

CALENDAR CALL

GENERAL PRACTICE AND TRIAL SECTION STATE BAR OF GEORGIA

Vol. XX

Fall 2015

No. 2



2015

Tradition of Excellence Awards



The "Tradition of Excellence" Awards were presented at the Section breakfast, June 19th, 2015 at Stone Mountain. (L-R) Chairman Nicholas Pieschel, presented the awards to Thomas W. Rhodes, Atlanta (defense); Charles B. Rice, Homerville (general practice); Hon. Herbert E. Phipps, Atlanta (judicial) and William L. Lundy, Jr., Cedartown (plaintiff).

MARK YOUR CALENDAR NOW



**for the
16th Annual
GENERAL PRACTICE
and
TRIAL SECTION INSTITUTE**

MARCH 17, 18, 19, 2016
to be held at

**THE OMNI AMELIA
ISLAND PLANTATION AND RESORT
AMELIA ISLAND, FLORIDA**

CHAIRMAN: NICHOLAS PIESCHEL

CALENDAR CALL

"Georgia's Largest Law Firm"

GENERAL PRACTICE AND TRIAL SECTION STATE BAR OF GEORGIA

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ARTICLES

- Letter to the Membership from Incoming Chairman
William F. Trey Underwood, Jr. 2
- Chairman's Corner
Nicholas J. "Nick" Pieschel 4
- 2014 Tradition of Excellence Awards
Thomas W. Rhodes
Introduced by Nolan Leake 6
Charles B. Rice
Introduced by Ken Sigley and Jeff Helms 9
Judge Herbert E. Phipps
Introduced by Judge John J. Ellington 14
William L. Lundy, Jr.
Introduced by Laura Lundy Wheale 17
- 2015 Tradition of Excellence Breakfast and Reception 22
- Grab Bag of Swag:
A Collection of Georgia's Rules of Statutory Construction
J. Matthew Maguire, Jr.
Alexandra ("Sachi") Cole 24

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 and David A. Sleppy, 649 Irvin St., P.O. Box #689, Cornelia, GA 30531, dsleppy@catheyandstrain.com.

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LETTER TO THE MEMBERSHIP FROM INCOMING CHAIRMAN:

William F. Trey Underwood, Jr.



not mention how I initially became involved in our section. I received an e-mail from Adam Malone and Betty Sims in July 2010, following the passing of my father, William F. “Bill” Underwood, Jr. Adam explained that my father had been a former chair of the section and that getting involved in the section would “help my practice.” In hindsight, attempting to steer my father’s practice, at twenty-nine, with just over three years of practice experience, may have been ill-advised. However, through my involvement with this section, the education I have received from more experienced members, and the contacts that I have made, I’ve managed to move forward and cultivate my father’s practice to new levels.

I’m not aware of a “mission statement” that the General Practice and Trial Section has. However, if we had one, I think it may be something along the lines of the following: The General Practice and Trial Section exists to: (1) Educate our members; (2) Recognize those lawyers among us who have lead exemplary lives and careers; and (3) Assist the general public and promote the practice of law in Georgia. Although we may not have formally adopted a mission statement, I believe the three principles above reflect the values of the section and what our section members strive to do each year.

For example, our section sponsors or co-sponsors seventeen Continuing Legal Education Seminars each year. Through my involvement with our section, I have been able to co-chair

our Jury Trial seminar with Rob Register for several of the past few years as well as speak on Workers’ Compensation matters at the annual “General Practice for New Lawyers” seminar that is chaired by John Timmons each year. Being involved in the section has enabled me to further my legal education and to help educate other lawyers as well. If you have not taken advantage of our CLE programs, I encourage you to do so not only as a student, but try to take the time to teach or chair one of these programs.

Our flagship CLE, the General Practice and Trial Section Institute will be back at the newly renovated Omni Amelia Island Plantation from March 17, 2016 through March 19, 2016. Please mark your calendars as this CLE consistently provides a great line-up of speakers who never fail to provide beneficial information to practitioners from all practice areas. It is also a great opportunity for fellowship and networking with fellow attorneys from all over the state.

Not only do we sponsor or co-sponsor numerous CLEs throughout the year but the section also publishes a quarterly newsletter, *Calendar Call*. Section members Walker Garrett and David Sleppy are kind enough to take the time to serve as co-editors of the *Calendar Call* and do a wonderful job of keeping us up-to-date on hot legal topics of interest to the general practitioner. If you’re interested in writing for the *Calendar Call*, please let Walker, David, or me know. Keep in mind that you may earn up to 6

To start, I would like to thank the Chairs who came before me: Nicholas “Nick” Pieschel and James “Jimmy” Hurt were able to manage their busy practices as well as keep “Georgia’s Largest Law Firm” on track during their time spent chairing the section and provide mentoring to me as I stepped forward to take over the reins.

Of course, no Chair’s leadership of the section could be successful without the tireless and outstanding job consistently put forth by Betty Sims, our Executive Director. As many of you involved with the General Practice and Trial Section know, Betty is the person who keeps the wheels on the track and makes our events go forward in a flawless and seamless fashion.

I would also be remiss if I did

CLE hours by writing an article.

Each year the section also recognizes lawyers among us who have lead exemplary lives and careers. We do this at our annual Tradition of Excellence Breakfast that takes place every year at the State Bar's annual meeting. It is always inspiring to hear from the four winners of the award, which is given to a member of the plaintiffs' bar, the defense bar, a member of the judiciary, and a general practitioner. I encourage you to read the articles from this year's winners: Judicial Recipient-Judge Herbert E. Phipps; Defense Recipient-Thomas W. Rhodes; Plaintiff Recipient-William L. Lundy; and General Practice Recipient-Charles B. Rice. These lawyers are models for others, and their stories are inspirational, exemplifying the nature of our section.

Lastly, our section exists to assist the general public and promote the practice of law in Georgia. One way we are able to do this is at our "Ask a Lawyer Day" started by former chair Pope Langdale. Every fall, section members from across our state

meet in different cities including: Albany, Augusta, Columbus, Macon, Valdosta, Savannah, Gainesville, and Athens. In conjunction with the Georgia Legal Services' offices and attorneys from those offices, section members are able to provide pro bono legal advice and service to assist those in need. Practice areas covered include: "family law," "personal injury," "criminal defense," "probate," and "consumer protection." This year's "Ask a Lawyer Day" will be held on October 29, 2015. Please save the date. If you are interested in getting involved in "Ask a Lawyer Day," feel free to contact me. We only ask for an hour or two from each attorney-volunteer. I encourage you to find the time to offer some advice if you can.

We further accomplish this goal by supporting and sponsoring various legislative initiatives beneficial to the section membership. This year, I am reinstating our section's Legislative Committee. As attorneys, I believe it is our duty to serve as stewards of justice for the citizens of our state. There are ceaseless attacks on our citizens' access to courts and

our Constitutional right to trial by jury. If you are not a legislator or your legislators are not attorneys, I strongly encourage you to reach out to your local legislators to be a source for their legal questions. If you are interested in serving on the Legislative Committee for our section, I would love to hear from you.

The section is here to provide you with education and opportunity, as well as to promote the practice of law in Georgia. If you want to become more involved or have any ideas on how our section can strive to better recognize our goals and ideals, please let me know. Contact me at trey@williamunderwoodlaw.com or (229) 883-4996.

In closing, I would like to once again congratulate and recognize our Tradition of Excellence Winners: Judge Herbert Phipps of Atlanta, Thomas W. Rhodes of Atlanta, William "Bill" Lundy of Cedartown, and Charles B. Rice of Homerville. I look forward to chairing "Georgia's Largest Law Firm" and continuing the Tradition of Excellence of this section.

Make this section great...
sign up a
new member

Nicholas J. "Nick" Pieschel

Section Chair



REMARKS FROM OUTGOING CHAIR

When I was sworn in as the Chairman of the General Practice and Trial Section at the State Bar Annual Meeting in June of last year, I had no idea how busy the next year would be for me. I shepherded my daughter to camps throughout the Summer and to kindergarten at a new school in the Fall. I got engaged in October. In February, I sold my house and moved in with my fiancé'. In April, I bought a new house with my fiancé' and hired contractors to fix it up. Then, in May, we sold her house and moved into the new house. And, finally, we got married in June of this year just as my term as Chairman was coming to an end. In the meantime, I tried to run my small Atlanta law firm and even practice law on occasion. But, as busy as the past year was, I am glad that I used some of my time to serve as the Chairman of the General Practice and Trial Section. It was a very rewarding experience in a year full of them.

Among the year's highlights, in October, the General Practice and Trial Section held another successful Ask A Lawyer Day working with the Georgia Le-

gal Services Program to provide free legal assistance to those who cannot otherwise afford a lawyer at GLSP's regional offices located around the State. In March, Immediate Past Chairman Jimmy Hurt returned the Annual General Practice and Trial Institute to the beach putting together an outstanding group of presenters which attracted a strong turnout at The King & Prince in Saint Simons Island. And, in June, I was extremely honored to be able to present the Tradition of Excellence Awards to a terrific group of accomplished and inspiring lawyers, Chuck Rice, Bill Lundy, Tom Rhodes and Judge Herbert Phipps, at the State Bar Annual Meeting in Stone Mountain. Our Section also sponsored a number of other educational programs for lawyers throughout the year including the popular Jury Trial seminar. And, we supported important changes to the Suggested Pattern Jury Instructions which went into effect in July.

The General Practice and Trial Section would not have been able to accomplish any of these things without the support and dedication of its Officers and

Board members. And, I am very appreciative of how willing all of our Officers and Board members were to provide their time and effort to ensure that all of our undertakings were a success.

As any Past Chairman can tell you, the responsibilities of the position don't end when the gavel is passed to a new Chairman. Though my term as Chairman officially ended in June, I will be working closely with Paul Painter, our new Secretary/Treasurer, to ensure that we have another successful Ask A Lawyer Day on October 29th. And, I will be planning our 15th Annual Trial Institute which will be held at the Omni Amelia Island Plantation March 17 - 19, 2016. I hope to recruit a strong group of presenters and be able to build on the momentum established by Jimmy this year. I am also looking forward to working with our new Chairman, Trey Underwood, to reinvigorate our Legislative Committee so that the General Practice and Trial Section can continue to make a significant positive contribution to the development of the law in this State.

I would like to congratulate Trey on his selection as the Chairman of the General Practice and Trial Section for 2015-16. I am confident that he will be ably supported by Kristine Orr Brown who is the new Chairman-Elect and Paul. And, of course, they will all be able to lean on the valuable knowledge of Betty Simms, our loyal Executive Director.

Trey has stepped up and un-

dertaken some great challenges from the start with the reestablishment of the Legislative Committee and a goal to grow the membership of the General Practice and Trial Section so that it is once again the largest section of the State Bar. I will fully support Trey in his efforts. And, I would encourage both the members of the Section as well as any member of the State Bar who is looking for some way to contribute in

a positive way to the practice of law in this State to join the General Practice and Trial Section and do the same.

In closing, I would like say what a great experience serving as the Chairman of the General Practice and Trial Section has been. And, I would like to thank all of you for allowing me to serve as your Chairman. It truly was an honor and a privilege.

Upcoming Events

January 15, 2016

JURY TRIALS

Chair: Rob Register GPTV

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January 15, 2016

GENERAL PRACTICE FOR NEW LAWYERS

Chair: John Timmons State Bar

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March 17 - 19, 2016

GENERAL PRACTICE AND TRIAL INSTITUTE

Chair: Nicholas Pieschel Omni Amelia Island Plantation

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June 17, 2016

**Tradition of Excellence
Award Breakfast and Reception**

DEFENSE

THOMAS W. RHODES



Introduced by
Nolan Leake

Tradition of Excellence Award

It is my great honor and pleasure to introduce Tom Rhodes, this year's recipient of the Tradition of Excellence Award for defense.

Tom and I have been friends for more than 40 years. We both started out in 1973 in what are now large, multi-national Atlanta-based firms. He in Gambrell & Russell (now Smith, Gambrell & Russell) and me at King & Spalding. We both had primarily defense practices, but back in those unsophisticated and unspecialized days, you did not turn down a plaintiff's case if it walked through the door. We also were neighbors in Brookwood Hills for many years and our kids grew up together.

Tom was born and raised in Lynchburg, Virginia. Like most sons of the Old Dominion, he is steeped in history. He attended Davidson College and UVA Law School. After law school, he served in the Army as a junior ordnance officer at the Aberdeen Proving Ground and mustered out as a captain.

He got his first and only legal job in 1973 when Smythe Gambrell, a pretty good defense lawyer himself and great judge of character, interviewed Tom and saw much potential there. Mr. Gambrell's offer, and Tom's ac-

ceptance, started Tom on the long and productive career that brings him before us this morning.

Over the years, Tom became a specialist and has headed Smith, Gambrell & Russell's Antitrust and Trade Regulation group for many years. He has successfully defended clients in dozens of industries in antitrust matters throughout the nation.

The clients who have sought his help are about as diverse as you could imagine. They have ranged from the Hooters on one extreme to the Academy of Facial Plastic and Reconstructive Surgeons on the other. As I think about it, those two clients may have more of a common interest than first meets the eye.

Tom is particularly proud of his four decades-long representation of Blue Bird Corporation. He has obviously been a pretty effective antitrust lawyer for them. You rarely see a school bus anywhere that is not a Blue Bird.

In my practice, I have been very lucky. I have never had to oppose Tom in court. My partners and other friends at the bar have. I understand it is a challenging undertaking. As you would expect of anyone selected for the Tradition of Excellence

Award, Tom is a lawyer of exceptional skill, resourcefulness and tenacity. He is meticulous in preparation, never missing a fact or argument to aid his client. When he finds them, however, he is never unfair in presenting them to the court. He is a bulldog for his client, or as someone observed of Tom in his early, less mellow days, a rat terrier on speed.

Upholding another tradition of excellence as a member of the bar, Tom has not just represented large, powerful corporations. He has also been generous in sharing his time and talents on behalf of those who need help, but have nowhere to turn. He was long active with the Saturday lawyer program for the Atlanta Legal Aid Society and served five years as president of the Atlanta Volunteer Lawyers Foundation, receiving the Heiner Award for legal services to the poor. On the criminal side, he has represented many accused indigents in Federal Court and became president of the Federal Defender Program for the Northern District of Georgia.

As anyone who has been a Saturday

lawyer knows, you have those clients for life. So it was with Tom and a woman he successfully prevented from being evicted. Whenever she needed help over the years, she called on Tom and he responded. That woman knew she had found a lawyer with a tradition of excellence. But she also could be a piece of work. During the eviction trial, the lawyer for the landlord had the woman on cross and got her dander up. So, she set the jury straight about whose side they should be on:

You thought you could evict me, but you ain't never heard of no pro bono. Mr. Rhodes, he is pro bono. Even his little daughter, Millie, was down at his office last night copying papers on the Xerox machine to bring to court today.

In addition to his pro bono representations, Tom has also given freely of his time to mentor disadvantaged and minority boys as a scout leader of troops at Liberty Baptist Church and All Saints Episcopal Church.

Tom's life is not just about the law. Ann Rhodes, his wonderful wife of 40 years, is with us today. Please

stand up Ann. They have two great kids and two rambunctious grandchildren.

Also, here are some little-known facts about how Tom uses his "spare" time. He built a yurt and kitchen cabin next to the Rich Mountain Wilderness in north Georgia and drove every nail himself. Then he granted a perpetual conservation easement over the property to the Mountain Conservancy Trust to preserve those wild lands forever. Tom's yurt also has the distinction of having the only outhouse in Georgia with a leaded stain glass window.

Finally, Tom is a great storyteller. With a nod to Harrison Ford, he used to regale his and my kids with the adventures of a handsome and daring archaeologist, Ohio Smith, and the Traders of the Missing Boat. In this same spirit, Tom is now writing a one-act bluegrass opera set during the night shift at a Waffle House in North Georgia. It's most riveting aria will be "Like some sugah, Sugah."

Tom, now come up here and set the record straight.

Remarks by

Thomas W. Rhodes

It's an honor to be introduced by Nolan Leake, who was, for my money, the best trial lawyer of his generation at King and Spalding. And it's a particularly great honor to receive this award on the 45th anniversary of this Section's founding.

This Section includes within its ranks an important constituency. More than 60% of American lawyers practice alone or in groups of less than six lawyers. And if you're in that group and occasionally stay awake at night worrying about your case against a firm like King and Spalding, just remember that the Ark was built by a sole practitioner working alone, and a large international group built the Titanic.

During the last 45 years together, we've learned some things. We've learned to tell the client overly eager for action: "Don't just do something; sit there."

We've learned to tell the overly voluble client that "Words are like toothpaste; it's easy to squeeze the toothpaste out of the tube, but you play hell getting it back in." And, when a judge issues an unexpectedly favorable decision that your client's president wants to trumpet in a press release, we've learned to counsel: "He who wins and doesn't say lives to win another day."

And we've learned to appreciate our clients' business plans. Like the fellow who came to me in March 1988 in the wake of the Jimmy Swaggart televangelist sex scandal. He planned to sell bumper stickers that said, "Preachers do more than lay people." (That may not be in the printed version of these remarks.)

continued on next page

Remarks by Thomas W. Rhodes

continued from previous page

And during that 45 years, we've thought about why we do what we do. The moral value of our work is not self-evident. The first charter for the Georgia colony prohibited lawyers from appearing in court. (As did other colonial charters.) What is the best case for the morality of what we do?

Let me make a respectful offer of an hypothesis. Are we at our best when we are acting as helpers?

Of course, we help our clients. We help them with their wills, deeds, deals, and divorces. And, as Nolan alluded to, we stay up late like the sleepless terrier digging for the case or evidence rule that will help the client tomorrow in court. And, we do that for the poor as well without fee, because that's just what real lawyers do.

But, in a larger sense, are we also at our best when

we are helping juries get the facts they need to make their decisions?

Are we at our best when we are helping judges get the law they need to make their decisions?

Boy Scout and Girl Scout leaders promise to help other people "at all times." Do we lawyers have our best claim at moral legitimacy when we're doing that: acting as helpers?

We tell young lawyers to stand up to be recognized, to speak to be heard, and to sit down to be appreciated. In that spirit, I'll close with a story about Rene Descartes, the French philosopher. You remember Descartes: "Cogito Ergo Sum: I think therefore I am."

So, Descartes walks into the bar, and the bartender says, "Hey, Rene, want a beer?"

And Descartes says, "I think not." And disappears.

As shall I. Thank you for your award.

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.

GENERAL PRACTICE

CHARLES B. RICE



Introduced by
Ken Shigley and Jeff Helms

Tradition of Excellence Award

Ken Shigley

It was on a Saturday in August 1981 when I first met Chuck Rice at a job interview at a firm that now no longer exists. Over the next seven years he became my big brother, mentor and friend, a steady and quiet daily presence.

The term “servant leadership” characterizes Chuck. Through the years I worked with Chuck, he put others before himself, exhibiting modest competency focused on clients in contrast to so many in our profession who focus on self-promotion.

In an environment where young lawyers chronically complained among themselves, Chuck kept his own counsel. When Buckhead-bred Chuck finally decided to depart the firm and the city in order to become a small town lawyer in Homerville, I was slated to inherit the antique-laden corner office that had been assigned to him. As he packed up, I went in, closed the door and asked if he had any suggestions for making ours the great firm some of us aspired to build. With a glance toward the imaginary microphone in the ceiling, he smiled and slowly whispered,

“Leave.” A couple of years later, I followed his advice.

Tom Chambers of Homerville has often told me the story of how he and Chuck got together. Praying for guidance as to how to approach Chuck about coming into practice with him, Tom was surprised when Chuck approached him at the Workers Compensation Institute about the same idea.

As soon as Chuck arrived in Homerville, Tom and Carol Chambers took him to dinner at a barbecue place where they introduced Chuck to one of the town fathers. This fellow asked Chuck, “Where you from, boy?” Chuck replied, “Homerville.” “No, really, where you from?” “Homerville.”

Over the past 27 years, Chuck has been true to that word, putting down his roots in his adopted hometown and becoming, as Tom puts it, “more Homerville than Homerville,” enjoying hunting, fishing, and becoming a quiet pillar of the community and his church. Without overtly promoting himself, Chuck grew as a servant leader, demonstrating professionalism, excellence and love for clients,

continued on next page

Introduction for Charles B. Rice

continued from previous page

colleagues and members of his community. Now let me introduce Jeff Helms to say a few words.

Jeff Helms

Good morning. It is great to be here and see so many friendly faces out there. Many of you I have not seen in quite a while.

Today I could not be more honored than to speak on behalf of the honoree. But, in getting ready for this introduction, I struggled on how I could possibly get started. So I decided I would just come right out and say it: Chuck Rice is one of the genuinely good people out there practicing law. And for that reason, it is great for this section to recognize Chuck for his lifetime of excellence. Chuck is one of those lawyers who has been practicing law for many years, and every day he has made a difference for his clients and his profession. Chuck is also one of those people who has been out there making a difference, every day, not only in the law, but also in his community. As a lawyer, Chuck strives for excellence in every case that he handles. As a person, I know that Chuck strives for excellence in all that he does, every day, in every walk of life.

This award is called the Tradition of Excellence. It is only right and fitting that Chuck be one of those selected to receive it and be honored for today.

No doubt, this award is first and foremost an award for the tradition of excellence in practicing law. Chuck has upheld this tradition. He is one the most successful and respected claimant's lawyers in the state practicing workers' compensation. Chuck and his partner, Tommy Chambers, have garnered a reputation as one of the top workers' compensation firms in South Georgia. Along the way, they have also earned a good living. In his workers' compensation practice, Chuck has helped countless people. In addition to winning and being successful in so many workers' compensation cases,

as many of you out there know who practice in this area, winning the case for the client can only be the starting point. Once you have won then begins the struggle to obtain and continue to obtain quality medical care for your client. Doesn't that have a familiar ring to it? At any rate, I know for a fact that after winning the case for a client, many times Chuck will work for that client for 10 years, or however long it takes, to help the client obtain needed medical care he or she deserves under the law. I also know that Chuck will do this work, and continues to do it, and never gets paid one dime. Chuck is doing it because he is committed to his clients, and those clients are lucky they have a lawyer like Chuck Rice representing them.

Chuck's skills as a lawyer are not just limited to workers' compensation. He's been successful in other kinds of cases. In fact to this date he was part of a trial team that maintains and holds the largest verdict for a personal injury case in Clinch County, Georgia. This case came along before the Fulton County Daily Reporter would blare out the results of the trial, and probably is not that well known. However, he and a team of lawyers represented a group of engineers on a train who were badly injured when it derailed at a crossing after striking a log truck. The claim was against CSX for maintaining a defective crossing and switch track. I believe the total of those verdicts was over \$2 million. That record stands today. I know, because I represented the driver of the log truck that was hit at the crossing. While we did okay, we didn't do nearly as well Chuck and his client.

But let me tell you something more about Chuck: winning and losing in the practice of law is not his main scorecard in life. As I said earlier, Chuck lives the life of excellence in every walk of life. I now want to pick up where Ken Shigley left off, and that is when 26 years ago Chuck Rice came to our community in South Georgia.

It was 26 years ago that Chuck did what many lawyers dream of doing: picking up roots and moving away from the big city of Atlanta to a small town in rural Georgia. Some lawyers do it, but it never does turn out quite right. Chuck, on the other hand, pulled it off magnificently. Being a lawyer in a small rural county in South Georgia fit Chuck like a glove.

I must say, when he came to Homerville, Chuck caused quite a stir. A lot of people were asking: who is this guy? I know and remember well when Tommy Chambers first brought Chuck around to my office to introduce him to us. We all greeted each other and exchanged niceties. When Chuck left, and the door had barely shut behind him, my legal secretary for many, many years, hopped up from around her desk, peered out the window, and with one hand on her hip, asked: "what is he doing down here?"

To this day, I really don't know what Chuck was doing down in South Georgia. We are, however, happy that he made it. And Chuck fit in very well. He traded in his Mercedes, got himself a Chevrolet pickup truck, a dog box, toolbox, and CB radio. Chuck joined the hunting and fishing clubs, and over time won over all the Bubbas based on his skill as a hunter and fisherman. Chuck can catch a fish out of a creek that has only 2 inches of water in it. Chuck is also an excellent shot when it comes to a deer hunt.

But the Bubbas are not the only ones that Chuck won over. He eventually won over his wife: Connie Robbins Rice. They fell in love, got married, and it has been a romance ever since. In fact, Connie fell so hard for Chuck that she even left the Baptist Church to come down to the Methodist Church so she could marry him. When she did this, that surely did set the town a twitter.

Chuck also joined our United Methodist Church. There, Chuck has become an indispensable member of our congregation. He has faithfully

held every position of leadership in the church. What is so important about Chuck, however, is not what has done at the church, but what he is done at Vacation Bible School.

At our church, every summer, we do have a Vacation Bible School. And it's a pretty big deal. We invite the whole community, and a lot of kids come. At Vacation Bible School, Chuck was known as the "Pickle Man." Chuck's job was to walk around when we were feeding the kids supper with a big jar of pickles tucked under one arm and a pair of tongs in the other hand. Chuck would walk around in some pretty silly outfits and dole out dill pickle spears to all the kids. As he would walk around and start to hand out these dill pickles, these kids were like little birds you see in the nest when their mother comes with worms to feed them: they all have their mouths open and necks outstretched ready to catch a dill pickle. And pickles would fly. Sometimes they would land in the kid's mouth, sometimes they would land in a plate of spaghetti, sometimes they would land in a cup of punch. I can tell you this: I am sure that many of those kids left our Vacation Bible School and could not remember all the words to the song *This Little Light of Mine*, but they sure did remember the Pickle Man. Nor have they ever forgotten. I know kids who have graduated from high school and gone off to college who come back home and still call Chuck "The Pickle Man!"

I want to tell you one more thing about Chuck. For years now he has lead, every Wednesday morning, a prayer group who pray for those who are sick or in need. At this prayer group, Chuck pulls out one of those long printouts like you get at the check-out at the grocery store that shows all the things you have just purchased. On this list, that his secretary would update every week, would be the names of everyone who needed prayers for that week. Chuck would put everybody's name on there and then print it out before he would come to the prayer meeting on Wednesday. Before breakfast, Chuck would then deliberately and solemnly read out each and every name on that list. After he read out everyone's name, then the people there would pray for these people on the list. Chuck did this so someone could tell those on the list that he or she had, by name, been lifted up in prayer. Chuck has done this for so many years I cannot even count them. I can tell you this: It has been a great source of comfort to many in the community

And don't get me wrong, Chuck Rice is not some goody two shoes. He is the consummate prankster in the office, who is always leaving a stuffed rat or snake in someone's desk drawer. He is a pro in the game of Scategories. And when he is out at the rec league or at the gym, or high school football or baseball fields, he has the absolute loudest voice while cheering for his grandchildren. And Chuck is also a

Georgia Bulldog to the absolute bone. During football season, when Georgia plays, and they have a good win, the next day at church Chuck will wear his Georgia Bulldog tie. If the Bulldogs have a particularly good win, then Chuck will add his Georgia Bulldog blazer with the bright red Bulldogs lining sewn into the side of his coat. And if it's a huge win, like beating Florida, Chuck will add his very attractive pair of bright red Georgia Bulldog slacks as he comes to church.

I hope I have been able to give you a sense of the man, Chuck Rice. I hope you understand why I'm so honored to be introducing him for this award. Chuck Rice has lived the life of excellence as a lawyer, husband, father, family member, church leader, church member, and friend. Chuck, we are glad you left the bright lights of the city and came to Homerville Georgia. South Georgia has been a better place because of it. Today, we thank and honor you for all you have accomplished.

Chuck is unable to come up here today and speak to you. Right now Chuck is locked in the fight of his life. But he has asked me to thank each and everyone of you for being present today. He also wants me to tell you that he loves being a lawyer and opportunity it has given him.

I also thank you for being here and helping to honor my friend, Chuck Rice.

Remarks by Charles B. Rice *on next page*

Remarks by
Charles B. Rice

First of all, allow me to thank Ken Shigley and Jeff Helms for their far too favorable introductions.

My initial career plans were upon graduation from law school in 1973 was to practice law and specialize in real estate.

For those of you who are too young to remember it, 1973 was not an ideal time to specialize in real estate law. It did not take me too long to figure out I needed to consider other plans for a successful career. The young attorneys who seemed to be doing well were the other ones who included litigation in their practice. Before long, I had applied to, been accepted at, and was put on the payroll of what had become well known as "The Al Wall School of Law". Al Wall's reputation among trial lawyers was legendary. He was instrumental in the creation of the Georgia Trial Lawyers Association.

By this time in his career, Mr. Wall had moved his law office to Roswell, Georgia. Mr. Wall had a history of taking in young lawyers and giving them what amounted to a crash course in litigation. What he gave me was a fantastic opportunity to see and experience a lot of great trial lawyers at work.

The lawyers I often came in contact with were lawyers on the other side of Mr. Wall's cases who were usually extremely experienced and effective lawyers. In fact, I see a number of their names on the list of attorneys who have previously been given The Tradition of Excellence Award.

When something needed to get done on a file, it frequently turned out to be me going up against one of the top lawyers in the defense firm. I loved it because it gave me an opportunity to see so many top lawyers at work, including Mr. Wall.

Al Wall was fearless in the practice of law. He never backed down if a wrong was perpetrated against his client. His clients always knew where Mr. Wall stood.

People who play tennis claim you seldom get better unless you play someone who is better than you. I should've gotten a lot better very quickly because the people I was going up against were really top notch.

My next "course of study" in litigation provided me a somewhat similar experience with another

fantastic lawyer, Earl Van Gerpen. As most of you know, Mr. Gerpen was a defense attorney in the Atlanta area for many years.

I practiced law a number of years after we formed Van Gerpen & Rice. This is where I met Ken Shigley who came to work for us as an associate. This firm did mostly defense work, although we certainly did plaintiffs work as well. Earl was extremely interesting and fun to be around. He had a law degree from Harvard and was bright and a hard worker. Earl was not large in stature but I certainly learned from him the truth of the old adage that it's not the size of the dog in the fight, but the size of the fight in the dog.

Earl and Al were both successful, but used very different techniques and approaches. However, both men were extremely hard working and, when the time came, very thorough in their preparation. Trying a case in front of a jury was no problem for either one of them. While I did not pattern myself after either one of them, and could not if I wanted to, I did learn that success in a courtroom is the result of preparation combined with your individual talents and commitment to persevere.

In 1989, I felt like it was time to make a change in my practice. Tom Chambers and I had been working on cases against each other over the years. I approached Tom after a workers' compensation seminar and we started talking about the possibility of practicing together. In a matter of months, we had made the necessary arrangements and, as of January 1, 1989, I began my practice with Tom at Chambers & Rice in Homerville, Georgia.

Let me stop at this point and mention a few names. I will make this a relatively short list, but suffice it to say that there are hundreds of people to whom I owe a debt. I will start with Tom Chambers and his wonderful wife, Carol because they were literally the only people I knew in Homerville upon my arrival. Tommy and I consider ourselves brothers. We both belong to the Homerville United Methodist Church. Carol is our law office administrator. She has also served as Mayor of Homerville for many years and now has recently become a successful real estate agent. Our office in Homerville is

composed of three wonderful and devoted ladies, Wanda Spears, Donna Browning and Holly Delk. Our Waycross office is staffed by Bill Zoske, Cindy Carlsen and Kim Simpson.

A special thanks goes out to Jeff Helms. Jeff is a truly gifted and hard-working attorney whom I am proud to consider a close and personal friend. Recently, I have been fighting a serious medical condition and Jeff has been instrumental in helping me with the litigation needs of my practice. He has gone out of his way to assist me in every possible way. Jeff's wife, Cathy, is also a super attorney and friend as well. Their son Jack, is a wonderful young man, and I have been blessed to see him grow up earning many distinctions, including Eagle Scout.

I owe an eternal debt of gratitude to my wife, Connie. I am so fortunate to have met her only a few months following my arrival in Homerville. She has been responsible for whatever excellence there is in my life. She has supported me in all aspects of my life, including professional, personal and spiritual. Although we both had children before our marriage

in 1992, our families have merged in all respects, and nearly all of them are here this morning. I am so blessed by the love and strength in my family. I thank God daily for my blessings!

Dealing with clients has changed a whole lot in the 42 years since I got out of law school. I am just barely old enough to remember the top attorneys of that tie period who set their fee upfront and commonly fired their client if the client refused to follow the legal advice given. Why represent someone who didn't follow your advice?

A client seeking an attorney will naturally seek one who has created a tradition of excellence in the way they practice law. Establishing such a tradition should likewise be a high priority for all attorneys. Use the best examples you encounter in your practice to help you become the lawyer you want to be.

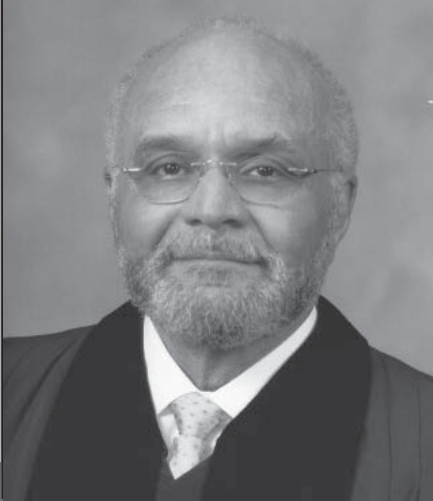
Make sure your actions make it apparent that your client's case is just as important to you as it is to them and that you are committed to zealously pursue their case to the very end.

Chuck Rice's valiant and faithful battle with cancer concluded on September 10, 2015, at Clinch County Hospital in his beloved adopted hometown of Homerville. In passing, he was surrounded by loving family. During his last days there was a parade of friends seeking to comfort the family, and who could not leave until Chuck gave them his final benediction. The packed service at Homerville United Methodist Church was validation that the best part of his life was the 26 years after this Buckhead boy transplanted himself and "went native" in Homerville. He died as he lived those years, witnessing to his abiding faith.

Ken Shigley

JUDICIAL

JUDGE HERBERT E. PHIPPS



Tradition of Excellence Award

Introduced by
Judge John J. Ellington

It is an honor to be here today to present the 2015 Tradition of Excellence Award to Herb Phipps.

This award says a lot about this year's recipient, Herb Phipps. But it also says a lot about the State Bar of Georgia and the General Practice and Trial Section of the State Bar.

It says that you honor public service. You appreciate excellence. You recognize hard work and achievement and that you value friendship.

I thank and salute you for honoring Herb Phipps and for giving me this opportunity to be a part of this award.

Today, I want to focus on traditions because traditions are something Herb Phipps does with excellence.

It's a long way from Baker County, Georgia to Chief Judge of the Court of Appeals of Georgia.

Herb Phipps made the journey with hard work, sacrifice, excellence and class. Everyday that Herb Phipps comes to work at the Court of Appeals, he brings with him the values, the common sense, the life experiences he learned growing up in Baker County.

Integrity and common sense are some of Herb Phipps' traditions.

Great instincts and good judgment are some of Herb Phipps' traditions.

He cares about people.

If the law is anything – it is about people and humanity and the human condition.

Herb Phipps' get that better than anybody.

Herb Phipps has a family tradition. He was in a gang growing up in Baker County. It was the J.W. and Marion Phipps gang. (his parents).

And some you may have heard of Gladys Knight and the Phipps.

Herb is very proud of his family, his wife Connie, his son Herb Jr. his daughter India and his grandchildren, Zoe (3 ½) and Evan (9 months).

And then there's me. He says we are brothers by different mothers.

Scholarship is a Herb Phipps Tradition, most appellate judges think they are legal scholars... the truth is that they are just lawyers who once knew a Governor.

Well Herb Phipps is a real scholar. He was an editor of the Law Review in Law School at Case Western Reserve University Law School.

He is a Morehouse man. A Morehouse man is well read, well spoken, well dressed, well traveled and

well balanced.

I tell folks that there is life outside the courthouse – get one. It will make you a better person and a better lawyer when you are in the courthouse.

Herb Phipps has the tradition of a great life outside the courthouse. He loves to hunt, fish, follow the Braves, and his new tradition is following grandchildren.

At the courthouse, Herb Phipps has a tradition of following the Rule of Law. He knows that it is incumbent upon all of us to protect our system of justice.

Another one of Herb's tradition is that every case – big or small – deserves the same hard work, the same attention, the same justice. In America, it is our system of justice that separates us from all the other countries in the world. The quality of life in any community depends upon the quality of the judicial system.

For many years, Herb Phipps provided the leadership to the judiciary in Dougherty County and in the State of Georgia. He is one of the few people in all of Georgia to sit

on the bench of every class of court in Georgia. Juvenile/Magistrates/ State Court/Probate Court/ Superior Court/ and Court of Appeals.

Herb Phipps has also started traditions. In Georgia, Herb Phipps – along with C.B. King, Donald Hollowell, Jack Ruffin, Tom Sampson and others started a tradition of social change for Civil Rights and for Equal Rights. Herb Phipps has been a force in Georgia in the struggle for Civil Rights.

Ask him about integrating the Fox Theatre in downtown Atlanta. Or the best fried chicken he ever ate – while in a jail cell in Albany, Georgia, next to the cell holding Martin Luther King, Jr.

Herb was not always successful in the courthouse, but he was always successful in raising consciousness of society with regards to civil rights and equal rights.

His courage, resolve and commitment to social justice that he demonstrated then have won him the admiration and appreciation of people all across Georgia.

Just three weeks ago, Herb and I hosted ninety third graders from Al Burruss Elementary School in Marietta, Georgia, in our courtroom. During the questions and answers, one student asked Judge Phipps, "Why did you become a judge?" Judge Phipps responded, "To help people. To help improve the quality of life for people."

In law and in life, it is the people you meet and the friends you make that make the difference.

In Georgia, Herb Phipps has made a difference in the judiciary and the quality of life of many Georgians – Herb Phipps has made a difference.

I take great pride in recognizing Judge Phipps for his achievements, in thanking him for his contributions to the law, the Bar and the judicial systems throughout Georgia.

Herb – Your tradition of excellence has been earned through hard work, humility and service.

Congratulations on your award and thank you for allowing me to be a part of that tradition today.

Remarks by

Judge Herbert E. Phipps

I am grateful to the General Practice & Trial Section for choosing me as a recipient of one of this year's Tradition of Excellence Awards. Over the years, I have attended many of the Section breakfasts and have seen many lawyers and judges that I admire and respect receive this Award.

When I was about 19 years old, obviously long before I became a lawyer, I had a courtroom experience that has stayed on my mind ever since and had a direct influence on the kind of lawyer and judge I have tried to be.

In high school, I met C. B. King, the only Black lawyer in South Georgia at the time, and I frequently went to courthouses to watch trials, whether he was in court or not.

One morning, I saw C. B. King and he told me that later that day he and William Kunstler would be in court representing several civil rights demonstrators being held in jail. I went to court with them.

The district attorney was prosecuting dozens of people, white and black, for peacefully protesting against racial segregation. The list of charges was long and did not seem relevant to peaceful protests. The protests had evoked expressions of strong feelings for and against segregation in the white and black communities. The courtroom was packed with people on both sides of the issue.

After hearing evidence and argument on the protesters' motions to dismiss or set bail, the judge instructed the lawyers to come to his chambers. I was

continued on next page

Remarks by Herbert E. Phipps

continued from previous page

not a lawyer, but I followed them.

In the privacy of his chambers, away from the crowded courtroom and away from the court reporter, the judge told the lawyers that the evidence did not support the charges and that the charges should be dismissed. Then he said something that shocked me. He said that he would neither dismiss the charges nor set bail. "Because," he said, "I have to live in this little town." King and Kunstler pleaded with him to do the right thing. He denied their pleas. Then he stood up, returned to the courtroom, and announced his decision. Some of the protestors remained in jail for weeks and months, because the district attorney and the judge chose popularity with some over justice for all.

In my opinion, a timid lawyer or judge who is more concerned about his or her popularity than about justice is not worthy of being in the profession. On the other hand, a lawyer or judge who is unpopular because of a commitment to justice, should wear it as a badge of honor. It is neither essential nor desirable to be popular "in this little town" if being popular means that one tolerates and participates in injustice.

Speaking at the University of San Francisco Law School in 1962, Attorney General Robert F. Kennedy said: "Courage is the most important attribute of a lawyer." That always has been true and never will change.

There always will be a need for prosecutors with the courage to prosecute or not to prosecute based on the law and the sufficiency of the evidence, and not the social status, the cause, or other characteristics of the accused.

There always will be a need for judges with the courage to follow the law and the evidence when confronted with controversial issues, without fear of "this little town."

There always will be a need for lawyers and judges with the courage to do the right thing when the whole world is watching; and the character to

do the right thing when no one is watching. That is true no matter how difficult the social situation or how unpopular the cause.

There always will be a need for lawyers and judges with the courage to protect the rights of all, including renegades and social outcasts.

Courage is an indispensable attribute of a lawyer and a judge.

As lawyers, we have the special training to do more public good than do members of any other profession. Therefore, in our society, lawyers have special obligations that other citizens do not have. Courageous lawyers always have been, and will continue to be, at the forefront in finding solutions to the great issues facing our society, whether new problems or old problems that refuse to go away. Every day, occurrences in our country remind us that our work as lawyers is unfinished.

We have a continuing duty to use our unique talent for advocacy and leadership to stand up, speak out, and lead the way. That is what entitles us to say that ours is the greatest profession. That is the source of our tradition of excellence.

Throughout the history of this nation, lawyers and judges have led the way in moving us forward toward justice for all. Courageous lawyers and judges have never been afraid of "this little town." Because lawyers have special obligations to our society that other citizens do not have, a legal education is wasted on those who are timid, indifferent, silent onlookers, on issues of justice in their communities. On the trying issues of our time, no one should ever have cause to ask: "Where are the lawyers?" There are times when it is appropriate to keep your mouth shut, but when it comes to justice for all, lawyers do not have the right to remain silent.

Thank you.

PLAINTIFF

WILLIAM L. LUNDY, JR.



*Tradition of
Excellence
Award*

Introduced by
Laura Lundy Wheale

Good morning everyone! My name is Laura Lundy Wheale and today I have the great honor of introducing Bill Lundy as the recipient of the Plaintiff's Attorney of the Year Tradition of Excellence Award....or as I like to call him "Diddy."

In preparing for today, I tried to think of how I could capture all of the great moments throughout my dad's career that could encompass who he is as an attorney and why he is so deserving of this award. I thought one of the best ways to do this would be to share words from other attorneys in Georgia that have either tried a case with my dad or worked with my dad on the many committees he has been a part of throughout his career. I pulled a lot of these quotes from the many letters that were sent on my dad's behalf for his nomination for this award.

One attorney said, "[Bill] is innately honest and professional...anyone who knows Bill will testify to his commitment to family and community...a man of deep faith and integrity, Bill epitomizes the ideals of the Tradition of Excellence." One defense attorney said, "I knew I better be prepared when going against Bill because I knew Bill was going to be prepared."

Bill Goodman, who was key person

in nominating my dad for this award, told me the story of when he first met my dad. Bill Goodman said: "Lundy says that he tried his first case against me, that I won, but I was nice about it. Honestly, I do not remember this, but I am glad it turned out the way he describes it." The way I interpreted this, and you can correct me if I'm wrong Bill Goodman, is it is good to be magnanimous in victory because you don't want to give someone extra reason to beat you next time.

To try and capture all that my dad has accomplished in his career would require a mini-novel. He played college football on a full scholarship for 4 years at Jacksonville State University and was a member of three NCAA Playoff teams while there as a receiver. He has obtained several record jury verdicts in multiple areas of law; he served as Chairman of the General Practice and Trial Section; Chairman of the disciplinary board for the State Bar of Georgia; he and my mom began a private Christian academy in Cedartown; he and my mom started a children's theatre company 14 years ago, and they cast every child that auditioned; he started a free safe and defensive driving school for teens; for

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Introduction by Laura Lundy Wheale

continued from previous page

27 years, he has been the voice of the Bulldogs on the radio...Cedartown, not Georgia; and, he wrote, directed, produced and starred in his feature length movie, "A Larger Life", which was based on a case my dad tried with Ken Bruce and Arch Farrer in Walker State Court that resulted in the largest malpractice jury verdict in Georgia of 2011...almost \$10 million. I believe all of this would also qualify my dad as somewhat of a Renaissance Man.

I signed a four year full scholarship in tennis and, in addition to all of these accomplishments, and his busy career, he still found time to make it to almost every one of my tennis matches in college, including travelling to Paducah, Kentucky, Cape Girardeau, Missouri, Oxford, Mississippi, Athens, Georgia, and Clarksville, Tennessee. This is who he is as a person. I could list off many other acts of kindness that he has shown to others that he did because he is a good person and not for any applause or accolades.

Now, I know my dad would never tell you these stories, but I would like to share a couple of stories he has told me over his career. The first story involves that record jury verdict in Walker State Court. Dad told me that after the trial was over, he gathered up the many, many banker boxes he had taken to trial. Upon exiting the courtroom, he was met by all 12 jurors. Each

of the jurors proceeded to shake my dad's hand and look at him in a way that a jury had never looked at him before. The jurors told him that they could tell how much this case meant to him. Another story my dad shared, he told my brothers and me while working out in the yard one Saturday after he had tried a case. He told us that the judge had come up to him after the case and told my dad that the two day jury trial had only felt like two hours. These stories capture who my dad is as an attorney and the passion he exudes for being an attorney.

The last story I'll share is actually one involving me: The experience I share happened when I was 11 years old. My dad took me with him to a deposition he was conducting in Orlando, FL... Dad always did this when he could, he would alternate between my brothers and me for trips he'd take for work to various parts of the country. During this particular deposition, my dad invited me to sit in the room about halfway through the deposition, which I thought was a very big deal. I thought that this was so cool because typically I waited in the break room or television room while he was conducting a deposition. Well, I enter the room, my dad introduces me to the expert he is deposing and to the defense attorney. Everyone is very nice. The deposition resumes, and the first words out of the

defense attorney's mouth are "let the records reflect that Mr. Lundy has paraded his daughter into the room. Mr. Lundy, I don't know what you have planned in Orlando after this deposition, but I can assure you that I am not near finished." Of course, I was completely embarrassed and thought I had done something wrong! My dad, being a lot more experienced with these type of situations that I was, simply smiled a little, nodded, and said, "Thank you for your thoughts"...Dad ultimately got the last word by winning a jury trial a few months later that resulted in a six figure verdict, the largest verdict for a soft tissue neck injury that year in Catoosa Superior Court...\$400,000+.

Now, I am able to work alongside my dad. I am able to make my own memories with one of the best attorneys in Georgia...because, in case you didn't know it, you are on of the best. I actually have my first jury trial set in September, which I will try with him. He is someone I've looked up to my whole life, and I can't think of a more deserving person for this award. How fitting I present him this two days before Father's Day. I love you, Diddy. Ladies and gentleman, I present to you the recipient of the 2015 Plaintiff's Attorney of the Year Tradition of Excellence Award, my dad, Bill Lundy.

Remarks by
WILLIAM L. LUNDY, JR.

Thank you, Laura. That a day would come when my very own daughter and fellow attorney would introduce me for this distinguished award—I'm thankful.

I'd like to especially congratulate the other honorees this early morning: JUSTICE HERBERT PHIPPS, THOMAS RHODES, and CHARLES RICE.

When my good friend and last year's Tradition of Excellence Award honoree Joe Weeks called with Betty Simms to inform me of this award, I was actually driving a 15 passenger van full of our students down I-85 to tour Auburn University. One of the students asked, "How does it feel?" I gave the same answer that my late law partner, Jimmy Parker, gave back in 1992, when he was asked this question by me upon his receipt of this award, "It feels like I've been practicing law over 25 years."

I am grateful and deeply thankful. I stand before you with much thanksgiving in my heart. What a humbling honor to receive this recognition from my peers and to see the list of truly great trial lawyers who have received this honor.

With my father, a football coach's encouragement, I decided to become a lawyer. I had played college football and wanted to be a coach, and his advice was not to risk my family livelihood on whether or not my 17 year old quarterback was fussing with his girlfriend before the Friday night game. He said to coach my boys in recreation football, but to make my living helping people in the courtroom. Good advice. Dad has been gone 14 years now and would be so proud today. And so proud was I to actually be in law school that several nights a week during my first year, I'd take a break from studying and sit in front of the entrance and just stare up at the words, "Cumberland School of Law." I was going to be a lawyer. And I've felt that way ever since.

I'm thankful for the unconditional love of a Christian woman who has been by my side for 32 years and who has attended almost every jury trial I've had. She watches my back and we all need someone to watch our back.

I'm thankful to my patient children, who, around the supper table listened to facts of cases and had pretty darn sound ideas—you've met Laura, my Exhibit A to the evidence that I have been a good father, and I offer up Exhibits B, C, and D, Will, Lee, and

Spencer, and E, my new son in law, Patrick Wheale. What is the value to a trial lawyer of a good and supportive family?

I'm thankful to so many good trial lawyers whom I've learned from. I once selected a jury as a young lawyer in federal district court, Judge Harold Murphy, one of my favorite judges, with Bobby Lee Cook sitting across the table from me waiting to select his jury. He helped me pick that jury with his subtle facial expressions, and I won the case. Now that I think about it, Judge Murphy probably told Bobby Lee to help me out. And so many other trial lawyers willing to share their ideas and strategies so freely—Dennis Cathey, who taught me to never underestimate the power of greed, envy, and jealousy; the late Randy Blackwood, out of Columbus, who was a genius in the field of demonstrative evidence; Joe Weeks, a fearless lawyer and great person; Billy Moore, a brilliant trial lawyer, who taught me to "try my good 'uns and settle my bad 'uns; Lance Lourie, who once said you may not can change the world, but you can pick up trash one piece at a time and make your part of the world a better place; Paul Painter, who I needed to speak at a seminar years ago and drove from Savannah to Atlanta, spoke for 45 minutes, and then turned around and drove back. He did that for me and I will never forget it; A great lawyer, my former partner Tami Colston, a brilliant lawyer and superior court judge, and one with whom I was privileged to be sitting beside when she orally argued a case we won before the United States Supreme Court; Lester Tate, not only was I privileged to be teammates with him on the Cedartown Bulldog football team, he has been a mentor to me by example his entire career, and I know mentors are supposed to be older, but I am older than Lester and I thank him today; and Bill Goodman, who I was privileged to introduce as defense lawyer of the year back in 1999, and who has remained a good friend since he beat me on that very first workers compensation trial I ever had; Congressman Spencer Bachus, my first cousin and first clerking job, who taught me by example to treat everyone with dignity and respect; my brother and law partner, Rick, we slept in the same bed till I was 16 years old with my other brother, Tony, who was Nick Chubb's offensive coordinator at Cedartown High School for four years, we all grew up together

Remarks by Bill Lundy

continued from previous page

and having my brother as a law partner, coming in and out of the same back door together fighting the “battle of Bedford falls” for over 30 years is something I would not trade for anything; my other partner, Chuck Morris, finished number three in his class at Georgia State and is a good friend as well as an attorney; and then there is Ken Bruce, the trial lawyer with whom I have stood side by side and fought the most fights—he always says he is my Stonewall Jackson, and he is in every sense of the word. These are just some of the lawyers who have helped me along the way and taught me so much.

I have witnessed the contributions of trial lawyers do so much good—and I love trial lawyers, the most hard-working, honest, colorful, witty, and contributing people in their communities outside the courtroom that I have ever seen.

I have been privileged to try cases in front of so many great judges who let you try your case. Judge Harold Murphy, Dan Winn, Donnie Peppers, Richard Sutton, Mike Murphy, Robert Sullivan, Larry Barker, Don Howe, Bill Foster, Art Fudger, Dixon

Belk, Steve Fain, Melody Belcher.

I have always loved the process of preparation, and I mean all of it. The high highs and the gut wrenching low lows, which age and experience informs us come and go. Jimmy Parker and I lost a week long jury trial way down in south Georgia, and we spent the first four hours of the drive in complete silence and finally Jimmy said, “It’s tough out here in the real world,” and we laughed, pulled off I-75 in Macon and ate at S and S Cafeteria and began discussing our next case.

I was walking to the Polk County Courthouse to try a case with a young associate who was just chomping at the bit to get in the courtroom, try cases, and we were headed to his first trial. While we walked over to try the case he said, “Bill, I can’t sleep, I can’t eat, I tossed and turned all night, and I’ve been to the bathroom 10 times this morning, tell me why you love this so much?”

I am always humbled to try my case to a jury. I’m thankful for our system of justice, and I agree completely with Thomas Jefferson that the right to trial

On the wall just outside of my office, where I can see it every day, hangs this quote—it is a big part of the reason I made a movie about a case tried back in 2011, and why I believe you do the best you can with what you’ve got while you’re here:

*This is the beginning of a new day.
God has given me this day to use as I will.
I can waste it or use it for good.
What I do today is very important because I am
Exchanging a day of my life for it.
When tomorrow comes, this day will be gone forever,
Leaving something in its place I have traded for it.
I want it to be gain, not loss—good, not evil.
Success, not failure in order that I
Shall not forget the price I paid for it.*

by jury is as sacred as the right to vote. We are all caretakers of our civil justice system for such a brief period of time—20, 30, or 40 years—a vapor. I heard advice, “Don’t mess it up,” and I’m thankful to be a part of a generation of lawyers that didn’t; and we have a new young associate, a state representative, Trey Kelley. I feel good about the next generation of lawyers and value my role as mentor to him.

I’ve come to respect deeply the power of a lawsuit and what it can do and the positive changes it can effectuate and to take it seriously. One citizen can be equal in court with very powerful defendants. I am saddened by those that seek to limit access to justice through the passage of laws that take away the keys to the courthouse.

Every hard fought trial, win or lose, requires expenditures of passion—and I’ve wondered if, following an especially stressful trial if it doesn’t take something off the backend of life. I’ve always tried

my cases with passion and zeal. And the times during trial, I call them “thick air” moments, when you know the truth is coming out and the air actually feels heavy to me—it is solemn.

I once demanded a jury trial in an ERISA case—you believe that? A paraplegic had been denied LTD, and I wanted a jury to hear it. It took the 11th Circuit telling me no but I am proud of that fight, and the federal ERISA laws that don’t allow for jury trials show how a plan can deny a paraplegic long term disability without fear of a jury’s evaluation. A jury equals accountability.

Thank you to the General Practice and Trial Section and Chairman Nick Pieschel for this esteemed honor. I will do my best to continue to live up to its ideals. This plaque will hang just outside of my office and bring a smile to my face for the rest of my life. Thank you.

Bill Lundy June 19, 2015

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Pieschel*



The Breakfast

*Judge Herbert E.
Phipps and Judge
John Ellington*



Charles B. Rice and his wife Connie



Chuck Rice and his long time law partner Tom Chambers



Trey Underwood presents Outgoing Chair Nick Pieschel the traditional bottle of champagne



Bill Lundy, Bill Goodman and Justice Hugh Thompson

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Everyone had a Great Time!



Justice Hugh Thompson, Lester Tate and Judge Stephen Dillard



Joel Wooten, Judge Lawton Stephens and Judge Herbert E. Phipps



Trey Underwood, Omeeka Pinkston Loggins and Judge Herbert E. Phipps



Pam Weeks, Joe Weeks and Laura Austin

Grab Bag of Swag: A Collection of Georgia's Rules of Statutory Construction

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J. Matthew Maguire, Jr. has been a trial lawyer for over 20 years. He enjoys a diverse practice that includes litigating against government entities, business, construction and employment litigation. A substantial amount of Matt's practice is devoted to the representation of government contractors in bid protests and related litigation. Matt has held Martindale-Hubbell's highest ability and ethical rating (AV) for lawyers since 2001. He has been recognized by Law & Politics and Atlanta Magazine as a Georgia Super Lawyer, as well as a "Legal Elite" by Georgia Trend. In 2008, the Fulton County Daily Report selected Matt as one of twelve Georgia attorneys under the age of 40 who are "on the rise." Matt is a graduate of the 2011 class of Leadership Georgia, and he is a former chair of the Litigation Section of the Atlanta Bar Association (2013-2014). He is a graduate of the University of Virginia and Georgia State University College of Law.



Alexandra ("Sachi") Cole joined Parks, Chesin & Walbert, P.C. as an associate in November 2012. Her primary practice areas include civil and business litigation with a focus in employment discrimination. Sachi graduated from Emory University School of Law and from Bates College. Sachi was recently selected as a member of the 2015-2016 Georgia Trial Lawyers Association Leadership Program. Sachi lives in Decatur, Georgia.

I remember being surprised back in law school to find that some statutes lent themselves to multiple interpretations. To my naïve mind, a statute was a clear and unambiguous "Thou Shalt" that was handed down from above. Having since observed the actual making of laws, I am now surprised they are as clear as they are. Under our system of government, it is the duty of the courts to interpret the laws, but what happens when those laws are not so clear? Justice Scalia recently answered that question in his typically acerbic fashion: "And

the cases will publish forever the discouraging truth that the Supreme Court of the United States favors some laws over others, and is prepared to do whatever it takes to uphold and assist its favorites." *King v. Burwell*, 135 S. Ct. 2480, 2507 (2015) (Scalia, J., dissenting).

Justice Scalia's cynicism aside, the federal and state courts have created rules of statutory construction to resolve conflicts and ambiguities in statutes in furtherance of the "cardinal rule" of statutory construction, which is to ascertain and effectuate the legislative intent and purpose.

Carringer v. Rodgers, 276 Ga. 359, 363, 578 S.E.2d 841 (2003). While entire books have been written on statutory construction, this paper represents a more modest undertaking. There is no deep – or even original – thinking here. This is merely a collection of the most common rules of statutory construction plucked from two centuries of Georgia case law.¹

The most important rule of statutory construction describes not how, but when, a court is empowered to construe a statute. Because, "under our system of separation of powers

[the courts] does not have the authority to rewrite statutes,” State v. Fielden, 280 Ga. 444, 448, 629 S.E.2d 252 (2006), statutes must be applied as written “[i]f the language is plain and does not lead to any absurd or impracticable results.” Diefenderfer v. Pierce, 260 Ga. 426, 426, 396 S.E.2d 227 (1990). “Where the language of a statute is plain and ambiguous, judicial construction is not only unnecessary, but forbidden.” Cardinale v. City of Atlanta, 290 Ga. 521, 523, 722 S.E.2d 732 (2012).

If, on the other hand, the court finds an ambiguity, it must attempt to resolve that ambiguity by applying the statutory construction rules set out below.

I.

The Georgia Code

O.C.G.A. § 1-3-1 codifies the following rules on statutory construction:

- (a) In all interpretations of statutes, the courts shall look diligently for the intention of the General Assembly, keeping in view at all times the old law, the evil, and the remedy. Grammatical errors shall not vitiate a law. A transposition of words and clauses may be resorted to when a sentence or clause is without meaning as it stands.
- (b) In all interpretations of statutes, the ordinary signification shall be applied to all words, except words of art or words connected with a particular trade or subject matter, which shall have the signification attached to them by experts in such trade or with reference to such subject matter.
- (c) A substantial compliance with any statutory requirement, especially on the part of public officers, shall be deemed and held sufficient, and no proceeding shall be declared void for want of such compliance, unless expressly so provided by law.

II.

Canons of Construction

In addition to the Georgia Code,

Georgia common law recognizes the following canons of construction:

A. Textual Integrity

1. “A statute draws its meaning, of course, from its text,” Chan v. Ellis, 296 Ga. 838, 839, 770 S.E.2d 851 (2015), and the text must be read “in its most natural and reasonable way, as an ordinary speaker of the English language would.” FDIC v. Loudermilk, 295 Ga. 579, 588, 761 S.E.2d 332 (2014). This is because, “[w]hen we consider the meaning of a statute, we must presume that the General Assembly meant what it said and said what it meant.” Deal v. Coleman, 294 Ga. 170, 172, 751 S.E.2d 337 (2013).
2. “The common and customary usages of the words are important, but so is their context.” Chan v. Ellis, 296 Ga. 838, 839, 770 S.E.2d 851 (2015). “For context, we may look to other provisions of the same statute, the structure and history of the whole statute, and the other law—constitutional, statutory, and common law alike—that forms the legal background of the statutory provision in question.” May v. State, 295 Ga. 388, 391-392, 761 S.E.2d 38 (2014). “A statute must be construed in relation to other statutes of which it is a part, and all statutes relating to the same subject-matter, briefly called statutes in pari materia, are construed together, and harmonized wherever possible, so as to ascertain the legislative intent and give effect thereto.” Tew v. State, 320 Ga. App. 127, 130, 739 S.E.2d 423 (2013).
3. “All parts of a statute should be harmonized and given sensible and intelligent effect, because it is not presumed that the legislature intended to enact meaningless language.” Grimes v. Catoosa Cnty. Sheriff’s Office, 307 Ga. App. 481, 483-84, 705 S.E.2d 670, 673 (2010). See also Berryhill v. Georgia Cmty. Support & Solutions,

Inc., 281 Ga. 439, 441, 638 S.E.2d 278 (2006) (courts should give a sensible and intelligent effect to every part of a statute and not render any language superfluous).

4. The caption of a statute does not “constitute part of the law and shall in no manner limit or expand on the construction of any Code section.” O.C.G.A. § 1-1-7 (legislatively overruling Moore v. Robinson, 206 Ga. 27, 40, 55 S.E.2d 711 (1949) (“The title or caption of the act—which, while no part thereof, may always be examined by the court when the act is doubtful, for the purpose of finding the legislative intent thereof.”)).
5. “Where a particular expression in one part of a statute is not so extensive or large in its import as other expressions in the same statute, it must yield to the larger and more extensive expression, where the latter embodies the real intent of the legislature.” Schwartz v. Black, 200 Ga. App. 735, 736, 409 S.E.2d 681 (1991) (citing Board of Trustees, etc., of Atlanta v. Christy, 246 Ga. 553, 555, 272 S.E.2d 288 (1980)).
6. “Where there is in the same statute a specific provision, and also a general one which in its most comprehensive sense would include matters embraced in the former, the particular provision must control, and the general provision must be taken to affect only such cases within its general language as are not within the provisions of the particular provision. The rule of construction applicable to all writings is this: that general and unlimited terms are restrained and limited by particular recitals, when used in connection with them.” Schwartz v. Black, 200 Ga. App. 735, 736, 409 S.E.2d 681 (1991) (citing Mayor, etc., of Savannah v. Savannah Elec., etc., Co., 205 Ga. 429, 436-437, 54 S.E.2d 260 (1949)) (internal punctuation omitted).
7. Noscitur a sociis, meaning “known from its associates.”

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Grab Bag of Swag

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Under this maxim, the meaning of words or phrases in a statute may be ascertained “from others with which they are associated and from which they cannot be separated without impairing or destroying the evident sense they were designed to convey in the connections used.” Saleem v. Bd. of Trustees of Firemen’s Pension Fund of Atlanta, 180 Ga. App. 790, 791, 351 S.E.2d 93 (1986). “Words, like people, are judged by the company they keep.” Anderson v. Southeast Fidelity Ins. Co., 251 Ga. 556, 566, 307 S.E.2d 499 (1983).

B. May and Shall

8. “[L]anguage contained in a statute which, given its ordinary meaning, commands the doing of a thing within a certain time, when not accompanied by any negative words restraining the doing of the thing afterward, will generally be construed as merely directory and not as a limitation on authority, and this is especially so where no injury appeared to have resulted from the fact that the thing was done after the time limited by the plain words of the Act.” Charles H. Wesley Educ. Foundation, Inc. v. State Elections Bd., 282 Ga. 707, 709, 654 S.E.2d 127 (2007).
9. “‘May’ ordinarily denotes permission and not command. However, when the word as used concerns the public interest or affects the rights of third persons, it shall be construed to mean ‘must’ or ‘shall.’” O.C.G.A. § 1-3-3(10). See also Holtscaw v. Holtscaw, 269 Ga. 163, 164, 496 S.E.2d 262 (1998) (“may” means “shall” where the thing to be done “is for the sake of justice or for the public benefit”).
10. “In its ordinary significance, ‘shall’ is a word of command; however, in the absence of injury to the defendant and in the absence of a penalty for failure to comply with the statute, ‘shall’ denotes simple

futurity rather than a command.” Comm’r of Ins. v. Stryker, 218 Ga. App. 716, 719, 463 S.E.2d 163 (1995).

C. Effect of Judicial or Administrative Decisions

11. “Where a statute has, by a long series of decisions, received a judicial construction in which the General Assembly has acquiesced and thereby given its implicit legislative approval, the courts should not disturb that settled construction.” Abernathy v. City of Albany, 269 Ga. 88, 90, 495 S.E.2d 13 (1998).
12. “When a statute of another jurisdiction has been adopted by this State, the construction placed upon such statute by the highest court of that jurisdiction will be given such statute by the courts of this State.” Wilson v. Pollard, 190 Ga. 74, 80, 8 S.E.2d 380 (1940).
13. “Where statutory provisions are ambiguous, courts should give great weight to the interpretation adopted by the administrative agency charged with enforcing the statute.” Schrenko v. DeKalb Cnty. School Dist., 276 Ga. 786, 791, 582 S.E.2d 109 (2003). The court should defer to the agency’s interpretation “so long as it comports with legislative intent and is reasonable.” Cook v. Glover, 295 Ga. 495, 500, 761 S.E.2d 267 (2014). See also Handel v. Powell, 284 Ga. 550, 553, 670 S.E.2d 62 (2008) (since the judiciary is the final authority on issues of statutory construction, they are not bound by the agency’s interpretation). Less deference is afforded to statutory interpretations contained in an agency’s opinion letters, policy statements, agency manuals or enforcement guidelines because these writings lack the force of law. Cook, 295 Ga. at 502 (Namias, J. concurring) (citing Christensen v. Harris Cnty., 529 U.S. 576, 587, 120 S.Ct. 1655, 146 L.Ed.2d 621 (2000)). Instead,

such agency opinions are merely “entitled to respect.” *Id.* (quoting Skidmore v. Swift & Co., 323 U.S. 134, 140, 65 S.Ct. 161, 89 L.Ed. 124 (1944)).

14. All statutes “are presumed to be enacted by the legislature with full knowledge of the existing ... law and with reference to it; they are therefore to be construed in connection and in harmony with the existing law.” *In re H.E.B.*, 303 Ga. App. 895, 896-97, 695 S.E.2d 332 (2010). See also Spence v. Rowell, 213 Ga. 145, 150, 97 S.E.2d 350 (1957) (legislature conclusively presumed to have known when it passed laws using the term “city” that Supreme Court of Georgia had said the words “city” and “town” were not synonymous). Accord State v. Randle, 331 Ga. App. 1, 6, 769 S.E.2d 724 (2015) (In determining the meaning of language found in a statute, “we look to its text as well as the interpretation that courts have given to the same language at the time the statute was enacted.”)

D. Order, Grammar and Syntax

15. *Ejusdem generis*. When a statute enumerates by name several particular things, and concludes with a general term of enlargement, this latter term is construed as being *ejusdem generis* so that it is limited to the same kind or class with the things specifically named unless there is something to show that a wider sense was intended. Dep’t of Educ. v. Kitchens, 193 Ga. App. 229, 231, 387 S.E.2d 579 (1989) (“This rule, which is applicable to the instant case, compels the conclusion that the general term ‘educational institution’ following the specific terms ‘school’ and ‘college’ must refer to other institutions like schools and colleges—e.g., universities, academies, trade schools—and not to administrative agencies which regulate those

institutions.”).

16. Under the “venerable principle of statutory construction *expressio unius est exclusio alterius*: the express mention of one thing implies the exclusion of another.” Dep’t of Human Res. v. Hutchinson, 217 Ga. App. 70, 72, 456 S.E.2d 642 (1995). Relatedly, the maxim *expressum facit cessare tacitum*, means that if some things (of many) are expressly mentioned, the inference is stronger that those omitted are intended to be excluded than if none at all had been mentioned. *Id.*
17. “[T]he absence of offsetting commas suggests that a phrase modifies only the language immediately adjoining.” J. Kinson Cook, Inc. v. Weaver, 252 Ga. App. 868, 870, 556 S.E.2d 831 (2001). *But see* O.C.G.A. § 1-3-1(a) (“Grammatical errors shall not vitiate a law. A transposition of words and clauses may be resorted to when a sentence or clause is without meaning as it stands.”).

E. Conflicts Between Multiple Statutes

18. When two statutes are in conflict, “the most recent legislative expression prevails.” Pawnmart, Inc. v. Gwinnett County, 279 Ga. 19, 20, 600 S.E.2d 639 (2005).
19. A specific statute will generally prevail over a general statute. GMC Grp., Inc. v. Harsco Corp., 293 Ga. App. 707, 709, 667 S.E.2d 916 (2008).
20. The presumption against repeal by implication is strong, and constructive repeals, or repeals by implication, are not favored. Brckett v. Arp, 156 Ga. 160, 118 S.E. 651 (1923). *But see* Hooks v. Cobb Ctr. Pawn & Jewelry Brokers, Inc., 241 Ga. App. 305, 309, 527 S.E.2d 566 (1999) (“[W]hile not favored, a statute may be deemed to have repealed an earlier statute where the statute later in time appears to give compre-

hensive expression to the whole law on the subject.”).

21. “The presumption is that different acts passed at the same session of the legislature are imbued by the same spirit and actuated by the same policy, and that one was not intended to repeal or destroy another, unless so expressed.” Adcock v. State, 60 Ga. App. 207, 3 S.E.2d 597 (1939) (citing 1 Sutherland’s Statutes and Statutory Construction, p. 513).

F. Presumptions Against Absurd Or Meaningless Results

22. “In construing a statute, our goal is to determine its legislative purpose. In this regard, a court must first focus on the statute’s text. In order to discern the meaning of the words of a statute, the reader must look at the context in which the statute was written, remembering at all times that the meaning of a sentence may be more than that of the separate words, as a melody is more than the notes. If the words of a statute, however, are plain and capable of having but one meaning, and do not produce any absurd, impractical, or contradictory results, then this Court is bound to follow the meaning of those words. If, on the other hand, the words of the statute are ambiguous, then this Court must construe the statute, keeping in mind the purpose of the statute and ‘the old law, the evil, and the remedy.’” Rite-Aid Corp. v. Davis, 280 Ga.App. 522, 524, 634 S.E.2d 480 (2006) (quoting O.C.G.A. § 1-3-1(a)) (punctuation and emphasis omitted).
23. “It is the duty of the court to consider the results and consequences of any proposed construction and not so construe a statute as will result in unreasonable or absurd consequences not contemplated by the legislature.” State v. Mulkey, 252 Ga. 201, 204, 312 S.E.2d 601 (1984).

24. “In arriving at the intention of the legislature, it is appropriate for the court to look to the old law and the evil which the legislature sought to correct in enacting the new law and the remedy provided therefor.” State v. Mulkey, 252 Ga. 201, 204, 312 S.E.2d 601 (1984).
25. “A legislative body should always be presumed to mean something by the passage of an Act and an Act should not be so construed as to render it absolutely meaningless.” Hardison v. Booker, 179 Ga. App. 693, 695, 347 S.E.2d 681 (1986). *See also* Central Georgia Power Co. v. Parnell, 11 Ga. App. 779, 76 S.E. 157 (1912) (“Any other rule would practically nullify the statute and defeat the object sought to be accomplished by the General Assembly.”).
26. “When an exception, exemption, proviso or any clause which limits the scope of an Act’s applicability is found to be invalid, the entire Act may be void on the theory that by striking out the invalid exception the scope of the Act has been widened and therefore cannot properly represent the legislative intent.” Georgia S. & F. Ry. Co. v. Odom, 242 Ga. 169, 171, 249 S.E.2d 545 (1978) (citing Sutherland, Statutory Construction, Vol. 2, s 44.13 (4th Ed.)).
27. If the meaning is doubtful, the courts may look to legislative history to ascertain legislative intent. Sikes v. State, 268 Ga. 19, 21, 485 S.E. 2d 206 (1997). *But* expressions of legislative intention by individual legislators are inadmissible. S. Ry. Co. v. A. O. Smith Corp., 134 Ga. App. 219, 221, 213 S.E.2d 903 (1975) (“While the opinion of a member of the legislature which passed an act, or that of the comptroller-general, as to its meaning and purpose, might possibly often be valuable and constructive in construing the act and arriving at the legisla-

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Grab Bag of Swag

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- tive intent, it cannot be seriously contended that courts can properly resort to sources of this kind in ascertaining the legislative will as expressed in a statute.”).
28. “[A]ny material change in the language of the original act is presumed to indicate a change in legal rights.” Shirley v. State, 149 Ga. App. 194, 206, 253 S.E.2d 787 (1979). “[B]ut it is also presumed that the legislature did not intend to effect a greater change than is clearly apparent either by express declaration or by necessary implication.” Undercofler v. Colonial Pipeline Co., 114 Ga. App. 739, 743, 152 S.E.2d 768 (1966).
- G. Liberal vs. Strict Construction**
29. While criminal and other statutes in derogation of common law must be strictly construed, remedial statutes may be liberally construed, even if they are in derogation of common law. Cardinale v. City of Atlanta, 290 Ga. 521, 526, 722 S.E.2d 732 (2012). “The fact that [a statute] contains a penal provision does not render the entire statute penal in nature such that all of its provisions must be strictly construed.” *Id.*
30. “[W]hen we are considering the right to legislate in the interest of public health, public safety, and public morals, the court should interpret broadly and liberally.” Kirk v. Lithonia Mobile Homes, Inc., 181 Ga. App. 533, 536, 352 S.E.2d 788 (1987).
31. Because counties and municipal

corporations can exercise only such powers as are conferred on them by law, if there is a reasonable doubt of the existence of a particular power, the doubt is to be resolved in the negative. Beazley v. DeKalb Cnty., 210 Ga. 41, 43, 77 S.E.2d 740 (1953).

H. When All Else Fails....

32. Argumentum ab inconvenienti. This maxim meaning “argument to the consequences” allows courts to consider the inconvenience which the proposed construction of the law would create. Plantation Pipe Line Co. v. City of Bremen, 227 Ga. 1, 11, 178 S.E.2d 868 (1970).
33. “Where law is susceptible of more than one construction, it must be given that construction which is most equitable and just.” Ford Motor Co. v. Abercrombie, 207 Ga. 464, 468, 62 S.E.2d 209 (1950).
34. When a statute can be read in both a constitutional and unconstitutional manner, the courts apply the construction that upholds the law’s constitutionality. Bd. of Pub. Educ. for City of Savannah v. Hair, 276 Ga. 575, 576, 581 S.E.2d 28 (2003). “If the statute is in part constitutional and valid, and in part unconstitutional and invalid, and the objectionable portion is so connected with the general scheme that, should it be stricken out, effect cannot be given to the legislative intent, the whole statute, section, or por-

tion must fall; but, where an act cannot be sustained as a whole, the courts will uphold it in part, when it is reasonably certain that to do so would correspond with the main intent and purpose which the Legislature sought to accomplish by its enactment, if, after the unconstitutional part is stricken, there remains enough to accomplish that purpose.” Rich v. State, 237 Ga. 291, 303, 227 S.E.2d 761 (1976).

III. Conclusion

While many of these quotations express the same rules in different ways, they have all been included since nuanced differences in phraseology may make one more suitable for a given purpose than another. You might have also noticed that some of these rules seem to conflict with one another. For example, as shown above, a municipality’s statutory powers should be broadly construed when exercised in the interest of public health, safety or morals, but, on the other hand, any doubt about the municipality’s power should be resolved against the municipality. *Cf. Kirk*, 181 Ga. App. at 536 with *Beazley*, 210 Ga. at 43. To resolve that conflict, you might need to reach back in to the grab bag of rules by, for example, examining the legislative history, whether one construction “saves” the statute while the other renders it completely meaningless, and so on. Revel in vagaries of the law. Without them, you might be out of a job.

FOOTNOTE

¹ Georgia’s rules of statutory construction are not unique. Many are expressed in the common law of the federal courts and other states. One interesting source is “The Rehnquist Court’s Canons of Statutory Construction.” http://www.ncsl.org/documents/lss/2013PDS/Rehnquist_Court_Canons_citations.pdf (last accessed on July 27, 2015). Additionally, Georgia courts typically apply rules of statutory construction when interpreting contracts. See, e.g., Lamb v. Fulton-DeKalb Hosp. Auth., 297 Ga. App. 529, 533, 677 S.E.2d 328 (2009) (because a settlement agreement is a contract, “it is subject to the usual rules of statutory construction.”) See also O.C.G.A. § 13-2-2 (codifying many of the rules of contract construction which, in large part, mirror those of statutory construction).

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