

STATE BAR OF GEORGIA

2022-23 REPORT OF THE

OFFICE  
OF THE  
GENERAL  
COUNSEL



State Bar  
of Georgia



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# REPORT OF THE GENERAL COUNSEL

BY PAULA FREDERICK, GENERAL COUNSEL

I am pleased to present the 2022-23 Report of the Office of the General Counsel. Enclosed herein are reports from all of the Boards and Programs staffed by the Office of the General Counsel—the State Disciplinary Board, the State Disciplinary Review Board, the Clients’ Security Fund, the Formal Advisory Opinion Board, the *Pro Hac Vice* program and the Trust Account Overdraft Notification Program. There are also reports on the Receiverships that the Office handled this year, amendments to the Bar Rules, the Bar Counsel unit’s work on contracts, insurance matters and disciplinary history requests.

Following the reports is a list of the Supreme Court orders issued in disciplinary cases between July 1, 2022, and June 30, 2023. To read the order in any of these cases, just click on the lawyer’s name in the online Member Directory.

The enclosed reports document an impressive array of cases handled and services rendered to the Bar and to the public; however, they represent only a fraction of the work done by you and other dedicated Bar volunteers along with the staff of the Office of the General Counsel each year. The Office is indebted to each of you, and to every Georgia lawyer who volunteers time in service to the legal profession.

## Staff

Deputy General Counsel Jenny Mittelman is retiring in January 2024, and work is already underway to select her successor. Jenny has been with the Office for more than 35 years. She serves as office manager and supervises the staff in the disciplinary unit. She is irreplaceable!

I have attached a staff roster at the end of this report so that you know who to contact when you need something from the Office. Remember that in addition to investigating and prosecuting disciplinary cases, the Office:

- Provides legal advice to the staff, Executive Committee and Board of Governors;
- Represents the Bar and its volunteers in threatened or pending litigation, or monitors outside counsel;
- Drafts and amends bar rules, contracts and policies;

- Provides guidance to supervisors on employment matters, proposes and drafts amendments to the Employee Manual, provides HR advice and training;
- Files and manages receiverships.

Staff of the Office of the General Counsel also provide advice and support to a number of other Bar entities, including the:

- State Disciplinary Board;
- State Disciplinary Review Board;
- Disciplinary Rules and Procedures Committee;
- Formal Advisory Opinion Board ;
- Clients’ Security Fund;
- Unified Bar Committee
- Advisory Committee on Legislation;
- Elections Committee;
- Insurance Committee;
- Committee on International Trade in Legal Services;
- Attorney Wellness Committee;
- Special Committee on Attorney-Client Solicitation;
- Continuity of Law Practice Committee;
- OGC Overview Committee; and the
- Judicial Procedure & Administration/Uniform Rules Committee.

## Lawyer Helpline

The Office of the General Counsel operates a Lawyer Helpline for members of the State Bar of Georgia to discuss ethics questions on an informal basis with an assistant general counsel. The Helpline averages 22 calls, letters or email requests each weekday.

## Continuing Legal Education

As always, the Office of the General Counsel provides staff counsel to speak at CLE seminars and to local bar groups upon request. This year, OGC lawyers participated in more than 70 CLE presentations.

## Thanks

The staff and I remain committed to serving each member of the State Bar of Georgia with efficiency and professionalism. Please call upon us whenever we can be of help to you. ●

# CLIENT ASSISTANCE PROGRAM OF THE OFFICE OF THE GENERAL COUNSEL

BY MERCEDES BALL, DIRECTOR

The Client Assistance Program of the Office of the General Counsel (CAP) is the first point of contact for a member of the public who has a problem with their lawyer. CAP seeks to resolve communication issues between attorneys and their clients outside of the formal grievance process. Each year, CAP receives thousands of complaints via telephone calls, letters and emails. By facilitating direct communication between attorneys and their clients, CAP is able to resolve approximately 80% of the complaints it receives without members of the public having to utilize the formal grievance process. ●

## CAP CONTACTS

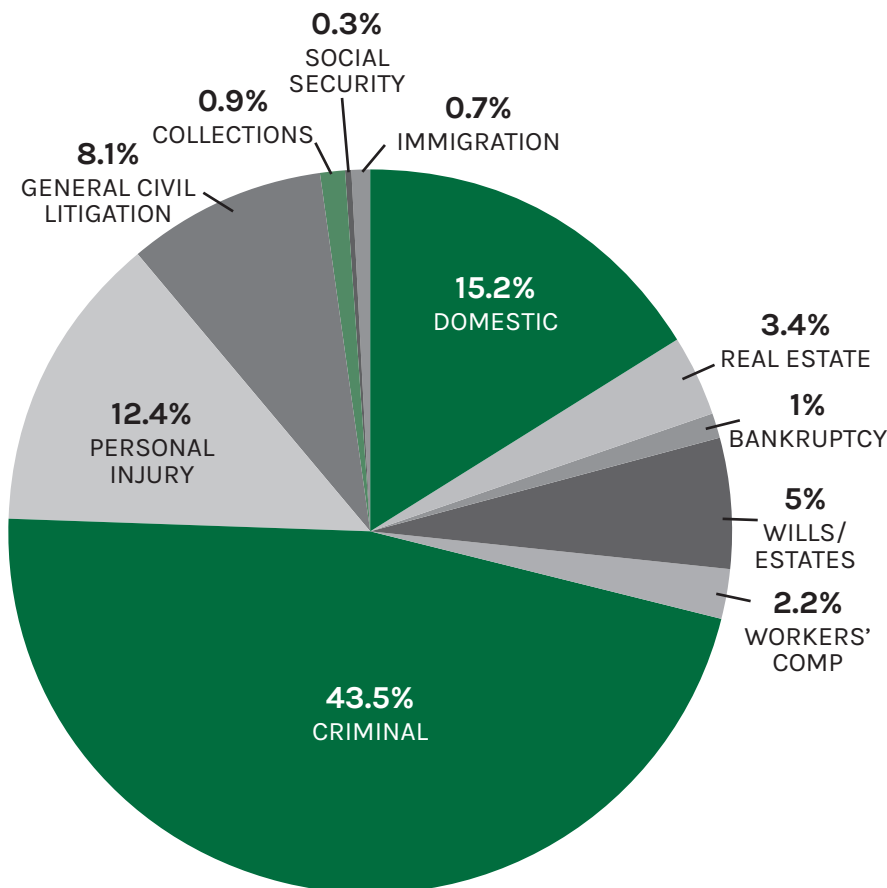


### TOTAL # OF NEW MATTERS HANDLED IN 2022-23

8,873

### CALLS RECEIVED BY CAP

11,092



### WRITTEN COMPLAINTS RECEIVED BY CAP

2,716

Approximately 36% of the complaints received were about issues in criminal cases, 16% involved issues in domestic cases, 14% involved issues in personal injury cases, 9% involved general civil litigation, almost 6% involved real estate and 5% involved wills/estates.

# STATE DISCIPLINARY BOARD

BY BRANDON LEE PEAK, CHAIR

The State Disciplinary Board is charged with investigating grievances for potential violations of the Georgia Rules of Professional Conduct, issuing confidential discipline and determining whether there is probable cause to bring formal charges against an attorney. The work of the Board is an essential part of the State Bar of Georgia’s regulatory function. As the chair of the State Disciplinary Board, I would like to thank each Board member for their service.

The 2022-23 State Disciplinary Board consisted of two ex-officio members—the president-elect of the State Bar of Georgia and the president-elect of the Young Lawyers Division; 12 investigating members—four lawyers from each of the three federal judicial districts of Georgia; and four non-lawyer, public members. During the 2022-23 Bar year, the Board held eight meetings and managed six in-person gatherings (Augusta, Atlanta, Macon, Pine Mountain and Savannah). The remaining meetings were virtual.

The Bar received more grievance forms this year (2,501) than last year (2,394). After review and screening by the Office of General Counsel, 1,889 grievances were closed or dismissed for their failure to state facts sufficient to invoke the jurisdiction of the State Bar (the number includes some grievances that were pending when the fiscal year began). A total of 175 grievances contained allegations which, if true, would amount to violations of one or more of the Georgia Rules of Professional Conduct. Each of those grievances was referred to one of the district Board members for further investigation.

Investigating members of the Board handled an average of 15 cases during the Bar year. Members worked diligently and efficiently to report each case within 180 days. Each case required investigation and time away from the Board member’s law practice, without compensation other than reimbursement of travel expenses. At the conclusion of each investigation, the Board member made a report and recommendation to the full Board. The Board dismissed 37 grievances, 19 of those with a letter of instruction to educate and inform the lawyer about the Rules of Professional Conduct. One hundred and thirty-eight cases met the “probable cause” standard and were returned to the Office of the General Counsel for prosecution.

In matters that met the standard for probable cause, 18 respondents received confidential discipline in the form of Formal Letters of Admonition or State Disciplinary Board Reprimands. In more serious cases, the Board issued a Notice

of Discipline for some level of public discipline, or made a referral to the Supreme Court of Georgia for a hearing before a special master.

The State Disciplinary Board took the following action during the 2022-23 Bar year:

ACTION TAKEN	# OF CASES
Confidential Reprimands	6
Formal Letters of Admonition	12
Cases Dismissed with Letters of Instruction	19

Public discipline imposed by the Supreme Court of Georgia is further described in the Annual Report of the State Disciplinary Review Board of the State Bar of Georgia.

It has been a privilege to work with such an outstanding group of volunteers to accomplish this important work on behalf of the State Bar of Georgia. I would like to recognize those members of the State Disciplinary Board who have unselfishly devoted so much of their personal and professional time to this necessary task. They are as follows:

- Patricia Fortune Ammari
- Brittanie D. Browning (*term expiring*)
- C. Sutton Connelly
- Kayla Cooper
- John Cranford
- Hon. J. Antonio “Tony” DelCampo (*term expiring*)
- Jeffrey W. DeLoach
- Jennifer Dunlap
- Robert Giannini
- Jeffrey R. Harris
- William H. Noland
- Brandon Peak
- Margaret S. Puccini
- Christian J. Steinmetz III

Finally, I want to recognize and thank the four non-lawyer members appointed by either the Supreme Court or the president of the State Bar of Georgia:

- Jill Cardenas
- Dr. Connie Cooper
- Judy Fitzgerald
- Jennifer D. Ward ●

# STATE DISCIPLINARY REVIEW BOARD

BY JOHN R. B. LONG, CHAIR

The State Disciplinary Review Board plays an important role in our disciplinary system and serves several functions. Under the Bar Rules, the Review Board offers an additional level of appellate review after a disciplinary case has been heard by a special master. The parties may elect to file exceptions and request review by the Review Board before the case is filed with the Supreme Court. In these cases, the Review Board considers the complete record, reviews the findings of fact and conclusions of law, and determines whether a recommendation of disciplinary action will be made to the Supreme Court of Georgia. The Board has the discretion to grant oral argument if requested by either party. The Supreme Court may follow the Review Board's recommendation, but may also render an opinion that modifies the recommendation in some way.

In addition, the Review Board reviews all cases involving reciprocal discipline. If a Georgia lawyer has been disciplined in another jurisdiction resulting in a suspension or disbarment, the lawyer is subject to reciprocal discipline in Georgia. The Review Board is charged with reviewing the record from the foreign jurisdiction and recommending the appropriate reciprocal disciplinary result in Georgia. These cases present many interesting issues for the Board and can be challenging when the lawyer objects to reciprocal discipline. In all cases, the Board must consider whether the case is in the correct procedural posture to be reviewed, whether the lawyer was afforded due process in the underlying disciplinary proceeding, whether the misconduct would result in similar discipline under our rules, and recommend discipline which would be substantially similar to the discipline imposed in the foreign jurisdiction. The Review Board also issues Review Board Rep-

rimands when directed by the Supreme Court, and makes recommendations in reinstatement cases which involve suspensions with conditions for reinstatement as directed by the Supreme Court. The Board also provides input on amendments to the Bar Rules involving the disciplinary process.

The Supreme Court approved amendments to the disciplinary rules which became effective July 1, 2018. Under these rules, the former Review Panel was renamed the State Disciplinary Review Board, and the size of the Board was reduced from 15 to 11 members. In particular, the number of lawyer members who serve on the Board from around the state was reduced from nine to seven. The Review Board is currently composed of two lawyers from each of the three federal judicial districts in Georgia, one at-large lawyer member and two non-lawyer members. These members are appointed in alternate years by the Supreme Court of Georgia and the president of the State Bar. Two ex-officio members also serve on the Board in their capacity as officers of the State Bar. The following is a brief summary of public disciplinary action taken by the Supreme Court of Georgia during the period from July 1, 2022, to June 30, 2023:

FORM OF DISCIPLINE	CASES	LAWYERS
Disbarments/Volunatry Surrenders	25	17
Suspensions	12	9
Public Reprimands	3	2
Review Board Reprimands	2	2



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The foregoing summary does not begin to reflect the important issues that were carefully considered by the Review Board over the past year. In addition to attending regular meetings, each Board member must review material for each case prior to the meeting in order to make a fair and well-reasoned decision. This represents a major commitment of time and energy on the part of each Board member, all of whom acted with the highest degree of professionalism and competency during their terms.

I would like to recognize the members of the Board who have unselfishly devoted so much of their time to the implementation of the disciplinary system of the State Bar of Georgia. ●

**Non-Lawyer Members**

Susan Leger-Boike, Cordele 2024  
 LaShekia Hughes, Macon 2025

**Lawyer Members**

*Northern District*

Norbert D. “Bert” Hummel IV, Kennesaw 2025  
 Halsey G. Knapp Jr., Atlanta 2023

*Middle District*

Caroline W. Herrington, Macon 2025  
 Alfreda L. Sheppard, Albany 2023

*Southern District*

Paul Threlkeld, Savannah 2025  
 John R. B. “Jack” Long, Augusta 2023

**At-Large Member**

D. Pearson Beardsley, Atlanta 2024

**Ex-Officio Members**

Elissa B. Haynes, Atlanta 2023  
 Elizabeth L. Fite, Atlanta 2023

# CLIENTS' SECURITY FUND

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BY WILLIAM D. NESMITH III, DEPUTY GENERAL COUNSEL AND STAFF LIAISON TO THE CLIENTS' SECURITY FUND

The Clients' Security Fund is a public service of the legal profession in Georgia. The purpose of the Clients' Security Fund is to repay clients who have lost money due to a lawyer's dishonest conduct, up to \$25,000. Every lawyer admitted to practice in Georgia, including those admitted as a foreign law consultant or those who join the State Bar of Georgia without taking the Georgia Bar examination, contributes to this Fund.

On behalf of the Trustees of the Clients' Security Fund, it is a pleasure to present the 2022-23 Clients' Security Fund Annual Report. The Trustees of the Fund are proud of the efforts put forth to maintain the integrity of the legal profession.

## Creation of the Fund

The Board of Governors of the State Bar of Georgia created the Clients' Security Fund by resolution on March 29, 1968. The Fund was formed "for the purpose of promoting public confidence in the administration of justice, and maintaining the integrity and protecting the good name of the legal profession by reimbursing, to the extent deemed proper and feasible by the Trustees of the Fund, losses caused by the dishonest conduct of members of the State Bar of Georgia." In 1991, the Supreme Court of Georgia adopted the Clients' Security Fund (Part X) rules, making it an official part of the rules of the State Bar of Georgia.

## Administration of the Fund

The Clients' Security Fund Board of Trustees performs all acts necessary and proper to fulfill the purposes of and effectively administer the Fund. The rules, issued by order of the Supreme Court of Georgia, establish a Board of Trustees consisting of six lawyer members and one non-lawyer member appointed to staggered terms by the president of the State Bar of Georgia. Trustees of the Fund receive no compensation or reimbursement for their service. The Trustees select the chair and vice-chair to serve as officers for the Fund. On March 30, 2022, the Supreme Court of Georgia issued an order amending Bar Rule 10-104, changing the term length that subsequently appointed Trustees serve from five years to three years.

The deputy general counsel and senior paralegal for the Bar Counsel unit of the Office of the General Counsel of the State Bar of Georgia assist the Board of Trustees in the administration of the Clients' Security Fund. The deputy general counsel serves as the staff liaison to the Clients' Security Fund and provides

guidance and advice regarding all aspects of the Fund. The senior paralegal assists the Board of Trustees in a wide range of duties, including but not limited to receiving Clients' Security Fund applications, processing and investigating claims, communicating with claimants and lawyers, preparing meeting materials, facilitating and attending meetings, taking minutes, processing the payment of claims and the disbursement of funds to claimants, maintaining records and preparing annual reports.

## Trustees for the 2022-23 Bar Year

- Tyronia Monique Smith, Atlanta
- Robert J. Kauffman, Douglasville
- Michael G. Geoffroy, Covington
- R. Javoyne Hicks, Decatur
- Karl David Cooke Jr., Macon
- LaToya Simone Williams, Atlanta
- Sammy Strode, Savannah (*non-lawyer member*)

The Trustees strive to meet at least quarterly during the year. If circumstances warrant, special meetings may be called to ensure that claims are processed promptly. These Trustees have served tirelessly, and their dedication to this program is greatly appreciated.

## Funding

Members of the State Bar of Georgia provide the primary funding for the Clients' Security Fund. On Jan. 28, 2022, the Supreme Court of Georgia amended Bar Rules 1-506 and 10-103, providing an annual assessment of \$15 to all license fee-paying Bar members. The amendment also changed the \$500,000 per year maximum payout to an amount not to exceed the total amount received through the annual assessment in a Bar year.

All monies held in the name of the Clients' Security Fund are maintained by the Trustees of the Fund, who exclusively control the disbursement of the funds.

## Loss Prevention Efforts

A crucial role of the Trustees of the Fund is to promote and endorse rules and educational programs designed to prevent losses. Two significant programs exist to avoid lawyer theft of clients' funds.

## Overdraft Notification

In November 1992, the Board of Trustees joined the Investigative Panel of the State Disciplinary Board in urging the Board of





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Governors to approve amendments to Disciplinary Standard 65 to create a trust account overdraft notification program. On Aug. 22, 1995, the Supreme Court of Georgia approved the amendment to Standard 65, which became effective Jan. 1, 1996. The primary purpose of the overdraft notification rule is to prevent the misappropriation of clients' funds by providing a mechanism for early detection of improprieties in the handling of attorney trust accounts. Standard 65 was subsequently replaced with Rule 1.15(III) with the Supreme Court's adoption of the Georgia Rules of Professional Conduct on Jan. 2, 2001 ([www.gabar.org/handbook](http://www.gabar.org/handbook)).

#### Payee Notification

During the 1993 legislative session, with the urging of the Board of Trustees, the Board of Governors endorsed legislation specifically designed to prevent lawyer theft of personal injury settlement funds. As a result of these efforts, the "payee notification rule" was approved as an amendment to the Insurance Code. This statute requires insurers to send notice to the payee of an insurance settlement when the check is mailed to the payee's attorney. This places the client on notice that the attorney has received settlement funds. Adopting this procedure has substantially reduced claims involving the theft of insurance funds.

#### Claims Process

Before the Clients' Security Fund pays a claim, the Trustees must determine that the loss arose out of the client-lawyer relationship or fiduciary relationship and was caused by the dishonest conduct of the lawyer. The rules define "dishonest conduct" as acts "committed by a lawyer like theft or embezzlement of money, or the wrongful taking or conversion of money, property, or other things of value. The lawyer's "dishonest" conduct must result in their disbarment, indefinite suspension, or voluntary surrender of their license. On May 26, 2022, the Supreme Court of Georgia issued an order approving an amendment to the rules specifying the final disposition need not result from a filed memorandum of grievance but can be attained when credible information is presented from any source without a memorandum of grievance being filed. Claimants are responsible for providing sufficient documentation to support their claims.

Claims filed by corporations or partnerships, government entities, and certain members of the attorney's family are typically denied. Losses covered by insurance or resulting from malpractice or financial investments are also not reimbursable by the Fund.

The last meeting for the 2022-23 Bar year was held on June 10, 2023. The Statement of Fund Balance, Income and Expenses for the period ending June 30, 2023, is below.

ANNUAL FINANCIAL STATISTICS	2021-22	2022-23
<b>Balance on July 1, 2021</b>	\$1,798,187	\$1,634,260
<b>Income to Fund</b>		
Assessments	\$77,590	\$751,680
Restitution	\$85,621	\$18,445
Interest	\$26,218	\$23,907
Gain/Loss Investment Assessment	\$(79,620)	\$17,942
<b>Distributions from Fund</b>		
Claims Paid	\$186,737	\$159,879
Restricted Expenses	\$73,000	\$73,000
Bond Premium Amortization	\$8,444	\$3,156
Investment Service Fee	\$5,555	\$5,847

#### Summary of Claims Activity

The following summarizes claims activity beginning July 1, 2022, and ending June 30, 2023. The Trustees met two times during this period to consider pending claims. ●

ACTIVITY	2021-22	2022-23
Recorded Application Requests	34	40
Claims Filed	19	32
Claims Considered	28	43
Claims Approved	20	20
Claims Denied	4	18
Claims Tabled	3	5
Claims Reconsidered	3	10
Claims Administratively Closed	0	0
Claims Withdrawn	0	0
Claims Pending	61	48
Inactive Claims	3	3
Number of Attorneys Involved in Paid Claims	13	11

# FORMAL ADVISORY OPINION BOARD

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BY JOHN J. SHIPTENKO, SENIOR ASSISTANT GENERAL COUNSEL

The Bar Counsel unit (Bar Counsel of the Office of the General Counsel serves as support staff for the Formal Advisory Opinion Board and administers formal advisory opinion requests and opinions.

## Formal Advisory Opinion Request Process

Requests for formal advisory opinions are submitted to Bar Counsel, who assesses the requests to determine the best way to handle the requestor's ethical issue. If the request is submitted to the Board, Bar Counsel prepares the request for the Board's consideration by creating a file, assigning a Formal Advisory Opinion (FAO) request number, and creating the heading and question presented. Bar Counsel then researches the ethical issue to determine how the Georgia Rules of Professional Conduct (GRPC) apply to the issue, whether a current FAO addresses the issue and whether other jurisdictions have addressed the issue. OGC staff attorneys are also provided with a copy of the request and asked to share their thoughts about the underlying ethical issue. If necessary, Bar Counsel will contact the requestor to gain a better understanding of the underlying ethical issue.

Bar Counsel keeps the requestor abreast of the status of the request from its receipt to the conclusion of the matter.

## Board Meetings

The Board works throughout the year considering and researching the ethical issues presented in FAO requests and drafting proposed opinions. The Board generally meets on a quarterly basis to discuss FAO requests and proposed opinions and analyze how amendments to the GRPC impact current FAOs. During the 2022-23 Bar year, the Board conducted three in-person meetings.

If the Board accepts a request for the drafting of an FAO, the Board assigns one or more Board members to draft a proposed opinion. Bar Counsel supports the Board throughout the drafting process. If a request is rejected, the Board specifies the reason for rejecting the request and Bar Counsel informs the requestor in writing of the Board's decision.

During the 2022-23 Bar year, the Board declined to address the question originally presented by the requestor in FAO Request No. 21-R2. The question presented was:

*Can an attorney fulfill his or her duties of "physical presence" at a real estate closing as required by Formal Advisory Opinion No. 00-3 and of "overseeing and participating in the execution of instruments conveying title" and "[being] in control of the closing process from beginning to end" as required by Formal Advisory Opinion No. 13-1 when using "communication technology" as such term is defined by proposed O.C.G.A. § 45-17-1 (3)?*

The initial request was received on Sept. 17, 2021, and concerned an issue related to pending legislation in the Georgia General Assembly. The pending legislation failed to pass by the conclusion of the 2022 legislative session. Accordingly, the Board declined the request. However, at the request of the OGC, on Jan. 23, 2023, the Board accepted a new question addressing an underlying issue related to the original request. The new question, which retained the same request number, FAO Request No. 21-R2, is:

*Can an attorney fulfill his or her duties of "presence" at a real estate closing as required by FAO No. 00-3 and of overseeing and participating in the execution of instruments conveying title and being in control of the closing process from beginning to end as required by FAO No. 13-1 when using communication technology?*

Bar Counsel notified the requestor and other interested parties of the change to the request.

## Consideration of Proposed Opinions

Once a proposed opinion is drafted, the Board considers the draft to determine whether to approve the proposed opinion as drafted for first publication or modify it. Bar Counsel assists the Board as needed. During the 2022-23 Bar year, the Board drafted and considered two proposed opinions.



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### Formal Advisory Opinion Request No. 21-R1

FAO Request No. 21-R1 became Proposed FAO No. 22-1.

*Under what circumstances may lawyers admitted only in jurisdictions other than Georgia practice law by remote means while physically residing in Georgia?*

This request was received on June 3, 2021. The Board accepted the request for the drafting of an FAO during the 2022-23 Bar year.

### Formal Advisory Opinion Request No. 21-R2

FAO Request No. 21-R2 became Proposed FAO No. 23-1.

*Can an attorney fulfill his or her duties of “presence” at a real estate closing as required by FAO No. 00-3 and of overseeing and participating in the execution of instruments conveying title and being in control of the closing process from beginning to end as required by FAO No. 13-1 when using communication technology?*

This request is referenced above.

### Approval of a Proposed Opinion

Once the Board approves a proposed opinion for first publication, it determines whether to post the publication on the State Bar of Georgia website or in the *Georgia Bar Journal* in accordance with Bar Rule 4-403. During the 2022-23 Bar year, the Board approved two proposed opinions and sent both for first publication on the State Bar’s website.

#### Proposed FAO No. 22-1

The Board approved Proposed FAO No. 22-1 (FAO Request No. 21-R1) on Sept. 9, 2022.

#### Proposed FAO No. 23-1

The Board approved Proposed FAO No. 23-1 (FAO Request No. 21-R2) on April 24, 2023, and published it for first publication on June 24, 2023.

### # OF IN-PERSON MEETINGS

3

### # OF PROPOSED OPINIONS DRAFTED AND CONSIDERED

2

### # OF PROPOSED OPINIONS APPROVED

2

Bar Counsel works with the Communications Department to ensure that the proposed opinion is in the proper format prior to publication.

### First Publication of the Proposed Opinion

The first publication process offers State Bar members an opportunity to review the proposed opinion and submit comments to the Board through the OGC. When the first publication of a proposed FAO occurs, Bar Counsel drafts the publication notice and submits the publication to the State Bar’s Communications Department and State Bar president. Bar Counsel reviews all comments regarding the proposed opinion and if necessary, conducts additional research related to information in the comments. The comments, any research materials and feedback from the OGC staff attorney are provided to the Board. The Board reviews the proposed opinion in light of the comments and other information received and



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decides whether to modify the proposed opinion. If the proposed opinion is modified and the Board determines the modifications are substantive, the first publication process is repeated.

#### **Proposed FAO No. 22-1**

On Sept. 26, 2022, the Board issued Proposed FAO No. 22-1 (FAO Request No. 21-R1) for first publication on the State Bar of Georgia's website. The Board received comments regarding FAO No. 22-1. At the conclusion of the publication period, the Board reviewed the proposed opinion in light of the comments and decided to modify the proposed opinion. Because the changes were substantial, the Board voted to issue the modified proposed opinion for first publication.

The modified proposed opinion was published on the State Bar's website on May 9, 2023. No comments were received by the Board during the subsequent first publication period.

#### **Proposed FAO No. 23-1**

On June 24, 2023, the Board issued Proposed FAO No. 23-1 (FAO Request No. 21-R2) for first publication on the State Bar of Georgia's website. The comment period ended on July 24, 2023.

#### **Final Approval and Second Publication of the Proposed Opinion; Filing of Proposed Opinion with the Supreme Court of Georgia**

Once the Board makes a final determination to approve and issue the opinion, it is published for a second publication and filed with the Supreme Court of Georgia. The Board decides whether to post the publication on the State Bar's website or in the *Georgia Bar Journal* in accordance with Bar Rule 4-403. When the second publication of an FAO occurs, Bar Counsel facilitates the publication with the State Bar Communications Department and president, and files the opinion with the Supreme Court of Georgia.

During Bar year 2023-24, the Board will determine whether to approve Proposed FAO No. 22-1 for second publication and filing with the Supreme Court. Also, the Board will review any comments received in response to Proposed FAO No. 23-1.

### Discretionary Review

Following the final approval and filing of the opinion, the Board decides whether to recommend that the OGC seek discretionary review of the opinion with the Supreme Court of Georgia. If the Board opts for discretionary review, Bar Counsel assists in this process by drafting the petition and filing it with the Supreme Court of Georgia, ensuring that all comments are provided to the Court.

### Issuance of Formal Advisory Opinion

FAOs are either issued by the Board (if no petition for discretionary review is sought or the Supreme Court declines to review the opinion) or the Supreme Court of Georgia (if the Court grants discretionary review and approves the opinion). When an FAO is issued, Bar Counsel drafts a notice of the issuance of an FAO, which is published in an official publication of the State Bar along with the opinion. Bar Counsel also facilitates the placement of the opinion in the Handbook on the State Bar's website and updates the FAO indexes.

### Formal Advisory Opinion Board

The Board consists of active members of the State Bar who are appointed by the president of the State Bar, with the approval of the Board of Governors. For the 2022-23 Bar year, the Board was comprised of the following lawyers:

<i>Members-at-Large</i>	<i>Term</i>
Mary A. Prebula, Chair, Duluth	2022 – 2024
Martin A. Levinson, Atlanta	2022 – 2023
Jeffrey Hobart Schneider, Atlanta	2022 – 2024
Letitia A. McDonald, Atlanta	2022 – 2024
Edward B. Krugman, Atlanta	2021 – 2023

<i>Georgia Trial Lawyers Association</i> C. Andrew Childers, Atlanta	2021 – 2023
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<i>Georgia Defense Lawyers Association</i> Jacob Edward Daly, Atlanta	2021 – 2023
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<i>Georgia Association of Criminal Defense Lawyers</i> Amanda Rourk Clark Palmer, Vice Chair, Atlanta	2022 – 2024
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<i>Georgia District Attorney's Association</i> Sherry Boston, Decatur	2022 – 2024
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<i>Young Lawyers Division</i> Donavan Keith Eason, Kennesaw	2021 – 2023
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<i>Emory University</i> Professor Jennifer Murphy Romig, Atlanta	2022 – 2024
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<i>University of Georgia</i> Professor David N. Lefkowitz, Athens	2022 – 2023
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<i>Mercer University</i> Professor Patrick E. Longan, Macon	2021 – 2023
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<i>Georgia State University</i> Professor Cassady V. Brewer, Atlanta	2022 – 2024
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<i>Atlanta's John Marshall Law School</i> Professor Jeffrey Alan Van Detta, Atlanta	2021 – 2023
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<i>State Disciplinary Board</i> Christian J. Steinmetz III, Savannah	2022 – 2023
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<i>State Disciplinary Review Board</i> John R. B. Long, Augusta	2022 – 2023
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<i>Executive Committee</i> Martin Enrique Valbuena, Dallas	2022 – 2023
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### Bar Rules

The Formal Advisory Opinion Board is governed by Bar Rules 4-223, 4-401, 4-402, 4-403 and 4-404, and its own internal rules. Bar Counsel periodically reviews these rules, advises the Board regarding whether it should consider amending the rules and suggests proposed amendments.

Formal advisory opinions, opinion indexes and rules governing the Board are located on the State Bar's website at [www.gabar.org/ethics](http://www.gabar.org/ethics). ●

# PRO HAC VICE PROGRAM

BY KATHYA S. JACKSON, PRO HAC VICE PARALEGAL

Attorneys seeking to appear *pro hac vice* in State and Superior Courts and before the State Board of Workers' Compensation and the Georgia State-wide Business Court must comply with Uniform Superior Court Rule 4.4. Attorneys seeking to appear *pro hac vice* in Magistrate Court must comply with Uniform Magistrate Court Rule 7.5. Pursuant to both rules, attorneys applying for *pro hac vice* admission in Georgia must serve a copy of their application for admission on the State Bar of Georgia's Office of the General Counsel (OGC). Senior Assistant General Counsel John J. Shiptenko and *Pro Hac Vice* Paralegal Kathya S. Jackson manage the application process and duties for the OGC.

Applicants can submit their application and fee (check, money order or credit card) via mail or the online portal on the State Bar's website. The *pro hac vice* paralegal creates a paper and electronic file for all applications received by mail and creates an electronic file for all applications received via the online portal. The paper files are purged annually. The *pro hac vice* paralegal reviews the applications to determine whether the application contains the required information pursuant to the rule and its appendix and whether the attorney submitted the annual and application fees. The *pro hac vice* paralegal also verifies the attorney's status with their home jurisdiction(s), determines if the attorney has any disciplinary history and obtains a copy if possible, and obtains the judge's name and address for the case.

If an attorney fails to provide the required fee(s) or provides an incorrect fee amount, the *pro hac vice* paralegal will request the required fee(s) or correct fee amount via email or mail. If the attorney fails to provide information required by the applicable rule's appendix, the *pro hac vice* paralegal requests the attorney file an amended application with the Court and send a copy of the same to the OGC.

After the contents of the application are entered into the *pro hac vice* database, information verified and the fees are received, the *pro hac vice* paralegal drafts a letter to the Court which the senior assistant general counsel reviews and edits, explaining whether the application complies with the rule and its appendix. Occasionally, the senior assistant general counsel may find the attorney is not eligible for *pro hac vice* admission pursuant to the rule and files a response stating the same.

All applications, jurisdiction verification, checks, emails, letters, supplemental information and responses are scanned and uploaded into the *pro hac vice* database. On average, the *pro hac vice* paralegal mails 120 letters monthly to the courts, regarding compliance with the rule, and to the attorney, requesting additional information or fees. The *pro hac vice* paralegal responds to a significant number of emails, voicemail messages and calls from attorneys, their staff and court staff regarding general *pro hac vice* questions, troubleshooting issues with the State Bar's online application form, and the status of specific applications. Below is a chart reflecting the number of calls and emails received regarding pending *pro hac vice* applications.

AVERAGE MONTHLY CALLS AND EMAILS	
Average Monthly Incoming Calls	65
Average Monthly Incoming Emails	100
Average Monthly Voicemails	29
Average Monthly Outgoing Calls	44
Average Monthly Outgoing Emails	116

The *pro hac vice* paralegal provides the State Bar's Finance Department with a weekly spreadsheet recording the checks received and the division of the fees. The *pro hac vice* paralegal



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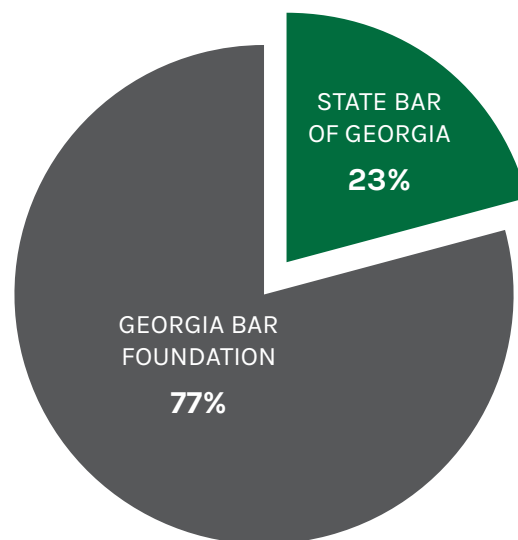
also reconciles the credit card fees received with the Finance Department on a weekly basis. The *pro hac vice* paralegal provides a bi-annual report to the Georgia Bar Foundation regarding the number of applications received in each county. The *pro hac vice* paralegal creates an internal monthly report to reflect the number of applications processed, fees collected and the division of the fees.

The rules state that any domestic or foreign lawyer granted admission *pro hac vice* must pay an annual fee of \$200 on or before Jan. 15 for each subsequent calendar year of admission. If the annual fee is not received by Jan. 15, Georgia Rule of Professional Conduct 5.5(l) requires applicants to submit a late fee of \$100, along with the annual fee, by March 1. In December 2022, the *pro hac vice* paralegal sent 1,247 annual fee notice emails and 451 annual fee notice letters to applicants (and a copy to their sponsor), which includes a payment link and information on how to notify the OGC if the applicant is no longer admitted *pro hac vice*. In response to the notices, the *pro hac vice* paralegal responded to approximately 800 emails and approximately 200 phone calls regarding annual fees.

If an applicant fails to submit the required annual and late fees, the senior assistant general counsel provides the Court with a letter stating that the applicant is not in compliance with the rule. In April 2023, the *pro hac vice* paralegal sent approximately 580 letters to judges (a copy to the applicant and sponsor) regarding non-compliance with annual fee payments.

During the period of July 1, 2022, through June 30, 2023, the OGC reviewed 1,026 *pro hac vice* applications. The OGC filed nine formal responses with Georgia courts regarding the apparent non-eligibility of the applicant. The OGC collected a total of \$438,785 from *pro hac vice* applicants. The fees are divided between the State

Bar of Georgia and the Georgia Bar Foundation. The State Bar of Georgia received \$101,185 from the total collected. The Georgia Bar Foundation received \$337,600 from the total collected. ●



#### TOTAL PRO HAC VICE FEES RECEIVED

The State Bar of Georgia (SBG) collected a total of \$438,785 for *pro hac vice* fees. The fees were divided between the SBG and the Georgia Bar Foundation (GBF). The SBG received \$101,185 from the total collected. The GBF received \$337,600 from the total collected.

# OVERDRAFT NOTIFICATION PROGRAM

BY REGINA PUTMAN, TRUST ACCOUNT OVERDRAFT NOTIFICATION COORDINATOR

The Overdraft Notification Program received 234 overdraft notices from financial institutions approved as depositories for Georgia attorney trust accounts. Of the total number of notices received, eight notices were received on the trust accounts of four deceased lawyers, two notices were received on the trust accounts of two disbarred lawyers, one notice was received in error on a non-IOLTA bank account and three notices were received in error on trust accounts maintained by lawyers licensed in other states. A total of 172 files were dismissed based on the receipt of satisfactory responses following the initial State Bar inquiry, four files were referred to the Law Practice Management Program and 27 files were forwarded to the State Disciplinary Board for possible disciplinary action. (Several attorney overdraft files contained more than one overdraft notice regarding the same IOLTA account number. Some overdraft files opened during the latter part of FY 2022-23 remain open, pending final review and disposition.)

## Financial Institutions Approved as Depositories for Attorney Trust Accounts

The number of financial institutions approved as depositories for attorney trust accounts is affected by bank failures, bank mergers and a bank's willingness to execute the Office of the General

Counsel's overdraft reporting agreement and the Georgia Bar Foundation's interest rate comparability agreement. Currently, 180 banks and credit unions are reflected on the State Bar of Georgia's List of Approved Financial Institutions, which can be found on the State Bar of Georgia's website at [www.gabar.org/banks](http://www.gabar.org/banks).

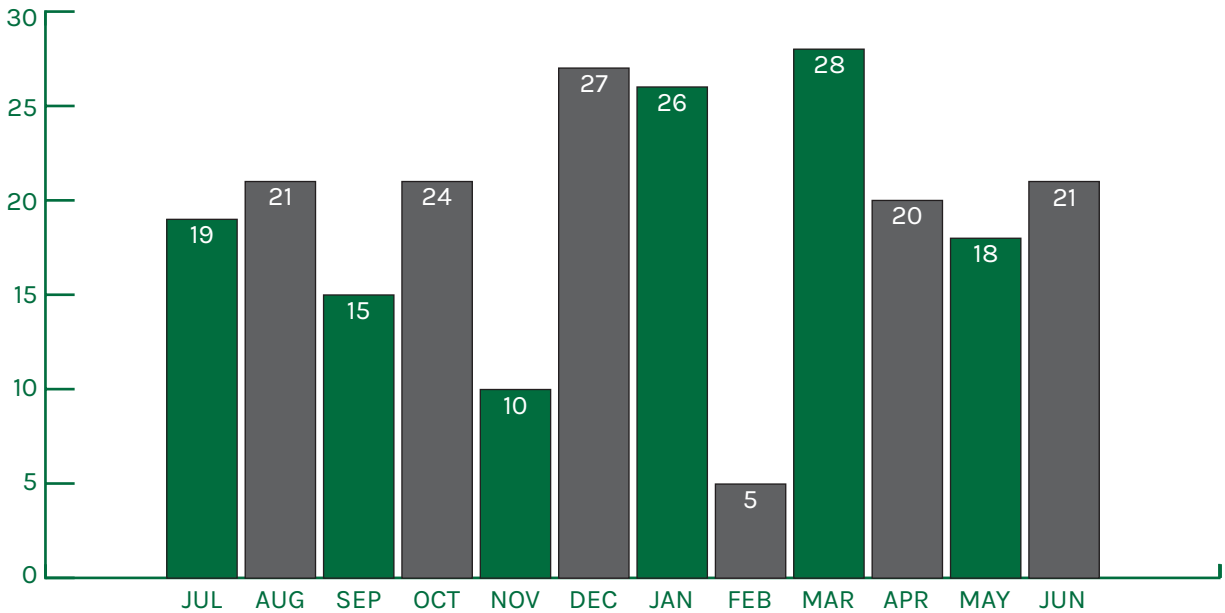
## The Supreme Court of Georgia's Amendment to Rule 1.15 (III) of the Georgia Rules of Professional Conduct

On May 14, 2021, the Supreme Court of Georgia issued an order amending Rule 1.15 (III) of the Georgia Rules of Professional Conduct, which eliminates the three-day grace period it previously granted banks to report overdrafts to the State Bar of Georgia. Accordingly, the Office of the General Counsel has obtained new trust account reporting agreements from banks currently listed as depositories approved for Georgia attorney trust accounts. The elimination of the three-day grace period will create a more effective loss prevention tool to identify trust accounting problems that could otherwise be masked in a lawyer's IOLTA account because of a steady stream of trust account deposits and disbursements. Moreover, the Office of the General Counsel will now be alerted sooner regarding trust account issues in order to provide discipline and/or corrective measures. ●

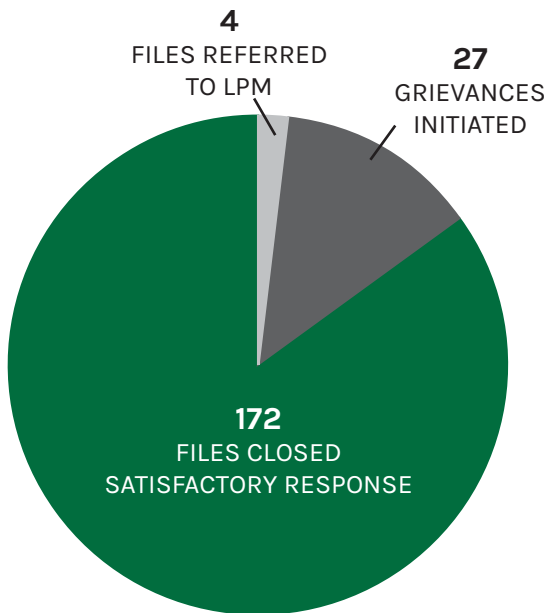
MONTH 2022-23	ACTUAL # NOTICES RECEIVED	FILES CLOSED/ADEQUATE RESPONSE	FILES CLOSED/LPMP	GRIEVANCES INITIATED	TOTAL CLOSED
July	19	14	0	2	16
August	21	25	0	4	29
September	15	24	0	0	24
October	24	8	0	6	14
November	10	9	0	1	10
December	27	10	0	1	11
January	26	15	0	2	17
February	5	12	2	2	16
March	28	17	0	6	23
April	20	7	1	1	26
May	18	13	1	1	15
June	21	18	0	1	19
TOTAL	234	172	4	27	220
PERCENTAGE		91%	0.63%	8.59%	



**ACTUAL NUMBER OF BANK OVERDRAFT NOTICES RECEIVED | FY 2022-23**



**TRUST ACCOUNT OVERDRAFT FILE DISPOSITION | FY 2022-23**



A total of 172 files were dismissed based on the receipt of satisfactory responses following the initial State Bar inquiry, **four** files were referred to the Law Practice Management Program and **27** files were forwarded to the State Disciplinary Board for possible disciplinary action.

# RECEIVERSHIPS

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BY WILLIAM D. NESMITH III, DEPUTY GENERAL COUNSEL

Every year, the Office of the General Counsel handles calls concerning “absent lawyers.” According to Rule 4-228 of the Georgia Rules of Professional Conduct, an absent lawyer is “[a] member of the State Bar of Georgia (or a domestic or foreign lawyer authorized to practice law in Georgia) who has disappeared, died, been disbarred, disciplined or incarcerated, become so impaired as to be unable to properly represent clients or who poses a substantial threat of harm to clients or the public that it is necessary for the Supreme Court of Georgia to appoint a receiver.” While most receiverships involve disbarred lawyers, many involve lawyers who have died without a successor or anyone to manage their firm’s affairs or clients. Often, these receiverships involve hundreds to thousands of files.

Whenever the State Bar of Georgia receives a call indicating a receiver is necessary to protect an absent lawyer’s clients, the Bar Counsel unit for the Office of the General Counsel attempts to locate a local lawyer to accept an appointment as receiver. A local lawyer generally better understands the community and courts affected by the receivership. However, this is often not an option due to the nature or condition of the absent lawyer’s practice. When no lawyer agrees to help, a petition is filed to appoint a lawyer from the Office of the General Counsel as receiver. Typically, this lawyer is the Deputy General Counsel for the Bar Counsel unit.

Whenever a lawyer from the Office of the General Counsel is appointed receiver by the Supreme Court of Georgia, the first order of business is to gain access to the client files. Once access has been obtained, a moving company is typically employed to move the files under the supervision of Bar Counsel staff. All files are inventoried once the files arrive at the State Bar of Georgia headquarters. Bar staff catalogs the files by type, client name, if the file is pending in court and identifies to whom the files belong. A copy of the receivership order is sent to any affected court in pending matters.

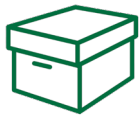
After handling pending matters, Bar Counsel staff begins carefully reviewing each file to determine completeness and if any original documents or other client property should be returned to a client. On numerous occasions, original wills and real estate deeds that were never filed are discovered. State Bar rules allow the receiver to file wills with the appropriate probate court; however, real estate deeds and mortgage cancellations must be returned to the client for filing. Every effort is made to contact the absent lawyer’s clients to return client files to the client and protect the client’s and the public’s interests. Client files are returned after the client completes a sworn affidavit of ownership or is provided to a lawyer who presents a letter of representation of the client. This is an abbreviated description of the receivership process.

During the 2022-23 Bar year, the State Bar of Georgia filed four petitions for the appointment of a receiver with the Supreme Court of Georgia. Deputy General Counsel William D. NeSmith III was appointed receiver in three of the four petitions. Currently, the Office of the General Counsel is handling 24 receiverships, with Deputy General Counsel William D. NeSmith III serving as the receiver in 21 receiverships. Approximately 1,806 boxes containing approximately 12,456 files are being stored at State Bar Headquarters, and more than 4,000 letters have been sent to the clients of absent lawyers whose practice is in receivership. Additionally, Bar Counsel and staff handle hundreds of phone calls from clients, courts and others concerning receiverships and absent lawyers.

In addition, State Bar members have been appointed receivers and are currently handling 31 active receiverships. Bar Counsel monitors these receivers and checks their progress to ensure that the client’s interests are protected. Once the outside receivers have fulfilled their duties, Bar Counsel arranges the removal of the remaining files and their storage at State Bar Headquarters.



All files, regardless of whether they were handled by outside receivers or Bar Counsel, are cataloged and monitored by age. Files that are unclaimed and are more than six years old are scheduled for shredding. Once enough files are ready for destruction, Bar Counsel arranges a shredding company to come on-site and remove the files for proper destruction. ●



# OF BOXES STORED AT THE STATE BAR

1,806



# OF FILES CONTAINED

12,456



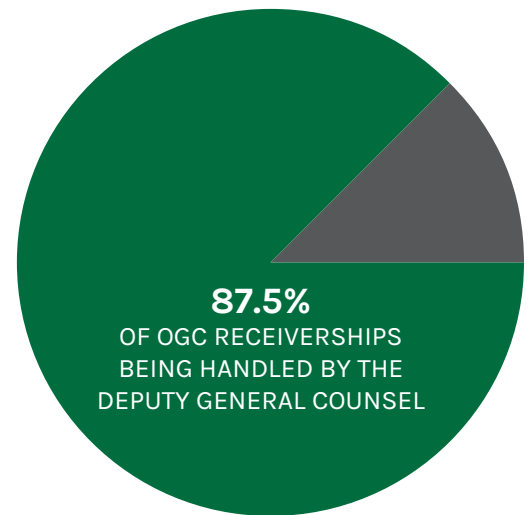
# OF LETTERS SENT TO CLIENTS

4,000+



# OF ACTIVE RECEIVERSHIPS HANDLED BY BAR MEMBERS

31



Currently, the Office of the General Counsel is handling 24 receiverships, with Deputy General Counsel William D. NeSmith III serving as the receiver in 21 receiverships.

# DISCIPLINARY HISTORY REQUESTS

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BY WILLIAM D. NESMITH III, DEPUTY GENERAL COUNSEL

Whenever a Georgia lawyer needs an official report on their disciplinary history, a complete history may be ordered from the State Bar of Georgia. Often these reports are required for employment reasons or when a lawyer is seeking admission in another state as a member or admission *pro hac vice*.

Once the Office of the General Counsel receives the request for a lawyer's disciplinary history, Bar Counsel staff determines that the request has been properly submitted and that a waiver of confidentiality has been executed. Once this determination has been made, Bar Counsel staff thoroughly searches the State Bar disciplinary files to prepare a response to the request. The request for a disciplinary history may come directly from the lawyer or an outside entity, such as another state bar. Often, disciplinary history requests involve phone calls to the requestor for more information.

During the 2022-23 Bar year, Bar Counsel received 837 requests for disciplinary histories and handled numerous phone calls from lawyers and entities seeking further information about the process. Each disciplinary history letter includes a detailed explanation of Rule 4-224. Expungement. Often requestors require more information about this rule beyond the explanation provided. ●

# OF REQUESTS FOR  
DISCIPLINARY HISTORIES

837

# CONTRACTS

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BY JOHN J. SHIPTENKO, SENIOR ASSISTANT GENERAL COUNSEL

Following State Bar policy and adhering to the established process by the Office of General Counsel (OGC), all State Bar entities, including employees, departments, committees, sections, divisions, boards and others, are required to submit their State Bar contracts to the Office of the General Counsel for evaluation. The responsibility of reviewing State Bar contracts and overseeing all other contractual matters has been assigned to the Bar Counsel unit (Bar Counsel) by the General Counsel.

Bar Counsel may propose modifications, suggest changes and create contract drafts upon contract review. Bar Counsel also offers legal guidance to State Bar departments, sections, committees and employees regarding contract terms. This includes matters related to the State Bar Conference Center and the satellite offices located in Tifton and Savannah.

As part of its usual role, the Bar Counsel assists in handling contracts involving State Bar committees, sections, departments and employees in two main scenarios: first, during the planning of meetings, events and procurement of services, and second, when coordinating with various parties like vendors, suppliers, contractors, consultants, exhibitors and entertainers.

Regarding independent contractors utilized by the State Bar, the Bar Counsel oversees the assessment and renewal of the underlying independent contractor agreements.

Beyond their regular contract support duties, the Bar Counsel also reviewed, revised and negotiated a fresh contract with Fastcase on behalf of the Member Benefits Committee. ●

# INSURANCE COMMITTEE

BY JOHN J. SHIPTENKO, SENIOR ASSISTANT GENERAL COUNSEL

## Insurance Committee Mission

The Insurance Committee acts in accordance with Article VIII, Section 2 of the State Bar of Georgia Bylaws at the direction of the president of the State Bar. The Committee serves as an advisory committee to the State Bar's Executive Committee, officers, executive director and general counsel. Subject to the purposes established for this Committee by the State Bar president, this Committee reviews the State Bar's insurance coverage. It offers input and recommendations to the executive director and Executive Committee regarding best practices, coverage types, liability amounts, protection and risk management considerations, and insurance broker retention. The Committee also provides input on State Bar policies concerning insurance and liability and other related matters it believes the State Bar should consider.

## Committee Members and Staff Liaisons

### Committee Members

Charles Minor McDaniel Jr., Chair  
Christopher Paul Twyman, Vice Chair  
Joseph C. Chancey  
J. Anderson Davis  
William Wallace Fagan III  
Paul L. Groth  
Travis Carlisle Hargrove  
William H. Major  
Tracy O'Connell  
Elizabeth Louise Fite, Executive Committee Liaison

### Staff Liaisons

Damon E. Elmore, Executive Director  
Ron Turner, Chief Financial Officer  
William D. NeSmith III, Deputy General Counsel  
John J. Shiptenko, Senior Assistant General Counsel  
Nariah Dancy, Administrative Support

## SUMMARY OF RECOMMENDATIONS

### Insurance Renewal

The State Bar of Georgia uses Greyling Insurance Brokerage & Risk Consulting as its broker for insurance and risk analysis. At the Committee's June 1, 2023, meeting, the Committee submitted the following recommendations to the executive director concerning insurance renewal.

Renew all incumbent insurance providers at the same levels as last Bar year. The incumbents are:

- Hanover (*workers' compensation, auto and umbrella liability coverage*)
- Chubb (*workplace violence*)
- Atlantic Specialty (*executive liability—directors and officers, employment practices liability*)
- Munich Re (*professional liability*)
- Travelers (*executive liability—crime*)
- Cowbell (*cyber liability*)

### Coverage Changes from 2021-22 to 2022-23

- Renew the cyber liability coverage with a \$3 million liability limit. This is an increase of \$28,960.88.

#### CYBER LIABILITY COVERAGE LIMIT

**\$3 MILLION**

- Renew the general liability and property package with Hanover (Citizens Insurance Company of America) with a building limit of \$73,616,265 and a \$25,000 deductible. This is an increase of \$9,954.

#### BUILDING LIABILITY COVERAGE LIMIT

**\$73,616,265**

### Cyber Incident Expense Resolution

All insurance payments have been negotiated to the Bar's satisfaction, and the cyber incident is closed. However, there can always be some minor issues that occur, which will be handled as needed.

### Insurance Broker Request for Proposal

At the Dec.13, 2022, meeting, the committee recommended that the State Bar consider the following factors to determine if the Bar should issue a request for proposal:

- Is the State Bar satisfied with the broker's services?
- Does the State Bar believe that another broker could secure lower premiums?
- Does the State Bar believe another broker could provide similar services at a lower rate? ●



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# AMENDMENTS TO BAR RULES & BYLAWS

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BY WILLIAM D. NESMITH III, DEPUTY GENERAL COUNSEL

Requests for amendments to the Rules and Regulations for the Organization of the State Bar of Georgia may come from State Bar sections, committees, officers or any State Bar member. If a Bar member is requesting an amendment, the request is typically taken to the general counsel, the executive director, a State Bar officer, the governing committee associated with the particular rule(s) or the deputy general counsel (Bar counsel) who will prepare a draft of the proposed rule amendment. Individual Bar members may also submit their draft of a proposed opinion. Rule amendments are facilitated and processed by the deputy general counsel and the senior paralegal for the Bar Counsel unit of the Office of the General Counsel.

Bar counsel typically circulates the draft of a proposed rule amendment amongst interested parties until it meets with general approval; it is then forwarded to the Executive Committee for their review. Pursuant to Article IV, Section 2 of the State Bar of Georgia Bylaws, the Executive Committee has the power to exercise all the powers of the Board of Governors between meetings of the Board and shall report to each meeting of the Board. Accordingly, the Executive Committee reviews the proposed amendment before it is presented to the Board of Governors. If approved, the proposed amendment is submitted to the Board of Governors for review and approval. If the Executive Committee does not approve a proposed amendment, it is typically not submitted to the Board of Governors. However, no specific rule states that a proposed amendment needs to be presented to or approved by the Executive Committee. Proposed amendments can be submitted directly to the Board of Governors by a member of the Board of Governors as a new agenda item.

After the Board of Governors approves the proposed amendment, the Office of the General Counsel (Bar counsel) prepares a Notice of Motion to Amend the Rules of the State Bar of Georgia. Bar counsel publishes the notice in the *Georgia Bar Journal* or on the State Bar of Georgia website pursuant to Bar Rule 5-101. At the same time the Notice to Amend is published, a copy of the no-

tice is filed with the Supreme Court of Georgia. At least 30 days after the publication date of the notice, a Motion to Amend the Rules of the State Bar of Georgia and a Brief in Support of the Motion to Amend the Rules of the State Bar of Georgia may be filed with the Supreme Court of Georgia and published in accordance with Rule 5-101.

Pursuant to Bar Rule 5-102, Bar members are allowed to file comments or written objections to any motion to amend the Rules of the State Bar of Georgia. All objections shall be filed with the clerk of the Supreme Court of Georgia by a designated date, with a copy served upon the general counsel of the State Bar of Georgia. Each objection shall contain the grounds on which the objection is based. If desired, a request for oral argument on the proposed amendment may be requested. According to Bar Rule 1-503, the Supreme Court of Georgia, at its sole discretion, may grant or deny a request for oral argument. The clerk of the Supreme Court of Georgia shall notify the general counsel of the State Bar of Georgia and the person seeking oral argument of the date of any oral argument granted under the provisions of Rule 23 (b) of the Rules of the Supreme Court of Georgia.

If the Supreme Court approves or modifies and approves the amendment to the rules, Bar counsel notifies the entity requesting the amendment of the Supreme Court's decision and publishes a notice of the amended rule on the State Bar's website. The State Bar's Handbook is also updated accordingly. The State Bar Handbook is only available in electronic form and is found on the State Bar of Georgia website at [www.gabar.org/rules](http://www.gabar.org/rules).

## Proposed Rule Amendments Pending With the Supreme Court of Georgia

During the 2022-23 Bar year, the following proposed rule amendments were approved by the Board of Governors and filed with the Supreme Court of Georgia. The proposed rule amendments remain pending with the Supreme Court of Georgia.

## Motion 2023-1

On Jan. 14, 2023, the Board of Governors approved the following proposed rule amendments. A motion to amend the rules (Motion 2023-1) was filed with the Supreme Court of Georgia on April 24, 2023. An amended motion was filed with the Supreme Court of Georgia on May 2, 2023. No substantive changes to the proposed rule amendments were made in the amended motion. Motion 2023-1 remains pending with the Supreme Court of Georgia.

- **Rule 1.0. Terminology and Definitions**

The proposed amendment to this rule adds a definition for “Willful Blindness.” The term is later found in a proposed rule amendment to Rule 1.2 (see below). This proposed amendment will go into effect if the Supreme Court of Georgia approves the proposed changes to Rule 1.2.

- **Rule 1.2. Scope of Representation and Allocation of Authority Between Client and Lawyer**

The proposed amendments to this rule are designed to help eliminate illicit money laundering activities, including the addition of a recommendation that requires lawyers in the Financial Action Task Force (FATF) member countries to report clients’ suspicious activities to law enforcement authorities.

- **Rule 1.5. Fees**

The proposed rule amendments mandate that a lawyer who enters into agreements to arbitrate fee disputes or disputes over payment of expenses must obtain written informed consent from the client in advance. Additionally, fee contracts must disclose the existence of an arbitration agreement. A new comment was added to provide context for the proposed rule change. The primary objective of this proposed change is to ensure that clients are well-informed and safeguarded when they enter into arbitration agreements in fee contracts or agreements.

- **Rule 1.8. Conflict of Interest: Prohibited Transactions**

The proposed amendments to this rule ensure that clients are properly informed and safeguarded when they agree to arbitration in fee contracts or agreements. The amendments incorporate language from the proposed amendment to Rule 1.5 (see above) and provide that clients give informed consent in writing before agreeing to an arbitration provision in a fee contract or agreement. A new comment was added explaining what informed consent entails, what must be included in fee agreements, and what information lawyers must reveal to clients to obtain informed consent.

- **Part 7—Information About Legal Services**

The proposed amendments to these rules constitute a complete reorganization of the current advertising rules, encompassing Rules 7.1 through 7.5.

## Proposed Rule Amendments Pending Filing With the Supreme Court of Georgia

The proposed amendments to the following rules were presented to and approved by the Board of Governors. Notice of the proposed

amendments is pending publication and filing with the Supreme Court of Georgia.

- **Rule 1.1. Competence**

The proposed amendments to this rule rewrite Comment [6], which expresses the need for lawyers to keep current with changing technology and continue to study the law, including required legal education requirements.

The Board of Governors approved the proposed amendments to Rule 1.1 on Oct. 19, 2019. Notice of the proposed amendment was published on the State Bar of Georgia website on Nov. 1, 2019, and filed with the Supreme Court of Georgia on Feb. 28, 2020, under Motion 2020-1. After reviewing the proposed amendments, the Supreme Court asked the Office of the General Counsel to return the matter to the Board of Governors for further discussion. The Board of Governors reconsidered the issue at their Nov. 23, 2021, meeting, at which the Board affirmed their previous decision to approve the proposed amendments.

- **Rule 1-207. Official Address and Change of Address**

The Board of Governors approved this proposed amendment on June 10, 2023. The proposed amendment to this rule requires State Bar members to provide the State Bar of Georgia with an email address as part of their official address.

- **Rule 1-706. Center for Lawyer Well-Being**

The Board of Governors approved this proposed amendment on June 10, 2023. The proposed rule is a new rule establishing the Center for Lawyer Well-Being, which will serve as an umbrella organization for members’ wellness and health programs and initiatives.

- **Rule 2-214. Report of the Special Master**

The Board of Governors approved this proposed amendment on June 10, 2023. The proposed amendment to this rule permits the coordinating special master to grant either a respondent or the State Bar of Georgia an extension of up to 15 days to file or respond to exceptions to the Report of the Special Master in a disciplinary case.

- **Rule 4-402. The Formal Advisory Opinion Board**

The Board of Governors approved this proposed amendment on June 10, 2023. The proposed amendments to this rule intend to eliminate outdated language regarding the organization of the Formal Advisory Opinion Board and provide a clearer explanation of the staggered terms of office for Board members and the process for their appointment.

## Approved Amendment to the Bylaws of the State Bar of Georgia

- **Article IX, Section 3. Center for Lawyer Well-Being Bylaws**

This amendment creates a new bylaw that establishes an organized structure for the Center for Lawyer Well-Being and outlines the center’s purpose, leadership roles, membership requirements, fees, procedures for meetings and voting, guidelines for fund usage and other provisions. ●



# DISCIPLINARY ORDERS OF THE SUPREME COURT OF GEORGIA

BY KATHYA S. JACKSON, CLERK, STATE DISCIPLINARY BOARDS

## Reinstatements Granted

<i>Date of Order</i>	<i>Respondent</i>
Aug. 1, 2022	Anthony Van Johnson
Sept. 19, 2022	David Godley Rigdon
Oct. 4, 2022	Trent Lee Coggins
March 22, 2023	David John Pettinato
April 18, 2023	Jason Lee Van Dyke
May 11, 2023	Sawand Palmer

## Public Reprimands

<i>Date of Order</i>	<i>Respondent</i>
Aug. 9, 2022	Dennis Robert Kurz
Oct. 4, 2022	Karen Lynn Pass

## Suspensions

<i>Date of Order</i>	<i>Respondent</i>
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### Indefinite Suspensions

Aug. 23, 2022	Candace Lanette Sneed
Oct. 25, 2022	William D. Thompson Jr.
Jan. 18, 2023	Debra Kaye Scott
Feb. 8, 2023	Muhammad Abdul-Warit Abdur-Rahim
March 7, 2023	David John Pettinato

### Definite Suspensions

Oct. 4, 2022	Trent Lee Coggins
March 7, 2023	L. Nicole Hamilton
April 18, 2023	Jason Lee Van Dyke
May 31, 2023	Brian Walton Whiteside

### Interim Suspensions

Aug. 9, 2022	John Carl Huber
Sept. 16, 2022	Timothy Orman McCalep
Nov. 9, 2022	Stephen Dana Morrison Jr.
Jan. 24, 2023	Christopher Scott Connell

Jan. 24, 2023	Joseph W. Powell II
Jan. 27, 2023	Ryan Curtis Cleveland
Feb. 27, 2023	Ian Zimmerman
March 13, 2023	Stephen Heuron Robinson
May 11, 2023	Serge Jerome Jr.

### Interim Suspensions Lifted

Nov. 14, 2022	Stephen Dana Morrison Jr.
Dec. 30, 2022	Odis William Williams II
Jan. 27, 2023	Christopher Scott Connell
Feb. 27, 2023	Joseph W. Powell II
March 17, 2023	Stephen Heuron Robinson
May 15, 2023	Serge Jerome Jr.

### Disbarments/Voluntary Surrenders

<i>Date of Order</i>	<i>Respondent</i>
July 6, 2022	Glen Roy Fagan
Aug. 9, 2022	Amber Holly Bunch
Aug. 9, 2022	Michael Anthony Eddings
Aug. 9, 2022	Grady Alexander Roberts III
Aug. 23, 2022	Stephen Anthony Power
Sept. 20, 2022	Joseph Arrington II
Oct. 4, 2022	Edward Hine Jr.
Oct. 4, 2022	Franklin David McCrea
Jan. 18, 2023	Candice Valerie Blain
Jan. 18, 2023	Chandra McNeil Norton
Feb. 21, 2023	Kara Sherrisse Lawrence
Feb. 21, 2023	Gus Vincent Soto
March 7, 2023	Nathan E. Hardwick IV
March 7, 2023	Dana Nicole Jackson
March 21, 2023	Willie George Davis Jr.
April 18, 2023	Claud L. McIver III
May 31, 2023	Ian Zimmerman



# OFFICE OF THE GENERAL COUNSEL

## STAFF ROSTER

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**Client Assistance Program of the Office of the  
General Counsel**  
**CAP Helpline | 404-527-8759 / 800-334-6865 x8759**

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