



State Bar  
of Georgia

# BOG BOARD BOOK

**2019 Midyear Meeting  
Macon, GA**

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



# State Bar of Georgia

## 276<sup>th</sup> BOARD OF GOVERNORS MEETING

**Saturday, January 12, 2019**

**9:00 a.m.–12:00 p.m.**

Macon Marriott City Center

Macon, Georgia

*Dress: Business*

### **AGENDA**

<u>Topics</u>	<u>Presenter</u>	<u>Page No.</u>
<b>1) ADMINISTRATION</b>		
a) Welcome and Call to Order.....	Ken Hodges, President .....	1-8
b) Invocation and Pledge of Allegiance .....	John Kennedy	
c) Recognition of Former Presidents, Judges .....	Ken Hodges and Special Guests	
d) Recognition of the YLD Leadership Academy .....	Ken Hodges	
e) Roll Call (by signature) .....	Elizabeth Fite, Secretary....	9-15
f) Future Meetings Schedule .....	Ken Hodges.....	16-18
<b>2) ACTION</b>		
a) Minutes of the 275 <sup>th</sup> Meeting .....	Elizabeth Fite .....	19-24 of the Board of Governors on November 2, 2018
b) Proposed Rules Changes .....	Bill NeSmith .....	25-38
(1) Part VII – Lawyers Assistance Program		
Rule 7-101. - 7-304.		

**Topics**

**Presenter**

**Page No.**

c) Nominations of State Bar Officers.....Ken Hodges  
(nominations = 5 minutes, seconds = 2 minutes)

1 year terms 2019-2020

- Office of Treasurer
- Office of Secretary
- Office of President-elect

d) Nominations of ABA Delegates .....Ken Hodges

2 year terms September 2019 – August 2021

- Post 2 (currently held by Lester Tate)
- Post 4 (currently held by Donna Barwick)
- Post 6 will be held by the Immediate Past President as of July 2019

**3) LEGISLATION**

a) Advisory Committee on Legislation.....Thomas Worthy, Chair . 39-120

New Legislative Proposals (action)

- (1) Fiduciary Law Section
- (2) Dispute Resolution Section
- (3) Committee to Promote Inclusion in the Profession
- (4) Georgia Appellate Practice and Educational Resource Center
- (5) Family Law Section
- (6) Real Property Section

b) Legislative Update .....Christine Butcher Hayes

Rusty Sewell

**4) AWARDS PRESENTATION**

a) Resolution for Honorable Carol W. Hunstein, ..... Ken Hodges  
Justice, Supreme Court of Georgia (Retired)

b) Recognition of Disciplinary Rules ..... Ken Hodges  
& Procedures Committee

**Topics**

**Presenter**

**Page No.**

**5) INFORMATIONAL REPORTS**

a) President’s Report .....Ken Hodges

b) Treasurer’s Report .....Dawn Jones, Treasurer 121-129  
(1) State Bar of Georgia  
Officer Reimbursement Policy .....Darrell Sutton ..... 130-132

c) 2018-2019 State Bar Budget Timetable .....Dawn Jones.....133  
(for the 2019-2020 State Bar Budget)

d) ICLE Budget Report .....Dawn Jones..... 134-136

e) Young Lawyers Division.....Rizza O’Connor..... 137-144  
YLD President

f) “Who Needs Lawyers? We do.” Campaign.....Sonjui Kumar/Peter Canfield  
Derrick Alexander Pope

g) 2019 National High School .....Michael Nixon ..... 145-149  
Mock Trial Championship

**6) WRITTEN REPORTS**

a) Executive Committee Minutes ..... 150-164  
(1) September 21-22, 2018  
(2) November 7, 2018  
(3) November 12, 2018

b) Office of the General Counsel Report ..... 165-167

c) Military Legal Assistance Program ..... 168-170

d) Consumer Assistance Program..... 171-172

e) Law Practice Management Program ..... 173-176

<u>Topics</u>	<u>Presenter</u>	<u>Page No.</u>
f) Communications Media Report .....		177-179
g) Georgia Legal Services Program Report .....		180-181

**7) CLOSING**

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

# 2019 MIDYEAR MEETING JAN. 10-12

 State Bar  
of Georgia

**MACON MARRIOTT CITY CENTER | MACON, GA**

Hotel Deadline | Dec. 14, 2018  
Early Bird Registration Deadline | Dec. 14, 2018  
Final Registration Deadline | Jan. 4, 2019

Photo provided by Macon Marriott City Center

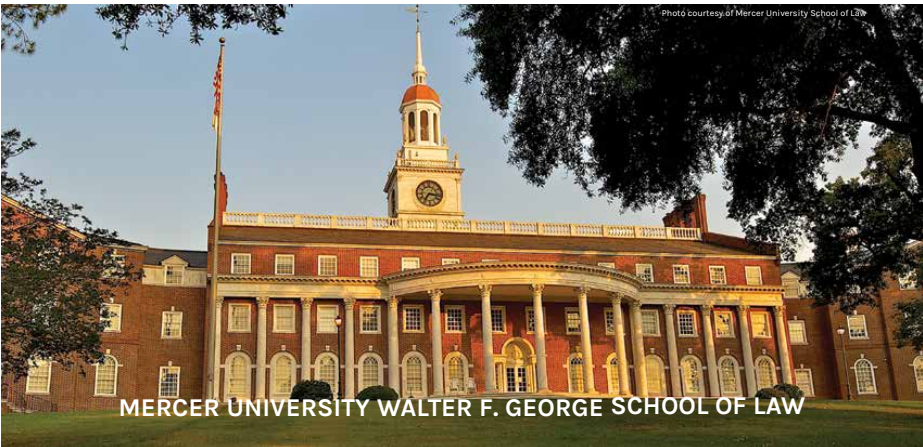


Photo courtesy of Mercer University School of Law

**MERCER UNIVERSITY WALTER F. GEORGE SCHOOL OF LAW**



Photos provided by Macon Marriott City Center

## SCHEDULE OF EVENTS

### THURSDAY, JAN. 10

**8:30 a.m. – 7 p.m.**

Registration | Table Top Displays

**10 a.m. – 12 p.m.**

CLE | Hot Topics in Professionalism:  
Then (1988) and Now (2019)

**12 – 1:30 p.m.**

Consumer Assistance Program Committee Meeting

**12 – 2 p.m.**

Appellate Practice Section Lunch

**3:30 – 4:30 p.m.**

Family Law Section Executive Committee Meeting

**4:30 – 5:30 p.m.**

Family Law Section CLE

**5:30 – 6:30 p.m.**

Family Law Section Reception

**6:30 – 9 p.m.**

Past Presidents' Dinner  
*(by invitation only)*

### FRIDAY, JAN. 11

**7:30 a.m. – 7 p.m.**

Registration | Table Top Displays

**8:30 – 9:30 a.m.**

Past Presidents' Breakfast

**9 a.m. – 2 p.m.**

State Disciplinary Board Meeting

**10 – 11 a.m.**

Senior Lawyers Committee Meeting

**10 – 11:30 a.m.**

YLD Leadership Academy

**10 a.m. – 1 p.m.**

Clients' Security Fund Meeting

**10:30 a.m. – 12:30 p.m.**

Joint Meeting of the Executive Committees of the Military Legal  
Assistance Program Committee and the Military/Veterans Law Section

**11:30 a.m. – 12:30 p.m.**

YLD Leadership Academy Lunch

**12 – 2 p.m.**

ICLE Board

**12 – 2 p.m.**

State Disciplinary Review Board Meeting

**12:30 – 3 p.m.**

Commission on Continuing Lawyer Competency Meeting

**2 – 2:30 p.m.**

YLD Nominating Committee Meeting

**2 – 4 p.m.**

CLE | The Family First Prevention Services Act

**2 – 5 p.m.**

Disciplinary Rules and Procedures Committee Meeting

**2:30 – 3:30 p.m.**

YLD Ethics Program

**3 – 5 p.m.**

CLE | Cybersecurity: A Top Concern of Legal Practices Simplified

**3:30 – 5 p.m.**

YLD General Session

**3:30 – 5 p.m.**

Member Benefits Committee Meeting

**4 – 5 p.m.**

Children and the Courts Committee and Child Protection & Advocacy Section Reception

**6 p.m. – 10 p.m.**

Board of Governors Reception and Dinner

## **SATURDAY, JAN. 12**

**8 a.m. – 12 p.m.**

Registration | Table Top Displays

**8:15 – 9 a.m.**

SOLACE Committee Meeting

**9 a.m. – 12 p.m.**

Board of Governors Meeting

**12 – 3 p.m.**

30th Anniversary Town Hall Meeting of the Chief Justice's Commission on Professionalism

## **THE ARMORY BUILDING**

The Armory Building, completed in 1885, was the first permanent home of the Macon Volunteers, a volunteer military unit that doubled as a civic organization founded in 1825. The Armory Building was entirely paid for by the prestigious, self-sufficient Macon Volunteers. The Volunteers fought in several wars, including the Civil War under Gen. Robert E. Lee, and were for a long time, particularly in the city's formative years, a very influential and integral group. They would eventually fade out of existence around the middle part of the 20th century.



Photo by Four Corners Photography



# CLE SEMINARS

## **HOT TOPICS IN PROFESSIONALISM: THEN (1988) AND NOW (2019)** **Thursday, Jan. 10 | 10 – 12 p.m.**

### **Summary**

In 1988, Chief Justice Thomas O. Marshall convened a Consultation on Professionalism and the Practice of Law where judges and attorneys explored a variety of topics germane to professionalism in the legal profession. During this professionalism CLE, we will explore these same topics in the context of the practice of law in 2019.

### **Presiding**

Karlise Y. Grier, *C.W.L.S., Executive Director, Chief Justice's Commission on Professionalism, Atlanta*

### **Topics**

- What lawyers feel ought to be professional conduct on the part of the judges in their relationships with the bar
- Questions about law firm diversity and issues of discrimination
- A lawyer's responsibility to educate clients about the legal system, lawyer advertising and the commercialization of the law
- Collegiality among lawyers and lawyers' relationships with other lawyers
- Substance abuse among lawyers
- Problems in the discovery process
- Access to legal services by all regardless of an ability to pay
- How to bring lawyers who do not engage in litigation into the mainstream of the administration of justice
- Lawyers getting fulfillment out of being lawyers

### **Moderator**

Rebecca Grist, *Solicitor-General, Bibb County, member, Chief Justice's Commission on Professionalism*

### **Credits**

2 CLE hours, including 2 professionalism

## **THE FAMILY FIRST PREVENTION SERVICES ACT** **Friday, Jan. 11 | 2 – 4 p.m. | Reception to follow**

### **Summary**

The Family First Prevention Services Act was signed into law on Feb. 9, 2018, as part of President Trump's Bipartisan Budget Act. This new law is the most significant federal child welfare legislation in decades, and it provides a rare opportunity to design a continuum of placement and services from prevention through permanency with additional funding from the federal government. Panelists will present an overview of the law from policy to practice, and provide an update on the implementation status in Georgia. Discussion will focus on the impact of the new law on the legal and judicial communities and opportunities for engagement.

### Panelists

Melissa D. Carter, *Clinical Professor of Law and Executive Director, Barton Child Law and Policy Center, Emory Law School, Atlanta*; Emma Brown-Bernstein, *Staff Attorney, Parent Attorney Division, Atlanta Judicial Circuit Office of the Public Defender, Atlanta*; Temika J. Williams-Murry, *Supervising Attorney, DeKalb County Child Advocacy Center, Decatur*; and Christopher Hempfling, *General Counsel, Georgia Division of Family and Children Services, Atlanta*

### Credits

2 CLE hours, including 1 trial practice specialty credit

### Co-Sponsors

Children and the Courts Committee and the Child Protection & Advocacy Section

## CYBERSECURITY: A TOP CONCERN OF LEGAL PRACTICES SIMPLIFIED

Friday, Jan. 11 | 3 - 5 p.m.

### Summary

The legal profession is a challenging industry when it comes to cybersecurity. Breaches and cyberattacks are on the rise, and the reality is that client data is being targeted by cybercriminals. The need to protect client data is critical in the wake of these increased security threats. This cybersecurity presentation is designed to inform best practices when deploying a cybersecurity policy that can be used by firms of all sizes.

### Speaker

Rod MacKenzie, *Discovery Computers and Forensics LLC, Atlanta*

### Credits

2 CLE hours, including 1 ethics

## MERCER UNIVERSITY WALTER F. GEORGE SCHOOL OF LAW

Founded in 1873, Mercer University School of Law is one of the oldest law schools in the United States and the first one in the state of Georgia accredited by the American Bar Association. The law school is named after Walter F. George, a 1901 Mercer Law School graduate who became a justice of the Supreme Court of Georgia and later a U.S. Senator. Mercer Law is located in Macon, Ga., about 80 miles south of Atlanta. The law school's current building is on Coleman Hill, a well-known landmark on the Macon skyline. The 90,000-square-foot facility is modeled after Independence Hall in Philadelphia, Pa., the location where the Declaration of Independence was debated, adopted and signed.



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### TABLETOP EXHIBITORS\*

- Atlanta Custom Tailors
- Business Appraisal Group, LLC
- Chilton Gibbs and Associates
- Clinical and Forensic Psychology
- Collision Specialists, Inc.
- Courtroom View Network
- Golden Pear Funding
- LawPay
- Legal Technology Services, Inc.
- Martinelli Investigations, Inc.
- MassMutual Perimeter
- MLQ Attorney Services
- Network 1 Consulting
- Paperlesschase
- PeachCourt
- Simplifile
- Sonic Foundry Inc.
- State Bank & Trust Company
- Veritext Legal Solutions

\*Partial list of past exhibitors



Photo courtesy of Mercer University School of Law

# SPECIAL EVENTS & INFO



Photo courtesy of Mercer University School of Law



Photo provided by the Armory Ballroom



Photo provided by Macon Marriott City Center

## BOARD OF GOVERNORS RECEPTION AND DINNER

**Mercer University School of Law | Armory Ballroom  
Friday, Jan. 11 | 6 - 10 p.m.**

Please join us for a reception at Mercer University School of Law, followed by dinner at the Armory Ballroom. Everyone is welcome.

*\*Shuttles will be provided from the Macon Marriott City Center to the law school and the Armory Ballroom. Please be aware that there is limited parking available at the law school. Those who are driving in for the event are encouraged to park at the hotel and take advantage of the shuttle.*

## ATTIRE

Business attire is appropriate for all meetings and events.

**HOTEL ACCOMMODATIONS  
Cut-off date is Friday, Dec. 14, 2018  
Macon Marriott City Center  
240 Coliseum Drive  
Macon, GA 31217  
478-621-5300**

The Macon Marriott City Center is our host hotel offering a discounted room rate of \$140 single/double per night, plus applicable taxes and a \$5 hotel/motel fee. To make reservations and receive our special rate, call the Macon Marriott City Center at 866-882-4465 and ask for the "State Bar of Georgia Midyear Meeting." You may also book directly through the website at [http://bit.ly/sbg\\_maconmarriott](http://bit.ly/sbg_maconmarriott).

Reservations must be made by Friday, Dec. 14, 2018, as rooms will be on a space and rate availability basis after this date. There are many events taking place in Macon during this time, so please be aware that you should make your hotel reservations as early as possible.

Check-in time: 4:30 p.m.

Check-out time: 11 a.m.

# REGISTRATION

Please use this form to register by checking all events you plan to attend. Registration is required for all events, including no charge functions. You may also register online at [www.gabar.org](http://www.gabar.org). Final registration deadline is Friday, Jan. 4, 2019.

## Attendee Information

BAR NUMBER

NAME

NICKNAME

SPOUSE/GUEST NAME

ADDRESS

CITY/STATE/ZIP

EMAIL

SPECIAL NEEDS/DIETARY RESTRICTIONS

## ADA

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

## Refund/Cancellation Policy

Cancellation of registration must be received in writing no later than Friday, Jan. 4, 2019. Cancellations will receive a full refund, less a \$25 administrative charge. Absolutely no refunds will be made after Friday, Jan. 4. Requests should be mailed to the State Bar of Georgia, Attn: Michelle Garner, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303; faxed to 404-527-8747; or emailed to [michelleg@gabar.org](mailto:michelleg@gabar.org).

## Payment Information

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

	Before Dec. 14	After Dec. 14
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## Board Functions

- BOG Meeting .....N/C \_\_\_ N/C \_\_\_
- BOG Reception and Dinner .....\$75 \_\_\_ \$95 \_\_\_

## CLE Programs

- Cybersecurity: A Top Concern  
of Legal Practices Simplified .....\$75 \_\_\_ \$95 \_\_\_
- Hot Topics in Professionalism .....\$95 \_\_\_ \$115 \_\_\_
- The Family First Prevention .....\$75 \_\_\_ \$95 \_\_\_  
Services Act

## Section Events

- Appellate Practice Lunch .....\$34 \_\_\_ \$54 \_\_\_
- Family Law CLE Only .....\$25 \_\_\_ \$45 \_\_\_
- Family Law Reception Only .....\$31 \_\_\_ \$51 \_\_\_
- Family Law CLE & Reception .....\$56 \_\_\_ \$76 \_\_\_

## Other Events

- 30th Anniversary Town Hall  
Meeting of the Chief Justice's  
Commission on Professionalism...\$5 \_\_\_ \$25 \_\_\_

## YLD Events

- YLD General Session.....N/C \_\_\_ N/C \_\_\_

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

## Credit Card Information

Please bill my:  Visa  MasterCard  AMEX

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EXP. DATE

NAME AS IT APPEARS ON THE CARD (PLEASE PRINT)

SIGNATURE



2019 MIDYEAR MEETING | 7



State Bar  
of Georgia

2019 MIDYEAR MEETING  
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Atlanta, GA 30303-2743

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## SPECIAL THANKS

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

5-GAVEL

**MB** | MemberBenefits



Photos provided by Macon Marriott City Center

### Board of Governors Attendance Record

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

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

### Board of Governors Attendance Record

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

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

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	Sat.				Fri.	Sat.			Fri.	Sat.	
	Amelia	Callaway	ATL	Oconee	Jekyll	Jekyll	ATL	Greensboro	Amelia	Amelia	Pine Mtn
Walter J. Gordon Sr.	e	•	e	•	u	u	•	u	•	•	•
Patricia A. Gorham	•	•	•	•	e	e	•	•	e	e	•
Thomas F. Gristina	•	•	e	•	•	•	•	u	•	•	•
John Haubenreich	•	•	•	•	•	•	•	•	•	•	•
Patrick H. Head	e	e	•	•	•	•	•	•	•	•	•
Lawton C. Heard, Jr.	•	•	e	•	•	•	u	•	•	•	•
Rendler M. Heard Jr.	•	•	•	u	•	•	•	e	•	•	•
Thomas W. Herman	•	u	u	•	u	•	u	•	•	•	•
R. Javoyne Hicks	•	•	•	e	•	•	•	•	•	•	•
Donna S. Hix	•	•	e	•	•	e	•	•	e	e	•
Michael D. Hobbs	•	e	•	•	u	e	u	u	u	•	u
Kenneth B. Hodges	•	•	•	•	•	•	•	•	•	•	•
Phyllis J. Holmen	•	•	e	e	•	•	•	•	•	•	•
J. Marcus E. Howard	•	•	•	•	•	e	•	e	•	•	e
Amy V. Howell	•	•	•	•	•	•	•	•	•	•	e
Roy B. Huff Jr.	e	•	•	•	e	e	•	•	e	e	•
James W. Hurt	•	u	e	u	•	u	•	•	•	•	u
Christopher Huskins	u	u	•	•	u	•	•	•	u	u	u
Stacey K. Hydrick	•	•	e	•	•	e	•	•	•	•	•
James T. Irvin	•	•	e	e	•	•	•	•	•	•	e
William Dixon James	•	•	•	•	u	•	•	e	•	•	•
Curtis S. Jenkins	•	u	•	•	•	•	•	•	u	•	u
Larry Michael Johnson	n/a	n/a	n/a	n/a	n/a	•	u	•	u	u	•
Lester B. Johnson, III	•	•	e	e	•	•	e	•	u	•	e

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



### Board of Governors Attendance Record

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

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

## Board of Governors Attendance Record

	6-16	10-16	1-17	4-17	6-17	6-17	10-17	1-18	3-18	6-18	6-18	11-18
	Sat.	Callaway	ATL	Oconee	Fri. Jekyll	Sat. Jekyll	Jekyll	ATL	Greensboro	Fri. Amelia	Sat. Amelia	Pine Mtn
Samuel M. Matchett	•	e	u	•	u	•	e	•	e	u	•	•
Letitia A. McDonald	•	•	•	•	•	•	u	•	e	•	•	u
Brad J. McFall	u	e	•	•	u	u	u	•	•	u	u	e
Ashley W. McLaughlin	u	•	•	u	•	u	u	u	•	u	u	u
Michael D. McRae	u	u	u	•	u	u	e	u	•	u	•	•
Terry L. Miller	•	•	•	•	•	•	•	•	•	•	•	•
W. Benjamin Mitcham	•	•	e	•	u	•	•	u	•	•	•	•
William J. Monahan	•	•	e	•	•	•	•	e	•	•	•	•
Shondeana Morris	•	•	•	•	•	•	•	•	•	•	•	•
John T. Mroczko	n/a	n/a	n/a	n/a	n/a	•	u	•	u	u	u	u
Laura J. Murphree	•	•	e	•	•	•	e	•	•	•	•	•
Sam G. Nicholson	•	•	•	•	•	•	•	u	•	e	•	e
Rizza O'Connor	n/a	n/a	n/a	n/a	•	•	•	•	•	•	•	•
Kathy Stephens Palmer	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•
Jonathan B. Pannell	•	•	•	e	•	•	•	e	•	u	•	e
Joy Renea Parks	•	•	e	•	•	•	•	•	•	•	•	•
Thomas A. Peterson, IV	n/a	n/a	n/a	n/a	n/a	•	•	e	•	•	•	•
Will H. Pickett, Jr.	u	u	u	u	u	u	•	u	u	u	u	u
Robert Allen Plumb Jr.	n/a	n/a	n/a	n/a	n/a	•	•	u	•	•	•	•
Jill Pryor	e	•	•	•	e	e	e	•	•	e	e	e
William M. Ragland	•	e	u	•	•	•	e	•	e	•	•	e
James L. Roberts, IV	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•	•	•
Robert V. Rodatus	•	e	e	e	e	e	•	•	•	e	e	e
Tina S. Roddenbery	•	•	•	•	•	•	e	•	•	•	•	•

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## Board of Governors Attendance Record

	6-16	10-16	1-17	4-17	6-17	6-17	10-17	1-18	3-18	6-18	6-18	11-18
	Sat.				Fri.	Sat.				Fri.	Sat.	
	Amelia	Callaway	ATL	Oconee	Jekyll	Jekyll	Jekyll	ATL	Greensboro	Amelia	Amelia	Pine Mtn
Buck Rogers	•	•	•	•	•	•	•	•	•	•	•	•
Joseph Roseborough	•	u	•	•	u	u	•	•	u	•	•	u
William C. Rumer	•	e	u	•	e	e	e	e	•	e	e	•
Claudia S. Saari	•	•	•	•	•	•	•	•	•	•	•	•
Dennis C. Sanders	•	e	u	•	•	•	e	•	•	•	•	e
H. Burke Sherwood	•	•	e	•	•	•	•	u	u	•	•	e
Robert H. Smalley, III	•	•	•	•	•	•	•	•	e	•	•	•
Philip C. Smith	•	u	•	•	•	e	•	•	•	•	•	•
R. Rucker Smith	•	•	•	•	•	•	•	•	•	•	u	•
Daniel B. Snipes	e	•	•	•	•	•	e	•	•	e	e	e
R. Gary Spencer	•	e	•	e	•	•	•	•	e	•	•	•
H. Craig Stafford	•	e	u	•	•	•	•	e	•	•	•	e
Lawton E. Stephens	•	•	e	•	e	e	e	e	•	•	•	e
Donna Coleman Stribling	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	•	•
C. Deen Strickland	•	e	u	•	•	•	•	u	•	•	•	•
Frank B. Strickland	•	e	•	•	•	•	•	•	•	e	e	•
Joseph C. Sumner, Jr.	•	•	u	•	•	•	•	•	•	•	•	u
Darrell L. Sutton	•	•	•	•	•	•	•	•	•	•	•	e
Jason W. Swindle	n/a	n/a	n/a	n/a	•	•	•	u	•	•	•	u
Michael B. Terry	•	e	•	•	•	•	•	•	•	•	•	•
Anita W. Thomas	•	e	u	•	u	u	•	•	e	u	•	e
Edward D. Tolley	•	•	•	•	u	•	•	u	•	•	u	u
Clayton Tomlinson	•	•	e	•	•	•	•	u	•	u	•	•
Chris P. Twyman	n/a	n/a	n/a	n/a	•	•	•	•	•	•	e	•

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

### Board of Governors Attendance Record

	6-16	10-16	1-17	4-17	6-17	10-17	1-18	3-18	6-18	6-18	11-18
	Sat.				Fri.	Sat.			Fri.	Sat.	
	Amelia	Callaway	ATL	Oconee	Jekyll	Jekyll	ATL	Greensboro	Amelia	Amelia	Pine Mtn
William Underwood III	n/a	n/a	n/a	n/a	n/a	•	•	u	•	•	•
Martin E. Valbuena	•	•	•	u	•	•	•	•	•	•	e
Carl R. Varnedoe	•	u	•	•	•	•	u	•	•	•	•
Nicki N. Vaughan	•	•	•	•	•	•	•	•	•	•	•
Carl A. Veline, Jr.	•	•	•	•	e	•	•	•	u	•	•
J. Henry Walker	•	•	•	•	•	e	•	•	•	•	e
Janice M. Wallace	•	•	•	•	•	•	•	•	e	e	e
Amy Carol Walters	•	•	e	•	e	e	e	•	•	•	•
Jeffrey S. Ward	•	•	•	e	•	•	•	•	•	•	e
Harold B. Watts	•	•	•	•	•	e	•	•	•	•	•
John P. Webb	•	•	•	•	•	e	•	u	•	•	•
Christopher F. West	•	u	u	•	•	u	•	u	•	•	u
Nancy J. Whaley	•	•	•	•	•	•	•	•	•	•	•
Paige R. Whitaker	•	•	•	•	•	•	•	•	•	•	•
Kathleen Womack	•	•	•	•	•	e	•	•	•	•	•
Douglas Woodruff	•	•	e	•	e	e	u	•	•	•	•
<b>• - attended meeting</b>			<b>e - excused absence</b>						<b>u - unexcused absence</b>		

# Future Meetings Schedule (12/11/18)



## **Executive Committee**

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February 20, 2019		Executive Committee Meeting
February 20, 2019		Executive Committee Dinner with Court of Appeals
March 15-17, 2019		Supreme Court/Executive Committee Joint Meeting, Callaway Gardens, Pine Mountain, GA
May 3, 2019		Executive Committee Meeting Tifton, GA
Sept. 6-8, 2019		Executive Committee Extended Meeting Omni Grove Park Inn, Asheville, NC

## **Board of Governors**

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Midyear 2019	January 10-12, 2019	Macon Marriott, Macon, GA
Spring 2019	March 29-31, 2019	The Ritz-Carlton Reynolds, Lake Oconee Greensboro, GA
Annual 2019	June 6-9, 2019	The Ritz-Carlton Orlando, Grande Lakes Orlando, FL
Fall 2019	October 18-20, 2019	DeSoto Hotel, Savannah, GA
Midyear 2020	January 9-11, 2020	The Georgian Terrace & Fox Theatre, Atlanta, GA (contract pending)
Spring 2020	March 27-29, 2020	Château Élan Winery & Resort, Braselton, GA
Annual 2020	June 11-14, 2020	Sandestin Golf & Beach Resort, Miramar Beach, FL

### **Young Lawyers Division**

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Midyear 2019	January 10-12, 2019	Macon Marriott, Macon, GA
Spring 2019	April 25-29, 2019	Hamilton Hotel, Washington, DC
Annual 2019	June 6-9, 2019	The Ritz-Carlton Orlando, Grande Lakes Orlando, FL
Summer 2019	August 23-25, 2019	King & Prince Beach & Golf Resort, St. Simons Island, GA
Fall 2019	November 15-17, 2019	Lanier Islands Legacy Lodge, Buford, GA (contract pending)
Midyear 2020	January 9-11, 2020	The Georgian Terrace & Fox Theatre, Atlanta, GA (contract pending)
Spring 2020	April 24-26, 2020	Graduate Athens, Athens, GA (contract pending)
Annual 2020	June 11-14, 2020	Sandestin Golf & Beach Resort, Miramar Beach, FL

### **American Bar Association Meetings**

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Midyear 2019	Jan. 23-29, 2019	Las Vegas, NV
Annual 2019	Aug. 8-13, 2019	San Francisco, CA
Midyear 2020	Feb. 12-18, 2020	Austin, TX
Annual 2020	Aug. 6-11, 2020	Toronto, Ontario, Canada
Midyear 2021	Feb. 10-16, 2021	Orlando, FL
Annual 2021	Aug. 5-10, 2021	Chicago, IL

### **Savannah Boat Ride**

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2019	April 5, 2019	Savannah, GA
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### **Southern Conference Meetings**

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2019	October 9-13	Ritz-Carlton Atlanta, Atlanta, GA
2020	October 15-18	Moody Gardens Hotel Spa & Convention Center, Galveston Island, TX

2021	Oct.	Florida
2022	Oct.	Mississippi
2023	Oct.	West Virginia
2024	Oct.	South Carolina

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

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2019	May 17-18	Nationals Weekend (Bar leadership encouraged to serve on Judging Panels on Fri., be on hand for Judging Panel Reception Fri. night, serve on Judging Panels for Sat. and the championship round, and be on hand for Awards Gala)
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**D-R-A-F-T**  
**STATE BAR OF GEORGIA**  
**BOARD OF GOVERNORS**  
**MEETING MINUTES**  
**Friday, November 2, 2018/2:00 p.m.**  
**The Lodge & Spa at Callaway Gardens/Pine Mountain, GA**

The 275<sup>th</sup> meeting of the Board of Governors of the State Bar of Georgia was held at the date and location shown above. Ken Hodges, President, presided.

Special Recognition

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

Roll Call

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

Future Meetings Schedule

President Ken Hodges reviewed the Future Meetings Schedule.

Minutes of the 273<sup>rd</sup> & 274<sup>th</sup> Meetings of the Board of Governors

The minutes of the Board of Governors meetings held June 8 and 9, 2018, at the Omni Amelia Island Resort, Amelia Island, Florida, were approved by unanimous voice vote.

Resolution for Justice Carol W. Hunstein

The resolution will be presented at the Midyear Meeting.

Marshall Tuttle Award

Military Legal Assistance Program (MLAP) Committee Chair Jay Elmore presented the Marshall Tuttle Award to Past President Linda A. Klein. Linda has always been and remains committed to access to justice issues. During her tenure as ABA President, one of her priorities was to mobilize lawyers to provide legal services on behalf of our nation's veterans. Her efforts resulted in the creation of the ABA Military and Veterans Legal Center and the establishment of programs like the Bar's MLAP in every state but one. President Ken Hodges thanked Linda for all of her efforts and Jay for his work on behalf of the MLAP.

Transition into Law Practice Program (TILPP) Mentor of the Year Award

TILPP Director Michelle West presented the TILPP Mentor of the Year Award to John T. Marshall. The TILPP began in 1996 under the direction of Bar President Ben Easterlin, who asked John Marshall to lead the Standards of the Profession Committee



and develop a pilot mentor program for beginning lawyers. Michelle reported that as of August 2018, the TILPP has had 12,481 newly admitted lawyers to enroll and complete the program. There have been 51 Supreme Court orders appointing TILPP's 4,680 mentors. Many of these mentors have served multiple times. She further reported that the Bar's TILPP has been a template for other programs across the country. President Ken Hodges thanked Michelle for her work on behalf of the TILPP and John Marshall for his well-deserved honor.

#### Appointments to the Commission on Continuing Lawyer Competency (CCLC)

The Board of Governors, by unanimous voice vote, approved the reappointment of Jeff Ward and Donna Hix to the CCLC for three-year terms (2019-2021).

#### Appointments to the Formal Advisory Opinion Board

The Board of Governors, by unanimous voice vote, approved the following presidential appointments to the Formal Advisory Opinion Board:

State Disciplinary Board: William Hickerson Thomas (2018-19)

State Disciplinary Review Board: C. Brad Marsh (2018-19)

Executive Committee Liaison: J. Antonio DelCampo (2018-19)

#### Appointments to the Georgia Legal Services Board

The Board of Governors, by unanimous voice vote, approved the reappointment of Marquette Bryant, and the appointments of Laverne Lewis Gaskins and Trey Underwood, to the Georgia Legal Services Board of Trustees for two-year terms (2019-2021).

#### Terminating the Judicial District Professionalism Program (JDPP)

Following a report by Deputy General Counsel Bill NeSmith, the Board of Governors, by unanimous voice vote, terminated the JDPP. The program had a very low usage rate and the issues under its purview can best be addressed best by the local and circuit bar associations and the Judicial Qualifications Commission.

#### Approval of New Sections

Following a report by Deputy General Counsel Bill NeSmith, the Board of Governors, by unanimous voice vote, approved the proposed bylaws (Exhibit B) for the creation of a 1) Class Action Law Section and 2) Construction Law Section.

#### Mandatory Professional Liability Insurance and Disclosure

President Ken Hodges reported that the Executive Committee voted to explore the concept of mandatory malpractice insurance disclosure for Georgia lawyers. To ensure public confidence, he believes we need to start this dialogue and begin gathering data to see how many Bar members carry professional liability insurance. He stated that most bar

associations gather the information through their annual dues statement and the information is often provided to the public for the benefit of potential clients. Ken said that once the information is collected we can assess the situation and see what impact insurance coverage could have on the amount of claims being paid through the Clients' Security Fund. Following questions and comments from the Board of Governors, there was a motion and second to gather the information, on a voluntary basis, on the annual dues statement. After more discussion, it was the consensus of the Board of Governors that a committee should be appointed to study the issue, talk to our members, and come back with a recommendation. By unanimous voice vote, the Board of Governors approved a motion to table the issue to a date certain, which caused the main motion to fail. Ken said he hopes to have a full committee report at the Midyear Meeting and a vote on the issue at the Spring Meeting.

#### Advisory Committee on Legislation (ACL)/New Legislative Proposals

Following a report by Governmental Affairs Director Christine Butcher Hayes, the Board of Governors took the following action on proposed legislation:

<u>Legislative Proposal</u>	<u>Germane to Purposes of the Bar</u>	<u>Support on Merits 2/3 Majority</u>
Judicial Council Budget Request		
1) Support of \$750,000 to fund Civil Legal Services Grants for Kinship Care Families	Passed by unanimous voice vote	Passed by unanimous voice vote

#### Legislative Update

Governmental Affairs Director Christine Butcher Hayes reported that the ACL will next meet on November 27. Rusty Sewell reported on the upcoming elections and said that there will be 32 lawyers in the legislature if all those running get elected. There are six elections with open seats that have lawyers running in them. Rusty asked that following the elections each Board member meet with their representative and senator and let them know they are available to help them as needed. President Ken Hodges asked that if anyone has a personal relationship with a legislator to please let Christine know.

#### President's Report

President Ken Hodges reported that the transition of ICLE is complete. There is a new content management system in place that will enhance the live seminars, and ICLE has opened up new satellite meeting locations and new seminar offerings. He stated that forty percent of all CLEs are held at the Bar Center. Ken reported that since January of this year, 168 Bar members sought counseling through CorpCare, the Lawyers Assistance Program (LAP) clinical provider. The LAP's Lawyers Helping Lawyers confidential peer-to-peer assistance program has trained 32 volunteers and made four matches. He

reported that the Suicide and Prevention and Awareness Committee is sponsoring a team for the Out of Darkness Atlanta walk on November 4; and the Attorney Wellness Committee created a *#UseYourSix* flyer to educate Bar members about the LAP. Ken reported that we have had a great response from lawyers on the dues statement to our succession planning efforts, and the Senior Lawyers Committee is working with the Office of General Counsel (OGC) on a retired membership status. The committee is also putting together a resource center for those transitioning out of practice.

Ken reported that we are operating under the new disciplinary rules wherein the OGC does not have to wait for a grievance to be submitted before beginning an investigation, and special master training has taken place. He also reported that at its September meeting, the Executive Committee discussed, among other things, registration of in-house counsel, which 38 states do, the idea of mandatory written fee agreements, random audits of trust accounts, and practicing under a trade name. These are important issues for public protection. He announced that the Communications Committee is launching new PSAs for our *Who Needs Lawyers? We Do* campaign. Ken also announced that that Pro Bono Director Mike Monahan is leading 72 lawyers who have volunteered to help people in Georgia affected by Hurricane Michael.

Lastly, Ken addressed his term as Bar President and soon-to-be Court of Appeals Judge. He stated he has met with many judges at all levels, the Bar's officers, and others, and that in his opinion, he can fulfill both roles. He said that Judge John Ellington has helped in this regard by completing the cases assigned to him so the Ken will begin with a clean slate. Ken also stated that if he finds he cannot fulfill both roles, he will step aside as Bar President.

#### Treasurer's Report

Treasurer Dawn Jones reported on the Bar's finances. She reported the membership count by gender and by age. Dawn also presented the July 2018 Georgia Bar Examination Statistics. Lastly, Dawn announced that we will soon be including ICLE financial statements in future agendas.

The Board of Governors received a copy of the ICLE Statements of Financial Position as of June 20, 2017 and June 30, 2018; the ICLE Statements of Operating Revenue and Expenditures Fiscal Years Ended June 30, 2017 and 2018 with Budget Fiscal Year Ended June 30, 2019; and ICLE Notes-Statements of Financial Position and Statements of Operating Revenue and Expenditures.

### Young Lawyers Division

YLD President Rizza O'Connor announced that the YLD has been around for 72 years. She reported that 18% of Bar is under the age of thirty-six, and there are almost 10,000 young lawyers statewide. Sixty percent of the young lawyers work in the 5-county metropolitan area. There are 10 YLD Affiliate organizations around the state. The YLD provides opportunities for service, networking, and leadership. Recent opportunities for service included making over 200 hygiene kits for the homeless at the YLD Summer Meeting, volunteering for the Atlanta Volunteer Lawyers Foundation Saturday Lawyers Program through the Public Interest Internship Program, working with the Disaster Legal Assistance Program's Helpline, and feeding families at the Ronald McDonald House. The YLD offers great networking opportunities through CLEs and other events. The YLD is also working to support college and law students. It has partnered with Georgia State University's Center for the Advancement of Students and Alumni aimed to help undergraduate pre-law students understand what it means to be a lawyer through a mentorship program with a practicing attorney, and visiting every law school to educate the students about the YLD. The 2019 Leadership Academy will begin in January at the Midyear Meeting and leadership classes will also take place in Macon, Vidalia, and Washington, D.C. The Fall YLD Meeting will take place November 9-11 at Lake Oconee and feature a Wills Clinic. In 2019, the Intrastate Moot Court Competition will be held on March 22-23, the Signature Fundraiser will be held April 13, and on April 15 there will be a Legal Food Frenzy golf tournament.

### Executive Committee Minutes

The Board of Governors received copies of the minutes of the Executive Committee meetings held on April 13, June 19, and August 16, 2018.

### Military Legal Assistance Program

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

### Consumer Assistance Program

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

### Law Practice Management Program

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

### Communications Update

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

Chief Justice's Commission on Professionalism

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

Georgia Legal Services Program

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

Old Business

There was no old business.

New Business

There was no new business.

Chief Justice's Commission on Professionalism (CJCP)

CJCP Executive Director Karlise Grier announced that nominations for the annual Justice Robert Benham Awards for Community Service are open until Dec. 3. The awards ceremony will be held March 29, 2019 at Georgia State University. Karlise also announced that today is the last day to register for the November 30 CJCP's Convocation on Professionalism.

Remarks/Q&A/Comments/Suggestions

There were no remarks, questions, comments or suggestions.

Adjournment

There being no further business, the meeting was adjourned at 4:15 p.m.

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Elizabeth L. Fite, Secretary

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Kenneth B Hodges, III, President

Part VII - Lawyer Assistance Program

CHAPTER 1 LAWYER ASSISTANCE COMMITTEE

Preamble.

The purpose of the Lawyer Assistance Program ("LAP") is to confidentially ~~identify and~~ assist State Bar of Georgia members who ~~are~~may be experiencing mental, emotional, substance abuse, behavioral addiction, or stress-related problems ~~which negatively~~that may impact their ~~quality of life and their ability~~ to function effectively as members of the Bar lawyers or judges, through education, ~~intervention,~~ peer support and professional clinical ~~treatment~~services.

Rule 7-101. Committee.

The ~~program will~~LAP shall be administered by the State ~~Bar's~~Bar of Georgia's Lawyer Assistance Program Committee ("Committee"). The Committee shall monitor and ~~render~~provide advice to the staff, and provide recommendations to the Executive Committee, and Board of Governors of the State Bar of Georgia with respect to the rules, procedures, policies and operation of ~~a Lawyer Assistance Program ("LAP"),~~the LAP, while maintaining its obligation of privacy as set forth in these rules. The Committee shall create internal rules for the day to day operation of the Program and the implementation of these Rules. The internal rules and any amendments thereto shall be approved by the Executive Committee prior to implementation.

Rule 7-102. Membership.

~~The~~ (a) Committee members shall be appointed by the President of the State Bar of Georgia for a three-year term in accordance with Article VIII, Section 1, of the bylaws of the State Bar of Georgia. In addition, the President, ~~at his or her discretion, may~~shall appoint ~~up to~~ four non-lawyers to serve on the Committee, provided that such non-lawyers are licensed, certified addiction counselors, certified employee assistance professionals, licensed therapists, or other licensed

mental/behavioral health professionals or other persons who have experience in conducting alcohol and drug rehabilitation intervention programs or mental health assistance programs. The term of such non-lawyer appointment shall be ~~one year~~ three years. Any member of the Committee who is a recovered addict chemical or alcohol dependent person must have a period of sobriety of at least five years prior to becoming a member of the Committee. Any member of the Committee who has received inpatient treatment for mental illness must have been released from the facility at which such treatment was provided at least two years prior to becoming a member of the Committee. The Committee may also appoint peer support volunteers as volunteer members in accordance with its rules. Peer support volunteers must comply with this rule concerning substance abuse and mental illness. All Committee members and peer volunteers must certify their recovery, sobriety or satisfactory completion of medical treatment and release from inpatient treatment for mental illness as provided in the internal rules of the Committee.

(b) Any Committee member or peer volunteer who suffers a relapse related to a substance use disorder and/or experiences challenges related to a diagnosed mental illness of any type to the degree to which significantly impairs their ability to serve shall be removed as a member of the Committee and/or as a peer volunteer to its internal rules.

#### Rule 7-103. Responsibility.

The Committee shall be responsible for implementing an impairment program that provides education, referral and intervention.

The Committee shall be responsible for implementing programs within the scope of these rules to assist State Bar of Georgia members who request help from LAP for mental, emotional, substance abuse, behavioral addiction, or stress-related issues. Such programs shall provide for education, support, and/or professional clinical services through a LAP health care provider or referral for other counseling or treatment where appropriate. All programs shall require approval of the Executive Committee prior

to implementation.

Rule 7-104. Funding.

The work of the Committee and any ~~treatment~~health care provider selected to assist the Committee in carrying out the work of the ~~program shall~~LAP, with approval of the Executive Committee, may be funded from the general budget of the State Bar of Georgia and/or through donations and grants from the Georgia Bar Foundation or other public or private sources.

## CHAPTER 2 GUIDELINES FOR OPERATION

Rule 7-201. Education, Information and Awareness.

The Committee shall promote and implement procedures to communicate to ~~impaired attorneys and~~ the State Bar in general the fact of Georgia members that ~~there is a program~~are programs within the LAP available and ready to ~~assist in helping the impaired attorneys~~help lawyers in need to overcome ~~their problem~~mental, emotional, substance abuse, behavioral addiction, or stress-related problems. All such communication procedures shall be approved by the Executive Committee prior to implementation.

Rule 7-202. Volunteers.

~~The Committee may establish a network of attorneys and lay persons throughout the state of Georgia who are experienced or trained in impairment counseling, treatment or rehabilitation, who can conduct education and awareness programs and assist in counseling and intervention programs and services. The Committee may also establish a network of peer support volunteers who are members of the State Bar of Georgia who are not trained in impairment counseling, treatment or rehabilitation, who can provide support to impaired or potentially impaired attorneys by sharing their life experiences in dealing with (a) mental or emotional health problems, (b) substance abuse problems or (c) other similar problems that can adversely affect the quality of attorneys' lives and their ability to function effectively as lawyers.~~

~~Rule 7-203. Intervention and Counseling.~~

~~The members of the Committee~~ The Committee may establish a network of peer support volunteers, as defined in Rule 7-204, who can provide support to lawyers in need.

Rule 7-203. Procedures for Receiving and Acting on Information Concerning Requests for



Assistance.

The Committee shall establish, design and implement all procedures necessary for a health care provider to directly and confidentially receive information concerning impaired attorneys. Upon a determination that an attorney is impaired, lawyers requesting assistance with mental, emotional, substance abuse, behavioral addiction, or stress-related issues. All such procedures shall be approved by the Executive Committee prior to implementation.

Rule 7-204. Definitions.

shall implement such resources (a) Lawyer. A lawyer, for the purposes of this rule, is a member of the State Bar of Georgia as defined in Part I, Chapter 2, Rule 1-202 of the Rules and Regulations for the State Bar of Georgia.

(b) Health Care Provider. A person authorized by the State of Georgia to practice a health care discipline and performing within the scope of their practice as defined by State law or an entity under Georgia law to employ such person.

(c) Peer Support Volunteers. Lawyers who have been approved by the Committee to serve as volunteer members by offering empathy and validation to a lawyer who may be suffering from a mental, emotional, substance abuse, behavioral addiction, or stress-related problem, generally by providing practical, social, and emotional support, potentially based on their own experiences with a similar illness, stress or condition.

(d) Professional Clinical Services. Services provided by licensed mental health and substance abuse counselors in connection with the diagnosis, assessment, evaluation, treatment or prevention of psychological, emotional, psychophysiological and behavioral problems and addiction. These services include procedures for understanding, predicting, and alleviating intellectual, emotional, physical, and psychological distress, social and behavioral maladjustment,

mental illness and addiction, as well as other forms of discomfort.

(e) Substance Abuse. A dependence on an addictive substance, especially alcohol or drugs.

### CHAPTER 3 PROCEDURES

Rule 7-301. ~~appear appropriate in each individual case.~~ Outsourcing of Clinical Services.

In carrying out its duties ~~under this rule~~, the Committee, subject to the approval of the Executive Committee, is authorized to outsource the clinical portion(s) of the Lawyer Assistance Program LAP to private sector health care professionals. ~~Such health care professionals and their related staff, consultants and other designees shall be authorized to communicate with each other and with the Committee regarding the program or persons referred to the program by the Committee. Said communications shall not constitute a violation of the confidentiality rules established herein~~ providers.

#### Rule 7-204. Definitions.

~~\_\_\_\_\_ (a) Attorney, as used in this Part VII, shall include active, inactive, emeritus and foreign law consultant members of the State Bar of Georgia.~~

~~\_\_\_\_\_ (b) An impaired attorney is an attorney who, in the opinion of the members of the Committee, the State Disciplinary Board, the Supreme Court of Georgia, or the members of the professional health care provider selected in accordance with Rule 7-203 above, who suffers from a medical, psychological, emotional, or stress-related disease or problem, or who is actively abusing alcohol or other chemical substances, or has become dependent upon alcohol or such substances, such that the attorney poses a substantial threat of harm to the attorney or the attorney's clients, or the public.~~

### CHAPTER 3 PROCEDURES

#### Rule 7-301. Contacts Generally.

~~The Committee shall be authorized to establish and implement procedures to handle all contacts from or concerning impaired or potentially impaired attorneys, either through its chosen health care professional source, the statewide network established pursuant to Rule 7-202, or by any other procedure through which appropriate counseling or assistance to such attorneys may be provided.~~

#### Rule 7-302. Referrals from the State Disciplinary Board.

~~Upon the referral of any case to the Committee by the State Disciplinary Board of the State Bar of Georgia, the Committee shall provide assistance to the impaired attorney referred by the Disciplinary Board as otherwise authorized by these rules. The Committee shall report to the Board,~~

~~from time to time, the progress or lack of progress of the attorney so referred.~~

~~Rule 7-303—Confidentiality.~~

~~Except as provided in this Rule and in Rule 4-104 (b), Rule 4-104 (c), Rule 7-203 and Rule 7-305, all proceedings and records, all information in the possession or control of the Committee, its members, staff, consultants (including without limitation its contractor for clinical services) and other designees, including any health care provider selected pursuant to Rule 7-301), or any peer support volunteer or other designee, concerning any information provided to any of them, shall be confidential person who has sought, has been identified as a potential recipient of, or has received assistance from the LAP, or has volunteered to serve as a peer support volunteer, shall be maintained in confidence unless the attorney person who has provided is the subject of the information or caused the record to be created otherwise elects, except that any such person may reveal (i):~~

~~(a) to police or emergency responders, or any person in imminent danger, information needed to avoid or prevent death or substantial bodily harm, and (ii) information:~~

~~(a) which (b) information that is:~~

~~(1) mandated by statute to be reported;~~

~~(b) necessary to respond in any proceeding to allegations/allegation of misfeasance/malfeasance concerning the actions taken by such person as a member or designee of the Committee pursuant to any LAP program, including any assistance he or she has provided to an impaired attorney a lawyer as part of a volunteer network established pursuant to Rule 7-202; and 102; or~~

~~(c) necessary for disclosure to counsel in order to secure legal advice about his or her compliance with these Rules.~~

~~Confidential information in the possession of the Committee, its members, staff, consultants,~~

(including without limitation any health care provider selected pursuant to Rule 7-301) or any peer support volunteer or other designee, shall be entitled to the same confidentiality protections as set forth in O.C.G.A. § 24-9-21(5), (6), (7) and (8). Communications that are needed to carry out the LAP's purposes are authorized between or among members of the Committee, its staff, any peer support volunteer(s), and/or the employees, staff or agents of any health care provider selected under Rule 7-301. Such communications shall not constitute breaches of the confidentiality required under this rule, provided that the identity of any lawyer who has sought assistance directly from a health care provider selected under Rule 7-301 shall not be disclosed to the Committee, its members, staff, or designees, unless said member of the State Bar of Georgia has consented to such disclosure.

Rule 7-303.

~~Rule 7-304. Reports.~~

The Committee shall implement and design such reports and documentation ~~as it deems necessary on an annual basis~~ or as ~~is~~ requested by the ~~president~~ President of the State Bar of Georgia for reporting purposes to the Executive Committee and the Board of Governors, subject to the confidentiality provisions of Rule 7-~~303~~.

Rule 7-305. Emergency Suspension.

~~Upon receipt of sufficient evidence demonstrating that an impaired attorney's conduct poses a substantial threat of immediate or irreparable harm to the attorney's clients or the public, or if an impaired attorney refuses to cooperate with the Committee after an authorized intervention or referral, or refuses to take action recommended by the Committee, and said impaired attorney poses a substantial threat to the attorney, the attorney's clients, or the public, the Committee may request that the Office of the General Counsel petition the Supreme Court of Georgia for the suspension~~<sup>302</sup>. Recognizing that disclosure of the attorney pursuant to Rule 4-108. All proceedings under this part which occur prior to the filing of a petition in the Supreme Court of Georgia pursuant to this Rule shall remain confidential and shall not be

~~admissible against the attorney before the State Disciplinary Board of identity of members of the State Bar of Georgia. Information from a designee of the Committee acting as a member of a volunteer network established pursuant to Rule 7-202 shall not constitute "evidence" within the meaning of the Rule who have sought LAP assistance would be contrary to the purposes for which the Committee was established, neither the Committee, peer support volunteers, nor any health care provider selected under Rule 7-301 shall be required to provide confidential information concerning any such person to any private or government entity except by court order or as provided in Rule 7-302.~~

~~Rule 7-306-~~Rule 7-304. Immunity.

The State Bar of Georgia, its employees, and members of the Committee and its selected clinical outsource private health care professionals shall be absolutely immune from civil liability for all acts taken in the course of their official duties pursuant to ~~this part~~these rules.

## Part VII - Lawyer Assistance Program

### CHAPTER 1 LAWYER ASSISTANCE COMMITTEE

#### Preamble.

The purpose of the Lawyer Assistance Program (“LAP”) is to confidentially assist State Bar of Georgia members who may be experiencing mental, emotional, substance abuse, behavioral addiction, or stress-related problems that may impact their ability to function effectively as lawyers or judges, through education, peer support and professional clinical services.

#### Rule 7-101. Committee.

The LAP shall be administered by the State Bar of Georgia's Lawyer Assistance Program Committee ("Committee"). The Committee shall monitor and provide advice to the staff, and provide recommendations to the Executive Committee, and Board of Governors of the State Bar of Georgia with respect to the rules, procedures, policies and operation of the LAP, while maintaining its obligation of privacy as set forth in these rules. The Committee shall create internal rules for the day to day operation of the Program and the implementation of these Rules. The internal rules and any amendments thereto shall be approved by the Executive Committee prior to implementation.

#### Rule 7-102. Membership.

(a) Committee members shall be appointed by the President of the State Bar of Georgia for a three-year term in accordance with Article VIII, Section 1, of the bylaws of the State Bar of Georgia. In addition, the President, shall appoint four non-lawyers to serve on the Committee, provided that such non-lawyers are licensed, certified addiction counselors, certified employee assistance professionals, licensed therapists, or other licensed mental/behavioral health professionals or other persons who have experience in conducting alcohol and drug rehabilitation intervention

programs or mental health assistance programs. The term of such non-lawyer appointment shall be three years. Any member of the Committee who is a recovered addict, chemical or alcohol dependent person must have a period of sobriety of at least five years prior to becoming a member of the Committee. Any member of the Committee who has received inpatient treatment for mental illness must have been released from the facility at which such treatment was provided at least two years prior to becoming a member of the Committee. The Committee may also appoint peer support volunteers as volunteer members in accordance with its rules. Peer support volunteers must comply with this rule concerning substance abuse and mental illness. All Committee members and peer volunteers must certify their recovery, sobriety or satisfactory completion of medical treatment and release from inpatient treatment for mental illness as provided in the internal rules of the Committee.

(b) Any Committee member or peer volunteer who suffers a relapse related to a substance use disorder and/or experiences challenges related to a diagnosed mental illness of any type to the degree to which significantly impairs their ability to serve shall be removed as a member of the Committee and/or as a peer volunteer to its internal rules.

Rule 7-103. Responsibility.

The Committee shall be responsible for implementing programs within the scope of these rules to assist State Bar of Georgia members who request help from LAP for mental, emotional, substance abuse, behavioral addiction, or stress-related issues. Such programs shall provide for education, support, and/or professional clinical services through a LAP health care provider or referral for other counseling or treatment where appropriate. All programs shall require approval of the Executive Committee prior to implementation.

Rule 7-104. Funding.

The work of the Committee and any health care provider selected to assist the Committee in carrying out the work of the LAP, with approval of the Executive Committee, may be funded from the general budget of the State Bar of Georgia and/or through donations and grants from the Georgia Bar Foundation or other public or private sources.

## CHAPTER 2 GUIDELINES FOR OPERATION

### Rule 7-201. Education, Information and Awareness.

The Committee shall promote and implement procedures to communicate to State Bar of Georgia members that there are programs within the LAP available and ready to help lawyers in need to overcome mental, emotional, substance abuse, behavioral addiction, or stress-related problems. All such communication procedures shall be approved by the Executive Committee prior to implementation.

### Rule 7-202. Volunteers.

The Committee may establish a network of peer support volunteers, as defined in Rule 7-204, who can provide support to lawyers in need.

### Rule 7-203. Procedures for Receiving and Acting on Information Concerning Requests for Assistance.

The Committee shall establish, design and implement procedures necessary for a health care provider to directly and confidentially receive information concerning lawyers requesting assistance with mental, emotional, substance abuse, behavioral addiction, or stress-related issues. All such procedures shall be approved by the Executive Committee prior to implementation.

### Rule 7-204. Definitions.

(a) Lawyer. A lawyer, for the purposes of this rule, is a member of the State Bar of Georgia as defined in Part I, Chapter 2, Rule 1-202 of the Rules and Regulations for the State Bar of Georgia.



(b) Health Care Provider. A person authorized by the State of Georgia to practice a health care discipline and performing within the scope of their practice as defined by State law or an entity under Georgia law to employ such person.

(c) Peer Support Volunteers. Lawyers who have been approved by the Committee to serve as volunteer members by offering empathy and validation to a lawyer who may be suffering from a mental, emotional, substance abuse, behavioral addiction, or stress-related problem, generally by providing practical, social, and emotional support, potentially based on their own experiences with a similar illness, stress or condition.

(d) Professional Clinical Services. Services provided by licensed mental health and substance abuse counselors in connection with the diagnosis, assessment, evaluation, treatment or prevention of psychological, emotional, psychophysiological and behavioral problems and addiction. These services include procedures for understanding, predicting, and alleviating intellectual, emotional, physical, and psychological distress, social and behavioral maladjustment, mental illness and addiction, as well as other forms of discomfort.

(e) Substance Abuse. A dependence on an addictive substance, especially alcohol or drugs.

## CHAPTER 3 PROCEDURES

### Rule 7-301. Outsourcing of Clinical Services.

In carrying out its duties, the Committee, subject to the approval of the Executive Committee, is authorized to outsource the clinical portion(s) of the LAP to private sector health care providers.

### Rule 7-302. Confidentiality.

Except as provided in this Rule, all information in the possession or control of the Committee, its members, staff, consultants (including without limitation any health care provider selected

pursuant to Rule 7-301), or any peer support volunteer or other designee, concerning any person who has sought, has been identified as a potential recipient of, or has received assistance from the LAP, or has volunteered to serve as a peer support volunteer, shall be maintained in confidence unless the person who is the subject of the information otherwise elects, except that any person may reveal:

(a) to police or emergency responders, or any person in imminent danger, information needed to avoid or prevent death or substantial bodily harm, and

(b) information that is:

(1) mandated by statute to be reported;

(2) necessary to respond in any proceeding to allegation of malfeasance concerning actions taken by such person as a member or designee of the Committee pursuant to any LAP program, including any assistance he or she provided to a lawyer as part of a volunteer network established pursuant to Rule 7-102; or

(3) necessary for disclosure to counsel in order to secure legal advice about his or her compliance with these Rules.

Confidential information in the possession of the Committee, its members, staff, consultants, (including without limitation any health care provider selected pursuant to Rule 7-301) or any peer support volunteer or other designee, shall be entitled to the same confidentiality protections as set forth in O.C.G.A. § 24-9-21(5), (6), (7) and (8). Communications that are needed to carry out the LAP's purposes are authorized between or among members of the Committee, its staff, any peer support volunteer(s), and/or the employees, staff or agents of any health care provider selected under Rule 7-301. Such communications shall not constitute breaches of the confidentiality required under this rule, provided that the identity of any lawyer who has sought assistance directly

from a health care provider selected under Rule 7-301 shall not be disclosed to the Committee, its members, staff, or designees, unless said member of the State Bar of Georgia has consented to such disclosure.

#### Rule 7-303. Reports.

The Committee shall implement and design such reports and documentation on an annual basis or as requested by the President of the State Bar of Georgia for reporting purposes to the Executive Committee and the Board of Governors, subject to the confidentiality provisions of Rule 7-302. Recognizing that disclosure of the identity of members of the State Bar of Georgia who have sought LAP assistance would be contrary to the purposes for which the Committee was established, neither the Committee, peer support volunteers, nor any health care provider selected under Rule 7-301 shall be required to provide confidential information concerning any such person to any private or government entity except by court order or as provided in Rule 7-302.

#### Rule 7-304. Immunity.

The State Bar of Georgia, its employees, and members of the Committee and its selected clinical outsource private health care professionals shall be absolutely immune from civil liability for all acts taken in the course of their official duties pursuant to these rules.



**ADVISORY COMMITTEE ON LEGISLATION**

2018-2019

MINUTES OF MEETING 2

November 27, 2018

State Bar of Georgia Headquarters  
Atlanta, GA

The second meeting of the 2018-2019 State Bar of Georgia Advisory Committee on Legislation (“ACL”) was held on Tuesday, November 27, 2018 at the State Bar of Georgia headquarters in Atlanta, Georgia.

**ATTENDANCE**

The following members and liaisons were present: Thomas Worthy (Chairman), Amy Howell (Vice Chairman), Mark Alexander, Tracee Benzo, Carol Clark, Michael Geoffroy, Patricia Gorham, Greg Hecht, Curtis Jenkins, Jen Jordan, Joyce Gist-Lewis, Edward Lindsey, Jon Pannell, Frank Strickland, Henry Walker, Nancy Whaley, Judge Paige Whitaker, Buck Rogers (Executive Committee Liaison), Bill Clark (Ex Officio), Cynthia Clanton (Liaison), Judge Stephen Kelley (Liaison), Christine Butcher Hayes (Staff Liaison), Rusty Sewell (Legislative Consultant), and Roy Robinson (Legislative Consultant).

The following members and liaisons participated via conference call: Joshua Bell, Ivy Cadle, J. Anderson Davis, Elizabeth Fite, Thomas Fleming, Lawton Heard, Javoyne Hicks, Allen Richardson, Dennis Sanders, Dan Snipes, Judge Lawton Stephens and Nancy Bills (Liaison).

Others present or participating by phone included: Bob Bray, Vanessa Carroll, Jeff Davis, Mary Donovan, Paula Frederick, Shelby Guilbert, Hannibal HERRIDIA, Ken Hodges, Eric John, Brian Kammer, Kyle King, Tyler Mashburn, Stacey Mitchner, Debra Nesbitt, Bill NeSmith, Rusi Patel, Willie Phalen, Darrell Sutton, Shannon Weathers, Marcia Widder, and Emily Youngo.

**CALL TO ORDER**

ACL Chair Thomas Worthy called the meeting to order at 10:05 AM. Roll call was taken. Persons attending the meeting, including those participating by phone, introduced themselves.

**HEADQUARTERS**

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## APPROVAL OF MINUTES

The minutes of the September 25, 2018 meeting were unanimously approved.

## KELLER REVIEW

Paula Frederick, General Counsel of the State Bar of Georgia, presented a review of *Keller v. State Bar of California*, 496 U.S. 1 (1990). The *Keller* decision holds that mandatory bar dues can only be used towards legislative positions that are germane to the scope and purpose of the State Bar.

## LEGISLATIVE MATTERS

The ACL reviewed the following proposals. The proposals will be considered by the Board of Governors at its Midyear Meeting in Macon, Georgia on January 12, 2019.

- 1. Cleanup to the Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act.** Kyle King presented this proposal on behalf of the Fiduciary Section. The proposal intends to revise the 2016 Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act. The addition of Chapter 11 to Title 29 in 2016 created incongruities and inconsistencies with Chapters 4 and 5 of the same title. The proposed amendments would integrate citations to provisions in Title 29 Chapter 11 in order to provide clarity for attorneys practicing in this area and to prevent litigation based on ambiguities between these chapters. This proposal includes the same language from HB 896, which the State Bar supported during the 2018 legislative session, and adds three new provisions that address bonding, costs, and registering guardianship letters from other states.

This proposal was previously presented at the September 25<sup>th</sup> ACL meeting and the section was asked to address references to punitive damages throughout the proposal. Previous concerns with the proposal were addressed and all references to punitive damages were removed. The *Keller* vote was unanimous. The vote supporting this proposal was unanimous. The Board of Governors will consider this proposal on January 12, 2019.

- 2. Adoption of the Uniform Mediation Act in Georgia.** Shelby Guilbert, Stacy Mitchner, and Mary Donovan presented the proposal on behalf of the Dispute Resolution Section. The proposal seeks to adopt the Uniform Mediation Act in order to facilitate the resolution of disputes more effectively. The proposal provides that each mediation participant holds a privilege with respect to his or her communications and may prevent those communications from being disclosed or

used in a subsequent formal proceeding. The proposal would also require voluntary private mediators to disclose conflicts of interest.

The proposal was previously presented at the September 25<sup>th</sup> ACL meeting and the presenters were asked to return with answers to committee questions about the impact of the legislation on lawyer and non-lawyer mediators. Mr. Guilbert indicated that the proposed legislation would impact both lawyer mediators and non-lawyer mediators. Mr. Guilbert indicated that there is no law in Georgia governing voluntary mediations and the parties must agree to the terms by contract—the adoption of the Uniform Mediation Act would provide more certainty for those voluntarily mediating disputes. The proposal has been adopted in eleven states and introduced in NY, MA, CT, and MN.

The committee asked why the model bill included an exception for crime but not fraud. Mr. Guilbert said that they would be amenable to including a fraud exception in the bill.

The *Keller* vote was unanimous. The committee voted in favor of supporting the proposal. There were five votes against supporting the proposal (Alexander, Rogers, Gist-Lewis, Geoffroy, Jordan). The Board of Governors will consider this proposal on January 12, 2019.

- 3. Funding Request for Legal Representation for Victims of Domestic Violence.** Vicki Kimbrell of Georgia Legal Services presented this proposal on behalf of the Committee to Promote Inclusion in the Profession. The proposal asks for renewed funding of \$2.5 million to the Administrative Office of the Courts for grants to legal services providers for representation of victims of domestic violence. The *Keller* vote was unanimous. The vote supporting this proposal was unanimous. The Board of Governors will consider this proposal on January 12, 2019.
- 4. Funding Request for the 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 for supporting this proposal was unanimous. The Board of Governors will consider this proposal on January 12, 2019.
- 5. Counterclaims in Custody Cases.** Hannibal Herridia presented the proposal on behalf of the Family Law Section. This proposal would amend Georgia law so

that a party may bring a counterclaim for contempt or enforcement of a custody order, or for modification of legal or physical custody or parenting time in response to a complaint seeking the same. A party must currently file a separate legal action for a counterclaim in a custody case, which creates unnecessary litigation costs. These proposed changes would promote efficiency and expediency in these types of custody actions. The *Keller* vote was unanimous. The vote supporting this proposal was unanimous. The Board of Governors will consider this proposal on January 12, 2019.

- 6. Remote Online Notaries.** Willie Phalen presented on behalf of the Real Property Section. Mr. Phalen explained that a handful of states, including Texas and Virginia, have passed legislation authorizing remote online notarization through a third-party vendor. After seeing the issue pop-up in state legislatures throughout the country over the last few years, the Mortgage Bankers Association, the American Land Title Association (ALTA) and the Uniform Law Commission came together to create a framework for states to adopt an online remote notarization process.

Mr. Phalen stated that the section is open to different ways to approach this proposal, whether it be through legislation or support for a study committee. The committee discussed that a number of stakeholders and industries would need to give input and the proposal is best suited for a study committee so that everyone can be involved in the process. The *Keller* vote was unanimous. The committee unanimously voted in favor of approaching the House and Senate judiciary committees to discuss forming a study committee on remote notaries in Georgia based on the model rule. The Board of Governors will consider this proposal on January 12, 2019.

## ELECTION AND POLITICAL UPDATE

Christine Butcher Hayes updated the committee on the results of the election that took place on November 6, 2018. The state passed the constitutional amendment creating a statewide business court (Amendment 3). There was a net loss of one lawyer in each chamber, bringing the number of lawyers in the General Assembly to 21 in the House and 9 in the Senate. There was one new lawyer elected in the Senate (Zahra Karinshak) and there were five new lawyers elected in the House (Josh McLaurin, Beth Moore, Bonnie Rich, Matt Wilson, and Michael Wilensky).

Rusty Sewell discussed new leadership in the House Judiciary and Judiciary Non-Civil Committees with the retirements of Rep. Wendell Willard and Rep. Rich Golick. The state will also see new leadership under Governor-elect Brian Kemp and Lt. Governor-elect Jeff

Duncan. The recently election created a lot of turnover and the State Bar will be working with a number of new state elected officials in the upcoming year.

#### **UPDATES FROM THE JUDICIARY**

Tyler Mashburn with the Administrative Office of the Courts discussed the Judicial Council budget, including new budget requests for the Justice for Children Committee and civil legal services grants for kinship care families.

#### **ADJOURNMENT**

With no further business before the committee, Chair Thomas Worthy adjourned the meeting at 11:25 AM.



# **Proposal #1**

## **Fiduciary Law Section**

Proposed Amendments to the Uniform Adult  
Guardianship and Conservatorship Proceedings  
Jurisdiction Act

## FIDUCIARY LAW SECTION

### PROPOSAL REGARDING AMENDMENTS TO GUARDIANSHIP/CONSERVATORSHIP CODE AND RELATED PROVISIONS

1. Specific legislation has been prepared and is attached. The proposed legislation amends various provisions of Title 29 of the Official Code of Georgia regarding guardianships and conservatorships, as well as related provisions in Titles 9, 15, and 53.
2. The proposed legislation carries forward the provisions of House Bill 896, which was introduced and favorably reported out of committee in 2018, but did not make it onto a rules calendar for a vote. House Bill 896 proposed revisions to correct inconsistencies and incongruities between preexisting provisions in Chapters 4 and 5 of Title 29 and Chapter 11 of that title, which enacted the Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act (UAGCPJA) in 2016. The current proposed legislation includes additional provisions designed to facilitate the efficient and consistent application of the UAGCPJA through appropriate amendments to related portions of the Code. The proposal likewise contains amendments to accommodate last year's enactment of the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA). Finally, the proposed legislation amends the provisions of Title 29 pertaining to payment of court costs and fees for evaluators, guardians ad litem, and attorneys, in order to provide specific guidelines and clarify the effect of the comprehensive 2005 Title 29 revision on the continuing vitality of the Court of Appeals' decisions in *In re Olliff*, 184 Ga. App. 846 (1987), and *In re Connell*, 217 Ga. App. 523 (1995).
3. There are no known opponents of the proposed legislation. During the drafting process, updates have been provided to, and input has been solicited from, the appropriate officers of the Council of Probate Court Judges of Georgia and Professor Mary F. Radford, the reporter and principal drafter of the comprehensive Guardianship/Conservatorship Code revision in 2005.
4. No other section is believed to have an interest in this proposed legislation.
5. The Fiduciary Law Section recommends that this proposal be adopted by the State Bar of Georgia.

A BILL TO BE ENTITLED  
AN ACT

To amend Title 29 of the Official Code of Georgia Annotated, relating to guardians and conservators of minors and incapacitated adult wards, so as to change provisions relating to guardians and conservators of minors and adults; to recognize certain provisions of the “Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act” in connection with the appointment of a guardian or conservator of an adult, the jurisdiction for such petitions, and the enforcement of orders issued in other states; to change provisions relating to the authority of a conservator to access the digital assets of a minor or ward; to change provisions relating to the duration and termination of an emergency guardianship; to provide for the payment of costs, compensation, fees, and expenses, including fees for attorneys, guardians ad litem, and evaluators, in all guardianship and conservatorship proceedings; to provide for related matters; to make corrections to the Code; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 9 of the Official Code of Georgia Annotated, relating to civil practice, is amended by adding a new subsection to Code Section 9-12-133, relating to filing of foreign judgment, as follows:

“(d) The provisions of subsections (a) and (b) of this Code section shall not apply to the registration of a guardianship order or conservatorship order from another state under Article 4 of Chapter 11 of Title 29.”

**SECTION 2.**

Said title is further amended by adding a new subsection to Code Section 9-12-134, relating to appeal or stay of foreign judgment, as follows:

“(c) With respect to a guardianship order or conservatorship order from another state registered and recorded under Article 4 of Chapter 11 of Title 29, nothing in subsection (a) or (b) of this Code section shall prevent an appropriate court from taking any action permitted by subsection (d) of Code Section 29-4-70, subsection (d) of Code Section 29-5-110, or Articles 1 and 2 of Chapter 11 of Title 29.”

**SECTION 3.**

Said title is further amended by revising Code Section 9-12-135, relating to clerk’s fees for filing foreign judgments, as follows:

“(a) A person filing a foreign judgment shall pay to the clerk of court the same sums as in civil cases in superior court as provided in Code Section 15-6-77; provided, however, that a person registering a guardianship order from another state or a conservatorship order from another state under Article 4 of Chapter 11

of Title 29 shall pay to the probate court in which such order is registered the same sums as in adult guardianship matters in probate court as provided in paragraph (1) of subsection (g) of Code Section 15-9-60.

(b) Fees for other enforcement proceedings shall be as otherwise provided by law."

#### **SECTION 4.**

Chapter 9 of Title 15 of the Official Code of Georgia Annotated, relating to the probate courts, is amended by revising subsection (a) of Code Section 15-9-34, relating to contempt powers, as follows:

"(a) The judge of the probate court shall have power to enforce obedience to all lawful orders of his or her court, including a guardianship order or conservatorship order from another state that has been registered with and recorded by the probate court under Article 4 of Chapter 11 of Title 29, by attachment for contempt under the same rules as are provided for other courts."

#### **SECTION 5.**

Said chapter is further amended by adding a new subsection to Code Section 15-9-35, relating to the power to cite absconding fiduciaries, as follows:

"(c) With respect to a guardianship order or conservatorship order from another state that has been registered with and recorded by the probate court under Article 4 of Chapter 11 of Title 29, in addition to any action such court may take under subsection (a) of this Code section and under subsection (b) of Code Section 29-11-32, the judge of the probate court may communicate with the appointing court in such other state under subsection (a) of Code Section 29-11-4 to inform such appointing court of the citation to appear issued by the judge of the probate court under subsection (a) of this Code section, and the reasons for the issuance of such citation to appear."

#### **SECTION 6.**

Said chapter is further amended by revising subparagraphs (B) and (C) of paragraph (8) of subsection (a) of Code Section 15-9-37, relating to duties of clerks or probate judges acting as clerks, as follows:

"(B) Record of all letters of administration, letters of conservatorship, letters of ~~and~~ guardianship, letters testamentary, and other letters of office of fiduciaries issued by or registered with the court;

(C) Record of all bonds given by administrators, conservators, executors, ~~and~~ guardians, and other fiduciaries appointed by the court or for whom a guardianship order or conservatorship order has been registered with and recorded by the court under Article 4 of Chapter 11 of Title 29;"

#### **SECTION 7.**

Title 29 of the Official Code of Georgia Annotated, relating to guardian and ward, is amended by revising subsection (c) of Code Section 29-2-25, relating to bond requirements of guardian of minor, as follows:

“(c) If a guardian is required to give bond and has given as security one or more licensed commercial sureties authorized to transact business in this state, the bond premium ~~may~~ shall, upon the request of the guardian, be paid ~~as part of the cost of administration~~ from the estate of the minor.”

#### **SECTION 8.**

Said title is further amended by adding a new paragraph to, and by revising paragraphs (9) and (10) of, subsection (c) of Code Section 29-3-22, relating to powers of conservators of minors, as follows:

“(9) To access the digital assets of the minor, pursuant to Code Section 53-13-20;  
(10) To engage in estate planning for the minor pursuant to the provisions of Code Section 29-3-36; and  
~~(10)~~(11) To perform such other acts as may be in the best interest of the minor.”

#### **SECTION 9.**

Said title is further amended by revising subsection (b) of Code Section 29-3-44, relating to payment of bond premium of guardians of minors, as follows:

“(b) When the guardian is required to give bond pursuant to Code Section 29-2-25, the conservator shall, upon the request of the guardian, pay any bond premium from the estate.”

#### **SECTION 10.**

Said title is further amended by revising subsection (b) and paragraph (1) of subsection (e) of Code Section 29-4-1, relating to prerequisite findings prior to appointment of guardian for adult and the extent of guardianship, as follows:

“(b) No guardian, other than a guardian ad litem or a guardian appointed in an emergency under paragraph (1) of subsection (a) of Code Section 29-11-13, shall be appointed for an adult except pursuant to the procedures of this chapter.”

“(e)(1) No adult shall be presumed to be in need of a guardian unless:

(A) He or she has been adjudicated to be in need of a guardian pursuant to this chapter; or

(B) A court has recognized another state’s determination of incapacity and the appointment of a guardian as provided in subsection (g) of Code Section 29-11-21.”

#### **SECTION 11.**

Said title is further amended by revising subsection (a) of Code Section 29-4-10, relating to a petition for appointment of guardian and the requirements of such petition, as follows:

“(a) Any interested person ~~or persons~~, including the proposed ward, may file a petition for the appointment of a guardian. ~~The~~ Such petition shall be filed in the court of the county in which ~~the~~;

(1) The proposed ward is domiciled ~~or is found~~;

(2) The proposed ward is found; provided, however, that if the court of the county where the proposed ward is found ~~shall not have jurisdiction to hear any guardianship petition if it appears~~ determines that the proposed ward was removed to ~~that~~ such county solely for the purposes of filing a petition for the appointment of a guardian and that such court acquired jurisdiction to appoint a guardian because of unjustifiable conduct, such court may take any action authorized by Code Section 29-11-16; or

(3) Jurisdiction is otherwise proper under Code Section 29-11-12.”

### **SECTION 12.**

Said title is further amended by revising subsection (a) of Code Section 29-4-14, relating to petition for appointment of emergency guardian and the requirements for such petition, as follows:

“(a) Any interested person, including the proposed ward, may file a petition for the appointment of an emergency guardian. ~~The~~ Such petition shall be filed in the court of the county in which ~~the~~;

(1) The proposed ward is domiciled ~~or~~;

(2) The proposed ward is found; or

(3) Jurisdiction is otherwise proper under Code Section 29-11-12.”

### **SECTION 13.**

Said title is further amended by revising paragraph (3) of subsection (b) of Code Section 29-4-16, relating to conducting an emergency guardianship hearing and limitations on emergency guardianship, as follows:

“(3) The emergency guardianship shall terminate on the earliest of:

(A) The court’s removal of the emergency guardian, with or without cause;

(B) The effective date of the appointment of a guardian;

(C) Unless otherwise specified in the order of dismissal, the dismissal of a petition for appointment of a guardian;

(D) The date specified for the termination in the order appointing the emergency guardian; ~~or~~

(E) Sixty days from the date of appointment of the emergency guardian, provided that the court had jurisdiction to issue such order under paragraph (1) of Code Section 29-11-12; or

(F) Ninety days from the date of appointment of the emergency guardian, provided that the court had jurisdiction to issue such order under paragraph (2) or (3) of Code Section 29-11-12.”

### **SECTION 14.**

Said title is further amended by repealing Code Section 29-4-17, relating to responsibility for paying expenses in guardianship proceeding, and designating it as reserved.

#### **SECTION 15.**

Said title is further amended by revising subsections (a) and (c) of Code Section 29-4-30, relating to bond requirements of guardian of adult, as follows:

“(a)(1) A guardian, including a guardian appointed in a final order accepting the transfer of a guardianship proceeding from another state issued under subsection (e) of Code Section 29-11-21, may be required to give bond with good and sufficient security in such amount as the court may determine from time to time.

“(2) With respect to a guardianship order from another state that has been registered with and recorded by the court under Code Section 29-11-30, in addition to any action the court may take under paragraph (1) of this subsection and under subsection (b) of Code Section 29-11-32, such court of this state may communicate with the appointing court in such other state under subsection (a) of Code Section 29-11-4 to inform such appointing court of any action relating to a bond of such guardian, and the reasons for such action.”

“(c) If a guardian is required to give bond and has given as security one or more licensed commercial sureties authorized to transact business in this state, the bond premium may shall, upon the request of the guardian, be paid as part of the cost of administration from the estate of the ward.”

#### **SECTION 16.**

Said title is further amended by revising Code Section 29-4-98, relating to submission to jurisdiction by foreign guardian, as follows:

“(a) A foreign guardian submits personally to the jurisdiction of the courts of this state in any proceeding relating to the guardianship by:

(1) Receiving payment of money or taking delivery of personal property in this state belonging to the ward; ~~or~~

(2) Doing any act as a guardian in this state that would have given this state jurisdiction over the actor as an individual; or

(3) Registering the guardianship order in this state pursuant to Code Section 29-11-30.

(b) With respect to a guardianship order from another state that has been registered with and recorded by a court of this state under Code Section 29-11-30, in addition to any action such court of this state may take under this part and under subsection (b) of Code Section 29-11-32, such court of this state may communicate with the appointing court in such other state under subsection (a) of Code Section 29-11-4 to inform such appointing court of any proceeding relating to the guardianship initiated in this state under subsection (a) of this Code section, and the reasons such proceeding was initiated.”

#### **SECTION 17.**

Said title is further amended by revising subsection (b) and paragraph (1) of subsection (e) of Code Section 29-5-1, relating to conservator for adults, the best interest of the adult, no presumption of need for conservator, and the objective of conservatorship, as follows:

“(b) No conservator, except a conservator appointed under paragraph (2) of subsection (a) of Code Section 29-11-13 or a conservator for the estate of an individual who is missing or who is believed to be dead, shall be appointed for any adult except pursuant to the procedures of this chapter.”

“(e)(1) No adult shall be presumed to be in need of a conservator unless:

(A) He or she has been adjudicated to be in need of a conservator pursuant to this chapter; or

(B) A court has recognized another state’s determination of a protected person’s incapacity and the appointment of a conservator as provided in subsection (g) of Code Section 29-11-21.”

#### **SECTION 18.**

Said title is further amended by revising subsection (a) of Code Section 29-5-10, relating to a petition for appointment of conservator and the requirements of such petition, as follows:

“(a) Any interested person ~~or persons~~, including the proposed ward, may file a petition for the appointment of a conservator. ~~The~~ Such petition shall be filed in the court of the county in which ~~the~~:

(1) The proposed ward is domiciled or is found;

(2) The proposed ward is found; provided, however, that if the court of the county where the proposed ward is found shall not have jurisdiction to hear any conservatorship petition if it appears ~~determines~~ that the proposed ward was removed to ~~that~~ such county solely for the purposes of filing a petition for the appointment of a conservator and that such court acquired jurisdiction to appoint a conservator because of unjustifiable conduct, such court may take any action authorized by Code Section 29-11-16; or

(3) Jurisdiction is otherwise proper under Code Section 29-11-12.”

#### **SECTION 19.**

Said title is further amended by revising subsection (a) of Code Section 29-5-14, relating to appointment of emergency conservator and requirements of the petition, as follows:

“(a) Any interested person, including the proposed ward, may file a petition for the appointment of an emergency conservator. ~~The~~ Such petition shall be filed in the court of the county in which ~~the~~:

(1) The proposed ward is domiciled or;

(2) The proposed ward is found; or

(3) Jurisdiction is otherwise proper under Code Section 29-11-12.”

#### **SECTION 20.**



Said title is further amended by repealing Code Section 29-5-17, relating to responsibility for paying expenses in conservatorship proceeding, and designating it as reserved.

#### **SECTION 21.**

Said title is further amended by adding a new paragraph to, and by revising paragraphs (10) and (11) of, subsection (c) of Code Section 29-5-23, relating to powers of conservators of adults, as follows:

“(10) To access the digital assets of the ward, pursuant to Code Section 53-13-20;  
(11) To engage in estate planning for the ward pursuant to the provisions of Code Section 29-5-36; and  
~~(11)~~(12) To perform such other acts as may be in the best interest of the ward.”

#### **SECTION 22.**

Said title is further amended by revising subsection (a) of Code Section 29-5-40, relating to bond requirement of conservator of adult, as follows:

“(a) A conservator appointed by the court, including a conservator appointed in a final order accepting the transfer of a conservatorship proceeding from another state issued under subsection (e) of Code Section 29-11-21, shall give bond with good and sufficient security.”

#### **SECTION 23.**

Said title is further amended by adding a new subsection to, and by revising subsection (b) of, Code Section 29-5-43, relating to requirement of additional bond or security from conservator, as follows:

“(b) When it comes to the knowledge of the court that the surety on the conservator’s bond has died, become insolvent, or removed from this state or if from other cause the security becomes insufficient, the court may give notice to the conservator to appear and give other and sufficient security. Notice shall be mailed by first-class mail to the conservator and to the surety on the conservator’s bond. If the conservator fails to comply with the notice, the court may revoke the letters of conservatorship in accordance with Code Section ~~29-5-102~~ 29-5-92.

(c) With respect to any bond filed with a conservatorship order from another state that has been registered with and recorded by the court under Code Section 29-11-31, in addition to any action the court may take under this article and under subsection (b) of Code Section 29-11-32, such court of this state may communicate with the appointing court in such other state under subsection (a) of Code Section 29-11-4 to inform such appointing court of the insufficiency of such bond under subsection (a) or (b) of this Code section, and the reasons for such insufficiency.”

#### **SECTION 24.**

Said title is further amended by revising subsection (b) of Code Section 29-5-44, relating to payment of bond premium of guardians of adults, as follows:  
“(b) When the guardian is required to give bond pursuant to Code Section 29-4-30, the conservator shall, upon the request of the guardian, pay any bond premium from the estate.”

#### **SECTION 25.**

Said title is further amended by adding to Article 5 of Chapter 5 a new Code section to read as follows:

“29-5-49.1.

With respect to a conservatorship order from another state that has been registered with and recorded by a court of this state under Code Section 29-11-31, in addition to any action such court of this state may take under this article and under subsection (b) of Code Section 29-11-32, such court of this state may communicate with the appointing court in such other state under subsection (a) of Code Section 29-11-4 to inform such appointing court of any proceeding relating to the conservatorship initiated in this state under this article, and the reasons such proceeding was initiated.”

#### **SECTION 26.**

Said title is further amended by revising Code Section 29-5-138, relating to submission to jurisdiction personally of foreign conservator, as follows:

“(a) A foreign conservator submits personally to the jurisdiction of the courts of this state in any proceeding relating to the conservatorship by:

(1) Receiving payment of money or taking delivery of personal property in this state belonging to the ward; ~~or~~

(2) Doing any act as a conservator in this state that would have given this state jurisdiction over the actor as an individual; or

(3) Registering the conservatorship order in this state pursuant to Code Section 29-11-31.

(b) With respect to a conservatorship order from another state that has been registered with and recorded by a court of this state under Code Section 29-11-31, in addition to any action such court of this state may take under this part and under subsection (b) of Code Section 29-11-32, such court of this state may communicate with the appointing court in such other state under subsection (a) of Code Section 29-11-4 to inform such appointing court of any proceeding relating to the conservatorship initiated in this state under subsection (a) of this Code section, and the reasons such proceeding was initiated.”

#### **SECTION 27.**

Said title is further amended by revising Code Section 29-5-139, relating to interested parties' right to compel foreign conservator to act with equity and good conscience, as follows:

“(a) Any resident of this state who is interested as a creditor, heir, putative heir, or will beneficiary of a ward for whom a foreign conservator represents has been appointed may apply to the proper court to compel the foreign conservator to protect that interest according to equity and good conscience before selling the ward’s assets or removing the ward’s assets beyond the limits of this state.

“(b) With respect to a conservatorship order from another state that has been registered with and recorded by a court of this state under Code Section 29-11-31, in addition to any action such court of this state may take under this part and under subsection (b) of Code Section 29-11-32, such court of this state may communicate with the appointing court in such other state under subsection (a) of Code Section 29-11-4 to inform such appointing court of the application to compel such foreign conservator to protect an interest under subsection (a) of this Code section, and the reasons for such application.”

#### **SECTION 28.**

Said title is further amended by revising Code Section 29-9-1, relating to the application of Chapter 9 of Title 29, as follows:

“Except as otherwise specifically provided by law, the provisions of this chapter shall apply to any proceeding in the court that arises under this title. Compliance with the provisions of this chapter shall be deemed to be sufficient for proceedings in the court arising under this title, except as otherwise provided in Chapter 11 of Title 9, ~~and Chapter 9 of Title 15, and Chapter 11 of this title.~~”

#### **SECTION 29.**

Said title is further amended by revising Code Section 29-9-2, relating to appointment of a guardian ad litem in court proceedings under Title 29, as follows:

“(a)(1) The court, in its discretion, may at any time appoint a guardian ad litem to represent the interests of a minor, a proposed ward, or a ward in proceedings relating to the guardianship or conservatorship of that individual. However, the appointment of a guardian ad litem does not supersede any specific requirement for that individual to be served either by personal service or in the manner provided by subsection (a) of Code Section 15-9-17, and the guardian ad litem may not waive personal service for that individual.

~~“(b)(2) Except as provided in subsection (a) paragraph (1) of this Code subsection,~~ when a person who is entitled to notice under any provision of this title is not sui juris, the interests of that person shall be represented in the proceeding by a guardian ad litem; provided, however, that the court may determine for the purpose of the particular proceeding that the natural guardian, if any, or the testamentary guardian, if any, or the duly constituted conservator, if any, or the duly constituted guardian, if any, has no conflict of interest and thus may represent for the purpose of the proceeding a person who is not sui juris. Service upon or notice to a guardian ad litem shall constitute service upon or notice to that person who is not sui juris, and, except as provided in subsection (a) of Code Section 15-9-17, no additional service upon or notice to that person shall be required. Waivers, acknowledgments, consents, answers, objections, or other documents executed by

a guardian ad litem shall, except as otherwise provided in Code Section 15-9-17, be binding upon the person represented. The guardian ad litem may represent a single person or more than one person or a class of persons with common or nonadverse interests.

~~(e)~~(3) Whenever a guardian ad litem is appointed, the court may limit the appointment, may remove the guardian ad litem, or may at any time for cause appoint a successor guardian ad litem.

~~(4)~~(4)(A) In every petition filed in the court, the petitioner shall identify each person who requires a guardian ad litem and the name and address of any person who is acting as conservator or guardian of the party. A copy of the letters appointing the conservator or guardian shall be attached to the petition or the petition shall allege such facts as shall show the authority of such conservator or guardian to act; ~~provided, however, that,~~

(B) The authority of a conservator or guardian to act may be established under subparagraph (A) of this paragraph by showing compliance by a foreign guardian of a minor with the filing requirements of subsection (b) of Code Section 29-2-74 or of Code Section 29-2-76, compliance by a foreign conservator of a minor with the filing requirements of subsection (b) of Code Section 29-3-115 or of Code Section 29-3-117, compliance by a foreign guardian of an adult with the filing requirements of subsection (b) of Code Section 29-4-95 or of Code Section 29-4-97, compliance by a foreign conservator of an adult with the filing requirements of subsection (b) of Code Section 29-5-135 or of Code Section 29-5-137, or the registration and recording of a guardianship order or conservatorship order from another state under Article 4 of Chapter 11 of this title.

(C) Notwithstanding the provisions of subparagraphs (A) and (B) of this paragraph, the court may take judicial notice of the issuance of the letters appointing the conservator or guardian, ~~or~~ and of the authority of such conservator or guardian to act, in the manner provided by Chapter 2 of Title 24.

(b) A person who is appointed as counsel for a ward, proposed ward, or alleged incapacitated person is not eligible to be appointed as guardian ad litem for the same individual, and a person who is appointed as guardian ad litem for a ward, proposed ward, or alleged incapacitated person is not eligible to be appointed as counsel for the same individual."

### **SECTION 30.**

Said title is further amended by revising Code Section 29-9-3, relating to persons serving as counsel or as guardian ad litem in court proceedings under Title 29, as follows:

"A person who is appointed as counsel for a ward, proposed ward, or alleged incapacitated person is not eligible to be appointed as guardian ad litem for the same individual, and a person who is appointed as guardian ad litem for a ward, proposed ward, or alleged incapacitated person is not eligible to be appointed as counsel for the same individual.

(a) Except as otherwise ordered by the court under paragraph (2) of subsection (a) of Code Section 29-4-10, under paragraph (2) of subsection (a) of Code Section 29-5-10, or under subsection (b) of Code Section 29-11-16, and except as otherwise

provided in subsection (a) of Code Section 9-12-135, all costs of court under Code Sections 15-9-60 and 15-9-126 or other applicable law, and all compensation, fees, and expenses awarded by the court under subsections (a) and (b) of Code Section 29-9-15, under subsections (a) and (b) of Code Section 29-9-16, or under subsection (b) of Code Section 29-9-18, shall be paid and may be assessed as provided in subsections (b) and (c) of this Code section.

(b) In any proceeding for the appointment of a guardian or conservator pursuant to the provisions of Chapter 2, 3, 4, 5, 7, or 11 of this title, those costs, compensation, fees, and expenses provided for by subsection (a) of this Code section shall be paid as follows:

(1) From the estate of the minor or ward for whom a guardian or conservator is appointed in such proceeding;

(2) By the petitioner(s) in any such proceeding in which no guardianship order or conservatorship order is entered by the court;

(3) By the county of the court exercising jurisdiction over such proceeding, provided that the person who actually presided over the hearing includes a finding in the order that the party against whom such costs, compensation, fees, and expenses are cast pursuant to paragraph (1) or (2) of this subsection appears to lack sufficient assets to defray such costs, compensation, fees, and expenses;

(4) By any party or other person subject to the jurisdiction of the court who has been the perpetrator of abuse, neglect, or exploitation against the person or property of the minor, proposed ward, or ward, provided that the person who actually presided over the hearing includes a finding in the order determining that such abuse, neglect, or exploitation against the person or property of the minor, proposed ward, or ward has occurred and identifying the perpetrator thereof; or

(5) From any property, fund, or proceeds recovered on behalf of or in favor of a minor or ward in accordance with an order of the court assessing such costs, compensation, fees, and expenses against such property, fund, or proceeds.

(c) In all proceedings pursuant to the provisions of Chapter 2, 3, 4, 5, 7, or 11 of this title other than for the appointment of a guardian or conservator, those costs, compensation, fees, and expenses provided for by subsection (a) of this Code section shall be paid and may be assessed, in whole or in part, as determined and apportioned by the court in the exercise of its sound discretion, as follows:

(1) From the estate of a minor or ward for whom a guardian or conservator has been appointed in any such proceeding, if the court finds that the proceeding was brought in the best interest of the minor or ward;

(2) By the petitioner(s) or movant(s) in any such proceeding;

(3) From a guardian or conservator, or from the surety on such guardian's or conservator's bond, in any such proceeding, if:

(A) Such guardian or conservator admits to a violation of any obligation of such guardian or conservator in such guardian's or conservator's representative capacity under this title or other applicable law;

(B) The court finds that such guardian or conservator has committed a breach of fiduciary duty or has threatened to commit a breach of fiduciary duty;

(C) The court revokes or suspends such guardian's letters of guardianship or such conservator's letters of conservatorship, or imposes sanctions upon such guardian or conservator, in such proceeding; or

(D) The court otherwise finds that such guardian or conservator has committed misconduct or has acted contrary to the best interest of the minor or ward,

subject to other applicable law governing the liability of sureties on bonds of guardians and conservators;

(4) By any party or other person subject to the jurisdiction of the court who has been the perpetrator of abuse, neglect, or exploitation against the person or property of the minor, proposed ward, or ward, provided that the person who actually presided over the hearing includes a finding in the order determining that such abuse, neglect, or exploitation against the person or property of the minor, proposed ward, or ward has occurred and identifying the perpetrator thereof;

(5) From any property, fund, or proceeds recovered on behalf of or in favor of a minor or ward in accordance with an order of the court assessing such costs, compensation, fees, and expenses against such property, fund, or proceeds; or

(6) By the county of the court exercising jurisdiction over any such proceeding, provided that the person who actually presided over the hearing includes a finding in the order that the party against whom such costs, compensation, fees, and expenses are cast pursuant to paragraph (1), (2), (3), or (4) of this subsection appears to lack sufficient assets to defray such costs, compensation, fees, and expenses.

(d) An award of costs, compensation, fees, and expenses under this Code section may be enforced by a judgment, writ of fieri facias, execution, or attachment for contempt.”

### **SECTION 31.**

Said title is further amended by revising subsection (c) of, and adding a new subsection to, Code Section 29-9-11, relating to transfer of guardianship or conservatorship proceeding, as follows:

“(c) If the petition for the appointment of a guardian or a conservator of a minor ~~or a proposed ward~~ is originally filed in the court of the county in which the minor ~~or proposed ward~~ is found, on motion of either party, if found by such court to be appropriate, the case may be transferred to the court of the county of the minor’s ~~or proposed ward’s~~ domicile.

(d) If the petition for the appointment of a guardian or a conservator of a proposed ward is originally filed in the court of the county in which the proposed ward is found or in which jurisdiction is otherwise proper under Code Section 29-11-12, on motion of either party, if found by such court to be appropriate and unless otherwise provided by Chapter 11 of this title, the case may be transferred to the court of the county of the proposed ward’s domicile.”

### **SECTION 32.**

Said title is further amended by revising Code Section 29-9-13.1, relating to authentication of documents, as follows:

“Whenever it is required that a document ~~which that~~ is to be filed in the court be authenticated or exemplified, such requirement shall be met by complying with the

provisions of Code Section 24-9-922 and paragraphs (1) through (4) of Code Section 24-9-902, and such full faith and credit shall be given to the document as is provided in such Code sections.”

### SECTION 33.

Said title is further amended by revising Code Section 29-9-15, relating to compensation for legal counsel or guardian ad litem, as follows:

~~“Any legal counsel or guardian ad litem who is appointed by the court in a guardianship or conservatorship proceeding shall be awarded reasonable fees commensurate with the tasks performed and time devoted to the proceeding, including any appeals.~~

(a) In connection with any proceeding brought pursuant to the provisions of Chapter 2, 3, 4, 5, 7, or 11 of this title, unless voluntarily waived, the court shall award reasonable fees and expenses, commensurate with the tasks performed and time devoted to the proceeding, including any appeals, to any legal counsel or guardian ad litem who is appointed by the court pursuant to the provisions of said chapters or Code Section 29-9-2.

(b) In connection with any proceeding brought pursuant to the provisions of Chapter 2, 3, 4, 5, 7, or 11 of this title, unless voluntarily waived, the court may award reasonable fees and expenses, commensurate with the tasks performed and time devoted to the proceeding, including any appeals, to any legal counsel who is retained by or on behalf of a minor, a proposed ward, a ward, the petitioner(s), or any other party to any proceeding brought pursuant to the provisions of said chapters. Such awards may be made by the court in the exercise of its sound discretion and as the court may deem to be in the best interest of the minor, proposed ward, or ward who is the subject of the particular proceeding.

(c) All fees and expenses awarded under subsection (a) or (b) of this Code section shall be assessed in accordance with the provisions of Code Section 29-9-3.”

### SECTION 34.

Said title is further amended by revising Code Section 29-9-16, relating to compensation to evaluator, as follows:

~~“(a) For the evaluation or examination required by subsection (d) of Code Section 29-4-11, subsection (c) of Code Section 29-4-15, subsection (b) of Code Section 29-4-42, or subsection (d) of Code Section 29-5-11, subsection (c) of Code Section 29-5-15, or subsection (b) of Code Section 29-5-71, the evaluating physician, psychologist, or licensed clinical social worker shall receive a reasonable fee commensurate with the task performed, plus actual expenses.~~

(b) In the event the attendance of the evaluating physician, psychologist, or licensed clinical social worker shall be required by the court for a hearing under subsection (d) of Code Section 29-4-12, subsection (a) of Code Section 29-4-16, subsection (b) of Code Section 29-4-42, or subsection (d) of Code Section 29-5-12, subsection (a) of Code Section 29-5-16, or subsection (b) of Code Section 29-5-71 other than pursuant to a subpoena requested by a party to the proceeding, the evaluating physician, psychologist, or licensed clinical social worker shall receive

~~an amount not to exceed \$75.00 a reasonable fee commensurate with the task performed,~~ plus actual expenses.

(c) All fees and expenses payable under subsection (a) or (b) of this Code section shall be assessed by the court in accordance with the provisions of Code Section 29-9-3.”

### SECTION 35.

Said title is further amended by revising Code Section 29-9-18, relating to sealing of records on conservatorship or guardianship, as follows:

“(a) All of the records relating to any minor or adult guardianship or conservatorship that is granted under this title, and all of the records relating to any adult guardianship or conservatorship that is transferred or accepted under Article 3 of Chapter 11 of this title, shall be kept sealed, except for a record of the names and addresses of the minor, ward, and guardian or conservator and their legal counsel of record and the dates of filing, granting, ~~and~~ terminating, transferring, and accepting the guardianship or conservatorship. The sealed records may be examined by the ward and the ward’s legal counsel; the minor, the minor’s parents, and the minor’s legal counsel; the guardian or conservator and the guardian or conservator’s legal counsel; and any surety for the guardian or conservator and legal counsel for the surety at any time.

(b) Except as otherwise provided by subsection (b) of Code Section 29-11-5 and by subsection (c) of this Code section, a request by other interested parties to examine the sealed records shall be by petition to the court, and the ward and guardian or conservator shall have at least 30 days’ prior written notice of a hearing on the petition; provided, however, that for good cause shown to the court, the court may shorten such notice period or grant the petition without notice. The matter shall come before the court in chambers. The order allowing access shall be granted upon a finding that the public interest in granting access to the sealed records clearly outweighs the harm otherwise resulting to the privacy of the person in interest, and the court shall limit the portion of the file to which access is granted to that which is required to meet the legitimate needs of the petitioner. The court, in its discretion, may assess and award costs, compensation, fees, and expenses for a proceeding under this subsection in accordance with the provisions of Code Section 29-9-3.

(c) To the extent reasonably required to facilitate any communication or fulfill any request to take any action pursuant to Chapter 11 of this title, a court of this state may disclose the records referred to in subsection (a) of this Code section to a court of another state.”

### SECTION 36.

Said title is further amended by revising Code Section 29-11-30, relating to registration of guardianship order from another state, as follows:

“(a) If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this state, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register,



may register the guardianship order in this state by filing as a foreign judgment in a court, in any appropriate county of this state, certified copies of the order and letters of office.

(b) Upon registration of a guardianship order from another state in the manner provided in subsection (a) of this Code section, the probate court of this state in which such guardianship order is registered shall:

(1) Record the certified copies of the order and letters of office in the book required to be kept by subparagraph (B) of paragraph (8) of subsection (a) of Code Section 15-9-37; and

(2) Treat the registered and recorded order as a filed foreign judgment, as provided in Code Section 9-12-132.

(c)(1) The provisions of this Code section shall apply only if the other state has adopted the 'Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act' in substantially the same form as this chapter.

(2) The provisions of paragraph (2) of subsection (b) of this Code section shall apply only if the other state has adopted the 'Uniform Enforcement of Foreign Judgments Act' in substantially the same form as Article 6 of Chapter 12 of Title 9."

### **SECTION 37.**

Said title is further amended by revising Code Section 29-11-31, relating to registration of conservatorship order from another state, as follows:

"(a) If a conservator has been appointed in another state and a petition for a conservatorship order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the conservatorship order in this state by filing as a foreign judgment in a court of this state, in any county in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond.

(b) Upon registration of a conservatorship order from another state in the manner provided in subsection (a) of this Code section, the probate court of this state in which such conservatorship order is registered shall:

(1) Record the certified copies of the order and letters of office in the book required to be kept by subparagraph (B) of paragraph (8) of subsection (a) of Code Section 15-9-37;

(2) Record the certified copy of any bond in the books required to be kept by subparagraph (C) of paragraph (8) of subsection (a) of Code Section 15-9-37 and by subsection (c) of Code Section 29-5-40; and

(3) Treat the registered and recorded order as a filed foreign judgment, as provided in Code Section 9-12-132.

(c)(1) The provisions of this Code section shall apply only if the other state has adopted the 'Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act' in substantially the same form as this chapter.

(2) The provisions of paragraph (3) of subsection (b) of this Code section shall apply only if the other state has adopted the 'Uniform Enforcement of Foreign Judgments Act' in substantially the same form as Article 6 of Chapter 12 of Title 9."

### SECTION 38.

Said title is further amended by revising Code Section 29-11-32, relating to registration of guardianship order or conservatorship order from another state, as follows:

“(a) Upon registration and recording of a guardianship order or conservatorship order from another state, the guardian or conservator may exercise in this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the guardian or conservator is not a resident of this state, subject to any conditions imposed upon nonresident parties.

(b) A court of this state may grant any relief available under this chapter, Article 4 of Chapter 4 of this title, Part 4 of Article 9 of Chapter 4 of this title, Article 5 of Chapter 5 of this title, Part 4 of Article 13 of Chapter 5 of this title, and other law of this state to enforce a registered and recorded order.

(c)(1) The provisions of subsections (a) and (b) of Code Section 9-12-133 shall not apply to this article.

(2) Unless otherwise required by this chapter, service of notice shall not be required under this article as a condition precedent to the registration and recording of a guardianship order from another state under Code Section 29-11-30 or of a conservatorship order from another state under Code Section 29-11-31; provided, however, that the judge of a court of this state nevertheless may direct such service or notice of such registration and recording as the judge may determine to be proper.”

### SECTION 39.

Title 53 of the Official Code of Georgia Annotated, relating to wills, trusts, and administration of estates, is amended by revising subsections (a), (b), and (d) of Code Section 53-11-2, relating to guardians appointed in probate proceedings, as follows:

“(a) As used in this Code section, the term ‘guardian’ means the guardian ad litem appointed by the probate court who may represent a single party or more than one party or a class of parties with common or nonadverse interests; provided, however, that the court may determine for the purpose of the particular proceeding that the natural guardian, if any, or the testamentary guardian, if any, or the duly constituted ~~guardian~~ conservator of the property, if any, or the duly constituted guardian of the person, if any, has no conflict of interest and thus may represent for the purpose of the proceeding a party who is not sui juris, who is unborn, or who is unknown.

(b) When a party to a proceeding in the probate court is not sui juris, is unborn, or is unknown, that party shall be represented in the proceeding by a guardian. Service upon or notice to a guardian shall constitute service upon or notice to the party represented, and, except as provided in subsection (a) of Code Section 15-9-17, no additional service upon or notice to such party shall be required. Waivers, acknowledgments, consents, answers, objections, or other documents executed

by the guardian shall, except as otherwise provided in Code Section 15-9-17, be binding upon the party represented.”

“(d)(1) In every petition filed in the probate court, the petitioner shall specify the name of each party who requires a guardian and the name and address of any person who is acting as guardian of the party. A copy of the letters appointing the guardian shall be attached to the petition or the petition shall allege such facts as shall show the authority of such guardian to act; ~~provided, however, that~~

(2) The authority of a guardian to act may be established under paragraph (1) of this subsection by showing compliance by a foreign guardian of the person of a minor with the filing requirements of subsection (b) of Code Section 29-2-74 or of Code Section 29-2-76, compliance by a foreign conservator of the property of a minor with the filing requirements of subsection (b) of Code Section 29-3-115 or of Code Section 29-3-117, compliance by a foreign guardian of the person of an adult with the filing requirements of subsection (b) of Code Section 29-4-95 or of Code Section 29-4-97, compliance by a foreign conservator of the property of an adult with the filing requirements of subsection (b) of Code Section 29-5-135 or of Code Section 29-5-137, or the registration and recording of a guardianship order or conservatorship order from another state under Article 4 of Chapter 11 of Title 29.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection, the probate court may take judicial notice of the issuance of ~~such the~~ letters appointing such conservator of the property or guardian of the person, ~~or~~ and of ~~such the~~ authority of such conservator of the property or guardian of the person to act, in the manner provided by Chapter 2 of Title 24.”

#### **SECTION 40.**

Said title is further amended by revising subsection (a) of Code Section 53-13-20, relating to access to digital assets by conservator, as follows:

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

#### **SECTION 41.**

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

# **Proposal #2**

## **Dispute Resolution Section**

Proposal to Adopt the Uniform Mediation Act

## PROPOSAL TO ADOPT THE UNIFORM MEDIATION ACT IN GEORGIA

1. The proposal is to enact the Uniform Mediation Act in Georgia. The Uniform Mediation Act was drafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL). It has since been adopted in eleven states, the District of Columbia, and also has recently been introduced in the state legislatures of New York and Massachusetts. A copy of the Uniform Mediation Act is attached as Exhibit A.
2. This legislation will change Georgia law by, among other things, creating a statutory privilege for mediations, requiring mediators to disclose potential conflicts of interest in advance, eliminating uncertainty, and affording protections to international mediations involving parties from outside the United States who chose to mediate their dispute in Georgia. In doing so, the legislation will harmonize Georgia law with the law of other jurisdictions that have adopted the Uniform Mediation Act, and enhance Georgia stature as a hub for alternative dispute resolution, and assist the courts in the speedy resolution of private disputes.
3. Currently in Georgia, there is no statutory or common law mediation privilege, and the law governing voluntary mediations is unclear. The Supreme Court's Commission on Dispute Resolution has promulgated various rules and requirements for court-annexed mediations in Georgia, which are set forth in the Alternative Dispute Resolution Rules, but those requirements apply only to court-annexed mediations, and they do not address the mediation privilege issue.
4. There are no known opponents of the proposed legislation. Proponents of the legislation include the Georgia Commission on Dispute Resolution, the Judicial Council of Georgia, and the Atlanta International Arbitration Society.
5. We have solicited comments from the Family Law and International Trade & Legal Services sections of the State Bar, and besides those sections and the Dispute Resolution Section, no other section is believed to have an interest in this proposed legislation.
6. The Dispute Resolution Section recommends that this proposal be adopted by the State Bar of Georgia.

/Stacey L. Mitchener/

Stacey L. Mitchener, Esq.  
Chair, Dispute Resolution Section  
State Bar of Georgia

# UNIFORM MEDIATION ACT

(Last Revised or Amended in 2003)

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-TENTH YEAR  
WHITE SULPHUR SPRINGS, WEST VIRGINIA  
AUGUST 10–17, 2001

AMENDMENTS APPROVED

*at its*

ANNUAL CONFERENCE  
MEETING IN ITS ONE-HUNDRED-AND-TWELFTH YEAR  
IN WASHINGTON, DC  
AUGUST 1-7, 2003

*WITHOUT PREFATORY NOTE AND COMMENTS*

Approved by the American Bar Association  
Philadelphia, Pennsylvania, February 4, 2002

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By

NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

## Uniform Mediation Act (UMA)

### Drafted by:

National Conference of Commissioners on Uniform State Laws (NCCUSL)  
211 E. Ontario Street, Suite 1300, Chicago, IL 60611, 312-915-0195, [www.nccusl.org](http://www.nccusl.org)

### Brief description of act:

The **Uniform Mediation Act** provides a statute applicable to all mediations that prescribes precise rules about how the mediation communications of the parties, non-party participants, and mediator may be used. At its core, the act provides that each participant in a mediation proceeding is the holder of a privilege concerning his or her own mediation communications, and may prevent those communication from being disclosed or used in a subsequent formal proceeding. The parties to a mediation hold the additional power to block the disclosure or use of any participant's mediation communication. There are of course exceptions to this broad rule. There is no privilege for ongoing or future crimes, threats of bodily injury, evidence concerning the abuse or neglect where a protective services agency is a participant, and other circumstances. Evidence that is otherwise admissible does not become inadmissible simply because it is referenced or repeated in a mediation communication. The **2003 Amendment to the Uniform Mediation Act** provides for adoption of the UNCITRAL Model Act on Commercial Conciliation by incorporating it by reference in the Uniform Mediation Act. The Model Law was adopted by UNCITRAL in 2002, and provides for the appointment of conciliators (mediators) and the conduct of a conciliation between international commercial disputants. Conciliation and mediation are virtually synonymous for the purposes of these acts.

### Questions about UMA?

For further information contact the following persons:  
Michael B. Getty, Chair of the UMA drafting committee: [mbgetty@aol.com](mailto:mbgetty@aol.com)  
Nancy Rogers, Reporter for the UMA drafting committee: [rogers.23@osu.edu](mailto:rogers.23@osu.edu)  
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### Notes about NCCUSL Acts:

For information on the specific drafting rules used by NCCUSL, the Conference *Procedural and Drafting Manual* is available online at [www.nccusl.org](http://www.nccusl.org).

Because these are uniform acts, it is important to keep the numbering sequence intact while drafting.

In general, the use of bracketed language in NCCUSL acts indicates that a choice must be made between alternate bracketed language, or that specific language must be inserted into the empty brackets. For example: "An athlete agent who violates Section 14 is guilty of a [misdemeanor] [felony] and, upon conviction, is punishable by [ ]."

A word, number, or phrase, or even an entire section, may be placed in brackets to indicate that the bracketed language is suggested but may be changed to conform to state usage or requirements, or to indicate that the entire section is optional. For example: "An applicant for registration shall submit an application for registration to the [Secretary of State] in a form prescribed by the [Secretary of State]. [An application filed under this section is a public record.] The application must be in the name of an individual, and, except as otherwise provided in subsection (b), signed or otherwise authenticated by the applicant under penalty of perjury."

The sponsor may need to be consulted when dealing with bracketed language.

## UNIFORM MEDIATION ACT

**SECTION 1. TITLE.** This [Act] may be cited as the Uniform Mediation Act.

**SECTION 2. DEFINITIONS.** In this [Act]:

(1) “Mediation” means a process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute.

(2) “Mediation communication” means a statement, whether oral or in a record or verbal or nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.

(3) “Mediator” means an individual who conducts a mediation.

(4) “Nonparty participant” means a person, other than a party or mediator, that participates in a mediation.

(5) “Mediation party” means a person that participates in a mediation and whose agreement is necessary to resolve the dispute.

(6) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

(7) “Proceeding” means:



(A) a judicial, administrative, arbitral, or other adjudicative process, including related pre-hearing and post-hearing motions, conferences, and discovery; or

(B) a legislative hearing or similar process.

(8) “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.

(9) “Sign” means:

(A) to execute or adopt a tangible symbol with the present intent to authenticate a record; or

(B) to attach or logically associate an electronic symbol, sound, or process to or with a record with the present intent to authenticate a record.

### **SECTION 3. SCOPE.**

(a) Except as otherwise provided in subsection (b) or (c), this [Act] applies to a mediation in which:

(1) the mediation parties are required to mediate by statute or court or administrative agency rule or referred to mediation by a court, administrative agency, or arbitrator;

(2) the mediation parties and the mediator agree to mediate in a record that demonstrates an expectation that mediation communications will be privileged against disclosure; or

(3) the mediation parties use as a mediator an individual who holds himself or herself out as a mediator or the mediation is provided by a person that holds itself out

as providing mediation.

(b) The [Act] does not apply to a mediation:

(1) relating to the establishment, negotiation, administration, or termination of a collective bargaining relationship;

(2) relating to a dispute that is pending under or is part of the processes established by a collective bargaining agreement, except that the [Act] applies to a mediation arising out of a dispute that has been filed with an administrative agency or court;

(3) conducted by a judge who might make a ruling on the case; or

(4) conducted under the auspices of:

(A) a primary or secondary school if all the parties are students or

(B) a correctional institution for youths if all the parties are residents of that institution.

(c) If the parties agree in advance in a signed record, or a record of proceeding reflects agreement by the parties, that all or part of a mediation is not privileged, the privileges under Sections 4 through 6 do not apply to the mediation or part agreed upon. However, Sections 4 through 6 apply to a mediation communication made by a person that has not received actual notice of the agreement before the communication is made.

*Legislative Note: To the extent that the Act applies to mediations conducted under the authority of a State's courts, State judiciaries should consider enacting conforming court rules.*

**SECTION 4. PRIVILEGE AGAINST DISCLOSURE; ADMISSIBILITY;  
DISCOVERY.**

(a) Except as otherwise provided in Section 6, a mediation communication is privileged as provided in subsection (b) and is not subject to discovery or admissible in evidence in a proceeding unless waived or precluded as provided by Section 5.

(b) In a proceeding, the following privileges apply:

(1) A mediation party may refuse to disclose, and may prevent any other person from disclosing, a mediation communication.

(2) A mediator may refuse to disclose a mediation communication, and may prevent any other person from disclosing a mediation communication of the mediator.

(3) A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a mediation communication of the nonparty participant.

(c) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its disclosure or use in a mediation.

*Legislative Note: The Act does not supersede existing state statutes that make mediators incompetent to testify, or that provide for costs and attorney fees to mediators who are wrongfully subpoenaed. See, e.g., Cal. Evid. Code Section 703.5 (West 1994).*

## **SECTION 5. WAIVER AND PRECLUSION OF PRIVILEGE.**

(a) A privilege under Section 4 may be waived in a record or orally during a proceeding if it is expressly waived by all parties to the mediation and:

(1) in the case of the privilege of a mediator, it is expressly waived by the mediator; and

(2) in the case of the privilege of a nonparty participant, it is expressly waived by the nonparty participant.

(b) A person that discloses or makes a representation about a mediation communication which prejudices another person in a proceeding is precluded from asserting a privilege under Section 4, but only to the extent necessary for the person prejudiced to respond to the representation or disclosure.

(c) A person that intentionally uses a mediation to plan, attempt to commit or commit a crime, or to conceal an ongoing crime or ongoing criminal activity is precluded from asserting a privilege under Section 4.

#### **SECTION 6. EXCEPTIONS TO PRIVILEGE.**

(a) There is no privilege under Section 4 for a mediation communication that is:

(1) in an agreement evidenced by a record signed by all parties to the agreement;

(2) available to the public under [insert statutory reference to open records act] or made during a session of a mediation which is open, or is required by law to be open, to the public;

(3) a threat or statement of a plan to inflict bodily injury or commit a crime of violence;

(4) intentionally used to plan a crime, attempt to commit or commit a crime, or to conceal an ongoing crime or ongoing criminal activity;

(5) sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator;

(6) except as otherwise provided in subsection (c), sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a

mediation party, nonparty participant, or representative of a party based on conduct occurring during a mediation; or

(7) sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation in a proceeding in which a child or adult protective services agency is a party, unless the

[Alternative A: [State to insert, for example, child or adult protection] case is referred by a court to mediation and a public agency participates.]

[Alternative B: public agency participates in the [State to insert, for example, child or adult protection] mediation].

(b) There is no privilege under Section 4 if a court, administrative agency, or arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, that there is a need for the evidence that substantially outweighs the interest in protecting confidentiality, and that the mediation communication is sought or offered in:

(1) a court proceeding involving a felony [or misdemeanor]; or

(2) except as otherwise provided in subsection (c), a proceeding to prove a claim to rescind or reform or a defense to avoid liability on a contract arising out of the mediation.

(c) A mediator may not be compelled to provide evidence of a mediation communication referred to in subsection (a)(6) or (b)(2).

(d) If a mediation communication is not privileged under subsection (a) or (b), only the portion of the communication necessary for the application of the exception from nondisclosure may be admitted. Admission of evidence under subsection (a) or (b) does not render the

evidence, or any other mediation communication, discoverable or admissible for any other purpose.

*Legislative Note: If the enacting state does not have an open records act, the following language in paragraph (2) of subsection (a) needs to be deleted: "available to the public under [insert statutory reference to open records act] or".*

## **SECTION 7. PROHIBITED MEDIATOR REPORTS.**

(a) Except as required in subsection (b), a mediator may not make a report, assessment, evaluation, recommendation, finding, or other communication regarding a mediation to a court, administrative agency, or other authority that may make a ruling on the dispute that is the subject of the mediation.

(b) A mediator may disclose:

(1) whether the mediation occurred or has terminated, whether a settlement was reached, and attendance;

(2) a mediation communication as permitted under Section 6; or

(3) a mediation communication evidencing abuse, neglect, abandonment, or exploitation of an individual to a public agency responsible for protecting individuals against such mistreatment.

(c) A communication made in violation of subsection (a) may not be considered by a court, administrative agency, or arbitrator.

**SECTION 8. CONFIDENTIALITY.** Unless subject to the [insert statutory references to open meetings act and open records act], mediation communications are confidential to the extent agreed by the parties or provided by other law or rule of this State.

**SECTION 9. MEDIATOR'S DISCLOSURE OF CONFLICTS OF INTEREST;  
BACKGROUND.**

(a) Before accepting a mediation, an individual who is requested to serve as a mediator shall:

(1) make an inquiry that is reasonable under the circumstances to determine whether there are any known facts that a reasonable individual would consider likely to affect the impartiality of the mediator, including a financial or personal interest in the outcome of the mediation and an existing or past relationship with a mediation party or foreseeable participant in the mediation; and

(2) disclose any such known fact to the mediation parties as soon as is practical before accepting a mediation.

(b) If a mediator learns any fact described in subsection (a)(1) after accepting a mediation, the mediator shall disclose it as soon as is practicable.

(c) At the request of a mediation party, an individual who is requested to serve as a mediator shall disclose the mediator's qualifications to mediate a dispute.

(d) A person that violates subsection [(a) or (b)][(a), (b), or (g)] is precluded by the violation from asserting a privilege under Section 4.

(e) Subsections (a), (b), [and] (c), [and] [(g)] do not apply to an individual acting as a judge.

(f) This [Act] does not require that a mediator have a special qualification by background or profession.

[(g) A mediator must be impartial, unless after disclosure of the facts required in subsections (a) and (b) to be disclosed, the parties agree otherwise.]

**SECTION 10. PARTICIPATION IN MEDIATION.** An attorney or other individual designated by a party may accompany the party to and participate in a mediation. A waiver of participation given before the mediation may be rescinded.

**SECTION 11. INTERNATIONAL COMMERCIAL MEDIATION.**

(a) In this section, “Model Law” means the Model Law on International Commercial Conciliation adopted by the United Nations Commission on International Trade Law on 28 June 2002 and recommended by the United Nations General Assembly in a resolution (A/RES/57/18) dated 19 November 2002, and “international commercial mediation” means an international commercial conciliation as defined in Article 1 of the Model Law.

(b) Except as otherwise provided in subsections (c) and (d), if a mediation is an international commercial mediation, the mediation is governed by the Model Law.

(c) Unless the parties agree in accordance with Section 3(c) of this [Act] that all or part of an international commercial mediation is not privileged, Sections 4, 5, and 6 and any applicable definitions in Section 2 of this [Act] also apply to the mediation and nothing in Article 10 of the Model Law derogates from Sections 4, 5, and 6.



(d) If the parties to an international commercial mediation agree under Article 1, subsection (7), of the Model Law that the Model Law does not apply, this [Act] applies.

*Legislative Note. The UNCITRAL Model Law on International Commercial Conciliation may be found at [www.uncitral.org/en-index.htm](http://www.uncitral.org/en-index.htm). Important comments on interpretation are included in the Draft Guide to Enactment and Use of UNCITRAL Model Law on International Commercial Conciliation. The States should note the Draft Guide in a Legislative Note to the Act. This is especially important with respect to interpretation of Article 9 of the Model Law.*

**SECTION 12. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** This [Act] modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but this [Act] does not modify, limit, or supersede Section 101(c) of that Act or authorize electronic delivery of any of the notices described in Section 103(b) of that Act.

**SECTION 13. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In applying and construing this [Act], consideration should be given to the need to promote uniformity of the law with respect to its subject matter among States that enact it.

**SECTION 14. SEVERABILITY CLAUSE.** 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.

**SECTION 15. EFFECTIVE DATE.** This [Act] takes effect .....

**SECTION 16. REPEALS.** The following acts and parts of acts are hereby repealed:

(1)

(2)

(3)

**SECTION 17. APPLICATION TO EXISTING AGREEMENTS OR  
REFERRALS.**

(a) This [Act] governs a mediation pursuant to a referral or an agreement to mediate made on or after [the effective date of this [Act]].

(b) On or after [a delayed date], this [Act] governs an agreement to mediate whenever made.

## APPENDIX A

(Model Law as adopted by the United Nations Commission on International Trade Law -- UNCITRAL at its 35<sup>th</sup> session in New York on 28 June 2002 and approved by the United Nations General Assembly on November 19, 2002)

### UNCITRAL Model Law on International Commercial Conciliation

#### Article 1. Scope of application and definitions

(1) This Law applies to international<sup>1</sup> commercial<sup>2</sup> conciliation.

(2) For the purposes of this Law, “conciliator” means a sole conciliator or two or more conciliators, as the case may be.

(3) For the purposes of this Law, “conciliation” means a process, whether referred to by the expression conciliation, mediation or an expression of similar import, whereby parties request a third person or persons (“the conciliator”) to assist them in their attempt to reach an amicable settlement of their dispute arising out of or relating to a contractual or other legal relationship. The conciliator does not have the authority to impose upon the parties a solution to the dispute.

(4) A conciliation is international if:

(a) The parties to an agreement to conciliate have, at the time of the conclusion of that agreement, their places of business in different States; or

(b) The State in which the parties have their places of business is different from either:

(i) The State in which a substantial part of the obligations of the commercial relationship is to be performed; or

(ii) The State with which the subject matter of the dispute is most closely connected.

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<sup>1</sup> States wishing to enact this Model Law to apply to domestic as well as international conciliation may wish to consider the following changes to the text:

- Delete the word “international” in paragraph (1) of article 1; and
- Delete paragraphs (4), (5) and (6) of article 1.

The term “commercial” should be given a wide interpretation so as to cover matters arising from all relationships of a commercial nature, whether contractual or not. Relationships of a commercial nature include, but are not limited to, the following transactions: any trade transaction for the supply or exchange of goods or services; distribution agreement; commercial representation or agency; factoring; leasing; construction of works; consulting; engineering; licensing; investment; financing; banking; insurance; exploitation agreement or concession; joint venture and other forms of industrial or business cooperation; carriage of goods or passengers by air, sea, rail or road.

- | For the purposes of this article:
  - (a) If a party has more than one place of business, the place of business is that which has the closest relationship to the agreement to conciliate;
  - (b) If a party does not have a place of business, reference is to be made to the party's habitual residence.
- | This Law also applies to a commercial conciliation when the parties agree that the conciliation is international or agree to the applicability of this Law.
- | The parties are free to agree to exclude the applicability of this Law.
- | Subject to the provisions of paragraph (9) of this article, this Law applies irrespective of the basis upon which the conciliation is carried out, including agreement between the parties whether reached before or after a dispute has arisen, an obligation established by law, or a direction or suggestion of a court, arbitral tribunal or competent governmental entity.
- | This Law does not apply to:
  - (a) Cases where a judge or an arbitrator, in the course of judicial or arbitral proceedings, attempts to facilitate a settlement; and
  - (b) [...].

**Article 2. Interpretation**

- (1) In the interpretation of this Law, regard is to be had to its international origin and to the need to promote uniformity in its application and the observance of good faith.
- (2) Questions concerning matters governed by this Law which are not expressly settled in it are to be settled in conformity with the general principles on which this Law is based.

**Article 3. Variation by agreement**

Except for the provisions of article 2 and article 6, paragraph (3), the parties may agree to exclude or vary any of the provisions of this Law.

**Article 4. Commencement of conciliation proceedings<sup>3</sup>**

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<sup>3</sup> The following text is suggested for States that might wish to adopt a provision on the suspension of the limitation period:

*Article X. Suspension of limitation period*

- (1) When the conciliation proceedings commence, the running of the limitation period regarding the claim that is the

- (1) Conciliation proceedings in respect of a dispute that has arisen commence on the day on which the parties to that dispute agree to engage in conciliation proceedings.
- (2) If a party that invited another party to conciliate does not receive an acceptance of the invitation within thirty days from the day on which the invitation was sent, or within such other period of time as specified in the invitation, the party may elect to treat this as a rejection of the invitation to conciliate.

#### **Article 5. Number and appointment of conciliators**

- (1) There shall be one conciliator, unless the parties agree that there shall be two or more conciliators.
- (2) The parties shall endeavour to reach agreement on a conciliator or conciliators, unless a different procedure for their appointment has been agreed upon.
- (3) Parties may seek the assistance of an institution or person in connection with the appointment of conciliators. In particular:
  - (a) A party may request such an institution or person to recommend suitable persons to act as conciliator; or
  - (b) The parties may agree that the appointment of one or more conciliators be made directly by such an institution or person.
- (4) In recommending or appointing individuals to act as conciliator, the institution or person shall have regard to such considerations as are likely to secure the appointment of an independent and impartial conciliator and, where appropriate, shall take into account the advisability of appointing a conciliator of a nationality other than the nationalities of the parties.
- (5) When a person is approached in connection with his or her possible appointment as conciliator, he or she shall disclose any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. A conciliator, from the time of his or her appointment and throughout the conciliation proceedings, shall without delay disclose any such circumstances to the parties unless they have already been informed of them by him or her.

#### **Article 6. Conduct of conciliation**

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subject matter of the conciliation is suspended.

- (2) Where the conciliation proceedings have terminated without a settlement agreement, the limitation period resumes running from the time the conciliation ended without a settlement agreement.

(1) The parties are free to agree, by reference to a set of rules or otherwise, on the manner in which the conciliation is to be conducted.

(2) Failing agreement on the manner in which the conciliation is to be conducted, the conciliator may conduct the conciliation proceedings in such a manner as the conciliator considers appropriate, taking into account the circumstances of the case, any wishes that the parties may express and the need for a speedy settlement of the dispute.

(3) In any case, in conducting the proceedings, the conciliator shall seek to maintain fair treatment of the parties and, in so doing, shall take into account the circumstances of the case.

(4) The conciliator may, at any stage of the conciliation proceedings, make proposals for a settlement of the dispute.

#### **Article 7. Communication between conciliator and parties**

The conciliator may meet or communicate with the parties together or with each of them separately.

#### **Article 8. Disclosure of information**

When the conciliator receives information concerning the dispute from a party, the conciliator may disclose the substance of that information to any other party to the conciliation. However, when a party gives any information to the conciliator, subject to a specific condition that it be kept confidential, that information shall not be disclosed to any other party to the conciliation.

#### **Article 9. Confidentiality**

Unless otherwise agreed by the parties, all information relating to the conciliation proceedings shall be kept confidential, except where disclosure is required under the law or for the purposes of implementation or enforcement of a settlement agreement.

#### **Article 10. Admissibility of evidence in other proceedings**

(1) A party to the conciliation proceedings, the conciliator and any third person, including those involved in the administration of the conciliation proceedings, shall not in arbitral, judicial or similar proceedings rely on, introduce as evidence or give testimony or evidence regarding any of the following:

(a) An invitation by a party to engage in conciliation proceedings or the fact that a party was willing to participate in conciliation proceedings;

(b) Views expressed or suggestions made by a party in the conciliation in respect of a possible settlement of the dispute;

- (c) Statements or admissions made by a party in the course of the conciliation proceedings;
- (d) Proposals made by the conciliator;
- (e) The fact that a party had indicated its willingness to accept a proposal for settlement made by the conciliator;
- (f) A document prepared solely for purposes of the conciliation proceedings.

(2) Paragraph (1) of this article applies irrespective of the form of the information or evidence referred to therein.

(3) The disclosure of the information referred to in paragraph (1) of this article shall not be ordered by an arbitral tribunal, court or other competent governmental authority and, if such information is offered as evidence in contravention of paragraph (1) of this article, that evidence shall be treated as inadmissible. Nevertheless, such information may be disclosed or admitted in evidence to the extent required under the law or for the purposes of implementation or enforcement of a settlement agreement.

(4) The provisions of paragraphs (1), (2) and (3) of this article apply whether or not the arbitral, judicial or similar proceedings relate to the dispute that is or was the subject matter of the conciliation proceedings.

(5) Subject to the limitations of paragraph (1) of this article, evidence that is otherwise admissible in arbitral or judicial or similar proceedings does not become inadmissible as a consequence of having been used in a conciliation.

#### **Article 11. Termination of conciliation proceedings**

The conciliation proceedings are terminated:

- (a) By the conclusion of a settlement agreement by the parties, on the date of the agreement;
- (b) By a declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration;
- (c) By a declaration of the parties addressed to the conciliator to the effect that the conciliation proceedings are terminated, on the date of the declaration; or
- (d) By a declaration of a party to the other party or parties and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of the declaration.

#### **Article 12. Conciliator acting as arbitrator**

Unless otherwise agreed by the parties, the conciliator shall not act as an arbitrator in respect of a dispute that was or is the subject of the conciliation proceedings or in respect of another dispute that has arisen from the same contract or legal relationship or any related contract or legal relationship.

#### **Article 13. Resort to arbitral or judicial proceedings**

Where the parties have agreed to conciliate and have expressly undertaken not to initiate during a specified period of time or until a specified event has occurred arbitral or judicial proceedings with respect to an existing or future dispute, such an undertaking shall be given effect by the arbitral tribunal or the court until the terms of the undertaking have been complied with, except to the extent necessary for a party, in its opinion, to preserve its rights. Initiation of such proceedings is not of itself to be regarded as a waiver of the agreement to conciliate or as a termination of the conciliation proceedings.

#### **Article 14. Enforceability of settlement agreement<sup>4</sup>**

If the parties conclude an agreement settling a dispute, that settlement agreement is binding and enforceable ... *[the enacting State may insert a description of the method of enforcing settlement agreements or refer to provisions governing such enforcement]* .

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<sup>4</sup> When implementing the procedure for enforcement of settlement agreements, an enacting State may consider the possibility of such a procedure being mandatory.



# **Proposal #3**

## **Committee to Promote Inclusion in the Profession**

Support for Continued State Appropriations  
to the Judicial Council for Legal Services Grants for  
Victims of Domestic Violence



October 1, 2018

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

**Re: Legislative Proposal – Domestic Violence Funding**

Dear Ms. Butcher Hayes:

I write on behalf of the *Committee to Promote Inclusion in the Profession (PIP)* to request the State Bar of Georgia’s endorsement of legislation that would provide an appropriation for civil legal services to low-income victims of domestic violence. Each year the PIP Committee seeks the endorsement of the State Bar of Georgia for this legislation, which provides for an appropriation to non-profit organizations that provide civil legal services to low-income Georgians. It is our Committee’s understanding that for the State Bar of Georgia to endorse this legislation for the upcoming fiscal year, the proposal must be renewed before the advisory Committee on Legislation. As a result, our Committee wishes to again propose an appropriation of \$2,500,000.00 for the Domestic Violence. In addition, we understand that the Judicial Council is also making this specific dollar request in their budget and we ask that the State Bar advisory committee on legislation support the same.

In 1998, the General Assembly appropriated \$2 million as part of the Administrative Office of the Court’s budget. The funds were appropriated for use in providing civil legal services to low-income victims of domestic violence. That year, the General Assembly recognized the importance of providing legal services to victims of domestic violence, and has provided funding to do so every year since. Last year’s appropriation was \$2,500,000 and we are asking for support for the same amount this year.

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

The Committee to Promote Inclusion in the Profession is aware of no opposition to this proposal for the appropriation of \$2,500,000.00 for this fiscal year. It is our Committee’s understanding that we do not need to submit the specific language for the legislation at this time because this is a budget item. Furthermore, this proposal satisfies the *Keller* criteria because it is within the scope and purposes of the State Bar of Georgia to advance the administration of justice. It also is consistent with past actions by the Board of Governors in support of access to legal services by the poor. If you have any questions regarding this matter, please contact us further.

Thank you for your consideration of our request.

Very truly yours,

Jana Edmondson-Cooper  
Shaton Menzie  
Co-Chairs - Committee to Promote Inclusion in the Profession

**HEADQUARTERS**

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404-527-8700 · 800-334-6865  
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**COASTAL GEORGIA OFFICE**

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# **Proposal #4**

## **Georgia Appellate Practice and Educational Resource Center**

Support for Continued State Funding to the Judicial  
Council for Post-Conviction Proceedings

**LEGISLATIVE PROPOSAL**  
**TO THE BOARD OF GOVERNORS**  
**STATE BAR OF GEORGIA**

**November 2018**

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, one (1) Senior Staff Attorney and (3) 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.<sup>1</sup> This poses an especially acute problem in capital

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<sup>1</sup> See *Gibson v. Turpin*, 270 Ga. 855 (1999). By the slimmest of margins, the Supreme Court of Georgia held that death sentenced inmates had no constitutional right to counsel in state habeas corpus proceedings. The court 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.

cases where post-conviction review has been recognized to be a critical stage in the death penalty appellate process.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> 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.

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

<sup>3</sup> This means the Resource Center is currently responsible for overseeing 54 cases from 28 counties across the state.

<sup>4</sup> 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 has been found to be the most efficient and cost-effective means of moving capital cases to final adjudication<sup>5</sup> and is a necessary safeguard against wrongful execution.<sup>6</sup> 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

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<sup>5</sup> 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.

<sup>6</sup> 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](http://www2.law.columbia.edu/instructionalservices/liebman/liebman_final.pdf). Since 1996, 57 death penalty cases have resulted in sentencing relief. During that same period, 52 executions have been carried out. Accordingly, for every one execution carried out in Georgia since 1996, approximately 1.09 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.

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

For the past thirty (30) years, the State Bar of Georgia has actively supported the Resource Center's legislative proposal. The formal and active support for this legislative proposal by the State Bar is crucial to obtain continued funding from the General Assembly, so that the important work of the Resource Center can 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 2019.

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 through FY 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 2013-2018, the General Assembly returned the Resource Center funding to the FY 2002-2008 level of \$800,000. The Georgia Bar Foundation did not provide a grant to the Resource Center from FY 2012 to FY 2018. 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 of approximately \$110,000 per year from FY 2012 to the current FY 2019. Furthermore, in FY 2019 the Georgia Bar Foundation awarded the Center a grant of \$60,000. While the continuation of this level of financial from both the State Bar of Georgia and the Georgia Bar Foundation is uncertain, the Resource Center's FY 2020 budget cautiously projects continued support of \$170,000 combined from the State Bar of

Georgia and the Georgia Bar Foundation. The budget reflects revenue of \$315,000 in federal court compensation for work representing Georgia state prisoners in federal capital habeas cases in FY 2020.<sup>7</sup> In addition, the budget projects charitable donations of \$33,000 for FY 2020. The Resource Center's total budget for FY 2019 is \$1,318,300.

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 2019 and FY 2020, 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

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<sup>7</sup> 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.

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 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. 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.

### **IV. SUMMARY OF EXISTING LAW**

To our knowledge, there is no existing law applicable to 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: November 15, 2018.

Respectfully submitted,



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Brian S. Kammer, Executive Director  
Georgia Resource Center  
303 Elizabeth Street, NE  
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404-222-9202  
[brian.kammer@garesource.org](mailto:brian.kammer@garesource.org)

Anne Ware Lewis, Chair/President of  
the Board of Directors  
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678-347-2200  
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# **Proposal #5**

## **Family Law Section**

Counterclaims in Response to a Complaint Changing  
Custody & Counterclaims in Response for a Motion  
for Contempt or Enforcement of a Custody Order

PROPOSAL RE: THE FILING OF COUNTERCLAIMS SHALL BE ALLOWED IN RESPONSE TO THE FILING OF A COMPLAINT SEEKING A CHANGE OF LEGAL AND/OR PHYSICAL CUSTODY; IN ADDITION, CERTAIN COUNTERCLAIMS SHALL BE ALLOWED IN RESPONSE TO THE FILING OF A MOTION FOR CONTEMPT OR ENFORCEMENT OF A CUSTODY ORDER

Specific legislation has been prepared and is attached hereto as Exhibit A. Said proposed legislation amends O.C.G.A. 19-9-22 and OCGA 19-9-23.

1. This legislation will change Georgia law by specifically proving that a party may bring a counterclaim for contempt or enforcement of a custody order, or for modification of legal or physical custody or parenting time in response to a complaint seeking a change of legal and/or physical custody. In addition, the legislation will provide that a party may make a cross-motion or counterclaim for contempt or enforcement of a custody order in response to a motion for contempt or enforcement of a custody order.
2. Under current Georgia law (O.C.G.A. 19-9-22 and OCGA 19-9-23) counterclaims are prohibited as custody modifications have to be filed as a separate action. In addition, the appellate decisions have been forced to recognize that contempt action in response to a contempt action are prohibited as they are only part of a court's inherent power to enforce its order. The proposed legislation will allow a counterclaim for contempt in this arena to be specifically allowed.
3. There are no known opponents of the proposed legislation.
4. At this time, we have not solicited comments from other sections of the State Bar. It is possible that the Constitutional Law, General Practice and Trial and Judicial sections may have an interest on the legislation. A copy shall be provided to said sections.
5. The Family Law Section recommends that this proposal be adopted by the State Bar of Georgia.

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Hannibal F. Heredia  
Legislative Liaison  
Family Law Section

EXHIBIT A

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to the (1) the definition of Custody; (2) actions to the obtain custody, how and where brought and the limitations therein.

BE IN ENEACTED BY THE GENRAL ASSEMBLY OF GEORGIA:

Section 1. Section 19-9-22 of the Official Code of Georgia Annotated shall be amended so that it reads as follows:

(1) "Legal custody" means the responsibilities for major decisions concerning the child, including the child's education, health care, extracurricular activities, and religious training.

(2) "Physical custody" means the physical custody schedule established for the child pursuant to O.C.G.A. § 19-9-1. Physical custody includes parenting time and visitation.

Section 2. Section 19-9-23 of the Official Code of Georgia shall be amended so that it shall read as follows:

(a) A complaint seeking a change of legal or physical custody or parenting time shall be initiated in compliance with Article VI, Section II, Paragraph VI of the Constitution of this state.

(b) No complaint specified in subsection (a) of this Code section shall be made:

(1) in response to a petition for a writ of habeas corpus seeking to enforce a child custody order; or

(2) In response to any other action or motion seeking to enforce a child custody order, including a motion for contempt.

(c) The use of a complaint in the nature of habeas corpus seeking a change of child custody is prohibited.

(d) A party may make a cross-motion or counterclaim for contempt or enforcement of a custody order in response to a motion for contempt or enforcement of a custody order;

(e) A party may bring a counterclaim for contempt or enforcement of a custody order, or for modification of legal or physical custody or parenting time in response to a complaint brought under subsection (a).

# **Proposal #6**

## **Real Property Section**

Remote Online Notary Proposal



**REQUEST FOR CONSIDERATION OF PROPOSED LEGISLATION**

To: Kenneth B. Hodges, III, President, State Bar of Georgia  
William Thomas Worthy, Chairperson, Advisory Committee on Legislation, State Bar of Georgia  
Christine Butcher, Director, Governmental Affairs, State Bar of Georgia

From: Chad Henderson, Chair, Real Property Law Section, State Bar of Georgia  
William L. Phalen, III and Kent E. Altom, Members, Executive Committee, Real Property Law Section and Co-Chairs, Real Property Law Section's Legislative Subcommittee, State Bar of Georgia

Re: Proposed Bill to revise and amend O.C.G.A. Title 45, Chapter 17

Date: November 16, 2018

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On behalf of the Real Property Law Section of the State Bar of Georgia, by and through its Executive Committee, we submit this Request pursuant to Section 1.02(a)(1) of Standing Board Policy 100, as follows:

**(A) Revision and amendment to O.C.G.A. Title 45, Chapter 17, Public Officers and Employees, Notaries Public.**

**(i) The specific legislation, if any, which is pending or proposed:**

The attached proposed legislation would revise and amend O.C.G.A. Title 45, Chapter 17, which governs the qualifications for and acts of notaries public in this State. The proposed bill specifically adds a chapter relating to the appointment of and performance of notarial acts by a remote online notary public ("RON") and the acknowledgement, attestation, and proof of written instruments made by means of communication technology as well as authorizing a fee for performing such act, and creating a criminal offense for violation of this chapter. A copy of the proposed bill is attached hereto.

**(ii) A statement of the issues addressed by the legislation:**

In Georgia, real estate related documents (i.e. deeds of conveyance, security deeds, affidavits, etc.) are recorded with the Clerk of Superior Court for the County in which the property is located. In order to be in "recordable form," many of these documents must be notarized. Under current Georgia law, in order for a notary to carry out their notarial act, and thereby verify a principal's signature, the principal must appear before the notary or acknowledge their signature to a notary. In either instance, the notary physically signs the document verifying the authenticity of the principal's signature and affixes their seal.

This State's economy is fast evolving to include more national and global partners, and contracting within and without the state involves a growing reliance on e-commerce. The availability of electronic and remote notary services is expected to become more of a factor for businesses looking to expand or relocate to Georgia as this option becomes more widely available in other states. This bill is intended to complement the changing nature of business by providing for the performance of notarial acts by a remote online notary public.

This proposed bill is based on a model legislation drafted by the Mortgage Bankers Association and the American Land Title Association working together. These groups derived a large measure of the model bill on the approach recently taken by Texas and emulated by Nevada. The model bill is an effort to provide a considered industry approach to what such a law could look like, and which can be replicated across jurisdictions. Virginia was the first state to adopt such a law, and Montana has recently passed a similar statute.

With remote online notarization the authentication and signature process take place using audio visual technology and does not occur in the physical presence of the notary. The signing of a document and notarization are performed online utilizing a video camera and microphone connected to the signer and notary's computers. The proposed legislation imposes requirements on remote online notaries, for verification of the principal's identity and retention of records related to the signing, which far exceed the requirements currently imposed under Georgia law.

The model legislation does the following:

- (1) Establishes definitions of terms particular to remote online notarization;
- (2) Provides that the Secretary of State maintains rulemaking ability to govern such acts;
- (3) Includes certain standards; sets forth an application process and qualifications for online notaries;
- (4) Identifies under what circumstances a remote online notarization may be performed;
- (5) Requires the RON to maintain an electronic record of each notary act; establishes rules for maintenance and use of the electronic seal; sets forth procedures for performing online notarizations; and
- (6) Provides for a fee for remotely notarizing a document; creates a criminal offense for misuse of software or hardware; and sets forth a methodology for recording electronically notarized documents.

**(iii) A summary of existing law:**

The model legislation supplements the existing law pertaining to notaries by creating a new class of notary public capable of performing remote online notarizations.

**(iv) Principal known proponents or opponents of the legislation and, if possible, a brief statement of the reasons for opposition or support by the other interests:**

Proponents of the legislation include the Real Property Law Section. After consultation with the Fiduciary Law Section, its representatives requested a carve-out for notarial acts pertaining to wills, trust and estate matters, similar to that found at O.C.G.A. § 19-12-3(b). The Business Law Section was invited to participate in a meeting to discuss the model legislation.

Other potential proponents include the Mortgage Bankers Association, the American Land Title Association, and title insurance companies.

The model legislation will likely benefit any number of companies, groups, and individuals doing business in Georgia, but which are located outside this State, and those looking to expand their presence or relocate to this State.

- (v) A listing of any other committees or sections which may have an interest in the legislation and a certification that any such committees have been provide a copy of the proposal simultaneous to its transmission to the Advisory Committee on Legislation:**

A copy of this proposal will be provided to the Fiduciary Law and Business Law Sections simultaneous to its transmission to the ACL.

- (vi) The position which the committee, section or group recommends be adopted by the State Bar:**

The Executive Committee of the Real Property Law Section requests that the State Bar of Georgia take up this proposed legislation and present it as a Bill in the 2019 legislative session of the General Assembly.

**MBA**<sup>®</sup>

MORTGAGE BANKERS ASSOCIATION

AMERICAN  
LAND TITLE  
ASSOCIATION



**Mortgage Bankers Association – American Land Title Association  
Model Legislation for Remote Online Notarization**

AN ACT

relating to appointment of and performance of notarial acts by a remote online notary public and the acknowledgment and proof of written instruments made by means of communication technology; authorizing a fee and creating a criminal offense.

Chapter \_\_\_ Remote Online Notary

Sec. 1. DEFINITIONS. In this (Chapter):

(1) "Appear" or "personally appear" or "in the presence of" means:

(a) being in the same physical location as another person and close enough to see, hear, communicate with, and exchange tangible identification credentials with that individual; or

(b) interacting with another individual by means of communication technology that complies with the provisions of this (Chapter).

(2) "Communication technology" means an electronic device or process that allows a notary public physically located in this state and a remotely located individual to communicate with each other simultaneously by sight and sound, and which, as

necessary, makes reasonable accommodations for individuals with vision, hearing, or speech impairments.

(3) "Credential analysis" means a process or service that meets the standards established by the Secretary of State through which a third person affirms the validity of a government-issued identification credential through review of public and proprietary data sources.

(4) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(5) "Electronic record" means information that is created, generated, sent, communicated, received, or stored by electronic means.

(6) "Electronic seal" means information within a notarized electronic record that confirms the remote online notary public's name, jurisdiction, identifying number, and commission expiration date and generally corresponds to information in notary seals used on paper documents.

(7) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic document.

(8) "Identity proofing" means a process or service operating according to standards established by the Secretary of State through which a third person affirms the identity of an individual:

(a) by means of dynamic knowledge based authentication such as a review of personal information from public or proprietary data sources; or

(b) by means of analysis of biometric data such as, but not limited to, facial recognition, voiceprint analysis, or fingerprint analysis,

(9) "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.

(10) "Outside the United States" means outside the geographic boundaries of a state or commonwealth of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

(11) "Principal" means an individual:

(a) whose electronic signature is notarized in a remote online notarization; or

(b) making an oath or affirmation or an acknowledgement other than in the capacity of a witness for the remote online notarization.

(12) "Remote online notarial certificate" is the form of an acknowledgement, jurat, verification on oath or affirmation, verification of witness, or attestation that is completed by a remote online notary public and:

(a) contains the online notary public's electronic signature, electronic seal, title, and commission expiration date;

(b) contains other required information concerning the date and place of the remote online notarization; and

(c) otherwise conforms to the requirements for an acknowledgement, jurat, verification on oath or affirmation, verification of witness, or attestation under the laws of this state; and

(d) indicates that the person making the acknowledgement, oath, affirmation, verification, or attestation appeared remotely online.

(13) "Remote online notarization" or "remote online notarial act" means a notarial act performed by means of communication technology that meets the standards adopted under this Chapter.

(14) "Remote online notary public" means a notary public who has been authorized by the Secretary of State to perform remote online notarizations under this Chapter.

(15) "Remote presentation" means transmission to the remote online notary public through communication technology of an image of a government-issued identification credential that is of sufficient quality to enable the remote online notary public to:

(a) identify the individual seeking the remote online notary public's services; and

(b) perform credential analysis.

(16) "Remotely located individual" means an individual who is not in the physical presence of the notary.

Sec. 2. RULEMAKING. The Secretary of State is authorized to adopt rules necessary to implement this (Chapter), including rules to facilitate remote online notarizations.

Sec. 3. STANDARDS FOR REMOTE ONLINE NOTARIZATION. (1) The Secretary of State by rule shall develop and maintain standards for remote online notarization in accordance with this subchapter, including but not limited to standards for credential analysis and identity proofing.

(2) In developing standards for remote online notarization, the Secretary of State shall review and consider standards established by the National Association of Secretaries of State (NASS), and national standard setting bodies such as the Mortgage Industry Standards and Maintenance Organization (MISMO).

(3) The rules shall be adopted not later than twelve months from the date of the enactment of this Chapter, and may thereafter be modified, amended or supplemented.



Sec. 4. APPLICATION; QUALIFICATIONS.

(1) A notary public or an applicant for appointment as a notary public under this subchapter may apply to the Secretary of State to be appointed and commissioned as a remote online notary public in the manner provided by this section.

(2) A person qualifies to be appointed as a remote online notary public by:

(a) satisfying the qualification requirements for appointment as a notary public under this subchapter;

(b) paying the application fee described by Subsection(4); and

(c) electronically submitting to the Secretary of State an application in the form prescribed by the Secretary of State that satisfies the Secretary of State that the applicant is qualified.

(3) The application required by Subsection (2(c)) must include:

(a) the applicant's name to be used in acting as a notary public;

(b) a certification that the applicant will comply with the Secretary of State's standards developed under this Chapter,

(c) an e-mail address of the applicant, and

(d) a physical address of the applicant located within this state. (4) The Secretary of State may charge a fee for an application submitted under this section in an amount necessary to administer this subchapter.

(5) The technology selected by a remote online notary public for remote online notarizations must conform to the Secretary of State's standards developed under this Chapter.

(6) A remote online notary public:

(a) is a notary public for purposes of (citation to general notary Chapter) and is subject to that (Chapter) to the same extent as a notary public appointed and commissioned under that Chapter;

(b) may perform notarial acts as provided by (citation to general authority) in addition to performing remote online notarizations;

(c) may perform a remote online notarization authorized under this Chapter;

(d) must renew their commission every two years; and

(e) must maintain a surety bond in an amount as determined by rule and regulations promulgated by the Secretary of State.

Sec. 5. AUTHORITY TO PERFORM REMOTE ONLINE NOTARIZATIONS.

A remote online notary public physically located in this state may perform a remote online notarial act using communication technology in accordance with this Chapter and any rules or regulations adopted by the Secretary of State for a remotely located individual who is physically located:

- (1) In this State;
- (2) Outside this State but within the United States; or
- (3) Outside the United States if:
  - (a) The remote online notary public has no actual knowledge that the act of making the statement or signing the record is prohibited in the jurisdiction in which the person is located; and
  - (b) The person placing his or her electronic signature on the electronic record confirms to the remote online notary public that the requested remote online notarial act and the electronic record:
    - (i) are part of or pertain to a matter that is to be filed with or is currently before a court, governmental entity or other entity in the United States;
    - (ii) relates to property located in the United States; or
    - (iii) relates to a transaction substantially connected to the United States

Sec. 6. ELECTRONIC RECORD OF REMOTE ONLINE NOTARIZATIONS.

(1) A remote online notary public shall keep a secure electronic journal of each remote online notarial act performed by the remote online notary public. The electronic journal must contain for each remote online notarization:

(a) the date and time of the notarization;

(b) the type of notarial act;

(c) the type, the title, or a description of the electronic record or proceeding;

(d) the printed name and address of each principal involved in the transaction or proceeding;

(e) evidence of identity of each principal involved in the transaction or proceeding in the form of:

(i) a statement that the person is personally known to the remote online notary public;

(ii) a notation of the type of identification document provided to the remote online notary public; or

(iii) a record of the identity verification made under this Chapter, if applicable and

(f) the fee, if any, charged for the notarization.

(2) The remote online notary public shall create an audio and video copy of the performance of the notarial act.

(3) The remote online notary public shall take reasonable steps to:

(a) insure the integrity, security, and authenticity of remote online notarizations;

(b) maintain a backup for the electronic journal required by Subsection (1) and the recording required by Subsection (2); and

(c) protect the backup record from unauthorized use.

(4) The electronic journal required by Subsection (1) and the recording required by Subsection 2 shall be maintained for at least ten years after the date of the transaction or proceeding.

(a) The remote online notary public may designate as custodian of the recording and the electronic journal:

(i) the employer of the remote online notary public if evidenced by a record signed by the remote online notary public and the employer; or

(ii) a repository meeting the standards established by the Secretary of State.

(b) The Secretary of State shall establish;

(i) standards for the retention of a video and audio copy of the performance of the notarial act;

(ii) procedures for preservation of the audio and video copy and the electronic journal if the remote online notary public dies or is adjudicated incompetent or if the remote online notary public's commission or authority to perform notarial acts is otherwise terminated; and

(iii) standards for third party repositories for the retention of the audio and video copy of the performance of the notarial act.

Sec. 7. USE OF ELECTRONIC JOURNAL, SIGNATURE, AND SEAL.

(1) A remote online notary public shall keep the remote online notary public's electronic journal, electronic signature, and electronic seal secure. The remote online notary public may not allow another person to use the remote online notary public's, electronic signature, or electronic seal.

(2) A remote online notary public shall attach the remote online notary public's electronic signature and seal to the remote online notarial certificate of an electronic record in a manner that renders any subsequent change or modification to the electronic record to be evident.

(3) A remote online notary public shall immediately notify an appropriate law enforcement agency and the Secretary of State of the theft or vandalism of the remote online notary public's electronic journal, electronic signature, or electronic seal. A remote online notary public shall immediately notify the Secretary of State of the loss or use by another person of the remote online notary public's electronic journal, electronic signature, or electronic seal.

Sec. 8. REMOTE ONLINE NOTARIZATION PROCEDURES.

(1) A remote online notary public may perform a remote online notarization authorized under this Chapter that meets the requirements of this Chapter and rules adopted under this Chapter regardless of whether the principal is physically located in this state at the time of the remote online notarization.

(2) In performing a remote online notarization, a remote online notary public shall verify the identity of a person creating an electronic signature at the time that the signature is taken by using communication technology that meets the requirements of this subchapter and rules adopted under this subchapter. Identity may be verified by:

(a) the remote online notary public's personal knowledge of the person creating the electronic signature; or

(b) each of the following:

(i) remote presentation by the person creating the electronic signature of a government-issued identification credential, including a valid passport or driver's license, that contains the signature and a photograph of the person;

(ii) credential analysis; and

(iii) identity proofing.

(3) The remote online notary public shall take reasonable steps to ensure that the communication technology used in a remote online notarization is secure from unauthorized interception.

(4) The remote online notarial certificate for a remote online notarization must state that the person making the acknowledgement, oath, verification or attestation appeared remotely online.

(5) A remote online notarial act meeting the requirements of this Chapter satisfies the requirement of any law of this state relating to a notarial act that requires a principal to appear or personally appear before a notary or that the notarial act be performed in the presence of a notary, including but not limited to, the requirement found at O.C.G.A. § 44-5-30 that a deed to land be attested by an officer as provided in O.C.G.A. §44-2-15.

(6) The situs of execution by a principal to any document notarized under this Act by a Georgia Remote online notary public shall be deemed to be this state.

Sec. 9. FEES FOR REMOTE ONLINE NOTARIZATION.

A remote online notary public or the remote online notary public's employer may charge a fee for performance of remote online notarization.

Sec. 10. TERMINATION OF REMOTE ONLINE NOTARY PUBLIC'S COMMISSION.

(1) Except as provided by Subsection(2), a remote online notary public whose commission terminates shall destroy the coding, disk, certificate, card, software, or password that enables electronic affixation of the remote online notary public's official electronic signature or seal. The remote online notary public shall certify compliance with this subsection to the Secretary of State.

(2) A former remote online notary public whose commission terminated for a reason other than revocation or a denial of renewal is not required to destroy the items



described by Subsection (1) if the former remote online notary public is recommissioned as a remote online notary public with the same electronic signature and seal within three months after the former remote online notary public's former commission terminated.

Sec. 11. WRONGFUL POSSESSION OF SOFTWARE OR HARDWARE; CRIMINAL OFFENSE.

(1) A person who, without authorization, knowingly obtains, conceals, damages, or destroys the certificate, disk, coding, card, program, software, or hardware enabling a remote online notary public to affix an official electronic signature or seal commits an offense.

(2) An offense under this section is a (specify level of offence, i.e. class of misdemeanor, etc.)

Sec. 12. CONFLICT. In the event of a conflict between the provisions of this Chapter and any other law in this state, the provisions of this Chapter shall control.

SECTION 13. This Act takes effect \_\_\_\_\_.

Section 14. Nothing in this Act shall be deemed to alter or supersede any decision or ruling by the Supreme Court of Georgia pertaining to the practice of law in this State.

Note – not sure if these sections are necessary considering O.C.G.A. § 44-2-34 et seq

The Following provisions are not part of the MBA-ALTA Model Act. These provisions are recommended for consideration to address recording in those states that have not adopted the Uniform Real Property Electronic Recording Act (URPERA) or to address recording in local recorder offices that do not have electronic recording capability.

Possible addition for non-URPERA states.

SECTION \_\_ \_ RECORDATION OF ELECTRONIC RECORDS IN TANGIBLE FORM.

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, be in writing, or be signed, the requirement is satisfied by a paper copy of an electronic document bearing an electronic signature that a notary public has certified to be a true and correct copy of a document that was originally in electronic form and bearing an electronic signature pursuant to subsection (c).

(b) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied by a paper copy of an electronic document bearing an electronic signature of the person authorized to perform that act, and all other information required to be included, that a notary public has certified to be a true and correct copy of a document that was originally in electronic form and bearing an electronic signature of the person pursuant to subsection (c). A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

**Commented [SA1]:** I don't think this is currently included in 44-2-34 but query whether it conflicts with 44-2-37. This seems to suggest that a document signed, notarized and witnessed electronically and that is subsequently printed would need to be re-notarized. A physical copy of an electronic document should not need to be re-notarized, as (c) seems to suggest, if it has already been attested/witnessed by a remote notary. Instead, the end goal should be for a document to be signed, notarized and witnessed electronically and then either (i) electronically submitted for recording (for when the county clerks start accepting records online for recording, like other states) or (ii) printed and then submitted by hand for recording.

(c) A [recorder] shall record a paper copy of a document that was originally in electronic form and that is otherwise entitled to be recorded under the laws of this [state], provided that the paper copy has been certified to be a true and correct copy of the electronic original by a notary public duly commissioned under the laws of this [state] as evidenced by a certificate attached to or made a part of the document. The certificate must:

(1) be signed and dated by the notary public, and be signed in the same manner as on file with the [commissioning officer or agency];

(2) identify the jurisdiction in which the certification is performed;

(3) contain the title of the notary public;

(4) indicate the date of expiration, if any, of the notary public's commission; and

(5) include an official stamp of the notary public affixed to or embossed on the certificate.

(d) The following form of certificate is sufficient for the purposes of this section, if completed with the information required by subsection (c):

State of \_\_\_\_\_

[County] of \_\_\_\_\_

I certify that the foregoing and annexed document [entitled \_\_\_\_\_ [document title, if applicable],] [dated \_\_\_\_\_ [document date, if applicable], and] containing \_\_\_\_\_ pages is a true and correct copy of an electronic document bearing one or more electronic signatures this \_\_\_\_\_ [date].

\_\_\_\_\_

Signature of notary public

Stamp

[\_\_\_\_\_]

Notary Public

[My commission expires: \_\_\_\_\_]

[My notary registration number is: \_\_\_\_\_]

(e) A notary public duly commissioned under the laws of this [state] has the authority make the certification provided in this section.

(f) A notary public making the certification provided in this section shall

(1) confirm that the electronic record contains an electronic signature that is capable of independent verification and renders any subsequent changes or modifications to the electronic record evident,

(2) personally print or supervise the printing of the electronic record onto paper, and

(3) not make any changes or modifications to the electronic record other than the certification described in subsection (c).

(g) If a certificate is completed with the information required by subsection (c) and is attached to or made a part of a paper document, the certificate shall be conclusive evidence that the requirements of subsection (f) have been satisfied with respect to the document.

(h) A document purporting to convey or encumber real property or any interest therein that has, by inadvertence or excusable neglect, been recorded by a [recorder] for the jurisdiction in which the real property is located, although the document may not have been certified in accordance with the provisions of this section, shall impart the same notice to third

persons and be effective, from the time of recording, as if the document had been certified in accordance with the provisions of this section.

(i) This section does not apply to a [plat, map or survey of real property] if under another law of this [state] or under a rule, regulation or ordinance applicable to a [recorder]

(1) there are requirements of format or medium for the execution, creation or recording of such [plat, map or survey] beyond the requirements applicable to a deed to real property, or

(2) such [plat, map or survey] must be recorded in a different location than a deed to real property.

Mortgage Bankers Association – American Land Title Association



# State Bar of Georgia

To: Bar Officers  
Finance Committee

From: Ron Turner

Date: December 4, 2018

Re: October 2018 Financial Statements-Bar Operations and Bar Center

Attached please find the October 2018 financial statements. These financial statements are presented at a summary level for clarity and to convey overall trends. Full departmental detail is attached at year-end (6/30) and upon request.

Line item variance explanations follow. Department managers are expected to specify savings elsewhere in their budgets when exceeding a line item, unless there was a budgeting error. Line item variances < **\$100** are not explained to conserve your time.

As a way of providing additional information, we have added an additional column to the attached financial statements. This column is labeled as "Remaining Balance of Budget" and represents the difference between the total annual budget and the actual amount incurred to date.

## **New and revised items are highlighted in bold.**

Unless otherwise indicated herein, because the budget overages are very minimal at this time, savings will be realized in each department to offset these overages.

### Administration (ADM)

ADM-Hourly PT is over budget by \$441 as this account was not originally budgeted. This expense occurred as a former employee came back to the Bar for a couple of days to assist her replacement in transitioning to her position.

ADM-Computer Hardware exceeded the budget by \$1,241. The cost of each computer and warranty program exceeded the original cost per unit causing this overage.

### Office of General Counsel (OGC)

OGC-Computer Hardware exceeded the budget by **\$597**. The cost of each computer and warranty program exceeded the original cost per unit causing this overage.

OGC-Contract Labor is over budget by **\$3,483** as costs for this account was not originally budgeted. This budget overage will be made up in the salaries line item.

### Communications (COM)

COM-Computer Hardware exceeded the budget by **\$246** as these costs were incurred for a new employee for which computer monitors were purchased. This purchase was not originally budgeted.

**Communications (COM) - Continued**

**Supplemental Directory exceeded the budget by \$146. This overage occurred primarily because an increase in paper and postage costs above the amounts originally anticipated.**

**Law Practice Management (LPM)**

**LPM – Overtime was over budget \$287 mainly due to staffing needs for the Solo and Small Firm Seminar that the department produced. The Seminar’s income more than offset the unbudgeted overtime.**

**Young Lawyers (YLD)**

**YLD – Seminars and Training is over budget by \$430. This overage is because this expenditure was not originally budgeted.**

**YLD – Computer Software is over budget by \$113 as this expenditure was not originally budgeted.**

**YLD – Brochure exceeded the budget by \$435. This overage is primarily the result of the following four reasons: (1) an increase in the quantity printed by 500 (2) an increase in the quantity mailed by 836 (3) an increase in postage costs and (4) an increase in the cost of paper that was not anticipated. The overage in this account should be offset by savings in the YLD Newsletter account.**

**Miscellaneous**

**OBI (Office of Bar Investigators) Conference was over budget by \$473. This overage will be made up via savings realized in the Office of General Counsel budget.**

**Bar Center – Parking**

**Lanier – Garage Insurance was over budget by \$457. This overage is due to under-budgeting by the subcontractor.**

**Shared Office Overhead**

**Shared office allocations exceed actual expense by approximately **\$60,900**. Shared Telephone, Supplies, Kitchen, and Accounting expenses were lower than budget. This is a positive variance—good news. This number will fluctuate throughout the year.**

**Please give me a call at (404) 527-8748 if you have any questions regarding the attached financial statements.**

cc: Jeff Davis  
Cassie Hallstrom  
Sharon Bryant  
Paula Frederick

**State Bar of Georgia Consolidated Revenues and Expenditures as of October 31, 2018  
Operations and Bar Center Combined**

Activity	2018-19 Net Dues			Actual 2017-18			YTD 2018-19			Budget 2018-19		
	# Memb.	%	Amount	# Memb.	%	Amount	# Memb.	%	Amount	# Memb.	%	Amount
Active	38,802	77.1	\$9,717,063	38,623	77.1	\$9,740,865	38,623	77.4	\$9,917,000			
Inactive	8,936	17.8	\$1,128,875	8,630	17.6	\$1,123,596	8,630	17.6	\$1,140,300			
Associates/Affiliate	15	0.0	\$1,300	14	0.0	\$1,400	14	0.0	\$2,200			
Foreign Legal Cnslt	6	0.0	\$1,500	6	0.0	\$1,512	6	0.0	\$1,512			
Students	287	0.6	\$0	299	0.6	\$0	280	0.6	\$0			
Emeritus	2,274	4.5	\$0	2,343	4.7	\$0	2,250	4.4	\$0			
Late Fees			\$247,405			\$165,740			\$240,000			
Prior Year's Dues			\$8,424			\$1,623			\$7,000			
<b>Total License &amp; Dues</b>	<b>50,320</b>	<b>100.0</b>	<b>\$11,104,567</b>	<b>50,115</b>	<b>100.0</b>	<b>\$11,034,756</b>	<b>51,358</b>	<b>100.0</b>	<b>\$11,305,012</b>			
Bar Center Revenue			\$3,943,792			\$979,358			\$4,023,536			
Alloc. Section Fees			\$196,015			\$191,196			\$191,196			
CSF Expense Reimb.			\$73,000			\$24,333			\$73,000			
Advertising & Sales			\$100,301			\$9,833			\$82,700			
Membership Income			\$146,603			\$48,830			\$119,000			
Interest Income			\$65,474			\$37,867			\$225,000			
Miscellaneous			\$3,204			\$2,437			\$2,000			
<b>Total Revenue</b>			<b>\$15,632,956</b>			<b>\$12,328,610</b>			<b>\$16,024,444</b>			
<b>Total Expenses</b>			<b>\$15,757,418</b>			<b>\$5,284,924</b>			<b>\$16,714,067</b>			
<b>Net Gain (Loss)</b>			<b>(\$124,462)</b>			<b>\$7,043,686</b>			<b>(\$689,623)</b>			

**State Bar Reserves**

<b>Board Designated Reserves (June 30, 2017)</b>	
Operating Reserve	\$2,750,000
Bar Center Reserve	2,000,000
Litigation Reserve	300,000
Cornerstones of Freedom Reserve	600,000
<b>Total Designated Reserves</b>	<b>\$5,650,000</b>
<b>Surplus (Cash Basis - June 30, 2017)</b>	
Operations	(\$4,575,040)
Bar Center	9,786,394
<b>Total Surplus</b>	<b>\$5,221,354</b>
<b>Total Reserves</b>	<b>\$10,871,354</b>



**State Bar of Georgia**  
**Summary of Dues and Voluntary Contributions**  
**At October 31**

Total Number of Members at  
 Apr 30 of prev Bar year (active and inactive) 47,029 47,442 46,659

	<b>2018-19</b> <b>Dues Season</b> <b>May 2018 - April</b> <b>2019</b>	<b>2017-18</b> <b>Dues Season</b> <b>April 2017 - March</b> <b>2018</b>	<b>2016-17</b> <b>Dues Season</b> <b>May 2016 - March</b> <b>2017</b>
<b>Dues</b>			
Active - Number Paid	35,963	39,244	38,614
Inactive - Number Paid	<u>8,078</u>	<u>8,839</u>	<u>8,780</u>
Total Number Paid	<u>44,041</u>	<u>48,083</u>	<u>47,394</u>
Percent Paid	93.65%	101.35%	101.58%
Total Amount Paid - Active and Inactive	<u>10,002,833</u>	<u>10,830,135</u>	<u>10,572,825</u>

**Georgia Legal Services**

Number Paid	<u>3,154</u>	<u>2,743</u>	<u>2,412</u>
Percent of Total Members Paid	<u>7.16%</u>	<u>5.70%</u>	<u>5.09%</u>
Amount Paid	<u>292,067</u>	<u>312,251</u>	<u>276,487</u>
Average Amount Paid	<u>\$ 93</u>	<u>\$ 114</u>	<u>\$ 115</u>

**Legislative**

Number Paid	<u>5,314</u>	<u>5,811</u>	<u>5,948</u>
Percent of Total Members Paid	<u>12.07%</u>	<u>12.09%</u>	<u>12.55%</u>
Amount Paid	<u>492,531</u>	<u>546,905</u>	<u>557,991</u>
Average Amount Paid	<u>\$ 93</u>	<u>\$ 94</u>	<u>\$ 94</u>

**Original Projected 2018-19 Dues Year Totals**

<b>Georgia Legal Services</b>	<u>\$ 320,000</u>
<b>Legislative</b>	<u>\$ 550,000</u>

**Contribution Amounts by Dues Year**

	<b>GLSP</b>	<b>Legislative</b>	
2018 - 2019	<u>\$ 292,067</u>	<u>\$ 492,531</u>	
2017 - 2018	<u>\$ 312,251</u>	<u>\$ 546,905</u>	
2016 - 2017	<u>\$ 276,487</u>	<u>\$ 557,991</u>	
2015 - 2016	<u>\$ 264,492</u>	<u>\$ 565,004</u>	
2014 - 2015	<u>\$ 255,713</u>	<u>\$ 640,505</u>	
2013 - 2014	<u>\$ 241,362</u>	<u>\$ 691,736</u>	
2012 - 2013	<u>\$ 244,707</u>	<u>\$ 685,283</u>	
2011 - 2012	<u>\$ 240,678</u>	<u>\$ 656,254</u>	
2010 - 2011	<u>\$ 241,772</u>	<u>\$ 657,526</u>	
2009 - 2010	<u>\$ 235,276</u>	<u>\$ 650,806</u>	
2008 - 2009	<u>\$ 249,480</u>	<u>\$ 660,570</u>	
2007 - 2008	<u>\$ 264,255</u>	<u>\$ 1,235,022</u>	
2006 - 2007	<u>\$ 295,646</u>	<u>\$ 802,482</u>	\$100 Contribution
2005 - 2006	<u>\$ 751,762</u>	<u>\$ 159,480</u>	\$25 Contribution
2004 - 2005	<u>\$ 170,210</u>	<u>\$ 273,613</u>	\$20 Contribution

November 27, 2018  
**State Bar of Georgia**  
**Income Statement YTD - Operations**  
**For the Four Months Ending October 31, 2018**

	YTD Actual	Annual Budget	Ytd % of Bud	Last Year
<b>Revenues</b>				
Dues - Active	\$ 9,742,397	\$ 9,917,000	98.24	9,718,563
Dues - Inactive	1,123,596	1,140,300	98.54	1,128,875
Dues - Misc. Types	1,400	3,712	37.72	1,300
Dues - Late Fees	167,363	247,000	67.76	255,829
	<hr/>	<hr/>		<hr/>
<b>Total Dues &amp; Licenses</b>	<b>11,034,756</b>	<b>11,308,012</b>	<b>97.58</b>	<b>11,104,567</b>
Section Expense Reimb.	191,196	161,018	118.74	196,015
CSF Expense Reimb.	24,333	73,000	33.33	73,000
Advertising and Sales	9,833	82,700	11.89	100,301
Membership Income	23,405	74,000	31.63	78,303
Pro Hac Vice	75,025	275,000	27.28	348,700
Pro Hac Vice Contra	(49,600)	(230,000)	21.57	(280,400)
Savannah Misc Income	350	0	0.00	700
Interest Income	37,867	225,000	16.83	65,474
Miscellaneous Revenues	2,087	2,000	104.35	2,504
	<hr/>	<hr/>		<hr/>
<b>Total Revenues</b>	<b>11,349,252</b>	<b>11,970,730</b>	<b>94.81</b>	<b>11,689,164</b>
<b>Expenses</b>				
Administration	812,506	2,458,400	33.05	2,277,279
Management Info Systems	243,590	706,303	34.49	544,636
General Counsel	1,168,176	3,871,271	30.18	3,487,780
Consumer Assistance Pgm.	192,235	589,012	32.64	549,638
Communications	261,735	896,664	29.19	805,698
Lawyer's Assistance Program	15,625	62,500	25.00	56,832
Fee Arbitration	173,831	576,621	30.15	504,993
Law Practice Management	123,332	465,034	26.52	429,308
Sections	59,736	191,196	31.24	179,043
Savannah Office	79,427	263,198	30.18	238,590
Tifton Office	58,831	187,052	31.45	173,369
Young Lawyers	187,383	534,296	35.07	502,477
Unauthorized Practice of Law	274,053	836,628	32.76	790,020
Standards of the Profession	0	0	0.00	0
Law Related Education	123,207	381,878	32.26	347,026
High School Mock Trial	45,966	129,653	35.45	127,570
MLAP	38,127	105,000	36.31	3,762
Pro Bono	70,739	212,216	33.33	212,216
Fastcase	110,691	238,000	46.51	216,418
BASICS Program Contribution	150,000	150,000	100.00	140,000
Military/Vets Pro Bono	0	0	0.00	103,254
Other Expenses	62,224	1,063,401	5.85	1,249,760
	<hr/>	<hr/>		<hr/>
<b>Total Expenses</b>	<b>4,427,045</b>	<b>14,233,364</b>	<b>31.10</b>	<b>13,106,634</b>
	<hr/>	<hr/>		<hr/>
<b>Net Income</b>	<b>\$ 6,922,207</b>	<b>(\$ 2,262,634)</b>	<b>(305.94)</b>	<b>(1,417,470)</b>

11/27/2018

**State Bar of Georgia - Bar Center**  
**Revenues and Expenditures - Executive Summary**  
**For the Four Months Ended October 31, 2018**

Activity	Actual FY 18	YTD 10/31/18		Budget FY 19
		Actual	% Budget	
<b>Income and Cash Receipts</b>				
CCLC Contribution	\$1,310,643	\$0	0.0%	\$1,325,000
Interest Income	\$21,196	\$8,510	8.5%	\$100,000
Member Assessment	\$289,900	\$194,623	86.0%	\$226,250
Room Rentals and Various Charges	\$20,297	\$5,937	22.8%	\$26,000
Parking Revenues	\$353,123	\$109,763	29.6%	\$371,142
Rental Income	\$1,331,358	\$450,715	33.5%	\$1,345,632
Operating Budget Transfer	\$616,188	\$209,504	33.3%	\$628,512
Misc Income	\$1,087	\$306	30.6%	\$1,000
<b>Total Income and Cash Receipts</b>	<b>\$3,943,792</b>	<b>\$979,358</b>	<b>24.3%</b>	<b>\$4,023,536</b>
<b>Expenses and Cash Disbursements</b>				
Building Rehabilitation	\$268,496	\$0	0.0%	\$100,000
Conference Floor Renovations	\$0	\$17,450	91.8%	\$19,000
Tenant Improvements	\$59,486	\$0	#DIV/0!	\$0
Furniture and Equipment	\$107,654	\$23,722	33.2%	\$71,500
Architect and Design	\$0	\$0	0.0%	\$0
Loss on Disposal/Retirement	\$14,758	\$0	0.0%	\$0
Parking Deck Construction/Due Diligence	\$13,350	\$0	0.0%	\$20,000
Subbasement Buildout	\$1,900	\$0	0.0%	\$0
Median and Landscaping	\$0	\$0	#DIV/0!	\$0
Woodrow Wilson Exhibit and Law Museum	\$0	\$0	0.0%	\$2,500
President's Conference Room	\$0	\$0	0.0%	\$5,000
Law Related Education	\$0	\$0	#DIV/0!	\$0
Conference Center Operating Expenses	\$414,262	\$147,982	32.1%	\$460,513
Third Floor Contingency	\$10,048	\$0	#DIV/0!	\$0
Building Operating Expenses	\$1,429,681	\$571,026	35.6%	\$1,603,196
2nd Floor Buildout	\$37,190	\$0	0.0%	\$0
Parking Deck Operating Expenses	\$293,959	\$97,699	30.9%	\$315,889
<b>Total Expenses and Cash Disbursements</b>	<b>\$2,650,784</b>	<b>\$857,879</b>	<b>33.0%</b>	<b>\$2,597,598</b>
<b>Net Cash Flow</b>	<b>\$1,293,008</b>	<b>\$121,479</b>		<b>\$1,425,938</b>

State Bar of Georgia  
Investment Performance Comparison  
2005-2018

	Yields				Period End Balances									
	All MMKT	Georgis Bank CDs	ROA/ML Inv Port	SunTrust Inv Port	Blended Yield	All Cash/MMKT**	Georgis Bank CDs	Fidelity MMKT	ROA/ML MMKT	Synovus MMKT	ServiceFirst MMKT	SunTrust Cash/MMKT	Total Book Investments	Total Cash and Investments**
June 2017	0.37%	0.00%	0.00%	N/A	0.37%	32,060,527	-	9	5,517,813	10,942,823	2,287,890	13,311,992	-	32,060,527
Averages, 2Q17	0.40%	0.00%	0.00%	N/A	0.40%	28,179,855	-	9	5,208,031	10,937,480	2,286,636	9,747,698	-	28,179,855
July 2017	0.38%	0.00%	0.00%	N/A	0.38%	33,130,104	-	9	5,935,268	10,947,935	2,289,833	13,857,059	-	33,130,104
August 2017	0.43%	0.00%	0.00%	N/A	0.43%	32,494,288	-	9	8,023,704	10,953,050	2,291,779	11,225,747	-	32,494,288
September 2017	0.47%	0.00%	0.00%	N/A	0.47%	31,171,364	-	9	8,904,440	10,958,002	2,293,663	9,015,250	-	31,171,364
Averages, 3Q17	0.43%	0.00%	0.00%	N/A	0.43%	32,265,252	-	9	7,621,137	10,952,996	2,291,759	11,399,352	-	32,265,252
October 2017	0.48%	0.00%	0.00%	N/A	0.48%	30,407,653	-	9	9,195,691	10,963,121	2,295,612	7,953,220	-	30,407,653
November 2017	0.48%	0.00%	0.00%	N/A	0.48%	28,723,670	-	9	9,051,670	10,968,078	2,297,500	7,406,413	-	29,723,670
December 2017	0.52%	0.00%	0.00%	N/A	0.52%	28,818,298	-	9	9,265,735	10,972,253	2,299,452	6,260,849	-	28,818,298
Averages, 4Q17	0.50%	0.00%	0.00%	N/A	0.50%	29,649,940	-	9	9,170,998	10,967,817	2,297,521	7,213,494	-	29,649,940
Averages, 2017	0.43%	0.00%	0.25%	N/A	0.43%	29,234,208	-	9	7,160,494	10,946,296	2,289,059	8,839,351	62,000	29,296,208
January 2018	0.49%	0.00%	0.00%	N/A	0.49%	26,388,387	-	9	7,413,355	10,978,328	2,301,406	5,675,289	-	26,388,387
February 2018	0.46%	0.00%	0.00%	N/A	0.46%	24,682,195	-	9	6,263,528	10,983,337	2,305,172	5,842,169	-	24,682,195
March 2018	0.52%	0.00%	0.00%	N/A	0.52%	22,595,203	-	9	6,547,765	9,494,456	2,305,125	4,539,366	-	22,595,203
Averages, 1Q18	0.50%	0.00%	0.00%	N/A	0.50%	24,648,629	-	9	6,741,549	10,351,367	2,303,235	5,252,468	-	24,648,629
Averages, 2Q18	0.44%	0.00%	0.00%	N/A	0.44%	28,076,099	-	9	6,349,256	9,509,017	2,308,964	9,906,853	-	28,076,099
July 2018	0.53%	0.00%	0.00%	N/A	0.53%	32,473,042	-	9	6,214,494	9,526,805	2,312,846	14,419,888	-	32,473,042
August 2018	0.57%	0.00%	0.00%	N/A	0.57%	32,448,709	-	-	6,112,822	9,526,805	2,312,846	14,487,236	-	32,448,709
September 2018	0.76%	0.00%	0.00%	N/A	0.76%	31,455,446	-	-	4,233,728	9,534,364	2,314,812	13,370,191	-	31,455,446
Averages, 3Q18	0.62%	0.00%	0.00%	N/A	0.62%	32,125,732	-	3	5,520,348	9,526,698	2,313,502	14,095,772	-	32,125,732
October 2018	0.76%	0.00%	0.00%	N/A	0.76%	31,455,446	-	-	6,051,811	9,546,125	2,316,715	13,370,191	-	31,455,446

\* Includes CCLC  
\*\* Includes CCLC, Client, Security Fund and Bar Center Operating Accts

**State Bar of Georgia**  
**Cornerstones of Freedom Fund**  
**Activity Report**  
**Fiscal Year Through October 31, 2018**

<b>7/1/18 Beginning Balance</b>	<b><u>\$ 600,000</u></b>
Interest Income on Fund	460
Expenditures:	
Writing Services	12,226
Virtual Law Museum	25,000
Media Monitoring	411
Access to Justice Campaign	-
iCivics	-
Schoolgroup Travel-LRE	5,556
Media Campaign--Need Lawyers	124,048
Wellness Program and Website	-
Miscellaneous	-
<b>Total Expenditures</b>	<b><u>167,241</u></b>
<b>Net Balance 10/31/18</b>	<b><u><u>\$ 433,219</u></u></b>
<b>Replenishment</b>	
<b>Needed From Surplus</b>	<b><u><u>\$ 166,781</u></u></b>
<b>At June 30, 2019</b>	

**State Bar of Georgia**  
**Legislative Fund**  
**Activity Report**  
**Fiscal Year Through October 31, 2018**

<b>7/1/18 Beginning Balance</b>	<b><u>\$ 1,257,657</u></b>
Interest Income on Fund	2,272
Contributions	541,310
Expenditures:	
Staff and Contract Lobbyists	125,343
Legislative Committee Expense	266
Grassroots Efforts	4,247
Travel	1,338
Legislative Guests/Meetings	-
Shared Office Allocation	5,613
Computer Hardware	-
Miscellaneous	605
<b>Total Expenditures</b>	<b><u>137,412</u></b>
<b>Net Fund Balance 10/31/18</b>	<b><u><u>\$ 1,663,827</u></u></b>

## State Bar of Georgia Officer Reimbursement Policy (Proposal)

The president, president-elect, treasurer, secretary and immediate past-president of the State Bar of Georgia, as well as the president, president-elect, treasurer, secretary, and immediate past-president of the Young Lawyers Division (YLD) of the State Bar of Georgia shall each be entitled to reimbursement of the necessary and reasonable expenses she or he incurs while carrying-out her or his official duties. Subject, however, to the limitations set forth in this Policy.

The amount of each officer's expenses subject to reimbursement during any particular Bar year shall be established in the budget approved by the Board of Governors for that particular Bar year.

Necessary and reasonable expenses subject to reimbursement pursuant to this Policy specifically include those associated with the following:

### Commercial Airfare

- Commercial airfare will be reimbursed at the coach class rate, including associated baggage fees.
- This notwithstanding, if the flight time is equal to or greater than two hours, then reimbursement of the economy comfort (or equivalent) rate, including associated baggage fees, is permitted.

### Lodging

- Lodging cost will be reimbursed at an amount not to exceed the highest rate negotiated by the hosting entity for one accommodation, including resort fees.
- This notwithstanding, in the event there is no negotiated rate, the expense will be reimbursed at a rate not to exceed \$200 per night.

### Meeting Registration

- Meeting registration, including the cost of additional ticketed events the officer is expected to attend, will be reimbursed in full.
- This notwithstanding, the cost of entertainment or recreational activities will not be reimbursed, nor the cost of any continuing legal education course.

### Meals

- The cost of any particular meal will be reimbursed in full; provided, however, the cost of any particular meal is not greater than 100% above the individual meal federal per diem allowance for the locale where the meal is consumed.

### Transportation

- When a private automobile is used, mileage will be reimbursed according to the IRS standard rate in effect at the time of travel, plus tolls and parking.

- Other ground transportation expenses (for example, taxis, public transportation, ride-share services, and rental cars) will be reimbursed in full upon the officer providing documentation showing the expense incurred.

Expenses subject to reimbursement pursuant to this Policy are necessary and reasonable expenses incurred while an officer covered by this Policy is attending meetings of the State Bar of Georgia (Annual, Midyear, Board of Governors, Executive Committee and other committees); the American Bar Association; the National Conference of Bar Presidents; the Southern Conference of Bar Presidents; or any other meeting or event where the officer is representing the State Bar of Georgia in her or his official capacity and is expected to be in attendance. This includes expenses incurred while the officer is conducting a visit to plan any such meeting. Reimbursement will not be made for expenses incurred after an initial visit to a particular site or after the execution of a contract for a meeting at a particular site, unless that visit is necessary and approved in advance by both the State Bar of Georgia Executive Director and Treasurer.

Expenses associated with the following are specifically excluded from reimbursement pursuant to this Policy:

- Entertainment expenses;
- Alcoholic beverages;
- Hotel mini-bar or laundry expenses;
- Movie rentals during overnight lodging or flights;
- Private aircraft, to the extent the expense exceeds the greater of the coach class commercial airfare rate of a flight between the destinations traveled or mileage between the destinations traveled, according to the IRS standard rate in effect at the time of travel;
- Lodging at personally owned residences, vacation homes or timeshares (for example, Airbnb), unless such lodging expense is equal to or less than the highest negotiated rate for an accommodation at the host hotel for the meeting or event at which it is incurred;
- Pet-care services;
- Childcare services or children's programs;
- Spa services;
- Sporting or other recreational activities;
- Charitable or political contributions;
- Expenses related to attendance at any political event;
- Gifts;
- Membership fees or dues of business associated with industry associations or clubs;
- Continuing legal education fees.



Any expense otherwise subject to reimbursement pursuant to this Policy incurred by the spouse or partner of an officer shall also be subject to reimbursement pursuant to this Policy; provided the expense is incurred at or in conjunction with a meeting or event at which the spouse or domestic partner's attendance is customary or otherwise necessary or expected.

The following procedure shall be used to obtain reimbursement of an expense pursuant to this Policy.

- The reimbursable expense shall be submitted to the Finance Department of the State Bar of Georgia no later than 45 days after the expense is incurred.
- In no event shall an expense incurred during a particular State Bar of Georgia fiscal year be reimbursed if it is submitted for reimbursement later than August 1 of the following State Bar of Georgia fiscal year.
- Reimbursement requests must be submitted on the official State Bar of Georgia reimbursement form, signed by the officer requesting reimbursement.
- Unless otherwise provided by this Policy, accompanying the reimbursement form must be supporting documentation of each expense submitted (for example, receipt, ticket or contract). Credit card statements are not sufficient documentation supporting an expense.
- For meal expenses, supporting documentation must itemize details of the expense.
- In no event shall an expense be reimbursed prior to approval by the State Bar of Georgia Executive Director, Chief Financial Officer, and Treasurer.
- In the event of a dispute about whether an expense is subject to reimbursement pursuant to this Policy, an officer may, in writing, submit a request to the Executive Committee of the State Bar of Georgia to determine whether the expense at issue is reimbursable pursuant to this Policy. That determination shall be made by a majority of the non-officer members of the Executive Committee participating and voting. In the event of a tie vote, the reimbursement will be disallowed. A quorum for any such vote shall be at least three non-officer members.

Exceptions to this Policy are permitted, but only upon the unanimous determination by the Executive Director, Treasurer and Chief Financial Officer of the State Bar of Georgia that extenuating circumstances have occurred necessitating that exception.

This Policy is adopted by the Executive Committee of the State Bar of Georgia on December 6, 2018. It shall become effective January 1, 2019, superseding any prior State Bar of Georgia Policy about officer expense reimbursement or compensation. This Policy is subject to change at any time by action of the Board of Governors of the State Bar of Georgia.

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

- Week of Dec. 3, 2018** Budget Timetable and the Budget Request Forms are sent to President-elect, YLD President-elect, Committee/Program Chairs and Bar staff directors.
- Fri. – Jan. 4, 2019** **Deadline for submission of all new budget requests to be submitted to Executive Director, Chief Operating Officer or Chief Financial Officer. Non-emergency requests received after this date will be held for consideration in the 2019-2020 budget cycle.**
- Thrs. – Jan. 17, 2019 **Programs Committee** reviews any new budget requests from existing State Bar programs and any requests for new programs. Proponents are requested to appear to orally present and justify their requests. Meeting time: 10:00 am.
- Thrs. – Jan. 17, 2019 **Personnel Committee** reviews any new staffing and compensation change requests. Proponents requested to appear to orally present and justify their requests. Meeting time: 12:30 pm.
- Wed. - Feb. 6, 2019  
(tentative) **Finance Committee** reviews the recommendations of the Programs and Personnel Committees (the review is limited to their financial impact on dues and budget) and recommends the 2019-2020 dues level to the Executive Committee for the February 20 Executive Committee meeting. Proponents, having already been heard, do not attend. (Note: [EC agenda deadline Feb. 11](#)). Meeting time – 11:00 am.

*(Dates below are determined by the Exec. Comm. meeting schedule and subject to change)*

- Wed. - Feb. 20, 2019 **Executive Committee** receives the recommendations of the Programs and Personnel Committees, and the Finance Committee's draft budget (including its report on the financial impact of those recommendations) and recommends the 2019-2020 dues level to the Board of Governors for the March 31 Board meeting. (Note: [Board agenda deadline is March 6](#))
- Sat. – March 30, 2019 **Board of Governors** sets the 2019-2020 dues level at the Spring Board Meeting (Ritz Carlton Lake Oconee-Greensboro).
- Early-mid April 2019 **Finance Committee** recommends the 2019-2020 proposed budget to the Executive Committee for the May 3 Executive Committee meeting. (Note: [EC agenda deadline is April 23](#).)
- Fri. - May 3, 2019 **Executive Committee** recommends the 2019-2020 proposed budget to the Board of Governors for the June 8 Board meeting. (Note: [Board agenda deadline is May 15](#))
- Sat. - June 8, 2019 **Board of Governors** receives 2019-2020 final draft budget for approval at the Annual Board Meeting (Orlando, FL).

### Overview of the Budget Process:

1. Programs Committee recommends **substantial program changes** (additions, changes, or deletions) to the Executive Committee.
2. Personnel Committee recommends staffing for **existing programs** to the Executive Committee.
3. Finance Committee recommends a draft budget to the Executive Committee, including the financial impact of the recommendations of the Programs and Personnel Committees. It does not hear from proponents or repeat the work of the Programs and Personnel Committees, but instead advises on the financial results of their work.
4. Executive Committee reviews the recommendations of all three committees and suggests dues level and budget to the Board of Governors.
5. Board of Governors sets the dues level, check-offs, and section fees at its Spring Meeting, and sets the 2019-2020 budget at its Annual Meeting after a hearing open to all members.

Institute of Continuing Legal Education  
Statement of Financial Position  
October 31, 2018

	October 31, 2018
Assets	
Current Assets:	
Cash-Money Market	\$ 1,233,076
Cash-Checking	1,003,724
Prepaid Deposits and Other	127,724
Investments at Synovus (Note 1)	2,154,298
Total Current Assets	4,518,822
Property and Equipment:	
Furniture and Equipment	200,456
Accumulated Depreciation	(60,806)
Total Property and Equipment	139,650
Total Assets	\$ 4,658,472
Liabilities and Net Assets	
Current Liabilities:	
Accounts Payable	\$ 517,894
Accrued Payroll and Payroll Taxes	58,902
Deferred Revenue	239,476
Total Liabilities	816,272
Net Assets:	
Undesignated Fund Balance	2,641,432
Board Designated Fund Balance	175,655
Reserve - Building & Equipment	225,000
Land, Buildings & Equipment	800,113
Total Net Assets	3,842,200
Total Liabilities and Net Assets	\$ 4,658,472

Institute of Continuing Legal Education  
Statement of Operating Revenues and Expenditures  
Four Months Ended October 31, 2018 with Budget Fiscal Year Ended June 30, 2019

	October 31, 2018	Budget Fiscal Year Ended June 30, 2019
Revenue	\$ 1,472,084	\$ 5,000,000
Program Expenditures	993,641	2,875,010
Margin	478,443	2,124,990
Recurring Expenses:		
Payroll, Payroll Taxes and Benefits	486,995	1,546,206
Software, Hardware and Communications	73,718	133,715
Credit Card and Bank Fees	53,171	160,000
Professional Fees	-	25,000
Office Supplies, Freight and General	8,539	17,000
Seminars, Training, and Meetings	6,865	38,700
Equipment and Furniture Maintenance	1,235	10,200
Business Insurance	8,591	25,000
Shared Office Expense	101,034	303,103
Total Recurring Expenses	740,148	2,258,924
Investment Income (Loss)	11,070	
Net Income (Loss)	\$ (250,635)	\$ (133,934)

Institute of Continuing Legal Education  
Notes to Financial Statement of Financial Position  
October 31, 2018

Note 1:

Investments at Synovus are as follows:

	October 31, 2018
Cost	\$ 2,173,768
Mark to Market	(19,470)
Market Value	<u>\$ 2,154,298</u>



December 12, 2018

Board of Governors,

It is hard to believe that the Bar year is halfway over. Until I became YLD president this past July, I did not fully understand the magnitude and the wealth of activity our organization held. It has been a busy and productive six months for the YLD. We have been committed to continually promoting the mission of our Bar through its younger members, who number more than 10,000. It is my privilege to report to this Board on the activities of the YLD since our last update in November 2018.

### YLD Committees

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

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

In October and November, Committee Chairs **Eulen Jang** and **Jenna Rubin**, organized a two-part CLE program that discussed the educational rights for students with disabilities as well as how to navigate the school tribunal process. The presenters for the program were **Talley Wells**, Executive Director of Georgia Appleseed, and **Eric Fisher** of Taylor English Duma, LLP.

#### **Community Service**

On Nov. 4, 2018, Committee Chairs **Brittanie Browning** and **Sarah Jett** led a volunteer project where the committee prepared breakfast and dinner for the families staying at the Ronald McDonald House at Egleston Hospital in Atlanta. They also raised enough funds to restock the Ronald McDonald House's pantry with food for future meals.



*YLD Community Service Committee Volunteering on Nov. 4, 2018, at the Ronald McDonald House.*

#### **Corporate Counsel**

On Nov. 28, 2018, Committee Chairs **Aaron Snipes** and **Toby Morgan** organized the committee to attend a presentation on the future of cloud storage and Blockchain technology

at the Georgia Institute of Technology. The presentation showed attendees how to better protect their client's legal data and their own work product.

### **Disaster Legal Assistance**

The disastrous aftermath of Hurricane Michael left 20 Georgia counties eligible for federal disaster legal assistance. Through a partnership with the American Bar Association, this committee, chaired by **Kristen Files**, managed a free legal assistance hotline to help those affected in those 20 Georgia counties. So far the committee has taken more than 60 calls from the hotline.

### **Ethics and Professionalism:**

The YLD Ethics and Professionalism Committee and YLD Solo/Small Firm Committee organized a lunch and learn on Nov. 28, 2018, at the State Bar. The event featured **Gino Brogdon**, a civil litigation trial attorney and founder of The Brogdon Firm, discussing ethical considerations when starting and running a firm. During the month of December, the committee for the second year in a row volunteered with the Fulton County DFCS Holiday Warehouse program. On Dec. 15, 2018, volunteers wrapped gifts for the Joy of Sharing program.

### **Inclusion in the Profession**

This YLD committee has partnered with Georgia State University's Center for the Advancement of Students and Alumni. The partnership is aimed to help Georgia State undergraduate pre-law students understand what it means to be a lawyer. The students were particularly interested in hearing from civil rights and human rights lawyers. In response to the students' interests, the committee held a panel composed of distinguished speakers on Thursday, Nov. 1, at Georgia State.



*Members of the panel. (L-R): **Erica Taylor**, Moderator, YLD Inclusion in the Profession Co-Chair and Staff Attorney, Atlanta Volunteer Lawyers Foundation; **Alison Slagowitz**, Attorney, Georgia Legal Services; **Christopher Bruce**, Lobbyist, American Civil Liberties Union; and **Azadeh Shahshahani**, Legal and Advocacy Director for Project South.*

### **National Moot Court Competition**

The American College of Trial Lawyers and the YLD hosted the Southeast Regional National Moot Court Competition at the Russell Federal Building in Atlanta on Nov. 2 and 3. The competition welcomed law schools from all over the southeast like Stetson, Emory, University of Miami, University of South Carolina and the University of Georgia.

### **Law Student Outreach Committee**

On Nov. 15, 2018, the committee provided coffee and donuts at Georgia State University College of Law. As students partook in these treats, Committee Chair **Bethany Whetzel** told

them about opportunities to get involved in the YLD now as law students. The committee did something similar again on Nov. 29, 2018, at Emory University School of Law. The YLD participated in Emory's "Last Call", an event designed for students to take a break and socialize before final exams started.

**Public Interest Internship Committee (PIIP)**

Each year, PIIP awards three \$5,000 scholarships for law students or lawyers to participate in a summer public service internship. The YLD recognized the 2018 recipients and finalists at the Pro Bono and Public Interest Awards at the Glenn Sky Lounge on Nov. 15, 2018.



*Recipients, Finalists and PIIP Co-Chairs at the Pro Bono and Public Interest Awards.*

**Litigation Committee**

The committee continues to hold a variety of exceptional programming. On Nov. 15, 2018 the committee held a networking breakfast at the Polsinelli firm. The breakfast featured a discussion on the topic of business development. On Dec. 5, 2018, the committee held their annual Clerk's Luncheon at Magianno's Buckhead. This luncheon is to celebrate and honor our clerks from all classes of courts throughout Georgia



*Lawyers and clerks enjoying good food and company at the YLD Clerk's Luncheon.*

**YLD Leadership Academy Alumni**

The annual Holiday Luncheon was held on Dec. 13, 2018, at the Piedmont Driving Club. We were honored to have Court of Appeals of Georgia Judge Carla Wong McMillian as our keynote speaker.



## **Leadership Academy**

Founded in 2006, the YLD Leadership Academy is a program for young lawyers who are interested in developing their leadership skills as well as learning more about their profession, their communities and their state.

The Leadership Academy counts more than 500 alumni. Those alumni members include solo practitioners, judicial law clerks, partners in large and small law firms, assistant district attorneys, public defenders, nonprofit lawyers, ADR specialists and in-house counsel for Fortune 500 companies. The benefits of having a friend and legal resource in practically every corner of the state and in any practice area cannot be overestimated.

This year, we have welcomed a class of 30 participants. We are excited to have a diverse class in terms of race, geography and practice area. The Midyear Meeting will be their first among six sessions. The details of each session are explained below:

- **Session 1: Jan. 11-12, 2019 | Macon**  
**Becoming a Leader in the YLD and State Bar**  
Participants will meet and be introduced to the Leadership Academy at the Macon Marriott City Center hotel on Friday during the State Bar of Georgia's Midyear Meeting and attend a session with leaders of the Bar and the YLD. Academy members will have an opportunity to be sworn in to the U.S. District Court for the Middle District of Georgia before attending the YLD General Session at the hotel. On Saturday, the Leadership Academy will participate in a pro bono wills clinic for local first responders at Mercer University Law School.
- **Session 2: Feb. 5, 2019 | Atlanta**  
**Lawyers as Leaders in State Government**  
Participants will meet at the Bar Center in Atlanta and discuss opportunities for lawyers to serve as leaders in state government before traveling to the state Capitol. There, the Leadership Academy will observe the political process and enjoy a luncheon with lawyers serving in the Georgia General Assembly. After lunch, participants will move to the state judicial building for a discussion with judges from the Court of Appeals of Georgia and justices from the Supreme Court of Georgia. Members of the Leadership Academy will also have the opportunity to be sworn in to those courts during this session. The session will start early morning and last until late afternoon.
- **Session 3: March 8-9, 2019 | Vidalia**  
**Pro Bono and Community Service**  
The Leadership Academy will meet in Vidalia, where YLD President Rizza O'Connor resides, for a discussion about the opportunities for and importance of pro bono work and community service. Members will have the opportunity to be sworn in to the U.S. District Court for the Southern District of Georgia on Friday. Saturday, participants will partner with the YLD Estate and Elder Law Committee for a one-day community service project.
- **Session 4: April 25-27, 2019 | Washington, D.C.**  
**Networking Across State Lines**  
Members of the Leadership Academy will meet in Washington, D.C., in conjunction with the YLD Spring Meeting at the Hamilton Hotel. Participants will have the opportunity to tour federal agencies and government offices and discuss professional networking across state lines. Leadership Academy programming will begin on Thursday with a welcome reception and conclude on Saturday with the YLD's General Session, though the YLD will also be hosting other events during the weekend.

- **Session 5: May 17, 2019 | Atlanta**

- **Professionalism**

- Participants will meet in Atlanta for a program with local attorneys and judges to discuss professionalism in practice. The Leadership Academy will also travel to the U.S. District Court for the Northern District of Georgia to speak to judges with that court and will have the opportunity to be sworn in there.

- **Session 6: June 7-8, 2019 | Orlando, Fla.**

- **Closing Session and Graduation**

- Our closing session will take place in Orlando, Fla., during the State Bar of Georgia's Annual Meeting. A keynote speaker will address the Leadership Academy during a graduation luncheon, after which the members of the Leadership Academy will receive their graduation plaques. Graduates' family and friends are welcome to attend and can be registered for the event when the Annual Meeting brochure is distributed. Graduates will also have the opportunity to participate in YLD Representative Council elections and are encouraged to attend other events during the weekend.

### YLD Affiliates

#### **Augusta YLD**

The Augusta YLD held their annual Christmas party on Friday, Dec. 14, at Southbound Smokehouse.

#### **Glynn County YLD**

The Glynn County YLD held their Christmas party on Thursday, Dec. 6, at the Village Inn and Pub on St. Simons Island. There was live music, food and drinks free to all members.

#### **Houston County YLD**

The Houston County YLD held their Christmas Party in the beginning of December. For Christmas, they "adopted" a family of five children through Southside Baptist Church's Angel Tree. The response for donations was overwhelming. Each child "adopted" received two toys of their choice and a new outfit. There were so many extra toys and clothes donated to the toy drive that the Houston County YLD also donated all those extra presents to Southside Baptist Church.

#### **Savannah YLD**

The Savannah YLD held its annual mass swearing-in for those who passed the July 2018 Bar exam. This swearing-in was held on Nov. 8 at the Grand Jury Room in the Chatham County Courthouse with **Judge Michael Karpf** presiding. The YLD held a "Mix and Mingle" networking event in November at the Grove Restaurant in Downtown Savannah. On Dec. 10, 2018, the YLD organized a mass swearing-in ceremony at the federal courthouse for those who were interested in being admitted to the U.S. District Court for the Southern District of Georgia. The YLD ended the year by hosting its popular "Tacky Christmas Sweater Party" held at Savannah YLD President **Kate Smith's** house on Dec. 14.

#### **Macon YLD**

The Macon YLD held a mass swearing-in on Nov. 1 at the Macon Courthouse. Following the ceremony, the Macon YLD hosted a low country boil at attorney **Carl Reynolds'** skeet range.

### Meetings

YLD members as a whole gather four times over the course of the Bar year to report on their committee work, socialize and plan and organize division-wide projects.

**Summer Meeting in Savannah, Ga.] Aug. 23-26, 2018**

The meeting contained both social and professional events. The CLE featured Dep Kirkland, the prosecutor in the murder trial of Jim Williams, whose story and trial was the focus of the book and movie, “Midnight in the Garden of Good and Evil.” Following the CLE there was a group dinner at the Chatham Club and a haunted trolley ride followed dinner. On Saturday, the General Session took place where officers and directors reported on YLD business and members of the Executive Council updated the leadership on projects and events. For the first time, the General Session was live –streamed over Facebook so that those who could not attend the meeting could watch from their phones or computers.



*YLD leaders enjoy a group outing at the Officers and Directors Meeting prior to the Summer Meeting.*

**Fall Meeting at The Ritz-Carlton Reynolds, Lake Oconee, in Greensboro, Ga.]  
Nov. 9-11, 2018**

The Fall YLD meeting was held at The Ritz-Carlton Reynolds, Lake Oconee. We had an active conference weekend with a business meeting, group dinners and a tailgate at before the UGA vs. Auburn football game. The CLE was “Leave Home Cooking in the Kitchen: Advice and Best Practices for Effective Advocacy in Rural Georgia No Matter Where You Live.” This panel consisted of past YLD Presidents **Joe Dent** of Albany and **Sharri Edenfield** of Statesboro. Board of Governors members **Carl Cansino** of Milledgeville and Judge **Stephanie Burton** of the Oconee Circuit.



*YLD members after an exciting and competitive game of kickball at the Fall Meeting.*

### **Midyear Meeting in Macon, GA| Jan. 10-12, 2019**

Aside from our General Session on Friday, the YLD will hold a networking event immediately following the meeting at the home of attorney **Carl Reynolds**. The YLD, the Macon YLD, and the Houston County YLD will sponsor this networking event. On Saturday, the YLD Leadership Academy along with volunteer law students will hold a Wills Clinic at Mercer Law School. At the Wills Clinic, attorney volunteers will assist first responders in the preparation and execution of basic estate planning documents.

### **Spring Meeting in Washington, D.C. |April 26-29, 2019**

Activities will include a CLE and social events like a group food tour and a nighttime monument tour. On Monday, April 29, the YLD will visit the U.S. Supreme Court where there will be an opportunity for 25 members to be sworn in to this highest Court. Georgia native, Justice **Clarence Thomas**, will spend time with our group when we visit the Supreme Court.

### **Notable Upcoming Events**

- **Signature Fundraiser:** This will be the 11th year of the YLD Signature Fundraiser. This year's event will be held at Terminal West in Atlanta on April 13, 2019, to benefit Lawyers for Equal Justice. The event will have a casino theme and will offer opportunities for food, drinks and dancing.
- **Georgia Legal Food Frenzy:** This program was designed to raise money to provide food for children during the summer months while they are out of school. Last year, the program raised more than \$400,000. Now in its eighth year, the goal is to surpass last year's total. In an effort to do this, YLD Legal Food Frenzy Co-Chair **Morgan Lyndall** has created a plan to hold a fundraising golf tournament on Monday, April 15, 2019.
- **Build a Better Georgia Day:** The Community Service Committee will put on this event for the second year in a row. On Saturday, May 4, 2019, young lawyers in each federal judicial district in Georgia will build a Habitat for Humanity house simultaneously. There will be builds in Savannah, Macon and Atlanta.
- **National High School Mock Trial Competition in Athens, Ga.:** Championship teams from across the United States will descend on Athens on May 16-18, 2019, for the national competition. The competition will be in need of volunteer lawyers to serve as judges. This is a wonderful experience to see the hard work of high school students culminate to this final stage of competition.

### **Special Projects**

#### **Letter to Governor-Elect Kemp**

The ABA Young Lawyers Division recently launched a new initiative, "A Seat at the Table," to encourage young lawyers to get more involved in their communities, whether that's running for office, pursuing appointments or advocating on issues important to them. Through the ABA, a letter was sent to Governor-Elect Brian Kemp to encourage him to appoint young lawyers to his staff and to statewide boards and commissions.

#### **Signature Service Project**

The YLD is still working closely with Lawyers for Equal Justice on the Remote Representation Project. The goal of this project is to create a system where attorneys from Lawyers for Equal Justice could represent litigants pro bono or lo-bono in courts remotely through the use of technology in rural areas

where access to justice is an issue. The committee is still working on ways for the format to be easily and cost-effectively duplicated by other courts.

We thank the Board of Governors for their support of the YLD events. Many times, we call on you to be speakers at our events or to be our special guests. Thank you for saying yes and taking the time to be with us. Your involvement greatly influences our members and provides valuable mentoring.

Regards,

Rizza P. O'Connor  
2018-19 YLD President



## 2019 National High School Mock Trial Championship

[athens2019.nhsmtc.org](http://athens2019.nhsmtc.org)

The State Bar of Georgia, through the Young Lawyers Division and the Georgia High School Mock Trial Competition, will be the host for the 2019 National High School Mock Trial Championship.

- When?* May 14-18, 2019  
*Where?* Athens, GA  
*Who's coming?* 46 teams from 42 or 43 states, Guam, Northern Marianas Islands and South Korea  
*How many people?* We'll have about 1,200 students, coaches, and parents in Athens, along with an additional 200-300 volunteers, staff, NHSMTC Board members, etc.  
*How can attorneys and judges get involved?* We will need to fill 92 judging panel spots each round for four rounds. Registration is open for judging panel volunteers and hotels are taking reservations.

### *What's happening?*

#### Tuesday and Wednesday, May 14 and 15

- Teams arrive
- Practice and scrimmage rooms available



School of Law  
UNIVERSITY OF GEORGIA

#### Thursday, May 16

- Practice and scrimmage rooms available
- Various team/coaches meetings
- Pin Exchange and Tailgate (team social event) –Herty Field, North Campus

#### Friday, May 17

- Rounds I and II – Athens-Clarke County Courthouse and The Classic Center
- Judging Panel Reception – At the Richard B. Russell Building Special Collections Library
- Team social event – An Evening at the Georgia Theatre

#### Saturday, May 18

- Rounds III and IV – Athens-Clarke County Courthouse and The Classic Center
- Final Round –Hatton Lovejoy Courtroom, UGA Law School
- Awards Gala – The Classic Center

For more information or to volunteer, contact Michael Nixon, Director, High School Mock Trial Competition and visit the Athens 2019 website.

[michaeln@gabar.org](mailto:michaeln@gabar.org)  
404/527-8779



## 2019 High School Mock Trial Season Dates and Locations

### Regional Competitions

Weekend of February 2

Approximately 1,100 judging panel spots to fill

- |                |                 |             |
|----------------|-----------------|-------------|
| - Albany       | - Dalton        | - Marietta  |
| - Athens       | - Decatur       | - McDonough |
| - Atlanta      | - Jonesboro     | - Newnan    |
| - Cartersville | - Lawrenceville | - Savannah  |
| - Cumming      | - Macon         | - Valdosta  |

### District Competitions

Weekend of February 24

320 judging panel spots to fill

- |           |           |             |
|-----------|-----------|-------------|
| - Albany  | - Dalton  | - McDonough |
| - Atlanta | - Decatur | - Newnan    |
| - Cumming | - Macon   |             |

### State Finals

Saturday, March 16

90 judging panel spots to fill

Athens-Clarke County Courthouse and The Classic Center, Athens

To volunteer, please go to the *Volunteer for the Program* page on [www.georgiamocktrial.org](http://www.georgiamocktrial.org).



## 2019 National High School Mock Trial Championship

ATHENS, GA | MAY 16-18

### Development Committee

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#### Planning Committee

Kevin Epps, Chair, *Athens*  
Michael Nixon, Host Director, *Atlanta*  
Christy Barker, *Savannah*  
Norman Barnett, *Marietta*  
T. Peyton Bell, *Atlanta*  
Amanda Kay Seals, *Atlanta*  
Sherri Marie Carr, *Seneca, S.C.*  
Kellie Casey, *Athens*  
Julie Culhane, *Jacksonville, Fla.*  
Will Davis, *Atlanta*  
Adam Hebbard, *Athens*  
Betsy Hodges, *Atlanta*  
Joe Hodges, *Atlanta*  
Paula Kapiloff, *Macon*  
Rhonda Klein, *Atlanta*  
E. Righton Lewis, *Atlanta*  
John Manly, *Savannah*  
Jennifer Mann, *Lawrenceville*  
Roy Manoll, *Athens*  
Chris Miranda, *Macon*  
Ashley Palmer, *Atlanta*  
Steven Pruitt, *Albany*  
Emily Richardson, *Decatur*  
Jon Setzer, *Lawrenceville*  
Bonnie Smith, *Atlanta*  
Suzanne Smith, *Atlanta*  
Robert Thomas, *Lawrenceville*  
Breana Ware, *Atlanta*  
Katie Wood, *Decatur*

#### Development Committee

E. Righton Lewis, Chair  
Amanda Kay Seals  
Kevin Epps

Dear Friends:

In May, 2019, the State Bar of Georgia and its Young Lawyers Division will host the National High School Mock Trial Championship (NHSMTTC). For the first time, Athens, the Classic City, will host the top high school Mock Trial teams from across the country. The event will feature the nation's finest young adult advocates and witnesses presenting their positions before juries and judges selected from across Georgia.

The State Bar of Georgia, the Georgia High School Mock Trial Competition, and the Young Lawyers Division, are committed to making the event a great success. We are seeking your support in our effort to show the best of both the city of Athens and the State of Georgia.

The competition will bring approximately 700 students and coaches, 400 family members and 400+ volunteer judges, team officials and organizers to Athens. This event will provide great exposure for Athens, the State of Georgia, and our state's top lawyers and judges, and will provide significant tourism dollars. The budget for the competition has been set at \$225,000 to cover the various expenses related to hosting a national competition. Examples of these expenses include facility rental, food and beverage for competitors and coaches, award ceremonies, insurance, onsite materials and volunteer recruitment.

We have the location. We will have the teams. Now we need you. Sponsorship opportunities are available at varying financial levels (see the next page for more details). The community support has already been outstanding. The State Bar of Georgia has already committed as Tour Manager level sponsors. Other entities, such as The University of Georgia, UGA School of Law, Athens-Clarke County Courthouse, and the Athens Convention and Visitors Bureau, have also stepped forward in partnership for this important event.

To contribute, please complete the form on the next page and return it to the Georgia Mock Trial office, attention: Michael Nixon. You may also direct any questions to Michael at [athens2019@gabar.org](mailto:athens2019@gabar.org) or 404/527-8779.

Thank you for your consideration.



**SPONSORSHIP OPPORTUNITIES** – These sponsor dollars will be used to offset general competition expenses. Sponsors at these levels will be recognized by name and logo on the Athens 2019 website and in the competition program book Sponsors section, along with specific recognition and access detailed below.

**Tour Manager** (\$20,000 and above)

- Name/logo on signage at all events
- 5 tickets to Judging Panel Reception (Fri. evening) and 10 tickets to Awards Gala Reception (Sat. afternoon) and Awards Gala (Sat. evening)

**Booking Agent** (\$10,000+)

- Name/logo on signage at all events
- 3 tickets to Judging Panel Reception (Fri. evening) and 5 tickets to Awards Gala Reception (Sat. afternoon) and Awards Gala (Sat. evening)

**Promoter** (\$5,000+)

- Name/logo on signage at Judging Panel Reception and Judging Panel Orientations
- 2 tickets to Judging Panel Reception (Fri. evening) and 3 tickets to Awards Gala Reception (Sat. afternoon) and Awards Gala (Sat. evening)

**Stage Manager** (\$3,000+)

- Name/logo on signage at Judging Panel Reception and Judging Panel Orientations
- 2 tickets to Judging Panel Reception (Fri. evening) and 2 tickets to Awards Gala Reception (Sat. afternoon) and Awards Gala (Sat. evening)

**Stage Hand** (\$1,000+)

- Name/logo on signage at Judging Panel Orientations

**Road Crew** (\$500+)

**Groupie** (\$250+) *(Name only)*

**Fan of the Band** (\$1 - \$249) *(Name only)*

**Please send in this letter with your donation.**

	MAIL TO:	CHECK NUMBER
Please make check payable to: <b>State Bar of Georgia Foundation</b>	Mock Trial Office 104 Marietta Street, NW; Suite 100 Atlanta, GA 30303	

If you are making your donation on behalf of a company/organization or another individual, please let us know:

\_\_\_\_\_

If you would like for us to use a company/organization logo for use in recognition, please email a .jpeg or .png of the logo to [athens2019@gabar.org](mailto:athens2019@gabar.org).

How would you like the donation to be recognized in print? \_\_\_\_\_

## VOLUNTEER AT THE CHAMPIONSHIP

Mock Trial Math  
For Nationals

- 46 Teams *need*
- 23 Courtrooms *per Round, with*
- 4 Judging Panel Volunteers *per room. That's*
- 92 Judging Panel Volunteers *per Round over*
- 4 Rounds of Preliminary Competition!

= YOU

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Aside from fundraising, we need individuals to volunteer to sit on judging panels for the National competition. Each Round will require about four hours of time in Athens. We'll feed you breakfast or lunch, depending on which Round you assist with. We'll also give you a bit of Nationals swag. With twenty-three courtrooms in each of four rounds on Friday and Saturday, we need to fill over **360** judging panel spots for the competition, both on the bench and in the jury boxes:

Round I: Friday morning

Round III: Saturday morning

Round II: Friday afternoon

Round IV: Saturday afternoon

All competition Rounds will take place at the Athens-Clarke County Courthouse and the Classic Center, both in downtown Athens.

We are asking that judging panel members have some prior mock trial experience before Nationals (high school, college, or law school), either by coaching a team, serving on a judging panel, or through their personal participation in the past. With the upcoming 2019 Georgia mock trial season taking place in February and March in locations across Georgia, there are ample opportunities for attorneys to gain this experience, especially at our Regional Competition level the weekend of February 2.

Having full judging panels in the courtrooms during the competition rounds will be essential to the success of the competition. Your involvement in the both the Georgia and National competitions make a real difference for the students and is a great way for Georgia's Bar membership to engage with the public.

**Georgia Competition:** Volunteer forms for the upcoming Georgia High School Mock Trial Competition season are available on the Volunteer page of the High School Mock Trial website: [www.georgiamocktrial.org](http://www.georgiamocktrial.org).

**National Championship:** Registration for judging panels is currently open for the Athens 2019 National Championship on the Volunteer page of the Nationals website: [athens2019.nhsmtc.org](http://athens2019.nhsmtc.org). In addition, hotels are currently taking reservations. Links to the Athens 2019 blocks are on the Travel page of the website.

**Thank you!**

**STATE BAR OF GEORGIA  
EXECUTIVE COMMITTEE  
MINUTES**

**Friday & Saturday, September 21-22, 2018  
The Henderson/Destin, Florida**

Members Participating:

Kenneth B. Hodges, III, President; Darrell L. Sutton, President-elect; Buck Rogers, Immediate Past President; Elizabeth Louise Fite; Secretary; Dawn M. Jones, Treasurer; Rizza O'Connor, YLD President; William T. Davis, YLD President-elect; Nicole C. Leet, YLD Immediate Past President; Sally B. Akins; Tony DelCampo; Amy V. Howell; David S. Lipscomb; Frank Strickland; and Nicki Vaughan.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Sarah Coole, Director of Communications; Jeff Davis, Executive Director; Christine Butcher Hayes, Director of Governmental Affairs; Paula Frederick, General Counsel; and Bill NeSmith, Deputy General Counsel.

Call to Order

President Ken Hodges called the meeting to order at 12:32 p.m. Members of the Executive Committee in attendance are indicated above.

Future Meetings

President Ken Hodges reviewed the Future Meetings Schedule.

Executive Committee Minutes

By unanimous voice vote, the Executive Committee approved the meeting minutes of August 16, 2018.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Executive Committee approved the following resignation requests by unanimous voice vote: Kathleen Deveix-138820, Philip Freeburg-390972, Adrienne Jules-142093, Brad Berman-054827, Kenneth Liebowitz-239241, Linda T. Ladell-460786, Joseph Tabler-338035, Harold Greenberg-459822, Donald Thomas Phillips-575937, Derek Howard Campbell-343311, George L. Williams III-761850, Tracy Klingler-105450, Virginia H. Jeffries-390150, Deborah M. Vaughan-726238, Stephen Noble Fitts III-171834, James E. Thomas Jr-705412, Robert Allen Mullins-529010, Susan Nolan Reini-600523, Janet Pomerantz-690788, Bryant Killian Smith-654895, Barbara Smith Gilbreath-940449, Vincent Marc Ferrero-259210, Karen Mozley Calloway-105307, Gunter Filippucci-259895.

Members Requesting Disabled Status

Pursuant to State Bar Rule 1-202, the Executive Committee, by unanimous voice vote, approved one request for disabled status.

### Members Requesting Late Fee Appeal

The Executive Committee, by unanimous voice vote, approved a waiver of late fees for Nathaniel A. Barnes, Jr. and Ralph Fulton Haygood.

### Proposed New Uniform Rules for the Juvenile Courts of Georgia

This item was tabled.

### Resolution of Appreciation for Disciplinary Rules and Procedures Committee

Following a report by David Lipscomb the Executive Committee, by unanimous voice vote, with David Lipscomb abstaining, approved presenting framed resolutions of appreciation to the members of the Disciplinary Rules and Procedures Committee for their efforts over the past two years on the disciplinary rules revisions, and authorized up to \$1,500 for the framing. The resolutions will be presented at the Fall Board of Governors meeting

### IOLTA Account Random Audits

General Counsel Paula Fredrick reported that at the request of President Ken Hodges, she gathered information from jurisdictions that conduct random audits of trust account and provided a copy of the ABA Model Rule on Random Audit of Trust Accounts. The State Bar does not have a random audit rule, but it does have Bar Rule 4-111 that allows the State Disciplinary Board to conduct an Audit for Cause when the Board has evidence suggesting that a lawyer is stealing client funds. Paula further reported that there are twelve jurisdictions that conduct random audits. President Hodges said this item will be discussed further at the Saturday meeting.

### Mandatory Engagement Letter

General Counsel Paula Fredrick reported that 15 state bars require their members to provide written engagement letters in all matters regarding client representation. The State Bar's current rule only requires a written agreement for contingency cases. She said there are some who believe that any representation should be in writing and others who believe written agreements are only needed for fees above a certain amount. President Ken Hodges said this item will be discussed further at the Saturday meeting.

### Mandatory Malpractice Disclosure

General Counsel Paula Frederick reported on mandatory disclosure of professional liability insurance. She said 25 jurisdictions requires lawyers to disclose to their clients whether or not they have professional liability insurance. Some jurisdictions require their lawyers to state they have professional liability insurance on their dues notices; some require their lawyers to affirmatively disclose that information to each new client. Paula was asked to present a written proposal on mandatory malpractice disclosure at the Saturday meeting.

#### SOLACE Subcommittee Inquiry to State Bar of Georgia Foundation

Executive Director Jeff Davis reported that the SOLACE Committee wants to receive donations into the State Bar of Georgia Foundation for purposes of making donations to those in need. It would like to have a modest liquid emergency fund that can be used to meet certain needs as approved by the SOLACE Committee and the Foundation. After a discussion regarding the original and current policy that SOLACE not receive monetary donations, the Executive Committee decided to maintain the current policy and no motion was made on the request.

#### Request for Corporate Credit Card for ICLE Sections Liaison

Following a report by Executive Director Jeff Davis, the Executive Committee, by unanimous voice vote, approved issuing a corporate credit card to the ICLE Sections Liaison position with a \$10,000 limit. The position requires travel inside and outside the state, making travel arrangements for speakers, handling meeting space and hotel deposits and conducting site visits with Section leaders.

#### Active Military Dues Waiver Form/MCLE Waiver Form

Executive Director Jeff Davis reported on military dues and MCLE waivers from the ABA and other bar associations. The Executive Committee, by majority voice vote, failed to pass a motion wherein only Bar members serving on active duty in a combat zone would receive a dues waiver. The current policy will remain in effect that any active military attorney may annually request a dues waiver.

#### Use of Bar Center for by Non-Profits

A motion tabling this discussion until the Saturday meeting was approved by unanimous voice vote.

#### Bar Organizational Review

President Ken Hodges reported that he talked to Executive Director Jeff Davis and General Counsel Paula Frederick about bringing in an outside consultant to conduct an organizational review of the State Bar. Jeff reported that he and Paula reached out to the ABA Division of Bar Services and to the Southern Conference. They found that The Florida Bar has retained a former Arizona Bar executive director who now provides consulting services, and there is another former Wisconsin Bar executive director that consults. The Executive Committee requested that Jeff and Paula present a proposal for an outside consultant at the November Executive Committee meeting.

#### Fee Arbitration Rules

Executive Director Jeff Davis reported that in cases where an attorney refuses to be bound by the results of an arbitration and an award in favor of a client remains unpaid, upon written request of the client the Fee Arbitration program may provide an attorney to represent the client in post-award proceedings at no cost to the client other than court filing fees and litigation expenses. He further reported that there are several states with

mandatory fee arbitration programs wherein lawyers must participate in the program, but other programs like that of The Florida Bar only arbitrate cases where both the lawyer and the client agree to be bound. The Executive Committee, by unanimous voice vote, approved a motion to adopt The Florida Bar arbitration model and asked that proposed new rules be drafted and presented to the Executive Committee at its November meeting. The proposed changes in the Fee Arbitration Program will be an informational item at the November Board of Governors meeting.

#### State Bar Security Camera System Upgrade

Following a report by Executive Director Jeff Davis, the Executive Committee, by unanimous voice vote, approved upgrading the Bar Center's security camera system at a cost of \$10,762.

#### Sponsorship Request

Following a report by President-elect Darrell Sutton, the Executive Committee, by majority voice vote, approved a sponsorship in the amount of \$4,000 for the Gate City Bar Association's 2018 Hall of Fame Gala on November 10, 2018.

#### Innocence Project Request

President Ken Hodges reported that the Georgia Innocence Project asked for donated office space in the Bar Center of approximately 3,000-3,500 square feet, but that he had to notify it that currently there is no rental space available. He then suggested that the Bar provide a \$4,000 sponsorship contribution to the Innocence Project, but it was the consensus of the Executive Committee that such a contribution does not meet the criteria in the sponsorship policy.

#### Treasurer's Report

Treasurer Dawn Jones reported on the Bar's finances. She stated that she meets with Chief Financial Officer Ron Turner every week to review the Bar's financial reports. She further reported that the audit has been completed and the audit report will probably be presented to the Executive Committee at its November meeting.

The Executive Committee received copies of the Consolidated (Operational and Bar Center) Revenues and Expenditures Report as of June 30, 2018; Income Statement YTD for the Twelve Months Ended June 30, 2018; Bar Center Revenues and Expenditures Report for the Twelve Months Ended June 30, 2018; Summary of Dues and Voluntary Contributions at June 30, 2018; Legislative Fund and Cornerstones of Freedom Fund Activity Reports through June 30, 2018; and an Investment Performance Comparison 2005-2018.

### YLD Report

YLD President Rizza O'Connor reported on the activities of the YLD. She said the Summer Meeting was attended by many new young lawyers. She announced that the Fall Meeting will be held the weekend of Nov. 9-11, 2018, at the Ritz-Carlton Reynolds at Lake Oconee. The Signature Fundraiser will take place in late March/early April and the recipient is the Lawyers for Equal Justice Program and her remote representation project. She reported that applications for this year's Leadership Academy will be sent out in early November, and the Academy will kick off at the 2019 Midyear meeting. She reported that each YLD committee has something going on every month. The Legal Food Frenzy is putting together a golf tournament this year. The Corporate Counsel Committee is having a "save the ocean" event at the Georgia Aquarium. The Law School Outreach Committee will be promoting the YLD at football tailgates. The Disaster Legal Assistance Committee is in place if needed for this year's hurricane season. Lastly, Rizza reported that the YLD conducted its first Facebook live video streaming at the Summer meeting.

### Executive Director's Report

Executive Director Jeff Davis provided an update on the chandelier repair in the Presidents Boardroom.

### ACL/Legislative Report

Director of Governmental Affairs Christine Butcher Hayes reported there is a meeting of the Advisory Committee on Legislation on Tuesday, September 25. The agenda includes three legislative proposals and one funding request. Christine also reported that President Ken Hodges continues to meet with GTLA and the Georgia Chamber about business courts.

### Office of General Counsel Report

General Counsel Paula Frederick reported that new disciplinary process is going well, and that her screening office is working with CAP. She stated that the Coordinating Special Master is doing a great job and he will be training a new pool of 20 Special Masters on October 12. She said she has been doing a lot of CLE speaking generally. She reported that the Office of General Counsel Overview Committee has had trouble getting off the ground, but the Disciplinary Rules & Procedures Committee and the Clients' Security Fund Board will meet at the Fall Board of Governors Meeting. She mentioned that the Clients' Security Fund needs more money for all of the claims it is receiving. She met with the clerks at the Supreme Court to talk about how things are going procedurally with e-filings, and she hopes to meet soon with the Supreme Court Justices to discuss disciplinary cases. She reported that since there is an added annual fee for pro hac vice lawyers, her staff is being overwhelmed administratively sending out the annual notices and processing checks so she is going to ask the Georgia Bar Foundation if we can begin taking credit card payments for all pro hac vice fees. Lastly, Paula reported that she and Deputy General Counsel Jenny Mittleman will be attending the International Conference of Legal Administrators at The Hague next week.

Paula reported on national challenges to the organized Bar. In the Fleck case, the main challenge is the legislative opt-out provision. Fleck filed a suit against the North Dakota Bar for using his compulsory fees to oppose a measure that he supported. She stated that there are 15-20 jurisdictions that do not have mandatory bars and they have other avenues to regulate their lawyers. The U.S. Supreme Court will decide on Monday whether or not to accept cert in the Fleck case. If it does accept cert, there is talk about mandatory bar associations going together to do something such as an amicus brief.

President Ken Hodges announced that he is going to appoint a special committee on Keller to look at this and report back to the Executive Committee.

#### Georgia iCivics Newsletter

The Executive Committee received a copy of the iCivics Newsletter outlining the activities to date by the iCivics Committee.

#### Old Business

There was no old business.

#### New Business

There was no new business.

#### Executive Session

Following a motion and second, the Executive Committee met in Executive Session to receive a litigation report and discuss Standing Board Policy 600 on conflicts of interest. Thereafter, by unanimous voice vote, the Executive Committee emerged from Executive Session.

#### Adjournment

There being no further business the meeting was adjourned at 4:42 pm and will reconvene on Saturday morning, September 22, 2018.

#### Reconvened Executive Committee Meeting

President Ken Hodges called to order the reconvened Executive Committee meeting on Saturday, September 22, 2018 at 8:15 am.

#### Clients' Security Fund (CSF) Assessment

Executive Director Jeff Davis reported on the CSF that is currently funded by a \$100 assessment on new lawyers. In order to keep the fund sustainable, an annual assessment of all Bar members is needed. Deputy General Counsel Bill NeSmith reported that the fund needs between \$500,000-\$750,000/year. YLD Immediate Past President Nicole Leet suggested we pair a professional liability insurance disclosure with the need for an attorney-wide CSF assessment. President-elect Darrell Sutton asked if there were other



procedural changes that could be made to the Fund and Bill stated that while the Fund's internal operating procedures have been updated, the \$25,000 cap on claims remains a hindrance. The Executive Committee asked that the CSF look at its procedures and the possibility of an assessment on all lawyers, and report back its recommendations.

#### Professional Malpractice Insurance Disclosure

General Counsel Paula Frederick provided a proposed rule on insurance disclosure. Following a discussion and revisions, it was decided that this topic will be an informational item at the Fall Board of Governors meeting before a rule is presented. It was also suggested that an information page on Clients' Security Fund claims be included in the information provided to the Board of Governors.

#### Engagement Letters

General Counsel Paula Frederick provided proposed amendments to Rule 1.5 Fees of the Georgia Rule of Professional Conduct wherein a lawyer shall communicate in writing the scope of the representation and the basis or rate of fee and expenses before the fees or expenses to be billed at higher rates are actually incurred. Following more discussion, the Executive Committee took no action on the proposed amendments.

#### Random Audits

General Counsel Paula Frederick provided a proposed rule on random audits. In lieu of a rule, Tony DelCampo suggested that we provide trust account training to all new lawyers, and Amy Howell asked if we could identify other areas where we can enhance our members' practices to protect the public. Instead of adopting a random audit rule, it was the consensus of the Executive Committee that the Bar provide more education to its members on trust account management through the Transition into Law Practice Program, Law Practice Management Program, and CLEs.

#### Registration of In-house Counsel

President Ken Hodges and General Counsel Paula Frederick reported on a proposal to make in-house counsel register with the State Bar. Currently in-house counsel does not have to be members of the State Bar of Georgia. Procedurally it would require a rule approved by the Supreme Court. The rule would include a registration fee, similar to the pro hac vice administrative fee, and require in-house counsel to pay active dues annually. The Executive Committee asked the Office of General Counsel to draft a proposed rule on the registration of in-house counsel for its consideration.

#### Reporting Rule - Rule 8.3 of Rules of Professional Conduct

General Counsel Paula Frederick reported on Bar Rule 8.3 that states if a lawyer becomes aware of another lawyer's violation of the ethics rules, the lawyer may report him or her to the Office of General Counsel. It was the consensus of the Executive Committee that the current rule does not need to be changed.

Law Firms to Operate under a Trade Name

General Counsel Paula Frederick reported on law firms operating under a trade name instead of using the name of the lawyer(s) in the firm name. There will be more discussion on this topic at a later date.

Communications Committee Proposed PSAs

Communications Director Sarah Coole presented the Communications Committee's recommended PSAs for discussion and feedback. The Executive Committee, by unanimous voice vote, approved two of the three PSAs presented. The Executive Committee selected a third proposed PSA and the Arc of Justice PSA, but asked that both be modified before final approval.

Adjournment

There being no further business the meeting was adjourned at 10:30 am.

  
Elizabeth D. Fite, Secretary

Approved:  
  
Kenneth B. Hodges, III, President

**STATE BAR OF GEORGIA  
EXECUTIVE COMMITTEE  
MINUTES**

**Wednesday, November 7, 2018/11:00 a.m.  
Merry Acres/Albany, GA**

Members Participating:

Kenneth B. Hodges, III, President; Darrell L. Sutton, President-elect; Buck Rogers, Immediate Past President; Elizabeth Louise Fite; Secretary; Dawn M. Jones, Treasurer (by phone); Rizza O'Connor, YLD President; William T. Davis, YLD President-elect (by phone); Nicole C. Leet, YLD Immediate Past President; Sally B. Akins (by phone); Tony DelCampo; Amy V. Howell; David S. Lipscomb; Frank Strickland (by phone); and Nicki Vaughan.

Guests Present:

Alfred N. (Al) Corriere from the Dougherty Judicial Circuit.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Sarah Coole, Director of Communications; Jeff Davis, Executive Director; Christine Butcher Hayes, Director of Governmental Affairs (by phone); Bill NeSmith, Deputy General Counsel; and Ron Turner, Chief Financial Officer.

Call to Order

President Ken Hodges called the meeting to order at 11:05 a.m. Members of the Executive Committee in attendance are indicated above.

Future Meetings

President Ken Hodges reviewed the Future Meetings Schedule.

Executive Committee Minutes

By unanimous voice vote, the Executive Committee approved the meeting minutes of September 21-22, 2018.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Executive Committee approved the following resignation requests by unanimous voice vote: Robert J. Everhart Jr-253085, Basil Waine Kong-428119, Joseph Heimovics-343540, C. David Johnston-396150, Kirk Stiles-682110, Kayla Dye May-479098, Carolyn Soloway-274610, Joshua Hess-200834, Joseph Asher-024655, James Power-586578, Aimee Kirby-139310, Angela Barber-379579, Gary T. Johnson -393523, Kaylee Niemasik-214330, Jack Park Jr-561450.

### Members Requesting Disabled Status

Pursuant to State Bar Rule 1-202, the Executive Committee, by unanimous voice vote, approved two requests for disabled status.

### Treasurer and Secretary Stipend Adjustment

This item was tabled.

### Fee Arbitration Rules

As directed by the Executive Committee, Executive Director Jeff Davis presented proposed new rules for a consent fee arbitration program, based on The Florida Bar's model, wherein the program would only arbitrate cases where both the lawyer and the client agree to be bound. He also reported that David Lipscomb sent out yesterday proposed rules from the Fee Arbitration Committee for a mandatory fee arbitration program. Since the Executive Committee has not had time to review those rules, no action will be taken on the rules at this meeting.

David Lipscomb reported that the Fee Arbitration Committee has prepared rules for a mandatory program that take into account issues that have arisen in the past in administering the program, and when the Executive Committee has asked for a review. In the rules, lawyers could not opt out of a fee arbitration once it was filed. David further reported that about 10-15% of lawyers refuse to be bound; 35-40% involve hearings where lawyers do agree to be bound; and 60-70% percent of the awards will actually be paid. He said that the remaining cases are sent to a contract lawyer for enforcement and so far this year the contract lawyer has received nine cases. He further stated that most lawyers who never pay the award end up being disbarred. A second recommendation by the Fee Arbitration Committee is that under the proposed mandatory program, if a lawyer fails to pay the award within 30 days he/she would receive an administrative suspension.

Jeff reported that there is a significant difference in the caseload between the two proposed programs. He said it takes a year to have an arbitration scheduled after a petition is filed; sometimes two years when it is difficult to serve the attorney or the attorney fails to cooperate. YLD President Nicole Leet asked if the mandatory program could be streamlined to make the process faster. David said at a minimum it generally takes 8-9 months to schedule a hearing. He said raising the threshold from \$750 to \$1,000 or \$1,500 may help in that regard. Regardless whether we choose consent or mandatory arbitration, it was the consensus of the Executive Committee that the process needs to be streamlined. President Ken Hodges asked that we have a framework and recommendation at the February Executive Committee meeting.

### Mandatory Malpractice Insurance

President Ken Hodges announced that instead of sending the issue of mandatory malpractice insurance to the Disciplinary Rules and Procedures Committee, he will be appointing a special committee to look at the matter and make a recommendation.

Proposed Amendments to Part VII Lawyer Assistance Program

Following a report by Deputy General Counsel Bill NeSmith, the Executive Committee, by unanimous voice vote, approved recommending to the Board of Governors proposed amendments, as revised, to Part VII Lawyer Assistance Program (Exhibit A).

Approval of LLC Documents Related to ICLE

Following a report by Deputy General Counsel Bill NeSmith, the Executive Committee, by unanimous voice vote, approved proposed LLC Indemnity Agreement (Exhibit B), which includes the following documents: LLC Indemnity Agreement, Asset Transfer Agreement, Assignment and Assumption Agreement, State Bar of Georgia Guaranty, Closing Memorandum, Domain Assignments, Bill of Transfers, Transferee's Certificate, Transferor's Certificate, Articles of Organization of ICLE of the State Bar of Georgia, Operating Agreement for ICLE of the State Bar of Georgia, Service Agreement.

Proposed Rule on Registration of In-House Counsel

The item was tabled until the next EC meeting.

Policy Concerning Use of the Conference Center by Non-Profits

Executive Director Jeff Davis reported on the heavy usage of the Bar's Conference Center facilities. He is proposing that the Conference Center be available for only the following entities without charge as space may be available: 1) local and affinity bar associations; 2) legal services organizations, and 3) government entities providing legal education seminars or other law-related events. Following a motion and second to approve the proposed policy, a motion to table the issue until the next Executive Committee meeting was unanimously approved, causing the main motion to fail. The Executive Committee asked that a redlined version of the Bar-related Entity Reservation/Pricing Form for reserving space at the Conference Center be submitted in advance of the next Executive Committee meeting for its review.

Request for Corporate Credit Card Limit Increase for ICLE Director

Following a report by Executive Director Jeff Davis, the Executive Committee, by unanimous voice vote, approved increasing the corporate credit card limit for the ICLE Director position from \$10,000 to \$25,000.

President's Report

President Ken Hodges announced that his report to the Board of Governors on November 2 covered everything he would have discussed today.

Treasurer's Report

Treasurer Dawn Jones reported on the Bar's finances.

The Executive Committee received copies of the Consolidated (Operational and Bar Center) Revenues and Expenditures Report as of August 31, 2018; Income Statement

YTD for the Two Months Ended August 31, 2018; Bar Center Revenues and Expenditures Report for the Two Months Ended August 31, 2018; Summary of Dues and Voluntary Contributions at August 31, 2018; Legislative Fund and Cornerstones of Freedom Fund Activity Reports through August 31, 2018; and an Investment Performance Comparison 2005-2018.

### YLD Report

YLD President Rizza O'Connor reported on the activities of the YLD. She said she was looking forward to the YLD Fall meeting at Lake Oconee on November 9-11, 2018. It will feature a CLE on insights, advice and tips on practicing in rural Georgia, and a kickball wellness activity. She reported that this past weekend there was an opportunity to volunteer for the Atlanta Volunteer Lawyers Foundation Saturday Lawyers Program, and a recent community service event that raised money to buy and serve food to families at Ronald McDonald House. The YLD continues its outreach to around the state at Georgia's law schools. The Corporate Counsel Committee has been busy offering creative, fun events. The Women in the Profession Committee held a kickboxing event, and on November 8 it is hosting a *Beer + CLE: Changes to Georgia's Malt Beverage Laws* at New Realm Brewing Company in Atlanta. The Labor and Employment Committee has a program this evening for in-house counsel on government law. The YLD is joining with the Pro Bono Service Awards to highlight the Public Interest Internship Program recipients. Lastly, Rizza reported that there will be a Wills Clinic at Mercer School of Law during the Midyear Meeting, and a Legal Food Frenzy golf tournament on April 15, 2019.

### Executive Director's Report

Executive Director Jeff Davis reported that we are in discussions with the State Properties Commission representing the Public Defenders Council that wants to consolidate their operations on the 5<sup>th</sup> floor of the State Bar Building, and the Prosecuting Attorneys Council is considering space at the Bar Center. He is hoping we can get the 5<sup>th</sup> floor renovated and fully occupied with 10-year leases. The Executive Committee asked the Bar to look at the possibility of obtaining additional parking facilities to accommodate new tenants and increased Conference Center usage by members.

### ACL/Legislative Report

Director of Governmental Affairs Christine Butcher Hayes reported on the losses and gains of lawyers in the Georgia General Assembly. She stated that three Board of Governors members are members of the Senate – John Kennedy, Jennifer Jordan, and Zahra Karinshak. Christine reported that Amendment 2 establishing state-wide business courts passed so we could be involved in helping draft accompanying legislation. Lastly, she reported that the U.S. Supreme Court has still not made a decision on the petition for cert in the Fleck case.

### Office of General Counsel Report

Deputy General Counsel Bill NeSmith reported that the receivership rules are near completion. He also reported that the Client's Security Fund Board of Trustees created a committee to study funding issues. Lastly, he reported that the Bar sponsored an active shooter training for all Bar staff.

### Offer of Settlement Insurance

President Ken Hodges discussed offer-of-settlement insurance that is designed to protect plaintiffs who decline an Offer of Settlement and have the potential of suffering financial loss due to a ruling adverse to their case. It has been offered in Florida since 2012 and is now available in Georgia. The coverage is not regulated by Georgia's insurance commissioner, but it has to be sold by an authorized insurance carrier. Ken reported that he plans to appoint a committee to look into the issue and make a recommendation.

### Bar Organizational Review

Executive Director Jeff Davis reported on Pathfinder Executive Consulting that can conduct an organizational study of the Bar. President Ken Hodges will be meeting with John Phelps, owner and founder of Pathfinder, at the ABA Midyear Meeting to discuss the idea further and have a better understanding as to the consulting services he could provide to the Bar.

### Bench & Bar Committee 18<sup>th</sup> Annual Chief Justice Thomas O. Marshall Professionalism Awards

The Executive Committee received a copy of the Call for Nominations for the Bench & Bar Committee 18<sup>th</sup> Annual Chief Justice Thomas O. Marshall Professionalism Awards.

### Recent UPL Standing Committee Action

Jeff Davis reported on the UPL Standing Committee's recommendation that the Supreme Court of Georgia consider revising some Bar rules governing the composition of the UPL committees and add an additional non-lawyer than lawyer to the UPL Standing Committee to further ensure that the Standing Committee is in compliance with antitrust laws governed by the Federal Trade Commission.

### Old Business

There was no old business.

### New Business

Tony DelCampo reported that the Bar currently does not collect demographic information, but if the Bar is trying to do a better job of diversifying the profession, it needs to collect some demographic data. Executive Director Jeff Davis reported that General Counsel Paula Frederick was going to check to see whether other mandatory bars collect this information and report back her findings. A motion to table the issue until the next Executive Committee was approved by unanimous voice vote. Tony DelCampo was

asked to work with Paula in this effort.

Adjournment

There being no further business the meeting was adjourned at 1:20 p.m.

  
Elizabeth D. Fite, Secretary

Approved;  
  
Kenneth B. Hodges, III, President



**STATE BAR OF GEORGIA  
EXECUTIVE COMMITTEE  
MINUTES**

**Monday, November 12, 2018/11:00 a.m.  
Conference Call**

Members Participating:

Kenneth B. Hodges, III, President; Darrell L. Sutton, President-elect; Buck Rogers, Immediate Past President; Elizabeth Louise Fite; Secretary; Dawn M. Jones, Treasurer; Rizza O'Connor, YLD President; William T. Davis, YLD President-elect; Nicole C. Leet; YLD Immediate Past President; Tony DelCampo; Amy V. Howell; David S. Lipscomb; and Nicki Vaughan.

Members Absent:

Sally B. Akins; and Frank Strickland.

Staff Participating:

Sharon Bryant, Chief Operating Officer; Sarah Coole, Director of Communications; Jeff Davis, Executive Director; Paula Frederick; Bill NeSmith, Deputy General Counsel; and Ron Turner, Chief Financial Officer.

Call to Order

Upon obtaining approval in advance for a specially called meeting of the Executive Committee by unanimous email vote, President Ken Hodges called the meeting to order at 11:00 a.m. Members of the Executive Committee in attendance are indicated above.

Officers Allowance Policy (Stipends)

After a lengthy discussion by the Executive Committee, President Ken Hodges reported that he wanted to have a meeting of the Executive Committee to review the Officers Allowance Policy. The Executive Committee agreed to meet at 12:00 p.m. on Thursday, December 6, to discuss the matter.

Adjournment

There being no further business the meeting was adjourned at 11:25 a.m.

  
\_\_\_\_\_  
Elizabeth L. Fite, Secretary

Approved:  
  
\_\_\_\_\_  
Kenneth B. Hodges, III, President



**MEMORANDUM**

To: Members, Board of Governors  
From: Paula Frederick  
Date: December 11, 2018  
Re: Report of the Office of the General Counsel

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I am pleased to report on recent activity of the Office of the General Counsel.

Discipline: Thus far this fiscal year (July 1 through November 30, 2018) the Bar has received 899 new grievances. As of November 30<sup>th</sup> the State Disciplinary Board had a caseload of 104 cases. The year-to-date report on lawyer discipline, covering the period May 1 through November 30, 2018, appears at page three of this memo.

In October the Coordinating Special Master held a CLE training program for the pool of 20 special masters appointed by the Supreme Court to hear disciplinary cases. Recent rule changes provide that special masters receive an hourly rate and disciplinary board members receive reimbursement of their travel expenses. Payments made in the first four months of the fiscal year are well within budget.

It is too early to tell whether the rule changes will have their intended effect—shortening the time that it takes to resolve a disciplinary matter. I will provide the Board with additional statistical information as the year progresses.

OBI Conference: The Organization of Bar Investigators, a national organization comprised of investigators in disciplinary matters, held its annual conference in Atlanta in October. Seventy-two investigators from 30 states and Canada attended. The State Bar's investigators served as hosts and planned the conference, which included sessions on immigration fraud, unlicensed practice, money laundering, and fitness investigations.

Receiverships: The Office of the General Counsel is serving as receiver in 16 active cases. There are 23 additional cases in which other members of the Bar are serving as receivers. We continue to get calls on almost a weekly basis from landlords, widows and former clients of absent attorneys who may be in need of a receivership.

CLE Presentations: OGC lawyers continue to serve as speakers at Continuing Legal Education programs. Please contact the office if you would like to schedule a presentation for Ethics CLE credit.

Other Committees:

- After raising the issue of disclosure of malpractice insurance coverage at the Fall Board meeting, President Hodges created a Professional Liability Insurance Committee to further consider it. The Committee met December 13 and hopes to make a recommendation to the Board at the Spring meeting.
- The Disciplinary Rules Committee will meet in January in conjunction with the Midyear Meeting. President Hodges has asked the group to discuss whether Georgia's rules should be revised in several areas: to allow use of trade names, to require that all fee agreements be in writing, and to provide for random audit of trust accounts, among other issues.
- The OGC Overview Committee will meet in mid-January.
- The Committee on International Trade in Legal Services meets almost monthly to consider regulatory and other issues created by foreign lawyers practicing in Georgia and by Georgia lawyers practicing in foreign countries. The committee is working on a handbook to help lawyers determine when their services are being used to facilitate money laundering.

**Year-to-Date Report on Lawyer Regulation  
May 1, 2018 through November 30, 2018**

Grievance forms requested and sent to public .....	1639
Grievance forms sent back to Office of General Counsel for screening .....	1274
Grievances pending as of 4/30/18.....	<u>254</u>
TOTAL.....	1528
Grievances referred to State Disciplinary Board members.....	86
Grievances being screened by Grievance Counsel (GC) .....	502
Grievances closed by Grievance Counsel.....	909
Grievances moved to moot status by GC after attorney was disbarred .....	31
TOTAL.....	1528

**Regulatory Action May 1, 2018 through November 30, 2018**

	<u>Attorneys</u>	<u>Cases</u>
Letters of Admonition Accepted	5	5
Investigative Panel Reprimands Administered	5	5
Review Panel Reprimands	0	0
Public Reprimands	0	0
Suspensions	18	24
Disbarments/Voluntary Surrenders	<u>9</u>	<u>17</u>
TOTAL	37	51
Reinstatements Granted	4	4
Reinstatements Denied	0	0

# Memorandum

To: Board of Governors of the State Bar of Georgia

From: M. Christopher Pitts, Director of the Military Legal Assistance Program

Date: December 13, 2018

Subject: Report on the Military Legal Assistance Program

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(1) **Overview:** As I mentioned in my last report, I want to keep two points in mind as this program reshapes into a more pro bono-centric program. First, this program is chiefly designed to assist servicemembers and veterans who, because of deployment, military orders, or cost, need legal help. Second, this Program is and ought to remain a source of pro bono and educational opportunities for members of the State Bar of Georgia. Changing the eligibility criteria for the program was a first step. Now, as we have increased the number of attorneys volunteering through the Program, we also need to increase the number of ways in which these attorneys can help. Going forward, this program will be focusing on trying to organize clinics in cooperation with local partners as a way of trying to increase the ways in which attorneys can help and as a method of providing services through this program in geographical areas where there are not many volunteer attorneys.

It should be noted that this program is helped by the members of the Committee and the Military/Veterans Law Section who have supported servicemembers and veterans in a variety of ways. These include:

- **Legal Assistance Clinics staffed by law students and attorney mentors** have been established at three colleges of law: Emory University in February 2013, Georgia State University in November 2014, and the University of Georgia in August 2018.
- **Legal Assistance Clinics at VA medical facilities** have been established at five locations: Augusta, Carrollton, Decatur, Fort McPherson, Rome, and soon-to-be Savannah. Volunteer lawyers staff those legal assistance clinics.
- **VA Accreditation CLE programs** have been conducted at least annually the past eight years for lawyers who desire to become accredited initially or to maintain their accreditation (required biennially) in order to handle VA benefit award cases. The most recent VA CLE program was held on October 11, 2018, in Atlanta.
- **CLE trips** abroad, with self-supporting funds from participating lawyers, were planned and carried out under sponsorship of the Mil/Vets Law Section and with coordinating help from the MLAP Committee: **one to Normandy, France**, in 2014, in part commemorating the **70<sup>th</sup> Anniversary of the D-Day Landings**, and **one to Belgium and France**, in 2017, commemorating the **100<sup>th</sup> Anniversary of The First World War**.

(2) **Updates to MLAP Eligibility Criteria:** The Military Legal Assistance Program Committee is still amending and revising the eligibility criteria for the program. At this time, the program helps: (a) Active duty, active reservists, and National Guard members ranked e-5 and below; (b) All service members for issues related to deployment; (c) Military retirees and service-connected disabled

(100%) veterans facing a financial hardship. Financial hardship is presumed if their income is at or below 200% of the Federal Poverty Level; (d) All veterans with issues related to VA benefits where attorneys fees would not otherwise be recoverable.

Case exclusions: With the goal in mind that the Program is to help service members and veterans who cannot afford legal help, no referrals for cases where there is no barrier for initial legal help; i.e., contingency fee cases, personal injury, malpractice, social security, etc.

New Attorney Guidelines: In an effort to help increase the number of pro bono cases being handled, the Program will be requesting that attorneys in the program handle at least one pro bono case a year. A pro bono case is defined as a case filed in court or in an administrative forum, brief services (letter or communication to an adverse party resulting in a resolution), and/or documented advice based on a specific set of facts provided that assists the eligible person in resolving their legal problem.

(3) **Attorney Recruitment:** Since beginning a recruitment drive in August, we have had 149 new attorney volunteers for our program. Geographic areas where growth is needed: Albany, Columbus, Kingsbay.

(4) **MLAP Cases Processed:** Below is a summary of the number and types of requests for legal assistance received and referred to lawyers under the State Bar's Military Legal Assistance Program. Under the program, **a total of 2,228 cases have been processed.** A summary of cases processed by the MLAP by category follows:

Family Law		1,138 (including 59 previous)
Divorce	481	
Divorce Enforcement	28	
Child Support	148	
Guardianship/Adoption	123	
Child Custody/Visitation	296	
TPO	1	
Other	2	
Consumer Law		140
Housing/Property		148
Foreclosure		26
Veterans Benefits/Disability		305
Wills/Estates/Probate		125
Employment/USERRA/SCRA		59
Bankruptcy		29
Insurance		21
Personal Injury		48
Property Damage		3
Worker's Compensation		5
Contract		10
Medical Malpractice		8
Toxic Substances		5
Immigration		1
Discharge Upgrade		1
Other		<u>156</u>

(5) **Other Reporting Data:** MLAP will also begin to track two other statistics as the cases are being processed: (1) whether the case will be taken pro bono or reduced-fee; and (2) number of pro bono hours worked. The goal is to try and provide a baseline of how many cases are being handled pro bono versus reduced fee so that future years can measure any rises in pro bono case ratios. The American Bar Association's Military Pro Bono project has case management software to help automate follow up emails for cases that are distributed.

(6) **Example of how we help:** One of our more recent cases involved an emergency situation at the Jacksonville Naval Air Station. A servicemember died unexpectedly toward the end of November, leaving his military benefits to his minor daughter. Because the mother of the child, a Georgia resident, was not married to the father, a guardianship was needed for these benefits to be paid. The mother is poor and did not have the means of hiring an attorney. A JAG officer at JAX Naval Air Station reached out to us and we were able to connect her with an attorney to provide this pro bono service.

M. Christopher Pitts  
Director  
Military Legal Assistance Program

**CONSUMER ASSISTANCE PROGRAM  
STATE BAR OF GEORGIA**

December 11, 2018

The Consumer Assistance Program (CAP) continues to serve both the public and members of the Bar, as it has since 1995. During this year CAP has handled around 10,367 new or “unique” contacts (calls, letters, emails, and faxes), an average of approximately 864 per month. This does not include repeat calls, letters, emails, or follow-up contacts. CAP itself has handled 79.42% of these contacts. The remaining 20.58% have been referred via grievance to the Office of General Counsel (OGC) for investigation. It is beyond the scope of CAP’s responsibility to investigate or handle allegations of serious ethical misconduct.

CAP’s staff consists of three administrative assistants and two attorneys. CAP directly answers “live” about 97% of the calls received. The CAP Helpline is used when no one is available to answer calls live or for calls that come in after business hours. Calls that are not answered live are returned within the same or the next working day. CAP’s response to the voluminous mail, emails, and faxes, is usually within one day.

CAP’s two attorneys often contact members of the Bar by telephone, fax, or letter, at the request of clients. It is generally helpful for attorneys to receive a confidential, non-disciplinary courtesy call, letting the attorneys know that their clients have contacted the Bar with various complaints or concerns. In order to facilitate communication between clients and attorneys, CAP notifies attorneys that their clients wish to hear from them, do not understand what is happening on their cases, need updates on case status, or, in the case of former clients, need their files. Realizing that CAP has heard only one side of the situation, CAP does not presume to advise attorneys on how to practice law or assert the client’s position as true and correct.

Additionally, OGC now refers certain grievances to CAP for handling. Since July of 2018 OGC has referred approximately 200 grievances to CAP. Such grievances against attorneys often involve many of the issues stated above--return of file, updating client on case status, communications between client and attorney, etc. These can be handled and then dismissed by CAP when the attorneys respond to CAP and comply with the Georgia Rules of Professional Conduct as requested by CAP.

CAP is the contact point of the Bar for persons complaining about attorneys who are delinquent in paying their court ordered child support. Under OCGA 19-6-28.1 an attorney obligated to pay child support can be administratively suspended from the practice of law, if



the custodial parent submits a certified copy of an order verifying the arrearage. The suspension is lifted once certain requirements are met in accordance with the Code and the Georgia Rules of Professional Conduct. There has been one such case during this year.

CAP continues to remain within its annual budget of \$584,716, and it is anticipated that it will continue to do so.

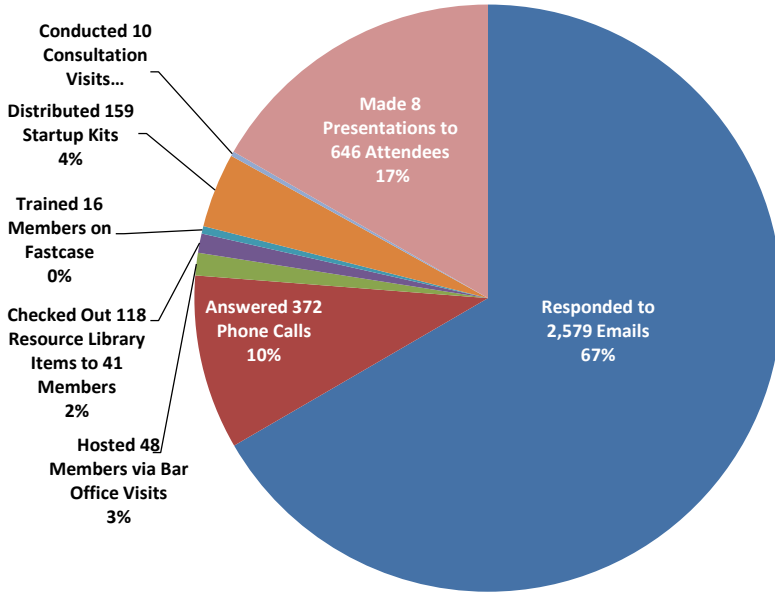
# Law Practice Management Program

(Abbreviated report for the 2018-2019 Bar Year)

## Members Served by LPMP

Total Number of Members Served – 3,871

July 1, 2018 – December 7, 2018



### Office Visits/Phone Calls/Emails

A total of **48** members visited LPMP. There were **11** startup discussions, **35** walk-in visits, and **2** visits to the software library conducted by the Program. In addition, LPM distributed **159** *Starting Your Georgia Law Practice* booklets as requested by attorneys, as well as, answered and responded to **372** phone calls and **2,579** emails to and from members.

### Consultations

There were **10** general consultation visits during this period in Atlanta, Covington, Duluth, Jackson, Marietta and Sandy Springs. Firms assisted were in solo practice (5 firms); 2-4 attorney firms (3 firms); and 5-9 attorney firms (1 firm).

### Resource Library

Our lending library has a grand total of **1,551** books, CDs, and DVDs for checkout to members and their staff with an option to pick up materials at the Bar Center or to be mailed. During this period, there were a total of **118** checkouts by **41** patrons.

### Speaking Engagements

There were a total of **9** completed and scheduled programs during this period. The Program's staff has given **8** continuing legal education and special presentations to Georgia lawyers and other related groups. These presentations have been held in various local and national venues; and have been made directly to at least **646** Georgia Bar members. **3** programs are scheduled at a future date.

**Fastcase Report**

During this period, a grand total of **48** members and **3** staff person have attended Fastcase CLE seminars.

Since the decision was made to transition to Fastcase, **1,859** attorneys and **101** staff members have attended Fastcase live training. Others have taken advantage of webinar training.

Over the past 8 years, 27,385 members have logged on at least once: Over 50% of our members have used Fastcase since January 1, 2011.

**Fastcase Usage Report**  
*July 1, 2018 – November 30, 2018*

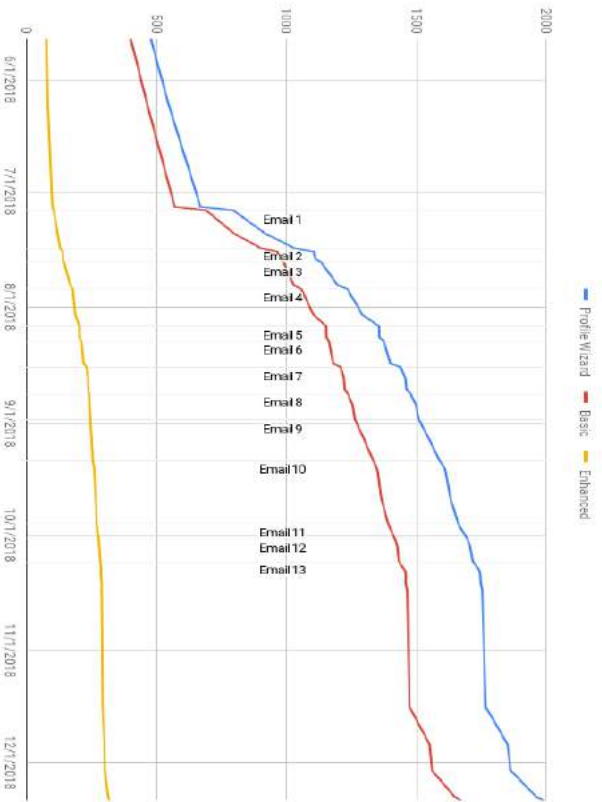
	July	Aug	Sept	Oct	Nov	Total
<b>First Time Logins</b>	101	72	63	74	73	383
<b>Total Logins</b>	16,180	18,074	14,857	16,218	12,932	78,261
<b>Total Users Who Logged In</b>	3,683	3,806	3,566	3,628	3,360	18,043
<b>Searches Conducted</b>	80,669	98,040	82,343	81,908	77,102	420,062
<b>Documents Viewed</b>	124,152	145,798	125,174	126,174	115,810	637,108
<b>Documents Printed</b>	12,395	12,706	12,447	14,107	12,548	64,203
<b>Total Transactions</b>	237,180	278,496	238,450	242,109	221,825	1,218,060

<b>Fastcase Reported Problems</b>	
<b>Member Reported Issue(s)</b>	<b>Fastcase Response / Resolutions</b>
<b>6/1/18</b> <b>Member Inquired:</b> Member reported that he couldn't find this regulation in Georgia, 240-12.	<b>6/4/18</b> <b>FC Response:</b> Regulations will not be updated due to pending litigation with Casemaker.
<b>7/17/18 – 8/3/18</b> <b>Members Reported</b> 4 reports of outdated <b>code</b> .	<b>7/17/18 -8/3/18</b> <b>FC Response:</b> On July 14, 2017, the source was updated. Catch lines will take additional time to update.
<b>08/01/18</b> <b>Member Inquired:</b> Several calls reporting FC not working.	<b>08/01/18</b> <b>FC Response:</b> The servers experienced intermittent issues. Engineers are working to address the issues.
<b>9/6/18</b> <b>Member Inquired:</b> Fastcase intermittent down times	<b>9/6/18</b> <b>FC Response:</b> Due to Mercury (FC) 7 launch, the website is being updated.

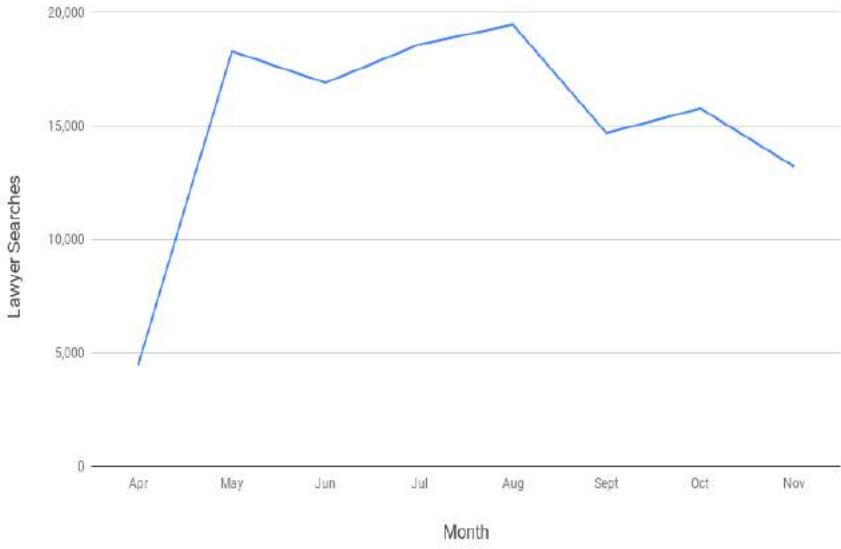
<p><b>9/18/18</b></p> <p><b>Member Inquired:</b> Fastcase missing descriptive language in <b>GA Code</b>, exceedingly difficult to find law if you don't already know the appropriate code section.</p>	<p><b>9/19/18</b></p> <p><b>FC Response:</b> Currently working to update new tag lines.</p>
<p><b>10/22/18</b></p> <p><b>Member Inquired:</b> When will <b>code</b> be updated.</p>	<p><b>10/22/18</b></p> <p><b>FC Response:</b> Fastcase is no longer prohibited in publishing catch lines in the Georgia Statutes. Members received an email detailing same. An update will be made in July 2019 based upon publication on the Georgia General Assembly website.</p>
<p><b>11/30/18</b></p> <p>Fastcase catch line project completed.</p>	<p><b>11/30/18</b></p> <p><b>FC Response:</b> Fastcase catch lines for Georgia have been updated.</p>

**CloudLawyers Report**

The State Bar of Georgia began its partnership with Cloudlawyers.com to develop its new *Find a Lawyer* directory and provide members with an enhanced membership directory listing. Since inception, and as of September 28, **1,995** members went through the Cloudlawyers profile wizard and **319** members have elected Enhanced Profiles. To date, over 16,000 searches have been performed to find Georgia lawyers utilizing this service.



State Bar of Georgia Searches



<b>PUBLISHED ARTICLES 2018-2019</b>			<b>Circulation</b>
<b>Date</b>	<b>Newspaper</b>	<b>Headline</b>	
5/24/2018	Wilkinson County Post, Irwinton	Congratulations to Judge Trenton Brown on appointment to Ga. Court of Appeals	1,250
6/3/2018	Islander, St. Simons Island	Congratulations to Glynn County Bar Association on successful Law Day event	3,479
6/19/2018	Statesboro Herald	Snipes re-elected to Board of Governors of State Bar of Georgia	8,000
6/20/2018	Elberton Star	Campbell re-elected to State Bar's board	3,002
6/21/2018	Times, Gainesville	Kudos to Gainesville-Northeastern Bar on successful Law Day event	5,000
6/23/2018	Douglas County Sentinel, Douglasville	Congratulations to newly appointed district attorney	1,608
6/23/2018	Marietta Daily Journal	Bar Tenders (Sutton & Jones)	12,611
6/24/2018	Times, Gainesville	Hall public defender re-elected to executive committee of State Bar	5,000
6/24/2018	Savannah Morning News	Savannah lawyer named to State Bar Board	23,876
6/25/2018	Daily Report	Ga. Legal Community Mourns Mari	2,850
6/25/2018	Daily Report	Evans Congratulated on Confirmation as Ambassador to Luxembourg	2,850
6/25/2018	South Metro Neighbor	College Park legal eagles soar above competition (Dailey, BOG, LFF)	24,200
6/26/2018	Rome News-Tribune	Georgia legal community mourns loss of Judge Robert Walther	9,583
6/27/2018	Adel News Tribune	Judge Tomlinson re-elected to Board of Governors of State Bar of Georgia	2,940
6/28/2018	Atlanta Daily World	Marian Cover Dockery Receives Randolph Thrower Lifetime Achievement Award	16,000
6/28/2018	Atlanta Daily World	State Bar of Georgia recognizes Commitment to Equality Award Recipients	16,000
6/28/2018	Forsyth County News, Cumming	Forsyth County judge re-elected to State Bar board	7,500
6/28/2018	Atkinson County Citizen, Pearson	Judge Tomlinson re-elected to Board of Governors of State Bar of Georgia	952
6/29/2018	The Champion, Decatur	Congratulations to DeKalb Bar Association on successful Law Day event	594
6/30/2018	Daily Tribune News, Cartersville	A Somber Celebration: Legal community remembers Mari	4,900
7/1/2018	Albany Herald	(Dent re-elected to Board of Governors)	10,530
7/1/2018	Albany Herald	Georgia Bar president praises attorney	10,530
7/2/2018	Brunswick News	Business Briefs: Brunswick-based attorney re-elected to state bar board	11,066
7/3/2018	Cherokee Tribune & Ledger-News, Canton	Blue Ridge Bar Association praised for Law Day 2018	3,963
7/4/2018	Dodge County News, Eastman	Receives Honor (Oconee Circuit Bar)	4,718
7/4/2018	Lanier County Advocate, Lakeland	Judge Tomlinson re-elected to Board of Governors of State Bar of Georgia	1,176
7/4/2018	Houston Home Journal, Perry	Congratulations to district attorney on appointment to state board	7,607
7/6/2018	Marietta Daily Journal	Marietta attorney honored by State Bar of Georgia's Young Lawyers Division	12,611
7/7/2018	Times, Gainesville	State Bar honors Child Protection section led by Gainesville attorney	5,000
7/7/2018	Griffin Daily News	Judge Edwards honored	3,947
7/8/2018	Rome News-Tribune	Garner reappointed to state council (letter to editor)	9,583
7/9/2018	Marietta Daily Journal	Cobb attorneys, judge elected to Board of Governors of State Bar of Georgia	12,611
7/9/2018	Union-Recorder, Milledgeville	Area attorneys re-elected to Board of Governors of State Bar of Georgia	4,235
7/11/2018	Wheeler County Eagle, Alamo	Oconee Judicial Circuit Bar Association honored by State Bar of Georgia	630
7/11/2018	White County News, Cleveland	Judge Joy Parks considered for Superior Court seat	4,592

7/11/2018	Covington News	Brian 'Buck' Rogers completes term as president of State Bar of Georgia	4,010
7/11/2018	Tifton Gazette	Letter to the Editor: Congratulations to Tifton Circuit Bar Association	9,144
7/12/2018	Augusta Chronicle	Judge Palmer elected to Board of Governors of State Bar of Georgia	26,284
7/12/2018	Forsyth County News, Cumming	Forsyth County lawyer honored by State Bar of Georgia	7,500
7/14/2018	Augusta Chronicle	Biz Bits (Bill Keogh, Jack Long)	26,284
7/14/2018	Coastal Courier, Hinesville	Stafford on Bar Board of Govs.	5,500
7/14/2018	Gwinnett Daily Post, Lawrenceville	Gwinnett County Bar Association honored at annual state meeting	65,722
7/15/2018	Times, Gainesville	Alexander re-elected to State Bar of Ga.'s Board of Governors	5,000
7/18/2018	Dodge County News, Eastman	McLaughlin re-elected to the State Bar of Georgia Board of Governors	4,718
7/19/2018	Star Press, Muncie (IN)	Friends and Neighbors (Damon Elmore)	13,500
7/21/2018	Valdosta Daily Times	Area attorneys re-elected to Board of Governors of State Bar of Georgia	7,894
7/25/2018	Dahlonega Nugget	Congratulations to new Enotah Circuit Superior Court judge	4,278
7/25/2018	The Citizen, Fayetteville	Bar association honored by state	14,500
7/26/2018	White County News, Cleveland	Congratulations to new Superior Court judge	4,592
7/26/2018	Eatonton Messenger	Congratulations to new Ocmulgee Circuit Superior Court judge	5,260
7/26/2018	Hartwell Sun	Congratulations (Judge Watson)	4,289
7/26/2018	Franklin County Citizen, Lavonia	State Bar congratulates Judge Watson	2,902
7/26/2018	Sylvania Telephone	Congrats new Ogeechee Circuit Superior Court judge	1,703
7/27/2018	Statesboro Herald	Congratulations to new Superior Court judge	8,000
7/28/2018	Union-Recorder, Milledgeville	Congratulations to new superior court judge	4,235
7/30/2018	Albany Herald	Judge Victoria Darrisaw lauded for judicial appointment	10,530
8/1/2018	North Georgia News, Blairsville	Congrats to Judge Parks	11,050
8/1/2018	Cobb Business Journal, Marietta	Attorney honored by State Bar of Georgia's Young Lawyers Division	5,000
8/1/2018	Millen News	Letter to the Editor: Congratulations to new Superior Court judge	3,000
8/2/2018	Courier Herald, Dublin	Congratulations to Judge Bobbitt on state board reappointment	9,086
8/2/2018	Savannah Morning News	Akins Elected to Executive Committee of State Bar of Georgia	23,876
8/3/2018	Times, Gainesville	Letter: Congratulations to Hall attorneys on appointments to commission	5,000
8/4/2018	Savannah Morning News	Judge worthy of state board reappointment	23,876
8/5/2018	Marietta Daily Journal	Kudos for district attorney on appointment by Gov. Deal	12,611
8/7/2018	Douglas County Sentinel, Douglasville	Georgians will benefit from Emerson's service on board	1,608
8/7/2018	Dunwoody Crier	Talk Back to the Crier (Dunwoody Bar Association)	23,000
8/9/2018	Savannah Morning News	Savannah Bar Association earns Best Newsletter Award	23,876
8/10/2018	The Champion, Decatur	Congratulations to DeKalb judge, attorney on state board appointments	594
8/15/2018	Business in Savannah	Savannah Bar Association earns newsletter award	5,000
8/22/2018	Marietta Daily Journal	Congrats to Philip Peacock on state board appointment	12,611
8/23/2018	Daily Report	Bar President Congratulates Comer Yates on State Board Appointment	2,850
8/23/2018	Douglas County Sentinel, Douglasville	Congratulations to Judge Walker on award from Supreme Court	1,608

8/23/2018	Franklin County Citizen, Lavonia	Legal community mourns loss of Dan Strickland	2,902
8/29/2018	Daily Report	State Bar Congratulates Georgia Supreme Court Appointee	2,850
9/7/2018	Brunswick News	Congratulations to Judge Baker on confirmation	11,066
9/7/2018	Savannah Morning News	Trump made right choice in Judge Baker	23,876
9/13/2018	Daily Report	State Bar Congratulates New Chief Justice Harold Melton	2,850
9/14/2018	Covington News	Congratulations to Frank Turner on state board reappointment	4,010
9/19/2018	Marietta Daily Journal	Congrats to local lawyer (Michael Wall)	12,611
9/20/2018	Daily Citizen, Dalton	Congratulations to Charlie Bethel, newly appointed state Supreme Court justice	7,428
9/22/2018	Daily Report	State Bar Congratulates New Presiding Justice David Nahmias	2,850
9/26/2018	Moultrie Observer	Congratulations to Kirbo for state re-appointment	3,826
10/3/2018	Savannah Morning News	Congrats to attorney on appointment (Jim Pannell)	23,876
10/4/2018	Sylvania Telephone	Congrats Judge Woodrum; welcome Judge Bennett	1,703
10/11/2018	Daily Report	New Members Named for Chief Justice's Commission	2,850
10/11/2018	Polk County Standard Journal, Cedartown	New Members Join Chief Justice's Commission on Professionalism	1,687
11/14/2018	Marietta Daily Journal	Georgia legal community mourns loss of Hines	12,611
11/14/2018	Daily Report	Georgia Legal Community Mourns Loss of Chief Justice Harris Hines	2,850
		<b>TOTAL CIRCULATION</b>	<b>775,331</b>



## **GEORGIA LEGAL SERVICES PROGRAM**

### **STATE BAR OF GEORGIA**

#### **MID-YEAR BOARD OF GOVERNORS BOARD BOOK REPORT**

Georgia Legal Services Program held a Statewide Training conference for all staff October 17 – 19, in Saint Simons, Georgia. The conference focused on team building and addressing the low case closure issue. Over 130 staff members attended the training. Don Saunders from the National Legal Aid and Defenders Association was the keynote speaker. The training was very beneficial. Some of the training sessions covered morale issues and working together. PeachCourt also did a presentation for all GLSP attorneys. PeachCourt is an electronic court filing company. The workshop helped to prepare GLSP attorneys for mandatory electronic filing which starts January 1, 2019.

We recently completed Workplace Harassment trainings for all staff. We also completed Cultural Competency trainings for all offices this Fall. In addition, we are planning two Management Cultural Competency Workshops in January and early February 2019 for management staff.

We have two new attorney appointees who were approved as State Bar representatives for the GLSP Board of Directors. The new board members are LaVerne Gaskins of Augusta, Georgia, and William “Trey” Underwood of Albany, Georgia.

We have contacted a consulting group to a comprehensive evaluation of our case delivery systems. The tentative start date will be mid-January of 2019. The leader of the consulting group is a former LSC grantee director. His program had one of the top case closure rates when he was the Executive Director. The evaluation will look at all of our case delivery and client service models. The evaluation will help access what areas GLSP needs improvement in.

GLSP hired Rick Rufolo as the new Executive Director of Georgia Legal Services Program. Rick will start to work on January 2, 2019. Attached is some additional information about Rick.

## **Former Vice President of Labor, Employment, & Litigation at UPS, Rick Rufolo, Appointed Executive Director at Georgia Legal Services Program**

**Atlanta, GA**– The Board of Directors of the Georgia Legal Services Program (GLSP) is proud to announce the appointment of Richard “Rick” M. Rufolo as GLSP’s new Executive Director, effective January 1, 2019.

Rick Rufolo recently announced his retirement from United Parcel Service (UPS) after 30 years of service, including 11 years as Vice President of the Labor, Employment and Litigation Practice Group. Under his leadership, Rick and his team successfully handled complex global litigation across the enterprise, including employment and consumer class actions, systemic discrimination cases and complex government investigations. Embracing UPS’s culture of community service, Rufolo has extensive experience in pro bono and volunteer work, having served as Board Chair of the Truancy Intervention Project and Board Chair of the Boys & Girls Clubs of Fulton County, and a member of the Atlanta Legal Aid Society’s board of directors. He also has worked to improve the legal profession through his commitment to diversity and inclusion. For example, Rick played an active role in the Leadership Council on Legal Diversity, one of the leading organization dedicated to creating a diverse legal profession.

Rick succeeds Phyllis Holmen who retired in January 2018 after serving for more than 25 years as GLSP’s executive director. Under Phyllis’s leadership, GLSP has earned the reputation of being an exceptionally effective advocate for rural Georgians living in poverty. Rick’s vision and unique ability to connect with and advocate for people will further advance GLSP’s mission and ensure that GLSP moves forward boldly, strategically, and successfully.

“Our search was long and thorough, and we could not be more thrilled that Rick took an interest in the job. He demonstrated to us his natural leadership skill, his energy, and his devotion to the cause of legal services for those who need but can’t afford them. The Board’s unanimous and enthusiastic vote to select him as our new Executive Director was a great moment for us,” said Patrick J. Flinn, Chair of GLSP’s Search Committee.

GLSP Board Chair, Terrica Redfield Ganzy, added, “Rick’s exceptional management experience, demonstrated commitment to legal services, and proven ability to fundraise elevated him to the top of a very competitive list of candidates. We are beyond thrilled to bring Rick on board, and we look forward to working with him to champion GLSP and the people we serve.”

“I’m honored to join the GLSP team and build on the legacy of Phyllis Holmen who exemplified the commitment, hard work and dedication provided by the outstanding GLSP lawyers and legal professionals,” said Rick. “Access to justice must be guaranteed to all people, not just those who can afford legal services and our work is vital to advance this cause throughout Georgia.”

Rick holds a BS from Old Dominion University and a JD from Seton Hall University School of Law.

