

# CALENDAR CALL

GENERAL PRACTICE AND TRIAL SECTION STATE BAR OF GEORGIA

Vol. XIX

Fall 2014

No. 2



2014

## *Tradition of Excellence Awards*



(l-r) Chairman Jimmy Hurt presented the “Tradition of Excellence” Awards to recipients Joe A. Weeks, (General Practice), Judge John D. Allen, (Judicial), Judson Graves, (Defense) and Neal Pope, (Plaintiff). The awards were presented at the Section breakfast to a full house June 6th in Amelia Island, Florida

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**Seminar Chairman: JIMMY HURT**



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"Georgia's Largest Law Firm"

GENERAL PRACTICE AND TRIAL SECTION STATE BAR OF GEORGIA

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David A. Sleppy

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Calendar Call is the official publication of the General Practice and Trial Section of the State Bar of Georgia. Statements and opinions expressed in the editorials and articles are not necessarily those of the Section of the Bar. Calendar Call welcomes the submission of articles on topics of interest to the Section. Submissions should be double-spaced, typewritten on letter-size paper, with the article on disk or sent via e-mail together with a bio and picture of the author and forwarded to Co-Editors: R. Walker Garrett, 200 13th St., Columbus, GA 31901, [rwalkergarrett@gmail.com](mailto:rwalkergarrett@gmail.com) and David A. Sleppy, 649 Irvin St., P.O. Box #689, Cornelia, GA 30531, [dsleppy@catheyandstrain.com](mailto:dsleppy@catheyandstrain.com).

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David A. Sleppy  
Co-Editor



I have recently seen inquiries on list serves regarding a summary of Georgia statutes of limitations. In connection with that I contacted the National Legal Research Group, Inc., a Virginia legal research firm who has – what I believe to be – a very comprehensive and useful compilation. The company was kind enough to give me express permission to reprint the list in its entirety. Many thanks to the National Legal Research Group, Inc. for their kind cooperation in allowing me to include this in *Calendar Call*. Special thanks to the president of the company, Steve Hart, who conferred with me personally in order to provide this information to our section members.



National Legal Research Group, Inc.

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# LETTER TO THE MEMBERSHIP FROM INCOMING CHAIRMAN:

Nicholas J. "Nick" Pieschel



It is my distinct honor and privilege to serve as the Chairman of the State Bar of Georgia's General Practice and Trial Section for 2014 - 2015. Our Section has been built over the years into what we proudly call "Georgia's Largest Law Firm." And, I will strive to continue the tradition of bringing together lawyers from all over the State who practice in all areas of the law to share ideas and promote the practice of law in this State. That is why I joined this Section in the first place, to get to know lawyers all over the State not just those who practice near me in Atlanta or who handle similar matters.

As I begin my Chairmanship, I would like to thank our Immediate Past Chairman, James W. "Jimmy" Hurt, Jr. for all of his hard work and the example he set for me. Jimmy did a terrific job of keeping the Section

moving forward while meeting the demands of his busy consumer law practice. And, he has been a great help to me as I transition to the Chairmanship.

I would also like to thank all of the members of our Board for their time and devotion to the General Practice and Trial Section. We have a wonderful group of lawyers and judges from around the State who selflessly volunteer their time to ensure that our Section and all of its endeavors are a success.

Our Executive Director, Betty Simms, has also been a great help to me and should not go unrecognized. As anyone who has ever served on the Board or come in contact with Betty knows, she is truly the straw that stirs the drink. Her knowledge, loyalty and work ethic are a tremendous and undervalued asset to our Section. We would not be able to accomplish nearly as much without her.

Now, as I look forward to the coming year, my goal is to maintain and build upon the foundation that Jimmy, Laura Austin, Darren Penn, Joe Roseborough, Pope Langdale and the other distinguished Chairmen and Chairwomen who preceded me have laid. Aside from the sheer size of our Section, I am most proud of our efforts to educate our members and other lawyers, recognize those lawyers among us who have led exemplary lives and careers, assist the general public and promote the practice of law in Georgia.

Every year, our Section holds its Trial Institute which is not only an

excellent continuing legal education seminar but an excellent opportunity for our members and other lawyers to enjoy themselves and get to know one another better. Our next Trial Institute will be hosted by Jimmy Hurt at the King and Prince Resort on St. Simons Island in March 2015 and should be another informative and interesting program. I encourage all of our members to attend especially if they have not attended one before. We also sponsor a number of other continuing legal education programs throughout the year including the Jury Trials seminar scheduled for January 2015.

The Tradition of Excellence Breakfast that we host at the State Bar Annual Meeting is another of our annual highlights. Each year, the General Practice and Trial Section recognizes outstanding members of the Bar in the categories of Judge, Trial Lawyer and General Practitioner with the Tradition of Excellence Award at the Breakfast. We also host a reception in their honor that evening. This past year, the recipients were The Honorable John Allen (Judge), Neal Pope (Trial Lawyer - Plaintiffs), Judson Graves (Trial Lawyer - Defense) and Joe Weeks (General Practitioner). Each of these fine men gave poignant and inspiring acceptance speeches during which they discussed their careers in the law reminding us of what we should all strive to be as lawyers.

Our Section also sponsors a community outreach project called

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## DEFENSE

## JUDSON GRAVES



### *Tradition of Excellence Award*

*Introduced by*  
**Judge Diane E. Bessen**

Having attended this breakfast for the past several years, I am routinely amazed when I hear not only about the accomplishments of the individuals honored, but the fact that these attorneys and judges are so highly regarded by all those who work in the field of litigation. Our first honoree this morning is such an individual.

I have a distinct recollection of the first time Jud appeared before me to try a medical malpractice case. To say his reputation preceded him is an understatement. I had only been on the bench a few years, and so although I was comfortable in my role as a judge, I can tell you I was nervous about having before me a trial attorney who just the year before had been honored by *The National Law Journal* as one of the top ten trial attorneys in the country. I knew I had to be very prepared and not show any signs of intimidation. Jud was that good!

Today we expect a medical malpractice or products litigator to exhibit an extraordinary level of expertise and preparedness, but 15 or 20 years ago, there were only a handful who set the bar, who showed the rest of us how it should be done and Jud led the pack. He would be familiar with every exhibit, both his and opposing counsel's.

He knew all the medical terminology, sometimes better than the physicians, cross examined experts without a single note to guide him, and not only did he know every line of an expert's deposition, he was familiar with every deposition that expert had ever given. Jud took nothing for granted and knew if he was taking on the representation of a physician or health care facility, it was his obligation to leave no stone unturned.

He was born in Jacksonville, Florida to Martha and Judson Graves. If you ever saw the pride Jud exhibited when representing a physician, it will come as no surprise that he was the son of a prominent radiologist. He attended the prestigious Bolles School where he was a top rate football player, a state champion swimmer and avid thespian. He attended Dartmouth College, originally to play football, but was instead recruited for the school swim team. Jud was also a natural leader and became president of his fraternity, and after having been active in Navy ROTC, he enlisted in the navy, becoming one of the youngest Lieutenant Junior Grade, while serving on the USS McCaffrey, in the early 1970's. Upon leaving the Navy, he enrolled at Emory University School of Law,

where he naturally excelled, becoming a member of the school's Law Review and graduating with distinction. He began his legal career at the firm of Jones, Bird and Howell, and was the youngest member of the transition team that merged with Alston, Miller and Gaines, the predecessor to what is today one of Atlanta's most preeminent law firms, Alston and Bird.

For many of us, Jud Graves is synonymous with Alston & Bird. He spent over 35 years there: a member of the Products Liability Group, co-chair of the Adversarial Practice Group, and leader of the firm's Pro Bono Committee, a commitment he took very seriously. A fellow of the American College of Trial Lawyers, he has been recognized by the *National Law Journal* for one of the country's best defense wins by a trial team in both 1998 and 1999 with his then trial partner Lori Cohen, and as one of the top ten trial attorneys in the country in 2000. Additionally he has also been recognized several of the last few years as one of the few best attorneys in Georgia, by *Best Lawyers* magazine.

There is something else that really differentiates Jud from many of his colleagues, which is why he is a particu-

larly worthy recipient of this award. So often a gifted litigator has difficulty sharing the spotlight, giving a student the opportunity to become as good if not better than the master. By definition Traditions of Excellence recognizes that part of every great litigator's role is to pass on this knowledge, to ensure that those in the wings also have a chance to become talented, skillful trial attorneys. Like a proud papa, Jud gushes about the success of his mentees. Not many litigators of Jud's stature would boast that they sat second chair to a once, less experienced associate.

Over the last few years I have personally experienced the passion Jud has for this profession, as lead adjunct for the Emory Law School Advanced Litigation/Medical Malpractice class. As an adjunct working with him I have witnessed firsthand the enthusiasm he has sharing his skills and knowledge with third year law students. He maintains ongoing relationships with these soon to be young attorneys, hoping to one day look back on their accomplishments, knowing he had a small hand in molding their careers.

Jud is more than just an outstanding litigator and attorney. He volunteers

extensively on the Board of St. Lukes, is former board chair and now chair emeritus of Covenant Community drug recovery program of All Saints Episcopal Church, and also volunteers with Camp Sunshine. He is an avid runner and scuba diver but takes most of his pleasure in enjoying his children Ashley, Judson and Mallory, and his three adorable grandchildren, and travelling with his wife Kathryn, accomplished in her own right as an associate dean of the Rollins School of Public Health.

Once asked to name another lawyer who impressed her, his former trial partner Lori Cohen talked about her mentor, stating, "Every time I am in trial or cross-examining a witness, I am in some respects, "channeling" Jud Graves. He has the unique and unparalleled ability to take the most complex, intricate issues and make them not only understandable but appealing and exciting for jurors. He practices law (and lives life) not only with dignity and honor, but with humanity and humor at the same time." Please join me in honoring this year's Traditions of Excellence Defense Attorney honoree, Jud Graves.

## Remarks by Judson Graves

Good morning! First I want to thank Judge Bessen for that way-too-generous introduction. I think at least half of the things she said about me are true. It's been such a pleasure to work with Judge Bessen on the Emory Law School faculty for the last four years, and the law students in the class we teach together absolutely revere her. So, thank you, Diane!

I also want to thank my beautiful wife, Kathryn, for being here this morning and for having been so supportive and understanding of my crazy life as a trial lawyer. Kathryn has been my secret weapon for years as a sounding board and idea generator for many a trial theme and closing argument, and she never gets any recognition for that.

So I retired from Alston & Bird last year after

spending about 40 straight years focusing on law and the practice of it. It was a great ride, and it turns out I'm blessed to have it both ways. I absolutely loved being a busy trial lawyer then, and I love not being one now!

But part of the magic of retirement is that you get to take deep breaths and reflect back on your career with the wonderful luxury of full-blown hindsight and the insights that come with retrospect. And it's from that perspective that I want to spend my few precious minutes with you this morning, sharing what I think spin class, locusts, and the practice of law have to do with each other.

First, spin class. Spinning involves mounting

*continued on next page*

## Remarks by Judson Graves

*continued from previous page*

and clipping your special spin shoes into a high-tech stationary exercise bicycle in some fancy, brightly lit gym. This class takes place at some ungodly early hour of the morning, and you do it in the company of about 25 likeminded zealots with earsplittingly loud rock music playing, and with the well-amplified vocal encouragement of an incredibly fit spin instructor who is on a bike in front of the class.

You can always recognize the instructor because he wears a mic and has a body as chiseled as Zeus. He's always urging you to pedal faster and increase the resistance on the bike.

For reasons I don't fully understand, I absolutely love to spin and do it regularly at a gym in Midtown Atlanta. It's incredibly demanding. You sweat a lot. And I really think it has the potential to prolong life.

The reason spinning is pertinent to my talk this morning is that it is so focused, so intense and all-consuming, that for me it obliterates all other thoughts and concerns. And in this respect, it's a lot like practicing law and being a trial lawyer.

During spin class our instructor will scream out a sequence of commands that have become very familiar to me. Accompanied by some loud, fast song, ("Jamie" is his name) yells out:

1. "Your head is down!"
2. "Pay no attention to your neighbor!"
3. "Concentrate!"
4. "Whatever 'it' is, don't think about it."
5. "Close your eyes if you want to."
6. "And don't let up!!"

And guided by these instructions, we all mindlessly pedal like crazy and enter a Zen-like state of extreme exertion that I find is a lot like being on another planet.

With the benefit of hindsight, I've realized that there were far too many times in my many years of law practice that I was so immersed in my cases; so preoccupied with preparing for some trial; and so intent on winning, that I became nearly oblivious to everything else in the world.

I now see that those periods were a lot like spin class:

- My head was down.
- I did not pay any attention to my neighbors.
- I was totally concentrating.
- Whatever else there was besides the case, I

wasn't thinking about it.

- And I didn't let up!

Now, shame on me for this, to be sure, but at times that's how it was for me. I suspect many of you can relate.

Now bracket that thought about spinning and overconcentration on law for a moment, and we'll come back to it.

Let's talk about the locusts.

One of my favorite New York Times columnists, David Brooks, recently wrote about a new book called *The Locust Effect*. He piqued my interest and I immediately went out and bought it. It turned out to be one of the most impactful books I've ever read.

Written by two lawyers named Gary Haugen and Victor Boutros, *The Locust Effect* is about global poverty, but also very much about law. Or, to be more precise, it's about what happens to societies in the absence of law. It describes with brutal clarity how unrelenting acts of serious criminal violence are – like a plague of locusts – crushing the global poor – especially the very poor people in developing countries – by denying them personal safety, personal freedom and basic human rights. *The Locust Effect* is about the bad people and forces that rush in to fill the vacuums created in a society where the rule of law is either absent, or just not enforced.

It's such a powerful read because it brings home the point that in the absence of a reliable, legal infrastructure, and without honest police or other law enforcement, it's the very poor of the world who are essentially defenseless and suffer the worst due to their obvious vulnerability to acts of violence. And it's much worse than we think! If you doubt it, read the book.

You'll learn about modern day slavery in India, for example, and about a laborer named Gopinath and his wife. They borrowed \$10 for food when his work as a well-digger was slow, and both were then put to work in a rock quarry with the \$10 standing as an advance against their wages. But under the owners scam, they were paid only \$1 or \$2 for every 3 or 4 weeks of work, and they needed all of that just to buy food. Soon it became obvious they'd never be able to repay the \$10 advance, but they still had to keep working. If they ever tried to leave the quarry, they would be hunted down and beaten, because they were so indebted to the owner!

Local authorities were even complicit. It turned out the police could readily be called in by the owner to beat the laborers to keep them in line!



If you can believe it, they were forced to work under this arrangement for 15 years before some lawyers got them out!

It turns out there are millions of people in developing countries still working in similar situations of indefinite forced labor. It's basically modern day slavery.

Or you can read about a 17 year old named Dan, who was rounded up by the police in the slums of Nairobi Kenya, for a crime he didn't commit, because the police were under pressure to make arrests to create the appearance of law and order.

He was held in prison for 8 months. When he was finally put on trial for what was a made up capital offense, he was not assigned a lawyer, even though he couldn't afford one, and his entire trial was conducted in English, which he could neither speak or understand! He had no chance in the world.

Dan's real problem, it turns out, was that he was too poor to bribe the police, which would have been the standard way of avoiding all this mess.

By describing these real life situations, the authors want to remind us how good we really have it. They say to us readers: "Chances are if you are reading this book .... I bet you pass your days in reasonable safety from violence. You are probably not being regularly threatened with being enslaved, imprisoned, beaten, raped or robbed. But if you were among the world's poorest billions, you would be!"

What all this brought home so forcefully to me was how easy it is to take our legal system for granted because we've gotten so used to it.

The author James Baldwin once said: "The price one pays for pursuing any profession or calling is an intimate knowledge of its ugly side." I think this is true, and it is one of the reasons we can sometimes beat ourselves up unduly because our system – as good as it is – still fails a lot.

Now back to the spin class analogy we bracketed a moment ago. Reading *The Locust Effect* jarringly reminded me of the times in my career when my head was so down, and I was so totally focused on the legal matter at hand, that I either forgot, or just took for granted what an extraordinary privilege it is to

live and work within a legal system like ours, where the rule of law really means something, and where you can go about your day-to-day life with a reasonably high level of confidence that the legal system is fundamentally sound and will, in most instances, protect your personal rights because it's operated, supported and protected by people like you in here, and by meaningful enforcement mechanisms - such as the police, the civil courts, and judges and juries – which can usually be counted on to see that justice is actually done.

So it is with the benefit of my newly discovered enhanced hindsight, that I now cherish more than ever how good I had it in the years I had working in the trenches and being but a very small cog in the very big wheels of our justice system. If I was too often oblivious to the privileges of practicing within that system because my head was down, I wasn't paying enough attention to my neighbor, or whatever, then at least I see it now! And in a paradoxical way, I'm more enthusiastic than ever, now in retirement, about having practiced law, and having done so shoulder-to-shoulder with people like you. Please keep on doing what you are doing!!

And that, my friends, is what I think spin class, locusts, and the practice of law have to do with each other. I hope it makes some sense to you here at this early hour of the morning.

I want to conclude by expressing my sincere gratitude to the General Practice and Trial Section of the State Bar for honoring me as a co-recipient of this Award for 2014.

I am humbled by this honor, especially given the stature of my three fellow recipients this morning, as well as those who have gone before us.

To be recognized by you in such a generous way, for doing what I loved to do; working at a wonderful law firm of like-minded people with high standards, within a legal system that I now appreciate more than ever; is the perfect capstone to an incredibly rewarding and fulfilling legal career.

Thank you for making this happen. I feel so much more than honored.

## GENERAL PRACTICE

## JOE A. WEEKS



*Introduced by*  
**Bill Lundy**

### *Tradition of Excellence Award*

It is my distinct honor and privilege to present Joe Weeks as the 2014 recipient of the General Practice and Trial Section Tradition of Excellence Award as the General Practice Lawyer of the Year. To quote Shakespeare, *"There is flattery in friendship"*, and Joe, you flatter me deeply by allowing me to introduce you.

Joe called me back in March to introduce him. Many could have presented Joe—I'm the lucky one. Far too often, lately, discussing a life's achievement have come for me at eulogies. I am thankful that this opportunity to honor Joe is with him sitting here so he can know what his fellow lawyers think of him and the high esteem in which we hold him. Joe inspires trust because he is trustworthy. He is a lawyer's lawyer.

Joe and I go way back—not just as officers of the General Practice and Trial Section in the 90's, but all the way back to 1976, to be exact, in my hometown of Cedartown, Georgia. We claim Joe as being from Cedartown.

Joe was born in Adel, Georgia and raised in Moultrie, Georgia. He is the 8th of 9 children, of which Joe is a first generation lawyer.

From Kennesaw State University, Joe's career path had him serving

as manager of the Red Sirloin Steakhouse restaurant chain, of which Cedartown had one in 1976.

This was a pivotal time for Joe, because it was Cedartown that blessed him with his bride of 34 years this June 14th, Pam. Their meeting was a pretty interesting meeting. See, we have a Junior Service League of which Pam was a member and every four years the Junior Service League has a fundraising theater event called the "Follies", and the follies they were. Women volunteered and the men got drafted.

Pam was "Little Orphan Annie" on stage and she had her real dog, Sandy. To ensure Sandy would come to her amongst all of the distractions on stage, she had a sardine in her hand to attract Sandy. Well, she also attracted Joe Weeks! And, as Pam tells it, Joe had even then a roundabout cross examining way of getting information:

Joe: "Excuse me, ma'am, but is your husband also in the follies?"

Pam: "No, I'm not married."

Joe: "Will you accompany me to the cabaret party following the show?" (Joe didn't beat around the bush!)

Pam was young and Joe had a good job and a car, but really, she didn't think her daddy would ap-

prove. He did. They were married in 1980. 34 years- Every anniversary Joe takes Pam to "The Palms" restaurant.

Joe wanted to be an athlete. When he was a little boy, he wrote Governor Maddox asking for a baseball glove. He received a signed letter instead. When Joe turned 40, Pam contacted Governor Maddox and told him the story. Governor Maddox hand-delivered a glove to Joe on his 40th birthday!

Of the many people that know Joe, there is universality of opinions about him- including mine. Joe Weeks is a hard worker and meticulous in his preparation. He will find the eyewitnesses, investigate the Defendant, interview family and friends, go to his clients' home for a meal before trial (and to their weddings and funerals after the case is over-that is the relationship he has with his clients), depose the doctors, nurses, ambulance attendants, and well, "Do what it takes," as my football coach used to say. Joe prepares for his cases. He is always ready for trial.

Managing a Red Sirloin Restaurant prepared Joe better than ever to be a trial lawyer. If you think a manager doesn't wash dishes, take out the trash, change light bulbs, vacuum, run a register, then just ask Joe. After marrying Pam and moving to Marietta, Joe decided he wanted to become a lawyer. So while working during the day managing The Red Sirloin AND delivering the Atlanta Journal Constitution to hundreds of homes out of his car, he attended law school at night- John Marshal School of Law. He also graduated Cum Laude.

Joe opened his law practice in 1983—31 years ago. He got busy in the courtroom. He has tried over 250 cases to verdict. Amazing!

Joe loves helping people. He loves his clients and they love him. Joe has a significant client base. Win, lose, or draw—he fights.

It has been said that fortune favors the brave. If you believe that, you'll appreciate a few snapshot stories of Joe.

Early in life, Joe loved pro-wres-

ting. Not just watching on TV, but he would attend in person. This was before he was an attorney. While the "villain" wrestler was beating up on the "good guy" Bob Backlund, Joe jumped in the ring and on the back of the "Missouri Mauler," all 6'4" and 240 lbs of him! Joe didn't pin the Missouri Mauler, but he did get arrested. It has been that kind of boldness and empathy for the weak that has informed his career.

Another snapshot: Joe is trying a case against Allen McDuffie. Clear liability car wreck case. Allen's client pulled out in front of Joe's. Joe's client had more pre-existing injuries than you can shake a stick at. Allen's client wouldn't admit fault—"The car wasn't there!"—Of course it was there! So, Allen doesn't mention liability in closing. Joe gets up and tells the jury that Allen McDuffie was a personal friend of his and one for whom he has great respect. Joe says to the jury that he has even more respect for Allen because he didn't mention liability because he didn't want to lie. Joe won the case. Last thing Allen said to me was, "I should have won that case."

I look around the room—my late law partner received this award in 1992, and he inspired me. Joe has always inspired me. He probably has more \$25,000-\$100,000 jury verdicts than any of us.

Joe is respected by his peers. He has served as Vice-President of GTLA and Regional Chairman of the Georgia Civil Justice Foundation.

To any lawyer with a case against Joe for the first time—many have underestimated him because he is so self-deprecating, funny, witty, kind, polite to a fault, but I promise, you put him in a courtroom and he will ferociously and zealously pursue justice for his client. Never underestimate Joe Weeks, or do so at your own peril.

Another snapshot: Joe and I have worked on cases together. The only one I will tell you about is a loss. Very illustrative of Joe's character. A popular mall fast-food restaurant

chain was our plaintiff. They would, wisely, rent minimal square footage in the mall and just build "up". The employee bathroom was only accessible by a steep ships ladder. It was dangerous. A female employee was coming down and snapped her femur bone. It was Worker's Comp—right—employee hurt on the job, but Joe felt that the ships ladder was a bad design and we tried to go outside of the Worker's Comp Act and file a direct action against the chain.

While deposing a top executive at corporate headquarters in Atlanta—big, nice building, nothing but business suits and dresses—Joe asked a corporate manager if they had to go up a "ships ladder" to the bathroom. "Certainly not!" was the reply. As we were leaving a 3-hour deposition, Joe said, "We'll blow their answer up for the jury!" We did not get the chance. The Court of Appeals affirmed a summary judgment against us on exclusive remedy. Joe did all he could do to fight. He would not take the easy way out.

Joe has established a tradition of excellence—in life, in law practice, even in the radio broadcast he does live every Sunday. He contributes to his community. You may not be able to change the world, but you can pick up trash one piece at a time and make your little part of it a better place. Joe does that. Joe is quick to help and slow to anger and persistent in his pursuit of justice. Day in and day out, excellence is a habit.

Joe, you are now permanently linked to an elite group of trial lawyers. Thank you for your contribution to our honorable and noble profession, and to our state and our country. Last thing I will say about Joe: He always makes you feel like a better person when you leave his presence. I present proudly, our 2014 recipient of the Tradition of Excellence Award, Joe A. Weeks.

**Remarks by Joe A. Weeks**  
*on next page*

*Remarks by*  
**Joe A. Weeks**

I am indebted to so many people for their assistance, encouragement and, most importantly, tolerance throughout my career: my parents, who taught me the virtues of integrity and hard work; my brothers: Starlyn, Harold, Lawrence, Sam, my brother Wayne, who helped Pam and I in so many ways and my sister, Melba, who has provided great inspiration; my Office Manager of 25 years, Amsale Tsige and my Paralegal, Danielle Jones, who are still trying to teach me patience; Betty Simms, who has been incredibly encouraging and supportive, and who embodies the qualities of leadership and

strength of character--which I profoundly admire; my law partner and best friend of 31 years, Steve Nicholas, who has shown me the greatness of true friendship and mutual respect. And last, but certainly not least, I am forever grateful to my wife, Pam, who has shown me unconditional love. I am blessed to have received the generosity of the true friendship of you, my colleagues and mentor.

It is with great pride that I accept this award. During the next 30 years, I will strive to be a better lawyer and hope you know the great depth of my appreciation to you all. Thank you.

## **CLE CREDIT FOR BEING PUBLISHED IN CALENDAR CALL**

Members of the State Bar of Georgia can earn up to 6 CLE hours for authoring legal articles and having them published in Calendar Call.

Send article, bio and picture to R. Walker Garrett and David A. Sleppy for publication.

## JUDICIAL

## JUDGE JOHN D. ALLEN



### *Tradition of Excellence Award*

*Introduced by*  
**Judge Bobby Peters**

It was my pleasure to nominate and my honor to be asked by the State Bar to introduce the Honorable John D. Allen.

Judge Allen was born in Columbus, Georgia in 1943, one of 7 children. He was the only boy, which explains with 6 sisters how he became such a great cook and diplomat. His dad was not around and the family had very modest means. It was a tough time for a young black man to achieve their dreams and ambitions. But he ignored the negative, stayed focused, and pursued his education and came out of public housing determined to succeed.

He graduated from Tuskegee University in 1966 with a degree in mechanical engineering. He joined the R.O.T.C. which designated him a 'distinguished military cadet' which won him a commission in the air force. While serving his country he gained top secret clearance, piloted an f-4 phantom fighter jet, and flew many missions in Vietnam with two tours in southeast Asia. He was decorated repeatedly, earning five distinguished flying crosses, 23 air medals, and two Air Force commendation medals. He was

honorably discharged in 1973 and went back to college and earned his law degree from the University of Florida in 1975 and returned to Columbus to practice in an almost all white legal community. It was not easy for him in the 70's.

He was a trailblazer and continued on the front line fighting for equality, fairness, and dignity for everyone. I had the honor of practicing law with Judge Allen in the early 80's which was the first time in the history of our city a bi-racial law practice was formed. The powers to be at the time were very selfish of their control of the courthouse. I saw first hand the obstacles and bad treatment he received. At his retirement ceremony, he told a true story of one day he was in a jury trial at the courthouse and he called me at the office and told me to come over and help him try the case. I said John, I don't know anything about the case. He said listen, I have an all white jury and a black defendant, just come over here, sit at the table with us and say something white every now and then, which I did.

I would jump up and offer some crazy objection so John said, you go

*continued on next page*

## Tradition of Excellence Award

*continued from previous page*

back to the office and send the secretary over here.

We also tried an armed robbery case in another circuit with the same situation, all which was not unique back then. The young black man was found not guilty. The judge was visibly upset over the verdict but then took the time to go on and on praising me for what a great job I did during the trial, no praise at all for John. I said, your honor, attorney Allen deserves all the credit, he is the lead counsel and he actually handled the trial. But the judge would not comment. He obviously was biased but I joked to John, think the judge felt sorry for me because you are so much taller than I am. I know that rejection hurt John but he refused to show it or respond to it.

Those stories are funny now but not then. It was a different world 30 years ago but Judge Allen stayed the course and overcame the odds. He helped get me elected to a citywide

council seat which then gave me the opportunity to nominate him for a citywide judgeship on our city court. A few years later, Governor Joe Frank Harris appointed Judge Allen to state court and later Governor Zell Miller appointed him to superior court.

For 26 years he has worn the robe with dignity and with the utmost respect, even to his earlier detractors whom today have only praise for him.

He became the first African American to be the Chief Judge of the Chattahoochee judicial circuit. The first African American to be the president of downtown Rotary in Columbus, the second largest rotary in the state of Georgia. He served on the executive committee of Council of Superior Court Judges, Chairman of the J.Q.C., appointed by the Supreme Court of Georgia. As a member of the court futures vanguard, he organized and runs the Mental Health Court, served on many civic boards, Special Olym-

pics, One Columbus, and all with a great temperament. His fingerprints are many projects and initiatives, too many to list.

He is no doubt one of the most highly respected judges in the state of Georgia. He has been true to his high principles, true to the judiciary, his family, his church, and to himself.

He is a remarkable man, a real leader among leaders. He ignored the negatives and pushed the positive. He has worked tirelessly to make equal justice for all a reality and not a myth. We are proud he is a product of the Chattahoochee Judicial Circuit.

His compassion for people and for the law has made him a fantastic jurist. He is a tradition in our community, a real life tradition, and the perfect selection for the Tradition of Excellence Award.

I present to you the Honorable, John D. Allen, Judge of the Superior Court.

### Remarks by Judge John D. Allen

Thanks to Judge Peters longtime friend and confidant.

I am Deeply honored by this recognition. I mean that with the deepest sentiments.

Before I get full of myself for being recognized by this august body, I thought I might need a reality check by consulting the insight of some great philosophers on the circumstance of being publicly recognized.

Being a judge of many years, I was sure I would find words of flattery for "a person of my station ---"

I checked the musing of a man of great insight H. L. Mencken. Googled: Judge --- He wrote, "A Judge is a law student who grades his own examination papers." My ego took a hit and some air

came out of my balloon.

I needed a little balm after reading Mencken so I researched one of my other favorite philosophers, a sage among sages on insight into the nature of man in social setting. She has many number one publications over the past two decades. She is a paragon of diagnosing human nature.

I googled "Dolly Parton on exceptional excellence in the legal profession". I was immediately availed of her wisdom – in an insightful quote, "It's hard to be a diamond in a rhinestone world."

After that poke at what was left of my ego I concluded that I should best stop searching for validation, gush a little, graciously accept my award and be seated.

However, I feel obligated to share a little about

my career experiences, perceptions, and lessons learned.

I, inauspiciously, entered the practice of law in a region, that was a bit unusual, to put it mildly.

Immediately after receiving my Bar results, I was instructed by someone in authority to report to a lawyer's office one morning. (Saturday?) Three lawyers sat across the table from me and began questioning me about different areas of the law – Domestic, contract, etc. I was able to decipher that each question was really an ethics issue. Apparently, I passed scrutiny. I never knew that process to exist. However, at the time I had not stepped into a courtroom - - -.

Early in my private practice, I was “waxing eloquently” in a motion hearing about how the U.S. Supreme Court had ruled in an opinion on all fours with my argument. I was abruptly interrupted and brusquely instructed by the Judge, “Don’t tell me anything that the United States Supreme Court said, if you are gonna quote the law to me give me some real law, some Georgia law!” The D.A. and lawyers were amused, but not in a supportive way.

On another occasion, in an adjoining circuit, I often was appointed to represent defendants at an exorbitant rate of compensation, twenty-five (\$25.00) per hour. I would receive the cases about ten (10) days before trial. I would immediately file the limited criminal pre-trial motions we could file at that time. There were no reciprocal discovery rules. The D.A. would not discuss my cases before the call of the docket. As a result of entering a “not guilty” plea to an offer to serve the maximum on the felonies the D.A. would insist that I remain around the court-house every day for a possible call of my case for trial. I was a sole practitioner with an office forty miles away. I sat all day each day until Friday noon after which time an offer would be made that my client would accept, against my advice. On many occasions when I insisted on a hearing on my motion, the D.A. would receive the motions, promptly turn and toss them in the trash can and suggest that I argue to the court reporter. I came close to fisticuffs with the D.A. in open court over his disrespect of my client and me.

The D.A. became judge, and his ruthlessness became more severe. For my clients' sake I ceased taking cases in that circuit.

In defending a client in a weak criminal action, I was forced to subpoena my witnesses to trial eleven (11) times for trial. When the witnesses appeared the case was continued over protestations. It was only, at the risk of being jailed for contempt, I refused to move from the rail until my client's case was tried or dismissed. The case was finally nolle prossed.

I could go on but you get my drift, I am sure. Yet, here I stand today. Not so much a testament to any virtue of mine rather a testament to the basic fundamental fairness of our system and those who worked to make it so.

Actually, my good fortune in being here today is due in major part to a much improved legal system; a system whose efficacy is a function of its driving forces, you the lawyers and the judges.

Our legal system, grounded in the Rule of Law, is dependent on the continued professional enlightenment and ethical conduct toward and within our system. I have survived because of that improved conduct and professionalism. In my mind, this means, simply, that we are the guardians of a huge public trust, trust in us, lawyers and judges, that we will keep improving on our Rule of Law thus its beneficence to the least among us.

Even in its simplest notion, Judges, by virtue of the great expanse and power of deference to their decisions clearly hold “The Public Trust” and are empowered as guardians of that trust.

You, lawyers, by being afforded (given) the exclusive role and privilege of carrying the concerns of the public within and before our legal system clearly maintain a “Public Trust”. The continued improvement of our legal system clearly rests on your continued zealous advocacy for fairness and insistence on professionalism.

I have the good fortune of having made friends along the way who are courageous and principled enough to help our legal system move toward its inexorable end of assuring full, fair, and just participation for all. I have benefitted by their largesse of time, honor, and professionalism. For their support I am eternally grateful.

I have been, also, blessed with the support of a loving family, six sisters, a herculean mother and sons who made it easy being a parent.

I would be remiss if I did not take this opportunity

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PLAINTIFF

## C. NEAL POPE.



*Tradition of  
Excellence  
Award*

*Introduced by*  
**Paul Kilpatrick, Jr.**

In matters of this nature, it is customary for the person who introduces the Honoree to start by saying "It is my Pleasure, Honor and Privilege to introduce..." whether they mean it or not. So, it is my Pleasure, Honor and Privilege to be here today to introduce Charles Neal Pope, better known as C. Neal Pope, to those gathered here today. But let me assure you, it truly is a Pleasure, Honor and Privilege to serve this role today. Neal is a man whom I respect as much as any lawyer I have ever known and who, in many ways, has been a brother to me. In August of this year, we will celebrate 30 years of law practice together, which is 60% of my time practicing law. Three of the four lawyers who originally agreed to establish the firm in 1984, are still with the firm, one has retired.

When we joined together, each of us had an ongoing successful law practice, but Neal had a vision of a specialized litigation firm with the basic concept that a group of lawyers who were willing to work as a team could consolidate their working hours and focus those hours on a small number of complex cases with the potential for a significant result. That is what we did. Like all of you, we had ups and downs, but a lot

more ups. Our firm now has grown to include 16 lawyers in two offices and we still working under the same game plan Neal envisioned in 1984.

Well, who is Neal Pope? Neal was born in Montgomery, Alabama and has worked in one capacity or another since he was in high school. He attended Auburn University and worked his way through Auburn, graduating in 1961. He then entered the Marine Corp and served as a Lieutenant from 1961 – 1963. Neal and his troops were on a ship headed to Cuba during the Cuban Missile Crisis, when it was resolved by President Kennedy. Although he stayed in the reserves until 1967, he was admitted to the University of Alabama School of Law in 1963, graduating in 1966. Neal has been a trial lawyer since that date. Attending both Auburn and Alabama has provided Neal with a unique opportunity. Every fall, about halfway through the football season, he declares whether he is an Auburn or Bama fan. This past year he missed.

He is a fearless lawyer and I believe the vast majority of lawyers who have been his opponent would tell you he is as good as they have seen. One of his frequent opponents crafted a name for Neal. He refers



to him as the “Velvet Hammer,” that pretty well sums Neal up. Neal from the start of his law practice, and now with our firm, never hesitates to take on tough issues as long as he believed that his or our position. For some examples of that consider these cases:

- 1) *Battle v. Liberty National Life Insurance Co.* filed to fight the monopolistic policies of that company to only pay burial insurance benefits to funeral homes owned by whites and he won.
- 2) *Casrell v. Altec Industries, Inc.*, which resulted in the Supreme Court of Alabama reversing the trial court’s dismissal of a strict tort liability claim and established the Alabama Extended Manufacturers Liability Doctrine.
- 3) *Borum v. Eli Lilly*, the first case tried against Eli Lilly related to the drug Oraflex and in that trial, Neal proved Lilly’s failure to report foreign adverse reactions and deaths to the FDA.
- 4) *Diminished Value Litigation* initially against State Farm and, eventually, against auto insurance companies provid-

ing coverage for 95% plus of Georgia citizens who had paid a premium for that coverage, but were never paid.

The list goes on, including defendants like Alabama Power Company, the United States of America, Humana, Pfizer, International Playtex, Ford Motor Company, General Motors, C & S National Bank, UpJohn and Dupont. but the point is that Neal, if he believes we are right, does not shy away because some believe the defendant is too big or too powerful. While thankfully verdicts have grown over the years, at one time, Neal held the record for wrongful death verdicts in both Alabama and Georgia.

Despite years of working hard, being a 21 plus year survivor of a human heart transplant, Neal is just as active, works just as hard and leads our firm as he always has. He comes to the table with a history of hard work, a desire to excel and has put into practice what he learned in the Marine Corp, find your objective, devise a plan and go all out to accomplish your goals. He subscribes to the philosophy of Winston Churchill, whom he greatly admires, NEVER GIVE UP OR GIVE IN!

While Neal has many great qualities, the two which I admire the most

are that he has great judgment and exceptional foresight. He has the unique ability to look several years ahead and conceptualize how the law practice may change. He has led us to add to our standard portfolio of severe injury and wrongful death cases more complex class actions and expanded our practice into mass torts and business defense issues.

One of Neal’s greatest accomplishments was marrying his wife, Virginia Pitts Pope. She has been right by his side through the hard work, the occasional disappointments we have had, and, some very serious health issues and she has done it all with dignity and grace. If dictionaries had pictures, hers would be next to the word “Lady.” They have four children, Dr. Wesley Clarke Williams, Catherine Elizabeth Pope Holmes, Matthew Neal Pope and Kirkland Neal Pope, one doctor and three lawyers. Elizabeth was a partner in our law firm and is now a full-time mother and homemaker and Kirk is a current shareholder with our firm and, like his dad, is a marine.

It truly is a pleasure, an honor and a privilege to introduce my partner and dear friend, Neal Pope.

*Remarks by*

## **NEAL C. POPE**

An acceptance speech, such as this, should have certain characteristics that makes it at least palatable and hopefully entertaining to the audience. Additionally, it should be appropriately in keeping with the dignity of the event. My acceptance speech today, accordingly, will attempt to accomplish those goals by aiming to embody gratitude on the part of the speaker, brevity in the presentation and succinctness of the Message.

A favorite acceptance speech of mine was delivered by America’s own Yogi Berra at a very large reception arranged for him in Madison Square Gardens. In that speech, he embodied at least two

and perhaps all three of the elements that I seek to bring to you in this speech. Namely, those are gratitude, brevity and succinctness. When he took the podium he said, “I want to take this opportunity to thank all of those who made this occasion necessary”.

Aside from being unsure as to exactly what the intended message was, the audience was, I am sure, grateful for the brevity and succinctness of his delivery and, perhaps, even of his gratitude at having been chosen for the honor.

Another famous American, Willie Nelson, also

*Continued on next page*

## Remarks by Judge Neal Pope

*continued from previous page*

demonstrated these principles with a very forceful acceptance speech at a presentation in which he was one of a number of recipients at an Emmy Awards Ceremony. All of the recipients before him made very lengthy acceptance speeches with regard to receiving their respective awards. Each in turn, went on and on praising all of the people to whom they owed their gratitude for enabling them to be there on that occasion and to be thus honored. Each lavishly thanked mothers and fathers, husbands and wives, sons and daughters, kindergarten teachers and scout leaders. After this wearying experience, Willie Nelson took the podium and held his Emmy statue up above his head in his right hand and said only the following "I've been up and I've been down, up's better, Thank you very much ladies and gentlemen".

While brevity is much to be desired, it is aided in the achievement, in great part, by its companion, succinctness. That concept means simply getting the most utility out of the fewest number of words. A master of that practice, was Winston Churchill. His verbal arrows almost invariably struck the very center of the bull's-eye. A few examples of his talent for elucidating his meaning will suffice. When he found himself in the hostile environment of the Ladies Temperance Soci  t   of London, he was approached by one of the members of that group who accusingly said to him in essence, I am told that if you poured all the liquor you had drunk onto the floor of this room it would reach up to that chair rail. Sir Winston's quick response was, as he lifted his eye and his left hand toward the ceiling, "so much we have done so much we have yet to do".

On another occasion Churchill and a companion passed Lord Beaverbrooke, a rather pompous being, in a corridor. his companion said, "Winston I do believe that is Beaverbrooke". In response, Churchill replied, "aye and there but for the grace of God goes God".

Further demonstrating his ability to get maximum economy out of Lords to demonstrate a concept. He said, "civil servants," no longer servants, no longer civil." And although I have perhaps made my point beyond that which is necessary, the Churchill stories are just so good that I can't resist the temptation to add to the almost inexhaustible list of examples that he provides us. Therefore, please indulge me as I tell one more.

When at a cocktail party he had more than amply engaged in his favorite past time of drinking liquor, a lady said to him, "Sir Winston you are drunk you are very very drunk". Churchill responded with this cutting retort, "yes Madam you are correct that I am drunk, indeed I am very drunk just as you are very ugly. However tomorrow I shall be sober."

So as I stand before this audience today, which includes many of you whom have similarly stood here before me, in acceptance of the Georgia Bar Association's Tradition Of Excellence Award, I do so with gratitude that you have selected me for this year's honor. My acceptance is therefore brief, succinct and heartfelt, but in my brevity, I would be remiss if I did not comment on what I take the Tradition of Excellence Award to mean to me.

In my view, excellence is not synonymous with perfection. No one would aspire to give or receive a Tradition of Perfection Award. The concept of a tradition contemplates the passage of time. This award recognizes that excellence can, perhaps, be achieved over time. On the other hand, the pursuit of perfection over time will invariably end in the pursuer falling short of the goal. I don't know that I am truly deserving of this award because I do not know if I have achieved excellence over the period of my fifty year career.

I do know, however, that throughout my career I have striven to achieve perfection knowing that I could not achieve it but hoping that in the pursuit of perfection excellence would be the result. I have always been inspired by the Quest of the Man of LaMancha and the words to his song,

*To dream the impossible dream  
To fight the unbeatable foe  
To bear with unbearable sorrow  
To run where the brave dare not go*

*To right the unrightable wrong  
To be better far than you are  
To try when your arms are too weary  
To reach the unreachable star*

*This is my quest, to follow that star  
No matter how hopeless, no matter how far  
To be willing to give when there's no more to give  
To be willing to die so that honor and justice may live  
And I know if I'll only be true to this glorious quest  
That my heart will lie peaceful and calm when I'm laid to my rest*

*And the world will be better for this  
That one man, scorned and covered with scars,  
Still strove with his last ounce of courage  
To reach the unreachable star*

Whether or not this kind of quest which has led me to striving these many years for the achievement of excellence has had the intended effect I cannot say or know. However, of one thing I am sure and it brings to mind the words to another song. I refer to the song written by Neil Sedaka for Frank Sinatra who introduced us to it when he was about the age that I am now. It goes like this,

*And now, the end is here  
And so I face the final curtain  
My friend, I'll say it clear  
I'll state my case, of which I'm certain  
I've lived a life that's full  
I traveled each and ev'ry highway  
And more, much more than this, I did it my way*

*Regrets, I've had a few  
But then again, too few to mention  
I did what I had to do and saw it through without exemption  
I planned each charted course, each careful step along the byway  
And more, much more than this, I did it my way*

*Yes, there were times, I'm sure you knew  
When I bit off more than I could chew  
But through it all, when there was doubt  
I ate it up and spit it out  
I faced it all and I stood tall and did it my way*

*Continued on next page*

## Remarks by Judge Neal Pope

*continued from previous page*

*I've loved, I've laughed and cried  
I've had my fill, my share of losing  
And now, as tears subside, I find it all so amusing  
To think I did all that  
And may I say, not in a shy way,  
"Oh, no, oh, no, not me, I did it my way"  
For what is a man, what has he got?  
If not himself, then he has naught  
To say the things he truly feels and not the words of one who kneels  
The record shows I took the blows and did it my way!  
Yes, it was my way*

Thank you again ladies and gentlemen for bestowing on me this much appreciated honor and I leave you with the hope that each of you will, in your own way, pursue the impossible dream of perfection.

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## Letter to the Membership

*continued from page 2*

"Ask A Lawyer Day" in which lawyers around the State volunteer their time and services to those who may not otherwise be able to afford an attorney. We also sponsor or support various legislative initiatives that we believe would be of benefit to the Bar at large or are a needed change to the law in Georgia. And, in doing so, we try to make sure our elected officials are fully informed about how pending legislation may

affect the practice of law in Georgia.

These are just some of the projects that the General Practice and Trial Section is regularly involved in. We are always looking for new ideas for projects or for existing projects to get involved in that are consistent with our goal of promoting the practice of law in Georgia. But, we cannot do any of these things without the support and participation of our members and adding new members

who are interested in participating.

So, I encourage all of our existing members to pay close attention to our e-mails and other communications and look for opportunities to get involved in the Section. And, I encourage any lawyer in this State who may be reading this to join the Section and get involved right away. We want to continue to build "Georgia's Largest Law Firm" and make it the best group of lawyers in Georgia.

# Judicial Reflections on Mediation

**Hon. Susan B. Forsling**

*Mediator/Arbitrator*



*Hon. Susan B. Forsling served as Judge of the State Court of Fulton County from 1997 until her retirement in July of 2013. As a judge, she presided over general and complex civil cases and misdemeanor criminal cases and also presided over the Fulton County DUI Court Program. During this time, Judge Forsling also served as a pro hac Judge of the Fulton County Superior Court. On July 8, 2013 Governor Nathan Deal appointed her as a senior judge allowing her to continue to preside over cases in the trial courts of Georgia. She also serves as a mediator and arbitrator for Bay ADR in Atlanta.*

*From 1992 until her judicial appointment in 1997, Judge Forsling was the Fulton County Attorney, serving as chief legal officer for the government. She was formerly a partner in the law firm of Young & Murphy and was a Special Assistant Attorney General. Judge Forsling has served as an adjunct professor of pre-trial litigation at Emory University, a faculty member of Atlanta College of Trial Advocacy, a faculty member of the National Institute of Trial Advocacy, and has served as a Master of the Bleckley Inn of Court. Judge Forsling currently serves on the Board of the Judicial Section of the Atlanta Bar Association and is a member of the Lawyers Foundation of Georgia. She speaks locally and nationally on topics relating to the trial of complex civil litigation.*

Having spent 33 years in the courtroom, as a trial attorney and judge, I have seen the first day of trial bring parties full of nervous and eager anticipation to finally pick their jury, tell their story and have their day in court once and for all. Implicit in this anticipation is a notion that they know the truth, and once the jury hears the truth, they will have a victory.

This understandable naiveté stems from a number of incorrect beliefs about the trial process and the risks to all parties regardless of the strengths of their case or the abilities of their lawyers. Mediation is an excellent opportunity to address these risks with the client in addition to factual

and legal risks inherent in every case. The mediator is in the best position to identify these risks so as to avoid any feeling by the client that his or her lawyer is not confident about the case, or is not sufficiently competent to try the case.

The first trial reality that the mediator should address is that the parties do not pick their jurors. There is a reason it is called striking a jury. At best, it is a default process whereby favorable jurors for each side are systematically eliminated from the pool leaving a group of men and women who are not “ideal” for either side but can be fair and impartial. Parties tend to want fair jurors but always want

jurors partial to their way of thinking.

This selection process always poses risks for both sides. I have seen a number of juries over the years, come out to announce their verdict, crying with sympathy for one party, only to return a verdict for the other side. Of course, they are following the law.

Parties must understand the risk inherent in jury trials; namely, they are not necessarily going to get a group who agree with their position, even if they are sympathetic. This risk should be effectively communicated by the mediator using examples that are fact specific to each case.

I like to tell parties that while the

*Continued on next page 40*

# 2014 Tradition of Excellence Breakfast and Reception

June 6, 2014 ♦ Omni Amelia Island Plantation Resort ♦ Amelia Island, Florida



*A sell-out breakfast*



*Judson and Kathryn Graves*

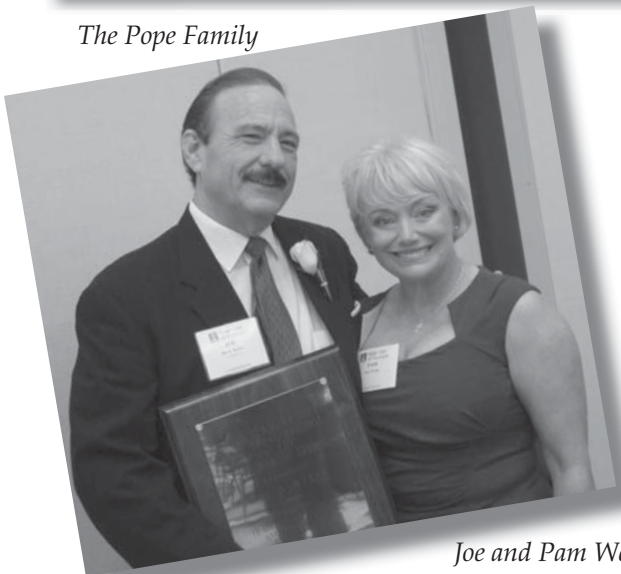
## The Breakfast



*The Pope Family*



*Nick Pieschel presents Jimmy Hurt with the Chairman's Plaque*



*Joe and Pam Weeks*

*Judge John Allen and son Geoffrey*





*Neal Pope enjoys the reception with Jimmy Hurt and his Dad James Hurt*



*The reception was a big success*

## The Reception

*Everyone had a Great Time!*



*Paul Painter, III and Judson Graves*



*Judge Allen with Kirk and Dad Neal Pope*



*Nick Pieschel presents Jimmy Hurt with the traditional bottle of champagne*



*The winners ( l-r) Joe Weeks, Judson Graves, Judge Allen and Neal Pope relax and enjoy the reception in their honor.*

## GEORGIA STATUTES OF LIMITATIONS

The following is an alphabetical listing of Georgia statutes of limitations arranged by area of law. Only those statutes that establish a time period are included. Statutes that establish general rules for the application and interpretation of statutes of limitations have been omitted. No attempt has been made to systematically include tolling periods or rules, administrative or regulatory time limits, or appeals periods. The information presented here is intended for use as a quick reference. The applicability of each limitations period will need to be determined on a case-by-case basis through examination of the relevant statutes and case law.

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is offered with the understanding that the publisher is not engaged in rendering legal services. If legal advice is required, the services of a competent attorney should be sought. (From a Declaration of Principles jointly adopted by a Committee of the American Bar Association and a Committee of Publishers and Associations.)

AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>ABUSIVE LITIGATION</b>		
Claims for damages	1 year after date of final termination of abusive proceeding (NOTE: final termination of abusive proceeding is condition precedent to claim for abusive litigation)	51-7-84(b)
<b>ACCOUNTS</b>		
Open accounts	4 years (inapplicable to actions for breach of contract for sale of goods under Article 2 of Title 11)	9-3-25
<b>ADMINISTRATIVE PROCEDURE</b>		
Action contesting rules or regulations on ground of noncompliance with procedural requirements for adoption, amendment, or repeal	2 years from effective date of rule or regulation at issue	50-13-4(d)
<b>ADMINISTRATORS</b>		
Actions against, except on bond	10 years	9-3-27
<b>ADOPTION</b>		
Judicial challenge to decree	6 months after date of entry	19-8-18(e)
<b>AIDS (HIV TESTS)</b>		
Action for violation of statutory requirements for HIV testing	2 years from alleged violation	31-22-9.2(e)
<b>ARBITRATION</b>		
Application to stay	30 days after demand	9-9-6(c)(3)
Limitation of action in court applied to arbitration	(discretion of court or arbitrator)	9-9-5
<b>ART</b>		
Limited-edition art reproductions; actions against art dealer for offering or selling a multiple in violation of statute against deceptive or unfair practices	1 year after discovery of violation (NOTE: in no event may action be brought more than 3 years after the multiple is sold)	10-1-435(c)



AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>ASBESTOS</b> [See REAL PROPERTY —Trespass]		16679
<b>BANKING AND FINANCE</b>		
Actions against directors and officers of bank or trust company	4 years	7-1-493(c)
Bank Deposits and Collections		
—Action to enforce obligation, duty or right arising under article	3 years	11-4-111
Causes of action accruing to institutions over which Department of Banking and Finance is receiver, extension to regular limitations period	6 months (in addition to normal period)	7-1-173(b)
Claim against bank for unauthorized signature or alteration on instrument for the payment of money		
—On the face of the instrument, time to discover and report to bank	60 days (from the time statement and instruments are made available to the customer)	11-4-406(f)
—On the back of the instrument, time to discover and report to bank	1 year (from the time statement and instruments are made available to the customer)	11-4-406(f)
Dividends; actions to recover declared dividends		
—Cash dividends	7 years after mailing of check	7-1-460(c)
—Shares	7 years after mailing of share certificate	7-1-460(d)
—Other than shares or cash dividends	7 years after time specified in notice thereof	7-1-460(d)
<b>BONDS</b>		
Actions on sealed instruments (must be stated in body of instrument)	20 years	9-3-23
Actions on unsealed instruments	6 years after contract becomes due and payable (NOTE: inapplicable to actions for breach of contract for sale of goods or negotiable instruments under U.C.C.)	9-3-24
<b>BURIAL RIGHTS, SERVICES, AND MERCHANDISE</b>		
Actions for violation of Georgia Cemetery Act of 1983	REPEALED EFFECTIVE JULY 1, 2000	[44-3-130 through 44-3-152]

AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>CONSTRUCTION</b>		
Action for damages for deficiency in survey or plat, planning, design specifications, supervision or observation of construction, or construction of improvement to realty, or for resulting injuries to property or person	8 years (after substantial completion of improvement) (NOTE: where injury or death occurs in 7th or 8th year after substantial completion, action may be brought within 2 years of the injury, but in no event can action be brought after 10 years, see 9-3-51(b))	9-3-51(a)
<b>CONTRACTS</b>		
Actions on bonds or sealed instruments (seal must be recited in body of instrument)	20 years (NOTE: instrument must recite that it is under seal to qualify)	9-3-23
Actions on contracts for sale of goods [See COMMERCIAL CODE]		
Actions on express or implied contracts not otherwise provided for	4 years (NOTE: inapplicable to actions for breach of contracts for sale of goods under Title 11, Article 2)	9-3-26
Actions on implied promise or undertaking	4 years (NOTE: inapplicable to actions for breach of contracts for sale of goods under Title 11, Article 2)	9-3-25
Actions on open account or contracts not under hand of party charged	4 years (NOTE: inapplicable to actions for breach of contracts for sale of goods under Title 11, Article 2)	9-3-25
Actions on simple contracts in writing, including unsealed instruments	6 years (after due and payable) (NOTE: inapplicable to actions for breach of contracts for sale of goods under Title 11, Article 2 or negotiable instruments under Title 11, Article 3 )	9-3-24
<b>CONVERSION</b>		
Actions to recover personal property or damages	4 years	9-3-32
<b>CORPORATIONS</b>		
Action to enforce dissenter's rights	3 years (after the corporate action was taken)	14-2-1332
Enforcement of rights accruing under acts of incorporation or by operation of law	20 years	9-3-22
Limited liability companies		
—Action to enforce dissenter's rights	3 years (after the action was taken)	14-11-1013
Nonprofit corporations; involuntary termination of membership; challenges to	1 year (after effective date of the expulsion, suspension, or termination)	14-3-621(4)
<b>COUNTIES</b>		
Claims against counties		
—Generally	12 months (after they accrue or become payable)	36-11-1
—By minors or other persons under disability	12 months (after removal of disability)	36-11-1

AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>COURTS</b>		
Fine and forfeiture fund		
—Claims for payment of costs and fees	7 years (after costs accrue) (NOTE: See 15-21-51 for procedure for extension of limitation period)	15-21-50
Renewal of case after dismissal (other than actions on contracts for sale of goods under Article 2 of Title 11, see 9-2-61(b))	6 months (after dismissal or discontinuance or within original applicable period, whichever is later) (NOTE: if the applicable limitations period has expired, this renewal privilege cannot be exercised more than once)	9-2-61(a), see also 9-11-41(e) (dismissal for want of prosecution)
<b>CREDITOR</b>		
Fraudulent transfer or obligation		
—Actions by creditor for relief under Uniform Fraudulent Transfers Act	4 years (after transfer made or incurred) OR 1 year (after transfer or obligation could reasonably have been discovered) (NOTE: 1 year after fraudulent transfer applies if debtor is insolvent at time of transfer or if made to an insider for antecedent debt)	9-3-35, 18-2-79 [See also 18-2-74 and 18-2-75]
<b>CRIMINAL PROCEDURE</b>		
Childhood sexual abuse	(NOTE: 17-3-2 sets forth those periods excluded from limitation)	
Crimes other than murder punishable by death or life imprisonment other than forcible rape	7 years (NOTE: no limit for certain crimes when there is DNA evidence; see 17-3-1(d))	17-3-1(b)
Felonies other than murder or those punishable by death or life imprisonment	4 years (NOTE: if victim is under age 18 at time of crime, prosecution must be commenced within 7 years after commission of crime)	17-3-1(c)
Quashing of indictments or entry of nolle prosequi where indictment is found, extension of limitation	6 months (from time the first indictment is quashed or the nolle prosequi entered)	17-3-3
Forcible rape	15 years	17-3-1(b)
Armed robbery, kidnapping, rape, aggravated child molestation, aggravated sodomy, or aggravated sexual battery	at any time when DNA evidence is used to established the identity of the accused (NOTE: sufficient portion of physical evidence is preserved and available for the accused to test as well)	17-3-1(d)
<b>Misdemeanors</b>		
—Generally	2 years	17-3-1(e)
—Traffic (criminal) convictions, habeas corpus challenges to	180 days (after date conviction becomes final)	40-13-33(a)
Murder	No limit	17-3-1(a)
Odometer tampering	2 years (from date of violation)	40-8-5(h)(2)
Racketeer influenced and corrupt organizations (RICO)		

AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>CRIMINAL PROCEDURE (CONTINUED)</b>		
—Criminal and civil proceedings	5 years (after conduct terminates or cause accrues) (NOTE: in certain cases, if State brings RICO action, then running of statute is suspended during pendency of State prosecution or action and for 2 years thereafter)	16-14-8
Theft of motor vehicles; civil actions for violations of Motor Vehicle Chop Shop and Stolen and Altered Property Act	5 years (after the unlawful conduct terminates or the cause of action accrues or within any longer statutory period that may be applicable) (NOTE: if a prosecutor brings an action under the Act, the running of the limitations period is suspended during pendency of such action and for 2 years after its termination)	16-8-86(e)
Victims under age 16 (as to cruelty to children, rape, sodomy or aggravated sodomy, statutory rape, child molestation or aggravated child molestation, enticing a child for indecent purposes, or incest)	the applicable statutory period does not begin to run until the victim has reached age 16 or the violation is reported to a governmental agency, whichever occurs earlier	17-3-2.1
Victims over age 65	with respect to prosecutions of certain offenses involving victims over age 65, the applicable statutory period does not begin to run until the violation is reported to or discovered by a governmental agency, whichever occurs earlier, except for crimes with a limitations period of 15 years or longer, wherein the maximum period is 15 years from the commission of the crime	17-3-2.2
<b>DEPOSITORIES</b>		
Dividends [See BANKING AND FINANCE]		17447
Sale of property at public auction		
—Claims of owners of the property	1 year (from date of sale)	44-14-412
<b>ELECTIONS</b>		
Filing of recall petitions in State-wide election	90 days (from date petition forms issued)	21-4-11(b)(1)
—Other than State-wide office and with at least 5,000 signatures required	45 days (from date petition forms issued)	21-4-11(b)(2)
—Other than State-wide office and with less than 5,000 signatures required	30 days (from date petition forms issued)	21-4-11(b)(3)
<b>ELECTRIC MEMBERSHIP CORPORATIONS</b>		
Actions against directors and officers	4 years	46-3-304(c)
Action for damages growing out of acquisition of rights of way or easements or occupying of lands of another	12 months	46-3-204

AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>ESCHEAT</b>		
Claims by heirs for proceeds	REPEALED EFFECTIVE JANUARY 1, 1998	[44-5-190 through 44-5-199]
<b>ESTATES</b>		
Actions against administrators, executors, and guardians, except on bonds	10 years	9-3-27
Creditors' notice of claims against	3 months (from the date of the publication of the administrator's or executor's last notice) (NOTE: failure to give notice will not bar claim if there are sufficient assets in the estate to pay the debts and if there are no claims of higher dignity left unpaid)	53-7-41
Unrepresented estate, limitations period tolled	period of limitation does not begin to run until estate is represented OR 5 years have expired	9-3-92 (for estates to bring action)  9-3-93 (for creditors of estate to bring action)
<b>EXECUTORS</b>		
Actions against, except on bond	10 years	9-3-27
<b>FAIR BUSINESS PRACTICES</b>		
Actions brought under Act	2 years (after person knew or should have known of the occurrence or after termination of proceeding or action by State, whichever is later)	10-1-401(a)
<b>FARM TRACTOR WARRANTY</b>		
Actions for violation of Farm Tractor Warranty Act	12 months after 18-month period for reporting nonconformity (NOTE: 18-month period begins to run from date of delivery of the tractor to the customer, see 10-1-814(c))	10-1-818
<b>FIDUCIARIES</b>		
Actions against, except on bond	10 years	9-3-27
<b>FORFEITURES</b>		
Action for forfeiture by prosecutor against chop shop offenders	60 days (from date of seizure)	16-8-85(f)(1)
<b>GASOLINE MARKETING PRACTICES</b>		
Action by dealer against distributor for violation of Article under 10-1-235	2 years	10-1-239
Action by distributor against dealer for breach of agreement under 10-1-238	2 years	10-1-239
Below-cost sales		
—Civil actions	2 years (from date of alleged violation)	10-1-255(e)
<b>GIFTS</b>		
Voiding gifts by persons just over age of majority or particularly susceptible to undue influence	5 years (after the making of such gift)	44-5-86

AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>GUARDIANS</b>		
Actions against, except on bond	10 years after cause of action accrues OR 6 years after termination of guardianship (NOTE: inapplicable to minors or persons under disability; see 9-3-90)	9-3-27  29-2-44
Call by ward for accounting	10 years after cause of action accrues OR 6 years after termination of guardianship (NOTE: inapplicable to minors or persons under disability; see 9-3-90)	9-3-27  29-2-44
Reopening of final settlement	REPEALED EFFECTIVE JULY 1, 2005	[29-2-83]
Reopening settlements by ward made upon resignation of his guardian	10 years after cause of action accrues OR 6 years after termination of guardianship (NOTE: inapplicable to minors or persons under disability; see 9-3-90)	9-3-27  29-2-44
<b>HOME SOLICITATION SALES</b>		
Actions brought under Retail Installment and Home Sales Solicitation Act	4 years (after person bringing action knew or should have known of the allegation violation)	10-1-14(a)
Implied promises	4 years (NOTE: inapplicable to actions for breach of contract for sale of goods under Title 11, Article 2)	9-3-25
<b>HOSPITAL ACQUISITIONS</b>		
Imposition of fine by Attorney General for violation of chapter	1 year from unlawful disposition or acquisition	31-7-412(a)
Imposition of fine by Attorney General for knowingly and willfully making false statement in a certification under this Article 15	1 year from date of certification	31-7-412(b)
<b>IMPROVEMENTS TO REALTY</b>		
Actions for damages for deficiency in survey or plat, planning, design specifications or observation of construction, or construction of improvement to realty, or for resulting injuries to property or person	8 years (after substantial completion of the improvement; where injury or death occurs in 7th or 8th year after substantial completion, action may be brought within 2 years of injury, but in no event can action be brought after 10 years) (NOTE: Georgia courts have held that this statute of repose does not establish a new 8- year period in place of the 2-, 4-, and 6-year periods that may be applicable depending on the cause of action alleged)	9-3-51(a), (b)
<b>INDIGENTS</b>		
Recovery of legal assistance or benefits by local defense programs	4 years (after date legal services were received) (NOTE: limitations period inapplicable to juvenile proceedings, see 17-2-52(d))	17-12-52(b)
<b>INDIVIDUALS WITH DISABILITIES</b>		
Actions for violations of Georgia Equal Employment for Persons with Disabilities Code	180 days (after the alleged prohibited conduct occurs)	34-6A-6(a)

AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>INFORMERS</b>		
Actions to recover fine, forfeiture, or penalty	1 year (from time defendant's liability is discovered or could have been discovered with due diligence)	9-3-28
<b>INJURIES</b>		
Claims for compensation for injuries sustained while preventing crime or aiding officer; claim against the State	18 months (after date of injury or death) (NOTE: injury or death must be reported to officer within 5 days of occurrence or within 5 days of time when a report could reasonably have been made)	28-5-106
—To the person generally	2 years	9-3-33
—To the person, involving loss of consortium	4 years	9-3-33
—To personality	4 years	9-3-31
—To reputation	1 year	9-3-33
<b>INSURANCE</b>		
Collection, use, and disclosure of information by insurance institution		
—Violation of statute	2 years (after alleged violation is or should have been discovered)	33-39-21(d)
Deficiency assessment or issuance of an execution thereon; issuance of notice		
—Generally	7 years (from date on which return is filed)	33-2-30(a)
—Where fraud involved	No limit	33-2-30(a)
—Where no return filed	10 years (from date on which return is due) (NOTE: taxpayer may agree to longer period (see 33-2-30(b)))	33-2-30(a)
Insider trading of domestic stock insurer equity securities; actions to recover for insurer profits from purchases and/or sales within period of less than 6 months	2 years (after profit was realized)	33-14-92
Reciprocal insurers; period for assessments	1 year (after policy is terminated)	33-17-23
<b>INTEREST</b>		
Usury; action for recovery of forfeiture of interest	1 year	7-4-10(d)
<b>JEWELERS</b>		
Sale for lien for repairs		
—Claims of owner for residue	1 year (after sale)	44-14-433
<b>JUDGMENTS</b>		
Foreign judgments; actions on judgments obtained outside State, except judgments for child or spousal support	5 years (after judgment)	9-3-20
Renewal or revival of dormant judgment by action or scire facias	3 years (from time it became dormant)	9-12-61

AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>LABOR</b>		
Individuals with disabilities; actions for violations of Georgia Equal Employment for Persons with Disabilities Code	180 days (after the alleged prohibited conduct occurs)	34-6A-6(a)
Injuries to or death of railroad employees		
—Employer's liability	2 years	34-7-46
Minimum wage law; actions to recover difference where employer pays less than minimum wage	3 years	34-4-6
Sex discrimination; collection of unpaid wages	1 year	34-5-5(b)
Unlawful employment practices; actions for violations of Fair Employment Practices Act of 1978	180 days (after the alleged unlawful practice occurs)	45-19-36(b)
Wages, actions to recover	2 years	9-3-22
Workers' compensation [See WORKERS' COMPENSATION]		
<b>LIENS</b>		
Depositories of involuntary, gratuitous, or naked deposits (including pawnbrokers)		
—Claims against proceeds of sale	1 year from date of sale	44-14-412
Foreclosure of liens on personalty	1 year (from the time the lien is recorded or is asserted by retention) (NOTE: if the lienholder fails to institute foreclosure proceedings within 10 days after the owner, agent, or lessee of property has received demand for payment, where possession has been retained, or within 30 days, where possession has been surrendered, the lien is forfeited (see 44-14-550(1))	44-14-550(8)
Hospital's lien against patient's cause of action for injury	1 year (after settlement, release, covenant not to sue, or judgment)	44-14-473(a)
Jewelers		
—Sale for lien for repairs; claims of owners for residue	1 year (after sale)	44-14-433
Mechanic's and materialman's liens; actions for recovery of amount of claim	365 days (from date of filing claim of lien) (NOTE: claim of lien must be filed within 90 days after completion or furnishing of services, or within 90 days after material or machinery is furnished (see 44-14-361.1(a)(2)); furthermore, after filing action, party claiming lien must file a notice with the clerk of the superior court of the county wherein the subject lien was filed)	44-14-361.1(a)(3)
Motor vehicle mechanics, foreclosures on liens	1 year (from the time the lien is recorded or is asserted by retention)	40-3-54(c)(7)
<b>LOCAL GOVERNMENT</b>		
Bonds		



AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>LOCAL GOVERNMENT (CONTINUED)</b>		
—Contractors on public works; actions on bond	REPEALED EFFECTIVE APRIL 20, 2000	[36-82-105]
Counties [See COUNTIES]		
Injuries to person or property; presentation of notice to municipality	6 months after event upon which claims are based (Note: running of statute suspended while demand for payment is pending before authorities without action on their part, see 36-33-5(d))	36-33-5(b)
Public officers and employees [See PUBLIC OFFICERS AND EMPLOYEES]		
Street improvements; action contesting or enjoining assessments	30 days after passage of ordinance making assessment final	36-39-24
<b>LOSS OF CONSORTIUM</b>		
Action for damages	4 years	9-3-33
<b>MALPRACTICE ACTIONS</b>		
Foreign objects left in body	1 year after negligent or wrongful act or omission is discovered	9-3-72
General limitation	2 years after date on which an injury or death arising from a negligent or wrongful act or omission occurred, but in no event more than 5 years after the date on which the negligent or wrongful act or omission occurred	9-3-71(a), (b)
Incompetent Persons	5 years after the date on which the negligent or wrongful act or omission occurred in the case of persons who are legally incompetent because of mental retardation or mental illness	9-3-73(b), (c)(1)
Minors	2 years after the minor's 5th birthday if the causes of action arose before such minor attained his 5th birthday; in no event may a minor bring an action for medical malpractice after the minor's 10th birthday if such minor was under the age of 5 years on the date on which the negligent or wrongful act occurred, or 5 years from the date of the act if such minor was age 5 years or older	9-3-73(b), (c)(2)
<b>MEDICAID FRAUD</b>		
Forfeiture of property and proceeds obtained		
—Claim for property in rem and in personam proceedings	30 days from service of summons and complaint	49-4-146.3(o)(3), (p)(3)
—Claim for property worth \$25,000 or less	30 days from notice	49-4-146.3(n)
—Demand by owner for hearing	10 days from seizure	49-4-146.3(g)(1)
—Initiation of complaint for forfeiture	30 days from seizure	49-4-146.3(h)(2)

AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>MILITARY AFFAIRS</b> [See CODE OF MILITARY JUSTICE]		
<b>MISSING PERSONS</b>		
Action for recovery of property by missing persons	2 years after letters or order (NOTE: if missing person is a minor, limitations period extends 2 years from date said person reaches majority)	53-9-6
<b>MORTGAGES</b>		
Redemption of property by mortgagor, where possession given to mortgagee	10 years from the last recognition by the mortgagee of the right of redemption	44-14-42.1
<b>MOTOR VEHICLES</b>		
Franchises; actions arising under Motor Vehicle Franchises Act	4 years (NOTE: if cause is concealed, the period prior to discovery is excluded from the limitations period)	10-1-625
Odometer tampering	2 years from date of violation	40-8-5(h)(2)
<b>MUNICIPALITIES</b> [See LOCAL GOVERNMENT]		
<b>NOTES</b>		
Open accounts	4 years (NOTE: inapplicable to actions for breach of contract for the sale of goods under Title 11, Article 2)	9-3-25
<b>PERSONAL INJURIES</b>		
Action for damages	2 years (NOTE: 34-9-11.1(c) requires that a claim against a third party for an injury or wrongful death be assigned to the claimant's employer or employer's insurer where compensation is payable by an employer pursuant Title 34, Chapter 9 (Workers' Compensation) if the claimant has not brought suit against the third party within 1 year)	9-3-33
<b>PERSONAL PROPERTY</b>		
Damages for conversion or destruction of personal property	4 years	9-3-32
Injuries to personalty	4 years	9-3-31
Recovery of personal property	4 years	9-3-32
<b>PRODUCTS LIABILITY</b>		
Manufacturers of personal property sold as a new property	10 years from the date of the first sale for use or consumption of the property causing the injury	51-1-11(b)(2)
Negligence of manufacturers generally	10 years from the date of the first sale for use or consumption of the property causing the injury	51-1-11(c)

AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>PROPERTY</b>		
Land registration, assurance fund, actions against	2 years (NOTE: where entitled person is under a disability, the action may be brought within 2 years after removal of the disability, see 44-2-193(c))	44-2-193(a)
Personal property [See PERSONAL PROPERTY]		
Prescription (adverse possession)		
—Mineral rights	7 years	44-5-168(a)
—Personal property	4 years (NOTE: no prescription if property is concealed, removed from State, or otherwise not subject to reclamation)	44-5-177
—With written evidence of title	7 years	44-5-164
—Without written evidence of title	20 years (EXCEPT against State and persons under disabilities as defined in 44-5-170)	44-5-163
Real property [See REAL PROPERTY]		
Suits to set aside for fraud or forgery	7 years from date of transaction or registration	44-2-137(b)
<b>PUBLIC ASSISTANCE</b>		
Medical assistance, claims for	6 months after month in which service is rendered (NOTE: Commissioner may extend period for submission of claims for a period not to exceed 12 months if he finds delay was beyond the control of the provider)	49-4-145
<b>PUBLIC OFFICERS AND EMPLOYEES</b>		
Bonds		
—Actions against surety for breach of bond	3 years	45-8-9
—Actions on bonds of collecting officer, officer to hold public funds, bank, or depository	6 years	45-8-9
<b>RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS (RICO)</b>		
Criminal or civil proceedings	5 years after conduct terminates or the cause of action accrues (NOTE: in certain cases, if State brings RICO action, then running of statute is suspended during pendency of State prosecution or action and for 2 years thereafter)	16-14-8
<b>RAILROADS</b>		
Injuries to or death of employees; employer's liability	2 years	34-7-46
<b>REAL PROPERTY</b>		
Cemetery property; actions for violation of Georgia Cemetery Act of 1983	REPEALED EFFECTIVE JULY 1, 2000	[44-3-130 to 44-3-152]
Covenants restricting land to certain uses		

AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>REAL PROPERTY (CONTINUED)</b>		
—Actions for breach	2 years	9-3-29(a)
—Actions for breach as result of failure to pay assessments or fees	4 years	9-3-29(b)
—Actions to enforce	20 years (NOTE: limit applies only in localities that have adopted zoning laws and in counties for which zoning laws: if initial enactment of zoning ordinance expressly acknowledges the continuing application of preordinance covenant, then covenant remains in force in accordance with its terms)	44-5-60(b)
Covenants and scenic easements for use of public	(run in perpetuity)	44-5-60(c)
Damage or trespass	4 years	9-3-30(a)
Partition; setting aside of judgment by parties under disabilities, absent or not notified	12 months after removal of disability or after rendition of judgment if no disability involved	44-6-171
Trespass	4 years (NOTE: actions against manufacturers or suppliers of asbestos or asbestos-containing material, which might otherwise be barred prior to July 1, 1990 by expiration of limitations period, were revived or extended by legislature in 1988; such actions, however, cannot be commenced after July 1, 1990 (see 9-3-30.1))	9-3-30(a)
<b>REPUTATION</b>		
Injury to reputation	1 year	9-3-33
<b>RETAIL INSTALLMENT SALES</b>		
Actions brought under Retail Instrument and Home Solicitation Sales Act	4 years after person bringing action knew or should have known of the alleged violation	10-1-14(a)
<b>RURAL TELEPHONE COOPERATIVES</b>		
Actions against cooperative or foreign corporation where owner has taken no legal actions	6 months after unauthorized occupancy	46-5-97
Rights of way, easements, or occupancy of land; actions against foreign corporation or cooperative generally	12 months	46-5-97
<b>SEALED INSTRUMENTS</b>		
Actions on sealed instruments (seal must be indicated in body of instrument)	20 years	9-3-23
<b>SECURITIES</b>		
Civil liability for unlawful acts	2 years from date of discovery of violation or 5 years after date of violation, whichever is earlier	10-5-58(j)(2)

AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>SEX DISCRIMINATION</b>		
Collection of unpaid wages	1 year	34-5-5
<b>STATE GOVERNMENT</b>		
Claims against State or any of its departments or agencies for the payment of compensation	2 years after the date of the event giving rise to the claim	28-5-86
<b>Open and public meetings</b>		
—contesting resolution, rule, regulation, ordinance, or other formal action	90 days from date contested action was taken (NOTE: limitations period does not apply to actions contesting a zoning decision of a local governing authority, see 50-14-1(b)(3))	50-14-1(b)(2)
—if meeting held in manner not permitted by law	90 days from date plaintiff knew or should have known of violation, but in no event later than 6 months after contested action	50-14-1(b)(2)
<b>STATUTES</b>		
Enforcement of rights accruing under statutes or by operation of law	20 years (NOTE: all actions for recovery of wages, overtime, or damages and penalties re payment of overtime and wages must be brought within 2 years)	9-3-22
<b>SUBDIVISION OF LAND</b>		
Sales; actions for violation of Georgia Land Sales Act of 1982	2 years from date of contract or date of sale if there is no contract for sale	44-3-8(c)
<b>TAXATION</b>		
Refunds of taxes and license fees by counties and municipalities, claim for refund	3 years after the date of payment or in the case of license fees, 1 year for taxes after the date of payment for license fees	48-5-380(b)
Refunds of taxes and license fees by counties and municipalities, action after denial of refund	if affirmatively denied, 1 year after denial if neither approved or denied within 1 year of the date the claim is filed, then 2 years after the date the claim is filed (NOTE: parties may agree to extend this period if in writing prior to expiration of period)	48-5-380(c)
Annual accounting reports by tax collector or tax commissioner; challenge to approved reports	2 years from date of the approval	48-5-154
Assessment of taxes generally; time for assessment; General Rule	No limit	48-2-49(a)
—Where false or fraudulent return or report is filed	No limit (NOTE: commissioner and taxpayer may agree to extend time for assessment (see 48-2-49(d)), but an action to collect taxes after the assessment period is not permitted (see 48-2-49(f))	48-2-49(c)
—Where return or report is filed	3 years after return or report is filed	48-2-49(b)
Executions; enforcement generally	7 years from date of issue or the time of the last entry upon the tax execution	48-3-21

AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>TAXATION (CONTINUED)</b>		
Enforcement of ad valorem taxes of less than \$5	1 year after execution is issued or the taxes became due, whichever is earlier	48-3-21.1(b)
Income tax assessment	See "Assessment of taxes generally; time for assessment" (NOTE: there are a number of exceptions to the general rules with respect to income tax assessments (see 48-7-82(b)))	48-7-82(a)
Intangible recording tax		
—Claim to commissioner for refund after making payment under written protest	30 days after payment	48-6-76(c)
—Court action for denial of refund after making request therefor	60 days after denial (NOTE: commissioner's failure to grant or deny claim for refund with 30 days does not constitute a constructive denial of the claim, see 48-6-76(3))	48-6-76(e)(2)
Real estate transfer tax; claims for refund	1 year after date of collection	48-6-7(a)
Real estate transfer tax; actions after denial of refund	1 year after date of denial of claim	48-6-7(b)
State taxes; actions for refunds	3 years after date of payment of tax or fee to tax commissioner	48-2-35(c)(1)(A)
<b>TIME-SHARE PROJECTS AND PROGRAMS</b>		
Actions generally	1 year after certain specified events	44-3-184
<b>TORT CLAIMS ACT</b>		
Actions brought under Georgia Tort Claims Act		
—Tort claims and causes of actions that accrued between January 1, 1991 and July 1, 1992	2 years after July 1, 1992	50-21-27(b)
—Tort claims and causes of actions that accrued on or after July 1, 1992	2 years after the loss was or should have been discovered (NOTE: statutes of repose and tolling provisions provided elsewhere in the Code apply, 50-21-27(d),(e))	50-21-27(c)
<b>TRADE SECRETS</b>		
Actions for misappropriation	5 years (after the misappropriation is discovered or by the exercise of reasonable diligence should have been discovered)	10-1-766
<b>TRESPASS</b>		
Realty	4 years	9-3-30(a)

AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>TRUSTEES</b>		
Actions by beneficiaries for breach of trust	REPEALED EFFECTIVE JULY 1, 2010	[53-12-196 to 53-12-199]
Claims accrued prior to July 1, 1991	REPEALED EFFECTIVE JULY 1, 2010	[53-12-196 to 53-12-199]
Recovery of property by missing persons	2 years after letters or order (NOTE: if missing person is a minor, limitations period extended 2 years from date said person reaches majority)	53-9-6
Successor trustee's claim against predecessor	REPEALED EFFECTIVE JULY 1, 2010	[53-12-196 to 53-12-199]
Trustee's claim against cotrustee	REPEALED EFFECTIVE JULY 1, 2010	[53-12-196 to 53-12-199]
<b>USURY</b>		
Forfeiture of interest	(1 year minimum limitations period)	7-4-10(d)
<b>WAGES</b>		
Actions to recover wages, overtime, or damages accruing under law respecting payment of wages and overtime	2 years	9-3-22
Minimum wage law	3 years	34-4-6
<b>WAREHOUSEMEN</b>		
Actions on bonds	not less than 120 days or more than 547 days from the initial date of public notification of the breach	10-4-14(a)
—Additional complaints for breach of same bond	60 days following initial public notification of breach	10-4-14(a)
—Damages for breach as provided in 10-4-12	180 days of alleged breach	10-4-14(a)
<b>WORKERS' COMPENSATION</b>		
Claims, generally	1 year after injury (NOTE: if payment of weekly benefits has been made or remedial treatment has been furnished, the period is 1 year after last treatment OR 2 years after last payment)	34-9-82(a)
Death	1 year after death	34-9-82(b), 34-9-281(b)(2)
Occupational disease compensation; filing of claims		
—Generally	1 year after the date the employer knew or, in the exercise of reasonable diligence, should have known of the disablement and its relationship to the employment (NOTE: in no event may the claim be filed more than 7 years after the last injurious exposure to the hazard)	34-9-281(b)(2)

AREA OF LAW	LIMITATIONS PERIOD	STATUTE
<b>WORKERS' COMPENSATION (CONTINUED)</b>		
—Mesothelioma or asbestosis	1 year from the date of the first disablement after the diagnosis of such disease	34-9-281(b)(2)
—Death	1 year from date of death (if not barred during employee's lifetime)	34-9-281(b)(2)
<b>SPECIAL NOTE TO USERS</b>		
These statutes of limitations do not apply to any person who is mentally incompetent or to a minor dependent, as long as he has no guardian or trustee, or to a person who proceeds in good faith against a corporation supposed to be a legal entity, but which is proved to be defunct because of the expiration of its charter.		34-9-86

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### **Remarks by Judge John D. Allen**

*continued from page 13*

nity to share my sentiments expressed in a speech I gave several years ago. I truly do not recall if I was the author or if I embraced someone else's ideas. The sentiments resonated with me.

"Apart from the abstract notions of a pure legal system is the consideration for the psychological impact of a particular system on its subjects. It could hardly be argued that the efficacy of any legal system is directly proportional to the confidence that all subjects have in that system. To the extent, diverse interests are allowed input into a legal system, the system becomes more correspondingly stable. To

the extent diverse interests are scrupulously guarded by such a system, the more diverse support is given such system. To the extent there is more diverse participation in such justice system the more willing and confident are the participants that such system can indeed reconcile their conflicts." You, lawyers are privileged to be a part of the continuum of improvement of our profession. We in this room are the impetus for preserving the best of our system and improving the rest. You labor not in a "rhinestone world" but a mine of unpolished diamonds.

Thank you for the honor of your recognition, and the pure joy of the exciting journey.

### **Judicial Reflections on Mediation**

*continued from page 19*

jury system is the best in the world, there is no guarantee of what they will do with a case and the best way to control the outcome is to try to resolve the case before trial. I ask the parties to relay to me a big decision they have had to make in their lives and then ask whether they would allow 6/12 strangers to make the decision for them. Universally, the answer is no. In this context, a mediator can convey the importance of trying to get the case resolved.

As lawyers and trial judges, we often hear a party say, "I just want to tell my story." The implicit assumption is that the party will talk to the jury as if they were in someone's living room and once the story is told, the jurors will believe it all.

The reality is, the courtroom is not a place for narrative storytelling. The mediator is well served to advise the parties of the risks associated with telling their stories in a question and answer format, full of objections and pauses for document identification and admission. Add to this, thorough and sifting cross examination

and even a compelling story can get lost. Instead, a mediator who recognizes the party's interest in telling the story, and takes time to listen to the story may allow the party to feel his/her need has been met and make the party more open to assessing this risk at trial that the story told is not necessarily the message received.

Moreover, it is important for the mediator to communicate to the parties that truth in the courtroom is whatever a jury believes to be the truth. I often let the parties know that the judge will tell the jury that they should return a verdict that speaks the truth as they find the truth to be, based on their opinion of the evidence and the law given to them by the judge. A mediator, who explains this risk, can often avoid the impasse resulting from the "I just want my day in court" mantra. In fact, I have found that telling parties what a judge is likely to tell a jury can be quite helpful on many aspects of the case.

Finally, the parties come to trial with an expectation that it will be the final resolution of their case. They

tend to make no allowance or discount the risks of mistrial, judicial error or appeals based on the weight of the evidence. Mediators are well suited to discuss this risk as attorneys do not want to inadvertently convey to their clients they may make mistakes or lose the case. The mediator can explain the time and money and risks associated with a trial gone wrong including post trial and appellate practice to convey that the best way to insulate them from this risk is to control their outcome by trying to settle their claim. I usually tell the parties that while everyone comes to court and works hard not to make mistakes that like every other occupation or profession, mistakes get made despite the best efforts of well trained and qualified people.

Often times, identifying the inherent risks in every trial and disabusing parties of their beliefs about the trial process, when paired with an honest discussion of the risks of the particular case, can bring the parties to understand their mutual interest in resolving the case.

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