



State Bar
of Georgia

BOG BOARD BOOK

2023 Fall Meeting
Jekyll Island, GA

This book serves as the agenda and materials for the State Bar of Georgia's 2023 Fall Board of Governors Meeting.



State Bar of Georgia

299th BOARD OF GOVERNORS MEETING

Saturday, October 28, 2023

9 a.m. – 12 p.m.

The Westin Jekyll Island/Hybrid

[Zoom Webinar Link](#)

Webinar ID: 829 8217 8800

Passcode: 046579

Dress: Camera Ready

AGENDA

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

- | | | |
|---------------------------------------|---------------------------------|---------------------------|
| a) Welcome and Call to Order | J. Antonio “Tony” DelCampo..... | 1-4
President |
| b) Pledge of Allegiance | Joseph W. Dent | Dougherty Circuit, Post 1 |
| c) Invocation | Hon. Rhonda B. Kreuziger | Griffin Circuit, Post 2 |
| d) Recognition of Special Guests..... | Tony DelCampo | |
| e) Roll Call | Bill Gentry | 5-8
Secretary |
| f) Future Meetings Schedule..... | Tony DelCampo..... | 9-10 |

2) ACTION

- | | | |
|---|--------------------|--|
| a) Minutes of the 297 th & 298 th Meetings of | Bill Gentry | 11-22
the Board of Governors on June 9-10, 2023 |
| b) Proposed Rules and Bylaws Changes | Bill NeSmith | 23-65 |
| (1) Rule 4.2. Communication with Person
Represented by Counsel | | |
| (2) Rule 4-201. State Disciplinary Board | | |
| (3) Rule 4-203.1. Uniform Service Rule | | |

<u>Topics</u>	<u>Presenter</u>	<u>Page No.</u>
(4) Rule 4-209.1. Coordinating Special Master		
(5) Rule 4-221.1. Confidentiality of Investigations and Proceedings		
c) Proposed Energy Law Section.....	Bill NeSmith.....	66-78
d) Appointment to the Commission on.....	Tony DelCampo	
Continuing Lawyer Competency (CCLC)		
(1) Reappointment of Shiriki Jones (2024-2026)		
e) Appointment to the Formal Advisory	Tony DelCampo	
Opinion Board		
(2) Appointment of R. Gary Spencer		
Executive Committee Liaison, 2023-2024		

3) LEGISLATION

a) Advisory Committee on Legislation	Brandon Peak.....	79-329
New Legislative Proposals (action)	Committee Chair	
(1) <i>Fiduciary Law Section</i> – Amendments to Title 53 and Related Code Sections		
(2) <i>Business Law Section</i> – Amendments to O.C.G.A. Title 11		
b) Legislative Update	Brandon Peak Rusty Sewell	

4) INFORMATIONAL REPORTS

a) President’s Report.....	Tony DelCampo	
b) Executive Director’s Report.....	Damon Elmore	
c) Treasurer’s Report.....	Chris Twyman.....	330-387
	Treasurer	
d) Young Lawyers Division Report	Brittanie Browning.....	388-393
e) Suicide Prevention and Awareness	Hon. Shondeana Morris.....	394
Report	Committee Chair	
f) Chief Justice’s Commission on.....	Karlise Grier.....	395-406
Professionalism Report	Executive Director	

5) WRITTEN REPORTS

a) Executive Committee Meeting Minutes		
(1) August 24, 2023.....		407-413
b) Combined State Bar of Georgia and Office of the General Counsel Annual Report		414-469
c) ICLE Report.....		470-471
d) Law Practice Management Report		472-474
e) Media Report		475

6) CLOSING

a) Old Business	Tony DelCampo
b) New Business	Tony DelCampo
c) Announcements	Tony DelCampo
d) Executive Session	Tony DelCampo
e) Remarks / Q&A / Comments / Suggestions	
f) Adjournment	

2023 FALL BOARD OF GOVERNORS MEETING



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ISTOCK.COM/SILVERSHOOTER

THE WESTIN JEKYLL ISLAND • JEKYLL ISLAND, GA • OCT. 27-29

**HOTEL CUT-OFF: TUESDAY, OCT. 3
REGISTRATION CUT-OFF: FRIDAY, OCT. 20**



**State Bar
of Georgia**

SCHEDULE OF EVENTS

FRIDAY, OCT. 27

9:30 a.m. - 3 p.m.
State Disciplinary Board Meeting
(By invitation only)

10 - 11:30 a.m.
ICLE Board Meeting—Virtual
(By invitation only)

12 - 4 p.m.
State Disciplinary Review Board Meeting
(By invitation only)

3 - 4 p.m.
Attorney-Client Solicitation Committee Meeting

3 - 5 p.m.
Member Benefits Committee Meeting

6:30 - 9 p.m.
Board of Governors Dinner

SOCIAL EVENTS

Board of Governors Dinner Friday, Oct. 27 • 6:30 - 9 p.m.

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

Georgia-Florida Tailgate Party in Jacksonville (Optional) Saturday, Oct. 28 • 12 p.m.

For those interested in tailgating at the Georgia-Florida game, whether or not you have tickets, we will be traveling by bus to Jacksonville and tailgating just outside the gates of TIAA Bank Field. The bus will depart from The Westin Jekyll Island at 12 p.m. sharp and will be available to take everyone back to both hotels at the end of the evening. The tailgate party does not include tickets to the game.

SATURDAY, OCT. 28

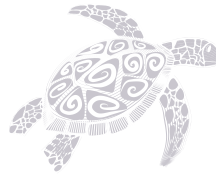
9 a.m. - 12 p.m.
Board of Governors Meeting

12 p.m.
Georgia-Florida Tailgate Party in Jacksonville

3 - 7 p.m.
Hotel Tailgate Party at The Westin

ATTIRE

Business casual dress for all meetings.



Hotel Tailgate Party at The Westin (Optional) Saturday, Oct. 28 • 3 - 7 p.m.

If you prefer a more laid back approach to watching the game, we are hosting a tailgate and game-watching party at The Westin, complete with snacks and beverages.

If football isn't your thing, we invite you to enjoy your free time and explore the island on your own. For information about area activities, visit www.jekyllisland.com.



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HOTEL ACCOMMODATIONS

Cut-off date is Tuesday, Oct. 3

To accommodate all our members during the meeting, we have secured room blocks at two hotels on Jekyll Island, both offering discounted room rates. You can choose from The Westin Jekyll Island or the Courtyard Jekyll Island. Please make your reservations as soon as possible based on your desired length of stay.



PHOTO PROVIDED BY THE WESTIN JEKYL ISLAND

THE WESTIN JEKYL ISLAND

110 Ocean Way
Jekyll Island, GA 31527
912-635-4545

Check-in: 3 p.m. | Check-out: 12 p.m.

The Westin Jekyll Island is our host hotel and requires a two-night minimum mandatory stay over Friday and Saturday. No exceptions. Visit bit.ly/JekyllWestin to reserve your room online, or call the hotel directly at 912-635-4545 and ask for the State Bar of Georgia rate (prices listed include a \$35 resort fee per room, per night):

- \$324 Island View King or Two Queens
- \$354 Partial Ocean View King
- \$354 Ocean View King

(Rooms are subject to a \$5 hotel/motel fee plus applicable taxes.)



PHOTO PROVIDED BY THE COURTYARD JEKYL ISLAND

COURTYARD JEKYL ISLAND

178 S. Beachview Drive
Jekyll Island, GA 31527
912-635-2416

Check-in: 4 p.m. | Check-out: 11 a.m.

The Courtyard Jekyll Island has no minimum night stay requirement. To make reservations, visit bit.ly/JekyllCourtyard to reserve your room online, or call the hotel directly at 912-635-2416 and ask for the State Bar of Georgia rate (prices listed include a \$20 resort fee per room, per night):

- \$249 Ocean View King or Two Queens
- \$269 Oceanfront King or Two Queens
- \$269 Beachfront King or Two Queens

(Rooms are subject to a \$5 hotel/motel fee plus applicable taxes.)

THE WESTIN RESORT FEE CHARGE INCLUDES:

- Two beach chairs and one umbrella each day during stay, per room (*restrictions and/or reservations may apply*).
- Two hours of bike rentals per day, per room.
- Beach and pool towel service.
- Island shuttle service.
- Self-parking at The Westin during stay and events.
- Valet service | \$15 per night, per car.
- Wi-Fi access in guestrooms.

COURTYARD RESORT FEE CHARGE INCLUDES:

- Complimentary onsite parking.
- \$10 beverage credit.
- \$10 Crate Market credit.
- Limited island shuttle service.
- Two-hour bike rental for two.
- Beach and pool towel service.

2023 FALL REGISTRATION FORM

Please complete and remit the enclosed registration form by Friday, Oct. 20. Please use this form to register by checking all events you plan to attend. Registration is required for all events, including "no charge" functions.

Attendee Information

Bar Number _____

Name _____

Nickname _____

Spouse/Guest Name (if applicable) _____

Address _____

City/State/Zip _____

Phone/Fax _____

Email _____

Special Needs

Dietary Restrictions _____

ADA: If you qualify for assistance under the Americans with Disabilities Act, please email meetings@gabar.org for assistance.

Cancellation/Refund Policy

Registration cancellations must be received in writing no later than Friday, Oct. 20, and will receive a full refund. Absolutely no refunds will be made after Friday, Oct. 20. Requests should be mailed to the State Bar of Georgia, Attn: Meetings Department, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303; faxed to 404-527-8717 or emailed to meetings@gabar.org.

THANK YOU TO OUR
5-GAVEL CORPORATE SPONSOR

MB | MemberBenefits

	In Person	Virtual
Board of Governors Functions		
<input type="checkbox"/> BOG Dinner (Fri.)	___ \$120	
<input type="checkbox"/> BOG Meeting (Sat.)	___ N/C	___ N/C

Committee Function
 Attorney-Client Solicitation Committee Meeting (Fri.) ___ N/C

Saturday Tailgates
 Tailgate Party in Jacksonville ___ \$195
(Includes: transportation to and from Jacksonville, snacks and drinks on the bus, lunch and drinks at tailgate, and snacks after the game. The tailgate party does not include tickets to the game.)
 Tailgate Party at The Westin ___ \$75

Total Enclosed \$ _____

Credit Card Information

Please bill my Visa MasterCard AmEx

Credit Card Number _____

Expiration Date _____

Name as it appears on the card (Please print) _____

Signature _____

REGISTER ONLINE AT WWW.GABAR.ORG

Registration and Payment Information
 Registrations will be processed on a first-come, first-served basis. Visa, MasterCard and American Express are accepted. "No charge" and credit card orders may be faxed to 404-527-8717. Please do not email credit card payment information. Please make checks payable to State Bar of Georgia and mail to Meetings Department, 2023 Fall Meeting, State Bar of Georgia, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303. Verbal registrations will not be accepted.



Board of Governors Attendance Record

	6-22 Friday	6-22 Saturday	10-22 Zoom Webinar	1-23 Buckhead/Zoom	3-23 Pine Mtn/Zoom	6-23 Friday	6-23 Saturday
	Amelia Island/Zoom	Amelia Island/Zoom	Zoom Webinar	Buckhead/Zoom	Pine Mtn/Zoom	Savannah/Zoom	Savannah/Zoom
Sarah Brown Atkins	*	*	*	*	*	*	*
Jonathan Lang Adams	n/a	n/a	n/a	n/a	n/a	n/a	Jonathan Lang Adams
Keith E. Adams	n/a	*	*	*	u	**	Keith E. Adams
Mark W. Alexander	*	*	*	*	*	*	Mark W. Alexander
Kent Edward Allom	*	*	*	*	*	*	Kent Edward Allom
Anthony B. Askew	*	*	*	*	e	u	Anthony B. Askew
Jadawnya Cintelle Baker	*	*	*	*	e	*	Jadawnya Cintelle Baker
Nina M. Baker	*	*	*	*	*	*	Nina M. Baker
Eric A. Ballinger	*	*	*	*	*	*	Eric A. Ballinger
Donna G. Banwick	*	*	*	*	*	u	Donna G. Banwick
John C. Bell Jr.	n/a	n/a	n/a	n/a	n/a	n/a	John C. Bell Jr.
Tracee Ready Benzo	*	*	*	*	*	*	Tracee Ready Benzo
N. John Bey	n/a	*	u	*	*	*	N. John Bey
James D. Blitch IV	e	*	*	*	*	u	James D. Blitch IV
Sherry Boston	*	*	*	*	*	*	Sherry Boston
Ashley Mackin Brodie	*	*	u	*	*	*	Ashley Mackin Brodie
Ben Brewton	*	*	u	u	u	u	Ben Brewton
Brittanie Browning	n/a	*	*	*	*	*	Brittanie Browning
Stephanie D. Burton	*	*	*	*	*	*	Stephanie D. Burton
Ivy Neal Cadle	*	*	*	*	*	*	Ivy Neal Cadle
Jerry Neal Cadle	*	*	*	*	*	*	Jerry Neal Cadle
Stacey McSwine Cameron	n/a	n/a	n/a	n/a	n/a	n/a	Stacey McSwine Cameron
Richard D. Campbell	*	*	*	*	*	u	Richard D. Campbell
David L. Cannon	e	*	*	*	*	u	David L. Cannon
Carl S. Cansino	e	*	*	*	*	u	Carl S. Cansino
Chris M. Carr	*	*	u	*	e	u	Chris M. Carr
Vernon L. Chambliss	n/a	n/a	n/a	n/a	n/a	n/a	Vernon L. Chambliss
Amanda Rourk Clark Palmer	*	**	*	*	*	u	Amanda Rourk Clark Palmer
Edward R. Collier	*	u	*	*	e	*	Edward R. Collier
Daniel Jackson Connell III	*	*	u	*	*	u	Daniel Jackson Connell III
Susan P. Coppedge	n/a	n/a	n/a	n/a	n/a	n/a	Susan P. Coppedge
John Craig Cotton	n/a	n/a	n/a	n/a	n/a	n/a	John Craig Cotton
Martin L. Cowen III	u	u	*	*	*	*	Martin L. Cowen III
Kenneth B. Crawford	*	*	*	u	u	*	Kenneth B. Crawford
Ronald E. Daniels	*	*	*	*	*	*	Ronald E. Daniels
Gerald Davidson Jr.	*	*	*	*	*	*	Gerald Davidson Jr.
C. Lee Davis	*	*	*	u	*	e	C. Lee Davis
J. Anderson Davis	*	*	*	*	u	*	J. Anderson Davis
Randall H. Davis	*	*	*	*	*	*	Randall H. Davis
William T. Davis	*	*	*	*	u	*	William T. Davis
Howard Mark Delashmit	n/a	n/a	n/a	n/a	n/a	n/a	Howard Mark Delashmit
J. Antonio DelCampo	*	*	*	*	*	*	J. Antonio DelCampo
Joseph W. Dent	*	*	*	*	*	u	Joseph W. Dent

To request an excused absence, please email Secretary Bill Gentry (bill@gentrylawfirm.law).

Board of Governors Attendance Record

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Daniel S. Digby	*	*	*	*	*	*	*
George P. Donaldson, III	*	*	*	*	*	*	*
Danny L. Durham	*	*	*	*	*	*	*
Susan E. Edlein	*	*	*	*	*	*	*
Olopong Ukpong "Olo" Ekpo	n/a	n/a	n/a	n/a	n/a	n/a	*
Archibald A. Farrar	*	*	*	*	*	*	*
Amanda Renee Flora	*	*	*	*	*	*	*
Harold Eugene Franklin Jr.	e	e	u	*	*	u	u
Keith E. Gammage	e	e	*	*	*	*	*
William C. Gentry	*	*	*	*	*	*	*
Michael G. Geoffroy	*	*	*	*	*	u	*
Patricia A. Gorham	*	*	*	*	*	*	*
Rebecca Holmes Liles Grist	*	*	*	*	*	*	*
Paul William Hamilton	n/a	*	*	*	*	*	u
Thomas B. "Britt" Hammond	*	*	*	*	*	*	*
Roger Brent Hatcher Jr.	n/a	n/a	n/a	n/a	n/a	n/a	*
John Haubenreich	*	*	*	*	*	*	*
Patrick H. Head	*	*	*	*	*	*	*
Lawton C. Heard, Jr.	*	*	u	*	*	u	*
Rendon M. Heard Jr.	*	*	*	*	*	*	*
Amanda Nichole Heath	*	*	*	*	*	*	*
Matthew J. Hennessy	*	*	*	*	*	*	*
Thomas W. Herman	*	*	u	u	*	u	u
R. Javoyne Hicks	*	*	*	*	*	*	*
Kimberly Wilkerson Higginbotham	*	*	*	*	*	*	*
Donna S. Hix	*	*	*	*	*	*	*
Michael D. Hobbs	*	*	u	u	u	u	u
Norbert D. "Bert" Hummel IV	n/a	n/a	n/a	n/a	n/a	n/a	*
Christopher Huskins	u	*	*	u	*	u	u
Stacey K. Hydrick	*	*	*	*	*	*	*
Shukura L. Ingram	n/a	*	*	*	*	*	*
James T. Irvin	e	e	*	e	e	*	*
Christopher Ross Jackson	n/a	n/a	*	*	*	*	*
Charles Michael Johnson	*	*	*	*	*	*	*
Lester B. Johnson, III	*	*	*	*	e	*	*
Shiriki L. Cavitt Jones	*	*	*	*	*	*	*
Jennifer A. Jordan	u	u	u	u	*	u	u
Zahra S. Karimshak	e	e	*	*	*	*	*
John F. Kennedy	*	*	u	u	*	u	u
Barry E. King	*	*	*	*	*	*	*
Judy C. King	*	*	*	*	*	*	*
Catherine Koura	*	*	*	*	*	*	*
Rachel R. Krause	n/a	*	*	*	e	u	*

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	Amelia Island/Zoom	Amelia Island/Zoom	Zoom Webinar	Buckhead/Zoom	Pine Min/Zoom	Savannah/Zoom	Savannah/Zoom
Rhonda Bender Kreuziger	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Edward B. Krugman	•	•	•	•	•	•	•
Jeffrey R. Kuester	•	•	•	•	•	•	•
Anne Templeton LaMalva	n/a	•	•	•	•	•	•
Rosten Dara Diya "Chinny" Law	•	•	u	•	•	•	•
Allegra Lawrence-Hardy	•	•	•	•	•	•	•
Nicole C. Leet	•	•	•	•	•	•	•
Dawn Renee Levine	•	•	•	u	•	e	e
Katie K. Leonard	•	•	•	•	•	•	•
Joyce Gist Lewis	•	•	•	•	•	•	•
Lisa Katsuko Liang	•	•	•	•	•	•	•
David S. Lipscomb	•	•	•	•	•	•	•
John R. B. Long	•	•	u	•	•	u	•
Dax Eric Lopez	•	•	•	•	•	•	•
Ronald A. Lowry	•	u	•	•	•	u	•
John Bell Manly	•	•	•	•	•	•	•
Troy Windel Marsh Jr.	n/a	n/a	n/a	n/a	n/a	n/a	•
Hugh J. McCullough	•	•	•	•	•	•	•
Graham Elliott McDonald	•	•	•	•	•	•	•
Lettia A. McDonald	•	•	•	•	•	•	•
Brad J. McFall	•	•	u	•	•	•	•
Michael D. McRae	e	e	u	u	u	u	•
Terry L. Miller	•	•	•	•	•	•	•
Kenneth Mitchell Jr.	n/a	n/a	n/a	n/a	n/a	n/a	•
William J. Monahan	•	•	•	e	•	•	•
Shondeana Crews Morris	•	•	•	•	•	•	•
Laura J. Murphee	•	•	•	•	•	•	•
Paul Wain Painter III	•	•	•	u	•	•	•
Jonathan B. Pannell	•	•	•	•	•	•	•
Joy Renea Parks	•	•	•	•	•	•	•
Kathryn Drew Parrish Bennett	n/a	n/a	n/a	n/a	n/a	n/a	•
Tabitha Edwina Payne	•	•	u	•	•	•	•
Brandon Lee Peak	•	•	•	•	•	•	•
Edward Piasta	•	•	•	•	•	•	•
Kathryn Lauranne Powers	n/a	•	•	•	u	•	•
Michael Prieto	•	•	•	•	•	u	•
Jill Pryor	•	•	•	•	•	•	•
William M. Ragland	•	•	•	•	•	•	•
Tina S. Roddenberry	•	•	e	•	•	•	•
Kevin W. Roper	n/a	n/a	n/a	n/a	n/a	n/a	•
Joseph Roseborough	•	•	u	•	u	•	•
Wesley Charles Ross	•	•	•	•	•	•	•
Claudia S. Saari	•	•	•	•	•	•	•

To request an excused absence, please email Secretary Bill Gentry (bill@gentrylawfirm.law).



State Bar of Georgia

Future Meetings Schedule

Executive Committee

December 15, 2023	Executive Committee Meeting Bar Center, Atlanta, GA
February 9, 2024	Executive Committee Meeting Bar Center, Atlanta, GA
April 26, 2024	Executive Committee Meeting Location TBD

Board of Governors

Midyear 2024	January 11-14, 2024	Westin Buckhead Atlanta Hotel, Atlanta, GA
Spring 2024	April 19-21, 2024	Brasstown Valley Resort & Spa Young Harris, GA
Annual 2024	June 6-9, 2024	Omni Amelia Island Resort Amelia Island, FL
Annual 2025	June 5-8, 2025	Sawgrass Marriott Golf Resort & Spa Ponte Vedra Beach, FL
Annual 2026	June 11-14, 2026	Omni Amelia Island Resort Amelia Island, FL

Young Lawyers Division

November 2023	November 9-12, 2023	YLD Fall Meeting Charleston Harbor Resort, Mt. Pleasant, SC
Midyear 2024	January 11-14, 2024	Westin Buckhead Atlanta Hotel, Atlanta, GA
Spring 2024	April 19-21, 2024	Brasstown Valley Resort & Spa Young Harris, GA
Annual 2024	June 6-9, 2024	Omni Amelia Island Resort Amelia Island, FL
Annual 2025	June 5-8, 2025	Sawgrass Marriott Golf Resort & Spa Ponte Vedra Beach, FL
Annual 2026	June 11-14, 2026	Omni Amelia Island Resort Amelia Island, FL

American Bar Association Meetings

Midyear 2024	January 31-February 5, 2024	Louisville, KY
Annual 2024	July 31 – August 6, 2024	Chicago, IL
Annual 2025	August 6 – 12, 2025	Toronto, ON

Southern Conference of Bar Presidents Meetings

2023	Oct. 19-22, 2023	The Greenbrier Hotel White Sulphur Springs, WV
2024	Mississippi	
2025	South Carolina	
2026	Alabama	
2027	Maryland	

DRAFT
STATE BAR OF GEORGIA
BOARD OF GOVERNORS
MEETING MINUTES
Friday, June 9, 2023, 9:00 a.m.
Westin Savannah Harbor Golf Resort & Spa
Savannah Convention Center, Savannah, GA
Hybrid Meeting

The 297th meeting of the Board of Governors of the State Bar of Georgia was held at the date and location shown above. President Sarah B. “Sally” Akins presided.

Pledge of Allegiance

Board of Governors Member Daniel Snipes, Ogeechee Circuit, Post 1, led the pledge of allegiance.

Invocation

Board of Governors Member Donna Hix, Chattahoochee Circuit, Post 4, gave the invocation.

Special Recognition

President Sally Akins recognized the members of the judiciary, the past presidents of the State Bar and other special guests in attendance.

Recognition of Retiring Executive Committee Members and Retiring Board Members

President Sally Akins recognized the following retiring Executive Committee and Board of Governors members: Elizabeth L. Fite, Immediate Past President; Elissa B. Haynes, Immediate YLD Past President; Will H. Pickett Jr., Appalachian Circuit; Seth David Kirschenbaum, Atlanta Circuit, Post 32; Thomas Reuben Burnside III, Augusta Circuit, Post 3; John Thomas Mroczko, Cherokee Circuit, Post 2; James W. Hurt, Cordele Circuit; Christopher Charles Edwards, Griffin Circuit, Post 2; Nicki Noel Vaughan, Northeastern Circuit, Post 2; V. Sharon "Sharri" Edenfield, Ogeechee Circuit, Post 2; Scott R. McMillen, Out-of-State, Post 1; Robert Allen Plumb Jr., Southern Circuit, Post 2; William Dixon James, Stone Mountain Circuit, Post 2; Curtis Stephen Jenkins, Towaliga Circuit; C. Deen Strickland, Waycross Circuit, Post 2.

Roll Call

Secretary Chris Twyman circulated the roll for signature for in-person attendees. Those attending virtually were marked present through a Zoom report. The list of those in attendance is attached as Exhibit A.

Future Meetings Schedule

President Sally Akins reviewed the Future Meetings Schedule.

Minutes of the 296th Meeting of the Board of Governors

The minutes of the Board of Governors meeting held March 25, 2023, approved by majority vote as presented.

Board of Governors Meeting adjourned, Members' Meeting called to order.

Proposed Amendments to the Bylaws of the State Bar of Georgia

The members of the Bar, by majority vote, approved the proposed changes to Article IX of the Bylaws of the State Bar of Georgia, allowing for the creation of the Center of Lawyer Well-Being.

Awards and Presentations

The following awards and presentations were made:

Marshall-Tuttle Award

Jay Elmore, chair of the Military Legal Assistance Program Committee, presented the Marshall-Tuttle Award to Carlissa Carson, staff attorney at the Emory Volunteer Clinic for Veterans.

Judge Willie Lovett Award for Advancing the Field of Juvenile Law

Supreme Court Justice Charles Bethel presented the Judge Willie Lovett Award for Advancing the Field of Juvenile Law Award to Hon. Vincent Crawford, Judge, DeKalb County Juvenile Court.

Chief Justice Harris Hines Award for Outstanding Advocacy for Children in Dependency Proceedings

Supreme Court Justice Charles Bethel presented the Chief Justice Harris Hines Award for Outstanding Advocacy for Children in Dependency Proceedings Award the late Brenda Ford-Pratt, Tift & Turner County DFCS (case manager), and Dale Austin, Mountain Judicial Circuit (lawyer).

Chief Justice Thomas O. Marshall Professionalism Awards

President Sally Akins presented the 22nd Chief Justice Thomas O. Marshall Professionalism Awards to Hon. Robert W. Chasteen Jr., Chief Judge Superior Court, Cordele Judicial Circuit, Fitzgerald (judge); and Joyce Gist Lewis, Atlanta (lawyer).

Check Presentation to Georgia Legal Services (GLSP)

President Sally Akins presented a \$794,655 check to Susan Coppedge, GLSP Executive Director, representing Bar members' contributions to the 2022 GLSP "And Justice for All" Campaign.

Recognition of Corporate Sponsor

President Sally Akins recognized the Bar's Five-Gavel Corporate Sponsor, Member Benefits, Inc., and other section and company sponsors.

President Sally Akins presented the following Local and Voluntary Bar Awards:

Local and Voluntary Bar Awards

2023 Award of Merit: Walton County Bar Association (51 to 100 members); Augusta Bar Association (101 to 250 members); Georgia Association of Black Women Attorneys (501 members or more).

2023 Law Day Award of Achievement: Walton County Bar Association (51 to 100 members); Gwinnett County Bar Association (101 to 250 members); Cobb County Bar Association (501 members or more).

2023 Best New Entry: Augusta Bar Association

2023 Best Newsletter Award: Walton County Bar Association (51 to 100 members); Gwinnett County Bar Association (101 to 250 members); Georgia Association of Black Women Attorneys (501 members or more).

Best Website Award: Walton County Bar Association (51 to 100 members); Gwinnett County Bar Association (101 to 250 members); and Georgia Association of Black Women Attorneys (501 members or more).

2023 President's Cup Award: Georgia Association of Black Women Attorneys.

President Sally Akins presented the following Section Awards:

Section of the Year: Real Property Law Section

Section Awards of Achievement: Fiduciary Law Section, Taxation Law Section, and the Workers' Compensation Law Section.

Executive Director Danah Craft of Feeding Legal Georgia recognized this year's 12th Annual Georgia Legal Food Frenzy winners: Habachy Law (Attorney General's Cup); Coleman Talley LLP (Bar President's Award); Greenberg Traurig LLP (Large Firm, Total Points); BakerHostetler (Large Firm, Points per Person); Krevolin Horst, LLC (Medium Firm, Total Points); Kutak Rock LLP (Medium Firm, Points per Person); Durham Bray Law Firm (Small Firm); Law Offices of Nathan M. Jolles, P.C. (Sole Proprietor); Columbia Judicial Circuit (Judicial); Georgia Tech Office of the General Counsel (Legal Organization); and University of Georgia School of Law (Law School).

President's Report

President Sally Akins delivered the President's Address (Exhibit B).

State of the Supreme Court of Georgia

Hon. Michael Boggs, Chief Justice of the Supreme Court of Georgia, delivered the State of the Supreme Court of Georgia address.

State of the Court of Appeals of Georgia

Hon. Brian Rickman, Chief Judge of the Court of Appeals of Georgia, delivered the State of the Court of Appeals of Georgia address.

State of the Office of Governor

Executive Counsel David Dove delivered the State of the Office of Governor on behalf of Gov. Brian Kemp.

State of the Georgia House Judiciary Committee

Rep. Stan Gunter, chair of the House Judiciary Committee, reported on the activities of the House Judiciary Committee.

Young Lawyers Division

Young Lawyers Division President Ron Daniels reported on the activities of the YLD (Exhibit C).

Memorials

President Sally Akins presented the Memorials report.

Old Business

There was no old business.

New Business

There was no new business.

Announcements

There were no announcements.

Executive Session

There was no executive session.

Remarks / Q&A / Comments / Suggestions

There were no remarks, Q&A, comments or suggestions.

Adjournment

There being no additional business, the meeting was adjourned.

Christopher P. Twyman, Secretary

Approved:

Sarah B. "Sally" Akins, President

DRAFT
STATE BAR OF GEORGIA
BOARD OF GOVERNORS
MEETING MINUTES
Saturday, June 10, 2023, 9:00 a.m.
Westin Savannah Harbor Golf Resort & Spa
Savannah Convention Center, Savannah, GA
Hybrid Meeting

The 298th meeting of the Board of Governors of the State Bar of Georgia was held at the date and location shown above. President J. Antonio “Tony” DelCampo presided.

Pledge of Allegiance

Board of Governors Member Michael Prieto, Member-at-Large, Post 3, led the pledge of allegiance.

Invocation

Board of Governors Member Lester B. Johnson, III, Eastern Circuit, Post 2, gave the invocation.

Special Recognition

President Tony DelCampo recognized the members of the judiciary, the past presidents of the State Bar, and other special guests in attendance.

Welcome to New Officers and Board Members

President Tony DelCampo recognized the new officers and Board of Governors members.

Roll Call

Secretary Bill Gentry circulated the roll for signature for in-person attendees. Those attending virtually were marked present through a Zoom report. The list of those in attendance is attached as Exhibit A.

Future Meetings Schedule

President Tony DelCampo reviewed the Future Meetings Schedule. He announced there will be an in-person Fall Meeting at Jekyll Island. The Midyear Meeting will be held in Atlanta, the Spring Meeting in Brasstown and the Annual Meeting at Amelia Island.

President’s Address

President Tony DelCampo delivered the President’s Address (Exhibit B).

Approval of President’s Appointments to the State Disciplinary Boards

The Board of Governors approved the following presidential appointments to the State Disciplinary Boards by majority vote:

State Disciplinary Board

Jeff DeLoach, Athens (Middle District)
Jennifer Dunlap, Columbus (Middle District)
Judy Fitzgerald, Atlanta (public member)
Jennifer Davis Ward, Rossville (public member)

State Disciplinary Review Board

John “Jack” R. B. Long, Augusta (Southern District)
Alfreda Lynette Sheppard, Albany (Middle District)
William Thomas, Atlanta (Northern District)

Formal Advisory Opinion Board

Member-at-Large: Edward B. Krugman, Atlanta (2025)
Georgia Trial Lawyers Association: C. Andrew Childers, Atlanta (2025)
Georgia Defense Lawyers Association: Jacob E. Daly (2025)
Young Lawyers Division: Franklin T. Gaddy, Macon (2025)
Atlanta's John Marshall Law School: Jeffrey A. Van Detta, Atlanta (2025)
Mercer University School of Law: Patrick E. Longan, Macon (2025)
University of Georgia School of Law: David N. Lefkowitz, Athens (2025)

Approval of 2023-2024 Standing, Special & Program Committees and Boards

The Board of Governors approved the proposed 2023-2024 Standing, Special & Program Committees and Boards by majority vote.

Nominations to the Judicial Qualifications Commission (JQC)

Following a report by President Tony DelCampo, the Board of Governors, by majority vote, approved the following list of nominees to the Judicial Qualifications Commission: Robert "Bob" Barr (Marietta); Caren Cloud (Atlanta); J. Anderson "Andy" Davis (Rome); Hon. Christopher Edwards (Griffin); Jamala McFadden (Atlanta); Patrick T. O'Connor (Savannah); Natasha Perdeu Silas (Atlanta); Christian "Chris" Steinmetz (Savannah).

Proposed Rules and Bylaws Changes

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

This proposed change creates a new rule establishing the Center for Lawyer Well-Being that will serve as an umbrella organization for member wellness and health programs and initiatives.

The Board of Governors, by majority vote, approved the proposed changes to Rule 1-706.

2. *Center for Lawyer Well-Being Bylaws.*

These are proposed bylaws for the Center for Lawyer Well-Being, creating an organized structure for the Center. They are similar to those of the Young Lawyers Division and other sections. The bylaws outline the purpose of the Center, leadership roles, membership requirements and fees, procedures for meetings and voting, guidelines for fund usage, and other provisions.

The Board of Governors, by majority vote, approved the creation of the Center for Lawyer Well-Being.

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

The proposed amendment to this rule would require members to provide the Bar with an email address as part of their official address.

The Board of Governors, by majority vote, approved the proposed changes to Rule 1-207.

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

The Disciplinary Rules and Procedures Committee requested to remove this from the agenda and consider it at a later meeting.

5. *Rule 4-214. Report of the Special Master.*

The proposed change permits the Coordinating Special Master to grant either a Respondent or the Bar an extension of time up to 15 days to file or respond to exceptions to the Report of Special Master in a disciplinary case.

The Board of Governors, by majority vote, approved the proposed changes to Rule 4-214.

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

This proposed rule change involves multiple changes with the aim of eliminating outdated language regarding the organization of the Formal Advisory Opinion Board and providing a clearer explanation of the staggered terms of office for Board members, as well as the process for their appointment. Other minor changes such as re-lettering and grammatical changes are found throughout the rule.

The Board of Governors, by majority vote, approved the proposed changes to Rule 4-402.

7. *Sections Model Bylaws*

The Board of Governors, by majority vote, approved the proposed changes to the Sections Model Bylaws.

Treasurer's Report

Treasurer Chris Twyman reported on the Bar's finances and investments. He referred the Board to the financials in the Board Book that are through March 31, 2023. He said, based on those numbers, the Bar will be under budget for the 2022-2023 fiscal year, and the Legislative Fund and GLSP contributions have exceeded prior years.

The Board of Governors received copies of the Consolidated Revenues and Expenditures, Operations and Bar Center Combined, for the year-to-date period ending March 31, 2023; Total Bar Center Operations Revenues and Expenditures Executive Summary for the year-to-date period ending March 31, 2023; Operations Income Statement for the year-to-date period ending March 31, 2023; Supporting Schedule of Other Expenses for the year-to-date period ending March 31, 2023; Status and Use of Cash Investments as of March 31, 2023; Board-Designated and Donor Temporarily Restricted Net Assets as of March 31, 2023; Summary of Members and Voluntary Legislative Contributions paid through March 31, 2023; Summary of Members and Voluntary Contributions to GLSP paid through March 31, 2023; Legislative Activity Report from July 1, 2022, through March 31, 2023; and Summary of Clients' Security Fund Activity for the year-to-date period ending March 31, 2023.

2023-2024 State Bar Budget

Treasurer Chris Twyman presented the Fiscal Year 2023-2024 Proposed Consolidated Budget (Exhibit C), which the Board of Governors approved by majority vote. The proposed Consolidated Budget reflects the following:

- 1) License fees at \$260 for active members and \$130 for inactive members, which represents no increase from the 2022-2023 Bar year, respectively;
- 2) Section dues to be reflected on the license fee statement ranging from \$10-\$40; and
- 3) Continuation of the assessment required by Bar Rules regarding the Clients' Security Fund \$15 per dues-paying member, and

- 4) Professionalism Fee (\$11) (mandated by the Supreme Court); and
- 5) Continuation of a \$100 voluntary contribution to the Legislative and Public Education Fund; and
- 6) A suggested \$400 individual contribution (\$100 for young lawyers) for the Georgia Legal Services Program.

Financial Resolutions

The Board of Governors approved the following financial resolutions by majority vote:

- 1) That the President be authorized to secure a blanket fidelity bond to cover all officers, employees and other persons handling State Bar funds as is required by Article V, Section 8 of the Bylaws.
- 2) That the State Bar of Georgia and related entities open appropriate accounts with such banks in Georgia, but excluding any bank that does not participate in the IOLTA Program, and other such depositories as may be recommended by the Finance Committee and/or Investment Committee, and designated by the Executive Committee of the Board of Governors of the State Bar of Georgia, and that the persons whose titles are listed below are authorized to sign an agreement to be provided by such banks and customary signature cards, and that the said banks are hereby authorized to pay or otherwise honor any check drafts, or other orders issued from time to time for debit to said accounts when signed by two of the following: the Treasurer, the President, the President Elect, the Immediate Past President, the Executive Director, the Office Manager and the General Counsel, provided either the President or the Treasurer shall sign all checks or vouchers and that said accounts can be reconciled from time to time by said persons or their designees. The authority herein given is to remain irrevocable so as said banks are concerned until they are notified in writing of such revocation of authority and in writing, acknowledge receipt thereof.
- 3) That Mauldin & Jenkins be designated as the independent auditing firm to audit the financial records of the State Bar of Georgia for the fiscal year 2022-2023.

Election Schedule 2023-2024

The Board of Governors approved the proposed 2023-2024 Elections Schedule (Exhibit D) by majority vote.

Executive Committee Election

The Executive Committee election was held with the following results:

One-Year Term 2023-2024

<u>Nominations for unexpired term of Gentry:</u>	<u>Results:</u>
Candidate: Joyce Gist Lewis	Was not elected.
Nominator: S. Lester Tate III	
Seconded: Allegra Lawrence Hardy	

Candidate: Jonathan B. Pannell
Nominator: John Bell Manley
Seconded: Shondeana Morris

Elected by majority ballot vote for one-year term

One-Year Term 2023-2024

Nominations for unexpired term of Vaughan: Results:
Candidate: Joyce Gist Lewis Was not elected.
Nominator: S. Lester Tate III
Seconded: Allegra Lawrence Hardy

Candidate: R. Gary Spencer Elected by majority ballot vote for a one-year term
Nominator: J. Henry Walker IV
Seconded: Amanda Nicole Heath

Two-Year Term 2023-2024

Nominations: Results:
Candidate: R. Javoyné Hicks Elected by majority ballot vote for a two-year term
Nominator: Donna Stribling
Seconded: Mark W. Alexander

Candidate: Shiriki Cavitt Jones Elected by majority ballot vote for two-year term
Nominator: Amanda Nicole Heath
Seconded: Graham E. McDonald

Candidate: David S. Lipscomb Elected by majority ballot vote for a two-year term
Nominator: Elizabeth L. Fite
Seconded: Wesley Charles “Chuck” Ross

Georgia Legal Services Program Appointments

By majority vote, the Board of Governors approved the GLSP appointments of William “Bert” Gregory, II, Vienna; Elisa Kodish, Atlanta; D. Tennell Lockett, Atlanta; Suzanne Werner, Atlanta.

Chief Justice’s Commission on Professionalism Appointment

By majority vote, the Board of Governors approved the appointment of Francys Johnson and LaToya S. Williams for three-year terms to the Chief Justice’s Commission on Professionalism.

Executive Director Election

The Board of Governors elected Damon Elmore as executive director for the 2023-2024 Bar year by majority vote.

Executive Director’s Report

Executive Director Damon Elmore thanked the Board for their vote of confidence in his ability to continue to serve as the executive director. He reported that every day, the Bar team works to provide exceptional service and provide member value to our members. This year, he commits to attracting new tenants to the Bar Center in Atlanta, focusing on value and cost of ICLE programming, hiring new employees for the key roles who have or will be retiring over the next several months, and continuing to support Bar staff to make sure they can provide the best service to members.

Young Lawyers Division President’s Report

YLD President Brittanie Browning reported that she will be focusing on small and solo firms and making connections. She said that there will be YLD programming across the state. She announced that the YLD will have their Fall Meeting in Charleston, and their other three meetings will be held in conjunction with the Board of Governors meetings. She asked Board members to encourage the young lawyers in their offices to be involved and get connected in the YLD. She said there will be many different CLE options planned

by all the hardworking YLD committees. YLD President Browning said that service is important to her and that the YLD will have a service project at each of their meetings, starting today packing backpacks for the Second Harvest Food Bank.

Chief Justice’s Commission on Professionalism Report

Executive Director Karlise Grier reported on the Chief Justice’s Commission on Professionalism. She welcomed Judge Elizabeth Gobeil as a new member on the commission. She said that CJCP will be accepting grant applications through July 15. She said that they are recruiting group leaders for the Law School Orientations to be held in August. Grier thanked the retiring members of the 2022-2023 commission.

Legislative Report

Director of Governmental Affairs Christine Butcher Hayes reported on the 2023 legislative activities. The following is a summary of this year’s legislative package:

1. Support for a Comprehensive Review of the Georgia Nonprofit Corporate Code—Nonprofit Law Section—SB 148. SB 148 passed in both the House and the Senate during the 2023 legislative session. It awaits the governor’s signature.
2. Support for an Amendment to O.C.G.A. § 44-2-18 Correcting the Savings Statute—Real Property Law Section—HB 182. HB 182 passed in both the House and the Senate during the 2023 legislative session. The bill awaits the governor’s signature.
3. Support for the Adoption of the Uniform Unsworn Declarations Act in Georgia—International Trade in Legal Services Committee-HB 80. HB 80 was amended in the House so that unsworn declarations may only be used in instances where the declarant is signing outside of the United States. HB 80 passed in both chambers and awaits the governor’s signature.
4. Support for a Proclamation by the Governor Recognizing April 2023 as Legal Professionalism Month. Proclamation issued by Gov. Kemp on March 20.
5. Support for FY 2024 Judicial Council Budget Request. \$619,000 in New State Funding to Provide Civil Legal Services Grants for Medical Legal Partnerships. Funded at \$200,000 for FY 2024.
6. Support for FY 2024 Judicial Council Budget Request. \$750,000 for Continued Funding for Civil Legal Services Grants for Kinship Care Families. Fully funded for FY 2024.
7. Support for FY 2024 Judicial Council Budget Request. \$3 Million for Continued Funding for Civil Legal Services Grants for Victims of Domestic Violence. Fully funded for FY 2024.
8. Support for FY 2024 Department of Community Affairs Funding for \$300,000 in New State Funding Appropriated to the Department of Community Affairs in the FY 2024 Budget for Civil Legal Services for Heirs Property Owners Seeking Federal Disaster Relief Funds Following Hurricane Michael and Hurricane Ian in Georgia. Not funded in the FY 2024 budget.
9. Support for FY 2024 Judicial Council Budget Request. \$800,000 for Continued Funding for the Georgia Appellate Practice and Educational Resource Center. Fully funded for FY 2024.

State Bar of Georgia Audit Report

The Board of Governors received a copy of the State Bar of Georgia Audit Report for the year-end 2022 and related auditor’s letter regarding governance.

Executive Committee Minutes

The Board of Governors received a copy of the minutes of the Executive Committee meeting held on Feb. 10, 2023, April 20, 2023, and May 3, 2023.

Fee Arbitration Program

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

Law Practice Management Program

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

Sections' Annual Reports

The Board of Governors received written reports from the following sections: Administrative Law Section; Animal Law Section; Aviation Law Section; Construction Law Section; Creditors' Rights Section; Dispute Resolution Law Section; Environmental Law Section; Equine Law Section; Fiduciary Law Section; Franchise & Distribution Law Section; Intellectual Property Law Section; Nonprofit Law Section; Privacy & Technology Law Section; Products Liability Law Section; Real Property Law Section; Religious Liberty Law Section; Taxation Law Section; and Workers' Compensation Law Section.

Institute of Continuing Legal Education

The Board of Governors received a written report from the Institute of Continuing Legal Education.

Unlicensed Practice of Law Program

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

State Bar of Georgia Satellite Office Reports

The Board of Governors received written reports from the Coastal Georgia Office in Savannah and the South Georgia Office in Tifton.

Communications Media Report

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

Georgia Legal Services Program Report

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

Old Business

There was no old business.

New Business

There was no new business.

Remarks/Q&A/Comments/Suggestions

President Tony DelCampo opened the floor to remarks, questions, comments, and suggestions.

Adjournment

There being no further business, the meeting was adjourned at 11:30 a.m.

William C. Gentry, Secretary

Approved:

J. Antonio DelCampo, President



MEMORANDUM

To: Executive Committee
From: Bill NeSmith
Date: October 27, 2023
Re: Proposed Rules and Bylaws Changes

Below is a short explanation of the proposed rules and bylaws changes on the agenda for the October 27-28, 2023, Executive Committee Meeting:

RULES

1. Rule 4.2. Communication With Person Represented by Counsel.

The proposed rule change clarifies that the “anti-contact” rule, which prohibits a lawyer from communicating with a represented adverse party, applies to a lawyer who is self-representing. The proposed change states that a lawyer who is proceeding *pro se* is prohibited from communicating about the subject of the representation with represented adverse parties. Comment [8] explains that a lawyer who is proceeding *pro se* but who also has co-counsel is included within the meaning of this rule.

2. Rule 4-201. State Disciplinary Board.

This proposed change increases the State Disciplinary Board from twelve to fourteen investigating members (the Board also has four lay members and two ex-

officio members who do not investigate cases). The proposed change adds two members-at-large, one to be selected by the Court and one by the President of the State Bar.

3. Rule 4-203.1. Uniform Service Rule.

The proposed changes introduce a new requirement that a member inform the Bar of their email address part of their “official address” for purposes of Bar business, including service in disciplinary matters. An amendment to subsection (b)(3)(i) will allow the Chair of the State Disciplinary Board to authorize individuals to serve process in disciplinary matters. The provisions at subsection (b)(3)(ii) regarding service by publication will include a requirement that the service documents be emailed to the respondent’s official email address. Subsection (b)(5) creates service procedures for members with an address outside of the United States.

4. Rule 4-209.1. Coordinating Special Master.

The current rule suggests that it is preferable for a lawyer to serve as a Special Master for no more than five years. The amendment would delete that language.

5. Rule 4-221.1. Confidentiality of Investigations and Proceedings.

The proposed changes expand and provide clarity on the entities or individuals with whom the State Disciplinary Board and the State Bar can share information

regarding a disciplinary matter. The change specifically defines the members of the State Disciplinary Board who have the authority to approve the release of information pertaining to a disciplinary matter.

1 **RULE 4.2 COMMUNICATION WITH PERSON REPRESENTED BY**

2 **COUNSEL** (*redlined*)

3 (a) A lawyer who is representing a client or proceeding pro se in a matter
4 shall not communicate about the subject of the representation with a person
5 the lawyer knows to be represented by another lawyer in the matter, unless the
6 lawyer has the consent of the other lawyer or is authorized to do so by law or
7 court order.

8 (b) Attorneys for the State and Federal Government shall be subject to this
9 Rule in the same manner as other attorneys in this State.

10 The maximum penalty for a violation of this Rule is disbarment.

11 **Comment**

12 [1] This Rule does not prohibit communication with a represented person, or
13 an employee or agent of such a person, concerning matters outside the
14 representation. For example, the existence of a controversy between a
15 government entity and a private party, or between two organizations, does not
16 prohibit a lawyer for either from communicating with nonlawyer representatives
17 of the other regarding a separate matter. Nor does this Rule preclude
18 communication with a represented person who is seeking advice from a lawyer
19 who is not otherwise representing a client in the matter. A lawyer having
20 independent justification or legal authorization for communicating with a

21 represented person is permitted to do so. Communications authorized by law
22 include, for example, the right of a party to a controversy with a government
23 entity to speak with government officials about the matter.

24 [2] Communications authorized by law also include constitutionally
25 permissible investigative activities of lawyers representing governmental
26 entities, directly or through investigative agents, prior to the commencement of
27 criminal or civil enforcement proceedings, when there is applicable judicial
28 precedent that either has found the activity permissible under this Rule or has
29 found this Rule inapplicable. However, the Rule imposes ethical restrictions that
30 go beyond those imposed by constitutional provisions.

31 [3] This Rule applies to communications with any person, whether or
32 not a party to a formal adjudicative proceeding, contract or negotiation,
33 who is represented by counsel concerning the matter to which the
34 communication relates.

35 [4A] In the case of an organization, this Rule prohibits communications with an agent or
36 employee of the organization who supervises, directs or regularly consults with the
37 organization's lawyer concerning the matter or has authority to obligate the organization with
38 respect to the matter, or whose act or omission in connection with the matter may be imputed
39 to the organization for purposes of civil or criminal liability. If an agent or employee of the
40 organization is represented in the matter by his or her own counsel, the consent by that counsel
41 to a communication will be sufficient for purposes of this Rule. Compare Rule 3.4 (f).

42 Communication with a former employee of a represented organization is
43 discussed in Formal Advisory Opinion 20-1.

44 [4B] In administering this Rule it should be anticipated that in many instances,
45 prior to the beginning of the interview, the interviewing lawyer will not possess
46 sufficient information to determine whether the relationship of the interviewee to
47 the entity is sufficiently close to place the person in the "represented" category.
48 In those situations the good faith of the lawyer in undertaking the interview
49 should be considered. Evidence of good faith includes an immediate and candid
50 statement of the interest of the person on whose behalf the interview is being
51 taken, a full explanation of why that person's position is adverse to the interests
52 of the entity with which the interviewee is associated, the exploration of the
53 relationship issue at the outset of the interview and the cessation of the interview
54 immediately upon determination that the interview is improper.

55 [5] The prohibition on communications with a represented person only applies,
56 however, in circumstances where the lawyer knows that the person is in fact
57 represented in the matter to be discussed. This means that the lawyer has actual
58 knowledge of the fact of the representation; but such actual knowledge may be
59 inferred from the circumstances. *See 1.0*. Such an inference may arise in
60 circumstances where there is substantial reason to believe that the person with
61 whom communication is sought is represented in the matter to be discussed.

62 Thus, a lawyer cannot evade the requirement of obtaining the consent of counsel
63 by ignoring the obvious.

64 [6] In the event the person with whom the lawyer communicates is not
65 known to be represented by counsel in the matter, the lawyer's
66 communications are subject to Rule 4.3.

67 [6A] A lawyer who is uncertain whether a communication with a represented
68 person is permissible may seek a court order. A lawyer may also seek a court
69 order in exceptional circumstances to authorize a communication that would
70 otherwise be prohibited by this Rule, for example, where communication with a
71 person represented by counsel is necessary to avoid reasonably certain injury.

72 [7] The anti-contact rule serves important public interests which preserve the
73 proper functioning of the judicial system and the administration of justice by a)
74 protecting against misuse of the imbalance of legal skill between a lawyer and
75 layperson; b) safe-guarding the client-lawyer relationship from interference by
76 adverse counsel; c) ensuring that all valid claims and defenses are raised in
77 response to inquiry from adverse counsel; d) reducing the likelihood that clients
78 will disclose privileged or other information that might harm their interests; and
79 e) maintaining the lawyers ability to monitor the case and effectively represent
80 the client.

81 [8] Parties to a matter generally may communicate directly with each other

82 because this Rule is not intended to affect communications between parties to
83 an action entered into independent of and not at the request or direction of
84 counsel. However, a lawyer proceeding pro se in a matter may not
85 communicate about that matter with a person that the lawyer knows to be
86 represented by another lawyer in the matter unless the lawyer has the consent of
87 the other lawyer or is authorized to do so by law or court order. A lawyer who is
88 represented by counsel and also representing themselves is proceeding pro se
89 within the meaning of this rule.

1 **RULE 4.2 COMMUNICATION WITH PERSON REPRESENTED BY**
2 **COUNSEL** (*clean*)

3 (a) A lawyer who is representing a client or proceeding pro se in a matter
4 shall not communicate about the subject of the representation with a person
5 the lawyer knows to be represented by another lawyer in the matter, unless the
6 lawyer has the consent of the other lawyer or is authorized to do so by law or
7 court order.

8 (b) Attorneys for the State and Federal Government shall be subject to this
9 Rule in the same manner as other attorneys in this State.

10 The maximum penalty for a violation of this Rule is disbarment.

11 Comment

12 [1] This Rule does not prohibit communication with a represented person, or
13 an employee or agent of such a person, concerning matters outside the
14 representation. For example, the existence of a controversy between a
15 government entity and a private party, or between two organizations, does not
16 prohibit a lawyer for either from communicating with nonlawyer representatives
17 of the other regarding a separate matter. Nor does this Rule preclude
18 communication with a represented person who is seeking advice from a lawyer
19 who is not otherwise representing a client in the matter. A lawyer having
20 independent justification or legal authorization for communicating with a

21 represented person is permitted to do so. Communications authorized by law
22 include, for example, the right of a party to a controversy with a government
23 entity to speak with government officials about the matter.

24 [2] Communications authorized by law also include constitutionally
25 permissible investigative activities of lawyers representing governmental
26 entities, directly or through investigative agents, prior to the commencement of
27 criminal or civil enforcement proceedings, when there is applicable judicial
28 precedent that either has found the activity permissible under this Rule or has
29 found this Rule inapplicable. However, the Rule imposes ethical restrictions that
30 go beyond those imposed by constitutional provisions.

31 [3] This Rule applies to communications with any person, whether or
32 not a party to a formal adjudicative proceeding, contract or negotiation,
33 who is represented by counsel concerning the matter to which the
34 communication relates.

35 [4A] In the case of an organization, this Rule prohibits communications with an
36 agent or employee of the organization who supervises, directs or regularly
37 consults with the organization's lawyer concerning the matter or has authority to
38 obligate the organization with respect to the matter, or whose act or omission in
39 connection with the matter may be imputed to the organization for purposes of
40 civil or criminal liability. If an agent or employee of the organization is

41 represented in the matter by his or her own counsel, the consent by that counsel
42 to a communication will be sufficient for purposes of this Rule. Compare Rule
43 3.4 (f). Communication with a former employee of a represented organization is
44 discussed in Formal Advisory Opinion 20-1.

45 [4B] In administering this Rule it should be anticipated that in many instances,
46 prior to the beginning of the interview, the interviewing lawyer will not possess
47 sufficient information to determine whether the relationship of the interviewee to
48 the entity is sufficiently close to place the person in the "represented" category.
49 In those situations the good faith of the lawyer in undertaking the interview
50 should be considered. Evidence of good faith includes an immediate and candid
51 statement of the interest of the person on whose behalf the interview is being
52 taken, a full explanation of why that person's position is adverse to the interests
53 of the entity with which the interviewee is associated, the exploration of the
54 relationship issue at the outset of the interview and the cessation of the interview
55 immediately upon determination that the interview is improper.

56 [5] The prohibition on communications with a represented person only applies,
57 however, in circumstances where the lawyer knows that the person is in fact
58 represented in the matter to be discussed. This means that the lawyer has actual
59 knowledge of the fact of the representation; but such actual knowledge may be
60 inferred from the circumstances. *See I.O.* Such an inference may arise in

61 circumstances where there is substantial reason to believe that the person with
62 whom communication is sought is represented in the matter to be discussed.
63 Thus, a lawyer cannot evade the requirement of obtaining the consent of counsel
64 by ignoring the obvious.

65 [6] In the event the person with whom the lawyer communicates is not
66 known to be represented by counsel in the matter, the lawyer's
67 communications are subject to Rule 4.3.

68 [6A] A lawyer who is uncertain whether a communication with a represented
69 person is permissible may seek a court order. A lawyer may also seek a court
70 order in exceptional circumstances to authorize a communication that would
71 otherwise be prohibited by this Rule, for example, where communication with a
72 person represented by counsel is necessary to avoid reasonably certain injury.

73 [7] The anti-contact rule serves important public interests which preserve the
74 proper functioning of the judicial system and the administration of justice by a)
75 protecting against misuse of the imbalance of legal skill between a lawyer and
76 layperson; b) safe-guarding the client-lawyer relationship from interference by
77 adverse counsel; c) ensuring that all valid claims and defenses are raised in
78 response to inquiry from adverse counsel; d) reducing the likelihood that clients
79 will disclose privileged or other information that might harm their interests; and
80 e) maintaining the lawyers ability to monitor the case and effectively represent

81 the client.

82 [8] Parties to a matter generally may communicate directly with each other
83 because this Rule is not intended to affect communications between parties to
84 an action entered into independent of and not at the request or direction of
85 counsel. However, a lawyer proceeding pro se in a matter may not
86 communicate about that matter with a person that the lawyer knows to be
87 represented by another lawyer in the matter unless the lawyer has the consent of
88 the other lawyer or is authorized to do so by law or court order. A lawyer who is
89 represented by counsel and also representing themselves is proceeding pro se
90 within the meaning of this rule.

91 **Rule 4-201. State Disciplinary Board (*redlined*)**

92 (a) The powers to investigate and discipline lawyers for violations of
93 the Georgia Rules of Professional Conduct are hereby vested in the
94 State Disciplinary Board.

95 (b) The State Disciplinary Board shall consist of the President-elect of
96 the State Bar of Georgia and the President-elect of the Young Lawyers
97 Division of the State Bar of Georgia; ~~six-seven~~ members of the State Bar
98 of Georgia, two from each of the three federal judicial districts of
99 Georgia, and one member-at-large, appointed by the Supreme Court of
100 Georgia; ~~six-seven~~ members of the State Bar of Georgia, two from each
101 of the three federal judicial districts of Georgia, and one member-at-large,
102 appointed by the President of the State Bar of Georgia with the approval
103 of the Board of Governors; two nonlawyer members appointed by the
104 Supreme Court of Georgia; and two nonlawyer members appointed by
105 the President of the State Bar of Georgia with the approval of the Board
106 of Governors. The Court and the President of the State Bar of Georgia are
107 encouraged to make appointments that will ensure the geographic,
108 gender, racial, and generational diversity of the State Disciplinary Board.
109 No State Disciplinary Board member may serve for more than two
110 consecutive terms, including a term underway at the time this Rule goes

111 into effect.

112 (1) The President-elect of the State Bar of Georgia and the
113 President-elect of the Young Lawyers Division of the State Bar of
114 Georgia shall serve only during the term of their office, shall serve
115 as members ex officio, and shall not increase the quorum
116 requirement.

117 (2) All other members shall be appointed for three-year terms,
118 except as provided in paragraph (b) below. When the term of
119 appointment of a member expires, the seat shall be filled by the
120 appointment of the Supreme Court of Georgia or the President of the
121 State Bar of Georgia with the approval of the Board of Governors,
122 whichever appointed the member whose term has expired.

123 (3) Whenever the seat of an appointed member becomes vacant
124 prior to the expiration of the term of appointment, the seat shall be
125 filled for the unexpired term by the appointment of the Supreme
126 Court of Georgia or the President of the State Bar of Georgia,
127 whichever appointed the member whose seat has become vacant.

128 (4) The State Disciplinary Board shall remove a member for
129 failure to attend meetings of the State Disciplinary Board or for
130 other good cause, and the seat of a member so removed shall be

131 filled as provided in paragraph (b) (3) above.

132 (5) At the first meeting following an Annual Meeting of
133 the State Bar of Georgia the State Disciplinary Board shall
134 elect a Chair and Vice-Chair.

135 (c) Upon request, State Disciplinary Board members shall be
136 reimbursed for their reasonable travel expenses in attending
137 meetings of the State Disciplinary Board. The Internal Rules of the
138 State Disciplinary Board provide further explanation of the travel
139 and reimbursement policies.

140 (d) State Disciplinary Board members may request
141 reimbursement for postage, copying, and other expenses necessary
142 for their work investigating cases.

1 **Rule 4-201. State Disciplinary Board (*clean*)**

2 (a) The powers to investigate and discipline lawyers for violations of
3 the Georgia Rules of Professional Conduct are hereby vested in the
4 State Disciplinary Board.

5 (b) The State Disciplinary Board shall consist of the President-elect of
6 the State Bar of Georgia and the President-elect of the Young Lawyers
7 Division of the State Bar of Georgia; seven members of the State Bar of
8 Georgia, two from each of the three federal judicial districts of Georgia,
9 and one member-at-large, appointed by the Supreme Court of Georgia;
10 seven members of the State Bar of Georgia, two from each of the three
11 federal judicial districts of Georgia, and one member-at-large, appointed
12 by the President of the State Bar of Georgia with the approval of the
13 Board of Governors; two nonlawyer members appointed by the Supreme
14 Court of Georgia; and two nonlawyer members appointed by the
15 President of the State Bar of Georgia with the approval of the Board of
16 Governors. The Court and the President of the State Bar of Georgia are
17 encouraged to make appointments that will ensure the geographic,
18 gender, racial, and generational diversity of the State Disciplinary Board.
19 No State Disciplinary Board member may serve for more than two
20 consecutive terms, including a term underway at the time this Rule goes

21 into effect.

22 (1) The President-elect of the State Bar of Georgia and the
23 President-elect of the Young Lawyers Division of the State Bar of
24 Georgia shall serve only during the term of their office, shall serve
25 as members ex officio, and shall not increase the quorum
26 requirement.

27 (2) All other members shall be appointed for three-year terms,
28 except as provided in paragraph (b) below. When the term of
29 appointment of a member expires, the seat shall be filled by the
30 appointment of the Supreme Court of Georgia or the President of the
31 State Bar of Georgia with the approval of the Board of Governors,
32 whichever appointed the member whose term has expired.

33 (3) Whenever the seat of an appointed member becomes vacant
34 prior to the expiration of the term of appointment, the seat shall be
35 filled for the unexpired term by the appointment of the Supreme
36 Court of Georgia or the President of the State Bar of Georgia,
37 whichever appointed the member whose seat has become vacant.

38 (4) The State Disciplinary Board shall remove a member for
39 failure to attend meetings of the State Disciplinary Board or for
40 other good cause, and the seat of a member so removed shall be

41 filled as provided in paragraph (b) (3) above.

42 (5) At the first meeting following an Annual Meeting of
43 the State Bar of Georgia the State Disciplinary Board shall
44 elect a Chair and Vice-Chair.

45 (c) Upon request, State Disciplinary Board members shall be
46 reimbursed for their reasonable travel expenses in attending
47 meetings of the State Disciplinary Board. The Internal Rules of the
48 State Disciplinary Board provide further explanation of the travel
49 and reimbursement policies.

50 (d) State Disciplinary Board members may request
51 reimbursement for postage, copying, and other expenses necessary
52 for their work investigating cases.

1 **Rule 4-203.1. Uniform Service Rule (*redlined*)**

2 (a) Lawyers shall inform the Membership Department of the State Bar
3 of Georgia, in writing, of their current name, official address, email address
4 and telephone number. The Supreme Court of Georgia and the State Bar of
5 Georgia may rely on the official address and email address on file with the
6 Membership Department in all efforts to contact, communicate with, and
7 perfect service upon a lawyer. The choice of a lawyer to provide only a post
8 office box or commercial equivalent address to the Membership
9 Department of the State Bar of Georgia shall constitute an election to waive
10 personal service. Notification of a change of address given to any
11 department of the State Bar of Georgia other than the Membership
12 Department shall not satisfy the requirement herein.

13 (b) In all matters requiring personal service under Part IV of the Bar
14 Rules, service may be perfected in the following manner:

15 (1) Acknowledgment of Service: An acknowledgment of
16 service from the respondent shall constitute conclusive proof of
17 service and shall eliminate the need to utilize any other form of
18 service.

19 (2) Written Response from Respondent: A written response from
20 the respondent or respondent's counsel shall constitute conclusive

21 proof of service and shall eliminate the need to utilize any other
22 form of service.

23 (3) In the absence of an acknowledgment of service or a written
24 response from the respondent or respondent's counsel, and subject
25 to the provisions of subparagraph (b) (4) below, the respondent shall
26 be served in the following manner:

27 (a) Personal Service: Service may be accomplished by
28 ~~the Sheriff or any other person authorized to serve a summons~~
29 ~~under the provisions of the Georgia Civil Practice Act, as~~
30 ~~approved~~ by the Chair of the State Disciplinary Board or the
31 Chair's designee. ~~Receipt of a Return of Service Non Est~~
32 ~~Inventus shall constitute conclusive proof that service cannot~~
33 ~~be perfected by personal service.~~

34 (ii) Service by Publication: If the State Bar of Georgia is
35 unable to personally serve the respondent at the respondent's
36 address, as shown on the records of the Membership
37 Department of the State Bar of Georgia, service cannot be
38 perfected, or when the respondent has only provided a post-
39 office box or commercial equivalent address to the Membership
40 Department and the respondent has not acknowledged service

41 ~~within 10 days of a mailing to respondent's post office box or~~
42 ~~commercial equivalent address,~~ service may be accomplished by
43 publication once a week for two weeks in the legal organ of the
44 county of respondent's address, as shown on the records of the
45 Membership Department of the State Bar of Georgia, ~~and,~~
46 eContemporaneously with the publication, the State Bar of
47 Georgia shall mailing a copy of the service documents by first
48 class mail to respondent's address as shown on the records of
49 the Membership Department of the State Bar of Georgia and
50 shall email a copy of the service documents to respondent's
51 email address as shown in the records of the Membership
52 Department of the State Bar of Georgia.

53 (4) When it appears from an affidavit made by the Office of the
54 General Counsel that the respondent has departed from the State, or
55 cannot, after due diligence, be found within the State, or seeks to
56 avoid ~~the~~ service, the Chair of the State Disciplinary Board, or the
57 Chair's designee, may authorize service by publication without the
58 necessity of first attempting personal service. The affidavit made by
59 the Office of the General Counsel must demonstrate recent
60 unsuccessful attempts at personal service upon the respondent

61 regarding other or related disciplinary matters and that such personal
62 service was attempted at respondent's address as shown on the
63 records of the Membership Department of the State Bar of Georgia.

64 (5) When a respondent's address is not in the United States, as
65 shown in the records of the Membership Department of the State Bar
66 of Georgia, the State Bar of Georgia may serve the respondent by
67 mailing and emailing copies of the service documents to
68 respondent's address and email address on file with the Membership
69 Department of the State Bar of Georgia. Service is complete upon
70 mailing and emailing the documents.

71 (c) Whenever service of pleadings or other documents subsequent to the
72 original complaint is required or permitted to be made upon a respondent
73 represented by a lawyer, the service shall be made upon the respondent's
74 lawyer. Service upon the respondent's lawyer or upon an unrepresented
75 respondent shall be made by hand-delivery or by delivering a copy or
76 mailing a copy to the respondent's lawyer or to the respondent's official
77 address on file with the Membership Department, unless the respondent's
78 lawyer specifies a different address for the lawyer in a filed pleading. As
79 used in this Rule, the term "delivering a copy" means handing it to the
80 respondent's lawyer or to the respondent, or leaving it at the lawyer's or

81 respondent's office with a person of suitable age or, if the office is closed
82 or the person to be served has no office, leaving it at the person's dwelling
83 house or usual place of abode with some person of suitable age and
84 discretion. Service by mail is complete upon mailing and includes
85 transmission by U.S. Mail, or by a third-party commercial carrier for
86 delivery within three business days, shown by the official postmark or by
87 the commercial carrier's transmittal form. Proof of service may be made by
88 certificate of a lawyer or of his employee, written admission, affidavit, or
89 other satisfactory proof. Failure to make proof of service shall not affect
90 the validity of service.

1 **Rule 4-203.1. Uniform Service Rule (*clean*)**

2 (a) Lawyers shall inform the Membership Department of the State Bar
3 of Georgia, in writing, of their current name, official address, email address
4 and telephone number. The Supreme Court of Georgia and the State Bar of
5 Georgia may rely on the official address and email address on file with the
6 Membership Department in all efforts to contact, communicate with, and
7 perfect service upon a lawyer. The choice of a lawyer to provide only a post
8 office box or commercial equivalent address to the Membership
9 Department of the State Bar of Georgia shall constitute an election to waive
10 personal service. Notification of a change of address given to any
11 department of the State Bar of Georgia other than the Membership
12 Department shall not satisfy the requirement herein.

13 (b) In all matters requiring personal service under Part IV of the Bar
14 Rules, service may be perfected in the following manner:

15 (1) Acknowledgment of Service: An acknowledgment of
16 service from the respondent shall constitute conclusive proof of
17 service and shall eliminate the need to utilize any other form of
18 service.

19 (2) Written Response from Respondent: A written response from
20 the respondent or respondent's counsel shall constitute conclusive

21 proof of service and shall eliminate the need to utilize any other
22 form of service.

23 (3) In the absence of an acknowledgment of service or a written
24 response from the respondent or respondent's counsel, and subject
25 to the provisions of subparagraph (b) (4) below, the respondent shall
26 be served in the following manner:

27 (i) Personal Service: Service may be accomplished by
28 any person authorized by the Chair of the State Disciplinary
29 Board or the Chair's designee.

30 (ii) Service by Publication: If the State Bar of Georgia is
31 unable to personally serve the respondent at the respondent's
32 address, as shown on the records of the Membership
33 Department of the State Bar of Georgia, service may be
34 accomplished by publication once a week for two weeks in the
35 legal organ of the county of respondent's address, as shown on
36 the records of the Membership Department of the State Bar of
37 Georgia. Contemporaneously with the publication, the State Bar
38 of Georgia shall mail a copy of the service documents by first
39 class mail to respondent's address as shown on the records of
40 the Membership Department of the State Bar of Georgia and

41 shall email a copy of the service documents to respondent's
42 email address as shown in the records of the Membership
43 Department of the State Bar of Georgia.

44 (4) When it appears from an affidavit made by the Office of the
45 General Counsel that the respondent has departed from the State, or
46 cannot after due diligence be found within the State, or seeks to
47 avoid service, the Chair of the State Disciplinary Board, or the
48 Chair's designee, may authorize service by publication without the
49 necessity of first attempting personal service. The affidavit made by
50 the Office of the General Counsel must demonstrate recent
51 unsuccessful attempts at personal service upon the respondent
52 regarding other or related disciplinary matters and that such personal
53 service was attempted at respondent's address as shown on the
54 records of the Membership Department of the State Bar of Georgia.

55 (5) When a respondent's address is not in the United States, as
56 shown in the records of the Membership Department of the State Bar
57 of Georgia, the State Bar of Georgia may serve the respondent by
58 mailing and emailing copies of the service documents to
59 respondent's address and email address on file with the Membership
60 Department of the State Bar of Georgia. Service is complete upon

61 mailing and emailing the documents.

62 (c) Whenever service of pleadings or other documents subsequent to the
63 original complaint is required or permitted to be made upon a respondent
64 represented by a lawyer, the service shall be made upon the respondent's
65 lawyer. Service upon the respondent's lawyer or upon an unrepresented
66 respondent shall be made by hand-delivery or by delivering a copy or
67 mailing a copy to the respondent's lawyer or to the respondent's official
68 address on file with the Membership Department, unless the respondent's
69 lawyer specifies a different address for the lawyer in a filed pleading. As
70 used in this Rule, the term "delivering a copy" means handing it to the
71 respondent's lawyer or to the respondent, or leaving it at the lawyer's or
72 respondent's office with a person of suitable age or, if the office is closed
73 or the person to be served has no office, leaving it at the person's dwelling
74 house or usual place of abode with some person of suitable age and
75 discretion. Service by mail is complete upon mailing and includes
76 transmission by U.S. Mail, or by a third-party commercial carrier for
77 delivery within three business days, shown by the official postmark or by
78 the commercial carrier's transmittal form. Proof of service may be made by
79 certificate of a lawyer or of his employee, written admission, affidavit, or
80 other satisfactory proof. Failure to make proof of service shall not affect

1 **Rule 4-209.1. Coordinating Special Master (*redlined*)**

2 (a) The Supreme Court of Georgia shall appoint a lawyer to serve as
3 the Coordinating Special Master for disciplinary cases.

4 (b) The Supreme Court of Georgia annually shall appoint up to 20
5 lawyers to serve as Special Masters in disciplinary cases. The Court may
6 reappoint lawyers appointed in prior years, ~~although it generally is~~
7 ~~preferable for a lawyer to serve as a Special Master for no more than five~~
8 ~~consecutive years~~. When a case is assigned to a lawyer appointed as
9 Special Master, such lawyer shall continue to serve as Special Master in
10 that case until final disposition, unless the Coordinating Special Master or
11 the Court directs otherwise, irrespective of whether such lawyer is
12 reappointed to serve as Special Master for another year.

13 (c) The Coordinating Special Master and Special Masters shall serve at
14 the pleasure of the Supreme Court of Georgia.

15 (d) No member of the State Disciplinary Board, State Disciplinary
16 Review Board, Special Master Compensation Commission, or
17 Executive Committee of the State Bar of Georgia shall be appointed to
18 serve as Coordinating Special Master or as a Special Master.

19 (e) A list of the lawyers appointed by the Supreme Court of Georgia as
20 Special Masters shall be published on the website of the State Bar of

21 Georgia and annually in a regular publication of the State Bar of Georgia.

22 (f) Training for Special Masters is expected, and the Coordinating
23 Special Master shall be responsible for the planning and conduct of training
24 sessions, which the State Bar of Georgia shall make available without cost
25 to Special Masters. At a minimum, a lawyer appointed for the first time as a
26 Special Master should attend a training session within six months of his
27 appointment. The failure of a Special Master to complete the minimum
28 required training session shall not be a basis for a motion to disqualify a
29 Special Master.

30 (g) A Special Master (including the Coordinating Special Master) shall
31 be disqualified to serve in a disciplinary case when circumstances exist,
32 which, if the Special Master were a judge, would require the recusal of
33 the Special Master under the Code of Judicial Conduct. In the event that
34 the Coordinating Special Master is disqualified in any case, the Supreme
35 Court of Georgia shall assign the case to a Special Master, and the Court
36 shall designate another Special Master to act as Coordinating Special
37 Master for purposes of that case only.

1 **Rule 4-209.1. Coordinating Special Master (*clean*)**

2 (a) The Supreme Court of Georgia shall appoint a lawyer to serve as
3 the Coordinating Special Master for disciplinary cases.

4 (b) The Supreme Court of Georgia annually shall appoint up to 20
5 lawyers to serve as Special Masters in disciplinary cases. The Court may
6 reappoint lawyers appointed in prior years. When a case is assigned to a
7 lawyer appointed as Special Master, such lawyer shall continue to serve
8 as Special Master in that case until final disposition, unless the
9 Coordinating Special Master or the Court directs otherwise, irrespective
10 of whether such lawyer is reappointed to serve as Special Master for
11 another year.

12 (c) The Coordinating Special Master and Special Masters shall serve at
13 the pleasure of the Supreme Court of Georgia.

14 (d) No member of the State Disciplinary Board, State Disciplinary
15 Review Board, Special Master Compensation Commission, or
16 Executive Committee of the State Bar of Georgia shall be appointed to
17 serve as Coordinating Special Master or as a Special Master.

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19 Special Masters shall be published on the website of the State Bar of
20 Georgia and annually in a regular publication of the State Bar of Georgia.

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22 Special Master shall be responsible for the planning and conduct of training
23 sessions, which the State Bar of Georgia shall make available without cost
24 to Special Masters. At a minimum, a lawyer appointed for the first time as a
25 Special Master should attend a training session within six months of his
26 appointment. The failure of a Special Master to complete the minimum
27 required training session shall not be a basis for a motion to disqualify a
28 Special Master.

29 (g) A Special Master (including the Coordinating Special Master) shall
30 be disqualified to serve in a disciplinary case when circumstances exist,
31 which, if the Special Master were a judge, would require the recusal of
32 the Special Master under the Code of Judicial Conduct. In the event that
33 the Coordinating Special Master is disqualified in any case, the Supreme
34 Court of Georgia shall assign the case to a Special Master, and the Court
35 shall designate another Special Master to act as Coordinating Special
36 Master for purposes of that case only.

37 **Rule 4-221.1 Confidentiality of Investigations and Proceedings** (*redlined*)

38 (a) The State Bar of Georgia shall maintain as confidential all
39 disciplinary investigations and proceedings pending at the screening or
40 investigative stage, unless otherwise provided by these Rules.

41 (b) After a proceeding under these Rules is filed with the Supreme
42 Court of Georgia, all evidentiary and motions hearings shall be open to the
43 public and all documents and pleadings filed of record shall be public
44 documents, unless the Special Master or the Supreme Court of Georgia
45 orders otherwise.

46 (c) Nothing in these Rules shall prohibit the complainant, respondent,
47 or a third party from disclosing information regarding a disciplinary
48 proceeding, unless otherwise ordered by the Supreme Court of Georgia
49 or a Special Master in proceedings under these Rules.

50 (d) The Office of the General Counsel of the State Bar of Georgia or
51 the State Disciplinary Board may reveal or authorize disclosure of
52 information that would otherwise be confidential under this Rule under
53 the following circumstances:

54 (1) In the event of a charge of wrongful conduct against any
55 member of the State Disciplinary Board, the State Disciplinary
56 Review Board, or any person who is otherwise connected with the

57 disciplinary proceeding in any way, the State Disciplinary Board or
58 its Chair or his designee, may authorize the use of information
59 concerning disciplinary investigations or proceedings to aid in the
60 defense against such charge.

61 (2) In the event the Office of the General Counsel receives
62 information that suggests criminal activity, such information
63 may be revealed to the appropriate criminal prosecutor.

64 (3) In the event of subsequent disciplinary proceedings against a
65 lawyer, the Office of the General Counsel may, in aggravation of
66 discipline in the pending disciplinary case, reveal the imposition of
67 confidential discipline under Rules 4-205 to 4-208 and facts
68 underlying the imposition of discipline.

69 (4) A complainant and/or lawyer representing the complainant
70 shall be notified of the status or disposition of the complaint.

71 (5) When public statements that are false or misleading are made
72 about any otherwise confidential disciplinary case, the Office of the
73 General Counsel may disclose all information necessary to correct
74 such false or misleading statements.

75 (e) The Office of the General Counsel may reveal confidential
76 information to the following persons if it appears that the information may

77 assist them in the discharge of their duties:

- 78 (1) The Committee on the Arbitration of Attorney Fee Disputes
79 or the comparable body in other jurisdictions;
- 80 (2) The Trustees of the Clients' Security Fund or the
81 comparable body in other jurisdictions;
- 82 (3) The Judicial Nominating Commission or the comparable body
83 in other jurisdictions;
- 84 (4) The Lawyer Assistance Program or the comparable body in
85 other jurisdictions;
- 86 (5) The Board to Determine Fitness of Bar Applicants
87 or the comparable body in other jurisdictions;
- 88 (6) The Judicial Qualifications Commission or the comparable
89 body in other jurisdictions;
- 90 (7) The Executive Committee with the specific approval of the
91 following representatives of the State Disciplinary Board: the
92 Chair, the Vice-Chair, and a third representative designated by the
93 Chair;
- 94 (8) The Formal Advisory Opinion Board;
- 95 (9) The Client Assistance Program;
- 96 (10) The General Counsel Overview Committee;

97 ~~(11) — An office or committee charged with discipline appointed~~
98 ~~by the United States Circuit or District Court or the highest court~~
99 ~~of any state, District of Columbia, commonwealth or possession~~
100 ~~of the United States; and~~

101 (11~~2~~) The Unlicensed Practice of Law Department: of the State
102 Bar of Georgia;

103 (12) State, federal, territorial, and non-United States courts and
104 related agencies engaged in a lawful investigation or proceeding
105 related to the discipline or regulation of a lawyer or judge;

106 (13) Or otherwise with specific approval of the following
107 representatives of the State Disciplinary Board: the Chair, the
108 Vice-Chair, and a third representative designated by the Chair.

109 (f) Any information used by the Office of the General Counsel in a
110 proceeding under Rule 4-108 or in a proceeding to obtain a receiver to
111 administer the files of a lawyer, shall not be confidential under this Rule.

112 (g) The Office of the General Counsel may reveal confidential
113 information when required by law or court order.

114 (h) The authority or discretion to reveal confidential information under
115 this Rule shall not constitute a waiver of any evidentiary, statutory or other
116 privilege which may be asserted by the State Bar of Georgia or the State

117 Disciplinary Board under Bar Rules or applicable law.

118 (i) Nothing in this Rule shall prohibit the Office of the General
119 Counsel or the State Disciplinary Board from interviewing potential
120 witnesses or placing the Notice of Investigation out for service by the
121 sheriff or other authorized person.

122 (j) Members of the Office of the General Counsel and State
123 Disciplinary Board may respond to specific inquiries concerning matters
124 that have been made public by the complainant, respondent, or third
125 parties but are otherwise confidential under these Rules by acknowledging
126 the existence and status of the proceeding.

127 (k) The State Bar of Georgia shall not disclose information concerning
128 discipline imposed on a lawyer under prior Supreme Court of Georgia
129 Rules that was confidential when imposed, unless authorized to do so by
130 said prior Rules.

1 **Rule 4-221.1 Confidentiality of Investigations and Proceedings** (*clean*)

2 (a) The State Bar of Georgia shall maintain as confidential all
3 disciplinary investigations and proceedings pending at the screening or
4 investigative stage, unless otherwise provided by these Rules.

5 (b) After a proceeding under these Rules is filed with the Supreme
6 Court of Georgia, all evidentiary and motions hearings shall be open to the
7 public and all documents and pleadings filed of record shall be public
8 documents, unless the Special Master or the Supreme Court of Georgia
9 orders otherwise.

10 (c) Nothing in these Rules shall prohibit the complainant, respondent,
11 or a third party from disclosing information regarding a disciplinary
12 proceeding, unless otherwise ordered by the Supreme Court of Georgia
13 or a Special Master in proceedings under these Rules.

14 (d) The Office of the General Counsel of the State Bar of Georgia or
15 the State Disciplinary Board may reveal or authorize disclosure of
16 information that would otherwise be confidential under this Rule under
17 the following circumstances:

18 (1) In the event of a charge of wrongful conduct against any
19 member of the State Disciplinary Board, the State Disciplinary
20 Review Board, or any person who is otherwise connected with the

21 disciplinary proceeding in any way, the State Disciplinary Board or
22 its Chair or his designee, may authorize the use of information
23 concerning disciplinary investigations or proceedings to aid in the
24 defense against such charge.

25 (2) In the event the Office of the General Counsel receives
26 information that suggests criminal activity, such information
27 may be revealed to the appropriate criminal prosecutor.

28 (3) In the event of subsequent disciplinary proceedings against a
29 lawyer, the Office of the General Counsel may, in aggravation of
30 discipline in the pending disciplinary case, reveal the imposition of
31 confidential discipline under Rules 4-205 to 4-208 and facts
32 underlying the imposition of discipline.

33 (4) A complainant and/or lawyer representing the complainant
34 shall be notified of the status or disposition of the complaint.

35 (5) When public statements that are false or misleading are made
36 about any otherwise confidential disciplinary case, the Office of the
37 General Counsel may disclose all information necessary to correct
38 such false or misleading statements.

39 (e) The Office of the General Counsel may reveal confidential
40 information to the following persons if it appears that the information may

41 assist them in the discharge of their duties:

- 42 (1) The Committee on the Arbitration of Attorney Fee Disputes
43 or the comparable body in other jurisdictions;
- 44 (2) The Trustees of the Clients' Security Fund or the
45 comparable body in other jurisdictions;
- 46 (3) The Judicial Nominating Commission or the comparable body
47 in other jurisdictions;
- 48 (4) The Lawyer Assistance Program or the comparable body in
49 other jurisdictions;
- 50 (5) The Board to Determine Fitness of Bar Applicants
51 or the comparable body in other jurisdictions;
- 52 (6) The Judicial Qualifications Commission or the comparable
53 body in other jurisdictions;
- 54 (7) The Executive Committee with the specific approval of the
55 following representatives of the State Disciplinary Board: the
56 Chair, the Vice-Chair, and a third representative designated by the
57 Chair;
- 58 (8) The Formal Advisory Opinion Board;
- 59 (9) The Client Assistance Program;
- 60 (10) The General Counsel Overview Committee;

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(11) The Unlicensed Practice of Law Department of the State Bar of Georgia;

(12) State, federal, territorial, and non-United States courts and related agencies engaged in a lawful investigation or proceeding related to the discipline or regulation of a lawyer or judge;

(13) Or otherwise with specific approval of the following representatives of the State Disciplinary Board: the Chair, the Vice-Chair, and a third representative designated by the Chair.

(f) Any information used by the Office of the General Counsel in a proceeding under Rule 4-108 or in a proceeding to obtain a receiver to administer the files of a lawyer, shall not be confidential under this Rule.

(g) The Office of the General Counsel may reveal confidential information when required by law or court order.

(h) The authority or discretion to reveal confidential information under this Rule shall not constitute a waiver of any evidentiary, statutory or other privilege which may be asserted by the State Bar of Georgia or the State Disciplinary Board under Bar Rules or applicable law.

(i) Nothing in this Rule shall prohibit the Office of the General Counsel or the State Disciplinary Board from interviewing potential

81 witnesses or placing the Notice of Investigation out for service by the
82 sheriff or other authorized person.

83 (j) Members of the Office of the General Counsel and State
84 Disciplinary Board may respond to specific inquiries concerning matters
85 that have been made public by the complainant, respondent, or third
86 parties but are otherwise confidential under these Rules by acknowledging
87 the existence and status of the proceeding.

88 (k) The State Bar of Georgia shall not disclose information concerning
89 discipline imposed on a lawyer under prior Supreme Court of Georgia
90 Rules that was confidential when imposed, unless authorized to do so by
91 said prior Rule.



Application to Create the Energy Law Section of the State Bar of Governors

Prepared for: The Board of Governors
October, 2023

EXHIBIT A - AREA OF LAW OR PRACTICE
EXHIBIT B - STATEMENT OF NEED
EXHIBIT C - PROPOSED BYLAWS
EXHIBIT D - SUPPORTING MEMBERS

EXHIBIT A
AREA OF LAW OR PRACTICE

This new section will be known as the "Energy Law Section" and will encompass all aspects of the law that guide the production and use of energy.

EXHIBIT B

STATEMENT OF NEED

Energy is often defined as the ability to do work¹. It is not an exaggeration to say that energy is a component of every aspect of our lives from healthcare to food, recreation to industrial production, and everything in between. Energy expenditures accounted for 5.6% of the United States' gross domestic product in 2021.²

Georgia is emerging as one of the leaders in the production, distribution, and use of energy, especially clean energy. Georgia has recently announced projects to build new manufacturing and assembly facilities for several makes of electric vehicles. Recently, Georgia has also brought online the first newly construction nuclear power unit in over 30 years.³

Georgia is a leader in public and private research in the arena of energy and sustainability. In addition to two top-ranked research universities, Georgia is the location of the headquarters for Southern Company and its subsidiaries, including Georgia Power, Colonial Pipeline Co., GE Gas Power, and Southern LNG, just to name a few. Georgia is home to multiple EMCs and many alternate, renewable energy producers and providers.

The Energy Law Section of the State Bar of Georgia will provide a place for lawyers working on this important aspect of our lives to interact and network. The Section will promote the practice of energy law, help establish camaraderie and support among energy law practitioners, and provide education and training on energy law topics.

United States Energy Information Administration see <https://www.eia.gov/energyexplained/what-is-energy/>.
IA see <https://www.eia.gov/todayinenergy/detail.php?id=57320>
see <https://www.georgiapower.com/company/news-center/2023-articles/vogtle-unit-3-goes-into-operation.html>

EXHIBIT C
PROPOSED BYLAWS

Attached are the proposed bylaws for the Energy Law Section.

EXHIBIT D
SUPPORTING MEMBERS

Please see in the chart below the names and addresses of at least ten members applying for creation of the section

Name	Address	Bar Number
1. Peter M. Crofton	34 South Barton Street, Norcross, GA 30309	197122
2. Gregory K. Smith	1105 W, Peachtree St NE, Suite 1000 Atlanta, GA 30309	658363
3. Tawny Mack	1105 W, Peachtree St NE, Suite 1000 Atlanta, GA 30309	420719
4. Darren Rowles	1105 W, Peachtree St NE, Suite 1000 Atlanta, GA 30309	231608
5. Steven O'Day	1105 W, Peachtree St NE, Suite 1000 Atlanta, GA 30309	549337
6. Jacob Obande	1105 W, Peachtree St NE, Suite 1000 Atlanta, GA 30309	741931
7. Robert Remar	1105 W, Peachtree St NE, Suite 1000 Atlanta, GA 30309	600575
8. Robert C. Khayat, Jr.	75 14th St NE #2750 Atlanta, GA 30309	416981
9. Andrew Ashby	445 Franklin Gateway SE Suite 200, Marietta, GA 30067	455020
10. Jason S. Bell	1105 W, Peachtree St NE, Suite 1000 Atlanta, GA 30309	048530

BYLAWS

ENERGY LAW SECTION STATE BAR OF GEORGIA

ARTICLE I

Name and Purpose

Section 1: The name of this Section shall be Energy Law Section.

Section 2: The purpose of this Section shall be to form an association of licensed lawyers in the State of Georgia who desire to develop their knowledge and professional abilities in energy law and to render better services to their clients and to the public.

ARTICLE II

Membership and Dues

Section 1: Each member of this Section shall be a member in good standing of the State Bar of Georgia. Upon enrollment and payment of annual Section dues, any member of the State Bar shall be enrolled as a member of this Section. Thereafter, dues shall be paid in advance annually at the time of the payment of dues to the State Bar of Georgia. Section members who are enrolled and whose dues are paid shall constitute the membership of this Section. Any member whose annual dues are unpaid and past due shall cease to be a member and shall be dropped from the rolls of the Section, subject to reinstatement at any time upon the payment of dues on the current year. Annual dues shall be set by the Section leadership and approved by the Board of Governors.

Section 2: Student Law Members: Any student law member, pursuant to Rule 1-206.1, shall be eligible and may become a law student member of this Section upon application and payment of the required dues. Law student members shall be entitled to all of the privileges of this Section, except that of voting or holding office.

Section 3: The amount of annual dues for Section members and law student members may be changed in an amount determined by a majority vote of the members of the Section, subject to the approval of the Board of Governors of the State Bar of Georgia.

ARTICLE III

Officers

Section 1: The Officers of the Section shall be a Chairperson (or President), a Vice-Chairperson (or Vice President), a Treasurer, and a Secretary, all of whom shall be members in good standing of the Section and who shall perform the usual duties of their respective offices and the duties hereafter specified. These officers shall be members of the Section Executive Committee and shall have general charge of the affairs of the Section.

Section 2: All newly elected Officers shall hold office for a term of one (1) year beginning at the commencement of the fiscal year of the State Bar of Georgia following the election at which he or she is elected and ending at the close of the same fiscal year of the State Bar of Georgia or until his or her successor has been elected. If a vacancy arises in the office of the Chairperson, the Vice-Chairperson shall become Chairperson for the unexpired term. If a vacancy arises in the office of the Chairperson and there is also a vacancy in the office of the Vice-Chairperson, the President of the State Bar of Georgia shall appoint a successor Chairperson for the unexpired term. The Section Executive Committee may, by majority vote, fill any other vacancy in any other elected office for the balance of the unexpired term of such office.

Section 3: The Chairperson shall provide notice of the Section Executive Committee meetings and Section meetings. The Chairperson will preside over all meetings of the Section Executive Committee and of the Section, appoint appropriate committees to serve during his or her term as Chairperson, and plan and supervise the annual meeting of the Section. The Chairperson shall perform all executive and administrative duties necessary to the organization and functioning of the Section, including any responsibility as may be prescribed by the Section or by the State Bar of Georgia.

Section 4: The Vice-Chairperson shall assist the Chairperson and, in the absence or disability of the Chairperson, shall perform the duties of the Chairperson.

Section 5: The Secretary shall record and keep minutes of all meetings of the Section, present minutes to the Section members for approval, maintain permanent records until such time that the permanent records are transferred to the elected or appointed successor of the Secretary, and perform such other duties as may be prescribed by the Chairperson.

Section 6: The Treasurer shall keep an accurate record of all dues collected and expenses of the Section, assist in the preparation of an annual budget for the Section, report upon the budget at meetings of the Section, and shall perform other duties as may be prescribed by the Chairperson. The Treasurer shall provide an accounting to the Section at its annual meeting or upon the Chairperson's request.

ARTICLE IV **Meetings of the Section**

Section 1: A Section shall meet a minimum of twice per Bar year. Other meetings of the Section may be held from time to time on the call of the Chairperson or Vice-Chairperson or any four members of the Section Executive Committee or any ten active members of the Section. An annual meeting of the Section shall be held each Bar year at a location of the Section's choosing.

Section 2: The Chairperson may call a Special Meeting of the Section to be convened at such time and place and with such program and order of business as may be fixed by the Chairperson.

Section 3: At any meeting of the Section, any members present and eligible to vote shall constitute a quorum. Presence at a meeting can be in-person or by any electronic means of communication other than text messaging or email as set forth in Art. IV, Section 7 of these Bylaws.

Section 4: Except for administrative decisions made by the Officers or Section Executive Committee, all actions of the Section shall be by a majority vote of the members of the Section present and eligible to vote at any properly called meeting at which a quorum is present.

Section 5: Parliamentary procedure at all meetings of the Section shall be governed by Roberts Rules of Order, Newly Revised, and by these Bylaws.

Section 6: Notice of Section meetings shall be given at least ten days prior to the time and place of the meeting of the Section. Notice of a Section meeting shall be given by email or mailing a notice to each member of the Section. Notice shall be sent to the member's email address or office address as the same appears in the membership rolls of the Section maintained by the State Bar of Georgia. Notice of this Section's meetings may be included in other written or printed materials as distributed by the State Bar by email, U.S. mail, or posted on the official website of the State Bar of Georgia.

Section 7: If deemed prudent or necessary, the Section may conduct any meeting by any electronic means that allows for discussion, debate, and voting other than by text messaging or email. A Section may adopt internal rules to allow for email voting on noncontroversial matters, provided that the rule allows for any member to request verbal debate or discussion, which would stop all email voting. All internal rules must be approved by the Office of the General Counsel.

ARTICLE V

Section Executive Committee

Section 1: The Section Executive Committee shall consist of the Officers of the Section and other members of the Section appointed by the Chairperson, whose term shall be co-existent with that of the Chairperson.

Section 2: Except for actions requiring a vote from the entire membership of the Section, the Section Executive Committee shall have full authority to act for the Section in any way the Section itself would be authorized to act. Any such action taken by the Executive Committee under this provision shall be reported to the members of the Section at its next meeting and by email or by the publication of a newsletter that is mailed or emailed to the members of the Section.

Section 3: All committees, except as otherwise provided herein, shall be appointed or removed by the Chairperson. Members of the Section Executive Committee, other

than the Officers, and any other members of the Section may serve as Chairperson of appointed committees.

ARTICLE VI

Elections

Section 1: Annual elections for new officers shall occur between the mid-year meeting of the State Bar of Georgia and the annual meeting of the State Bar of Georgia. Prior to each election, the Chairperson shall appoint three or more members of the Section to be a nominating committee which shall nominate one or more members of the Section as qualified to hold each of the offices of the Section for the ensuing terms of office. The nominating committee's report shall be made to the Secretary thereafter, who shall present the report to the Section at its next meeting, or by email or publication of a newsletter. Thereafter, and before the election of Officers, any member of the Section may nominate any other member of the Section for election to fill any of the vacant offices by transmitting said nomination to the Secretary. Nominations shall be closed ten days after the presentation of the report of the nominating committee.

Section 2: The Officers of the Section shall be elected by written or electronic ballot. Before each election, voting instructions will be provided to all voting members. Ballots providing selections of the duly nominated candidates for each office shall be delivered in person at a regular or called meeting, by U.S. mail or by other Section approved electronic voting methods. Voting shall take place no later than **[10]** days after the close of nominations. Each member of the Section wishing to participate in the election shall complete his or her ballot by casting a vote for at least one candidate for each vacant office. Ballots shall be cast per the voting instructions for each election. Votes cast contrary to the prescribed voting instructions shall not be counted. Within **[5]** days of the due date for return of completed ballots, votes of Section members shall be tallied, and elected candidates shall be informed of their election. An election to any office requires a majority of the votes cast. If more than two candidates are nominated for any office and no candidate so nominated receives a majority of the votes cast upon the first ballot, then the two candidates receiving the largest number of votes cast upon such first ballot shall be voted upon again in a second ballot, and the candidate receiving a majority of the votes cast upon such second ballot shall be declared to

be elected to the particular office. A Special Meeting of the Section may be called by the Officers to otherwise modify the procedure governing any election.

ARTICLE VII

Finances

Section 1: Funds of the Section shall be deposited in the treasury of the State Bar of Georgia. All expenses and accounts payable of the Section shall be approved by a member of the Section Executive Committee and paid by the Chief Financial Officer of the State Bar of Georgia. The Treasurer of the Section shall communicate with the Sections Director to obtain financial information necessary to create financial reports to be delivered to the members of the Section.

Section 2: Funds of the Section shall be expended for such purposes related to the Section's activities as authorized by the Section's Executive Committee.

Section 3: Officers and members of the Section shall not be compensated for services to the Section but may be reimbursed for reasonable expenditures incurred on behalf of the Section. Reimbursement of expenditure will require a receipt of the expense incurred on behalf of the Section and submitted to the Sections Director. The Sections Director will report the expense to the Executive Committee, which will approve or deny the reimbursement.

Section 4: A financial report of the funds of the Section shall be reported by the Treasurer at each meeting of the Section upon request by any member of the Section. The Sections Director will assist the Treasurer in preparing a financial report for the Section. This Section shall have the same fiscal year as the State Bar of Georgia.

ARTICLE VIII

Miscellaneous

Section 1: The Section shall conduct continuing education programs at least once each Bar year. Continuing education programs that are six hours or more in credit hours shall be conducted through the Institute of Continuing Legal Education of the State Bar of Georgia in the area of law and field of practice of this Section. Any continuing legal education program that is less than six hours may be conducted by

the Section without the Institute of Continuing Legal Education of the State Bar of Georgia. All continuing education programs must be approved by the Commission on Continuing Lawyer Competency. The Section may coordinate its continuing legal education efforts with the other sections of the State Bar of Georgia.

Section 2: The Section, subject to the rules, bylaws, and Standing Board Policies of the State Bar of Georgia, may study or review proposed legislation. The Section may submit any proposed legislation to the Advisory Committee on Legislation for consideration by the Committee. The Section shall report or submit a report in writing of any legislative activities to the State Bar of Georgia at or prior to the Annual Meeting of the State Bar of Georgia. Written reports shall be submitted at least six weeks in advance of the Annual Meeting for publication in the Annual Meeting Board Book.

Section 3: The Section will not engage in actions and activities or promote positions that are not germane to the scope and purpose of the State Bar of Georgia. A section shall not do any act or take any action contrary to the rules, bylaws and standing policies of the State Bar of Georgia.

ARTICLE IX

Effective Date and Amendment

Section 1: These Bylaws shall become effective upon approval by the Board of Governors of the State Bar of Georgia.

Section 2: These Bylaws may be amended by a majority vote of the members of the Section present at any properly called meeting at which a quorum is present, provided the proposed amendment has first been approved by a majority of the Executive Committee.

Section 3: No amendment to these Bylaws shall become effective until approved by the Board of Governors of the State Bar of Georgia.

Signed, sealed and subscribed before the undersigned this the ___ day of

_____, 20____.

CHAIRPERSON

SECTION SECRETARY

**STATE BAR OF GEORGIA
ADVISORY COMMITTEE ON LEGISLATION
2023-2024
MINUTES OF MEETING 1
September 14, 2023**

Hybrid Meeting

In-person at the State Bar Conference Center & via Zoom

The first meeting of the 2023-2024 State Bar of Georgia Advisory Committee on Legislation (“ACL”) was held on Thursday, September 14, 2023 in a hybrid format. In-person participants attended the meeting at the State Bar Conference Center and virtual participants joined via Zoom video conferencing.

ATTENDANCE

The following members and liaisons attended in-person: Brandon Peak (Chair), Ceasar Mitchell (Vice-chair), J. Antonio DelCampo (President), Joshua Bosin, J. Anderson “Andy” Davis, Patricia Gorham, Norbert Hummel, Curtis Jenkins, and Rep. Mary Margaret Oliver.

The following members and liaisons attended via Zoom: Mark Alexander, Thua Barlay, Tracee Benzo, Ashley Brodie, Edward Collier, C. Lee Davis, R. Javoyne Hicks, Donna Hix, Amy Howell, Lisa Liang, Graham McDonald, Jennifer Mock, Jonathan Pannell, Daniel Snipes, Judge Lawton Stephens, Frank Strickland, Judge Trenton Brown (Court of Appeals Liaison), and Judge Warner Kennon (Council of Juvenile Court Judges Liaison)

Other stakeholders present and participating in-person and via Zoom included: Ivy Cadle (President-elect), Damon Elmore (Executive Director), Bob Bray, Susan Coppedge, Kathleen Currey, Nick Djuric, Philippa Ellis, Paula Frederick, Megan Jones, Cheryl Karounos, Tracy Mason, Binford Minter, Thomas Powell, Michael Prieto, Jourdan Read, Joseph Silitto, Robert Smith, Laurie Thomas, Shannon Weathers, Konrad Ziegler, Mark Middleton (Legislative Consultant), and Rusty Sewell (Legislative Consultant).

CALL TO ORDER

ACL Chair Brandon Peak called the meeting to order at 10:04 AM and welcomed members, liaisons, and other stakeholders and guests.

KELLER REVIEW

Paula Frederick, General Counsel of the State Bar of Georgia, presented a review of *Keller v. State Bar of California*, 496 U.S. 1 (1990). As a mandatory bar association, the State Bar of Georgia is subject to First Amendment free speech and free association scrutiny by its membership. Under *Keller*, mandatory bar dues may only be used towards activities

germane to the scope and purposes of the mandatory bar. The Supreme Court found that the scope and purposes of the California Bar included (1) regulating the legal profession, and (2) improving the quality of legal services.

Paula explained that the purposes of the State Bar of Georgia are covered in Rule 1-103 and include: (1) fostering the principles of duty and service to the public among the members of the bar, (2) improving the administration of justice, and (3) advancing the science of law.

In 2018, the Supreme Court overturned *Abood v. Detroit Board of Education* in *Janus v. AFSCME*. The *Abood* case had served as the underpinning for the Court's decision in *Keller*. Since 2018, a number of lawsuits have been filed against mandatory bar associations throughout the country challenging their activities as a violation of members' free association rights. These claims have broadly applied the *Keller* standard to all activities of the mandatory bar, regardless of whether those activities are funded by compelled dues. These cases have been litigated and appealed up to the US Supreme Court, which has denied cert. in each case.

Circuit courts throughout the country have upheld certain legislative activity under the *Keller* standard. This includes funding for courts, funding for legal services, and improvements to the law that make it easier to use. But if the legislative activity is political or ideological, that activity is off limits under the *Keller* analysis.

Before the State Bar's Board of Governors, Executive Committee, or Advisory Committee on Legislation takes a position on any legislative matter, it must do a *Keller* vote.

NEW LEGISLATIVE PROPOSALS

The ACL reviewed the following new proposals. Both proposals presented at the meeting were approved by the committee and will be considered by the Board of Governors at its Fall Meeting on October 28, 2023.

a. Fiduciary Law Section – Amendments to Title 53 and Related Code Sections

Nick Djuric presented the proposal on behalf of the Fiduciary Law Section. The committee revisited the proposal after having been unable to vote on it at the December 2022 meeting due to lack of a quorum. The goal of the proposed legislation is to improve provisions in Title 53 and related code sections to make the practice of trust and estate law more efficient and modernized. Updates to related codes include changes to the banking code, the Uniform Power of Attorney Act, and the Uniform Statutory Rule against Perpetuities Act. A large focus was placed on amending Title 53 and harmonizing provisions across the probate code and trust code. The final section of the proposal was a comprehensive revision and modernization of heirship provisions in various code sections, including Title 53 and Title 19.

Mr. Djuric explained that there had been some edits to the proposal since it went before the committee last year. The proposed change to the provision regarding *in terrorem* clauses had

been removed altogether. Considering a recent bill that requires executors to give notice to beneficiaries under a will within 30 days, the section proposed that this responsibility be made a duty of trustees and be fulfilled within 6 months.

During the *Keller* discussion, Mark Alexander questioned whether this proposal met the *Keller* standard because some of the provisions are more substantive in nature and would not necessarily improve or regulate the practice of law. Paula Frederick indicated that the Bar has historically supported legislation that makes the law better so long as it is not political or ideological, and this proposal does not seem to be so.

The *Keller* vote was 24-0 in favor of the proposal meeting the germaneness standard in *Keller v. State Bar of California*. The motion supporting this proposal passed by a vote of 23-1. The Board of Governors will consider this proposal on October 28, 2023.

b. Business Law Section – Amendments to O.C.G.A. Title 11

Kathleen Currey and Thomas Powell presented the proposal on behalf of the Business Law Section. The proposed legislation seeks to amend Title 11 relating to the commercial code so as to respond to market concerns about the lack of definitive commercial law for transactions involving digital assets; to update and modernize various statutes in the commercial code relating to commercial transactions in order to maintain uniformity statutes governing commercial transactions as recommended by the National Conference of Commissioners on Uniform State Laws; to add a new Article 12 to the commercial code pertaining to controllable electronic records; and to make conforming amendments to other articles of the commercial code to provide for accurate cross-references to the revised “Uniform Commercial Code”.

Questions were raised about certain changes made to definitions of terms used throughout the code. Ms. Currey and Mr. Powell were asked if the deletion of examples of the term “conspicuous” could result in ambiguity and potentially be to the detriment of consumers. They explained that the definition in question would not be changed, but the examples would be removed to make the language less limiting. Another concern was raised about the change to the definition of “money” and the impact it could have in other sectors of the legal profession. Members were assured that the change in definition pertains only to the commercial code and does not extend to other codes.

During the *Keller* discussion, Mark Alexander commented that, while he believes the proposal to be germane to purposes of the Bar in that it advances the science of law, it does not seem to meet the *Keller* standard of regulating the practice of law.

The *Keller* vote was 20-2 in favor of the proposal meeting the germaneness standard in *Keller v. State Bar of California*. The motion supporting this proposal passed by a vote of 21-1. The Board of Governors will consider this proposal on October 28, 2023.

INFORMATIONAL UPDATES

a. Status of 2023 State Bar Legislative Initiatives

Rusty Sewell briefly reported on the status of State Bar proposals following the 2023 legislative session. He highlighted the following:

- i. SB 148 (Nonprofit Corporations) – **PASSED**
- ii. HB 182 (O.C.G.A. Savings Statute) - **PASSED**
- iii. HB 80 (Uniform Unsworn Declarations Act) - **PASSED**
- iv. Proclamation Recognizing April 2023 as Legal Professionalism Month - **SIGNED**
- v. Judicial Council FY23 Grant Funding for Civil Legal Services
 - i. Medical Legal Partnership Grants – **FUNDED AT \$200,000**
 - ii. Domestic Violence Grants – **FULLY FUNDED AT \$3 million**
 - iii. Kinship Care Grants – **FULLY FUNDED AT \$750,000**
- vi. Georgia Resource Center – **FULLY FUNDED AT \$800,000**

b. Election and Political Update

Mark Middleton gave a brief political update. He reported that the relationships the Bar has with the House and Senate judiciary committees are sound and create a good environment for proposals to be heard. He discussed recent matters such as the high-profile indictments in Fulton County and the cases challenging voting district lines, and their potential impacts on the Capitol and the legislative session.

c. Update from the Judiciary

Tracy Mason with the Administrative Office of the Courts reported that the Judicial Council of Georgia met on August 18, 2023 and voted to support technical improvements to the Superior and State Court Appellate Practice Act. They also voted to recommend the creation of nine new superior court judgeships based on case count numbers in their respective judicial circuits. The recommendations listed in order of priority include: (1) the Tifton Circuit, (2) the Houston Circuit, (3) the Douglas Circuit, (4) the Clayton Circuit, (5) the Stone Mountain Circuit, (6) the Augusta Circuit, (7) the Northern Circuit, (8) the Tallapoosa Circuit, and (9) the Alapaha Circuit. The Council also heard and accepted the Final Report of the Ad Hoc Committee on Judicial Salaries and Supplements and its proposal for compensation reform for state-paid judges.

FUTURE MEETINGS

Chair Brandon Peak stated that the committee will meet again on December 7, 2023. Members should expect a longer meeting due to a projected heavy volume of proposals for consideration.

ADJOURNMENT

With no further business before the committee, Chair Brandon Peak adjourned the meeting at 11:46 AM.

Advisory Committee on Legislation (ACL) Legislative Proposal Form

FORM A

For proposed legislation drafted by a State Bar committee or section and
lobbied by the State Bar's legislative team.

*****PROPOSALS SUBMITTED UNDER THIS FORM MUST ATTACH A DRAFT
OF THE PROPOSED LEGISLATION AS IT WOULD APPEAR IN THE GEORGIA
CODE*****

Name of Proposal: **Amendments to Title 53 and Related Code
Sections**

Name of Section/Committee submitting this proposal: *Fiduciary Law Section*

- 1. Provide a statement of the issues to be addressed by the proposed bill,
including why this proposed revision is needed in Georgia.**

Over the past 25 years, the General Assembly has made significant changes to the law of wills, probate, administration of estates, guardianships, trusts, and powers of attorney in Georgia. The Probate Code was revised in 1998, the Guardianship Code was revised in 2005, the Trust Code was revised in 2010, and the Uniform Power of Attorney Act was adopted in 2017. Since that time, the Code Revision Committee of the Fiduciary Law Section has continued to examine Title 53 and related Code sections and draft legislation to makes changes to the Code based on the experience of fiduciary lawyers and court decisions arising out of the original Code revisions. Amendments to Title 53 and related Code sections drafted by the Code Revision Committee were adopted by the General Assembly in 2018 and 2020. This proposal includes additional changes. Some of the changes should have been made to conform existing law to the original Code revisions, some of the changes correct mistakes in drafting, and some of the changes address problems that became

obvious only after years of experience with the original Code revisions. In addition, the proposed legislation also makes some reforms to the Code based on the recommendations of lawyers practicing fiduciary law in Georgia.

2. **Is this a model bill from the Uniform Law Commission, American Law Institute, or another entity that drafts model legislation?** NO

Please include relevant information on the model act, including when it was created and other states that have adopted it.

The proposed legislation is not a uniform act, but some of the provisions in the proposed legislation are modeled on provisions in the Uniform Prudent Investor Act (1994), Uniform Electronic Transactions Act (1999), Uniform Trust Code (2000), and Uniform Electronic Estate Planning Documents Act (2022).

3. **Give a brief summary of the existing law on this issue, including citations to applicable case law addressed in the proposed legislation.**

The following is a summary of the proposed legislation:

Part I—Probate and Trust Codes and Related Code Sections.

(Related Code Sections) The amendments to Title 7 harmonize the provisions in the Trust and Probate Codes relating to corporate fiduciaries with the Banking Code. The amendment to 10-6B-3 provides that the requirements of the Uniform Power of Attorney Act do not apply to delegations of powers by fiduciaries under wills or trust instruments or Title 53. The amendment to 44-5-37 changes incorrect references to Code sections. The amendments to 44-6-203, 44-6-204, and 44-6-205 and the addition of 44-6-207 harmonize the provisions of the Uniform Statutory Rule Against Perpetuities Act with recent amendments to the Trust Code. The amendments to 44-

15-3, 44-15-4, and 44-15-6 harmonizes the provisions of the Uniform Prudent Management of Institutional Funds Act with recent amendments to the Uniform Prudent Investment Act.

(Probate Code) The amendment to 53-1-2 modernizes the definition of “will.” The amendments to 53-2-40, 53-6-50, 53-7-1, and 53-7-50 harmonize several provisions relating to a guardian ad litem appointed to represent the estate of a deceased heir under 53-11-2. The amendment to 53-2-51 harmonizes escheat procedures with general Probate Code procedures. An amendment to 53-3-3 will clarify the treatment of a provision made for the spouse in a testator’s revocable trust for purposes of year’s support. The amendment to 53-4-5 clarifies that a written statement or list disposing of a testator’s tangible personal property will not be deemed to be the testator’s will. The amendment to 53-4-20 provides for the validity of wills executed in the electronic presence of witnesses under the emergency executive order that was in effect during the Covid-19 pandemic. Section 53-5-8 is replaced with a duty by the executor to notify beneficiaries of a testate estate of the probate of the will and the name and mailing address of the executor within six months after qualification as executor. The amendments to 53-6-1 and 53-6-50 harmonize provisions regarding corporate fiduciaries with the Banking Code. The amendment to 53-6-60, 53-7-68, and 53-7-69.1 limit the beneficiaries who must consent to a personal representative’s compensation and who must receive annual returns and periodic reports. The amendment to 53-7-5 removes any requirement for delegation of powers to a cotrustee to meet the requirements of the Uniform Power of Attorney Act. The amendment to 53-7-32 clarifies the procedures for relieving the personal representative of the duty to make inventory. The amendment to 53-7-50. The amendment to 53-7-69.1 provides judicial procedures for requiring period reports.

(Trust Code) The amendments to 53-12-2 add and modernize some definitions of terms that apply to the entire Trust Code. The definition of “trust instrument” takes into account judicial and nonjudicial modifications of trusts. The amendment to 53-12-3 clarifies that the Trust Code is enacted against the background of the common law of trusts. The amendments to 53-12-8 allow a qualified beneficiary who is a remainder beneficiary to represent contingent successor remainder beneficiaries and clarify that the representation provisions may apply to any matter involving a trust under both the Trust Code and the provisions of a trust instrument. The amendment to 53-12-9 clarifies that a nonjudicial settlement agreement cannot be used to modify a trust during the settlor’s lifetime only if the modification is based on 53-12-61(b). The addition of 53-12-10 to the Trust Code provides definitions for the provisions in 53-12-10, 53-12-11, 53-12-12, and 53-12-13. The addition of 53-12-11 provides for how notice or a document may be sent to a person for purposes of the Trust Code or a trust instrument, including sending by electronic mail or through an electronic portal. The addition of 53-12-12 and 53-12-13 allow for documents relating to the administration of trusts (trust administration documents)—with the exception of trust instruments—to be in electronic form and signed by electronic signature. The provisions in 53-12-12 are modeled on the Uniform Electronic Transactions Act (2000) and the Uniform Electronic Estate Planning Documents Act (2020). The amendment to 53-12-22 and the addition of 53-12-29 separates provisions regarding in terrorem clauses from the general statement that a trust can be created from any lawful purpose, which caused confusion in a recent Court of Appeals decision. The addition of 53-12-46 and the amendment to 53-12-247 clarifies that the trustee of a revocable trust owes duties only to the settlor, but provides a mechanism for enforcement of the trustee’s duties to the settlor if the settlor is incapacitated. The amendment to 53-12-61 provides for the representation of all

beneficiaries of a trust in a modification under 53-12-61(b). The amendment to 53-12-62 clarifies that a trust decanting can include both principal and undistributed income. The amendment to 53-12-172 clarifies the application of the cy pres doctrine to charitable trusts. The amendments to 53-12-200, 53-12-262, 53-12-320, and 53-12-506 harmonize provisions regarding corporate fiduciaries with the Banking Code. The amendment to 53-12-201 clarifies that a trustee vacancy need not be filled if there are remaining cotrustees serving. The amendment to 53-12-221 provides standards for the judicial removal of a trustee (based on provisions in the Uniform Trust Code) to replace “good cause,” which is the current standard. The addition of 53-12-248 addresses a trustee’s fiduciary duties when the trustee also holds a power of appointment over a trust in an individual capacity and reverses the result in *Peterson v. Peterson*, 352 Ga. App. 675. The amendments to 53-12-261 clarify certain powers of a trustee relating to borrowing and guaranteeing debt, and removes any requirement for employment of advisors to meet the requirements of the Uniform Power of Attorney Act. Section 53-12-264 is removed as obsolete and unnecessary given the ability of qualified beneficiaries to modify trusts. An amendment to 53-12-270 will make the provisions applicable to trust directors and expand the application of the Code section. The amendment to 53-12-307 changes the statute of limitations for breach of trust actions to two years from the date on which a document disclosing the existence of a claim is sent to a trust beneficiary (as opposed to the date on which a document was received). This harmonizes 53-12-307 with 53-12-11, which provides for how notice and documents may be sent to a trust beneficiary for purposes of the Trust Code. The amendments to 53-12-320, 53-12-321, and 53-12-323 clarify provisions relating to foreign entities serving as fiduciaries. The amendment to 53-12-345 clarifies the provisions relating to a trustee’s delegation of investment and management functions. The amendment to 53-12-

362 clarifies that petitions relating to a unitrust conversion can be brought in Article 6 probate courts. The amendment to 53-12-500 clarifies that a representative of a beneficiary appointed by a trust instrument is not a trust director. The amendment to 53-12-501 corrects a mistake in the 2020 amendment. The amendment to 53-12-506 provides that a partnership or limited liability company may serve as a trust director if all of the partners or members are individuals who have joint and several liability for all liabilities of the partnership or limited liability company.

Part II—Heirship Provisions. The amendments and additions to Title 53 (Probate Code), Title 19 (Guardianship Code), Title 31, Title 43, and Title 51 are a comprehensive revision and modernization of provisions relating to determination of heirs, inheritance involving nonmarital children, and assisted reproduction (including in vitro fertilization).

4. **Does this proposal seek to codify current case law or seek to modify a statute based on a recent appellate decision?**

See above description of the proposed legislation.

5. **Will this proposed legislation have a fiscal impact on the state?**

No, not to the knowledge of the Fiduciary Law Section.

6. **Describe how the pending or proposed legislation (1) regulates the legal profession, or (2) improves the quality of legal services.¹**

The proposed legislation was designed to improve the provision of legal services relating to wills, trusts, and administration of estates,

¹ The State Bar reviews all proposals for compliance with the standard set out by the United States Supreme Court in *Keller v. State Bar of California*, 496 U.S. 1 (1990).

and to the administration of estates and trusts in the courts, especially the probate courts.

- 7. Has another group attempted to pass similar legislation in the past? Is there another interest group that may be suited to lobby this bill?**

No, not to the knowledge of the Fiduciary Law Section.

Why should the State Bar use its resources to lobby this proposal on behalf of the legal profession?

The State Bar used its resources to lobby passage of the revised Probate Code of 1998, the revised Guardianship Code of 2005, the revised Trust Code of 2010, Revised Uniform Fiduciary Access to Digital Assets Act, the Uniform Power of Attorney Act revisions in 2018, and the revisions to Title 53 and related Code sections in 2018 and 2020. The State Bar should use its resources to lobby this proposed legislation because it makes changes to Title 53 and related Code sections that are based on the experience of fiduciary lawyers and court decisions arising out of the original Code revisions, in addition to reforms to the Code based on the recommendations of lawyers practicing fiduciary law in Georgia.

- 8. Are there any potential proponents or opponents of the proposal or pending legislation, including, but not limited to, other State Bar sections, specialty bar associations (ie- the trial lawyers or real estate closing attorneys), governmental entities, and outside interest groups? If so, please list them below.**

No, not to the knowledge of the Fiduciary Law Section.

- 9. Have you circulated this legislative proposal to all of the members of your own section or committee? If so, have they provided any comments?**

This proposal was circulated to the Fiduciary Law Section and

discussed at the Fiduciary Law Institutes in July 2022 and July 2023. All comments received have been addressed or incorporated into changes to the proposal.

10. Which other State Bar committees or sections may have an interest in the legislation or proposal?

The Elder Law Section and the probate judges will have an interest in the proposed legislation.

a. Have you provided interested State Bar committees/sections with a copy of this proposal? If so, have they provided any comments?

Most of this proposal was circulated to the State Bar as part of the Fiduciary Law Section's submission to the ACL in December 2022. No comments were received by the Fiduciary Law Section. This proposal will also be circulated to a committee of probate judges with whom the Fiduciary Law Section has worked on prior legislation.

11. What is the recommendation that your section or committee wishes to be adopted by the State Bar?

The Fiduciary Law Section wishes the State Bar to support the proposed legislation.

FIDUCIARY LAW SECTION
LEGISLATIVE COMMITTEE

DRAFT LEGISLATIVE PROPOSALS FOR 2024 SESSION

PART I

PROBATE AND TRUST CODES AND RELATED CODE SECTIONS

(RELATED CODE SECTIONS)

7-1-223

(a) Upon determining to liquidate a financial institution or if it otherwise deems it advisable, the department shall:

(1) With leave of court, transfer all of the trust assets or all of the pooled assets or all of both types of assets to another financial institution, which shall assume the responsibilities of the institution in receivership in regard to such assets and act as substituted trustee or manager; or

(2) Give written notice, insofar as the giving of such notice is practicable, to all parties interested in trust or pooled assets that they must within 30 days after the giving of notice apply for the appointment of a substituted trustee or manager to take over the trust or pooled assets. In the event that no such application is made with respect to particular trust assets or pooled assets, the department shall itself apply for appointment of a substituted trustee or manager. Upon application by an interested party or parties or by the department, the court shall appoint as successor trustee or manager that person or corporation best able, in its judgment, to protect the interests of those interested in particular trust or pooled assets. The successor trustees or managers shall have all rights, powers, and duties of the financial institution in regard to the trust or pooled assets committed to them, except as these relationships may be modified by the court in accordance with law.

(b) Nothing in this Code section or Code Section 7-1-222 shall be construed to impair any right of the grantor or beneficiaries of trust or pooled assets, a trust director acting as authorized by and in compliance with Article 18 of Chapter 12 of Title 53 with respect

to trust or pooled assets, or any person acting as authorized by and in compliance with Code Section 53-12-201 with respect to trust or pooled assets under applicable instruments or otherwise to secure or provide for the appointment of a substituted trustee or manager.

7-1-242(b)

Acting as a fiduciary for purposes of this Code section includes but is not limited to:

(1) Accepting or executing trusts or otherwise acting as ~~a~~ an original, additional, or successor trustee or as an original, additional, or successor trust director under Article 18 of Chapter 12 of Title 53;

(2) Administering real or tangible personal property located in Georgia or elsewhere. For the purposes of this paragraph, 'administer' means to possess, purchase, sell, lease, insure, safekeep, manage, or otherwise oversee; and

(3) Acting pursuant to a court order as an original, additional, or successor personal representative, ~~executor,~~ or temporary administrator of the estate of a deceased person or as an original, additional, or successor guardian or conservator for a minor or incapacitated adult ward person."

7-1-322(d)

Nothing in this Code section shall be construed to impair any right of the grantor or beneficiaries of any fiduciary relationship or a trust director acting as authorized by and in compliance with Article 18 of Chapter 12 of Title 53 with respect to such fiduciary relationship under applicable instruments or otherwise to secure or provide for the appointment of a substituted fiduciary.

7-1-324

Upon any affiliate transfer, the affiliate trust company may be designated in any deed, trust instrument, agreement, filing, instrument, notice, certificate, pleading, or other document as successor fiduciary pursuant to this part.

7-1-333

Trust institutions and foreign trust institutions, as defined by this part, acting in a fiduciary capacity and for fiduciary purposes, if exercising due care as a prudent investor, and with the consent of any cofiduciary, may invest and reinvest funds held in such fiduciary capacity in the shares of stock of one or more fiduciary investment companies, except where the will, trust instrument or indenture, or other instrument under which such trust institution or foreign trust institution acts prohibits such investment, provided that the fiduciary investment company, by its articles of incorporation issued and granted in conformity with Chapter 2 of Title 14, shall have and possess the corporate powers required by this part and be subject to the limitations set forth by this part; provided, further, that no such trust institution or foreign trust institution shall invest in the stock of a fiduciary investment company on behalf of any estate, trust, or fund administered by such trust institution or foreign trust institution a sum or amount ~~that which~~ would result in such estate, trust, or fund having a total investment in such stock in excess of the maximum amount or percentage that might be invested by such estate, trust, or fund, under the regulations of the department in effect at the time of such investment, in any common trust fund having total assets equal to the total assets of the fiduciary investment company as increased by the proposed investment; and no trust institution or foreign trust institution shall invest in the stock of a fiduciary investment company if, immediately after such investment and as a consequence thereof, it would own more than 25 percent of the voting securities of such fiduciary investment company ~~that which~~ would then be outstanding.”

7-1-334

Every fiduciary investment company in which a trust institution or foreign trust institution is authorized by this part to own and hold corporate stock or shares, in order to qualify for such investments, shall have such corporate powers as may be granted by Chapter 2 of Title 14 by virtue of its incorporation under those chapters and shall, in addition, have the following corporate powers under its articles of incorporation and, by its articles of incorporation or its bylaws, be subject to the limitations and restrictions set forth in this Code section:

(1) The stock of any such fiduciary investment company shall be owned and held only by trust institutions and foreign trust institutions acting as fiduciaries or cofiduciaries but

may be registered in the name of the nominee or nominees of any such trust institution or foreign trust institution. Such stock shall not be subject to transfer or assignment except to the trust institution or foreign trust institution on whose behalf the stock is held by any such nominee or nominees or to a fiduciary or cofiduciary ~~that which~~ becomes successor to the shareholder and ~~that which~~ is also a trust institution or foreign trust institution qualified to hold such stock.

(2) A fiduciary investment company shall have no ~~fewer less~~ than five directors, who need not be shareholders but shall be officers or directors of trust institutions or foreign trust institutions holding stock in such fiduciary investment company; provided, however, that no more than two directors shall be officers or directors of any one trust institution or foreign trust institution if the fiduciary investment company has been organized and incorporated by three or more trust institutions.

(3) In acquiring, investing, reinvesting, exchanging, selling, and managing its assets, every fiduciary investment company shall exercise the judgment and care under the circumstances then ~~prevailing that persons existing which men~~ of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the safety of their capital. Within the foregoing limitations, a fiduciary investment company may acquire and retain every kind of investment, specifically including (but not by way of limitation) bonds, debentures, and other corporate obligations and corporate stocks, preferred or common, ~~that persons which men~~ of prudence, discretion, and intelligence acquire or retain for their own account, provided that a fiduciary investment company shall not at any time:

- (A) Invest in real estate, commodities, or commodity contracts;
- (B) Participate on a joint or joint and several basis in any securities trading account;
- (C) Invest in companies for the purpose of exercising control or management;
- (D) Make loans to any person or persons, except that the purchase of a portion of an issue of debt securities, convertible debt securities, debt securities with warrants, rights, or options attached, or other similar securities when originally issued or thereafter, of a character commonly distributed publicly, shall not be considered the making of a loan;
- (E) Purchase or retain the securities of any issuer if immediately after such acquisition and as a result thereof the following requirements would not be met: at least 75 percent

of the total assets in the fiduciary investment company taken at market value are represented by cash and cash items, securities issued or guaranteed by the United States or an instrumentality thereof, and other securities ~~that~~ ~~which~~, as to any one issuer, do not represent more than 10 percent of the value of the total assets of the fiduciary investment company;

(F) Purchase or otherwise acquire the securities of any other investment company as that term is defined in the act of Congress entitled 'Investment Company Act of 1940';

(G) Act as underwriter of the securities of other issuers;

(H) Borrow money; or

(I) Engage in margin transactions or short sales or write put or call options for the purchase or sale of securities.

(4) A fiduciary investment company may acquire, purchase, or redeem its own stock and may, by means of contract or by its bylaws, bind itself to acquire, purchase, or redeem its own stock; but it shall not vote shares of its own stock theretofore redeemed.

(5) A fiduciary investment company shall not be responsible for ascertaining the investment powers of any fiduciary who may purchase its stock, shall not be liable for accepting funds from a fiduciary in violation of restrictions of the will, trust instrument or indenture, or other instrument under which such fiduciary is acting in absence of actual knowledge of such violation, and shall be accountable only to the department and the fiduciaries who are the owners of its stock.

(6) Every fiduciary investment company subject to the supervision and regulation of the comptroller of the currency of the United States shall comply with all applicable rules and regulations of that agency to the extent that such rules and regulations are in addition to or in conflict with rules and regulations promulgated by the department.

10-6B-3

This chapter shall apply to all powers of attorney except:

(1) A power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;

(2) A power to make health care decisions;

- (3) Any delegation of voting, management, or similar rights related to the governance or administration of an entity or business, including, but not limited to, delegation of voting or management rights;
- (4) A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose;
- (5) A power created by a person other than an individual;
- (6) A power that grants authority with respect to a single transaction or series of related transactions involving real estate;
- (7) A power given to a transfer agent to facilitate a specific transfer or disposition of one or more identified stocks, bonds, or other financial instruments;
- (8) A power authorizing a financial institution or broker-dealer, or an employee of the financial institution or broker-dealer, to act as agent for the account owner in executing trades or transfers of cash, securities, commodities, or other financial assets in the regular course of business;
- (9) Any delegation of authority by a personal representative, trustee, or trust director that is expressly provided for under a will or trust instrument or under Title 53, including Code Sections 53-7-5(a)(2), 53-7-204(a), 53-12-345, and 53-12-503(f);
- ~~(9)~~ (10) Powers of attorney provided for under Titles 19 and 33; and
- ~~(10)~~ (11) As set forth in Code Section 10-6B-81.

44-5-37

The principles of Code Sections 53-4-70 and 53-4-71 ~~53-2-112 through 53-2-114~~ relating to elections shall also apply to deeds.

44-6-203

(a) Upon the petition of a trustee, trust director, or other person whose interests would be affected ~~an interested person~~, a court shall reform a disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the number of years allowed by paragraph (2) of subsection (a), (b), or (c) of Code Section 44-6-201 if:

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

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

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

(b) A petition to reform an irrevocable trust brought pursuant to subsection (a) of this Code section shall constitute a petition to modify or terminate an irrevocable trust within the meaning of Code Section 53-12-61.

44-6-204

Code Section 44-6-201 shall not apply to:

(1) A nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of:

(A) A premarital or postmarital agreement;

(B) A separation or divorce settlement;

(C) A spouse's election;

(D) A similar arrangement arising out of a prospective, existing, or previous marital relationship between the parties;

(E) A contract to make or not to revoke a will or trust, including but not necessarily limited to a contract made pursuant to Code Section 53-4-30;

(F) A contract to exercise or not to exercise a power of appointment;

(G) A transfer in satisfaction of a duty of support; or

(H) A reciprocal transfer;

(2) A fiduciary's power relating to the administration or management of assets, including ~~the~~:

(A) The power of a fiduciary to sell, lease, or mortgage property, and the

(B) The power of a fiduciary to determine principal and income; and

(C) A power of direction, as that term is defined in Code Section 53-12-500;

(3) A power to appoint a fiduciary;

(4) A discretionary power of a trustee to distribute or of a trust director to direct the distribution of principal before termination of a trust to a beneficiary having an

indefeasibly vested interest in the income and principal. ~~Nothing, provided, however, that nothing~~ contained in paragraphs (2) and (3) of this Code section and this paragraph shall be construed to permit the fiduciary to continue the administration or management of assets once the nonvested property interest becomes invalid as described in subsection (a) of Code Section 44-6-201;

(5) A nonvested property interest held by a charity, government, or governmental agency or subdivision, if the nonvested property interest is preceded by an interest held by another charity, government, or governmental agency or subdivision;

(6) A nonvested property interest in or a power of appointment with respect to a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries or spouses the property, income, or principal in the trust or other property arrangement, except a nonvested property interest or a power of appointment that is created by an election of a participant or a beneficiary or spouse; or

(7) A property interest, power of appointment, or arrangement that was not subject to the common-law rule against perpetuities or is excluded by another statute of this state.

44-6-205(b)

With respect to a nonvested property interest or a power of appointment that was created before July 1, 2018, and that violates this state's rule against perpetuities as that rule existed before July 1, 2018, a court, upon the petition of a trustee, trust director, or other person whose interests would be affected, ~~an interested party~~ may:

(1) Subject to Code Section 23-1-4, exercise its equitable power;

(2) Approve a nonjudicial settlement agreement or make any related determination under subsection (c) of Code Section 53-12-9; or

(3) Approve a petition to modify or terminate an irrevocable trust under Code Section 53-12-61

manifested plan of distribution and is within the limits of the rule against perpetuities applicable when the nonvested property interest or power of appointment was created.”

44-6-207 [To be added to Article 9 of Chapter 6 of Title 44]

For purposes of this article:

(1) ‘Court’ means a court of competent jurisdiction as determined in accordance with Code Section 53-12-6;

(2) ‘Fiduciary’ includes a trust director, as that term is defined in Code Section 53-12-500;

(3) ‘Power of appointment’ and ‘power of direction’ shall have the meaning given to such terms in Code Section 53-12-500; and

(4) ‘Trust’ means an express trust, as that term is defined in Code Section 53-12-2.

44-15-3

(b) In addition to complying with the duty of loyalty imposed by law other than this chapter, each person responsible for managing and investing an institutional fund shall manage and invest such fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances, considering the purposes, terms, distribution requirements, and other circumstances of the institutional fund. In satisfying this standard, each person responsible for managing and investing an institutional fund shall exercise reasonable care, skill, and caution.

(e)(1)(G) The needs of the institution and such fund to make distributions and to preserve capital; ~~and~~

(H) An asset’s special relationship or special value, if any, to the charitable purposes of the institution or to the donor; and

(I) Any special circumstances;

(e)(3) An institution may invest in any kind of property or type of investment consistent with the standards of this Code section;

(e)(5) Within a reasonable time after receiving property, an institution shall make and carry out decisions concerning the retention or disposition of the property or to the rebalancing of a portfolio, in order to bring the institutional fund into compliance with

the purposes, terms, and distribution requirements of the institution or the institutional fund as necessary to meet other circumstances of the institution or the institutional fund and the requirements of this chapter; ~~and~~

(6) A person that has special skills or expertise, or is selected in reliance upon the person's representation that such person has special skills or expertise, has a duty to use those skills or expertise in managing and investing institutional funds; and

(7) In investing and managing institutional funds, an institution may consider the personal values of the donor, including but not limited to a desire to engage in investing strategies that align with social, political, religious, philosophical, environmental, governance, or other values or beliefs of the donor; provided, however, that nothing in this paragraph shall allow an institutional fund to be used for a purpose other than a charitable purpose of the institution.

44-15-4(a)

Subject to the intent of a donor expressed in the gift instrument or to any express written agreement between a donor and an institution, an institution may appropriate for expenditure or accumulate assets of an endowment fund as the institution determines shall be prudent for the uses, benefits, purposes, and duration for which the endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund shall be donor restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate assets, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances; shall exercise reasonable care, skill, and caution; and shall consider, if relevant, the following factors:

- (1) The duration and preservation of the endowment fund;
- (2) The purposes of the institution and the endowment fund;
- (3) General economic conditions;
- (4) The possible effect of inflation or deflation;
- (5) The expected total return from income and the appreciation of investments;
- (6) Other resources of the institution; ~~and~~
- (7) The investment policy of the institution; and
- (8) Any special circumstances.

44-15-6

(e) For purposes of subsection (a) of this Code section, a donor's designee shall include the duly constituted conservator of a donor who is a protected person, as that term is defined in Code Section 29-11-2, to the extent such conservator is so empowered pursuant to Code Section 29-5-23 or other applicable law.

(f) For purposes of subsection (b) of this Code section, if the gift instrument establishes an express trust, as that term is defined in Code Section 53-12-2, a court shall include a superior court or probate court as provided in Code Section 15-9-127 or 53-12-6."

(PROBATE CODE)

53-1-2

(17) "Will" means the legal declaration of an individual's testamentary intention regarding that individual's property or other matters. ~~Will and includes the will and all codicils to the will~~ and includes a codicil and any testamentary instrument that merely nominates an executor, revokes or amends another will, nominates a guardian or conservator, or expressly excludes or limits the right of heirs to take property of the decedent under the rules of inheritance.

53-2-40(c)

The personal representative of the estate of a deceased heir is authorized to agree to the division on behalf of that heir. If the estate of a deceased heir has no personal representative, such deceased heir's estate may be represented in the proceeding by a guardian, pursuant to Code Section 53-11-2, and such guardian is authorized to agree to the division on behalf of that heir.

53-2-51(b)

Upon filing of the petition, the probate court ~~shall~~:

(1) Shall issue a citation, as provided by Chapter 11 of this title, requiring the heirs, if any, to file any objection to the petition by a date that is at least 60 days from the date of the citation, and shall;

(2) Shall order notice by publication to all heirs of the decedent, as provided in Code Section 53-11-4; and

(3) May direct any additional service, as provided in Code Section 53-11-5.

53-3-3 *[To be amended to clarify the treatment of a provision made for the spouse in a testator's revocable trust for purposes of year's support.]*

A testator by will may make provision for the spouse in lieu of year's support, in which case the surviving spouse must make an election.

53-4-5

(a) A written statement or list meeting the requirements of subsection (b) of this Code section shall dispose of items of tangible personal property, other than money, not otherwise specifically disposed of by the testator's will. If more than one otherwise effective writing exists, then, to the extent of any conflict among the writings, the provisions of a more recent writing revoke the inconsistent provisions of each prior writing.

(b) A written statement or list meets the requirements of this subsection if such writing:

(1) Is signed and dated by the testator;

(2) Describes the items and the ~~beneficiaries~~ recipients thereof with reasonable certainty; and

(3) Is referred to in the testator's will.

The writing may be referred to as one to be in existence at the time of the testator's death; it may be prepared before or after the execution of the will; it may be altered by the testator after its preparation, provided that it is signed and dated on the date of such alteration; and it may be a writing that has no significance apart from its effect on the dispositions made by the will.

(c) A written statement or list meeting the requirements of subsection (b) of this Code section shall not be deemed to be the testator's will or a part of the testator's will.

53-4-20

(a) A will shall be in writing and shall be signed by the testator or by some other individual in the testator's presence and at the testator's express direction. A testator

may sign by mark or by any name that is intended to authenticate the instrument as the testator's will.

(b) A will shall be attested and subscribed in the presence of the testator by two or more competent witnesses. A witness to a will may attest by mark. Another individual may not subscribe the name of a witness, even in that witness's presence and at that witness's direction.

(c) A codicil shall be executed by the testator and attested and subscribed by witnesses with the same formality as a will.

(d) A will or codicil that was executed or attested pursuant to the authority of Executive Order 04.09.20.01 shall not be treated as invalid solely because it was not executed or attested in the testator's physical presence.

53-5-8

(a) As used in this Code section, the term "beneficiary" means a person, including a trust, that is designated in a will to take an interest in real or personal property; that has a present interest, including, but not limited to, a vested remainder interest, but not including a trust beneficiary where there is a trustee who is not also the personal representative required to give notice; and whose identity and whereabouts are known or may be determined by reasonable diligence.

(b) Within six months from the date of qualification of the first personal representative of a testate estate to serve, such personal representative shall notify the beneficiaries of such testate estate of the probate of the will and the name and mailing address of such personal representative; provided, however, that notice shall not be required to any beneficiary who has waived such right to notification in writing.

(c) A personal representative who, without sufficient cause, either fails to provide accurate information regarding such personal representative's name, mailing address, and telephone number within five business days of a request for such information by a beneficiary or by the probate court or otherwise fails to comply with the requirements of subsection (b) of this Code section may be cited to appear and show cause as to why the personal representative's letters should not be revoked in the same manner as provided by Code Section 53-6-53.

(d) For purposes of this Code section, a trust beneficiary may be represented as provided in paragraph (3) of subsection (b) of Code Section 53-7-50.

(e) Nothing in this Code section shall alter or affect any time period established by Code Section 53-7-42, subsection (d) of Code Section 53-8-15, or other applicable law.

53-6-1

Any individual who is sui juris, regardless of citizenship or residency, is eligible to serve as a personal representative or temporary administrator of the estate of a decedent who dies domiciled in this state, subject to the requirements for qualification set forth in this chapter. Any other person is eligible to serve as a personal representative or temporary administrator of the estate of a decedent who dies domiciled in this state, subject to the requirements set forth in this chapter, provided the person is otherwise qualified to act as a fiduciary in this state pursuant to Code Section 7-1-242, Article 15 of Chapter 12 of this title, or other applicable law.

53-6-50

(b) A national banking association having the power to act as a fiduciary in Georgia pursuant to Code Section 7-1-242, Article 15 of Chapter 12 of this title, or other applicable law or a bank or trust company organized under the laws of this state that seeks to qualify as a personal representative of an intestate estate or temporary administrator shall not be required to give bond for the faithful performance of its duties unless its combined capital, surplus, and undivided profits are less than \$400,000.00 as reflected in its last statement filed with the comptroller of the currency of the United States or the commissioner of banking and finance or unless the instrument under which it seeks to qualify expressly provides that it shall give bond.

(c) A person petitioning to qualify as a personal representative of an intestate estate may be relieved from the requirement for giving bond by the unanimous consent of the heirs of the estate in the same manner as provided in subsection (b) of Code Section 53-7-1 for the granting of powers to a personal representative. With respect to any heir who is not sui juris, consent may be given by the guardian of the individual, pursuant to Code Section 53-11-2. The personal representative of the estate of a deceased heir is authorized to consent for that heir. If the estate of a deceased heir has no personal

representative, such deceased heir's estate may be represented in the proceeding by a guardian, pursuant to Code Section 53-11-2, and such guardian is authorized to consent for that heir. In no case may consent on behalf of an heir who is not sui juris or a deceased heir whose estate has no personal representative be effective if the person consenting is the person petitioning to serve as personal representative.”

53-6-60

(a) Personal representatives shall be compensated as specified in either the will or any written agreement entered into prior to the decedent's death or a written agreement signed by all the income beneficiaries of the residuum of a testate estate or all the heirs of an intestate estate. A written agreement between a testator and a personal representative shall be valid and binding upon the estate of the testator as fully and completely as if set forth in and made a part of the will. For purposes of this subsection, an income beneficiary includes a trust but does not include a trust beneficiary where there is a trustee who is not also the personal representative. For purposes of this subsection, a trust beneficiary may be represented as provided in Code Section 53-12-8.

53-7-1(b)(2)

With respect to any beneficiary of a testate estate or heir of an intestate estate who is not sui juris, the consent required by paragraph (1) of this subsection may be given by such beneficiary's or heir's duly acting conservator or guardian. The personal representative of the estate of a deceased beneficiary or heir shall be authorized to consent on behalf of such deceased beneficiary or heir. If the estate of a deceased beneficiary or heir has no personal representative, such deceased beneficiary's or heir's estate may be represented in the proceeding by a guardian, pursuant to Code Section 53-11-2, and such guardian shall be authorized to consent on behalf of such deceased beneficiary or heir.

53-7-5

(a) If more than one personal representative is qualified and unless the will provides otherwise:

(1) The personal representatives must act by their unanimous action; provided, however, that while a personal representative is unable to act because of inaccessibility,

illness, or other incapacity, or when a vacancy occurs for any other reason, the remaining personal representatives may act as if they were the only personal representatives if necessary to administer the estate; and

(2) The personal representatives may delegate in writing to one or more of them the authority to act for all of them; provided, however, ~~that such delegation must satisfy the requirements of Code Sections 10-6B-5 and 10-6B-40, and~~ that all the personal representatives remain liable for the actions of the personal representative who is authorized to act.

53-7-32(b)

By unanimous written consent, the beneficiaries of a testate estate or the heirs of an intestate estate may authorize the probate court to relieve the personal representative of the duty to make inventory in the same manner as ~~provided described~~ in subsection (b) of Code Section 53-7-1 for the granting of powers to a personal representative. Any such unanimous written consent, regardless of the date of execution, ~~that which~~ relieves the personal representative from making inventory shall also relieve the personal representative from sending a copy of the inventory to the heirs or beneficiaries.

53-7-41(d)

Creditors who fail to notify the personal representative of their claims in the manner provided by subsection (b) of this Code section within three months from the date of publication of the personal representative's last notice shall lose all rights to an equal participation with creditors of equal priority to whom distribution is made before sufficient notification of such claims is given to the personal representative, and they may not hold the personal representative liable for a misappropriation of the funds. If, however, there are assets in the hands of the personal representative sufficient to pay such debts and if no claims of greater priority are unpaid, the assets shall be thus appropriated notwithstanding the failure of such creditors to ~~timely~~ notify the personal representative of their claims in a timely manner.

53-7-50(a)

A personal representative who has fully performed all duties or who has been allowed to resign may petition the probate court for discharge from the office and from all liability. The petition shall ~~state~~:

(1) State that the personal representative has fully administered the estate of the decedent and shall set;

(2) Set forth the names and addresses of all known heirs of an intestate decedent or beneficiaries of a testate decedent, including, as applicable, the personal representative of the estate of or any persons who succeeded to the interest of any heir or beneficiary who died after the decedent died, and shall name;

(3) Name which of the heirs or beneficiaries is or should be represented by a guardian. The petition shall state as provided in Code Section 53-11-2, including, as applicable, any heir or beneficiary who died after the decedent died whose estate has no personal representative;

(4) State that the personal representative has paid all claims against the estate or shall enumerate which claims of the estate have not been paid and the reason for such nonpayment. The petition shall also state; and

(5) State that the personal representative has filed all necessary inventory and returns or, alternatively, has been relieved of such filings by the testator, the heirs or beneficiaries, or the probate court.

53-7-68

(a) Upon filing the annual return with the probate court, the personal representative shall mail by first-class mail a copy of the return, but not the vouchers, to each heir of an intestate estate or each income beneficiary of the residuum of a testate estate. It shall not be necessary to mail a copy of the return to any heir or beneficiary who is not sui juris or for the court to appoint a guardian for such person. The personal representative shall file a verified statement with the probate court stating that all required mailings of the return to heirs or beneficiaries have been made. For purposes of this Code section, an income beneficiary includes a trust but does not include a trust beneficiary where there is a trustee who is not also the personal representative. For purposes of this Code section, a trust beneficiary may be represented as provided in Code Section 53-12-8.

53-7-69.1

(a) Except as provided in subsection (b) of this Code section, a personal representative shall furnish to the heirs of an intestate estate or the income beneficiaries of the residuum of a testate estate, at least annually, a statement of receipts and disbursements. For purposes of this Code section, an income beneficiary includes a trust but does not include a trust beneficiary where there is a trustee who is not also the personal representative. For purposes of this Code section, a trust beneficiary may be represented as provided in Code Section 53-12-8.

(b) Any heir or beneficiary may waive individually the right to receive a statement of receipts and disbursements in the same manner as provided in subsection (b) of Code Section 53-7-68 for waiving the right to receive a copy of an annual return. Such waiver may be revoked in writing at any time. The heirs or beneficiaries may authorize the probate court to relieve the personal representative from furnishing statements of receipts and disbursements in the same manner as provided in subsection (c) of Code Section 53-7-68 for relieving the personal representative from filing annual returns. A testator may, by will, dispense with the necessity of the personal representative's furnishing a statement of receipts and disbursements in the same manner as provided in Code Section 53-7-69 for dispensing with the necessity of the personal representative's filing an annual return, provided the same does not work any injury to creditors or persons other than beneficiaries under the will. It shall not be necessary to furnish a statement of receipts and disbursements to any heir or beneficiary who is not sui juris or for the probate court to appoint a guardian for such person.

(c) When a personal representative has been relieved from furnishing statements of receipts and disbursements, the probate court, on its own motion or on the representation of any party in interest that the personal representative is mismanaging the estate, shall order the personal representative to appear and show cause as to why statements of receipts and disbursements should not be furnished or the personal representative's letters revoked. The order shall be served in person on the personal representative at least ten days prior to the hearing. Failure to show cause shall authorize the court to require statements of receipts and disbursements to be furnished or to revoke the letters or to take any other action as may be necessary under the circumstances.

(d) Nothing in this Code section shall affect the power of the probate court to require or excuse an accounting under this part, Part 1 of this article, or other applicable law.

(TRUST CODE)

53-12-2

As used in this chapter, the term:

(1) “Ascertainable standard” means a standard relating to an individual’s health, education, support, or maintenance within the meaning of Section 2041(b)(1)(A) or 2514(c)(1) of the federal Internal Revenue Code of 1986.

(2) “Beneficiary” means a person ~~for whose benefit property is held in trust, regardless of the nature of the interest, and includes any beneficiary, whether vested or contingent, born or unborn, ascertained or unascertained~~ that has a present or future beneficial interest in a trust, vested or contingent, born or unborn, ascertained or unascertained, or holds a power of appointment over trust property in a capacity other than that of trustee.

(3) “Express trust” means a trust as described in Code Section 53-12-20.

(4) “Foreign entity” means:

(A) Any financial institution whose deposits are federally insured which is organized or existing under the laws of any state of the United States, other than Georgia, or any subsidiary of such financial institution;

(B) Any other corporation organized or existing under the laws of any state of the United States, other than Georgia, and chartered or licensed under the laws of such state; and

(C) Any federally chartered financial institution whose deposits are federally insured having its principal place of business in any state of the United States, other than Georgia, or any subsidiary of such financial institution.

(5) “Implied trust” means a resulting trust as described in Code Section 53-12-130 or a constructive trust as described in Code Section 53-12-132.

(6) “Nonresident” means an individual who does not reside in Georgia.

(7) “Person” means an individual, corporation, partnership, association, joint-stock company, business trust, unincorporated organization, limited liability company, or other legal entity, including any of the foregoing acting as a fiduciary.

(8) “Private foundation” means a private foundation as defined in Section 509 of the federal Internal Revenue Code.

(9) “Property” means any type of property, whether real or personal, tangible or intangible, legal or equitable, and shall include digital assets and electronic communications, as such terms are defined in Code Section 53-13-2.

(10) “Qualified beneficiary” means a living individual or other existing person who, on the date of determination of beneficiary status:

(A) Is a distributee or permissible distributee of trust income or principal;

(B) Would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in subparagraph (A) of this paragraph terminated on that date without causing the trust to terminate; or

(C) Would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

The Attorney General has the rights of a qualified beneficiary with respect to a charitable trust as defined in Code Section 53-12-170, and a person appointed to enforce a trust created for the care of an animal under Code Section 53-12-28 also has the rights of a qualified beneficiary.

(11) “Settlor” means ~~the person who creates the trust, including a testator in the case of a testamentary trust~~ a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person’s contribution except to the extent another person has the power to revoke or withdraw that portion.

(12) “Spendthrift provision” means a provision in a trust instrument that prohibits transfers of a beneficiary’s interest in the income or principal or both.

(13) “Trust” means an express trust or an implied trust but shall not include trusts created by statute or the Constitution of Georgia.

(14) “Trust instrument” means ~~an instrument the document, including any testamentary instrument,~~ an instrument that contains the trust provisions. The trust instrument includes any trust provisions established, determined, or amended by a trustee or other person in accordance with applicable law, a court order, or a nonjudicial settlement agreement under Code Section 53-12-9.

(15) “Trust property” means property the legal title to which is held by the trustee. The term also includes choses in action, claims, and contract rights, including a contractual right to receive death benefits as the designated beneficiary under a policy of insurance, contract, employees’ trust, or other arrangement.

(16) “Trustee” means the person or persons holding legal title to the property in trust.

53-12-3

Except to the extent that the principles of common law and equity governing trusts are modified by this chapter or another provision of law, those principles remain the law of this state. No provision of this chapter shall be construed to imply that any other Code section or the common law did not, prior to the enactment of such provision, impose, permit, or otherwise address a duty, power, relationship, or any other matter governed by such provision.

53-12-8

(h) A person who ~~on the date of determination would be eligible to receive distributions of income or principal from the trust upon the termination of the interests of all persons then currently eligible to receive distributions of income or principal~~ is a qualified beneficiary under Code Section 53-12-2(10)(C) may represent and bind contingent successor beneficiaries with respect to matters in which there is no conflict of interest among or between the representative and the person or persons represented with respect to a particular question or dispute.

(k) Any person whose interests would be affected or who reasonably claims to represent or bind a person whose interests would be affected may request that the court determine whether an interest is represented under this Code section or whether the representation is adequate. If the court determines that an interest is not represented under this Code section, or that the otherwise available representation might be inadequate, the court may appoint a representative to receive notice, give consent, and otherwise represent, bind, and act on behalf of a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable. A representative may be appointed to represent several persons or interests. A representative may act on behalf of the individual represented with respect

to any matter arising under this chapter, regardless of whether a judicial proceeding concerning the trust is pending. In making decisions, a representative may consider the general benefit accruing to the living members of the individual's family.

(m) Representation under this Code section is effective for purposes of this chapter, the trust provisions, or any matter involving a trust.

53-12-9

(b)(1) Shall be valid only to the extent it does not violate a material purpose of the trust and includes terms and conditions that could be properly approved by the court under this ~~chapter Code section~~ or other applicable law; and

(2) ~~Shall During the settlor's lifetime, shall~~ not be valid with respect to any modification or termination of an irrevocable trust ~~when the settlor's consent would be required in a proceeding to approve such modification or termination~~ when such modification or termination could be properly approved by the court only in a proceeding under subsection (b) of Code Section 53-12-61.

(c) The trustee, trust director, ~~and settlor,~~ or any person whose interests would be affected by a nonjudicial settlement agreement may request that the court approve such agreement, determine whether the representation as provided in Code Section 53-12-8 was adequate, determine whether such agreement violates a material purpose of the trust, determine whether such agreement contains terms and conditions the court could have properly approved, or make any other similar determination.

(d) A nonjudicial settlement agreement entered into in accordance with this Code section shall be final and binding on all parties to such agreement, including parties ~~individuals not sui juris, unborn beneficiaries, and persons unknown~~ who are represented by a person who may represent and bind such parties under Code Section 53-12-8, as if ordered by a court with competent jurisdiction over the trust, the trust property, and the parties.

(e) Entering into or petitioning a court regarding a nonjudicial settlement agreement under this Code section shall not constitute a violation of a condition in terrorem under Code Section ~~53-12-22~~ 53-12-29.

53-12-10 *[To be added to Article 1 of Chapter 12 of Title 53]*

As used in this Code section and in Code Sections 53-12-11 and 53-12-12, the term:

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

(2) “Electronic address” means a unique username or other identifier, commonly expressed as a string of characters or numbers, at which information may be received by electronic means and shall include, without limitation, an email address and any other similar electronic address.

(3) “Electronic portal” means a secure website or other similar electronic service through which a person may retrieve information.

(4) “Electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means.

(5) “Electronic signature” means an electronic symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(6) “Information” includes data, text, images, codes, computer programs, software, and databases.

(7) “Record” means information:

(A) inscribed on a tangible medium; or

(B) stored in an electronic or other medium and retrievable in perceivable form.

(8) “Security procedure” means a procedure to verify that an electronic signature, record, or performance is that of a specific person or to detect a change or error in an electronic record. The term includes a procedure that uses an algorithm, code, identifying word or number, encryption, or callback or other acknowledgment procedure.

(9) “Sign” means, with present intent to authenticate or adopt a record:

(A) execute or adopt a tangible symbol; or

(B) attach to or logically associate with the record an electronic signature.

53-12-11 *[To be added to Article 1 of Chapter 12 of Title 53]*

(a) This Code section shall govern notice to a person or the sending of a record to a person under this chapter, under the provisions of a trust instrument, and with respect to any matter involving a trust.

(b) Notice or the sending of a record must be accomplished in a manner that is likely to result in receipt of the notice or record and reasonably suitable under the circumstances.

(c) Without limitation, notice or the sending of a record shall be presumed likely to result in receipt of the notice or record, unless proven otherwise by clear and convincing evidence, if accomplished by:

(1) Personal delivery;

(2) Delivery by registered or certified mail or statutory overnight delivery to either the person's last known place of residence or place of business or the address last used by the person to receive notices or records;

(3) An electronic record sent to an electronic address the recipient has previously consented to use for the receipt of electronic records from the sender and for which the recipient has not withdrawn such consent; provided, however, that if the sender has actual knowledge the electronic record was not accepted by the systems administering the recipient's electronic address, then such electronic record shall not have been received; or

(4) An electronic record made available for retrieval in an electronic portal if all of the following conditions are met:

(A) The recipient has agreed to use a portal for the purpose of receiving electronic records, the recipient has been granted the ability to retrieve electronic records from the portal, and the sender has not unilaterally terminated the recipient's ability to retrieve electronic records from the portal;

(B) The electronic record is available for retrieval in the portal; and

(C) Concurrently with or within 10 days of the electronic record being made available for retrieval in the portal, the recipient has received notice that one or more electronic records are available for retrieval in the portal.

(d) For purposes of subsection (c) of this Code section:

(1) The prior use of an electronic address by the recipient to communicate with the sender shall constitute consent to the continuing use of such address until the recipient withdraws such consent in an electronic record or other record;

(2) Requiring the recipient to create an account or take other similar actions shall not preclude the recipient from having been granted the ability to retrieve electronic records from a portal; and

(3) Requiring the recipient to change or reset a password or take other similar actions shall not constitute a termination of the recipient's ability to retrieve electronic records from a portal.

(e) With respect to whether notice or the sending of a record was reasonably suitable under the circumstances:

(1) For purposes of Code Section 53-12-307 providing for the limitation of actions, the sending of a record in a manner that is likely to result in receipt shall be presumed to have been accomplished in a manner that was reasonably suitable under the circumstances unless proven otherwise by clear and convincing evidence; and

(2) For all other purposes, whether notice or the sending of a record was accomplished in a manner reasonably suitable under the circumstances shall be determined, without limitation, in the context of the subject matter of the notice or sending of the record, the length of any time period imposed with respect to the notice or sending of the record, the circumstances of the person to be notified or sent the record, the sender's knowledge of the circumstances of the person to be notified or sent the record, and when actual receipt, if any, occurred.

(f) Notice need not be provided to a person whose identity or location is unknown to and not reasonably ascertainable by the trustee, trust director, or other person.

(g) Notice or the sending of a record may be waived by the person to be notified or sent the record.

(h) An action by a trustee or trust director under this chapter is not ineffective because of the failure to give notice required under this chapter if the trustee or trust director acted with reasonable care to comply with this Code section.

(i) Notice of a judicial proceeding must be given as provided in the applicable rules of civil procedure.

53-12-12 *[To be added to Article 1 of Chapter 12 of Title 53]*

(a) For purposes of this Code section, a “trust administration record” means a record relating to the administration of a trust that is not a trust instrument or contained in a trust instrument. Without limitation, the term includes:

(1) Exercises, delegations, determinations, releases, waivers, renunciations, disclaimers, and all other actions related to powers and rights granted under this chapter or a trust instrument;

(2) Notices and records required to given or sent by this chapter or the provisions of a trust instrument, including, without limitation, reports and accounts under Code Section 53-12-243 and accountings under Article 12 of this chapter;

(3) Binding nonjudicial settlement agreements under Code Section 53-12-9 or other applicable law, including agreements that modify a trust instrument;

(4) Notices of a trustee’s decision to exercise the power to invade the principal of a trust under Code Section 53-12-62 or other applicable law;

(5) Consents to actions by and the release from liability of a trustee or trust director; and

(6) Certifications of a trust under Code Section 53-12-280.

(b) This Code section shall be construed and applied to facilitate electronic trust

administration records and electronic signatures consistent with other law and to be consistent with reasonable practices concerning electronic records and electronic signatures and continued expansion of those practices.

(c) Unless a trust instrument expressly precludes the use of electronic records or electronic signatures, this Code section applies to an electronic trust administration record and an electronic signature on a trust administration record. However, this Code section does not invalidate an electronic record or electronic signature that is valid under other applicable law.

(d) (1) A trust administration record or signature on a trust administration record may not be denied legal effect or enforceability solely because it is in electronic form.

(2) If other laws of this state or a trust instrument require a trust administration record to be in writing, an electronic record of the trust administration record satisfies the requirement.

(3) If other laws of this state or a trust instrument require a signature on a trust administration record to be in writing, an electronic signature satisfies the requirement.

(e)(1) An electronic trust administration record or electronic signature on a trust administration record is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including by showing the efficacy of a security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(2) The effect of attribution to a person under paragraph (1) of this subsection of a record or signature is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption and as provided by other law.

(f) If other laws of this state or a trust instrument requires a trust administration record or signature on a trust administration record to be acknowledged or notarized, the requirement is satisfied if the electronic signature on an electronic trust administration record of the individual performing the acknowledgement or notarization, together with

all other information required to be included under other laws of this state or the trust instrument, is attached to or logically associated with the electronic trust administration record or electronic signature.

(g) An individual may create a certified paper copy of an electronic trust administration record by affirming under penalty of perjury that the paper copy is a complete and accurate copy of the instrument.

(h) If other laws of this state or a trust instrument require a trust administration record to be retained, transmitted, copied, or filed,

(1) The requirement is satisfied by retaining, transmitting, copying, or filing an electronic record that:

(A) Accurately reflects the information in the trust administration record after it was first generated in final form as an electronic record or as a certified paper copy under subsection (g), and

(B) Remains accessible to the extent required by the other laws of this state or a trust instrument.

(2) The requirement to retain a record does not apply to information the sole purpose of which is to enable the record to be sent, communicated, or received;

(3) A person may satisfy paragraph (1) by using the services of another person;

(4) A requirement that a trust administration record be presented or retained in its original form is satisfied by an electronic record retained in accordance with this subsection; and

(5) This subsection does not preclude a governmental agency from specifying requirements for the retention of a record subject to the agency's jurisdiction in addition to those in this subsection.

(i) Evidence relating to a trust administration record or an electronic signature on trust administration record may not be excluded in a judicial proceeding solely because it is in electronic form.

53-12-13 *[To be added to Article 1 of Chapter 12 of Title 53]*

The provisions of this chapter conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7002) and supersede, modify, and limit the requirements of the Electronic Signatures in Global and National Commerce Act.

53-12-22

(a) A trust may be created for any lawful purpose.

~~(b) A condition in terrorem shall be void unless there is a direction in the trust instrument as to the disposition of the property if the condition in terrorem is violated, in which event the direction in the trust instrument shall be carried out, except as otherwise provided in subsection (c) of this Code section.~~

~~(c) A condition in terrorem shall not be enforceable against an individual for:~~

~~(1) Bringing an action for interpretation or enforcement of a trust instrument;~~

~~(2) Bringing an action for an accounting, for removal, or for other relief against a trustee; or~~

~~(3) Entering into a settlement agreement.~~

53-12-29 *[To be added to Article 2 of Chapter 12 of Title 53]*

A condition in terrorem shall be void unless there is a direction in the trust instrument as to the disposition of the property if the condition in terrorem is violated, in which event the direction in the trust instrument shall be carried out, except that a condition in terrorem shall not be enforceable against an individual for:

(1) Bringing an action for interpretation or enforcement of a trust instrument;

(2) Bringing an action for an accounting, for removal, or for other relief against a trustee; or

(3) Entering into a settlement agreement.

53-12-46 *[To be added to Article 3 of Chapter 12 of Title 53]*

(a) If the settlor reserved a power of revocation over a trust and has not released the power, the duties of the trustee are owed exclusively to the settlor.

(b) When the duties of the trustee are owed exclusively to the settlor:

(1) The following persons may seek to enforce the trustee's duties to the settlor:

(A) The settlor's guardian or conservator;

(B) The settlor's agent under a power of attorney granting general authority with respect to estates, trusts, and other beneficial interests under Code Section 10-6B-50 or general authority with respect to claims and litigation under Code Section 10-6B-51;

(C) The settlor's parent, spouse, or descendant; or

(D) Any beneficiary of the trust; and

(2) Upon a motion by the settlor, the court shall dismiss any action seeking to enforce the trustee's duties to the settlor unless the court finds that the settlor lacks capacity to revoke the trust.

53-12-61

(o) For purposes of subsection (b) of this Code section, notwithstanding the provisions of Code Section 53-12-8, all qualified beneficiaries shall represent and bind all other beneficiaries who are not qualified beneficiaries, regardless of whether there is a conflict of interest between a qualified beneficiary and any such other beneficiary or whether any such other beneficiary objects to the representation.

53-12-62(b)

(2) Unless the original trust instrument expressly provides otherwise, a trustee, other than a person who contributed property to the trust, with authority to invade the principal of the original trust to make distributions to or for the benefit of one or more of the beneficiaries may also, independently or with court approval, exercise such authority by distributing all or part of the ~~principal~~ principal property of the original trust to a trustee of a second trust; provided, however, that the second trust shall not include as a:

(A) Current beneficiary any person that is not a current beneficiary of income or principal of the original trust; or

(B) Beneficiary any person that is not a beneficiary of the original trust.

53-12-172

If a charitable purpose becomes unlawful, impracticable, impossible to achieve, or wasteful trust or gift cannot be executed in the manner provided by the settlor or donor, the superior court shall exercise equitable powers modify or terminate the trust in such a way as will as nearly as possible effectuate the intention of the settlor ~~or donor~~.

53-12-200

A trustee shall have legal capacity under Georgia law to acquire, hold, and transfer title to property. An individual shall be eligible to serve as a trustee regardless of citizenship or residency. If the trustee is a corporation, partnership, or other entity, it shall be required to have the power to act as a trustee in Georgia pursuant to Code Section 7-1-242, Article 15 of this chapter, or other applicable law.

53-12-201

- (a) A settlor may appoint trustees or grant that power to others, including trust beneficiaries.
- (b) A trust shall never fail for want of a trustee.
- (c) If the trust instrument names a person to fill a vacancy or provides a method of appointing a trustee, any vacancy shall be filled or appointment made as provided in the trust instrument.
- (d) Unless otherwise provided in the trust instrument, if one or more cotrustees remain in office, a vacancy need not be filled.
- ~~(d)~~ (e) The qualified beneficiaries may appoint a trustee by unanimous consent.
- ~~(e)~~ (f) In all other cases, the court, on petition of an interested person, may appoint any number of trustees consistent with the intention of the settlor and the interests of the beneficiaries.
- ~~(f)~~ (g) The petition provided for in subsection ~~(e)~~ (f) of this Code section shall be served upon all qualified beneficiaries.
- ~~(g)~~ (h) A trustee appointed as a successor trustee shall have all the authority of the original trustee.

53-12-221

(a) A trustee may be removed:

(1) In accordance with the provisions of the trust instrument; or

(2) Upon petition to the court by any interested person or by the court on its own motion showing good cause.

(b) The court may remove a trustee if:

(1) The trustee has committed a serious breach of trust;

(2) Lack of cooperation among cotrustees substantially impairs the administration of the trust;

(3) Because of unfitness, unwillingness, or persistent failure of the trustee to administer the trust effectively, the court determines that removal of the trustee best serves the interests of the beneficiaries;

(4) There has been a substantial change of circumstances, the court finds that removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable cotrustee or successor trustee is available; or

(5) Removal is requested by all of the qualified beneficiaries, the court finds that removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable cotrustee or successor trustee is available.

~~(b)~~ (c) In the discretion of the court, in order to protect the trust property or the interests of any beneficiary, on its own motion or on motion of a cotrustee or other interested person, the court may compel the trustee whose removal is being sought to surrender trust property to a cotrustee, a receiver, or temporary trustee pending a decision on a petition for removal of a trustee or pending appellate review of such decision. To the extent the court deems necessary, the powers of the trustee also may be suspended.

53-12-247

Except to the extent that the governing trust instrument clearly manifests an intention that the trustee shall or may favor one or more of the beneficiaries and subject to Code Section 53-12-46, a trustee shall administer a trust impartially based on what is fair and

reasonable to all of the beneficiaries and with due regard to the respective interests of income beneficiaries and remainder beneficiaries.

53-12-248

When a person holds a power of appointment, as defined in paragraph (2) of Code Section 53-12-500, over property which respect to which the person is also a trustee or a trust director, the duties imposed on such person as a trustee or trust director shall not apply to the exercise or nonexercise of the power of appointment.

53-12-261(b)

(11) To borrow money for such periods of time and upon such terms and conditions as to rates, maturities, renewals, and security as the fiduciary shall deem advisable for ~~any the~~ purpose of ~~paying debts, taxes, or other charges against the estate or trust or any part thereof~~ and to mortgage, pledge, or otherwise encumber such portion of the property held by the fiduciary as may be required to secure the loan and to renew existing loans either as maker or endorser;

(23) To employ and compensate, out of income or principal or both and in such proportion as the fiduciary shall deem advisable, persons deemed by the fiduciary needful to advise or assist in the administration of the estate or trust, including, but not limited to, agents, accountants, brokers, attorneys at law, attorneys in fact, investment brokers, rental agents, realtors, appraisers, and tax specialists; and to do so without liability for any neglect, omission, misconduct, or default of any such agent or representative selected and retained with due care on the part of the fiduciary; ~~provided, however, that, if an attorney in fact is appointed by a power of attorney to which Chapter 6B of Title 10 is applicable under Code Section 10-6B-81, the exercise of the fiduciary powers of the trustee by the attorney in fact shall be subject to Code Section 10-6B-40;~~

(28) To determine:

(A) What is principal and what is income of any estate or trust and to allocate or apportion receipts and expenses, as between principal and income, in the exercise of the fiduciary's discretion and, by way of illustration and not limitation of the fiduciary's discretion, to charge premiums on securities purchased at a premium against principal or income or partly against each;

- (B) Whether to apply stock dividends and other noncash dividends to income or principal or to apportion them as the fiduciary shall deem advisable; and
- (C) What expenses, costs, and taxes, other than estate, inheritance, and succession taxes and other governmental charges, shall be charged against principal or income or apportioned between principal and income and in what proportions; ~~and~~
- (29) To make, modify, and execute contracts and other instruments, under seal or otherwise, as the fiduciary deems advisable; and
- (30) To endorse, guarantee, become the surety of or otherwise become obligated for or with respect to the debts or other obligations of a beneficiary or any debt or obligation incurred for the benefit of a beneficiary, whether with or without consideration, as the fiduciary deems advisable.

53-12-262

(a) A corporate fiduciary, without authorization by the court, may exercise the power:

(1) To retain stock or other securities of its own issue received on the creation of the trust or later contributed to the trust, including the securities into which the securities originally received or contributed may be converted or ~~that which~~ may be derived therefrom as a result of merger, consolidation, stock dividends, splits, liquidations, and similar procedures. The corporate fiduciary may exercise, by purchase or otherwise, any rights, warrants, or conversion features attaching to any such securities. The authority described in this paragraph shall:

(A) Apply to the exchange or conversion of stock or securities of the corporate fiduciary's own issue, regardless of whether ~~or not~~ any new stock or securities received in exchange therefor are substantially equivalent to those originally held;

(B) Apply to the continued retention of all new stock and securities resulting from merger, consolidation, stock dividends, splits, liquidations, and similar procedures and received by virtue of such conversion or exchange of stock or securities of the corporate fiduciary's own issue, regardless of whether ~~or not~~ the new stock or securities are substantially equivalent to those originally received by the fiduciary;

(C) Have reference, inter alia, to the exchange of such stock or securities for stock or securities of any holding company ~~that which~~ owns stock or other interests in one or more other corporations, including the corporate fiduciary, whether the holding

company is newly formed or already existing and regardless of whether ~~or not~~ any of the corporations own assets identical or similar to the assets of or carry on a business identical or similar to the corporation whose stock or securities were previously received by the fiduciary and the continued retention of stock or securities, or both, of the holding company; and

(D) Apply regardless of whether any of the corporations have officers, directors, employees, agents, or trustees in common with the corporation whose stock or securities were previously received by the fiduciary; and

(2) To borrow money from its own banking department for such periods of time and upon such terms and conditions as to rates, maturities, renewals, and security as the fiduciary shall deem advisable for the purpose of paying debts, taxes, or other charges against the estate or any trust or any part thereof, and to mortgage, pledge, or otherwise encumber such portion of the estate or any trust as may be required to secure the loan or loans; and to renew existing loans, either as maker or endorser.

(b) The powers conferred by subsection (a) of this Code section or by another provision of this part may be exercised by a corporate fiduciary only if such corporate fiduciary has the power to act as a fiduciary in Georgia pursuant to Code Section 7-1-242, Part 1 of Article 11 or Article 15 of this chapter, or other applicable law.

53-12-264

~~The qualified beneficiaries of a trust that omits any of the powers in Code Section 53-12-261 may by unanimous consent authorize but not require the court to grant to the trustee those powers.~~

53-12-270 *[To be amended to apply to trust directors and to expand the application of this Code section.]*

(a) Subject to subsection (c) of this Code section, and unless the trust provisions expressly indicate that a rule in this subsection shall not apply:

(1) A person other than a settlor who is a beneficiary and trustee of a trust that confers on such trustee a power to make discretionary distributions to or for such trustee's personal benefit may exercise such power only in accordance with an ascertainable standard; and

(2) A trustee shall not exercise a power to make discretionary distributions to satisfy a legal obligation of support that such trustee personally owes another person.

(b) A power whose exercise is limited or prohibited by subsection (a) of this Code section may be exercised by a majority of the remaining trustees whose exercise of such power is not so limited or prohibited. If the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with authority to exercise the power.

(c) Subsection (a) of this Code section shall not apply to:

(1) A power held by the settlor's spouse who is the trustee of a trust for which a marital deduction, as defined in Section 2056(b)(5) or 2523(e) of the federal Internal Revenue Code of 1986, was previously allowed;

(2) Any trust during any period that the trust may be revoked or amended by its settlor; or

(3) A trust if contributions to such trust qualify for the annual exclusion under Section 2503(c) of the federal Internal Revenue Code of 1986.

53-12-307

(a) Unless a claim is previously barred by adjudication, consent, limitation, or otherwise, if a beneficiary ~~has received a written report~~ was sent a record that adequately ~~discloses~~ disclosed the existence of a claim against the trustee for a breach of trust, the claim shall be barred as to that beneficiary unless a proceeding to assert the claim is commenced within two years after ~~receipt of the report~~ the date the beneficiary was sent the record. A ~~report~~ record adequately discloses existence of a claim if it provides sufficient information so that the beneficiary knows of such claim or reasonably should have inquired into the existence of such claim. If the beneficiary ~~has not received a report~~ was not sent a record which adequately ~~discloses~~ disclosed the existence of a claim against the trustee for a breach of trust, such claim shall be barred as to that beneficiary unless a proceeding to assert such claim is commenced within six years after the beneficiary discovered, or reasonably

should have discovered, the subject of such claim. For purposes of this subsection, “record” has the meaning given to such term in Code Section 53-12-10(7).

53-12-320

(a) Any nonresident who is eligible to serve as a trustee under Code Section 7-1-242, Part 1 of Article 11 of this chapter, or other applicable law ~~53-12-201~~ may act as a trustee in this state pursuant to the terms of this Code section.

(d) Notwithstanding subsections (b) and (c) of this Code section, in a proceeding in the probate court pursuant to paragraph (1), (3), (4), or (7) of subsection (a) of Code Section 15-9-127, service of summons, notice, or process upon a nonresident trustee may be made pursuant to Code Section 53-11-4.

53-12-321(a)

Any foreign entity may act in this state as a trustee, trust director, personal representative-executor, temporary administrator, conservator, or guardian, or in any other like or similar fiduciary capacity, whether the appointment is by law, will, deed, inter vivos trust, security deed, mortgage, deed of trust, court order, or otherwise, without the necessity of complying with any law of this state relating to the qualification of foreign entities to do business in this state or the licensing of foreign entities to do business in this state, except as provided in this article, and notwithstanding any prohibition, limitation, or restriction contained in any other law of this state, provided only that the foreign entity is authorized to act in the fiduciary capacity in the state in which it is chartered or licensed or, if the foreign entity is a national banking association, in the state in which it has its principal place of business.

53-12-323

(c) Any foreign entity that acts as a trustee or trust director in this state shall be deemed to have consented to service upon the Secretary of State of any summons, notice, or process in connection with any action or proceeding in the courts of this state growing out of or based upon any act or failure to act on the part of the trustee or trust director unless the trustee or trust director shall designate as the agent for such service some

person who may be found and served with notice, summons, or process in this state by a designation to be filed, from time to time, in the office of the Secretary of State, giving the name of the agent and the place in this state where the agent may be found and served.

(e) Notwithstanding subsections (c) and (d) of this Code section, in a proceeding in the probate court pursuant to paragraph (1), (3), (4), or (7) of subsection (a) of Code Section 15-9-127, service of summons, notice, or process upon a foreign entity may be made pursuant to Code Section 53-11-4.

53-12-345(a)

A Subject to any specific limitation set forth in the trust instrument or in this chapter or other applicable law, a trustee may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall act in good faith and exercise reasonable care, skill, and caution in:

- (1) Selecting an agent;
- (2) Establishing the scope and terms of the delegation, consistent with the purposes and provisions of the trust; and
- (3) Reviewing periodically the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

53-12-362

(b)

- (1) The trustee may petition the ~~superior~~ court to order the conversion to a unitrust.
- (2) A beneficiary may request a trustee to convert to a unitrust. If the trustee does not convert, the beneficiary may petition the ~~superior~~ court to order the conversion.
- (3) The court shall order conversion if the court concludes that the conversion will enable the trustee to better carry out the intent of the settlor or testator and the purposes of the trust.

(g) The trustee or, if the trustee declines to do so, a beneficiary may petition the ~~superior~~ court to:

- (1) Select a payout percentage different from 4 percent but not lower than 3 percent or higher than 5 percent;
- (2) Provide for a distribution of net income, as would be determined if the trust were not a unitrust, in excess of the unitrust distribution if such distribution is necessary to preserve a tax benefit;
- (3) Average the valuation of the trust's net assets over a period other than three years; or
- (4) Reconvert from a unitrust. Upon a reconversion, the power to adjust under Code Section 53-12-361 shall be revived.

(j)

- (1) If paragraph (3) or (4) of subsection (i) of this Code section applies to a trustee and there is more than one trustee, a cotrustee to whom such provision does not apply may convert the trust unless the exercise of the power by the remaining trustee is prohibited by the governing trust instrument.
- (2) If paragraph (3) or (4) of subsection (i) of this Code section applies to all the trustees, the trustees may petition the ~~superior~~ court to direct a conversion.

53-12-500

(3) "Power of direction" means a power over a trust granted to a person by the trust instrument to the extent the power is exercisable in a capacity other than as a trustee; provided that, without limitation, a "power of direction" shall not include the power of a person designated in a trust instrument to receive notice and provide consent pursuant to Code Section 53-12-8(f)(5). Such term includes a power over the administration of the trust or the investment, management, or distribution of the trust property; a power to consent to a trustee's actions, whether through exercise of an affirmative power to consent or through nonexercise of a veto power over a trustee's actions, where a trustee may not act without such consent; and all further powers appropriate to the exercise or nonexercise of such powers held by the trust director pursuant to subsection (a) of Code Section 53-12-502. Such term shall exclude the powers described in subsection (b) of Code Section 53-12-501.

53-12-501(b)(5)(B)

Such power ~~is~~ must be held in a nonfiduciary capacity to achieve the settlor's tax objectives.

53-12-506(a)

~~(a)~~ (a) An individual shall be eligible to serve as a trust director regardless of citizenship ~~or~~ and residency.

~~(b)~~ (b) If the trust director is a corporation, partnership, or other entity, it shall be required to have the power to act as a trustee in Georgia pursuant to Code Section 7-1-242, Part 1 of Article 11 or Article 15 of this chapter, or other applicable law.

~~(c)~~ (c) The rules applicable to a trustee apply to a trust director regarding:

(1) Jurisdiction under Code Section 53-12-6;

(2) Appointment and acceptance, compensation, and resignation and removal of trustees under Article 11 of this chapter;

(3) Accounting under Article 12 of this chapter; and

(4) Nonresidents and foreign entities acting as trustees under Article 15 of this chapter.

~~(d)~~ (d) In an action against a trust director for breach of trust, the trust director may assert the same defenses a trustee in a like position and under similar circumstances could assert in an action for breach of trust against the trustee.

~~(e)~~ (e) By accepting appointment as a trust director of a trust subject to this article, a trust director submits to personal jurisdiction of the courts of this state regarding any matter related to a power or duty of a trust director. This subsection shall not preclude use of another method to obtain jurisdiction over a trust director.

~~(f)~~ (f) As used in this Code, where the context requires or permits, the term "trustee" includes a trust director.

(g) Notwithstanding the provisions of subsection (b) of this Code section, a partnership or limited liability company shall be eligible to serve as a trust director, regardless of whether such partnership or limited liability company is otherwise qualified to act as a trustee, if all of the partners or members are individuals who are jointly and severally liable for all debts, obligations, and liabilities of the partnership or limited liability company pursuant to Code Section 14-8-15(a), a written operating agreement or another written agreement under Code Section 14-11-303(b), or other similar statute or agreement.

PART II
HEIRSHIP PROVISIONS

53-2-2

~~Reserved.~~ (a) For purposes of this chapter, a decree of adoption shall have the effect provided by Code Section 19-8-19.

(b) For purposes of subsection (a) of this Code section, a decree of adoption shall include:

(1, 1998) Any such decree entered pursuant to Article 1 of Chapter 8 of Title 19;

(2) Any such decree recognized in this state pursuant to Code Section 19-8-22; or

(3) A final order entered pursuant to Code Section 19-8-43.

53-2-3

The rights of inheritance of a child born out of wedlock shall be as follows:

(1) A child born out of wedlock may inherit in the same manner as though legitimate from or through the child's mother, the other children of the mother, and any other maternal kin;

(2)(A) A child born out of wedlock may not inherit from or through the child's father, the other children of the father, or any paternal kin by reason of the paternal kinship, unless:

(i) A court of competent jurisdiction has entered an order declaring the child to be legitimate, under the authority of Code Section 19-7-22 or such other authority as may be provided by law; provided, however, that the denial of a legitimation petition under paragraph (2) of subsection (d) of Code Section 19-7-22 shall not prevent the child from inheriting from or through his or her father under another provision of this paragraph;

(ii) A court of competent jurisdiction has otherwise entered a court order establishing paternity; provided, however, that:

(I) A temporary order of support entered under subsection (a) of Code Section 19-7-46.2 or an order of support entered under subsection (a) of Code Section 19-7-49 shall not be conclusive under this division unless such order also satisfies division (i) of this subparagraph or unless the court before which proceedings on the estate are pending

determines, in its discretion, that such order also satisfies division (vi) of this subparagraph;

(II) A support order, as that term is defined in paragraph (11) of Code Section 19-11-42, shall be given the same force and effect by the court before which proceedings on the estate are pending as such judgment would be given in a court of this state, as the term 'court' is defined in paragraph (2) of Code Section 19-11-42, under Article 2 of Chapter 11 of Title 19, the 'Uniform Reciprocal Enforcement of Support Act,' but such support order shall not be conclusive under this division unless such order also satisfies division (i) of this subparagraph or unless the court before which proceedings on the estate are pending determines, in its discretion, that such order also satisfies division (vi) of this subparagraph; provided, however, that nothing in this subdivision shall be applied or construed to expand or extend the jurisdiction of the probate courts for purposes of Article 2 of Chapter 11 of Title 19;

(III) A temporary order of support entered under subsection (e) of Code Section 19-11-48 or a temporary order under Code Section 19-11-74 shall not be conclusive under this division unless such order also satisfies division (i) of this subparagraph or unless the court before which proceedings on the estate are pending determines, in its discretion, that such order also satisfies division (vi) of this subparagraph;

(IV) A support order, as that term is defined in paragraph (28) of Code Section 19-11-101, shall be given the same force and effect by the court before which proceedings on the estate are pending as such judgment would be given in the tribunals of Georgia, as designated by subsection (a) of Code Section 19-11-102, under Article 3 of Chapter 11 of Title 19, the 'Uniform Interstate Family Support Act,' but such support order shall not be conclusive under this division unless such order also satisfies division (i) of this subparagraph or unless the court before which proceedings on the estate are pending determines, in its discretion, that such order also satisfies division (vi) of this subparagraph; provided, however, that nothing in this subdivision shall be applied or construed to expand or extend the jurisdiction of the probate courts for purposes of Article 3 of Chapter 11 of Title 19;

(V) A temporary child support order entered under subsection (b) of Code Section 19-11-140 shall not be conclusive under this division unless such order also satisfies division (i) of this subparagraph or unless the court before which proceedings on the estate are

pending determines, in its discretion, that such order also satisfies division (vi) of this subparagraph; provided, however, that a temporary child support order entered under paragraph (3) of subsection (b) of Code Section 19-11-140 shall be conclusive under this division and a temporary child support order entered under paragraph (5) of subsection (b) of Code Section 19-11-140 shall satisfy division (vi) of this subparagraph;

(VI) For purposes of this division, an administrative determination of paternity made pursuant to subsection (b) of Code Section 19-7-40 shall have the same force and effect as a judicial decree;

(VII) For purposes of this division, a court order for child support, as that term is defined in Code Section 19-11-3, issued by an administrative or quasi-judicial entity of this state or another state shall have the same force and effect as a judicial decree;

(VIII) For purposes of this division, a judgment determining parentage of a child issued by a tribunal or a foreign tribunal, as those terms are defined in Code Section 19-11-101, shall be given the same force and effect by the court before which proceedings on the estate are pending as such judgment would be given in the tribunals of Georgia, as designated by subsection (a) of Code Section 19-11-102, under Article 3 of Chapter 11 of Title 19, the 'Uniform Interstate Family Support Act'; provided, however, that nothing in this subdivision shall be applied or construed to expand or extend the jurisdiction of the probate courts for purposes of such article;

(IX) Nothing in this division shall be applied or construed to make available to the probate courts the information contained in the state case registry pursuant to subsection (e) of Code Section 19-11-39; and

(X) Such determination of paternity has not been set aside as provided in Code Section 19-7-54;

(iii) The father has executed a sworn statement signed by him attesting to the parent-child relationship, including, but not limited to:

(I) A voluntary acknowledgment of legitimation that was valid under the former provisions of Code Section 19-7-21.1 and was executed on or before June 30, 2016;

(II) A voluntary acknowledgment of paternity that satisfies the requirements of subsection (b) of Code Section 19-7-46.1 and is neither timely rescinded nor successfully challenged as provided by subsection (b) or (c) of Code Section 19-7-46.1;

(III) An acknowledgment of paternity made under oath pursuant to Code Section 19-11-13; or

(IV) A voluntary acknowledgment of paternity that is admissible to establish parentage of the child under subsection (j) of Code Section 19-11-135;

(iv) The father has signed the birth certificate of the child; the name or social security account number of the father appears on the birth certificate of the child or on a certified copy of such birth certificate with the written consent of the father in the manner provided by subsection (a) of Code Section 19-7-46.1 or paragraph (2) of subsection (e) of Code Section 31-10-9, or the father has acknowledged paternity and the social security account information of the father is entered on the birth certificate of the child in the manner provided by subsection (a) of Code Section 31-10-9.1;

(v) The father has otherwise acknowledged paternity under oath in any manner satisfying the definition set forth in paragraph (14) of Code Section 19-11-3 or the requirements of subsection (a) of Code Section 19-11-14; or

(vi) There is other clear and convincing evidence that the child is the child of the father.

(B)(i) Subparagraph (A) of this paragraph notwithstanding, a child born out of wedlock may inherit from or through the father, other children of the father, or any paternal kin by reason of the paternal kinship if evidence of the rebuttable presumption of paternity described in this subparagraph is filed with the court before which proceedings on the estate are pending and the presumption is not overcome to the satisfaction of the trier of fact by clear and convincing evidence.

(ii) There shall exist a rebuttable presumption of paternity of a child born out of wedlock if:

(I) The child was born to a mother who was a recipient intended parent as the result of an embryo relinquishment pursuant to Article 2 of Chapter 8 of Title 19, the child's mother was not married to the presumptive father at the time of the birth of the child, the child's mother and presumptive father each executed as a recipient intended parent a written contract satisfying the requirements of subsection (a) of Code Section 19-8-41, the child is presumed to be the legal child of the presumptive father under subsection (d) of Code Section 19-8-41, and no expedited order of adoption or parentage complying with the requirements of Code Section 19-8-43 has been entered by a court of competent

jurisdiction as a final order vesting parental rights and responsibilities in the child's presumptive father as a recipient intended parent; or

(II) Scientifically credible parentage-determination genetic testing establishes at least a 97 percent probability of paternity. Scientifically credible parentage-determination Parentage-determination genetic testing shall include, but not necessarily be limited to, red cell antigen, human leucocyte antigen (HLA), red cell enzyme, and serum protein electrophoresis tests or testing by deoxyribonucleic acid (DNA) probes. Parentage-determination genetic testing shall be conducted by a laboratory certified by the American Association of Blood Banks, shall be conducted so that the results meet the standards the American Association of Blood Banks requires in order for such results to be admitted as evidence in a court of law, and shall be performed by a duly qualified licensed practicing physician, duly qualified immunologist, or other duly qualified person; provided, however, that in all cases the court before which proceedings on the estate are pending shall determine the number and qualifications of the experts.

(C) If any one of the requirements of divisions (i) through (vi) ~~(v)~~ of subparagraph (A) of this paragraph is fulfilled, or if the presumption of paternity set forth in subparagraph (B) of this paragraph shall have been established and shall not have been rebutted by the presentation of clear and convincing evidence as determined by the trier of fact, a child born out of wedlock may inherit in the same manner as though legitimate from and through the child's father, the other children of his or her father, and any other paternal kin;

(D) In determining whether clear and convincing evidence has been presented under this paragraph, the trier of fact may consider and determine the relevance, materiality, and weight of any evidence that is not excluded by the hearsay rule pursuant to Code Section 24-8-803 or subsection (b) of Code Section 24-8-804, specifically including, but not limited to, evidence that is not excluded by the hearsay rule pursuant to paragraph (9), (11), (12), (13), (19), or (23) of Code Section 24-8-803 or paragraph (4) of subsection (b) of Code Section 24-8-804; provided, however, that:

(i) The requirement of reasonable certainty only, as provided by subsection (a) of Code Section 24-14-40, shall not apply to such determination; and

(ii) The party bearing the burden of proof that the child is the child of the father by the presentation of clear and convincing evidence under division (vi) of subparagraph (A) of

this paragraph shall not be relieved from the onus of proving identity, as provided by subsection (b) of Code Section 24-14-40.

(E) Except as provided by division (i) of subparagraph (B) of paragraph (2) of subsection (d) of Code Section 19-7-22, nothing in this paragraph shall be applied or construed to abrogate or limit:

(i) The jurisdiction of a probate court or a superior court under Code Section 53-2-20 to resolve judicially the identity or interest of any heir in accordance with Article 2 of this chapter; or

(ii) The effect of the findings of such a court in such a proceeding pursuant to Code Section 53-2-26.

(3) In distributions under this Code section, the children of a deceased child born out of wedlock shall represent that deceased child in the manner provided by Code Section 53-2-1.

(4) Subsection (c) of Code Section 19-7-20 and paragraphs (3), (4), and (5) of Code Section 19-11-43 shall not affect the rights of inheritance of a child under this Code section.

(5) The limitation imposed by subsection (b) of Code Section 19-11-14 upon the full faith and credit to be given by the courts of this state to a determination of paternity made by another state shall not affect the rights of inheritance of a child under a voluntary acknowledgment or an administrative or judicial determination otherwise satisfying the requirements of this Code section.

53-2-4

(a) The mother of a child born out of wedlock, the other children of the mother, and other maternal kin may inherit from and through the child born out of wedlock in the same manner as though the child were legitimate.

(b) The father of a child born out of wedlock, the other children of the father, and other paternal kin may inherit from and through the child born out of wedlock in the same manner as if the child were legitimate if:

(1) A court of competent jurisdiction has entered an order declaring the child to be legitimate, under the authority of Code Section 19-7-22 or such other authority as may be provided by law; provided, however, that the denial of a legitimation petition under

paragraph (2) of subsection (d) of Code Section 19-7-22 shall prevent the father from inheriting from or through his child under another provision of this subsection;

(2) A court of competent jurisdiction has otherwise entered a court order establishing paternity; provided, however, that:

(A) A temporary order of support entered under subsection (a) of Code Section 19-7-46.2 or an order of support entered under subsection (a) of Code Section 19-7-49 shall not be conclusive under this paragraph unless such order also satisfies paragraph (1) of this subsection;

(B) A support order, as that term is defined in paragraph (11) of Code Section 19-11-42, shall be given the same force and effect as such judgment would be given in a court of this state, as the term 'court' is defined in paragraph (2) of Code Section 19-11-42, under Article 2 of Chapter 11 of Title 19, the 'Uniform Reciprocal Enforcement of Support Act,' but such support order shall not be conclusive under this paragraph unless such order also satisfies paragraph (1) of this subsection; provided, however, that nothing in this subparagraph shall be applied or construed to expand or extend the jurisdiction of the probate courts for purposes of Article 2 of Chapter 11 of Title 19;

(C) A temporary order of support entered under subsection (e) of Code Section 19-11-48 or a temporary order under Code Section 19-11-74 shall not be conclusive under this paragraph unless such order also satisfies paragraph (1) of this subsection;

(D) A support order, as that term is defined in paragraph (28) of Code Section 19-11-101, shall be given the same force and effect as such judgment would be given in the tribunals of Georgia, as designated by subsection (a) of Code Section 19-11-102, under Article 3 of Chapter 11 of Title 19, the 'Uniform Interstate Family Support Act,' but such support order shall not be conclusive under this paragraph unless such order also satisfies paragraph (1) of this subsection; provided, however, that nothing in this subparagraph shall be applied or construed to expand or extend the jurisdiction of the probate courts for purposes of Article 3 of Chapter 11 of Title 19;

(E) A temporary child support order entered under subsection (b) of Code Section 19-11-140 shall not be conclusive under this paragraph unless such order also satisfies paragraph (1) of this subsection; provided, however, that a temporary child support order entered under paragraph (3) of subsection (b) of Code Section 19-11-140 shall be conclusive under this paragraph;

(F) For purposes of this paragraph, an administrative determination of paternity made pursuant to subsection (b) of Code Section 19-7-40 shall have the same force and effect as a judicial decree;

(G) For purposes of this paragraph, a court order for child support, as that term is defined in Code Section 19-11-3, issued by an administrative or quasi-judicial entity of this state or another state shall have the same force and effect as a judicial decree;

(H) For purposes of this paragraph, a judgment determining parentage of a child issued by a tribunal or a foreign tribunal, as those terms are defined in Code Section 19-11-101, shall be given the same force and effect as such judgment would be given in the tribunals of Georgia, as designated by subsection (a) of Code Section 19-11-102, under Article 3 of Chapter 11 of Title 19, the 'Uniform Interstate Family Support Act'; provided, however, that nothing in this subparagraph shall be applied or construed to expand or extend the jurisdiction of the probate courts for purposes of such article;

(I) Nothing in this paragraph shall be applied or construed to make available to the probate courts the information contained in the state case registry pursuant to subsection (e) of Code Section 19-11-39; and

(J) Such determination of paternity has not been set aside as provided in Code Section 19-7-54;

(3) The father has, during the lifetime of the child, executed a sworn statement signed by the father attesting to the parent-child relationship, including, but not limited to:

(A) A voluntary acknowledgment of legitimation that was valid under the former provisions of Code Section 19-7-21.1 and was executed on or before June 30, 2016;

(B) A voluntary acknowledgment of paternity that satisfies the requirements of subsection (b) of Code Section 19-7-46.1 and is neither timely rescinded nor successfully challenged as provided by subsection (b) or (c) of Code Section 19-7-46.1;

(C) An acknowledgment of paternity made under oath pursuant to Code Section 19-11-13; or

(D) A voluntary acknowledgment of paternity that is admissible to establish parentage of the child under subsection (j) of Code Section 19-11-135;

provided, however, that when the court determines by clear and convincing evidence that the father caused his child to be conceived as a result of having nonconsensual

sexual intercourse with the mother of his child or when the mother is less than ten years of age, such sworn statement shall be insufficient for purposes of this subsection;

(4) During The father has, during the lifetime of the child;

(A) The father has signed the birth certificate of the child;

(B) The name or social security account number of the father has been made to appear on the birth certificate of the child or on a certified copy of such birth certificate with the written consent of the father in the manner provided by subsection (a) of Code Section 19-7-46.1 or paragraph (2) of subsection (e) of Code Section 31-10-9; or

(C) The father has acknowledged paternity and the social security account information of the father has been entered on the birth certificate of the child in the manner provided by subsection (a) of Code Section 31-10-9.1;

(5) During the lifetime of the child, the father has otherwise acknowledged paternity under oath in any manner satisfying the definition set forth in paragraph (14) of Code Section 19-11-3 or the requirements of subsection (a) of Code Section 19-11-14; provided, however, that when the court determines by clear and convincing evidence that the father caused his child to be conceived as a result of having nonconsensual sexual intercourse with the mother of his child or when the mother is less than ten years of age, such acknowledgment under oath shall be insufficient for purposes of this subsection; or
(6)(5) The presumption of paternity described in division (2)(B)(ii) of Code Section 53-2-3 has been established and has not been rebutted by the presentation of clear and convincing evidence as determined by the trier of fact.

(c) In determining whether clear and convincing evidence has been presented under paragraph (6) of subsection (b) of this Code section, the trier of fact may consider and determine the relevance, materiality, and weight of any evidence that is not excluded by the hearsay rule pursuant to Code Section 24-8-803 or subsection (b) of Code Section 24-8-804, specifically including, but not limited to, evidence that is not excluded by the hearsay rule pursuant to paragraph (9), (11), (12), (13), (19), or (23) of Code Section 24-8-803 or paragraph (4) of subsection (b) of Code Section 24-8-804; provided, however, that the requirement of reasonable certainty only, as provided by subsection (a) of Code Section 24-14-40, shall not apply to such determination.

(d) Except as provided by division (ii) of subparagraph (B) of paragraph (2) of subsection (d) of Code Section 19-7-22, nothing in subsection (b) of this Code section shall be applied or construed to abrogate or limit:

(1) The jurisdiction of a probate court or a superior court under Code Section 53-2-20 to resolve judicially the identity or interest of any heir in accordance with Article 2 of this chapter; or

(2) The effect of the findings of such a court in such a proceeding pursuant to Code Section 53-2-26.

(e) Subsection (c) of Code Section 19-7-20 and paragraphs (3), (4), and (5) of Code Section 19-11-43 shall not affect the rights of inheritance of the father of a child born out of wedlock, the other children of the father, and other paternal kin under subsection (b) of this Code section.

(f) The limitation imposed by subsection (b) of Code Section 19-11-14 upon the full faith and credit to be given by the courts of this state to a determination of paternity made by another state shall not affect the rights of inheritance of the father of a child born out of wedlock, the other children of the father, and other paternal kin under a voluntary acknowledgment or an administrative or judicial determination otherwise satisfying the requirements of subsection (b) of this Code section.

53-2-5

(a) An individual conceived by artificial insemination, in vitro fertilization, or other similar method of assisted reproduction and presumed legitimate in accordance with Code Section 19-7-21 shall be considered a child of the parents and entitled to inherit under the laws of intestacy from the parents and from relatives of the parents, and the parents and relatives of the parents shall likewise be entitled to inherit as heirs from and through such individual.

(b) Subsection (a) of this Code section shall be subject to Article 2 of Chapter 8 of Title 19, and, in the event of a conflict, the provisions of Article 2 of Chapter 8 of Title 19 shall prevail.

53-2-9 *[To be added to Article 1 of Chapter 2 of Title 53]*

For purposes of this article, the term ‘child born out of wedlock’ shall have the same meaning provided by Code Section 19-7-23.

53-2-21

(a) Any personal representative, guardian, conservator, ~~committee~~, trustee, trust director, other fiduciary, or other person having a status that, either ~~which~~ by operation of law or pursuant to written instrument, devolves upon such person a duty of distributing property to heirs may file a petition for determination of heirship as provided in Code Section 53-2-20. The petition shall allege ~~the~~:

(1) The names, addresses, ages, and relationship, so far as known to the petitioner, of all parties ~~in an~~ interest, other than creditors, and the nature and character of such interests. ~~The petition shall further allege whether; and~~

(2) Whether the petitioner has reason to apprehend that there may be others entitled to participate in the distribution whose names are unknown to the petitioner.

(b) With respect to the estate of a decedent that the petitioner knows or has reason to apprehend is an obligor within the meaning of subparagraph (B) of paragraph (17) of Code Section 19-11-101, an individual who is an obligee within the meaning of subparagraph (C) of paragraph (16) of Code Section 19-11-101 is a party in interest for purposes of subsection (a) of this Code section.

53-2-22

(a) Any individual claiming to be an heir or any person in any way interested as a distributee in any property under the laws of intestacy may apply to either the probate court or the superior court specified in Code Section 53-2-20 to have the claim of heirship and quantity of interest established. The petition in such a case shall contain the same averments as to all parties ~~in an~~ interest required of persons filing under Code Section 53-2-21 with the person charged with the duty of distribution being named as a party.

(b) With respect to the estate of a decedent that is an obligor within the meaning of subparagraph (B) of paragraph (17) of Code Section 19-11-101, an individual who is an obligee within the meaning of subparagraph (C) of paragraph (16) of Code Section 19-11-

101 is a party in interest who may file a petition for determination of heirship under subsection (a) of this Code section.

53-2-23

(a) Upon the filing in a superior court of a petition described in Code Section 53-2-21 or 53-2-22, service on the parties in interest shall be effected in the same manner as prescribed in cases in which equitable relief is sought; provided, however, that the superior court additionally may order service in the manner provided by Code Section 19-7-41. The and the case shall thereafter proceed to judgment in the manner provided for such cases by the rules of practice in the superior courts.

(b) With respect to a direct request seeking determination of parentage of a child pursuant to Part 7 of Article 3 of Chapter 11 of Title 19 that is filed by a petitioner in the superior court as a designated tribunal under subsection (a) of Code Section 19-11-102, this article shall apply in the proceeding, as provided by subsection (a) of Code Section 19-11-184, to the extent the petitioner seeks such determination of parentage for the purpose of establishing the identity or interest of such child as an heir of the decedent; provided, however, that nothing in this subsection shall be applied or construed to expand or extend the jurisdiction of the probate courts for purposes of Article 3 of Chapter 11 of Title 19, the 'Uniform Interstate Family Support Act,' or to expand or extend the jurisdiction of the Office of State Administrative Hearings and the Department of Human Services for purposes of this article.

53-2-24

Upon the filing in a probate court of a petition described in Code Section 53-2-21 or 53-2-22, a citation shall be issued and parties in interest shall be served as provided in Chapter 11 of this title; provided, however, that the probate court additionally may order service in the manner provided by Code Section 19-7-41.

53-2-25

Any individual claiming to be an heir or any person in any way interested as a distributee and who is not named as such in any petition filed and pending under this

article may file a motion to intervene in the proceeding pursuant to Code Section 9-11-24.

53-2-26

(a) In the absence of fraud, the findings of the superior court or the probate court in a proceeding brought under this article shall be binding and conclusive as to every person and as to every issue decided.

(b) Nothing in subsection (a) of this Code section shall be applied or construed to abrogate or infringe:

(1) Any right of appeal provided by Title 5; or

(2) Any right to relief provided by Code Section 9-11-60

with respect to the judgment of the superior court or the probate court in a proceeding brought under this article.

53-2-27

(a) When the kinship of any party in interest to a decedent is in controversy in any proceeding under this article, a probate court or superior court may order the removal and testing of deoxyribonucleic acid (DNA) samples from the remains of the decedent and from any party in interest whose kinship to the decedent is in controversy for purposes of comparison and determination of the statistical likelihood of such kinship; provided, however, that no DNA testing shall be ordered with respect to any party in interest whose kinship to the decedent was created or terminated by a decree of adoption, pursuant to subsection (a) of Code Section 19-8-19, unless the right of inheritance of such party in interest was not affected by the adoption, pursuant to subsection (b) of Code Section 19-8-19, or if such party in interest was conceived by means of artificial insemination, in vitro fertilization, or other similar method of assisted reproduction; and provided, further, that, for purposes of this subsection, a decree of adoption shall include (1) any such decree entered pursuant to Article 1 of Chapter 8 of Title 19; (2) any such decree recognized in this state pursuant to Code Section 19-8-22; or (3) a final order entered pursuant to Code Section 19-8-43. The court may order the disinterment of the decedent's remains if reasonably necessary to obtain ~~such~~ DNA samples for testing under this subsection.

(b) An order pursuant to subsection (a) of this Code section may be entered made only on motion for good cause shown and upon notice to all parties in interest, and such order shall specify the time, place, manner, conditions, and scope of the removal and testing of samples, and the person or persons by whom such removal and testing of samples are to be made. When such motion is made prior to the birth of a child whose kinship to the decedent is in controversy, such order shall direct that the DNA testing be conducted as soon as medically feasible after the birth and may stay the proceedings until after the birth except service of notice; provided, however, that the requirements of paragraph (1) of subsection (b) of Code Section 53-2-1 shall remain applicable to such child. Such motion, when made by a party in interest, shall be supported by affidavit setting forth:

- (1) The factual basis for a reasonable belief that the party in interest whose kinship to the decedent is in controversy is or is not so related; and
- (2) If disinterment of the decedent's remains is sought, the factual basis for a reasonable belief that reliable DNA samples from the decedent are not otherwise reasonably available from any other source.

(c) Upon request of a party in interest to a proceeding under this article or as ordered by the court on its own motion in the exercise of its discretion, the movant shall deliver to all parties in interest a copy of a detailed written report of the tester and of any other expert involved in the determination of such statistical likelihood setting out his or her findings, including the results of all tests made and conclusions or opinions based thereon, within ten days after such request is made or such order is entered, but in no event later than ten days prior to the date of a hearing at which such report may be introduced into evidence. Unless a party in interest objects in writing within seven days after receiving such report and prior to the date of such hearing, such report shall be admitted in evidence without the need for foundation testimony or other proof of authenticity or accuracy. When a timely objection is filed, such report shall be admitted in evidence when offered by a duly qualified licensed practicing physician, duly qualified immunologist, or other duly qualified person; provided, however, that in all cases the court shall determine the number and qualifications of the experts. Other relevant evidence shall be admitted as is appropriate. To provide any party in interest an adequate opportunity to be heard or as otherwise appears reasonably necessary to a just

determination in a proceeding under this article, the court shall grant a continuance of any such hearing. Upon motion of any party in interest or on the court's own motion, any hearing or trial held in a proceeding under this article may be held in closed court without any person other than those necessary to the proceeding being admitted.

(d)(1) The costs of obtaining and testing of DNA such samples, including the costs of disinterment and reinterment of the remains of the decedent, if necessary, as well as the costs of providing the report, shall be assessed against and paid by the moving party, and the court may award such costs as part of its final decree; provided, however, that the court may, in its discretion after all parties in interest have been given reasonable opportunity to be heard, cast all or part of such costs against one or more parties in interest upon entering a finding of fact that any such party has asserted in bad faith a position with respect to the kinship in controversy in a proceeding under this article or has failed unreasonably to cooperate with an order for DNA testing entered pursuant to this Code section. The costs of disinterment may include a reasonable fee for services provided by a cemetery company in connection therewith, subject to the limitation upon such charges imposed by subsection (d) of Code Section 10-14-17.

(2) Except as otherwise provided by paragraph (1) of this subsection, the court may, in its discretion after all parties in interest have been given reasonable opportunity to be heard, order reasonable fees of counsel, experts, and guardians ad litem and other costs of the proceeding, including pretrial proceedings, to be paid by the parties in interest in proportions and at times determined by the court.

(3) The trier of fact shall receive without foundation or the need for third-party testimony evidence of the costs and fees provided for by this subsection, and the evidence so presented shall constitute prima-facie evidence of the amounts of the costs so incurred. Copies of bills for the obtaining and testing of DNA samples, including the costs of disinterment and reinterment of the remains of the decedent, if necessary, furnished to all parties in interest at least ten days prior to the date of a hearing at which such copies of bills may be introduced into evidence, are admissible in evidence to prove that the charges billed were reasonable, necessary, and customary; provided, however, that nothing in this paragraph shall be construed to limit the right of a thorough and sifting cross-examination as to such evidence.

(e) An order for DNA testing entered pursuant to this Code section shall be enforceable by contempt; provided, however, that if the movant refuses to submit to such an order, the court, in its discretion after all parties in interest have been given reasonable opportunity to be heard, may dismiss or strike the movant's pleadings upon motion by any party in interest or on the court's own motion.

(f) DNA testing performed pursuant to this Code section shall be conducted by a laboratory certified by the American Association of Blood Banks, shall be conducted so that the results meet the standards the American Association of Blood Banks requires in order for such results to be admitted as evidence in a court of law, and shall be performed by a duly qualified licensed practicing physician, duly qualified immunologist, or other duly qualified person; provided, however, that in all cases the court shall determine the number and qualifications of the experts.

(g) Except as ordered by the court for good cause shown pursuant to subsection (b) of this Code section, the genetic material collected for DNA testing performed pursuant to this Code section:

(1) If collected through the disinterment of the decedent's remains, shall be destroyed within a reasonable time;

(2) If made available from a source other than through the disinterment of the decedent's remains, shall be destroyed or returned in the manner reasonably directed by such source or in accordance with such source's standard rules and regulations; and

(3) Shall not be shared with any other person or entity except to the extent reasonably necessary for compliance with paragraphs (1) and (2) of this subsection.

(h) The disinterment and reinterment of the decedent's remains in accordance with a court order entered pursuant to subsection (a) of this Code section:

(1) Shall not require a permit under Code Section 12-3-52, 12-3-82, or 36-72-4 as a condition precedent to such disinterment;

(2) Shall not require authorization under subsection (f) of Code Section 31-10-20 as a condition precedent to such disinterment or reinterment;

(3) Shall not constitute a disturbance, destruction, defacing, mutilation, removal, or exposure of interred human remains under Code Section 31-21-6;

(4) Shall not constitute a violation of any provision of Code Section 31-21-44;

(5) Shall be supervised or monitored as provided in Code Section 36-72-15 when such disinterment or reinterment is in an abandoned cemetery or burial ground, as defined in Code Section 36-72-2; provided, however, that nothing in Code Section 36-72-15 shall affect the assessment, allocation, or payment of costs ordered by the court pursuant to subsection (d) of this Code section; and

(6) May be done by any person who is or is able to be authorized to disinter the remains of a human body under Code Section 45-16-45 or subsection (b) of Code Section 45-16-51; provided, however, that nothing in this paragraph shall limit the persons whom the court may designate to perform such disinterment pursuant to subsection (b) of this Code section.

(i) Any person disinterring or reintering a decedent's remains in accordance with a court order entered pursuant to subsection (a) of this Code section shall be deemed to be a person having duties imposed upon that person relating to the possession or disposition of dead bodies while in the performance of said duties within the meaning of subsection (b) of Code Section 31-21-44.

(j) DNA testing performed pursuant to this Code section shall be deemed to be genetic testing conducted to obtain information for therapeutic or diagnostic purposes within the meaning of subsection (a) of Code Section 33-54-3; provided, however, that DNA testing performed pursuant to this Code section may be conducted without the prior written consent of the person to be tested.

(k) Any court issuing an order with respect to a determination of heirship under this article shall not, insofar as possible, attach the written results from DNA testing to any pleading or court order.

53-2-28 *[To be added to Article 2 of Chapter 2 of Title 53]*

(a) Any proceeding brought under this article is a civil action, which shall be governed by the rules of civil procedure except as otherwise expressly provided in this article. Except to the extent otherwise provided in Code Section 53-2-27, expressly provided in this Code section, or modified by another applicable statute, the common law as expounded by Georgia courts shall continue to be applied to the admission and exclusion of evidence and to procedures at trial in proceedings brought under this article.

(b) If in any proceeding brought under this article no answer or objection has been filed within the time required by Chapter 11 of this title or by Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' as applicable, the case shall automatically become in default unless the time for filing such answer or objection has been extended as provided by law. In any proceeding brought under this article that has become in default:

(1) In the probate court, the default thereafter shall be governed by Code Section 15-9-47; and

(2) In the superior court, the default thereafter shall be governed by Code Section 9-11-55.

(c) The prior denial of a legitimization petition under paragraph (2) of subsection (d) of Code Section 19-7-22 shall be binding in a proceeding brought under this article in the manner provided by subparagraph (B) of paragraph (2) of subsection (d) of Code Section 19-7-22.

(d) Pursuant to Code Section 19-11-72, participation in a proceeding under Article 2 of Chapter 11 of Title 19, the 'Uniform Reciprocal Enforcement of Support Act,' shall not confer upon any probate court or superior court jurisdiction of any of the parties thereto in any proceeding brought under this article; provided, however, that a party in interest to a proceeding brought under this article submits to the jurisdiction of the probate court or superior court in which such proceeding is brought by:

(1) Filing a petition described in Code Section 53-2-21 or 53-2-22;

(2) Except to the extent that defenses under subsection (b) of Code Section 9-11-12 are presented and preserved as provided by law, filing an answer, caveat, or other pleading responsive to a petition described in Code Section 53-2-21 or 53-2-22; or

(3) Filing a motion to intervene in the proceeding under Code Section 53-2-25.

(e) Laws attaching a privilege against the disclosure of communications between spouses are inapplicable to proceedings under this article. Spouses are competent witnesses and may be compelled to appear and testify to any relevant matter, including marriage and parentage.

(f) If and to the extent that there is or likely will be a disclosure of AIDS confidential information, as that term is defined in Code Section 31-22-9.1, in any proceeding brought under this article, the provisions of Code Section 24-12-21 shall apply to and shall govern any such AIDS confidential information and the disclosure thereof;

provided, however, that, in a proceeding under this article brought in the superior court, the superior court in which such proceeding under this article is brought need not petition another superior court for permission to obtain or disclose AIDS confidential information, as provided in division (i) of subparagraph (C) of paragraph (3) of subsection (bb) of Code Section 24-12-21, but the superior court in which such proceeding under this article is brought shall issue an order stating that such court has made a preliminary determination that there appears to be a compelling need for such information in connection with such proceeding brought under this article and setting a date, time, and place for a hearing thereon. Such order shall be served in the same manner as notice of a petition pursuant to division (i) of subparagraph (C) of paragraph (3) of subsection (bb) of Code Section 24-12-21, such hearing shall be scheduled in accordance with that division (i), and such hearing shall be conducted in accordance with division (ii) of that subparagraph (C).

(g) Except to the extent otherwise provided in subsection (f) of this Code section and in subsection (a) of Code Section 31-10-25, the disclosure of information in vital records in any proceeding brought under this article shall be governed by Chapter 10 of Title 31, Code Sections 19-7-46.1 and 50-18-76, and regulations adopted under Code Section 31-10-25. The court in which a proceeding brought under this article is pending shall be a court of competent jurisdiction for purposes of subparagraph (E) of paragraph (2) of subsection (e) of Code Section 19-7-46.1 and subsections (a) and (d) of Code Section 31-10-25.

(h) Except to the extent otherwise provided in subsection (c) of Code Section 53-2-27, the provisions of Code Section 24-8-826 regarding medical reports in narrative form shall apply to proceedings brought under this article.

(i) Except to the extent otherwise provided in paragraph (3) of subsection (d) of Code Section 53-2-27, a party in interest responsible for incurring costs and fees provided for in paragraphs (1) and (2) of subsection (d) of Code Section 53-2-27 shall be a competent witness in a proceeding brought under this article to identify bills for such expenses upon such terms as are provided for similar testimony pursuant to Code Section 24-9-921.

(j) In a proceeding brought under this article, the trier of fact may consider and determine the relevance, materiality, and weight of any evidence that is not excluded by

the hearsay rule pursuant to Code Section 24-8-803 or subsection (b) of Code Section 24-8-804, specifically including, but not limited to, evidence that is not excluded by the hearsay rule pursuant to paragraph (9), (11), (12), (13), (19), or (23) of Code Section 24-8-803 or paragraph (4) of subsection (b) of Code Section 24-8-804; provided, however, that:

(1) The requirement of reasonable certainty only, as provided by subsection (a) of Code Section 24-14-40, shall not apply to the determination of heirship of any person; and

(2) The party bearing the burden of proving the heirship of any person in a proceeding brought under this article shall not be relieved from the onus of proving the identity of such person as an heir, as provided by subsection (b) of Code Section 24-14-40.

(k) Except to the extent otherwise expressly provided to the contrary, the admissible evidence provided for in Code Section 53-2-27 and in this Code section shall not be the exclusive methods that the trier of fact is required to use in a proceeding brought under this article but shall be supplementary to other lawful and allowable evidence and methods for such purpose.

(l) The court may, in its discretion, appoint a guardian, as that term is defined in Code Section 53-1-2, to represent an unborn or minor child whose heirship is to be determined in a proceeding brought under this article; provided, however, that, notwithstanding subsection (a) of Code Section 53-11-2, the child's natural guardian may not represent the child as guardian under this subsection; and provided, further, that this subsection also shall apply in proceedings under this article brought in the superior court, notwithstanding any reference to the probate court only in Code Sections 53-1-2 or 53-11-2. Payment of a guardian ad litem appointed by the court under this subsection shall be as ordered by the court pursuant to paragraph (2) of subsection (d) of Code Section 53-2-27.

(m) Nothing in this article is intended to conflict with or shall be construed to violate any regulation adopted by the Department of Human Services pursuant to Code Section 19-11-24 or paragraph (1) of subsection (b) of Code Section 19-11-30.

19-7-1(b)(8)

A superior court order terminating parental rights of the legal father or the biological father who is not the legal father of the child in a petition for legitimation, a petition to

establish paternity, a divorce proceeding, or a custody proceeding pursuant to this chapter or Chapter 5, 8, or 9 of this title, provided that such termination is in the best interest of such child; and provided, further, that this paragraph shall not apply to such termination when a child has been adopted or is conceived by artificial insemination, in vitro fertilization, or other similar method of assisted reproduction as set forth in subsection (a) of Code Section 19-7-21 or when an embryo is adopted as set forth in Article 2 of Chapter 8 of this title.

19-7-21

(a) All children born within wedlock or within the usual period of gestation thereafter who have been conceived by means of artificial insemination, in vitro fertilization, or other similar method of assisted reproduction are irrebuttably presumed legitimate if both spouses have consented in writing to the use and administration of artificial insemination, in vitro fertilization, or other similar method of assisted reproduction.

(b) Subsection (a) of this Code section shall be subject to Article 2 of Chapter 8 of this title, and, in the event of a conflict, the provisions of Article 2 of Chapter 8 of this title shall prevail.

19-7-22

(d)(1) Upon the presentation and filing of a legitimization petition, and after a hearing for which notice was provided to all interested parties, the court may issue an order declaring the biological father's relationship with the child to be legitimate, provided that such order is in the best interests of the child. If such order is issued, the biological father and child shall be capable of inheriting from each other in the same manner as if the child was born in lawful wedlock, pursuant to division (i) of subparagraph (A) of paragraph (2) of Code Section 53-2-3 and paragraph (1) of subsection (b) of Code Section 53-2-4. Such order shall specify the name by which the child shall be known.

(2)(A) If the court determines by clear and convincing evidence that the father caused his child to be conceived as a result of having nonconsensual sexual intercourse with the mother of his child or an offense that consists of the same or similar elements under federal law or the laws of another state or territory of the United States, or when the mother is less than ten years of age, ~~or an offense which consists of the same or similar~~

elements under federal law or the laws of another state or territory of the United States, it shall create a presumption against legitimation.

(B)(i) Notwithstanding division (i) of subparagraph (A) of paragraph (2) of Code Section 53-2-3, if the court denies a legitimation petition under this paragraph, the child shall be capable of inheriting from or through his or her father under divisions (ii) through (vi) of subparagraph (A) or subparagraph (B) of paragraph (2) of Code Section 53-2-3.

(ii) Notwithstanding Code Section 53-2-4, if the court denies a legitimation petition under this paragraph, the father shall not be capable of inheriting from or through his child.

(C) If there is a pending criminal proceeding in connection with an allegation made pursuant to subparagraph (A) of this paragraph, the court shall stay discovery in the legitimation action until the completion of such criminal proceeding.

(D) Except as provided by this paragraph, nothing in this article shall be applied or construed to abrogate or limit:

(i) The jurisdiction of a probate court or a superior court under Code Section 53-2-20 to resolve judicially the identity or interest of any heir in accordance with Article 2 of Chapter 2 of Title 53; or

(ii) The effect of the findings of such a court in such a proceeding pursuant to Code Section 53-2-26.

19-7-40

(c) Nothing in this article shall be applied or construed to abrogate or limit:

(1) The jurisdiction of a probate court or a superior court under Code Section 53-2-20 to resolve judicially the identity or interest of any heir in accordance with Article 2 of Chapter 2 of Title 53; or

(2) The effect of the findings of such a court in such a proceeding pursuant to Code Section 53-2-26.

19-7-43

(e) In any case for the collection of child support involving the Department of Human Services in which the paternity of a child or children has not been established or in which the individual receiving services alleges that paternity rests in a person other than

the previously established father, the Department of Human Services shall order genetic testing of the mother, the alleged father, and the child or children as specified in Code Section 19-7-45. No genetic testing shall be undertaken by the Department of Human Services if the child was adopted either by the applicant for services or other alleged parent or if the child was conceived by means of artificial insemination, in vitro fertilization, or other similar method of assisted reproduction. The need for genetic testing shall be supported by a sworn statement alleging paternity and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties. The parties shall be given notice and an opportunity to contest the order before the Department of Human Services prior to the testing or the imposition of any noncooperation sanction.”

19-7-54

(b)(3) The child was not conceived by artificial insemination, in vitro fertilization, or other similar method of assisted reproduction while the male ordered to pay child support and the child’s mother were in wedlock;

(d)(1)(C) The child was conceived by means of artificial insemination, in vitro fertilization, or other similar method of assisted reproduction; or

19-11-82 *[To be added to Article 2 of Chapter 11 of Title 19]*

Nothing in this article shall be applied or construed to abrogate or limit:

(1) The jurisdiction of a probate court or a superior court under Code Section 53-2-20 to resolve judicially the identity or interest of any heir in accordance with Article 2 of Chapter 2 of Title 53; or

(2) The effect of the findings of such a court in such a proceeding pursuant to Code Section 53-2-26.

19-11-192 *[To be added to Part 9 of Article 3 of Chapter 11 of Title 19]*

Nothing in this article shall be applied or construed to abrogate or limit:

(1) The jurisdiction of a probate court or a superior court under Code Section 53-2-20 to resolve judicially the identity or interest of any heir in accordance with Article 2 of Chapter 2 of Title 53; or

(2) The effect of the findings of such a court in such a proceeding pursuant to Code Section 53-2-26.

24-12-21

(y) The protection against disclosure provided by Code Section 24-12-20 shall be waived, and AIDS confidential information may be disclosed, to the extent that the person identified by such information, ~~his or her; such person's~~ heirs, successors, ~~or assigns, or;~~ a beneficiary of such person's estate; ~~including, but not limited to, an executor, administrator, or the~~ personal representative of such person's estate, as such terms are defined in Code Section 53-1-2:

(1) Files a claim or claims other entitlements under any insurance policy or benefit plan or is involved in any civil proceeding regarding such claim;

(2) Places such person's care and treatment, the nature and extent of his or her injuries, the extent of his or her damages, his or her medical condition, or the reasons for his or her death at issue in any judicial proceeding; or

(3) Is involved in a dispute regarding coverage under any insurance policy or benefit plan.

(bb) AIDS confidential information may be disclosed as a part of any proceeding or procedure authorized or required pursuant to Chapter 3, 4, or 7 of Title 37; regarding a person who is alleged to be or who is mentally ill, developmentally disabled, or alcoholic or drug dependent; ~~or;~~ as a part of any proceeding or procedure authorized or required pursuant to Title 29; regarding the guardianship of a person or ~~that the conservatorship of a person's estate; or as part of any proceeding or procedure authorized or required pursuant to Title 53 regarding the estate of a deceased person,~~ as follows:

(1) Any person who files or transmits a petition or other document ~~that which~~ discloses AIDS confidential information in connection with any such proceeding or procedure shall provide a cover page ~~that which~~ contains only the type of proceeding or procedure, the court in which the proceeding or procedure is or will be pending, and the words

'CONFIDENTIAL INFORMATION' without in any way otherwise disclosing thereon the name of any individual or that such petition or other document specifically contains AIDS confidential information;

(2) AIDS confidential information shall only be disclosed pursuant to this subsection after disclosure to and with the written consent of the person identified by that information, ~~or~~; that person's parent or guardian, if that person is a minor ~~or has~~; that person's guardian, if that person previously has been adjudicated as being incompetent; the personal representative of that person's estate, if that person is deceased; or by order of court obtained in accordance with subparagraph (C) of paragraph (3) of this subsection;

(3) If any person files or transmits a petition or other document in connection with any such proceeding or procedure ~~that which~~ discloses AIDS confidential information without obtaining consent as provided in paragraph (2) of this subsection, the court receiving such information shall either obtain written consent as set forth in that paragraph (2) for any further use or disclosure of such information or:

(A) Return such petition or other document to the person who filed or transmitted same, with directions against further filing or ~~transmitting transmittal~~ of such information in connection with such proceeding or procedure except in compliance with this subsection;

(B) Delete or expunge all references to such AIDS confidential information from the particular petition or other document; or

(C)(i) If the court determines there is a compelling need for such information in connection with the particular proceeding or procedure, petition a superior court of competent jurisdiction for permission to obtain or disclose that information. If the person identified by the information is not yet represented by an attorney in the proceeding or procedure in connection with which the information is sought, the petitioning court shall appoint an attorney for such person. The petitioning court shall have both that person and that person's attorney personally served with notice of the petition and of the date, time, and place of the superior court hearing thereon. Such hearing shall not be held sooner than 72 hours after service, unless the information is to be used in connection with an emergency guardianship proceeding under Code Section 29-4-14, in which event the hearing shall not be held sooner than 48 hours after service.

(ii) The superior court in which a petition is filed pursuant to division (i) of this subparagraph shall hold an in camera hearing on such petition. The purpose of the hearing shall be to determine whether there is clear and convincing evidence of a compelling need for the AIDS confidential information sought in connection with the particular proceeding or procedure ~~that which~~ cannot be accommodated by other means. In assessing compelling need, the superior court shall weigh the public health, safety, or welfare needs or any other public or private need for the disclosure against the privacy interest of the person identified by the information and the public interest ~~that which~~ may be disserved by disclosures ~~that which~~ may deter voluntary HIV tests. If the court determines that disclosure of that information is authorized under this subparagraph, the court shall order that disclosure and impose appropriate safeguards against any unauthorized disclosure. The records of that hearing otherwise shall be under seal; and

(4) The court having jurisdiction over such proceeding or procedure, when it becomes apparent that AIDS confidential information will likely be or has been disclosed in connection with such proceeding or procedure, shall take such measures as the court determines appropriate to preserve the confidentiality of the disclosed information to the maximum extent possible. Such measures shall include, without being limited to, closing the proceeding or procedure to the public and sealing all or any part of the records of the proceeding or procedure containing AIDS confidential information. The records of any appeals taken from any such proceeding or procedure shall also be sealed. Furthermore, the court may consult with and obtain the advice of medical experts or other counsel or advisers as to the relevance and materiality of such information in such proceedings or procedures, provided that the identity of the person identified by such information is not thereby revealed.”

31-10-9

(d) When a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in this state, the birth shall be registered in this state and the place where the child ~~it~~ is first removed shall be considered the place of birth. When a birth occurs on a moving conveyance while in international waters or airspace or in a foreign country or its airspace and the child is first removed from the

conveyance in this state, the birth shall be registered in this state but the certificate shall show the actual place of birth insofar as can be determined.”

(f) The birth certificate of a child born to a married woman as a result of artificial insemination, in vitro fertilization, or other similar method of assisted reproduction, with consent of her husband, shall be completed in accordance with the provisions of subsection (e) of this Code section.

43-34-37

(a) Physicians and surgeons licensed to practice medicine in accordance with and under this article shall be the only persons authorized to administer or perform artificial insemination, in vitro fertilization, or other similar method of assisted reproduction upon any female human being. Any other person or persons who shall attempt to administer or perform or who shall actually administer or perform artificial insemination, in vitro fertilization, or other similar method of assisted reproduction upon any female human being shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in the penitentiary for not less than one year nor more than five years.

(b) Any physician or surgeon who obtains written authorization signed by both the husband and the wife authorizing him or her to perform or administer artificial insemination, in vitro fertilization, or other similar method of assisted reproduction shall be relieved of civil liability to the husband and wife or to any child conceived by artificial insemination, in vitro fertilization, or other similar method of assisted reproduction for the result or results of said artificial insemination, in vitro fertilization, or other similar method of assisted reproduction, provided that the written authorization provided for in this Code section shall not relieve any physician or surgeon from any civil liability arising from his or her own negligent administration or performance of artificial insemination, in vitro fertilization, or other similar method of assisted reproduction.

51-4-2

(f) In actions for recovery under this Code section, the fact that a child has been born out of wedlock shall be no bar to recovery, provided that such child born out of wedlock had rights of inheritance from or through the child's deceased parent under Code Section 53-2-3."

Advisory Committee on Legislation (ACL) Legislative Proposal Form

FORM A

For proposed legislation drafted by a State Bar committee or section and
lobbied by the State Bar's legislative team.

TO: Nicholas C. Moraitakis, Chair, Advisory Committee on Legislation

FROM: Talmadge Infinger, Chair, Business Law Section; Kathleen O. Currey, Chair,
UCC Sub-Committee, Business Law Section

RE: Proposal Regarding Amendments to O.C.G.A. Title 11

DATE: August [___], 2023

**1. Provide a statement of the issues to be addressed by the proposed bill,
including why this proposed revision is needed in Georgia.**

The Uniform Law Commission has promulgated amendments to the Uniform Commercial Code addressing certain types of digital assets and other modernizing amendments. Numerous states have already adopted these amendments, and many additional states have begun the process to adopt the proposed amendments.

**2. Is this a model bill from the Uniform Law Commission, American Law
Institute, or another entity that drafts model legislation? YES**

**a. Please include relevant information on the model act, including when
it was created and other states that have adopted it.**

In 2022, the Uniform Law Commission promulgated the proposed amendments. The amendments have been adopted in: Alabama, Colorado, Delaware, Hawaii, Indiana, Nevada, New Hampshire, New Mexico, North Dakota, and Washington.

**b. Similar legislation has been introduced in Arizona, Arkansas, California,
the District of Columbia, Kentucky, Louisiana, Maine, Massachusetts,**

Missouri, Montana, Nebraska, New York, Oklahoma, Rhode Island, South Dakota, Tennessee, Texas, and West Virginia.

3. Give a brief summary of the existing law on this issue, including citations to applicable case law addressed in the proposed legislation.

Georgia law currently does not address digital assets in a manner consistent with the recommendations of the Uniform Law Commission. Other provisions of the Georgia Uniform Commercial Code are outdated and do not adequately address electronic signatures and electronic transactions.

Further certain provisions of Article 1 to the Georgia Uniform Commercial Code relating to documents of title and leases do not conform to the model Uniform Commercial Code. The proposed amendment will align these provisions with the model Uniform Commercial Code. These provisions include O.C.G.A. §§ 11-1-201(b)(5), (6), (15), (16), (29), and (42), 11-1-203(a), and 11-1-303(f). Other provisions of the Georgia Uniform Commercial Code use outdated references to writings, and the proposed amendments will update these references to refer to “records” (which, as defined in the Georgia Uniform Commercial Code, reflects that many agreements, instruments, memoranda, notices, and other transaction documentation are now sent, signed, received, in a non-physical format).

4. Does this proposal seek to codify current case law or seek to modify a statute based on a recent appellate decision?

No.

5. Will this proposed legislation have a fiscal impact on the state?

No.

6. Describe how the pending or proposed legislation (1) regulates the legal profession, or (2) improves the quality of legal services.¹

¹ The State Bar reviews all proposals for compliance with the standard set out by the United States Supreme Court in *Keller v. State Bar of California*, 496 U.S. 1 (1990).

The proposed amendments will provide for a clear set of rules aligned with multiple other states, allowing for the development of consistent interpretations, implementations, and practices by Georgia judges, practitioners, and opinion providers in developing areas of electronic and modern transactions.

7. Has another group attempted to pass similar legislation in the past? Is there another interest group that may be suited to lobby this bill?

No.

8. Why should the State Bar use its resources to lobby this proposal on behalf of the legal profession?

The proposed amendments have already been enacted in numerous states and will soon be enacted in many additional states. Further, the expectation is that all other states will soon adopt the proposed amendments. If the proposed amendments are not adopted, the Georgia Uniform Commercial Code will not (a) conform to the Uniform Commercial Code as enacted in other states, or (b) adequately address modern types of property and business transactions, each to the detriment of the Georgia business and legal communities.

9. Are there any potential proponents or opponents of the proposal or pending legislation, including, but not limited to, other State Bar sections, specialty bar associations (ie- the trial lawyers or real estate closing attorneys), governmental entities, and outside interest groups? If so, please list them below.

No such opponents or proponents are known at this time.

10. Have you circulated this legislative proposal to all of the members of your own section or committee? If so, have they provided any comments?

The draft bill has been circulated to a working committee of the Uniform Commercial Code sub-committee of the Business Law Section, the chair of the Business Law section, and the chair and a volunteer for the Real Estate Section.

11. Which other State Bar committees or sections may have an interest in the legislation or proposal? Real Estate and Business Law.

a. Have you provided interested State Bar committees/sections with a copy of this proposal? If so, have they provided any comments?

Yes, the draft bill has been circulated to the chair of, and select members of, each of the Real Estate and Business Law sections.

12. What is the recommendation that your section or committee wishes to be adopted by the State Bar?

The Business Law Section and the Uniform Commercial Code sub-committee recommend that the amendments to the Georgia Uniform Commercial Code be adopted as recommended by the Uniform Law Commission, and that the additional specified sections relating to documents of title and “records” be adopted.

[House / Senate] Bill *[____]*

By: Representatives *[_____]*, *[_____]*, and *[_____]*

A BILL TO BE ENTITLED

AN ACT

To amend Title 11 of the Official Code of Georgia Annotated, relating to the commercial code so as to respond to market concerns about the lack of definitive commercial law for transactions involving digital assets; to update and modernize various statutes in the commercial code relating to commercial transactions in order to maintain uniformity in this state's statutes governing commercial transactions as recommended by the National Conference of Commissioners on Uniform State Laws; to add a new Article 12 to the commercial code pertaining to controllable electronic records; and to make conforming amendments to other articles of the commercial code to provide for accurate cross-references to the revised "Uniform Commercial Code".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SHORT TITLE

SECTION 1-1.

This Act shall be known and may be cited as the "Uniform Commercial Code Modernization Act of 2024."

PART IIA

RENUMBERING OF EXISTING ARTICLE 12 TO THE COMMERCIAL CODE

SECTION 2A-1.

Title 11 of the Official Code of Georgia Annotated, relating to the commercial code, is amended by renumbering existing Article 12, relating to revisions to Article 9 filings, as Article 13 as follows:

“ARTICLE ~~12~~13

REVISIONS TO ARTICLE 9 FILING

11-~~132~~-101. Effective date.

This article shall become effective at 12:01 A.M. on January 1, 1995.

11-~~132~~-102. Transition provisions.

(1) A financing statement or continuation statement filed prior to January 1, 1995, which has not lapsed prior to January 1, 1995, shall remain effective for the period provided in Code Section 11-9-403 as in effect immediately prior to January 1, 1995.

(2) The effectiveness of any financing statement or continuation statement filed prior to January 1, 1995, may be continued only by the filing of a continuation statement, in the form prescribed by the Georgia Superior Court Clerks' Cooperative Authority, signed by either the debtor or the secured party with the filing officer of the county where the original financing statement was filed or, if the financing statement has previously been continued, where the currently effective continuation statement was filed. If the original financing statement or currently effective continuation statement was filed in multiple counties, then such continuation statement may be filed in any of such multiple counties, except where the original financing statement or currently effective continuation statement covers crops growing or to be grown, or minerals or the like, including oil and gas, or accounts subject to subsection (5) of Code Section 11-9-103, or was filed as a fixture filing (Code Section 11-9-313), then such continuation statement must be filed in each of such counties where any of the related real estate is located. This continuation statement must contain the information required by the first sentence of subsection (1) of Code Section 11-9-402, other than a statement indicating the types, or describing the items, of collateral and the social security number or Internal Revenue Service taxpayer identification number of the debtor, and must further identify the original financing statement or currently effective continuation statement, the office where such financing statement or continuation statement was filed, and the filing number and

date of filing or other recording information, and further state that the original financing statement is still effective. Except as specified in this subsection, the provisions of subsection (3) of Code Section 11-9-403 for continuation statements apply to such a statement.

(3) Statements of amendment, assignment, release, or termination affecting original financing statements filed prior to January 1, 1995, (“transitional filings”) shall be filed on the forms prescribed by the Georgia Superior Court Clerks’ Cooperative Authority with the filing officer of the county where the original financing statement was filed, or if the original financing statement has previously been continued, where the currently effective continuation statement was filed. If the original financing statement or currently effective continuation statement was filed in multiple counties, then such statement of amendment, assignment, release, or termination may be filed in any one of such multiple counties, except where the original financing statement or currently effective continuation statement covers crops growing or to be grown, or minerals or the like, including oil and gas, or accounts subject to subsection (5) of Code Section 11-9-103, or was filed as a fixture filing (Code Section 11-9-313), in which event such statement of amendment, assignment, release, or termination must be filed in each of such counties where any of the related real estate is located. Each transitional filing shall identify the original financing statement or currently effective continuation statement, the office where such financing statement or continuation statement was filed, the filing number or other recording information, and identify each named debtor and secured party. Notwithstanding the requirements of subsection (2) of Code Section 11-9-405 or Code Section 11-9-406, no social security number or Internal Revenue Service taxpayer identification number of the debtor shall be required to be included in any such transitional filings. The Georgia Superior Court Clerks’ Cooperative Authority shall prescribe rules and regulations, as appropriate, to govern the presentation of such transitional filings.

(4) A filing which was made in good faith in an improper place or not in all of the places required by Code Section 11-9-401 as in effect prior to January 1, 1995, is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this article and is also effective with regard to collateral covered by the financing statement against any person who has

knowledge of the contents of such financing statement.

(5) A filing which was made in the proper place in this state pursuant to Code Section 11-9-401 as in effect prior to January 1, 1995, continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(6) A continuation statement that was timely filed pursuant to subsection (8) of Code Section 11-9-403 as in effect prior to January 1, 1995, and that remains in effect as of January 1, 1995, shall continue the effectiveness of the original financing statement for the period specified in subsection (8) of Code Section 11-9-403 as in effect on January 1, 1995, provided that such continuation statement may thereafter be further continued by the filing of a subsequent continuation statement within six months prior to the expiration of the five-year period specified in subsection (8) of Code Section 11-9-403 as in effect prior to January 1, 1995, or, if such five-year period is determined to have a different duration, within six months prior to the expiration of the five-year period specified in subsection (8) of Code Section 11-9-403 as in effect on January 1, 1995."

PART IIB

ADOPTION OF ARTICLE 12 TO THE COMMERCIAL CODE

SECTION 2B-1.

Said title is further amended by adopting a new Article 12, relating to controllable electronic records, as follows:

“ARTICLE 12

CONTROLLABLE ELECTRONIC RECORDS

11-12-101. Short title.

This article shall be known and may be cited as the “Uniform Commercial Code—Controllable Electronic Records.”

11-12-102. Definitions.

(a) Article 12 definitions. As used in this article, the term:

(1) “Controllable electronic record” means a record stored in an electronic medium that can be subjected to control under Code Section 11-12-105. The term does not include a controllable account, a controllable payment intangible, a deposit account, an electronic copy of a record evidencing chattel paper, an electronic document of title, electronic money, investment property, or a transferable record.

(2) “Qualifying purchaser” means a purchaser of a controllable electronic record or an interest in a controllable electronic record that obtains control of the controllable electronic record for value, in good faith, and without notice of a claim of a property right in the controllable electronic record.

(3) “Transferable record” has the meaning provided for that term in:

(A) Section 201(a)(1) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7021(a)(1), as amended; or

(B) Subsection (a) of Code Section 10-12-16.

(4) “Value” has the meaning provided in subsection (a) of Code Section 11-3-303, as if references in that subsection to an “instrument” were references to a controllable account, controllable electronic record, or controllable payment intangible.

(b) Definitions in Article 9. The definitions in Article 9 of this title of “account debtor”, “controllable account”, “controllable payment intangible”, “chattel paper”, “deposit account”, “electronic money”, and “investment property” apply to this article.

(c) Article 1 definitions and principles. Article 1 of this title contains general definitions and principles of construction and interpretation applicable throughout this article.

11-12-103. Relation to Article 9 and consumer laws.

(a) Article 9 of this title governs in case of conflict. If there is conflict between this article and Article 9 of this title, Article 9 of this title governs.

(b) Applicable consumer law and other laws. A transaction subject to this article is subject to any

applicable rule of law that establishes a different rule for consumers and to any other statute or regulation of this State that regulates the rates, charges, agreements, and practices for loans, credit sales, or other extensions of credit, and to any consumer-protection statute or regulation of this State.

11-12-104. Rights in controllable account, controllable electronic record, and controllable payment intangible.

(a) Applicability of section to controllable account and controllable payment intangible. This Code section applies to the acquisition and purchase of rights in a controllable account or controllable payment intangible, including the rights and benefits under subsections (c), (d), (e), (g), and (h) of this Code section of a purchaser and qualifying purchaser, in the same manner this Code section applies to a controllable electronic record.

(b) Control of controllable account and controllable payment intangible. To determine whether a purchaser of a controllable account or a controllable payment intangible is a qualifying purchaser, the purchaser obtains control of the account or payment intangible if it obtains control of the controllable electronic record that evidences the account or payment intangible.

(c) Applicability of other law to acquisition of rights. Except as provided in this Code section, law other than this article determines whether a person acquires a right in a controllable electronic record and the right the person acquires.

(d) Shelter principle and purchase of limited interest. A purchaser of a controllable electronic record acquires all rights in the controllable electronic record that the transferor had or had power to transfer, except that a purchaser of a limited interest in a controllable electronic record acquires rights only to the extent of the interest purchased.

(e) Rights of qualifying purchaser. A qualifying purchaser acquires its rights in the controllable electronic record free of a claim of a property right in the controllable electronic record.

(f) Limitation of rights of qualifying purchaser in other property. Except as provided in subsections (a) and (e) of this Code section for a controllable account and a controllable payment intangible or law other than this article, a qualifying purchaser takes a right to payment, right to performance, or other

interest in property evidenced by the controllable electronic record subject to a claim of a property right in the right to payment, right to performance, or other interest in property.

(g) *No-action protection for qualifying purchaser.* An action may not be asserted against a qualifying purchaser based on both a purchase by the qualifying purchaser of a controllable electronic record and a claim of a property right in another controllable electronic record, whether the action is framed in conversion, replevin, constructive trust, equitable lien, or other theory.

(h) *Filing not notice.* Filing of a financing statement under Article 9 of this title is not notice of a claim of a property right in a controllable electronic record.

11-12-105. Control of controllable electronic record.

(a) *General rule: control of controllable electronic record.* A person has control of a controllable electronic record if the electronic record, a record attached to or logically associated with the electronic record, or a system in which the electronic record is recorded:

(1) Gives the person:

(A) Power to avail itself of substantially all the benefit from the electronic record; and

(B) Exclusive power, subject to subsection (b) of this Code section, to:

(i) Prevent others from availing themselves of substantially all the benefit from the electronic record; and

(ii) Transfer control of the electronic record to another person or cause another person to obtain control of another controllable electronic record as a result of the transfer of the electronic record; and

(2) Enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as having the powers specified in paragraph (1) of this subsection.

(b) *Meaning of exclusive.* Subject to subsection (c) of this Code section, a power is exclusive under subparagraphs (a)(1)(B)(i) and (a)(1)(B)(ii) of this Code section even if:

(1) The controllable electronic record, a record attached to or logically associated with the

electronic record, or a system in which the electronic record is recorded limits the use of the electronic record or has a protocol programmed to cause a change, including a transfer or loss of control or a modification of benefits afforded by the electronic record; or

(2) The power is shared with another person.

(c) When power not shared with another person. A power of a person is not shared with another person under paragraph (2) of subsection (b) of this Code section and the person's power is not exclusive if:

(1) The person can exercise the power only if the power also is exercised by the other person;

and

(2) The other person:

(A) Can exercise the power without exercise of the power by the person; or

(B) Is the transferor to the person of an interest in the controllable electronic record or a controllable account or controllable payment intangible evidenced by the controllable electronic record.

(d) Presumption of exclusivity of certain powers. If a person has the powers specified in subparagraphs (a)(1)(B)(i) and (a)(1)(B)(ii) of this Code section, the powers are presumed to be exclusive.

(e) Control through another person. A person has control of a controllable electronic record if another person, other than the transferor to the person of an interest in the controllable electronic record or a controllable account or controllable payment intangible evidenced by the controllable electronic record:

(1) Has control of the electronic record and acknowledges that it has control on behalf of the person; or

(2) Obtains control of the electronic record after having acknowledged that it will obtain control of the electronic record on behalf of the person.

(f) No requirement to acknowledge. A person that has control under this Code section is not required to acknowledge that it has control on behalf of another person.

(g) No duties or confirmation. If a person acknowledges that it has or will obtain control on behalf of

another person, unless the person otherwise agrees or law other than this article or Article 9 of this title otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.

11-12-106. Discharge of account debtor on controllable account or controllable payment intangible.

(a) Discharge of account debtor. An account debtor on a controllable account or controllable payment intangible may discharge its obligation by paying:

(1) The person having control of the controllable electronic record that evidences the controllable account or controllable payment intangible; or

(2) Except as provided in subsection (b) of this Code section, a person that formerly had control of the controllable electronic record.

(b) Content and effect of notification. Subject to subsection (d) of this Code section, the account debtor may not discharge its obligation by paying a person that formerly had control of the controllable electronic record if the account debtor receives a notification that:

(1) Is signed by a person that formerly had control or the person to which control was transferred;

(2) Reasonably identifies the controllable account or controllable payment intangible;

(3) Notifies the account debtor that control of the controllable electronic record that evidences the controllable account or controllable payment intangible was transferred;

(4) Identifies the transferee, in any reasonable way, including by name, identifying number, cryptographic key, office, or account number; and

(5) Provides a commercially reasonable method by which the account debtor is to pay the transferee.

(c) Discharge following effective notification. After receipt of a notification that complies with subsection (b) of this Code section, the account debtor may discharge its obligation by paying in accordance with the notification and may not discharge the obligation by paying a person that formerly had control.

(d) When notification ineffective. Subject to subsection (h) of this Code section, notification is ineffective under subsection (b) of this Code section:

(1) Unless, before the notification is sent, the account debtor and the person that, at that time, had control of the controllable electronic record that evidences the controllable account or controllable payment intangible agree in a signed record to a commercially reasonable method by which a person may furnish reasonable proof that control has been transferred;

(2) To the extent an agreement between the account debtor and seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(3) At the option of the account debtor, if the notification notifies the account debtor to:

(A) Divide a payment;

(B) Make less than the full amount of an installment or other periodic payment; or

(C) Pay any part of a payment by more than one method or to more than one person.

(e) Proof of transfer of control. Subject to subsection (h) of this Code section, if requested by the account debtor, the person giving the notification under subsection (b) of this Code section seasonably shall furnish reasonable proof, using the method in the agreement referred to in paragraph (1) of subsection (d) of this Code section, that control of the controllable electronic record has been transferred. Unless the person complies with the request, the account debtor may discharge its obligation by paying a person that formerly had control, even if the account debtor has received a notification under subsection (b) of this Code section.

(f) What constitutes reasonable proof. A person furnishes reasonable proof under subsection (e) of this Code section that control has been transferred if the person demonstrates, using the method in the agreement referred to in paragraph (1) of subsection (d) of this Code section, that the transferee has the power to:

(1) avail itself of substantially all the benefit from the controllable electronic record;

(2) prevent others from availing themselves of substantially all the benefit from the

controllable electronic record; and

(3) transfer the powers specified in paragraphs (1) and (2) of this subsection to another person.

(g) *Rights not waivable.* Subject to subsection (h) of this Code section, an account debtor may not waive or vary its rights under paragraph (1) of subsection (d) of this Code section and subsection (e) of this Code section or its option under paragraph (3) of subsection (d) of this Code section.

(h) *Rule for individual under other law.* This Code section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

11-12-107. Governing law.

(a) *Governing law: general rule.* Except as provided in subsection (b) of this Code section, the local law of a controllable electronic record's jurisdiction governs a matter covered by this article.

(b) *Governing law: Section 11-12-106.* For a controllable electronic record that evidences a controllable account or controllable payment intangible, the local law of the controllable electronic record's jurisdiction governs a matter covered by Code Section 11-12-106 unless an effective agreement determines that the local law of another jurisdiction governs.

(c) *Controllable electronic record's jurisdiction.* The following rules determine a controllable electronic record's jurisdiction under this Code section:

(1) If the controllable electronic record, or a record attached to or logically associated with the controllable electronic record and readily available for review, expressly provides that a particular jurisdiction is the controllable electronic record's jurisdiction for purposes of this article or this title, that jurisdiction is the controllable electronic record's jurisdiction.

(2) If paragraph (1) of this subsection does not apply and the rules of the system in which the controllable electronic record is recorded are readily available for review and expressly provide that a particular jurisdiction is the controllable electronic record's jurisdiction for purposes of this article or this title, that jurisdiction is the controllable electronic record's jurisdiction.

(3) If paragraphs (1) and (2) of this subsection do not apply and the controllable electronic record, or a record attached to or logically associated with the controllable electronic record and readily available for review, expressly provides that the controllable electronic record is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic record's jurisdiction.

(4) If paragraphs (1), (2), and (3) of this subsection do not apply and the rules of the system in which the controllable electronic record is recorded are readily available for review and expressly provide that the controllable electronic record or the system is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic record's jurisdiction.

(5) If paragraphs (1) through (4) of this subsection do not apply, the controllable electronic record's jurisdiction is the District of Columbia.

(d) *Applicability of Article 12.* If paragraph (5) of subsection (c) of this Code section applies and Article 12 is not in effect in the District of Columbia without material modification, the governing law for a matter covered by this article is the law of the District of Columbia as though Article 12 were in effect in the District of Columbia without material modification. In this subsection, "Article 12" means Article 12 of Uniform Commercial Code Amendments (2022).

(e) *Relation of matter or transaction to controllable electronic record's jurisdiction not necessary.* To the extent subsections (a) and (b) of this Code section provide that the local law of the controllable electronic record's jurisdiction governs a matter covered by this article, that law governs even if the matter or a transaction to which the matter relates does not bear any relation to the controllable electronic record's jurisdiction.

(f) *Rights of purchasers determined at time of purchase.* The rights acquired under Code Section 11-12-104 by a purchaser or qualifying purchaser are governed by the law applicable under this Code section at the time of purchase."

PART IIC

ADOPTION OF ARTICLE 12A TO THE COMMERCIAL CODE

SECTION 2C-1.

Said title is further amended by adopting a new Article 12A, relating to transitional provisions for Uniform Commercial Code Amendments, as follows:

“ARTICLE 12A

TRANSITIONAL PROVISIONS FOR UNIFORM COMMERCIAL CODE AMENDMENTS

Part 1: General Provisions and Definitions

11-12A-101. Title.

This article shall be known and may be cited as “Transitional Provisions for Uniform Commercial Code Amendments (2024).”

11-12A-102. Definitions.

(a) Article 12A Definitions. In this article:

(1) “Adjustment date” means July 1, 2025, or the date that is one year after the effective date of the Uniform Commercial Code Modernization Act of 2024, whichever is later.

(2) “Article 12” means Article 12 of this title.

(3) “Article 12 property” means a controllable account, controllable electronic record, or controllable payment intangible.

(b) Definitions in other articles. The following definitions in other articles of this title apply to this article.

“Controllable account”. Code Section 11-9-102.

“Controllable electronic record”. Code Section 11-12-102.

“Controllable payment intangible”. Code Section 11-9-102.

“Electronic money”. Code Section 11-9-102.

“Financing statement”. Code Section 11-9-102.

(c) Article 1 definitions and principles. Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

PART 2: GENERAL TRANSITIONAL PROVISIONS

11-12A-201. Saving clause.

Except as provided in Part 3 of this article, a transaction validly entered into before the effective date of the Uniform Commercial Code Modernization Act of 2024 and the rights, duties, and interests flowing from the transaction remain valid thereafter and may be terminated, completed, consummated, or enforced as required or permitted by law other than this title or, if applicable, this title, as though the Uniform Commercial Code Modernization Act of 2024 had not taken effect.

PART 3: TRANSITIONAL PROVISIONS FOR ARTICLES 9 AND 12

11-12A-301. Saving clause.

(a) *Pre-effective-date transaction, lien, or interest.* Except as provided in this part, Article 9 of this title as amended by the Uniform Commercial Code Modernization Act of 2024 and Article 12 of this title apply to a transaction, lien, or other interest in property, even if the transaction, lien, or interest was entered into, created, or acquired before the effective date of the Uniform Commercial Code Modernization Act of 2024.

(b) *Continuing validity.* Except as provided in subsection (c) of this Code section and Code Sections 11-12A-302 through 11-12A-306:

(1) a transaction, lien, or interest in property that was validly entered into, created, or transferred before the effective date of the Uniform Commercial Code Modernization Act of 2024 and was not governed by this title, but would be subject to Article 9 of this title as amended by the Uniform Commercial Code Modernization Act of 2024 or Article 12 of this title if it had been entered into, created, or transferred on or after the effective date of the Uniform Commercial Code Modernization Act of 2024, including the rights, duties, and interests flowing from the transaction, lien, or interest, remains valid on and after the effective date of the Uniform Commercial Code Modernization Act of 2024; and

(2) the transaction, lien, or interest may be terminated, completed, consummated, and enforced as required or permitted by the Uniform Commercial Code Modernization Act of 2024 or by the law that would apply if the Uniform Commercial Code Modernization Act of 2024 had not taken effect.

(c) Pre-effective-date proceeding. The Uniform Commercial Code Modernization Act of 2024 does not affect an action, case, or proceeding commenced before the effective date of the Uniform Commercial Code Modernization Act of 2024.

11-12A-302. Security interest perfected before effective date.

(a) Continuing perfection: perfection requirements satisfied. A security interest that is enforceable and perfected immediately before the effective date of the Uniform Commercial Code Modernization Act of 2024 is a perfected security interest under the Uniform Commercial Code Modernization Act of 2024 if, on the effective date of the Uniform Commercial Code Modernization Act of 2024, the requirements for enforceability and perfection under the Uniform Commercial Code Modernization Act of 2024 are satisfied without further action.

(b) Continuing perfection: enforceability or perfection requirements not satisfied. If a security interest is enforceable and perfected immediately before the effective date of the Uniform Commercial Code Modernization Act of 2024, but the requirements for enforceability or perfection under the Uniform Commercial Code Modernization Act of 2024 are not satisfied on the effective date of the Uniform Commercial Code Modernization Act of 2024, the security interest:

(1) is a perfected security interest until the earlier of the time perfection would have ceased under the law in effect immediately before the effective date of the Uniform Commercial Code Modernization Act of 2024 or the adjustment date;

(2) remains enforceable thereafter only if the security interest satisfies the requirements for enforceability under Code Section 11-9-203, as amended by the Uniform Commercial Code Modernization Act of 2024, before the adjustment date; and

(3) remains perfected thereafter only if the requirements for perfection under the Uniform Commercial Code Modernization Act of 2024 are satisfied before the time specified in paragraph (1) of this subsection.

11-12A-303. Security interest unperfected before effective date.

A security interest that is enforceable immediately before the effective date of the Uniform

Commercial Code Modernization Act of 2024 but is unperfected at that time:

(1) _____ remains an enforceable security interest until the adjustment date;

(2) _____ remains enforceable thereafter if the security interest becomes enforceable under Code Section 11-9-203, as amended by the Uniform Commercial Code Modernization Act of 2024, on the effective date of the Uniform Commercial Code Modernization Act of 2024 or before the adjustment date; and

(3) _____ becomes perfected:

(A) without further action, on the effective date of the Uniform Commercial Code Modernization Act of 2024 if the requirements for perfection under the Uniform Commercial Code Modernization Act of 2024 are satisfied before or at that time; or

(B) when the requirements for perfection are satisfied if the requirements are satisfied after that time.

11-12A-304. Effectiveness of actions taken before effective date.

(a) *Pre-effective-date action; attachment and perfection before adjustment date.* If action, other than the filing of a financing statement, is taken before the effective date of the Uniform Commercial Code Modernization Act of 2024 and the action would have resulted in perfection of the security interest had the security interest become enforceable before the effective date of the Uniform Commercial Code Modernization Act of 2024, the action is effective to perfect a security interest that attaches under the Uniform Commercial Code Modernization Act of 2024 before the adjustment date. An attached security interest becomes unperfected on the adjustment date unless the security interest becomes a perfected security interest under the Uniform Commercial Code Modernization Act of 2024 before the adjustment date.

(b) *Pre-effective-date filing.* The filing of a financing statement before the effective date of the Uniform Commercial Code Modernization Act of 2024 is effective to perfect a security interest on the effective date of the Uniform Commercial Code Modernization Act of 2024 to the extent the filing would satisfy the requirements for perfection under the Uniform Commercial Code Modernization Act of 2024.

(c) *Pre-effective-date enforceability action.* The taking of an action before the effective date of the Uniform Commercial Code Modernization Act of 2024 is sufficient for the enforceability of a security interest on the effective date of the Uniform Commercial Code Modernization Act of 2024 if the action would satisfy the requirements for enforceability under the Uniform Commercial Code Modernization Act of 2024.

11-12A-305. Priority.

(a) *Determination of priority.* Subject to subsections (b) and (c) of this Code section, the Uniform Commercial Code Modernization Act of 2024 determines the priority of conflicting claims to collateral.

(b) *Established priorities.* Subject to subsection (c) of this Code section, if the priorities of claims to collateral were established before the effective date of the Uniform Commercial Code Modernization Act of 2024, Article 9 of this title as in effect before the effective date of the Uniform Commercial Code Modernization Act of 2024 determines priority.

(c) *Determination of certain priorities on adjustment date.* On the adjustment date, to the extent the priorities determined by Article 9 of this title as amended by the Uniform Commercial Code Modernization Act of 2024 modify the priorities established before the effective date of the Uniform Commercial Code Modernization Act of 2024, the priorities of claims to Article 12 property and electronic money established before the effective date of the Uniform Commercial Code Modernization Act of 2024 cease to apply.

11-12A-306. Priority of claims when priority rules of Article 9 of this title do not apply.

(a) *Determination of priority.* Subject to subsections (b) and (c) of this Code section, Article 12 of this title determines the priority of conflicting claims to Article 12 property when the priority rules of Article 9 of this title as amended by the Uniform Commercial Code Modernization Act of 2024 do not apply.

(b) *Established priorities.* Subject to subsection (c) of this Code section, when the priority rules of Article 9 of this title as amended by the Uniform Commercial Code Modernization Act of 2024 do not apply and the priorities of claims to Article 12 property were established before the effective date of the Uniform Commercial Code Modernization Act of 2024, law other than Article 12 of this title determines

priority.

(c) Determination of certain priorities on adjustment date. When the priority rules of Article 9 of this title as amended by the Uniform Commercial Code Modernization Act of 2024 do not apply, to the extent the priorities determined by the Uniform Commercial Code Modernization Act of 2024 modify the priorities established before the effective date of the Uniform Commercial Code Modernization Act of 2024, the priorities of claims to Article 12 property established before the effective date of the Uniform Commercial Code Modernization Act of 2024 cease to apply on the adjustment date.

PART 4: EFFECTIVE DATE

11-12A-401. Effective date.

The Uniform Commercial Code Modernization Act of 2024 takes effect on July 1, 2024.”

PART IID

NATIONAL CONFERENCE OF

COMMISSIONERS ON UNIFORM STATE LAWS

RECOMMENDED CHANGES TO THE COMMERCIAL CODE

SECTION 2D-1.

Said title is further amended by revising Code Section 11-1-201, relating to general definitions, as follows:

“11-1-201. General definitions.

(a) Unless the context otherwise requires, words or phrases defined in this Code section, or in the additional definitions contained in other articles of this title that apply to particular articles or parts thereof, have the meanings stated.

(b) Subject to additional definitions contained in the other articles of this title that are applicable to specific articles or parts thereof, in this title:

- (1) “Action” in the sense of a judicial proceeding includes recoupment, counterclaim, setoff, suit in equity, and any other proceedings in which rights are determined.
- (2) “Aggrieved party” means a party entitled to pursue a remedy.

(3) “Agreement,” as distinguished from “contract,” means the bargain of the parties in fact as found in their language or inferred from other circumstances including course of performance, course of dealing, or usage of trade as provided in Code Section 11-1-303.

(4) “Bank” means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, or trust company.

(5) “Bearer” means a person in control of a negotiable electronic document of title or a person in possession of a negotiable instrument, negotiable tangible document of title, or certificated security that is payable to bearer or indorsed in blank.

(6) “Bill of lading” means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods. The term does not include a warehouse receipt.

(7) “Branch” includes a separately incorporated foreign branch of a bank.

(8) “Burden of establishing” a fact means the burden of persuading the trier of fact that the existence of the fact is more probable than its nonexistence.

(9) “Buyer in ordinary course of business” means a person that buys goods in good faith without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller’s own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in the ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Article 2 of this title may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in ordinary course of business.

(10) “Conspicuous,” with reference to a term, means so written, displayed, or presented that, based on the totality of the circumstances, a reasonable person against which it is to operate ought to have noticed it. Whether a term is “conspicuous” or not is a decision for the court. ~~Conspicuous terms include the following:~~

(A) ~~A heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and~~

(B) ~~Language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the language.~~

(11) “Consumer” means an individual who enters into a transaction primarily for personal, family, or household purposes.

(12) “Contract,” as distinguished from “agreement,” means the total legal obligation that results from the parties’ agreement as determined by this title and any other applicable law.

(13) “Creditor” includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor’s or assignor’s estate.

(14) “Defendant” includes a person in the position of defendant in a counterclaim, cross-claim, or third-party claim.

(15) “Delivery,” with respect to an electronic document of title, means voluntary transfer of control and, with respect to an instrument, a tangible document of title, or an authoritative tangible copy of a record evidencing chattel paper, means voluntary transfer of possession.

(16) “Document of title” ~~includes means a record (A) that a bill of lading, dock warrant, dock receipt, warehouse receipt, or order for delivery of goods and any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of it~~ the record is entitled to receive, control, hold, and dispose of the ~~document~~ record and the goods ~~it~~ the record covers. ~~To be a document of title, a document must~~

~~purport~~ and (B) that purports to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass. The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, and order for delivery of goods. An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document of title evidenced by a record consisting of information that is inscribed on a tangible medium.

(16A) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(17) "Fault" means a default, breach, or wrongful act or omission.

(18) "Fungible goods" means:

(A) Goods of which any unit is, by nature or usage of trade, the equivalent of any other like unit; or

(B) Goods that by agreement are treated as equivalent.

(19) "Genuine" means free of forgery or counterfeiting.

(20) "Good faith," except as otherwise provided in Article 5 of this title, means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(21) "Holder" means:

(A) The person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession;~~or~~

(B) The person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession;or

(C) the person in control, other than pursuant to subsection (g) of Code Section 11-7-106, of a negotiable electronic document of title.

(22) "Insolvency proceeding" includes any assignment for the benefit of creditors or other proceeding intended to liquidate or rehabilitate the estate of the person involved.

(23) “Insolvent” means:

(A) Having generally ceased to pay debts in the ordinary course of business other than as a result of bona fide dispute;

(B) Being unable to pay debts as they become due; or

(C) Being insolvent within the meaning of the federal bankruptcy law.

(24) “Money” means a medium of exchange that is currently authorized or adopted by a domestic or foreign government, and The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more countries. The term does not include an electronic record that is a medium of exchange recorded and transferable in a system that existed and operated for the medium of exchange before the medium of exchange was authorized or adopted by the government.

(25) “Organization” means a person other than an individual.

(26) “Party,” as distinct from “third party,” means a person who has engaged in a transaction or made an agreement subject to this title.

(27) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, ~~public corporation,~~ or any other legal or commercial entity. The term includes a protected series, however denominated, of an entity if the protected series is established under law other than this title that limits, or limits if conditions specified under the law are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to satisfy a claim from assets of the protected series.

(28) “Present value” means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain by use of either an interest rate specified by the parties if that rate is not manifestly unreasonable at the time the transaction is entered into, or, if an interest rate is not so specified, a commercially reasonable rate that takes into account the facts and circumstances at the time the transaction is entered into.

(29) “Purchase” means taking by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in property.

(30) “Purchaser” means a person who takes by purchase.

(31) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(32) “Remedy” means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(33) “Representative” means a person empowered to act for another, including an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate.

(34) “Rights” includes remedies.

(35) “Security interest” means an interest in personal property or fixtures which secures payment or performance of an obligation. The term also includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to Article 9 of this title. The term does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under Code Section 11-2-401, but a buyer may also acquire a “security interest” by complying with Article 9 of this title. Except as otherwise provided in Code Section 11-2-505, the right of a seller or lessor of goods under Article 2 or 2A of this title to retain or acquire possession of the goods is not a “security interest,” but a seller or lessor may also acquire a “security interest” by complying with Article 9 of this title. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under Code Section 11-2-401 is limited in effect to a reservation of a “security interest.”

Whether a transaction in the form of a lease creates a “security interest” shall be determined pursuant to Code Section 11-1-203.

(36) “Send₂” in connection with a ~~writing, record,~~ or notice notification, means:

(A) To deposit in the mail, ~~or deliver for transmission,~~ or transmit by any other usual means

of communication with postage or cost of transmission provided for, ~~and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none addressed~~ to any address reasonable under the circumstances; or

(B) ~~In any other way to cause to be received any record or notice within the time it would have arrived if properly sent~~ To cause the record or notification to be received within the time it would have been received if properly sent under subparagraph (A) of this subsection.

(37) ~~“Signed” includes using any symbol executed or adopted with present intention to adopt or accept a writing.~~ “Sign” means, with present intent to authenticate or adopt a record:

(A) execute or adopt a tangible symbol; or

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

“Signed”, “signing”, and “signature” have corresponding meanings.

(38) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(39) “Surety” includes a guarantor or other secondary obligor.

(40) “Term” means that portion of an agreement that relates to a particular matter.

(41) “Unauthorized signature” means a signature made without actual, implied, or apparent authority. The term includes a forgery.

(42) “Warehouse receipt” means a ~~receipt~~ document of title issued by a person engaged in the business of storing goods for hire.

(43) “Written” or “writing” includes printing, typewriting, or any other intentional reduction to tangible form.”

SECTION 2D-2.

Said title is further amended by revising Code Section 11-1-203, relating to distinguishing leases from security interests, as follows:

“11-1-203. Lease distinguished from security interest.

(a) Whether a transaction in the form of a lease creates a lease or security interest is determined by the facts of each case.

(b) A transaction in the form of a lease creates a security interest if the consideration that the lessee is to pay to the lessor for the right to possession and use of the goods is an obligation for the term of the lease and is not subject to termination by the lessee, and:

(1) The original term of the lease is equal to or greater than the remaining economic life of the goods;

(2) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

(3) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement; or

(4) The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(c) A transaction in the form of a lease does not create a security interest merely because:

(1) The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

(2) The lessee assumes risk of loss of the goods;

(3) The lessee agrees to pay, with respect to the goods, taxes, insurance, filing, recording, or registration fees, or service or maintenance costs;

(4) The lessee has an option to renew the lease or to become the owner of the goods;

(5) The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or

(6) The lessee has an option to become the owner of the goods for a fixed price that is equal

to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(d) Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised. Additional consideration is not nominal if:

(1) When the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or

(2) When the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed.

(e) The "remaining economic life of the goods" and "reasonably predictable" fair market rent, fair market value, or cost of performing under the lease agreement must be determined with reference to the facts and circumstances at the time the transaction is entered into."

SECTION 2D-3.

Said title is further amended by revising Code Section 11-1-204, relating to value, as follows:

"11-1-204. Value.

Except as otherwise provided in Articles 3, 4, 5, and 126 of this title, a person gives value for rights if the person acquires them:

(1) In return for a binding commitment to extend credit or for the extension of immediately available credit, whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection;

(2) As security for, or in total or partial satisfaction of, a preexisting claim;

(3) By accepting delivery under a preexisting contract for purchase; or

(4) In return for any consideration sufficient to support a simple contract."

SECTION 2D-4.

Said title is further amended by revising Code Section 11-1-301, relating to territorial applicability and parties' power to choose applicable law, as follows:

“11-1-301. Territorial applicability; parties’ power to choose applicable law.

(a) Except as otherwise provided in this Code section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties.

(b) In the absence of an agreement under subsection (a) of this Code section, and except as provided in subsection (c) of this Code section, this title applies to transactions bearing an appropriate relation to this state.

(c) If one of the following provisions of this title specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law so specified:

- (1) Code Section 11-2-402;
- (2) Code Sections 11-2A-105 and 11-2A-106;
- (3) Code Section 11-4-102;
- (4) Code Section 11-4A-507;
- (5) Code Section 11-5-116;
- (6) ~~Code Section 11-6-103~~[Reserved];
- (7) Code Section 11-8-110; ~~or~~
- (8) Code Sections 11-9-301 through 11-9-307; or
- (9) Code Section 11-12-107.”

SECTION 2D-5.

Said title is further amended by revising Code Section 11-1-303, relating to course of performance, course of dealing, and usage of trade, as follows:

“11-1-303. Course of performance, course of dealing, and usage of trade.

(a) A “course of performance” is a sequence of conduct between the parties to a particular transaction that exists if:

(1) The agreement of the parties with respect to the transaction involves repeated occasions for performance by a party; and

(2) The other party, with knowledge of the nature of the performance and opportunity for objection to it, accepts the performance or acquiesces in it without objection.

(b) A “course of dealing” is a sequence of conduct concerning previous transactions between the parties to a particular transaction that is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.

(c) A “usage of trade” is any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage must be proved as facts. If it is established that such a usage is embodied in a trade code or similar record, the interpretation of the record is a question of law.

(d) A course of performance or course of dealing between the parties or usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware is relevant in ascertaining the meaning of the parties’ agreement, may give particular meaning to specific terms of the agreement, and may supplement or qualify the terms of the agreement. A usage of trade applicable in the place in which part of the performance under the agreement is to occur may be so utilized as to that part of the performance.

(e) Except as otherwise provided in subsection (f) of this Code section, the express terms of an agreement and any applicable course of performance, course of dealing, or usage of trade shall be construed whenever reasonable as consistent with each other. If such a construction is unreasonable:

(1) Express terms prevail over course of performance, course of dealing, and usage of trade;

(2) Course of performance prevails over course of dealing and usage of trade; and

(3) Course of dealing prevails over usage of trade.

(f) Subject to Code Section 11-2-209 and Code Section 11-2A-208, a course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance.

(g) Evidence of a relevant usage of trade offered by one party shall not be admissible unless that party has given the other party notice that the court finds sufficient to prevent unfair surprise to the other party.”

SECTION 2D-6.

Said title is further amended by revising Code Section 11-1-306, relating to waiver or renunciation of claim or right after breach, as follows:

“11-1-306. Waiver or renunciation of claim or right after breach.

A claim or right arising out of an alleged breach may be discharged in whole or in part without consideration by agreement of the aggrieved party in ~~an authenticated~~ a signed record.”

SECTION 2D-7.

Said title is further amended by revising Code Section 11-2-102, relating to scope; certain security and other transactions excluded from Title 11, Article 2, as follows:

“11-2-102. Scope; certain security and other transactions excluded from this article.

~~Unless the context otherwise requires, this article applies to transactions in goods; it does not apply to any transaction which although in the form of an unconditional contract to sell or present sale is intended to operate only as a security transaction nor does this article impair or repeal any statute regulating sales to consumers, farmers, or other specified classes of buyers.~~(1) Unless the context otherwise requires, and except as provided in subsection (3) of this Code section, this Article applies to transactions in goods and, in the case of a hybrid transaction, it applies to the extent provided in subsection (2) of this Code section.

(2) In a hybrid transaction:

(a) If the sale-of-goods aspects do not predominate, only the provisions of this Article which relate primarily to the sale-of-goods aspects of the transaction apply, and the provisions that relate primarily to the transaction as a whole do not apply.

(b) If the sale-of-goods aspects predominate, this Article applies to the transaction but does not preclude application in appropriate circumstances of other law to aspects of the transaction which do not relate to the sale of goods.

(3) This Article does not:

(a) Apply to a transaction that, even though in the form of an unconditional contract to sell or

present sale, operates only to create a security interest; or

(b) Impair or repeal a statute regulating sales to consumers, farmers, or other specified classes of buyers.”

SECTION 2D-8.

Said title is further amended by revising Code Section 11-2-106, relating to definitions of “contract”; “agreement”; “contract for sale”; “sale”; “present sale”; “conforming” to contract; “termination”; “cancellation”, as follows:

“11-2-106. Definitions: “contract”; “agreement”; “contract for sale”; “sale”; “present sale”; “conforming” to contract; “termination”; “cancellation.”; “hybrid transaction.””

(1) In this article unless the context otherwise requires “contract” and “agreement” are limited to those relating to the present or future sale of goods. “Contract for sale” includes both a present sale of goods and a contract to sell goods at a future time. A “sale” consists in the passing of title from the seller to the buyer for a price (Code Section 11-2-401). A “present sale” means a sale which is accomplished by the making of the contract.

(2) Goods or conduct including any part of a performance are “conforming” or conform to the contract when they are in accordance with the obligations under the contract.

(3) “Termination” occurs when either party pursuant to a power created by agreement or law puts an end to the contract otherwise than for its breach. On “termination” all obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

(4) “Cancellation” occurs when either party puts an end to the contract for breach by the other and its effect is the same as that of “termination” except that the canceling party also retains any remedy for breach of the whole contract or any unperformed balance.

(5) “Hybrid transaction” means a single transaction involving a sale of goods and:

(a) The provision of services;

(b) A lease of other goods; or

(c) A sale, lease, or license of property other than goods.”

SECTION 2D-9.

Said title is further amended by revising Code Section 11-2-201, relating to formal requirements and statute of frauds, as follows:

“11-2-201. Formal requirements; statute of frauds.

(1) Except as otherwise provided in this Code section a contract for the sale of goods for the price of \$500.00 or more is not enforceable by way of action or defense unless there is ~~some writing~~ a record sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by ~~his~~ the party's authorized agent or broker. A ~~writing~~ record is not insufficient because it omits or incorrectly states a term agreed upon but the contract is not enforceable under this ~~paragraph~~ subsection beyond the quantity of goods shown in ~~such writing~~ the record.

(2) Between merchants if within a reasonable time a ~~writing~~ record in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of subsection (1) of this Code section against ~~such the~~ party unless ~~written~~ notice in a record of objection to its contents is given within ten days after it is received.

(3) A contract which does not satisfy the requirements of subsection (1) of this Code section but which is valid in other respects is enforceable:

(a) If the goods are to be specially manufactured for the buyer and are not suitable for sale to others in the ordinary course of the seller's business and the seller, before notice of repudiation is received and under circumstances which reasonably indicate that the goods are for the buyer, has made either a substantial beginning of their manufacture or commitments for their procurement; or

(b) If the party against whom enforcement is sought admits in his pleading, testimony, or otherwise in court that a contract for sale was made, but the contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) With respect to goods for which payment has been made and accepted or which have been received and accepted (Code Section 11-2-606).”

SECTION 2D-10.

Said title is further amended by revising Code Section 11-2-202, relating to final written expression and parol or extrinsic evidence, as follows:

“11-2-202. Final ~~written~~ expression; parol or extrinsic evidence.

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a ~~writing~~ record intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

- (a) By course of performance, course of dealing, or usage of trade (Code Section 11-1-303); and
- (b) By evidence of consistent additional terms unless the court finds the ~~writing~~ record to have been intended also as a complete and exclusive statement of the terms of the agreement.”

SECTION 2D-11.

Said title is further amended by revising Code Section 11-2-203, relating to seals, as follows:

“11-2-203. Seals inoperative.

The affixing of a seal to a ~~writing~~ record evidencing a contract for sale or an offer to buy or sell goods does not constitute the ~~writing~~ record a sealed instrument and the law with respect to sealed instruments does not apply to such a contract or offer.”

SECTION 2D-12.

Said title is further amended by revising Code Section 11-2-205, relating to firm offers, as follows:

“11-2-205. Firm offers.

An offer by a merchant to buy or sell goods in a signed ~~record~~ ~~writing~~ which by its terms gives assurance that it will be held open is not revocable, for lack of consideration, during the time stated or if no time is stated for a reasonable time, but in no event may such period of irrevocability exceed three months; but any such term of assurance on a form supplied by the offeree must be separately signed by the offeror.”

SECTION 2D-13.

Said title is further amended by revising Code Section 11-2-209, relating to modification, rescission, and waiver, as follows:

“11-2-209. Modification, rescission, and waiver.

- (1) An agreement modifying a contract within this article needs no consideration to be binding.
- (2) A signed agreement which excludes modification or rescission except by a signed writing or other signed record cannot be otherwise modified or rescinded, but except as between merchants such a requirement on a form supplied by the merchant must be separately signed by the other party.
- (3) The requirements of the statute of frauds section of this article (Code Section 11-2-201) must be satisfied if the contract as modified is within its provisions.
- (4) Although an attempt at modification or rescission does not satisfy the requirements of subsection (2) or (3) of this Code section it can operate as a waiver.
- (5) A party who has made a waiver affecting an executory portion of the contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver.”

SECTION 2D-14.

Said title is further amended by revising Code Section 11-2A-102, relating to scope, as follows:

“11-2A-102. Scope.

- (1) This article applies to any transaction, regardless of form, that creates a lease and, in the case of a hybrid lease, it applies to the extent provided in subsection (2) of this Code section.
- (2) In a hybrid lease:
 - (a) If the lease-of-goods aspects do not predominate:
 - (i) Only the provisions of this article which relate primarily to the lease-of-goods aspects of the transaction apply, and the provisions that relate primarily to the transaction as a whole do not apply;
 - (ii) Code Section 11-2A-209 applies if the lease is a finance lease; and

(iii) Code Section 11-2A-407 applies to the promises of the lessee in a finance lease to the extent the promises are consideration for the right to possession and use of the leased goods; and

(b) If the lease-of-goods aspects predominate, this article applies to the transaction, but does not preclude application in appropriate circumstances of other law to aspects of the lease which do not relate to the lease of goods.”

SECTION 2D-15.

Said title is further amended by revising Code Section 11-2A-103, relating to definitions and index of definitions, as follows:

“11-2A-103. Definitions and index of definitions.

(1) In this article unless the context otherwise requires:

(a) “Buyer in ordinary course of business” means a person who, in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind, but does not include a pawnbroker. “Buying” may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting contract for sale, but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) “Cancellation” occurs when either party puts an end to the lease contract for default by the other party.

(c) “Commercial unit” means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) “Conforming” goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) “Consumer lease” means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose.

(f) “Fault” means wrongful act, omission, breach, or default.

(g) “Finance lease” means a lease with respect to which:

(i) The lessor does not select, manufacture, or supply the goods;

(ii) The lessor acquires the goods or the right to possession and use of the goods in

connection with the lease; and

(iii) One of the following occurs:

(A) The lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(B) The lessee’s approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

(C) The lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

(D) If the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing (a) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person, (b) that the lessee is entitled under this article to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the

contract by which the lessor acquired the goods or the right to possession and use of the goods, and (c) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) “Goods” means all things that are movable at the time of identification to the lease contract, or are fixtures (Code Section 11-2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(h.1) “Hybrid lease” means a single transaction involving a lease of goods and:

(i) The provision of services;

(ii) A sale of other goods; or

(iii) A sale, lease, or license of property other than goods.

(i) “Installment lease contract” means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause “each delivery is a separate lease” or its equivalent.

(j) “Lease” means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) “Lease agreement” means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) “Lease contract” means the total legal obligation that results from the lease agreement as affected by this article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

- (m) “Leasehold interest” means the interest of the lessor or the lessee under a lease contract.
- (n) “Lessee” means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.
 - (o) “Lessee in ordinary course of business” means a person who, in good faith and without knowledge that the lease to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, leases in ordinary course from a person in the business of selling or leasing goods of that kind, but does not include a pawnbroker. “Leasing” may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting lease contract, but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.
 - (p) “Lessor” means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.
 - (q) “Lessor’s residual interest” means the lessor’s interest in the goods after expiration, termination, or cancellation of the lease contract.
 - (r) “Lien” means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.
 - (s) “Lot” means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.
 - (t) “Merchant lessee” means a lessee that is a merchant with respect to goods of the kind subject to the lease.
 - (u) “Present value” means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.
 - (v) “Purchase” includes taking by sale, lease, mortgage, security interest, pledge, gift, or any

other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this article and the sections in which they appear are:

"Accessions." Code Section 11-2A-310(1).

"Construction mortgage." Code Section 11-2A-309(1)(d).

"Encumbrance." Code Section 11-2A-309(1)(e).

"Fixtures." Code Section 11-2A-309(1)(a).

"Fixture filing." Code Section 11-2A-309(1)(b).

"Purchase money lease." Code Section 11-2A-309(1)(c).

(3) The following definitions in other articles of this title apply to this article:

"Account." Code Section 11-9-102(a).

"Between merchants." Code Section 11-2-104(3).

"Buyer." Code Section 11-2-103(1)(a).

"Chattel paper." Code Section 11-9-102(a).

"Consumer goods." Code Section 11-9-102(a).

"Document." Code Section 11-9-102(a).

"Entrusting." Code Section 11-2-403(3).

"General intangible." Code Section 11-9-102(a).

"Instrument." Code Section 11-9-102(a).

“Merchant.” Code Section 11-2-104(1).

“Mortgage.” Code Section 11-9-102(a).

“Pursuant to commitment.” Code Section 11-9-102(a).

“Receipt.” Code Section 11-2-103(1)(c).

“Sale.” Code Section 11-2-106(1).

“Sale on approval.” Code Section 11-2-326.

“Sale or return.” Code Section 11-2-326.

“Seller.” Code Section 11-2-103(1)(d).

(4) In addition, Article 1 of this title contains general definitions and principles of construction and interpretation applicable throughout this article.”

SECTION 2D-16.

Said title is further amended by revising Code Section 11-2A-107, relating to waiver or renunciation of claim or right after default, as follows:

“11-2A-107. Waiver or renunciation of claim or right after default.

Any claim or right arising out of an alleged default or breach of warranty may be discharged in whole or in part without consideration by a ~~written~~ waiver or renunciation in a signed and record delivered by the aggrieved party.”

SECTION 2D-17.

Said title is further amended by revising Code Section 11-2A-201, relating to statute of frauds, as follows:

“11-2A-201. Statute of frauds.

(1) A lease contract is not enforceable by way of action or defense unless:

(a) The total payments to be made under the lease contract, excluding payments for options to renew or buy, are less than \$1,000; or

(b) There is a record writing, signed by the party against whom enforcement is sought or by that party’s authorized agent, sufficient to indicate that a lease contract has been made between the parties and to describe the goods leased and the lease term.

(2) Any description of leased goods or of the lease term is sufficient and satisfies subsection (1)(b), whether or not it is specific, if it reasonably identifies what is described.

(3) A ~~record~~writing is not insufficient because it omits or incorrectly states a term agreed upon, but the lease contract is not enforceable under subsection (1)(b) beyond the lease term and the quantity of goods shown in the ~~writing~~record.

(4) A lease contract that does not satisfy the requirements of subsection (1), but which is valid in other respects, is enforceable:

(a) If the goods are to be specially manufactured or obtained for the lessee and are not suitable for lease or sale to others in the ordinary course of the lessor's business, and the lessor, before notice of repudiation is received and under circumstances that reasonably indicate that the goods are for the lessee, has made either a substantial beginning of their manufacture or commitments for their procurement;

(b) If the party against whom enforcement is sought admits in that party's pleading, testimony or otherwise in court that a lease contract was made, but the lease contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) With respect to goods that have been received and accepted by the lessee.

(5) The lease term under a lease contract referred to in subsection (4) is:

(a) If there is a ~~record~~writing signed by the party against whom enforcement is sought or by that party's authorized agent specifying the lease term, the term so specified;

(b) If the party against whom enforcement is sought admits in that party's pleading, testimony, or otherwise in court a lease term, the term so admitted; or

(c) A reasonable lease term."

SECTION 2D-18.

Said title is further amended by revising Code Section 11-2A-202, relating to final expression: parole or extrinsic evidence, as follows:

"11-2A-202. Final ~~written~~ expression: Parole or extrinsic evidence.

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a ~~recordwriting~~ intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

- (a) By course of dealing or usage of trade or by course of performance; and
- (b) By evidence of consistent additional terms unless the court finds the ~~recordwriting~~ to have been intended also as a complete and exclusive statement of the terms of the agreement.”

SECTION 2D-19.

Said title is further amended by revising Code Section 11-2A-203, relating to seals, as follows:

“11-2A-203. Seals inoperative.

The affixing of a seal to a ~~recordwriting~~ evidencing a lease contract or an offer to enter into a lease contract does not render the ~~recordwriting~~ a sealed instrument and the law with respect to sealed instruments does not apply to the lease contract or offer.”

SECTION 2D-20.

Said title is further amended by revising Code Section 11-2A-205, relating to firm offers, as follows:

“11-2A-205. Firm offers.

An offer by a merchant to lease goods to or from another person in a signed ~~recordwriting~~ that by its terms gives assurance it will be held open is not revocable, for lack of consideration, during the time stated or, if no time is stated, for a reasonable time, but in no event may the period of irrevocability exceed 3 months. Any such term of assurance on a form supplied by the offeree must be separately signed by the offeror.”

SECTION 2D-21.

Said title is further amended by revising Code Section 11-2A-208, relating to modification, rescission and waiver, as follows:

“11-2A-208. Modification, rescission, and waiver.

- (1) An agreement modifying a lease contract needs no consideration to be binding.

(2) A signed lease agreement that excludes modification or rescission except by a signed ~~recording~~ writing may not be otherwise modified or rescinded, but, except as between merchants, such a requirement on a form supplied by a merchant must be separately signed by the other party.

(3) The requirements of the statute of frauds section of this article (Code Section 11-2A-201) must be satisfied if the contract as modified is within its provisions.

(4) Although an attempt at modification or rescission does not satisfy the requirements of subsection (2), it may operate as a waiver.

(5) A party who has made a waiver affecting an executory portion of a lease contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver.”

SECTION 2D-22.

Said title is further amended by revising Code Section 11-3-104, relating to negotiable instruments, as follows:

“11-3-104. Negotiable instrument.

(a) Except as provided in subsections (c) and (d) of this Code section, “negotiable instrument” means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:

- (1) Is payable to bearer or to order at the time it is issued or first comes into possession of a holder;
- (2) Is payable on demand or at a definite time; and
- (3) Does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain:
 - (i) An undertaking or power to give, maintain, or protect collateral to secure payment;
 - (ii) An authorization or power to the holder to confess judgment or realize on or dispose of collateral; ~~or~~

(iii) A waiver of the benefit of any law intended for the advantage or protection of an obligor;

(iv) A term that specifies the law that governs the promise or order; or

(v) An undertaking to resolve in a specified forum a dispute concerning the promise or order.

(b) “Instrument” means a negotiable instrument.

(c) An order that meets all of the requirements of subsection (a) of this Code section, except paragraph (1) of subsection (a) of this Code section, and otherwise falls within the definition of “check” in subsection (f) of this Code section is a negotiable instrument and a check.

(d) A promise or order other than a check is not an instrument if, at the time it is issued or first comes into possession of a holder, it contains a conspicuous statement, however expressed, to the effect that the promise or order is not negotiable or is not an instrument governed by this article.

(e) An instrument is a “note” if it is a promise and is a “draft” if it is an order. If an instrument falls within the definition of both “note” and “draft,” a person entitled to enforce the instrument may treat it as either.

(f) “Check” means (i) a draft, other than a documentary draft, payable on demand and drawn on a bank; or (ii) a cashier’s check or teller’s check. An instrument may be a check even though it is described on its face by another term, such as “money order.”

(g) “Cashier’s check” means a draft with respect to which the drawer and drawee are the same bank or branches of the same bank.

(h) “Teller’s check” means a draft drawn by a bank (i) on another bank; or (ii) payable at or through a bank.

(i) “Traveler’s check” means an instrument that (i) is payable on demand; (ii) is drawn on or payable at or through a bank; (iii) is designated by the term “traveler’s check” or by a substantially similar term; and (iv) requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the instrument.

(j) “Certificate of deposit” means an instrument containing an acknowledgment by a bank that a sum of money has been received by the bank and a promise by the bank to repay the sum of money. A

certificate of deposit is a note of the bank.”

SECTION 2D-23.

Said title is further amended by revising Code Section 11-3-105, relating to issue of instruments, as follows:

“11-3-105. Issue of instrument.

(a) “Issue” means:

(1) the first delivery of an instrument by the maker or drawer, whether to a holder or nonholder, for the purpose of giving rights on the instrument to any person; or

(2) If agreed by the payee, the first transmission by the drawer to the payee of an image of an item and information derived from the item that enables the depository bank to collect the item by transferring or presenting under federal law an electronic check.

(b) An unissued instrument, or an unissued incomplete instrument that is completed, is binding on the maker or drawer, but nonissuance is a defense. An instrument that is conditionally issued or is issued for a special purpose is binding on the maker or drawer, but failure of the condition or special purpose to be fulfilled is a defense.

(c) “Issuer” applies to issued and unissued instruments and means a maker or drawer of an instrument.”

SECTION 2D-24.

Said title is further amended by revising Code Section 11-3-106, relating to unconditional promises or orders, as follows:

“11-3-106. Unconditional promise or order.

(a) Except as provided in this Code section, for the purposes of subsection (a) of Code Section 11-3-104, a promise or order is unconditional unless it states (i) an express condition to payment;

(ii) that the promise or order is subject to or governed by another writing record; or (iii) that rights or obligations with respect to the promise or order are stated in another writing record. A reference to another writing record does not of itself make the promise or order conditional.

(b) A promise or order is not made conditional (i) by a reference to another ~~written~~writing~~record~~ for a statement of rights with respect to collateral, prepayment, or acceleration; or (ii) because payment is limited to resort to a particular fund or source.

(c) If a promise or order requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the promise or order, the condition does not make the promise or order conditional for the purposes of subsection (a) of Code Section 11-3-104. If the person whose specimen signature appears on an instrument fails to countersign the instrument, the failure to countersign is a defense to the obligation of the issuer, but the failure does not prevent a transferee of the instrument from becoming a holder of the instrument.

(d) If a promise or order at the time it is issued or first comes into possession of a holder contains a statement, required by applicable statutory or administrative law, to the effect that the rights of a holder or transferee are subject to claims or defenses that the issuer could assert against the original payee, the promise or order is not thereby made conditional for the purposes of subsection (a) of Code Section 11-3-104; but, if the promise or order is an instrument, there cannot be a holder in due course of the instrument.”

SECTION 2D-25.

Said title is further amended by revising Code Section 11-3-119, relating to notices of rights to defend actions, as follows:

“11-3-119. Notice of right to defend action.

In an action for breach of an obligation for which a third person is answerable over pursuant to this article or Article 4 of this title, the defendant may give the third person ~~written~~written notice of the litigation in a record, and the person notified may then give similar notice to any other person who is answerable over. If the notice states that (i) the person notified may come in and defend; and (ii) failure to do so will bind the person notified in an action later brought by the person giving the notice as to any determination of fact common to the two litigations, the person notified is so bound unless after seasonable receipt of the notice the person notified does come in and defend.”

SECTION 2D-26.

Said title is further amended by revising Code Section 11-3-312, relating to lost, destroyed, or stolen cashier's checks, teller's checks, or certified checks, as follows:

"11-3-312. Lost, destroyed, or stolen cashier's check, teller's check, or certified check.

(a) In this Code section:

- (1) "Check" means a cashier's check, teller's check, or certified check;
- (2) "Claimant" means a person who claims the right to receive the amount of a cashier's check, teller's check, or certified check that was lost, destroyed, or stolen;
- (3) "Declaration of loss" means a ~~written~~ statement, made in a record under penalty of perjury, to the effect that:
 - (i) The declarer lost possession of a check;
 - (ii) The declarer is the drawer or payee of the check, in the case of a certified check, or the remitter or payee of the check, in the case of a cashier's check or teller's check;
 - (iii) The loss of possession was not the result of a transfer by the declarer or a lawful seizure; and
 - (iv) The declarer cannot reasonably obtain possession of the check because the check was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process; and
- (4) "Obligated bank" means the issuer of a cashier's check or teller's check or the acceptor of a certified check.

(b) A claimant may assert a claim to the amount of a check by a communication to the obligated bank describing the check with reasonable certainty and requesting payment of the amount of the check, if the claimant is the drawer or payee of a certified check or the remitter or payee of a cashier's check or teller's check, the communication contains or is accompanied by a declaration of loss of the claimant with respect to the check, the communication is received at a time and in a manner affording the bank a reasonable time to act on it before the check is paid, and the claimant provides reasonable identification if requested by the

obligated bank. Delivery of a declaration of loss is a warranty of the truth of the statements made in the declaration. If a claim is asserted in compliance with this subsection, the following rules apply:

- (1) The claim becomes enforceable at the later of:
 - (i) The time the claim is asserted;
 - (ii) The ninetieth day following the date of the check in the case of a cashier's check or teller's check; or
 - (iii) The ninetieth day following the date of the acceptance in the case of a certified check;
 - (2) Until the claim becomes enforceable, it has no legal effect and the obligated bank may pay the check or, in the case of a teller's check, may permit the drawee to pay the check. Payment to a person entitled to enforce the check discharges all liability of the obligated bank with respect to the check;
 - (3) If the claim becomes enforceable before the check is presented for payment, the obligated bank is not obliged to pay the check; and
 - (4) When the claim becomes enforceable, the obligated bank becomes obliged to pay the amount of the check to the claimant if payment of the check has not been made to a person entitled to enforce the check. Subject to paragraph (1) of subsection (a) of Code Section 11-4-302, payment to the claimant discharges all liability of the obligated bank with respect to the check.
- (c) If the obligated bank pays the amount of a check to a claimant under paragraph (4) of subsection (b) of this Code section and the check is presented for payment by a person having rights of a holder in due course, the claimant is obliged to (i) refund the payment to the obligated bank if the check is paid; or (ii) pay the amount of the check to the person having rights of a holder in due course if the check is dishonored.
- (d) If a claimant has the right to assert a claim under subsection (b) of this Code section and is also a person entitled to enforce a cashier's check, teller's check, or certified check which is lost, destroyed, or stolen, the claimant may assert rights with respect to the check either under this Code section or Code Section 11-3-309."

SECTION 2D-27.

Said title is further amended by revising Code Section 11-3-401, relating to signatures, as follows:

“11-3-401. Signature Necessary for Liability on Instrument.

~~(a)~~ A person is not liable on an instrument unless (i) the person signed the instrument; or (ii) the person is represented by an agent or representative who signed the instrument and the signature is binding on the represented person under Code Section 11-3-402.

~~(a) A signature may be made (i) manually or by means of a device or machine; and (ii) by the use of any name, including a trade or assumed name or by a word, mark, or symbol executed or adopted by a person with present intention to authenticate a writing.”~~

SECTION 2D-28.

Said title is further amended by revising Code Section 11-3-604, relating to discharge by cancellation or renunciation, as follows:

“11-3-604. Discharge by cancellation or renunciation.

(a) A person entitled to enforce an instrument, with or without consideration, may discharge the obligation of a party to pay the instrument by (i) an intentional voluntary act such as surrender of the instrument to the party, destruction, mutilation, or cancellation of the instrument, cancellation or striking out of the party’s signature, or the addition of words to the instrument indicating discharge; or (ii) agreeing not to sue or otherwise renouncing rights against the party by a signed ~~writing~~ record. The obligation of a party to pay a check is not discharged solely by destruction of the check in connection with a process in which information is extracted from the check and an image of the check is made and, subsequently, the information and image are transmitted for payment.

(b) Cancellation or striking out of an indorsement pursuant to subsection (a) of this Code section does not affect the status and rights of a party derived from the indorsement.”

SECTION 2D-29.

Said title is further amended by revising Code Section 11-4-212, relating to presentment by notice of item not payable by, through, or at a bank and liability of drawer or indorser, as follows:

“11-4-212. Presentment by notice of item not payable by, through, or at a bank; liability of drawer or indorser.

(a) Unless otherwise instructed, a collecting bank may present an item not payable by, through, or at a bank by sending to the party to accept or pay a ~~written~~ record providing notice that the bank holds the item for acceptance or payment. The notice must be sent in time to be received on or before the day when presentment is due and the bank must meet any requirement of the party to accept or pay under Code Section 11-3-501 by the close of the bank’s next banking day after it knows of the requirement.

(b) If presentment is made by notice and payment, acceptance, or request for compliance with a requirement under Code Section 11-3-501 is not received by the close of business on the day after maturity or, in the case of demand items by the close of business on the third banking day after notice was sent, the presenting bank may treat the item as dishonored and charge any drawer or indorser by sending it notice of the facts.”

SECTION 2D-30.

Said title is further amended by revising Code Section 11-4-301, relating to deferred posting; recovery of payment by return of items; time of dishonor; and return of items by payor bank, as follows:

“11-4-301. Deferred posting; recovery of payment by return of items; time of dishonor; return of items by payor bank.

(a) If a payor bank settles for a demand item other than a documentary draft presented otherwise than for immediate payment over the counter before midnight of the banking day of receipt, the payor bank may revoke the settlement and recover the settlement if, before it has made final payment and before its midnight deadline, it:

- (1) Returns the item; or
- (2) Sends ~~written~~ a record providing notice of dishonor or nonpayment if the item is unavailable for return.

(b) If a demand item is received by a payor bank for credit on its books, it may return the item or send notice of dishonor and may revoke any credit given or recover the amount thereof withdrawn by its customer, if it acts within the time limit and in the manner specified in subsection (a) of this Code section.

(c) Unless previous notice of dishonor has been sent, an item is dishonored at the time when for purposes of dishonor it is returned or notice sent in accordance with this Code section.

(d) An item is returned:

(1) As to an item presented through a clearing-house, when it is delivered to the presenting or last collecting bank or to the clearing-house or is sent or delivered in accordance with clearing-house rules; or

(2) In all other cases, when it is sent or delivered to the bank's customer or transferor or pursuant to instructions."

SECTION 2D-31.

Said title is further amended by revising Code Section 11-4-403, relating to a customer's right to stop payment and burden of proof of loss, as follows:

"11-4-403. Customer's right to stop payment; burden of proof of loss.

(a) A customer or any person authorized to draw on the account if there is more than one person may stop payment of any item drawn on the customer's account or close the account by an order to the bank describing the item or account with reasonable certainty received at a time and in a manner that affords the bank a reasonable opportunity to act on it before any action by the bank with respect to the item described in Code Section 11-4-303. If the signature of more than one person is required to draw on an account, any of these persons may stop payment or close the account.

(b) A stop-payment order is effective for six months, but it lapses after 14 calendar days if the original order was oral and was not confirmed in ~~writing~~ writing record within that period. A stop-payment order may be renewed for additional six-month periods by a ~~writing~~ writing record given to the bank within a period during which the stop-payment order is effective.

(c) The burden of establishing the fact and amount of loss resulting from the payment of an item contrary to a stop-payment order or order to close an account is on the customer. The loss from payment of an item contrary to a stop-payment order may include damages for dishonor of subsequent items under Code Section 11-4-402.”

SECTION 2D-32.

Said title is further amended by revising Code Section 11-4A-103, relating to payment order – definitions, as follows:

“11-4A-103. Payment order – Definitions.

(a) In this article:

(1) “Payment order” means an instruction of a sender to a receiving bank, transmitted orally, ~~electronically, or in writing or in a record,~~ to pay, or to cause another bank to pay, a fixed or determinable amount of money to a beneficiary if:

(i) The instruction does not state a condition to payment to the beneficiary other than time of payment,

(ii) The receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender, and

(iii) The instruction is transmitted by the sender directly to the receiving bank or to an agent, funds-transfer system, or communication system for transmittal to the receiving bank.

(2) “Beneficiary” means the person to be paid by the beneficiary’s bank.

(3) “Beneficiary’s bank” means the bank identified in a payment order in which an account of the beneficiary is to be credited pursuant to the order or which otherwise is to make payment to the beneficiary if the order does not provide for payment to an account.

(4) “Receiving bank” means the bank to which the sender’s instruction is addressed.

(5) “Sender” means the person giving the instruction to the receiving bank.

(b) If an instruction complying with subsection (a)(1) is to make more than one payment to a beneficiary, the instruction is a separate payment order with respect to each payment.

(c) A payment order is issued when it is sent to the receiving bank.”

SECTION 2D-33.

Said title is further amended by revising Code Section 11-4A-201, relating to security procedures, as follows:

“11-4A-201. Security procedure.

“Security procedure” means a procedure established by agreement of a customer and a receiving bank for the purpose of (i) verifying that a payment order or communication amending or canceling a payment order is that of the customer, or (ii) detecting error in the transmission or the content of the payment order or communication. A security procedure may impose an obligation on the receiving bank or the customer and may require the use of algorithms or other codes, identifying words ~~or~~, numbers, symbols, sounds, biometrics, encryption, callback procedures, or similar security devices. Comparison of a signature on a payment order or communication with an authorized specimen signature of the customer or requiring a payment order to be sent from a known email address, IP address, or telephone number is not by itself a security procedure.”

SECTION 2D-34.

Said title is further amended by revising Code Section 11-4A-202, relating to authorized and verified payment orders, as follows:

“11-4A-202. Authorized and verified payment orders.

(a) A payment order received by the receiving bank is the authorized order of the person identified as sender if that person authorized the order or is otherwise bound by it under the law of agency.

(b) If a bank and its customer have agreed that the authenticity of payment orders issued to the bank in the name of the customer as sender will be verified pursuant to a security procedure, a payment order received by the receiving bank is effective as the order of the customer, whether or not authorized, if (i) the security procedure is a commercially reasonable method of providing security against unauthorized payment orders, and (ii) the bank proves that it accepted the payment order in good faith and in compliance with the bank’s obligations under the security procedure and any ~~written~~ agreement or

instruction of the customer, evidenced by a record, restricting acceptance of payment orders issued in the name of the customer. The bank is not required to follow an instruction that violates ~~a written an~~ agreement with the customer, evidenced by a record, or notice of which is not received at a time and in a manner affording the bank a reasonable opportunity to act on it before the payment order is accepted.

(c) Commercial reasonableness of a security procedure is a question of law to be determined by considering the wishes of the customer expressed to the bank, the circumstances of the customer known to the bank, including the size, type, and frequency of payment orders normally issued by the customer to the bank, alternative security procedures offered to the customer, and security procedures in general use by customers and receiving banks similarly situated. A security procedure is deemed to be commercially reasonable if (i) the security procedure was chosen by the customer after the bank offered, and the customer refused, a security procedure that was commercially reasonable for that customer, and (ii) the customer expressly agreed in ~~writing a record~~ writing a record to be bound by any payment order, whether or not authorized, issued in its name and accepted by the bank in compliance with the bank's obligations under the security procedure chosen by the customer.

(d) The term "sender" in this article includes the customer in whose name a payment order is issued if the order is the authorized order of the customer under subsection (a), or it is effective as the order of the customer under subsection (b).

(e) This Code section applies to amendments and cancellations of payment orders to the same extent it applies to payment orders.

(f) Except as provided in this Code section and in Code Section 11-4A-203(a)(1), rights and obligations arising under this Code section or Code Section 11-4A-203 may not be varied by agreement."

SECTION 2D-35.

Said title is further amended by revising Code Section 11-4A-203, relating to unenforceability of certain verified payment orders, as follows:

"11-4A-203. Unenforceability of certain verified payment orders.

(a) If an accepted payment order is not, under Code Section 11-4A-202(a), an authorized order of a

customer identified as sender, but is effective as an order of the customer pursuant to Code Section 11-4A-202(b), the following rules apply:

(1) By express ~~written~~ agreement evidenced by a record, the receiving bank may limit the extent to which it is entitled to enforce or retain payment of the payment order.

(2) The receiving bank is not entitled to enforce or retain payment of the payment order if the customer proves that the order was not caused, directly or indirectly, by a person (i) entrusted at any time with duties to act for the customer with respect to payment orders or the security procedure, or (ii) who obtained access to transmitting facilities of the customer or who obtained, from a source controlled by the customer and without authority of the receiving bank, information facilitating breach of the security procedure, regardless of how the information was obtained or whether the customer was at fault. Information includes any access device, computer software, or the like.

(b) This Code section applies to amendments of payment orders to the same extent it applies to payment orders.”

SECTION 2D-36.

Said title is further amended by revising Code Section 11-4A-207, relating to misdescription of beneficiary, as follows:

“11-4A-207. Misdescription of beneficiary.

(a) Subject to subsection (b), if, in a payment order received by the beneficiary’s bank, the name, bank account number, or other identification of the beneficiary refers to a nonexistent or unidentifiable person or account, no person has rights as a beneficiary of the order and acceptance of the order cannot occur.

(b) If a payment order received by the beneficiary’s bank identifies the beneficiary both by name and by an identifying or bank account number and the name and number identify different persons, the following rules apply:

(1) Except as otherwise provided in subsection (c), if the beneficiary’s bank does not know that the name and number refer to different persons, it may rely on the number as the proper

identification of the beneficiary of the order. The beneficiary's bank need not determine whether the name and number refer to the same person.

(2) If the beneficiary's bank pays the person identified by name or knows that the name and number identify different persons, no person has rights as beneficiary except the person paid by the beneficiary's bank if that person was entitled to receive payment from the originator of the funds transfer. If no person has rights as beneficiary, acceptance of the order cannot occur.

(c) If (i) a payment order described in subsection (b) is accepted, (ii) the originator's payment order described the beneficiary inconsistently by name and number, and (iii) the beneficiary's bank pays the person identified by number as permitted by subsection (b)(1), the following rules apply:

(1) If the originator is a bank, the originator is obliged to pay its order.

(2) If the originator is not a bank and proves that the person identified by number was not entitled to receive payment from the originator, the originator is not obliged to pay its order unless the originator's bank proves that the originator, before acceptance of the originator's order, had notice that payment of a payment order issued by the originator might be made by the beneficiary's bank on the basis of an identifying or bank account number even if it identifies a person different from the named beneficiary. Proof of notice may be made by any admissible evidence. The originator's bank satisfies the burden of proof if it proves that the originator, before the payment order was accepted, signed a ~~record~~writing stating the information to which the notice relates.

(d) In a case governed by subsection (b)(1), if the beneficiary's bank rightfully pays the person identified by number and that person was not entitled to receive payment from the originator, the amount paid may be recovered from that person to the extent allowed by the law governing mistake and restitution as follows:

(1) If the originator is obliged to pay its payment order as stated in subsection (c), the originator has the right to recover.

(2) If the originator is not a bank and is not obliged to pay its payment order, the originator's bank has the right to recover."

SECTION 2D-37.

Said title is further amended by revising Code Section 11-4A-208, relating to misdescription of intermediary bank or beneficiary's bank, as follows:

"11-4A-208. Misdescription of intermediary bank or beneficiary's bank.

(a) This subsection applies to a payment order identifying an intermediary bank or the beneficiary's bank only by an identifying number.

(1) The receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank and need not determine whether the number identifies a bank.

(2) The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

(b) This subsection applies to a payment order identifying an intermediary bank or the beneficiary's bank both by name and an identifying number if the name and number identify different persons.

(1) If the sender is a bank, the receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank if the receiving bank, when it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person or whether the number refers to a bank. The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

(2) If the sender is not a bank and the receiving bank proves that the sender, before the payment order was accepted, had notice that the receiving bank might rely on the number as the proper identification of the intermediary or beneficiary's bank even if it identifies a person different from the bank identified by name, the rights and obligations of the sender and the receiving bank are governed by subsection (b)(1), as though the sender were a bank. Proof of notice may be made by any admissible evidence. The receiving bank satisfies the burden of proof if it proves that the sender,

before the payment order was accepted, signed a record writing stating the information to which the notice relates.

(3) Regardless of whether the sender is a bank, the receiving bank may rely on the name as the proper identification of the intermediary or beneficiary's bank if the receiving bank, at the time it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person.

(4) If the receiving bank knows that the name and number identify different persons, reliance on either the name or the number in executing the sender's payment order is a breach of the obligation stated in Code Section 11-4A-302(a)(1)."

SECTION 2D-38.

Said title is further amended by revising Code Section 11-4A-210, relating to rejection of payment order, as follows:

"11-4A-210. Rejection of payment order.

(a) A payment order is rejected by the receiving bank by a notice of rejection transmitted to the sender orally, ~~electronically~~, or in a record writing. A notice of rejection need not use any particular words and is sufficient if it indicates that the receiving bank is rejecting the order or will not execute or pay the order. Rejection is effective when the notice is given if transmission is by a means that is reasonable in the circumstances. If notice of rejection is given by a means that is not reasonable, rejection is effective when the notice is received. If an agreement of the sender and receiving bank establishes the means to be used to reject a payment order, (i) any means complying with the agreement is reasonable and (ii) any means not complying is not reasonable unless no significant delay in receipt of the notice resulted from the use of the noncomplying means.

(b) This subsection applies if a receiving bank other than the beneficiary's bank fails to execute a payment order despite the existence on the execution date of a withdrawable credit balance in an authorized account of the sender sufficient to cover the order. If the sender does not receive notice of rejection of the order on the execution date and the authorized account of the sender does not bear

interest, the bank is obliged to pay interest to the sender on the amount of the order for the number of days elapsing after the execution date to the earlier of the day the order is canceled pursuant to Code Section 11-4A-211(d) or the day the sender receives notice or learns that the order was not executed, counting the final day of the period as an elapsed day. If the withdrawable credit balance during that period falls below the amount of the order, the amount of interest is reduced accordingly.

(c) If a receiving bank suspends payments, all unaccepted payment orders issued to it are deemed rejected at the time the bank suspends payments.

(d) Acceptance of a payment order precludes a later rejection of the order. Rejection of a payment order precludes a later acceptance of the order.”

SECTION 2D-39.

Said title is further amended by revising Code Section 11-4A-211, relating to cancellation and amendment of payment orders, as follows:

“11-4A-211. Cancellation and amendment of payment order.

(a) A communication of the sender of a payment order canceling or amending the order may be transmitted to the receiving bank orally, ~~electronically~~, or in a recordwriting. If a security procedure is in effect between the sender and the receiving bank, the communication is not effective to cancel or amend the order unless the communication is verified pursuant to the security procedure or the bank agrees to the cancellation or amendment.

(b) Subject to subsection (a), a communication by the sender canceling or amending a payment order is effective to cancel or amend the order if notice of the communication is received at a time and in a manner affording the receiving bank a reasonable opportunity to act on the communication before the bank accepts the payment order.

(c) After a payment order has been accepted, cancellation or amendment of the order is not effective unless the receiving bank agrees or a funds-transfer system rule allows cancellation or amendment without agreement of the bank.

(1) With respect to a payment order accepted by a receiving bank other than the beneficiary’s

bank, cancellation or amendment is not effective unless a conforming cancellation or amendment of the payment order issued by the receiving bank is also made.

(2) With respect to a payment order accepted by the beneficiary's bank, cancellation or amendment is not effective unless the order was issued in execution of an unauthorized payment order, or because of a mistake by a sender in the funds transfer which resulted in the issuance of a payment order (i) that is a duplicate of a payment order previously issued by the sender, (ii) that orders payment to a beneficiary not entitled to receive payment from the originator, or (iii) that orders payment in an amount greater than the amount the beneficiary was entitled to receive from the originator. If the payment order is canceled or amended, the beneficiary's bank is entitled to recover from the beneficiary any amount paid to the beneficiary to the extent allowed by the law governing mistake and restitution.

(d) An unaccepted payment order is canceled by operation of law at the close of the fifth funds-transfer business day of the receiving bank after the execution date or payment date of the order.

(e) A canceled payment order cannot be accepted. If an accepted payment order is canceled, the acceptance is nullified and no person has any right or obligation based on the acceptance. Amendment of a payment order is deemed to be cancellation of the original order at the time of amendment and issue of a new payment order in the amended form at the same time.

(f) Unless otherwise provided in an agreement of the parties or in a funds-transfer system rule, if the receiving bank, after accepting a payment order, agrees to cancellation or amendment of the order by the sender or is bound by a funds-transfer system rule allowing cancellation or amendment without the bank's agreement, the sender, whether or not cancellation or amendment is effective, is liable to the bank for any loss and expenses, including reasonable attorney's fees, incurred by the bank as a result of the cancellation or amendment or attempted cancellation or amendment.

(g) A payment order is not revoked by the death or legal incapacity of the sender unless the receiving bank knows of the death or of an adjudication of incapacity by a court of competent jurisdiction and has reasonable opportunity to act before acceptance of the order.

(h) A funds-transfer system rule is not effective to the extent it conflicts with subsection (c)(2).”

SECTION 2D-40.

Said title is further amended by revising Code Section 11-4A-305, relating to liability for late or improper execution or failure to execute a payment order, as follows:

“11-4A-305. Liability for late or improper execution or failure to execute payment order.

(a) If a funds transfer is completed but execution of a payment order by the receiving bank in breach of Code Section 11-4A-302 results in delay in payment to the beneficiary, the bank is obliged to pay interest to either the originator or the beneficiary of the funds transfer for the period of delay caused by the improper execution. Except as provided in subsection (c), additional damages are not recoverable.

(b) If execution of a payment order by a receiving bank in breach of Code Section 11-4A-302 results in (i) noncompletion of the funds transfer, (ii) failure to use an intermediary bank designated by the originator, or (iii) issuance of a payment order that does not comply with the terms of the payment order of the originator, the bank is liable to the originator for its expenses in the funds transfer and for incidental expenses and interest losses, to the extent not covered by subsection (a), resulting from the improper execution. Except as provided in subsection (c), additional damages are not recoverable.

(c) In addition to the amounts payable under subsections (a) and (b), damages, including consequential damages, are recoverable to the extent provided in an express ~~written~~ agreement of the receiving bank, evidenced by a record.

(d) If a receiving bank fails to execute a payment order it was obliged by express agreement to execute, the receiving bank is liable to the sender for its expenses in the transaction and for incidental expenses and interest losses resulting from the failure to execute. Additional damages, including consequential damages, are recoverable to the extent provided in an express ~~written~~ agreement of the receiving bank, evidenced by a record, but are not otherwise recoverable.

(e) Reasonable attorney’s fees are recoverable if demand for compensation under subsection (a) or (b) is made and refused before an action is brought on the claim. If a claim is made for breach of an agreement under subsection (d) and the agreement does not provide for damages, reasonable attorney’s

fees are recoverable if demand for compensation under subsection (d) is made and refused before an action is brought on the claim.

(f) Except as stated in this Code section, the liability of a receiving bank under subsections (a) and (b) may not be varied by agreement.”

SECTION 2D-41.

Said title is further amended by revising Code Section 11-5-104, relating to formal requirements, as follows:

“11-5-104. Formal requirements.

A letter of credit, confirmation, advice, transfer, amendment, or cancellation may be issued in any form that is a signed record ~~and is authenticated:~~

(1) ~~By a signature; or~~

(2) ~~In accordance with the agreement of the parties or the standard practice referred to in subsection (e) of Code Section 11-5-108.”~~

SECTION 2D-42.

Said title is further amended by revising Code Section 11-5-116, relating to choice of law and forum, as follows:

“11-5-116. Choice of law and forum.

(a) The liability of an issuer, nominated person, or adviser for any action or omission is governed by the law of the jurisdiction chosen by an agreement in the form of a record signed ~~or otherwise authenticated~~ by the affected parties ~~in the manner provided in Code Section 11-5-104~~ or by a provision in the person’s letter of credit, confirmation, or other undertaking. The jurisdiction whose law is chosen need not bear any relation to the transaction.

(b) Unless subsection (a) of this Code section applies, the liability of an issuer, nominated person, or adviser for any action or omission is governed by the law of the jurisdiction in which the person is located. The person is considered to be located at the address indicated in the person’s undertaking. If more than one address is indicated, the person is considered to be located at the address from which the person’s undertaking was issued.

(c) For the purpose of jurisdiction, choice of law, and recognition of interbranch letters of credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities and a bank is considered to be located at the place where its relevant branch is considered to be located under ~~this~~ subsection (d) of this Code section.

(d) A branch of a bank is considered to be located at the address indicated in the branch's undertaking. If more than one address is indicated, the branch is considered to be located at the address from which the undertaking was issued.

(eg) Except as otherwise provided in this subsection, the liability of an issuer, nominated person, or adviser is governed by any rules of custom or practice, such as the Uniform Customs and Practice for Documentary Credits, to which the letter of credit, confirmation, or other undertaking, is expressly made subject. If:

(1) This article would govern the liability of an issuer, nominated person, or adviser under subsection (a) or (b) of this Code section;

(2) The relevant undertaking incorporates rules of custom or practice; and

(3) There is conflict between this article and the incorporated rules as applied to that undertaking,

the incorporated rules govern except to the extent of any conflict with the nonvariable provisions specified in subsection (c) of Code Section 11-5-103.

(df) If there is conflict between this article and Article 3, 4, 4A, or 9 of this title, this article governs.

(eg) The forum for settling disputes arising out of an undertaking within this article may be chosen in the manner and with the binding effect that governing law may be chosen in accordance with subsection (a) of this Code section.”

SECTION 2D-43.

Said title is further amended by revising Code Section 11-7-102, relating to definitions and index of definitions, as follows:

“11-7-102. Definitions and index of definitions.

(a) In this article, unless the context otherwise requires:

(1) “Bailee” means a person that by a warehouse receipt, bill of lading, or other document of title acknowledges possession of goods and contracts to deliver them.

(2) “Carrier” means a person that issues a bill of lading.

(3) “Consignee” means a person named in a bill of lading to which or to whose order the bill promises delivery.

(4) “Consignor” means a person named in a bill of lading as the person from which the goods have been received for shipment.

(5) “Delivery order” means a record that contains an order to deliver goods directed to a warehouse, carrier, or other person that in the ordinary course of business issues warehouse receipts or bills of lading.

(6) “Good faith” means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(7) “Goods” means all things that are treated as movable for the purposes of a contract of storage or transportation.

(8) “Issuer” means a bailee who issues a document of title or, in the case of an unaccepted delivery order, the person who orders the possessor of goods to deliver. The term includes a person for which an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, even if the issuer did not receive any goods, the goods were misdescribed, or in any other respect the agent or employee violated the issuer’s instructions.

(9) “Person entitled under the document” means the holder, in the case of a negotiable document of title, or the person to which delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title.

(10) ~~“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.~~ [Reserved.]

(11) ~~“Sign” means, with present intent to authenticate or adopt a record:~~

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic sound, symbol, or process. [Reserved.]

(12) “Shipper” means a person that enters into a contract of transportation with a carrier.

(13) “Warehouse” means a person engaged in the business of storing goods for hire.

(b) Definitions in other articles of this title applying to this article and the Code sections in which they appear are:

(1) “Contract for sale.” Code Section 11-2-106.

(2) “Lessee in the ordinary course of business.” Code Section 11-2A-103.

(3) “Receipt” of goods. Code Section 11-2-103.

(c) In addition, Article 1 of this title contains general definitions and principles of construction and interpretation applicable throughout this article.”

SECTION 2D-44.

Said title is further amended by revising Code Section 11-7-106, relating to control of electronic document of title, as follows:

“11-7-106. Control of electronic document of title.

(a) A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred.

(b) A system satisfies subsection (a) of this Code section, and a person ~~is deemed to have~~has control of an electronic document of title, if the document is created, stored, and ~~assigned~~transferred in a manner that:

(1) A single authoritative copy of the document exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6) of this subsection, unalterable;

(2) The authoritative copy identifies the person asserting control as:

(A) The person to which the document was issued; or

(B) If the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;

(3) The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) Copies or amendments that add or change an identified ~~assignee~~ transferee of the authoritative copy can be made only with the consent of the person asserting control;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

(c) A system satisfies subsection (a) of this Code section, and a person has control of an electronic document of title, if an authoritative electronic copy of the document, a record attached to or logically associated with the electronic copy, or a system in which the electronic copy is recorded:

(1) Enables the person readily to identify each electronic copy as either an authoritative copy or a nonauthoritative copy;

(2) Enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as the person to which each authoritative electronic copy was issued or transferred; and

(3) Gives the person exclusive power, subject to subsection (d) of this Code section, to:

(A) Prevent others from adding or changing the person to which each authoritative electronic copy has been issued or transferred; and

(B) Transfer control of each authoritative electronic copy.

(d) Subject to subsection (e) of this Code section, a power is exclusive under subparagraphs (c)(3)(A) and (c)(3)(B) of this Code section even if:

(1) The authoritative electronic copy, a record attached to or logically associated with the authoritative electronic copy, or a system in which the authoritative electronic copy is recorded limits

the use of the document of title or has a protocol that is programmed to cause a change, including a transfer or loss of control; or

(2) The power is shared with another person.

(e) A power of a person is not shared with another person under paragraph (2) of subsection (d) of this

Code section and the person's power is not exclusive if:

(1) The person can exercise the power only if the power also is exercised by the other person;

and

(2) The other person:

(A) Can exercise the power without exercise of the power by the person; or

(B) Is the transferor to the person of an interest in the document of title.

(f) If a person has the powers specified in subparagraphs (c)(3)(A) and (c)(3)(B) of this Code section, the powers are presumed to be exclusive.

(g) A person has control of an electronic document of title if another person, other than the transferor to the person of an interest in the document:

(1) Has control of the document and acknowledges that it has control on behalf of the person;

or

(2) Obtains control of the document after having acknowledged that it will obtain control of the document on behalf of the person.

(h) A person that has control under this Code section is not required to acknowledge that it has control on behalf of another person.

(i) If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this article or Article 9 of this title otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.”

SECTION 2D-45.

Said title is further amended by revising Code Section 11-8-102, relating to definitions, as follows:

“11-8-102. Definitions.

(a) In this article:

(1) “Adverse claim” means a claim that a claimant has a property interest in a financial asset and that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the financial asset.

(2) “Bearer form,” as applied to a certificated security, means a form in which the security is payable to the bearer of the security certificate according to its terms but not by reason of an indorsement.

(3) “Broker” means a person defined as a broker or dealer under the federal securities laws, but without excluding a bank acting in that capacity.

(4) “Certificated security” means a security that is represented by a certificate.

(5) “Clearing corporation” means:

(i) A person that is registered as a “clearing agency” under the federal securities laws;

(ii) A federal reserve bank; or

(iii) Any other person that provides clearance or settlement services with respect to financial assets that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority.

(6) “Communicate” means to:

(i) Send a signed ~~writing~~ record; or

(ii) Transmit information by any mechanism agreed upon by the persons transmitting and receiving the information.

(7) “Entitlement holder” means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. If a person acquires a security entitlement by virtue of paragraph (2) or (3) of subsection (b) of Code Section 11-8-501, that

person is the entitlement holder.

(8) “Entitlement order” means a notification communicated to a securities intermediary directing transfer or redemption of a financial asset to which the entitlement holder has a security entitlement.

(9) “Financial asset,” except as otherwise provided in Code Section 11-8-103, means:

(i) A security;

(ii) An obligation of a person or a share, participation, or other interest in a person or in property or an enterprise of a person, which is, or is of a type, dealt in or traded on financial markets, or which is recognized in any area in which it is issued or dealt in as a medium for investment; or

(iii) Any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this article.

As context requires, the term means either the interest itself or the means by which a person’s claim to it is evidenced, including a certificated or uncertificated security, a security certificate, or a security entitlement.

(10) Reserved.

(11) “Indorsement” means a signature that alone or accompanied by other words is made on a security certificate in registered form or on a separate document for the purpose of assigning, transferring, or redeeming the security or granting a power to assign, transfer, or redeem it.

(12) “Instruction” means a notification communicated to the issuer of an uncertificated security which directs that the transfer of the security be registered or that the security be redeemed.

(13) “Registered form,” as applied to a certificated security, means a form in which:

(i) The security certificate specifies a person entitled to the security; and

(ii) A transfer of the security may be registered upon books maintained for that purpose by or on behalf of the issuer, or the security certificate so states.

(14) “Securities intermediary” means:

(i) A clearing corporation; or

(ii) A person, including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

(15) “Security,” except as otherwise provided in Code Section 11-8-103, means an obligation of an issuer or a share, participation, or other interest in an issuer or in property or an enterprise of an issuer:

(i) Which is represented by a security certificate in bearer or registered form, or the transfer of which may be registered upon books maintained for that purpose by or on behalf of the issuer;

(ii) Which is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations; and

(iii) Which:

(A) Is, or is of a type, dealt in or traded on securities exchanges or securities markets;

or

(B) Is a medium for investment and by its terms expressly provides that it is a security governed by this article.

(16) “Security certificate” means a certificate representing a security.

(17) “Security entitlement” means the rights and property interest of an entitlement holder with respect to a financial asset specified in Part 5 of this article.

(18) “Uncertificated security” means a security that is not represented by a certificate.

(b) ~~Other~~The following definitions in other articles of this title~~this article applying to this article and the Code sections in which they appear are~~other articles of this title apply to this article:

“Appropriate person.” Code Section 11-8-107.

“Control.” Code Section 11-8-106.

“Controllable account.” Code Section 11-9-102.

“Controllable electronic record.” Code Section 11-12-102.

“Controllable payment intangible.” Code Section 11-9-102.

“Delivery.” Code Section 11-8-301.

“Investment company security.” Code Section 11-8-103.

“Issuer.” Code Section 11-8-201.

“Overissue.” Code Section 11-8-210.

“Protected purchaser.” Code Section 11-8-303.

“Securities account.” Code Section 11-8-501.

(c) In addition, Article 1 of this title contains general definitions and principles of construction and interpretation applicable throughout this article.

(d) The characterization of a person, business, or transaction for purposes of this article does not determine the characterization of the person, business, or transaction for purposes of any other law, regulation, or rule.”

SECTION 2D-46.

Said title is further amended by revising Code Section 11-8-103, relating to rules for determining whether certain obligations and interests are securities or financial assets, as follows:

“11-8-103. Rules for determining whether certain obligations and interests are securities or financial assets.

(a) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(b) An “investment company security” is a security. “Investment company security” means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(c) An interest in a partnership or limited liability company is not a security unless it is dealt in or

traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this article, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(d) A writing that is a security certificate is governed by this article and not by Article 3 of this title, even though it also meets the requirements of that article. However, a negotiable instrument governed by Article 3 of this title is a financial asset if it is held in a securities account.

(e) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(f) A commodity contract, as defined in subsection (a) of Code Section 11-9-102, is not a security or a financial asset.

(g) A document of title is not a financial asset unless subparagraph (a)(9)(iii) of Code Section 11-8-102 applies.

(h) A controllable account, controllable electronic record, or controllable payment intangible is not a financial asset unless subparagraph (a)(9)(iii) of Code Section 11-8-102 applies.

SECTION 2D-47.

Said title is further amended by revising Code Section 11-8-106, relating to control, as follows:

“11-8-106. Control.

(a) A purchaser has “control” of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(b) A purchaser has “control” of a certificated security in registered form if the certificated security is delivered to the purchaser, and:

(1) The certificate is indorsed to the purchaser or in blank by an effective indorsement; or

(2) The certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(c) A purchaser has “control” of an uncertificated security if:

(1) The uncertificated security is delivered to the purchaser; or

(2) The issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(d) A purchaser has “control” of a security entitlement if:

(1) The purchaser becomes the entitlement holder;

(2) The securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder; or

(3) Another person, other than the transferor to the purchaser of an interest in the security entitlement~~person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that it has control on behalf of the purchaser.;~~

(A) Has control of the security entitlement and acknowledges that it has control on behalf of the purchaser; or

(B) Obtains control of the security entitlement after having acknowledged that it will obtain control of the security entitlement on behalf of the purchaser.

(e) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder’s own securities intermediary, the securities intermediary has control.

(f) A purchaser who has satisfied the requirements of subsection (c) or (d) of this Code section has control, even if the registered owner in the case of subsection (c) of this Code section or the entitlement holder in the case of subsection (d) of this Code section retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(g) An issuer or a securities intermediary may not enter into an agreement of the kind described in paragraph (2) of subsection (c) of this Code section or paragraph (2) of subsection (d) of this Code section without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to

confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

(h) A person that has control under this Code section is not required to acknowledge that it has control on behalf of a purchaser.

(i) If a person acknowledges that it has or will obtain control on behalf of a purchaser, unless the person otherwise agrees or law other than this article or Article 9 of this title otherwise provides, the person does not owe any duty to the purchaser and is not required to confirm the acknowledgment to any other person.”

SECTION 2D-48.

Said title is further amended by revising Code Section 11-8-110, relating to applicability and choice of law, as follows:

“11-8-110. Applicability; choice of law.

(a) The local law of the issuer’s jurisdiction, as specified in subsection (d) of this Code section, governs:

- (1) The validity of a security;
- (2) The rights and duties of the issuer with respect to registration of transfer;
- (3) The effectiveness of registration of transfer by the issuer;
- (4) Whether the issuer owes any duties to an adverse claimant to a security; and
- (5) Whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

(b) The local law of the securities intermediary’s jurisdiction, as specified in subsection (e) of this Code section, governs:

- (1) Acquisition of a security entitlement from the securities intermediary;
- (2) The rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;

(3) Whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and

(4) Whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

(c) The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

(d) “Issuer’s jurisdiction” means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this state may specify the law of another jurisdiction as the law governing the matters specified in paragraphs (2) through (5) of subsection (a) of this Code section.

(e) The following rules determine a “securities intermediary’s jurisdiction” for purposes of this Code section:

(1) If an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that a particular jurisdiction is the securities intermediary’s jurisdiction for purposes of this part, this article, or Article 9 of this title, that jurisdiction is the securities intermediary’s jurisdiction;

(2) If paragraph (1) of this subsection does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary’s jurisdiction;

(3) If neither paragraph (1) nor paragraph (2) of this subsection applies and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary’s jurisdiction;

(4) If none of the preceding paragraphs of this subsection applies, the securities intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the entitlement holder's account is located; and

(5) If none of the preceding paragraphs of this subsection applies, the securities intermediary's jurisdiction is the jurisdiction in which the chief executive office of the securities intermediary is located.

(f) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other record keeping concerning the account.

(g) The local law of the issuer's jurisdiction or the securities intermediary's jurisdiction governs a matter or transaction specified in subsection (a) or (b) of this Code section even if the matter or transaction does not bear any relation to the jurisdiction."

SECTION 2D-49.

Said title is further amended by revising Code Section 11-8-303, relating to protected purchasers, as follows:

"11-8-303. Protected purchaser.

(a) "Protected purchaser" means a purchaser of a certificated or uncertificated security, or of an interest therein, who:

- (1) Gives value;
- (2) Does not have notice of any adverse claim to the security; and
- (3) Obtains control of the certificated or uncertificated security.

(b) ~~In addition to acquiring the rights of a purchaser, a~~ A protected purchaser ~~also~~ acquires its interest in the security free of any adverse claim."

SECTION 2D-50.

Said title is further amended by revising Code Section 11-9-102, relating to definitions and index of definitions, as follows:

“11-9-102. Definitions and index of definitions.

(a) *Article 9 definitions.* As used in this article, the term:

(1) “Accession” means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) “Account,” except as used in “account for,” “account statement,” “account to,” “commodity account” in paragraph (15) of this Code section, “customer’s account,” “deposit account” in paragraph (30) of this Code section, “on account of,” and “statement of account,” means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes controllable accounts and health care insurance receivables. The term does not include (i) ~~rights to payment evidenced by chattel paper or an instrument~~ chattel paper, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter of credit rights or letters of credit, ~~or~~ (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card, or (vii) rights to payment evidenced by an instrument.

(3) “Account debtor” means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the negotiable instrument constitutes part of evidences chattel paper.

- (4) “Accounting,” except as used in “accounting for,” means a record:
- (A) ~~Authenticated~~Signed by a secured party;
 - (B) Indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and
 - (C) Identifying the components of the obligations in reasonable detail.
- (5) “Agricultural lien” means an interest in farm products:
- (A) Which secures payment or performance of an obligation for:
 - (i) Goods or services furnished in connection with a debtor’s farming operation; or
 - (ii) Rent on real property leased by a debtor in connection with its farming operation;
 - (B) Which is created by statute in favor of a person that:
 - (i) In the ordinary course of its business furnished goods or services to a debtor in connection with a debtor’s farming operation; or
 - (ii) Leased real property to a debtor in connection with the debtor’s farming operation; and
 - (C) Whose effectiveness does not depend on the person’s possession of the personal property.
- (6) “As-extracted collateral” means:
- (A) Oil, gas, or other minerals that are subject to a security interest that:
 - (i) Is created by a debtor having an interest in the minerals before extraction; and
 - (ii) Attaches to the minerals as extracted; or
 - (B) Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.
- (7) ~~“Authenticate” means:~~
- (A) ~~To sign; or~~
 - (B) ~~With present intent to adopt or accept a record, to attach to or logically associate with such record an electronic sound, symbol, or process.~~[Reserved.]
- (7A) “Assignee”, except as used in “assignee for benefit of creditors”, means a person (i) in

whose favor a security interest that secures an obligation is created or provided for under a security agreement, whether or not the obligation is outstanding or (ii) to which an account, chattel paper, payment intangible, or promissory note has been sold. The term includes a person to which a security interest has been transferred by a secured party.

(7B) “Assignor” means a person that (i) under a security agreement creates or provides for a security interest that secures an obligation or (ii) sells an account, chattel paper, payment intangible, or promissory note. The term includes a secured party that has transferred a security interest to another person.

(8) “Authority” means the Georgia Superior Court Clerks’ Cooperative Authority.

(9) “Bank” means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(10) “Cash proceeds” means proceeds that are money, checks, deposit accounts, or the like.

(11) “Certificate of title” means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest’s obtaining priority over the rights of a lien creditor with respect to the collateral. The term shall include another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest’s obtaining priority over the rights of a lien creditor with respect to the collateral.

~~(12) “Chattel paper” means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. As used in this paragraph, “monetary obligation” means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include:~~

~~(A) Charters or other contracts involving the use or hire of a vessel; or~~

(B) Records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper. “Chattel paper” means:

(A) A right to payment of a monetary obligation secured by specific goods, if the right to payment and security agreement are evidenced by a record; or

(B) A right to payment of a monetary obligation owed by a lessee under a lease agreement with respect to specific goods and a monetary obligation owed by the lessee in connection with the transaction giving rise to the lease, if:

(i) The right to payment and lease agreement are evidenced by a record; and

(ii) The predominant purpose of the transaction giving rise to the lease was to give the lessee the right to possession and use of the goods.

The term does not include a right to payment arising out of a charter or other contract involving the use or hire of a vessel or a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(13) “Collateral” means the property subject to a security interest or agricultural lien. The term includes:

(A) Proceeds to which a security interest attaches;

(B) Accounts, chattel paper, payment intangibles, and promissory notes that have been sold;

and

(C) Goods that are the subject of a consignment.

(14) “Commercial tort claim” means a claim arising in tort with respect to which:

(A) The claimant is an organization; or

(B) The claimant is an individual and the claim:

(i) Arose in the course of the claimant’s business or profession; and

(ii) Does not include damages arising out of personal injury to or the death of an

individual.

(15) “Commodity account” means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(16) “Commodity contract” means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(A) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) Traded on a foreign commodity board of trade, exchange, or market and is carried on the books of a commodity intermediary for a commodity customer.

(17) “Commodity customer” means a person for which a commodity intermediary carries a commodity contract on its books.

(18) “Commodity intermediary” means a person that:

(A) Is registered as a futures commission merchant under federal commodities law; or

(B) In the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(19) “Communicate” means:

(A) To send a written or other tangible record;

(B) To transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) In the case of transmission of a record to or by a filing office or the authority, to transmit a record by any means prescribed by filing office rule.

(20) “Consignee” means a merchant to which goods are delivered in a consignment.

(21) “Consignment” means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) The merchant:

(i) Deals in goods of that kind under a name other than the name of the person

making delivery;

(ii) Is not an auctioneer; and

(iii) Is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) With respect to each delivery, the aggregate value of the goods is \$1,000.00 or more at the time of delivery;

(C) The goods are not consumer goods immediately before delivery; and

(D) The transaction does not create a security interest that secures an obligation.

(22) “Consignor” means a person that delivers goods to a consignee in a consignment.

(23) “Consumer debtor” means a debtor in a consumer transaction.

(24) “Consumer goods” means goods that are used or bought for use primarily for personal, family, or household purposes.

(25) “Consumer goods transaction” means a consumer transaction in which:

(A) An individual incurs an obligation primarily for personal, family, or household purposes; and

(B) A security interest in consumer goods secures the obligation.

(26) “Consumer obligor” means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(27) “Consumer transaction” means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer goods transactions.

(28) “Continuation statement” means an amendment of a financing statement which:

(A) Identifies, by its file number, the initial financing statement to which it relates; and

(B) Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(28A) “Controllable account” means an account evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under Code Section 11-12-105 of the controllable electronic record.

(28B) “Controllable payment intangible” means a payment intangible evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under Code Section 11-12-105 of the controllable electronic record.

(29) “Debtor” means:

(A) A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(C) A consignee.

(30) “Deposit account” means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(31) “Document” means a document of title or a receipt of the type described in subsection ~~(2b)~~ of Code Section 11-7-201.

(32) ~~“Electronic chattel paper” means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.~~ [Reserved.]

(32A) “Electronic money” means money in an electronic form.

(33) “Encumbrance” means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(34) “Equipment” means goods other than inventory, farm products, or consumer goods.

(35) “Farm products” means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(A) Crops grown, growing, or to be grown, including:

(i) Crops produced on trees, vines, and bushes; and

- (ii) Aquatic goods produced in aquacultural operations;
 - (B) Livestock, born or unborn, including aquatic goods produced in aquacultural operations;
 - (C) Supplies used or produced in a farming operation; or
 - (D) Products of crops or livestock in their unmanufactured states.
- (36) “Farming operation” means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.
- (37) “File number” means the number assigned to an initial financing statement pursuant to subsection
- (a) of Code Section 11-9-519.
- (38) “Filing office” means an office designated in Code Section 11-9-501 as the place to file a financing statement.
- (39) “Filing office rule” means a rule adopted pursuant to Code Section 11-9-526.
- (40) “Financing statement” means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.
- (41) “Fixture filing” means the filing of a financing statement covering goods that are or are to become fixtures and satisfying subsections (a) and (b) of Code Section 11-9-502. The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.
- (42) “Fixtures” means goods that have become so related to particular real property that an interest in them arises under real property law.
- (43) “General intangible” means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter of credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes controllable electronic records, payment intangibles and software.
- (44) [Reserved.]

(45) “Goods” means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, and (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter of credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(46) “Governmental unit” means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(47) “Health care insurance receivable” means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health care goods or services provided or to be provided.

(48) “Instrument” means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, ~~or~~ (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card, or (iv) writings that evidence chattel paper.

(49) “Inventory” means goods, other than farm products, which:

- (A) Are leased by a person as lessor;
- (B) Are held by a person for sale or lease or to be furnished under a contract of service;
- (C) Are furnished by a person under a contract of service; or
- (D) Consist of raw materials, work in process, or materials used or consumed in a business.

(50) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(51) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is formed or organized.

(52) "Letter of credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(53) "Lien creditor" means:

- (A) A creditor that has acquired a lien on the property involved by attachment, levy, or the like;
- (B) An assignee for benefit of creditors from the time of assignment;
- (C) A trustee in bankruptcy from the date of the filing of the petition; or
- (D) A receiver in equity from the time of appointment.

(53A) "Money" has the meaning in paragraph (24) of subsection (b) of Code Section 11-1-201, but does not include (i) a deposit account or (ii) money in an electronic form that cannot be subjected to control under Code Section 11-9-105A.

(54) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation. The term includes a deed to secure debt.

(55) "New debtor" means a person that becomes bound as debtor under subsection (d) of Code Section 11-9-203 by a security agreement previously entered into by another person.

(56) "New value" means (i) money, (ii) money's worth in property, services, or new credit, or

(iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(57) “Noncash proceeds” means proceeds other than cash proceeds.

(58) “Obligor” means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(59) “Original debtor,” except as used in subsection (c) of Code Section 11-9-310, means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under subsection (d) of Code Section 11-9-203.

(60) “Payment intangible” means a general intangible under which the account debtor’s principal obligation is a monetary obligation. The term includes a controllable payment intangible.

(61) “Person related to,” with respect to an individual, means:

(A) The spouse of the individual;

(B) A brother, brother-in-law, sister, or sister-in-law of the individual;

(C) An ancestor or lineal descendant of the individual or the individual’s spouse; or

(D) Any other relative, by blood or marriage, of the individual or the individual’s spouse who shares the same home with the individual.

(62) “Person related to,” with respect to an organization, means:

(A) A person directly or indirectly controlling, controlled by, or under common control with the organization;

(B) An officer or director of, or a person performing similar functions with respect to, the organization;

(C) An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (A) of this paragraph;

(D) The spouse of an individual described in subparagraph (A), (B), or (C) of this paragraph;

or

(E) An individual who is related by blood or marriage to an individual described in subparagraph (A), (B), (C), or (D) of this paragraph and shares the same home with the individual.

(63) “Proceeds,” except as used in subsection (b) of Code Section 11-9-609, means the following property:

(A) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

(B) Whatever is collected on, or distributed on account of, collateral;

(C) Rights arising out of collateral;

(D) To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to the collateral;

(E) To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to the collateral.

(64) “Promissory note” means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(65) “Proposal” means a record ~~authenticated~~ signed by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to Code Sections 11-9-620, 11-9-621, and 11-9-622.

(66) “Public finance transaction” means a secured transaction in connection with which:

(A) Debt securities are issued;

(B) All or a portion of the securities issued have an initial stated maturity of at least five years; and

(C) The debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(67) “Public organic record” means a record that is available to the public for inspection and is:

(A) A record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by such state or the United States which amends or restates the initial record;

(B) An organic record of a business trust consisting of the record initially filed with a state and any record filed with such state which amends or restates the initial record, if a statute of such state governing business trusts requires that the record be filed with such state; or

(C) A record consisting of legislation enacted by the legislature of a state or the Congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by such state or the United States which amends or restates the name of the organization.

(68) “Pursuant to commitment,” with respect to an advance made or other value given by a secured party, means pursuant to the secured party’s obligation, whether or not a subsequent event of default or other event not within the secured party’s control has relieved or may relieve the secured party from its obligation.

(69) “Record,” except as used in “for record,” “of record,” “record or legal title,” and “record owner,” means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(70) “Registered organization” means an organization formed or organized solely under the law of a single state or the United States by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by a state or the United States. The term shall include a business trust that is formed or organized under the law of a single state if a statute of

such state governing business trusts requires that the business trust's organic record be filed with such state.

(71) "Secondary obligor" means an obligor to the extent that:

(A) The obligor's obligation is secondary; or

(B) The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(72) "Secured party" means:

(A) A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) A person that holds an agricultural lien;

(C) A consignor;

(D) A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) A person that holds a security interest arising under Code Section 11-2-401, 11-2-505, or subsection (3) of Code Section 11-2-711, subsection (5) of Code Section 11-2A-508, Code Section 11-4-210, or Code Section 11-5-118.

(73) "Security agreement" means an agreement that creates or provides for a security interest.

(74) ~~"Send," in connection with a record or notification, means:~~

~~(A) To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or~~

~~(B) To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (A) of this paragraph. [Reserved.]~~

(75) "Software" means a computer program and any supporting information provided in

connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(76) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(77) “Supporting obligation” means a letter of credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(78) ~~“Tangible chattel paper” means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.~~ [Reserved.]

(78A) “Tangible money” means money in a tangible form.

(79) “Termination statement” means an amendment of a financing statement which:

(A) Identifies, by its file number, the initial financing statement to which it relates; and

(B) Indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(80) “Transmitting utility” means a person primarily engaged in the business of:

(A) Operating a railroad, subway, street railway, or trolley bus;

(B) Transmitting communications electrically, electromagnetically, or by light;

(C) Transmitting goods by pipeline or sewer; or

(D) Transmitting or producing and transmitting electricity, steam, gas, or water.

(b) *Definitions in other articles.* “Control” as provided in Code Section 11-7-106 and the following definitions in other articles apply to this article:

“Applicant.” Code Section 11-5-102.

“Beneficiary.” Code Section 11-5-102.

“Broker.” Code Section 11-8-102.

“Certificated security.” Code Section 11-8-102.

“Check.” Code Section 11-3-104.

“Clearing corporation.” Code Section 11-8-102.

“Contract for sale.” Code Section 11-2-106.

“Controllable electronic record.” Code Section 11-12-102.

“Customer.” Code Section 11-4-104.

“Entitlement holder.” Code Section 11-8-102.

“Financial asset.” Code Section 11-8-102.

“Holder in due course.” Code Section 11-3-302.

“Issuer” (with respect to a letter of credit or letter of credit right). Code Section 11-5-102.

“Issuer” (with respect to a security). Code Section 11-8-201.

“Issuer” (with respect to documents of title). Code Section 11-7-102.

“Lease.” Code Section 11-2A-103.

“Lease agreement.” Code Section 11-2A-103.

“Lease contract.” Code Section 11-2A-103.

“Leasehold interest.” Code Section 11-2A-103.

“Lessee.” Code Section 11-2A-103.

“Lessee in ordinary course of business.” Code Section 11-2A-103.

“Lessor.” Code Section 11-2A-103.

“Lessor’s residual interest.” Code Section 11-2A-103.

“Letter of credit.” Code Section 11-5-102. “Merchant.” Code Section 11-2-104.

“Negotiable instrument.” Code Section 11-3-104.

“Nominated person.” Code Section 11-5-102.

“Note.” Code Section 11-3-104.

“Proceeds of a letter of credit.” Code Section 11-5-114.

“Protected purchaser.” Code Section 11-8-103.

“Prove.” Code Section 11-3-103.

“Qualifying purchaser.” Code Section 11-12-102.

“Sale.” Code Section 11-2-106.

“Securities account.” Code Section 11-8-501.

“Securities intermediary.” Code Section 11-8-102.

“Security.” Code Section 11-8-102.

“Security certificate.” Code Section 11-8-102.

“Security entitlement.” Code Section 11-8-102. “Uncertificated security.” Code Section 11-8-102.

(c) *Article 1 definitions and principles.* Article 1 of this title contains general definitions and principles of construction and interpretation applicable throughout this article.”

SECTION 2D-51.

Said title is further amended by revising Code Section 11-9-104, relating to control of deposit accounts, as follows:

“11-9-104. Control of deposit account.

(a) *Requirements for control.* A secured party has control of a deposit account if:

(1) The secured party is the bank with which the deposit account is maintained;

(2) The debtor, secured party, and bank have agreed in ~~an authenticated~~ signed record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; ~~or~~

(3) The secured party becomes the bank’s customer with respect to the deposit account; or

(4) Another person, other than the debtor:

(A) Has control of the deposit account and acknowledges that it has control on behalf of the secured party; or

(B) Obtains control of the deposit account after having acknowledged that it will obtain control of the deposit account on behalf of the secured party.

(b) *Debtor’s right to direct disposition.* A secured party that has satisfied subsection (a) of this Code

section has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.”

SECTION 2D-52.

Said title is further amended by revising Code Section 11-9-105, relating to control of electronic chattel paper, as follows:

“11-9-105. Control of electronic copy of record evidencing chattel paper.

~~(a) *General rule: control of electronic chattel paper.* A secured party has control of electronic chattel paper if a system employed for evidencing the transfer of interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.~~

~~(b) *Specific facts giving control.* A system satisfies the provisions of subsection (a) of this Code section if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:~~

~~(1) — A single authoritative copy of the record or records exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6) of this subsection, unalterable;~~

~~(2) — The authoritative copy identifies the secured party as the assignee of the record or records;~~

~~(3) — The authoritative copy is communicated to and maintained by the secured party or its designated custodian;~~

~~(4) — Copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the secured party;~~

~~(5) — Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and~~

~~(6) — Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.~~

(a) *General rule: control of electronic copy of record evidencing chattel paper.* A purchaser has control of an authoritative electronic copy of a record evidencing chattel paper if a system employed for

evidencing the assignment of interests in the chattel paper reliably establishes the purchaser as the person to which the authoritative electronic copy was assigned.

(b) *Single authoritative copy.* A system satisfies subsection (a) of this Code section if the record or records evidencing the chattel paper are created, stored, and assigned in a manner that:

(1) A single authoritative copy of the record or records exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6) of this subsection, unalterable;

(2) The authoritative copy identifies the purchaser as the assignee of the record or records;

(3) The authoritative copy is communicated to and maintained by the purchaser or its designated custodian;

(4) Copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the purchaser;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

(c) *One or more authoritative copies.* A system satisfies subsection (a) of this Code section, and a purchaser has control of an authoritative electronic copy of a record evidencing chattel paper, if the electronic copy, a record attached to or logically associated with the electronic copy, or a system in which the electronic copy is recorded:

(1) Enables the purchaser readily to identify each electronic copy as either an authoritative copy or a nonauthoritative copy;

(2) Enables the purchaser readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as the assignee of the authoritative electronic copy; and

(3) Gives the purchaser exclusive power, subject to subsection (d) of this Code section, to:

(A) Prevent others from adding or changing an identified assignee of the authoritative

electronic copy; and

(B) Transfer control of the authoritative electronic copy.

(d) Meaning of exclusive. Subject to subsection (e) of this Code section, a power is exclusive under subparagraphs (c)(3)(A) and (c)(3)(B) of this Code section even if:

(1) The authoritative electronic copy, a record attached to or logically associated with the authoritative electronic copy, or a system in which the authoritative electronic copy is recorded limits the use of the authoritative electronic copy or has a protocol programmed to cause a change, including a transfer or loss of control; or

(2) The power is shared with another person.

(e) When power not shared with another person. A power of a purchaser is not shared with another person under paragraph (2) of subsection (d) of this Code section and the purchaser's power is not exclusive if:

(1) The purchaser can exercise the power only if the power also is exercised by the other person; and

(2) The other person:

(A) Can exercise the power without exercise of the power by the purchaser; or

(B) Is the transferor to the purchaser of an interest in the chattel paper.

(f) Presumption of exclusivity of certain powers. If a purchaser has the powers specified in subparagraphs (c)(3)(A) and (c)(3)(B) of this Code section, the powers are presumed to be exclusive.

(g) Obtaining control through another person. A purchaser has control of an authoritative electronic copy of a record evidencing chattel paper if another person, other than the transferor to the purchaser of an interest in the chattel paper:

(1) Has control of the authoritative electronic copy and acknowledges that it has control on behalf of the purchaser; or

(2) Obtains control of the authoritative electronic copy after having acknowledged that it will obtain control of the electronic copy on behalf of the purchaser.”

SECTION 2D-53.

Said title is further amended by adding the new Code Section 11-9-105A, relating to control of electronic money, as follows:

“11-9-105A. Control of electronic money.

(a) General rule: control of electronic money. A person has control of electronic money if:

(1) The electronic money, a record attached to or logically associated with the electronic money, or a system in which the electronic money is recorded gives the person:

(A) Power to avail itself of substantially all the benefit from the electronic money; and

(B) Exclusive power, subject to subsection (b) of this Code section, to:

(i) Prevent others from availing themselves of substantially all the benefit from the electronic money; and

(ii) Transfer control of the electronic money to another person or cause another person to obtain control of other electronic money as a result of the transfer of the electronic money; and

(2) The electronic money, a record attached to or logically associated with the electronic money, or a system in which the electronic money is recorded enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as having the powers under paragraph (1) of this subsection.

(b) Meaning of exclusive. Subject to subsection (c) of this Code section, a power is exclusive under subparagraphs (a)(1)(B)(i) and (a)(1)(B)(ii) of this Code section even if:

(1) The electronic money, a record attached to or logically associated with the electronic money, or a system in which the electronic money is recorded limits the use of the electronic money or has a protocol programmed to cause a change, including a transfer or loss of control; or

(2) The power is shared with another person.

(c) When power not shared with another person. A power of a person is not shared with another person under paragraph (2) of subsection (b) of this Code section and the person’s power is not exclusive

if:

(1) The person can exercise the power only if the power also is exercised by the other person;

and

(2) The other person:

(A) can exercise the power without exercise of the power by the person; or

(B) is the transferor to the person of an interest in the electronic money.

(d) *Presumption of exclusivity of certain powers.* If a person has the powers specified in subparagraphs (a)(1)(B)(i) and (a)(1)(B)(ii) of this Code section, the powers are presumed to be exclusive.

(e) *Control through another person.* A person has control of electronic money if another person, other than the transferor to the person of an interest in the electronic money:

(1) Has control of the electronic money and acknowledges that it has control on behalf of the person; or

(2) Obtains control of the electronic money after having acknowledged that it will obtain control of the electronic money on behalf of the person.”

SECTION 2D-54.

Said title is further amended by adding the new Code Section 11-9-107A, relating to control of controllable electronic records, controllable accounts, or controllable payment intangibles, as follows:

“11-9-107A. Control of controllable electronic record, controllable account, or controllable payment intangible.

(a) *Control under Code Section 11-12-105.* A secured party has control of a controllable electronic record as provided in Code Section 11-12-105.

(b) *Control of controllable account and controllable payment intangible.* A secured party has control of a controllable account or controllable payment intangible if the secured party has control of the controllable electronic record that evidences the controllable account or controllable payment intangible.”

SECTION 2D-55.

Said title is further amended by adding the new Code Section 11-9-107B, relating to no requirement to acknowledge or confirm and no duties, as follows:

“11-9-107B. No requirement to acknowledge or confirm; no duties.

(a) No requirement to acknowledge. A person that has control under Code Section 11-9-104, 11-9-105, or 11-9-105A is not required to acknowledge that it has control on behalf of another person.

(b) No duties or confirmation. If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.”

SECTION 2D-56.

Said title is further amended by revising Code Section 11-9-203, relating to attachment and enforceability of security interests; proceeds; supporting obligations; and formal requisites, as follows:

“11-9-203. Attachment and enforceability of security interest; proceeds; supporting obligations; formal requisites.

(a) *Attachment.* A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(b) *Enforceability.* Except as otherwise provided in subsections (c) through (i) of this Code section, a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

- (1) Value has been given;
- (2) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and
- (3) One of the following conditions is met:
 - (A) The debtor has ~~authenticated~~ signed a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;
 - (B) The collateral is not a certificated security and is in the possession of the secured party

under Code Section 11-9-313 pursuant to the debtor's security agreement;

(C) The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under Code Section 11-8-301 pursuant to the debtor's security agreement; ~~or~~

(D) The collateral is controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, ~~electronic chattel paper, electronic documents, electronic money, investment property, or letter of credit rights, or electronic documents,~~ and the secured party has control under Code Section 11-7-106, 11-9-104, ~~11-9-105, 11-9-105A,~~ 11-9-106, ~~or~~ 11-9-107, or 11-9-107A pursuant to the debtor's security agreement; or

(E) The collateral is chattel paper and the secured party has possession and control under Code Section 11-9-314A pursuant to the debtor's security agreement.

(c) *Other provisions of this title.* Subsection (b) of this Code section is subject to Code Section 11-4-210 on the security interest of a collecting bank, Code Section 11-5-118 on the security interest of a letter of credit issuer or nominated person, Code Section 11-9-110 on a security interest arising under Article 2 or 2A of this title, and Code Section 11-9-206 on security interests in investment property.

(d) *When person becomes bound by another person's security agreement.* A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this article or by contract:

(1) The security agreement becomes effective to create a security interest in the person's property; or

(2) The person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(e) *Effect of new debtor becoming bound.* If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(1) The agreement satisfies paragraph (3) of subsection (b) of this Code section with respect

to existing or after acquired property of the new debtor to the extent the property is described in the agreement; and

(2) Another agreement is not necessary to make a security interest in the property enforceable.

(f) *Proceeds and supporting obligations.* The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by Code Section 11-9-315 and is also attachment of a security interest in a supporting obligation for the collateral.

(g) *Lien securing right to payment.* The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(h) *Security entitlement carried in securities account.* The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(i) *Commodity contracts carried in commodity account.* The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contract carried in the commodity account.”

SECTION 2D-57.

Said title is further amended by revising Code Section 11-9-204, relating to after acquired property and future advances, as follows:

“11-9-204. After acquired property; future advances.

(a) *After acquired collateral.* Except as otherwise provided in subsection (b) of this Code section, a security agreement may create or provide for a security interest in after acquired collateral.

(b) *When after acquired property clause not effective.* ~~A~~Subject to subsection (b.1) of this Code section, a security interest does not attach under a term constituting an after acquired property clause to:

(1) Consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within ten days after the secured party gives value; or

- (2) A commercial tort claim.

(b.1) Limitation on subsection (b) of this Code section. Subsection (b) of this Code section does not prevent a security interest from attaching:

(1) To consumer goods as proceeds under subsection (a) of Code Section 11-9-315 or commingled goods under subsection (c) of Code Section 11-9-336;

(2) To a commercial tort claim as proceeds under subsection (a) of Code Section 11-9-315; or

(3) Under an after-acquired property clause to property that is proceeds of consumer goods or a commercial tort claim.

(c) *Future advances and other value.* A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.”

SECTION 2D-58.

Said title is further amended by revising Code Section 11-9-207, relating to rights and duties of a secured party having possession or control of collateral, as follows:

“11-9-207. Rights and duties of secured party having possession or control of collateral.

(a) *Duty of care when secured party in possession.* Except as otherwise provided in subsection (d) of this Code section, a secured party shall use reasonable care in the custody and preservation of collateral in the secured party’s possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) *Expenses, risks, duties, and rights when secured party in possession.* Except as otherwise provided in subsection (d) of this Code section, if a secured party has possession of collateral:

(1) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(2) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(3) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(4) The secured party may use or operate the collateral:

(A) For the purpose of preserving the collateral or its value;

(B) As permitted by an order of a court having competent jurisdiction; or

(C) Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(c) *Duties and rights when secured party in possession or control.* Except as otherwise provided in subsection (d) of this Code section, a secured party having possession of collateral or control of collateral under Code Section 11-7-106, 11-9-104, 11-9-105, 11-9-105A, 11-9-106, ~~or 11-9-107~~, or 11-9-107A:

(1) May hold as additional security any proceeds, except money or funds, received from the collateral;

(2) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(3) May create a security interest in the collateral.

(d) *Buyer of certain rights to payment.* If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(1) Subsection (a) of this Code section does not apply unless the secured party is entitled under an agreement:

(A) To charge back uncollected collateral; or

(B) Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(2) Subsections (b) and (c) of this Code section do not apply.”

SECTION 2D-59.

Said title is further amended by revising Code Section 11-9-208, relating to additional duties of a secured party having control of collateral, as follows:

“11-9-208. Additional duties of secured party having control of collateral.

(a) *Applicability of Code section.* This Code section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) *Duties of secured party after receiving demand from debtor.* Within ten days after receiving ~~an~~ authenticated signed demand by the debtor:

(1) A secured party having control of a deposit account under paragraph (2) of subsection (a) of Code Section 11-9-104 shall send to the bank with which the deposit account is maintained ~~an~~ authenticated statement a signed record that releases the bank from any further obligation to comply with instructions originated by the secured party;

(2) A secured party having control of a deposit account under paragraph (3) of subsection (a) of Code Section 11-9-104 shall:

(A) Pay the debtor the balance on deposit in the deposit account; or

(B) Transfer the balance on deposit into a deposit account in the debtor’s name;

~~(3) A secured party, other than a buyer, having control of electronic chattel paper under Code Section 11-9-105 shall:~~

~~(A) Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;~~

~~(B) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and~~

~~(C) Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;~~

authoritative electronic copy of a record evidencing chattel paper shall transfer control of the electronic copy to the debtor or a person designated by the debtor;

(4) A secured party having control of investment property under paragraph (2) of subsection (d) of Code Section 11-8-106 or subsection (b) of Code Section 11-9-106 shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained ~~an authenticated~~ signed record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party;

(5) A secured party having control of a letter of credit right under Code Section 11-9-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party ~~an authenticated~~ signed release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party; ~~and~~

~~(6) A secured party having control of an electronic document shall:~~

~~(A) Give control of the electronic document to the debtor or its designated custodian;~~

~~(B) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and~~

~~(C) Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authenticated copy which add or change an identified assignee of the authoritative copy without the consent of the secured party.~~

(6) A secured party having control under Code Section 11-7-106 of an authoritative electronic copy of an electronic document shall transfer control of the electronic copy to the debtor or a person designated by the debtor;

(7) A secured party having control under Code Section 11-9-105A of electronic money shall transfer control of the electronic money to the debtor or a person designated by the debtor; and

(8) A secured party having control under Code Section 11-12-105 of a controllable electronic record, other than a buyer of a controllable account or controllable payment intangible evidenced by the controllable electronic record, shall transfer control of the controllable electronic record to the debtor or a person designated by the debtor.”

SECTION 2D-60.

Said title is further amended by revising Code Section 11-9-209, relating to duties of a secured party if account debtor has been notified of assignment, as follows:

“11-9-209. Duties of secured party if account debtor has been notified of assignment.

(a) *Applicability of Code section.* Except as otherwise provided in subsection (c) of this Code section, this Code section applies if:

- (1) There is no outstanding secured obligation; and
- (2) The secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) *Duties of secured party after receiving demand from debtor.* Within ten days after receiving ~~an~~ authenticated signed demand by the debtor, a secured party shall send to an account debtor that has received notification under subsection (a) of Code Section 11-9-406 or subsection (b) of Code Section 11-12-106 of an assignment to the secured party as assignee ~~under subsection (a) of Code Section 11-9-406~~ an authenticated signed record that releases the account debtor from any further obligation to the secured party.

(c) *Inapplicability to sales.* This Code section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.”

SECTION 2D-61.

Said title is further amended by revising Code Section 11-9-210, relating to requests for accounting and requests regarding list of collateral or statement of account, as follows:

“11-9-210. Request for accounting; request regarding list of collateral or statement of account.

(a) *Definitions.* As used in this Code section, the term:

(1) “Request” means a record of a type described in paragraph (2), (3), or (4) of this subsection.

(2) “Request for an accounting” means a record ~~authenticated~~signed by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

(3) “Request regarding a list of collateral” means a record ~~authenticated~~signed by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(4) “Request regarding a statement of account” means a record ~~authenticated~~signed by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(b) *Duty to respond to requests.* Subject to subsections (c), (d), (e), and (f) of this Code section, a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within 14 days after receipt:

(1) In the case of a request for an accounting, by ~~authenticating~~signing and sending to the debtor an accounting; and

(2) In the case of a request regarding a list of collateral or a request regarding a statement of account, by ~~authenticating~~signing and sending to the debtor an approval or correction.

(c) *Request regarding list of collateral; statement concerning type of collateral.* A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor ~~an authenticated~~a signed record including a statement to that effect within 14 days after receipt.

(d) *Request regarding list of collateral; no interest claimed.* A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor ~~an authenticated~~ a signed record:

- (1) Disclaiming any interest in the collateral; and
- (2) If known to the recipient, providing the name and mailing address of any assignee or of successor to the recipient's interest in the collateral.

(e) *Request for accounting or regarding a statement of account; no interest in obligation claimed.* A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor ~~an~~ authenticated signed record:

- (1) Disclaiming any interest in the obligations; and
- (2) If known to the recipient, providing the name and mailing address of any assignee or of successor to the recipient's interest in the obligations.

(f) *Charges for responses.* A debtor is entitled without charge to one response to a request under this Code section during any six-month period. The secured party may require payment of a charge not exceeding \$10.00 for each additional response.”

SECTION 2D-62.

Said title is further amended by revising Code Section 11-9-301, relating to law governing perfection and priority of security interests, as follows:

“11-9-301. Law governing perfection and priority of security interests.

Except as otherwise provided in Code Sections 11-9-303 through ~~11-9-306~~ 11-9-306B, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

- (1) Except as otherwise provided in this Code section, while a debtor is located in a

jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral;

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral;

(3) Except as otherwise provided in paragraph (4) of this Code section, while ~~tangible~~ negotiable ~~tangible~~ documents, goods, instruments, or ~~tangible~~ money, ~~or tangible chattel paper~~ is located in a jurisdiction, the local law of that jurisdiction governs:

(A) Perfection of a security interest in the goods by filing a fixture filing;

(B) Perfection of a security interest in timber to be cut;

(C) Perfection of a security interest in crops; and

(D) The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral; and

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.”

SECTION 2D-63.

Said title is further amended by revising Code Section 11-9-304, relating to law governing perfection and priority of security interests in deposit accounts, as follows:

“11-9-304. Law governing perfection and priority of security interests in deposit accounts.

(a) *Law of bank’s jurisdiction governs.* The local law of a bank’s jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank even if the transaction does not bear any relation to the bank’s jurisdiction.

(b) *Bank’s jurisdiction.* The following rules determine a bank’s jurisdiction for purposes of this part:

(1) If an agreement between the bank and its customer governing the deposit account expressly provides that a particular jurisdiction is the bank’s jurisdiction for purposes of this part, this

article, or this title, that jurisdiction is the bank's jurisdiction;

(2) If paragraph (1) of this subsection does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction;

(3) If neither paragraph (1) nor (2) of this subsection applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction;

(4) If none of the preceding paragraphs of this subsection applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located; and

(5) If none of the preceding paragraphs of this subsection applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located."

SECTION 2D-64.

Said title is further amended by revising Code Section 11-9-305, relating to law governing perfection and priority of security interests in investment property, as follows:

"11-9-305. Law governing perfection and priority of security interests in investment property.

(a) *Governing law; general rules.* Except as otherwise provided in subsection (c) of this Code section, the following rules apply:

(1) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby;

(2) The local law of the issuer's jurisdiction as specified in subsection (d) of Code Section 11-8-110 governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security;

(3) The local law of the securities intermediary's jurisdiction as specified in subsection (e) of Code Section 11-8-110 governs perfection, the effect of perfection or nonperfection, and the priority of

a security interest in a security entitlement or securities account; and

(4) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(5) Paragraphs (2), (3), and (4) of this subsection apply even if the transaction does not bear any relation to the jurisdiction.

(b) *Commodity intermediary's jurisdiction.* The following rules determine a commodity intermediary's jurisdiction for purposes of this part:

(1) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part, this article, or this title, that jurisdiction is the commodity intermediary's jurisdiction;

(2) If paragraph (1) of this subsection does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction;

(3) If neither paragraph (1) nor (2) of this subsection applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction;

(4) If none of the preceding paragraphs of this subsection applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located; and

(5) If none of the preceding paragraphs of this subsection applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(c) *When perfection governed by law of jurisdiction where debtor located.* The local law of the jurisdiction in which the debtor is located governs:

- (1) Perfection of a security interest in investment property by filing;
- (2) Automatic perfection of a security interest in investment property created by a broker or securities intermediary; and
- (3) Automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.”

SECTION 2D-65.

Said title is further amended by adding the new Code Section 11-9-306A, relating to law governing perfection and priority of security interests in chattel paper, as follows:

“11-9-306A. Law governing perfection and priority of security interests in chattel paper.

(a) Chattel paper evidenced by authoritative electronic copy. Except as provided in subsection (d) of this Code section, if chattel paper is evidenced only by an authoritative electronic copy of the chattel paper or is evidenced by an authoritative electronic copy and an authoritative tangible copy, the local law of the chattel paper’s jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the chattel paper, even if the transaction does not bear any relation to the chattel paper’s jurisdiction.

(b) Chattel paper’s jurisdiction. The following rules determine the chattel paper’s jurisdiction under this Code section:

(1) If the authoritative electronic copy of the record evidencing chattel paper, or a record attached to or logically associated with the electronic copy and readily available for review, expressly provides that a particular jurisdiction is the chattel paper’s jurisdiction for purposes of this part, this article, or this title, that jurisdiction is the chattel paper’s jurisdiction.

(2) If paragraph (1) of this subsection does not apply and the rules of the system in which the authoritative electronic copy is recorded are readily available for review and expressly provide that a particular jurisdiction is the chattel paper’s jurisdiction for purposes of this part, this article, or this

title, that jurisdiction is the chattel paper's jurisdiction.

(3) If paragraphs (1) and (2) of this subsection do not apply and the authoritative electronic copy, or a record attached to or logically associated with the electronic copy and readily available for review, expressly provides that the chattel paper is governed by the law of a particular jurisdiction, that jurisdiction is the chattel paper's jurisdiction.

(4) If paragraphs (1), (2), and (3) of this subsection do not apply and the rules of the system in which the authoritative electronic copy is recorded are readily available for review and expressly provide that the chattel paper or the system is governed by the law of a particular jurisdiction, that jurisdiction is the chattel paper's jurisdiction.

(5) If paragraphs (1) through (4) of this subsection do not apply, the chattel paper's jurisdiction is the jurisdiction in which the debtor is located.

(b) Chattel paper evidenced by authoritative tangible copy. If an authoritative tangible copy of a record evidences chattel paper and the chattel paper is not evidenced by an authoritative electronic copy, while the authoritative tangible copy of the record evidencing chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(1) Perfection of a security interest in the chattel paper by possession under Code Section 11-9-314A; and

(2) The effect of perfection or nonperfection and the priority of a security interest in the chattel paper.

(c) When perfection governed by law of jurisdiction where debtor located. The local law of the jurisdiction in which the debtor is located governs perfection of a security interest in chattel paper by filing.”

SECTION 2D-66.

Said title is further amended by adding the new Code Section 11-9-306B, relating to law governing perfection and priority of security interests in controllable accounts, controllable electronic records, and controllable payment intangibles, as follows:

“11-9-306B. Law governing perfection and priority of security interests in controllable accounts, controllable electronic records, and controllable payment intangibles.

(a) *Governing law: general rules.* Except as provided in subsection (b) of this Code section, the local law of the controllable electronic record’s jurisdiction specified in subsections (c) and (d) of Code Section 11-12-107 governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a controllable electronic record and a security interest in a controllable account or controllable payment intangible evidenced by the controllable electronic record.

(b) *When perfection governed by law of jurisdiction where debtor located.* The local law of the jurisdiction in which the debtor is located governs:

(1) *Perfection of a security interest in a controllable account, controllable electronic record, or controllable payment intangible by filing; and*

(2) *Automatic perfection of a security interest in a controllable payment intangible created by a sale of the controllable payment intangible.*”

SECTION 2D-67.

Said title is further amended by revising Code Section 11-9-310, relating to when filing is required to perfect security interest or agricultural lien and security interests and agricultural liens to which filing provisions do not apply, as follows:

“11-9-310. When filing required to perfect security interest or agricultural lien; security interests and agricultural liens to which filing provisions do not apply.

(a) General rule; perfection by filing. Except as otherwise provided in subsection (b) of this Code section and subsection (b) of Code Section 11-9-312, a financing statement must be filed to perfect all security interests and agricultural liens.

(b) Exceptions; filing not necessary. The filing of a financing statement is not necessary to perfect a security interest:

- (1) That is perfected under subsection (d), (e), (f), or (g) of Code Section 11-9-308;
- (2) That is perfected under Code Section 11-9-309 when it attaches;

(3) In property subject to a statute, regulation, or treaty described in subsection (a) of Code Section 11-9-311;

(4) In goods in possession of a bailee which is perfected under paragraph (1) or (2) of subsection (d) of Code Section 11-9-312;

(5) In certificated securities, documents, goods, or instruments which is perfected without filing, control, or possession under subsection (e), (f), or (g) of Code Section 11-9-312;

(6) In collateral in the secured party's possession under Code Section 11-9-313;

(7) In a certificated security which is perfected by delivery of the security certificate to the secured party under Code Section 11-9-313;

(8) In controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, ~~electronic chattel paper,~~ electronic documents, investment property, or letter of credit rights which is perfected by control under Code Section 11-9-314;

(8.1) In chattel paper which is perfected by possession and control under Code Section 11-9-314A;

(9) In proceeds which is perfected under Code Section 11-9-315; or

(10) That is perfected under Code Section 11-9-316.

(c) *Assignment of perfected security interest.* If a secured party assigns a perfected security interest or agricultural lien, a filing under this article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.”

SECTION 2D-68.

Said title is further amended by revising Code Section 11-9-312, relating to perfection of security interests in chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letter of credit rights, and money; perfection by permissive filing; and temporary perfection without filing or transfer of possession, as follows:

“11-9-312. Perfection of security interests in chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, negotiable documents, goods

covered by documents, instruments, investment property, letter of credit rights, and money; perfection by permissive filing; temporary perfection without filing or transfer of possession.

(a) *Perfection by filing permitted.* A security interest in chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles, negotiable documents, instruments, or investment property, or negotiable documents may be perfected by filing.

(b) *Control or possession of certain collateral.* Except as otherwise provided in subsections (c) and (d) of Code Section 11-9-315 for proceeds:

(1) A security interest in a deposit account may be perfected only by control under Code Section 11-9-314;

(2) Except as otherwise provided in subsection (d) of Code Section 11-9-308, a security interest in a letter of credit right may be perfected only by control under Code Section 11-9-314; ~~and~~

(3) A security interest in tangible money may be perfected only by the secured party's taking possession under Code Section 11-9-313; and

(4) A security interest in electronic money may be perfected only by control under Code Section 11-9-314.

(c) *Goods covered by negotiable document.* While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(1) A security interest in the goods may be perfected by perfecting a security interest in the document; and

(2) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(d) *Goods covered by nonnegotiable document.* While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(1) Issuance of a document in the name of the secured party;

(2) The bailee's receipt of notification of the secured party's interest; or

(3) Filing as to the goods.

(e) *Temporary perfection; new value.* A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession or control for a period of 20 days from the time it attaches to the extent that it arises for new value given under ~~an authenticated~~ signed security agreement.

(f) *Temporary perfection; goods or documents made available to debtor.* A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for 20 days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

- (1) Ultimate sale or exchange; or
- (2) Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) *Temporary perfection; delivery of security certificate or instrument to debtor.* A perfected security interest in a certificated security or instrument remains perfected for 20 days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

- (1) Ultimate sale or exchange; or
- (2) Presentation, collection, enforcement, renewal, or registration of transfer.

(h) *Expiration of temporary perfection.* After the 20 day period specified in subsection (e), (f), or (g) of this Code section expires, perfection depends upon compliance with this article.”

SECTION 2D-69.

Said title is further amended by revising Code Section 11-9-313, relating to when possession by or delivery to a secured party perfects security interest without filing, as follows:

“11-9-313. When possession by or delivery to secured party perfects security interest without filing.

(a) *Perfection by possession or delivery.* Except as otherwise provided in subsection (b) of this Code section, a secured party may perfect a security interest in ~~tangible negotiable documents, goods,~~ negotiable tangible documents, or tangible money, ~~or tangible chattel paper~~ by taking

possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under Code Section 11-8-301.

(b) *Goods covered by certificate of title.* With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in subsection (d) of Code Section 11-9-316.

(c) *Collateral in possession of person other than debtor.* With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(1) The person in possession ~~authenticates~~signs a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(2) The person takes possession of the collateral after having ~~authenticated~~signed a record acknowledging that it will hold possession of the collateral for the secured party's benefit.

(d) *Time of perfection by possession; continuation of perfection.* If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs ~~no~~not earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(e) *Time of perfection by delivery; continuation of perfection.* A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under Code Section 11-8-301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(f) *Acknowledgment not required.* A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(g) *Effectiveness of acknowledgment; no duties or confirmation.* If a person acknowledges that it holds possession for the secured party's benefit:

(1) The acknowledgment is effective under subsection (c) of this Code section or subsection (a) of Code Section 11-8-301, even if the acknowledgment violates the rights of a debtor; and

(2) Unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(h) *Secured party's delivery to person other than debtor.* A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

- (1) To hold possession of the collateral for the secured party's benefit; or
- (2) To redeliver the collateral to the secured party.

(i) *Effect of delivery under subsection (h) of this Code section; no duties or confirmation.* A secured party does not relinquish possession, even if a delivery under subsection (h) of this Code section violates the rights of a debtor. A person to which collateral is delivered under subsection (h) of this Code section does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this article otherwise provides.”

SECTION 2D-70.

Said title is further amended by revising Code Section 11-9-314, relating to perfection by control, as follows:

“11-9-314. Perfection by control.

(a) *Perfection by control.* A security interest in ~~investment property, deposit accounts, letter of credit rights, electronic chattel paper, or electronic documents~~controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, investment property, or letter of credit rights may be perfected by control of the collateral under Code Section 11-7-106, 11-9-104, ~~11-9-105, 11-9-105A,~~ 11-9-106, ~~or 11-9-107,~~ or 11-9-107A.

(b) *Specified collateral; time of perfection by control; continuation of perfection.* A security interest in ~~deposit accounts, electronic chattel paper, letter of credit rights, or electronic documents~~controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic

documents, electronic money, or letter of credit rights is perfected by control under Code Section 11-7-106, 11-9-104, ~~11-9-105~~, 11-9-105A, 11-9-107, or 11-9-107A ~~when~~ not earlier than the time the secured party obtains control and remains perfected by control only while the secured party retains control.

(c) *Investment property; time of perfection by control; continuation of perfection.* A security interest in investment property is perfected by control under Code Section 11-9-106 ~~from~~ not earlier than the time the secured party obtains control and remains perfected by control until:

- (1) The secured party does not have control; and
- (2) One of the following occurs:
 - (A) If the collateral is a certificated security, the debtor has or acquires possession of the security certificate;
 - (B) If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or
 - (C) If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.”

SECTION 2D-71.

Said title is further amended by adding Code Section 11-9-314A, relating to perfection by possession and control of chattel paper, as follows:

“11-9-314A. Perfection by possession and control of chattel paper.

(a) *Perfection by possession and control.* A secured party may perfect a security interest in chattel paper by taking possession of each authoritative tangible copy of the record evidencing the chattel paper and obtaining control of each authoritative electronic copy of the electronic record evidencing the chattel paper.

(b) *Time of perfection; continuation of perfection.* A security interest is perfected under subsection (a) of this Code section not earlier than the time the secured party takes possession and obtains control and remains perfected under subsection (a) of this Code section only while the secured party retains possession and control.

(c) *Application of Code Section 11-9-313 to perfection by possession of chattel paper.* Subsections

(c) and (f) through (i) of Code Section 11-9-313 apply to perfection by possession of an authoritative tangible copy of a record evidencing chattel paper.”

SECTION 2D-72.

Said title is further amended by revising Code Section 11-9-316, relating to effect of change in governing law, as follows:

“11-9-316. Effect of change in governing law.

(a) *General rule; effect on perfection of change in governing law.* A security interest perfected pursuant to the law of the jurisdiction designated in paragraph (1) of Code Section 11-9-301, ~~or~~ subsection (c) of Code Section 11-9-305, subsection (d) of Code Section 11-9-306A, or subsection (b) of Code Section 11-9-306B remains perfected until the earliest of:

- (1) The time perfection would have ceased under the law of that jurisdiction;
- (2) The expiration of four months after a change of the debtor’s location to another jurisdiction; or
- (3) The expiration of one year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(b) *Security interest perfected or unperfected under law of new jurisdiction.* If a security interest described in subsection (a) of this Code section becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) *Possessory security interest in collateral moved to new jurisdiction.* A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

- (1) The collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(2) Thereafter the collateral is brought into another jurisdiction; and

(3) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(d) *Goods covered by certificate of title from this state.* Except as otherwise provided in subsection (e) of this Code section, a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(e) *When subsection (d) of this Code section security interest becomes unperfected against purchasers.* A security interest described in subsection (d) of this Code section becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under subsection (b) of Code Section 11-9-311 or Code Section 11-9-313 are not satisfied before the earlier of:

(1) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or

(2) The expiration of four months after the goods had become so covered.

(f) *Change in jurisdiction of chattel paper, controllable electronic record, bank, issuer, nominated person, securities intermediary, or commodity intermediary.* A security interest in chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, letter of credit rights, or investment property which is perfected under the law of the chattel paper's jurisdiction, the controllable electronic record's jurisdiction, the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(1) The time the security interest would have become unperfected under the law of that jurisdiction; or

(2) The expiration of four months after a change of the applicable jurisdiction to another

jurisdiction.

(g) *Subsection (f) of this Code section security interest perfected or unperfected under law of new jurisdiction.* If a security interest described in subsection (f) of this Code section becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(h) *Effect on filed financing statement of change in governing law.* The following rules apply to collateral to which a security interest attaches within four months after the debtor changes its location to another jurisdiction:

(1) A financing statement filed before the change pursuant to the law of the jurisdiction designated in paragraph (1) of Code Section 11-9-301 or subsection (c) of Code Section 11-9-305 is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral had the debtor not changed its location; and

(2) If a security interest perfected by a financing statement that is effective under paragraph (1) of this subsection becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in paragraph (1) of Code Section 11-9-301 or subsection (c) of Code Section 11-9-305 or the expiration of the four-month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(i) *Effect of change in governing law on financing statement filed against original debtor.* If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in paragraph (1) of Code Section 11-9-301 or subsection (c) of Code Section 11-9-305 and the new debtor is located in another jurisdiction, the following rules apply:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under subsection (d) of Code Section 11-9-203 if the financing statement would have been effective to perfect a security interest in the collateral had the collateral been acquired by the original debtor; and

(2) A security interest perfected by the financing statement and which becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in paragraph (1) of Code Section 11-9-301 or subsection (c) of Code Section 11-9-305 or the expiration of the four-month period remains perfected thereafter. A security interest that is perfected by the financing statement but which does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.”

SECTION 2D-73.

Said title is further amended by revising Code Section 11-9-317, relating to interests that take priority over or take free of security interest or agricultural lien, as follows:

“11-9-317. Interests that take priority over or take free of security interest or agricultural lien.

(a) *Conflicting security interests and rights of lien creditors.* A security interest or agricultural lien is subordinate to the rights of:

(1) A person entitled to priority under Code Section 11-9-322; and

(2) Except as otherwise provided in subsection (e) of this Code section, a person that becomes a lien creditor before the earlier of the time:

(A) The security interest or agricultural lien is perfected; or

(B) A financing statement covering the collateral is filed.

(b) *Buyers that receive delivery.* Except as otherwise provided in subsection (e) of this Code section, a buyer, other than a secured party, ~~of tangible chattel paper, tangible documents,~~ of goods, instruments, tangible documents, or a certificated security takes free of a security interest or agricultural lien if the

buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) *Lessees that receive delivery.* Except as otherwise provided in subsection (e) of this Code section, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) *Licensees and buyers of certain collateral.* Subject to subsections (f) through (i) of this Code section, a licensee of a general intangible or a buyer, other than a secured party, of collateral other than electronic money, tangible chattel paper, tangible documents, goods, instruments, tangible documents, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) *Purchase money security interest.* Except as otherwise provided in Code Sections 11-9-320 and 11-9-321, if a person files a financing statement with respect to a purchase money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

(f) *Buyers of chattel paper.* A buyer, other than a secured party, of chattel paper takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and:

(1) Receives delivery of each authoritative tangible copy of the record evidencing the chattel paper; and

(2) If each authoritative electronic copy of the record evidencing the chattel paper can be subjected to control under Code Section 11-9-105, obtains control of each authoritative electronic copy.

(g) *Buyers of electronic documents.* A buyer of an electronic document takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and,

if each authoritative electronic copy of the document can be subjected to control under Code Section 11-7-106, obtains control of each authoritative electronic copy.

(h) *Buyers of controllable electronic records.* A buyer of a controllable electronic record takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable electronic record.

(i) *Buyers of controllable accounts and controllable payment intangibles.* A buyer, other than a secured party, of a controllable account or a controllable payment intangible takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable account or controllable payment intangible.”

SECTION 2D-74.

Said title is further amended by revising Code Section 11-9-323, relating to future advances, as follows:

“11-9-323. Future advances.

(a) *When priority based on time of advance.* Except as otherwise provided in subsection (b) of this Code section, for purposes of determining the priority of a perfected security interest under paragraph (1) of subsection (a) of Code Section 11-9-322, perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(1) Is made while the security interest is perfected only:

(A) Under Code Section 11-9-309 when it attaches; or

(B) Temporarily under subsection (e), (f), or (g) of Code Section 11-9-312; and

(2) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under Code Section 11-9-309 or subsection (e), (f), or (g) of Code Section 11-9-312.

(b) *Buyer of receivables.* Subsection (a) of this Code section does not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(c) *Buyer of goods.* Except as otherwise provided in subsection (d) of this Code section, a buyer of

goods ~~other than a buyer in ordinary course of business~~ takes free of a security interest to the extent that it secures advances made after the earlier of:

- (1) The time the secured party acquires knowledge of the buyer's purchase; or
- (2) Forty-five days after the purchase.

(d) *Advances made pursuant to commitment; priority of buyer of goods.* Subsection (c) of this Code section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the 45 day period.

(e) *Lessee of goods.* Except as otherwise provided in subsection (f) of this Code section, a lessee of goods, ~~other than a lessee in ordinary course of business~~, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

- (1) The time the secured party acquires knowledge of the lease; or
- (2) Forty-five days after the lease contract becomes enforceable.

(f) *Advances made pursuant to commitment; priority of lessee of goods.* Subsection (e) of this Code section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45 day period.”

SECTION 2D-75.

Said title is further amended by revising Code Section 11-9-324, relating to priority of purchase money security interests, as follows:

“11-9-324. Priority of purchase money security interests.

(a) *General rule; purchase money priority.* Except as otherwise provided in subsection (g) of this Code section, a perfected purchase money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in Code Section 11-9-327, a perfected security interest in its identifiable proceeds also has priority if the purchase money security interest is perfected when the debtor receives possession of the collateral or within 20 days thereafter.

(b) *Inventory purchase money priority.* Subject to subsection (c) of this Code section and except as

otherwise provided in subsection (g) of this Code section, a perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in Code Section 11-9-330, and, except as otherwise provided in Code Section 11-9-327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(1) The purchase money security interest is perfected when the debtor receives possession of the inventory;

(2) The purchase money secured party sends ~~an authenticated~~ a signed notification to the holder of the conflicting security interest;

(3) The holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(4) The notification states that the person sending the notification has or expects to acquire a purchase money security interest in inventory of the debtor and describes the inventory.

(c) *Holders of conflicting inventory security interests to be notified.* Paragraphs (2) through (4) of subsection (b) of this Code section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(1) If the purchase money security interest is perfected by filing, before the date of the filing;
or

(2) If the purchase money security interest is temporarily perfected without filing or possession under subsection (f) of Code Section 11-9-312, before the beginning of the 20 day period thereunder.

(d) *Livestock purchase money priority.* Subject to subsection (e) of this Code section and except as otherwise provided in subsection (g) of this Code section, a perfected purchase money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in Code Section 11-9-327, a perfected security interest in their identifiable

proceeds and identifiable products in their unmanufactured states also has priority, if:

(1) The purchase money security interest is perfected when the debtor receives possession of the livestock;

(2) The purchase money secured party sends ~~an authenticated~~ a signed notification to the holder of the conflicting security interest;

(3) The holder of the conflicting security interest receives the notification within six months before the debtor receives possession of the livestock; and

(4) The notification states that the person sending the notification has or expects to acquire a purchase money security interest in livestock of the debtor and describes the livestock.

(e) *Holders of conflicting livestock security interests to be notified.* Paragraphs (2) through (4) of subsection (d) of this Code section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(1) If the purchase money security interest is perfected by filing, before the date of the filing; or

(2) If the purchase money security interest is temporarily perfected without filing or possession under subsection (f) of Code Section 11-9-312, before the beginning of the 20 day period thereunder.

(f) *Software purchase money priority.* Except as otherwise provided in subsection (g) of this Code section, a perfected purchase money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in Code Section 11-9-327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this Code section.

(g) *Conflicting purchase money security interests.* If more than one security interest qualifies for priority in the same collateral under subsection (a), (b), (d), or (f) of this Code section:

(1) A security interest securing an obligation incurred as all or part of the price of the

collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(2) In all other cases, subsection (a) of Code Section 11-9-322 applies to the qualifying security interests.”

SECTION 2D-76.

Said title is further amended by adding the new Code Section 11-9-326A, relating to priority of security interests in controllable accounts, controllable electronic records, and controllable payment intangibles, as follows:

“11-9-326A. Priority of security interest in controllable account, controllable electronic record, and controllable payment intangible.

A security interest in a controllable account, controllable electronic record, or controllable payment intangible held by a secured party having control of the account, electronic record, or payment intangible has priority over a conflicting security interest held by a secured party that does not have control.”

SECTION 2D-77.

Said title is further amended by revising Code Section 11-9-330, relating to priority of purchaser of chattel paper or instrument, as follows:

“11-9-330. Priority of purchaser of chattel paper or instrument.

(a) *Purchaser’s priority; security interest claimed merely as proceeds.* A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(1) In good faith and in the ordinary course of the purchaser’s business, the purchaser gives new value, ~~and~~ takes possession of each authoritative tangible copy of the record evidencing the chattel paper, or and obtains control ~~of~~ under Code Section 11-9-105 of each authoritative electronic copy of the record evidencing the chattel paper ~~under Code Section 11-9-105~~; and

(2) The ~~chattel paper does~~ chattel paper does authoritative copies of the record evidencing the chattel paper do not indicate that ~~it~~ the chattel paper has been assigned to an identified assignee other than the

purchaser.

(b) *Purchaser's priority; other security interests.* A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value, ~~and~~ takes possession of each authoritative tangible copy of the record evidencing the chattel paper, or and obtains control ~~of~~ under Code Section 11-9-105 of each authoritative electronic copy of the record evidencing the chattel paper under Code Section 11-9-105 in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(c) *Chattel paper purchaser's priority in proceeds.* Except as otherwise provided in Code Section 11-9-327, a purchaser having priority in chattel paper under subsection (a) or (b) of this Code section also has priority in proceeds of the chattel paper to the extent that:

- (1) Code Section 11-9-322 provides for priority in the proceeds; or
- (2) The proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(d) *Instrument purchaser's priority.* Except as otherwise provided in subsection (a) of Code Section 11-9-331, a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(e) *Holder of purchase money security interest gives new value.* For purposes of subsections (a) and (b) of this Code section, the holder of a purchase money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(f) *Indication of assignment gives knowledge.* For purposes of subsections (b) and (d) of this Code section, if the authoritative copies of the record evidencing chattel paper or an instrument ~~indicates~~ indicate that the chattel paper or instrument has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.”

SECTION 2D-78.

Said title is further amended by revising Code Section 11-9-331, relating to priority of rights of purchasers of instruments, documents, and securities under other articles; priority of interests in financial assets and security entitlements under Article 8 of this title, as follows:

“11-9-331. Priority of rights of purchasers of controllable accounts, controllable electronic records, controllable payment intangibles, instruments, documents, instruments, and securities under other articles; priority of interests in financial assets and security entitlements and protection against assertion of claim under Articles 8 and 12 of this title.

(a) *Rights under Articles 3, 7, 8, and 12 of this title not limited.* This article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, ~~or a protected purchaser of a security, or a qualifying purchaser of a controllable account, controllable electronic record, or controllable payment intangible.~~ These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Articles 3, 7, 8, and 12 of this title.

(b) *Protection under Articles 8 and 12 of this title.* This article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under Article 8 or 12 of this title.

(c) *Filing not notice.* Filing under this article does not constitute notice of a claim or defense to the holders or purchasers or persons described in subsections (a) and (b) of this Code section.”

SECTION 2D-79.

Said title is further amended by revising Code Section 11-9-332, relating to transfers of money and transfers of funds from deposit account, as follows:

“11-9-332. Transfer of money; transfer of funds from deposit account.

(a) *Transferee of tangible money.* A transferee of tangible money takes the money free of a security interest ~~unless if the transferee receives possession of the money without acting~~ the transferee acts in collusion with the debtor in violating the rights of the secured party.

(b) Transferee of funds from deposit account. A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account ~~unless the transferee acts~~if the transferee receives the funds without acting in collusion with the debtor in violating the rights of the secured party.

(c) Transferee of electronic money. A transferee of electronic money takes the money free of a security interest if the transferee obtains control of the money without acting in collusion with the debtor in violating the rights of the secured party.”

SECTION 2D-80.

Said title is further amended by revising Code Section 11-9-334, relating to priority of security interests in fixtures and crops, as follows:

“11-9-334. Priority of security interests in fixtures and crops.

(a) *Security interest in fixtures under this article.* A security interest under this article may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this article in ordinary building materials incorporated into an improvement on land.

(b) *Security interest in fixtures under real property law.* This article does not prevent creation of an encumbrance upon fixtures under real property law.

(c) *General rule; subordination of security interest in fixtures.* In cases not governed by subsections (d) through (h) of this Code section, a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(d) *Fixtures purchase money priority.* Except as otherwise provided in subsection (h) of this Code section, a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

- (1) The security interest is a purchase money security interest;
- (2) The interest of the encumbrancer or owner arises before the goods become fixtures; and
- (3) The security interest is perfected by a fixture filing before the goods become fixtures or within 20 days thereafter.

(e) *Priority of security interest in fixtures over interests in real property.* A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) The debtor has an interest of record in the real property or is in possession of the real property and the security interest:

(A) Is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and

(B) Has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;

(2) Before the goods become fixtures, the security interest is perfected by any method permitted by this article and the fixtures are readily removable:

(A) Factory or office machines;

(B) Equipment that is not primarily used or leased for use in the operation of the real property; or

(C) Replacements of domestic appliances that are consumer goods; or

(3) The conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this article.

(f) *Priority based on consent, disclaimer, or right to remove.* A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) The encumbrancer or owner has, in ~~an authenticated~~ a signed record, consented to the security interest or disclaimed an interest in the goods as fixtures; or

(2) The debtor has a right to remove the goods as against the encumbrancer or owner.

(g) *Continuation of subsection (f) of this Code section priority.* The priority of the security interest under paragraph (2) of subsection (f) of this Code section continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

(h) *Priority of construction mortgage.* A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in subsections (e) and (f) of this Code section, a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

(i) *Priority of security interest in crops.* A perfected security interest in or agricultural lien upon crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.”

SECTION 2D-81.

Said title is further amended by revising Code Section 11-9-341, relating to a bank’s rights and duties with respect to a deposit account, as follows:

“11-9-341. Bank’s rights and duties with respect to deposit account.

Except as otherwise provided in subsection (c) of Code Section 11-9-340, and unless the bank otherwise agrees in ~~an authenticated~~ signed record, a bank’s rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

- (1) The creation, attachment, or perfection of a security interest in the deposit account;
- (2) The bank’s knowledge of the security interest; or
- (3) The bank’s receipt of instructions from the secured party.”

SECTION 2D-82.

Said title is further amended by revising Code Section 11-9-404, relating to rights acquired by assignee and claims and defenses against assignee, as follows:

“11-9-404. Rights acquired by assignee; claims and defenses against assignee.

(a) *Assignee’s rights subject to terms, claims, and defenses; exceptions.* Unless an account debtor has made an enforceable agreement not to assert defenses or claims and subject to subsections (b) through

(e) of this Code section, the rights of an assignee are subject to:

(1) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(2) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment ~~authenticated~~ signed by the assignor or the assignee.

(b) *Account debtor's claim reduces amount owed to assignee.* Subject to subsection (c) of this Code section and except as otherwise provided in subsection (d) of this Code section, the claim of an account debtor against an assignor may be asserted against an assignee under subsection (a) of this Code section only to reduce the amount the account debtor owes.

(c) *Rule for individual under other law.* This Code section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(d) *Omission of required statement in consumer transaction.* In a consumer transaction, if a record evidences the account debtor's obligation, law other than this article requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(e) *Inapplicability to health care insurance receivable.* This Code section does not apply to an assignment of a health care insurance receivable.”

SECTION 2D-83.

Said title is further amended by revising Code Section 11-9-406, relating to discharges of account debtors; notifications of assignment; identification and proof of assignment; and restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective, as follows:

“11-9-406. Discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.

(a) *Discharge of account debtor; effect of notification.* Subject to subsections (b) through (i) ~~and (j)~~ of this Code section, an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, ~~authenticated~~ signed by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) *When notification ineffective.* Subject to ~~subsection~~ subsections (h) and (j) of this Code section, notification is ineffective under subsection (a) of this Code section:

- (1) If it does not reasonably identify the rights assigned;
- (2) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor’s duty to pay a person other than the seller and the limitation is effective under law other than this article; or
- (3) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:
 - (A) Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;
 - (B) A portion has been assigned to another assignee; or
 - (C) The account debtor knows that the assignment to that assignee is limited.

(c) *Proof of assignment.* Subject to ~~subsection~~ subsections (h) and (j) of this Code section, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a) of this

Code section.

(d) *Term restricting assignment generally ineffective.* In this subsection, “promissory note” includes a negotiable instrument that evidences chattel paper. Except as otherwise provided in subsection (e) of this Code section and Code Sections 11-2A-303, 11-9-407, and 53-12-80 through 53-12-83 and subject to subsection (h) of this Code section, a term in an agreement between an account debtor and an assignor or in a promissory note ~~shall be~~ ineffective to the extent that it:

(1) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(2) Provides that the assignment, transfer, creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) *Inapplicability of subsection (d) of this Code section to certain sales.* Subsection (d) of this Code section does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under Code Section 11-9-610 or an acceptance of collateral under Code Section 11-9-620.

(f) *Legal restrictions on assignment generally ineffective.* Except as otherwise provided in Code Sections 11-2A-303 and 11-9-407 and subject to subsections (h) and (i) of this Code section, a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(1) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest, in the account or chattel paper; or

(2) Provides that the assignment, transfer, creation, attachment, perfection, or enforcement of

the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) *Paragraph (3) of subsection (b) not waivable.* Subject to ~~subsection~~ subsections (h) and (j) of this Code section, an account debtor may not waive or vary its option under paragraph (3) of subsection (b) of this Code section.

(h) *Rule for individual under other law.* This Code section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) *Inapplicability to health care insurance receivable.* This Code section does not apply to an assignment of a health care insurance receivable.

(j) *Inapplicability of certain subsections.* Subsections (a), (b), (c), and (g) of this Code section do not apply to a controllable account or controllable payment intangible.”

SECTION 2D-84.

Said title is further amended by revising Code Section 11-9-408, relating to restrictions on assignment of promissory notes, health care insurance receivables, and certain general intangibles ineffective, as follows:

“11-9-408. Restrictions on assignment of promissory notes, health care insurance receivables, and certain general intangibles ineffective.

(a) **Term restricting assignment generally ineffective.** Except as otherwise provided in subsection (b) of this Code section or in Code Section 53-12-80, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health care insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health care insurance receivable, or general intangible, shall be ineffective to the extent that the term:

- (1) Would impair the creation, attachment, or perfection of a security interest; or

(2) Provides that the assignment, transfer, creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health care insurance receivable, or general intangible.

(b) *Applicability of subsection (a) of this Code section to sales of certain rights to payment.*

Subsection (a) of this Code section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under Code Section 11-9-610 or an acceptance of collateral under Code Section 11-9-620.

(c) *Legal restrictions on assignment generally ineffective.* Except as otherwise provided in Code Section 53-12-80, a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health care insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, shall be ineffective to the extent that the rule of law, statute, or regulation:

(1) Would impair the creation, attachment, or perfection of a security interest; or

(2) Provides that the assignment, transfer, creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health care insurance receivable, or general intangible.

(d) *Limitation on ineffectiveness under subsections (a) and (c) of this Code section.* To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health care insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) of this Code section would be effective under law other than this article but is ineffective under subsection (a) or (c) of this Code section, the creation, attachment, or perfection of a security interest in the promissory note, health care insurance receivable, or general intangible:

- (1) Is not enforceable against the person obligated on the promissory note or the account debtor;
- (2) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;
- (3) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;
- (4) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health care insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health care insurance receivable, or general intangible;
- (5) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and
- (6) Does not entitle the secured party to enforce the security interest in the promissory note, health care insurance receivable, or general intangible.

(e) "Promissory note." In this Code section, "promissory note" includes a negotiable instrument that evidences chattel paper."

SECTION 2D-85.

Said title is further amended by revising Code Section 11-9-509, relating to persons entitled to file a record, as follows:

"11-9-509. Persons entitled to file a record.

(a) *Person entitled to file record.* A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

- (1) The debtor authorizes the filing in ~~an authenticated signed~~ an authenticated signed record or pursuant to

subsection (b) or (c) of this Code section; or

(2) The person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(b) *Security agreement as authorization.* By ~~authenticating~~ signing or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(1) The collateral described in the security agreement; and

(2) Property that becomes collateral under paragraph (2) of subsection (a) of Code Section 11-9-315, whether or not the security agreement expressly covers proceeds.

(c) *Acquisition of collateral as authorization.* By acquiring collateral in which a security interest or agricultural lien continues under paragraph (1) of subsection (a) of Code Section 11-9-315, a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under paragraph (2) of subsection (a) of Code Section 11-9-315.

(d) *Person entitled to file certain amendments.* A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(1) The secured party of record authorizes the filing; or

(2) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by subsection (a) or (c) of Code Section 11-9-513, the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(e) *Multiple secured parties of record.* If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (d) of this Code section.”

SECTION 2D-86.

Said title is further amended by revising Code Section 11-9-513, relating to termination statements, as follows:

“11-9-513. Termination statement.

(a) *Consumer goods.* A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

- (1) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or
- (2) The debtor did not authorize the filing of the initial financing statement.

(b) *Time for compliance with subsection (a) of this Code section.* To comply with subsection (a) of this Code section, a secured party shall cause the secured party of record to file the termination statement:

- (1) Within one month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or
- (2) If earlier, within 20 days after the secured party receives ~~an authenticated~~ a signed demand from a debtor.

(c) *Other collateral.* In cases not governed by subsection (a) of this Code section, within 90 days after there is no obligation secured by the collateral covered by or described in the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value or, if earlier, within 20 days after a secured party receives ~~an authenticated~~ a signed demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

- (1) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(2) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(3) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(4) The debtor did not authorize the filing of the initial financing statement.

(d) *Effect of filing termination statement.* Except as otherwise provided in Code Section 11-9-510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective.”

SECTION 2D-87.

Said title is further amended by revising Code Section 11-9-601, relating to rights after default; judicial enforcement and consignors or buyers of accounts, chattel paper, payment intangibles, or promissory notes, as follows:

“11-9-601. Rights after default; judicial enforcement; consignor or buyer of accounts, chattel paper, payment intangibles, or promissory notes.

(a) *Rights of secured party after default.* After default, a secured party has the rights provided in this part and, except as otherwise provided in Code Section 11-9-602, those provided by agreement of the parties. A secured party:

(1) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(2) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(b) *Rights and duties of secured party in possession or control.* A secured party in possession of collateral or control of collateral under Code Section 11-7-106, 11-9-104, 11-9-105, 11-9-105A, 11-9-106, ~~or~~ 11-9-107, or 11-9-107A has the rights and duties provided in Code Section 11-9-207.

(c) *Rights cumulative; simultaneous exercise.* The rights under subsections (a) and (b) of this Code section are cumulative and may be exercised simultaneously.

(d) *Rights of debtor and obligor.* Except as otherwise provided in subsection (g) of this Code section and Code Section 11-9-605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(e) *Lien of levy after judgment.* If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

- (1) The date of perfection of the security interest or agricultural lien in the collateral;
- (2) The date of filing a financing statement covering the collateral; or
- (3) Any date specified in a statute under which the agricultural lien was created.

(f) *Execution sale.* A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this Code section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this article.

(g) *Consignor or buyer of certain rights to payment.* Except as otherwise provided in subsection (c) of Code Section 11-9-607, this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.”

SECTION 2D-88.

Said title is further amended by revising Code Section 11-9-605, relating to unknown debtors or secondary obligors, as follows:

“11-9-605. Unknown debtor or secondary obligor.

(a) In general: no duty owed by secured party. ~~Except as provided in subsection (b) of this Code section,~~ a secured party does not owe a duty based on its status as secured party:

- (1) To a person that is a debtor or obligor, unless the secured party knows:
 - (A) That the person is a debtor or obligor;
 - (B) The identity of the person; and
 - (C) How to communicate with the person; or
- (2) To a secured party or lienholder that has filed a financing statement against a person,

unless the secured party knows:

- (A) That the person is a debtor; and
- (B) The identity of the person.

(b) Exception: Secured party owes duty to debtor or obligor. A secured party owes a duty based on its status as a secured party to a person if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record, or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is later:

- (1) The person is a debtor or obligor; and
- (2) The secured party knows that the information in subparagraphs (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Code section relating to the person is not provided by the collateral, a record attached to or logically associated with the collateral, or the system in which the collateral is recorded.”

SECTION 2D-89.

Said title is further amended by revising Code Section 11-9-608, relating to application of proceeds of collection or enforcement and liability for deficiency and right to surplus, as follows:

“11-9-608. Application of proceeds of collection or enforcement; liability for deficiency and right to surplus.

(a) *Application of proceeds, surplus, and deficiency if obligation secured.* If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

- (1) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under Code Section 11-9-607 in the following order to:
 - (A) The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney’s fees and legal expenses incurred by the secured party;
 - (B) The satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and
 - (C) The satisfaction of obligations secured by any subordinate security interest in or other

lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives ~~an authenticated~~ signed demand for proceeds before distribution of the proceeds is completed;

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under subparagraph (C) of paragraph (1) of this subsection;

(3) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under Code Section 11-9-607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner; and

(4) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(b) *No surplus or deficiency in sales of certain rights to payment.* If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency."

SECTION 2D-90.

Said title is further amended by revising Code Section 11-9-611, relating to notifications before disposition of collateral, as follows:

"11-9-611. Notification before disposition of collateral.

(a) "*Notification date.*" As used in this Code section, the term "notification date" means the earlier of the date on which:

(1) A secured party sends to the debtor and any secondary obligor ~~an authenticated~~ signed notification of disposition; or

(2) The debtor and any secondary obligor waive the right to notification.

(b) *Notification of disposition required.* Except as otherwise provided in subsection (d) of this Code

section, a secured party that disposes of collateral under Code Section 11-9-610 shall send to the persons specified in subsection (c) of this Code section a reasonable ~~authenticated~~ signed notification of disposition.

(c) *Persons to be notified.* To comply with subsection (b) of this Code section, the secured party shall send ~~an authenticated~~ a signed notification of disposition to:

- (1) The debtor;
- (2) Any secondary obligor; and
- (3) If the collateral is other than consumer goods:

(A) Any other person from which the secured party has received, before the notification date, ~~an authenticated~~ a signed notification of a claim of an interest in the collateral;

(B) Any other secured party or lienholder that, ten days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

- (i) Identified the collateral;
- (ii) Was indexed under the debtor's name as of that date; and
- (iii) Was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

(C) Any other secured party that, ten days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in subsection (a) of Code Section 11-9-311.

(d) *Subsection (b) of this Code section inapplicable; perishable collateral; recognized market.*

Subsection (b) of this Code section does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(e) *Compliance with subparagraph (c)(3)(B) of this Code section.* A secured party complies with the requirement for notification prescribed by subparagraph (c)(3)(B) of this Code section if:

- (1) Not later than 20 days or earlier than 30 days before the notification date, the secured

party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subparagraph (c)(3)(B) of this Code section; and

- (2) Before the notification date, the secured party:
 - (A) Did not receive a response to the request for information; or
 - (B) Received a response to the request for information and sent ~~an authenticated~~ a signed notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.”

SECTION 2D-91.

Said title is further amended by revising Code Section 11-9-613, relating to consents and the form of notification before disposition of collateral, as follows:

“11-9-613. Contents and form of notification before disposition of collateral; general.

(a) Contents and form of notification. Except in a consumer goods transaction, the following rules apply:

- (1) The contents of a notification of disposition are sufficient if the notification:
 - (A) Describes the debtor and the secured party;
 - (B) Describes the collateral that is the subject of the intended disposition;
 - (C) States the method of intended disposition;
 - (D) States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and
 - (E) States the time and place of a public disposition or the time after which any other disposition is to be made;
- (2) Whether the contents of a notification that lacks any of the information specified in paragraph (1) of this Code section are nevertheless sufficient is a question of fact;
- (3) The contents of a notification providing substantially the information specified in paragraph (1) of this Code section are sufficient, even if the notification includes:

- (A) Information not specified by that paragraph; or
- (B) Minor errors that are not seriously misleading;
- (4) A particular phrasing of the notification is not required; and
- (5) The following form of notification and the form appearing in paragraph (3) of subsection (a) of Code Section 11-9-614, when completed in accordance with the instructions in subsection (b) of this Code section and subsection (b) of Code Section 11-9-614, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To: (Name of debtor, obligor, or other person to which the notification is sent) From: (Name, address, and telephone number of secured party)

Name of Debtor(s): (Include only if debtor(s) is (are) not an addressee) (For a public disposition:)

We will sell (or lease or license, as applicable) the (describe collateral) to the highest qualified bidder in public as follows:

Day and date: _____

Time: Place: _____ (For a private disposition:)

We will sell (or lease or license, as applicable) the (describe collateral) privately sometime after (day and date):

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell (or lease or license, as applicable) (for a charge of \$ _____). You may request an accounting by calling us at (telephone number):

NOTIFICATION OF DISPOSITION OF COLLATERAL

To: (Name of debtor, obligor, or other person to which the notification is sent)

From: (Name, address, and telephone number of secured party)

{1} Name of any debtor that is not an addressee: (Name of each debtor)

{2} We will sell (describe collateral) (to the highest qualified bidder) at public sale. A sale could include a lease or license. The sale will be held as follows:

____ (Date)

____ (Time)

____ (Place)

____ {3} We will sell (describe collateral) at private sale sometime after (date). A sale could include a lease or license.

____ {4} You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell or, as applicable, lease or license.

{5} If you request an accounting you must pay a charge of \$ (amount).

{6} You may request an accounting by calling us at (telephone number).

[End of Form]

(b) Instructions for form of notification. The following instructions apply to the form of notification in paragraph (5) of subsection (a) of this Code section:

(1) The instructions in this subsection refer to the numbers in braces before items in the form of notification in paragraph (5) of subsection (a) of this Code section. Do not include the numbers or braces in the notification. The numbers and braces are used only for the purpose of these instructions.

(2) Include and complete item {1} only if there is a debtor that is not an addressee of the notification and list the name or names.

(3) Include and complete either item {2}, if the notification relates to a public disposition of the collateral, or item {3}, if the notification relates to a private disposition of the collateral. If item {2} is included, include the words “to the highest qualified bidder” only if applicable.

(4) Include and complete items {4} and {6}.

(5) Include and complete item {5} only if the sender will charge the recipient for an accounting.”

SECTION 2D-92.

Said title is further amended by revising Code Section 11-9-614, relating to contents and the form of notification before disposition of collateral in a consumer goods transaction, as follows:

“11-9-614. Contents and form of notification before disposition of collateral; consumer goods transaction.

(a) *Contents and form of notification.* In a consumer goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(A) The information specified in paragraph (1) of subsection (a) of Code Section 11-9-613;

(B) A description of any liability for a deficiency of the person to which the notification is sent;

(C) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under Code Section 11-9-623 is available; and

(D) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available;

(2) A particular phrasing of the notification is not required;

(3) The following form of notification, when completed in accordance with the instructions in subsection (b) of this Code section, provides sufficient information:

~~(Name and address of secured party)~~

~~(Date)~~

NOTICE OF OUR PLAN TO SELL PROPERTY

~~(Name and address of any obligor who is also a debtor) Subject: (Identification of transaction)~~

~~We have your (describe collateral), because you broke promises in our agreement. (For a public disposition:)~~

~~We will sell (describe collateral) at public sale. A sale could include a lease or license. The sale will be held as follows:~~

~~Date: _____ Time: _____ Place: _____~~

~~_____ You may attend the sale and bring bidders if you want. (For a private~~

disposition:)

We will sell (describe collateral) at private sale sometime after (date). A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you (will or will not, as applicable) still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at (telephone number).

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at (telephone number) or write us at (secured party's address) and request a written explanation. (We will charge you \$ _____ for the explanation if we sent you another written explanation of the amount you owe us within the last six months.)

If you need more information about the sale call us at (telephone number) or write us at (secured party's address).

We are sending this notice to the following other people who have an interest in (describe collateral) or who owe money under your agreement:

(Names of all other debtors and obligors, if any);

(Name and address of secured party) (Date)

NOTICE OF OUR PLAN TO SELL PROPERTY

(Name and address of any obligor who is also a debtor)

Subject: (Identify transaction)

_____ We have your (describe collateral), because you broke promises in our agreement.

_____ {1} We will sell (describe collateral) at public sale. A sale could include a lease or license. The sale will be held as follows:

_____ (Date)

_____ (Time)

_____ (Place)

_____ You may attend the sale and bring bidders if you want.

_____ {2} We will sell (describe collateral) at private sale sometime after (date). A sale could include a lease or license.

_____ {3} The money that we get from the sale, after paying our costs, will reduce the amount you owe. If we get less money than you owe, you (will or will not, as applicable) still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

_____ {4} You can get the property back at any time before we sell it by paying us the full amount you owe, not just the past due payments, including our expenses. To learn the exact amount you must pay, call us at (telephone number).

_____ {5} If you want us to explain to you in (writing) (writing or in (description of electronic record)) (description of electronic record) how we have figured the amount that you owe us, {6} call us at (telephone number) (or) (write us at (secured party's address)) (or contact us by (description of electronic communication method)) {7} and request (a written explanation) (a written explanation or an explanation in (description of electronic record)) (an explanation in (description of electronic record)).

_____ {8} We will charge you \$ (amount) for the explanation if we sent you another written explanation of the amount you owe us within the last six months.

_____ {9} If you need more information about the sale (call us at (telephone number)) (or) (write us at (secured party's address)) (or contact us by (description of electronic communication method)).

_____ {10} We are sending this notice to the following other people who have an interest in (describe collateral) or who owe money under your agreement:

(Names of all other debtors and obligors, if any)

[End of Form]

(4) A notification in the form of paragraph (3) of this Code section is sufficient, even if additional information appears at the end of the form;

(5) A notification in the form of paragraph (3) of this Code section is sufficient, even if it includes errors in information not required by paragraph (1) of this Code section, unless the error is misleading with respect to rights arising under this article; and

(6) If a notification under this Code section is not in the form of paragraph (3) of this Code section, law other than this article determines the effect of including information not required by paragraph (1) of this Code section.

(b) Instructions for form of notification. The following instructions apply to the form of notification in paragraph (3) of subsection (a) of this Code section:

(1) The instructions in this subsection refer to the numbers in braces before items in the form of notification in paragraph (3) of subsection (a) of this Code section. Do not include the numbers or braces in the notification. The numbers and braces are used only for the purpose of these instructions.

(2) Include and complete either item {1}, if the notification relates to a public disposition of the collateral, or item {2}, if the notification relates to a private disposition of the collateral.

(3) Include and complete items {3}, {4}, {5}, {6}, and {7}.

(4) In item {5}, include and complete any one of the three alternative methods for the explanation—writing, writing or electronic record, or electronic record.

(5) In item {6}, include the telephone number. In addition, the sender may include and complete either or both of the two additional alternative methods of communication—writing or electronic communication—for the recipient of the notification to communicate with the sender. Neither of the two additional methods of communication is required to be included.

(6) In item {7}, include and complete the method or methods for the explanation—writing, writing or electronic record, or electronic record—included in item {5}.

(7) Include and complete item {8} only if a written explanation is included in item {5} as a method for communicating the explanation and the sender will charge the recipient for another written explanation.

(8) In item {9}, include either the telephone number or the address or both the telephone number and the address. In addition, the sender may include and complete the additional method of communication—electronic communication—for the recipient of the notification to communicate with the sender. The additional method of electronic communication is not required to be included.

(9) If item {10} does not apply, insert “None” after “agreement:.”

SECTION 2D-93.

Said title is further amended by revising Code Section 11-9-615, relating to application of proceeds of disposition and liabilities for deficiencies and rights to surplus, as follows:

“11-9-615. Application of proceeds of disposition; liability for deficiency and right to surplus.

(a) *Application of proceeds.* A secured party shall apply or pay over for application the cash proceeds of a disposition under Code Section 11-9-610 in the following order to:

(1) The reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney’s fees and legal expenses incurred by the secured party;

(2) The satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(3) The satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

(A) The secured party receives from the holder of the subordinate security interest or other lien ~~an authenticated~~ a signed demand for proceeds before distribution of the proceeds is completed; and

(B) In a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(4) A secured party that is a consignor of the collateral if the secured party receives from the consignor ~~an authenticated~~ signed demand for proceeds before distribution of the proceeds is completed.

(b) *Proof of subordinate interest.* If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under paragraph (3) of subsection (a) of this Code section.

(c) *Application of noncash proceeds.* A secured party need not apply or pay over for application noncash proceeds of a disposition under Code Section 11-9-610 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) *Surplus or deficiency if obligation secured.* If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (a) of this Code section and permitted by subsection (c) of this Code section:

(1) Unless paragraph (4) of subsection (a) of this Code section requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(2) The obligor is liable for any deficiency.

(e) *No surplus or deficiency in sales of certain rights to payment.* If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(1) The debtor is not entitled to any surplus; and

(2) The obligor is not liable for any deficiency.

(f) *Calculation of surplus or deficiency in disposition to person related to secured party.* The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(1) The transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

(2) The amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(g) *Cash proceeds received by junior secured party.* A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(1) Takes the cash proceeds free of the security interest or other lien;

(2) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(3) Is not obligated to account to or pay the holder of the security interest or other lien for any surplus.”

SECTION 2D-94.

Said title is further amended by revising Code Section 11-9-616, relating to explanations of calculation of surplus or deficiency, as follows:

“11-9-616. Explanation of calculation of surplus or deficiency.

(a) *Definitions.* As used in this Code section, the term:

(1) “Explanation” means a ~~written~~ writing record that:

(A) States the amount of the surplus or deficiency;

(B) Provides an explanation in accordance with subsection (c) of this Code section of how the secured party calculated the surplus or deficiency;

(C) States, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and

(D) Provides a telephone number or mailing address from which additional information

concerning the transaction is available.

(2) "Request" means a record:

- (A) ~~Authenticated~~Signed by a debtor or consumer obligor;
- (B) Requesting that the recipient provide an explanation; and
- (C) Sent after disposition of the collateral under Code Section 11-9-610.

(b) *Explanation of calculation.* In a consumer goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under Code Section 11-9-615, the secured party shall:

(1) Send an explanation to the debtor or consumer obligor, as applicable, after the disposition

and:

(A) Before or when the secured party accounts to the debtor and pays any surplus or first makes ~~written demand~~ in a record on the consumer obligor after the disposition for payment of the deficiency; and

(B) Within 14 days after receipt of a request; or

(2) In the case of a consumer obligor who is liable for a deficiency, within 14 days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(c) *Required information.* To comply with subparagraph (a)(1)(B) of this Code section, ~~a written~~ an explanation must provide the following information in the following order:

(1) The aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

(A) If the secured party takes or receives possession of the collateral after default, not more than 35 days before the secured party takes or receives possession; or

(B) If the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than 35 days before the disposition;

(2) The amount of proceeds of the disposition;

(3) The aggregate amount of the obligations after deducting the amount of proceeds;

(4) The amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

(5) The amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in paragraph (1) of this subsection; and

(6) The amount of the surplus or deficiency.

(d) *Substantial compliance.* A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (a) of this Code section is sufficient, even if it includes minor errors that are not seriously misleading.

(e) *Charges for responses.* A debtor or consumer obligor is entitled without charge to one response to a request under this Code section during any six-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to paragraph (1) of subsection (b) of this Code section. The secured party may require payment of a charge not exceeding \$10.00 for each additional response.”

SECTION 2D-95.

Said title is further amended by revising Code Section 11-9-619, relating to transfers of record or legal title, as follows:

“11-9-619. Transfer of record or legal title.

(a) “*Transfer statement.*” As used in this Code section, the term “transfer statement” means a record ~~authenticated~~ signed by a secured party stating:

(1) That the debtor has defaulted in connection with an obligation secured by specified collateral;

(2) That the secured party has exercised its post default remedies with respect to the collateral;

(3) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(4) The name and mailing address of the secured party, debtor, and transferee.

(b) *Effect of transfer statement.* A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate of title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

(1) Accept the transfer statement;

(2) Promptly amend its records to reflect the transfer; and

(3) If applicable, issue a new appropriate certificate of title in the name of the transferee.

(c) *Transfer not a disposition; no relief of secured party's duties.* A transfer of the record or legal title to collateral to a secured party under subsection (b) of this Code section or otherwise is not of itself a disposition of collateral under this article and does not of itself relieve the secured party of its duties under this article.”

SECTION 2D-96.

Said title is further amended by revising Code Section 11-9-620, relating to acceptances of collateral in full or partial satisfaction of obligation and compulsory dispositions of collateral, as follows:

“11-9-620. Acceptance of collateral in full or partial satisfaction of obligation; compulsory disposition of collateral.

(a) *Conditions to acceptance in satisfaction.* Except as otherwise provided in subsection (g) of this Code section, a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(1) The debtor consents to the acceptance under subsection (c) of this Code section;

(2) The secured party does not receive, within the time set forth in subsection (d) of this Code section, a notification of objection to the proposal ~~authenticated~~signed by:

(A) A person to which the secured party was required to send a proposal under Code Section 11-9-621; or

(B) Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(3) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(4) Subsection (e) of this Code section does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to Code Section 11-9-624.

(b) *Purported acceptance ineffective.* A purported or apparent acceptance of collateral under this Code section is ineffective unless:

(1) The secured party consents to the acceptance in ~~an authenticated~~a signed record or sends a proposal to the debtor; and

(2) The conditions of subsection (a) of this Code section are met.

(c) *Debtor's consent.* For purposes of this Code section:

(1) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record ~~authenticated~~signed after default; and

(2) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record ~~authenticated~~signed after default or the secured party:

(A) Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(B) In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(C) Does not receive a notification of objection ~~authenticated~~signed by the debtor within 20 days after the proposal is sent.

(d) *Effectiveness of notification.* To be effective under paragraph (2) of subsection (a) of this Code section, a notification of objection must be received by the secured party:

(1) In the case of a person to which the proposal was sent pursuant to Code Section 11-9-621, within 20 days after notification was sent to that person; and

(2) In other cases:

(A) Within 20 days after the last notification was sent pursuant to Code Section 11-9-621; or

(B) If a notification was not sent, before the debtor consents to the acceptance under subsection

(c) of this Code section.

(e) *Mandatory disposition of consumer goods.* A secured party that has taken possession of collateral shall dispose of the collateral pursuant to Code Section 11-9-610 within the time specified in subsection (f) of this Code section if:

(1) Sixty percent of the cash price has been paid in the case of a purchase money security interest in consumer goods; or

(2) Sixty percent of the principal amount of the obligation secured has been paid in the case of a nonpurchase money security interest in consumer goods.

(f) *Compliance with mandatory disposition requirement.* To comply with subsection (e) of this Code section, the secured party shall dispose of the collateral:

(1) Within 90 days after taking possession; or

(2) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and ~~authenticated~~signed after default.

(g) *No partial satisfaction in consumer transaction.* In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.”

SECTION 2D-97.

Said title is further amended by revising Code Section 11-9-621, relating to notifications of proposals to accept collateral, as follows:

“11-9-621. Notification of proposal to accept collateral.

(a) *Persons to which proposal to be sent.* A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(1) Any person from which the secured party has received, before the debtor consented to the acceptance, ~~an authenticated~~ a signed notification of a claim of an interest in the collateral;

(2) Any other secured party or lienholder that, ten days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(A) Identified the collateral;

(B) Was indexed under the debtor’s name as of that date; and

(C) Was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(3) Any other secured party that, ten days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in subsection (a) of Code Section 11-9-311.

(b) *Proposal to be sent to secondary obligor in partial satisfaction.* A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (a) of this Code section.”

SECTION 2D-98.

Said title is further amended by revising Code Section 11-9-624, relating to waivers, as follows:

“11-9-624. Waiver.

(a) *Waiver of disposition notification.* A debtor or secondary obligor may waive the right to notification of disposition of collateral under Code Section 11-9-611 only by an agreement to that effect entered into and ~~authenticated~~ signed after default.

(b) *Waiver of mandatory disposition.* A debtor may waive the right to require disposition of collateral under subsection (e) of Code Section 11-9-620 only by an agreement to that effect entered into and ~~authenticated~~ signed after default.

(c) *Waiver of redemption right.* Except in a consumer goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under Code Section 11-9-623 only by an agreement to that effect entered into and ~~authenticated~~ signed after default.”

SECTION 2D-99.

Said title is further amended by revising Code Section 11-9-628, relating to nonliability and limitation on liability of secured parties and liability of secondary obligors, as follows:

“**11-9-628. Nonliability and limitation on liability of secured party; liability of secondary obligor.**

(a) *Limitation of liability of secured party for noncompliance with article.* Subject to subsection (f) of this Code section, ~~u~~Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

- (1) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this article; and
- (2) The secured party’s failure to comply with this article does not affect the liability of the person for a deficiency.

(b) *Limitation of liability based on status as secured party.* Subject to subsection (f) of this Code section, ~~a~~A secured party is not liable because of its status as secured party:

- (1) To a person that is a debtor or obligor, unless the secured party knows:
 - (A) That the person is a debtor or obligor;
 - (B) The identity of the person; and
 - (C) How to communicate with the person; or
- (2) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:
 - (A) That the person is a debtor; and

(B) The identity of the person.

(c) *Limitation of liability if reasonable belief that transaction not a consumer goods transaction or consumer transaction.* A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

- (1) A debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or
- (2) An obligor's representation concerning the purpose for which a secured obligation was incurred.

(d) *Limitation of liability for statutory damages.* A secured party is not liable to any person under paragraph (2) of subsection (c) of Code Section 11-9-625 for its failure to comply with Code Section 11-9-616.

(e) *Limitation of multiple liability for statutory damages.* A secured party is not liable under paragraph (2) of subsection (c) of Code Section 11-9-625 more than once with respect to any one secured obligation.

(f) *Exception: limitation of liability under subsections (a) and (b) of this Code section does not apply.*
Subsections (a) and (b) of this Code section do not apply to limit the liability of a secured party to a person if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record, or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is later:

- (1) The person is a debtor or obligor; and
- (2) The secured party knows that the information in subparagraph (b)(1)(A), (b)(1)(B), or (b)(1)(C) of this Code section relating to the person is not provided by the collateral, a record attached to or logically associated with the collateral, or the system in which the collateral is recorded."

[PART V

REPEALER

[SECTION 5-1.

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



State Bar of Georgia

To: Bar Officers
Finance Committee

From: Ron Turner *RWT*

Date: September 14, 2023

Re: June 2023 Financial Statements-Bar Operations and Bar Center

Attached please find the June 2023 financial statements. **As June 30 is the year-end of the Bar, full departmental detail is attached. The amounts provided in the attached financial statements are subject to change due to the receipt of any additional invoices, if significant in nature, related to June 30, 2023 and the audit by the Bar's outside accountants.**

Line item variance explanations follow. Department managers are expected to specify savings elsewhere in their budgets when exceeding a line item, unless there was a budgeting error. Line item variances < \$1,000 are not explained to conserve your time.

New and revised items are highlighted in bold.

Savings will be realized in each department to offset these overages.

Executive Summary

In total, the Bar (excluding ICLE) budgeted a loss of \$151,233 for the year ended June 30, 2023. This total budgeted loss for the Bar was calculated as a budgeted loss for Bar operations of \$282,201 and a budgeted gain for the Bar Center of \$130,968. The Bar Center realized an actual gain of \$371,623 for the year. Bar operations realized a gain of \$209,689 instead of the budgeted loss of \$282,201. This difference of \$491,890 is comprised of the following components: (1) savings in salaries and related personnel costs of \$561,578, (2) savings in officer expenses of \$53,273, (3) savings in bond premium amortization and investment service fees of \$76,726 and (4) savings in YLD Committees expenses of \$44,439. The savings were offset by the following components: (5) overage on credit card fees and discounts of \$61,947, (6) additional costs for the special contract master of \$84,628 and (7) additional costs associated with the Bar Journal of \$83,040. These seven items total \$506,401.

General Comments

The following comments relates to salaries across the Bar. Instead of providing the same comment in each applicable department, the comment is provided below in a summary form.

In certain cases salaries may have exceeded the budget minimally in certain departments due to the following timing issues: (1) Salaries are based upon the actual number of days in a particular reporting period and (2) depending upon when an employee's vacation is taken (before June 30 in one year and after June 30 in another year), the ultimate vacation pay could be included in salaries in one year or included in taxes and benefits in another year.

In certain cases, pensions may be slightly over budget due to the timing of the payment of salaries as noted in the comment above.

Administration

Miscellaneous expense for administration is in excess of the budget by \$4,057 primarily due to costs related to the retirement of the Fee Arbitration director who had been employed by the Bar in excess of 40 years.

Executive director travel costs are in excess of the budget by \$1,691 primarily due to travel to Savannah associated with the office move to a new location.

Credit card discount and fees is over budget by \$61,947 primarily due to the increased use of credit cards for payments. This increased use was the result of more Bar members paying their dues by credit card in the current period than what was originally anticipated.

Costs for computer software are over budget by \$1,338 primarily due to software costs associated with a particular software program that was not used in the prior year, and as such, was not included in the current year budget.

Office of General Counsel and Client Assistance Program

Supplies are in excess of budget due to the purchase of additional items in order to work more efficiently including headsets, scanners and the replacement of aging chairs.

Subscriptions and books are in excess of the budget by \$2,675 primarily due to the purchase of a subscription that does not come out every year but instead comes out periodically. The Bar does not know exactly when the new subscription is issued, but when it is issued, the Bar will make the purchase. This purchase was not included in the original budget.

Seminars and training are in excess of budget due to additional staff attending virtually National Organization of Bar Counsel meetings. It was not originally budgeted for those individuals to attend.

Computer hardware is over budget by \$2,795 due to the purchase of three printers and five monitors. When the budget was prepared, these amounts were not originally included.

Costs for computer software are \$1,043 in excess of the budget primarily due to additional software licenses obtained in the current year than originally anticipated.

Office of General Counsel and Client Assistance Program (continued)

Contract programming costs were \$4,625 in excess of the budget due to (1) additional work to transition to cloud based systems and (2) costs associated with the creation of a new portal for the grievance system. This cost was not originally anticipated.

Costs associated with receiverships are over budget by \$1,545 primarily due to the moving of certain receivership files to the State Bar building in Atlanta from various locations throughout Georgia. The total amount of these moving costs may not be known at the time the budget is prepared as we do not know where in Georgia these receiverships will be originating from.

State Disciplinary Board Panel costs are over budget by \$14,686 primarily due to (1) the board is meeting more in person whereby in prior years they were meeting more often virtually. There are normally seven to eight meetings per year; and (2) there has been a robust participation/attendance of the members of the board.

Contract special master costs are **\$84,628** in excess of the budget primarily due to the following: (1) more cases came to resolution and in accordance with the rules, payments are made after cases are finally resolved and (2) the current year budget was significantly reduced from the prior year.

Communications

Salaries are over budget due to certain personnel changes in the department whereby the amount budgeted was slightly less than the amount that was ultimately paid for the position. This reasoning also caused an overage in the budgeted pension line item.

Taxes and benefits exceeded the budget due to a change in coverage of an employee.

Computer hardware is in excess of budget by \$1,105 due to the purchase of computer monitors. These monitors were not originally budgeted for.

The website server/redesign is over budget by **\$25,660** primarily due to costs incurred to store data in the cloud as opposed to storing data on the Bar's servers. This change in storage methodology occurred subsequent to the security breach and was not originally budgeted for.

Costs associated with the Bar Journal are in excess of budget by **\$83,040** primarily due to the following reasons: (1) unanticipated increase in paper and postage costs (2) the vendor had a price increase to the Bar (3) the vendor began to charge for the digital issue of the Bar Journal when previously it was free and (4) **there were additional costs incurred associated with one additional Bar Journal issue in the current year due to the timing of when the printer completed and mailed the journal. The June 2021 Bar Journal was completed and mailed in July 2022 therefore making it a current year cost.**

Communications (continued)

Costs for the supplemental directory are over budget by \$1,151 primarily due to additional postage costs and increased costs associated with paper.

Fee Arbitration

Pension costs are over budget by \$4,013 because the pension costs for the retired director and the current director (who assumed the role in May 2023) were both charged to that department.

Young Lawyers Division

Committee brochures are in excess of the budget by \$1,487 primarily due to a significant increase in costs in paper and printing that was not originally anticipated at the time of budget preparation. While we anticipated a cost increase, the actual increase was greater than the anticipated amount.

Savannah

Rent and utilities associated with the Savannah are in excess of the budget due to (1) unanticipated building improvement costs associated with the move to the new office location and (2) additional insurance and tax costs associated with the former location that were not originally contemplated.

Furniture and equipment for the Savannah office is over budget due to unforeseen additional costs associated with the relocation of the office.

Tifton

Furniture and equipment for the Tifton office is over budget due to the purchase of a defibrillator for the office in the amount of \$2,019. This purchase was not originally included in the budget, but is consistent with our efforts in making the South Georgia office a full service and safer space for our members and staff.

Law Related Education

Pension costs exceeded the budget due to an internal transfer within the Bar. Instead of replacing an employee who resigned with an individual from outside the Bar (where there would be no initial pension cost), that position was instead filled by an employee already working at the Bar who was entitled to receive a pension payment.

Printing costs are over budget by \$1,027 due to higher than anticipated costs associated with printing of brochures.

High School Mock Trial

Regional Competition costs are more than anticipated primarily due to higher than anticipated security costs, primarily at the Decatur site.

National Competition costs were more than **\$1,442** than what was originally anticipated due to a timing issue. The Bar anticipates receiving a contribution from certain monies raised by the team that won the Georgia state competition. The Bar incurred certain costs which have been paid for but the reimbursement of these costs has not yet been received.

Institute of Continuing Legal Education (ICLE)

Attorney and staff travel is greater than the budget due to incurring additional travel costs by the ICLE Director than originally anticipated (travel, attendance and participation at many of the institutes). These amounts were not included in the original budget. However, this work is consistent with our ongoing efforts to improve our partnerships with key stakeholders, provide member value, and our focus on continual improvements in the department.

Subscriptions and books are over budget primarily due to the following: (1) there was an increase in the costs of CE21 and (2) additional Adobe subscriptions were purchased.

Credit card discount and fees are over budget by \$3,004 due to the increased use of credit cards to pay for courses taken.

Luncheons are in excess of the budget due to incurrence of costs for working lunches while the CE21 software program was being implemented.

Supreme Court Meetings

Supreme Court meeting costs are in excess of the budget by \$16,661 primarily due to the following: (1) in prior years, the costs of attendance for non-officer Executive Committee members who attended the joint meeting were absorbed by those EC members. In the current year, these costs were absorbed by the Bar and not by the members; and (2) in prior years, certain costs of the joint meeting were charged to the Executive Committee line item. In this year, those costs were charged to the Supreme Court meeting line item.

Election Costs

Election costs are in excess of the budget by approximately \$5,000 primarily due to costs incurred of approximately \$4,800 for the run-off in YLD. We did not budget for any run-offs in YLD.

Dues notice is over budget by \$1,805 primarily due to costs associated with additional notification to members who were late with their dues' payments. These costs included materials sent to members along with the cost of postage.

Bar membership cards are over budget by \$1,821 because of the following: (1) additional members received bar cards more than what was originally budgeted for and (2) photo IDs were obtained by members more than what was originally anticipated.

50 Year Certificates

Costs for 50-year certificates are in excess of budget as there was a significant increase in the number of members that received these certificates during the current fiscal year as compared to prior years.

Fastcase

Total costs for Fastcase exceeded the budget by \$1,418 due to an increase greater than anticipated in the number of members along with an increase in the price per member.

Shared Office

Telephone has exceeded the budget due to a change in the coverage related to the Bar location in Atlanta along with Savannah and Tifton. Certain changes were made to save costs overall for the Bar. While costs in Atlanta are over budget, costs in Tifton are under budget. In addition, costs for the new phone system installation have caused this account to be over budget.

Computer software is over budget by \$1,126 due to additional use of the Certify system for payments to employees for use of corporate credit cards along with reimbursement to employees for other non-corporate credit card purposes.

Audit costs exceeded the budget due to costs associated with the unallocated cash study that the auditors assisted on.

Building and other insurance costs have exceeded the budget due to the significant increase in insurance costs over the one-year period. While an increase in costs was anticipated when the budget was prepared, the actual costs are greater than what was originally budgeted.

Human Resources

The Human Resources department is over budget by \$19,212 due to the following: (1) taxes and benefits have exceeded the budget by \$11,048 primarily due to the cost of health insurance for one of the department's employees. There was a change in the type of health coverage; and (2) recruitment costs exceeded the budget due to turnover.

Sections

Subscriptions and books are over budget by \$1,949 due to the purchase of additional Zoom meeting licenses that were not included in the original budget.

Computer hardware is in excess of the budget by \$1,447 due to the purchase of computer equipment for a new Sections employee. This amount was not originally budgeted for.

Other Bar Center Operations

Investment Service Fee costs exceeded the budget primarily because the amount allocated to the Bar Center operations was higher than anticipated due to a greater portfolio value than what was originally anticipated.

The Bar incurred the following building rehab costs: (1) \$24,252 in building rehab costs due to the study that was performed on the various systems associated with the Bar building located in Atlanta and (2) \$23,095 in costs associated with cabling and control panels in preparation of the purchase of a new computer software system to be used for building management. Neither of these costs were originally budgeted for.

Second floor buildout is over budget due to additional building costs for tenant improvements on the second floor. Georgia Legal Services agreed to a new five-year lease and the Bar agreed to make certain tenant improvements for them. These expenditures were not originally anticipated.

Rental

Rental telephone expense is in excess of the budget by **\$4,594** due to (1) costs of \$2,094 incurred to provide computer and internet access for the engineering office and (2) additional fees associated with the building engineer's computer, computer sharing and consulting costs. These costs were not originally budgeted for.

Repairs and maintenance salaries are in excess of the budget by \$10,698 due to a salary increase that was not originally budgeted for.

Repairs and maintenance for HVAC is over budget by \$12,878 due to a repair in the amount of \$15,000 that occurred in June 2023. This repair was not anticipated in the original budget.

Rental plumbing is over budget by **\$93,817** due to \$98,892 of costs incurred associated with the repair of a broken drainage pipe. This repair was not anticipated when the budget was originally prepared.

Fire/Life Safety is in excess of the budget by \$5,753 primarily due to the repair costs of \$7,257 associated with a fire/life safety generator. This repair was not anticipated when the budget was originally prepared.

Other general building repairs and maintenance is over budget by **\$48,559** primarily due to costs incurred to recaulk all windows on the north side of the State Bar building located in Atlanta. Many of these windows were leaking and, as such, the Bar recaulked all of the windows on that side. All of the windows were recaulked to avoid potential future damage including water intrusion.

Water costs are in excess of the budget due to additional water usage coupled with more staff working in the office.

Gas for the building is over budget primarily due to an increase in the price per therm for the gas greater than what was originally anticipated.

Security contract is over budget due to the following: (1) an increase in the amounts paid to the security guards that had not received a salary adjustment for a number of years. This increase was made to bring their salaries more in alignment with the current market conditions and (2) at the time of budget preparation the increased salaries were not yet known or anticipated.

Insurance costs have exceeded the budget due to the significant increase in insurance costs over the one-year period. While an increase in costs was anticipated when the budget was prepared, the actual costs are greater than what was originally budgeted.

Parking

Payroll taxes and medical insurance/benefits were in excess of the budget by a total of \$3,729. This is due to a slight underbudgeting for these two expenses.

Workers' compensation for parking operations is in excess of the budget primarily due to an increase in worker's compensation rates that was not budgeted for.

Parking office expenses are over budget due to expenses associated with an internet line used in the parking garage for credit card payments. The Bar was charged for this expense for the period of January 2022 through July 2022 in the month of August. The Bar had historically never been charged by the parking operations company for the use of this line.

Bank charges are over budget primarily due to additional banking deposits and activity in the current fiscal year as compared to prior fiscal years when due to the pandemic there was less activity.

Credit card fees are in excess of the budget by **\$6,022** due to increased use of credit cards for special events parking.

Garage insurance is in excess of the budget due to an increase in the insurance rates that was not budgeted for.

Security for parking is over budget due to the significant number of additional special events that occurred that were not originally anticipated. While parking costs are over budget, the amount of income received for special event parking is also significantly greater than originally anticipated.

Incentive management fees are in excess of budget consistent with the terms of the operating contract and due to the additional revenue earned associated with special events.

Shared Office Overhead

Shared office allocations exceed actual shared office expense by approximately **\$133,500**. This is a positive variance. This number will fluctuate throughout the year.

Please give me a call at (404) 527-8748 or my cell number at 678-761-5889 if you have any questions regarding the attached financial statements.

cc: Damon Elmore
Paula Frederick
Sarah Coole

State Bar of Georgia
Consolidated Revenues and Expenditures
Operations and Bar Center Combined
For the Year To Date Period Ending June 30, 2023

	Year Ending 06/30/2022	Year To Date June 30, 2023	% of Budget	Year Ending 06/30/2023
	Actual	Actual		Annual Budget
Membership Numbers				
Active Members	41,143	41,628	100.31 %	41,500
Inactive Members	8,341	8,169	99.93 %	8,175
Provisional Members	37	26	14.05 %	185
Associates/Affiliates	15	11	91.67 %	12
Foreign Legal Consultants	6	9	150.00 %	6
Students	401	453	139.38 %	325
Emeritus	3,794	4,189	105.52 %	3,970
Total Membership Numbers	53,737	54,485	100.58 %	54,173
Revenue				
Dues Active	10,425,069	10,798,285	100.08 %	10,790,000
Dues Inactive	1,082,021	1,085,384	102.13 %	1,062,750
Dues Provisional	16,891	18,524	77.02 %	24,050
Dues Associates	1,300	1,050	87.50 %	1,200
Dues Foreign Legal Consultant	1,524	1,429	91.60 %	1,560
Dues Late Fees	285,645	252,825	97.24 %	260,000
Dues NSF Check Fee	80	220	110.00 %	200
Dues Prior Years	8,519	5,655	113.10 %	5,000
Total License and Dues	11,821,049	12,163,372	100.15 %	12,144,760
Program Registration Income	4,842,269	4,882,064	117.64 %	4,150,000
Section Expense Reimbursement	188,676	301,403	100.00 %	301,403
CSF Expense Reimbursement	73,000	73,000	100.00 %	73,000
Advertising and Sales	54,863	48,045	105.36 %	45,600
Membership Income	156,272	174,181	124.15 %	140,300
Credit Card Processing Fees	102,501	119,502	117.16 %	102,000
Interest Income	(37,130)	(33,332)	(14.49) %	230,000
Miscellaneous Revenues	1,506	186,223	3,103.71 %	6,000
Total Bar Revenue	17,203,005	17,914,458	104.20 %	17,193,063
Total Bar Expenses	14,242,535	16,229,190	94.04 %	17,258,364
SBG Net Gain (Loss)	\$ 2,960,470 \$	1,685,268	(2,580.77) %	\$ (65,301)

Note: Non-Cash depreciation expenses are excluded from this schedule.

State Bar of Georgia
Consolidated Revenues and Expenditures
Operations and Bar Center Combined
For the Year To Date Period Ending June 30, 2023

	Year Ending 06/30/2022 Actual	Year To Date June 30, 2023 Actual	% of Budget	Year Ending 06/30/2023 Annual Budget
Total Bar Center Operations Revenue	2,176,271	2,972,797	119.50 %	2,487,700
Total Bar Center Operations Expenses	2,267,649	2,601,174	110.37 %	2,356,732
Total Bar Center Operations Net Gain (Loss)	\$ (91,378) \$	371,623	283.75 % \$	130,968
Combined Revenue	19,379,276	20,887,255	106.13 %	19,680,763
Combined Expenses	16,510,184	18,830,364	96.00 %	19,615,096
Total Combined Net Income (Loss)	\$ 2,869,092 \$	2,056,891	3,132.30 % \$	65,667

Note: Non-Cash depreciation expenses are excluded from this schedule.

State Bar of Georgia
Total Bar Center Operations
Revenues and Expenditures - Executive Summary
For the Year To Date Period Ending June 30, 2023

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Bar Center Income and Cash Receipts							
Bar Center Assessments	0	0.00 %	165	82.50 %	200	35	350
Gain/Loss Investment Interest Allocation	5,726	0.00 %	55,035	0.00 %	0	(55,035)	(347,796)
CCLC Contributions to Bar Center	900,631	67.97 %	1,400,630	105.71 %	1,325,000	(75,630)	1,286,677
Interest and Dividend Income	32,267	32.27 %	115,247	115.25 %	100,000	(15,247)	115,359
Bar Center Income and Cash Receipts	\$ 938,624	65.86 %	\$ 1,571,077	110.24 %	\$ 1,425,200	\$ (145,877)	\$ 1,054,590
Bar Center Expenses and Cash Disbursements							
Bond Premium Amortization	3,966	9.91 %	15,712	39.28 %	40,000	24,288	37,249
Investment Service Fees	6,525	29.66 %	26,697	121.35 %	22,000	(4,697)	24,411
Parking Deck Construction	0	0.00 %	850	0.00 %	0	(850)	0
Conference Center Renovations	0	0.00 %	0	0.00 %	0	0	12,911
Museum and 1st Floor Exhibit	0	0.00 %	0	0.00 %	5,000	5,000	0
Audio Video, Furniture and Equipment	2,124	7.59 %	18,990	67.82 %	28,000	9,010	650
Building Rehabilitation	23,095	0.00 %	47,347	0.00 %	0	(47,347)	17,794
2nd Floor Buildout	0	0.00 %	30,025	0.00 %	0	(30,025)	129,298
Bar Center Expenses and Cash Disbursements	\$ 35,710	37.59 %	\$ 139,621	146.97 %	\$ 95,000	\$ (44,621)	\$ 222,313
Bar Center Combined Net Cash Flow	\$ 902,914	67.88 %	\$ 1,431,456	107.61 %	\$ 1,330,200	\$ (101,256)	\$ 832,277
Conference Center Income and Expenses							
Room Rentals and Various Charges	220	1.91 %	12,683	110.29 %	11,500	(1,183)	5,869
Conference Center Operating Expenses	34,828	7.51 %	444,934	96.00 %	463,462	18,528	420,660
Conference Center Combined Net Cash Flow	\$ (34,608)	7.66 %	\$ (432,251)	95.64 %	\$ (451,962)	\$ (19,711)	\$ (414,792)
Rental Income and Expenses							
Rental Income	76,422	8.73 %	919,520	105.09 %	875,000	(44,520)	935,972
Building Operating Expenses	159,833	10.57 %	1,683,844	111.34 %	1,512,300	(171,544)	1,343,086
Rental Combined Net Cash Flow	\$ (83,411)	13.09 %	\$ (764,324)	119.93 %	\$ (637,300)	\$ 127,024	\$ (407,114)
Parking Income and Expenses							
Parking Income	26,758	15.20 %	469,518	266.77 %	176,000	(293,518)	179,841
Parking Deck Operating Expenses	25,665	8.97 %	332,775	116.37 %	285,970	(46,805)	281,990
Parking Combined Net Cash Flow	\$ 1,093	(0.99) %	\$ 136,743	(124.35) %	\$ (109,970)	\$ (246,713)	\$ (101,749)
Total Bar Center Operations Net Gain (Loss)	\$ 785,987	600.14 %	\$ 371,623	283.75 %	\$ 130,968	\$ (240,655)	\$ (91,378)

Note: Non-Cash depreciation expense and gain/loss on disposal of fixed assets are excluded from this schedule.

Created on 09/02/2023

State Bar of Georgia

State Bar of Georgia
Income Statement YTD - Operations
For the Year To Date Period Ending June 30, 2023

	YTD Actual	Annual Budget	YTD % of Budget	Prior Year
Revenues				
Dues - Active	\$ 10,798,285	\$ 10,790,000	100.08 %	\$ 10,425,069
Dues - Inactive	1,085,384	1,062,750	102.13 %	1,082,021
Dues - Provisional	18,524	24,050	77.02 %	16,891
Dues - Misc. Types	2,479	2,760	89.82 %	2,824
Dues - Late Fees	258,700	265,200	97.55 %	294,244
Total Dues & Licenses	12,163,372	12,144,760	100.15 %	11,821,049
Program Registration Income	4,882,064	4,150,000	117.64 %	4,842,269
Section Expense Reimbursement	301,403	301,403	100.00 %	188,676
CSF Expense Reimbursement	73,000	73,000	100.00 %	73,000
Advertising and Sales	48,045	45,600	105.36 %	54,863
Membership Income	82,506	57,300	143.99 %	72,497
Pro Hac Vice	429,175	415,000	103.42 %	410,375
Pro Hac Vice Contra	(337,500)	(332,000)	101.66 %	(326,600)
Credit Card Processing Fees	119,502	102,000	117.16 %	102,501
Interest Income	(33,332)	230,000	(14.49) %	(37,130)
Miscellaneous Revenues	186,223	6,000	3,103.71 %	1,506
Total Revenues	17,914,458	17,193,063	104.20 %	17,203,005
Expenses				
Administration	2,600,791	2,622,728	99.16 %	2,469,098
General Counsel	4,484,235	4,493,255	99.80 %	4,110,423
Communications	946,247	858,573	110.21 %	723,056
Lawyer's Assistance Program	125,000	125,000	100.00 %	85,000
Fee Arbitration	531,755	602,030	88.33 %	522,535
Law Practice Management	447,850	479,790	93.34 %	372,015
Sections	249,355	301,403	82.73 %	188,553
Savannah Office	309,323	291,219	106.22 %	261,461
Tifton Office	146,352	162,489	90.07 %	136,431
Young Lawyers	360,884	440,598	81.91 %	327,608
Unauthorized Practice of Law	878,889	900,403	97.61 %	843,791
Law Related Education	386,937	410,637	94.23 %	320,116
High School Mock Trial	161,081	174,932	92.08 %	133,750
ICLE	3,493,090	3,963,100	88.14 %	2,599,173

Note: For Total Other Expenses, the details can be found on the next page.

State Bar of Georgia
Income Statement YTD - Operations
For the Year To Date Period Ending June 30, 2023

	YTD Actual	Annual Budget	YTD % of Budget	Prior Year
Pro Bono	212,216	212,216	100.00 %	212,216
Fastcase	281,419	280,000	100.51 %	267,738
Officers' Expenses	43,726	97,000	45.08 %	32,253
Resource Center Contribution	55,166	55,166	100.00 %	55,166
Total Other Expenses	648,423	787,825	82.31 %	641,476
Unallocated Services	(133,549)	0	0.00 %	(59,323)
Total Expenses	16,229,190	17,258,364	94.04 %	14,242,535
Net Income	\$ 1,685,268	\$ (65,301)	(2,580.77) %	\$ 2,960,470

Note: For Total Other Expenses, the details can be found on the next page.

Created on 09/11/2023
State Bar of Georgia

State Bar of Georgia
Supporting Schedule of Other Expenses - YTD
For the Year To Date Period Ending June 30, 2023

	YTD Actual	Annual Budget	YTD % of Budget	Prior Year
Other Expenses				
BOG and Member Meetings	\$ 400,237	\$ 471,900	84.81 %	\$ 384,136
Supreme Court Meetings	46,661	30,000	155.54 %	26,489
Executive Committee Meetings	33,891	40,000	84.73 %	40,983
State Disciplinary Board Lawyers	30,000	30,000	100.00 %	32,375
Electronic Ballots	23,411	18,375	127.41 %	18,628
Dues Notice	34,806	33,000	105.47 %	31,473
Letters of Good Standing	2,210	2,500	88.41 %	2,295
Bar Membership Cards	10,671	8,850	120.58 %	8,236
50 Year Certificates	3,823	2,700	141.60 %	1,831
State Bar Committees	18,705	29,000	64.50 %	18,231
Georgia Diversity Program	10,000	10,000	100.00 %	10,000
ABA Delegate Breakfast	2,134	2,500	85.36 %	0
1st Floor Painting	2,600	3,000	86.67 %	2,700
Commitment to Equality Awards	2,500	2,500	100.00 %	2,500
Bond Premium Amortization	9,749	65,000	15.00 %	39,604
Investment Service Fees	14,525	36,000	40.35 %	21,995
Access to Justice/Pro Bono	2,500	2,500	100.00 %	0
Total Other Expenses	\$ 648,423	\$ 787,825	82.31 %	\$ 641,476

State Bar of Georgia
 Status and Use of Cash and Investments
 For the Current Period Ending June 30, 2023

Cash and Investments - Bar	\$ 42,452,137
Less:	
CCLC Cash and Investments Included in Above Amount	<u>(6,258,505)</u>
Net Cash Available for State Bar	<u>36,193,633</u>
Use of Cash:	
Less:	
Board Designated - See Separate Schedule Attached	(8,792,311)
Donor Temporarily Restricted - See Separate Schedule Attached	(2,315,655)
Total Board Designated and Temporarily Restricted	<u>(11,107,967)</u>
Other - Cash Allocated:	
Collection of Outstanding Accounts Receivable	141,967
Payment of Accounts Payable	(1,206,956)
Payment of Accrued Vacation	(575,166)
Deferred Income	(10,156,267)
Payment of Credit Card Bill	(282,974)
Payment of Accrued Salary	(335,503)
Payment of Accrued Taxes	(25,666)
Payment of Other Accrued Expenses (primarily pension)	(708,902)
Payment to Client Security Fund	(2,212,203)
Net Amount to be Received From Related Entities	540,410
Total Other - Cash Allocated	<u>(14,821,260)</u>
Estimated Cash and Investments - June 30, 2023 - Bar	<u><u>10,264,406</u></u>
Cash and Investments - Bar Center	144,807
Other Cash Allocated - Bar Center:	
Collection of Outstanding Accounts Receivable	84,322
Payment of Accounts Payable	(77,572)
Deferred Income	(23,596)
Payment of Other Accrued Expenses	(137,964)
Total Other - Cash Allocated - Bar Center	<u>(154,810)</u>
Estimated Cash and Investments June 30, 2023 - Bar Center	<u><u>(10,003)</u></u>
Total Estimated Cash Balance at June 30, 2023	\$ 10,254,403

Note: The above schedule reflects the status of cash and investments as of the month end indicated above. There are no other funds or investments held in any institution that are not included on this schedule.

State Bar of Georgia
Board-Designated and Donor Temporarily Restricted Net Assets
For the Year To Date Period Ending June 30, 2023

	June 30, 2020	June 30, 2021	June 30, 2022	June 30, 2023
Board Designated				
Board Designated - General Operations - Bar	\$ 2,750,000	\$ 2,750,000	\$ 2,750,000	\$ 2,750,000
Board Designated - General Operations - Bar Center	2,000,000	2,000,000	2,000,000	2,000,000
Litigation	300,000	300,000	300,000	300,000
Board Designated - Sections	3,097,034	3,431,439	3,677,156	3,664,312
YLD Meetings	87,820	116,852	88,929	77,999
Total Board-Designated excludes ICLE	\$ 8,234,854	\$ 8,598,291	\$ 8,816,085	\$ 8,792,311
Donor Temporarily Restricted				
Legislative	\$ 1,094,092	\$ 1,350,873	\$ 1,503,629	\$ 1,806,483
Law Related Education/Marshall fund	233,708	231,160	212,684	207,599
High School Mock Trial	15,486	15,482	18,617	15,299
Basics Program	69,517	119,460	115,094	116,951
Younger Lawyers	170,213	115,020	87,006	87,199
Lawyers Assistance	34,698	34,650	33,188	31,863
Georgia Diversity Program	13,596	55,807	46,528	13,555
Bar Media Conference	20,839	21,834	13,037	3,115
Justice Hunstein's Portrait	15,152	25,651	0	0
Law Day	6,517	6,516	6,266	6,212
Access to Justice	1,493	1,492	1,435	3,175
iCivics Program	868	0	0	0
Promote Inclusion	14,211	13,285	8,842	8,701
State Bar of Georgia Foundation	100	3,134	0	0
Military Vet Pro Bono	14,710	14,807	14,240	14,481
Justice Portraits	0	0	1,006	1,022
Total Donor Temporarily Restricted	\$ 1,705,201	\$ 2,009,171	\$ 2,061,572	\$ 2,315,655
Net Board Designated and Donor Temporarily Restricted	\$ 9,940,054	\$ 10,607,462	\$ 10,877,657	\$ 11,107,967

State Bar of Georgia
Summary of Members and Voluntary Legislative Contributions
With Contributions Paid Through June 30, 2023

Dues	2023-24 Dues Season	2022-23 Dues Season	2021-22 Dues Season
Total Number of Members at Apr 30 of Previous Bar year (active and inactive)	49,695	49,400	48,965
Active - Number Paid	29,478	42,018	41,572
Inactive - Number Paid	5,225	8,341	8,558
Total Number of Members With Dues Paid	34,703	50,359	50,130
Percent of Total Members With Dues Paid	69.8%	101.9%	102.4%
Number of Members Who Made A Contribution	6,295	8,482	8,148
Percent of Members Who Made A Contribution	18.1%	16.8%	16.3%
Total Contribution Amount	\$ 604,526	\$ 803,415	\$ 760,350
Average Amount Paid	\$ 96	\$ 95	\$ 93

Legislative Contribution Amounts by Dues Year

2023 - 2024	\$ 604,526
2022 - 2023	\$ 803,415
2021 - 2022	\$ 760,350
2020 - 2021	\$ 766,123
2019 - 2020	\$ 322,708
2018 - 2019	\$ 494,906
2017 - 2018	\$ 546,905
2016 - 2017	\$ 557,991
2015 - 2016	\$ 565,004
2014 - 2015	\$ 640,505

Purpose: The purpose of the above schedule is to reflect donations to the Legislative Fund for each period shown. The information reflects the total number of members who have made a contribution along with applicable percentages. The number of members above reflect the members who paid during the dues season indicated above. The dues season does not correspond to the fiscal year but starts in advance of the fiscal year. In addition, if members change status (active, inactive, emeritus, etc), this change will be reflected in the membership counts at month end but will not be reflected in the above schedule.

State Bar of Georgia
Summary of Members and Voluntary Contributions to Georgia Legal Services Program (GLSP)
With Contributions Paid Through June 30, 2023

Dues	2023-24 Dues Season	2022-23 Dues Season	2021-22 Dues Season
Total Number of Members at Apr 30 of Previous Bar year (active and inactive)	<u>49,695</u>	<u>49,400</u>	<u>48,965</u>
Active - Number Paid	29,478	42,018	41,572
Inactive - Number Paid	<u>5,225</u>	<u>8,341</u>	<u>8,558</u>
Total Number of Members With Dues Paid	<u>34,703</u>	<u>50,359</u>	<u>50,130</u>
Percent of Total Members With Dues Paid	<u>69.8%</u>	<u>101.9%</u>	<u>102.4%</u>
Number of Members Who Made A Contribution	<u>2,428</u>	<u>3,539</u>	<u>3,647</u>
Percent of Members Who Made A Contribution	<u>7.0%</u>	<u>7.0%</u>	<u>7.3%</u>
Total Contribution Amount	<u>\$ 350,097</u>	<u>\$ 483,850</u>	<u>\$ 478,287</u>
Average Contribution Amount	<u>\$ 144</u>	<u>\$ 137</u>	<u>\$ 131</u>

GLSP Contribution Amounts by Dues Year

2023 - 2024	<u>\$ 350,097</u>
2022 - 2023	<u>\$ 483,850</u>
2021 - 2022	<u>\$ 478,287</u>
2020 - 2021	<u>\$ 436,815</u>
2019 - 2020	<u>\$ 366,674</u>
2018 - 2019	<u>\$ 295,454</u>
2017 - 2018	<u>\$ 312,251</u>
2016 - 2017	<u>\$ 276,487</u>
2015 - 2016	<u>\$ 264,492</u>
2014 - 2015	<u>\$ 255,713</u>

Purpose: The purpose of the above schedule is to reflect donations to the Georgia Legal Services Program for each period shown. The information reflects the total number of members who have made a contribution along with applicable percentages.

The number of members shown above is not the same as the number of members at the end of the month. The number of members above reflect the members who paid during the dues season indicated above. The dues season does not correspond to the fiscal year but starts in advance of the fiscal year. In addition, if members change status (active, inactive, emeritus, etc), this change will be reflected in the membership counts at month end but will not be reflected in the above schedule.

**State Bar of Georgia
Income Statement
From July 1, 2022 Through June 30, 2023**

July 1, 2022 Beginning Balance	\$ 1,503,629
Income:	
Interest and Dividend Income	29,039
Gain/Loss Investment Interest Allocation	16,631
Miscellaneous Income	805,582
Total Income	851,252
Expenditures:	
Staff and Contract Lobbyists	486,266
Grassroots Efforts	509
Travel	5,993
Legislative Guests/Meetings	5,601
Shared Office Allocation	19,384
Computer Software	175
Miscellaneous	30,470
Total Expenditures	548,398
Net Donor Temporarily Restricted Balance	\$ 1,806,483

Client Security Fund

**State Bar of Georgia
Summary of Client Security Fund Activity
For the Year To Date Period Ending June 30, 2023**

	2020 June 30	2021 June 30	2022 June 30	June 30, 2023
Fund Balance, Beginning of Year	\$ 1,031,012	\$ 1,009,586	\$ 1,798,187	\$ 1,634,260
Income:				
Interest and Dividend Income	13,214	17,568	26,218	33,117
Gain/Loss Investment Interest Allocation	13,064	(9,942)	(79,620)	19,577
Client Security Fund Assessments	85,896	78,279	77,590	751,680
Restitution Income	30,027	23,095	85,621	18,445
Total Income	\$ 142,201	\$ 109,000	\$ 109,809	\$ 822,819
Transfer from Others				
Miscellaneous Income	388,000	0	0	0
Operating Transfer In	0	1,000,000	0	0
Total Transfer from Others	\$ 388,000	\$ 1,000,000	\$ 0	\$ 0
Expenses:				
Restricted Expenses	73,000	73,000	73,000	73,000
Client Security Fund Claims Payments	474,387	238,713	186,737	159,879
Bond Premium Amortization	2,341	5,630	8,444	4,288
Investment Service Fees	1,900	3,056	5,555	7,710
Total Expenses	\$ 551,628	\$ 320,399	\$ 273,736	\$ 244,877
Net Income	\$ (21,427)	\$ 788,601	\$ (163,927)	\$ 577,942
Fund Balance, End of Period	\$ 1,009,586	\$ 1,798,187	\$ 1,634,260	\$ 2,212,202

Administration

State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	91,225	7.47 %	1,198,492	98.19 %	1,220,586	22,094	1,177,453
Overtime	2,303	31.98 %	3,992	55.45 %	7,200	3,208	6,457
Taxes and Benefits	19,913	5.50 %	323,243	89.21 %	362,348	39,105	336,685
Pension	7,870	8.39 %	93,904	100.05 %	93,855	(49)	82,039
Total Personnel Services	121,311	7.20 %	1,619,631	96.18 %	1,683,989	64,358	1,602,634
Operating Expenses							
Shared Office Allocation	41,999	8.33 %	503,989	100.00 %	503,989	0	441,480
Postage and Freight	284	5.92 %	4,235	88.23 %	4,800	565	2,765
Printing	0	0.00 %	108	107.00 %	100	(8)	0
Supplies	348	10.86 %	2,727	85.22 %	3,200	473	3,028
Telephone	375	10.42 %	4,500	125.00 %	3,600	(900)	4,350
Subscriptions and Books	0	0.00 %	2,097	66.58 %	3,150	1,053	2,003
Dues and Memberships	0	0.00 %	1,565	100.32 %	1,560	(5)	1,525
Seminars and Training	127	1.85 %	4,409	64.36 %	6,850	2,441	658
Miscellaneous	4,262	106.56 %	8,057	201.43 %	4,000	(4,057)	3,371
Attorney and Staff Travel	15,030	34.17 %	29,356	66.73 %	43,990	14,634	30,237
Executive Director Travel	2,770	18.47 %	16,691	111.27 %	15,000	(1,691)	10,349
Lunches	95	5.91 %	2,065	129.09 %	1,600	(465)	945
Bank Fees	4,521	30.14 %	11,368	75.79 %	15,000	3,632	18,671
Credit Card Discount and Fees	101,997	40.80 %	311,947	124.78 %	250,000	(61,947)	260,735
Computer Hardware	0	0.00 %	0	0.00 %	0	0	4,077
Computer Software	0	0.00 %	1,938	322.93 %	600	(1,338)	1,289
Membership Software License	0	0.00 %	71,539	95.01 %	75,300	3,761	75,241
Contract Programming	4,569	76.15 %	4,569	76.15 %	6,000	1,431	5,740
Total Operating Expenses	176,377	18.79 %	981,160	104.52 %	938,739	(42,421)	866,464
Total Expenses	\$ 297,688	11.35 %	\$ 2,600,791	99.16 %	\$ 2,622,728	\$ 21,937	\$ 2,469,098

OGC & CAP

**State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	\$ 220,950	8.22 %	\$ 2,695,722	100.30 %	\$ 2,687,661	\$ (8,061)	\$ 2,543,939
Salaries-Hourly PT	2,196	4.62 %	23,837	50.20 %	47,486	23,649	24,903
Overtime	340	7.93 %	1,771	41.19 %	4,300	2,529	1,230
Taxes and Benefits	45,785	6.28 %	645,290	88.52 %	728,942	83,652	610,857
Pension	15,259	7.77 %	195,326	99.43 %	196,436	1,110	176,280
Total Personnel Services	284,530	7.76 %	3,561,946	97.19 %	3,664,825	102,879	3,357,209
Operating Expenses							
Shared Office Allocation	46,845	8.33 %	562,142	100.00 %	562,142	0	492,420
Postage and Freight	1,126	7.51 %	14,032	93.55 %	15,000	968	12,976
Printing	0	0.00 %	56	11.10 %	500	444	0
Supplies	540	4.50 %	19,789	164.91 %	12,000	(7,789)	8,431
Telephone	1,270	35.27 %	3,934	109.27 %	3,600	(334)	3,601
Subscriptions and Books	576	3.31 %	20,075	115.37 %	17,400	(2,675)	20,059
Dues and Memberships	0	0.00 %	8,893	80.84 %	11,000	2,107	7,737
Seminars and Training	0	0.00 %	8,927	127.52 %	7,000	(1,927)	5,373
Miscellaneous	206	10.29 %	979	48.96 %	2,000	1,021	298
Recruitment Costs	0	0.00 %	0	0.00 %	2,000	2,000	0
Attorney and Staff Travel	15,919	31.84 %	38,045	76.09 %	50,000	11,955	28,820
Investigator Travel	290	7.24 %	3,402	65.05 %	4,000	597	2,436
Lunches	80	6.21 %	578	44.44 %	1,300	723	0
Computer Hardware	0	0.00 %	2,795	0.00 %	0	(2,795)	20,973
Computer Software	17	0.40 %	5,043	126.09 %	4,000	(1,043)	4,499
Contract Labor	0	0.00 %	0	0.00 %	4,000	4,000	0
Contract Programming	14,625	146.25 %	14,625	146.25 %	10,000	(4,625)	19,937
Receiverships	3,386	56.44 %	7,545	125.75 %	6,000	(1,545)	1,265
State Disciplinary Board Panel	17,814	35.63 %	64,686	129.37 %	50,000	(14,686)	38,549
Contract Special Master	5,480	13.70 %	124,628	311.57 %	40,000	(84,628)	67,121
Lexis Online	3,208	14.93 %	21,005	97.75 %	21,488	483	18,719
Total Operating Expenses	111,382	13.53 %	921,179	111.87 %	823,430	(97,749)	753,214
Furniture/Equipment	(572)	(11.44) %	1,110	22.20 %	5,000	3,890	0
Total Expenses	\$ 395,340	8.80 %	\$ 4,484,235	99.80 %	\$ 4,493,255	\$ 9,020	\$ 4,110,423

Communications

State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	23,199	8.62 %	276,098	102.63 %	269,010	(7,088)	243,424
Overtime	340	21.27 %	535	33.43 %	1,600	1,065	818
Taxes and Benefits	8,673	9.37 %	94,660	102.24 %	92,585	(2,075)	77,954
Pension	2,712	15.80 %	18,447	107.46 %	17,166	(1,281)	13,727
Total Personnel Services	34,924	9.18 %	389,740	102.47 %	380,361	(9,379)	335,923
Expenses							
Shared Office Allocation	6,461	8.33 %	77,537	100.00 %	77,537	0	67,920
Postage and Freight	185	16.80 %	1,891	171.87 %	1,100	(791)	1,403
Supplies	26	2.61 %	80	8.00 %	1,000	920	1,084
Telephone	75	8.33 %	900	100.00 %	900	0	825
Subscriptions and Books	40	0.58 %	4,193	60.59 %	6,920	2,728	6,158
Dues and Memberships	0	0.00 %	405	100.00 %	405	0	270
Seminars and Training	0	0.00 %	1,185	33.86 %	3,500	2,315	50
Miscellaneous	40	3.07 %	352	27.06 %	1,300	948	961
Attorney and Staff Travel	3,877	33.14 %	11,669	99.73 %	11,700	31	8,698
Luncheons	0	0.00 %	0	0.00 %	100	100	0
Credit Card Discount and Fees	47	0.00 %	292	0.00 %	0	(292)	0
Computer Hardware	0	0.00 %	1,104	0.00 %	0	(1,105)	1,359
Computer Software	0	0.00 %	1,458	91.10 %	1,600	143	1,457
Media Consultants	10,947	21.89 %	28,759	57.52 %	50,000	21,241	32,474
Website Server/Redesign	11,497	38.32 %	55,660	185.53 %	30,000	(25,660)	32,111
Membership Certificates	392	19.57 %	1,845	92.24 %	2,000	155	2,143
Subtotal	33,587	17.86 %	187,329	99.61 %	188,062	733	156,912
Furniture/Equipment	0	0.00 %	0	0.00 %	4,600	4,600	0
Subtotal	68,510	11.96 %	577,068	100.71 %	573,023	(4,045)	492,834
Publications							
Bar Journal	54,542	19.71 %	359,790	130.01 %	276,750	(83,040)	223,868
Supplemental Directory	0	0.00 %	8,451	115.77 %	7,300	(1,151)	6,353
Special Publications and Printing	0	0.00 %	937	62.46 %	1,500	563	0
Total Publications	54,542	19.10 %	369,178	129.29 %	285,550	(83,628)	230,221
Total Communications	123,053	14.33 %	946,247	110.21 %	858,573	(87,674)	725,056

Fee Arbitration

**State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	32,564	11.48 %	271,077	95.60 %	283,555	\$ 12,478	\$ 255,292
Overtime	0	0.00 %	0	0.00 %	1,500	1,500	48
Taxes and Benefits	8,093	6.53 %	77,095	62.19 %	123,956	46,862	95,581
Pension	5,353	33.30 %	20,085	124.97 %	16,072	(4,013)	14,854
Total Personnel Services	46,010	10.82 %	368,257	86.63 %	425,083	56,826	365,775
Operating Expenses							
Shared Office Allocation	6,461	8.33 %	77,537	100.00 %	77,537	0	67,920
Postage and Freight	662	8.82 %	5,408	72.10 %	7,500	2,092	6,785
Printing	0	0.00 %	2,444	81.47 %	3,000	556	2,764
Supplies	823	43.33 %	1,796	94.54 %	1,900	104	900
Subscriptions and Books	0	0.00 %	977	96.72 %	1,010	33	305
Dues and Memberships	0	0.00 %	305	76.25 %	400	95	0
Seminars and Training	0	0.00 %	0	0.00 %	400	400	0
Miscellaneous	36	2.97 %	71	5.92 %	1,200	1,129	735
Attorney and Staff Travel	0	0.00 %	0	0.00 %	2,500	2,500	0
Luncheons	120	4.00 %	1,317	43.90 %	3,000	1,683	168
Computer Hardware	680	68.03 %	680	68.03 %	1,000	320	4,077
Contract Labor	6,000	8.00 %	72,000	98.00 %	75,000	3,000	72,000
Contract Programming	963	48.13 %	963	48.13 %	2,000	1,038	94
Total Operating Expenses	15,744	8.92 %	163,498	92.66 %	176,447	12,949	156,760
Furniture/Equipment	0	0.00 %	0	0.00 %	500	500	0
Total Expenses	\$ 61,754	10.26 %	\$ 531,755	88.33 %	\$ 602,030	\$ 70,275	\$ 522,535

**State Bar of Georgia
Income Statement
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Revenues							
Consultation	251	3.14 %	1,619	20.23 %	\$ 8,000	\$ 6,381	\$ 665
Publications	0	0.00 %	110	110.54 %	100	(10)	70
Vendor Directory	0	0.00 %	350	4.38 %	8,000	7,650	12,250
Miscellaneous Income	178	71.00 %	1,413	565.00 %	250	(1,163)	1,008
Total Revenues	429	2.62 %	3,492	21.36 %	16,350	12,858	13,992
Personnel Services							
Salaries	22,179	8.54 %	261,104	100.53 %	259,727	(1,377)	209,760
Overtime	354	10.72 %	1,921	58.19 %	3,300	1,379	1,708
Taxes and Benefits	3,552	2.90 %	82,615	67.37 %	122,631	40,016	77,159
Pension	1,763	12.28 %	14,931	103.94 %	14,364	(567)	6,597
Total Personnel Services	27,848	6.96 %	360,571	90.14 %	400,022	39,451	295,224
Operating Expenses							
Shared Office Allocation	6,461	8.33 %	77,537	100.00 %	77,537	0	67,920
Postage and Freight	110	6.08 %	1,069	59.39 %	1,800	731	2,377
Printing	0	0.00 %	372	61.97 %	600	228	0
Supplies	0	0.00 %	797	57.16 %	1,395	598	1,069
Telephone	0	0.00 %	0	0.00 %	100	100	0
Subscriptions and Books	114	1.91 %	3,872	64.53 %	6,000	2,128	4,631
Dues and Memberships	100	6.67 %	324	21.61 %	1,500	1,176	675
Seminars and Training	0	0.00 %	211	16.20 %	1,300	1,090	461
Miscellaneous	700	200.00 %	909	259.65 %	350	(559)	163
Attorney and Staff Travel	2,033	21.29 %	8,133	85.17 %	9,550	1,416	4,524
Lunches	0	0.00 %	75	37.50 %	200	125	101
Credit Card Discount and Fees	2	0.00 %	116	0.00 %	0	(116)	0
Computer Hardware	0	0.00 %	0	0.00 %	0	0	4,077
Computer Software	356	5.25 %	4,899	72.19 %	6,786	1,887	4,785
Total Operating Expenses	9,876	9.22 %	98,314	91.78 %	107,118	8,804	90,783
Total Expenses	37,724	7.44 %	458,885	90.48 %	507,140	48,255	386,007
Solo and Small Firm	399	3.63 %	10,306	93.69 %	11,000	694	0
Showcase Programs	0	0.00 %	(2,763)	0.00 %	0	2,763	0

**State Bar of Georgia
Income Statement
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Net Income	(36,896)	7.69 %	(447,850)	93.34 %	(479,790)	(31,940)	(372,015)

State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	9,412	8.56 %	110,778	100.80 %	109,900	\$(876)	93,781
Overtime	194	38.83 %	419	83.85 %	500	81	940
Taxes and Benefits	3,957	7.22 %	52,227	95.26 %	54,825	2,598	41,820
Pension	821	12.37 %	6,902	104.04 %	6,635	\$(267)	5,962
Total Personnel Services	14,384	8.37 %	170,326	99.11 %	171,860	1,534	142,503
Operating Expenses							
Shared Office Allocation	3,231	8.33 %	38,768	100.00 %	38,768	0	33,960
Postage and Freight	0	0.00 %	0	0.00 %	0	0	13
Printing	182	0.00 %	341	0.00 %	0	\$(341)	0
Supplies	0	0.00 %	49	6.87 %	700	651	774
Telephone	75	8.33 %	900	100.00 %	900	0	750
Subscriptions and Books	99	3.96 %	1,984	79.35 %	2,500	516	3,101
Dues and Memberships	0	0.00 %	90	60.00 %	150	60	90
Seminars and Training	0	0.00 %	0	0.00 %	500	500	88
Miscellaneous	0	0.00 %	0	0.00 %	0	0	465
Attorney and Staff Travel	3,136	33.19 %	9,838	104.11 %	9,450	\$(388)	6,881
Luncheons	0	0.00 %	0	0.00 %	0	0	43
Credit Card Discount and Fees	6	0.00 %	25	0.00 %	0	\$(25)	0
Computer Hardware	0	0.00 %	0	0.00 %	0	0	1,358
Computer Software	0	0.00 %	729	127.86 %	570	\$(159)	611
Committee Brochures	0	0.00 %	8,987	119.83 %	7,500	\$(1,487)	7,063
President	4,038	16.97 %	10,544	44.30 %	23,800	13,256	8,354
President Elect	2,184	12.00 %	10,621	58.36 %	18,200	7,579	5,230
Immediate Past President	1,095	7.50 %	3,386	23.19 %	14,600	11,214	9,046
Treasurer	0	0.00 %	1,300	100.00 %	1,300	0	1,241
Secretary	787	60.52 %	1,300	100.00 %	1,300	0	1,300
Meetings	0	0.00 %	47,500	100.00 %	47,500	0	47,500
Total Operating Expenses	14,832	8.84 %	136,361	81.29 %	167,738	31,377	127,868
Committees Activities							
Committees Income	\$(500)	25.00 %	\$(4,365)	218.25 %	\$(2,000)	2,365	\$(1,470)
Committees Expense	6,260	6.08 %	58,561	56.86 %	103,000	44,439	58,708
Total Committees Activities	5,760	5.70 %	54,196	53.66 %	101,000	46,804	57,238
Total Expenses	\$ 34,977	7.94 %	\$ 360,884	81.91 %	\$ 440,598	\$ 79,714	\$ 327,608

State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	\$ 45,586	8.46 %	\$ 541,658	100.56 %	\$ 538,652	\$ (3,006)	\$ 514,990
Overtime	0	0.00 %	0	0.00 %	255	255	0
Taxes and Benefits	5,097	2.63 %	173,957	89.86 %	193,596	19,638	176,574
Pension	5,033	13.52 %	39,161	105.18 %	37,231	(1,930)	34,177
Total Personnel Services	55,716	7.24 %	754,776	98.06 %	769,734	14,958	725,741
Operating Expenses							
Shared Office Allocation	9,692	8.33 %	116,305	100.00 %	116,305	0	101,880
Postage and Freight	103	12.87 %	729	91.08 %	800	71	818
Printing	0	0.00 %	96	96.23 %	100	4	0
Supplies	0	0.00 %	760	95.04 %	800	40	1,101
Subscriptions and Books	298	37.24 %	546	68.29 %	800	254	716
Dues and Memberships	130	18.21 %	530	74.23 %	714	184	500
Seminars and Training	0	0.00 %	0	0.00 %	500	500	300
Miscellaneous	0	0.00 %	125	11.36 %	1,100	975	310
Attorney and Staff Travel	0	0.00 %	0	0.00 %	800	800	32
Investigator Travel	57	1.52 %	851	22.69 %	3,750	2,899	2,108
Luncheons	0	0.00 %	0	0.00 %	1,200	1,200	0
Computer Hardware	0	0.00 %	0	0.00 %	0	0	6,794
Lexis Online	641	16.89 %	4,170	109.75 %	3,800	(371)	3,491
Total Operating Expenses	10,921	8.36 %	124,113	94.98 %	130,669	6,556	118,051
Total Expenses	\$ 66,637	7.40 %	\$ 878,889	97.61 %	\$ 900,403	\$ 21,514	\$ 843,792

Savannah Office

**State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	7,956	8.44 %	94,481	100.18 %	94,307	(174)	89,239
Overtime	0	0.00 %	0	0.00 %	250	250	0
Taxes and Benefits	4,804	8.99 %	51,917	97.16 %	53,435	1,519	46,988
Pension	647	11.37 %	5,855	103.04 %	5,683	(173)	3,261
Total Personnel Services	13,407	8.72 %	152,253	99.07 %	153,675	1,422	139,488
Operating Expenses							
Shared Office Allocation	1,615	8.33 %	19,384	100.00 %	19,384	0	16,980
Postage and Freight	0	0.00 %	17	21.60 %	80	63	96
Printing	0	0.00 %	445	444.94 %	100	(345)	0
Supplies	0	0.00 %	982	98.19 %	1,000	18	257
Telephone	581	3.87 %	8,179	54.52 %	15,000	6,821	15,735
Subscriptions and Books	0	0.00 %	174	97.17 %	180	6	303
Miscellaneous	0	0.00 %	4,679	103.96 %	4,500	(179)	38
Attorney and Staff Travel	1,319	65.95 %	2,471	123.54 %	2,000	(471)	1,984
Parking Savannah	0	0.00 %	1,110	37.00 %	3,000	1,890	2,220
Lunches	0	0.00 %	0	0.00 %	100	100	0
Computer Hardware	0	0.00 %	0	0.00 %	0	0	1,359
Computer Software	0	0.00 %	0	0.00 %	100	100	0
Equipment Maintenance	2	0.04 %	1,459	36.49 %	4,000	2,541	1,467
Equipment Rental	0	0.00 %	0	0.00 %	100	100	0
Rent and Utilities	9,536	11.42 %	98,424	117.87 %	83,500	(14,923)	78,390
Facilities Maintenance	0	0.00 %	1,416	31.46 %	4,500	3,084	3,144
Total Operating Expenses	13,053	9.49 %	138,739	100.87 %	137,544	(1,195)	121,973
Furniture/Equipment	0	0.00 %	18,331	0.00 %	0	(18,331)	0
Total Expenses	\$ 26,459	9.09 %	\$ 309,323	106.22 %	\$ 291,219	\$ (18,104)	\$ 261,461

**State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	5,109	8.73 %	60,707	103.71 %	58,538	(2,169)	49,539
Salaries-Hourly PT	0	0.00 %	11,699	54.60 %	21,428	9,729	19,525
Taxes and Benefits	2,185	11.54 %	18,355	96.97 %	18,929	574	16,396
Pension	(644)	(13.40) %	3,762	78.27 %	4,806	1,044	1,120
Total Personnel Services	6,650	6.41 %	94,523	91.15 %	103,701	9,178	86,580
Operating Expenses							
Shared Office Allocation	1,212	8.33 %	14,538	100.00 %	14,538	0	12,735
Postage and Freight	0	0.00 %	495	164.87 %	300	(195)	510
Printing	0	0.00 %	0	0.00 %	100	100	0
Supplies	298	11.95 %	2,025	81.03 %	2,500	474	2,195
Telephone	524	3.74 %	7,074	50.53 %	14,000	6,926	8,616
Subscriptions and Books	0	0.00 %	340	97.12 %	350	10	502
Miscellaneous	0	0.00 %	0	0.00 %	200	200	34
Attorney and Staff Travel	1,652	66.11 %	2,423	96.92 %	2,500	77	2,097
Luncheons	0	0.00 %	0	0.00 %	100	100	0
Computer Hardware	0	0.00 %	0	0.00 %	0	0	1,777
Computer Software	0	0.00 %	0	0.00 %	200	200	0
Equipment Maintenance	1	0.01 %	1,461	97.36 %	1,500	40	1,451
Equipment Rental	0	0.00 %	0	0.00 %	100	100	0
Rent and Utilities	1,695	8.35 %	19,928	98.17 %	20,300	371	19,574
Facilities Maintenance	180	18.00 %	785	78.50 %	1,000	215	360
Total Operating Expenses	5,562	9.64 %	49,069	85.06 %	57,688	8,619	49,851
Furniture/Equipment	0	0.00 %	2,760	250.90 %	1,100	(1,660)	0
Total Expenses	\$ 12,211	7.52 %	\$ 146,352	90.07 %	\$ 162,489	\$ 16,137	\$ 136,430

Law Related Education

**State Bar of Georgia
Income Statement
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Revenues							
Miscellaneous Income	0	0.00 %	218	0.00 %	0	(218)	59
Total Revenues	0	0.00 %	218	0.00 %	0	(218)	59
Personnel Services							
Salaries	18,179	8.58 %	210,153	99.20 %	211,839	1,686	182,256
Overtime	0	0.00 %	0	0.00 %	500	500	0
Taxes and Benefits	8,857	7.47 %	96,057	81.06 %	118,507	22,450	66,907
Pension	4,467	37.22 %	15,469	128.89 %	12,002	(3,467)	11,024
Total Personnel Services	31,503	9.19 %	321,679	93.83 %	342,848	21,169	260,187
Operating Expenses							
Shared Office Allocation	4,846	8.33 %	58,153	100.00 %	58,153	0	50,940
Postage and Freight	0	0.00 %	45	45.48 %	100	55	17
Printing	577	115.36 %	1,527	305.21 %	500	(1,027)	0
Supplies	31	2.60 %	1,244	103.71 %	1,200	(44)	930
Subscriptions and Books	0	0.00 %	387	86.05 %	450	63	355
Seminars and Training	0	0.00 %	0	0.00 %	600	600	0
Miscellaneous	0	0.00 %	185	23.05 %	800	616	639
Attorney and Staff Travel	0	0.00 %	3,163	53.93 %	5,866	2,702	1,700
Luncheons	0	0.00 %	0	0.00 %	120	120	53
Computer Hardware	0	0.00 %	0	0.00 %	0	0	5,354
Total Operating Expenses	5,454	8.05 %	64,704	95.45 %	67,789	3,085	59,988
Furniture/Equipment	772	0.00 %	772	0.00 %	0	(772)	0
Total Expenses	37,730	9.19 %	387,156	94.28 %	410,637	23,481	320,175
Net Income	\$ (37,730)	9.19 %	\$ (386,938)	94.23 %	\$ (410,637)	\$ (23,699)	\$ (320,116)

**State Bar of Georgia
Income Statement
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Revenues							
Miscellaneous Income	\$ 0	0.00 %	505	126.15 %	\$ 400	\$ (105)	40
Total Revenues	0	0.00 %	505	126.15 %	400	(105)	40
Personnel Services							
Salaries	5,754	8.48 %	71,086	104.74 %	67,870	(3,216)	64,259
Taxes and Benefits	4,923	12.54 %	36,898	94.01 %	39,248	2,350	33,444
Pension	(3,739)	(91.67) %	0	0.00 %	4,079	4,079	0
Total Personnel Services	6,938	6.24 %	107,984	97.11 %	111,197	3,213	97,703
Operating Expenses							
Shared Office Allocation	1,615	8.33 %	19,384	100.00 %	19,384	0	16,980
Postage and Freight	0	0.00 %	66	7.37 %	900	834	230
Printing	0	0.00 %	56	0.00 %	0	(56)	0
Supplies	258	51.56 %	674	134.77 %	500	(174)	655
Subscriptions and Books	35	3.82 %	593	64.83 %	916	323	543
Dues and Memberships	0	0.00 %	200	100.00 %	200	0	200
Miscellaneous	0	0.00 %	57	14.31 %	400	342	0
Attorney and Staff Travel	1,806	180.56 %	2,004	200.36 %	1,000	(1,003)	1,674
Luncheons	0	0.00 %	0	0.00 %	400	400	145
Credit Card Discount and Fees	0	0.00 %	14	0.00 %	0	(14)	0
Computer Hardware	0	0.00 %	0	0.00 %	0	0	1,359
Computer Software	0	0.00 %	364	0.00 %	0	(364)	472
Total Operating Expenses	3,714	15.67 %	23,412	98.79 %	23,700	288	22,259
HSMT Events							
Law Academy	0	0.00 %	2,284	42.81 %	5,335	3,051	3,729
Regional Competition	(968)	(50.96) %	(239)	12.61 %	(1,900)	(1,661)	(13,579)
State Competition	(966)	(6.44) %	6,481	43.21 %	15,000	8,519	8,268
National Competition	(3,630)	(27.92) %	14,442	111.10 %	13,000	(1,442)	6,944
District Competition	(968)	(10.76) %	7,220	80.22 %	9,000	1,780	8,485
2019 NHSMT-C-Athens	0	0.00 %	0	0.00 %	0	0	(19)
Total HSMT Events	(6,532)	(16.15) %	30,188	74.66 %	40,435	10,247	13,828
Total Expenses	4,120	2.35 %	161,585	92.16 %	175,332	13,747	133,790

**State Bar of Georgia
Income Statement
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Net Income	(4,120)	2.36 %	(161,081)	92.08 %	(174,932)	(13,851)	(133,750)

Institute of Continuing Legal Education

State Bar of Georgia
Income Statement
For the Current Period Ending June 30, 2023

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Program Revenue							
Registration Revenue	379,719	8.93 %	4,890,539	115.07 %	4,250,000	(640,539)	4,854,415
Sponsorship	0	0.00 %	1,000	0.00 %	0	(1,000)	0
Program Discounts	(420)	0.42 %	(15,585)	15.59 %	(100,000)	(84,415)	(18,447)
Other	2,040	0.00 %	6,110	0.00 %	0	(6,110)	6,300
Total Program Revenue	381,339	9.19 %	4,882,064	117.64 %	4,150,000	(732,064)	4,842,269
Total Program Expenditures	301,326	22.76 %	1,619,046	122.32 %	1,323,650	(295,396)	869,548
Net Margin on Programs	80,013	2.83 %	3,263,018	115.45 %	2,826,350	(436,668)	3,972,721
Personnel Services							
Salaries Full Time	80,238	6.34 %	908,053	71.71 %	1,266,287	358,234	870,218
Salaries Part Time	4,825	16.08 %	21,463	71.54 %	30,000	8,537	1,625
Overtime Pay	253	1.69 %	9,895	65.97 %	15,000	5,105	5,094
Taxes and Benefits	34,056	6.21 %	245,924	44.86 %	548,261	302,337	214,518
Pension	(6,504)	(12.15) %	42,570	79.52 %	53,536	10,966	49,163
Total Personnel Services	112,868	5.90 %	1,227,905	64.18 %	1,913,084	685,179	1,140,618
Operating Expenses							
Shared Office Allocation	29,076	8.33 %	348,916	100.00 %	348,916	0	322,620
Board and Committee Meetings	237	7.90 %	237	7.90 %	3,000	2,763	3,860
Dues and Memberships	672	26.87 %	3,411	136.43 %	2,500	(911)	1,330
Licenses and Certification	0	0.00 %	750	75.00 %	1,000	250	502
Seminars and Training	2,497	20.81 %	5,027	41.89 %	12,000	6,973	3,724
Attorney and Staff Travel	10,913	72.76 %	30,411	202.74 %	15,000	(15,411)	9,193
Supplies	651	4.34 %	6,456	43.04 %	15,000	8,544	2,548
Printing	0	0.00 %	444	17.76 %	2,500	2,056	0
Subscriptions and Books	7,543	10.06 %	89,505	119.34 %	75,000	(14,505)	735
Postage and Freight	19	2.49 %	174	23.21 %	750	576	486
Telephone	525	7.00 %	5,400	72.00 %	7,500	2,100	3,450
Internet Services	0	0.00 %	213	8.52 %	2,500	2,287	630
Computer Software	0	0.00 %	660	6.60 %	10,000	9,340	79,479
Contract Programming	0	0.00 %	1,038	2.08 %	50,000	48,963	15,071
Computer Hardware	7,582	37.91 %	14,077	70.39 %	20,000	5,922	6,656

Institute of Continuing Legal Education

State Bar of Georgia
Income Statement

For the Current Period Ending June 30, 2023

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Miscellaneous	449	17.97 %	1,181	47.21 %	2,500	1,319	506
Professional Fees	4,800	38.40 %	4,800	38.40 %	12,500	7,700	0
Equipment Maintenance and Rental	0	0.00 %	0	0.00 %	1,000	1,000	0
Credit Card Discount and Fees	4,542	4.06 %	115,004	102.68 %	112,000	(3,004)	120,795
Banking Fees	0	0.00 %	0	0.00 %	1,200	1,200	8
Lunches	68	3.37 %	4,137	206.84 %	2,000	(2,137)	1,589
Recruitment	0	0.00 %	0	0.00 %	2,500	2,500	0
Contract Labor	0	0.00 %	0	0.00 %	5,000	5,000	0
Total Operating Expenses	69,574	9.88 %	631,840	89.70 %	704,366	72,526	573,181
Furniture and Equipment	0	0.00 %	0	0.00 %	5,000	5,000	0
Total Expenses	182,442	6.96 %	1,859,745	70.92 %	2,622,450	762,705	1,713,799
Net Income Before Other Inc and Exp	(102,429)	(50.24) %	1,403,273	688.22 %	203,900	(1,199,373)	2,258,922
Other Income and Expenses							
Interest Income	9,726	32.42 %	86,605	288.68 %	30,000	(56,605)	3,356
Bond Premium Amortization	0	0.00 %	(4,868)	69.55 %	(7,000)	(2,132)	(6,444)
Investment Service Fees	(786)	7.86 %	(9,431)	94.31 %	(10,000)	(569)	(9,382)
Total Other Income and Expenses	8,940	68.77 %	72,306	556.20 %	13,000	(59,306)	(12,470)
Net Income	\$ (93,489)	(43.10) %	\$ 1,475,579	680.30 %	\$ 216,900	\$ (1,258,679)	\$ 2,246,452

State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Other Activities and Miscellaneous							
Other Activities							
SBG President	1,608	3.85 %	19,437	46.50 %	41,800	22,363	11,880
SBG President Elect	640	2.42 %	6,447	24.33 %	26,500	20,053	3,995
SBG President Elect Elect	0	0.00 %	1,015	67.67 %	1,500	485	0
SBG Treasurer	0	0.00 %	3,800	100.00 %	3,800	0	3,443
SBG Secretary	1,591	41.88 %	1,995	52.50 %	3,800	1,805	3,727
SBG Immediate Past President	3,221	18.10 %	9,232	51.87 %	17,800	8,567	9,208
SBG Past Past President	1,371	76.13 %	1,800	100.00 %	1,800	0	0
Total Officers's Expenses	8,431	8.69 %	43,727	45.08 %	97,000	53,273	32,253
Miscellaneous							
BOG and Member Meetings	235,877	49.98 %	400,237	84.81 %	471,900	71,663	384,136
Supreme Court Meetings	15,791	52.64 %	46,661	155.54 %	30,000	(16,661)	26,489
Executive Committee Meetings	132	0.33 %	33,891	84.73 %	40,000	6,109	40,983
Lawyer's Assistance Program	0	0.00 %	125,000	100.00 %	125,000	0	85,000
Sections	28,404	9.42 %	249,355	82.73 %	301,403	52,047	188,553
State Disciplinary Board Lawyers Elections	2,500	8.33 %	30,000	100.00 %	30,000	0	32,375
Dues Notice	12,592	38.16 %	23,411	127.41 %	18,375	(5,036)	18,628
Letters of Good Standing	192	7.67 %	34,806	105.47 %	33,000	(1,805)	31,473
Bar Membership Cards	1,271	14.36 %	10,671	88.41 %	2,500	289	2,295
50 Year Certificates	0	0.00 %	3,823	141.60 %	2,700	(1,123)	8,236
Fastcase	0	0.00 %	281,419	100.51 %	280,000	(1,418)	267,738
State Bar Committees	3,471	11.97 %	18,704	64.50 %	29,000	10,295	18,231
Georgia Diversity Program	0	0.00 %	10,000	100.00 %	10,000	0	10,000
ABA Delegate Breakfast	0	0.00 %	2,134	85.36 %	2,500	366	0
1st Floor Painting	0	0.00 %	2,600	86.67 %	3,000	400	2,700
Commitment to Equality Awards	0	0.00 %	2,500	100.00 %	2,500	0	2,500
Resource Center Contribution	0	0.00 %	55,166	100.00 %	55,166	0	55,166
Bond Premium Amortization	116	0.18 %	9,749	15.00 %	65,000	55,251	39,604
Investment Service Fees	(13,111)	(36.42) %	14,525	40.35 %	36,000	21,475	21,995
Access to Justice/Pro Bono	2,500	100.00 %	2,500	100.00 %	2,500	0	0
Total Miscellaneous	289,735	18.70 %	1,959,363	87.74 %	1,549,394	190,031	1,237,933
Pro Bono	17,685	8.33 %	212,216	100.00 %	212,216	0	212,216
Total Other Activities	315,851	16.99 %	1,615,306	86.91 %	1,858,610	243,304	1,482,402

**State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023**

Other Activities and Miscellaneous

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
	(26,765)	0.00 %	(133,549)	0.00 %	0	133,549	(59,323)
Unallocated Services	1,870,505	10.84 %	16,229,190	94.04 %	17,258,364	1,029,174	14,242,536
Grand Total							

State Bar of Georgia
Expenditure Statement - Operations
For the Year To Date Period Ending June 30, 2023

	Current Month	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Shared Office Overhead							
Telephone	12,876	22.20 %	95,780	165.14 %	58,000	(37,780)	55,305
Computer Software	606	15.15 %	5,126	128.13 %	4,000	(1,126)	3,896
Equipment Rental	1,201	2.18 %	54,523	99.14 %	55,000	475	53,242
Kitchen	1,702	7.40 %	22,320	97.05 %	23,000	680	15,303
Facilities Maintenance	1,030	6.87 %	12,007	80.05 %	15,000	2,993	10,270
Payroll Service	2,608	16.30 %	16,189	101.18 %	16,000	(189)	15,438
Audit	2,502	8.94 %	37,892	135.33 %	28,000	(9,892)	21,600
Building and Other Insurance (Not Group)	18,965	9.48 %	209,575	104.79 %	200,000	(9,575)	178,998
Supplies and Printing	3,295	5.99 %	47,880	87.06 %	55,000	7,120	41,920
Subtotal	44,784	9.86 %	501,295	110.42 %	454,000	(47,295)	395,972
Other Services							
Accounting	39,736	7.58 %	513,676	98.00 %	524,173	10,497	496,812
Human Resources	25,446	10.85 %	253,755	108.19 %	234,543	(19,212)	217,912
Mailroom	8,083	9.97 %	82,009	101.15 %	81,076	(933)	74,221
Receptionist	4,327	2.76 %	65,882	41.98 %	156,935	91,053	107,377
Information Technology	36,174	4.68 %	673,616	87.14 %	773,055	99,439	645,753
Subtotal Other Services	113,766	6.43 %	1,588,938	89.78 %	1,769,782	180,844	1,542,075
Total Shared Office Overhead	158,550	7.13 %	2,090,233	93.99 %	2,223,782	133,549	1,938,047
Total Allocated Services	(185,315)	8.33 %	(2,223,782)	100.00 %	(2,223,782)	0	(1,997,370)
Unallocated Services	(26,765)	0.00 %	(133,549)	0.00 %	0	133,549	(59,323)

State Bar of Georgia
Expenditure Statement - Operations
For the Year To Date Period Ending June 30, 2023

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Prior Year
Related Organizations Shared						
Office Allocations						
Georgia Bar Foundation	333	8.33 %	4,000	100.00 %	4,000	3,500
Continuing Legal Education	5,654	8.33 %	67,845	100.00 %	67,845	84,900
TILPP	2,423	8.33 %	29,075	100.00 %	29,075	33,960
Pro Bono	4,133	8.33 %	49,598	100.00 %	49,598	58,896
Professionalism	334	8.33 %	4,000	100.00 %	4,000	3,500
Sections	4,846	8.33 %	58,153	100.00 %	58,153	33,960
Subtotal	17,723	8.33 %	212,671	100.00 %	212,671	218,716
State Bar Departments - Shared						
Office Allocations						
Membership	8,077	8.33 %	96,921	100.00 %	96,921	84,900
Meetings	3,230	8.33 %	38,768	100.00 %	38,768	33,960
Executives	30,692	8.33 %	368,300	100.00 %	368,300	322,620
General Counsel	46,845	8.33 %	562,142	100.00 %	562,142	492,420
Communications	6,482	8.33 %	77,537	100.00 %	77,537	67,920
Fee Arbitration	6,461	8.33 %	77,537	100.00 %	77,537	67,920
Law Practice Management	6,461	8.33 %	77,537	100.00 %	77,537	67,920
Savannah Office	1,616	8.33 %	19,384	100.00 %	19,384	16,980
Tifton Office	1,211	8.33 %	14,538	100.00 %	14,538	12,735
Younger Lawyers	3,231	8.33 %	38,768	100.00 %	38,768	33,960
Unauthorized Practice of Law	9,692	8.33 %	116,305	100.00 %	116,305	101,880
Law Related Education	4,846	8.33 %	58,153	100.00 %	58,153	50,940
High School Mock Trial	1,615	8.33 %	19,384	100.00 %	19,384	16,980
ICLE	29,077	8.33 %	348,916	100.00 %	348,916	322,620
Conference Center	6,461	8.33 %	77,537	100.00 %	77,537	67,920
Legislative Program	1,616	8.33 %	19,384	100.00 %	19,384	16,980
Subtotal	167,593	8.33 %	2,011,111	100.00 %	2,011,111	1,778,654
Total Allocated Services	\$ 185,315	8.33 %	\$ 2,223,782	100.00 %	\$ 2,223,782	\$ 1,997,370

Sections

**State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	13,221	8.62 %	134,463	87.66 %	\$ 153,395	\$ 18,932	\$ 106,754
Overtime	500	71.43 %	500	71.43 %	700	200	1,164
Taxes and Benefits	4,892	6.94 %	36,274	51.45 %	70,509	34,235	31,443
Pension	421	5.82 %	7,059	97.49 %	7,241	182	6,280
Total Personnel Services	19,034	8.21 %	178,296	76.90 %	231,845	53,549	145,642
Operating Expenses							
Shared Office Allocation	4,846	8.33 %	58,153	100.00 %	58,153	0	33,960
Postage and Freight	277	92.45 %	868	289.46 %	300	(568)	297
Supplies	322	32.11 %	1,614	161.34 %	1,000	(614)	28
Telephone	75	8.33 %	900	100.00 %	900	0	900
Subscriptions and Books	0	0.00 %	2,309	641.41 %	360	(1,949)	2,110
Dues and Memberships	0	0.00 %	0	0.00 %	135	135	0
Seminars and Training	0	0.00 %	0	0.00 %	1,000	1,000	0
Miscellaneous	541	54.09 %	541	54.09 %	1,000	459	135
Attorney and Staff Travel	3,310	110.34 %	3,881	129.36 %	3,000	(881)	4,752
Lunches	0	0.00 %	75	0.00 %	0	(75)	0
Computer Hardware	0	0.00 %	1,448	0.00 %	0	(1,447)	0
Computer Software	0	0.00 %	728	31.55 %	2,310	1,581	729
Special Meetings	0	0.00 %	0	0.00 %	800	800	0
Total Operating Expenses	9,371	13.59 %	70,517	102.26 %	68,958	(1,559)	42,911
Furniture/Equipment	0	0.00 %	543	90.46 %	600	57	0
Total Expenses	\$ 28,405	9.42 %	\$ 249,355	82.73 %	\$ 301,403	\$ 52,048	\$ 188,553

**State Bar of Georgia
Income Statement
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Revenues							
After Hours Fees	90	1.29 %	8,415	120.21 %	7,000	(1,415)	3,665
Beverage Service	130	6.50 %	518	25.90 %	2,000	1,462	306
Cleaning Fees	0	0.00 %	1,725	115.00 %	1,500	(225)	930
Audio Video Support	0	0.00 %	2,025	202.50 %	1,000	(1,025)	968
Total Revenues	220	1.91 %	12,683	110.29 %	11,500	(1,183)	5,869
Personnel Services							
Salaries	19,585	8.71 %	231,413	102.88 %	224,938	(6,475)	218,064
Overtime	987	8.58 %	5,881	51.14 %	11,500	5,619	3,560
Taxes and Benefits	4,042	4.81 %	81,281	92.65 %	87,726	6,445	80,095
Pension	1,770	12.46 %	14,797	104.12 %	14,211	(586)	12,901
Total Personnel Services	26,384	7.80 %	333,372	98.52 %	338,375	5,003	314,620
Operating Expenses							
Shared Office Allocation	6,461	8.33 %	77,537	100.00 %	77,537	0	67,920
Postage and Freight	0	0.00 %	0	0.00 %	0	0	1
Supplies	126	4.20 %	2,477	82.58 %	3,000	523	3,379
Subscriptions and Books	0	0.00 %	5,935	98.91 %	6,000	65	5,896
Miscellaneous	32	3.78 %	120	14.09 %	850	730	154
Conference Center Copier	0	0.00 %	0	0.00 %	1,800	1,800	6
Attorney and Staff Travel	0	0.00 %	363	18.18 %	2,000	1,636	216
Credit Card Discount and Fees	5	0.00 %	138	0.00 %	0	(137)	0
Computer Hardware	0	0.00 %	0	0.00 %	0	0	4,122
After Hours Security	0	0.00 %	0	0.00 %	7,000	7,000	94
Room Turn Around Costs	0	0.00 %	0	0.00 %	1,400	1,400	0
Contract Programming	312	62.50 %	312	62.50 %	500	188	0
Equipment Maintenance	83	2.06 %	4,606	115.14 %	4,000	(606)	4,564
Furniture Repairs and Maintenance	875	6.73 %	13,050	100.39 %	13,000	(50)	9,889
Kitchen	550	6.88 %	7,024	87.81 %	8,000	975	4,085
Facilities Maintenance	0	0.00 %	0	0.00 %	0	0	375
Total Operating Expenses	8,444	6.75 %	111,562	89.19 %	125,087	13,525	100,701
Total Expenses	34,828	7.51 %	444,934	96.00 %	463,462	18,528	415,321
Furniture/Equipment	0	0.00 %	0	0.00 %	0	0	5,339

**State Bar of Georgia
Income Statement
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Net Income	\$ (34,608)	7.66 %	\$ (432,251)	95.64 %	\$ (451,962)	\$ (19,711)	\$ (414,792)

Other Bar Center Operations

**State Bar of Georgia
Income Statement
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Revenues							
Interest and Dividend Income	\$ 32,267	32.27 %	\$ 115,246	115.25 %	\$ 100,000	\$ (15,246)	\$ 115,359
Gain/Loss Investment Interest Allocation	5,726	0.00 %	55,035	0.00 %	0	(55,035)	(347,796)
Bar Center Assessments	0	0.00 %	165	82.50 %	200	35	350
CCLC Contributions to Bar Center	900,631	67.97 %	1,400,631	105.71 %	1,325,000	(75,631)	1,286,677
Total Revenues	938,624	65.86 %	1,571,077	110.24 %	1,425,200	(145,877)	1,054,590
Operating Expenses							
Bond Premium Amortization	3,966	9.91 %	15,712	39.28 %	40,000	24,288	37,249
Investment Service Fees	6,525	29.66 %	26,697	121.35 %	22,000	(4,697)	24,411
Parking Deck Construction	0	0.00 %	850	0.00 %	0	(850)	0
Conference Center Renovations	0	0.00 %	0	0.00 %	0	0	12,911
Museum and 1st Floor Exhibit	0	0.00 %	0	0.00 %	5,000	5,000	0
Audio Video, Furniture and Equipment	2,124	7.59 %	18,990	67.82 %	28,000	9,010	650
Building Rehabilitation	23,095	0.00 %	47,347	0.00 %	0	(47,347)	17,794
2nd Floor Buildout	0	0.00 %	30,025	0.00 %	0	(30,025)	129,298
Total Operating Expenses	35,710	37.59 %	139,621	146.97 %	95,000	(44,621)	222,313
Total Expenses	35,710	37.59 %	139,621	146.97 %	95,000	(44,621)	222,313
Net Income	\$ 902,914	67.88 %	\$ 1,431,456	107.61 %	\$ 1,330,200	\$ (101,256)	\$ 832,277

Rental

**State Bar of Georgia
Income Statement
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Revenues	\$ 76,422	8.73 %	\$ 919,520	105.09 %	\$ 875,000	\$ (44,520)	\$ 935,972
Income Rental Operations							
Total Revenues	76,422	8.73 %	919,520	105.09 %	875,000	(44,520)	935,972
Operating Expenses							
Equipment and Supplies	0	0.00 %	841	0.00 %	0	(841)	0
Personnel Management Salary	980	1.51 %	12,945	19.92 %	65,000	52,055	9,346
Administrative Taxes and Benefits	159	2.03 %	1,190	15.25 %	7,800	6,610	483
Travel	0	0.00 %	185	92.71 %	200	15	0
Supplies	0	0.00 %	0	0.00 %	200	200	0
Telephone Expense	200	15.38 %	5,894	453.36 %	1,300	(4,594)	908
Management Fees	5,376	8.53 %	63,569	100.90 %	63,000	(569)	61,718
Bank Fees	108	7.23 %	1,350	90.01 %	1,500	150	1,449
R&M Salaries	15,507	8.61 %	190,698	105.94 %	180,000	(10,698)	185,290
R&M Taxes and Benefits	3,498	5.07 %	64,992	94.19 %	69,000	4,008	65,729
R&M HVAC	22,765	35.02 %	77,878	119.81 %	65,000	(12,878)	56,631
R&M Plumbing	760	10.00 %	101,417	1,334.43 %	7,600	(93,817)	12,919
R&M Fire/Life Prevention	0	0.00 %	10,753	215.07 %	5,000	(5,753)	7,482
R&M Electrical/Lamps	0	0.00 %	15,156	68.89 %	22,000	6,844	14,669
R&M Water Treatment	944	8.58 %	10,673	97.03 %	11,000	327	8,782
R&M Life Safety Contract	0	0.00 %	7,567	108.09 %	7,000	(567)	6,888
R&M Tools/Radios	0	0.00 %	0	0.00 %	3,000	3,000	1,934
R&M Elevators	2,116	7.06 %	24,966	83.22 %	30,000	5,034	25,864
R&M Pest Control	300	10.00 %	3,480	116.00 %	3,000	(480)	3,528
R&M Rubbish Removal	1,003	7.72 %	13,269	102.07 %	13,000	(269)	14,547
R&M Other: Locks and Keys	0	0.00 %	0	0.00 %	300	300	50
R&M Painting	6,555	93.64 %	6,555	93.64 %	7,000	445	0
R&M Other: General Building	242	7.12 %	51,959	1,528.20 %	3,400	(48,559)	0
R&M Lobby	0	0.00 %	0	0.00 %	3,000	3,000	0
Uniforms	0	0.00 %	696	69.62 %	1,000	304	902
Electric	46,797	14.18 %	327,738	99.31 %	330,000	2,262	319,668
Water	4,089	7.57 %	68,345	126.57 %	54,000	(14,346)	27,033
Gas	(1,799)	(7.20) %	30,932	123.73 %	25,000	(5,931)	23,378
Security Contract	29,813	10.84 %	340,602	123.86 %	275,000	(65,602)	273,667
Cleaning	14,336	7.71 %	176,181	94.72 %	186,000	9,819	156,544
Grounds Supplies and Maintenance	464	6.64 %	6,574	93.92 %	7,000	426	4,079
Insurance	5,620	8.51 %	67,439	102.18 %	66,000	(1,439)	59,599
Total Operating Expenses	159,833	10.57 %	1,683,844	111.34 %	1,512,300	(171,544)	1,343,086

Rental

**State Bar of Georgia
Income Statement
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Total Expenses	159,833	10.57 %	1,683,844	111.34 %	1,512,300	(171,544)	1,343,086
Net Income	\$ (83,411)	13.09 %	\$ (764,324)	119.93 %	\$ (637,300)	\$ 127,024	\$ (407,114)

Parking

**State Bar of Georgia
Income Statement
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Revenues							
Monthly Parking Operations	7,237	11.13 %	70,196	107.99 %	\$ 65,000	\$ (5,196)	\$ 56,339
Daily Parking Operations	1,840	11.50 %	31,934	199.59 %	16,000	(15,934)	19,050
Special Events Parking Operations	17,681	18.61 %	367,388	386.72 %	95,000	(272,388)	104,452
Total Revenues	26,758	15.20 %	469,518	266.77 %	176,000	(293,518)	179,841
Operating Expenses							
Salaries	8,605	7.62 %	110,937	98.17 %	113,000	2,063	111,985
Payroll Taxes	1,211	8.65 %	15,467	110.48 %	14,000	(1,467)	14,458
Workers' Compensation	1,124	9.37 %	14,341	119.51 %	12,000	(2,341)	13,315
Medical Ins/Benefits	1,542	8.81 %	19,762	112.92 %	17,500	(2,262)	18,823
Signs	0	0.00 %	549	122.02 %	450	(99)	0
Uniforms	0	0.00 %	638	531.81 %	120	(518)	0
Repairs and Maintenance	2,379	7.93 %	27,667	92.22 %	30,000	2,333	24,898
Tickets	0	0.00 %	0	0.00 %	500	500	0
Cell Phone/Beeper	(381)	(21.19) %	611	33.94 %	1,800	1,189	907
Office Expenses	3,470	50.29 %	26,939	390.43 %	6,900	(20,040)	7,078
Invoicing Expenses	445	10.60 %	4,721	112.39 %	4,200	(520)	4,204
Bank Charges	345	13.79 %	4,394	175.76 %	2,500	(1,894)	2,587
Credit Card Fees	795	29.46 %	8,722	323.04 %	2,700	(6,022)	3,478
Garage Insurance	864	10.28 %	10,367	123.42 %	8,400	(1,967)	9,059
Business License	0	0.00 %	1,004	125.55 %	800	(205)	1,028
Management Fee	350	8.33 %	4,200	100.00 %	4,200	0	4,200
Security	3,850	6.75 %	71,455	125.36 %	57,000	(14,455)	61,293
Payroll Processing	266	9.50 %	3,082	110.07 %	2,800	(282)	2,946
Equipment and Supplies	0	0.00 %	0	0.00 %	700	700	0
Miscellaneous	0	0.00 %	395	79.00 %	500	105	0
Cleaning	300	9.38 %	900	28.13 %	3,200	2,300	0
Fire Safety	0	0.00 %	1,633	233.21 %	700	(933)	0
Incentive Management Fees	500	25.00 %	4,991	249.56 %	2,000	(2,991)	1,331
Total Operating Expenses	25,665	8.97 %	332,775	116.37 %	285,970	(46,805)	281,590
Total Expenses	25,665	8.97 %	332,775	116.37 %	285,970	(46,805)	281,590
Net Income	1,093	(0.99) %	136,743	(124.35) %	\$ (109,970)	\$ (246,713)	\$ (101,749)

Continuing Legal Education

**State Bar of Georgia
Income Statement
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Revenues							
Interest and Dividend Income	9,711	21.58 %	73,050	162.33 %	\$ 45,000	\$ (28,050)	\$ 40,799
Gain/Loss on Investments	(476)	0.00 %	(31,075)	0.00 %	0	31,075	(4,089)
Sponsor Fees	75,966	5.84 %	1,416,297	108.95 %	1,300,000	(116,297)	1,281,543
Late Penalties	55,260	12.28 %	715,723	159.05 %	450,000	(265,723)	497,783
Attorneys Fees	31,606	9.03 %	385,020	110.01 %	350,000	(35,020)	291,811
Total Revenues	172,067	8.02 %	2,559,015	119.30 %	2,145,000	(414,015)	2,107,847
Personnel Services							
Salaries	23,353	8.49 %	277,393	100.82 %	275,129	(2,264)	302,972
Overtime	0	0.00 %	0	0.00 %	5,000	5,000	0
Taxes and Benefits	3,375	3.86 %	80,396	91.92 %	87,462	7,066	89,704
Pension	2,209	11.81 %	19,356	103.48 %	18,705	(650)	16,915
Total Personnel Services	28,937	7.49 %	377,145	97.63 %	386,296	9,151	409,591
Operating Expenses							
Shared Office Allocation	5,654	8.33 %	67,845	100.00 %	67,845	0	84,900
Postage and Freight	73	1.84 %	1,516	37.89 %	4,000	2,484	3,126
Printing	0	0.00 %	0	0.00 %	150	150	0
Supplies	0	0.00 %	386	19.30 %	2,000	1,614	971
Telephone	75	7.50 %	900	90.00 %	1,000	100	900
Subscriptions and Books	0	0.00 %	175	43.73 %	400	225	175
Dues and Memberships	0	0.00 %	900	90.00 %	1,000	100	900
Seminars and Training	0	0.00 %	250	25.00 %	1,000	750	550
Miscellaneous	0	0.00 %	359	23.96 %	1,500	1,141	366
Attorney and Staff Travel	747	21.34 %	3,909	111.67 %	3,500	(409)	2,420
Lunches	1,681	56.03 %	1,759	58.66 %	3,000	1,241	2,843
Bank Fees	0	0.00 %	19	9.27 %	200	181	72
Credit Card Discount and Fees	2,522	9.70 %	39,361	151.39 %	26,000	(13,361)	27,850
Computer Hardware	0	0.00 %	0	0.00 %	0	0	5,436
Computer Software	0	0.00 %	349	0.00 %	0	(349)	175
Contract Programming	9,256	61.71 %	9,256	61.71 %	15,000	5,744	8,156
CLE Contribution to the Bar Center	900,630	67.97 %	1,400,631	105.71 %	1,325,000	(75,631)	1,286,677
Grants	200,000	400.00 %	200,188	400.38 %	50,000	(150,188)	239,560
Scholarships	0	0.00 %	3,840	38.40 %	10,000	6,160	7,715
Pro Bono Vouchers	0	0.00 %	30,000	100.00 %	30,000	0	30,000
Bond Premium Amortization	2,835	5.67 %	25,619	51.24 %	50,000	24,381	37,218
Investment Service Fees	0	0.00 %	19,193	119.95 %	16,000	(3,193)	16,019

Continuing Legal Education

**State Bar of Georgia
Income Statement
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Audit	0	0.00 %	4,500	100.00 %	4,500	0	4,500
Total Operating Expenses	1,123,474	69.69 %	1,810,954	112.34 %	1,612,095	(198,859)	1,760,528
Total Expenses	1,152,410	57.67 %	2,188,099	109.49 %	1,998,391	(189,708)	2,170,120
Net Income	\$ (980,344)	(668.68) %	\$ 370,916	253.00 %	\$ 146,609	\$ (224,307)	\$ (62,273)

Transition into Law Practice Program

State Bar of Georgia
Income Statement
For the Current Period Ending June 30, 2023

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	7,126	5.06 %	137,400	97.63 %	140,737	3,337	146,071
Overtime	0	0.00 %	0	0.00 %	2,000	2,000	203
Taxes and Benefits	1,798	5.93 %	29,305	96.74 %	30,292	987	30,235
Pension	(7,770)	(75.48) %	1,667	16.19 %	10,294	8,628	9,408
Total Personnel Services	1,154	0.63 %	168,372	91.84 %	183,323	14,951	185,916
Operating Expenses							
Shared Office Allocation	2,423	8.33 %	29,075	100.00 %	29,075	0	33,960
Postage and Freight	0	0.00 %	1	0.29 %	200	199	1
Printing	0	0.00 %	0	0.00 %	250	250	0
Supplies	0	0.00 %	49	3.77 %	1,300	1,251	185
Telephone	75	8.33 %	900	100.00 %	900	0	900
Subscriptions and Books	0	0.00 %	0	0.00 %	500	500	162
Dues and Memberships	0	0.00 %	455	45.50 %	1,000	545	1,190
Seminars and Training	0	0.00 %	620	62.00 %	1,000	380	48
Miscellaneous	0	0.00 %	0	0.00 %	1,000	1,000	16
Attorney and Staff Travel	2,977	30.69 %	3,971	40.94 %	9,700	5,729	2,938
Marshall Mentor Award	0	0.00 %	0	0.00 %	3,000	3,000	0
Luncheons	0	0.00 %	0	0.00 %	500	500	0
Computer Hardware	0	0.00 %	0	0.00 %	0	0	2,718
Computer Software	0	0.00 %	364	72.88 %	500	136	364
Contract Programming	650	9.29 %	650	9.29 %	7,000	6,350	1,375
Total Operating Expenses	6,125	10.95 %	36,085	64.52 %	55,925	19,840	43,858
Total Expenses	7,279	3.04 %	204,457	85.46 %	239,248	34,791	229,774
Net Income	\$ (7,279)	3.04 %	\$ (204,457)	85.46 %	\$ (239,248)	\$ (34,791)	\$ (229,774)

Governmental Legislative Affairs

**State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	14,082	8.71 %	151,438	93.68 %	\$ 161,658	\$ 10,220	\$ 155,102
Taxes and Benefits	6,520	13.56 %	47,866	99.52 %	48,099	233	48,151
Pension	2,573	19.27 %	13,962	104.59 %	13,349	(613)	12,386
Total Personnel Services	23,175	10.39 %	213,266	95.59 %	223,106	9,840	215,639
Operating Expenses							
Shared Office Allocation	1,615	8.33 %	19,384	100.00 %	19,384	0	16,980
Postage and Freight	4	3.78 %	4	3.78 %	100	96	0
Supplies	0	0.00 %	147	36.86 %	400	253	0
Telephone	75	8.33 %	900	100.00 %	900	0	750
Subscriptions and Books	0	0.00 %	627	62.70 %	1,000	373	551
Dues and Memberships	0	0.00 %	715	71.51 %	1,000	285	625
Seminars and Training	0	0.00 %	300	60.00 %	500	200	0
Miscellaneous	0	0.00 %	0	0.00 %	100	100	0
Attorney and Staff Travel	1,867	31.12 %	5,993	99.89 %	6,000	7	3,019
Luncheons	16,439	109.59 %	17,093	113.95 %	15,000	(2,093)	17,437
Computer Software	0	0.00 %	175	0.00 %	0	(175)	0
Contract Programming	18,750	6.87 %	273,000	100.00 %	273,000	0	273,000
Guests/Meetings	5,601	112.02 %	5,601	112.02 %	5,000	(600)	2,712
Grassroots Program	(12,110)	(121.10) %	509	5.10 %	10,000	9,490	8,588
Bond Premium Amortization	940	11.75 %	3,902	48.76 %	8,000	4,098	8,318
Investment Service Fees	1,547	36.82 %	6,763	161.50 %	4,200	(2,563)	5,515
Total Operating Expenses	34,728	10.08 %	335,132	97.26 %	344,584	9,452	337,494
Total Expenses	\$ 57,903	10.20 %	\$ 548,398	96.60 %	\$ 567,690	\$ 19,292	\$ 553,133

Accounting

**State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	\$ 29,323	8.46 %	\$ 348,176	100.47 %	\$ 346,544	\$ (1,632)	\$ 331,616
Overtime	0	0.00 %	0	0.00 %	1,500	1,500	0
Taxes and Benefits	4,355	3.65 %	109,872	92.03 %	119,393	9,521	106,838
Pension	3,265	14.14 %	24,427	105.81 %	23,086	(1,340)	20,759
Total Personnel Services	36,943	7.53 %	482,475	98.36 %	490,523	8,048	459,213
Operating Expenses							
Postage and Freight	193	24.09 %	1,558	194.69 %	800	(758)	943
Supplies	584	44.96 %	1,185	91.18 %	1,300	115	1,164
Subscriptions and Books	0	0.00 %	0	0.00 %	200	200	252
Dues and Memberships	0	0.00 %	0	0.00 %	200	200	0
Seminars and Training	800	42.11 %	1,198	63.05 %	1,900	702	0
Miscellaneous	0	0.00 %	303	100.93 %	300	(3)	483
Attorney and Staff Travel	0	0.00 %	0	0.00 %	100	100	0
Luncheons	65	10.82 %	367	61.15 %	600	233	204
Computer Hardware	1,151	0.00 %	1,151	0.00 %	0	(1,151)	2,718
Computer Software	0	0.00 %	25,439	90.86 %	28,000	2,561	31,835
Contract Programming	0	0.00 %	0	0.00 %	250	250	0
Total Operating Expenses	2,793	8.30 %	31,201	92.72 %	33,650	2,449	37,599
Total Expenses	\$ 39,736	7.58 %	\$ 513,676	98.00 %	\$ 524,173	\$ 10,497	\$ 496,812

State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	\$ 25,968	6.03 %	\$ 326,781	75.86 %	\$ 430,784	\$ 104,003	\$ 301,601
Overtime	0	0.00 %	186	37.27 %	500	314	1,154
Taxes and Benefits	10,818	6.82 %	94,967	59.90 %	158,543	63,576	97,145
Pension	(732)	(3.82) %	16,835	87.96 %	19,138	2,303	17,311
Total Personnel Services	36,054	5.92 %	438,769	72.05 %	608,965	170,196	417,211
Operating Expenses							
Postage and Freight	18	12.15 %	78	51.70 %	150	72	137
Supplies	521	14.87 %	3,438	98.24 %	3,500	62	2,866
Unauthorized Access	0	0.00 %	92,154	0.00 %	0	(92,154)	121,288
Telephone	150	8.33 %	1,650	91.67 %	1,800	150	1,800
Subscriptions and Books	0	0.00 %	350	69.97 %	500	150	445
Dues and Memberships	0	0.00 %	0	0.00 %	500	500	0
Seminars and Training	0	0.00 %	4,131	62.68 %	6,590	2,459	0
Miscellaneous	125	6.26 %	205	10.29 %	2,000	1,794	0
Attorney and Staff Travel	0	0.00 %	1,796	51.30 %	3,500	1,705	229
Luncheons	39	19.59 %	268	133.96 %	200	(68)	232
Computer Hardware	0	0.00 %	6,346	25.34 %	25,050	18,703	20,111
Computer Software	5,244	7.94 %	85,434	129.35 %	66,050	(19,383)	39,927
Contract Labor	(10,521)	(38.12) %	25,227	91.40 %	27,600	2,372	20,374
Contract Programming	4,080	29.14 %	10,577	75.54 %	14,000	3,424	11,121
Internet Services	464	5.91 %	3,193	40.68 %	7,850	4,657	10,012
Total Operating Expenses	120	0.08 %	234,847	147.43 %	159,290	(75,557)	228,543
Furniture/Equipment	0	0.00 %	0	0.00 %	4,800	4,800	0
Total Expenses	\$ 36,174	4.68 %	\$ 673,616	87.14 %	\$ 773,055	\$ 99,439	\$ 645,753

Human Resources

State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	14,214	8.46 %	168,808	100.49 %	167,987	\$ (821)	139,087
Taxes and Benefits	7,379	15.10 %	59,907	122.61 %	48,859	(11,048)	45,267
Pension	1,047	13.48 %	8,167	105.15 %	7,767	(400)	7,132
Total Personnel Services	22,640	10.08 %	236,882	105.46 %	224,613	(12,269)	191,486
Operating Expenses							
Postage and Freight	0	0.00 %	195	194.64 %	100	(95)	136
Printing	0	0.00 %	0	0.00 %	50	50	0
Supplies	0	0.00 %	517	86.16 %	600	83	1,035
Telephone	75	8.33 %	900	100.00 %	900	0	900
Subscriptions and Books	0	0.00 %	308	109.90 %	280	(28)	175
Dues and Memberships	0	0.00 %	229	57.25 %	400	171	219
Licenses and Certifications	0	0.00 %	0	0.00 %	300	300	0
Seminars and Training	0	0.00 %	1,967	131.13 %	1,500	(467)	1,142
Miscellaneous	0	0.00 %	109	21.85 %	500	391	126
Flexible Spending	1,196	0.00 %	(1,608)	0.00 %	0	1,608	(241)
Recruitment Costs	696	27.84 %	9,502	380.08 %	2,500	(7,002)	19,816
Background Checks	329	46.98 %	1,349	192.65 %	700	(649)	1,265
Engagement Committee	510	25.49 %	3,406	170.33 %	2,000	(1,406)	1,805
Lunches	0	0.00 %	0	0.00 %	100	100	49
Total Operating Expenses	2,806	28.26 %	16,874	169.93 %	9,930	(6,944)	26,427
Total Expenses	\$ 25,446	10.85 %	\$ 253,755	108.19 %	\$ 234,543	\$ (19,212)	\$ 217,912

Receptionist

**State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	3,343	3.25 %	40,615	39.48 %	\$ 102,862	\$ 62,247	\$ 79,293
Salaries-Hourly PT	0	0.00 %	0	0.00 %	7,500	7,500	0
Overtime	0	0.00 %	0	0.00 %	650	650	0
Taxes and Benefits	766	1.78 %	22,501	52.39 %	42,947	20,446	25,777
Pension	218	8.80 %	2,517	101.65 %	2,476	(41)	2,255
Total Personnel Services	4,327	2.77 %	65,633	41.96 %	156,435	90,802	107,325
Operating Expenses							
Supplies	0	0.00 %	250	124.93 %	200	(50)	52
Miscellaneous	0	0.00 %	0	0.00 %	300	300	0
Total Operating Expenses	0	0.00 %	250	49.97 %	500	250	52
Total Expenses	4,327	2.76 %	65,882	41.98 %	156,935	91,053	107,377

Mailroom

**State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	4,978	8.46 %	59,158	100.56 %	\$ 58,827	\$ (331)	\$ 56,220
Overtime	0	0.00 %	11	3.23 %	350	339	0
Taxes and Benefits	2,620	15.38 %	17,748	104.14 %	17,042	(706)	14,570
Pension	390	10.96 %	3,667	103.07 %	3,557	(110)	3,271
Total Personnel Services	7,988	10.01 %	80,584	101.01 %	79,776	(808)	74,061
Operating Expenses							
Supplies	0	0.00 %	0	0.00 %	100	100	159
Miscellaneous	95	7.92 %	1,425	118.75 %	1,200	(225)	0
Total Operating Expenses	95	7.31 %	1,425	109.62 %	1,300	(125)	159
Total Expenses	\$ 8,083	9.97 %	\$ 82,009	101.15 %	\$ 81,076	\$ (933)	\$ 74,221

Membership

**State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	\$ 26,358	8.46 %	\$ 313,333	100.59 %	\$ 311,499	\$ (1,834)	\$ 297,834
Overtime	0	0.00 %	0	0.00 %	2,000	2,000	195
Taxes and Benefits	4,072	3.47 %	106,428	90.59 %	117,488	11,060	111,411
Pension	2,452	11.99 %	21,201	103.65 %	20,454	(747)	18,774
Total Personnel Services	32,882	7.28 %	440,962	97.68 %	451,441	10,479	428,214
Operating Expenses							
Shared Office Allocation	8,077	8.33 %	96,921	100.00 %	96,921	0	84,900
Postage and Freight	252	7.90 %	3,955	123.60 %	3,200	(755)	2,626
Supplies	0	0.00 %	887	177.30 %	500	(387)	545
Subscriptions and Books	0	0.00 %	301	91.18 %	330	29	205
Miscellaneous	0	0.00 %	68	27.20 %	250	182	53
Attorney and Staff Travel	0	0.00 %	10	0.00 %	0	(10)	0
Luncheons	41	41.00 %	63	63.00 %	100	37	84
Credit Card Discount and Fees	101,998	40.80 %	311,947	124.78 %	250,000	(61,947)	260,735
Computer Hardware	0	0.00 %	0	0.00 %	0	0	2,718
Computer Software	0	0.00 %	874	0.00 %	0	(874)	0
Membership Software License	0	0.00 %	71,539	95.01 %	75,300	3,761	75,242
Contract Programming	1,200	60.00 %	1,200	60.00 %	2,000	800	1,031
Total Operating Expenses	111,568	26.03 %	487,765	113.80 %	428,601	(59,164)	428,139
Total Expenses	\$ 144,450	16.41 %	\$ 928,727	105.53 %	\$ 880,042	\$ (48,685)	\$ 856,353

Meetings

State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	14,110	8.99 %	162,943	103.79 %	\$ 157,000	\$ (5,943)	\$ 153,066
Overtime	1,783	68.58 %	3,472	133.55 %	2,600	(872)	6,159
Taxes and Benefits	2,064	2.56 %	63,704	79.07 %	80,566	16,862	63,049
Pension	1,917	18.16 %	11,597	109.83 %	10,559	(1,038)	8,276
Total Personnel Services	19,874	7.93 %	241,716	96.41 %	250,725	9,009	230,550
Operating Expenses							
Shared Office Allocation	3,231	8.33 %	38,768	100.00 %	38,768	0	33,960
Supplies	0	0.00 %	474	33.87 %	1,400	926	1,169
Telephone	75	8.33 %	900	100.00 %	900	0	900
Subscriptions and Books	0	0.00 %	0	0.00 %	1,300	1,300	0
Seminars and Training	0	0.00 %	199	19.90 %	1,000	801	0
Miscellaneous	0	0.00 %	0	0.00 %	250	250	0
Attorney and Staff Travel	8,377	41.49 %	16,925	83.83 %	20,190	3,265	16,804
Luncheons	0	0.00 %	43	0.00 %	0	(43)	261
Computer Hardware	0	0.00 %	0	0.00 %	0	0	1,359
Computer Software	0	0.00 %	349	0.00 %	0	(349)	394
Contract Programming	2,994	85.54 %	2,994	85.54 %	3,500	506	4,708
Total Operating Expenses	14,677	21.81 %	60,652	90.11 %	67,308	6,656	59,555
Total Expenses	\$ 34,551	10.86 %	\$ 302,368	95.07 %	\$ 318,033	\$ 15,665	\$ 290,105

Executives

**State Bar of Georgia
Expenditure Statement - Operations
For the Current Period Ending June 30, 2023**

	Current Month Actual	Month % of Budget	Year to Date Actual	YTD % of Budget	Budget	Remaining Balance of Budget	Prior Year
Personnel Services							
Salaries	\$ 50,757	6.75 %	722,216	96.03 %	\$ 752,087	\$ 29,871	\$ 726,552
Overtime	519	19.99 %	519	19.99 %	2,600	2,081	104
Taxes and Benefits	13,778	8.39 %	153,111	93.19 %	164,294	11,183	162,225
Pension	3,501	5.57 %	61,107	97.24 %	62,842	1,735	54,989
Total Personnel Services	68,555	6.98 %	936,953	95.43 %	981,823	44,870	943,870
Operating Expenses							
Shared Office Allocation	30,692	8.33 %	368,300	100.00 %	368,300	0	322,620
Postage and Freight	31	1.97 %	280	17.48 %	1,600	1,320	140
Printing	0	0.00 %	108	107.90 %	100	(8)	0
Supplies	348	26.72 %	1,366	105.10 %	1,300	(66)	1,313
Telephone	300	11.11 %	3,600	133.33 %	2,700	(900)	3,450
Subscriptions and Books	0	0.00 %	1,796	118.18 %	1,520	(276)	1,798
Dues and Memberships	0	0.00 %	1,565	100.32 %	1,560	(5)	1,525
Seminars and Training	127	2.16 %	4,210	71.96 %	5,850	1,640	658
Miscellaneous	4,262	121.78 %	7,989	228.26 %	3,500	(4,489)	3,318
Attorney and Staff Travel	6,653	27.95 %	12,422	52.19 %	23,800	11,378	13,432
Executive Director Travel	2,770	18.47 %	16,690	111.27 %	15,000	(1,690)	10,350
Luncheons	53	3.57 %	1,960	130.65 %	1,500	(460)	600
Bank Fees	4,521	30.14 %	11,368	75.79 %	15,000	3,632	18,671
Computer Software	0	0.00 %	714	119.00 %	600	(114)	895
Contract Programming	375	75.00 %	375	75.00 %	500	125	0
Total Operating Expenses	50,132	11.32 %	432,743	97.72 %	442,830	10,087	378,770
Total Expenses	\$ 118,687	8.33 %	\$ 1,369,696	96.14 %	\$ 1,424,653	\$ 54,957	\$ 1,322,640



November 11, 2023

Dear Board of Governors,

I am excited to share the happenings of the YLD as the organization's now 77th President. The YLD is building on the successes of our predecessors to continually increase the awareness of and involvement of our members. The YLD has over 10,000 members – which is a staggering number, but we continue to promote the YLD so that our members take advantage of the benefits of the State Bar of Georgia.

I take personal privilege to thank Supreme Court of Georgia Justice Verda M. Colvin for presiding over the swearing-in of the new YLD Officers' slate in June 2023. Her rendition of the infamous swearing-in oath was unforgettable and likely will not be recreated soon! Already this year, the YLD has begun planning and hosting events for our members. Intentionally, we have encouraged new member involvement with “new” faces added to leadership of some of the YLD Committees – which we have over 30 different committees including a few new ones this year based on areas of interest. We continue to reach out to leaders to join our committees across the state of Georgia. I am excited to announce that the YLD now has a Sports Law Committee that is actively planning engaging programming for our members. Some of the ideas include a kickball tournament in spirit of the Olympic Games next summer. I encourage the Board to read the below committee reports on upcoming and past events and share those with young lawyers that you may know whether professionally or personally.

This year's priorities: As I mentioned during my first address to this esteemed body, my goal for this Bar year is to reach new YLD members – or those not previously engaged – to promote the organization and how it is a support for younger lawyers. This year, we also strive to connect with solo/small firm lawyers and to build a community for support and engagement. As early as its creation in 1947, the purpose of the Younger Lawyers Section was furthering the goals of the State Bar, increasing interest and participation of young lawyers, and fostering the principles of duty and service to the public. We are heavily focusing this year on “service to the public” and aim to have a service project and/or service component at each of the YLD's meetings.

In July 2023, we held the YLD Committee Chair Orientation at the Bar Center. During the orientation, young leaders brainstormed events and programs to begin the year on a strong front. Each committee presented its ideas for suggestions and developed collaboration between different committees. Next, in August 2023, the YLD Board and Executive Committee went to Amicalola Falls for its planning meeting and assigned Board members to the YLD committees to act as a support. We discussed larger programming initiatives planned for the year including the 2024 Signature Fundraiser that will be held at the Midyear Meeting in conjunction with the Board of Governor's meeting. The 2024 Signature Fundraiser beneficiary will be the Public Interest Internship Program, which had over 70 applicants last year for only four scholarships. Given the uptick in interest and applications, we aim to support five total scholarships and ask for your support in this effort. The event will be more convenient than ever as it will be held at the Midyear Meeting at the same venue.

In August 2023, the YLD successfully co-hosted the Tropical Summer CLE in Puerto Rico with the Board. We had esteemed judges including Chief Justice Michael Boggs, Justice Shawn LaGrua, Court of Appeals Judge Sara Doyle, Judge Alvin Wong, Judge Stacey Hydrick, and Judge Amanda Heath. The content focusing on wellness and professionalism was well-timed for current events. The other programming

included optional excursions including an El Yunque Rainforest Adventure, which consisted of an intense hike that required the optimization of the wellness techniques learned the day before to ask for help and rely on others for support. I particularly enjoyed the hike and waterfalls, although it proved to be a challenge, but ultimately was a phenomenal teambuilder, nonetheless. The Supreme Court of Puerto Rico and the Federal District Court graciously hosted our group for a private tour including the attendance of First Circuit Judge Gustavo Gelpi and Associate Justice Rafael Martinez-Torres, who shared the intricacies and differences of the legal system in Puerto Rico.

Upcoming YLD meetings: The YLD Fall Meeting will be held in Charleston, South Carolina in November 2023. This meeting will be our only standalone session and in beautiful, historic Charleston. I am excited to share the city with the YLD as it is a home away from home for me. We will also have a fun murder mystery dinner for our YLD members as well as a dine-around option hosted by the YLD officers. If a YLD member does not have someone to hang out with during the time, we have made efforts to develop social opportunities and the dine-around is one way to take away that fear. We will have two CLE offerings – one focusing on disaster relief, which we have seen this year firsthand in Georgia, and the other is a fireside chat with Justice Colvin to demystify the judiciary and appellate process.

I wanted to give a special shoutout to YLD members: LaToya Williams, Kelsey Kicklighter, and Mitchell Snyder who will be spearheading our Signature Fundraiser planning. Leadership Academy Co-Chairs Kindall Browning-Rickle, Samantha Mullis, and James Banter are hard at work preparing for another great class with new programming and locations offered to meet members around the state. We have seen a record number of applicants for Leadership Academy and anticipate another successful year!

YLD COMMITTEES

The YLD has more than 30 committees working to support our motto of service to the community and profession. Each committee works diligently to provide substantive programming in their respective focus areas. Below are some of the accomplishments of our YLD committees this year:

YLD Advocates for Students with Disabilities Committee

Krysta Grymes and Megan Glimmerveen, Co-Chairs

The Advocates for Students with Disabilities Committee is planning a virtual Lunch & Learn CLE for October with either attorney advocacy or school board attorney representation.

YLD Criminal Law Committee

Adrienne Browning and Brandi Holland, Co-Chairs

The Criminal Law Committee met on September 13 and brainstormed events to host over the year. We talked about hosting a joint event with the Wellness Committee to spread awareness on health-related topics for practicing attorneys. We also talked about proposing a CLE again this year for the YLD Midyear meeting in January. More details to come.

YLD Family Law Committee

Bianca Nawrocki and Jonathan Stoye, Co-Chairs

First, we are looking to join the Litigation Committee in planning a lunch and learn in Macon. We are still unsure of the location, but topics may include a domestic relations case law update. The speaker may be one of the Superior Court Judges in Macon, who gave a similar talk at a recent CLE. There would hopefully be a zoom/ recorded option for those who cannot attend in person. We would try to offer CLE credit.

Next, we discussed bringing back the Supreme Cork event which was quite successful last year. We hope to start the planning much sooner, which will allow for a true silent auction and an even better fundraising event for AVL. We would work to keep this event at the end of the Bar year in June.

A project we worked on last year was the YLD Child Support Helpline. Despite our best efforts, that project did not get off the ground or revitalized. We hope to work on that this year and get it back working order.

We also discussed opportunities for networking events. Last year, we had an event in Marietta in the Fall at a local brewery. We discussed potentially having something at the Fall Meeting in Charleston or another location if it is not practical to have a formal event at the Meeting.

Finally, we discussed ideas of how to increase membership and awareness for our committee (and others). We look forward to exploring those possibilities to try and get more people involved.

YLD Inclusion in the Profession Committee

Meghan Aubry, Ashley Horton and Ashley O'Neil, Co-Chairs

The Inclusion in the Profession Committee is planning an event for October 30, 2023, at the State Bar Headquarters, Room A. A Zoom option is offered for those who cannot attend in-person. This will be a panel discussion on Company DEI Efforts Since 2020. We will be asking the panelists to speak on what their firms do in terms of DEI efforts, training, programming, etc. Additionally, asking the panelists to speak on leadership's support of the DEO efforts. The goal is to get the perspectives of a range of firm sizes. We intend to try and follow up the meeting with a networking event. CLE credits may be offered.

YLD Intrastate Moot Court Competition

Hannah Couch and Megan Howerter, Co-Chairs

The YLD hosts the annual Intrastate Moot Court Competition where teams from only Georgia law schools compete. Each team presents an oral argument on an issue currently before the Supreme Court of the United States or Georgia. Members of the Georgia Bar serve as justices, and each member receives two free CLE credits. The competition will take place at the State Bar of Georgia Headquarters in Atlanta on March 15-16, 2024. More information on how to volunteer as a judge will be available in the coming months.

YLD Judicial Law Clerk Committee

Elizabeth Crymes, Mallory Fleming and Essie Lazarus, Co-Chairs

The Wellness and Judicial Law Clerk committees are collaborating to put together a hike for the YLD! We want to encourage people to get outside and enjoy the early fall air, along with the changing leaves and nature in general. We will provide water and light trail snacks. Parking at High Falls will cost \$5 for a day pass.

YLD Law School Outreach Committee

Kelsey Kicklighter, Angelyn McDonald and Cap Russell, Co-Chairs

The Law School Outreach Committee co-chairs have discussed the following:

1. The committee plans to host "Welcome to YLD" (working title) receptions in conjunction with law school swearing-in ceremonies this fall. The committee co-chairs will spearhead events by school/geographic location as follows:

- Atlanta Area: Emory, Georgia State, John Marshall (Angelyn McDonald – GSU)
 - o The committee will seek to identify alumni of Emory and John Marshall as co-chairs/points of contact for those schools.
 - Athens: University of Georgia (Cap Russell)
 - Middle/South Georgia: Mercer University (Kelsey Kicklighter)
2. Table at the February and July bar exams.
 3. Once/per semester tabling at each law school.
 4. Welcome to YLD email to new Bar members.
 5. Co-hosting service project (and possible lunch) with YLD Leadership Academy at the Midyear meeting.
 6. The first committee meeting will be held via Zoom in October (date TBD).

YLD Leadership Academy

James Banter, Kindall Browning-Rickle and Samantha Mullis, Co-Chairs

This summer the Leadership Academy co-chairs were hard at work updating the new brochure advertising the Leadership Academy. We planned the dates, locations, themes, and potential speakers for the class of 2024. In August, the application went live! We have received numerous applications in advance of our September 22nd deadline and hope to receive many more. We will meet in Athens, Georgia at the end of September to select the Leadership Academy class of 2024.

YLD Legislative Affairs Committee

Stephen Swinson and Spencer Woody, Co-Chairs

The Legislative Affairs Committee co-chairs met on September 11th to discuss plans for the year. The YLD legislative day and luncheon at the State Capitol will be held on February 1, 2024. More details to come.

YLD Public Interest Internship Program Committee

Arthur Bailin and Aimee Sobhani, Co-Chairs

The PIIP program will be the 2024 signature fundraiser beneficiary. The fundraiser is scheduled to take place on January 12, 2024, at the State Bar Midyear Meeting. We are hoping to generate significant interest in the fundraiser as there were 70 applicants last year (largest number since the program was created). As the event gets closer, we will work with committee members, other committees, and the "big bar" to get the word out and make the event a success so that we can help upcoming lawyers achieve their goals.

YLD Real Estate Law Committee

Morgan Boulineau and Elizabeth Harps, Co-Chairs

The Real Estate Law Committee is planning a networking event on November 11, that would consist of a walking tour of Downtown Charleston lead by a local real estate attorney or broker.

We are also working on a CLE for the Midyear meeting in Buckhead with the Real Property Law Section.

YLD Solo Practice and Small Firm Committee

Bethany Bennett, Milinda Brown, MaryBeth Handte and Courtney Kramer, Co-Chairs

The Solo Practice and Small Firm Committee is working on planning a rooftop networking night in Atlanta/Buckhead with hors d'oeuvres in early 2024. If the event takes place in January-February, it will be held somewhere with fire pits. We will get sponsors for this event as well to try to get more people to join the committee and increase attendance overall.

YLD Sports Law Committee

Noël Couch and Caleb Ratliff, Co-Chairs

The Sports Law Committee is planning to have a panel discussion with Scott Wilkinson with the Atlanta Hawks concerning his day-to-day duties and how he came into the profession. We are also hoping to bring in other individuals in similar roles with sports teams from the Atlanta area. Tickets will be sold for the event, and we are still working through those details. The game is scheduled for February 27, 2023. CLE credit may be offered.

We have also discussed the possibility of hosting a kickball game at the YLD Spring Meeting on April 20, 2024. More details to come.

YLD Wellness Committee

Cameron Roberts and Allyson Yates, Co-Chairs

The Wellness Committee and the YLD Judicial Law Clerk Committee are organizing a hike at High Falls State Park on Saturday, October 7 at 9:30 a.m. More details to come.

The Wellness Committee is also interested in hosting a book club. The goal would be to meet via Zoom and in-person to discuss 1 book, that an attorney wrote about mental wellness in the lawyer world. In-person locations would change for each meeting. Meetings would begin in the Fall 2023 and continue, on a regular basis, until the book is complete.

YLD Women in the Profession Committee

Cayton Chrisman, Farheen Khan and Olivia Mercer, Co-Chairs

The Women in the Profession committee would like to rent out a movie theatre somewhere between Atlanta and Macon in the month of October. We want to play the movie *Barbie* as a networking and social activity. More details to come.

YLD AFFILIATES

The YLD currently has seven recognized active affiliates around the state: Young Lawyers of Augusta, Cobb County Younger Lawyers Division, Columbus YLD, Glynn County YLD, Houston County YLD, Macon YLD and Savannah YLD. The Western Circuit YLD has been inactive for a few years but has recently expressed an interest in reorganizing.

MEETINGS

Fall Meeting | Nov. 10-12 | Mt. Pleasant, South Carolina

Midyear Meeting | Jan. 11-13 | Atlanta, Georgia

Held in conjunction with the State Bar of Georgia Board of Governors.

Spring Meeting | April 19-21 | Young Harris, Georgia

Held in conjunction with the State Bar of Georgia Board of Governors.

Annual Meeting | June 6-9 | Fernandina Beach, Florida

Held in conjunction with the State Bar of Georgia Board of Governors.

The YLD continues to thrive due to the efforts of our young leaders. We continue to move forward with innovative and engaging programs that come from the ideas of our members. I hope all of our young lawyer members can attend our YLD meetings and other programs to see the connections available to them. As you can see, the YLD committees are hard at work planning for young lawyers around the state. If you are looking for a way to build connections or join a committee, please reach out!

Sincerely,

A handwritten signature in cursive script that reads "B. Browning".

Brittanie D. Browning

2023-24 YLD President

HELP FIGHT SUICIDE

GEORGIA
LAWYERS
LIVING WELL

OUT OF THE DARKNESS WALK

The Out of the Darkness walks give people the courage to open up about their own connections to the cause, and a platform to create a culture that's smarter about mental health. Friends, family members, neighbors and co-workers walk side-by-side, supporting each other and in memory of those we've lost.

Join us for the
2023 Atlanta Out of the Darkness Walk
Piedmont Park | Nov. 5 | 2 p.m.

Register with the State Bar of Georgia Lawyers Living Well Team at afsp.org/GAexperience.

ADDITIONAL COMMUNITY WALKS:

- Carrollton, Georgia | Oct. 29
- Hiram, Georgia | Oct. 21
- Winder, Georgia | Oct. 22



afsp.org/GAexperience



American
Foundation
for Suicide
Prevention



OUT OF THE
DARKNESS
Community Walks



CHIEF JUSTICE’S COMMISSION ON PROFESSIONALISM

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The Honorable Michael P. Boggs (Chair)
Chief Justice, Supreme Court of Georgia
Atlanta, Georgia

Mr. M. Lamar Barnett, Jr.
AFLAC
Columbus, Georgia

Associate Dean Michael Scott Boone
Atlanta’s John Marshall Law School
Atlanta, Georgia

Ms. Brittanie Browning
Akerman LLP
Atlanta, Georgia

Mr. Christopher J. Chan
Christopher J. Chan IP Law
Atlanta, Georgia

Professor Nathan S. Chapman
University of Georgia School of Law
Athens, Georgia

Professor Clark D. Cunningham
Georgia State University College of Law
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Mr. J. Antonio DeCampo
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Mrs. Molly Barrett Gillis
The Gillis Law Firm, LLC
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The Honorable Elizabeth D. Gobeil
Court of Appeals of Georgia
Atlanta, Georgia

The Honorable Steven D. Grimberg
U.S. District Court, Northern District of Georgia
Atlanta, Georgia

Professor Tonja Jacobi
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Mr. Francis Johnson
Davis Bozeman Johnson Law
Statesboro, GA

Mrs. Nekia Hackworth Jones
Federal Government
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Professor Patrick E. Longan
Mercer University School of Law
Macon, Georgia

The Honorable T. Russell McClelland III
State Court of Forsyth County
Cumming, Georgia

The Honorable Shondana Crews Morris
Superior Court of DeKalb County
Decatur, Georgia

Ms. Lauren Shubow
Atlanta Circuit Public Defender’s Office
Atlanta, Georgia

Mrs. Cathy Clark Tyler
Atkins Global North America, Inc
Atlanta, Georgia

Ms. LaToya Simone Williams
Georgia Public Defender Council
Atlanta, Georgia

Ms. Sandy Wisenbaker
Coweta County Solicitor General’s Office
Newman, Georgia

Supreme Court of Georgia Advisor
The Honorable Andrew A. Pinson
Supreme Court of Georgia
Atlanta, Georgia

Staff
Ms. Karlise Y. Grier
Executive Director

TO: Board of Governors of the State Bar of Georgia

FROM: Karlise Yvette Grier
Executive Director, Chief Justice’s Commission on Professionalism

DATE: October 28, 2023

RE: Chief Justice’s Commission on Professionalism

The Chief Justice’s Commission on Professionalism (Commission), the first body of its kind in the nation, was created in 1989 by the Supreme Court of Georgia. The Commission’s primary charge is to enhance professionalism among Georgia’s lawyers and judges. **Chief Justice Michael P. Boggs** serves as the current Chair of the Commission. **Justice Andrew A. Pinson** serves as the Supreme Court Advisor to the Commission. You may find a complete list of Commission members, advisors, and liaisons at the Commission’s web site at <http://cjcpga.org/commission-members-2023-2024/>. A brief update regarding the Commission’s work as of September 19, 2023, is as follows:

NOMINATIONS FOR THE 24TH ANNUAL JUSTICE ROBERT BENHAM AWARDS FOR COMMUNITY SERVICE

The Chief Justice’s Commission on Professionalism, in partnership with the Georgia Legal History Foundation (GLHF), will host the 24th Annual Justice Robert Benham Awards for Community Service (CSA24). The Commission is accepting **nominations** for CSA24 from **Friday, September 15, 2023, until 11:59 p.m. on Friday, November 10, 2023**. Judges and lawyers meet the criteria for these awards if they have combined a professional career with outstanding service and dedication to their communities through voluntary participation in community organizations, government-sponsored activities, or humanitarian work outside of their professional practice or judicial duties. The Commission and the GLHF will hold the awards ceremony on **Wednesday, April 17, 2024, from 5:30 p.m. – 7:30 p.m.** at the Nathan Deal Judicial Center. **Please save these dates.** Also, please share the flyer attached as “Exhibit A” and visit <http://cjcpga.org/nominationsbenhamcsa/>.

For more information on the nomination eligibility criteria or to nominate a deserving lawyer or judge, please watch the video prepared by Chief Justice Michael P. Boggs at the QR code here:



COMMISSION MEMBER AND ADVISOR APPOINTMENTS

On May 11, 2023, the Supreme Court of Georgia appointed **Judge Elizabeth Gobeil** to the Commission as a designee of the Court of Appeals of Georgia to fill the unexpired term of the late Judge Clyde L. Reese, III. Thereafter, the Supreme Court appointed **Mr. J. Antonio Del Campo** and **Ms. Brittanie D. Browning** to the Commission ex officio as President of the State Bar of Georgia and President of the Young Lawyers Division of the State Bar of Georgia, respectively. In addition, the Commission welcomed several new members whose terms began on July 1, 2023, as follows: **Mr. M. Lamar Barnett**; **Ms. Anissa D. Floyd**; **Professor Tonja Jacobi**; **Ms. Sandy Wisenbaker**; and **Ms. Lauren Shubow**. The Commission also welcomed back several Commission members for an additional term. Those members are as follows: **Associate Dean Michael Scott Boone**; **Professor Clark D. Cunningham**; **Ms. Nekia Hackworth Jones**; **Hon. T. Russell McClelland III**; **Mr. Francys Johnson**; and **Ms. LaToya S. Williams**. For a complete list of Commission members, visit the Commission’s website at <http://cjcpga.org/commission-members-2023-2024/>. The Commission thanks all of its members for their service.

LAW SCHOOL ORIENTATIONS ON PROFESSIONALISM

The Commission staffs the State Bar of Georgia Committee on Professionalism (Committee), currently chaired by **Mr. Michael Herskowitz**. In that role, the Commission funds and supports the Committee’s work on the Law School Orientations on Professionalism. The orientations are designed to introduce concepts of legal professionalism to incoming 1L students, transfer students, and graduate students. Georgia lawyers and judges serve as “Group Leaders” during the orientations to help students learn the meaning of professionalism and why it is important for them as law students. In 2023, 955 law students participated in the orientations at each of Georgia’s five accredited law schools. The dates, plenary speakers and Group Leader volunteer numbers for the 2023 Law School Orientations on Professionalism were as follows:

<u>School</u>	<u>Date</u>	<u>Plenary Speaker</u>	<u># Group Leaders</u>
Atlanta’s John Marshall Law School	August 5, 2023	Judge Eric Richardson State Court of Fulton County	26
Emory University School of Law	August 10, 2023	Judge Glenda Hatchett (Retired) Juvenile Court of Fulton County	47
Georgia State University School of Law	August 8, 2023	Chief Justice Michael P. Boggs Supreme Court of Georgia	22
Mercer University School of Law	August 11, 2023	Judge Connie L. Williford Superior Court, Macon Judicial Circuit	23
University of Georgia School of Law	August 11, 2023	Mr. Naveen Ramachandrappa, Esq. Bondurant Mixson & Elmore	37

The 2022-2023 Bar sub-committee that planned the 2023 law school orientation programs was chaired by attorneys **Ms. J. Maria Waters and Ms. Kacey Baine**. The other members of the sub-committee that planned the orientations were as follows: **Associate Dean Kent Barnett, Assistant Director Leron Burge, Prof. Nathan S. Chapman, Andrew Ligon Fant, Prof. Derrick Howard, Hon. Shukura L. Ingram, Ashley S. Lewis, Associate Dean Tameka Lester, Prof. Patrick Longan, Travis Lynes, C. Brad Marsh, Kevin C. Patrick**. The Commission thanks Georgia's lawyers, judges, and law school partners for their continued support of the professionalism orientations, which celebrated 31 years in 2023! Please visit <http://cjcpga.org/law-school-orientations-on-professionalism-2023/> for more information about the 2023 Law School Orientations on Professionalism, or to sign-up to receive information about the 2024 Fall law school orientation programs.

PROFESSIONALISM PAGE ARTICLES

The Commission communicates with lawyers and judges through the Professionalism Page that appears in each issue of the Georgia Bar Journal, which is published six times per year. The June 2023 Georgia Bar Journal Professionalism Page entitled *23rd Annual Justice Robert Benham Awards for Community Service* is attached as "Exhibit B" The August 2023 Georgia Bar Journal Professionalism Page entitled *Living Legends of the Macon Bar* is attached as "Exhibit C."

COMMISSION ASSISTANCE WITH BAR ASSOCIATION AND SECTION PROFESSIONALISM CLE PROGRAMS

The Commission's Executive Director is available to assist State Bar of Georgia sections, local and voluntary Bar associations, and other law-related organizations with their professionalism CLE programming. Please contact the Commission's Executive Director if you would like assistance in planning a professionalism CLE program or if you would like to have the Commission's Executive Director to make a professionalism presentation to your organization. Please contact the Commission's Executive Director, Karlise Y. Grier, via e-mail at kygrier@cjcpga.org for information or assistance.

COMMISSION WEBSITE AND SOCIAL MEDIA

The Commission enjoys communicating with lawyers and judges about professionalism on the Commission's social media platforms and via its website. Tell us what #professionalism means to you and why it matters. Contact with us!

Professionalism 2U: <http://cjcpga.org/2u/>
Twitter: <https://twitter.com/CJCPGA>
LinkedIn: <https://www.linkedin.com/company/cjcpga/>
YouTube: <https://www.youtube.com/user/cjcpga/videos>



**Nominations Deadline:
November 10, 2023**

**The 24th Annual
Justice Robert Benham
Awards
for
Community Service
NOMINATIONS**

The Chief Justice's Commission on Professionalism is accepting Nominations for the 24th Annual Justice Robert Benham Awards for Community Service.

"For more information or to submit a nomination:"
<https://cjcpga.org/nominationsbenhamcxa>

Save the Date
The Chief Justice's Commission on Professionalism, in partnership with the Georgia Legal History Foundation, will host the 24th Annual Justice Robert Benham Awards for Community Service on April 17, 2024, from 5:30 p.m. - 7:30 p.m. at the Nathan Deal Judicial Center.

Follow us for updates:  



23rd Annual Justice Robert Benham Awards for Community Service

The Chief Justice's Commission on Professionalism is pleased to recognize lawyers and judges who have made significant contributions to their communities and who demonstrate the positive contributions of members of the Bar beyond their legal or official work.

BY KARLISE Y. GRIER



(Left to right) Chief Justice Michael P. Boggs and Justice Robert Benham at the 23rd Annual Justice Robert Benham Awards for Community Service ceremony at the Nathan Deal Judicial Center in March.

Chief Justice Michael P. Boggs, along with former Chief Justice Robert Benham, joined more than 100 attorneys and Georgia community members at the Nathan Deal Judicial Center in March for the 23rd Annual Justice Robert Benham Awards for Community Service hosted by the Chief Justice's Commission on Professionalism (the Commission). Since 1998, the Benham Awards have honored lawyers and judges in Georgia who have made significant contributions to their communities and who demonstrate the positive contributions of members of the Bar beyond their legal or official work. Service may be made in any field, including but not limited to: social service, education, faith-based efforts, sports, recreation, the arts or politics. The Selection Committee generally believes that community or public service is not service to a bar association; however, community service can be done through bar-sponsored or related activities or projects. Historically, the Benham Awards Selection Committee has accepted nominations for this prestigious statewide award from each of Georgia's 10 judicial districts, and the awards have been presented to selected attorneys in the judicial districts from which nominations were received. The award that is still given to award recipients was designed in 1998 by Patrise Perkins-Hooker, who at

that time, was a member of the Benham Awards Selection Committee. Perkins-Hooker later went on to serve as the first African American president of the State Bar of Georgia in 2014-15.

The Lifetime Achievement Award is the highest recognition given by the Commission and is reserved for a lawyer or judge who, in addition to meeting the criteria for receiving the Justice Robert Benham Award for Community Service, has demonstrated an extraordinarily long and distinguished commitment to volunteer participation in the community throughout their legal career.

In 2023, the Commission awarded the Lifetime Achievement Award to J. Michael Levengood, founding member, Law Office of J. Michael Levengood, LLC, Lawrenceville. The 2023 district award recipients were: Mary T. Benton, pro bono partner, Alston & Bird LLP, Atlanta; Simon H. Bloom, founding partner, Bloom Parham, LLP, Atlanta; Hon. Ronald J. Freeman Sr., managing member, Johnson & Freeman, LLC, Historic Union City; Elicia N. Hargrove, assistant district attorney, Henry County District Attorney's Office, McDonough; Edward H. Lindsey Jr., partner, Dentons US LLP, Atlanta; Jason Banks Moon, Moon Law Firm, Valdosta; Wallace H. Wright, Wright & Edwards, P.C., Metter. All award recipients are members of the State Bar of Georgia.

This year's ceremony was successful due to the hard work of many individuals whom I would like to thank. First, the Commission appreciates the work of the Benham Awards Selection Committee members who determined the award recipients: Committee Chair Hon. Joy Lampley-Fortson, U.S. Department of Justice, Atlanta; Hon. Joshua Clark Bell, Bell/Payne, LLC, Whigham; John Michael Dugan, DRL Law LLC, Greensboro; Jena G. Emory, Copeland Stair Valz & Lovell LLP, Atlanta; Terrica Redfield Ganzy, Southern Center for Human Rights, Atlanta; Laverne Lewis Gaskins, Law Office of Laverne Lewis Gaskins, P.C., Augusta; Michael Hobbs, Troutman Pepper Hamilton Sanders LLP, Atlanta; Hon. Chung H. Lee, The Law Office of Lee & Associates PC, Duluth; William J. "Bill" Liss, WXIA-TV/11Alive, Atlanta; Jennifer Mock, The

Lifetime Achievement Award for Community Service



J. Michael Levengood's community service has been a foundational pillar throughout his legal career.

Levengood served on the Gwinnett Health System Board of Directors, the Hospital Authority of Gwinnett County, the Georgia Hospital Association and the National Scleroderma Foundation. Levengood and his family have raised significant dollars to fund research for a cure in memory of his sister-in-law, Kathleen, who passed away in 2009 from the disease.

During the '90s, Levengood coached youth baseball and basketball teams, and for many years served as president of the Mountain Park Athletic Association. In 2001, Levengood formed the Gwinnett Parks Foundation with several other community advocates, and initially served as the foundation's secretary. For more than two decades, the foundation has provided more than \$100,000 in scholarships for youth camp opportunities, senior health and wellness classes, and youth sports activities. The foundation conducts two community work days each year to beautify and improve county parks called Park'nership, which promotes good stewardship by encouraging youth and adults to participate in park beautification activities.

Levengood, a 2003 graduate of Leadership Gwinnett, served as chair of the organization's Steering Committee. He formed the Leadership Gwinnett Foundation in 2007. Levengood, who became an Eagle Scout in 1970, is also active with the Boy Scouts of America Northeast Georgia Council. He serves in numerous critical roles that benefit more than 13,000 youth and adult members in 26 counties. Currently, Levengood is pro bono counsel, where he has given thousands of hours of legal advice to guide through the bankruptcy of the national organization. Most recently, he has agreed to serve as the next president of the Council's 160-member Executive Board of Directors.

Levengood is chair of the Community Foundation for Northeast Georgia, and currently serves on the Gwinnett County Public Schools Foundation Fund Executive Committee and on the Superintendent's Business Leaders Council. In addition, he is an emeritus board member of the Gwinnett Chamber of Commerce. Levengood has served multiple times as Church Council president at Christ the King Lutheran Church in Peachtree Corners and at All Saints Lutheran Church in Lilburn. ●

Mock Law Firm, LLC, Statesboro; Hon. Herbert E. Phipps, Court of Appeals of Georgia, Atlanta; Cindy Wang, Georgia Department of Juvenile Justice, Decatur; and Hon. Brenda Carol Youmas, Macon. In addition to the Selection Committee, members of the Benham Awards Planning Committee assisted with organizing and fundraising. The Planning Committee was co-chaired by Christopher J. Chan, founder, Christopher J. Chan IP Law, and LaToya S. Williams, Georgia Public Defender Council, Atlanta. Ad-

wo Gharthey-Tagoe Seymour, vice president of litigation, Albertsons Companies, Inc., was an advisor to the CSA23 Planning Committee. Committee members included: Hon. William P. "Bill" Adams, Middle Georgia Justice, Macon; Marian Adeimy, Cox Enterprises, Inc., Atlanta; Hon. Phinia Aten, Rockdale County Magistrate Court, Conyers; Ann Baird Bishop, Hall Booth Smith, P.C., Atlanta; Addison Hilary Brown, undergraduate student, University of Georgia, Athens; William C. "Bill" Gentry, Gentry Law Firm, LLC,

2023 JUNE 65



(Front row, left to right) Simon H. Bloom, Mary T. Benton, Justice Robert Benham, J. Michael Levensgord and Wallace H. Wright. (Back row, left to right) Edward H. Lindsey Jr., Hon. Ronald J. Freeman Sr., Karlise Y. Grier, Elicia N. Hargrove, Jason Banks Moon and Chief Justice Michael P. Boggs.

PHOTO BY RON MORGAN PHOTOGRAPHY

Marietta; Norbert D. "Bert" Hummel IV, Hummel Trial Law, Kennesaw; Gerond Julian Lawrence, Greenberg Traurig, LLP, Atlanta; Deborah F. Lempogo, Squire Patton Boggs (US) LLP, Atlanta; Kenneth A. Mitchell, Giddens, Mitchell & Associates, P.C., Decatur; Alan G. Poole, Troutman Pepper Hamilton Sanders LLP, Atlanta; Cathy L. Scarver, C. L. Scarver & Associates, LLC, Atlanta; Shaniqua Singleton, Nelson Mullins Riley & Scarborough LLP, Atlanta; Cathy Clark Tyler, Atkins North America, Inc., SNC-Lavalin, Atlanta; Meka B. Ward, The Home Depot, Atlanta. Finally, individuals who volunteered to assist during the evening of the awards ceremony were Ann Baird Bishop, Christopher Brock, Christopher J. Chan, Jena G. Emory, Lynn Johnson, William J. "Bill" Liss, Kenneth Mitchell Jr., Paula Myrick, Cathy L. Scarver, Adwoa Ghartey-Tagoe Seymour, Shaniqua Singleton, Jasmine Smith Reaves, LaToya S. Williams, Angie Wright Rheaves and Raneé Zilston.

I also wish to thank Chief Justice Michael P. Boggs, Justice Andrew A. Pinson and Justice Robert Benham for their examples and for their continuing support and guidance regarding the Commission and the awards ceremony. Thank you to Therese "Tee" Barnes, Tia C. Milton, Lynnita Terrell, Bob McAteer, Anita Harrison, Emily Youngo, Marti Head, Sgt. Dexter Harden and all of the staff of the Supreme Court of Georgia who helped to make this event possible. I am grateful that the members, advisors and liaisons of the Commission continue to understand the role and importance of the awards ceremony in the Commission's work to promote and enhance professionalism among Georgia's lawyers and judges.

Additional information regarding the awards ceremony, including a program book, photographs and honoree videos are available on the Commission's website at cjcpga.org/benhamcsa23. ●

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Cathy Clark Tyler

 **Karlise Y. Grier**
Executive Director
Chief Justice's Commission
on Professionalism
kygrier@cjcpga.org

Justice Robert Benham Award for Community Service: 2023 Honorees



Mary T. Benton

Volunteered with the Truancy Intervention Project Georgia, Inc., beginning in 1996; joined the board in 2002, and served as board chair from 2012-14. Provided volunteer support and leadership to Georgia Appleeed for almost 15 years; served for two terms as board chair; was part of a coalition that worked to rewrite the Georgia Juvenile Code that passed unanimously and was signed into law by Gov. Nathan Deal in 2013. Currently serves on the boards of the National Appleeed Foundation, United Way of Greater Atlanta, the Gateway Center and the National Homelessness Law Center.



Simon H. Bloom

Has volunteered for almost 30 years for the Boys and Girls Clubs of Metro Atlanta (BGCMA); served as BGCMA's board chair from 2020-22; hosted an annual "Pig Gig Fundraiser" for almost 22 years and raised more than \$1 million to support BGCMA. Currently serves on the boards of the Atlanta Police Foundation, Georgia State University College of Law Board of Visitors and as board vice chair for Great Promise. Founded Hope + Access in 2017, a nonprofit committed to providing youth development and social services through partnerships with churches.



Hon. Ronald J. Freeman Sr.

Since 1992, has served as a board member for the Andrew & Walter Young Family Metro YMCA; raised millions of dollars to expand and renovate the facility, and served as a longtime volunteer aerobics instructor. Founded the Tiger Soccer Club (TSC) and helped develop approximately 2,000 players; coached TSC U17 Boys Competitive Team that ranked second in international play in their division. Currently serves on the Georgia State University (GSU) Foundation Board, the GSU College of Law Board of Visitors and as secretary of the GSU Emeriti Society; GSU's Black Law Student Association named its chapter in his honor.



Elicia N. Hargrove

Volunteered in Albany, Georgia, for SOWEGA Rising's voter election literacy and rights trainings, Women9to5's Albany campaign for utilities justice, and as a Board member for Open Arms and United Minds Empowered. Volunteers in Milledgeville, Georgia, on the Boards of Straight Street Minis-

tries House of Ananias Inc., which focuses on community outreach and ministry, and MIA Maddox Investing in America, Inc., which helps to feed more than 100 families each month. Volunteers in McDonough, Georgia, for the "Ignite My Fire" program held at the Shaquille O'Neal Boys & Girls Inc., which works to engage, educate and empower youth.



Edward H. Lindsey Jr.

Currently serves as a member of the State Elections Board, which establishes voting rules and regulations. Serves as co-chair of the Committee for a United Atlanta. Founding board member of Georgia Fugees Charter School, a state-funded, public charter school established in 2020, with the primary mission of serving the unique educational needs of refugee and new American students. Served for 10 years in the Georgia House of Representatives, including three terms as the House majority whip. Sponsored HB 200, which was Georgia's first comprehensive attack on human trafficking. Co-sponsored the State Charter School Constitutional Amendment.



Jason Banks Moon

Served as a Boy Scouts of America (BSA) Cubmaster of Pack 491 from 2017-22; grew the Pack from 18 to more than 35 active scouts; maintained the Pack's membership during the COVID-19 pandemic by implementing safety protocols; co-founded Troop 2020, the first all-girls BSA troop in the Alapaha District of the South Georgia Council; currently serves as a District Committee member for the BSA Alapaha District, a merit badge counselor for the Law Merit Badge, and as vice president for membership on the Executive Board of the BSA South Georgia Council.



Wallace H. Wright

Serves as a certified dog handler for Tyler, a certified therapy dog; visits local schools, hospitals and retirement homes in Candler County with Tyler to help children learn to read, to help relieve pain, suffering and anxiety in hospitals, and to spread cheer in retirement homes. Serves as a board member for Communities in Schools in Candler County. Mentors local school children. Volunteered with Ogeechee Area Hospice, by assisting in its formation, participating in a capital fund drive, providing pro bono legal services and serving on the board of directors.

**partial list of honoree accomplishments*

Living Legends of the Macon Bar

The Bootle Inn of Court in Macon presented a series of programs titled, "Living Legends of the Macon Bar," which told the stories of Manley F. Brown, Hon. Lamar W. Sizemore Jr. and Virgil L. Adams.

BY TATE CRYMES AND SIENA BERRIOS GADDY



One of the best ways to learn professionalism is to hear about the lives and careers of distinguished lawyers and judges. In that spirit, the Bootle Inn of Court in Macon presented a series of programs titled, "Living Legends of the Macon Bar." The programs told the stories of Manley Brown, Hon. Lamar Sizemore and Virgil Adams. These are Macon's "Living Legends."

Manley F. Brown

Manley Brown¹ was born into humble but loving circumstances in the mountain community of Sols Creek, North Carolina. His mother was the only formally educated person in Sols Creek and, because of her influence, Brown learned to read at age five. He attended Western Carolina University but, after three years, was running out of money. He learned that Mercer University School of Law would admit him without an undergraduate degree. Brown enrolled at Mercer, hoping that he would do well enough that he might find a way to stay.

Manley F. Brown

PHOTO COURTESY OF O'NEAL & BROWN, P.C.

Brown did well but still found himself without enough money to continue. After Brown missed one quarter, Dean Jim Quarles offered Brown a scholarship to return. Brown accepted and graduated with the class of 1964.

Brown then clerked for Hon. William A. Bootle on the federal district court in Macon. After his clerkship, Brown became an assistant U.S. attorney, where he tried more than 75 cases. Brown speaks of the importance of that experience by comparing it to his time as a high school basketball star: in lawyering—like in basketball—“you can’t learn ... from sitting on the bench.”

Brown then entered private practice in Macon with legendary trial lawyer Hank O’Neal. O’Neal and Brown worked together for 15 years until O’Neal passed away. Brown attributes much of his success to lessons he learned from O’Neal. Until Brown retired, he kept O’Neal’s name first in the name of his law firm.

Over more than 40 years of private practice, Brown established a reputation as a superb attorney. In 1985, he was inducted into the American College of Trial Lawyers. Brown became a mentor to generations of trial lawyers and, as an adjunct professor of law at Mercer for 44 years, to law students.

Hon. Lamar W. Sizemore Jr.

Hon. Lamar Sizemore² likes to say that he has had three careers: trial lawyer, judge and mediator. Along the way, he has also served as an adjunct professor and a mentor.

Sizemore learned how to be a lawyer from, among others, his father, Hank



Hon. Lamar W. Sizemore Jr.

PHOTO COURTESY OF CLARK, SMITH & SIZEMORE LLC

O’Neal and Manley Brown. He urges lawyers to treat each prospective client with empathy, explaining that while attorneys see many cases, to the plaintiff, “it is [their] only case, and generally ... [their] only involvement with the legal system.”³ Sizemore’s relationships with his clients were particularly rewarding. They were grateful for his time and expertise and sometimes sent tokens of their appreciation long after the representation ended—such as the client who delivered a bushel of sweet potatoes every Thanksgiving.

Sizemore served for 10 years as a Superior Court judge in Macon. He often shares his three rules with new judges: (1) “just rule,” because the parties cannot proceed until you do; (2) remember you

were a lawyer first, because otherwise you become a tyrant; and (3) when it is possible, err on the side of mercy. He is now of counsel at Clark, Smith & Sizemore in Macon, where he practices with his son, Rick. Sizemore concentrates now on serving as a mediator. He has often said that the best part about being a mediator or a judge is helping lawyers resolve their cases.

Sizemore recognizes his debt to those who mentored him and repays it by mentoring younger lawyers and, as a long-time adjunct professor at Mercer, law students as well. He explains, “[w]e all stand ... on the shoulders of the people who came before [us]. Well, every lawyer practicing law does that, and I think we have an obligation to return that or pay it forward.”⁴



The State Bar of Georgia's 51 sections provide newsletters, programs and the chance to exchange ideas with other practitioners. Section dues are very affordable, from \$10-\$35. Join one (or more) today by visiting www.gabar.org > Our Programs > Sections. Questions? Contact Sections Director Mary Jo Sullivan at marjos@gabar.org.



Virgil L. Adams

Virgil Adams⁶ is a founding partner of the firm now known as Adams, Jordan & Herrington in Macon. Adams was raised in modest circumstances but enjoyed the support of his mother and his grandmother, who emphasized the importance of education. Adams took that lesson to heart and graduated from Albany State University, after which he enrolled at Mercer University School of Law. There he discovered he was drawn to the courtroom.

Adams spent the first seven and a half years of his career as an assistant district attorney in Macon, where he tried all kinds of cases, from shoplifting to murder. Adams gained a reputation as an outstanding trial lawyer and was known especially for delivering powerful closing arguments. For example, Adams tried a death penalty case against a man who beat the victim to death with a baseball bat. In his closing argument, Adams smacked a pointer with such impact on counsel table that it shattered. In the appeal, the defendant argued that the closing argument unfairly prejudiced him, but the Supreme Court held, "Bombastic argument is not unconstitutional."⁶

After his years in the DA's office, Adams co-founded his firm, originally known as Mathis, Sands, Jordan & Adams, PC. The firm has recovered millions for their clients and counts among its former partners two federal judges, Hon. W. Louis Sands and Hon. Marc T. Treadwell.

He continues to demonstrate his flair for closing arguments. In a recent case, Adams prevailed after describing to the jury in a medical malpractice case how one document was the “stealth bomber” that would decide the case.

Adams attributes his success to his mentors, Sands, Hon. Walker P. Johnson and Manley Brown, and to his experience as an ADA. Adams reminds lawyers that reputation is paramount and suggests that they become involved in their local communities because “people in the community need to see that you care about them.”

We hope these stories inspire lawyers to lead similar lives of professionalism and honorable service. ●



Virgil L. Adams

PHOTO COURTESY OF ADAMS, JORDAN & HERRINGTON, P.C.



Tate Crymes serves as term clerk for Hon. Austin E. Carter, U.S. Bankruptcy Court for the Middle District of Georgia. Crymes graduated *cum laude* from Mercer University Walter F. George School of Law and earned her Bachelor of Science in public policy with highest honors from the Georgia Institute of Technology.



Siena Berrios Gaddy serves as career law clerk to Hon. Austin E. Carter, U.S. Bankruptcy Court for the Middle District of Georgia and is an adjunct professor at Mercer University School of Law. She teaches

Advanced Legal Writing in the Legal Writing, Research, and Drafting Certificate Program and has taught Bar Preparation. Gaddy is the secretary/treasurer of the William A. Bootle American Inn of Court. She graduated magna cum laude from Mercer University Walter F. George School of Law and earned an undergraduate degree in psychology from Saint Leo University.

Endnotes

1. To read the details of Manley Brown's life, see *An Oral History of Manley F. Brown*, 26 J.S. Legal Hist. 7 (2018).
2. For more of Sizemore's story, listen to several recorded interviews with him on the website of the Mercer Center for Legal Ethics and Professionalism, <https://law.mercer.edu/academics/centers/clep/inside-legal-profession/>. See also the transcribed interview in Patrick E. Longan, *Inside the Legal Profession: Conversations with Leaders of the Georgia Bench and Bar* 260 – 282 (Mercer University Press 2023).
3. *Inside the Legal Profession*, *supra* note 2 at 261 (Mercer University Press 2023).
4. *Id.* at 266 – 267.
5. You can hear Adams talk about his own career in an interview he gave as part of Mercer Law's 1L class on professionalism. The recording is available at <https://www.youtube.com/watch?v=LKpRfOn0DpM>.
6. *Patillo v. State*, 258 Ga. 255, 262, 368 S.E.2d 493, 498 (1988).

D-R-A-F-T
STATE BAR OF GEORGIA
EXECUTIVE COMMITTEE MEETING
MINUTES
August 24, 2023, 9 a.m.
Barnsley Resort/Hybrid
Adairsville, GA

Members Participating

J. Antonio “Tony” DelCampo, President; Ivy N. Cadle, President-Elect; Christopher P. Twyman, Treasurer; William C. “Bill” Gentry, Secretary; Sally B. Akins, Immediate Past President; Brittanie D. Browning, YLD President; Kenneth Mitchell Jr., YLD President-Elect; Ronald E. Daniels, YLD Immediate Past President; R. Javoynne Hicks; Shiriki Jones; David S. Lipscomb; Jonathan B. Pannell; R. Gary Spencer; and Martin Valbuena.

Members Absent

None.

Staff Participating

Sarah Coole, Chief Operating Officer; Damon Elmore, Executive Director; Paula Frederick, General Counsel; Bill NeSmith, Deputy General Counsel; and Ron Turner, Chief Financial Officer.

Call to Order

President Tony DelCampo called the meeting to order at 9 a.m. Members of the Executive Committee in attendance are indicated above.

Future Meetings Schedule

President Tony DelCampo reviewed the Future Meetings Schedule.

Executive Committee Orientation/Start of the Year

Executive Director Damon Elmore, General Counsel Paula Frederick, Chief Financial Officer Ron Turner, and Deputy General Counsel Bill NeSmith reviewed the following policies and topics: Officer and Non-Officer Executive Committee Expense and Reimbursement Policy; Standing Board Policy 600: Disclosure of Conflicts; Standing Board Policy 800: Confidentiality; Keller Considerations; Standing Executive Committee Policy 1200: Statements to the Press/Endorsements; and Responding to Communication Regarding the Disciplinary Process.

Executive Committee Minutes

Secretary Bill Gentry presented for approval the minutes of the April 20, 2023, and May 3, 2023, Executive Committee meetings. The April 20, 2023, minutes were passed as presented by unanimous vote. The May 3, 2023, minutes were passed as amended by unanimous vote.

Members Requesting Resignation

Pursuant to State Bar Rule 1-208, the Executive Committee approved the following resignation requests by unanimous vote: Joseph F. Pelusi-253838; Jeffrey George Fletcher-263967; Amanda Marie Davis-227122; Mary Virginia Shasteen-142503; Susan Joan Doty-227268; Thomas Peter Ryan-262781; Thomas R. Berka-054690; Marcy Alice Greene-306567; Galen A. Mirate-023319; Sarah Ellen Tollison-714319; Scott Gerard Wolfe Jr.-554557; Gregory John Spicer-672013; Scott Thomas Peterson-101103; Lawrence A. D’Orazio Jr.-202981; Tory Shanholtzer Vornholt-637625; Anthony Joseph Zingales-730793; Edward Gary Spitko-672265; Lora Dean Curtis-779486; Kiran Arjandas Ahuja-005801; Lucy W. Kerman-415815; Mark Terrell Hurst-379773; Helen Shishkevish-643490; Anna Grace Plyler-333485; G. Phillip Bramlett-075775; Rick

Monte Reznicek-558228; Omar Saleem Jr.-720172; Teresa Brickman Finer-260860; Margaret Ann Shannon-637742; Alisa Maslia Austin-475515; Hugh Costigan Carlin-109505; Gina Caya-375478; Jeffrey Raphael Richardson-076959; Grant Cape-108413; Carole Adele Loftin-455714; Benjamin J. Bogos-853291; Sherryl Mason Marsh-471432; Carol Brittain Allums-083243; Danielle M. Ryea-621729; Robert Howard Lutz-461565; Robert Evan Wilder-758655; Helen K. Hopkins-366375; Jill Ripans Greaney-606476; Kenneth A. Grant-305420; Harry McKinley Lightsey-452360; Monique Deborah Moyses-527693; Stephanie Nicole Wald-707508; Ronald Giles Peresich-557165; Byron Randall Dong-225668; Nancy Lynn Weiss-746487; Anne Armitage Rogers-747008; Stephanie Baldauff Hope-034040; Erin Kathleen Jansen-970244; Kerry Elizabeth McGrath-493113; Katherine Anne Brokaw-084268; Noor Shekh Najeeb-391423; Richard Oliver Brown-750825; Mary Pappas-561187; Matthew S. Cornick-188576; Rachel Leeann Bisbort Stevens-389057; Kelly Michelle Corredor-477004; Emily G. Johnston-352840; Monica Jayne Brasington-078391; Virginia Boyd Peterson-072850; James Houston Thompson-708533; Denise Hall Dickinson-221134; Thelma Yvette Hawkins-339092; Charles H. Ogburn-550175; Alban Emerson Brooke II-394036; Lamar Kirkland Mitchell-136806; Stacy Fred Sauls-627067; Steven Paul O'Connor-549305; Kathryn M. Carpenter-470935; Michael Gary Leveille-447928; Julie Ann Baenziger-030780; Jennifer Adair Comfort-001935; David M. Yokel-780948; David Felton Smith-763624; Peggy Jo Caldwell-002770; Richard Henry Poulson II-585718; Luther J. Carroll III-112712; Jan Farmer Gadov-281738; Jeanne M. Faust-256465; Eli Jeremy Richardson-233872; Robert Mark Haire-317240; Carmen Suarez Mills-509513; Schaune C. Griffin-311437; Keith T. Ott-555337; Helma Deloris Clark-126927; Christopher Brian Keim-168889; Stephen Christopher Vogt-769107; Kenneth Steven Barr-039467; Paul Howard Schwartz-631060; Daniel Michael Brennan-271142; Marlin R. Escoe-250220; Joseph William Ballard-151234; Grace Palmer Liu-870529; Angela M. Lavori-439519; Jenny Lu McLeroy-497567; Thomas Burns Bacon-226750.

Members Requesting Disability Status

Pursuant to State Bar Rule 1-202, the Executive Committee approved six requests for disabled status by unanimous vote.

Proposed Rules and Bylaw Changes

Deputy General Counsel Bill NeSmith presented the following proposed rules and bylaw changes:

1. Rule 4.2. Communication With Person Represented by Counsel.

The proposed rule change clarifies that the “anti-contact” rule, which prohibits a lawyer from communicating with a represented adverse party, applies to a lawyer who is self-representing. The proposed change states that a lawyer who is proceeding pro se is prohibited from communicating about the subject of the representation with represented adverse parties. Comment [8] explains that a lawyer who is proceeding pro se but who also has co-counsel is included within the meaning of this rule.

By unanimous vote, the Executive Committee approved the proposed change as presented.

2. Rule 4-201. State Disciplinary Board.

This proposed change increases the State Disciplinary Board from twelve to fourteen investigating members (the Board also has four lay members and two ex-officio members who do not investigate cases). The proposed change adds two members-at-large, one to be selected by the Court and one by the President of the State Bar.

By unanimous vote, the Executive Committee approved the proposed change as presented.

3. Rule 4-203.1. Uniform Service Rule.

The proposed changes introduce a new requirement that a member inform the Bar of their email address as part of their "official address" for purposes of Bar business, including service in disciplinary matters. An amendment to subsection (b)(3)(i) will allow the Chair of the State Disciplinary Board to authorize individuals to serve process in disciplinary matters. The provisions at subsection (b)(3)(ii) regarding service by publication will include a requirement that the service documents be emailed to the respondent's official email address. Subsection (b)(5) creates service procedures for members with an address outside of the United States.

By unanimous vote, the Executive Committee approved the proposed change as presented.

4. Rule 4-209.1. Coordinating Special Master

The current rule suggests that it is preferable for a lawyer to serve as a Special Master for no more than five years. The amendment would delete that language.

By unanimous vote, the Executive Committee approved the proposed change as presented.

5. Rule 4-221.1. Confidentiality of Investigations and Proceedings.

The proposed changes expand and provide clarity on the entities or individuals with whom the State Disciplinary Board and the State Bar can share information regarding a disciplinary matter. The change specifically defines the members of the State Disciplinary Board who have the authority to approve the release of information pertaining to a disciplinary matter.

By unanimous vote, the Executive Committee approved the proposed change as amended.

6. Article VIII. COMMITTEES – GENERALLY. Sections 1 and 2.

The purpose of this proposed amendment to the bylaws is to provide clarity regarding voting and quorum requirements for committees. The amendment specifically states that a member serving ex officio retains the right to vote and their presence contributes to meeting the quorum requirements for voting in both standing and special committees. Also, the proposed change clearly states that liaisons and advisory members are not granted voting rights, and their presence does not contribute to establishing a quorum for conducting business in a standing or special committee.

By unanimous vote, the Executive Committee voted to approve the proposed bylaw as amended.

Legislative Consultants Agreements

Executive Director Damon Elmore presented the 2023-2024 legislative consultant agreements of Rusty Sewell and Mark Middleton. The Executive Committee approved the agreements unanimously.

Request to Remove Discipline from the Website

General Counsel Paula Frederick reported that a member has requested their discipline history be removed from the website because of its age (a public reprimand from 1998) and because the lawyer has no additional discipline. After discussion, the Executive Committee asked General Counsel Frederick to review how other jurisdictions handle disciplinary reporting. She will provide additional information for the next

meeting. President Tony DelCampo will also discuss with the Supreme Court of Georgia their thoughts on the issue.

Judicial Legal Fund List

The Judicial Legal Defense Fund and Commission, OCGA § 45-15-71, provides that the State Bar of Georgia will assist the commission in maintaining “a list of attorneys who are members in good standing with the State Bar of Georgia and who have agreed to provide legal representation for judges through the fund; provided, however, that no attorney shall be included on such list of attorneys without the approval of the Governor and each attorney on such list shall be maintained on such list only at the pleasure of the Governor.”

General Counsel Paula Frederick reported that the Governor’s Office requested assistance under the statute in late July. Since the Bar had not created a list as described in the statute, and since the statute requires that the lawyers on the list “have agreed to provide legal representation for judges through the fund,” the list of past presidents of the Bar was used as “the list” for purposes of this request. Executive Director Damon Elmore sent an email to the group. He received four responses from past presidents interested in serving, which were passed on to the Office of the Governor.

After discussion, a motion and second were made to ask the Judicial Qualification Committee Nominating Committee to create a permanent list for the Judicial Legal Defense Fund, which passed unanimously.

President’s Report

President Tony DelCampo updated the Executive Committee on the progress of matters identified to be completed with the aid of unallocated cash in the 2023-2024 Bar year, which are all being completed and overseen by Bar staff: new lobby doors; outdoor heater for the parking deck attendant; website redesign; courtroom audio and video upgrades; speakers and microphones added to multiple conference rooms; kitchen tables and chairs; and membership database upgrade. President DelCampo reported that there will be a second round of interviews over the next two weeks for the Deputy General Counsel position and initial interviews for the Director of Governmental Affairs position. He mentioned his recent visits and speaking engagements with the Gwinnett County Bar Association and GSU law school orientation.

Executive Director’s Report

Executive Director Damon Elmore reported that the following orientations have been completed: committee chair, section chair and ICLE programs chair, and each orientation included a reminder about the Bar’s purpose, stance on positions, applicable policies and other necessary information. He updated the Executive Committee on Membership Department staff changes and specifically mentioned staff members who have gone above and beyond in the last few months. Executive Director Elmore shared ideas for possible uses for the unused space on the 5th floor of the Bar Center. He also mentioned that an issue was recently raised about solo and small firm member health insurance, the possibility of a MEWA or private insurance marketplace, and the request that the Bar look into the issue again. (The Executive Committee recommended that the Member Benefits Committee research the topic.)

Legislative Report

Executive Director Damon Elmore reported that the Advisory Committee on Legislation will meet on Sept. 14, Dec. 7, and Feb. 7. A reminder has been sent to committees and sections announcing the deadline of Sept. 5 for all proposals and materials. He thanked Megan Jones, Rusty Sewell, Mark Middleton and Brandon Peak for their help during this transition period.

Proposed Standing Board Policy 1000 (Positions, Articles, Programs, Meetings, Activities of Committees and Sections. Guidelines for the State Bar of Georgia)

Executive Director Damon Elmore presented proposed Standing Board Policy 1000 (Positions, Articles, Programs, Meetings, Activities of Committees and Sections. Guidelines for the State Bar of Georgia). He said that staff and committees have reviewed the Bar's publications and programming over the last year and recommended that a policy be created to ensure everyone keeps the Bar's purpose and the essence of a mandatory Bar in mind when creating publications or programming and that there is a clear connection to the practice of law. Standing Board Policy 1000 was drafted with that in mind. Executive Director Elmore will share the draft policy with the Supreme Court of Georgia to get their feedback as well. This will be an action item at the next meeting.

Treasurer's Report

Treasurer Chris Twyman reviewed the finances of the Bar for the year-to-date period ending May 31, 2023. He pointed out that the voluntary Legislative Contributions were at an all-time high for the 2022-2023 Bar year, along with the contributions to GLSP. He said that the Bar is on track to come in under budget for 2022-2023 and is fiscally sound. The final report for the year will be available at the next Executive Committee meeting.

Office of the General Counsel Report

General Counsel Paula Frederick reported that the Office of General Counsel will have a detailed OGC report available at the Fall Meeting as a supplement to the Bar's overall Annual Report. Following a motion, second, and unanimous voice vote, the Executive Committee met in Executive Session to discuss the status of lawsuits involving the Bar.

Committee Updates

The following committee updates were provided:

- Executive Committee Member Shiriki Jones reported that the *Georgia Bar Journal* Editorial Board is working on an effort to build a repository of legal articles by utilizing social media, among other ways, to encourage individuals to submit legal articles, highlighting that up to 6 hours of CLE credit is available for published articles.
- Shiriki Jones reported the Georgia Diversity Program's summer associates and judiciary reception went well. They also just completed their High School Pipeline Program with 14 students, which gives them exposure to the practice of law and general life skills. They are working on their 30th-anniversary dinner and awards program, which will be held on Thursday, Oct. 12, at the Bar Center.
- Shiriki Jones reported that the Law Practice Management Committee has been holding and planning numerous informative CLEs for solo and small practitioners.
- Shiriki Jones reported that the Seeking Equal Justice and Addressing Racism & Racial Bias Committee recently held a talk about the Latinx experience in the legal profession, planned by committee member Miguel Dominguez, featuring President Tony DelCampo.
- Executive Committee Member David Lipscomb reported that the new Fee Arbitration Program director, Donna Davis, has been doing a great job learning her new position and supporting the committee.
- Secretary Bill Gentry reported on the Senior Lawyers Committee. He said their current project is planning a Senior Lawyer seminar on Cognitive Impairment – diagnosing and intervening to help lawyers facing this problem.
- Bill Gentry reported that the Judicial Procedure and Administration/Uniform Rules Committee is reviewing Uniform Rule 8.3. Trial Calendar, which says, "The trial calendar shall be distributed or published a sufficient period of time, but not less than 20 days, prior to the session of court at which the actions listed thereon are to be tried."

- Bill Gentry reported that the Military Legal Assistance Program is hosting a seminar in November to assist veterans in handling VA appeals.
- Executive Committee Member Javoyné Hicks reported that the Attorney Wellness Committee is hosting a Wellness Institute, Sept. 21-24, at Wild Dunes in South Carolina, that will focus on the state of wellness and well-being in the practice of law.
- Javoyné Hicks reported that the Suicide Prevention and Awareness Committee will be an official sponsor of the Out of the Darkness walk on Nov. 5. Pursuant to the Conflicts of Interest Policy, she disclosed that she is on their board.
- Javoyné Hicks reported that the Lawyer Assistance Program Committee has focused their efforts on advertising the Lawyers Helping Lawyers initiative and is working on a new website for the program.

Young Lawyers Division Report

Young Lawyers Division President Brittanie Browning reported the YLD is off to a good start this year. They held a successful committee chair orientation and YLD Board of Directors and Representatives retreat. They will be in Charleston for their Fall Meeting, with Justice Verda Colvin leading a fireside chat. They will also hold a CLE on disaster relief. YLD President Browning said the Leadership Academy applications are online, and she asked that the Executive Committee encourage young lawyers to apply and also write recommendations for them. She mentioned the upcoming CLE in Puerto Rico, with YLD officers moderating many CLE panels.

Institute of Continuing Legal Education Report

ICLE Director Julia Neighbors reported on the Institute of Continuing Legal Education. She said in the last year, ICLE has hosted 69 programs, 12 of which were institutes, 467 hours of programs, and they have had 765 program chairs and speakers. She said ICLE has the largest market share of CLE programming in Georgia, accounting for a large portion of all CLE providers. She and her team are looking to increase productivity and efficiency, update and review CLE pricing, and work with program chairs to ensure they incorporate innovative programming.

Member Benefits vLex Agreement (Fastcase)

Law Practice Management Director Nkoyo Effiong and Member Benefits Coordinator Sheila Baldwin, staff liaisons to the Member Benefits Committee, along with Fastcase's Joe Patz Vineyard, vice president, Alliances and Business Development, presented on behalf of the committee. The Member Benefits Committee recommends extending the Bar's Fastcase subscription to include Docket Alarm, a collection of court briefs, motions, and complaints for our members. "Docket Alarm Briefs, Pleadings and Motions Library" means the searchable collection of millions of state briefs, pleadings, and motions, including but not limited to those of the Georgia Court of Appeals and the Supreme Court of Georgia, that are part of the Docket Alarm database and available for searching by Members on the vLex Fastcase System. The Executive Committee asked the Member Benefits Committee for additional information, which will be presented at the next meeting.

Topics of Discussion with the Supreme Court

The Executive Committee discussed topics for the joint meeting with the Supreme Court of Georgia which follows this meeting.

Board of Governors Minutes

The Annual Meeting minutes were provided as informational material.

Old Business

There was no old business.

New Business

Following a motion, second, and unanimous voice vote, the Executive Committee met in Executive Session to discuss the Georgia Bar Journal editorial process.

Deputy General Counsel Bill NeSmith presented an application to create the Energy Law Section of the State Bar of Georgia for consideration. The purpose of this section shall be to form an association of licensed lawyers in the State of Georgia who desire to develop their knowledge and professional abilities in energy law and to render better services to their clients and to the public.

By unanimous vote, the Executive Committee recommended that the creation of the Energy Law Section go before the Board of Governors for approval at the Fall Meeting.

Announcements

There were no announcements.

Adjournment

There being no further business, the meeting was adjourned at 12:30 p.m.

William C. Gentry, Secretary

Approved:

Hon. J. Antonio DelCampo, President



STATE BAR OF GEORGIA 2022-23 ANNUAL REPORT



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TABLE OF CONTENTS

President’s Report	3
Executive Director’s Message	4
What We Do	5
Member Benefits.....	5
Membership Services.....	7
Bar Conference Center Atlanta	7
Communications	8
Social Media	9
Lawyers Living Well.....	10
Continuing Legal Education Regulation	12
Fee Arbitration.....	23
Finance	13
Georgia Diversity Program	14
Georgia High School Mock Trial Competition	15
Governmental Affairs Legislative Program	16
Institute of Continuing Legal Education	17
Law Practice Management.....	18
Law-Related Education	19
Lawyer Assistance Program	20
Meetings.....	21
Membership.....	21
Satellite Offices.....	22
Coastal Georgia Office Savannah	22
South Georgia Office Tifton	22
Sections	24
Transition Into Law Practice Program	24
Unlicensed Practice of Law	26
Young Lawyers Division	27
YLD Newsletter— <i>The YLD Review</i>	28
YLD Signature Fundraiser	28
YLD Leadership Academy.....	28
Board Action Items.....	29
Report of the Office of the General Counsel.....	30
State Bar of Georgia Staff.....	51

PRESIDENT'S REPORT



SARAH B. "SALLY" AKINS
2022-23 PRESIDENT

Sarah B. "Sally" Akins served as the 60th president of the State Bar of Georgia for the 2022-23 Bar Year. At the beginning of her presidency, she outlined her goals: foster and promote a renewed commitment to professionalism among Bar members; increase attention to the vast array of member benefits the State Bar provides; re-double efforts to ensure the public is well served by lawyers throughout the state; and enhance continuing legal education programming.

In February, the State Bar of Georgia Professionalism Committee and the Chief Justice's Commission on Professionalism co-sponsored a Signature Professionalism CLE program at the Bar Center. The purpose of the CLE was to examine the history of the professionalism movement in Georgia, explore how Georgia's concepts of professionalism evolved and consider how professionalism impacts Georgia lawyers in today's legal environment.

The professionalism initiative received an unprecedented boost when Gov. Brian Kemp signed a proclamation designating April 2023 as Legal Professionalism Month in Georgia. The purpose of the governor's proclamation was to promote collegiality and professionalism among members of the State Bar of Georgia. The proclamation was the result of exemplary teamwork among the Professionalism Committee, the Chief Justice's Commission on Professionalism and Bar staff, and served as a timely reminder to reinforce our commitment to conducting ourselves in a professional manner. Akins had the honor of attending the governor's signing of the proclamation at the Capitol, along with the Bar leaders and staff who helped make it happen.

One of Akins' top priorities was to enhance the already outstanding continuing legal education program so that it stays up to date and responsive to the needs of all Bar members. Under the direction of Julia Neighbors and with support from the Commission on Continuing Lawyer Competency, the State Bar of Georgia Institute for Continuing Legal Education produces and promotes high-quality, comprehensive and innovative CLEs relevant to Georgia lawyers at affordable costs. ●



Gov. Brian Kemp signed a proclamation designating April 2023 as Legal Professionalism Month in Georgia. (Left to right) Christine Butcher Hayes, former Director of Governmental Affairs, State Bar of Georgia; Carlos Vilela, member, Professionalism Committee, State Bar of Georgia; Damon E. Elmore, Executive Director, State Bar of Georgia; Joshua I. Bosin, member, Professionalism Committee, State Bar of Georgia; Gov. Brian P. Kemp; First Lady Marty Kemp; Sarah B. "Sally" Akins, 2022-23 President, State Bar of Georgia; Karlise Y. Grier, Executive Director, Chief Justice's Commission on Professionalism; and John Lange, member, Professionalism Committee, State Bar of Georgia.



EXECUTIVE DIRECTOR'S MESSAGE



DAMON E. ELMORE
EXECUTIVE DIRECTOR

Dear Members,

We are thrilled to present our second annual, comprehensive report on the complete operations of the State Bar of Georgia. It is with great pride that we offer a broad snapshot of our hard work, showcasing the immense value to you as members. Our mission is to provide you with insights into the benefits and options available, along with addressing the common questions we frequently hear from lawyers across the state.

We made the commitment to build on this report each year, ensuring it is filled with clear, easy-to-read, transparent, relevant and robust data and statistics. We are grateful to our managers and to our Communications Department for gathering the tracked data and presenting it in this format.

Your feedback is invaluable to us. If there is something significant that we may have overlooked, let us know. We are dedicated to continuous improvement, and your insights will help us further refine our efforts.

We are grateful for the leadership, influence and support of our 2022-23 President Sarah B. "Sally" Akins, the Board of Governors and our volunteer leaders in accomplishing our goals. The results on the next several pages and our momentum going forward, reflect the underlying strength, commitment and unwavering dedication of our staff and volunteers. We remain laser focused on protecting the public, advancing the science of law, and improving the administration of justice and quality of legal services.

We will take this momentum into the new Bar year to support President Hon. J. Antonio "Tony" DelCampo and his attention to ensuring our facilities and systems are in good order and that Bar resources are appropriately allocated for this year and beyond.

We are equally grateful to all of our other volunteer leaders, as well as our liaisons with the Supreme Court of Georgia—Justice Sarah Warren and Justice Charlie Bethel—for their influence and guidance, too. We embrace the challenges that may lie ahead and remain resolute in our pursuit of becoming better with each passing day. DEE ●

Sincerely,



WHAT WE DO

The State Bar of Georgia exists to foster among the members of the Bar of this state the principles of duty and service to the public; to improve the administration of justice; and to advance the science of law. All persons authorized to practice law in this state are required to be members.

The Bar has strict codes of ethics and discipline that are enforced by the Supreme Court of Georgia through the State Bar's Office of the General Counsel. Membership license fees and other contributions help the Bar provide programs that are mutually beneficial to its members and the general public. ●

LICENSE FEE — **\$260**
FOR ACTIVE MEMBERS

TOTAL # OF BAR MEMBERS

54,268

Georgia's license and other mandatory fees rank **7th** lowest among 33 mandatory bar associations.

TOTAL # OF STAFF

105 FULL TIME EMPLOYEES **8** PART TIME EMPLOYEES

MEMBER BENEFITS

FASTCASE LEGAL RESEARCH

Fastcase is provided free to all members and includes a comprehensive, national law library on your computer/tablet/smartphone, with online access to cases, statutes, regulations, court rules and bar publications.

STATE BAR PARKING DECK

Free parking is available to all Bar members and is open Monday–Friday from 6:30 a.m. to 7 p.m. Free parking is also available on night and weekends with a Bar card.

AVERAGE # OF FASTCASE USERS PER MONTH

2,500

GEORGIA IS THE MOST ACTIVE OF 47 STATE BARS OFFERING FASTCASE AS A MEMBER BENEFIT. MORE THAN HALF OF OUR MEMBERS HAVE USED FASTCASE





MEMBER BENEFITS (CONTINUED)

MEMBER BENEFITS, INC.
gabar.memberbenefits.com



Member Benefits, Inc., is the recommended broker of the State Bar of Georgia, Health, Dental & Vision Plans, plus Long-Term Disability & Long-Term Care. From July 1, 2022, through June 30, 2023, there were 2,155 total enrollments in various individual insurance products and 457 enrollments in employer insurance products in the past year.

ONLINE VENDOR DIRECTORY

gabar.org/attorneyresources/discountsforattorneys

The Online Vendor Directory provides a directory of practice-related products and services; many offer discounts to Bar members.

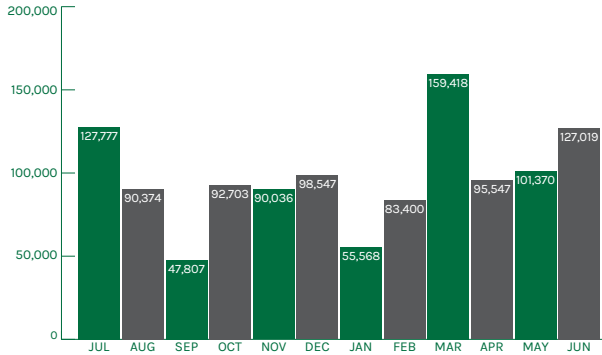
RELIAGUIDE

gabar.reliaguide.com/home



ReliaGuide with its FindALawyer directory serves as the Bar's enhanced member directory that offers members the ability to create a profile with a photo, up to three practice areas, education, contact and license information at no cost. An expanded profile is available for only \$8 a month. From July 1, 2022, through June 30, 2023, the directory has facilitated 1,169,566 lawyer searches. Interactions (views and clicks) with member profiles total 754,133 including 6,592 contact form requests and 25,630 clicks on lawyer phone numbers and emails.

NUMBER OF LAWYER SEARCHES FACILITATED JULY 1, 2022–JUNE 30, 2023



MEMBERSHIP SERVICES

The State Bar of Georgia offers a wide range of services and programs that benefit Bar members. Members are encouraged to familiarize themselves with these services and programs, and are welcome to contact the staff members listed for further information. For more information on these programs and services, please visit www.gabar.org. ●

BAR CONFERENCE CENTER | ATLANTA

404-419-0155 | conferencecenter@gabar.org

The State Bar of Georgia Conference Center is available for use by Bar members and legal organizations. With the recent increase in the request for virtual offerings, the Conference Center is well-equipped to handle set-up for a number of virtual platforms (webinars, Zoom meetings, etc.), in addition to the more traditional meeting formats. ●

TOTAL # OF UNIQUE MEETING ROOMS

13 
CAN HOST 2-200 ATTENDEES



Currently the Conference Center's average attendance is **1,700** per month.

*Pre-pandemic estimates showed that the Conference Center averaged approximately **500** attorneys monthly.*



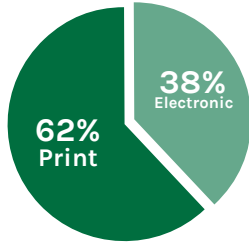


COMMUNICATIONS


404-527-8761 | communications@gabar.org

The Bar's publications and media relations are coordinated by this department and various committees. This department is also responsible for maintaining the State Bar of Georgia website. The *Georgia Bar Journal* is published bi-monthly. The department also handles a majority of the social media content for the Bar, coordinates the annual awards program and provides staff support for the Attorney Wellness Committee. ●


GEORGIA BAR JOURNAL Distribution




www.gabar.org WEBSITE STATS



Desktop
80.3%



Mobile
19.2%



Tablet
.05%

Average Session Duration
2 minutes 39 seconds

Total Sessions | 2,269,935

- > Home | 1,103,188 (48.6%)
- > Member Search | 372,269 (16.4%)
- > Member Search Results | 104,417 (4.6%)
- > Member Login | 63,558 (2.8%)
- > Georgia Rules of Professional Conduct | 38,589 (1.7%)
- > Continuing Legal Education | 31,779 (1.4%)

Top Three Public Pages Visited

- > Legal Aid
- > Find a Lawyer
- > File a Complaint

SOCIAL MEDIA

BY THE NUMBERS



LINKEDIN

3,802 page views
 1,682 unique visitors
 147 custom button clicks

Interaction peaked in October 2022 with 22,017 organic impressions, a 60% increase over September 2022. Lowest interaction came in August 2022 with only 1,179 impressions. From August 2022 to August 2023, the Bar's LinkedIn account garnered 3,239 reactions, 137 comments and 224 reposts.

OF FOLLOWERS

FACEBOOK	INSTAGRAM	LINKEDIN	X (TWITTER)
7.7K	2,007	7,612	6,978
+200 since 2021-22	+206 since 2021-22	+1,222 since 2021-22	+123 since 2021-22

LinkedIn: 60% of followers are from the greater Atlanta area and are primarily those in the legal or business development fields. Facebook audience is split 65% women to 35% men and consists of 7,700+ followers.

- CONNECT WITH THE STATE BAR**
-  gabar.org
 -  [@statebarofgeorgia](https://www.facebook.com/statebarofgeorgia)
 -  [@StateBarofGA](https://twitter.com/StateBarofGA)
 -  [flickr.com/statebarofgeorgia](https://www.flickr.com/statebarofgeorgia)
 -  [@statebarofga](https://www.instagram.com/statebarofga)
 -  [/state-bar-of-georgia](https://www.linkedin.com/company/state-bar-of-georgia)
 -  [@StateBarOfGeorgia](https://www.youtube.com/StateBarOfGeorgia)



GEORGIA LAWYERS LIVING WELL

LAWYERS LIVING WELL
lawyerslivingwell.org

The State Bar of Georgia established Lawyers Living Well to promote health and wellness among members and staff, identify factors that impact the physical and emotional well-being of attorneys, develop work-life balance CLE programs, increase awareness of existing Bar programs that deal with such issues, and accumulate information and educate members about wellness issues and resources. Attorney Wellness Committee members are actively dedicated to achieving the goals of the wellness initiative and, in the process, seek to assist all Bar members in their wellness journey.

The Attorney Wellness Committee supports attorneys by providing a space for lawyers to manage their well-being through the resources offered by the physical, mental and social well-being subcommittees. These programs are promoted through the State Bar's social media platforms with content from the Media and Print Subcommittee. ●



American
Foundation
for Suicide
Prevention



OUT OF THE
DARKNESS
Community Walks

\$10,000

In 2022, the State Bar of Georgia Lawyers Living Well Team helped sponsor the annual Out of the Darkness Walk in Atlanta, and raised \$10,000. Every dollar raised through the community walks allows the American Foundation for Suicide Prevention to invest in life-saving research, education, advocacy and support for those impacted by suicide.

WELLNESS BY THE NUMBERS

SOCIAL MEDIA POSTS

48

GEORGIA BAR JOURNAL ARTICLES

6

NEWS POSTS

10

PODCASTS RECORDED

4



CONTINUING LEGAL EDUCATION REGULATION

404-527-8710 | cle@gabar.org

This program operates under the Commission on Continuing Lawyer Competency and assists attorneys with keeping track of their CLE hours through an online CLE transcript that can be viewed by the attorney any time at www.gabar.org. The CLE requirement is designed to enhance members' professional competence as lawyers. Active lawyers are required to keep current on the law by attending a minimum of 12 hours of education each year. Of these 12 total

hours, at least 1 hour must be in ethics, 1 hour must be in professionalism and for trial attorneys 3 hours must be in litigation. Attorneys can complete these 12 CLE hours by an approved CLE program attended either in-person or through a distance learning format. In addition to CLE programs, attorneys can receive CLE hours each year for coaching or judging a high school mock trial team, authoring a published legal article or observing a trial. ●

IN 2022



449,401 hours of CLE were attended by Georgia lawyers.
+43,564 since 2021-22



925 CLE providers submitted courses for CLE approval.
+169 since 2021-22

OF CLE COURSES APPROVED FOR CLE CREDIT

17,350



OUT OF 33,829 ATTORNEYS WITH A CLE REQUIREMENT ...

<0.1% attorneys were suspended for noncompliance.





FEE ARBITRATION

404-527-8750 | feearbitration@gabar.org

The Fee Arbitration Program provides a convenient mechanism for resolving fee disputes between attorneys and clients. It also provides for the resolution of fee disputes between lawyers resulting from a partnership dissolution, sharing of fees or the withdrawal of a lawyer from a partnership.

The program is administered by the Committee on the Arbitration of Attorney Fee Disputes, which includes six lawyer members and three public members who each serve a three-year term.

To initiate the process, a petition form supplied by the staff must be completed. A majority of the petitions are filed by the client, however a lawyer may also initiate the process. Every case is reviewed by the committee to determine whether to accept jurisdiction for a hearing.

Hearings are held across the state by a panel of three volunteer arbitrators comprised of two lawyers and one public member. Each panel hears multiple cases with most arbitrators serving an entire day.

Since the first arbitration award was entered on Oct. 17, 1980, the program has been involved in thousands of fee disputes, arbitrating many and facilitating settlement by the parties in many other cases. To a great extent, the program's success is attributable to the dedicated efforts and sound judgment of hundreds of lawyer and public members throughout the state who have volunteered to serve without compensation as arbitrators under the program. ●

JULY 1, 2022 - JUNE 30, 2023

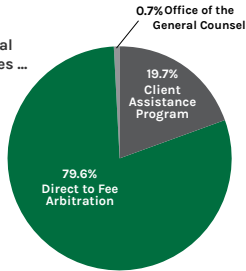


1,242 Petitions mailed
+62 since 2021-22



Some fee disputes received via phone were resolved informally by the Fee Arbitration staff without the filing of a Petition.

Referral Sources ...



Petitions are filed in many fields of law with the following producing the most cases:

Criminal Law | 26%
Family Law | 24%



Amounts in controversy vary widely from nominal sums to fees as high as **\$69,015.19**, with the average case involving **\$8,886**.

FINANCE

404-527-8748 | ront@gabar.org

FY 2023 FINANCIAL SUMMARY

The State Bar achieved a financial surplus during the Bar year ended June 30, 2023. The State Bar's net assets are estimated to be in the range of **\$35 million** to **\$37 million**. The Bar's year end is June 30, and as such, this amount is estimated. The State Bar operates without any debt.

APPROVED FY 2023 BUDGET

The State Bar Board of Governors approved a surplus budget for the year ended June 30, 2023, of **\$65,667**.

MANAGEMENT'S RESPONSIBILITY

The State Bar of Georgia's management is responsible for the information provided in the Financial Report. The basic financial statements and related notes are audited by an independent accounting firm in accordance with auditing standards generally accepted in the United States of America.



\$794,655

Amount raised by Georgia lawyers for the "And Justice for All" State Bar Campaign for Georgia Legal Services Program.

April 1, 2022 – March 31, 2023



GEORGIA DIVERSITY PROGRAM

404-219-8174 | gadiversityprogram@gmail.com

The Georgia Diversity Program (GDP) promotes diversity in the legal profession throughout Georgia. The program provides CLEs, pipeline programs and other programs that ensure lawyers can thrive regardless of their race, ethnicity, gender, national origin, sexual orientation or status as having a disability. GDP is made up of corporate legal departments, law firms and government entities who pay annual dues and drive our programming. In addition to the programming, GDP meets every other month to plan events and discuss diversity issues in the law. ●

HIGH SCHOOL PIPELINE PROGRAM

In July 2022, the Georgia Diversity Program resurrected its annual High School Pipeline Program. For almost two weeks, 10 ambitious students gathered daily at Atlanta’s John Marshall Law School’s new location in Peachtree Center. Led by their teacher, Valorri Jones, the scholars worked diligently on their writing and their verbal presentation skills. Each day, the students went to a different law firm or corporate legal department to have lunch and to hear from the attorneys on an array of topics.

SPECIAL THANKS TO

Akerman
Atlanta’s John Marshall Law School
Balch & Bingham
City of Atlanta Department of Law
Equifax
Georgia Power
Leadership Institute for Women
of Color Attorneys
Parker Hudson
Swift Currie
Troutman Pepper

Programming is supported by Georgia Diversity Program member firms. We are grateful to these firms, a list of which can be found at www.gabar.org/diversity, for their continued support and acknowledge that without their dedication, the work of the program would not be possible.

GEORGIA HIGH SCHOOL MOCK TRIAL COMPETITION

404-527-8779 | mocktrial@gabar.org

Georgia High School Mock Trial (HSMT), recognized throughout the nation as one of the strongest state HSMT programs, oversees an annual statewide competition of more than 100 schools (1,500+ students). Participating teams come from every region of Georgia, Valdosta to Dalton and Savannah to Columbus. Mock trial develops and enhances vital life skills such as public speaking, critical thinking and teamwork, while providing participants with practical knowledge of our legal system. The competition relies on many thousands of volunteer hours by members of the State Bar and especially the

Young Lawyers Division. Volunteer lawyers coach teams, coordinate and run the competition, write the case and staff the panels that judge rounds.

The program also conducts Law Academy, a three-day program each September, designed to empower the top mock trial students with trial practice and leadership skills they can take back to their teammates. The faculty of Law Academy consists of highly experienced judges and trial lawyers. ●

MOCK TRIAL BY THE NUMBERS

www.georgiamocktrial.org

2023 Season (our 35th)

- 1,564 students (+80 since 2022)
- 120 schools (+20 since 2022) in 38 counties
- 354 coaches: judges, attorneys, teachers

Districts

- 54 teams (+12 since 2022)
- 9 locations (+2 since 2022) across the state
- 150+ judges and attorneys on judging panels

The 2023 State Champion, **Jonesboro High School** in **Clayton County**, represented Georgia at the National High School Mock Trial Championship in Little Rock, Arkansas. Jonesboro finished 18th of 47 competing teams.

Regions

- 110 competing teams
- 17 locations (+3 since 2022) across the state
- 500+ judges and attorneys on judging panels

State Finals

- 18 (+2 since 2022) teams
- 81 (+19 since 2022) attorneys and judges on judging panels
- Five rounds (+1 since 2022) over two days to crown one State Champion.

CONNECT WITH HSMT



@GeorgiaMockTrial



@GA_MockTrial

2022-23 ANNUAL REPORT





GOVERNMENTAL AFFAIRS | LEGISLATIVE PROGRAM

www.gabar.org/LEG

The State Bar's Legislative Program advocates legislation at the Georgia General Assembly that regulates the legal profession and improves the quality of legal services. Beginning in September 2022 and continuing through early January 2023, the State Bar's sections and committees presented legislative proposals to the Advisory Committee on Legislation and the Board of Governors to vet and approve the State Bar's legislative package.

During the 2023 legislative session, the Legislative Program successfully lobbied to pass the **Uniform Unsworn Declarations Act**, as well as legislation modernizing the **Nonprofit Corporations** chapter of the Georgia Code and revising Code provisions for **curing defective deeds and other instruments in real property transactions**, in addition to a proclamation by the governor recognizing April 2023 as **Legal Professionalism Month**.

The State Bar also supported enhanced appropriations for civil legal services grants for medical legal partnerships (**\$200,000**), legal aid grants for victims of domestic violence (**\$3 million**), kinship care legal services (**\$750,000**) and the Georgia Appellate Practice and Educational Resource Center (**\$800,000**).

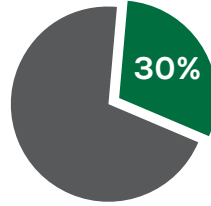
The State Bar's legislative consultants shared feedback from section experts with members of the General Assembly to proactively improve legislation in highly specialized areas of the law. For more information about the 2023 legislative session, including an overview of the State Bar Legislative Agenda, visit www.gabar.org/LEG. ●

The State Bar of Georgia's Legislative Program is exclusively funded by voluntary contributions from our members. Any official position by the State Bar of Georgia, including its sections and committees, must follow the process outlined in Standing Board Policy 100, www.gabar.org/SBP100, and meet the standards set out by the U.S. Supreme Court in Keller v. State Bar of California. The State Bar and affiliated entities cannot take an official position on legislation without following these policies and standards.

INSTITUTE OF CONTINUING LEGAL EDUCATION

678-529-6688 | icle@gabar.org

The Institute of Continuing Legal Education of the State Bar of Georgia (ICLE) was established to promote a well-organized, properly planned and adequately supported program of continuing legal education by which members of the legal professional may enhance their skills, keep abreast of developments in the law, ethics and professionalism, engage in the study and research of the law, and disseminate the knowledge thus obtained. For more information about upcoming CLE programs, please visit icle.gabar.org.



ICLE registrations account for nearly 30% of total CLE hours reported to the CLE Regulation Department.



OF LOCALES THAT HOSTED ICLE PROGRAMS

8 Athens • Atlanta • Avon, Colorado
Amelia Island, Florida • Jekyll Island
Macon • Savannah • St. Simons Island



OF PROGRAMS HELD OUTSIDE ATLANTA

15

AMELIA ISLAND, FLORIDA (3)
ATHENS (3) AVON, COLORADO (1)
JEKYLL ISLAND (1) MACON (2)
SAVANNAH (3) ST. SIMONS ISLAND (1)

OF VENUES THAT HELD ICLE PROGRAMS

13

INCLUDING THE BAR CENTER

765

ICLE PROGRAM CHAIRS AND SPEAKERS



OF HOURS OF EDUCATIONAL PROGRAMING PRODUCED

467

COVERING 54 PRACTICE AREAS



OF CLE PROGRAMS

69

INCLUDING 12 INSTITUTES

In September 2022, ICLE offered **Wellness and the New Normal**, a complimentary course with 6 hours of CLE credit, including 1 professionalism hour and 1 ethics hour.



1,481

MEMBERS COMPLETED THE LIVE PROGRAM



3,895

MEMBERS COMPLETED THE ON-DEMAND PROGRAM



@iclega



@statebargaicle



@iclega

LAW PRACTICE MANAGEMENT

404-527-8770 | lpm@gabar.org

The Law Practice Management Program provides Georgia lawyers with the strategy and support they need to start, scale or shut down their law practice with less stress. Through our resource library, vendor directory, toolkits, webinars, consultations and Take Charge! Solo & Small Firm Conference, we help lawyers and their teams leverage technology, data and strategy to run a modern, successful and sustainable law practice. Our dedicated team is committed to providing you with the tools you need to practice well. ●

IN 2022-23, MORE THAN ...

231

STARTUP KITS
DISTRIBUTED

163

attorneys attended
2023 Take Charge!
Solo & Small Firm Conference.

1,422

books in the
Resource
Library.

OF GENERAL
CONSULTATIONS

21

OF TECHNOLOGY
CONSULTATIONS

21



OF MEMBERS SERVED

489

+180 since 2021-22



OF SPEAKING
ENGAGEMENTS

7

CONNECT WITH LPM



gapracticeadvisor.com



[/law-practice-management](https://www.linkedin.com/company/law-practice-management)



[@gabarlpm](https://www.instagram.com/gabarlpm)

LAW-RELATED EDUCATION

404-527-8785 | lre@gabar.org

The Law-Related Education (LRE) Program offers K-12 teachers a wide variety of strategies for including LRE in their social studies, law, business and public safety curricula, as well as suggestions for relating LRE to language arts, science and math curricula. The program also offers the free interactive field trip known as Journey Through Justice (JTJ) for students in grades 4-12; maintains the

Virtual Museum of Law at www.thelawmuseum.org; provides lesson plans, classroom resources and links to current events on more than 60 legal topics via online LiveBinders at www.livebinders.com/s/175847; conducts teacher workshops; presents at teacher and parent conferences; and sponsors the ABA Civics and Law Honor Roll for Georgia high school students. ●

OF JTJ FIELD TRIPS IN 2022-23

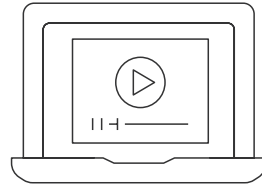
111

OF STUDENT PARTICIPANTS IN JTJ IN 2022-23

7,047

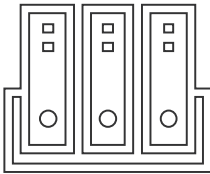
VIRTUAL MUSEUM OF LAW | TOP 5 VIDEOS BASED ON NUMBER OF VIEWS

VIDEO	# OF VIEWS	CHANGE FROM '22
"Brown v. Board of Education"	429,466	↑ 12%
"Marbury v. Madison"	276,010	↑ 15%
The Lizzie Borden Case	112,155	↑ 13%
The Amistad Case	93,786	↑ 12%
The Scopes "Monkey" Trial	85,399	↑ 14%



TOTAL # OF VIEWS OF ALL VIRTUAL MUSEUM OF LAW VIDEOS TO DATE

1,708,818



TOTAL # OF VIEWS OF ALL LIVEBINDERS TO DATE

121,241

LIVEBINDERS | TOP 5 LIVEBINDERS BASED ON NUMBER OF VIEWS

LIVEBINDER	# OF VIEWS	CHANGE FROM '22
"Hands Up, Don't Shoot" Free Press or Fair Trial	10,283	↑ 7%
First Amendment: Freedom of Speech, Press and Assembly	5,257	↑ 61%
General Cruel and Unusual Punishment Resources	3,743	↑ 25%
The Lizzie Borden Case	3,471	↑ 8%
The John Peter Zenger Trial	3,427	↑ 20%



LAWYER ASSISTANCE PROGRAM (LAP)

Confidential Hotline | 800-327-9631

The LAP provides a broad range of confidential helping services to members seeking assistance with depression, anxiety, stress, alcohol/drug abuse, family problems, workplace conflicts, psychological and other issues. Members may contact LAP for confidential assistance 24 hours a day, 7 days a week, by calling 800-327-9631.



Lawyers Helping Lawyers is a volunteer peer support program created by the LAP to give additional tools to members who might benefit from a peer to talk to about the difficulties in their lives. Peer support generally involves people sharing similar experiences with an illness or condition. Drawing on the unique shared experience of practicing law, others may volunteer as well. Bar members who volunteer to become a peer can receive CLE credit for their training. ●

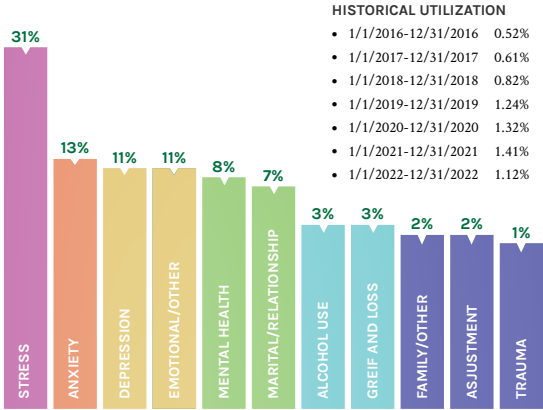
UTILIZATION STATS (JULY 1, 2022-JUNE 30, 2023)

EAP CASE COUNT	ACTIVITIES	HOURS
576*	3,589**	1,586.05***

*Includes the total number of files, organizational services, information calls, etc., that have an open/service date that falls between (and includes) the reporting period date range.

**The total activities (contacts) from files, organizational services, information calls, etc., that have an activity date that falls between (and includes) the reporting period date range.

***The total duration from all activities that have an activity date that falls between (and includes) the reporting period date range.



PRIMARY PRESENTING PROBLEMS*

* as reported by caller



MEETINGS

404-527-8713 | meetings@gabar.org

The Board of Governors holds at least four meetings each year—Fall, Midyear, Spring and Annual. At the Midyear Meeting in January and the Annual Meeting in June, Georgia attorneys can take part in networking, educational programs and professional development. CLE presentations and meetings of committees, sections, alumni and law-related organizations are held, and exhibits by law-related vendors are included. The Meetings Department also plans and executes monthly Executive Committee Meetings, including an annual joint meeting with the Supreme Court of Georgia. ●

2022-23 BOARD OF GOVERNORS MEETINGS*

FALL 2022 | OCT. 1
VIRTUAL
151 Attendees

MIDYEAR 2023 | JAN. 12-14
ATLANTA, GA
608 Attendees

SPRING 2023 | MARCH 24-26
PINE MOUNTAIN, GA
266 Attendees

ANNUAL 2023 | JUNE 8-11
SAVANNAH, GA
590 Attendees

*Attorney registrants only (does not include guests).

MEMBERSHIP

404-527-8777 | membership@gabar.org

The Membership Department's mission is to meet the needs of Bar members by providing quality service, either by interacting on the phone, email or in person. To handle all of the assigned membership activities, approximately 75 calls and 60 emails are received and responded to each day.

The primary key to quality service is the timely and accurate maintenance of the database containing the information for all attorneys. Changes to the database can be done by the member online or by submitting any changes to the Membership Department. The information is utilized to respond to questions regarding this information from both the general public and the members. ●

The Department is staffed with five individuals dedicated to meeting the needs of our core base of **54,000** members.

CORE MEMBERSHIP CATEGORIES INCLUDE **{ ACTIVE }
{ INACTIVE }
{ EMERITUS }**

and grows at a rate of approximately **1,100** new members each year.



In a typical year, more than **16,000** changes are processed in the database.

150 Photo IDs are processed per year.

Bar cards provided average around **1,200** annually.

Approximately **1,100** enrollment packages are processed yearly.

Approximately **3,500** Letters of Good Standing are ordered annually.

OF ANNUAL MEMBERSHIP LICENSE FEES INVOICED AND PROCESSED EACH YEAR

49,669 (approximately)



In addition to the categories indicated above, the department provides service to other membership categories such as, **Students, Affiliates, Provisional, Resigned, Retired, Disabled, Suspended, Disbarred and Terminated.** These membership categories make up an additional **7,172** members.

ANNUAL BOARD OF GOVERNORS ELECTION

Staff oversee the election process for **152** candidates; are responsible for verifying petitions; creating the ballots; providing information to the Communications Department to post and share on the website and through email; and ensuring all votes are cast by the deadline. The assistant director serves as the Elections Committee staff liaison and runs periodic committee meetings to modify elections rules when needed.



SATELLITE OFFICES

COASTAL GEORGIA OFFICE | SAVANNAH

912-239-9910 | 877-239-9910 | kindallh@gabar.org

The Coastal Georgia Office of the State Bar of Georgia provides Savannah-Metro Area attorneys more direct access to the Bar. Our facility is often used to provide space for CLE opportunities, depositions, mediations and client meetings. Our facility is a popular “halfway” meeting point for attorneys from Southeast Georgia, South Carolina or Florida to meet with those from Atlanta and other areas. Mediators like using this office because of its neutrality—mediations of varied sizes are frequently scheduled here.

Many solo practitioners enjoy having an impressive space to use when meeting with their clients. Our members also benefit from the ability to use video-conferencing and other available technologies as a means to conduct business with distant offices. These technologies allow more access to various meetings without additional travel and/or overhead costs. Some of the local bar associations, the Savannah Bar and the Port City Bar specifically, have occasionally used our facility for their monthly meetings or other events, such as meet and greets or awards ceremonies. One of our main activities is assisting public consumers by phone. Whether it is directing them to the Bar’s website for attorney referrals, or transferring them to the appropriate department, in the Atlanta office, that can best assist them with their requests. We are very often the first interaction a member of the public has with the State Bar of Georgia. ●

IN EARLY DECEMBER 2022, THE COASTAL GEORGIA OFFICE RELOCATED FROM EAST BAY STREET TO ITS NEW HOME AT 7402 HODGSON MEMORIAL DRIVE.



OF HEARING ROOMS

2 Each can accommodate four people.

OF CONFERENCE ROOMS

2 One can accommodate 30 people classroom style, the other can accommodate 10-12 conference style.

THERE IS ALSO A SPACIOUS **GUEST OFFICE** AVAILABLE FOR MEMBERS’ USE.

SOUTH GEORGIA OFFICE | TIFTON

229-387-0446 | 800-330-0446 | lacarar@gabar.org

The South Georgia Office located in Tifton serves more than 450 guests annually. Attorneys from across the state utilize the office for depositions, mediations, hearings, client meetings and continuing legal education programs. The space is also used for small receptions, socials, business meetings and other law-related training. The office is a well-liked meeting space because of its location, as Tifton is a connecting point for several major transportation routes including I-75 and several U.S. highways.

The Tifton office has two conference rooms equipped with Aver IP-based video conferencing systems and other technology to offer a broad array of virtual conferencing options. One unit is permanently fixed in our main conference room, with two mobile units for use in the small conference room and as a backup. An office serves as a dedicated workspace for attorneys and a private space to meet with clients.

Our staff accommodates space requests and works diligently responding to inquiries and correspondence from both lawyers and consumers by phone, mail and in person. We also work closely with the Tift Judicial Circuit Bar Association organizing meetings and events and engaging with the community. The South Georgia Office is committed to providing excellent customer service and helping members foster greater connection with the State Bar of Georgia. ●

COASTAL GEORGIA OFFICE STATISTICS JULY 2022 TO JUNE 2023

	Year Total	Yearly %	% Change from 21-22
Client/Misc. Meetings	20	17%	(25%)
Depositions	44	38%	52%
Mediation/Arbitration	26	23%	4%
Walk-ins	20	17%	567%
CLE Opportunities/Training	5	5%	0%
Total Events	115	100%	24%
Total # People Using Facility	513		30%

*Note: Miscellaneous Meetings include video conferences, hearings and focus groups.



Telephone Engagement

643 inbound
592 answered

*Data captured February through June 2023

MEMBERS SUPPORTED INCLUDE THOSE FROM:

ADEL ALBANY AMERICUS ATLANTA BAINBRIDGE BUFORD CHARLESTON (SC) COLUMBUS CORDELE DAWSON DOUGLAS FITZGERALD HOMERVILLE JACKSONVILLE (FL) JONESBORO LEESBURG MACON MOULTRIE NASHVILLE OCILLA PERRY POOLER SAVANNAH SYLVESTER TALLAHASSEE (FL) THOMASVILLE TIFTON VALDOSTA WARNER ROBINS WATKINSVILLE WAYCROSS

SOUTH GEORGIA OFFICE STATISTICS JULY 2022 TO JUNE 2023

	Year Total	Yearly %	% Change from 21-22
Client/Misc. Meetings	14	8%	(36%)
Depositions	44	24%	33%
Mediation/Arbitration	5	3%	(29%)
Walk-ins	119	64%	(8%)
CLE Opportunities/Training	4	1%	0%
Total Events	186	100%	(5%)
Total # People Using Facility	498		8%

*Note: Miscellaneous Meetings include video conferences, hearings and focus groups.



Telephone Engagement

323 inbound
242 answered

*Data captured February through June 2023. The office is operated with one full-time person March through June.

MEMBERS SUPPORTED INCLUDE THOSE FROM:

ALPHARETTA ATLANTA BRUNSWICK COLUMBUS GAINESVILLE HINESVILLE KNOXVILLE (TN) LEXINGTON (KY) MACON MARIETTA METAIRIE (LA) POOLER RICHMOND HILL RINCON SAVANNAH SNELLVILLE STATESBORO TALLAHASSEE (FL) TOWNSEND WASHINGTON, D.C.



SECTIONS

404-527-8782 | sections@gabar.org

Sections are voluntary, non-appointed groups within the State Bar. Sections provide specialized services and information to their members in their respective areas of the law. Section leaders determine and plan educational, community service and networking programs. Leadership is responsible for disseminating pertinent information about such events to their members. The sections team can assist in all these areas. Sections are as active as their memberships demands. All members in good standing of the State Bar of Georgia are eligible for membership upon annual payment of section dues, which vary by section. It is important to note, however, that only active members of the State Bar of Georgia are entitled to nominate a member for office or hold office in a section.

Sections produce both accredited and non-accredited CLE programs for their members at a reduced fee.

OF STATE BAR SECTIONS

51

Throughout the 2022-23 Bar year, there were **92 CLE** accredited hours offered through the various sections. Along with general hours of credit earned, specialty credits were also offered. Approximately **2,548** members were able to meet their continuing legal education requirements.



While the majority of the 51 sections stay active throughout the Bar year, the largest sections continue to be consistently active:

- > **Real Property Law** | 3,202 members (+3 since 2022)
- > **Insurance Law** | 2,393 members
- > **Family Law** | 1,959 members
- > **General Practice & Trial Law** | 1,884 members
- > **Corporate Counsel** | 1,865 members (+13 since 2022)
- > **Business Law** | 1,757 members
- > **Criminal Law** | 1,454 members
- > **Labor & Employment Law** | 1,338 members (+47 since 2022)
- > **Intellectual Property Law** | 1,253 members
- > **Fiduciary Law** | 1,196 members (+3 since 2022)

TRANSITION INTO LAW PRACTICE PROGRAM

404-527-8704 | tilpp@gabar.org

The Transition Into Law Practice Program (TILPP) is the mentoring and continuing legal education program for lawyers newly admitted to the State Bar of Georgia, unless exempted. The goal of TILPP is to afford beginning lawyers with meaningful access to experienced lawyers equipped to teach the practical skills, seasoned judgment, and sensitivity to ethical and professionalism values necessary to practice law in a highly competent manner.

Lawyers enrolled in TILPP satisfy the mentoring component by enrolling in one of three types:

1 Inside Mentoring

For an attorney who works in a law firm or organization and has a mentor within that firm or organization.

2 Outside Mentoring

For an attorney who is a sole practitioner with a mentor from another firm or organization.

3 Group Mentoring

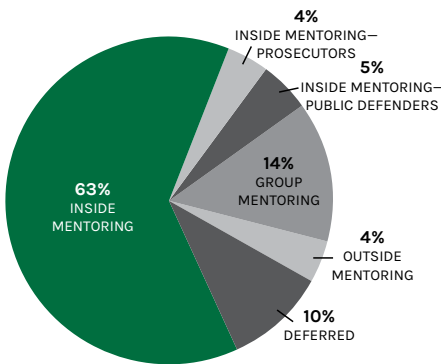
For an attorney who is employed in a non-legal setting, unemployed or who otherwise does not have an individual mentor. ●

New lawyers must also complete 12 hours of CLE. Most will attend the Beginning Lawyers Program to fulfill six of those hours and their choice for the additional six hours. Lawyers who are prosecutors or public defenders must attend their applicable training, which will satisfy their CLE requirement for the year.

The State Bar of Georgia was the first in the country to have a mandatory mentoring program for lawyers.



TILPP BY THE NUMBERS JULY '22 - JUNE '23



776

Lawyers enrolled in TILPP.



UNLICENSED PRACTICE OF LAW

404-527-8769 | upl@gabar.org

The Unlicensed Practice of Law (UPL) Department acts at the direction of a statewide Standing Committee and 10 District Committees representing each of the judicial districts in Georgia. All UPL Committees are directly appointed by the Supreme Court of Georgia and are comprised of both lawyer and nonlawyer members, the latter of which must make up a majority of each committee. UPL Committees are charged with the consideration of complaints received, processed and thoroughly investigated by the UPL Department. The Standing Committee additionally considers requests for advisory opinions. Since the program's initial launch more than 20 years ago, the UPL Department has initiated and conducted more than 2,500 formal investigations, resulting in the voluntary execution of more than 600 cease and desist affidavits, as well as the filing and litigating by UPL counsel of more than 65 injunctive relief (or contempt) actions in the Superior Courts of Georgia. In the 2022 calendar year, the UPL Department initiated 188 UPL investigations with another 89 investigations having been opened to date in 2023. To assist with many of those investigations, UPL counsel has procured and received responses to 39 subpoenas. Investigations involve subjects ranging from disbarred, suspended or out of state attorneys to paralegals and other non-attorneys alleged to have engaged in UPL. Of the formal investigations closed during the 2022-23 Bar year, half resulted in subjects agreeing to comply, while most all others were referred for prosecution. A registry of subjects who have either been permanently enjoined from engaging in the practice of law by court order or have voluntarily executed a cease and desist affidavit within the last two years may be found on the Bar's website. ●

UPL BY THE NUMBERS

- > 2003 | complete launch of UPL program.
- > More than **2,500** formal investigations since launch.
- > More than **600** voluntary cease and desist affidavits executed since launch.
- > More than **65** injunctive relief (or contempt) actions initiated in Superior Courts of Georgia throughout the state since launch.
- > **277** UPL investigations initiated from Jan. 1, 2022, through June 30, 2023.

YOUNG LAWYERS DIVISION

404-527-8778 | yld@gabar.org

The Young Lawyers Division is responsible for aiding and promoting the advancement of the younger members of the State Bar by providing a program of activities and projects which serve the profession and the public. All members who have not yet reached their 36th birthday or who have been admitted to their first Bar less than five years are automatically a member.

The Young Lawyers Division provides service, networking and leaderships opportunities through 27 committees and 10 affiliate organizations from around the state. With almost 10,000 active young lawyers, committees and affiliates offer local opportunities for young lawyers to be involved in their community. ●

SAVANNAH HAS THE
SECOND HIGHEST
CONCENTRATION OF
YOUNG LAWYERS
OUTSIDE OF
METRO-ATLANTA

221

SAVANNAH YOUNG
LAWYERS FOLLOWED
BY MACON (162)



2022-23 ANNUAL REPORT

2022-23 YLD MEETINGS

FALL 2022 | SEPT. 22-24

📍 ORLANDO, FLORIDA

MIDYEAR 2023 | JAN. 12-14

📍 ATLANTA, GEORGIA

SPRING 2023 | MARCH 24-26

📍 PINE MOUNTAIN, GEORGIA

ANNUAL 2023 | JUNE 8-11

📍 SAVANNAH, GEORGIA

DID YOU KNOW?

THERE ARE

9,791

TOTAL YLD MEMBERS



OF THE BAR IS
UNDER THE AGE
OF 36



21,437 Bar members are women;
5,090 of those are YLD members
(52% of the YLD is female)



- YLD metro-Atlanta (5 counties)—5,795 or 59%
- Bar members Out-of-State—13,174 or 26%
- YLD members Out-of-State—2,024 or 21%

27

YOUNG LAWYERS DIVISION (CONTINUED)

YLD NEWSLETTER

State Bar of Georgia Young Lawyers Division

THE YLD REVIEW

Volume 64

Working for the Profession and the Public

# OF ISSUES	# OF ARTICLES	# OF AUTHORS	# OF SUBSCRIBERS
4	47	31	29,782

YLD SIGNATURE FUNDRAISER

The 16th annual Signature Fundraiser benefiting Georgia Legal Services Program and Middle Georgia Justice was held on March 4 at The Blacksmith Shop in Macon, Georgia.

\$53,000
RAISED FOR GEORGIA LEGAL SERVICES PROGRAM AND MIDDLE GEORGIA JUSTICE

YLD LEADERSHIP ACADEMY

The YLD Leadership Academy is a six-month cohort that begins in January each year and ends with a graduation ceremony at the State Bar of Georgia Annual Meeting. The program began in 2006 with 32 academy participants. The selected participants go through a competitive application process. Applicants must be YLD members who have a history of involvement and leadership in their communities, offices and/or profession; who want to become more involved in the YLD and State Bar; and who want to network with state and national leaders and hear their perspectives on effective lawyering and leadership.


Young lawyers selected for the Leadership Academy attend monthly sessions around the state, which include CLE programming, a community service project and networking. To date, the program boasts more than 600 Leadership Academy alumni members, many who went on to leadership positions within the State Bar of Georgia. ●

2023 LEADERSHIP ACADEMY

SESSION LOCATIONS:


ATLANTA PINE MOUNTAIN DUBLIN/EASTMAN
BLUE RIDGE/ELLIJAY SAVANNAH

CONNECT WITH THE YLD

 georgiayld.org

 [@georgiayld](https://www.instagram.com/georgiayld)

 [@GeorgiaYLD](https://www.facebook.com/GeorgiaYLD)

 [/young-lawyers-division-state-bar-of-georgia](https://www.linkedin.com/company/young-lawyers-division-state-bar-of-georgia)

 [@GeorgiaYLD](https://twitter.com/GeorgiaYLD)

 [flickr.com/yld](https://www.flickr.com/yld)

BOARD ACTION ITEMS

2022-23 Bar Year

The following action items were taken by the Board of Governors of the State Bar of Georgia during the 2022-23 Bar year. ●

2022 ANNUAL MEETING | JUNE 4

The Board approved appointments to the State Disciplinary Boards, the Formal Advisory Opinion Board and the ICJE Board; the 2022-23 Committees; the nominations to the JQC; the 2022-23 State Bar Budget and the Financial Resolutions; the Executive Director election; the 2022-23 Election Schedule; the Executive Committee election; the Georgia Legal Services Program appointments; and the Chief Justice's Commission on Professionalism appointment.

Proposed Rules and Policy Changes

- Rule 1.2, Comment 9 | Tabled.
- Proposed Change to Standing Board Policy 600 (Conflicts of Interest) | YES, majority.
- Proposed Change to the Investment Policy | YES, majority.

2022 FALL MEETING | OCT. 1

The Board approved appointments to the Commission of Continuing Lawyer Competency (CCLC) and the Formal Advisory Opinion Board.

Proposed Policy Changes

- Officer and Executive Committee Expense and Reimbursement Policy | YES, majority.

New Legislative Proposals

- Health Law Section—Budget request for \$619,000 to provide Civil Legal Services Grants for Medical Legal Partnerships | YES, majority.
- Nonprofit Law Section—Support for Comprehensive Review of the Georgia Nonprofit Corporate Code | YES, majority.

2023 MIDYEAR MEETING | JAN. 14

The Board approved the nominations of the ABA Delegates and the State Bar officers, and appointments to the Commission on Lawyer Competency.

Proposed Rules Changes

- Rule 1.0. Terminology and Definitions | YES, majority.
- Rule 1.2. Scope of Representation and Allocations of Authority Between Client and Lawyer | YES, majority.
- Rule 1.5. Fees | YES, majority.
- Rule 1.8. Conflict of Interest—Prohibited Transactions | YES, majority.
- Rule 7.1. Communications Concerning a Lawyer's Services | YES, majority.
- Rule 7.2. Communications Concerning a Lawyer's Services; Specific Rules | YES, majority.
- Rule 7.3. Solicitation of Clients | YES, majority.

New Legislative Proposals

- Professionalism Committee—Support for a Resolution of the General Assembly Recognizing April 2023 as Legal Professionalism Month | YES, majority.
- Indigent Defense Committee—Grants for Georgia Resource Center | YES, majority.
- Real Property Law Section—Support for HB 182 | YES, majority.
- International Trade in Legal Services Committee—Support for HB 80 | YES, majority.
- Fiduciary Law Section—Support for funding for the Georgia Heirs Property Program | YES, majority.

2023 SPRING MEETING | MARCH 25

2023-24 License Fees | YES, majority.

- Recommendations of the Executive Committee.
 - Active Fees \$260. (No increase from 2022-23.)
 - Inactive Fees \$130. (No increase from 2022-23.)
- Approval of Other Bar License Fee Statement Items.
 - Sections Dues (\$10 to \$40 opt-in).
 - Clients' Security Fund (\$15/year per member per Bar Rule 1-506).
 - Professionalism Fee (\$11/year).
- Other Contributions.
 - Legislative and Public Education Fund Contribution (\$100 optional contribution).
 - Georgia Legal Services Program Donation (\$400 suggested individual contribution/\$100 suggested contribution for YLD).

2023 ANNUAL MEETING | JUNE 9

The Board approved appointments to the State Disciplinary Boards and the Formal Advisory Opinion Board; the 2023-24 Committees; the nominations to the JQC; the 2023-24 State Bar Budget and the Financial Resolutions; the Executive Director election; the 2023-24 Election Schedule; the Executive Committee election; the Georgia Legal Services Program appointments; and the Chief Justice's Commission on Professionalism appointments.

Proposed Rules and Bylaws Changes

- Article IX of the Bylaws, Creation of the Center for Lawyer Well-Being | YES, majority.
- Rule 1-706. Center for Lawyer Well-Being | YES, majority.
- Center for Lawyer Well-Being Bylaws | YES, majority.
- Rule 1-207. Official Address and Change of Address | YES, majority.
- Rule 4-214. Report of the Special Master | YES, majority.
- Rule 4-402. The Formal Advisory Opinion Board | YES, majority.
- Sections Model Bylaws | YES, majority.

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

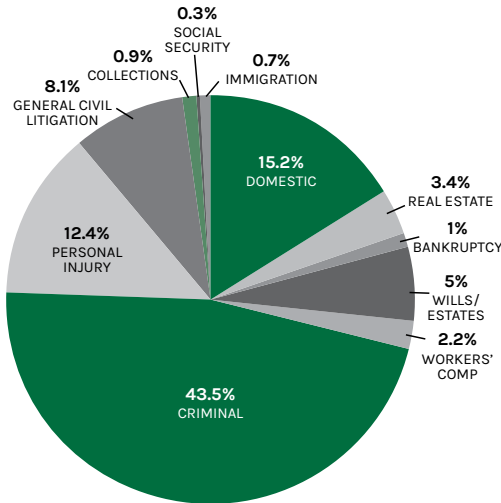


TOTAL # OF NEW MATTERS HANDLED IN 2022-23

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:

Lawyer Members

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 Reprimands 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/Voluntary Surrenders	25	17
Suspensions	12	9
Public Reprimands	3	2
Review Board Reprimands	2	2

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

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 ap-

plications, 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 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



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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).

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
Balance on July 1, 2021	\$1,798,187	\$1,634,260
Income to Fund		
Assessments	\$77,590	\$751,680
Restitution	\$85,621	\$18,445
Interest	\$26,218	\$23,907
Gain/Loss Investment Assessment	\$(79,620)	\$17,942
Distributions from Fund		
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, 2021, 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

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.

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



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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.

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

<p># OF IN-PERSON MEETINGS</p> <p style="font-size: 2em; font-weight: bold;">3</p>	
<p># OF PROPOSED OPINIONS DRAFTED AND CONSIDERED</p> <p style="font-size: 2em; font-weight: bold;">2</p>	
<p># OF PROPOSED OPINIONS APPROVED</p> <p style="font-size: 2em; font-weight: bold;">2</p>	<p>are provided to the Board. The Board reviews the proposed opinion in light of the comments and other information received and 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.</p> <p>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 Geor-</p>



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gia'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
<i>Georgia Defense Lawyers Association</i>	
Jacob Edward Daly, Atlanta	2021 – 2023
<i>Georgia Association of Criminal Defense Lawyers</i>	
Amanda Rourk Clark Palmer, Vice Chair, Atlanta	2022 – 2024
<i>Georgia District Attorney’s Association</i>	
Sherry Boston, Decatur	2022 – 2024
<i>Young Lawyers Division</i>	
Donavan Keith Eason, Kennesaw	2021 – 2023
<i>Emory University</i>	
Professor Jennifer Murphy Romig, Atlanta	2022 – 2024

<i>University of Georgia</i>	
Professor David N. Lefkowitz, Athens	2022 – 2023
<i>Mercer University</i>	
Professor Patrick E. Longan, Macon	2021 – 2023
<i>Georgia State University</i>	
Professor Cassady V. Brewer, Atlanta	2022 – 2024
<i>Atlanta’s John Marshall Law School</i>	
Professor Jeffrey Alan Van Detta, Atlanta	2021 – 2023
<i>State Disciplinary Board</i>	
Christian J. Steinmetz III, Savannah	2022 – 2023
<i>State Disciplinary Review Board</i>	
John R. B. Long, Augusta	2022 – 2023
<i>Executive Committee</i>	
Martin Enrique Valbuena, Dallas	2022 – 2023

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. ●

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 also reconciles the credit card fees received with the Finance Department on a weekly basis. The *pro hac vice* paralegal provides



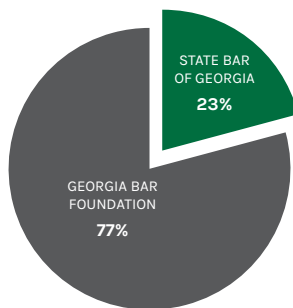
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a bi-annual report to the Georgia Bar Foundation regarding the number of applications received in each county. The *pro hac vice* paralegal creates an internal monthly report to reflect the number of applications processed, fees collected and the division 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

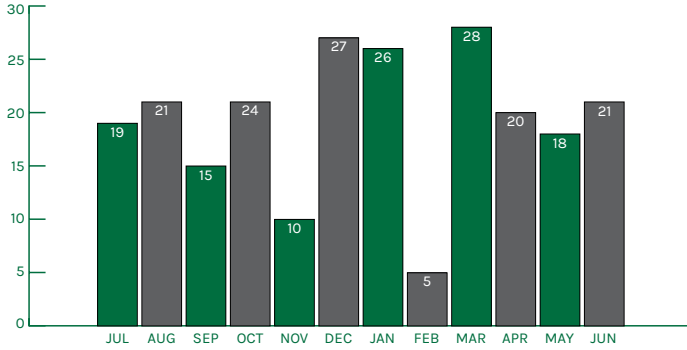
Counsel's overdraft reporting agreement and the Georgia Bar Foundation's interest rate comparability agreement. Currently, 180 banks and credit unions are reflected on the State Bar of Georgia's List of Approved Financial Institutions, which can be found on the State Bar of Georgia's website at www.gabar.org/banks.

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

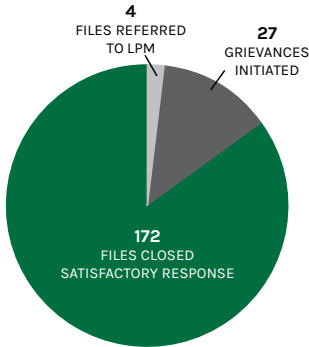
On May 14, 2021, the Supreme Court of Georgia issued an order amending Rule 1.15 (III) of the Georgia Rules of Professional Conduct, which eliminates the three-day grace period it previously granted banks to report overdrafts to the State Bar of Georgia. Accordingly, the Office of the General Counsel 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

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



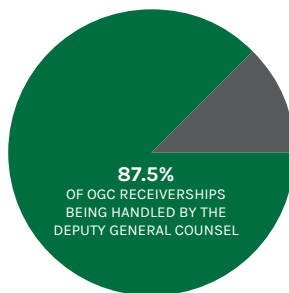
OF LETTERS SENT TO CLIENTS

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

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

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

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.

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

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2022-23 ANNUAL REPORT

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State Bar
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M E M O R A N D U M

To: ICLE Advisory Board Members
From: Julia Neighbors, ICLE Director
Date: September 21, 2023
Re: Institute of Continuing Legal Education

I am pleased to present the following report for your review of the Institute of Continuing Legal Education's activities.

ICLE is not able to do its work without the support of volunteers who serve as Program Chairs and speakers, and we are indebted to them and to every Georgia lawyer who volunteers his or her time in service to the legal profession.

July 1 – September 30, 2023

- 2 Institutes (Fiduciary and Wellness)
- 5 Bar Center Programs
- 885 OD purchases by 685 members (through Sept. 8, 2023)
 - September 1, 2022 - September 8, 2023: 15,358 OD purchases by 10,014 members

Annual Data (July 1, 2022 – June 30, 2023)

- 8 - Locales ICLE Hosted Programs (Athens; Atlanta; Avon, CO; Amelia Island, FL; Jekyll Island; Macon; Savannah; St. Simons Island)
- 13 - Venues ICLE Held Programs (Including the Bar Center)
- 15 – Programs Hosted Outside of Metro Atlanta
- 54 - Practice Areas
- 69 - CLE Programs (12 Institutes)
- 467 – Hours of Educational Programming Produced
- 765 – ICLE Program Chairs and Speakers
- ICLE registrations account for 30% of the total CLE hours reported to the CLE Regulation Department

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- In September 2022, ICLE offered a 6- hour program with 1 hour of professionalism and 1 hour of ethics credit, “Wellness and the New Normal” where 1,481 members completed the complimentary live/livestream program for credit
 - 3,895 members completed the complimentary on-demand program

Programming Updates

In this past year, ICLE encouraged and supported innovative programming by incorporating into the traditional lecture and panel discussion format live polling, break-out sessions, interactive skits and sessions with a game show format. ICLE will continue to encourage these formats and explore new ways to enhance the delivery of educational content.

Program Planning

In recent months, ICLE has updated its production process to ensure more efficient planning. This includes updating program production timelines for Bar Center, alternate venue and destination programs; confirming program dates earlier (and for some programs, 1-2 years out); and increased collaboration and communication with Sections, Committees, and unaffiliated program sponsors.

Pricing Update

Effective July 1, 2023, ICLE updated the pricing of most programs. Most six (6) hour Bar Center and on-demand programs are now \$225 (previously \$250). Other on-demand programs were discounted by approximately 10%. Alternate venue and off-site programs are not discounted because these programs are priced at cost. The expenses associated with these programs include meeting room rental, food/beverage plus service charge and taxes, audio/visual, MCLE fees, staff travel, signage, and production cost. ICLE along with the Bar’s leadership team will continue to monitor program sales and expenses and revisit the pricing structure mid-year.

Law Practice Management Program

(Abbreviated report for the 2023-2024 Bar Year)

Total Number of Members Served – 203

July 1, 2023 – September 15, 2023

The program has served a grand total of **203** members from July 1, 2023-September 15, 2023. Our program has made contact with **91** existing members and **112** new members during this period.

Resource Requests

Members have contacted our program to discuss or request the following:

- **Starting a Law Practice** - A total of **25** Starting a Georgia Law Practice guides were distributed to our members by request via email (6), web store order (19), and during their visit to the Bar Center (2).
- **Software Recommendation/Technology Advice** – A total of **4** members contacted our program for a law office software recommendation by phone.
- **LPM Resources Assistance** – The program has responded to **163** phone calls and emails requesting resources such as sample practice management forms, closing a law practice/succession planning resources, trust accounting resources, opening a law practice resources, program events, and member benefit services. In addition, the program's resource advisor advised and responded to **21** practice management inquiries on various practice management topics.

Consultations

A total of **7** virtual consultation appointments were completed during this period. Our program scheduled and completed **5** general law firm assessments and **2** corrective action virtual consultations to discuss law firm practice management matters.

Resource Library

The **LPM lending library** has a grand total of **1,427** books, CDs, and DVDs for checkout to members and their staff with the option to pick up materials at the Bar Center or to be mailed. A total of **17** members registered to get access to the **lending library**. During this period, **7** patrons visited the resource library, **8** patrons checked out a total of **25** books, and we responded to **20** emails and **1** phone call inquiry about the resource library.

Social Media Outreach

Members can follow LPM's *GA Law Practice Advisor* on [LinkedIn](#), and [Instagram](#) and subscribe to our newsletter the *LPM Insider* for practice tips and the latest on LPM events and programming. Since our social media channels were created, we have **142** Instagram followers, **49** LinkedIn followers, and **160** people who have subscribed to the *LPM Insider* newsletter with a grand total of **351** followers and growing.

Speaking Engagements and LPM Seminars

A total of **2** completed and scheduled programs during this period. The Program's staff has given **1** continuing legal education and special presentations to Georgia lawyers and other related groups nationally and locally. **1** program is scheduled for a future date.

Date	Event Name	Presentation(s)
August 16, 2023	Technology Threats and Best Practices for Your Office: What Every Small Law Firm Lawyer Should Know Webinar	Sponsored by the Law Practice Management Program Advisory Committee
September 22, 2023	Take Charge: Solo and Small Firm Summit CLE--The Profitability Blueprint: Building a Strong Law Firm Business Model	Sponsored by the Law Practice Management Program

Fastcase Report

Fastcase Support and Added Content

Fastcase is ranked as one of the best member benefits the Bar offers, with over 50% of our 50,000+ members logging into their Fastcase account each year. The State Bar of Georgia members utilize their Fastcase member benefit to enhance their practice and firm resources.

During 2023, bar members can expect a significant improvement to the Fastcase search and the new citator, Cert within the platform. A tutorial is now available to members when they log into their accounts.

Docket Alarm is being considered as an additional library for our members.

Fastcase Usage Report (July 2023-August 2023)

	Jul	Aug	Total
First Time Logins	65	65	130
Total Logins	9,114	10,869	19983
Total Users Who Logged In	2,559	2,750	5309
Searches Conducted	34,746	40,265	75011
Documents Viewed	117,878	146,016	263894
Documents Printed	29,918	27,380	57298
Total Transactions	194,280	227,345	421,625

Fastcase Reported Issues/Problems

<i>Fastcase Reported Issues / Problems</i>	
Issue Reported to Member Benefits Coordinator (MBC)	Response
SBOG Member Benefits Coordinator-8/20/2023 A member reported the Fastcase sponsored webinar was very poorly done. Noise in background, not professional, advanced session with little advanced features shown.	Fastcase Response-8/21/2023: FC Apologized for the poor quality and will address the issue with the employee.
MBC 8/02/22 Several members had password issues.	Fastcase Response-9/15/2023 Reached out with trial account information while member worked on getting into their account.

CloudLawyer/ReliaGuide Report

The [directory](#) facilitated **777,212** lawyer searches from January to August. The top practice areas searched are family law, divorce, criminal defense, probate and estate planning, and civil litigation. Thursday was the most searched day of the week. The most searches occurred between 12 p.m.- 2 p.m. **89.6%** of searches occurred on a desktop computer. In addition to searches, there have been **376,598** interactions with member profiles (views, clicks and contact requests) including **5,447** completed contact form requests, **7,350** clicks on lawyer email, and **9,247** phone numbers. Since the beginning of the year there have been **3,349** member sign-ins and **880** members have edited their profile. Currently, there are **261** members signed up for Profile Plus (the enhanced profile).

This month [ReliaGuide](#) released the new website product. Lawyers can now turn their directory profile into a beautiful website. No design or tech skills required. Simple. Cost-Effective. Fabulous!

Media Report

PUBLISHED ARTICLES 2023-2024			Headline	Circulation
Date	Newspaper			
6/21/2023	Morgan County Citizen, Madison		Tony DeCampo installed as 61st president of State Bar of Georgia	2,500
6/21/2023	Albany Herald		Tony DeCampo installed as 61st president of State Bar of Georgia	5,271
6/21/2023	Rockdale Citizen, Conyers		Tony DeCampo installed as 61st president of State Bar of Georgia	1,420
6/21/2023	Rome News-Tribune		Chris Twyman installed as treasurer of State Bar of Georgia	9,556
6/23/2023	Griffin Daily News		Tony DeCampo installed as 61st president of State Bar of Georgia	3,331
6/23/2023	Daily Report		DelCampo, Browning Sworn in as State Bar of Georgia's New Presidents	2,012
6/23/2023	DeKalb Champion, Decatur		Chamblee High alum named president of State Bar of Georgia	494
6/24/2023	Covington News		Michael Geoffroy re-elected to Board of Governors of State Bar of Georgia	2,814
6/24/2023	Cordele Dispatch		Craig Cotton Elected to Board of Governors of State Bar of Georgia	1,481
6/24/2023	Madison County Journal, Danielsville		Higginbotham re-elected to Bar board	1,988
6/25/2023	Valdosta Daily Times		Parrish-Bennett elected to State Bar board	4,894
6/27/2023	Griffin Daily News		State Bar of Georgia: Griffin Circuit Judge elected to Board of Governors	3,331
6/28/2023	Effingham Herald, Rincon		Troy Marsh Elected to Board of Governors of State Bar of Georgia	3,200
6/29/2023	Gwinnett Daily Post, Lawrenceville		Gwinnett's John C. Sammon Receives 2023 State Bar Distinguished Service Award	50,011
6/29/2023	Rome News-Tribune		Jackson's term extended on State Bar of Georgia governing board	9,556
6/30/2023	Polk County Standard Journal, Cedartown		McRae re-elected to State Bar of Georgia governing board	2,887
7/4/2023	Daily Citizen-News, Dalton		Smalley reelected to Board of Governors of the State Bar of Georgia	4,896
7/4/2023	Daily Citizen-News, Dalton		Dalton attorney honored by State Bar of Georgia's Young Lawyers Division	4,896
7/4/2023	Valdosta Daily Times		Valdosta attorney joins State Bar's governing board	4,894
7/5/2023	Gwinnett Daily Post, Lawrenceville		Gwinnett Bar Association Honored by State Bar of Georgia	50,011
7/6/2023	McDuffie Progress, Thomson		Judge Britt Hammond re-elected to Board of Governors of State Bar of Georgia	2,580
7/7/2023	Daily Report		Georgia Legal Community Mourns Loss of George Lawson Jr.	2,012
7/11/2023	Daily Report		Georgia Legal Community Mourns Loss of Judge Marvin Arrington Sr.	2,012
7/12/2023	Albany Herald		Tabitha Payne re-elected to serve on State Bar Board of Governors	5,271
7/12/2023	Cherokee Tribune, Canton		Eric Ballinger re-elected to State Bar of Georgia Board of Governors	3,929
7/12/2023	Monroe County Reporter, Forsyth		DA's Holland receives Award of Achievement	3,773
7/13/2023	Daily Citizen-News, Dalton		Georgia Legal Community Mourns Alfred Mullins Jr.	2,012
8/2/2023	Jeff Davis Ledger, Hazlehurst		Tillman re-elected	3,060
8/9/2023	Covington News		Congratulations to Judge John Ott on state appointment	2,814
8/11/2023	Newnan Times-Herald		Congratulations to DA Cranford on state appointment	4,176
			TOTAL CIRCULATION	201,082