize a Domestic Lawyer to establish an office or other systematic and continuous presence in this jurisdiction without being admitted to practice generally here.

[6] There is no single test to determine whether a Domestic or Foreign Lawyer's services are provided on a "temporary basis" in this jurisdiction, and may therefore be permissible under paragraph (c) or paragraph (e). Services may be "temporary" even though the Domestic or Foreign Lawyer provides services in this jurisdiction on a recurring basis, or for an extended period of time, as when the Domestic Lawyer is representing a client in a single lengthy negotiation or litigation.

[7] Paragraphs (c) and (d) apply to Domestic Lawyers. Paragraphs (e), (f) and (g) apply to Foreign Lawyers. Paragraphs (c) and (e) contemplate that the Domestic or Foreign Lawyer is authorized to practice in the jurisdiction in which the Domestic or Foreign Lawyer is admitted and excludes a Domestic or Foreign Lawyer who while technically admitted is not authorized to practice, because, for example, the Domestic or Foreign Lawyer is on inactive status.

[8] Paragraph (c)1 recognizes that the interests of clients and the public are protected if a Domestic Lawyer associates with a lawyer licensed to practice in this jurisdiction. Paragraph (e) (1) recognizes that the interests of clients and the public are protected if a Foreign Lawyer associates with a lawyer licensed to practice in this jurisdiction. For these paragraphs to apply, however, the lawyer admitted to practice in this jurisdiction must actively participate in and share responsibility for the representation of the client.

[9] Domestic Lawyers not admitted to practice generally in a jurisdiction may be authorized by law or order of a tribunal or an administrative agency to appear before the tribunal or agency. This authority may be granted pursuant to formal rules governing admission pro hac vice or pursuant to informal practice of the tribunal or agency. Under paragraph (c)2, a Domestic Lawyer does not violate this Rule when the Domestic Lawyer appears before a tribunal or agency pursuant to such authority. To the extent that a court rule or other law of this jurisdiction requires a Domestic Lawyer to obtain admission pro hac vice before appearing before a tribunal or administrative agency, this Rule requires the Domestic Lawyer to obtain that authority.

[10] Paragraph (c)2 also provides that a Domestic Lawyer rendering services in this jurisdiction on a temporary basis does not violate this Rule when the Domestic Lawyer engages in conduct in anticipation of a proceeding or hearing in a jurisdiction in which the Domestic Lawyer is authorized to practice law or in which the Domestic Lawyer reasonably expects to be admitted pro hac vice. Examples of such conduct include meetings with the client, interviews of potential witnesses, and the review of documents. Similarly, a Domestic Lawyer may engage in conduct temporarily in this jurisdiction in connection with pending litigation in another jurisdiction in which the Domestic Lawyer is or reasonably expects to be authorized to appear, including taking depositions in this jurisdiction.

[11] When a Domestic Lawyer has been or reasonably expects to be admitted to appear before a court or administrative agency, paragraph (c)(2) also permits conduct by lawyers who are associated with that lawyer in the matter, but who do not expect to appear before the court or administrative agency. For example, subordinate Domestic Lawyers may conduct research, review documents, and attend meetings with witnesses in support of the Domestic Lawyer responsible for the litigation.

[12] Paragraph (c)(3) permits a Domestic Lawyer, and paragraph (e)(3) permits a Foreign Lawyer, to perform services on a temporary basis in this jurisdiction if those services are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the Domestic or Foreign Lawyer's practice in a jurisdiction in which the Domestic or Foreign Lawyer is admitted to practice. The Domestic Lawyer, however, must obtain admission pro hac vice in the case of a court-annexed arbitration or mediation or otherwise if court rules or law so requires.

[13] Paragraph (c)(4) permits a Domestic Lawyer to provide certain legal services on a temporary basis in this jurisdiction that arise out of or are reasonably related to the Domestic Lawyer's practice in a jurisdiction in which the Domestic Lawyer is admitted but are not within paragraphs (c)(2) or (c)(3). These services include both legal services and services that nonlawyers may perform but that are considered the practice of law when performed by lawyers. Paragraph (e)(4)(i) permits a Foreign Lawyer to provide certain legal services in this jurisdiction on behalf of a client who resides or has an office in the jurisdiction in which the Foreign Lawyer is authorized to practice. Paragraph (e)(4)(ii) permits a Foreign Lawyer to provide certain legal services on a temporary basis in this jurisdiction that arise out of or are reasonably related to a matter that has a substantial connection to the jurisdiction in which the Foreign Lawyer is authorized to practice. These services include both legal services and services that nonlawyers may perform but that are considered the practice of law when performed by lawyers.

[14] Paragraphs (c)(3) and (c)(4) require that the services arise out of or be reasonably related to the Domestic Lawyer's practice in a jurisdiction in which the Domestic Lawyer is admitted. Paragraphs (e)(3) and (e)(4)(ii) require that the services arise out of or be reasonably related to the Foreign Lawyer's practice in a jurisdiction in which the Foreign Lawyer is admitted to practice. A variety of factors may evidence such a relationship. These include but are not limited to the following:

- a. The Domestic or Foreign Lawyer's client may have been previously represented by the Domestic or Foreign Lawyer; or
- b. The Domestic or Foreign Lawyer's client may be resident in, have an office in, or have substantial contacts with the jurisdiction in which the Domestic or Foreign Lawyer is admitted; or
- c. The matter, although involving other jurisdictions, may have a significant connection with that jurisdiction in which the Domestic or Foreign Lawyer is admitted; or

d. Significant aspects of the Domestic or Foreign Lawyer's work in a specific matter might be conducted in the jurisdiction in which the Domestic or Foreign Lawyer is admitted or another jurisdiction; or

e. A significant aspect of a matter may involve the law of the jurisdiction in which the Domestic or Foreign Lawyer is admitted; or

f. Some aspect of the matter may be governed by international law or the law of a non-United State jurisdiction; or

g. The Lawyer's work on the specific matter in this jurisdiction is authorized by the jurisdiction in which the lawyer is admitted; or

h. The client's activities or the legal issues involve multiple jurisdictions, such as when the officers of a multinational corporation survey potential business sites and seek the services of their Domestic or Foreign Lawyer in assessing the relative merits of each; or

i. The services may draw on the Domestic or Foreign Lawyer's recognized expertise developed through the regular practice of law on behalf of clients in matters involving a particular body of federal, nationally-uniform, foreign, or international law.

[15] Paragraph (d) identifies two circumstances in which a Domestic Lawyer, who is not disbarred or suspended from practice in any jurisdiction, may establish an office or other systematic and continuous presence in this jurisdiction for the practice of law as well as provide legal services on a temporary basis. Except as provided in paragraphs (d)(1) and (d)(2), a Domestic Lawyer who establishes an office or other systematic or continuous presence in this jurisdiction must become admitted to practice law generally in this jurisdiction.

[16] Paragraph (d)(1) applies to a Domestic Lawyer who is employed by a client to provide legal services to the client or its organizational affiliates, i.e., entities that control, are controlled by, or are under common control with the employer. This paragraph does not authorize the provision of personal legal services to the employer's officers or employees. The paragraph applies to in-house corporate lawyers, government lawyers and others who are employed to render legal services to the employer. The Domestic Lawyer's ability to represent the employer outside the jurisdiction in which the Domestic Lawyer is licensed generally serves the interests of the employer and does not create an unreasonable risk to the client and others because the employer is well situated to assess the Domestic Lawyer's qualifications and the quality of the Domestic Lawyer's work.

[17] If an employed Domestic Lawyer establishes an office or other systematic presence in this jurisdiction for the purpose of rendering legal services to the employer, the Domestic Lawyer may be subject to registration or other requirements, including assessments for client protection funds and mandatory continuing legal education.

[18] Paragraph (d)(2) recognizes that a Domestic Lawyer may provide legal services in a jurisdiction in which the Domestic Lawyer is not licensed when authorized to do so by federal or other law, which includes statute, court rule, executive regulation or judicial precedent. Paragraph (e)(4)(iii) recognizes that a Foreign Lawyer may provide legal services when the services provided are governed by international law or the law of a foreign jurisdiction.

[19] A Domestic or Foreign Lawyer who practices law in this jurisdiction pursuant to paragraphs (c), (d), (e) or (f) or otherwise is subject to the disciplinary authority of this jurisdiction. See Rule 8.5(a).

[20] In some circumstances, a Domestic Lawyer who practices law in this jurisdiction pursuant to paragraphs (c) or (d) may have to inform the client that the Domestic Lawyer is not licensed to practice law in this jurisdiction. For example, that may be required when the representation occurs primarily in this jurisdiction and requires knowledge of the law of this jurisdiction. See Rule 1.4.

[21] Paragraphs (c), (d), (e) and (f) do not authorize communications advertising legal services to prospective clients in this jurisdiction by Domestic or Foreign Lawyers who are admitted to practice in other jurisdictions. Whether and how Domestic or Foreign Lawyers may communicate the availability of their services to prospective clients in this jurisdiction is governed by Rules 7.1 to 7.5.

2016 Media Campaign:
Who needs lawyers? We do.
Real life case histories.

- **Agency:** Dalton
- **Budget:** \$80,000 (previously approved by EC)
- **Deliverables:** 3 PSAs and a social media campaign plan
- **Completion date:** Fall 2016

CHOSEN STORIES:

1. Submitted By: James B. Matthews, Blasingame Burch Garrard & Ashley, PC
City: Athens
Storyline: Below the knee amputation at age 18 due to compartment syndrome. Now a world-class paralympic sprinter.
Name of Client: Jarryd Wallace
2. Submitted By: Jeffery J. Nix, Troutman Sanders
City: Atlanta
Storyline: Vietnam Veteran who served 18 years in the military, then 25 years in construction but had been living in a homeless shelter for 5 years. Proof of ID and benefits were tied up in Texas state bureaucracy. His family pilfered his modest savings. Lawyer cleared it all up and Veteran now has full benefits, a home and will never be homeless again.
Name of Client: Murray English
3. Submitted By: Diana Rugh Johnson
City: Atlanta
Storyline: New parents wrongly accused of abusing their newborn son. Mother very active in GA's child welfare community, helping found an organization for the rights of kids in foster care. The baby was taken from them and they had no idea whether he was safe or not. Lawyer proved injury was not from abuse, and son returned to them. He is now a thriving 5 year old.
Name of Client: Queenyona Boyd (and her son AJ)

ADVISORY COMMITTEE ON LEGISLATION

2016-2017

MINUTES OF MEETING 1

September 14, 2016

State Bar of Georgia Headquarters

Atlanta, GA

The first meeting of the 2016-2017 State Bar of Georgia Advisory Committee on Legislation ("ACL") was held on Wednesday, September 14, 2016 at the State Bar of Georgia headquarters in Atlanta, Georgia.

ATTENDANCE

The following members and liaisons were present: Jonathan Pannell (Chair), Pat O'Connor (Executive Committee Liaison), Christine Butcher (Staff Liaison), Mark Alexander, Thomas Burnside, Carol Clark, Patricia Gorham, Stephanie Graham, Dawn Jones, Ryan Leonard, Judge Lawton Stephens, Frank Strickland, Judge Timothy Walmsley, Nancy Whaley, Representative Mary Margret Oliver, and Representative Wendell Willard.

The following members and liaisons participated via conference call: Ivy Cadle, Tracee Benzo, J. Anderson Davis, Joseph Dent, Harold Franklin, Lawton Heard, Donna Hix, Amy Howell, Curtis Jenkins, Elena Kaplan, Dennis Sanders, Henry Walker, Judge Benjamin Brinson, and Judge Stephen Dillard.

Other present included: Buck Rogers (Executive Committee), Ken Hodges (Executive Committee), Darrell Sutton (Executive Committee), Rusty Sewell (consultant), Wanda Segars (consultant), Roy Robinson (consultant), Mark Middleton (consultant), Paula Frederick, Tracy Mason, Tyler Mashburn, Jeff Davis, Bob Bray, Shannon Weathers, Eric John, Sandy Lee, Anne Lewis, Nicki Vaughn, Carl Barnado, and Brian Kammer.

CALL TO ORDER

ACL Chair Jon Pannell called the meeting to order at 10:06 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 December 8, 2015 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).

LEGISLATIVE MATTERS

The ACL reviewed the following proposals. The proposals that were approved by the ACL will be considered by the board of Governors at its fall meeting at Callaway Gardens, Georgia on October 21, 2016.

- 1. Georgia Appellate Practice and Educational Resource Center.** Brian Kammer of the Georgia Resource Center presented this proposal, which requests the traditional state appropriation of \$800,000 to the Administrative Office of the Courts to fund the Georgia Appellate Practice and Educational Resource Center. The *Keller* vote was unanimous. The vote supporting this proposal was unanimous. The Board of Governors will consider this proposal on October 21, 2016.
- 2. Nonprofit Corporate Code Amendments.** Nick Djuric of the Nonprofit Law Section presented this proposal, which amends the Official Code of Georgia Annotated to provide for the redomestication of nonprofit corporations. This amendment would provide a mechanism by which foreign nonprofit corporations can change their state of organization to Georgia and Georgia nonprofit organizations can change their state of organization to another state. The *Keller* vote was unanimous. The vote for supporting this proposal was unanimous. The Board of Governors will consider this proposal on October 21, 2016.
- 3. Waiver of Counsel in Juvenile Proceedings and Juvenile Court Practice Proposal.** Nicki Vaughn of the Child Protection and Advocacy Section presented this proposal, which clarifies that juvenile court judges have the authority to continue to conduct any hearings that are needed in a particular case and that are already authorized in the juvenile code during the time that an appeal is pending. The proposal additionally would amend the code with regard to waiver of counsel by parents in dependency cases. The amendment would require that the waiver be knowing, voluntary, and on the record. The *Keller* vote was unanimous. The vote for supporting this proposal was 22-1. The Board of Governors will consider this proposal on October 21, 2016.
- 4. Amending the Statutory Rule Against Perpetuities.** Nick Djuric of the Fiduciary Law Section presented this proposal, which amends O.C.G.A. 44-4-201 (the Uniform Rule Against Perpetuities) to provide for a 360-year permissible vesting period for a nonvested property interest or a power of appointment created after June 30, 2017. The committee decided to combine this proposal with proposal 5 (below) for consideration before the Board of Governors.
- 5. Modification of an Irrevocable Trust Proposal.** Nick Djuric of the Fiduciary Law Section presented this proposal, which proposes to provide by statute five methods for modifying an irrevocable trust. The committee agreed to combine this proposal with proposal 4 (above) for a vote. The *Keller* vote was unanimous. The vote in support was unanimous. The Board of Governors will consider this proposal on October 21, 2016.

- 6. Creation of a Georgia Revised Uniform Fiduciary Access to Digital Assets Act.** Nick Djuric of the Fiduciary Law Section presented this proposal, which proposes to extend the traditional power of a fiduciary to manage tangible property to include management of a person's digital assets. Digital assets include property such as computer files, web domains, and virtual currency. The *Keller* vote was unanimous. The vote for supporting this proposal was unanimous. The Board of Governors will consider this proposal on October 21, 2016.

ELECTION AND POLITICAL UPDATE

Rusty Sewell updated the committee on lawyers leaving the legislature. A number of attorney members of the General Assembly have chosen to retire, including Tom Weldon, the chairman of the House Juvenile Justice Committee. Because of these retirements, we should expect changes in the membership of the judiciary committees. Representative Wendell Willard and Representative Mary Margret Oliver briefly discussed the House study committee on the Judicial Qualifications Commission.

UPDATES FROM THE JUDICIARY

Tracy Mason with the Administrative Office of the Courts discussed the August 31st Judicial Council meeting, which State Bar President Pat O'Connor attended as a new member.

ADJOURNMENT

With no further business before the Committee, Chair Jon Pannell adjourned the meeting at 11:44 am.

Proposal No. 1

**Georgia Appellate Practice and Educational
Resource Center, Inc.**

FY 18 Funding Proposal

LEGISLATIVE PROPOSAL
TO THE BOARD OF GOVERNORS
STATE BAR OF GEORGIA

September 2016

This Proposal is submitted by the Board of Directors (“Board”) of the Georgia Appellate Practice and Educational Resource Center, Inc. (“Resource Center”). The Proposal seeks continued State Bar support for adequate state funding for the Resource Center, specifically that continuation funding of eight hundred thousand dollars (\$800,000) be included in the budget of the Judicial Council for the next session of the General Assembly. State Bar support for the Resource Center remains critical, and, as always, deeply appreciated.

I. HISTORICAL BACKGROUND

In 1985, the State Bar of Georgia created the Special Committee to Review the Georgia Attorney Role in Post-Conviction Proceedings (“Special Committee”) to address the lack of competent counsel for indigent, death-sentenced inmates in post-conviction proceedings. The Special Committee documented the need for counsel in such proceedings and assessed the impact of this situation on the quality and administration of justice in state and federal courts. The Special Committee proposed a multi-faceted solution involving the State Bar, the state law

schools, the federal courts, and the Supreme Court of Georgia and the creation of the Georgia Resource Center. The Special Committee's report and recommendation were unanimously adopted by the State Bar Board of Governors in January 1986. The State Bar of Georgia was one of the three recipients in the United States of the 1988 Harrison Tweed Award from the American Bar Association for the Special Committee's work on this project.

The Resource Center was established in 1988 as a 501(c)(3) non-profit corporation. It is governed by a Board of Directors of one (1) non-attorney and thirteen (13) attorneys from throughout Georgia who are appointed by the Supreme Court of Georgia and the State Bar of Georgia. The Resource Center staff is currently comprised of the Executive Director, one (1) Senior Litigator, two (2) full-time Staff Attorneys, two (2) part-time Staff Attorneys, two (2) full-time Investigators, two (2) part-time Investigators, and an Office Manager. The Resource Center's office space is spartan and its cases are litigated on a limited budget.

Georgia is the only state which does not appoint or compensate counsel in state habeas corpus proceedings.¹ This poses an especially acute problem in

¹ See *Gibson v. Turpin*, 270 Ga. 855 (1999). By the slimmest of margins, the Supreme Court of Georgia held that death sentenced inmates had no constitutional right to counsel in state

capital cases where post-conviction review has been recognized to be a critical stage in the death penalty appellate process.² The Resource Center is mandated to oversee *all* capital post-conviction cases in Georgia, either through direct representation or through support of pro bono counsel.³ As the Supreme Court has recognized, capital habeas corpus proceedings are among the most complex in the legal field and require intensive investigation and litigation by experienced attorneys and investigators.⁴ The responsibilities of Resource Center counsel also extend to advocating for clemency after prisoners have exhausted their habeas appeals and face execution. At a time when many prisoners are approaching the end stage of their legal challenges, clemency proceedings, which require substantial evidentiary development and skilled advocacy in their own right, have consumed an ever greater portion of the Center's time and resources.

habeas corpus proceedings. The court did note however that a statute providing for state-funded counsel might be a good policy but that absent legislative enactment of such a provision, state-funded counsel was not constitutionally compelled.

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

³ This means the Resource Center is currently responsible for overseeing 67 cases from 32 counties across the state.

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

The Resource Center is the most efficient and cost-effective means of moving capital cases to final adjudication⁵ and is a necessary safeguard against wrongful execution.⁶ By providing representation at this stage, moreover, the Resource Center allows Georgia's capital punishment system to function expeditiously (in particular by streamlining federal habeas review) in bringing these cases to final resolution.

The work of the Georgia Resource Center has not gone unnoticed. The Resource Center's efforts on behalf of its clients earned it the 2012 Indigent Defense Award by the Georgia Association of Criminal Defense Lawyers. In addition, the Resource Center received the 2013 Legal Legends Award by the American Constitution Society in recognition of its integral role in protecting the rights of indigent death-sentenced prisoners and ensuring fairness in the

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

⁶ According to a Columbia University study of error rates in capital cases from 1973 to 1995, Georgia had an 80% reversal rate. *See* James S. Liebman, *A Broken System: Error Rates in Capital Cases, 1973-1995*, available at http://www2.law.columbia.edu/instructionalservices/liebman/liebman_final.pdf. Since 1996, 55 death penalty cases have resulted in sentencing relief. During that same period, 47 executions have been carried out. Accordingly, for every one execution carried out in Georgia since 1996, approximately 1.17 death sentences have been reversed. The significance of this rate of error is obvious: proving that the system can be fundamentally fair only if there is a Resource Center to provide checks and balances to the system in state habeas review.

administration of capital punishment in Georgia. In August of 2013, the Resource Center was honored with the Deirdre O'Brien Award for Outstanding Advocacy on Behalf of Persons with Intellectual Disabilities from the ARC of Georgia.

For the past twenty-eight (28) years, the State Bar of Georgia has actively supported the Resource Center's legislative proposal. The formal and active support for this legislative proposal by the State Bar is crucial to obtain continued funding from the State, so that the important work of the Resource Center can continue.

II. SPECIFIC LEGISLATION

No specific legislation is pending, but the Resource Center funding request will be included in the appropriations bill of the Georgia General Assembly.

The Georgia Resource Center respectfully requests support for a continuation of baseline funding of \$800,000, which the General Assembly has awarded the Resource Center each year from FY 2002 to FY 2008 and from FY 2013 to FY 2017.

The more recent history of state funding for the Resource Center is as follows: Beginning in FY 2002 and through FY 2008, the Resource Center's baseline funding from the General Assembly was \$800,000. Because state funding was stagnant for those seven years, despite ever increasing costs, the

Resource Center sought, and was awarded, grants from the Georgia Bar Foundation in FY 2006-2009. In response to the increased funding from the Georgia Bar Foundation, the General Assembly then cut the Resource Center's grant to \$580,000 for FY 2009.

When the economic downturn devastated the Georgia Bar Foundation's revenues from IOLTA, it drastically reduced grants to the Resource Center in FY 2010 and FY 2011. In FY 2012, the Foundation did not provide any financial support to the Resource Center, and the General Assembly once again reduced funding of the Resource Center – this time to \$565,500. However, as noted above, for FY 2013-2017, the General Assembly returned the Resource Center funding to the FY 2002-2008 level of \$800,000. The Georgia Bar Foundation has not provided a grant to the Resource Center since 2011.

However, the Georgia Bar, a founding partner and strong supporter of the Georgia Resource Center since its inception in 1988, has provided direct financial assistance in the past several years. While the continuation of this financial support is uncertain, the Resource Center's FY 2018 budget cautiously projects continued support of \$110,332 from the State Bar of Georgia. The budget reflects revenue of \$350,000 in federal court compensation for work representing Georgia

state prisoners in federal capital habeas cases in FY 2018.⁷ In addition, the budget projects charitable donations of \$8,000 for FY 2018. The Resource Center's total budget for FY 2018 is \$1,268,532.

The core state funding of \$800,000 allows the Resource Center to maintain the minimum staff necessary to fulfill its mandate to provide adequate legal services to Georgia's indigent death-sentenced clients and take on additional cases that will enter the system in FY 2017 and FY 2018, including those of prisoners who are approaching final adjudication of their legal claims and facing the need to prepare for clemency proceedings. The effectiveness, efficiency and credibility of Georgia's death penalty system depend on an adequately-staffed and sufficiently-funded Resource Center, but without continuation of baseline funding, the Resource Center will be forced to lay off legal staff. Accordingly, the Georgia Resource Center urgently requests that the State Bar of Georgia support a continuation of baseline funding of \$800,000.

Endorsement of this proposal is consistent with the purposes of the State Bar of Georgia. Members of the bar are uniquely qualified to analyze the technical and

⁷ Federal court compensation is received in periodic amounts that vary substantially according to the number of federal habeas cases which are approaching resolution at any given time, and the time it takes the courts to fulfill payment vouchers. This budgeted figure is a revenue projection as federal billing is wholly dependent on the progression of cases through the federal courts.

public policy issues inherent in this proposal and can fulfill a duty of public service by examining these issues and making a statement to the General Assembly. Endorsement of these proposals will also improve the administration of justice in appellate and post-conviction capital proceedings in Georgia.

III. SUMMARY OF EXISTING LAW

To our knowledge, there is no existing law applicable to this proposal.

IV. PROPONENTS OR OPPONENTS

The State Bar of Georgia has supported full funding for the Resource Center since its inception in 1988. The Georgia Supreme Court has also supported funding for the Resource Center, as has the Board of Governors and the Judicial Council of Georgia.

There are no known opponents of this proposal.

V. OTHER COMMITTEES AND SECTIONS

A copy of this proposal will be sent to the following other committees or sections which may have an interest in the legislation: the Advisory Committee on Legislation; the Criminal Law Section; and the Individual Rights Section of the State Bar. These committees and sections have previously supported funding for the Resource Center.

VI. CONCLUSION

For the above-stated reasons, the Board of Directors of the Georgia Resource Center petitions the State Bar of Georgia for endorsement of continuation funding of \$800,000 for the Resource Center and that such funding be placed in the budget of the Judicial Council for the next session of the General Assembly.

Submitted: September 7, 2016.

Respectfully submitted,



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Proposal No. 2

Nonprofit Law Section

Adds O.C.G.A. 14-3-1109 and 1110 as to provide for the redomestication of nonprofit corporations.

NONPROFIT LAW SECTION LEGISLATIVE PROPOSAL

PROPOSAL RE: REDOMESTICATION OF NONPROFIT CORPORATIONS

1. Specific legislation has been prepared and is attached hereto as Exhibit A. Said proposed legislation adds O.C.G.A. 14-3-1109 and 1110 as to provide for the redomestication of nonprofit corporations.
2. This legislation will change Georgia law by providing a mechanism by which foreign nonprofit corporations can change their state of organization to Georgia and Georgia nonprofit corporations can change their state of organization to another state.
3. Under current Georgia Law a foreign nonprofit corporation that seeks to become a Georgia nonprofit corporation can only become a Georgia nonprofit corporation through a merger. For Georgia nonprofit corporations that seek to move from Georgia, the same is true, the Georgia nonprofit can only move to another state through a merger. Unless the nonprofit corporation that survives the merger already has an IRS Determination Letter stating that the surviving nonprofit corporation is tax exempt, any nonprofit corporation that changes its state of incorporation through a merger must obtain a new Determination Letter from the IRS for the surviving nonprofit corporation. Obtaining a new Determination Letter creates a substantial burden and, consequently, many nonprofit corporations will not attempt to change their state of incorporation even if they desire to do so. Recently the IRS released private letter rulings that allowed nonprofit corporations to redomesticate to a new state, without obtaining a new Determination Letter, if the move was completed pursuant to a statute allowing for such redomestication. The proposed legislation would create a Georgia statutory process by which a nonprofit corporation could redomesticate in a way that is consistent with these recent private letter rulings.
4. There are no known opponents of the proposed legislation.
5. Comments from the other sections of the State Bar are being solicited; no other section is believed to have an interest in the proposed legislation.
6. The Nonprofit Law Section recommends that this proposal be adopted by the State Bar of Georgia.

MWC

Matthew Couvillion
Chair
Nonprofit Law Section
Legislation Committee

EXHIBIT A

Proposed Amendments to the Georgia Nonprofit Corporations Code

Redomestication of Foreign Nonprofit Corporations to Georgia

And

Redomestication of Georgia Nonprofit Corporations to Another State

In General

Title 14, Chapter 3 of the Official Code of Georgia is hereby amended by adding new Sections 1109 through 1110 to Article 11 thereof to read as follows:

14-3-1109. Conversion to corporation.

(a) By complying with this Code section, a foreign corporation may become a corporation if the law of the foreign jurisdiction authorizes a domestication, redomestication, reincorporation, conversion, or similar statutory procedure to become a corporation.

(b) To become a corporation, a foreign corporation shall elect to become a corporation. Such election shall require such approval as may be sufficient under applicable law or the governing documents of the electing foreign corporation to authorize such election.

(c) Such election shall be made by delivering to the Secretary of State for filing a certificate of conversion and accompanying articles of incorporation that comply with Code Section 14-3-202 and 14-3-401. The certificate shall set forth:

(1) The name and jurisdiction of the converting foreign corporation; and if the name of the foreign corporation is unavailable for use in Georgia or the foreign corporation desires to change its name in connection with the conversion, a name that satisfies the requirements of Code Section 14-3-401;

(2) A statement that the foreign corporation elects to become a corporation;

(3) If later than the date and time the certificate of conversion is filed, the effective date, or the effective date and time, of the conversion;

(4) A statement that the election has been approved as required by subsection (b) of this Code section; and

(5) A statement that the articles of incorporation accompanying the certificate (i) are in the form required by Code Section 14-3-202; (ii) set forth the name for the corporation that satisfies the requirements of Code Section 14-3-401; and (iii) are the articles of

incorporation of the corporation formed pursuant to such election unless and until modified in accordance with this chapter.

- (d) Upon the conversion becoming effective:
- (1) The converting foreign corporation shall become a corporation formed under this chapter, except that the existence of the corporation so formed shall be deemed to have commenced on the date the converting foreign corporation commenced its existence in the jurisdiction in which such foreign corporation was first created, formed, incorporated, or otherwise came into being;
 - (2) The articles of incorporation filed with the certificate of conversion shall be the articles of incorporation of the corporation formed pursuant to such conversion unless and until amended in accordance with this chapter;
 - (3) The governing documents of the converting foreign corporation shall be of no further force or effect;
 - (4) The resulting corporation formed by such election shall retain all of the rights, privileges, immunities, franchises, and powers of the foreign corporation; all property, real, personal, and mixed, all contract rights, and all debts due to such foreign corporation, as well as all other choses in action, and each and every other interest of or belonging to or due to the foreign corporation shall be taken and deemed to be vested in the converting corporation without further act or deed; the title to any real estate, or any interest therein, vested in the converting foreign corporation shall not revert or be in any way impaired; and none of such items shall be deemed to have been conveyed, transferred, or assigned for any purpose; and
 - (5) The corporation shall thereupon and thereafter be responsible and liable for all the liabilities and obligations of the converting foreign corporation; any claim existing or action or proceeding pending by or against such foreign corporation may be prosecuted as if such conversion had not become effective; and neither the rights of creditors nor any liens upon the property of the converting foreign corporation shall be impaired.
- (e) A conversion pursuant to this Code section shall not be deemed to constitute a dissolution of the foreign corporation and shall constitute a continuation of the existence of the foreign corporation in the form of a corporation. A corporation formed by a conversion pursuant to this

Code section shall for all purposes be deemed to be the same entity as the converting foreign corporation.

(f) A corporation formed pursuant to this Code section may file a copy of such certificate of conversion, certified by the Secretary of State, in the office of the clerk of the superior court of the county where any real property owned by such corporation is located and record such certified copy of the certificate of conversion in the books kept by such clerk for recordation of deeds in such county with the converting foreign corporation indexed as the grantor and the corporation indexed as the grantee. No real estate transfer tax under Code Section 48-6-1 shall be due with respect to the recordation of such certificate of conversion.

14-3-1110. Conversion to foreign corporation.

(a) By complying with this section, a corporation may become a foreign corporation if the law of the foreign jurisdiction authorizes a domestication, redomestication, reincorporation, conversion, or similar statutory procedure to become a foreign corporation.

(b) To become a foreign corporation, a corporation shall convert to a foreign corporation, and to effect such conversion the corporation shall adopt (and file with the Secretary of State as required by subsection (n) of this Code section) a certificate of conversion.

(c) To be adopted by a corporation a certificate of conversion must be approved:

(1) By the board;

(2) By the members, if any, but only if and to the extent that members are entitled to vote on the conversion (subject, however, to subsection (h) of this Code section) under the corporation's articles or bylaws; and

(3) In writing by any person or persons whose approval is required by a provision of the articles authorized by Code Section 14-3-1030 for an amendment to the articles or bylaws.

(d) If the corporation does not have members or if the members are not entitled to vote on the conversion, then unless otherwise provided in the corporation's articles or bylaws, the certificate of conversion shall be approved by a majority of the directors in office at the time the certificate of conversion is adopted. The corporation shall provide notice of any directors' meeting at which adoption of the certificate of conversion will be considered in accordance with subsection

(b) of Code Section 14-3-822. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the adoption of the certificate of conversion.

(e) The board may condition its adoption of the certificate of conversion, and the members may condition their approval of the adoption of the certificate of conversion, on the receipt of a higher percentage of affirmative votes or on any other basis.

(f) If the corporation is required or seeks to have adoption of the certificate of conversion approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in accordance with Code Section 14-3-705. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the adoption of the certificate of conversion pursuant to which the corporation will convert into a foreign corporation and shall contain or be accompanied by a copy of the certificate of conversion. The notice shall conspicuously identify any adverse change to the rights of members that would result from the conversion (including any adverse change to the rights of members under the law of the foreign jurisdiction applicable to the proposed foreign corporation). The notice shall also include a copy or summary of the articles of incorporation and bylaws (or similar governing documents) of the proposed foreign corporation that will become effective upon the conversion.

(g) If the certificate of conversion may be approved by the members by written consent or written ballot (including for this purpose consent or ballot by electronic transmission), the material soliciting the approval shall contain or be accompanied by a copy of the certificate of conversion. The material soliciting the approval shall conspicuously identify any adverse change to the rights of members that would result from the conversion (including any adverse change to the rights of members under the law of the foreign jurisdiction). The material soliciting the approval shall also include a copy or summary of the articles of incorporation and bylaws (or similar governing documents) of the proposed foreign corporation that will become effective upon the conversion.

(h) Voting by members or class of members is required to approve the adoption of a certificate of conversion if the conversion will implement any provision that, if contained in a proposed amendment to the articles of incorporation or bylaws of the corporation, would entitle the members or class of members to vote on the proposed amendment under Code Sections 14-3-1003, 14-3-1004, 14-3-1021, or 14-3-1022. In such circumstances, the corporation shall comply

with subsections (f) or (g) of this Code section, as applicable, with respect to the members or class of members entitled to vote. Furthermore, the certificate of conversion may be adopted if it is approved by the members or class of members entitled to vote in the same manner as would be required to approve such amendment or, if the articles or bylaws do not specify how the members or class of members vote to approve such amendment, then by two-thirds of the votes cast or a majority of the voting power, whichever is less.

(i) A corporation described in paragraph (2) of subsection (a) of Code Section 14-3-1302 must give written notice to the Attorney General, including a copy of the proposed certificate of conversion and a copy or summary of the articles of incorporation and bylaws (or similar governing documents) of the proposed foreign corporation that will become effective upon the conversion, at least 30 days before the certificate of conversion is filed in accordance with subsection (n) of this Code section.

(j) Any of the terms of the certificate of conversion may be made dependent upon facts ascertainable outside of the certificate of conversion, provided that the manner in which such facts shall operate upon the terms of the conversion is clearly and expressly set forth in the certificate of conversion. As used in this subsection, the term “facts” includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(k) After a certificate of conversion has been adopted, unless the certificate of conversion provides otherwise, then at any time before the conversion has become effective the conversion may be abandoned, subject to any contractual rights, in accordance with the procedure set forth in the certificate of conversion or, if none is set forth, in the manner determined by the board of directors.

(l) The conversion shall be effected as provided in, and shall have the effects provided by, the law of the state or jurisdiction under whose law the resulting foreign corporation is formed, and to the extent not inconsistent with such law, by the terms of the certificate of conversion.

(m) If the resulting foreign corporation is required to obtain a certificate of authority to transact business in this state by the provisions of this title governing foreign corporations, it shall do so pursuant to Code Section 14-3-1501.

(n) After a certificate of conversion is adopted in accordance with this Code section, then unless the conversion subsequently is abandoned the corporation shall deliver to the Secretary of State for filing the certificate of conversion setting forth:

- (1) The name of the corporation;
- (2) The name and jurisdiction of the proposed foreign corporation to which the corporation shall be converted;
- (3) If later than the date and time the certificate of conversion is filed, the effective date, or the effective date and time, of such conversion;
- (4) A statement that the certificate of conversion has been adopted as required by subsection (c) of this Code section;
- (5) A statement that the authority of its registered agent to accept service on its behalf is revoked as of the effective time of such conversion and that the Secretary of State is irrevocably appointed as the agent for service of process on the resulting foreign corporation in any proceeding to enforce an obligation of the corporation arising prior to the effective time of such conversion;
- (6) A mailing address to which a copy of any process served on the Secretary of State under paragraph (5) of this subsection may be mailed as provided in subsection (o) of this Code section; and
- (7) A statement that the Secretary of State shall be notified of any change in the resulting foreign corporation's mailing address.

(o) Upon the conversion becoming effective, the resulting foreign corporation is deemed to appoint the Secretary of State as its agent for service of process in any proceeding to enforce any of its obligations arising prior to the effective time of such conversion. Any party that serves process upon the Secretary of State in accordance with this subsection shall also mail a copy of the process to the chief executive officer, chief financial officer, or the secretary of the foreign corporation, or a person holding a comparable position, at the mailing address provided pursuant to subsection (n)(6) of this Code section.

(p) A converting corporation pursuant to this Code section may file a copy of its certificate of conversion, certified by the Secretary of State, in the office of the clerk of the superior court of the county where any real property owned by such corporation is located and record such certified copy of the certificate of conversion in the books kept by such clerk for recordation of

deeds in such county with the corporation indexed as the grantor and the foreign corporation indexed as the grantee. No real estate transfer tax otherwise required by Code Section 48-6-1 shall be due with respect to recordation of such certificate of conversion.

- (q) Upon the conversion becoming effective,
- (1) the resulting foreign corporation shall retain all of the rights, privileges, immunities, franchises, and powers of the converting corporation;
 - (2) all property, real, personal, and mixed, all contract rights, and all debts due to such converting corporation, as well as all other choses in action, and each and every other interest of or belonging to or due to the converting corporation shall be taken and deemed to be vested in the resulting foreign corporation without further act or deed;
 - (3) title to any real estate, or any interest therein, vested in the converting corporation shall not revert or be in any way impaired by reason of the conversion;
 - (4) none of such items described in subparagraphs (1) through (3) immediately above shall be deemed to have been conveyed, transferred, or assigned by reason of the conversion for any purpose; and
 - (5) the resulting foreign corporation shall thereupon and thereafter be responsible and liable for all the liabilities and obligations of the converting corporation, and any claim existing or action or proceeding pending by or against such converting corporation may be prosecuted as if such conversion had not become effective, and neither the rights of creditors nor any liens upon the property of the converting corporation shall be impaired by such conversion.

Proposal No. 3

Child Protection and Advocacy Section

Amends O.C.G.A. 15-11-35 and 15-11-103 within the juvenile code addressing certain procedures during a petition terminating parental rights.

TO: Jon Pannell

FROM: Nicki Vaughan

RE: Proposed legislation

The Child Protection and Advocacy Section proposes that the State Bar Advisory Committee on Legislation approve the re-introduction of a bill it approved for presentation last session. That bill, House Bill 1073, which would amend two sections of the Juvenile Code, passed favorably out of the House, was modified by the Senate Special Judiciary Committee without our section approval, and then was never brought to the floor of the Senate prior to adjournment. As it turns out, the changes made in the Senate Special Judiciary Committee actually violate another Code Section, 15-11-321. Consequently, we are asking for approval of moving forward on our original bill. A copy of that original proposed legislation is attached to this memo.

Briefly, because appeals of dependency, and particularly Termination of Parental Rights cases, can often take many months to be decided, and a child's needs often change during that time, Section 1 of HB1073 clarifies what issues the judges can hear and decide while a juvenile court order about a child is going through the appellate process.

Section 1 makes it clear that the appeal of an order granting a petition to terminate parental rights stops any adoption proceedings related to that child until the challenge to the termination order is decided. This is so both children (and their parents) know that an adoption proceeding is "final."

In other types of juvenile court cases – such as dependency cases and delinquency cases – the juvenile court is mandated by state (and sometimes federal) law to hear and decide issues about children within a certain time frame. Because the needs of children often change pending an appeal, judges must have the ability to respond to the needs of children in a manner allowed by the juvenile court code. Thus, these proceedings are *not* stopped.

Section 2 of the proposed bill was drafted in response to concerns voiced by Court of Appeals Judge McFadden in a footnote to his opinion in In Re JC, A16A 1144, decided November 16, 2015. The mother in a Termination of Parental Rights had

waived her right to counsel in the adjudicatory hearing, and that particular concern was not raised on appeal, but was of grave concern to Judge McFadden.

The proposed remedy in HB 1073, Section 2, is simply to clarify OCGA § 15-11-103, subsection (g)(3) to make sure that the waiver of the right to an attorney by a party other than the child is knowingly and voluntarily made. This modification actually just reinstates the specific provision in the former Juvenile Code that required the court to determine *on the record* that the waiver of a party other than a child to the right to have an attorney is knowingly and voluntarily given.

Last year, this bill was supported by the State Bar Children and the Courts Committee, the Georgia Association of Counsel for Children, and the Family Law Section. We anticipate that the support of these groups will continue this year.

Thank you for placing this request on the agenda of the Advisory Committee on Legislation for September 14, 2016. I look forward to being present to answer any questions that committee members may have.

Attachment

House Bill 1073

By: Representatives Strickland of the 111th and Weldon of the 3rd

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the
2 Juvenile Code, so as to change provisions relating to procedure in juvenile courts; to provide
3 that adoption proceedings be stayed while an appeal of an order to terminate rights is
4 pending; to clarify the court's duties to a case while an appeal is pending; to clarify
5 provisions relating to the waiver of the right to counsel; to provide for related matters; to
6 repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile
10 Code, is amended by revising Code Section 15-11-35, relating to appeals, as follows:

11 "15-11-35.

12 In all cases of final judgments of the juvenile court, appeals shall be taken to the Court of
13 Appeals or the Supreme Court in the same manner as appeals from the superior court.
14 However, no such judgment or order shall be superseded or modified except in the
15 discretion of the trial court; rather, the judgment or order of the court shall stand until
16 reversed or modified by the reviewing court. The appeal of an order granting a petition to
17 terminate parental rights shall stay an adoption proceeding related to the child who is the
18 subject of such order until such order becomes final by the conclusion of appellate
19 proceedings or the expiration of the time for seeking such review. Except for proceedings
20 in connection with an adoption, the court shall continue to conduct hearings and issue
21 orders in accordance with this chapter while an appeal in a case is pending."

22 SECTION 2.

23 Said chapter is further amended by revising subsection (g) of Code Section 15-11-103,
24 relating to the right to an attorney, as follows:

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- 25 (g) A party other than a child shall be informed of his or her right to an attorney prior to
26 any hearing. A party other than a child shall be given an opportunity to:
- 27 (1) Obtain and employ an attorney of such party's own choice;
 - 28 (2) Obtain a court appointed attorney if the court determines that such party is an
29 indigent person; or
 - 30 (3) Waive the right to an attorney, provided that such waiver is made knowingly,
31 voluntarily, and on the record."

32 **SECTION 3.**

33 All laws and parts of laws in conflict with this Act are repealed.

Proposal No. 4

Fiduciary Law Section

Amending O.C.G.A. § 44-4-201 (Uniform Statutory Rule Against Perpetuities) to provide for a 360-year permissible vesting period.

FIDUCIARY LAW SECTION
PROPOSAL REGARDING
AMENDMENT TO UNIFORM STATUTORY
RULE AGAINST PERPETUITIES

1. Specific legislation has been prepared and is attached. The proposed legislation amends O.C.G.A. § 44-4-201 (Uniform Statutory Rule Against Perpetuities, or USRAP) to provide for a 360-year permissible vesting period (in lieu of the current 90-year permissible vesting period) for a nonvested property interest (e.g., a trust) or power of appointment created after June 30, 2017.
2. In 1998, a number of states began reforming or repealing their rules against perpetuities in order to allow property interests contained in a trust to remain nonvested for periods of time significantly in excess of 90 years. Today, a majority of states have either extended their vesting period to 360 years, carved out special (and sometimes complex) exceptions for trusts, created “opt-out” regimes, or otherwise allowed for property interests to be held in trust for substantially more than 90 years.

Four of the five states bordering Georgia have adopted an extended vesting period. Florida adopted a 360-year period in 2001, and was joined by Tennessee in 2007 and Alabama in 2012. North Carolina adopted a carve-out for trusts in 2007.

The proposed legislation would adopt a 360-year period for Georgia trusts created after June 30, 2017. This simple method of increasing the permissible period avoids the complexity of wholly repealing current rule-against-perpetuities law, carving out a specific exception for trusts, or other similar strategies. However, it still captures all of the benefits of allowing assets to be held in trust for periods significantly longer than 90 years.

Some of the key benefits of a 360-year permissible vesting period include (i) allowing Georgia residents to utilize long-term planning techniques to reduce federal transfer tax burden without being forced to place assets in out-of-state trusts and (ii) providing a competitive business environment in Georgia for corporate fiduciaries, attorneys, accountants, and other similar professionals.

Depending on the exact circumstances, it is possible for a Georgia resident who places assets in an out-of-state trust to take the position such assets are not subject to Georgia income-tax. Increasing Georgia’s permissible vesting period to 360 years will not directly address the utilization of out-of-state trusts to avoid state income tax. However, a 360-year period would eliminate an additional incentive for Georgia residents to place assets in out-of-state trusts.

Currently, USRAP applies in Georgia to any nonvested property interest that was created on or after May 1, 1990. One of the main purposes of USRAP was to avoid the

harsh result of the common law rule, which caused a nonvested property interest (e.g., a trust) that contained a highly technical violation of the lives-in-being vesting period (e.g., the “fertile octogenarian”) to be void upon creation. Instead, USRAP provides for a period of time (a “wait-and-see” period) during which a trust containing a technical violation of the vesting period can be allowed to work itself out to a final resolution (e.g., all assets are distributed to the beneficiaries within 90 years) instead of being invalid upon creation. The extension of the vesting period to 360 years would preserve all of the benefits of USRAP’s wait-and-see approach.

3. The Fiduciary Law Section believes there will always be some opposition to reform or repeal of the rule against perpetuities because of its traditional place in the Anglo-American law of property, but also believes there is a clear trend toward a repeal of the rule in the United States. Additionally, the Fiduciary Law Section is not aware of any unintended consequences or other problems created by the national trend (which began in 1998) towards the effective abolishment of the traditional rule—probably because most states grant trustees a default power to sell assets, disallow unreasonable restrictions on the use or sale of trust assets, and provide avenues to terminate trusts that no longer serve a material purpose or have become uneconomic to maintain.
4. There are no known opponents of the proposed legislation in Georgia. This legislation was proposed in the 2013-2014 General Assembly (S.B. 159), but was not adopted.
5. No other Section has expressed an interest in this proposed legislation.
6. The Fiduciary Law Section recommends that this proposal be adopted by the State Bar of Georgia.

Nikola R. Djuric
Atlanta, Georgia
Chairman, Legislation Committee
Fiduciary Law Section, State Bar of Georgia

A BILL TO BE ENTITLED AN ACT

1 To amend Article 9 of Chapter 6 of Title 44 of the Official Code of Georgia Annotated,
2 relating to the Uniform Statutory Rule Against Perpetuities, so as to change provisions
3 relating to the validity of nonvested property interest or power of appointment; to change
4 provisions relating to reform of disposition by court to approximate transferor's plan of
5 distribution; to provide for application and construction of article; to provide for related
6 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 Article 9 of Chapter 6 of Title 44 of the Official Code of Georgia Annotated, relating to the
10 Uniform Statutory Rule Against Perpetuities, is amended by revising paragraph (2) of
11 subsections (a) through (c) of Code Section 44-6-201, relating to the validity of nonvested
12 property interest or power of appointment, as follows:

13 "(2) The interest either vests or terminates within ~~90~~ 360 years after its creation."

14 "(2) The condition precedent either is satisfied or becomes impossible to satisfy within
15 ~~90~~ 360 years after its creation."

16 "(2) The power is irrevocably exercised or otherwise terminates within ~~90~~ 360 years after
17 its creation."

18 SECTION 2.

19 Said article is further amended by revising Code Section 44-6-203, relating to reform of
20 disposition by court to approximate transferor's plan of distribution, as follows:

21 "44-6-203.

22 Upon the petition of an interested person, a court shall reform a disposition in the manner
23 that most closely approximates the transferor's manifested plan of distribution and is within
24 the ~~90~~ number of years allowed by paragraph (2) of ~~subsection (a), paragraph (2) of~~
25 ~~subsection (b), or paragraph (2) of subsection~~ subsection (a), (b), or (c) of Code Section
26 44-6-201 if:

27 (1) A nonvested property interest or a power of appointment becomes invalid under Code
28 Section 44-6-201;

29 (2) A class gift is not but might still become invalid under Code Section 44-6-201 and
30 the time has arrived when the share of any class member is to take effect in possession
31 or enjoyment; or

32 (3) A nonvested property interest that is not validated by paragraph (1) of subsection (a)
33 of Code Section 44-6-201 can vest, but not within ~~90~~ 360 years after its creation."

34 SECTION 3.

35 Said part is further amended by revising Code Section 44-6-205, relating to the applicability
36 of this article and court reform of nonvested dispositions created before this article became
37 effective, as follows:

38 "44-6-205.

39 (a) Except as extended by subsection (b) of this Code section, this article applies to a

40 nonvested property interest or a power of appointment that is created on or after ~~May 1,~~
41 ~~1990~~ July 1, 2017. For purposes of this Code section only, a nonvested property interest
42 or a power of appointment created by the exercise of a power of appointment is created
43 when the power is irrevocably exercised or when a revocable exercise becomes irrevocable.
44 (b) With respect to a nonvested property interest or a power of appointment that was
45 created before ~~May 1, 1990~~ July 1, 2017, and that violates this state's rule against
46 perpetuities as that rule existed before ~~May 1, 1990~~ July 1, 2017, a court upon the petition
47 of an interested party may exercise its equitable power to reform the disposition in the
48 manner that most closely approximates the transferor's manifested plan of distribution and
49 is within the limits of the rule against perpetuities applicable when the nonvested property
50 interest or power of appointment was created."

51 SECTION 4.

52 This Act shall become effective on July 1, 2017.

53 SECTION 5.

54 All laws and parts of laws in conflict with this Act are repealed.

Proposal No. 5

Fiduciary Law Section

**Amends Chapter 12 of Title 53 of the Official Code of Georgia
(The Revised Georgia Trust Code of 2010)
as to the modification of trusts.**

FIDUCIARY LAW SECTION

PROPOSAL REGARDING
AMENDMENT TO THE REVISED GEORGIA TRUST CODE OF 2010
RELATING TO MODIFICATION OF TRUSTS

1. Specific legislation has been prepared and is attached. The proposed legislation amends Chapter 12 of Title 53 of the Official Code of Georgia (The Revised Georgia Trust Code of 2010) as to the modification of trusts.
2. This legislation will change Georgia law by specifically providing five methods for modifying an irrevocable trust: (a) court-approved modification with the consent of the settlor and all beneficiaries; (b) court-approved modification after the death of the settlor but with the consent of all beneficiaries, provided the modification is not inconsistent with any material purpose of the trust; (c) discretionary modifications by the court to facilitate efficient administration of the trust; (d) trustee distribution of trust property from an existing trust to a new or amended trust; and (e) nonjudicial modification with the consent of all parties that would otherwise be required to participate in a court-approved modification. The legislation also creates a virtual representation mechanism by which the interests of unborn or unascertainable beneficiaries can participate in the aforementioned trust modification processes as appropriate.
3. Current Georgia statutes expressly provide only one mechanism for modifying private, noncharitable trusts: a court-approved petition filed by the trustee or any beneficiary. Other modification techniques, including distributions of trust property to a new trust and the use of nonjudicial settlement agreements, are not expressly authorized by the statutes though they are thought to be valid under common law. Several other states have changed their trust statutes to make clear that these other avenues for trust modification are available. The proposed amendments would make clear that these other techniques are indeed available. Current law also does not provide a mechanism for ensuring that unborn and unascertained beneficiaries are represented in the trust modification process. The amendments would provide a statutory mechanism for one party to receive notice and give consent on behalf of another party.
4. There are no known opponents of the proposed legislation.
5. No other section is believed to have an interest in this proposed legislation.
6. The Fiduciary Law Section recommends that this proposal be adopted by the State Bar of Georgia.

Nikola R. Djuric
Atlanta, Georgia
Chairman, Trust Code Revision Committee
Fiduciary Law Section, State Bar of Georgia

EXHIBIT A

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 12 of Title 53 of the Official Code of Georgia Annotated, relating to the modification and termination of trusts so as to facilitate efficient and proper changes to private trusts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1. A new Section 53-12-8 of the Official Code of Georgia Annotated is established as follows:

53-12-8. Representation

(a) Notice to a person who may represent and bind another person under this Code section has the same effect as if notice were given directly to the other person.

(b) The consent of a person who may represent and bind another person under this Code section is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.

(c) Except as otherwise provided in Article 4 of this Chapter, a person who under this Code section may represent a settlor who lacks capacity may receive notice and give a binding consent on the 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, the holder may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are 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 the ward if a conservator of the 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 personal representative of a decedent's estate may represent and bind persons interested in the estate; and

(6) an ancestor may represent and bind the ancestor's minor or unborn descendant if a conservator or guardian for the 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 the 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 the particular question or dispute.

(h) 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. A representative may be appointed to represent several persons or interests. A representative may act on behalf of the individual represented with respect to any matter arising under this Chapter, no matter whether a judicial proceeding concerning the trust is pending. In making decisions, a representative may consider general benefit accruing to the living members of the individual's family.

SECTION 2. A new Section 53-12-9 of the Official Code of Georgia Annotated is established as follows:

53-12-9. Nonjudicial settlement agreements

(a) For purposes of this Code section, "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 (c) of this Code section, the interested persons may enter into a binding nonjudicial settlement agreement with respect to any matter involving a trust.

(c) A nonjudicial settlement agreement is 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.

(d) Any interested person may request the court to approve a nonjudicial settlement agreement, to determine whether the representation as provided in

Code section 53-12-8 was adequate, and to determine whether the agreement contains terms and conditions the court could have properly approved.

(e) An agreement entered into in accordance with this Code section shall be final and binding on the interested persons as if ordered by a court with a competent jurisdiction over the trust, the trust property, and the interested persons.

SECTION 3. Previous Sections 53-12-61 through 53-12-64 are repealed.

SECTION 4. A new Section 53-12-61 of the Official Code of Georgia Annotated is established as follows:

53-12-61. Modification or termination of noncharitable trust

(a) The trust instrument may confer upon a trustee or other person a power to modify 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 beneficiaries consent to the modification or termination and the trustee has received notice of the proposed modification or termination. A settlor's power to consent to the trust's modification or termination may be exercised by an agent under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust; by the settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized; or by the settlor's guardian with the approval of the court supervising the guardianship if an agent is not so authorized and a conservator as not been appointed.

(c) Following the settlor's death:

(1) The court shall approve a petition to modify a noncharitable irrevocable trust if all 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 the trust; and

(2) The court shall approve a petition to terminate a noncharitable irrevocable trust if all beneficiaries consent, the trustee has received notice of the proposed termination, and the court concludes that continuance of the trust is not necessary to achieve any material purpose of the 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 the 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 the appointment is necessary or helpful to the administration of the 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 the trust or trusts; or

(6) Terminate a trust and order distribution of the trust property if the costs of administration are such that the continuance of the trust, the establishment of the trust if it is to be established, or the distribution from a probate estate would defeat or substantially impair the purposes of the trust; the purpose of the trust has been fulfilled or become illegal or impossible to fulfill; or the continuance of the trust would impair the accomplishment of the purposes of the trust.

(e) A proceeding to approve a proposed modification or termination under this Code section may be commenced by a trustee or beneficiary, and a proceeding to approve a proposed modification or termination under subsection (b) of this Code section may be commenced by the 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) Notice of a petition to modify or terminate the trust under subsection (d) of this Code section shall be given to the settlor, the trustee, all beneficiaries, any holder of a power of appointment over the trust property, and such other persons as the court may direct no later than thirty (30) days after filing the petition for modification or termination.

(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 or testator. 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."

SECTION 5. A new Section 53-12-62 of the Official Code of Georgia Annotated is established as follows:

53-12-62. Distribution to another trust

(a) Unless the original trust instrument expressly provides otherwise, a trustee with authority to invade the principal of the original trust to make distributions to or for the benefit of one or more proper objects of the exercise of the power may also, independently or with court approval, exercise such authority by appointing all or part of the principal of the original trust in favor of a trustee of a second trust; provided, however, that the second trust may not:

(1) Include as a current beneficiary a person that is not a current beneficiary of the original trust; or

(2) Include as a presumptive remainder beneficiary or successor beneficiary a person that is not a current beneficiary, presumptive remainder beneficiary, or successor beneficiary of the original trust.

(b) Except as provided in this Code section, a trustee may exercise the power to invade the principal of the original trust under subsection (a) of this Code section without the consent of the settlor or beneficiaries of the original trust if the trustee provides written notice of the trustee's decision to exercise the power to the settlor, if living, and those persons then entitled to annual reports from the trustee of the original trust. The notice must:

(1) Describe the manner in which the trustee intends to exercise the power;

(2) Specify the date the trustee proposes to distribute to the second trust;

and

(3) Be delivered at least sixty (60) days before the proposed distribution to the second trust.

(c) The exercise of the power to invade the principal of the original trust under subsection (a) 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.

(d) The exercise of the power to invade principal of the original trust under subsection (a) of this Code section shall not extend the permissible period of the rule against perpetuities that applies to the original trust.

(e) The provisions of this Code section shall not be construed to abridge the right of any trustee who has a power of invasion to appoint property in further trust that arises under any other statute 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 (a) of this Code section.

(f) The 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 principal of the original trust. For purposes of this subsection of this Code section:

(1) The permissible appointees of the power of appointment conferred upon a beneficiary may include persons who are not beneficiaries of the original or second trust; and

(2) The power of appointment conferred upon a beneficiary must preclude any exercise that would extend the permissible period of the rule against perpetuities that applies to the trust.

(g) If any contribution to the original trust qualified for the annual exclusion under section 2503(b) of the Internal Revenue Code, the marital deduction under sections 2056(a) or 2523(a) of the Internal Revenue Code, or the charitable deduction under sections 170(a), 642(c), 2055(a) or 2522(a) of the Internal Revenue Code, is a direct skip qualifying for treatment under section 2642(c) of the Internal Revenue Code, or qualified for any other specific tax benefit that would be lost by the existence of the authorized trustee's authority under subsection (a) of this Code section for income, gift, estate, or generation-skipping transfer tax purposes under the Internal Revenue Code, then the authorized trustee shall not have the power to distribute the principal of a trust pursuant to subsection (a) of this Code section in a manner that would prevent the contribution to the original trust from qualifying for or would reduce the exclusion, deduction, or other tax benefit that was originally claimed with respect to that contribution.

(h) The exercise of the power to invade the principal of the original trust under subsection (a) of this Code section shall also 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 the original trust qualifies as a grantor trust because of the application of section 672(f)(2)(A) of the Internal Revenue Code, the second trust may not include or omit a term that, if included in or omitted from the original trust instrument, would have prevented the original trust from qualifying under such section;

(2) The second trust may qualify as a grantor trust for federal income tax purposes, even if the original trust does not so qualify, except that if the original trust does not so qualify and the second trust will so qualify, in whole or in part, with respect to the settlor, the second trust must grant the settlor or another person a power that would cause the second trust to cease to be a grantor trust for federal income tax purposes 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; and

(3) Where both the original trust and the second trust qualify as grantor trusts for federal income tax purposes and the original trust grants the settlor or another person the power to cause the original trust to cease to be a grantor trust, the second trust must grant an equivalent power to the settlor or other person

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.

(i) During any period when the original trust owns stock in a subchapter S corporation as defined in section 1361(a)(1) of the Internal Revenue Code, an authorized trustee shall not exercise a power authorized by subsection (a) of this Code section to distribute part or all of the stock of the S corporation to a second trust that is not a permitted shareholder under section 1361(c)(2) of the Internal Revenue Code.

(j) This Code section does not create or imply a duty for a trustee to exercise a power conferred by this Code section.

(k) For purposes of this Code section, the term "original trust" refers to the trust from which principal is being distributed and the term "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.

SECTION 6. Subsection (a) of Section 53-12-65 of the Official Code of Georgia Annotated is deleted.

SECTION 7. A new subsection (a) of Section 53-12-65 of the Official Code of Georgia Annotated is established as follows:

(a) After notice to the qualified beneficiaries, the trustee of a trust consisting of trust property either having a total value less than \$100,000.00 or for which the trustee's annual fee for administering the trust is 5 percent or more of the market value of the principal assets of the trust as of the last day of the preceding trust accounting year may terminate the trust if the trustee concludes that the value of the trust property is insufficient to justify the cost of administration, provided that in the case of a cemetery trust, notice shall be given to the Attorney General. For purposes of this subsection, the term "cemetery trust" means a trust the sole purpose of which is to hold and invest property to be used for the maintenance and care of cemetery plots.

SECTION 8. Existing sub-sections (b) through (e) of Section 53-12-65 of the Official Code of Georgia Annotated remain unamended.

Proposal No. 6

Fiduciary Law Section

Creation of a Georgia Revised Uniform Fiduciary Access to Digital Assets Act

FIDUCIARY LAW SECTION

**PROPOSAL REGARDING
REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT**

1. Specific legislation has been prepared and is attached. The proposed legislation enacts a Georgia version of the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA).
2. A summary of RUFADAA and the text of the uniform act as prepared by the Uniform Law Commission is attached. RUFADAA extends the traditional power of a fiduciary (executor, trustee, conservator, or agent under a power of attorney) to manage tangible property to include management of a person's digital assets. The act allows fiduciaries to manage digital property like computer files, web domains, and virtual currency, but restricts a fiduciary's access to electronic communications such as email, text messages, and social media accounts unless the original user consented in a will, trust, power of attorney, or other record. As of September 2016, RUFADAA has been enacted in 19 states and introduced in 12 additional states.
3. Georgia does not have existing legislation on this subject.
4. There are no known opponents of the proposed legislation.
5. No other section is believed to have an interest in this proposed legislation.
6. The Fiduciary Law Section recommends that this proposal be adopted by the State Bar of Georgia.

Nikola R. Djuric
Atlanta, Georgia
Chairman, Legislation Committee
Fiduciary Law Section, State Bar of Georgia

SECTION 1.

Title 53 of the Official Code of Georgia Annotated, relating to wills, trusts, and administration of estates, is amended by adding a new chapter to read as follows:

CHAPTER 18

ARTICLE 1

53-18-1.

This chapter shall be known and may be cited as the “Revised Uniform Fiduciary Access to Digital Assets Act.”

53-18-2.

As used in this chapter, the term:

(1) “Account” means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user.

(2) “Agent” means an attorney-in-fact granted authority under a durable or nondurable power of attorney, including an agent under a financial power of attorney created pursuant to Article 7 of Chapter 6 of Title 10, but not including a health care agent, as defined in subsection (6) of Code Section 31-32-2, and not including an agent 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 specified event or contingency.

(3) “Carries” means engages in the transmission of an electronic communication.

(4) “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.

(5) “Conservator” means a person appointed by a court to manage the estate of a living individual or a conservator of the estate of an individual who is missing or believed to be dead, as defined in Article 2 of Chapter 9 of this title. The term includes a guardian of the property appointed prior to July 1, 2005.

(6) “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.

(7) “Court” means the probate court.

(8) “Custodian” means a person that carries, maintains, processes, receives, or stores a digital asset of a user.

(9) “Designated recipient” means a person chosen by a user using an online tool to administer digital assets of the user.

(10) “Digital asset” means an electronic record in which an individual has a right or interest. The term does not include an underlying asset or liability unless the asset or liability is itself an electronic record.

(11) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(12) “Electronic communication” has the meaning set forth in 18 U.S.C. Section 2510(12), as amended. The term includes an electronic communication, as defined in

subsection (6) of Code Section 16-9-92.

(13) “Electronic-communication service” means a custodian that provides to a user the ability to send or receive an electronic communication, including an electronic communication service, as defined in subsection (7) of Code Section 16-9-92.

(14) “Fiduciary” means an original, additional, or successor personal representative, conservator, agent, or trustee.

(15) “Information” means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.

(16) “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.

(17) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity, including a person, as defined in subsection (9) of Code Section 29-11-2 with respect to conservatorships and conservators, in subsection (11) of Code Section 53-1-2 with respect to personal representatives and other fiduciaries under Chapters 2 through 11 of this title, and in subsection (7) of Code Section 53-12-2 with respect to trusts and trustees.

(18) “Personal representative” means an executor, administrator, special administrator, or person that performs substantially the same function under law of this state other than this chapter, including a personal representative, as defined in subsection (15) of Code Section 29-1-1 and in subsection (12) of Code Section 53-1-2.

(19) “Power of attorney” means a record that grants an agent authority to act in the place of a principal, including a conditional power of attorney, as defined in subsection (a) of Code

Section 10-6-6, and a financial power of attorney created pursuant to Article 7 of Chapter 6 of Title 10.

(20) “Principal” means an individual who grants authority to an agent in a power of attorney.

(21) “Protected person” means an individual for whom a conservator has been appointed, including both a minor, as defined in subsection (11) of Code Section 29-1-1, and a ward, as defined in subsection (27) of Code Section 29-1-1, for whom a conservator has been appointed. The term includes an individual for whom a petition for the appointment of a conservator is pending, including both a proposed ward, as defined in subsection (16) of Code Section 29-1-1, and a respondent, as defined in subsection (12) of Code Section 29-11-2, for whom a petition for the appointment of a conservator is pending.

(22) “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.

(23) “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), as amended. The term includes a remote computing service, as defined in subsection (14) of Code Section 16-9-92.

(24) “Terms-of-service agreement” means an agreement that controls the relationship between a user and a custodian.

(25) “Trustee” means a fiduciary with legal title to property under a trust instrument, as defined in subsection (14) of Code Section 53-12-2, that creates a beneficial interest in another. The term includes a successor trustee.

(26) “User” means a person that has an account with a custodian.

(27) “Will” means the legal declaration of an individual’s testamentary intention regarding that individual’s property or other matters. The term includes the will, all codicils to the will, a testamentary instrument that only appoints an executor, and an instrument that revokes or revises a testamentary instrument.

53-18-3.

(a) This chapter applies to:

(1) a fiduciary acting under a will or power of attorney executed before, on, or after the effective date of this chapter;

(2) a personal representative acting for a decedent who died before, on, or after the effective date of this chapter;

(3) a conservatorship proceeding commenced before, on, or after the effective date of this chapter; and

(4) a trustee acting under a trust created before, on, or after the effective date of this chapter.

(b) This chapter applies to a custodian if the user resides in this state or resided in this state at the time of the user’s death.

(c) This chapter does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer’s business.

ARTICLE 2

53-18-10.

(a) A user may use an online tool to direct the custodian to disclose to a designated recipient or not to disclose some or all of the user’s digital assets, including the content of electronic communications. If the online tool allows the user to modify or delete a direction at

all times, a direction regarding disclosure using an online tool overrides a contrary direction by the user in a will, trust, power of attorney, or other record.

(b) If a user has not used an online tool to give direction under subsection (a) of this Code section or if the custodian has not provided an online tool, the user may allow or prohibit in a will, trust, power of attorney, or other record, disclosure to a fiduciary of some or all of the user's digital assets, including the content of electronic communications sent or received by the user.

(c) A user's direction under subsection (a) or (b) of this Code section overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user's assent to the terms of service.

53-18-11.

(a) This chapter does not change or impair a right of a custodian or a user under a terms-of-service agreement to access and use digital assets of the user.

(b) This chapter does not give a fiduciary or designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or designated recipient acts or represents.

(c) A fiduciary's or designated recipient's access to digital assets may be modified or eliminated by a user, by federal law, or by a terms-of-service agreement if the user has not provided direction under Code Section 53-18-10.

53-18-12.

(a) When disclosing digital assets of a user under this chapter, the custodian may at its sole discretion:

- (1) grant a fiduciary or designated recipient full access to the user's account;
- (2) grant a fiduciary or designated recipient partial access to the user's account

sufficient to perform the tasks with which the fiduciary or designated recipient is charged; or

(3) provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account.

(b) A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this chapter.

(c) A custodian need not disclose under this chapter a digital asset deleted by a user.

(d) If a user directs or a fiduciary requests a custodian to disclose under this chapter some, but not all, of the user's digital assets, the custodian need not disclose the assets if segregation of the assets would impose an undue burden on the custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or fiduciary may seek an order from the court to disclose:

(1) a subset limited by date of the user's digital assets;

(2) all of the user's digital assets to the fiduciary or designated recipient;

(3) none of the user's digital assets; or

(4) all of the user's digital assets to the court for review in camera.

53-18-13.

If a deceased user consented or a court directs disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the personal representative gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the death certificate of the user;

(3) a certified copy of the letters testamentary, letters of administration, or other letters of appointment of the personal representative;

(4) unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications; and

(5) if requested by the custodian:

(A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(B) evidence linking the account to the user; or

(C) a finding by the court that:

(i) the user had a specific account with the custodian, identifiable by the information specified in paragraph (A) of subsection (5) of this Code section;

(ii) disclosure of the content of electronic communications of the user would not violate 18 U.S.C. Section 2701, et seq., as amended; 47 U.S.C. Section 222, as amended; or other applicable law;

(iii) unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or

(iv) disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

53-18-14.

Unless the user prohibited disclosure of digital assets or the court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalogue of electronic communications sent or received by the user and digital assets, other than the

content of electronic communications, of the user, if the personal representative gives the custodian:

- (1) a written request for disclosure in physical or electronic form;
- (2) a certified copy of the death certificate of the user;
- (3) a certified copy of the letters testamentary, letters of administration, or other letters of appointment of the personal representative; and

(4) if requested by the custodian:

(A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(B) evidence linking the account to the user;

(C) an affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate; or

(D) a finding by the court that:

(i) the user had a specific account with the custodian, identifiable by the information specified in paragraph (A) of subsection (4) of this Code section; or

(ii) disclosure of the user's digital assets is reasonably necessary for administration of the estate.

53-18-15.

To the extent a power of attorney expressly grants an agent authority over the content of electronic communications sent or received by the principal and unless directed otherwise by the principal or the court, a custodian shall disclose to the agent the content if the agent gives the custodian:

- (1) a written request for disclosure in physical or electronic form;

(2) an original or copy of the power of attorney expressly granting the agent authority over the content of electronic communications of the principal;

(3) a certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(4) if requested by the custodian:

(A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(B) evidence linking the account to the principal.

53-18-16.

Unless otherwise ordered by the court, directed by the principal, or provided by a power of attorney, a custodian shall disclose to an agent with specific authority over digital assets or general authority to act on behalf of a principal a catalogue of electronic communications sent or received by the principal and digital assets, other than the content of electronic communications, of the principal if the agent gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) an original or a copy of the power of attorney that gives the agent specific authority over digital assets or general authority to act on behalf of the principal;

(3) a certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(4) if requested by the custodian:

(A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(B) evidence linking the account to the principal.

53-18-17.

Unless otherwise ordered by the court or provided in a trust, a custodian shall disclose to a trustee that is an original user of an account any digital asset of the account held in trust, including a catalogue of electronic communications of the trustee and the content of electronic communications.

53-18-18.

Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account the content of an electronic communication sent or received by an original or successor user and carried, maintained, processed, received, or stored by the custodian in the account of the trust if the trustee gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the trust instrument or a certification of the trust under Code Section 53-12-280 that includes consent to disclosure of the content of electronic communications to the trustee;

(3) a certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) if requested by the custodian:

(A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(B) evidence linking the account to the trust.

53-18-19.

Unless otherwise ordered by the court, directed by the user, or provided in a trust, a

custodian shall disclose, to a trustee that is not an original user of an account, a catalogue of electronic communications sent or received by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications, in which the trust has a right or interest if the trustee gives the custodian:

- (1) a written request for disclosure in physical or electronic form;
- (2) a certified copy of the trust instrument or a certification of the trust under Code Section 53-12-280;
- (3) a certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and
- (4) if requested by the custodian:
 - (A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or
 - (B) evidence linking the account to the trust.

53-18-20.

(a) After an opportunity for a hearing under paragraph (2) of subsection (b) of Code Section 29-3-22 or paragraph (2) of subsection (b) of Code Section 29-5-23, the court may grant a conservator access to the digital assets of a protected person.

(b) Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a conservator the catalogue of electronic communications sent or received by a protected person and any digital assets, other than the content of electronic communications, in which the protected person has a right or interest if the conservator gives the custodian:

- (1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the court order that gives the conservator authority over the digital assets of the protected person; and

(3) if requested by the custodian:

(A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the account of the protected person; or

(B) evidence linking the account to the protected person.

(c) A conservator with general authority to manage the assets of a protected person may request a custodian of the digital assets of the protected person to suspend or terminate an account of the protected person for good cause. A request made under this section must be accompanied by a certified copy of the court order giving the conservator authority over the protected person's property.

ARTICLE 3

53-18-30.

(a) The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including:

(1) the duty of care;

(2) the duty of loyalty; and

(3) the duty of confidentiality.

(b) A fiduciary's or designated recipient's authority with respect to a digital asset of a user:

(1) except as otherwise provided in Code Section 53-18-10, is subject to the applicable terms of service;

(2) is subject to other applicable law, including copyright law;

(3) in the case of a fiduciary, is limited by the scope of the fiduciary's duties; and

(4) may not be used to impersonate the user.

(c) A fiduciary with authority over the property of a decedent, protected person, principal, or settlor has the right to access any digital asset in which the decedent, protected person, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

(d) A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, protected person, principal, or settlor for the purpose of applicable computer-fraud and unauthorized-computer-access laws, including Article 6 of Chapter 9 of Title 16.

(e) A fiduciary with authority over the tangible, personal property of a decedent, protected person, principal, or settlor:

(1) has the right to access the property and any digital asset stored in it; and

(2) is an authorized user for the purpose of computer-fraud and unauthorized-computer-access laws, including Article 6 of Chapter 9 of Title 16.

(f) A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.

(g) A fiduciary of a user may request a custodian to terminate the user's account. A request for termination must be in writing, in either physical or electronic form, and accompanied by:

(1) if the user is deceased, a certified copy of the death certificate of the user;

(2) a certified copy of the letters testamentary, letters of administration, or other letters of appointment of the personal representative, court order, power of attorney, or trust

giving the fiduciary authority over the account; and

(3) if requested by the custodian:

(A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(B) evidence linking the account to the user; or

(C) a finding by the court that the user had a specific account with the custodian, identifiable by the information specified in paragraph (A) of subsection (3) of this Code section.

53-18-31.

(a) Not later than 60 days after receipt of the information required under Code Sections 53-8-13 through 53-18-30, a custodian shall comply with a request under this chapter from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply, the fiduciary or designated recipient may apply to the court for an order directing compliance.

(b) An order under subsection (a) of this Code section directing compliance must contain a finding that compliance is not in violation of 18 U.S.C. Section 2702, as amended.

(c) A custodian may notify the user that a request for disclosure or to terminate an account was made under this chapter.

(d) A custodian may deny a request under this chapter from a fiduciary or designated recipient for disclosure of digital assets or to terminate an account if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request.

(e) This chapter does not limit a custodian's ability to obtain or require a fiduciary or designated recipient requesting disclosure or termination under this chapter to obtain a court

order that:

- (1) specifies that an account belongs to the protected person or principal;
- (2) specifies that there is sufficient consent from the protected person or principal

to support the requested disclosure; and

- (3) contains a finding required by law other than this chapter.

(f) A custodian and its officers, employees, and agents are immune from liability for an act or omission done in good faith in compliance with this chapter.

ARTICLE 4

53-18-40.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

53-18-41.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

SECTION 2.

Title 29 of the Official Code of Georgia Annotated, relating to guardian and ward, is amended by revising paragraph (1) of subsection (b) of Code Section 29-3-22, relating to the continuing powers that may be requested by a conservator of a minor, as follows:

“(1) In the petition for appointment, or at any time during the conservatorship, the conservator may request the continuing power to:

“(A) Invest the minor’s property in investments other than those authorized in Code

Section 29-3-32, pursuant to the provisions of Code Section 29-3-34, without further court approval of any investment;

“(B) Sell, rent, lease, exchange, or otherwise dispose of any or all of the minor’s real or personal property without complying with the provisions of Code Section 29-3-35, other than the provisions for additional bond set forth in subsection (e) of Code Section 29-3-35; ~~or~~

“(C) Continue the operation of any farm or business in which the minor has an interest; or

“(D) Access the digital assets of the minor, pursuant to Code Section 53-18-20.”

SECTION 3.

Title 29 of the Official Code of Georgia Annotated is further amended by revising paragraph (1) of subsection (b) of Code Section 29-5-23, relating to the continuing powers that may be requested by a conservator of an adult, as follows:

“(1) In the petition for appointment, or at any time during the conservatorship, the conservator may request the continuing power:

“(A) To invest the ward’s property in investments other than those authorized in Code Section 29-5-32, pursuant to the provisions of Code Section 29-5-34, without further court approval of any investment;

“(B) To sell, rent, lease, exchange, or otherwise dispose of any or all of the ward’s real or personal property without complying with the provisions of Code Section 29-5-35 other than the provisions for additional bond set forth in subsection (e) of Code Section 29-5-35; ~~or~~

“(C) To continue the operation of any farm or business in which the ward has an interest; or

“(D) To access the digital assets of the ward, pursuant to Code Section 53-18-20.”

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.



THE REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT

- A Summary -

In the Internet age, the nature of property and our methods of communication have changed dramatically. A generation ago, a human being delivered our mail, photos were kept in albums, documents in file cabinets, and money on deposit at the corner bank. For most people today, at least some of their property and communications are stored as data on a computer server and accessed via the Internet.

Collectively, a person's digital property and electronic communications are referred to as "digital assets" and the companies that store those assets on their servers are called "custodians." Access to digital assets is usually governed by a terms-of-service agreement rather than by property law. This creates problems when Internet users die or otherwise lose the ability to manage their own digital assets.

A fiduciary is a trusted person with the legal authority to manage another's property, and the duty to act in that person's best interest. The Revised Uniform Fiduciary Access to Digital Assets Act (Revised UFADAA) addresses four common types of fiduciaries:

1. Executors or administrators of deceased persons' estates;
2. Court-appointed guardians or conservators of protected persons' estates;
3. Agents appointed under powers of attorney; and
4. Trustees.

Revised UFADAA gives Internet users the power to plan for the management and disposition of their digital assets in a similar way as they can make plans for their tangible property. In case of conflicting instructions, the act provides a three-tiered system of priorities:

1. If the custodian provides an online tool, separate from the general terms of service, that allows the user to name another person to have access to the user's digital assets or to direct the custodian to delete the user's digital assets, Revised UFADAA makes the user's online instructions legally enforceable.
2. If the custodian does not provide an online planning option, or if the user declines to use the online tool provided, the user may give legally enforceable directions for the disposition of digital assets in a will, trust, power of attorney, or other written record.
3. If the user has not provided any direction, either online or in a traditional estate plan, the terms of service for the user's account will determine whether a fiduciary may access the user's digital assets. If the terms of service do not address fiduciary access, the default rules of Revised UFADAA will apply.

The ULC is a nonprofit formed in 1892 to create nonpartisan state legislation. Over 350 volunteer commissioners—lawyers, judges, law professors, legislative staff, and others—work together to draft laws ranging from the Uniform Commercial Code to acts on property, trusts and estates, family law, criminal law and other areas where uniformity of state law is desirable.

Revised UFADAA’s default rules attempt to balance the user’s privacy interest with the fiduciary’s need for access by making a distinction between the “content of electronic communications,” the “catalogue of electronic communications”, and other types of digital assets.

The content of electronic communications includes the subject line and body of a user’s email messages, text messages, and other messages between private parties. A fiduciary may never access the content of electronic communications without the user’s consent. When necessary, a fiduciary may have a right to access a catalogue of the user’s electronic communications – essentially a list of communications showing the addresses of the sender and recipient, and the date and time the message was sent.

For example, the executor of a decedent’s estate may need to access a catalogue of the decedent’s communications in order to compile an inventory of estate assets. If the executor finds that the decedent received a monthly email message from a particular bank or credit card company, the executor can contact that company directly and request a statement of the decedent’s account.

Other types of digital assets are not communications, but intangible personal property. For example, an agent under a power of attorney who has authority to access the principal’s business files will have access under Revised UFADAA to any files stored in “the cloud” as well as those stored in file cabinets. Similarly, an executor that is distributing funds from the decedent’s bank account will also have access to the decedent’s virtual currency account (e.g. bitcoin).

Under Revised UFADAA Section 15, fiduciaries for digital assets are subject to the same fiduciary duties that normally apply to tangible assets. Thus, for example, an executor may not publish the decedent’s confidential communications or impersonate the decedent by sending email from the decedent’s account. A fiduciary’s management of digital assets may also be limited by other law. For example, a fiduciary may not copy or distribute digital files in violation of copyright law, and may not exceed the user’s authority under the account’s terms of service.

In order to gain access to digital assets, Revised UFADAA requires a fiduciary to send a request to the custodian, accompanied by a certified copy of the document granting fiduciary authority, such as a letter of appointment, court order, or certification of trust. Custodians of digital assets that receive an apparently valid request for access are immune from any liability for acts done in good faith compliance.

Revised UFADAA is an overlay statute designed to work in conjunction with a state’s existing laws on probate, guardianship, trusts, and powers of attorney. It is a vital statute for the digital age, and should be enacted by every state legislature as soon as possible.

For further information about Revised UFADAA, please contact ULC Legislative Counsel Benjamin Orzeske at 312-450-6621 or borzeske@uniformlaws.org.



WHY YOUR STATE SHOULD ADOPT THE REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT (2015)

The Revised Uniform Fiduciary Access to Digital Assets Act (Revised UFADAA) modernizes fiduciary law for the Internet age. Fiduciaries are the people appointed to manage our property when we die or lose the capacity to manage it ourselves. Nearly everyone today has digital assets, such as documents, photographs, email, and social media accounts, and fiduciaries are often prevented from accessing those accounts by password protection or restrictive terms of service. Digital assets may have real value, both monetary and sentimental, but they also present novel privacy concerns. UFADAA provides legal authority for fiduciaries to manage digital assets in accordance with the user's estate plan, while protecting a user's private communications from unwarranted disclosure.

- ***Revised UFADAA gives Internet users control.*** Revised UFADAA allows users to specify whether their digital assets should be preserved, distributed to heirs, or destroyed.
- ***Revised UFADAA provides efficient uniformity for all concerned.*** Digital assets travel across state lines nearly instantaneously. In our modern mobile society, people relocate more often than ever. Because state law governs fiduciaries, a uniform law ensures that fiduciaries in every state will have equal access to digital assets and custodians will have a single legal standard with which to comply.
- ***Revised UFADAA respects privacy interests.*** Private communications like email and social media conversations are protected by federal privacy law. Revised UFADAA prevents the companies that store our communications from releasing them to fiduciaries unless the user consented to disclosure.
- ***Revised UFADAA addresses four common types of fiduciaries.*** Revised UFADAA provides appropriate default rules governing access to digital assets for executors of a decedent's estate, agents under a power of attorney, conservators, and trustees.
- ***Revised UFADAA works hand-in-hand with federal and state law.*** Under Revised UFADAA, fiduciaries must provide proof of their authority in the form of a certified document. Custodians of digital assets that comply with a fiduciary's apparently authorized request for access are immune from any liability under statutes that prohibit unauthorized access. A fiduciary's authority over digital assets is limited by federal law, including the Copyright Act and the Electronic Communications Privacy Act.

For further information about Revised UFADAA, please contact ULC Legislative Counsel Benjamin Orzeske at 312-450-6621 or borzeske@uniformlaws.org.

The ULC is a nonprofit formed in 1892 to create nonpartisan state legislation. Over 350 volunteer commissioners—lawyers, judges, law professors, legislative staff, and others—work together to draft laws ranging from the Uniform Commercial Code to acts on property, trusts and estates, family law, criminal law and other areas where uniformity of state law is desirable.

**REVISED UNIFORM FIDUCIARY ACCESS TO
DIGITAL ASSETS ACT (2015)**

drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

ANNUAL CONFERENCE
MEETING IN ITS ONE-HUNDRED-AND-TWENTY-FOURTH YEAR
WILLIAMSBURG, VIRGINIA
JULY 10 - JULY 16, 2015

WITH PREFATORY NOTE AND COMMENTS

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By
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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The **Uniform Law Commission** (ULC), also known as National Conference of Commissioners on Uniform State Laws (NCCUSL), now in its 124th year, provides states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law.

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REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT (2015)

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REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT (2015)

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REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT (2015)

PREFATORY NOTE

The purpose of the Revised Fiduciary Access to Digital Assets Act (Revised UFADAA) is twofold. First, it gives fiduciaries the legal authority to manage digital assets and electronic communications in the same way they manage tangible assets and financial accounts, to the extent possible. Second, it gives custodians of digital assets and electronic communications legal authority to deal with the fiduciaries of their users, while respecting the user's reasonable expectation of privacy for personal communications. The general goal of the act is to facilitate fiduciary access and custodian disclosure while respecting the privacy and intent of the user. It adheres to the traditional approach of trusts and estates law, which respects the intent of an account holder and promotes the fiduciary's ability to administer the account holder's property in accord with legally-binding fiduciary duties. The act removes barriers to a fiduciary's access to electronic records and property and leaves unaffected other law, such as fiduciary, probate, trust, banking, investment securities, agency, and privacy law. Existing law prohibits any fiduciary from violating fiduciary responsibilities by divulging or publicizing any information the fiduciary obtains while carrying out his or her fiduciary duties.

Revised UFADAA addresses four different types of fiduciaries: personal representatives of decedents' estates, conservators for protected persons, agents acting pursuant to a power of attorney, and trustees. It distinguishes the authority of fiduciaries, which exercise authority subject to this act only on behalf of the user, from any other efforts to access the digital assets. Family members or friends may seek such access, but, unless they are fiduciaries, their efforts are subject to other laws and are not covered by this act.

Digital assets are electronic records in which individuals have a right or interest. As the number of digital assets held by the average person increases, questions surrounding the disposition of these assets upon the individual's death or incapacity are becoming more common. These assets, ranging from online gaming items to photos, to digital music, to client lists, can have real economic or sentimental value. Yet few laws exist on the rights of fiduciaries over digital assets. Holders of digital assets may not consider the fate of their online presences once they are no longer able to manage their assets, and may not expressly provide for the disposition of their digital assets or electronic communications in the event of their death or incapacity. Even when they do, their instructions may come into conflict with custodians' terms-of-service agreements. Some Internet service providers have explicit policies on what will happen when an individual dies, while others do not, and even where these policies are included in the terms-of-service agreement, consumers may not be fully aware of the implications of these provisions in the event of death or incapacity or how courts might resolve a conflict between such policies and a will, trust instrument, or power of attorney.

The situation regarding fiduciaries' access to digital assets is less than clear, and is subject to federal and state privacy and computer "hacking" laws as well as state probate law. A minority of states has enacted legislation on fiduciary access to digital assets, and numerous other states have considered, or are considering, legislation. Existing legislation differs with

respect to the types of digital assets covered, the rights of the fiduciary, the category of fiduciary included, and whether the principal's death or incapacity is covered. A uniform approach among states will provide certainty and predictability for courts, users of Internet services, fiduciaries, and Internet service providers. Revised UFADAA gives states precise, comprehensive, and easily accessible guidance on questions concerning fiduciaries' ability to access the electronic records of a decedent, protected person, principal, or a trust.

With regard to the general scope of the act, the act's coverage is inherently limited by the definition of "digital assets." The act applies only to electronic records in which an individual has a property right or interest, which do not include the underlying asset or liability unless it is itself an electronic record.

The act is divided into 21 sections. Section 2 contains definitions of terms used throughout the act.

Section 3 governs applicability, clarifying the scope of the act and the fiduciaries who have access to digital assets under Revised UFADAA, and carves out an exception for digital assets of an employer used by an employee during the ordinary course of business.

Section 4 provides ways for users to direct the disposition or deletion of their digital assets at their death or incapacity, and establishes a priority system in case of conflicting instructions.

Section 5 establishes that the terms-of-service governing an online account apply to fiduciaries as well as to users, and clarify that a fiduciary cannot take any action that the user could not have legally taken.

Section 6 gives the custodians of digital assets a choice for disclosing those assets to fiduciaries. A custodian may, but need not, comply with a request for access by allowing the fiduciary to reset the password and access the user's account. In many cases that will be the simplest method of compliance. However, a custodian may also comply without giving access to a user's account by simply giving a copy of all the user's digital assets to the fiduciary. That method may be preferred for a social media account when a fiduciary has no need for full access and control.

Sections 7-14 establish the rights of personal representatives, conservators, agents acting pursuant to a power of attorney, and trustees. Each of the fiduciaries is subject to different rules for the content of communications protected under federal privacy laws and for other types of digital assets. Generally, a fiduciary will have access to a catalogue of the user's communications, but not the content, unless the user consented to the disclosure of the content.

Section 15 contains general provisions relating to the rights and responsibilities of the fiduciary. Section 16 addresses compliance by custodians and grants immunity for any acts taken in order to comply with a fiduciary's request under this act. Sections 17-21 address miscellaneous topics, including retroactivity, the effective date of the act, and similar issues.

REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT (2015)

SECTION 1. SHORT TITLE. This [act] may be cited as the Revised Uniform Fiduciary Access to Digital Assets Act (2015).

SECTION 2. DEFINITIONS. In this [act]:

(1) “Account” means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user.

(2) “Agent” means an attorney-in-fact granted authority under a durable or nondurable power of attorney.

(3) “Carries” means engages in the transmission of an electronic communication.

(4) “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.

(5) “[Conservator]” means a person appointed by a court to manage the estate of a living individual. The term includes a limited [conservator].

(6) “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.

(7) “Court” means the [insert name of court in this state having jurisdiction in matters

relating to the content of this act].

(8) “Custodian” means a person that carries, maintains, processes, receives, or stores a digital asset of a user.

(9) “Designated recipient” means a person chosen by a user using an online tool to administer digital assets of the user.

(10) “Digital asset” means an electronic record in which an individual has a right or interest. The term does not include an underlying asset or liability unless the asset or liability is itself an electronic record.

(11) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(12) “Electronic communication” has the meaning set forth in 18 U.S.C. Section 2510(12)[, as amended].

(13) “Electronic-communication service” means a custodian that provides to a user the ability to send or receive an electronic communication.

(14) “Fiduciary” means an original, additional, or successor personal representative, [conservator], agent, or trustee.

(15) “Information” means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.

(16) “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.

(17) “Person” means an individual, estate, business or nonprofit entity, public

corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(18) “Personal representative” means an executor, administrator, special administrator, or person that performs substantially the same function under law of this state other than this [act].

(19) “Power of attorney” means a record that grants an agent authority to act in the place of a principal.

(20) “Principal” means an individual who grants authority to an agent in a power of attorney.

(21) “[Protected person]” means an individual for whom a [conservator] has been appointed. The term includes an individual for whom an application for the appointment of a [conservator] is pending.

(22) “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.

(23) “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)[, as amended].

(24) “Terms-of-service agreement” means an agreement that controls the relationship between a user and a custodian.

(25) “Trustee” means a fiduciary with legal title to property under an agreement or declaration that creates a beneficial interest in another. The term includes a successor trustee.

(26) “User” means a person that has an account with a custodian.

(27) “Will” includes a codicil, testamentary instrument that only appoints an executor, and instrument that revokes or revises a testamentary instrument.

Legislative Note: *In paragraphs (5) and (21), an enacting jurisdiction should replace the bracketed language with local terminology, if different. Enacting jurisdictions should insert the appropriate court in paragraph (7) that would have jurisdiction over matters relating to this act. In jurisdictions in which the constitution, or other law, does not permit the phrase “as amended” when federal statutes are incorporated into state law, the phrase should be deleted in paragraphs (12) and (23).*

Comment

Many of the definitions are based on those in the Uniform Probate Code: agent (UPC Section 1-201(1)), conservator (UPC Section 5-102(1)), court (UPC Section 1-201(8)), electronic (UPC Section 5B-102(3)), fiduciary (UPC Section 1-201(15)), person (UPC Section 5B-101(6)), personal representative (UPC Section 1-201(35)), power of attorney (UPC Section 5B-102(7)), principal (UPC Section 5B-102(9)), protected person (UPC Section 5-102(8)), record (UPC Section 1-201(41)), and will (UPC Section 1-201(57)). The definition of “information” is based on that in the Uniform Electronic Transactions Act, Section 2, subsection (11). Many of the other definitions are either drawn from federal law, as discussed below, or are new for this act.

The definition of “account” is broadly worded to encompass any contractual arrangement subject to a terms-of-service agreement, but limited for the purpose of this act by the requirement that the custodian carry, maintain, process, receive, or store a digital asset of the user.

The definition of “digital asset” expressly excludes underlying assets such as funds held in an online bank account. Because records may exist in both electronic and non-electronic formats, this definition clarifies the scope of the act and the limitation on the type of records to which it applies. The term includes types of electronic records currently in existence and yet to be invented. It includes any type of electronically-stored information, such as: 1) information stored on a user’s computer and other digital devices; 2) content uploaded onto websites; and 3) rights in digital property. It also includes records that are either the catalogue or the content of an electronic communication. See 18 U.S.C. Section 2702(a)(2); James D. Lamm, Christina L. Kunz, Damien A. Riehl and Peter John Rademacher, *The Digital Death Conundrum: How Federal and State Laws Prevent Fiduciaries from Managing Digital Property*, 68 U. Miami L. Rev. 385, 388 (2014) (available at: <http://goo.gl/T9jX1d>).

The term “catalogue of electronic communications” is designed to cover log-type information about an electronic communication such as the email addresses of the sender and the recipient, and the date and time the communication was sent.

The term “content of an electronic communication” is adapted from 18 U.S.C. Section 2510(8), which provides that content: “when used with respect to any wire, oral, or electronic communication, includes any information concerning the substance, purport, or meaning of that communication.” The definition is designed to cover only content subject to the coverage of Section 2702 of the Electronic Communications Privacy Act (ECPA), 18 U.S.C. Section 2510 et seq.; it does not include content not subject to ECPA. Consequently, the “content of an electronic communication”, as used later throughout Revised UFADAA, refers *only* to information in the body of an electronic message that is not readily accessible to

the public; if the information were readily accessible to the public, it would not be subject to the privacy protections of federal law under ECPA. See S. Rep. No. 99-541, at 36 (1986). Example: X uses a Twitter account to send a message. If the tweet is sent only to other people who have been granted access to X's tweets, then it meets Revised UFADAA's definition of "content of an electronic communication." But, if the tweet is completely public with no access restrictions, then it does not meet the act's definition of "content of an electronic communication." ECPA does not apply to private e-mail service providers, such as employers and educational institutions. See 18 U.S.C. Section 2702(a)(2); James D. Lamm, Christina L. Kunz, Damien A. Riehl and Peter John Rademacher, *The Digital Death Conundrum: How Federal and State Laws Prevent Fiduciaries from Managing Digital Property*, 68 U. Miami L. Rev. 385, 404 (2014) (available at: <http://goo.gl/T9jX1d>).

A "user" is a person that has an account with a custodian, and includes a deceased individual that entered into the agreement while alive. A fiduciary can be a user when the fiduciary opens the account.

The definition of "carries" is drawn from federal law, 47 U.S.C. Section 1001(8).

A "custodian" includes any entity that provides or stores electronic data for a user.

The fiduciary's access to a record defined as a "digital asset" does not mean the fiduciary *owns* the asset or may engage in transactions with the asset. Consider, for example, a fiduciary's legal rights with respect to funds in a bank account or securities held with a broker or other custodian, regardless of whether the bank, broker, or custodian has a brick-and-mortar presence. This act affects electronic records concerning the bank account or securities, but does not affect the authority to engage in transfers of title or other commercial transactions in the funds or securities, even though such transfers or other transactions might occur electronically. Revised UFADAA only deals with the right of the fiduciary to access all relevant electronic communications and digital assets accessible through the online account. An entity may not refuse to provide access to online records any more than the entity can refuse to provide the fiduciary with access to hard copy records.

An "electronic communication" is a particular type of digital asset subject to the privacy protections of the Electronic Communications Privacy Act. It includes email, text messages, instant messages, and any other electronic communication between private parties. The definition of "electronic communication" is that set out in 18 U.S.C. Section 2510(12): "electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce, but does not include—

- (A) any wire or oral communication;
- (B) any communication made through a tone-only paging device;
- (C) any communication from a tracking device (as defined in section 3117 of this title);

or

- (D) electronic funds transfer information stored by a financial institution in a

communications system used for the electronic storage and transfer of funds.

The definition of “electronic-communication service” is drawn from 18 U.S.C. Section 2510(15): “any service which provides to users thereof the ability to send or receive wire or electronic communications.” The definition of “remote-computing service” is adapted from 18 U.S.C. Section 2711(2): “the provision to the public of computer storage or processing services by means of an electronic communications system.” The definition refers to 18 U.S.C. Section 2510(14), which defines an electronic communications system as: “any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications.”

A “fiduciary” under this act occupies a status recognized by state law, and a fiduciary’s powers under this act are subject to the relevant limits established by other state laws.

An “online tool” is a mechanism by which a user names an individual to manage the user’s digital assets after the occurrence of a future event, such as the user’s death or incapacity. The named individual is referred to as the “designated recipient” in the act to differentiate the person from a fiduciary. A designated recipient may perform many of the same tasks as a fiduciary, but is not held to the same legal standard of conduct.

The term “record” includes information available on both tangible and electronic media. Revised UFADAA applies only to electronic records.

The “terms-of-service agreement” definition relies on the definition of “agreement” found in UCC Section 1-201(b)(3) (“the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing, or usage of trade”). It refers to any agreement that controls the relationship between a user and a custodian, even though it might be called a terms-of-use agreement, a click-wrap agreement, a click-through license, or a similar term. State and federal law determine capacity to enter into a binding terms-of-service agreement.

SECTION 3. APPLICABILITY.

(a) This [act] applies to:

(1) a fiduciary acting under a will or power of attorney executed before, on, or after [the effective date of this [act]];

(2) a personal representative acting for a decedent who died before, on, or after [the effective date of this [act]];

(3) a [conservatorship] proceeding commenced before, on, or after [the effective

date of this [act]]; and

(4) a trustee acting under a trust created before, on, or after [the effective date of this [act]].

(b) This [act] applies to a custodian if the user resides in this state or resided in this state at the time of the user's death.

(c) This [act] does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer's business.

Legislative Note: *In subsection (a)(3), an enacting jurisdiction should replace the bracketed language with local terminology, if different.*

Comment

This act does not change the substantive rules of other laws, such as agency, banking, conservatorship, contract, copyright, criminal, fiduciary, privacy, probate, property, security, trust, or other applicable law except to vest fiduciaries with authority, according to the provisions of this act, to access or copy digital assets of a decedent, protected person, principal, settlor, or trustee.

Subsection (a)(2) covers the situations in which a decedent dies intestate, so it falls outside of subsection (a)(1), as well as the situations in which a state's procedures for small estates are used.

Subsection (b) states that custodians are subject to the act if the custodian's user was a resident of the enacting state. This includes out-of-state custodians, who must respond to requests for access in the same way that out-of-state banks or credit card companies must respond to requests from a fiduciary requesting access to a customer's account.

Subsection (c) clarifies that the act does not apply to a fiduciary's access to an employer's internal email system.

Example 1—Fiduciary access to an employee e-mail account. D dies, employed by Company Y. Company Y has an internal e-mail communication system, available only to Y's employees, and used by them in the ordinary course of Y's business. D's personal representative, R, believes that D used Company Y's e-mail system to effectuate some financial transactions that R cannot find through other means. R requests access from Company Y to the e-mails.

Company Y is not a custodian subject to the act. Under Section 2(8), a custodian must carry, maintain or store a user's digital assets. A user, under Section 2(26) must have an

account, and an account, in turn, is defined under Section 2(1) as a contractual arrangement subject to a terms-of-service agreement. Company Y, like most employers, did not enter into a terms-of-service agreement with D, so Y is not a custodian.

Example 2—Employee of electronic-communication service provider. D dies, employed by Company Y. Company Y is an electronic-communication service provider. Company Y has an internal e-mail communication system, available only to Y’s employees and used by them in the ordinary course of Y’s business. D used the internal Company Y system. When not at work, D also used an electronic-communication service system that Company Y provides to the public. D’s personal representative, R, believes that D used Company Y’s internal e-mail system as well as Company Y’s electronic-communication system available to the public to effectuate some financial transactions. R seeks access to both communication systems.

As is true in Example 1, Company Y is not a custodian subject to the act for purposes of the internal email system. The situation is different with respect to R’s access to Company Y’s system that is available to the public. Assuming that Company Y can disclose the communications under federal law and R meets the other requirements of this act, Company Y must disclose them to R.

SECTION 4. USER DIRECTION FOR DISCLOSURE OF DIGITAL ASSETS.

(a) A user may use an online tool to direct the custodian to disclose to a designated recipient or not to disclose some or all of the user’s digital assets, including the content of electronic communications. If the online tool allows the user to modify or delete a direction at all times, a direction regarding disclosure using an online tool overrides a contrary direction by the user in a will, trust, power of attorney, or other record.

(b) If a user has not used an online tool to give direction under subsection (a) or if the custodian has not provided an online tool, the user may allow or prohibit in a will, trust, power of attorney, or other record, disclosure to a fiduciary of some or all of the user’s digital assets, including the content of electronic communications sent or received by the user.

(c) A user’s direction under subsection (a) or (b) overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user’s assent to the terms of service.

Comment

This section addresses the relationship of online tools, other records documenting the user's intent, and terms-of-service agreements. In some instances, there may be a conflict between the directions provided by a user in an online tool that limits access by other parties to the user's digital assets, and the user's estate planning or other personal documents that purport to authorize access for specified persons in identified situations. The act attempts to balance these interests by establishing a three-tier priority system for determining the user's intent with respect to any digital asset.

Subsection (a) gives top priority to a user's wishes as expressed using an online tool. If a custodian of digital assets allows the user to provide directions for handling those digital assets in case of the user's death or incapacity, and the user does so, that provides the clearest possible indication of the user's intent and is specifically limited to those particular digital assets.

If the user does not give direction using an online tool, but makes provisions in an estate plan for the disposition of digital assets, subsection (b) gives legal effect to the user's directions. The fiduciary charged with managing the user's digital assets must provide a copy of the relevant document to the custodian when requesting access. See Sections 7 through 14.

If the user provides no other direction, the terms-of-service governing the account will apply. If the terms-of-service do not address fiduciary access to digital assets, the default rules provided in this act will apply.

SECTION 5. TERMS-OF-SERVICE AGREEMENT.

(a) This [act] does not change or impair a right of a custodian or a user under a terms-of-service agreement to access and use digital assets of the user.

(b) This [act] does not give a fiduciary or designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or designated recipient acts or represents.

(c) A fiduciary's or designated recipient's access to digital assets may be modified or eliminated by a user, by federal law, or by a terms-of-service agreement if the user has not provided direction under Section 4.

Comment

This section clarifies that, to the extent that a custodian gives a fiduciary access to an account pursuant to Section 6, the account's terms-of-service agreement applies equally to the

original user and to a fiduciary acting for the original user. A fiduciary is subject to the same terms and conditions of the user's agreement with the custodian. This section does not require a custodian to permit a fiduciary to assume a user's terms-of-service agreement if the custodian can otherwise comply with Section 6.

SECTION 6. PROCEDURE FOR DISCLOSING DIGITAL ASSETS.

(a) When disclosing digital assets of a user under this [act], the custodian may at its sole discretion:

(1) grant a fiduciary or designated recipient full access to the user's account;

(2) grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; or

(3) provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account.

(b) A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this [act].

(c) A custodian need not disclose under this [act] a digital asset deleted by a user.

(d) If a user directs or a fiduciary requests a custodian to disclose under this [act] some, but not all, of the user's digital assets, the custodian need not disclose the assets if segregation of the assets would impose an undue burden on the custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or fiduciary may seek an order from the court to disclose:

(1) a subset limited by date of the user's digital assets;

(2) all of the user's digital assets to the fiduciary or designated recipient;

(3) none of the user's digital assets; or

(4) all of the user’s digital assets to the court for review in camera.

Comment

This section governs a custodian’s response to a request for disclosure of a user’s digital assets.

Subsection (a) gives the custodian of digital assets a choice of methods for disclosing digital assets to an authorized fiduciary. Each custodian has a different business model and may prefer one method over another.

Subsection (b) allows a custodian to assess a reasonable administrative charge for the cost of disclosure. This is intended to be analogous to the charge any business may assess for administrative tasks outside the ordinary course of its business to comply with a court order.

Subsection (c) states that any digital asset deleted by the user need not be disclosed, even if recoverable by the custodian. Deletion is assumed to be a good indication that the user did not intend for a fiduciary to have access.

Subsection (d) addresses requests that are unduly burdensome because they require segregation of digital assets. For example, a fiduciary’s request for disclosure of “any email pertaining to financial matters” would require a custodian to sort through the full list of emails and cull any irrelevant messages before disclosure. If a custodian receives an unduly burdensome request of this sort, it may decline to disclose the digital assets, and either the fiduciary or custodian may seek guidance from a court.

SECTION 7. DISCLOSURE OF CONTENT OF ELECTRONIC

COMMUNICATIONS OF DECEASED USER. If a deceased user consented or a court directs disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the representative gives the custodian:

- (1) a written request for disclosure in physical or electronic form;
- (2) a [certified] copy of the death certificate of the user;
- (3) a [certified] copy of [the letter of appointment of the representative or a small-estate affidavit or court order];
- (4) unless the user provided direction using an online tool, a copy of the user’s will, trust, power of attorney, or other record evidencing the user’s consent to disclosure of the content of

electronic communications; and

(5) if requested by the custodian:

(A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(B) evidence linking the account to the user; or

(C) a finding by the court that:

(i) the user had a specific account with the custodian, identifiable by the information specified in subparagraph (A);

(ii) disclosure of the content of electronic communications of the user would not violate 18 U.S.C. Section 2701 et seq.[, as amended], 47 U.S.C. Section 222[, as amended], or other applicable law;

(iii) unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or

(iv) disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

Legislative Note: *In jurisdictions that certify legal documents, the word "certified" should be included in paragraphs (2) and (3). Other jurisdictions may substitute a word or phrase that conforms to the local practice for authentication. Enacting jurisdictions should insert into paragraph (3) the local term given to a document that authorizes a personal representative to administer a decedent's estate. In jurisdictions in which the constitution, or other law, does not permit the phrase "as amended" when federal statutes are incorporated into state law, the phrase should be deleted in paragraph (5)(C)(ii).*

Comment

The Electronic Communications Privacy Act (ECPA) distinguishes between the permissible disclosure of the "content" of an electronic communication, covered in 18 U.S.C. Section 2702(b), and of "a record or other information pertaining to a" subscriber or customer, covered in 18 U.S.C. Section 2702(c); see Matthew J. Tokson, *The Content/Envelope Distinction in Internet Law*, 50 Wm. & Mary L. Rev. 2105 (2009). Section 7 concerns disclosure of content;

Section 8 covers disclosure of non-content and other digital assets of the user.

Content-based material can, in turn, be divided into two types of communications: those received by the user and those sent. Federal law, 18 U.S.C. Section 2702(b) permits a custodian to divulge the contents of a communication “(1) to an addressee or intended recipient of such communication or an agent of such addressee or intended recipient” or “(3) with the lawful consent of the originator or an addressee or intended recipient of such communication, or the subscriber in the case of remote computing service.”

Consequently, when the user is the “addressee or intended recipient,” material can be disclosed either to that individual or to an agent for that person, 18 U.S.C. Section 2702(b)(1), and it can also be disclosed to third parties with the “lawful consent” of the addressee or intended recipient. 18 U.S.C. Section 2702(b)(3). Material for which the user is the “originator” (or the “subscriber” to a remote computing service) can be disclosed to third parties only with the user’s “lawful consent.” 18 U.S.C. Section 2702(b)(3). (Note that, when the user is the addressee or intended recipient, material can be disclosed under either (b)(1) or (b)(3), but that when the user is the originator, lawful consent is required under (b)(3).) See the Comments concerning the definition of “content” after Section 2. By contrast to content-based material, non-content material can be disclosed either with the lawful consent of the user or to any person (other than a governmental entity) even without lawful consent. This information includes material about any communication sent, such as the addressee, sender, date/time, and other subscriber data, which this act defines as the “catalogue of electronic communications.” (Further discussion of this issue and examples are set out in the Comments to Section 15, *infra*.)

Therefore, Section 7 gives the personal representative access to digital assets if the user consented to disclosure or if a court orders disclosure. To obtain access, the personal representative must provide the documentation specified by Section 7. First, the personal representative must give the custodian a written request for disclosure, a copy of the death certificate, a document establishing the authority of the personal representative, and, in the absence of an online tool, a record evidencing the user’s consent to disclosure. When requesting disclosure, the fiduciary must write or email the custodian. The form of the request is limited, and does not, for example, include video, Tweet, instant message or other forms of communication.

Second, if the custodian requests, then the personal representative can be required to establish that the requested information is necessary for estate administration and the account is attributable to the decedent. Different custodians may have different procedures. Thus a custodian may request that the personal representative obtain a court order, and such an order must include findings that: 1) the user had a specific account with the custodian, 2) that disclosure of the content of electronic communications of the user would not violate the SCA or other law, 3) unless the user provided direction using an online tool, that the user consented to disclosure of the content of electronic communications, or 4) that disclosure of the content of electronic communications of a user is reasonably necessary for administration of the estate.

SECTION 8. DISCLOSURE OF OTHER DIGITAL ASSETS OF DECEASED

USER. Unless the user prohibited disclosure of digital assets or the court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalogue of electronic communications sent or received by the user and digital assets, other than the content of electronic communications, of the user, if the representative gives the custodian:

- (1) a written request for disclosure in physical or electronic form;
- (2) a [certified] copy of the death certificate of the user;
- (3) a [certified] copy of [the letter of appointment of the representative or a small-estate affidavit or court order]; and
- (4) if requested by the custodian:
 - (A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;
 - (B) evidence linking the account to the user;
 - (C) an affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate; or
 - (D) a finding by the court that:
 - (i) the user had a specific account with the custodian, identifiable by the information specified in subparagraph (A); or
 - (ii) disclosure of the user's digital assets is reasonably necessary for administration of the estate.

Legislative Note: *In jurisdictions that certify legal documents, the word "certified" should be included in paragraphs (2) and (3). Other jurisdictions may substitute a word or phrase that conforms to the local practice for authentication. Enacting jurisdictions should insert into paragraph (3) the local term given to a document that authorizes a personal representative to administer a decedent's estate.*

Comment

As in Section 7, when requesting disclosure of non-content, the fiduciary must write or email the custodian.

Section 8 requires disclosure of all other digital assets, unless prohibited by the decedent or directed by the court, once the personal representative provides a written request, a death certificate and a certified copy of the letter of appointment. In addition, the custodian may request a court order, and such an order must include findings that the decedent had a specific account with the custodian and that disclosure of the decedent's digital assets is reasonably necessary for administration of the estate. Thus, Section 8 was intended to give personal representatives default access to the "catalogue" of electronic communications and other digital assets not protected by federal privacy law.

SECTION 9. DISCLOSURE OF CONTENT OF ELECTRONIC

COMMUNICATIONS OF PRINCIPAL. To the extent a power of attorney expressly grants an agent authority over the content of electronic communications sent or received by the principal and unless directed otherwise by the principal or the court, a custodian shall disclose to the agent the content if the agent gives the custodian:

- (1) a written request for disclosure in physical or electronic form;
- (2) an original or copy of the power of attorney expressly granting the agent authority over the content of electronic communications of the principal;
- (3) a certification by the agent, under penalty of perjury, that the power of attorney is in effect; and
- (4) if requested by the custodian:
 - (A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or
 - (B) evidence linking the account to the principal.

Comment

An agent has access to the content of electronic communications only when the power of attorney explicitly grants access. Section 10 concerns disclosure of other digital assets of the principal.

When a power of attorney contains the consent of the principal, ECPA does not prevent the agent from exercising authority over the content of an electronic communication. See the Comments to Section 7. There should be no question that an explicit delegation of authority in a power of attorney constitutes authorization from the user to access digital assets and provides “lawful consent” to allow disclosure of the content of an electronic communication from an electronic-communication service or a remote-computing service pursuant to applicable law. Both authorization and lawful consent are important because 18 U.S.C. Section 2701 deals with intentional access without authorization and 18 U.S.C. Section 2702 allows a service provider to disclose with lawful consent. Federal courts have not yet interpreted how ECPA affects a fiduciary’s efforts to access the content of an electronic communication. *E.g., In re Facebook, Inc.*, 923 F. Supp. 2d 1204 (N.D. Cal. 2012).

When requesting access, the agent must write or email the custodian (see the comments in Section 7). The agent must also give the custodian an original or copy of the power of attorney expressly granting the agent authority over the contents of electronic communications of the principal to the agent and a certification by the agent, under penalty of perjury, that the power of attorney is in effect. In addition, if requested by the custodian, the agent must provide a unique subscriber or account identifier assigned by the custodian to identify the principal’s account or other evidence linking the account to the principal.

SECTION 10. DISCLOSURE OF OTHER DIGITAL ASSETS OF PRINCIPAL.

Unless otherwise ordered by the court, directed by the principal, or provided by a power of attorney, a custodian shall disclose to an agent with specific authority over digital assets or general authority to act on behalf of a principal a catalogue of electronic communications sent or received by the principal and digital assets, other than the content of electronic communications, of the principal if the agent gives the custodian:

- (1) a written request for disclosure in physical or electronic form;
- (2) an original or a copy of the power of attorney that gives the agent specific authority over digital assets or general authority to act on behalf of the principal;
- (3) a certification by the agent, under penalty of perjury, that the power of attorney is in effect; and
- (4) if requested by the custodian:
 - (A) a number, username, address, or other unique subscriber or account identifier

assigned by the custodian to identify the principal's account; or

(B) evidence linking the account to the principal.

Comment

This section establishes that the agent has default authority over all of the principal's digital assets, other than the content of the principal's electronic communications. When requesting access, the agent must write or email the custodian (see the comments in Section 7).

The agent must also give the custodian an original or copy of the power of attorney and a certification by the agent, under penalty of perjury, that the power of attorney is in effect. Also, if requested by the custodian, the agent must provide a unique subscriber or account identifier assigned by the custodian to identify the principal's account, or some evidence linking the account to the principal.

SECTION 11. DISCLOSURE OF DIGITAL ASSETS HELD IN TRUST WHEN TRUSTEE IS ORIGINAL USER. Unless otherwise ordered by the court or provided in a trust, a custodian shall disclose to a trustee that is an original user of an account any digital asset of the account held in trust, including a catalogue of electronic communications of the trustee and the content of electronic communications.

Comment

Section 11 provides that trustees who are original users can access all digital assets held in the trust. There should be no question that a trustee who is the original user will have full access to all digital assets. This includes the content of electronic communications, as access to content is presumed with respect to assets for which the trustee is the initial user. A trustee may have title to digital assets when the trustee opens an account as trustee; under those circumstances, the trustee can access the content of each digital asset that is in an account for which the trustee is the original user, not necessarily each digital asset held in the trust.

SECTION 12. DISCLOSURE OF CONTENTS OF ELECTRONIC COMMUNICATIONS HELD IN TRUST WHEN TRUSTEE NOT ORIGINAL USER. Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account the content of an electronic communication sent or received by an original or successor user and carried, maintained,

processed, received, or stored by the custodian in the account of the trust if the trustee gives the custodian:

- (1) a written request for disclosure in physical or electronic form;
- (2) a certified copy of the trust instrument[or a certification of the trust under [cite trust-certification statute, such as Uniform Trust Code Section 1013]] that includes consent to disclosure of the content of electronic communications to the trustee;
- (3) a certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and
- (4) if requested by the custodian:
 - (A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust’s account; or
 - (B) evidence linking the account to the trust.

Comment

For accounts that are transferred into a trust by the settlor or in another manner, a trustee is not the original user of the account, and the trustee’s authority is qualified. Thus, Section 12, governing disclosure of content of electronic communications from those accounts, requires consent.

Section 12 addresses situations involving an inter vivos transfer of a digital asset into a trust, a transfer into a testamentary trust, or a transfer via a pourover will or other governing instrument of a digital asset into a trust. In those situations, a trustee becomes a successor user when the settlor transfers a digital asset into the trust. There should be no question that the trustee with legal title to the digital asset was authorized by the settlor to access the digital assets so transferred, including both the catalogue and content of an electronic communication, and this provides “lawful consent” to allow disclosure of the content of an electronic communication from an electronic-communication service or a remote-computing service pursuant to applicable law. See the Comments concerning the definitions of the “content of an electronic communication” after Section 2. Nonetheless, Sections 12 and 13 distinguish between the catalogue and content of an electronic communication in case there are any questions about whether the form in which property transferred into a trust is held constitutes lawful consent. Both authorization and lawful consent are important because 18 U.S.C. Section 2701 deals with intentional access without authorization and because 18 U.S.C. Section 2702 allows a service provider to disclose with lawful consent.

The underlying trust documents and default trust law will supply the allocation of responsibilities between and among trustees. When requesting access, the trustee must write or email the custodian (see comments to Section 7). The trustee must also give the custodian an original or copy of the trust that includes consent to disclosure of the content of electronic communications to the trustee and a certification by the trustee, under penalty of perjury, that the trust exists and that the trustee is a currently acting trustee of the trust. Also, if requested by the custodian, the trustee must provide a unique subscriber or account identifier assigned by the custodian to identify the trust's account, or some evidence linking the account to the trust.

SECTION 13. DISCLOSURE OF OTHER DIGITAL ASSETS HELD IN TRUST

WHEN TRUSTEE NOT ORIGINAL USER. Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose, to a trustee that is not an original user of an account, a catalogue of electronic communications sent or received by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications, in which the trust has a right or interest if the trustee gives the custodian:

- (1) a written request for disclosure in physical or electronic form;
- (2) a certified copy of the trust instrument[or a certification of the trust under [cite trust-certification statute, such as Uniform Trust Code Section 1013]];
- (3) a certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and
- (4) if requested by the custodian:
 - (A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or
 - (B) evidence linking the account to the trust.

Comment

Section 13 governs digital assets other than the contents of electronic communications, so it does not require the settlor's consent.

When requesting access, the trustee must write or email the custodian (see Comments to Section 7).

The trustee must also give the custodian an original or copy of the trust, and a certification by the trustee, under penalty of perjury, that the trust exists and that the trustee is a currently acting trustee of the trust. Also, if requested by the custodian, the trustee must provide a unique subscriber or account identifier assigned by the custodian to identify the trust's account, or some evidence linking the account to the trust.

SECTION 14. DISCLOSURE OF DIGITAL ASSETS TO [CONSERVATOR] OF [PROTECTED PERSON].

(a) After an opportunity for a hearing under [state conservatorship law], the court may grant a [conservator] access to the digital assets of a [protected person].

(b) Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a [conservator] the catalogue of electronic communications sent or received by a [protected person] and any digital assets, other than the content of electronic communications, in which the [protected person] has a right or interest if the [conservator] gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) a [certified] copy of the court order that gives the [conservator] authority over the digital assets of the [protected person]; and

(3) if requested by the custodian:

(A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the account of the [protected person]; or

(B) evidence linking the account to the [protected person].

(c) A [conservator] with general authority to manage the assets of a [protected person] may request a custodian of the digital assets of the [protected person] to suspend or terminate an account of the [protected person] for good cause. A request made under this section must be

accompanied by a [certified] copy of the court order giving the [conservator] authority over the protected person's property.

Legislative Note: *Throughout this section, an enacting jurisdiction should replace the bracketed terms [conservator] and [protected person] with local terminology, if different. In jurisdictions that certify legal documents, the word "certified" should be included in subsections (b) and (c). Other jurisdictions may substitute a word or phrase that conforms to the local practice for authentication.*

Comment

When a conservator is appointed to represent a protected person's interests, the protected person may still retain some right to privacy in their personal communications. Therefore, Section 14 does not permit conservators to request disclosure of a protected person's electronic communications on the basis of the conservatorship order alone. To access a protected person's digital assets and a catalogue of electronic communications, a conservator must be specifically authorized by the court to do so. This requirement for express judicial authority over digital assets does not limit the fiduciary's authority over the underlying assets, such as funds held in a bank account. The meaning of the term "hearing" will vary from state to state according to state law and procedures.

State law will establish the criteria for when a court will grant power to the conservator. For example, UPC Section 5-411(c) requires the court to consider the decision the protected person would have made as well as a list of other factors. Existing state law may also set out the requisite standards for a conservator's actions. The conservator must exercise authority in the interests of the protected person. When requesting access to digital assets in which the protected person has a right or interest, the conservator must write or email the custodian (see comments to Section 7).

The conservator must also give the custodian a certified copy of the court order that gives the conservator authority over the protected person's digital assets. Also, if requested by the custodian, the conservator must provide a unique subscriber or account identifier assigned by the custodian to identify the protected person's account, or some evidence linking the account to the protected person. The custodian is required to disclose the digital assets so requested.

Under subsection (c), a conservator with general authority to manage the assets of the protected person may request suspension or termination of the protected person's account, for good cause.

SECTION 15. FIDUCIARY DUTY AND AUTHORITY.

(a) The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including:

- (1) the duty of care;
- (2) the duty of loyalty; and
- (3) the duty of confidentiality.

(b) A fiduciary's or designated recipient's authority with respect to a digital asset of a user:

(1) except as otherwise provided in Section 4, is subject to the applicable terms of service;

(2) is subject to other applicable law, including copyright law;

(3) in the case of a fiduciary, is limited by the scope of the fiduciary's duties; and

(4) may not be used to impersonate the user.

(c) A fiduciary with authority over the property of a decedent, [protected person], principal, or settlor has the right to access any digital asset in which the decedent, [protected person], principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

(d) A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, [protected person], principal, or settlor for the purpose of applicable computer-fraud and unauthorized-computer-access laws, including [this state's law on unauthorized computer access].

(e) A fiduciary with authority over the tangible, personal property of a decedent, [protected person], principal, or settlor:

(1) has the right to access the property and any digital asset stored in it; and

(2) is an authorized user for the purpose of computer-fraud and unauthorized-computer-access laws, including [this state's law on unauthorized computer

access].

(f) A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.

(g) A fiduciary of a user may request a custodian to terminate the user's account. A request for termination must be in writing, in either physical or electronic form, and accompanied by:

(1) if the user is deceased, a [certified] copy of the death certificate of the user;

(2) a [certified] copy of the [letter of appointment of the representative or a small-estate affidavit or court order,] court order, power of attorney, or trust giving the fiduciary authority over the account; and

(3) if requested by the custodian:

(A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(B) evidence linking the account to the user; or

(C) a finding by the court that the user had a specific account with the custodian, identifiable by the information specified in subparagraph (A).

Legislative Note: States with a computer trespass statute should cite to it in subsections (d) and (e), and may want to amend those statutes to be in accord with this act. In jurisdictions that certify legal documents, the word "certified" should be included in subsection (g). Other jurisdictions may substitute a word or phrase that conforms to the local practice for authentication. In subsections (c) and (e), an enacting jurisdiction should replace "protected person" with the local term for a person subject to a conservatorship, if different.

Comment

The original version of UFADAA incorporated fiduciary duties by reference to "other law." This proved to be confusing and led to enactment difficulty. Section 15 specifies the nature, extent and limitation of the fiduciary's authority over digital assets. Subsection (a) expressly imposes all fiduciary duties to the management of digital assets, including the duties of care, loyalty and confidentiality. Subsection (b) specifies that a fiduciary's authority over digital

assets is subject to the terms-of-service agreement, except to the extent the terms-of-service agreement provision is overridden by an action taken pursuant to Section 4, and it reinforces the applicability of copyright and fiduciary duties. Finally, subsection 15(b) prohibits a fiduciary's authority being used to impersonate a user. Subsection 15(c) permits the fiduciary to access all digital assets not in an account or subject to a terms-of-service agreement. Subsection 15(d) further specifies that the fiduciary is an authorized user under any applicable law on unauthorized computer access.

Subsection 15(g) gives the fiduciary the option of requesting that an account be terminated, if termination would not violate a fiduciary duty.

This issue concerning the parameters of the fiduciary's authority potentially arises in two situations: 1) the fiduciary obtains access to a password or the like directly from the user, as would be true in various circumstances such as for the trustee of an inter vivos trust or someone who has stored passwords in a written or electronic list and those passwords are then transmitted to the fiduciary; and 2) the fiduciary obtains access pursuant to this act.

This section clarifies that the fiduciary has the same authority as the user if the user were the one exercising the authority (note that, where the user has died, this means that the fiduciary has the same access as the user had immediately before death). This means that the fiduciary's authority to access the digital asset is the same as the user except where, pursuant to Section 4, the user has explicitly opted out of fiduciary access. In exercising its responsibilities, the fiduciary is subject to the duties and obligations established pursuant to state fiduciary law, and is liable for breach of those duties. Note that even if the digital asset were illegally obtained by the user, the fiduciary would still need access in order to handle that asset appropriately. There may, for example, be tax consequences that the fiduciary would be obligated to report.

However, this section does not require a custodian to permit a fiduciary to assume a user's terms-of-service agreement if the custodian can otherwise comply with Section 6.

In exercising its responsibilities, the fiduciary is subject to the same limitations as the user more generally. For example, a fiduciary cannot delete an account if this would be fraudulent. Similarly, if the user could challenge provisions in a terms-of-service agreement, then the fiduciary is also able to do so. *See Ajemian v. Yahoo!, Inc.*, 987 N.E.2d 604 (Mass. 2013).

Subsection (b) is designed to establish that the fiduciary is authorized to obtain or access digital assets in accordance with other applicable laws. The language mirrors that used in Title II of the Electronic Communications Privacy Act of 1986 (ECPA), also known as the Stored Communications Act, 18 U.S.C. Section 2701 *et seq.* (2006); *see, e.g.*, Orin S. Kerr, *A User's Guide to the Stored Communications Act, and a Legislator's Guide to Amending It*, 72 Geo. Wash. L. Rev. 1208 (2004). The subsection clarifies that state law treats the fiduciary as "authorized" under state laws criminalizing unauthorized access.

State laws vary in their coverage but typically prohibit unauthorized computer access. By

defining the fiduciary as an authorized user in subsection (d), the fiduciary has authorization under applicable law to access the digital assets under state computer trespass laws.

Federal courts may look to these provisions to guide their interpretations of ECPA and the federal Computer Fraud and Abuse Act, but fiduciaries should understand that federal courts may not view such provisions as dispositive in determining whether access to a user's account violated federal criminal law.

Subsection (e) clarifies that the fiduciary is authorized to access digital assets stored on tangible personal property of the decedent, protected person, principal, or settlor, such as laptops, computers, smartphones or storage media, exempting fiduciaries from application for purposes of state or federal laws on unauthorized computer access. For criminal law purposes, this clarifies that the fiduciary is authorized to access all of the user's digital assets, whether held locally or remotely.

Example 1—Access to digital assets by personal representative. D dies with a will that is silent with respect to digital assets. D has a bank account for which D received only electronic statements, D has stored photos in a cloud-based Internet account, and D has an e-mail account with a company that provides electronic-communication services to the public. The personal representative of D's estate needs access to the electronic bank account statements, the photo account, and e-mails.

The personal representative of D's estate has the authority to access D's electronic banking statements and D's photo account, which both fall under the act's definition of a "digital asset." This means that, if these accounts are password-protected or otherwise unavailable to the personal representative, then the bank and the photo account service must give access to the personal representative when the request is made in accordance with Section 8. If the terms-of-service agreement permits D to transfer the accounts electronically, then the personal representative of D's estate can use that procedure for transfer as well.

The personal representative of D's estate is also able to request that the e-mail account service provider grant access to e-mails sent or received by D; ECPA permits the service provider to release the catalogue to the personal representative. The service provider also must provide the personal representative access to the content of an electronic communication sent or received by D if the user has consented and the fiduciary submitted the information required under Section 7. The bank may release the catalogue of electronic communications or content of an electronic communication for which it is the originator or the addressee because the bank is not subject to the ECPA.

Example 2—Access to digital assets by agent. X creates a power of attorney designating A as X's agent. The power of attorney expressly grants A authority over X's digital assets, including the content of an electronic communication. X has a bank account for which X receives only electronic statements, X has stored photos in a cloud-based Internet account, and X has a game character and in-game property associated with an online game. X also has an e-mail account with a company that provides electronic-communication services to the public.

A has the authority to access X's electronic bank statements, the photo account, the game character and in-game property associated with the online game, all of which fall under the act's definition of a "digital asset." This means that, if these accounts are password-protected or otherwise unavailable to A as X's agent, then the bank, the photo account service provider, and the online game service provider must give access to A when the request is made in accordance with Section 10. If the terms-of-service agreement permits X to transfer the accounts electronically, then A as X's agent can use that procedure for transfer as well.

As X's agent, A is also able to request that the e-mail account service provider grant access to e-mails sent or received by X; ECPA permits the service provider to release the catalogue. The service provider also must provide A access to the content of an electronic communication sent or received by X if the fiduciary provides the information required under Section 9. The bank may release the catalogue of electronic communications or content of an electronic communication for which it is the originator or the addressee because the bank is not subject to the ECPA.

Example 3—Access to digital assets by trustee. T is the trustee of a trust established by S. As trustee of the trust, T opens a bank account for which T receives only electronic statements. S transfers into the trust to T as trustee (in compliance with a terms-of-service agreement) a game character and in-game property associated with an online game and a cloud-based Internet account in which S has stored photos. S also transfers to T as trustee (in compliance with the terms-of-service agreement) an e-mail account with a company that provides electronic-communication services to the public.

T is an original user with respect to the bank account that T opened, and T has the ability to access the electronic banking statements under Section 11. T, as successor user to S, may under Section 13 access the game character and in-game property associated with the online game and the photo account, which both fall under the act's definition of a "digital asset." This means that, if these accounts are password-protected or otherwise unavailable to T as trustee, then the bank, the photo account service provider, and the online game service provider must give access to T when the request is made in accordance with the act. If the terms-of-service agreement permits the user to transfer the accounts electronically, then T as trustee can use that procedure for transfer as well.

T as successor user of the e-mail account for which S was previously the user is also able to request that the e-mail account service provider grant access to e-mails sent or received by S; and ECPA permits the service provider to release the catalogue. The service provider also must provide T access to the content of an electronic communication sent or received by S if the fiduciary provides the information required under Section 12. The bank may release the catalogue of electronic communications or content of an electronic communication for which it is the originator or the addressee because the bank is not subject to the ECPA.

SECTION 16. CUSTODIAN COMPLIANCE AND IMMUNITY.

(a) Not later than [60] days after receipt of the information required under Sections 7

through 15, a custodian shall comply with a request under this [act] from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply, the fiduciary or designated recipient may apply to the court for an order directing compliance.

(b) An order under subsection (a) directing compliance must contain a finding that compliance is not in violation of 18 U.S.C. Section 2702[, as amended].

(c) A custodian may notify the user that a request for disclosure or to terminate an account was made under this [act].

(d) A custodian may deny a request under this [act] from a fiduciary or designated recipient for disclosure of digital assets or to terminate an account if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request.

(e) This [act] does not limit a custodian's ability to obtain or require a fiduciary or designated recipient requesting disclosure or termination under this [act] to obtain a court order which:

(1) specifies that an account belongs to the [protected person] or principal;

(2) specifies that there is sufficient consent from the [protected person] or principal] to support the requested disclosure; and

(3) contains a finding required by law other than this [act].

(f) A custodian and its officers, employees, and agents are immune from liability for an act or omission done in good faith in compliance with this [act].

Legislative Note: In jurisdictions in which the constitution, or other law, does not permit the phrase “as amended” when federal statutes are incorporated into state law, the phrase should be deleted in subsection (b). In subsection (e), an enacting jurisdiction should replace the bracketed language with local terminology, if different.

Comment

This section establishes that custodians are protected from liability when they act in accordance with the procedures of this act and in good faith. The types of actions covered include disclosure as well as transfer of copies. The critical issue in conferring immunity is the source of the liability. Direct liability is not subject to immunity; indirect liability is subject to immunity.

Direct liability could only arise from noncompliance with a judicial order issued under sections 7 to 15. Upon determination of a right of access under those sections, a court may issue an order to grant access under section 16. Section 16(b) requires that an order directing compliance contain a finding that compliance is not in violation of 18 U.S.C. Section 2702. Noncompliance with that order would give rise to liability for contempt. There is no immunity from this liability.

Indirect liability could arise from granting a right of access under this act. Access to a digital asset might invade the privacy or harm the reputation of the decedent, protected person, principal, or settlor, it might harm the family or business of the decedent, protected person, principal, or settlor, and it might harm other persons. The grantor of access to the digital asset is immune from liability arising out of any of these circumstances if the grantor acted in good faith to comply with this act. If there is a judicial order under section 16, compliance with the order establishes good faith. Absent a judicial order under section 16, good faith must be established by the grantor’s assessment of the requirements of this act. Further, Section 16 (e) allows the custodian to verify that the account belongs to the person represented by the fiduciary.

SECTION 17. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 18. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C.

Section 7003(b).

[SECTION 19. SEVERABILITY. If any provision of this [act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [act] which can be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.]

***Legislative Note:** Include this section only if the jurisdiction lacks a general severability statute or a decision by the highest court of the jurisdiction stating a general rule of severability.*

SECTION 20. REPEALS; CONFORMING AMENDMENTS.

(a)

(b)

(c)

SECTION 21. EFFECTIVE DATE. This [act] takes effect

2016 - 2017

Judicial Qualifications Commission Legislation Task Force

This task force will formulate a recommended course of action in regard to legislation implementing a reconstituted Judicial Qualifications Commission (JQC) and other potential reforms to the JQC and will present its recommendations to the Executive Committee and the Board of Governors.

Chairperson

Brian DeVoe Rogers , Atlanta 2017

Members

Sarah Brown Akins , Savannah 2017

Eric Alvin Ballinger , Canton 2017

Diane E. Bessen , Atlanta 2017

J. Antonio DelCampo , Atlanta 2017

Scott Dewitt Delius , Atlanta 2017

Harold Eugene Franklin Jr., Atlanta 2017

Horace Jerome Johnson Jr., Covington 2017

Dawn M. Jones , Atlanta 2017

Edward H. Lindsey Jr., Atlanta 2017

Dennis C. O'Brien , Marietta 2017

Miller Peterson Robinson , Atlanta 2017

Paige Reese Whitaker , Atlanta 2017

Executive Committee Liaison

Kenneth Bryant Hodges III, Atlanta 2017

Staff Liaison

Christine Lynn Butcher , Atlanta 2017



To: Bar Officers
Finance Committee

From: Steve Laine

Date: August 29, 2016

Re: June 2016 Financial Statements-Bar Operations and Bar Center

Attached please find the June 2016 (fiscal year-end) financial statements. These financial statements are presented at a summary level for clarity and to convey overall trends. Full departmental detail is attached.

New and revised items are highlighted in bold.

Executive Summary

The Finance Committee budgeted a 2015-16 loss of (\$965,982) for the combined Bar and Bar Center. Actual results for the year were a loss of (\$1,229,154) for the Bar and a gain of \$815,577 for the Bar Center, for a net loss of (\$413,927).

These results above do not include a \$271,931 reduction in unrestricted surplus to replenish the Cornerstones of Freedom Reserve fund, a \$50,000 increase in the Litigation Reserve authorized by the Board of Governors, and a \$57,850 reduction in unrestricted surplus to bring the Meetings Fund back to zero. These items decreased the unrestricted surplus by (\$379,781).

Overall impact of all operations to surplus was (\$793,708).

Operations Revenues fell slightly below budget (\$10,221--0.1%), and total Operations Expenses were \$643,410 (4.9%) below budget.

Bar Center Revenues exceeded budget by \$145,693 (4.0%). Bar Center expense was \$226,477 (8.2%) over budget.

These amounts are subject to final audit.

The Coastal Georgia department exceeded its total budget for the year. YLD was over by roughly \$2K due to under-budgeting of office rent. This has been corrected for the 2016-17 budget.

Operating Revenue Variances

Active/Inactive Dues

Dues-paying active members exceeded budget by 77. Inactive members lagged budget by 256. Total dues revenue surpassed budget by \$63K.

Late fees trailed budget substantially (\$43K under budget and \$80K under prior year), due to email efforts to notify members at risk of late payment.

Membership Income

Membership income lagged budget by \$26K mainly due to reduced mailing list fees, down \$21K from the previous year.

Operating Expense Variances

Operating expenses were under budget for the following principal reasons:

- (1) Savings were realized in the Office of General Counsel mainly regarding Benefits (due to turnover), Staff Travel, and Disciplinary Panel expense (\$63K);
- (2) Savings were realized in Administration mainly regarding Staff Travel and Miscellaneous expenses (\$60K);
- (3) Savings were realized in the Shared Office Overhead areas of Facilities, Telephone, Supplies, Audit/Actuary/Payroll, Kitchen, Accounting, and Receptionist (\$48K total);
- (4) Savings were realized in Fee Arbitration regarding contract attorney usage (\$47K);
- (5) Officer expenses were below budget (\$46K);
- (6) Executive Committee and Supreme Court meeting expenses were below budget (\$45K);
- (7) Savings were realized in the Management Information Systems department mainly regarding usage of programming contractors (\$44K);
- (8) Cost savings were achieved in printing cost and distribution of the Bar Journal, Bar Directory, and other publications (\$40K);
- (9) The Judicial Poll was not necessary (\$31K);
- (10) The Younger Lawyers Division realized savings (\$26K).

Bar Center Revenue Variances

CCLC Contributions exceeded budget by \$86K. Parking revenues exceeded budget by \$70K.

Bar Center Expense Variances

Tenant Improvements and design fees were delayed while negotiating with State of Georgia tenants and had been anticipated in 2014-15. They occurred mainly in 2015-16 and resulted in a \$428K budget overage. Parking deck technology upgrades were more costly than anticipated (\$48K).

These overages were offset by the following:

- (1) Savings in building operating expenses (\$124K);
- (2) Savings in Third Floor Contingency and Conference Center renovations (\$43K);

(3) Savings in Conference Center operating expenses (\$34K).

These overages were more than offset by the following favorable variances:

- (1) Building Operating Expenses were below budget by \$270,663, primarily in the areas of Utilities (\$106,506 savings) and Repairs and Maintenance (\$109,972).
- (2) Conference Center Operating Expenses were below budget by \$27,634, primarily in the areas of Staff Overtime and Equipment Maintenance.

Salaries

Salaries exceeded budget minimally in most departments due to a timing issue. Raises are given the first full pay period in the new fiscal year. Sometimes that results in a slight shifting of expense to one year versus the other.

Detailed Expense Variances by Department

Administration (Admin)

Admin-Computer Hardware was over budget \$552 due to an unbudgeted printer replacement for Membership Department. Admin-Seminars and Training was over budget \$259 due to timing of NABE registrations.

Credit card discounts and fees exceeded budget by \$11,462 due to increased usage by members. Membership Software License exceeded budget by \$1,166 due to rate increase.

These overages were offset by other budget savings and, in total, Administration came in under budget for the year by \$60K.

Management Information Systems (MIS)

MIS-Offsite Backup was over budget \$1,200 due to utilization of a new cloud-based service. **This overage was offset by other budget savings and, in total, MIS came in under budget for the year by \$43K.**

Office of General Counsel (OGC)

OGC-Litigation was over budget **\$29,631**. **Going forward, litigation expenses will be paid from the Litigation Reserve directly and replenished at year-end from Bar Surplus. These expenses are difficult to budget or project.**

OGC-Seminars & Training was over budget **\$2,118**. **Lexis/Nexis Online was over budget by \$632.**

These overages were offset by other budget savings and, in total, OGC came in under budget for the year by \$63K.

Consumer Assistance Program (CAP)

CAP-Furniture and Equipment was over budget **\$412**. **This overage was offset by other budget savings and, in total, CAP came in under budget for the year by \$6K.**

Communications

Comm-Subscriptions and Books was over budget **\$648**. Comm-Seminars and Training was over budget \$224 due to timing of NABE registrations. Comm-Miscellaneous was over budget \$288.

Comm-Computer Hardware was over budget \$1,068 due to a printer purchase. **Comm-Website Redesign was over budget by \$10,153 due to unanticipated transition costs.**

The Comm-Membership Certificates line was over budget by **\$234**. Comm-Supplemental Directory exceeded budget by \$532.

These overages were offset by other budget savings and, in total, Communications came in under budget for the year by \$54K.

Fee Arbitration (FA)

FA-Miscellaneous was over budget by \$538 due to purchases of lapel pins for arbitrators and staff.

This overage were offset by other budget savings and, in total, FA came in under budget for the year by \$47K.

Law Practice Management (LPM)

LPM-Solo and Small Firm Seminar income and expense was unbudgeted in its first year. The **\$20,823** in expense was more than offset by conference revenue. The Seminar is budgeted for 2016-17.

LPM-Printing was over budget \$199. LPM-Subscriptions and Books was over budget **\$182**. LPM-Seminars and Training exceeded budget by \$200. **LPM-Miscellaneous was over budget by \$251 due to purchase of booth at State Bar Annual Meeting. LPM-Staff Travel exceeded budget by \$686.**

These overages were offset by other budget savings and, in total, LPM came in under budget for the year by \$14K.

Younger Lawyers Division (YLD)

YLD-Committees was over budget by \$5,925. This was offset by YLD-Committee income \$13,693 over budget.

YLD finished the year under budget by \$27K.

South Georgia Office (TIF)

TIF-Subscriptions and Books is over budget \$100. Computer Hardware is over budget \$128 due to printer repair. Tifton-Insurance is over budget **\$270 as insurance quotes come in well after budget is completed.**

These overages were offset by other budget savings and, in total, TIF came in under budget for the year by \$8K.

Unlicensed Practice of Law (UPL)

UPL-Seminars and Training was over budget \$242. **This overage was offset by other budget savings and, in total, LPM came in under budget for the year by \$18K.**

Transition into Law Practice (TILPP)

TILPP-Hourly Salaries was over budget **\$4,804** due to higher than anticipated rate for hourly personnel hired in the current year. Savings was realized in regular TILPP-Salaries.

TILPP-Computer Hardware was over budget \$860 due to budgeting error for new computer for part-time employee. **TILPP-Staff Travel was over budget \$1,622.** TILPP-Luncheons was over budget \$114.

These overages were offset by other budget savings and, in total, TILPP came in under budget for the year by \$13K.

Law-Related Education (LRE)

LRE-Computer Hardware was over budget \$1,071 due to budgeting error regarding new employee. LRE-Seminars and Training was over budget \$310 due to unbudgeted registrations.

These overages were offset by other budget savings and, in total, LRE came in under budget for the year by \$15K.

Coastal Georgia Office (SAV)

SAV-Salaries-Hourly is over budget **\$2,198** due to a medical-related employee absence. SAV-Overtime was over budget **\$659** for the same reason.

SAV-Rent and Utilities was over budget **\$5,302** due to unbudgeted rate increase inherent in lease. **SAV-Insurance was over budget \$797. Insurance renewal was higher than anticipated.**

SAV ended the year approximately \$1K over budget. The Executive Committee approved this overage at its meeting on 8/16/16.

High School Mock Trial (HSMT)

HSMT-Regional Competition was over budget \$116.

This overage was offset by other budget savings and, in total, HSMT came in under budget for the year by \$3K.

Miscellaneous

Board of Governors Meetings line item was over budget by \$442. Bar Membership Cards are over budget **\$1,392** due to increased demand. **50 Year Certificates were over budget \$86.**

Fastcase subscription was over budget \$4,496. The Bar pays a per-member rate, and the long-term contract renewed at a slightly higher rate during the year.

Miscellaneous (cont'd.)

State Bar Committees line item was over budget \$244.

Savings were realized elsewhere in the Bar's budget.

Bar Center (BC)

Architect and Design Fees exceeded budget by \$22,921. Tenant Improvements were over budget by \$405,199. The CJCC and Georgia Public Defender Standards Council build-outs were delayed and ran into the current fiscal year.

AV and Equipment-Bar Center was over budget by \$247 due to unanticipated repairs.

Cushman and Wakefield Building Management (CW)

CW-Miscellaneous was over budget \$65. CW-Repairs and Maintenance-Other ended the year over budget \$838. CW—Repairs—Painting was over budget \$1,350.

CW-Uniforms **(\$1,516)** and CW-Locks and Keys **(\$2,140)** were not budgeted.

CW-Telephone Expense was over budget **\$3,251**. The Bar spent \$2,690 to convert Cushman's phone service to the Bar's system, in order to achieve material long-term savings.

CW-Management Fees was over budget \$2,607. CW-Security Contract was over budget \$6,305. These two overages were not anticipated and budget should have been close on both. The CFO will be discussing these overages with CW management.

CW-HVAC was over budget by \$420. CW-Repair & Maintenance Fire/Life Prevention was over budget \$1,789.

CW-Insurance was over budget \$5,923. The prior year insurance renewal was higher than expected. A new broker has been hired for 2016-17 and resulting premiums will be lower.

Conference Center (Conf)

Conf-Equipment Maintenance was over budget \$2,449 due to repairs to both the icemaker and walk in cooler in the third floor catering kitchen.

Conf-Furniture Repairs and Maintenance was over budget \$1,275 due to reconditioning of conference room tables.

Conf-Furniture and Equipment was over budget \$250 due to maintenance contracts related to equipment booked to this line item.

The Third Floor Museum was over budget \$554 due to unbudgeted use tax on repairs and corrections to exhibits.

Parking Deck Management-Lanier Parking

Parking Deck Construction was over budget by **\$48,062**. The 2015-16 budget was decided before hard bids were available due to delays in getting architectural renderings.

The following Lanier Parking overages and projected year-end overages were due to incorrect budgeting by Lanier:

Lanier-Payroll Taxes	\$1,128
Lanier-Workmen's Comp	\$472
Lanier-Medical Benefits	\$1,121
Lanier-Bank Charges	\$704
Lanier-Invoicing Expense	\$360

The following Lanier Parking overages and projected year-end overages were due to process changes due to installation of the new parking equipment. These are budgeted properly for 2016-17. These overages were offset with parking revenue over budget:

Lanier—Signs	\$4,502	Improved signage
Lanier—Office Expense	\$8,225	Software maintenance expense, call center expense which is being eliminated
Lanier--Credit Card Fees	\$5,812	New equipment is non-cash
Lanier—Telephone	\$1,450	New phone line for Lanier's credit card system
Lanier--Equipment and Supplies	\$4,463	New hangtags for new system
Lanier--Repairs and Maintenance	\$17,940	Additional parking components

Lanier-Management Fees is over budget **\$1,008** due to a positive variance in parking deck revenues.

Shared Office Overhead

Shared office allocations exceed actual expense by **\$108,152**. Shared Facilities, Telephone, Supplies, Audit, Kitchen, Accounting, and Receptionist expenses were lower than budget. This is a positive variance—good news.

Please give me a call at (404) 527-8748 if you have any questions regarding the attached financial statements or if you desire the line-by-line detail.

cc: Jeff Davis
Dee Dee Worley
Sharon Bryant
Paula Frederick

**State Bar of Georgia
Overall Financial Impacts
2015-16 Bar Year**

Net Loss	\$ (413,927)
Replenish Cornerstones	(271,931)
Litigation Reserve Increase	(50,000)
Bring Meetings Fund Up to Zero	(57,850)
Overall Impacts	<u><u>\$ (793,708)</u></u>
Budgeted Loss	<u><u>\$ (965,982)</u></u>

**State Bar of Georgia Consolidated Revenues and Expenditures as of June 30, 2016
Operations and Bar Center Combined**

Activity	2015-16 Net Dues			Actual 2014-15			Actual YTD 2015-16			Budget 2015-16		
	#	Membr.	Amount	#	Membr.	Amount	% of Bud	#	Membr.	Amount	%	Amount
Active	37,651	78.2	\$9,141,890	38,127	78.2	\$9,300,580	100.9%	38,050	77.7	\$9,215,600		
Inactive	8,662	18.0	\$1,105,491	8,719	17.9	\$1,105,498	98.2%	8,975	18.3	\$1,125,575		
Associates	100	0.0	\$2,200	16	0.0	\$1,600	72.7%	20	0.0	\$2,200		
Foreign Legal Cnsit	248	0.0	\$1,736	8	0.0	\$1,984	114.3%	7	0.0	\$1,736		
Students	\$0	0.3	\$0	159	0.3	\$0	0.0%	150	0.3	\$0		
Emeritus	\$0		\$0	1,732		\$0	0.0%	1,750	0.0	\$0		
Late Fees			\$294,475			\$0	0.0%			\$260,000		
Prior Years Dues			\$8,899			\$5,398	77.1%			\$7,000		
Total License & Dues	48,124	96.6	\$10,554,691	48,761	96.4	\$10,629,230	100.2%	48,952	96.4	\$10,612,111		
Bar Center Revenue			\$3,595,699			\$3,798,460	104.0%			\$3,652,767		
Alloc. Section Fees			\$107,520			\$104,526	93.5%			\$111,834		
CSF Expense Reimb.			\$73,000			\$73,000	100.0%			\$73,000		
Advertising & Sales			\$93,336			\$109,468	102.6%			\$106,700		
Membership Income			\$163,913			\$125,460	83.1%			\$151,000		
Interest Income			\$63,372			\$65,901	101.4%			\$65,000		
Miscellaneous			\$5,243			\$4,839	161.3%			\$3,000		
Total Revenue			\$14,656,774			\$14,910,884	100.9%			\$14,775,412		
Total Expenses			\$14,554,532			\$15,324,811	97.4%			\$15,741,394		
Net Gain (Loss)			\$102,242			(\$413,927)				(\$965,982)		

State Bar Reserves

Board Designated Reserves	
Operating Reserve	\$2,750,000
Bar Center Reserve	2,000,000
Litigation Reserve	300,000
Cornerstones of Freedom Reserve	600,000
Total Designated Reserves	\$5,650,000
Projected Surplus (Cash Basis) 6/30/16	
Operations	(\$2,981,321)
Bar Center	\$8,530,802
Total Surplus	\$5,549,481
Total Reserves	\$11,199,481

August 15, 2016

State Bar of Georgia
Income Statement YTD - Operations
For the Twelve Months Ending June 30, 2016

	YTD Actual	Annual Budget	Ytd % of Bud	Last Year
Revenues				
Dues - Active	\$ 9,302,564	\$ 9,215,600	100.94	9,143,626
Dues - Inactive	1,105,498	1,125,575	98.22	1,105,491
Dues - Misc. Types	1,600	3,936	40.65	2,200
Dues - Late Fees	219,568	267,000	82.24	303,374
	<u>10,629,230</u>	<u>10,612,111</u>	<u>100.16</u>	<u>10,554,691</u>
Total Dues & Licenses				
Section Expense Reimb.	104,526	111,834	93.47	107,520
CSF Expense Reimb.	73,000	73,000	100.00	73,000
Advertising and Sales	109,468	106,700	102.59	93,336
Membership Income	76,910	96,000	80.11	94,213
Pro Hac Vice	270,550	195,000	138.74	267,375
Pro Hac Vice Contra	(222,000)	(140,000)	158.57	(197,675)
Savannah Misc Income	350	0	0.00	2,000
Interest Income	65,901	65,000	101.39	63,372
Miscellaneous Revenues	4,489	3,000	149.63	3,243
	<u>11,112,424</u>	<u>11,122,645</u>	<u>99.91</u>	<u>11,061,075</u>
Total Revenues				
Expenses				
Administration	2,045,693	2,105,514	97.16	2,003,539
Management Info Systems	511,103	554,574	92.16	467,565
General Counsel	3,719,535	3,782,798	98.33	3,512,378
Consumer Assistance Pgm.	561,338	566,563	99.08	543,725
Communications	782,482	835,758	93.63	1,348,118
Lawyer's Assistance Program	51,808	55,000	94.20	55,000
Fee Arbitration	488,397	534,623	91.35	454,841
Law Practice Management	429,548	443,852	96.78	414,988
Sections	104,526	111,834	93.47	107,520
Savannah Office	214,493	212,729	100.83	199,161
Tifton Office	154,161	162,433	94.91	154,536
Young Lawyers	503,197	529,547	95.02	440,073
Unauthorized Practice of Law	760,986	779,147	97.67	743,253
Standards of the Profession	222,606	235,968	94.34	198,122
Law Related Education	331,015	346,205	95.61	236,104
High School Mock Trial	115,697	118,816	97.37	95,413
Pro Bono	212,216	212,216	100.00	212,216
Fastcase	195,496	191,000	102.35	186,314
Officers' Expenses	88,611	134,305	65.98	106,380
BASICS Program Contribution	140,000	140,000	100.00	140,000
Resource Center Contribution	110,332	110,332	100.00	110,332
Military/Vets Pro Bono	103,742	103,742	100.00	102,007
Other Expenses	494,946	718,032	68.93	411,412
	<u>12,341,928</u>	<u>12,984,988</u>	<u>95.05</u>	<u>12,242,997</u>
Total Expenses				
Net Income	<u>\$ (1,229,504)</u>	<u>\$ (1,862,343)</u>	<u>66.02</u>	<u>(1,181,922)</u>

8/15/2016

State Bar of Georgia - Bar Center
Revenues and Expenditures - Executive Summary
For the Twelve Months Ended June 30, 2016

Activity	Actual FY 15	YTD 6/30/16		Budget FY 16
		Actual	% Budget	
Income and Cash Receipts				
CCLC Contribution	\$1,308,195	\$1,385,803	106.6%	\$1,300,000
Interest Income	\$18,655	\$16,089	80.4%	\$20,000
Member Assessment	\$317,677	\$301,351	103.9%	\$290,000
Room Rentals and Various Charges	\$24,987	\$23,408	83.3%	\$28,100
Parking Revenues	\$244,335	\$310,557	128.8%	\$241,133
Rental Income	\$1,105,143	\$1,174,741	99.0%	\$1,187,023
GDOT Settlement	\$0	\$0	0.0%	\$0
Operating Budget Transfer	\$576,707	\$586,511	100.0%	\$586,511
Total Income and Cash Receipts	\$3,595,699	\$3,798,460	104.0%	\$3,652,767
Expenses and Cash Disbursements				
Building Rehabilitation	\$14,840	\$20,454	27.3%	\$75,000
Conference Floor Renovations	\$0	\$1,650	8.3%	\$20,000
Tenant Improvements	\$20,362	\$555,199	370.1%	\$150,000
Furniture and Equipment	\$8,185	\$10,047	0.0%	\$9,800
Design Fees	\$26,413	\$32,921	0.0%	\$10,000
Parking Deck Enhancements	\$0	\$173,062	0.0%	\$125,000
Median and Landscaping	\$0	\$878	17.6%	\$5,000
Woodrow Wilson Exhibit and Law Museum	\$1,904	\$14,554	104.0%	\$14,000
President's Conference Room	\$0	\$1,101	22.0%	\$5,000
Law Related Education	\$52,500	\$25,960	98.0%	\$26,500
Conference Center Operating Expenses	\$387,490	\$399,725	92.2%	\$433,567
Third Floor Contingency	\$21,175	\$0	0.0%	\$25,000
Building Operating Expenses	\$1,432,753	\$1,441,967	92.1%	\$1,565,898
Parking Deck Operating Expenses	\$228,604	\$305,365	104.7%	\$291,641
Legal, Due Diligence and Closing Fees	\$75,418	\$0	0.0%	\$0
Total Expenses and Cash Disbursements	\$2,269,644	\$2,982,883	108.2%	\$2,756,406
Net Cash Flow	\$1,326,055	\$815,577		\$896,361

**State Bar of Georgia
Summary of Dues and Voluntary Contributions
At July 31**

Total Number of Members at
Apr 30 of prev Bar year (active and inactive)

	Dues Season May - July 2016	Dues Season May - July 2015	Dues Season May - July 2014
Total Number Paid	<u>41,475</u>	<u>42,100</u>	<u>40,194</u>
Percent Paid	<u>88.89%</u>	<u>91.30%</u>	<u>89.06%</u>
Total Amount Paid - Active and Inactive	<u>9,339,992</u>	<u>9,466,965</u>	<u>9,031,259</u>

Georgia Legal Services

Number Paid	<u>2,142</u>	<u>2,147</u>	<u>2,091</u>
Percent of Total Members Paid	<u>5.16%</u>	<u>5.10%</u>	<u>5.20%</u>
Amount Paid	<u>251,691</u>	<u>250,049</u>	<u>235,578</u>
Average Amount Paid	<u>\$ 118</u>	<u>\$ 116</u>	<u>\$ 113</u>

Legislative

Number Paid	<u>5,430</u>	<u>5,619</u>	<u>5,759</u>
Percent of Total Members Paid	<u>13.09%</u>	<u>13.35%</u>	<u>14.33%</u>
Amount Paid	<u>510,862</u>	<u>530,233</u>	<u>545,562</u>
Average Amount Paid	<u>\$ 94</u>	<u>\$ 94</u>	<u>\$ 95</u>

Projected 2016-17 Dues Year Totals

Georgia Legal Services	<u>\$ 270,000</u>
Legislative	<u>\$ 535,000</u>

**Contribution Amounts by Dues Year
(May 1 - April 30)**

	GLSP	Legislative
2015 - 2016	<u>\$ 264,493</u>	<u>\$ 565,004</u>
2014 - 2015	<u>\$ 255,713</u>	<u>\$ 640,505</u>
2013 - 2014	<u>\$ 241,362</u>	<u>\$ 691,736</u>
2012 - 2013	<u>\$ 244,707</u>	<u>\$ 685,283</u>
2011 - 2012	<u>\$ 240,678</u>	<u>\$ 656,254</u>
2010 - 2011	<u>\$ 241,772</u>	<u>\$ 657,526</u>
2009 - 2010	<u>\$ 235,276</u>	<u>\$ 650,806</u>
2008 - 2009	<u>\$ 249,480</u>	<u>\$ 660,570</u>
2007 - 2008	<u>\$ 264,255</u>	<u>\$ 1,235,022</u>
2006 - 2007	<u>\$ 295,646</u>	<u>\$ 802,482</u> \$100 Contribution
2005 - 2006	<u>\$ 751,762</u>	<u>\$ 159,480</u> \$25 Contribution
2004 - 2005	<u>\$ 170,210</u>	<u>\$ 273,613</u> \$20 Contribution

State Bar of Georgia
Investment Performance Comparison
2005-2016

	Yields				Period End Balances									
	All MMKT	Georgia Bank CD's	BOA/ML Inv Port	SunTrust Inv Port	Blended Yield	All Cash/MMKT**	Georgia Bank CD's	Fidelity MMKT	BOA/ML MMKT*	Synovus MMKT	ServisFirst MMKT	SunTrust Cash/MMKT	Total Book Investments	Total Cash and Investments**
Averages, 2005	3.02%	N/A	N/A	N/A	3.02%	16,580,537	-	-	9,403,471	-	-	7,177,066	-	16,580,537
Averages, 2006	4.87%	N/A	N/A	N/A	4.87%	18,922,787	-	-	16,874,290	-	-	2,048,497	-	18,922,787
Averages, 2007	5.21%	N/A	5.06%	5.06%	5.06%	13,657,096	-	-	12,152,455	-	-	1,526,658	8,229,072	21,886,168
Averages, 2008	3.01%	N/A	3.89%	3.89%	3.33%	12,912,090	-	-	9,292,693	-	-	1,732,818	11,160,834	24,072,925
Averages, 2009	0.52%	N/A	2.83%	N/A	1.38%	16,672,270	-	-	8,545,018	-	-	3,562,943	7,946,088	24,618,358
Averages, 2010	0.18%	N/A	2.22%	N/A	1.07%	15,151,444	-	-	6,345,455	-	-	4,229,945	8,323,979	23,475,423
Averages, 2011	0.10%	N/A	1.85%	N/A	0.76%	15,641,096	-	-	6,878,861	-	-	4,179,364	7,030,212	22,671,307
Averages, 2012	0.11%	N/A	1.14%	N/A	0.57%	16,077,038	-	-	7,378,420	-	-	4,110,340	9,401,250	25,478,288
Averages, 2013	0.07%	N/A	0.74%	N/A	0.32%	18,772,091	-	-	10,839,546	-	-	4,106,533	8,636,500	27,408,591
Averages, 1Q14	0.15%	N/A	0.63%	N/A	0.33%	17,768,948	-	9	13,784,754	-	-	4,004,185	8,305,000	26,093,948
Averages, 2Q14	0.15%	N/A	0.67%	N/A	0.33%	20,479,383	416,667	9	15,823,800	-	-	4,238,907	7,468,400	28,364,450
Averages, 3Q14	0.15%	N/A	0.70%	N/A	0.31%	23,810,067	1,250,378	9	19,612,356	-	-	4,197,702	6,628,333	31,688,778
Averages, 4Q14	0.12%	N/A	0.71%	N/A	0.28%	22,859,523	1,251,500	9	17,862,929	-	-	4,996,566	5,318,667	29,429,690
Averages, 1Q15	0.34%	N/A	0.75%	N/A	0.42%	21,422,445	1,252,595	9	7,490,480	4,505,693	-	9,426,263	4,305,000	26,980,041
Averages, 2Q15	0.38%	N/A	0.78%	N/A	0.45%	23,038,985	1,254,270	9	5,390,427	5,517,551	-	12,130,998	3,709,000	28,002,285
Averages, 3Q15	0.50%	N/A	0.77%	N/A	0.54%	27,822,166	1,088,932	9	2,806,094	10,631,018	-	14,383,046	3,229,333	32,140,432
Averages, 4Q15	0.56%	N/A	0.80%	N/A	0.58%	26,110,552	1,007,971	9	2,452,740	10,842,177	-	11,814,936	2,069,000	29,187,522
Averages, 1Q16	0.45%	N/A	0.83%	N/A	0.49%	23,909,233	1,009,906	9	2,287,470	10,863,066	-	8,753,499	1,903,000	26,822,139
April 2016	0.43%	N/A	0.83%	N/A	0.47%	22,441,684	1,010,785	9	2,273,660	10,872,935	2,008,507	7,286,573	1,903,000	26,385,468
May 2016	0.42%	N/A	0.87%	N/A	0.46%	23,528,971	1,010,785	9	2,551,463	10,878,014	2,010,209	8,119,275	1,405,000	25,944,756
June 2016	0.41%	N/A	0.91%	N/A	0.44%	29,769,850	1,010,785	9	5,343,736	10,882,932	2,010,209	11,533,064	1,156,000	31,936,735
Averages, 2016	0.32%	0.89%	0.87%	N/A	0.46%	25,246,668	1,010,785	9	3,379,620	10,877,960	-	8,979,637	1,488,000	27,745,653

* Includes CCLC
** Includes CCLC, Client Security Fund and Bar Center Operating Accts

State Bar of Georgia
Summary of Investment Portfolio
As of June 30, 2016

Bank of America/Merrill Lynch

Account number: 425314

Investments
Certificates of Deposit - All insured by FDIC up to \$250,000 (combined principal and interest)

Date Purchased	Security Description	Quantity	Price	Coupon	Yield	Maturity Date	Cost Basis	% of Portfolio	Market Value	Unrealized Gain or Loss	Estimated Annual Income
9/4/2013	Goldman Sachs BK (NY)	248,000	1.00	1.00	1.00	9/6/2016	248,000	21.45%	248,262	262	2,728
11/6/2013	Blue Ridge BK (VA)	163,000	0.800	0.800	0.800	11/7/2016	163,000	14.10%	163,166	166	1,304
11/15/2013	First KY Bank Inc. (VA)	249,000	0.800	0.800	0.800	11/15/2016	249,000	21.54%	249,267	267	1,992
11/22/2013	First Premier BK (SD)	248,000	0.800	0.800	0.800	11/22/2016	248,000	21.45%	248,282	282	1,984
4/3/2013	CIT Bank (UT)	248,000	1.000	1.000	1.000	4/3/2017	248,000	21.45%	248,725	725	2,480
Total - Certificates of Deposit Acct #425314							1,156,000		1,157,702	1,702	10,488
Total - Bank of America/Merrill Lynch Investments							1,156,000		1,157,702	1,702	10,488
Bank of America/Merrill Lynch - Weighted Average Yield											
Total - Portfolio excluding cash							1,156,000		1,157,702	1,702	10,488
All-Weighted Average Yield											
										0.91%	

Maturity Summary-All Securities

Date Purchased	Security Description	Quantity	Yield	Cost Basis	Market Value	Unrealized Gain or Loss	Estimated Annual Income
Securities maturing in:							
0 - 6 months		908,000	0.86%	908,000	908,977	977	8,008
6 months -12 months		248,000	1.00%	248,000	248,725	725	2,480
Total - Portfolio excluding cash		1,156,000		1,156,000	1,157,702	1,702	10,488

**State Bar of Georgia
Balance Sheet
June 30, 2016**

ASSETS - Current Assets

Total Cash & Short-Term Investments	24,503,969
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Investment - Merrill Lynch	1,157,702
Investment - Fidelity	9
Investment - Georgia Banks	0

Total Long-Term Investments	1,157,711
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Accounts Receivable	370,930
Accrued Interest Receivable	2,503
Due from Related Orgs/Emp	44,950
Prepaid Expenses	449,737
Bar Center Prepaid Expenses	1,972

Total Other Assets	870,092
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Total Current Assets	26,531,772
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Fixed Assets

Furniture & Equipment	6,049,850
Bar Center	26,004,590
Accum. Depreciation	(17,475,688)

Total Fixed Assets	14,578,752
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Total Assets	\$ 41,110,524
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LIABILITIES AND CAPITAL

Accounts Payable	\$ 971,279
Other Current Liabilities	993,386
Vacation & Pers Day Accrual	491,126
Due to Client Security Fund	2,035,238
Deferred Income	7,532,632
BC-Accrued Expenses	42,371
C&W - Deferred Rent Income	25,197
Bar Center - Deferred Income	121,075

Total Current Liabilities	12,212,304
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Total Long Term Liabilities	0
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Fund Balances - Beg. of Year

Total Fund Balances - Beg. of Year	29,409,575
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YTD Activity	(511,345)
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Total Liabilities & Capital	\$ 41,110,534
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State Bar of Georgia
Expenditure Statement YTD - Operations
For the Twelve Months Ending June 30, 2016

	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Administration				
ADM-Salaries	\$ 1,080,101	100.03	\$ 1,079,746	\$ 1,040,135
ADM-Salaries-Hourly PT	19,264	94.54	20,377	14,456
ADM-Overtime	5,053	62.38	8,100	5,812
ADM-Taxes and Benefits	236,507	92.16	256,637	247,907
ADM-Pension	83,624	97.09	86,132	73,903
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Total Salaries and Benefits	1,424,549	98.18	1,450,992	1,382,213
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ADM-Shared Office Allocation	304,443	100.00	304,443	277,741
ADM-Freight	0	0.00	0	1,924
ADM-Postage & Freight	10,052	74.46	13,500	8,825
ADM-Supplies	3,776	57.21	6,600	4,512
ADM-Telephone	3,300	72.69	4,540	3,077
ADM-Subscriptions & Books	781	97.63	800	511
ADM-Dues & Memberships	2,228	55.70	4,000	3,850
ADM-Seminars & Training	3,259	108.63	3,000	3,313
ADM-Miscellaneous	2,583	12.92	20,000	22,144
ADM-Staff Travel	26,446	67.81	39,000	32,050
ADM-Executive Director Travel	10,317	76.42	13,500	10,865
ADM-Luncheons	238	47.60	500	840
ADM-Banking Fees	0	0.00	500	125
ADM-Credit Card Disc & Fees	161,462	107.64	150,000	150,479
ADM-Computer Hardware	4,552	113.80	4,000	10,519
ADM-Computer Software	88	8.80	1,000	0
ADM-Membership Software Lic	54,305	102.19	53,139	57,010
ADM-Contract Programming	2,219	49.31	4,500	3,531
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Subtotal	590,049	94.71	623,022	591,316
ADM-Furniture/Equipment	1,095	73.00	1,500	0
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Total	2,015,693	97.12	2,075,514	1,973,529
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State Bar of Georgia
Expenditure Statement YTD - Operations
For the Twelve Months Ending June 30, 2016

	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Management Information Systems				
MIS-Salaries	232,685	100.81	230,818	221,020
MIS-Overtime	168	33.60	500	362
MIS-Taxes and Benefits	72,251	95.08	75,988	67,717
MIS-Pension	16,920	99.86	16,943	13,673
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Total Salaries and Benefits	322,024	99.31	324,249	302,772
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MIS-Shared Office Allocation	53,725	100.00	53,725	52,076
MIS-Freight	0	0.00	0	124
MIS-Postage & Freight	29	19.33	150	0
MIS-Supplies	3,364	62.88	5,350	5,322
MIS-Subscriptions & Books	0	0.00	200	0
MIS-Seminars & Training	5,990	99.83	6,000	6,890
MIS-Miscellaneous	330	16.50	2,000	1,250
MIS-Staff Travel	1,827	38.46	4,750	2,329
MIS-Computer Hardware	38,899	97.37	39,950	26,524
MIS-Computer Software	28,800	96.16	29,950	23,956
MIS-Offsite Backup	9,300	114.81	8,100	6,844
MIS-Contractors	23,967	46.27	51,800	18,808
MIS-Contract Programming	10,478	87.32	12,000	8,400
MIS-Internet Services	12,370	75.66	16,350	12,270
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Subtotal	189,079	82.09	230,325	164,793
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Total Expenses	511,103	92.16	554,574	467,565
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State Bar of Georgia
Expenditure Statement YTD - Operations
For the Twelve Months Ending June 30, 2016

	YTD Actual	YTD %	Budget	Prior Year
General Counsel				
OGC-Salaries	2,288,470	99.90	2,290,866	2,149,290
OGC-Salaries-Hourly PT	584	16.26	3,592	35,553
OGC-Overtime	3,759	139.22	2,700	2,176
OGC-Taxes and Benefits	473,408	94.24	502,349	460,453
OGC-Pension	179,698	99.94	179,797	145,970
Total Salaries and Benefits	2,945,919	98.88	2,979,304	2,793,442
OGC-Shared Office Allocation	411,894	100.00	411,894	381,894
OGC-Freight	0	0.00	0	7
OGC-Postage & Freight	17,833	84.92	21,000	19,960
OGC-Printing	42	1.40	3,000	1,507
OGC-Supplies	6,601	44.01	15,000	14,589
OGC-Telephone	1,908	53.00	3,600	1,967
OGC-Subscriptions & Books	14,999	79.36	18,900	17,242
OGC-Dues & Memberships	7,490	83.22	9,000	8,899
OGC-Seminars & Training	6,618	147.07	4,500	5,357
OGC-Miscellaneous	1,393	69.65	2,000	2,194
OGC-Investigator Travel	3,228	64.56	5,000	4,222
OGC-Attorney Travel	53,896	85.55	63,000	45,758
OGC-Luncheons	1,641	65.64	2,500	2,036
OGC-Computer Hardware	12,399	87.94	14,100	8,147
OGC-Computer Software	535	107.00	500	0
OGC-Contract/Programming	6,594	62.80	10,500	5,250
OGC-Litigation/Depositions	114,631	134.86	85,000	100,075
OGC-Receiverships	1,358	27.16	5,000	0
OGC-State Disc Panel	44,920	81.67	55,000	36,677
OGC-Contract Special Master	45,826	91.65	50,000	50,000
OGC-Lexis on-line	14,632	104.51	14,000	13,155
Subtotal	768,438	96.84	793,494	718,936
OGC-Furniture/Equipment	5,178	51.78	10,000	0
Total Expenses	3,719,535	98.33	3,782,798	3,512,378

State Bar of Georgia
Expenditure Statement YTD - Operations
For the Twelve Months Ending June 30, 2016

	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Consumer Assistance Program				
CAP-Salaries	343,698	100.81	340,921	329,672
CAP-Overtime	36	7.20	500	0
CAP-Taxes and Benefits	101,951	97.63	104,430	98,523
CAP-Pension	23,390	99.87	23,420	22,268
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Total Salaries and Benefits	469,075	99.96	469,271	450,463
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CAP-Shared Office Allocation	89,542	100.00	89,542	86,794
CAP-Postage & Freight	2,080	83.20	2,500	2,258
CAP-Printing	0	0.00	750	0
CAP-Supplies	34	2.83	1,200	229
CAP-Seminars & Training	195	24.38	800	460
CAP-Miscellaneous	0	0.00	500	0
CAP-Staff Travel	0	0.00	1,500	0
CAP-Computer Hardware	0	0.00	0	3,521
CAP-Contract Programming	0	0.00	500	0
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Subtotal	91,851	94.41	97,292	93,262
CAP-Furniture/Equipment	412	0.00	0	0
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Total Expenses	561,338	99.08	566,563	543,725
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State Bar of Georgia
Expenditure Statement YTD - Operations
For the Twelve Months Ending June 30, 2016

	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Communication Office				
DOI-Salaries	235,879	99.51	237,049	223,277
DOI-Overtime	305	13.86	2,200	735
DOI-Taxes and Benefits	83,393	94.03	88,687	81,720
DOI-Pension	15,703	98.25	15,983	12,917
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Total Salaries and Benefits	335,280	97.49	343,919	318,649
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DOI-Shared Office Allocation	71,634	100.00	71,634	69,435
DOI-Freight	0	0.00	0	130
DOI-Postage & Freight	1,172	66.97	1,750	1,863
DOI-Supplies	470	16.49	2,850	1,266
DOI-Telephone	812	75.19	1,080	0
DOI-Subscriptions & Books	3,898	119.94	3,250	4,133
DOI-Dues & Memberships	0	0.00	400	575
DOI-Seminars & Training	1,724	114.93	1,500	1,120
DOI-Miscellaneous	1,788	119.20	1,500	1,065
DOI-Staff Travel	13,605	82.45	16,500	10,344
DOI-Luncheons/Committee Mt	2,054	73.23	2,805	2,311
DOI-Computer Hardware	1,068	0.00	0	3,867
DOI-Computer Software	1,400	40.00	3,500	1,000
DOI-Website Server/Redesign	34,153	142.30	24,000	37,951
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Subtotal	133,778	102.30	130,769	135,060
DOI-Furniture/Equipment	0	0.00	3,200	3,475
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Subtotal	469,058	98.15	477,888	457,184
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State Bar of Georgia
Expenditure Statement YTD - Operations
For the Twelve Months Ending June 30, 2016

	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Communications (continued)				
Programs:				
Local & Circuit Bar Pgm	0	0.00	0	0
Law Day	11	0.22	5,000	1
Membership Certificates	1,734	115.60	1,500	2,120
	1,745		6,500	2,121
Total Programs	1,745	26.85	6,500	2,121
Publications				
Bar Journal	248,173	92.12	269,400	239,019
Directory	56,765	84.79	66,950	60,676
Supplemental Directory	5,552	110.60	5,020	4,918
Special Publications & Printin	1,189	11.89	10,000	0
	311,679		351,370	304,613
Total Publications	311,679	88.70	351,370	304,613
Total Communications	782,482	93.63	835,758	763,918

State Bar of Georgia
Expenditure Statement YTD - Operations
For the Twelve Months Ending June 30, 2016

	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Fee Arbitration				
FA-Salaries	244,099	100.74	242,295	233,151
FA-Overtime	732	56.31	1,300	636
FA-Taxes and Benefits	76,644	96.65	79,301	72,238
FA-Pension	16,799	99.74	16,843	16,075
	<hr/>		<hr/>	<hr/>
Total Salaries and Benefits	338,274	99.57	339,739	322,100
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FA-Shared Office Allocation	71,634	100.00	71,634	69,435
FA-Freight	0	0.00	0	9
FA-Postage & Freight	6,710	73.74	9,100	7,254
FA-Printing	2,296	99.83	2,300	1,119
FA-Supplies	1,678	72.96	2,300	1,668
FA-Subscriptions & Books	336	61.09	550	272
FA-Dues & Memberships	322	80.50	400	320
FA-Seminars & Training	270	54.00	500	250
FA-Miscellaneous	1,138	189.67	600	1,392
FA-Staff Travel	932	51.78	1,800	929
FA-Luncheons/Committee Mtg	2,196	84.46	2,600	2,758
FA-Computer Hardware	815	101.88	800	1,079
FA-Contract Labor	60,561	60.38	100,300	45,100
FA-Contract Programming	938	46.90	2,000	1,156
	<hr/>		<hr/>	<hr/>
Subtotal	149,826	76.88	194,884	132,741
FA-Furniture/Equipment	297	0.00	0	0
	<hr/>		<hr/>	<hr/>
Total Expenses	488,397	91.35	534,623	454,841

State Bar of Georgia
Expenditure Statement YTD - Operations
For the Twelve Months Ending June 30, 2016

	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Law Practice Management				
LPM-Salaries	236,113	97.36	242,518	234,180
LPM-Overtime	105	70.00	150	0
LPM-Taxes and Benefits	80,951	93.50	86,575	80,034
LPM-Pension	15,749	97.97	16,075	15,300
	<hr/>		<hr/>	<hr/>
Total Salaries and Benefits	332,918	96.41	345,318	329,514
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LPM-Shared Office Allocation	71,634	100.00	71,634	69,435
LPM-Freight	0	0.00	0	15
LPM-Postage & Freight	1,189	51.70	2,300	1,581
LPM-Printing	1,199	119.90	1,000	1,955
LPM-Supplies	241	9.64	2,500	291
LPM-Subscriptions & Books	8,182	102.28	8,000	7,029
LPM-Dues & Memberships	1,115	60.27	1,850	963
LPM-Seminars & Training	3,200	106.67	3,000	3,593
LPM-Miscellaneous	1,051	123.65	850	506
LPM-Staff Travel	17,986	103.97	17,300	14,171
LPM-Luncheons/Committee Mt	0	0.00	200	0
LPM-Computer hardware	3,293	101.32	3,250	880
LPM-Computer Software	0	0.00	0	753
LPM-Solo and Small Firm	20,823	0.00	0	1,532
LPM-Income Offset	(36,989)	215.68	(17,150)	(17,230)
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Subtotal	92,924	98.09	94,734	85,474
LPM-Furniture/Equipment	3,706	97.53	3,800	0
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Total Expenses	429,548	96.78	443,852	414,988
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State Bar of Georgia
Expenditure Statement YTD - Operations
For the Twelve Months Ending June 30, 2016

	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Younger Lawyers				
YLD-Salaries	101,428	97.50	104,024	91,925
YLD-Salaries-Hourly PT	0	0.00	0	2,075
YLD-Overtime	666	66.60	1,000	957
YLD-Taxes & Benefits	43,076	86.26	49,935	42,344
YLD-Pension	6,440	98.50	6,538	3,864
	<hr/>		<hr/>	<hr/>
Total Salaries and Benefits	151,610	93.88	161,497	141,165
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YLD-Shared Office Allocation	35,817	100.00	35,817	17,359
YLD-Supplies	510	25.50	2,000	2,014
YLD-Telephone	900	83.33	1,080	900
YLD-Seminars & Training	0	0.00	800	0
YLD-Staff Travel	8,747	97.19	9,000	7,749
YLD-Computer Hardware	1,025	102.50	1,000	880
YLD-Computer Software	0	0.00	400	0
YLD-High School Mock Trial	10,000	100.00	10,000	10,000
YLD-Newsletter	55,118	91.86	60,000	54,883
YLD-Brochure	7,334	94.03	7,800	6,212
YLD-Committee Income	(23,693)	236.93	(10,000)	(9,007)
YLD-Committees Expense	114,785	105.44	108,860	85,556
YLD President - Long	40,677	100.00	40,677	40,677
YLD Pres Elect - Mock	31,060	99.26	31,290	31,290
YLD Past President - Edenfield	26,577	99.93	26,596	15,165
YLD-Meetings	42,730	100.00	42,730	35,230
	<hr/>		<hr/>	<hr/>
Subtotal	351,587	95.53	368,050	298,908
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Total Expenses	503,197	95.02	529,547	440,073
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State Bar of Georgia
Expenditure Statement YTD - Operations
For the Twelve Months Ending June 30, 2016

	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Unauthorized Practice of Law				
UPL-Salaries	455,045	100.81	451,398	436,518
UPL-Overtime	95	38.00	250	31
UPL-Taxes and Benefits	143,412	96.36	148,836	148,064
UPL-Pension	31,675	99.97	31,686	30,008
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Total Salaries and Benefits	630,227	99.69	632,170	614,621
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UPL-Shared Office Allocation	107,451	100.00	107,451	104,153
UPL-Postage & Freight	1,714	33.28	5,150	3,372
UPL-Printing	42	21.00	200	0
UPL-Supplies	977	39.08	2,500	2,919
UPL-Subscriptions & Books	664	85.68	775	683
UPL-Dues & Memberships	500	66.67	750	650
UPL-Seminars & Training	1,619	117.57	1,377	1,010
UPL-Miscellaneous	2,242	99.91	2,244	1,495
UPL-Staff Travel	91	7.11	1,280	443
UPL-Investigator Travel	7,061	70.61	10,000	5,603
UPL-Luncheons/Committees	1,906	42.36	4,500	4,199
UPL-Computer Hardware	2,716	90.53	3,000	0
UPL-Litigation/Court Reporter	1,335	26.70	5,000	1,780
UPL-Lexis On-line	2,441	88.76	2,750	2,325
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Subtotal	130,759	88.97	146,977	128,632
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Total Expenses	760,986	97.67	779,147	743,253
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State Bar of Georgia
Expenditure Statement YTD - Operations
For the Twelve Months Ending June 30, 2016

	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Standards of the Profession				
STDS-Salaries	114,880	90.66	126,722	109,963
STDS-Salaries-Hourly PT	20,404	130.79	15,600	5,770
STDS-Overtime	189	63.00	300	57
STDS-Taxes & Benefits	28,180	90.92	30,994	28,038
STDS-Pension	6,216	70.76	8,785	5,538
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Total Salaries and Benefits	169,869	93.13	182,401	149,366
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STDS-Shared Office Allocation	35,817	100.00	35,817	34,718
STDS-CLE Programs	0	0.00	1,000	285
STDS-CLE Fees	0	0.00	1,000	285
STDS-Postage & Freight	768	69.82	1,100	297
STDS-Printing	695	69.50	1,000	168
STDS-Supplies	1,002	83.50	1,200	1,802
STDS-Dues & Memberships	1,001	100.10	1,000	996
STDS-Seminars & Training	1,145	95.42	1,200	1,336
STDS-Miscellaneous	321	64.20	500	400
STDS-Staff Travel	8,622	123.17	7,000	7,110
STDS-Luncheons	614	122.80	500	479
STDS-Computer Hardware	1,860	186.00	1,000	880
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Subtotal	51,845	99.10	52,317	48,756
STDS-Furniture/Equipment	892	71.36	1,250	0
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Total Expenses	222,606	94.34	235,968	198,122
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State Bar of Georgia
Expenditure Statement YTD - Operations
For the Twelve Months Ending June 30, 2016

	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Other Activities				
SBG President - Kauffman	18,100	28.67	63,132	45,909
SBG President Elect - O'Conn	34,679	100.00	34,679	19,052
SBG Pres Elect Elect	714	20.40	3,500	0
SBG Treasurer - O'Connor	2,000	100.00	2,000	3,197
SBG Secretary - Rogers	4,124	206.20	2,000	2,000
SBG Past President - Perkins-	25,494	100.00	25,494	29,656
SBG Past Past Pres - Ruffin	3,500	100.00	3,500	6,566
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Total Officers' Expenses	88,611	65.98	134,305	106,380
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Miscellaneous:				
Board of Governors Meetings	157,442	100.28	157,000	142,455
Supreme Court Meetings	21,152	45.00	47,000	33,009
Executive Committee Meeting	26,733	58.12	46,000	33,575
Court of Appeals Meetings	0	0.00	0	0
Lawyer's Assistance Program	51,808	94.20	55,000	55,000
Cornerstones of Freedom	0	0.00	0	584,200
Sections	104,526	93.47	111,834	107,520
Savannah Office	214,493	100.83	212,729	199,161
Tifton Office	154,161	94.91	162,433	154,536
Law Related Education	331,015	95.61	346,205	236,104
High School Mock Trial	115,697	97.37	118,816	95,413
ADM-Review Panel Lawyers	30,000	100.00	30,000	30,010
Promote Inclusion	0	0.00	5,000	0
Elections	38,042	89.05	42,720	50,179
Judicial Poll	0	0.00	31,200	0
Dues Notice	35,441	80.55	44,000	36,764
Letters of Good Standing	1,209	0.00	0	0
Bar Membership Cards	9,530	117.10	8,138	8,019
50 Year Certificates	1,586	105.73	1,500	1,410
Fastcase	195,496	102.35	191,000	186,314
Database Project-Contingency	34,253	97.87	35,000	0
Membership Database Project	0	0.00	0	5,423
President's Program	2,858	24.48	11,674	9,563
Executive Committee Meetings	26,733	58.12	46,000	33,575
State Bar Committees	30,244	100.81	30,000	29,202
Meetings Contingency	35,000	100.00	35,000	35,000
Strategic Plan	92,564	94.94	97,500	0
Conference Sponsorship	22,649	90.60	25,000	73,135
Incubator Contribution	85,000	100.00	85,000	0
ABA Delegate Breakfast	2,021	57.74	3,500	1,622
Military/Vet Pro Bono Assistan	103,742	100.00	103,742	102,007
Resource Center Contribution	110,332	100.00	110,332	110,332
BASICS Program Contributed	140,000	100.00	140,000	140,000
Chief Justice Commission Prof	5,000	100.00	5,000	5,000
Central Atlanta Progress	2,162	50.28	4,300	4,263
Access to Justice- Expenses	212	6.06	3,500	0
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Total Miscellaneous	2,181,101	92.97	2,346,123	2,502,791
Pro-Bono	212,216	100.00	212,216	212,216
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Total Other Activities	2,481,928	92.17	2,692,644	2,821,387

State Bar of Georgia				
Expenditure Statement YTD - Operations				
For the Twelve Months Ending June 30, 2016				
	Year to Date	YTD % of	Budget	Prior Year
	Actual	Budget		
Shared Office Overhead				
Facilities	27,611	61.36	45,000	27,322
Transfer to Bar Center	586,511	100.00	586,511	576,707
Telephone	68,704	91.61	75,000	69,375
Equipment, Rentals & Maint.	58,318	97.20	60,000	54,581
Supplies and Printing	44,146	84.90	52,000	54,988
Insurance	129,019	99.25	130,000	103,002
Audit, Actuary & Payroll	36,467	81.04	45,000	25,771
Kitchen	19,158	76.63	25,000	19,765
	<u>969,934</u>	<u>95.23</u>	<u>1,018,511</u>	<u>931,511</u>
Other Services				
Accounting	297,717	86.86	342,748	284,231
Human Resource	0	0.00	0	0
Receptionist	133,268	90.55	147,181	134,842
Mailroom	68,379	99.09	69,010	66,301
	<u>499,364</u>	<u>89.34</u>	<u>558,939</u>	<u>485,374</u>
Total Shared Office Overhead	1,469,298	93.14	1,577,450	1,416,885
Shared Office Allocations	(1,577,450)	100.00	(1,577,450)	(1,474,092)
Unallocated Services	(108,152)		0	(57,207)
Total State Bar Expenditures	<u>\$ 12,368,661</u>	<u>94.92</u>	<u>\$ 13,030,988</u>	<u>\$ 12,276,572</u>

State Bar of Georgia
Expenditure Statement YTD - Operations
For the Twelve Months Ending June 30, 2016

	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Related Organizations - Shared Office Allocations				
Georgia Bar Foundation	\$ 2,652	100.00	\$ 2,652	\$ 1,176
CCLC	89,542	100.00	89,542	104,153
Pro Bono	32,124	100.00	32,124	30,458
Professionalism	2,550	100.00	2,550	1,676
Sections	<u>17,908</u>	100.00	<u>17,908</u>	<u>17,359</u>
Subtotal	<u>144,776</u>	100.00	<u>144,776</u>	<u>154,822</u>
State Bar Departments - Shared Office Allocations				
Administration	304,443	100.00	304,443	277,741
Mgmt. Information Systems	53,725	100.00	53,725	52,076
General Counsel	411,894	100.00	411,894	381,894
Consumer Assistance	89,542	100.00	89,542	86,794
Communications	71,634	100.00	71,634	69,435
Fee Arbitration	71,634	100.00	71,634	69,435
Law Practice Management	71,634	100.00	71,634	69,435
Younger Lawyers	35,817	100.00	35,817	17,359
High School Mock Trial	17,908	100.00	17,908	17,359
Unauthorized Practice of Law	107,451	100.00	107,451	104,153
Conference Center	71,634	100.00	71,634	69,435
Law Related Education	53,725	100.00	53,725	34,718
Standards of the Profession	35,817	100.00	35,817	34,718
Legislative Program	<u>17,908</u>	100.00	<u>17,908</u>	<u>17,359</u>
Subtotal	<u>1,414,766</u>	100.00	<u>1,414,766</u>	<u>1,301,911</u>
Total Allocated Services	<u>\$ 1,559,542</u>	100.00	<u>\$ 1,559,542</u>	<u>\$ 1,456,733</u>

**Savannah Office Expenditure Stmt YTD
For the Twelve Months Ending June 30, 2016**

	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Personnel Services:				
SAV-Salaries	\$ 76,328	100.81	\$ 75,717	\$ 73,220
SAV-Salaries-Hourly	2,198	0.00	0	0
SAV-Overtime	909	363.60	250	174
SAV-Taxes and Benefits	40,300	99.51	40,497	36,878
SAV-Pension	4,605	100.88	4,565	4,369
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Total Salaries and Benefits	124,340	102.74	121,029	114,641
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Operating Costs:				
SAV-Freight	0	0.00	0	135
SAV-Postage & Freight	55	18.33	300	49
SAV-Printing	0	0.00	100	0
SAV-Supplies	598	39.87	1,500	1,188
SAV-Telephone	15,656	94.88	16,500	13,300
SAV-Subscriptions & Books	0	0.00	100	0
SAV-Dues & Memberships	0	0.00	100	0
SAV-Seminars & Training	0	0.00	100	0
SAV-Miscellaneous	245	49.00	500	153
SAV-Staff Travel	30	1.25	2,400	1,122
SAV-Parking	3,346	83.65	4,000	3,695
SAV-Luncheons	0	0.00	100	37
SAV-Computer Hardware	850	85.00	1,000	1,079
SAV-Equipment Maintenance	3,214	86.86	3,700	2,166
SAV-Rent & Utilities	56,602	110.34	51,300	53,296
SAV-Facilities Maintenance	2,760	69.00	4,000	2,926
SAV-Building Insurance	6,797	113.28	6,000	5,374
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Subtotal	90,153	98.31	91,700	84,520
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Savannah Total	\$ 214,493	100.83	\$ 212,729	\$ 199,161
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HSMT Expenditure Statement YTD
For the Twelve Months Ending June 30, 2016

	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Personnel Services:				
Salaries	57,897	100.81	\$ 57,429	\$ 55,535
Taxes and Benefits	18,865	90.90	20,753	20,291
Pension	3,451	100.00	3,451	3,306
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Total Salaries and Benefits	80,213	98.26	81,633	79,132
Operating Costs:				
HSMT-Shared Office Allocatio	17,908	100.00	17,908	17,359
HSMT-Freight	0	0.00	0	279
HSMT-Postage & Freight	539	53.90	1,000	272
HSMT-Supplies	628	52.33	1,200	832
HSMT-Telephone	58	46.40	125	88
HSMT-Dues & Memberships	250	100.00	250	250
HSMT-Miscellaneous	755	50.33	1,500	3,493
HSMT-Staff Travel	307	24.56	1,250	848
HSMT-Luncheons/Committee	345	76.67	450	396
HSMT-Computer Hardware	1,080	90.00	1,200	0
HSMT-Oper Acct/Misc Rev/Me	(43,147)	61.64	(70,000)	(57,979)
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Subtotal	(21,277)	47.16	(45,117)	(34,162)
HSMT-Law Academy	3,422	15.55	22,000	1,981
HSMT-Regional Competition	11,916	100.98	11,800	11,525
HSMT-State Competition	14,831	80.17	18,500	19,830
HSMT-National Competition	26,592	88.64	30,000	17,107
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HSMT Total	115,697	97.37	\$ 118,816	\$ 95,413
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**Law Related Education Expenditure Stmt YTD
For the Twelve Months Ending June 30, 2016**

	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Personnel Services:				
LRE-Salaries	\$ 177,207	99.15	\$ 178,730	\$ 137,034
LRE-Salaries-Hourly	0	0.00	0	0
LRE-Overtime	138	16.24	850	183
LRE-Taxes and Benefits	75,216	92.15	81,620	49,131
LRE-Pension	10,167	98.71	10,300	9,700
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Total Salaries and Benefits	262,728	96.77	271,500	196,048
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Operating Costs:				
LRE-Shared Office Allocation	53,725	100.00	53,725	34,718
LRE-Postage & Freight	42	8.40	500	41
LRE-Printing	728	97.07	750	694
LRE-Supplies	2,552	85.07	3,000	1,453
LRE-Subscriptions & Books	90	90.00	100	37
LRE-Seminars & Training	460	306.67	150	0
LRE-Miscellaneous	694	34.70	2,000	12
LRE-Staff Travel	5,182	50.90	10,180	2,587
LRE-Luncheons	904	100.44	900	787
LRE-Computer Hardware	4,471	131.50	3,400	0
LRE - Income Offset	(561)	0.00	0	(273)
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Subtotal	68,287	91.41	74,705	40,056
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LRE Total	\$ 331,015	95.61	\$ 346,205	\$ 236,104
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**Sections Expenditure Statement YTD
For the Twelve Months Ending June 30, 2016**

	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Personnel Services:				
Salaries	57,655	100.81	\$ 57,189	\$ 55,302
Taxes and Benefits	14,199	100.04	14,194	13,937
Pension	3,437	92.82	3,703	3,292
Total Salaries and Benefits	75,291	100.27	75,086	72,531
Operating Costs:				
SECTIONS-Shared Office Allo	17,908	100.00	17,908	17,359
SECTIONS-Freight	0	0.00	0	18
SECTIONS-Postage & Freight	226	45.20	500	205
SECTIONS-Supplies	1,087	63.94	1,700	1,102
SECTIONS-Dues & Membersh	115	100.00	115	115
SECTIONS- Seminars & Traini	275	27.50	1,000	285
SECTIONS-Miscellaneous	136	13.60	1,000	150
SECTIONS-Staff Travel	8,450	84.50	10,000	9,666
SECTIONS-Computer Hardwa	0	0.00	800	1,960
SECTIONS- Computer Softwar	1,038	101.27	1,025	887
SECTIONS-Contract Program	0	0.00	500	0
SECTIONS-Special Mtgs	0	0.00	2,200	3,242
Subtotal	29,235	79.56	36,748	34,989
Furniture & Equipment	0	0.00	0	0
Sections Total	104,526	93.47	\$ 111,834	\$ 107,520

State Bar of Georgia
Lanier Parking Income Statement
For the Twelve Months Ending June 30, 2016

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Revenues						
Lanier - Monthly Parking	\$ 11,322	9.15	\$ 120,757	97.56	\$ 123,776	\$ 116,494
Lanier - Daily Parking	6,546	16.06	61,496	150.87	40,761	51,349
Lanier - Special Events	4,435	5.79	128,304	167.51	76,596	76,492
Total Revenues	22,303	9.25	310,557	128.79	241,133	244,335
Expenses						
Lanier - Salaries	7,236	7.21	92,401	92.11	100,311	86,396
Lanier - Payroll Taxes	804	8.10	11,055	111.36	9,927	21,187
Lanier - Workman's Comp	728	7.64	10,002	104.95	9,530	8,791
Lanier - Medical Ins/Benefits	1,174	7.83	16,121	107.47	15,000	0
Lanier - Signs	0	0.00	5,402	600.22	900	18
Lanier - Uniforms	0	0.00	310	63.27	490	114
Lanier - Repairs & Maint.	1,485	7.31	38,244	188.36	20,304	19,567
Lanier - Tickets	0	0.00	1,263	42.10	3,000	1,012
Lanier - Cell Phone/Beeper	235	65.28	1,810	502.78	360	346
Lanier - Office Expense	1,460	486.67	8,525	2,841.67	300	5,121
Lanier - Invoicing Expense	285	9.31	3,420	111.76	3,060	3,060
Lanier - Bank Charges	163	8.92	2,531	138.53	1,827	1,532
Lanier - Credit Card Fees	811	108.13	6,562	874.93	750	2,281
Lanier - Returned Checks	0	0.00	0	0.00	0	360
Lanier - Garage Insurance	102	3.60	1,224	43.17	2,835	1,152
Lanier - Business License	0	0.00	593	52.43	1,131	236
Lanier - Management Fee	350	8.33	4,200	100.00	4,200	4,200
Lanier - Security	5,384	5.47	93,039	94.60	98,350	69,655
Lanier - Payroll Processing	115	5.17	1,579	70.97	2,225	1,183
Lanier - Equipment & Supplies	0	0.00	4,988	950.10	525	817
Lanier - Miscellaneous	0	0.00	0	0.00	6,729	0
Lanier - Cleaning	0	0.00	0	0.00	7,800	0
Lanier - Fire Safety	0	0.00	0	0.00	1,000	849
Lanier - Incentive Mgt Fees	0	0.00	2,096	192.65	1,088	727
Total Expenses	20,332	6.97	305,365	104.71	291,642	228,604
Net Income	\$ 1,971	(3.90)	\$ 5,192	(10.28)	\$ (50,509)	\$ 15,731

**State Bar of Georgia
Conference Center Income Statement
For the Twelve Months Ending June 30, 2016**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Revenues						
CONF-3rd Floor Room Rentals	\$ 0	0.00	3,600	102.86	\$ 3,500	\$ 4,950
CONF- 3rd Floor Set Up Fees	0	0.00	0	0.00	1,600	0
CONF-3rd Floor After Hrs Fees	351	2.93	12,636	105.30	12,000	10,020
CONF-3rd Floor Beverage Svc	247	6.18	3,292	82.30	4,000	2,814
CONF-3rd Floor Cleaning Fees	312	4.46	3,569	50.99	7,000	7,203
Total Revenues	910	3.24	23,097	82.20	28,100	24,987
Expenses						
CONF-Salaries	16,189	8.24	191,923	97.73	196,378	189,385
CONF-Overtime	603	3.77	8,045	50.28	16,000	9,951
CONF - Taxes and Benefits	8,282	12.00	67,149	97.28	69,030	63,509
CONF - Pension	(2,053)	(15.93)	9,763	75.74	12,890	11,953
CONF-Shared Office Alloc	5,970	8.33	71,634	100.00	71,634	69,435
CONF-Postage & Freight	0	0.00	0	0.00	100	0
CONF - Printing	0	0.00	42	0.00	0	0
CONF-Supplies	235	2.94	2,828	35.35	8,000	9,484
CONF-Subscriptions & Books	0	0.00	251	100.40	250	225
CONF-Miscellaneous Expense	(1,057)	(35.23)	823	27.43	3,000	2,778
CONF-Copier Vending Soft & Exp	1,406	0.00	1,406	0.00	0	0
CONF - Computer Hardware	0	0.00	2,457	91.68	2,680	0
CONF-After Hrs Security	276	3.94	6,039	86.27	7,000	5,596
CONF-Room Turn-Around Costs	0	0.00	2,960	59.20	5,000	1,615
CONF-Equipment Maintenance	370	7.40	7,449	148.98	5,000	1,455
CONF-Furn Repairs & Maint	2,002	28.20	8,375	117.96	7,100	3,538
CONF-Kitchen	1,049	6.56	12,326	77.04	16,000	14,270
CONF-Videoconferencing Suppor	0	0.00	0	0.00	7,500	0
Subtotal	33,272	7.78	393,470	92.03	427,562	383,194
CONF-Furniture/Equipment	625	10.41	6,255	104.16	6,005	220,321
Total Expenses	33,897	7.82	399,725	92.19	433,567	603,515
Net Income	\$ (32,987)	8.14	(376,628)	92.89	\$ (405,467)	\$ (578,528)

**State Bar of Georgia
Bar Center Income Statement
For the Twelve Months Ending June 30, 2016**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Revenues						
BC - Interest Income	\$ 4,427	22.14	16,310	81.55	\$ 20,000	\$ 13,456
BC - Gain/Loss	(77)	0.00	(221)	0.00	0	5,199
BC - Assessment Income	10,450	3.60	301,351	103.91	290,000	317,677
BC - Transfer from SBG Oper.	48,876	8.33	586,511	100.00	586,511	576,707
BC - Contributions	0	0.00	1,385,803	106.60	1,300,000	1,308,195
BC - Misc Income	61	0.00	311	0.00	0	0
Total Revenues	63,737	2.90	2,290,065	104.26	2,196,511	2,221,234
Expenses						
BC - Depreciation Expense	0	0.00	0	0.00	0	1,173,764
BC - Gi/L on Disposal/Retire	0	0.00	0	0.00	0	88,145
BC - Architect/Design Fees	0	0.00	32,921	329.21	10,000	26,413
BC - Capitalize Constr Costs	0	0.00	0	0.00	0	(1,021,307)
BC - Parking Deck Construction	(72,393)	(57.91)	173,062	138.45	125,000	75,418
BC - Landscaping/deck signs	878	17.56	878	17.56	5,000	0
BC - 3rd Floor Contingency	0	0.00	0	0.00	25,000	21,175
BC - 3rd Floor Renovations	0	0.00	1,650	8.25	20,000	0
BC - Museum, W.Wilson Exhibit	0	0.00	14,554	103.96	14,000	1,904
BC - AV & Equipment	0	0.00	10,047	102.52	9,800	17,029
BC - Building Rehabilitation	19,420	25.89	20,454	27.27	75,000	619,778
BC - Tenant Improvements	0	0.00	555,199	370.13	150,000	107,086
BC - Law Related Education	6,490	24.49	25,960	97.96	26,500	52,500
BC - Pres. Board Rm Costs	0	0.00	1,101	22.02	5,000	0
Total Expenses	(45,605)	(9.80)	835,826	179.63	465,300	1,161,905
Net Income	\$ 109,342	6.32	1,454,239	84.00	\$ 1,731,211	\$ 1,059,329

State Bar of Georgia
Cushman & Wakefield Income Statement
For the Twelve Months Ending June 30, 2016

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Revenues						
C&W - Rental Income	\$ 107,901	9.09	\$ 1,174,741	98.97	\$ 1,187,023	\$ 1,105,143
Total Revenues	107,901	9.09	1,174,741	98.97	1,187,023	1,105,143
Expenses						
C&W - Personnel Mgmt Salary	2,783	6.18	34,800	77.33	45,000	30,977
C&W - Admin Taxes & Benefits	707	6.28	8,700	77.33	11,250	7,744
C&W - Travel	0	0.00	47	7.46	630	42
C&W - Miscellaneous Bldg Exp	0	0.00	65	0.00	0	0
C&W - Supplies	0	0.00	193	3.22	6,000	1,065
C&W - Telephone Expense	93	0.87	13,991	130.27	10,740	10,795
C&W - Management Fees	4,371	8.91	51,687	105.31	49,080	50,182
C&W - Tenant Services	0	0.00	175	10.00	1,750	0
C&W - Bank Fees	106	8.03	1,228	93.03	1,320	1,253
C&W - R&M Salaries	12,538	7.01	169,338	94.70	178,815	185,504
C&W - R&M Taxes & Benefits	4,979	6.78	61,172	83.30	73,432	69,038
C&W - R&M HVAC	3,854	9.35	41,646	101.02	41,226	32,439
C&W - R&M Plumbing	288	4.72	3,841	62.97	6,100	3,989
C&W - R&M Fire/Life Preventio	4,705	92.71	6,864	135.25	5,075	3,829
C&W - R&M Glass Replaceme	0	0.00	0	0.00	500	0
C&W - R&M Electrical/Lamps	2,001	9.61	20,530	98.63	20,815	10,640
C&W - R&M Water Treatment	821	7.47	10,241	93.17	10,992	10,603
C&W - R&M Life Safety Contra	0	0.00	5,788	60.81	9,518	11,346
C&W - R&M Tools/Radios	924	30.80	1,975	65.83	3,000	2,676
C&W - R&M Elevators	1,995	7.11	26,384	94.01	28,065	26,672
C&W - R&M Pest Control	222	5.55	2,528	63.20	4,000	2,520
C&W - R&M Rubbish	640	5.33	9,653	80.44	12,000	9,979
C&W - R&M Other: Locks & Ke	0	0.00	2,140	0.00	0	0
C&W - R&M Painting	0	0.00	6,350	127.00	5,000	690
C&W - R&M Other	164	1.20	2,320	17.01	13,640	3,699
C&W - R&M Lobby	0	0.00	0	0.00	500	0
C&W - Uniforms	206	0.00	1,516	0.00	0	0
C&W - Electric	51,124	11.11	418,382	90.95	460,000	421,208
C&W - Water	7,350	10.40	56,418	79.80	70,700	60,087
C&W - Gas	0	0.00	18,420	66.98	27,500	29,199
C&W - Security Contract	23,050	9.04	261,305	102.47	255,000	247,606
C&W - Cleaning	14,084	8.18	157,805	91.61	172,250	156,982
C&W - Grounds-Supplies & Ma	891	14.85	4,542	75.70	6,000	8,847
C&W - Insurance	3,494	9.71	41,923	116.45	36,000	33,142
Total Expenses	141,390	9.03	1,441,967	92.09	1,565,898	1,432,753
Net Income	\$ (33,489)	8.84	\$ (267,226)	70.53	\$ (378,875)	\$ (327,610)

State Bar of Georgia

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Year End Financials 2015-16



September 28, 2016

Board of Governors
State Bar of Georgia
104 Marietta Street
Atlanta, Georgia 30303

Re: October 21-23, 2016 Report to the Board of Governors

Board Members:

It is my privilege to report to the Board on the activities of the State Bar of Georgia YLD. The YLD is committed to continually promoting the mission of our Bar through its younger members, who number nearly 10,000. During this Bar year, the YLD will continue the great programs and projects from past Bar years and improve their initiatives. This report will bring you up to date on our activities and accomplishments so far this year.

YLD Committees

- **Advocates for Students with Disabilities**
Co-Chairs: Clayton Adams & Susan Haynes
This committee hosted a happy hour on Sept. 9 at Pauley's Crepe Bar to kick-off the Bar year and socialize with colleagues while enjoying appetizers on the committee and plan events for the year. They also will host a lunch meeting on Oct. 20 at 12 p.m. at the Bar Center in Presidents Boardroom. They have future meetings planned for November 2016, February, March and April, 2017.
- **Community Service Projects**
Co-Chairs: Justin Wolfe & Zack Howard
This committee held a lunch meeting on Aug. 31 at 12 p.m. at the Bar Center to kick off the new Bar year and socialize. On Sept. 23, they partnered with the St. Jude Walk/Run to End Childhood Cancer and sought volunteers to help set-up registration at 10 p.m. on Friday, Sept. 23 and help work registration on Saturday, Sept. 24. They will meet for tree planting with Trees Atlanta on Oct. 22 in an Atlanta neighborhood to be determined. They also plan on hosting the Fulton County DFCS Holiday Party some time in November.
- **Estate & Elder Law**
Co-Chairs: Brandon D. Elijah & Amanda N. Moyer

This committee will hold a Wills Clinic on Oct. 8 in Dallas, GA - Paulding County - to benefit fire fighters and first responders.

- **Family Law**

- **Co-Chairs: Katie Kiihnl & Jonathan Brezel**

- This Committee held a kickoff committee meeting on Aug. 17 at 6:30 p.m. at Taco Mac at the Prado. Attendees networked and planned the events for the Bar year while enjoying appetizers on the committee. On Aug. 27, this committee partnered with the 5th Annual Ahimsa House Walk, Wag, N' Run 5K race at 7:30 a.m. in Lenox Park in Brookhaven. The proceeds benefitted the Ahimsa House, dedicated to addressing the links between domestic violence and animal abuse.

- **Intellectual Property Law**

- **Co-Chairs: Sonia Lakhany & Tiffany Logan**

- This Committee held a happy hour on Sept. 29 from 6-8 p.m. at Gordon-Biersch (Midtown location) for a time of Networking and Q&A with Braxton Davis.

- **Juvenile Law**

- **Co-Chairs: Mark Brooks & Josh Lingsch**

- This committee held a lunch meeting on Aug. 30 at 12 p.m. at the Bar Center, Room 1 to kick off the new Bar year and socialize.

- **Labor & Employment**

- **Co-Chairs: Alyssa Peters & Lisa Knottek**

- This committee held a networking lunch on Sept. 8 at 12 p.m. at the Bar Center, Room 5, to kick-off the Bar year and socialize with colleagues while enjoying Willy's Mexicana fajita bar.

- **Litigation**

- **Co-Chairs: Edwin Cook & Jake Evans**

- This Committee held their annual College Football Kickoff Happy Hour on Sept. 1 at 6 p.m. at Gordon Biersch, for complimentary drinks, food, and parking and a chance to network with your colleagues and meet new friends. On Sept. 29 they held a lunch meeting from 12:30-1:30 p.m. at the Bar Center, Room 5. This lunch featured guest speaker Lance Cooper - a nationally-recognized plaintiff's attorney, specializing in products liability – having litigated some of the most significant automotive products liability cases in the past ten years.

- **Public Interest Internship Program**

- This committee will meet on Oct. 4 at 12 p.m. at the Bar Center, YLD Presidents Boardroom, for a lunch meeting to kick off the Bar year and plan the 2016 Finalist Reception. The committee plans on hosting their 4th Annual Finalists Reception to honor the 2016 finalists and grant recipients on Oct. 25 from 5:30-7:30 p.m. in the Bar Center Gallery, featuring words from the 2016 grant recipients, keynote speaker Judge Dillard of the Georgia Court of Appeals, and serving drinks and hors d'oeuvres.

- **Signature Fundraiser**

- **Co-Chairs: Audrey Bergeson, Rizza O'Connor & Katie Willett**

This Committee held a lunch meeting to kick off the Bar year and plan the YLD's biggest night of the year – the annual YLD Signature Fundraiser – held on Sept. 12 at 12 p.m. at the Bar Center, Room SB-2 and featured Willy's Mexicana Grill. The committee began planning the black-tie event and assigning tasks.

- **Women in the Profession**

- **Co-Chairs: Morgan Clemons & Danielle Russell**

- This Committee began the Bar year with a month long social media scavenger hunt from July-August, having teams conduct legal research in celebrating the 100th Anniversary of women lawyers in Georgia – 1916-2016. The hunt culminated in a night of celebration on Aug. 24 at the Bar Center, which included a walk through an historic exhibit, drinks and hors d'oeuvres, a dramatic reading with CLE credit and a commemorative film with panel discussion. This event was very well-attended, with sold out attendance well over 220. This committee also has a Blue Ridge, GA retreat planned for women lawyers Oct. 6-9, which will include morning yoga, group breakfast, workshops, CLE credit, group lunches, apple picking, team building activities, exploring Blue Ridge, group dinners, and a sunrise mountain walk.

YLD Affiliates

- **Albany YLD**

- The Albany YLD hosted a planning session with Officer elections on Aug. 13 at 11 a.m. at the Stonebridge Golf and Country Club Tavern, followed by a networking mixer and pool party at 12:30 p.m. that was well-attended.

- **Augusta YLD**

- The Young Lawyers of Augusta and the Young Professionals of Augusta met on Saturday, Sept. 10 from 8 a.m. – 12 p.m. in the Harrisburg neighborhood of Augusta, GA for a time of neighborhood revitalization with Turn Back the Block to create affordable home ownership opportunities where abandoned homes and vacant lots once stood.

- **Houston County YLD**

- The Houston County YLD will meet on Saturday, Oct. 15 from 11 a.m. – 2 p.m. for a Fall BBQ in Perry, GA at the residence of distinguished Perry attorney Larry Walker of Walker Hulbert Gray & Moore, LLP. This will be a great time of eating delicious food, meeting new friends, and watching football. Spouses, significant others and families are welcome. Also, it's the last weekend of the Georgia National Fair – so attendees can stop by for some BBQ before heading to the fair that afternoon/evening.

- **Savannah YLD**

- The Savannah YLD held a happy hour on Sept. 22 at 5:30 p.m. at the Congress Street Social Club in Savannah, GA to kickoff the Bar year.

Quarterly Meetings

In addition to the work load of our many committees, and YLD Affiliates, YLD members gather four times over the course of the Bar year during quarterly meetings to report on their committee work, socialize, and plan and organize division-wide projects.

The YLD Summer Meeting took place August Aug. 18-21, 2016, at The King & Prince Beach and Golf Resort, on St. Simons Island, GA. Events include a welcome reception, group dinner, General Session, service project, group outing to Redfern Village and CLE entitled "Marketing for Young Lawyers."

The YLD has several more meetings planned this Bar year, as follows:

Fall Meeting
Nov. 3-6, 2016
Disney's Yacht Club Resort
Lake Buena Vista, Fla.

Midyear Meeting
Jan. 5-7, 2017
The Ritz-Carlton, Buckhead
Atlanta, Ga.
Held in conjunction with the State Bar of Georgia

Spring Meeting
March 9-12, 2017
The Omni Grove Park Inn
Asheville, N.C.

Annual Meeting
June 8-11, 2017
Jekyll Island, Ga.
Held in conjunction with the State Bar of Georgia

I hope the Commission shares in my enthusiasm for the great work the YLD does. Please let me know if there are any projects you have in your local communities that the YLD can assist with, or if I can be of service to you in any way.

Truly Yours,



Jennifer Mock
2016-17 YLD President

Memorandum to: Members of the Board of Governors
From: Paula J. Frederick
Date: October 3, 2016
Re: Proposed Revisions to the Procedural Rules for Disciplinary Cases
Executive Summary

As you know, during the last Bar year Robert Kauffman asked the Disciplinary Rules & Procedures Committee to review the disciplinary process in its entirety and to make recommendations that would speed up the process while ensuring both public protection and due process for accused lawyers. The Committee met monthly to consider options and to hear from interested parties, and approved a draft proposal in June 2016. The Executive Committee approved the proposal at its September meeting. It is on the agenda as an information item for the October 21 meeting of the Board and there will be a longer informational session immediately following the Board meeting which all Bar members are welcome to attend. The proposal will be on the Board agenda for a vote at the Midyear meeting in January 2017. This memo describes how the process will work if the proposal is approved:

1. **Informal Screening**

Current average time: 60 days

Under new proposal: 60 days

- The Office of the General Counsel (“OGC”) will begin an informal investigation when someone files a grievance form, when the Consumer Assistance Program provides OGC with a Client Intake Form, or when OGC receives credible information suggesting the need for an investigation. (Rule 4-202(a) and (b)).
- During its informal screening OGC may subpoena documents or electronically stored information with permission of the Chair of the State Disciplinary Board. (Rule 4-204(d)).
- OGC may ask the State Disciplinary Board to refer a lawyer for evaluation by an appropriate medical expert as soon as it appears that impairment may be a problem. (Rule 4-104). The Lawyer Assistance Program will no longer be involved in the disciplinary process. *Estimated cost of retaining “appropriate medical experts” — \$15,000 (\$3,000/each X 5 lawyers per year). This is not a new budget item; we currently spend between \$10-\$15,000/year on medical evaluations related to disciplinary cases.*
- OGC may dismiss a grievance and request that the Consumer Assistance Program direct the client to appropriate resources. (Rule 4-202(f)).

2. **State Disciplinary Board Investigation:**

Current average time: 165 days

Under new proposal: 120 days

- OGC sends those cases not resolved during informal screening to the State Disciplinary Board for a formal investigation. The Panel consists of 18 members instead of the current 30. Lawyer Board members direct OGC investigators to interview witnesses, obtain documents and otherwise aid in the investigation. OGC investigators help Board members conduct a timely and thorough investigation but work at the direction of the

Board member. (Rule 4-204(a)). *OGC proposes to attempt this with existing staff, but it may require hiring an additional investigator. Total budgetary impact for one investigator (salary, benefits equipment and overhead) is \$85,000.*

- State Disciplinary Board members are reimbursed expenses upon request, but are not provided a stipend. (Rule 4-201(c) and (d)). *Estimated cost for Board member reimbursements (based upon current reimbursement payments to nonlawyer Board members)—\$2000/pp/year.*
- The Board may dismiss a case, impose confidential discipline, make a finding of probable cause, or refer the lawyer for an evaluation by a medical expert. The Consumer Assistance Program may be used to direct the complaining party to appropriate resources. (Rule 4-204(a)).

**3. Probable Caused Cases: Current average time for confidential discipline: 60 days
Current average time from filing to SM Order: 283-371 days
Under new proposal/confidential discipline: 60 days
Under new proposal/SM cases: 210 days**

- The probable caused cases come back to OGC for confidential discipline, a Notice of Discipline, or with a directive that we file a formal complaint against the lawyer in the Supreme Court of Georgia within 30 days. (Rule 4-204.4).
- Confidential discipline (Panel reprimand or Formal Letter of Admonition) is almost always imposed within 60 days.
- For cases requiring a formal complaint, the Court will select a pool of 9 special masters who will be paid at an hourly rate plus expenses. The Coordinating Special Master will train and supervise them. When OGC files a case in the Supreme Court the Coordinating Special Master appoints a special master to hear the case. (Rules 4-209 and 4-209.2). *Currently the Coordinating Special Master is paid \$50,000/year. Estimated cost of paid Special Masters is an additional \$50,000.*
- Once a Special Master is appointed the OGC serves the case on the respondent, who has 30 days to file an Answer. (Rule 4-209(c); Rule 4-212). The Special Master must hear the case within 90 days of the respondent's answer (Rule 4-213(a)) and must file a Report and Recommendation of Discipline within 45 days of receiving the transcript from the hearing. (Rule 4-217(a)).

**4. Review Panel Current average time: 266 days
Under new proposal: 0 days**

- The proposal recommends eliminating the Review Panel, so that the record in the case goes directly to the Court 30 days after the Special Master's order. (Rule 4-217(c)). If either party objects to the Report they will have 30 days from the date the record was filed with the Court to file objections and the responding party will have an additional 30 days to respond to the objections. (Rule 4-219).

5. Supreme Court Review

Since August, 2015 the records from 45 special master cases have been filed with the Court. Sixteen of those have reached a final order. The average time between filing the record with the Court and entry of the Court's final order in those cases was 67 days. Twenty nine of those cases are still pending with the Court.

**STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE
MINUTES
May 19, 2016
State Bar Building/Atlanta, GA**

Members Participating:

Robert J. Kauffman, President; Patrick T. O'Connor, President-elect and Treasurer; Brian D. (Buck) Rogers, Secretary (by phone); Patrise M. Perkins-Hooker, Immediate Past President; John R.B. Long, YLD President; Jennifer Campbell Mock, YLD President-elect, V. Sharon Edenfield, YLD Immediate Past President (by phone); Thomas R. Burnside, III; Elizabeth Louise Fite; Kenneth B. Hodges, III; Phyllis Holmen; David S. Lipscomb; and Nicki Vaughn.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Jeff Davis, Executive Director; Paula Frederick, General Counsel; Steve Laine, Chief Financial Officer; Bill NeSmith, Deputy General Counsel, and Thomas Worthy, Director of Governmental Affairs.

Recognition of Retiring Executive Committee Members

President-elect and Treasurer Patrick T. O'Connor recognized outgoing Executive Committee members Immediate Past President Patrise Perkins-Hooker and YLD Immediate Past President Sharri Edenfield for their service on the Executive Committee and to the State Bar.

Future Meetings Schedule

President Bob Kauffman reviewed the Future Meetings Schedule.

Executive Committee Minutes

The minutes of the April 15, 2016 meeting of the Executive Committee were approved by unanimous voice vote.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Executive Committee, by unanimous voice vote, approved the following resignation requests: Abiye Tibebe-371289, Vincent Velardo-500234, Diane Renea Zecchino-Lukin-494909, Mary Blank Love-459225, Matilyn F. Dye-236825, Peggy Burke Beville-056050, Jeffrey P. Ganek-283750, Amelia Anne Myers-573881, Joel I. Rosenblatt-531008, Joshua E. Luber-001133.

Member Request: Appeal to Extend Fitness Deadline (Jay Steele)

The Executive Committee, by unanimous voice vote, granted a request by Jay Steele to extend the Fitness process deadline with the stipulation that he apply for Fitness within 30 days of being apprised of the Executive Committee's decision and that he receive a Certificate of Fitness by December 15, 2106. If he does not meet those deadlines, he

will be required to retake the Bar exam.

Proposed Amendments to the Uniform Rules for Superior Court

Paula Frederick reported that the proposed amendments to the Uniform Rule 22, Electronic and Photographic News-Coverage of Judicial Proceedings have been provided to the Executive Committee for its review and comment. Thereafter, the Executive Committee provided its commentary to Paula Frederick, which she will report back to the Council of Superior Court Judges.

Insurance Committee/Security Consultant

Jeff Davis reported that the Insurance Committee, after interviewing two security consulting firms, recommended that the Executive Committee utilize its internal resources that include staff investigators with military and security backgrounds, in coordination with the State Bar's building management company, Cushman & Wakefield, and the State Bar's building security officer services company, Allied Barton, to assess the State Bar's security infrastructure, technology, policy and training needs.

Communications Committee Proposed Media Plan

Following a report by President Bob Kauffman, the Executive Committee, by unanimous voice vote, approved a proposal from the Dalton Agency, in the amount of \$80,000, for the 2016 State Bar of Georgia Public Education Effort. This social media campaign will promote positive perception of the legal system and the legal profession. The funds will be paid from the Cornerstones of Freedom budget.

Access to Justice Committee Video Funding

Following a report by Nicki Vaughan, the Executive Committee, by unanimous voice vote, approved a request by the Access to Justice Committee for \$29,000 to produce three short videos that highlight pro bono service in an engaging way that can be shown on rotation for CLE programming purposes. They will also be available on the State Bar's website and embedded in the sites of pro bono and other advocacy organizations in Georgia. The funds will be paid from the Cornerstones of Freedom budget.

Strategic Plan

President Bob Kauffman reminded the Executive Committee that the Strategic Monitoring Plan calls for an annual review to determine what, if any, adjustments need to be made to the targets and priorities outlined in the Strategic Plan. The Executive Committee agreed to undertake that review at the September Executive Committee Retreat.

Executive Session

Following a motion and second, the Executive Committee met in Executive Session to discuss the Governmental Affairs position, receive a report on pending litigation, and discuss the JQC. Afterward, by unanimous voice vote, the Executive Committee moved

out of Executive Session.

The Executive Committee took the following action:

- 1) By unanimous voice vote, approved a motion that the State Bar will continue its open dialogue with the General Assembly members to make refinements to the JQC bill in the upcoming legislative session, and
- 2) By unanimous voice vote, approved a motion that the State Bar provide outside counsel to the State Bar's JQC appointees if they are subpoenaed to testify before a House study commission which will review the policies and procedures of the JQC.

Executive Session

Following a motion and second, the Executive Committee met in Executive Session to further discuss the JQC. Afterward, by unanimous voice vote, the Executive Committee moved out of Executive Session.

Reception for Incoming ABA President Linda Klein

The Executive Committee, by unanimous voice vote, approved spending \$17,000 for a reception for incoming ABA President Linda Klein following her swearing-in at the 2016 ABA Annual Meeting, and to amend the 2016-2017 Conference Sponsorship line item to reflect \$40,000.

Feasibility Study & Funding – 5th Floor Data Center

Following a report by President Bob Kauffman, the Executive Committee, by unanimous voice vote, approved a consulting proposal from Enabled Energy in the amount of \$26,240 to conduct a due diligence and feasibility study of the 5th floor for utilizing the floor as a data center.

Bar Litigation Reserve

Following a report by President-elect and Treasurer Patrick T. O'Connor, the Executive Committee, by unanimous voice vote, approved 1) eliminating the OGC and UPL litigation line items in each department's operating budget and moving them to the Litigation Reserves budget, and 2) raising the Litigation Reserves budget from \$250,000 to \$300,000. This will be established by using the residual of the 2015-16 operating budget line items as of 6/30/15, plus an allocation of Bar surplus funds to total \$300,000. Thereafter, the Litigation Reserves account for Bar years 2016-17 and beyond will be the necessary amount to replenish the reserve fund to \$300,000.

President's Report

President Bob Kauffman expressed thanks to the Executive Committee members for their time and support this Bar year. Thereafter, he recognized outgoing Executive Committee

members Immediate Past President Patrise Perkins-Hooker and YLD Past President Sharri Edenfield for their service on the Executive Committee.

Treasurer's Report

President-elect and Treasurer Patrick T. O'Connor reported on the Bar's finances and investments. The Executive Committee received copies of the Operations and Bar Center Consolidated Revenues and Expenditures Report as of March 31, 2016; Income Statement YTD for the Nine Months Ended March 31, 2016; Bar Center Revenues and Expenditures Summary for the Nine Months Ended March 31, 2016; State Bar Balance Sheet for March 31, 2016; Summary of Dues and Voluntary Contributions at March 31, 2016; Investment Performance Comparison 2006-2016, and Legislative Fund and Cornerstones of Freedom Fund Activity Reports through March 31, 2016.

Thereafter, he provided an update on the Georgia Bar Foundation and the revitalization of the Fellows program.

YLD Report

YLD President Jack Long reported that this year's annual Legal Food Frenzy met its goal of raising over 1 million pounds of food, making a cumulative total raised of more than 5 million pounds of food over its first five years in existence. He announced that the YLD Estate and Elder Law Committee just finished a complete rewrite of the Senior Citizens Handbook and a brochure on selecting a personal care home. He reported that the YLD's quarterly meetings were very well attended this year, and commended the work of the YLD committees. He thanked everyone for giving him the opportunity to serve this year as the YLD President.

Executive Director's Report

Jeff Davis reported that the Attorney Wellness Task Force's *Lawyers Living Well* website will be debuted at the Annual Meeting. Ken Hodges announced that t-shirts will be provided to anyone that registers for one of the Annual Meeting wellness activities.

Election Results

The Executive Committee received a copy of the 2016 State Bar of Georgia Election Results.

Old Business

There was no old business.

New Business

There was no new business.

Adjournment

There being no further business the meeting was adjourned.



Brian D. (Buck) Rogers, Secretary

Approved:



Robert J. Kauffman, President

**STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE
MINUTES
June 29, 2016
Conference Call**

Members Participating:

Patrick T. O'Connor, President; Brian D. (Buck) Rogers, President-elect; Kenneth B. Hodges, III, Treasurer; Darrell L. Sutton, Secretary; Robert J. Kauffman, Immediate Past President; Jennifer Campbell Mock, YLD President; Nicole C. Leet, YLD President-elect, John R.B. Long, YLD Immediate Past President; Thomas R. Burnside, III; Dawn Jones; and Nicki Vaughn.

Members Absent:

Elizabeth Louise Fite; Phyllis Holmen; and David S. Lipscomb.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Jeff Davis, Executive Director; Steve Laine, Chief Financial Officer; and Bill NeSmith, Deputy General Counsel.

Legislative Consultants – Georgia Capitol Partners Contract Renewal

The Executive Committee, after obtaining a unanimous vote of the members by email approving the specially called meeting (required 2/3rd vote), took the following action regarding the services of Capitol Partners Public Affairs Group as legislative consultant for the 2016-17 Bar year:

1. By unanimous voice vote, approved the proposed contractual Agreement, as amended (Exhibit A), retaining Capitol Partners Public Affairs Group, and specifically Russell N. Sewell, as legislative consultant for the 2016-17 Bar year (July 1, 2016-June 30, 2017) at a cost of \$185,000. The cost will be paid from voluntary contributions in the Legislative and Public Advocacy Fund.

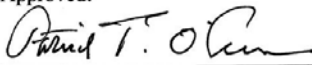
Adjournment

There being no further business the meeting was adjourned.



Darrell L. Sutton, Secretary

Approved:



Patrick T. O'Connor, President

**STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE
MINUTES**

**Tuesday, August 16, 2016/11:00 a.m.
Hull Barrett Law Firm/Augusta, GA**

Members Participating:

Patrick T. O'Connor, President; Brian D. (Buck) Rogers, President-elect; Kenneth B. Hodges, III, Treasurer; Darrell L. Sutton, Secretary; Robert J. Kauffman, Immediate Past President; Jennifer Campbell Mock, YLD President; Nicole C. Leet, YLD President-elect, John R.B. Long, YLD Immediate Past President; Thomas R. Burnside, III; Elizabeth Louise Fite (by phone); Phyllis Holmen; Dawn Jones; David S. Lipscomb; and Nicki Vaughn.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Christine Butcher, Director of Governmental Affairs; Jeff Davis, Executive Director; Paula Frederick, General Counsel; Steve Laine, Chief Financial Officer; and Bill NeSmith, Deputy General Counsel.

Call to Order

President Pat O'Connor called the meeting to order. All members of the Executive Committee were in attendance as indicated above.

Future Meetings Schedule

President Pat O'Connor reviewed the Future Meetings Schedule.

Executive Committee Minutes

The minutes of the May 19, 2016, and June 29, 2016, meetings of the Executive Committee were approved by unanimous voice vote.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Executive Committee, by unanimous voice vote, approved the following resignation requests: Colin E. McDonald-488725, Susan E. McNally-498294, Patricia Sullivan Ullman-721618, Madeline Warner-655740, Gary A. Alexion-009235, Laura Jane Lester-447520, Joseph Frank Chvasta Jr.-908670, Laurence J. Shapiro-637806, John B. Wolf-773275, Arnold L. Cooperman-186650, Leona Alice Power-586574, Michael Jason Greenberger-991310, Russell Doyle Shurtz-644719, Allan T. Downen-228225, Anuradha Yadav-557479, Allan T. Robes-609813, Jane Burrirt Whitehurst-755550, Carl E. Bystrom-000730, Elie Marc Miller-506577, Elizabeth Cona Jacobs-388028, Kathy Lynn Urbach-722667

Members Requesting Disability

Pursuant to State Bar Rule 1-202, the Executive Committee, by unanimous voice vote, approved the following requests for disabled status: Jacqueline Scott-632037, Bernard

R. Thomas Sr.-704675, Russell Mabrey-462790, Aja Diamond Moore-142003, Wendy B. Hart-142037, Jay John Schnell-629575, Thomas Jefferson Moore Jr.-520850

Member Request: Appeal for Extension of Time to Complete Fitness

The Executive Committee, by majority voice vote, granted a request by Everett Kilphouse for an extension of time to complete the Fitness process on the condition that it is completed by no later than June 1, 2017.

Hospitality Suites at Meetings

President Pat O'Connor reported that he received feedback from Bar members requesting that a hospitality suite be available at Bar meetings to provide a location for members to gather for socializing, networking, and meeting other new members. The Executive Committee concurred that a general meeting location for Bar members promotes camaraderie, but there was no consensus on whether the hospitality suite should offer only non-alcoholic beverages, a cash bar, or a hosted bar. President Pat O'Connor reported that due to the location and meeting agenda for the Fall Board of Governors meeting at Callaway Gardens, he will have a hospitality suite with a hosted bar available for a limited time only on Friday evening following the Board dinner.

Lawyer Assistance Program (LAP)

Jeff Kuester, LAP Committee Chair, reported on the soon to be launched *Lawyers Helping Lawyers (LHL)* peer volunteer program and the *LHL* database. The database is designed to assist participants who identify a problem and request to meet with a colleague who has successfully managed a similar problem or who can offer support and guidance. All attorney peer volunteers will be required to attend a training session that will be conducted by CorpCare. He explained that while the State Bar owns the database and all the information contained therein, CorpCare is being asked to be responsible for maintaining the database and keeping it secure. The Executive Committee received copies of the database's screen shots and waiver forms.

Jeff Kuester reported that he is exploring the idea of the voluntary side of the LAP splitting away from the State Bar into a separate 501(c)(3) foundation/organization. The separation of the LAP from the State Bar would alleviate Bar members' perceived privacy concerns and the appearance of a connection with the Office of General Counsel. Approximately a third of the state bars with LAP's operate with this type model. The Executive Committee consensus was for the LAP to continue to explore this idea.

Jeff Kuester announced that he has been appointed to the ABA CoLAP Advisory Committee.

Augusta Bar Association Luncheon

The Executive Committee joined the Augusta Bar Association for lunch, where President Pat O'Connor addressed the group.

Rule 1-501.1 License Fees - Proposed Rule Change Related to Waivers and Appeals of Licensing Fees

Following a report by Bill NeSmith, the Executive Committee, by unanimous voice vote, approved recommending to the Board of Governors proposed Rule 1-501 (Exhibit A), as amended.

Rule 4-402 Formal Advisory Opinion Board

Following a report by Bill NeSmith, the Executive Committee, by unanimous voice vote, approved recommending to the Board of Governors proposed amendments to Rule 4-402 (Exhibit B) that adds a member of the Executive Committee to the Formal Advisory Opinion Board for a one-year term.

Proposed Disciplinary Rules Changes

Paula Frederick briefly reported on proposed disciplinary rules changes approved by the Disciplinary Rules and Procedures Committee. The rules changes will improve the operation of the lawyer disciplinary system in efficiency, effectiveness, and protecting the public. President Pat O'Connor reported that there will be a more in depth discussion on the proposed new rules at the Executive Committee Retreat, and he urged everyone to educate themselves on them. Paula Frederick reported that there will be an open hearing on the proposed new rules at the Fall Board of Governors meeting, and a vote on the rules by the Board of Governors at the Midyear Meeting.

Proposed Amendments to USCR 22

Following a report by Nicki Vaughan, the Executive Committee, by unanimous voice vote, opposed Proposed Modifications to USCR 22. The modifications are almost identical to those proposed in USCR 48 in 2015, which the Executive Committee opposed at that time. Bill NeSmith will draft a letter to the Council of Superior Court Judges for the Executive Committee's review and comment reiterating the Bar's opposition.

High School Mock Trial (HSMT) – Reallocation of Restricted Funds to the 2019 National HSMT Championship

Following a report by Jeff Davis, the Executive Committee, by unanimous voice vote, approved allocating \$20,000 from the HSMT Program's restricted funds to the 2019 National HSMT Championship. The State Bar of Georgia will host the Championship in Athens on May 16-18, 2019.

Sponsorships

The Executive Committee, by unanimous voice vote, approved a \$2500 sponsorship request from the Georgia Legal Services Program for its Biennial Champions of Justice recognition event on October 13, 2016. The funds will be paid from the Conference Sponsorship line item.

Jeff Davis presented a proposed draft policy concerning the State Bar providing financial sponsorships for events or to other organizations. He encouraged everyone to read it before the Executive Committee Retreat.

Request for Amicus Brief: *Mad Joint Investments v. Fidelity National Title Company; Apollo Land Title Company; Tiffany Wolf, Esq. and Johnson & Freedman, LLC*

President Pat O'Connor and Paula Frederick presented a request for an Amicus Brief in *Mad Joint Investments v. Fidelity National Title Company; Apollo Land Title Company; Tiffany Wolf, Esq. and Johnson & Freedman, LLC*. The Executive Committee, by unanimous voice vote, denied the request as it does not meet the requirements of the State Bar's Amicus Brief Policy.

President's Report

President Pat O'Connor reported that the JQC Legislation Task Force is scheduled to meet again on September 1. He stated that there are two other entities also working on the JQC issue. One is a committee formed by Supreme Court Justice David Nahmias, who serves as the liaison between the Supreme Court and the legislature, which is looking at ways to improve the legislation. Those improvements propose adding 3 additional members to the JQC to act as a hearing panel and to be appointed as follows: one lawyer appointed by the State Bar, one judge appointed by the Supreme Court, and one lay member appointed by the Governor. His committee is also trying to reduce the number of names the State Bar needs to submit for the other State Bar appointment. The other entity is an alliance of Common Cause Georgia, the Southern Center for Human Rights, the NAACP, and the ACLU that opposes the constitutional amendment replacing the JQC with a new commission designed by the General Assembly. Nicki Vaughan reported that the alliance plans to conduct some sort of media campaign encouraging the public to vote against the constitutional amendment. President-elect Buck Rogers reported on the activities of the JQC Task Force. Task Force members are submitting their suggestions, which are being synthesized before being disseminated back to the Task Force. President Pat O'Connor stated that he is in the process of setting up meetings with Speaker David Ralston and Representative Wendell Willard to discuss State Bar relations and the JQC. He plans to provide an update to the Board of Governors on the Bar's JQC efforts after the September meeting of the JQC Legislation Task Force.

Christine Butcher reported that the legislature has yet to establish the JQC Study Committee.

President Pat O'Connor announced that the Advisory Committee on Legislation meets on September 14. He will be speaking at the Chief Justice's Commission on Professionalism Convocation on the Profession on August 30, and at the YLD Women in the Profession Committee's 100th Anniversary Celebration of women lawyers' event on August 24. He reported that the October *Georgia Bar Journal* is dedicated to the 100th

Anniversary Celebration.

CloudLaw/Zeekbeek Consortium State Bar Lawyer Referral Service

President Pat O'Connor and Jeff Davis reported on CloudLaw, Inc. that has partnered with the State Bar of Michigan and the Ohio State Bar Association to create linked member directories that help consumers find their active attorneys on Zeekbeek.com. Features members can take advantage of include the ability to create customized profiles that consumers can search to find a lawyer, establish unique URLs that allow members to use the profile page as a personal website, and several others. It would be a free service for State Bar members and good public service to members of the public needing lawyers. The Member Benefits Committee has been asked to review and comment on the program.

Strategic Plan

President Pat O'Connor reported that there will be a strategic plan update at the Executive Committee Retreat.

Treasurer's Report

Following a report by Treasurer Ken Hodges, the Executive Committee, by unanimous voice vote, approved the following transfers from the State Bar's surplus to the following accounts: \$271,931 to replenish Cornerstones, \$50,000 to increase the Litigation Reserves, \$57,850 to bring the Meetings Fund to zero, and \$413,577 for the 2015-16 Bar year net loss.

Treasurer Ken Hodges reported on the Bar's finances and investments. The Executive Committee received copies of the Consolidated (Operational and Bar Center) Revenues and Expenditures Report as of May 31, 2016; Income Statement YTD for the Eleven Months Ended May 31, 2016; Bar Center Revenues and Expenditures Summary for the Eleven Months Ended May 31, 2016; State Bar Balance Sheet as of May 31, 2016; Summary of Dues and Voluntary Contributions at May 31, 2016; Investment Performance Comparison 2005-2016, and Legislative Fund and Cornerstones of Freedom Fund Activity Reports through May 31, 2016.

YLD Report

YLD President Jennifer Campbell Mock reported on the activities of the YLD. She announced that the Leadership Academy participants have been recruited. She stated that the *YLD Newsletter* is being reformatted. She reported on what an amazing job Morgan Clemons has done on getting great programming and sponsorships for the YLD Women in the Profession Committee's 100th Anniversary Celebration and Retreat. She invited members of the Executive to attend one of the YLD meetings this year to meet and share with the young lawyers their experiences as leaders in their profession.

Executive Director's Report

Jeff Davis reported that he and Past President Bob Kauffman will be meeting with the consultants that prepared the study on the feasibility of utilizing the 5th floor as a data center to discuss their findings.

Office of General Counsel Report

Paula Frederick reported on the activities of the Office of General Counsel and referred the Executive Committee to her written memorandum to them concerning their interaction with consumers contacting them about problems with their lawyers. She announced that she will be sending each of them a memo briefly outlining policies and procedures that appear on the State Bar's website to help them avoid pitfalls and problems during their service. Those policies and procedures include Legislation, Contacts with the Press, Conflicts of Interest, Websites, Contracts and Legal Services to the Public.

Board of Governors Minutes

The Executive Committee received copies of the minutes of the June 17 and 18, 2016, meetings of the Board of Governors.

February 2016 Georgia Bar Examination Pass List

The Executive Committee received a copy of the February 2016 Georgia Bar Examination Pass List.

Daily Report Article: State Bar of Georgia Will Not Fight Amendment to Abolish Judicial Watchdog Agency

The Executive Committee received a copy of a Daily Report article concerning the JQC.

ABA Journal Article: Legal Aid Agencies are Using Webchat to Answer Queries

The Executive Committee received a copy of an *ABA Journal* article about how legal services providers are using a Webchat tool to improve access to legal aid. It allows users to communicate in real time using easily accessible web interfaces.

Old Business

President Pat O'Connor reported that he wants the Executive Committee to consider doing away with the current Officers Travel and Expense reimbursement policy and going back to the former policy. A motion to revoke the current policy and revert back to the previous policy was approved by majority voice vote, with the understanding that the previous policy will be reviewed at the Executive Committee Retreat.

New Business

Treasurer Ken Hodges reported that Judge David Cannon wants the State Bar to appoint a committee to look at electronic notification of conflicts, scheduling and calendaring. Jeff

Davis said he would see if there is a Supreme Court committee already working on those issues.

Treasurer Ken Hodges reported that GTLA wants to know what the Bar's position will be on Uniform Rule 6.8 (e-discovery rule). The Executive Committee, by unanimous voice vote, approved the State Bar responding through a letter that the Board of Governors already took a position on the issue and the position has not changed.

Executive Session

Following a motion and second, the Executive Committee met in Executive Session to discuss legislative lobbyist contracts, and by unanimous voice vote, approved the proposed lobbyist contracts for the 2016-17 Bar year. Thereafter, by unanimous voice vote, the Executive Committee moved out of Executive Session.

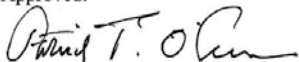
Adjournment

There being no further business the meeting was adjourned.



Darrell L. Sutton, Secretary

Approved:



Patrick T. O'Connor, President



Our Vision	Lawyers Serving the Public and the Justice System
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Our Mission	<p>The purposes of the State Bar of Georgia are:</p> <ul style="list-style-type: none"> • To foster among the members of the bar of this State the principles of duty and service to the public • To improve the administration of justice • To advance the science of law
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Our Positioning Statements

Positioning statements describe how the organization will respond to key trends impacting its success.

Regulation of Practice

We believe that an effective disciplinary process is important to both the profession and the public. **Therefore,** in order to improve and promote our ability to discipline ourselves and to make the system more effective and efficient, **we will:**

- Continue to review the entire disciplinary process and implement recommended improvements;
- Support adequate funding and resources to carry out these recommendations; and
- Develop a non-disciplinary system for intervention with respect to mentally impaired lawyers.

Access to Justice

We believe that there is a lack of access to justice for many people and that we, as a profession, have an obligation to provide and promote access. **Therefore, we will** analyze options the Bar can utilize to provide funding and delivery of services to achieve access by:

- Enhancing the use of technology to serve people in areas with unmet legal needs;
- Continuing to explore private and public funding options; and
- Encouraging members to provide pro bono services and contribute to legal services organizations.

Lawyer Wellness

We believe that too many lawyers are experiencing high levels of stress and are unhealthy and unhappy, adversely affecting their personal lives and their effectiveness as lawyers. **Therefore we will:**

- Promote health and wellness among our members and staff;
- Increase awareness of existing Bar programs, such as the Lawyer Assistance Program, Law Practice Management and Suicide Prevention, to help lawyers recognize when they (or others) are in need of help;
- Develop a progressive diversion and non disciplinary system for intervention with respect to aging and impaired lawyers;
- Develop more CLEs on work/life balance; and
- Consider a mandatory one-hour CLE on overall wellness issues.

Integrating New Delivery Methods

We believe that the delivery of legal services is changing and more people are relying on self-help services. **Therefore we will** assist our members and the public to adapt to the changing climate for the practice of law by:

- Informing the public of the benefits of using lawyers and the risks of some alternatives;
- Embracing technology and other delivery methods; and
- Integrating the effective use of technology.

The Importance of Our Role

We believe that we need to promote the importance of a mandatory Bar and its programs to both the public and our members. **Therefore, we will** educate the public about the State Bar of Georgia and what we do, and provide and/or eliminate programs as appropriate/relevant for a mandatory bar/members.

Our Goals

Our Objectives

NA – Not available
TBD – To be determined

A. Regulation of Practice

Provide a highly efficient, expedient, and fair disciplinary process, and enforce the rules and regulations concerning the unauthorized practice of law.

		Base	1st Year	3rd Year
1	Decrease the median amount of time between the receipt of a grievance and resolution of the grievance.	TBD	100% of base	90% of base
2	Increase the public's and lawyers' perception that the disciplinary system is fair as measured by: <ul style="list-style-type: none"> • Bi-annual survey of the public • Bi-annual survey of members 	NA	Baseline	20% ↑ base
3	Decrease the number of grievances filed annually.	1997 Filed FY '14-'15	5% ↓ base	10% ↓ base
4	Limit the unauthorized practice of law as measured by the # of identified UPL cases filed annually.	TBD	5% ↑ base	10% ↑ base
5	Increase % of identified UPL cases resolved annually.	TBD	5% ↑ base	10% ↑ base

B. Access

Increase access to justice for all.

1	Decrease the number of people annually with legal needs that are not being served (those unqualified /unable to serve due to lack of resources), as measured by numbers provided by GLSP and ALAS.	TBD	10% ↓ base	20% ↓ base
	Increase the number of people annually served by GLSP and ALAS.	TBD	10% ↑ base	20% ↑ base
2	Increase the number of hours volunteer lawyers provide annually on pro bono matters as measured by reporting and/or member surveys.	TBD	10% ↑ base	20% ↑ base
	Increase the number of lawyers annually who provide pro bono service as measured by reporting and/or member surveys.	TBD	10% ↑ base	20% ↑ base
3	Increase the awareness and availability of court or bar provided self-help legal resources in courthouses/public libraries throughout the state as measured by the numbers received from court and library personnel.	TBD	5% ↑ base	10% ↑ base
4	Increase awareness of the importance of access to justice issues through educational and lobbying efforts aimed at bar members, the public and the legislature, as measured by: <ul style="list-style-type: none"> • Increased member funding for access programs • Increased member participation in funding access programs • Increased public funding for access programs • Increased legislative funding for access programs 	8%	12%	16%
		TBD	5% ↑ base	10% ↑ base
		TBD	5% ↑ base	10% ↑ base

C. Member Services

Enhance the professional and personal lives of lawyers.

1	Increase % of lawyers indicating, by a survey, that our services and resources have: <ul style="list-style-type: none"> • Enhanced their professional lives • Enhanced their personal lives 	NA	Base	10% ↑ base
2	Increase number of people participating in the following key programs who indicate a professional and personal enhancement: <ul style="list-style-type: none"> • LPM • CLEs • LAP • Wellness 	TBD	5% ↑ base	10% ↑ base
		TBD	5% ↑ base	10% ↑ base
		TBD	5% ↑ base	10% ↑ base
		NA	Base	10% ↑ base
3	Increase satisfaction with being a lawyer, as measured by survey.	NA	Base	5% ↑ base
4	Decrease # of known lawyer suicides annually.	NA	Base	5% ↓ base

D. Reputation

Promote positive perception of the legal system and the legal profession.

1	Increase % of public with a positive view of the legal system as measured by a bi-annual survey.	TBD	5% ↑ base	10% ↑ base
2	Increase the positive perception of the legal profession through the media as measured by the number of positive exposures - <ul style="list-style-type: none"> • Identified by the Communications Department. • Originated by the Communications Department. 	TBD	10% ↑ base	15% ↑ base
		TBD	10% ↑ base	15% ↑ base
3	Increase % of Bar members who have a positive view of the State Bar as measured by an annual survey of Bar members.	TBD	5% ↑ base	10% ↑ base
4	Increase the public's awareness that the State Bar is diligently and proactively prosecuting lawyers who violate the public trust as measured by bi-annual surveys of the public.	TBD	5% ↑ base	10% ↑ base

E. Lawyer Competency

Provide effective practice tools and educational resources to improve lawyer competency and ensure continued competence.

1	Increase # of section-sponsored CLE's and the % of section members who annually attend them.	TBD	5% ↑ base	10% ↑ base
2	Improve technology training and provide CLE credit.	TBD	+1	+2
3	Increase # of members who utilize LPM resources.	TBD	5% ↑ base	10% ↑ base
4	Increase % of CLEs that contain a wellness component.	TBD	10% ↑ base	20% ↑ base
5	Require all Section-sponsored CLEs to have one hour of ethics for every 6-hours of instruction.	TBD	5% ↓ base	10% ↓ base

Our Critical Success Factors and Barriers

Our Strategies

Priority

CSFs & Barriers

- Adequate staffing for investigations
- High awareness of disciplinary process
- Lack of transparency in discipline process
- Lack of effective education for lawyers about the nature of grievance
- Lack of adherence to the law
- Lack of lawyers to serve people
- Lack of enforcement of rules

A1	Support disciplinary rules committee in their efforts to revise rules to streamline the process and to address transparency and implement appropriate recommendations.
A2	Publicize outcome of successful UPL cases to inform the public and increase public awareness of UPL.
A3	Develop a non-disciplinary system for intervention with respect to mentally impaired lawyers.

CSFs & Barriers

- Significant funding for servicing needs
- Adequate # of service providers committed to pro bono
- Appropriate means of communicating availability of services
- Willingness to house resources
- High participation in CLE and learning
- Higher awareness of the value of receiving higher education
- Lack of awareness of the problem by the public, legislature and lawyers

B1	Promote increased state and federal funding for criminal and civil legal access programs.
B2	Encourage reporting of annual pro bono hours.
B3	Establish Bar-supported self-help legal resources in each circuit to increase access to information.
B4	Encourage the incorporation of the importance of access to justice as part of CLE in general.
B5	Promote and develop additional access to justice initiatives in addition to the recommendations of the Civil Legal Services Task Force.

CSFs & Barriers

- High awareness of service availability and the benefits
- Better coordination with law schools on setting expectations for our lawyers
- Better awareness of the reality of practicing and balancing life
- High stress, life imbalance, over extension
- Lack of perspective on expectations
- Lack of control over the practice
- Unwillingness to talk about weaknesses

C1	Develop recommended programs and services to better enhance members' professional and personal lives.
C2	Educate members about services and resources which can enhance their professional practice.
C3	Educate future lawyers about expectations of being lawyers.
C4	Encourage wellness programming to improve work/life balance.
C5	Recommend an approach for adapting to changes in the delivery of legal services.

CSFs & Barriers

- More competent lawyers
- Perception that we are adequately policing our own
- High awareness of our good work
- High awareness of the perception lawyers' actions have on the public's perception
- Lawyers behaving badly
- Low public perception of lawyers
- Perceived bias that we are self-serving in addressing this
- Lack of ability to be open about disciplinary matters (confidentially)

D1	Promote the positive role of lawyers and the value of the legal system through various media
D2	Improve communications with the public about the disciplinary system and its outcomes.

CSFs & Barriers

- High participation in CLE and learning
- Higher awareness of the value of receiving higher education
- Lack of evaluation of learning
- Low expectation of value
- "Know-it-all" attitude
- Inability to accurately measure competency

E1	Work with the Sections to increase awareness, visibility and value of Section CLEs.
E2	Educate members thru CLE how to avoid common ethical complaints.

**Additional sub-strategies appear in the Appendix document)*

Our Priorities	
Priority Strategy	Who
A1. Support disciplinary rules committee in their efforts to revise rules to streamline the process and to address transparency and implement appropriate recommendations.	Bob Kauffman
A2. Publicize outcome of successful UPL cases to better inform public.	UPL
B1. Promote increased state and federal funding for criminal and civil legal access programs.	ACL
B4. Encourage the incorporation of the importance of access to justice as part of CLE in general.	Sections, Nicki Vaughan
B5. Promote and develop additional access to justice initiatives in addition to the recommendations of the Civil Legal Services Task Force.	Bob Kauffman, Pat O'Connor
C1. Develop recommended programs and services to better enhance members' professional and personal lives.	Jeff Kuester, Wellness Taskforce, LAP
C2. Educate members about services and resources that can enhance their professional practice.	Communications
C5. Recommend an approach for adapting to changes in the delivery of legal services.	TBD
D2. Improve communications with the public about the disciplinary system and its outcomes.	TBD
E1. Work with the Sections to increase awareness, visibility and value of Section CLEs.	Sections, Communications

When	Our Monitoring Plan
Executive Committee	Are we doing what we said we were going to do? The Executive Committee will review the strategic plan at each meeting to ensure continued progress.
Quarterly	Are we getting the results we want to get? The Board will review each priority strategy and updates on any objectives for which information is available.
Annually	What adjustments do we need to make to our targets and our priorities? The plan will be updated and an annual report provided at the annual meeting.

Our Priorities

Priority Strategy – Action Taken	Who
A1. Support disciplinary rules committee in their efforts to revise rules to streamline the process and to address transparency and implement appropriate recommendations.	Bob Kauffman Disciplinary Rules Committee
A1. The disciplinary rules committee will be presenting proposed rules changes to the Board of Governors as an information item at the Fall Meeting which address these issues. The BOG will be asked to vote on these recommendations at the Midyear meeting in January 2017.	
A2. Publicize outcome of successful UPL cases to better inform public.	UPL
A2. The UPL Committee has taken action to better publicize the outcome of UPL cases on the State Bar website by placing cease and desist affidavits online so the public can be better informed when action is taken. The Committee has also decided to put the UPL complaint form online so that it is more accessible to members and the public.	
B1. Promote increased state and federal funding for criminal and civil legal access programs.	ACL
B1. President Pat O'Connor, our government affairs director, and other Board of Governors members, travelled to Washington, D.C. in the spring of 2016 to attend ABA lobbying day and met with Georgia lawmakers to continue our efforts in promoting funding for legal services programs. The State Bar will also continue our support for continued state funding for domestic violence issues.	
B4. Encourage the incorporation of the importance of access to justice as part of CLE in general.	Sections, Nicki Vaughan
B4. The Access to Justice Committee, along with the State Bar Pro Bono Project, has created a pro bono messaging campaign with video and print materials which seek to encourage attorneys to become more involved in pro bono work. The media campaign is called: "Due Justice. Do Pro Bono. Do 50." Look for the campaign to launch very soon with short video vignettes being shown prior to CLE seminars.	

<p>B5. Promote and develop additional access to justice initiatives in addition to the recommendations of the Civil Legal Services Task Force.</p>	<p>Bob, Pat</p>
<p>B5. The State Bar is participating in the “ABA Free Legal Answers” initiative. Resources can be found at www.georgiafreelegalanswers.org. This free service allows the public to post a legal question every 30 days and receive a free response from a GA attorney. Lawyers are being recruited now to participate. We have also collecting articles for an upcoming issue of the <i>Georgia Bar Journal</i> devoted to public interest and pro bono work.</p>	
<p>C1. Develop recommended programs and services to better enhance members’ professional and personal lives.</p>	<p>Jeff Kuester, Wellness Taskforce, LAP</p>
<p>C1. The work of the Wellness Task Force continues. A website can be found with wellness resources at lawyerslivingwell.org. Each Board meeting features a wellness CLE as well as a focus on physical fitness activities.</p> <p>President O’Connor has appointed an Aging in the Law Task Force to determine the Bar’s response to the “gray wave” of aging lawyers, their transition out of practice and other concerns.</p> <p>The Lawyer Assistance Program is developing a peer-to-peer online portal to help connect lawyer mentors with those who need assistance with such issues as depression, anxiety or addiction.</p>	<p>Ken Hodges, Chair</p> <p>Darrell Sutton, Co-Chair Bill Gentry, Co-Chair</p> <p>Jeff Kuester, Chair</p>
<p>C2. Educate members about services and resources that can enhance their professional practice.</p>	<p>Communications</p>
<p>C2. We have taken more concerted and targeted steps to promote Bar programs that assist members in their practices. We are promoting these programs through email, social media, the State Bar website and in our print publications.</p>	
<p>C5. Recommend an approach for adapting to changes in the delivery of legal services.</p>	<p>TBD</p>
<p>C5. At the Fall BOG meeting, you will hear about the opportunities the State Bar has to partner with CloudLaw’s enhanced membership</p>	

<p>directory called “Zeekbeek.” This service is an ethics focused, bar centric lawyer search tool which could be used to enhance a member’s online profile and availability to accept cases in a specific area of practice. The enhanced membership profile would be offered as a free service to all members.</p>	
<p>D1. This priority was recently added by the Executive Committee: Promote the positive role of lawyers and the value of the legal system through various media.</p>	
<p>D1. The Cornerstones of Freedom Committee, along with the State Bar Communications staff, has contracted with a Georgia-based media consultant to develop a series of Public Service Announcements (PSAs) which will promote the stories of actual clients whose lives were positively impacted by the work of a Georgia attorney. We previously asked our members to share these stories and after receiving numerous responses, the Committee selected three stories and the campaign will launch this fall. You will have an opportunity to view these PSAs at the Fall Board meeting.</p>	
<p>D2. Improve communications with the public about the disciplinary system and its outcomes.</p>	<p>TBD</p>
<p>D2. A member’s public disciplinary history appears in the online membership profile which is viewable by the public. We have also provided a direct link on the member’s profile page to any public orders issued pertaining to that member.</p>	
<p>E1. Work with the Sections to increase awareness, visibility and value of Section CLEs.</p>	<p>Sections, Communications</p>
<p>E1. We believe that Sections provide the greatest opportunity for networking and education about specific areas of practice. Each Section will plan and produce at least one CLE course for their section members during the bar year. We are also encouraging sections to plan events and networking opportunities for their members.</p>	

STATE BAR OF GEORGIA

OFFICE OF THE GENERAL COUNSEL

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ANDREEA MORRISON
Assistant General Counsel

WOLANDA R. SHELTON
Grievance Counsel

Memorandum

To: Members, Board of Governors
From: Paula Frederick
Date: October 2016
Re: Activity of the Office of the General Counsel

I am pleased to report on the activity of the Office of the General Counsel for the period since the Annual meeting.

Discipline: During July and August 2016 the OGC sent 523 Grievance forms to members of the public and received 335 filed Grievances. The Supreme Court of Georgia entered orders in five disciplinary cases during the two-month period. The Year-to-Date Report on Lawyer Regulation (covering the period May 1, 2016 through August 31, 2016) appears at page 3 of this memorandum.

Rules Changes:

- Earlier this month the OGC filed a Motion to Amend several of the Rules of Professional Conduct. The changes include proposed Rule 1.7(d), creating an exception to the conflicts rules for part-time prosecutors; Rule 4.4(b) regarding receipt of information that was inadvertently sent; and Rule 5.3(d) regarding a lawyer's obligations to supervise a staff person who is a suspended or disbarred lawyer.
- The Executive Committee has approved draft revisions to the procedural rules for disciplinary cases. The Disciplinary Rules & Procedures Committee will hold an informational session regarding the changes at the Fall Board of Governors meeting and they will be presented for a vote at the Midyear meeting in January.
- The Board will consider several proposed rules changes at the October 2016 meeting, including revisions to Rule 5.5 that provide penalties for a lawyer who is admitted *pro hac vice* who fails to pay all required fees.

Formal Advisory Opinions:

- Proposed Opinion 15-R1 holds that a sole practitioner may not use a firm name that includes the words "group" or "& Associates" because both terms imply that the solo

practices with other lawyers, and thus are misleading. The draft opinion appeared in the August 2016 issue of the *Bar Journal* and will be filed with the Supreme Court this Fall. Members who oppose the opinion may file objections with the Court using the process outlined at Bar Rule 4-403.

- Formal Advisory Opinion 16-2 is a redrafted version of old opinion 10-2 that prohibits a lawyer appointed to serve as both legal counsel and guardian ad litem for a child in a termination of parental rights case from advocating termination over the child's objection.

CLE Presentations: OGC lawyers and staff have spoken at the following programs since my last report:

Social Media & The Law: Beyond Our Comfort Zone

Ethics for Solos, Solo/Small Firm Symposium (State Bar Law Practice Management Program)

Solo/Small Firm Symposium (Ga. Association of Black Women Attorneys)

What Law Students Should Know About Ethics, John Marshall Law School

The Lawyer Discipline System, Emory University Paralegal Program

Ethics for Legal Services Lawyers, Legal Services University (Atlanta Legal Aid)

Ethics for City/County Attorneys (City/County Attorney Institute)

Ethics & Professionalism, Judge Stacey Hydrick's SMILE program

Ethics & Professionalism, Atlanta Bar Summer Law Intern Program

What the State Bar Does, Cobb County Retirees Association

Lawyering Today and in the Future, Convocation on Professionalism

Ethics for Student Interns, Emory Public Interest Clinical Program

Ethics for Family Law Practitioners, Nuts & Bolts of Family Law, ICLE

Ethics of Representing Clients with Behavioral Issues, Georgia Legal Services Program

New ABA Model Rule 8.4, ABA Labor & Employment Section

Ethics and Expert Witnesses, ICLE

2016 Fall Professionalism Series, John Marshall Law School

**Year-to-Date Report on Lawyer Regulation
May 1, 2016 through August 31, 2016**

Grievance forms requested and sent to public	1,067
Grievance forms sent back to Office of General Counsel for screening	666
Grievances pending as of 4/30/16.....	<u>343</u>
TOTAL	1,099
Grievances referred to State Disciplinary Board members.....	79
Grievances being screened by Grievance Counsel (GC)	328
Grievances closed by Grievance Counsel.....	593
Grievances moved to moot status by GC after attorney was disbarred.....	<u>9</u>
TOTAL.....	1,099

Regulatory Action May 1, 2016 through August 31, 2016

	<u>Attorneys</u>	<u>Cases</u>
Letters of Admonition Accepted	6	6
Investigative Panel Reprimands Administered	7	9
Review Panel Reprimands	1	1
Public Reprimands	0	0
Suspensions	5	7
Disbarments/Voluntary Surrenders	<u>3</u>	<u>4</u>
TOTAL	22	27
Reinstatements Granted	0	
Reinstatements Denied	0	

MEMORANDUM FOR: Board of Governors of the State Bar of Georgia

**FROM: Norman E. Zoller, attorney coordinating the
Military Legal Assistance Program**

DATE: September 30, 2016

SUBJECT Status of the Military Legal Assistance Program

Background and Overview of Work: The main objective of the State Bar of Georgia's Military Legal Assistance Program (MLAP) has been and remains to connect lawyers with service members and veterans who need legal assistance. Thus far, 1,742 service members or veterans have been so connected as shown below. Here are program highlights since the report to the Board of Governors for its annual meeting.

- 1) **Legal Clinics at Georgia Law Schools.** Along with Professor Charles Shanor, Lane Dennard, and Drew Early at Emory University; and Dean Steve Kaminshine, Associate Dean Roy Sobelson, Patricia Shewmaker, and Steve Shewmaker at Georgia State University, helped facilitate establishment of legal clinics in the law schools at Emory (February 2013 [current status shown at **Attachment A**]) and Georgia State University (November 2014). Similar clinics are also being planned or considered at the University of Georgia and at Mercer University.
- 2) **Legal Assistance Clinics at VA Medical Facilities.** In addition to the MLAP and the law schools, legal assistance clinics are operating at the following VA medical facilities: VA Medical Centers (VAMC) at Augusta and Decatur, VA medical facilities at Carrollton, Fort McPherson, and Rome. Other legal clinics remain under consideration for the Dublin VAMC and at the VA medical facility in Athens, Macon, and Savannah.
- 3) **Veterans' Courts.** Veterans' courts are organized and remain operational in now 19 judicial circuits representing 41 counties (**Attachment B**). A new court is scheduled to begin operations in DeKalb County on October 7, 2016, and in Newton County in January 2017. For his work in Fulton County, Judge Todd Markle was recently honored by the MLAP and Mil/Vets Law Section (**Att. C**).

- 4) **VA Accreditation.** A CLE program concerned with Georgia Military Law and VA Accreditation is scheduled for October 13, 2016. This full-day program (7 credit hours) will qualify lawyers to become accredited initially or to renew accreditation to practice before the U.S. Department of Veterans Affairs (**Attachment D**).

- 5) **Possible Travel to Belgium and France, October 2-13, 2017, re: 100th Anniversary of WW I.** Together with the MLAP Committee, the Military and Veterans Law Section is planning to conduct a Law Section-sponsored trip over the period October 2-13, 2017, to Belgium, and France with a CLE program commemorating the 100th Anniversary of various World War I battle sites, memorials, and related events (**Attachment E**). Currently, the Law Section is circulating additional information about this travel, reservations for which must be submitted to Road Scholar by December 1, 2016.

- 6) **VA Stand Down Event.** In collaboration with the VA and YLD, and the Baker Donelson law firm, representatives from the MLAP Committee and Military and Veterans Law Section plan to take part in a Stand Down event at Fort McPherson on Saturday, October 1, 2016. At these Stand Downs, attended principally by homeless veterans, various services are provided to include housing and insurance information, employment, health care and medical screenings, dental services, clothing issuance, haircuts, food, resume assistance, legal assistance, and related support services (**Attachment F**).

- 7) **Strategic Plans for the Military Legal Assistance Program.** A special committee appointed by Eric Ballinger has been appointed to consider the status and future directions of the MLAP program. It is anticipated that recommendations will be made to the State Bar's Program Committee and the Finance Committee later this year.

- 8) **Cases Processed.** Below is a summary of the number and types of requests for legal assistance cases received and referred to lawyers under the State Bar's Military Legal Assistance Program. Under the program, **a total of 1,742 cases have been processed.** Further, a total of 40 additional cases are in process (i.e., in the pipeline), awaiting agreement authorizations from potential clients (32) or agreements from attorneys (8) to accept a case. Further, although the program does not handle criminal cases directly, about 360 inquiries have been received

from veterans or service members seeking help on a criminal law matter (which are referred to the applicable county public defender or to a local bar association).

9) A summary of cases processed by the MLAP by category follows:

Family Law		889 (including 59 previous)
Contested Divorce	359	
Uncontested Divorce	17	
Divorce Enforcement	16	
Child Support	117	
Guardianship/Adoption	90	
Visitation	36	
Child Custody	195	
Consumer Law		114
Housing/Property		103
Foreclosure		25
Veterans Benefits/Disability		244
Wills/Estates/Probate		95
Employment/USERRA/SCRA		49
Bankruptcy		23
Insurance		20
Personal Injury		39
Property Damage		3
Worker's Compensation		2
Contract		7
Medical Malpractice		6
Toxic Substances		5
Other		<u>118</u>
		1,742

Attachments:

- A) Report from Emory Law Clinic Volunteer for Veterans, September 27, 2016.
- B) List of Veterans Courts in Georgia.
- C) News from Daily Report September 23, 2016, honoring Judge Todd Markle.
- D) VA Accreditation ICLE Program, October 13, 2016.
- E) Brochure concerning Military and Veterans Law Section sponsored-trip, October 2-13, 2017, to Belgium and France commemorating 100th Anniversary of WW I battle sites, memorials, and commemorative events.
- F) Stand Down Event at Fort McPherson, October 1, 2016.



Summary of Clinic's Work

Date: September 22, 2016

A. Summary of Cases and Involvement by Attorney Mentors and Student Volunteers

1. 155 Cases/Matters.
2. 27 Favorable Dispositions. Roughly \$4 million in projected economic benefits obtained, including backpay, estimated future economic benefits, and projected educational benefits.
3. Over 100 Student Volunteers have participated at this point (including nine summer interns from 2014–2016).
4. 72 Lawyers volunteered for participation; 52 have participated at this point.

B. Referral sources

1. Cases coming in directly to the Clinic (Fellow: Mallory Ball) (new e-mail address and phone number for the Clinic: 404-727-0605; lawveteransclinic@emory.edu)
2. Cases referred by the Military Legal Assistance Committee of the State Bar
3. Veterans Consortium Pro Bono Program in Washington
4. Legal Clinic at the VA Hospital
5. Atlanta Legal Aid
6. DeKalb County Community Development Board
7. Cobb County Veterans Court
8. Military Mondays with Starbucks
9. VA Homeless/HUDVASH Program
10. Cornerstone Training and Consulting

C. Work accomplished since May 6, 2016

1. Roughly 90 veterans have been assisted, either through intake or substantial filings on behalf of the veteran.
2. Received roughly \$120, 210.08 in backpay for veterans during this quarter, not including our most recent win which is too recent to calculate.
3. Partnered with the VA's Homeless Program to conduct intake with homeless veterans and veterans in the HUDVASH program located in Cobb, Dekalb, Decatur, and Carrollton.

D. Recent Publicity/Activities

1. Received a \$50,000 grant from the American College of Trial Lawyer's because the Clinic placed second for the Gumpert Award. The primary purpose for which the Clinic will use the grant is to assist Veterans who face barriers to employment and a meaningful life because of conditions that have been caused by service to our country.
2. Clinic Co-Director Drew Early and both Legal Fellows (Christopher Pitts and Mallory Ball) were interviewed by 11Alive regarding Discharge Upgrades. The interview is set to air in the following months.

E. Clinic Wins Since May 6, 2016:

1. A post-9/11 veteran received a 70% rating for her PTSD after a 4 year fight with the VA. She received \$82,210.08 in backpay and will receive around \$20,552.52 per year.
2. The Board of Veterans Appeals granted service-connection to a client for radiculopathy to the left arm. Because this is a very recent win, we are unable to calculate her total disability rating and future economic benefit.
3. A client's appeal resulted in an increase in his PTSD disability rating from 30% (\$1400 per month) to 100% (\$3036 per month). He also collected \$38,000 in back pay. This case was placed with a volunteer attorney who had Emory Law students assist.
4. Last year, the VA decided to reduce a rating from 100% to 0% for a Vietnam veteran who was diagnosed with Multiple Myeloma due to Agent Orange exposure. The Clinic filed a request for reconsideration followed by an appeal, which resulted in the VA reversing their decision and continuing the client's rating at 100% and continuing his Special Monthly Compensation for Housebound. Thus, he will still continue receiving his full rate of pay at \$3,415.74 a month.

F. Recent Developments

1. The Clinic hired a new Equal Justice Works AmeriCorps Legal Fellow Keely Youngblood who has replaced Christopher Pitts.

G. Challenges for the future

1. Maintain and increase student and attorney volunteer interest.
2. Find new sources of cases for our increased staff capacities. This includes our desire to expand our test case footprint and involvement with county veterans courts.
3. Fund raising.

J. Summary

The Clinic continues to maintain a good number of cases. There has been very active student participation but the need currently exists to recruit more outside attorney/mentors to work with the students. Those interested can contact Mallory Ball at mdball@emory.edu or 404-727-0605.

Reference material – Attorney/mentors should have access to the Veterans Benefit Manual by Stichman & Abrams; Federal Veterans Laws, Rules and Regulations, 2014 edition; and the Veterans Benefits Manual and Related Laws and Regulations on CD-ROM, all published by Lexis-Nexis.


The Nation should “care for him who shall have borne the battle and for his widow, and his orphan.” – Abraham Lincoln, Second Inaugural Address (March 4, 1865).



Council of Accountability Court Judges

FY17 Directory _ Veterans Court

Veterans Courts									
Program Name	Start Date	Counties Served	Judge	Program Coordinator	Program Coordinator Phone	Program Coordinator Email	Judicial Circuit		
1 Appalachian Judicial Circuit Adult Veterans Drug Court	October 2013	Famih, Gilmer, Pickens	Brenda S. Weaver	Chris Holt	(706) 301-8483	cholt@ataccourtjudges.org	Appalachian		
2 Atlantic Veterans Court	July 2016	Bryan, Evans, Liberty, Long, McIntosh, Tallapoosa	Robert L. Russell, III	Debra Martin Horne	(912) 868-5897	debra_martin@bertycountycja.com	Atlantic		
3 Augusta Judicial Circuit Veterans Court	September 2012	Burke, Columbia, Richmond	James G. Blanchard	Eliana Ashley	(706) 832-7349	ashleye@augustacja.org	Augusta		
4 Bibb County Veterans Treatment Court	July 2014	Bibb, Crawford, Peach	Timan Self	Kathy Smith	(478) 621-6372	ksmith@bncobbibibb.us	Macon		
5 Chatham-Savannah Veterans Treatment Court	January 2011	Chatham	Penny Haas Freesehmann	Steve Brown	(912) 652-7167	sbrown@chathamcountyga.us	Eastern		
6 Cobb County Veterans Court	June 2014	Cobb	Reuben Green	Flynn Broady	(770) 528-7988	Flynn.Broady@cobbcountyga.org	Cobb		
7 Colquitt Superior Substance Abuse/Mental Health Treatment Court	January 2013	Colquitt	Brian A. McDaniel	Jennifer Falbri, J.D	(229) 616-7445	L.Falbri@hccrtrial.com	Southern		
8 Coweta County Veterans Treatment Court	January 2015	Coweta, Carroll, Troup, Head, Meriwether	Joseph A. Wyatt Jr.	Jennifer Barnett	(770) 883-0205	jbarnett@cowetacja.us	Coweta		
9 DeKalb County Superior Court Veterans Court	October 2016	DeKalb	J.P. Boulee	Rachael Newsome	(404) 371-2906	newsome@dekalbcountyga.biz	Stone Mountain		
10 Dublin Veteran's & Mental Health Court	January 2016	Laurens, Twiggs, Johnson's, Treutlen	Jon F. Helton	Jan East	(478) 272-4824	east@highholistic.org	Dublin		
11 Fulton County Veterans Court	August 2015	Fulton	Todd Marble	TBD			Atlanta		
12 Gwinnett County Veterans Treatment Court	January 2015	Gwinnett	Karen Byers	Priscilla Daniels	(770) 822-8558	priscilla.daniels@gwinnettscounty.com	Gwinnett		
13 Hill County HELP Court/Veterans Track	December 2004	Hill	Kathlene F. Gossett	Broderick Hauser	(770) 536-3837	hauser@hccountyga.org	Northeastern		
14 Hill County State Court Veterans Court	October 2014	Hill	B.E. Roberts, III	Nikki Altmani	(770) 536-3837	nalmanu@hccountyga.org	Northeastern		
15 Lowndes County Accountability Court	January 2016	Lowndes	James G. Tunison, Jr.	Jennifer Falbri, J.D	(229) 616-7445	L.Falbri@hccrtrial.com	Southern		
16 Muscogee County Veterans Court	January 2013	Muscogee	Arthur Smith	Norman Davis	(706) 255-3568	davis@columbuscja.org	Chatahoochee		
17 Newton County Veterans Court	January 2017	Newton	Horse J. Johnson, Jr	TBD			Alcovy		
18 Richmond County State Veterans Court	October 2015	Richmond, Columbia, Burke	David D. Watkins	Crystal Page	(706) 849-3484	cpa@rccjuga.org	Augusta		
19 Towaliga Accountability Court	2005	Burris, Lamar, Meriwether	William A. Fears	Patricia Gavel	(770) 348-5029	pgavel@taccourts.com	Towaliga		
20 Western Judicial Circuit Veterans Court	September 2014	Clarks, Oconee	Patrick Haggard	Jim Ford	(706) 224-5029	jim.ford@westernstatescounty.com	Western		

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Judge Honored for Veterans Court Work

Greg Land, Daily Report

September 22, 2016

Fulton County Superior Court Judge Todd Markle has been named the 2016 "Outstanding Veteran's Judge" by the State Bar of Georgia's military and veterans law section and military legal assistance program and the Emory Law School veterans pro bono clinic.

As the presiding judge of the three-year-old Fulton County Veterans Court, an offshoot of the county's "accountability courts" geared to defendants with substance abuse or mental health issues, Markle oversees a program that allows veterans facing criminal charges for nonviolent offenses to submit to treatment and court oversight in exchange for an opportunity to stay out of jail and—if they follow the rules—have their charges dismissed.

"I am honored to work with a remarkable team of colleagues and volunteers that work tirelessly to improve the condition of veterans caught in the criminal justice system," said Markle in a statement. "We all share a critical mission to give veterans a chance to show the same dedication and leadership in society that they demonstrated when they served our country."

Markle also serves as presiding judge of the court's Family Law Division. He was Gov. Nathan Deal's executive counsel in 2011 when the governor appointed him to the Fulton bench; he also served as chairman of the governor's criminal justice reform council.

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ATTACHMENT-C

THURSDAY • OCTOBER 13, 2016

VA ACCREDITATION



Co-sponsored by:

Military Legal Assistance Program
State Bar of Georgia

Military/Veterans Law Section
State Bar of Georgia

PREREQUISITE FORM

If you have not already done so, you must complete and submit a **VA Form 21a** to the Department of Veterans Affairs as a prerequisite for the accreditation process. Simply go online and print a copy of the form at:

<http://www.va.gov/vaforms/va/pdf/VA21a.pdf>

7 CLE Hours including • 3 Trial Practice Hours

Seminar will be held at these locations:

IN PERSON:

**STATE BAR OF GA
HEADQUARTERS**

104 Marietta Street NW
Atlanta, Georgia 30303

DIRECTIONS:

[HTTP://WWW.GABAR.ORG](http://www.gabar.org)

VIA VIDEO CONFERENCE:

**COASTAL GEORGIA
STATE BAR OF GA**

18 E. Bay Street
Savannah, Georgia 31401

SPACE IN SAVANNAH

LIMITED TO 30 ATTENDEES

VIA VIDEO CONFERENCE:

**SOUTH GEORGIA
STATE BAR OF GA**

244 E. Second Street
Tifton, Georgia 31794

SPACE IN TIFTON

LIMITED TO 30 ATTENDEES

VIA VIDEO CONFERENCE:

**OFFICE OF ICLEGA
AG CLEVELAND BLDG**

248 Prince Avenue
Athens, Georgia 30601

SPACE IN ATHENS

LIMITED TO 30 ATTENDEES

VIA WEB STREAM:

This program will also be available via a live web stream for those who choose to register for the online option. Once you have registered for the program, you will receive a link in your confirmation email with instructions on **accessing the program on October 13**. You will receive Self-Study CLE Credit for the course.

CANCELLATION POLICY

Cancellations reaching ICLE by 5:00 p.m. the day before the seminar date will receive a registration fee refund less a \$15.00 administrative fee. Otherwise, the registrant will be considered a "no show" and will not receive a registration fee refund. Program materials will be shipped after the program to every "no show." Designated substitutes may take the place of registrants unable to attend.



SEMINAR REGISTRATION POLICY

Early registrations must be received 48 hours before the seminar. ICLE will accept on-site registrations as space allows. However, potential attendees should call ICLE the day before the seminar to verify that space is available. All attendees must check in upon arrival and are requested to wear name tags at all times during the seminar. ICLE makes every effort to have enough program materials at the seminar for all attendees. When demand is high, program materials must be shipped to some attendees.

ATTACHMENT-D

AGENDA

The registration fee for all seminars held at the State Bar of Georgia has been reduced by ICLE in recognition of the Bar's service to Georgia attorneys.

Presiding: **Steven P. Shewmaker**, Program Chair, Shewmaker & Shewmaker, LLC, Atlanta

<p>7:30 REGISTRATION AND CONTINENTAL BREAKFAST (All attendees must check in upon arrival. A jacket or sweater is recommended.)</p> <p>8:00 WELCOME AND PROGRAM OVERVIEW <i>Cary S. King</i>, Chair, Military & Veterans Law Section, State Bar of Georgia, Jacobs & King, LLC, Atlanta</p> <p>8:15 REPRESENTATION BEFORE THE VA AND CLAIMS PROCEDURES <i>Patricia A. Elrod-Hill</i>, The Elrod-Hill Law Firm, LLC, Norcross</p> <p>9:00 BASIC ELIGIBILITY AND RIGHT TO APPEAL <i>Douglas Sullivan</i>, McElreath & Stevens, LLC, Atlanta</p> <p>9:45 BREAK</p> <p>9:55 STAFF JUDGE ADVOCATE PANEL DISCUSSION Featuring: <i>Col. Bobby L. Christine</i>, Staff Judge Advocate, Georgia National Guard; Christine & Evans, LLC, Evans <i>Col. Wendy P. Daknis</i>, Staff Judge Advocate, U.S. Army Maneuver Center of Excellence, Fort Benning <i>Col. John A. Hamner</i>, Staff Judge Advocate, U.S. Army Cyber Center of Excellence, Fort Gordon <i>Col. Suzette D. Sewell</i>, Staff Judge Advocate, 78th Air Base Wing, Robins Air Force Base, Warner Robins</p> <p>10:55 UPDATE FROM THE DEPARTMENT OF VETERANS AFFAIRS <i>Christa Shriber</i>, Deputy Chief Counsel, VA Benefits Group, Washington, DC</p>	<p>11:25 UPDATES FROM THE GEORGIA DEPARTMENT OF VETERAN SERVICES <i>Georgia Caravaggio</i>, Assistant Commissioner, Georgia Department of Veterans Service, Atlanta</p> <p>11:55 LUNCH Activities Updates to Military and Veterans Law Section <i>Cary S. King</i></p> <p>12:40 STATUS OF MLAP AND LEGAL CLINIC UPDATES <i>Norman Zoller</i>, State Bar of Georgia, Atlanta <i>Cary S. King</i></p> <p>1:10 DISABILITY COMPENSATION <i>Drew N. Early</i>, Shewmaker & Shewmaker, LLC, Atlanta</p> <p>1:55 DEPENDENCY AND INDEMNITY COMPENSATION (DIC) AND PENSION <i>Victoria H. Watkins</i>, Attorney at Law, Marietta</p> <p>2:40 BREAK</p> <p>2:50 ISSUES FACED IN REPRESENTING VETERANS <i>M. Christopher Pitts</i>, Emory Law Volunteer Clinic for Veterans, Emory University School of Law, Atlanta</p> <p>3:35 CASE LAW AND REGULATORY UPDATE <i>Drew N. Early</i></p> <p>4:20 CLOSING REMARKS/ADJOURN</p>
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THREE WAYS TO REGISTER: check the ICLE schedule on the web at www.iclega.org
Mail: ICLE • P.O. Box 1885 • Athens, GA 30603-1885 (make check payable to ICLE)
Fax: 706-354-4190 (credit card payment must accompany fax to be processed)
Online: iclega.org (credit card payment only)

Duplicate registrations may result in multiple charges to your account. A \$15 administrative fee will apply to refunds required because of duplicate registrations.

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Questions? Call ICLE Atlanta Area: 770-466-0886 • Athens Area: 706-369-5664 • Toll Free: 1-800-422-0893

VA ACCREDITATION • October 13, 2016 • 9338

EARLY REGISTRATION: \$140
ON-SITE REGISTRATION: \$170

I WILL ATTEND:

- ATLANTA (IN PERSON)
- SAVANNAH (VIDEO CONFERENCE)
- TIFTON (VIDEO CONFERENCE)
- ATHENS (VIDEO CONFERENCE)
- WEB STREAM (ONLINE)

I would like program materials:

- in print only
- on usb drive only
- I am unable to attend. Please send ICLE program materials and bill me for the cost of materials only.

Early registrations must be received 48 hours before the seminar.

NAME _____ GEORGIA BAR # _____

FIRM/COMPANY _____ OFFICE PHONE _____

EMAIL _____

(To receive seminar notification and registration confirmation by email only)

MAILING ADDRESS _____ ZIP + 4 _____

STREET ADDRESS _____ ZIP + 4 _____

CITY _____ STATE _____

- I am sight impaired under the ADA and I will contact ICLE immediately to make arrangements.
- I have enclosed a check in the amount of \$_____ (See fees at left)
- I authorize ICLE to charge the amount of \$_____ (See fees at left) to my MASTERCARD VISA AMERICAN EXPRESS*

Credit Card Verification Number: A three-digit number usually located on the back of your credit card; *AmEx is four-digits on the front of the card.

Account #: /

Expiration Date: _____ Signature: _____

ROAD SCHOLAR

**Road Scholar's Proposal to the Military and Veterans Law Section
Of the State Bar of Georgia
World War I Commemorative Voyage in Belgium and France
Monday, October 2 to Friday, October 13, 2017**

Background Information

Road Scholar, founded in 1975 as Elderhostel, is the not-for-profit leader in offering educational travel programs specifically designed for Baby Boomers and beyond. The breadth and depth of our offerings is unsurpassed with more than 5,500 learning adventures in 150 countries and all 50 states, serving more than 100,000 participants per year. At any given time, 2,000 Road Scholars are experiencing the world on our learning adventures.

Road Scholar's mission is to inspire adults to learn, discover and travel. Our learning adventures engage expert instructors, provide extraordinary access, and stimulate discourse and friendship among people for whom learning is the journey of a lifetime.

World War I Commemorative Voyage in Belgium and France

Road Scholar proposes offering Members of the Military and Veterans Law Section of the State Bar of Georgia the following exclusive learning adventure – **World War I Commemorative Voyage in Belgium and France – from Monday, October 2 to Friday, October 13, 2017.**

Program Summary:

Arras. Somme. Chateau Thierry. Belleau Wood. Ypres. Flanders Field. These battlefields tell tales of great heroism and terrible loss. The German invasion of Belgium and France in World War I was devastating. Millions lost their lives, and millions more were wounded or displaced. On a journey both somber and powerful, honor their sacrifice and learn WWI history where it happened. Sail along the Belgian coastline and through the French countryside on a commemorative voyage to the major battlefields, memorials and cemeteries of the "Great War." Explore the underground tunnels of Arras, traverse the battlefields of Somme, and reflect at memorials across Belgium and France.

Special Guest Lecturer and Program Leader: Lieutenant Colonel Andrew Duff

Lieutenant Colonel Andrew Duff was educated at Christ Church Cathedral Choir School and Dauntseys School. It was while he was at school and visiting his parents in Cyprus and India that his interest in history generally, and military history in particular, were kindled. He was commissioned from Sandhurst into the Royal Anglian Regiment. He served with 3 Royal Anglian (the successor regiment to the Essex, Bedfordshire and Hertfordshire Regiments) in UK, Germany,

Cyprus, Northern Ireland and Belize, commanding companies on operational tours in Cyprus, Northern Ireland and Belize. He also carried out regimental tours of duty as Adjutant/Training Officer of the Bermuda Regiment and as Training Major of 5 Royal Anglian. As a staff officer, he did tours in Military Operations, Intelligence and Security, Exercise Planning and finished his regular service as the officer responsible for the Arctic Warfare Training and Operations of the UK Element of the Allied Mobile Force. On leaving the Regular Army, Lieutenant Colonel Duff settled in Wiltshire and joined the Territorial Army (TA) serving with HQ 5 Airborne Brigade and then HQ 16 Air Assault Brigade.

Since leaving the TA, Lieutenant Colonel Duff has been able to indulge his lifelong interest in Military History by becoming a Battlefield Tour Guide and has conducted successful tours for schools, military groups and adults. His experience as an infantry soldier allows him to explain the battlefield from the view of the protagonists and thus combine the personal, professional and historical stories to bring the battlefield 'alive.' In addition, Lieutenant Colonel Duff is the Executive Producer and a Director of Battlefield History Television, a company producing military history documentaries. <http://www.battlefieldhistory.tv/>

Program Highlights:

- Pay your respects at the Somme American Cemetery and Memorial, and honor the fallen with a wreath-laying ceremony.
- Visit the Tyne Cot Memorial to the Missing, the largest memorial for Commonwealth forces in the world.
- Hear from World War I expert, Lieutenant Colonel Duff, about:
 - Europe 1914 – Causes of War
 - Battles 1914 – Armies
 - Battles 1915 – Trench Warfare
 - Major Battles conducted in 1916 and 1917

Activity Notes: This is an active program for people who enjoy walking as much as two miles a day.

Accommodations:

MS Victor Hugo, 6 nights

- Four-Star 2 deck ship built in 2000 and refurbished in 2010
- Cabins: 46 available¹
- Amenities: lounge-bar with a dance floor; dining room; large sundeck with deckchairs; gift shop; central heating and air-conditioning, 220V electricity, radar, radiophone, hairdryer, satellite TV, safe and Wi-Fi on board.

Hotel Mercure, Riems, 2 nights

¹ Total capacity 92 double occupancy, however, we can offer single accommodations for an additional fee.

Crowne Plaza Paris Hotel, Paris, 2 nights

Cabin Categories

- Category 1: 19 upper deck cabins with one double bed or two twin beds, a picture window and private en suite facilities; 75 square feet
- Category 2: 27 main deck cabins with one double bed or two twin beds, a picture window and private en suite facilities; 75 square feet

Pricing:

- Category 1: Upper Deck – Double Occupancy: \$3,295
- Category 1: Upper Deck – Single Occupancy: \$4,855
- Category 2: Main Deck – Double Occupancy: \$3,095
- Category 2: Main Deck – Single Occupancy: \$4,555

Estimated Roundtrip Airfare:

Airfare is available through Road Scholar Travel Services with upgrades both to Premium Economy Class and Business Class upon request. For those travelling from cities other than Atlanta or New York, we will offer customized travel arrangements. We will also include a program only option for those who want to arrange their own travel or use frequent flyer miles.

- Atlanta, GA to Brussel, Belgium and Paris, France to Atlanta, GA \$1,200
- NYC, NY (JFK) to Brussel, Belgium and Paris, France to NYC, NY \$1,000

Program Price Includes:

- 10 nights of accommodations
- 28 Meals: B-10; L-8; D-10
- Expert-led lectures and field trips
- 2 CLE Classes (exclusive of customary GA ICLE fees)
- Group travel and transfers throughout the program
- English-Speaking Group Leaders to accompany you throughout the program to handle all logistics
- All gratuities
- All taxes and destination fees
- Pre-program informational materials including a recommended reading list
- The Road Scholar Emergency and Travel Assistance Plan, including 24-hour assistance for medical and other emergencies

Meals on the Ship:

- Breakfast: self-service breakfast buffet includes a variety of choices such as eggs, sausages and cold cuts, yogurt, fresh fruit, breads and pastries, jams and jellies, juice, coffee, tea, water.
- Lunch: 3-course plated and served meals prepared fresh daily. Beverages include coffee, tea, mineral water, fruit juice, house wine, beer.
- Dinner: 3-course plated and served meals prepared fresh daily. Beverages include coffee, tea, mineral water, fruit juice, house wine, beer; other beverages such as Champagne and the special wine list are available for purchase.

Proposed Daily Itinerary:

Day 1 – Monday, October 2: Overnight Flight to Brussels, Belgium

Day 2 – Tuesday, October 3: Arrive Brussels and transfer to the Ship in Ostend

Arrive to Brussels and motor coach transfer to Ostend. We will board the ship starting at 6:00 pm. After settling into our cabins, join the Captain and crew for a Welcome Cocktail Party followed by dinner.

Dinner

Day 3 – Wednesday, October 4: Arrive Bruges, City Exploration

This morning enjoy the scenery and feel the rhythm of the cruise as we glide along. Arrival in Bruges is expected late morning. Following lunch, we'll set out on a field trip through this picturesque city. Founded around the 9th Century C.E., Bruges (Brugge) has been one of the most important cultural centers in northern Europe. It has also been of strategic importance in times of war. The Germans used the port of Zeebrugge in World War I for their U-boats. The historic city center is a designated UNESCO World Heritage Site: "an outstanding example of a medieval historic settlement, which has maintained its historic fabric as this has evolved over the centuries, and where original Gothic constructions form part of the town's identity." Bruges is renowned for fine lace and fine arts, including one of Michelangelo's masterpieces, a marble Madonna With Child in the Church of Our Lady, the only one of his sculptures to leave Italy during his lifetime. Following our visit, we will enjoy a trip along the town's canals on board small motor boats where we will be able to see the town's most important buildings and monuments from a different perspective. Enjoy a free evening after dinner or join us in the lounge for entertainment.

Breakfast, Lunch and Dinner

Day 4 – Thursday, October 5: Bruges-Kortrijk, CLE Class, City of Ghent

This morning, we will offer the first of our CLE courses on board the ship. For those not participating in the class, there will be free time to take in the passing sights.

Following lunch, we will depart for a guided tour of the historic city of Ghent, often referred to as “Belgium’s Best Kept Secret” – small enough to feel cozy but big enough to stay vibrant. It’s the capital and largest city of the East Flanders province and after Antwerp the largest municipality of Belgium. Much of the city’s medieval architecture remains intact and is remarkably well preserved and restored. Its center is the largest car free area in Belgium. We’ll return to the ship in Kortrijk. After dinner, enjoy an evening of music and dancing aboard the ship.

Breakfast, Lunch and Dinner

Day 5 – Friday, October 6: Kortrijk, Tyne Cot Commonwealth War Graves Cemetery, Ypres

This morning, our full day field trip will begin with a visit to the Tyne Cot Commonwealth War Graves Cemetery and Memorial to the Missing, the largest for Commonwealth forces in the world. We’ll continue with a visit to the Passchendaele Museum, located in Zonnebeke Castle, which offers an overview of the deadly battle of 1917. An underground tunnel gives us an idea of what the life of a British soldier was like during that period. At lunch in a restaurant, we will enjoy some regional cheeses and wine. This afternoon, we’ll head for Ypres via Canada Corner, the site of the first Gas Attacks of WW1 and Essex Farm Cemetery, where John McCrae wrote the poem, “In Flanders Fields.” We will next visit the In Flanders Fields Museum, which presents the history of the First World War in the region of the Western Flanders Front, where more than 600,000 combatants died in these lands. After a short break in town, we’ll attend the Last Post Ceremony. The “Last Post” was the call of the bugle played particularly in the British Army to mark the end of the day’s work and the beginning of the evening’s rest. After our tour, we’ll return to the ship for dinner.

Breakfast, Lunch and Dinner

Day 6 – Saturday, October 7: Comines, Poperinge, Military Cemetery at Lijssenthoek

Following breakfast, we will depart by motor coach to Poperinge. On our way we will stop at Messines Ridge, the site of the highly successful British Offensive in 1917. In Poperinge, we will explore this charming town on a walking tour. This is one of only two towns in Belgium that was not occupied by the Germans during World War I. We’ll continue on to the military cemetery at Lijssenthoek. From 1915 to 1920, this was also the location of the largest evacuation hospital from the Ypres Salient battle zone. The visitor center tells the story of this unique site through the use of interactive exhibits. We’ll return to the ship in Kortrijk for lunch and enjoy some free time this afternoon. Following dinner, tonight’s entertainment will be provided by the crew.

Breakfast, Lunch, Dinner

Day 7 – Sunday, October 8: Arras-Carriere Wellington

Our field trip today will be to Arras. Each year, Arras attracts thousands of visitors to explore the city's architecture and historic buildings. We'll visit the Carrière Wellington, an enormous underground network of tunnels used by British Empire and Commonwealth forces during the World War I. After descending some 65 feet in a glass elevator, we'll learn about the memorial to the Battle of Arras of 1917 with audio guides. This afternoon, we cruise to Lille and tonight, for our last night aboard the ship, we will enjoy our gala evening and special dinner hosted by the Captain.

Breakfast, Lunch and Dinner

Day 8 – Monday, October 9: Lille-Reims, Somme Cemetery & Memorial

Following breakfast, we'll say goodbye to the crew and disembark in Lille. We will travel by motor coach to the Somme American Cemetery and the site where United States troops assisted the British in breaking the Hindenburg Line in 1918. The actions of these men are often forgotten because they did not fight under General Pershing, but they won more Medals of Honor than any other United States Corps. In honor of the fallen, we will participate in a solemn wreath-laying ceremony. Late this afternoon, we will check into our hotel in Reims. Tonight dinner will be on your own to explore local cuisine in Reims.

Breakfast, Lunch and Dinner

Day 9 – Tuesday, October 10: Meuse Argonne American Battlefields

Following breakfast, we will visit the Meuse Argonne American Battlefields. This is the biggest and most costly of US battles in WW1 with over 26,000 American dead. We will visit the sites of battles where Patton, Bradley, MacArthur and many other famous US politicians and soldiers fought. We will also visit Montfaucon, the Lost Battalion and Sergeant Alvin C. York Battles finishing our tour at the ABMC Cemetery at Romagne to pay our respect to 100,000 Americans who died in WW1.

Breakfast, Lunch and Dinner

Day 10 – Wednesday, October 11: Reims Cathedral, Chateau Thierry, Belleau Wood

This morning we will visit the Reims Cathedral, Notre-Dame de Reims (Our Lady of Reims), the seat of the Archdiocese of Reims, where the kings of France were crowned. Along with the cathedrals of Chartres and Amiens, Reims is a member of the illustrious triad of "High Gothic" or "Classical" French cathedrals built in the 13th century. Our next field trip is to Chateau-Thierry, where American troops – the American Expeditionary Force under General John "Black Jack" Pershing – engaged in one of their first battles. We'll see the Battle of the Marne monument and also visit the cemetery at Belleau Wood. We will then travel to Paris and check in at the Crowne Plaza Paris.

Breakfast, Lunch and Dinner

Day 11 – Thursday, October 12: CLE Class, Free Time

We will offer our second CLE Class at the hotel. For those not participating in the class, you will have free time to explore Paris. Lunch on your own and free afternoon. Tonight we will enjoy a special Farewell dinner.

Breakfast, Dinner

Day 12 – Friday, October 13 – Program Concludes

Program concludes following breakfast.

Breakfast

Terms and Conditions

Commitment and Deposit Deadline: Thursday, December 1, 2016

To reserve only a portion of the ship for members of the Georgia Bar Association, Road Scholar will require a non-refundable \$1000 per person double occupancy for each bed; \$2,000 per person single occupancy.

After the December 1, 2016 deadline, Road Scholar will release the remaining space back to the cruise line.

Road Scholar’s minimum number to operate the program: 34

Road Scholar’s maximum number to operate the program: 92

While the \$1,000 per person deposit is non-refundable, the Georgia Bar Association will have the opportunity to substitute members (i.e. name change) without a fee up until 90 days prior to departure.

Individual Cancellation Schedule:

Final Payment Due: 6/25/2017		
Action:	Applies After:	Fee per Person:
Deposit	Due with enrollment	\$ 1000
Cancel up to 90 days prior to program start date	Date of Enrollment	\$ 1000
Cancel 89 to 60 days prior to program start date	7/6/2017	50 % of order total
Cancel less than 60 days prior to program start date	8/5/2017	100 % of order total

Please note that these penalties apply to the program only; airfare subject to different penalties.

Optional Trip Cancellation Insurance

Road Scholar is pleased to offer Road Scholar Trip Cancellation, Interruption & Travel Delay Insurance, protecting you against transfer/cancellation fees should you need to transfer to another program or cancel your program registration altogether. The insurance also provides benefits if you are delayed getting to or returning home from your program and protects your investment should you have an emergency during your program that causes you to miss program days or return home earlier than expected. Your airfare, whether purchased through Road Scholar or independently, is covered — an exceptional benefit and value offered exclusively to Road Scholar participants. This plan provides cancellation coverage for your trip and other insurance coverages that apply only during the covered trip.

Estimated Price: \$350



DEPARTMENT OF VETERANS AFFAIRS
Atlanta VA Medical Center
1670 Clairmont Road
Decatur GA 30033

In Reply Refer to: 508/108

Dear Supporters:

I am pleased to announce the 2016 Atlanta Homeless Veterans Stand Down has been scheduled for Saturday, October 1, 2016 from 8:00 am until 2:00 pm at the Fort McPherson VA Clinic. Conducting the Stand Down on VA property affords us the opportunity to reach more homeless Veterans, especially those who may not have attended in the past. Stand Downs are one part of the many efforts we use to reach out and provide services to homeless Veterans.

We are providing services and resources to homeless Veterans such as food, shelter, clothing, health screenings, VA benefits counseling and referrals. A variety of other necessary services, such as housing, employment and substance abuse treatment is also offered at Stand Down.

Stand Downs are collaborative events, coordinated between local VAs, other government agencies, Community Partners, and Veterans Service Organizations that serve homeless Veterans. In order to provide our homeless Veterans with the support they need, we are reaching out to our strong network of supporters. We are hoping you will once again answer the call to serve by joining dedicated individuals throughout our community for this year's 2016 Homeless Veterans Stand Down.

For more information about volunteering or making donations, please contact Voluntary Services by email Gwendolyn.ramos@va.gov or at (404) 728-7728. Enclosed is a needs list of items essential for the success of Stand Down.

Thank you in advance for your continued support and generosity.

Sincerely,


Robin E. Jackson, Ph.D., LCSW
Interim Director, Atlanta VAMC

Enclosures

ATTACHMENT-F

CONSUMER ASSISTANCE PROGRAM
STATE BAR OF GEORGIA
September 23, 2016

The Consumer Assistance Program (CAP) continues to serve both the public and members of the Bar, as it has since 1995. So far during the last calendar year CAP has handled around 11,062 new or “unique” contacts (calls, letters, emails, faxes and rare walk-ins). This does not include repeat calls, letters, emails, or follow-up contacts. CAP itself has handled 78.89% of these contacts. The remaining 21.11% have been referred to the Office of General Counsel (OGC) for investigation by way of grievances sent to persons complaining about alleged violations of the Georgia Rules of Professional Conduct. It is beyond the scope of CAP’s responsibility to investigate or handle allegations of such violations and ethical misconduct.

CAP’s staff consists of three administrative assistants and two attorneys. CAP directly answers “live” about 97% of the calls received. The CAP Helpline is used when no one is available to answer calls live or for calls that come in after business hours. Calls that are not answered live are returned within the same or the next working day. CAP’s response to the voluminous mail, emails, and faxes, is usually within one day.

CAP’s two attorneys often contact members of the Bar by telephone, fax, or letter, at the request of clients. It is often helpful for attorneys to receive a confidential, non-disciplinary courtesy call, letting the attorneys know that their clients have contacted the Bar with various concerns or complaints. In order to facilitate communication between clients and attorneys, CAP notifies attorneys that their clients wish to hear from them, do not understand what is happening on their cases, need updates on case status, or, in the case of former clients, need their files. Realizing that CAP has heard only one side of the situation, CAP does not presume to advise attorneys on how to practice law or assert the client’s position is true and correct. Each CAP call is just a “heads-up” or courtesy call to the attorney. None of CAP’s actions in this regard reach attorneys’ permanent records, and all are confidential.

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 O.C.G.A. and Bar rules. There have been no such cases during this year.

CAP is also a contact point for the Judicial District Professionalism Program (JDPP). This involves inquiries from lawyers or judges concerning unprofessional conduct and incivility among peers. This program is private, confidential, voluntary, and non-disciplinary in nature. Its purpose is to open channels of communication by the informal use of local peer influence. There have been no JDPP cases during this time period.

CAP remains within its annual budget of \$566,563, and it is anticipated that it will continue to do so.

Law Practice Management Program

(Abbreviated report for the 2016-2017 Bar Year)

This is a summary of program events scheduled and completed during the period July 1, 2016-September 23, 2016.

Consultations

# of Consultations by City			
Atlanta	1	Stockbridge	1
McDonough	1	Tucker	1

# of Consultations by Firm Size	
1 Attorney	3
2-4 Attorney	0
5-8 Attorney	1
9-15 Attorney	0
16+ Attorneys	0

# of Consultations by Consultation Type	
General	4
Technical	0
Grand Total	4

Office Visits

LPM distributed **121** *Starting Your Georgia Law Practice* booklets as requested by attorneys. There were **21** startup discussions conducted by the Program via office visits.

Resource Library

Our lending library has a grand total of **1,442** books, CDs, and DVDs for checkout to members and their staff with an option to up materials at the Bar Center or to be mailed. During this period, there were a total of **87** checkouts by **33** patrons.

Software Library

The Program has a Software Library that consists of complete, working copies of software applications. Many of these products are legal-specific, and require more guidance when being demonstrated than general applications. During this period, no office visits were made to look at software programs in the Software Library.

Speaking Engagements

There were a total of **13** completed and scheduled programs during this period. The Program's staff has given **7** continuing legal education and special presentations to Georgia lawyers and other related groups. These presentations have been held in various local and national venues. **6** programs are scheduled for future dates.

July 15-16, 2016 Georgia's 2016 Solo and Small Firm Institute and Technology Showcase (*sponsored*), Program Chair, Kathleen Womack, Georgia Bar Conference Center, Atlanta, Georgia, **160 attendees**.

August 18, 2016 Paulding County Bar Association CLE, *Law Practice Management* (Natalie Kelly), Huey Luey's, Hiram, Georgia, **25 attendees**.

August 30, 2016 Convocation on Professionalism CLE: The New Normal for Delivery of Legal Services, *Embracing and Thriving with Tomorrow's Innovation and Today's Technology Panel Discussion* (Moderator: Rita Sheffey and

Panelists: Ed Walters, Andrew M.J. Arruda, John Mayer, and Natalie Kelly), Georgia Bar Conference Center, Atlanta, Georgia, 141 attendees.

- September 13, 2016 Law Office Management ICLE Webinar Series, *Law Office Management* (Natalie Kelly), Athens, Georgia.
- September 15, 2016 Atlanta Technical College, *Fastcase Training* (Sheila Baldwin), Atlanta, Georgia, 15 attendees.
- September 16, 2016 College of Law Practice Management Futures Conference, *Where Will the Legal Jobs Be and Who Will Fill Them Panel Discussion* (Moderator: Dan Pinnington; Panel: Jordan Furlong, William D. Henderson, Natalie Kelly, and Mark A. Robertson), University of Missouri-School of Law, Kansas City, Missouri.
- September 16, 2016 Georgia Association of Black Women Attorneys (GABWA) Solo and Small Firm Symposium, *Services of the Law Practice Management Program* (Sheila Baldwin), Georgia Bar Conference Center, Atlanta, Georgia, 35 attendees.

Upcoming Speaking Engagements

- September 30, 2016 Henry County Bar Association CLE, *Fastcase Training* (Sheila Baldwin), Deep South Deli & Pub, McDonough, Georgia.
- October 18, 2016 Atlanta Bar Association Young(er) Lawyers Law Practice Management Series Session II: Building Your Business, *Developing Your Financial Management Acumen* (Natalie Kelly), King & Spalding, LLP, Atlanta, Georgia.
- November 4, 2016 Real Property Law Foreclosure CLE: The Changing Foreclosure Practice-Professionalism, Practical Concerns, Insurance, *Topic To Be Determined* (Natalie Kelly).
- November 17, 2016 Transition into Law Practice (TILPP) Mentor Orientation Program, *Creating a Great Mentoring Experience* (Natalie Kelly) Georgia Bar Conference Center, Atlanta, Georgia.
- January 7, 2017 State Bar of Georgia's Midyear Meeting, *Law Practice Management Program Technology CLE* (Natalie Kelly), Ritz Carlton Buckhead, Atlanta, Georgia.
- July 14-15, 2017 [Georgia's 2017 Solo and Small Firm Institute and Technology Showcase \(sponsored\)](#), Georgia Bar Conference Center, Atlanta, Georgia.

Fastcase Report

During this period, a grand total of 29 members and 7 staff have attended Fastcase CLE seminars.

Since the decision was made to transition to Fastcase, 1,503 attorneys and 76 staff members have attended Fastcase live training. Others have taken advantage of webinar training.

Fastcase Partner Usage Report for State Bar of Georgia from July 1, 2016-August 31, 2016

	July	Aug	Total
First Time Logins	109	136	245
Total Logins	16,472	20,567	37,039
Total Users Who Logged In	3,821	4,155	7,976
Searches Conducted	85,865	110,591	196,456
Documents Viewed	125,245	163,525	288,770
Documents Printed	12,050	16,164	28,214
Total Transactions	243,562	315,138	558,700

Fastcase Reported Problems

There were no reported problems during this period.



To: Board of Governors, State Bar of Georgia

From: Thomas R. Burnside III, Chairperson
Standing Committee on the Unlicensed Practice of Law (UPL)

Date: September 28, 2016

Re: Strategic Plan Update - UPL

As part of the State Bar of Georgia's strategic plan to "[p]ublicize outcome of successful UPL cases to better inform public," the UPL Department, in consultation with the Standing Committee on the Unlicensed Practice of Law, has recently requested the following content changes be made to the UPL program page on the Bar's website:

- ✓ **Improved registry** aimed at better publicizing court actions filed by State Bar of Georgia against UPL offenders. Changes to the registry to include: more easily searchable alphabetical listings, court and case number identifications, detailed results pulled directly from court orders, and the addition of five alleged offenders. The registry is located at:
<https://www.gabar.org/committeesprogramssections/programs/upl/affidavits.cfm>
- ✓ **Membership directory link** added for public to verify State Bar of Georgia membership of any individual with whom they might be dealing.
- ✓ **Fillable and electronically transmittable PDF complaint form** which may be submitted instantly to UPL Counsel (may also be printed if mail or facsimile is complainant's preferred method of delivery). The complaint form may be accessed on the UPL program page located at:
<https://www.gabar.org/committeesprogramssections/programs/upl/index.cfm>.

Additionally, the State Bar of Georgia recently issued a **press release** regarding UPL Counsel Steve Kaczkowski's testimony in the criminal trial of John Todd Williams. The press release located on the Bar's website at <https://www.gabar.org/newsandpublications/pressrelease/Kaczkowski.cfm> is attached hereto.

HEADQUARTERS

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Fax 404-527-8717
www.gabar.org

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Fax 912-239-9970

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



State Bar of Georgia

Lawyers Serving the Public and the Justice System

FOR IMMEDIATE RELEASE
Sept. 21, 2016

CONTACT: Sarah I. Coole
Director of Communications
404-527-8700; 800-334-6865

State Bar of Georgia UPL Counsel Steve Kaczowski Provides Testimony

Atlanta – State Bar of Georgia UPL Counsel Steve Kaczowski recently provided testimony during the five-day jury trial of John Todd Williams, owner of a Georgia debt collection company, in the United States District Court for the Southern District of New York. On July 12, 2016, a unanimous jury convicted Williams for conspiracy to commit wire fraud in connection with a nationwide debt collection scheme that defrauded more than 6,000 victims throughout the United States out of millions of dollars.

According to the Department of Justice, Williams owned and operated a debt collection company based in Norcross, Ga., called Williams, Scott & Associates, also known as Warrant Services Association or WSA. Among other false statements, WSA employees also claimed that WSA was a law firm or otherwise worked with lawyers, and that they would have the victims' driver's licenses suspended if those victims did not make payment to WSA.

Williams will be sentenced on Oct. 28, 2016. The full press release issued by the Department of Justice may be found [here](https://www.justice.gov/usao-sdny/pr/owner-debt-collection-company-convicted-manchattan-federal-court-massive-fraud). (<https://www.justice.gov/usao-sdny/pr/owner-debt-collection-company-convicted-manchattan-federal-court-massive-fraud>)

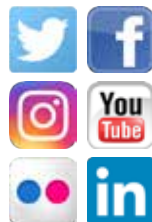
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The State Bar of Georgia, with offices in Atlanta, Savannah and Tifton, was established in 1964 by Georgia's Supreme Court as the successor to the voluntary Georgia Bar Association, founded in 1884. All lawyers licensed to practice in Georgia belong to the State Bar. Its more than 48,000 members work together to strengthen the constitutional promise of justice for all, promote principles of duty and public service among Georgia's lawyers, and administer a strict code of legal ethics.

COMMUNICATIONS

Board Report, Sept. 20, 2016

at a glance



GEORGIA BAR JOURNAL

Redesigned: August 2016

Budget: \$47,000/issue*

Mailing List: 33,000

Digital visits: 650/day

**Offset by advertising.*

DIRECTORY & HANDBOOK

Budget: \$56,000*

Mailing List: 2,000

Member cost: \$25

Non-member cost: \$46

**Offset by income.*

WWW.GABAR.ORG

Redesigned: April 2012

Pages: 1,370

Budget: \$28,800/year

Sessions/day: 7,306*

Sessions/month: 168,455

Sessions/year: 1,995,648

Most popular page: Member Directory

Recently Launched: lawyerslivingwell.org,

thelawmuseum.org

Coming soon: theyldreview.org,

georgiaLHL.org

**A session is the time period a user is actively engaged with a website. On average, a user views 5.53 pages per session.*

PRESS RELEASES / MEDIA REPORT

2014-15 impressions: 4,276,899

2015-16 impressions: 2,667,461

2016-17 impressions: 510,712*

Top media outlets: *Columbus Ledger-Enquirer, Daily Report, Macon Telegraph, Savannah Morning News*

**To date.*

SOCIAL MEDIA

Twitter: 2,085 followers

Facebook: 3,721 likes

Instagram: 19 posts (new!)

Flickr: 3,974 photos

YouTube: 30,948 views

LinkedIn: 2,500 followers*

**Basic company page, not active.*

2016 PSA CAMPAIGN

Agency: Dalton

Budget: \$80,000

Launching: October/November 2016

Deliverables: 3 PSAs and a social media campaign plan

