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Headquarters

104 Marietta St. NW, Suite 100, Atlanta, GA 30303
800-334-6865, 404-527-8700, FAX 404-527-8717
Visit us on the Web at www.gabar.org.

South Georgia Office
244 E. Second St. (31794) P.O. Box 1390
Tifton, GA 31793-1390
800-330-0446, 229-387-0446, FAX 229-382-7435

Coastal Georgia Office
18 E. Bay St.
Savannah, GA 31401-1225
877-239-9910, 912-239-9910, FAX 912-239-9970

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See details on the 2012 Annual Meeting on the inside back cover of this issue. More information is available online at www.gabar.org.

by Kenneth L. Shigley

Ladies and Gentlemen, the Constitution of the United States

This country boy who migrated to the city is more at home in Waffle House than at a formal banquet. However, I have been told that at diplomatic dinners attended by British and American delegations it is customary at some point for a Brit to rise and propose a toast, "Ladies and gentleman, the queen!" It is then customary for a member of the American delegation to respond with, "Ladies and gentleman, the president of the United States!"

Although diplomatically symmetrical, this misses the mark. While the president is our chief executive and head of state, he is not a sovereign or the symbol of our nationhood and unity as a people. It would be more fitting if the toast were, "Ladies and gentleman, the Constitution of the United States!"[1]

This is the only nation on earth in which an incredibly diverse population is bound together, not by ethnicity or geography but by ideas, some of the most important of which are embodied in a written Constitution. Ours is the only government established not by conquest or political decree, but by a four-month seminar including the wisest and most experienced leaders of the nation, which produced a document that has guided the nation's path from infancy to pre-eminence.

> "In the early days of the nation, interpretation of the Constitution was virtually indistinguishable from interpretation of statutes, contracts or wills."

The 55 delegates to the Convention of 1787 were among the best-educated citizens of the former colonies. At a time when few went to college, 22 were graduates of the institutions we now know as Princeton, Harvard, Yale, Columbia, William & Mary, the University of Pennsylvania, Oxford and St. Andrews. They were steeped in classics and philosophy. Twenty-nine had studied law—including several at the Inns of Court in London—though only nine practiced law for a living. They were also experienced in the practical realities of governance and politics; 42 had served in Congress under the Articles of Confederation, and all but two or three had served as public officials in a colonial or state government.

This collection of guys in knee pants and powdered hair met not in some shaded rural retreat but in the midst of the smells and sounds of a bustling 18th century port city. Through streets that often doubled as open sewers milled as diverse a mix of humanity as could be found anywhere in America. I doubt that my German-speaking Schickle/Shigley ancestors ventured in from York County to the city where a crowded immigrant ship had delivered them from Rotterdam a generation earlier, but if so they would have been recognizable as "Pennsylvania Dutch," still speaking largely in the idiom of their native village between Stuttgart and Karlruhe.

Independence Hall, then called the Pennsylvania State House, was so run down that its shaky steeple had to be removed. Determined to maintain secrecy of deliberations, they closed the windows of their crowded 40-by-40 foot meeting room so they were deprived of any cooling breeze, sweating in the stifling heat and humidity.

Merely closing doors and windows was not sufficient to keep out smells, noise and bugs. Nearby was a creek that had become an open sewer into which tanneries dumped rotting animal carcasses, and into which there was a steady flow of animal and ash waste from soap makers and excrement from privies. Swarms of flies and mosquitoes that bred in that open sewer creek plagued the delegates. A hundred feet away, a gang of 25 convicts was excavating for construction of a new courthouse. Across the state house foyer was a busy courtroom with people constantly coming and going. On the block behind them was the city jail, whose inmates loudly called out for alms and cursed anyone who refused. Drunkenness, prostitution, disease and abuse of wives and children were rampant in the city.[2]

Such a gathering would be virtually impossible today. If it were attempted, open access would feed 24/7, wall-to-wall coverage on competing cable news channels, blogs, social media, tweets, etc. Such luminaries as might agree to participate would meet a few times, posture for the media, either agree or not on a general outline and leave the detail work to staff.

But the founding fathers of 1787 met together five or six hours a day, six days a week, from mid-May to mid-September. They debated fiercely in "committee of the whole" that allowed them to argue and reconcile on half-formed ideas. After the daily sessions they often filled their evenings with committee work or discussions over dinners in the taverns, lubricated by copious amounts of good food and wine, which since no one was driving home in cars that had yet to be invented, apparently flowed more freely than is typical at legislative dinners in Georgia today.

The secretary selected to record the proceedings, William Jackson, was a better lobbyist than stenographer and produced only random daily notes. Fortunately, a slight and scholarly young delegate from Virginia, James Madison, soon positioned himself at the table next to the secretary and took copious notes while also participat-

ing in the debates. Each evening Madison would return to his room and write voluminous journals on the secret proceedings of the day. He recorded the clash of conflicting agendas and egos that matched the climate—hot and humid—with a routine of heated debate. Some historians suggest that he slighted the contributions of an even younger delegate, Charles Pinckney of South Carolina. However, the fact is that our record of the origins and original meanings of the Constitution is largely dependent on Madison's diligence and accuracy.[3]

While the delegates quickly agreed to go beyond the mere amendments to the Articles of Confederation that had been their original task, they quickly bogged down in intractable contention about the core structure of the government. They appeared to be in an impasse between large and small states, north and south. Some delegates left in disgust and returned home.

Benjamin Franklin, the oldest delegate at 81, was revered but quite obese and ailing. He missed several days' sessions while suffering from kidney stones, a condition with which I have a passing familiarity and that is often unfavorably compared with labor pains. When he did attend, he arrived on a French sedan chair carried by convicts. On June 28, 1787, about six weeks into this wrangling, though hardly a conventionally religious man, Franklin made these prepared remarks:

> I have lived, sir, a long time, and, the longer I live, the more convincing proofs I see of this truth—that God governs in the affairs of men. And if a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without His aid? We have been assured, sir, in the sacred writings, that '*Except the Lord build the house, they labor in vain that build it*.'
>
> I firmly believe this; and I also believe that without His concurring aid we shall succeed, in this political building, no better than the builders of Babel. We shall be divided by our little partial local interests; our projects will be confounded; and we ourselves shall become a reproach and byword down to future ages. And, what is worse, mankind may hereafter, from this unfortunate instance, despair of establishing governments by human wisdom, and leave it to chance, war, and conquest.
>
> I therefore beg leave to move that, henceforth, prayers imploring the assistance of Heaven, and its blessings on our deliberations, be held in this assembly every morning before we proceed to business, and that one or more of the clergy of this city be requested to officiate in that service.[4]

The delegates at that point could not agree even on the need for prayer. While the day's session adjourned without a vote, a local clergyman delivered a sermon to the convention six days later on July 4, the 13th anniversary of issuance of the Declaration of Independence. Each day the presence of the venerable Franklin may have reminded even the most secular of the delegates of his call for divine assistance.

Two and a half months later there emerged from this hot, crowded room a document that, with its 27 amendments, is now the oldest and most revered written constitution of any nation on the planet. While Americans have long disagreed about whether there was divine intervention that summer in Philadelphia, the fact that things came out as well as they did is nothing short of miraculous.

The work of the convention was, however, just a draft for consideration until it was ratified by conventions in at least nine states. The confederation Congress meeting in New York was not of one accord. But it debated in secret so that the press only reported the decision to transmit the proposed Constitution to the states with no mention of dissension. Over the next year, newspapers and pamphleteers were as focused on debate over the Constitution as today's media are on any current controversy. The Federalist Papers were written for publication in newspapers to persuade the population to support the Constitution. Ratifying conventions in the states included raucous and occasionally violent debate. They generated scores of proposals for amendments which the first Congress eventually distilled down to the 10 included in the Bill of Rights.[5]

Interpretation and application of that Constitution in cases arising in the complexity of life over the generations since its ratification has led to a development of conflicting schools of thought about the document's meaning and interpretation. In January, I had the privilege of attending with my brother-in-law a joint appearance of U.S. Supreme Court Justices Stephen Breyer and Antonin Scalia at the South Carolina State Bar convention in Columbia. Despite their opposing views, they apparently get along well enough to take their joint road show around the country, explaining their differing views of constitutional interpretation and the role of the Supreme Court. Justice Breyer is an engaging advocate for the "living Constitution" school of thought and an expansive view of the role of the Supreme Court. Justice Scalia is more like a curmudgeonly uncle contending for the pure textualist approach to interpretation and a more restrained judicial role that makes sense to me.

In the early days of the nation, interpretation of the Constitution was virtually indistinguishable from interpretation of statutes, contracts or wills. The same principles applied, carried forward from the English common law, as summarized by Plowden, Coke and Blackstone, combined with a popular distrust of

unrestrained judicial discretion. This eventually gelled somewhat into the "plain meaning" doctrine whereby judges should be faithful agents of the intent of the framers or legislators, an easier task when the judges had personal memory of the ratification debates and texts were still of recent origin. Chief Justice Marshall, in both statutory and constitutional cases, followed a synthesis of law and equity, construing "the literal meaning of the words" with a view to "the general objects to be accomplished by [them]," as well as fundamental legal principles.[6]

This approach to interpretation is generally consistent with the rules of statutory and constitutional interpretation that prevail in Georgia. Our courts look first to legislative intent, applying the ordinary signification to all words except words of art or words connected with a particular trade or subject matter, with more extensive trumping less extensive, specific trumping general, newer trumping older, and deferring to agency interpretations where appropriate.

Early in the 20th century, jurists and scholars began to look beyond the tired old Constitution of the framers to advocate for a "living Constitution."[7] Going beyond the flexibility intentionally built into the Constitution, this approach enabled judges to solve social and economic problems by "updating" the Constitution in accordance with their own values and policy choices. Some sought to abrogate the "dead hand" of the framers by applying what they felt to be the spirit of the Constitution discerned through penumbras and emanations from the original text. The meaning of the Constitution thus becomes as subjective as an individual's reaction to a Rorschach ink blot test.[8] The distinction between this and simply making stuff up is sometimes difficult to measure. Thus the courts are politicized while significant issues are removed from political decision making in the democratic process.

At times there has been a tendency to mix this approach to interpretation with a constitutional jurisprudence that borrows from the common law tradition, treating the "living Constitution" rulings of judges as the supreme law of the land, when in fact it is the Constitution itself that is the supreme law of the land.

Seeking an objective basis for judicial restraint, by the 1970s there was a movement toward returning to the original intent of the Constitution. Looking to the history and context of the drafting and ratification of the Constitution, judges may seek to rule upon contemporary issues in light of the intent of the framers. Madison's journal of the Constitutional convention, the Federalist Papers and acts of the first Contress are ground to be plowed in seeking that intent. However, anyone who has spent much time around a legislative process can attest that a collective subjective intent is sometimes hard to discern even when laws are being passed. Combing through the records of even recent legislation can be an unreliable guide to legislative intent. Looking back generations or centuries, the often muddled and incomplete historical record of debates can support multiple conclusions.[9]

On the premise that only the text of a Constitution or statute is a reliable measure of the collective intent of the lawmakers, we have now come to an emphasis on "textualism," seeking to determine as objectively as possible the public meaning of a text at the time it was adopted. Rather than playing amateur historian with inadequate time and resources by poring through the

historical record, a judge may look to dictionaries and legal treatises extant at the time of enactment to determine what words and phrases would have meant to the educated legislators or member of ratifying conventions who adopted them.[10] This has the virtue of providing an objective grounding that does not wander far afield into matters that ought to be reserved to the people and the other branches of government. Determine what the text meant to an educated reader when it was adopted, then seek to honestly apply that core meaning to the current situation. It isn't easy or mechanical, but it is an approach consistent with upholding the Constitution and exercising judicial restraint.

There are other theories of interpretation—political process theory, pragmatism theory, etc. But all theories, however all-encompassing they may be portrayed, can be skillfully manipulated to reach political and policy conclusions that a judge subjectively prefers. All people, including those who wear black robes and speak from elevated benches, are vulnerable to *hubris* and guard against it.

The unchecked exercise of judicial power, no matter which theory of interpretation a judge purports to follow, is the antithesis of judicial restraint. Thus, all theories should be considered with an attitude of judicial humility, subjecting the judge's personal preferences to a fair and objective reading of the law. One Georgia judge recently referred to this in the context of the theological concept of "death to self."

Judges should therefore exercise common sense and give due deference to the legitimate roles of the legislative and executive branches that are also sworn to uphold the Constitution. Where the expressed legislative intent can be honestly reconciled with the requirements of the written Constitution, due deference is in order.

But where the two cannot be reconciled, the strength and independence of the courts is essential to uphold the Constitution as written and maintain the liberty of the ordinary free citizens who might share a counter with me at Waffle House.[11] GBJ

Endnotes

1. Justice Antonin Scalia has used this illustration for years, including in remarks at an American Bar Foundation dinner honoring former Senator David Gambrell of Georgia, in New Orleans of February 4, 2012.
2. RICHARD BEEMAN, PLAIN, HONEST MEN: THE MAKING OF THE AMERICAN CONSTITUTION (2009).
3. *Id. at 93-98.*
4. BENJAMIN FRANKLIN, THE WORKS OF BENJAMIN FRANKLIN 376-78 (John Bigelow ed., Fed. ed. 1904). *See 2* JAMES MADISON, THE PAPERS OF JAMES MADISON 984-86 (Henry D. Gilpen ed., Washington, Langtree & O'Sullivan 1840) (1797) (recording Franklin's speech).
5. PAULINE MAIER, RATIFICATION: THE PEOPLE DEBATE THE CONSTITUTION, 1787-1788 (2010).
6. *Compare*, Frank H. Easterbrook, *Text, History, and Structure in Statutory Interpretation*, 17 HARV. J.L. & PUB. POL'Y 61, 63 (1994) (contrasting "faithful agents" with "independent principals"); William N. Eskridge, Jr., *All About Words: Early Understandings Of The "Judicial Power" In Statutory Interpretation, 1776-1806*, 101 COLUM. L. REV. 990, 996-97 (2001) (contending that early methods of judicial statutory interpretation went beyond mere consideration of the plain text); and John F. Manning, *The Absurdity Doctrine*, 116 HARV. L. REV. 2387, 2388-93 (2003) (recognizing but criticizing the canon that statutes may be interpreted to avoid absurd results).
7. *See., e.g.*, H. McBain, THE LIVING CONSTITUTION (1927).
8. William H. Rehnquist, *The Notion of a Living Constitution*, 54 TEX. L. REV. 693 (1976).
9. STEVEN G. CALABRESI, ED., ORIGINALISM: A QUARTER-CENTURY OF DEBATE (2007).
10. ANTONIN SCALIA, A MATTER OF INTERPRETATION: FEDERAL COURTS AND THE LAW (1998).
11. J. HARVIE WILKINSON, COSMIC CONSTITUTIONAL THEORY: WHY AMERICANS ARE LOSING THEIR INALIENABLE RIGHT TO SELF-GOVERNANCE (2012).

Kenneth L. Shigley is the president of the State Bar of Georgia and can be reached at ken@carllp.com.

by Stephanie Joy Kirijan

YLD Recognizes the Service of Justice Carley

As president of the Young Lawyers Division (YLD) of the State Bar of Georgia, I have the privilege to publicly thank Justice George H. Carley for his work with and dedication to this organization. Pending his retirement, Justice Carley has reminded me that it is unnecessary to honor him because he gets more out of his work with the YLD than he can contribute. But for more than three decades, Justice Carley has been committed to supporting the YLD. I can think of no other judge who has given more to generations of young lawyers than he has and that is to be celebrated.

> "Justice Carley does not seek out recognition or accolades, but leads with a quiet confidence."

Justice Carley has enjoyed a storied legal career and will be the first judge in Georgia history to serve as both presiding judge and chief judge of the Court of Appeals of Georgia, as well as presiding justice and chief justice of the Supreme Court. He has achieved this level of success through his effective management of the courts and his unquestionable character. Justice Carley deserves our gratitude for his lifelong service to our great state.

Justice Carley was appointed to the appellate bench in 1979. He has been actively engaged with the YLD for much of his judicial career, most notably with the YLD officers swearing-in and the High School Mock Trial Program (HSMT). Justice Carley's dedication to young lawyers and service to the YLD is unmatched.

When Chief Justice Carley administers his final oath to YLD officers at the Annual Meeting in Savannah, it will mark his 20th year serving in this role. The YLD gets a touch of Justice Carley's humor at this ceremony. His unique oath reminds YLD officers "to work hard, without taking ourselves too seriously." He has taken an interest in the success of all the YLD pesidents he has shepherded through the organization. I am personally grateful for the relationship I have developed with

Justice Carley, and I know many past presidents and young lawyers have the same fondness for him.

Justice Carley judged the first Georgia HSMT final in 1988 and has served the YLD as a special consultant for the program since 1989. He sat on the national board until 2011, earning recognition for his service there. He is wholly committed to the success of the HSMT program and expects the same competence and preparation out of the volunteers as he gives to the program—and all else that he does. His leadership by example helps make the competition a success. In the YLD officer oath, Justice Carley asks the YLD officers swear to "volunteer to personally participate in the state competition as judge, evaluator, bailiff or general flunky." Although humorous, this line reveals the respect that Justice Carley has for HSMT volunteers. It does not matter how large or small the role in the competition, every participant is a valued member of the team. And with his strong sense of civility, Justice Carley treats people that way in all of his interactions, in the legal community and elsewhere.

Justice Carley does not seek out recognition or accolades, but leads with a quiet confidence. I am honored to thank him on behalf of the YLD for his service. I invite members of the Bar to attend the YLD dinner at the Annual Meeting as Justice Carley administers his final oath to YLD officers, which is reprinted below. GBJ

Stephanie Joy Kirijan is the president of the Young Lawyers Division of the State Bar of Georgia and can be reached at skirijan@southernco.com.

Justice Carley's Oath for YLD Officers

Ladies and gentlemen: Since you all appear to be reasonably awake and alert, and, more or less, sober, I ask that you raise your right hand and repeat after me: I, (state your name), do hereby solemnly promise that I will perform the duties of the office for which, somehow, I have been selected for the Bar year beginning this day and continuing for one year, provided that I am not ousted therefrom sooner or do not get mad and quit. I further promise that I will perform each and every duty imposed upon me as an officer of the Young Lawyers Division, a/k/a YLD, f/k/a Younger Lawyers Section, a/k/a YLS, of the State Bar of Georgia. I further promise that, generally, I will accept and discharge the responsibility placed upon me and will always appear to act with good will and dedication.

I further promise that I will continue to fully support the Georgia High School Mock Trial Competition, a major project of the YLD, and I hereby volunteer to personally participate in the state competition as judge, evaluator, bailiff or general flunky.

I further promise to labor diligently on behalf of the YLD and to work with the big Bar, so long as the big Bar works with us. I further promise that I will encourage all members of the division to work hard, without taking themselves too seriously. I finally promise that I will urge all young lawyers to be active and ethical.

So help me God!

The 1993-94 officers of the YLD are sworn in by Justice Carley at the Annual Meeting in Savannah. *(Left to right)* Justice Carley, Rachel K. Iverson, Tina Shadix Roddenbery, Nolie J. Motes and J. Henry Walker IV.

Justice Carley swears in the 2011-12 YLD officers in Myrtle Beach, S.C., at the Annual Meeting. *(Left to right)* Michael Geoffroy, Jennifer Blackburn, Shiriki Cavitt, Sharri Edenfield, Darrell Sutton, Jonathan Pannell, Stephanie Kirijan and Justice Carley.

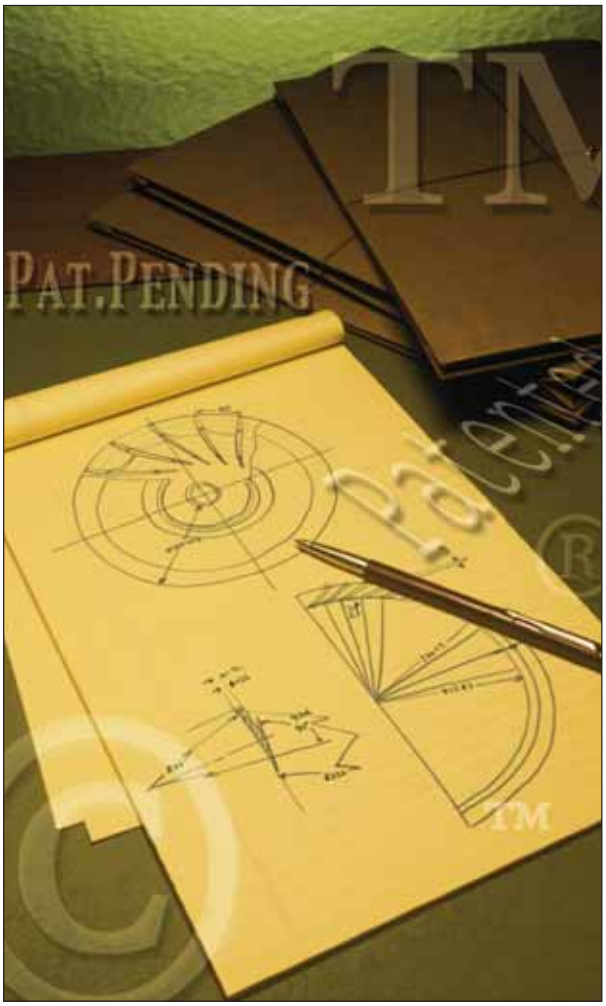
Changing the Landscape of Patent Law— The America Invents Act

by George Medlock, Holly Hawkins and Joshua Weeks

On Sept. 16, 2011, President Obama signed the Leahy-Smith America Invents Act (AIA) into law.[1] Implementation of this Act represents one of the most fundamental shifts in this area of law within almost 60 years.

The AIA is seen as a way of addressing many of the concerns that have arisen as patents have taken an increasingly important role in our society, namely, the typical three-year delay in obtaining a patent; concerns about the quality of patents, which lead to a perceived increase in frivolous lawsuits; the growth of lawsuits by non-practicing entities (NPEs), companies that do not practice a patented invention but instead own a patent covering an invention; and the lack of harmonization between procedural rules under the U.S. patent system as the U.S. Patent and Trademark Office (PTO) was also viewed as inadequately funded to address several of these challenges.[2]

While the AIA sets forth several modifications to patent law, there are five major changes required by the AIA that are of particular import, namely: (1) a switch from a first-to-invent system to a first-inventor-to-file system; (2) a replacement of interference proceedings with derivation proceedings; (3) litigation alternatives; (4) litigation reforms; and (5) fees.



The First-Inventor-to-File System

One of the most significant changes to the patent system under the AIA is a change from the cur-

rent "first-to-invent" system to a "first-inventor-to-file" (FITF) system for determining priority, which will be implemented on March 16, 2013.[3] In patent law, the priority date of a patent is a very important date. The earlier a priority date a patent has, the harder it is to find printed publications or other patents that existed before the priority date of a patent, commonly referred to as "prior art." Prior art can serve as a basis for showing that the invention disclosed in a patent was previously disclosed to the public or obvious and therefore not entitled to patent protection.

Under the first-to-invent system, the invention date, not the filing date, is the critical date for determining priority. Therefore, an inventor that was first-to-invent could rely on his invention date for priority if that date preceded another party's filing date covering the same invention. The first-to-invent system was initially considered to be beneficial for individual inventors and small companies with limited resources, because they were not required to "race" to the patent office to file a patent application to obtain an early priority date but instead could rely on their date of invention. However, confusion arose with respect to priority under this system, because it was often difficult to determine the date of invention.[4] In addition, the fact that the majority of the world's patent systems used a "first-to-file" system to determine priority[5] led to a push for reform in the United States.

Under the new FITF system, the filing date is the critical date for determining priority, not the actual date of invention.[6] The AIA distinguishes between the FITF system and a "true" first-to-file system. In a "true" first-to-file system, the filing date serves as a bar date to others claiming rights in a patent after the application has been filed. However, under the FITF system, an inventor is provided with a one-year grace period that prevents the

inventor's disclosure of his own invention being used against him as prior art, so long as the inventor applies for patent protection within a year of that disclosure.[7] Under the new system, prior art will be measured as of the filing date, and it will typically include all publicly available prior art that existed as of the filing date anywhere in the world, with the exception of the inventor's own disclosures, so long as those occurred within a year of the filing date.[8]

Proponents of the FITF system claim that it will eliminate uncertainty, as the filing date is an objective date that can be easily determined, whereas the date of invention may be uncertain and may require corroborating evidence if disputed.[9] Opponents of the FITF system argue that it favors large corporations with the resources to quickly file numerous patent applications to the detriment of individual inventors and small businesses.[10] In an attempt to determine the impact of the FITF system, the AIA requires the chief counsel for advocacy of the small business association, in consultation with the general counsel of the PTO, to conduct a study of the impact of the AIA's FITF provisions on small businesses and submit a report within one year to the congressional Small Business and Judiciary Committees.[11]

Derivation Proceedings

One of the results of shifting to an FITF system is that the interference proceeding, previously used by the PTO to resolve disputes over which inventor was the first to invent, will now be replaced with a new process called a derivation proceeding. Derivation proceedings are used to determine disputes over whether an inventor is in fact the first-to-file inventor or whether the invention was derived from another inventor. As previously discussed, under the FITF system, the first inventor to file a patent application on an invention will be entitled to a patent regardless of the actual date of invention (provided all other patentability requirements are met). The AIA provides for an exception to the FITF system in cases in which the first applicant derived his invention from the second applicant.[12] In such situations, the second applicant may file a petition to institute a derivation proceeding,[13] during which the PTO will determine if the first applicant "derived the claimed invention from an inventor named in the petitioner's application and, without authorization, the earlier application claiming such invention was filed."[14] The Patent Trial and Appeal Board will adjudicate derivation proceedings.[15] The losing party to a derivation proceeding may appeal the decision to the U.S. Court of Appeals for the Federal Circuit or, alternatively, request further proceedings before the U.S. District Court for the Eastern District of Virginia.[16]

Because the FITF system will not come into effect until March 16, 2013, interference proceedings will stay in effect for all applications filed before that date.[17] It remains to be seen whether many of the difficulties in determining invention dates under the interference proceeding will also be present in disputes over whether an inventor is in fact the first-to-file inventor.

Litigation Alternatives

In an effort to curb the volume and costs of litigation and to foster the issuance of "better" patents, the AIA provides several new mechanisms through which the issuance of a patent may be challenged or reviewed by the PTO, instead of by a district court. These measures include an overhaul of the current re-examination procedures at the PTO, as well as the creation of two new processes: post-grant reviews and supplemental examinations.

Pre-Issuance Submissions

The AIA provides a more effective means than is currently available for parties to challenge the validity of a patent prior to issuance. Specifically, a party will be allowed to submit a statement of relevance along with patents and publications relevant to patentability for consideration by the examiner, which was not previously allowed. By including a statement of relevance, a third party now has the opportunity to explain why patentability is affected, and it will no longer be required merely to hope that the examiner arrives at a similar conclusion. After a patent has issued, however, a party must rely on a re-examination or post-grant review to limit or invalidate the claims of a patent.[18]

Re-examinations

A re-examination is a mechanism through which a party may request that the PTO take a second look at patentability and decide whether a particular patent should have been issued in the first instance in light of prior art newly submitted to the PTO (but not discovered or considered in the initial examination of the patent, for whatever reason). Under the current re-examination regime, a party may seek an *ex parte* or an *inter partes* re-examination (or both), both of which are conducted by an examiner and are limited as to the issues which may be raised.[19]

The *ex parte* re-examination process, which allows an anonymous third party to seek reconsideration of a patent but does not allow participation by that third party during re-examination, remains relatively unchanged by the AIA. With respect to *inter partes* "re-examination," the AIA significantly expands that process with a new proceeding called *inter partes* "review," which will eventually replace *inter partes* re-examination. To institute an *inter partes* review, the requester must meet a heightened pleading standard and show "a reasonable likelihood of success," as opposed to the current "substantial new question of patentability" standard.[20] The AIA further removes the date restrictions in place for *inter partes* re-examinations, which previously limited patents that may be reconsidered to those issued after 1999, and will allow for the review of

any valid and enforceable patent. Finally, unless good cause is shown, the PTO must complete the review process within 12 months, thus guaranteeing a quick resolution.[21] It should be noted that where an *inter partes* review is pursued, that party will be estopped from raising any issue that it raised, or reasonably could have raised, in any future proceeding before the PTO, district courts or the International Trade Commission.[22]

Post-Grant Reviews

Post-grant reviews are an entirely new process created by the AIA. Like an *inter partes* review, a post-grant review is also conducted before an adjudicative body and must be completed within a year. Post-grant review, however, allows parties to challenge the validity of a patent on any grounds, as opposed to the limited grounds allowed in *inter partes* review. [23] While an attractive alternative to litigation in theory, the AIA requires a post-grant review to be initiated within nine months of issuance of the patent.[24] Accordingly, the post-grant review process is likely to be employed only in limited circumstances. Much like arguments presented in an *inter partes* review, the requesting party will be estopped from raising issues in subsequent proceedings which were, or reasonably could have been, raised during the post-grant review.[25]

Supplemental Examinations

One of the issues that patentees sometimes face is the realization, after a patent has issued, that certain actions taken during prosecution of a patent could be considered inequitable conduct before the PTO. Inequitable conduct occurs when a patent applicant is dishonest with regard to some material aspect of a patent application, and a finding of inequitable conduct may result in the invalidity of an issued patent. To prevent this outcome, the AIA allows a patentee to request supplemental examination of an issued patent by the PTO to consider relevant information which was previously not considered or erroneously presented to the PTO.[26] Upon review of the new information, the PTO may either initiate a re-examination or determine that the patent is still valid, thus prohibiting a later finding of inequitable conduct with regard to the omitted or misrepresented information.[27]

Litigation Reforms

The AIA makes numerous litigation-related reforms that are designed to eliminate litigation abuse by plaintiffs and defendants alike, as well as to align liabilities for infringement with the new FITF system.

Prior to the enactment of the AIA, plaintiffs in patent infringement actions often accused multiple defendants with disparate systems or products of infringing the same patent or patents. This practice led to protests from defendants that their inclusion in these large cases was contrary to the Federal Rules of Civil Procedure and that

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they would not have the opportunity to fully defend themselves, given the complexity of litigating a case involving multiple parties with potentially conflicting positions. Under the AIA, a plaintiff may no longer join multiple unrelated defendants in a single action, or have their actions consolidated for trial, solely on the basis that they have each allegedly infringed the patent in suit.[28] While joinder is still possible, a plaintiff must now seek liability "jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, or selling of the same accused product or process." Additionally, the plaintiff must show that "questions of fact common to all defendants" will arise in the action.[29] In the weeks prior to the implementation of the AIA, plaintiffs filed a flurry of multi-defendant cases in an effort to avoid being covered by this provision, because it is not retroactive. Practically speaking, however, it remains to be seen what effect this joinder restriction will have, as district court judges continue to exercise broad discretion in consolidating separate cases for pretrial purposes as part of managing their docket.

With regard to defenses to infringement, the AIA eliminates the best mode defense. Under the best mode defense, a party could argue that a patent is invalid if the inventor failed to set forth the best way, known to him, of practicing the invention. In essence, it ensures full disclosure by the inventor. This defense has been frequently criticized as too subjective and unworkable.[30] Interestingly enough, under the AIA, a patentee must still disclose the best mode in prosecution. However, failure to disclose the best mode may not serve as a defense to infringement of the patent in litigation.

Additionally, the prior-use defense of 35 U.S.C. § 273 has been broadened and is no longer restricted to method claims. The defense may now be used to defend against claims of infringing any patent issued after Sept. 16, 2011, so long as the subject matter was both reduced to practice and used commercially by the defendant more than one year prior to the filing date of the patent-in-suit.[31] The prior-use defense was originally created in response to the rise in business method patents, which businesses feared could prohibit them from conducting business as they previously had done. To address similar concerns with regard to all patentable inventions, the expansion of the prior-use defense is a necessary component of the FITF system, as without such a comprehensive defense, an inventor could potentially be liable for infringement simply for practicing his or her own invention, should another inventor file for patent protection first.[32] Despite the seeming necessity, this expanded defense has been criticized as inconsistent with one of the core purposes of the patent system: promoting the public disclosure of inventions. Indeed, under the new system, inventors and businesses now have the ability to keep their inventions private and rely on state law trade secret protections without fear of later being liable for infringement, or incurring the expense of obtaining a patent.

In response to concerns about NPEs, the AIA also makes numerous changes that affect plaintiffs in patent infringement suits. First, the AIA conclusively prohibits plaintiffs from arguing that a defendant willfully infringed a patent on the basis that the defendant either failed to obtain, or refuses to disclose, an opinion of counsel.[33] Although such arguments were effectively eliminated by the Federal Circuit's decision in *In re Seagate Technologies, LLC*,[34] the AIA makes clear that where willfulness is found, a party may still be liable for treble damages, but adverse inferences cannot be drawn for a defendant's failure to disclose an opinion of counsel.[35]

Finally, new provisions in the AIA virtually eliminate false marking claims, especially those by NPEs. Previously, 35 U.S.C. § 292 allowed private plaintiffs to recover a statutory penalty of $500 where an article had been falsely marked as patented. The Federal Circuit, however, interpreted this requirement to allow private plaintiffs to collect the statutory penalty on a per-occurrence basis, thus leading to windfall profits by unrelated entities and a spike in false marking litigation.[36] Although some district courts had begun to limit such claims, and even held portions of the statute unconstitutional,[37] the AIA short-circuited the need for further judicial interpretation. Under the now amended § 292, only the government may recover the statutory penalty, and claims by private parties are now limited only to those who have suffered a "competitive injury."[38]

Fees

In 2005, 417,508 patent applications were filed at the PTO.[39] Since that time, the number of applications filed, and thus the operating expenses of the PTO, have grown exponentially. Recent estimates have predicted that the PTO's expenses will exceed its projected revenues. In order to allow the PTO to adjust to these changing demands and financial conditions, the AIA now provides the PTO the authority to set its own fee structure.[40] Under the prior system, authority to alter the majority of fees charged by the PTO rested with Congress.

The AIA establishes a system for prioritized examination, which allows an application to be examined on an accelerated track.[41] Under this system, an applicant who requests prioritized examination must typically pay a fee of $4,800, in addition to all other standard fees required for the filing of an application.[42] The prioritized examination process is limited to non-provisional utility and plant applications.[43] Given

that the AIA does not set forth the exact amount of time within which the prioritized examination must occur, and given the busy docket of the PTO, it is unclear exactly what level of priority such applications will actually receive.

Conclusion

The AIA represents a major shift in the patent laws within the last 60 years. While many of its provisions have the goal of eliminating inefficiencies in both litigation and prosecution of patents, it remains to be seen how courts and the PTO will ultimately interpret the Act, and what effect that will ultimately have on rooting out inefficiencies in the patent system. GBJ

George Medlock is a partner in Alston & Bird's Intellectual Property Litigation Group. His practice includes all areas of intellectual property litigation and counseling with a particular emphasis on patent litigation and enforcement. He has represented clients in patent infringement lawsuits in federal district courts across the United States, including cases involving telecommunications, semiconductor devices and computer software. Medlock is a member of the State Bar of Georgia and District of Columbia Bars and is also registered to practice before the U.S. Patent and Trademark Office.

Holly Hawkins is a senior associate in Alston & Bird's Intellectual Property Group, focusing her practice on patent, trademark and copyright litigation and counseling, with a particular emphasis on patent litigation and enforcement. She also has significant experience in domain name proceedings under ICANN's Uniform Domain Name Dispute Resolution Policy. Hawkins is a member of the State Bar of Georgia and is registered to practice before the U.S. Patent and Trademark Office.

Joshua Weeks is an associate in Alston & Bird's Intellectual Property Litigation Group, focusing his practice on patent litigation and enforcement. He is a member of the State Bar of Georgia and is registered to practice before the U.S. Patent and Trademark Office.

Endnotes

1. Remarks by the President at Signing of the America Invents Act (Sept. 16, 2011), *available at* http://www.whitehouse.gov/the-press-office/2011/09/16/remarks-president-signing-america-invents-act.
2. *Id.* at 49.
3. *See generally* Leahy-Smith America Invents Act, Pub. L. No. 112-29, § 3(n), 125 Stat. 284 (2011). H.R. 1249, 112th Cong. § 3(n) (1st Sess. 2011) (to be codified as 35 U.S.C. §146).
4. *See* The America Invents Act: Promoting American Innovation, Creating American Jobs, Growing America's Economy (hereinafter "Leahy Press Release"), *available at* http://leahy.senate.gov/imo/media/doc/PRESS-FirstInventorToFile-OnePager-FINAL.pdf (last visited Mar. 6, 2012).
5. Under a "true" first-to-file system, prior art can include the inventor's own disclosure of his invention prior to the filing date of the application; as discussed herein, the AIA provides inventors with a one-year grace period for filing for patent protection.
6. *See* Leahy Press Release, *supra* note 5.
7. Leahy-Smith America Invents Act § 3(b); Leahy Press Release, *supra* note 5.
8. Leahy-Smith America Invents Act § 3(b).
9. *See* Leahy Press Release, *supra* note 6.
10. Shih-tse Lo & Dhanoos Sutthiphisal, *Does it Matter Who Has the Right to Patent: First-to-Invent or First-to-File? Lessons from Canada* (Nat'l Bureau of Econ. Res., Cambridge, Mass.), Working Paper 14926, April 2009, *available at* http://www.nber.org/papers/w14926 (last visited Mar. 6, 2012). NAT'L BUREAU OF ECON. RES., Working Paper 14926 (Apr. 2009).
11. Leahy-Smith America Invents Act § 3(l).
12. *Id.* at § 3(i).
13. The term "derived" is not defined in the Leahy Smith Act.
14. Leahy-Smith America Invents Act § 3(i).
15. *Id.*
16. *Id.* §§ 3(j)(4), 9(a).
17. *Id.* § 3(n).
18. *Id.* § 8.
19. In a re-examination, the validity of a patent may be challenged only on grounds of anticipation or obviousness under 35 U.S.C. §§ 102 or 103, respectively.
20. H. R. Rep. No. 112-98, pt. 1 at 47, 50 (2011).
21. *Id.* at 47; Leahy-Smith America Invents Act § 6(a).
22. *Id.*
23. *Id.* § 6(d).
24. *Id.* § 6(a).
25. *Id.* § 6(d).
26. *Id.* § 12.
27. H. R. Rep. No. 112-98, pt. 1 at 50 (2011).
28. Leahy-Smith America Invents Act § 19(d).
29. *Id.*
30. H. R. Rep. No. 112-98, pt. 1 at 52 (2011).
31. Leahy-Smith America Invents Act § 5(a).
32. H. R. Rep. No. 112-98, pt. 1 at 44 (2011).
33. Leahy-Smith America Invents Act § 17.
34. *In re Seagate Techs., LLC*, 497 F.3d 1360 (Fed. Cir 2007).
35. Leahy-Smith America Invents Act § 17.
36. *Forest Grp., Inc. v. Bon Tool Co.*, 590 F.3d 1295 (Fed. Cir. 2009).
37. *See, e.g.*, *Rogers v. Tristar Prods., Inc.*, 793 F. Supp. 2d 171 (E.D. Pa. 2011), *vacated as moot*, 2011 WL 5569438 (Fed. Cir. Nov. 16, 2011).
38. Leahy-Smith America Invents Act § 16.
39. U. S. Patent Statistics Chart Calendar Years 1963-2011, *available at* http://www.uspto.gov/web/offices/ac/ido/oeip/taf/us_stat.htm (last visited Mar. 6, 2012).
40. Leahy-Smith America Invents Act § 10.
41. *Id.* §11(h).
42. *Id.*
43. *Id.*

A Tool for the Plaintiff Attorney's Toolbox

by Joseph G. Mitchell

This article discusses service issues in connection with filing a lawsuit close to the applicable statute of limitations.

Not Perfecting Timely Service

According to O.G.C.A. § 9-11-4(c), service of a summons and complaint will relate back to the time of filing if the service processor perfects service upon the defendant within five days of the filing of the summons and complaint. This code section also specifically provides that "failure to make service within the five-day period will not invalidate a later service."[1]

When service of a summons and complaint occurs after the five-day period prescribed in O.C.G.A. § 9-11-4(c), the test for determining if service will relate back to the time of filing is whether the plaintiff "'acted reasonably and diligently to ensure that proper service was made as quickly as possible.'"[2] The burden is on the plaintiff to show that he was not at fault in unreasonably delaying service and was not guilty of laches.[3] Lack of reasonable diligence in perfecting service of the summons and complaint ultimately may cause problems for the plaintiff.

What if service of the summons and complaint is unreasonably delayed?

In *Hobbs v. Arthur,*[4] Hobbs filed his lawsuit two days prior to the expiration of the applicable two year statute of limitations for personal injury cases. Personal service of the summons and complaint on defendant Arthur did not occur within five days of filing. Service of the summons and complaint actually occurred two months after filing the summons and complaint. Hobbs did, however, perfect proper personal service; he just perfected such service without being reasonably diligent, and he did not act as quickly as possible.

Arthur raised this as a defense in his answer and moved to dismiss. Arthur argued that the untimely service of the summons and complaint should not relate back to the time of filing the original summons and complaint since Hobbs was not diligent in perfecting service.[5] In response to such motion, Hobbs filed a dismissal without prejudice pleading pursuant to O.C.G.A. § 9-2-61 (a).[6]

O.C.G.A. § 9-2-61 (a) provides: "When any case has been commenced in either state or federal court within the applicable statute of limitations and the plaintiff discontinues or dismisses the same, it may be recommenced in a court of this state . . . within the original applicable period of limitations or within six months after the discontinuance or dismissal, whichever is later, . . . provided, however, if the dismissal . . . occurs after the expiration of the applicable period of limitation, this privilege of renewal shall be exercised only once." *Hobbs* is clear, however, that the plaintiff must obtain proper service prior to dismissing his case without prejudice or else the original suit is void.[7] Further, the dismissal must occur in the original suit prior to a judicial determination or else, again, the original suit is said to be void, instead of voidable.[8]

Since Hobbs obtained proper service of the summons and complaint prior to a judicial determination, Hobbs could validly dismiss his original com-

plaint without prejudice. When Hobbs re-filed the suit within six months of the dismissal date and obtained timely and proper service in the re-filed case, the Supreme Court of Georgia held that Arthur could not raise Hobbs' lack of diligence in the first case in his answer in the re-filed case.[9]

Pursuant to *Hobbs*, to the extent a plaintiff perfects proper service, and a judicial determination has not occurred, the plaintiff need not worry about the timeliness of the service of the summons and complaint upon the defendant in the initial case. If the defendant raises the untimely service or running of the statute of limitation as an affirmative defense in the original matter, the plaintiff can file a dismissal without prejudice and re-file a second suit, timely perfecting service.

In, *Robinson v. Boyd*,[10] Boyd filed a personal injury lawsuit just prior to the running of the applicable statute of limitation. Boyd made no attempt to serve either defendant for almost five years. Boyd eventually did properly serve the defendants but clearly, Boyd did not act reasonably to serve the defendants as quickly as possible. Prior to the defendants' answering the original complaint, Boyd dismissed his original complaint without prejudice and re-filed his lawsuit under the provisions of O.C.G.A. § 9-2-61 (a).[11] With respect to the re-filed suit, Boyd timely served both defendants.

Both defendants raised in their answer the lack of diligence in Boyd's original lawsuit as an affirmative defense and moved for summary judgment based on that defense.[12] The Supreme Court of Georgia held in *Robinson* that the lack of diligence in the first lawsuit could not be a defense in the second renewed lawsuit unless it was an "extreme" case which would be so prejudicial that such circumstances would implicate due process.[13] Here, although service occurred almost five years after filing the summons and complaint in the original matter, and about seven years after the incident, this was held not to be an extreme case.[14]

However, very importantly, personal service of the summons and complaint upon the defendant is required for the plaintiff to employ this process. In a very recent case, *Brasile v. Beck*, [15] Brasile was injured in an automobile accident on Oct. 22, 2006. On Sept. 28, 2008, just prior to the running of the two-year statute of limitations, Brasile filed suit against the defendants. The defendants were served by publication service in the initial lawsuit because Brasile was unable to locate them. Brasile filed a dismissal without prejudice pleading in May 2009.[16]

On Aug. 5, 2009, Brasile re-filed her lawsuit and this time personally served the defendants. The Court of Appeals held that for Brasile to take advantage of the renewal statute, O.C.G.A. § 9-2-61 (a), she had to have personally served the defendants in the initial lawsuit—publication service did not constitute a valid action for purposes of the renewal statute.[17]

To employ the dismissal without prejudice process and re-file to protect the plaintiff against the running of the statute of limitations due to dilatory service in the initial lawsuit, the plaintiff *must* make sure service is perfected in the original matter. In *Hudson v. Mehaffey,*[18] Hudson filed her initial action on July 18, 1997, alleging injuries she received from an automobile accident on July 20, 1995. On Aug. 4, 1997, Hudson filed a dismissal without prejudice. On Aug. 20, 1997, *after* Hudson filed her dismissal without prejudice pleading, Mahaffey was served with the summons and complaint.[19] Subsequently, Hudson filed a renewal action. Unfortunately, since Hudson did not perfect personal service upon Mehaffey in the initial action *prior to* filing the dismissal without prejudice, the first action was not valid and could not be renewed.[20]

The Statute of Repose

In utilizing the above process, the plaintiff must be aware of any applicable statutes of repose. A statute of repose delineates a time period in which a right may accrue and if the injury or damage occurs outside that time period, then the claim is not actionable. In Georgia, there are three types of cases in which the statute of repose arises. Those are: 1) a medical malpractice case; 2) a product liability case; and 3) a negligent construction case.

The Medical Malpractice Statute of Repose

O.C.G.A. § 9-3-71(b), provides, in part, ". . . in no event may an action for medical malpractice be brought more than five years after the date on which the negligent or wrongful act or omission occurred." Therefore, the medical malpractice statute of repose is five years. So, if the negligent act or wrongful omission is five years old (or more) in a medical malpractice case, even if the renewal statute may provide an additional six months to file a renewed complaint to the dismissing plaintiff, the statute of repose would bar such renewal action.

For example, in *Wright v. Robinson,*[21] Robinson was treated at a medical clinic from April 1975 to May 1983. Robinson filed suit on June 18, 1984, and dismissed the original complaint without prejudice on Nov. 20, 1990, more than five years after the last alleged negligent act. Within six months, on May 16, 1991, Robinson re-filed her claim pursuant to the renewal statute. Defendants affirmatively raised the statute of repose, and filed a motion for summary judgment since the re-filed suit was filed more than five years after the last alleged negligent act.[22] The Supreme Court of Georgia upheld the dismissal of the lawsuit.[23] Since the dismissal without prejudice pleading was filed more than five years after the applicable statute of repose, the medical malpractice matter was time barred.[24]

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4.	TIPPING of equipment prevented	_____
5.	FALL ZONES adequate	_____
6.	GAPS or SPACES absent	_____
7.	ELECTRICAL WIRES secured	_____
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Similarly, in *Blackwell v. Goodwin*,[25] Blackwell was injured on April 15, 1991, when Goodwin allegedly negligently administered an injection improperly. Blackwell filed suit on March 30, 1993, but subsequently filed a dismissal without prejudice pleading on Jan. 10, 1997. Since the dismissal without prejudice pleading was filed more than five years after the negligent act, the statute of repose barred her attempt to renew her lawsuit.[26] [27]

When the statute of repose time limit expires, it abolishes the plaintiff's cause of action. If a plaintiff files a dismissal without prejudice pleading, after the expiration of the statute of repose time period, then a subsequent renewed action filed pursuant to O.C.G.A. § 9-2-61 (a) cannot proceed. With the expiration of the statute of repose, the renewed action is a lawsuit based on a destroyed cause of action, and thus, cannot proceed.

The Product Liability Statute of Repose

Another statute of repose that is present in Georgia law applies to product liability cases. As applied to a manufacturer of personal property, O.C.G.A. § 51-1-11(b)(2) provides, in relevant part, "[n]o action shall be commenced pursuant to this subsection with respect to an injury after 10 years from the date of the first sale for use or consumption of the personal property causing or otherwise bringing about the injury." Thus, if a plaintiff has a product liability case against a manufacturer, the plaintiff needs to be very careful about dismissing the case without prejudice if the product that caused the injury is greater than 10 years old (as measured from the date of first sale or consumption).

In *Love v. Whirlpool Corporation*,[28] Love, among others, was injured on Jan. 21, 1990. The original lawsuit was filed in February 1991 alleging a defect in the product that caused injury to Love. Love purchased the product on July 29, 1981. Love filed a dismissal without prejudice pleading and re-filed the claim, pursuant to the renewal statute, O.C.G.A. § 9-2-61 (a), on Dec. 17, 1992, more than 10 years after the product was sold.[29] The Supreme Court of Georgia held that Love's product liability action against the manufacturer of the product was time barred due to the statute of repose, notwithstanding the provisions of the renewal statute.[30]

If the statute of repose has run, then even though the plaintiff may still have time under the applicable statute of limitations, it does not matter. For example, in *Vickery v. Waste Management of Georgia, Inc.*, [31] plaintiff's surviving spouse sued the defendant manufacturer for an alleged design defect in defendant's truck. The plaintiff's spouse died more than 10 years after the truck was sold. Since the 10-year statute of repose under O.C.G.A. § 51-1-11(b)(2) had run, plaintiff's product liability claim was time barred even though plaintiff filed his lawsuit within the applicable statute of limitations.[32]

The Defective Construction Statute of Repose

O.C.G.A. § 9-3-51, provides, in part, "(a) No action to recover damages: . . . (3) For injury to the person or for wrongful death arising out of any such deficiency shall be brought against any person performing . . . construction, or construction of such an improvement more than eight years after substantial completion of such an improvement. (b) Notwithstanding subsection (a) of this Code section, in the case of such an injury to property or the person or such an injury causing wrongful death, which injury occurred during the seventh or eighth year after such substantial completion, an action in tort to recover damages for such an injury or wrongful death may be brought within two years after the date on which such injury occurred, irrespective of the date of death, but in no event may such an action be brought more than ten years after the substantial completion of construction of such an improvement." Thus, unless the injury or death occurs in the seventh or eighth year after substantial completion of the structure, then the statute of repose is eight years from the date of substantial completion.

A very good example of this statute of repose time limit is found in *Rosenberg v. Falling Water, Inc.,* [33] On Aug. 31, 2005, Rosenberg was injured when the deck attached to his house collapsed. The deck was completed by July 14, 1994. Rosenberg filed a lawsuit on May 25, 2006, due to the injuries he sustained from the deck collapse. Unfortunately for Rosenberg, his injuries occurred more than eight years after substantial completion of the deck, so his injury claim was time barred by the running of the statute of repose.[34] Filing a dismissal without prejudice would not have made any difference because the applicable statute of repose had already run.[35]

Similarly, in *Wilhelm v. Houston County*, [36] the homeowner purchased a newly constructed home in November 1995. Soon after moving in, she experienced plumbing and septic tank problems. She tried to make repairs over the years but ultimately she was not successful. In December 2004, she sued the county, its health department and the home builder for the alleged deficiencies she experienced with the home's septic system. Applying the eight year statute of repose provided under O.C.G.A. § 9-3-51, the trial court granted the defendants' motion for summary judgment and the Court of Appeals affirmed.[37]

Practice Pointers

In short, here are some key practice pointers for plaintiffs concerned when service of the original summons and complaint may not be performed in a diligent and timely manner:

- Make sure that the service of the summons and complaint occurs properly. The service must be perfected personally, not by publication, even though it may not be performed timely.
- The filed dismissal must be a dismissal without prejudice, not a dismissal with prejudice. Remember, now, there is only one opportunity to dismiss without prejudice. [38]
- The plaintiff must re-file the renewal lawsuit within the original statute of limitation or six months from the date of the dismissal without prejudice filing, whichever is longer. [39]
- When re-filing the renewal lawsuit, after filing the dismissal without prejudice, the costs of the original suit must be paid. [40]
- Finally, never file a dismissal without prejudice if a statute of repose is present unless time still exists on the statute of repose. GBJ

Joseph G. Mitchell is assistant general counsel for SAP America, Inc. He is an adjunct professor at John Marshall Law School (JMLS) where he teaches Georgia Practice and Procedure. He has taught at JMLS for more than 15 years. He received his B.S. in Industrial Engineering, with highest honors, from Georgia Tech, his J.D., *summa cum laude,* from JMLS, and his LL.M in Taxation, *magna cum laude*, from the University of Alabama.

Endnotes

1. O.C.G.A. § 9-11-4(c) (2006).
2. *Zeigler v. Hambrick*, 257 Ga. App. 356, 357 (2002) (quoting *Douglas v. Seidl*, 251 Ga. App. 147, 148, 553 S.E.2d 829, 830 (2001)).
3. *Devoe v. Callis*, 212 Ga. App. 618, 619, 442 S.E.2d 618, 619 (1994). The "doctrine of laches" is defined as "neglect to assert a right or claim which, taken together with lapse of time and other circumstances causing prejudice to adverse party, operates as a bar in court of equity." Black's Law Dictionary 875 (6th ed. 1990).
4. *Hobbs v. Arthur*, 264 Ga. 359, 444 SE 2d 322 (1994).
5. *Id.* at 351, 324.
6. *Id.*
7. *Id.* at 360, 323.
8. *Id.*
9. *Id.* at 360-61, 323.
10. *Robinson v. Boyd*, 288 Ga. 53, 701 SE 2d 165 (2010).
11. *Id.* at 54, 166.
12. *Id.* at 55, 167.
13. *Id.* at 57, 169.
14. *Id.*
15. *Brasile v. Beck*, 312 Ga. App. 77, 717 S.E.2d 677 (2011)
16. *Id.*
17. *Id.*
18. *Hudson v. Mehaffey*, 239 Ga. App. 705, 521 SE 2d 838 (1999)
19. *Id.* at 706, 838.
20. *Id.*
21. *Wright v. Robinson*, 262 Ga. 844, 426 SE 2d 870 (1993).
22. *Id.*
23. *Id.* at 845, 871.
24. *Id.*
25. *Blackwell v. Goodwin*, 236 Ga. App 861, 513 SE 2d 542 (1999).
26. *Id.* at 862, 544.
27. Unfortunately for the plaintiffs' attorneys in the Blackwell case, they were sued for legal malpractice. *See Blackwell v. Potts*, 266 Ga. App. 702, 598, S.E.2d 1 (2004).
28. *Love v. Whirlpool Corporation*, 264 Ga. 701, 449 SE 2d 602 (1994).
29. *Id.* at 701-02, 604.
30. *Id.* at 706, 607.
31. *Vickery v. Waste Management of Georgia, Inc.*, 249 Ga. App. 659, 549 SE 2d 482 (2001).
32. *Id.* at 661, 484.
33. *Rosenberg v. Falling Water, Inc.* 289 Ga. 57, 709 SE 2d 227 (2011).
34. *Id.* at 59, 229.
35. *Id.*
36. *Wilhelm v. Houston County*, 310 Ga. App. 506, 713 SE 2d 660 (2011).
37. *Id.* at 311, 665.
38. O.C.G.A. § 9-11-41 (a)(3) (2003).
39. O.C.G.A. § 9-2-61 (a) (1998).
40. O.C.G.A. § 9-11-41 (d) (2003).

21st Annual Georgia Bar Media & Judiciary Conference

by Stephanie J. Wilson

Once again, attorneys, journalists and judges gathered to observe panel discussions involving hot topics centered on the First Amendment. Each year, this ICLE event provides attendees the opportunity to listen to and participate in discussions on a wide variety of issues.

This year's conference began with the panel "While the World Watched: How Georgia's Bar, Media & Judiciary Performed in the Troy Davis Drama." By the time Troy Davis was executed in late September 2011, the whole world was watching Georgia's bar, media and judiciary. Most media accounts included as boilerplate the statement that seven of the nine witnesses who testified against Davis at trial had recanted; doubts about those seven were harder to find in news stories. Prosecutors vigorously and successfully countered the "recantations" in courts of law, but they did little to challenge them in the court of public opinion. The worldwide anti-death penalty movement filled the breach. Five months after the execution, panelists Spencer Lawton Jr., former district attorney, Chatham County, Savannah; Stephen B. Bright, president and senior counsel, Southern Center for Human Rights, Atlanta; Alyson M. Palmer, *Fulton County Daily Report*, Atlanta; and Bert Roughton, managing editor, *Atlanta Journal-Constitution*, met to discuss their respective roles in the drama. Hank Klibanoff, Emory University Journalism Program, Atlanta, served as moderator.

Photos by Stephanie J. Wilson

Former Chatham County District Attorney Spencer Lawton Jr., who prosecuted the original Troy Davis case, during the panel "While the World Watched: How Georgia's Bar, Media & Judiciary Performed in the Troy Davis Drama."

The session that followed was titled "Changing Justice Coverage: A View from the Trenches." This panel served as an exposition and discussion—by those doing the covering—of the ongoing transfor-

mation of reporting on the justice system and the courts. Don Plummer of Social Media Matters, LLC, in Atlanta, served as moderator. Panelists Greg Bluestein, legal affairs reporter, Associated Press, Atlanta; Grayson Daughters, digital content editor, *Fulton County Daily Report*, Atlanta; Beth Karas, correspondent, "In Session," CNN, Atlanta; and Leonard Witt, executive director, Juvenile Justice Information Exchange, Center for Sustainable Journalism, Kennesaw State University, Kennesaw, provided their expertise.

Karas, a seasoned courtroom reporter, warned other journalists present of falling into the trap of adding personal opinions in their reporting. This trap seems especially daunting in this day and age of citizen journalism. Daughters added that there is "no editorial guidance for citizen journalists" and that grave dangers exist in reporting false information through social media tools. In order to keep up with its fast-paced nature, Bluestein said that there is an increasing urgency to file stories through social media sites like Twitter. He added, "Summary opinions are invaluable for fast-paced filing of stories." To the judges and attorneys in the audience, Karas said, "Courts can work with reporters by being more accessible and making access to documents less cumbersome. Courts should know that reporters are not the enemy. They should help reporters to be more accurate in their reporting." Bluestein also lamented that there is no standard method for accessing court documents.

Next was "Becoming Part of the Conversation: Communicating With the Public About Law and the Courts in the Digital Age." This panel discussed the opportunities and challenges facing lawyers and courts seeking to interest and inform the world beyond the bar. Moderator: Hyde Post, Hyde Post Communications, St. Simons Island, posed the questions "How do the courts go about getting information out to the public? How does the tornado of virtual activity live in harmony with our courts?" to panelists Jane Hansen, public information officer, Supreme Court of Georgia, Atlanta; Eric J. Segall, professor, Georgia State University College of Law, Atlanta; Hon. James G. Bodiford, judge, Superior Court, Cobb Judicial Circuit; and Hon. Stephen Louis A. Dillard, judge, Court of Appeals of Georgia, Atlanta.

Interlocutor Richard Griffiths addresses the panel during the Fred Friendly session "Sex Abuse in the South."

Hansen feels that her duty is to clearly communicate to the public what the Supreme Court of Georgia does because the lay public often is not able to understand. There is a need to increase public trust in the court system. She feels that can be achieved, in part, by making court documents consumable by the public. "I am not an interpreter of what I write; I am a translator," said Hansen of the summaries that she pens.

Prior to serving as a judge on the Court of Appeals of Georgia, Dillard had ambitions to be a judge, even in law school. While clerking for a federal judge, he maintained an anonymous blog which helped him connect with other bloggers who were interested in esoteric legal topics. Dillard remains proud of the diverse readership of the blog. "Social media is a reality. There is a value in having judges who embrace social media as long as they understand that they have to be careful how

(Left to right) Rep. Wendell Willard and Chief Justice Carol Hunstein respond to one of the less solemn moments of "Criminal Justice Reform: Opportunities and Obstacles."

Douglas County District Attorney J. David McDade responds to questions during "Criminal Justice Reform: Opportunities and Obstacles."

they use it." He also said that, "There ought to be more transparency on the bench. There ought to be more vigorous debate. Once you become a judge it is an inherently different role. I really believe people in the judiciary are trying to get it right."

Following lunch was this year's Fred Friendly session "Sex Abuse in the South" with Richard Griffiths, editorial editor, CNN, Atlanta, once again providing his ample experience as interlocutor. We've seen them unfold at Penn State and Syracuse: messy sex abuse scandals with few positive outcomes. In the manner popularized by the late Fred Friendly, working through a hypothetical scandal at an imaginary university, members of the panel examined the journalistic, institutional, law enforcement, legal and judicial responsibilities that seem to have confounded officials in New York and Pennsylvania. Hon. John "Jack" Goger, judge, Superior Court of Fulton County, Atlanta; Mike Dreaden, news director, WSB-TV, Atlanta; Lalaine A. Briones, Office of the Clayton County District Attorney, Jonesboro; Gary Hauk, vice president and deputy to the president, Emory University, Atlanta; John R. "Jack" Martin, Martin Brothers, P.C., Atlanta; Shawn McIntosh, public editor and blog administrator, *Atlanta Journal-Constitution*, Atlanta; and Arthur Nixon, investigator, Special Victims/Sex Crimes Unit, Atlanta Police Department, Atlanta, were the panelists.

The hypothetical scandal involved Susie Backswing, the men's tennis coach at Lindbergh State University and former coach at Lindbergh Tennis Camp; and accusations made by former students of molestation by Coach Backswing. As Griffiths let the details of the debacle unfold, panelists were asked to respond to each new plot point using their special area of expertise. Goger summed it up by saying, "Whether high-profile or low-profile, cases work best when they are open and people are allowed to know what's going on."

"Primary Colors" was the penultimate panel of the day. This spirited discussion on the eve of the March 6 Georgia primary election with the Georgia lawyers who represent the president and his GOP challengers, with special emphasis on issues that affect the legal community, was moderated by Ed Bean, editor, *Fulton County Daily Report,* Atlanta. Campaign representatives were:

- Ron Paul: Jason R. Carnell, David West & Associates, Marietta

- Newt Gingrich: J. Randolph Evans, McKenna Long & Aldridge, Atlanta
- Mitt Romney: T. C. Spencer Pryor, Alston & Bird, Atlanta
- Rick Santorum: Stan Gunter, executive director, Prosecuting Attorney's Council of Georgia, Atlanta
- President Barack Obama: David J. Worley, Page Perry, Atlanta

Bean posed questions such as:

- Should Congress restructure the federal judicial circuits so that there are true checks and balances among the three branches of government?
- Is the Patriot Act unpatriotic? Does it strike the right balance between civil liberties and homeland securities?
- Should we have a national ID card?
- Has the citizenship clause of the 14th Amendment been misinterpreted in regards to immigration?
- Terrorism, white collar crime, drug trafficking, immigration, crimes against children. Which is the No. 1 priority for Atlanta?
- Are we at war with ourselves? Are we an overly criminalized society?
- Should the definition of marriage be left to the state legislatures?

The panel "Criminal Justice Reform: Opportunities and Obstacles" provided the grand finale. On hand for this panel discussion of the genesis, objectives and challenges ahead for a landmark effort to modernize Georgia's criminal justice system were panelists Chief Justice Carol W. Hunstein, Supreme Court of Georgia, Atlanta; Rep. Wendell Willard (R-Sandy Springs), Georgia House of Representatives; attorney at law, Sandy Springs; and J. David McDade, Douglas County District Attorney, Douglasville. Mike Klein, editor, Georgia Public Policy Foundation, shared his talents as moderator.

In May 2011, Gov. Nathan Deal announced the list of those appointed to serve on his Special Council on Criminal Justice Reform created by HB 265. McDade, one of Gov. Deal's appointees to the council, said, "[We are] committed to making Georgia smarter in how we deal with the criminal justice system."

Corrections costs—totaling approximately $1.5 billion annually—are the fastest-growing part of the state budget behind Medicaid. Needless to say, that figure is not sustainable. Contributing to these costs is the fact that the rate of recidivism is at 30 percent just three years from the date of release. Chief Justice Hunstein said, "The concept of criminal justice reform is not new" and pointed out that accountability courts have recidivism rates down to 7 percent. "Drug courts help put families back together." Willard gave a charge to the audience: "Go to a drug court graduation. You cannot possibly leave with dry eyes. If you do, then you're a better man or woman than I am."

These corrections costs include the juvenile justice system, which is even more costly than the adult. The cost of keeping a child in juvenile detention is $200 per day, as opposed to adult detention which is $50 per day. More than 5,000 children are in the juvenile justice system, 20 percent of which are female. "We need to find a way to put these children back in the community," Willard said.

The Georgia First Amendment Foundation's 11th annual Weltner Freedom of Information Banquet was held on the evening of Tuesday, April 11. A highlight of the banquet was the presentation of the Weltner Award, honoring the memory of Charles L. Weltner, a champion of open government. This year's Weltner Award honoree was U.S. Rep. John Lewis (D-Ga.).

For more information about past, present or future Bar Media & Judiciary Conferences, please visit www.gfaf.org/georgia-bar-media-judiciary-conference. GBJ

Stephanie J. Wilson is the administrative assistant in the Bar's communications department and a contributing writer for the *Georgia Bar Journal*.

The Polk County Courthouse at Cedartown:

The Grand Old Courthouses of Georgia

by Wilber W. Caldwell

Polk County was created in 1851 from Floyd and Paulding Counties, and Cedartown was laid out shortly thereafter. The county's first courthouse rose in 1852, and according to local legend, it was burned along with 65 other buildings in Cedartown by elements of Kilpatrick's Union cavalry in 1864. This is not likely; in fact, it seems quite unlikely that there were 65 buildings in Cedartown in 1864. About all the reliable Adiel Sherwood could say about Cedartown in his 1860 *Gazetteer of Georgia* was that it was "not a large place."

As to Federal incendiaries, Union Orders document a considerable Federal force at Cedartown in late 1864, but no Confederate or Union military records mention the destruction of the courthouse or the town. The record reveals only that Kilpatrick was needed at Cedartown on October 31. It is unclear whether or not he ever arrived. We are told only that Federal soldiers foraged at Cedartown where they, "took much," but left "plenty of corn and pigs." Whatever the case, local sources tell us that a new courthouse was completed in 1867.

Although Cedartown had been nothing but a dusty hamlet before the war, the town experienced a post-Civil War boom, which was not typical in Georgia. At the heart of this progress were the region's iron deposits and efforts to establish pig iron production in west-

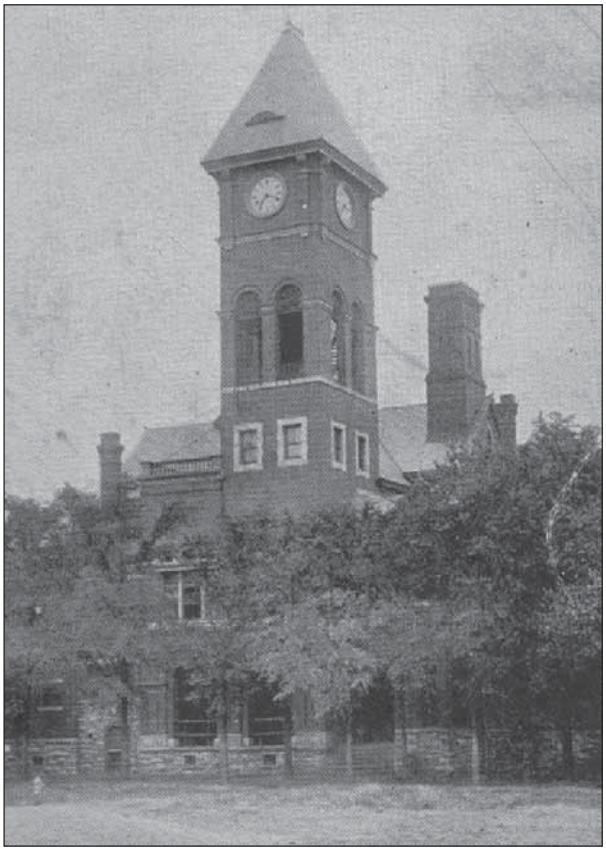

Photo courtesy of Ted Brooke

The Polk County Courthouse at Cedartown, built 1889. William Parkins, architect.

ern Georgia and eastern Alabama. These efforts met with considerable initial success. In Cedartown, under the direction of New Yorkers, Amos G. West and W. C. Browning, The Cherokee Iron Company built a blast furnace in 1873. At about the same time the company purchased The Cartersville and Van Wert Railroad, the bankrupt remains of one of Hannibal Kimball's flimflam Reconstruction railroading schemes, which, at the time, extended only 14 miles from Cartersville to the village of Taylorsville. Reorganized as The Cherokee Railroad, the narrow gauge line was extended via Rockmart to Cedartown. By 1882, the Cherokee Iron and Railroad Company was experiencing financial difficulties, and Browning organized The East and West Railroad Company of Alabama to lease The Cherokee Railroad. By 1887, when The Chattanooga, Rome and Columbus Railroad crossed The East and West Railroad at Cedartown, Browning had widened the entire line to standard gauge and extended it to Pell City, Ala.

New South promoters were quick to emphasize the implications of iron production in the South. Indeed, the initial outlook had been rosy, and by the mid-1880s, furnaces dotted the west Georgia countryside. Rising Fawn in Dade County, Rome and Cedartown all boasted pig iron producing hearths. Over in Alabama, by 1887 there were 32 furnaces on the line of the L & N. Despite the successes at Birmingham and Anniston, the Southern iron and steel industry would wither, either wiped out after the Panic of 1893 or gobbled up by Northern conglomerate interests, which from the beginning had bludgeoned Southern competition with a series of brutal weapons drawn from the arsenal of Eastern control of the nation's financial and transportation resources. At its height, Georgia's share of the nation's iron and steel production had amounted to no more than a small fraction of 1 percent, and most of the state's output was pig iron which by 1900 had been eclipsed by steel.

Despite financial woes, the furnace at Cedartown was still chugging along in 1887, when the old courthouse at Cedartown burned to the ground. In that same year, the crossing rails of The Chattanooga, Rome and Columbus arrived to breathe new life into the town. By 1890, Cedartown had a population of 1,625. As the walls of Atlanta architect William Parkins's grand Polk County Courthouse began to rise in 1889, a new helping of Northern capital flowed into Cedartown when a Philadelphia native, Charles Adamson, chartered the Cedartown Land Company to promote the city and to exploit its already apparent potential. Adamson was typical of a class of Northern entrepreneurs who were tempted by the mythical potential of the New South dream in the last decade of the 19th century. This courthouse is an apt symbol for Adamson's vision and for Cedartown's boom. By 1905, the city had three cotton mills, two knitting mills, four hotels, extensive car shops to serve both of her railroads and eight passenger trains a day. Her population would top 3,500 in 1910.

The rails of The Chattanooga, Rome and Columbus Railroad brought more than hope to the west Georgia villages south of Rome. They also delivered the most up-to-date fashions including the architectural ideas of Henry Hobson Richardson and the American Romanesque Revival. William Parkins' 1890 Polk County Courthouse enlarged on the Richardsonian themes voiced in his recently completed Gordon County Courthouse at nearby Calhoun. The grand tower was supported by a massive base featuring a pair of highly Richardsonian entrance arches beneath window groupings typical of Richardson's designs. Here was Parkins's most literal interpretation of the American master's work. But like his courthouse at Calhoun, the rest of the building was something of a controlled riot of eclectic ornament and form. Queen Anne elements abounded in classical pediments, foliate brackets, elaborate chimneys, lacy fenestration and an impossibly complex and romantically Picturesque roofline. The entire building was of brick, and as was usually the case with buildings of this sort, the white stone trim served more to accent Queen Anne detail than to emulate Richardsonian polychromy.

Writing in 1937, county historian, Charles K. Henderson, summed up the outlook in Cedartown after the 1887 arrival of The Chattanooga, Rome and Columbus: "Possessed of two railways . . . there seemed nothing in the way of indefinite prosperity." Sadly, Mr. Henderson goes on to vividly describe the town's "ruin" as the new century progressed. In this regard, we learn that Charles Adamson died a pauper in 1931, and that perhaps fittingly, somewhere along the line, the great tower of Parkins' courthouse was destroyed, leaving only its squat base attached to the complex mass of the rest of the building. Without the tower, the grandeur was gone, and just as the great thrust of Cedartown's boom disappeared, the town was left to contemplate this wounded symbol of its lost prosperity. This fine courthouse was demolished in 1951 to make way for a new structure. GBJ

Excerpted by **Wilber W. Caldwell**, author of *The Courthouse and the Depot, The Architecture of Hope in an Age of Despair, A Narrative Guide to Railroad Expansion and its Impact on Public Architecture in Georgia, 1833-1910*, (Macon: Mercer University Press, 2001). Hardback, 624 pages, 300 photos, 33 maps, 3 appendices, complete index. This book is available for $50 from book sellers or for $40 from the Mercer University Press at www.mupress.org or call the Mercer Press at 800-342-0841 inside Georgia or 800-637-2378 outside Georgia.

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Patricia T. Barmeyer in honor of Randolph W. Thrower
Alan B. Gordon in honor of Judge Warren Davis
Philip C. Henry in honor of Judge Hilton Fuller
D. Wesley Jordan in honor of his parents, Rev. Don Jordan and Mary P. Jordan
Lisa Kennedy in honor of Hon. Chris Brasher
Ann Moceyunas in honor of David Teske
J. Robert Persons in honor of Phyllis Holmen
Charles L. Newton II in honor of Ken and Sally Shigley
S. Alan Schlact in honor of Bernie and Gary Schlact and Frank J. Hays
Jeffrey D. Talmadge in honor of Jeff Bramlett
Daniel R. Tompkins III in honor of Leonard Danley
Ronit Z. Walker in honor of Ann and Vicki Bronfman
Ronit Z. Walker in honor of Naomi Walker
Leigh M. Wilco and Carolyn C. Wood in honor of Cam McDonald
Robert E. Wilson in honor of Phyllis Holmen

MEMORIAL GIFTS
Anonymous (2)
T. Jackson Bedford Jr. in memory of Lake Rumsey
John D. Crosby in memory of Henry W. Bostick
Michael S. and Peggy Meyer Von Bremen in memory of Bill Underwood
Udai V. Singh in memory of Shammi Kapoor
Randolph W. Thrower in memory of Margaret M. Thrower
William L. Tucker in memory of W. M. "Butch" Page

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Kudos


Hodges


Levitas


Choi


Goldstucker

Kilpatrick Townsend & Stockton LLP announced that partner **Chuck Hodges** was elected as a **fellow** to the prestigious **American College of Tax Counsel**. Membership into the college is by nomination and election only. To be eligible, an individual must have been practicing tax law for at least 10 years, must have maintained a high standard of excellence and ethical performance in the practice of tax law including active involvement in the Tax Section of the American Bar Association, and must have demonstrated an exceptional degree of professional commitment.

Senior Counsel **Elliott Levitas** was named one of **Emory University's 175 Emory Historymakers**. The Historymakers are men and women who have demonstrated some combination of ethical engagement and adherence to a moral path; courageous leadership on behalf of the greater community or environment; a legacy of imparting knowledge to others or of seeking new wisdom that has had a broader positive impact; significant contributions to the life of Emory through continual involvement with the university or by making Emory better known nationally and abroad.

Partner **Wendy Choi** was appointed to the **State Intellectual Property Office of China (SIPO) – U.S. Bar Liaison Council**. Choi represents the IP Section of the Atlanta Bar Association. The SIPO – U.S. Bar Liaison Council serves as a forum for the exchange of ideas and information between council delegates and the Chinese Patent Office, focusing on U.S. applicants seeking patent protection in China.

Associate **Richard Goldstucker** was selected to participate in the **State Bar of Georgia Young Lawyers Division (YLD) Leadership Academy Class of 2012**. The YLD Leadership Academy is a program for young lawyers who are interested in developing their leadership skills as well as learning more about their profession, their communities and their state.

Gonzalez Saggio & Harlan LLP announced that **Jonathan Goins** was nominated by in-house counsel to join the **Council on Litigation Management Alliance**. This New York based alliance is a nonpartisan organization comprised of thousands of companies, corporate counsel and litigation and risk managers. Through education and collaboration the organization's goals are to create a common interest in the representation by firms of companies and to promote and further the highest standards of litigation management in pursuit of client defense. Goins is also serving as an **adjunct professor** for intellectual property-related courses at **John Marshall Law School**.


Johnson


Sinkfield


Sistrunk

The **Gate City Bar Association** announced that **Forrest B. Johnson**, Forrest B. Johnson & Associates; **Richard H. Sinkfield**, Rogers & Hardin LLP; and **Hezekiah Sistrunk Jr.**, Cochran, Cherry, Givens, Smith, Sistrunk and Sams, P.C., were inducted into the bar association's **Hall of Fame**. Each year, the Hall of Fame induction ceremony recognizes members of the bar who have made significant contributions to the legal profession and community-at-large.


Schroeder


Burby

Bryan Cave LLP partner **Eric Schroeder** was elected **vice chairman** of the **Board of Directors of the Frazer Center** for 2011-12. The nonprofit Frazer Center provides exceptional services to infants, preschoolers and adults with physical and developmental disabilities such as cerebral palsy, spina bifida, Down syndrome, sickle cell anemia, autism spectrum disorders and other genetic anomalies.

Partner **Joseph Burby** was appointed by Hon. Julie E. Carnes, chief judge of the U.S. District Court for the Northern District of Georgia, to the **board of directors** of the **Federal Defender Program**. The Federal Defender Program represents individuals charged with committing federal criminal offenses in the Northern District of Georgia and who are financially unable to retain their own counsel.

William Benton Britt was promoted to **colonel** in the **U.S. Army Judge Advocate General's Corps**. Britt also assumed command of the 12th Legal Support Organization (LSO) at Fort Jackson, S.C. The mission of the 12th LSO is to provide attorneys and paralegals to assist soldiers, families and retirees and provide legal assets to support military commands in our nation's current global military operations.


Hartman


Monnier

HunterMaclean announced that partner **J. Benedict "Ben" Hartman** was named to the **board of directors of Children's Advocacy Centers of Georgia, Inc**. He was nominated to serve by Georgia Attorney General Sam Olens. The organization's mission is to promote, assist and support the development, growth and continuation of child advocacy centers throughout the state.

Steve Monnier, an associate in the firm's business litigation group, was selected by the State Bar of Georgia to participate in **2012 Young Lawyers Division Leadership Academy**, a program for young lawyers interested in developing their leadership skills as well as learning more about their profession, their communities and their state.


Gambrell


Sherman

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, announced that **David H. Gambrell**, senior counsel in the firm's Atlanta office, was presented with the **Outstanding Service Award** by the **Fellows of the American Bar Foundation**. The award is presented annually to a fellow who has, in his professional career, adhered for more than 30 years to the highest principles and traditions of the legal profession and to the service of the public.

Scott N. Sherman, of counsel in the firm's Atlanta office, was re-nominated to serve a two-year term on the **board of directors** of the **Anti-Defamation League (ADL)'s Southeastern Region**. Sherman is a current board member and previously served on the Legislative Affairs Committee. The ADL fights anti-Semitism and bigotry though information, education, legislation and advocacy.

The **Georgia Appleseed Center for Law and Justice** announced the organization's 2012 leadership. **Elizabeth "Beth" V. Tanis**, a partner at King & Spalding, was unanimously elected to serve as chair of the board of directors. The board will also be led by Vice-Chair **Mike McGlamry**, Pope, McGlamry, Kilpatrick, Morrison & Norwood, P.C.; Secretary **Hon. Herbert E. Phipps**, Court of Appeals of Georgia; and Member-at-Large **Charles "Chuck" Clay**, Brock, Clay, Calhoun & Rogers. Additionally, Georgia Appleseed welcomes three new members to its board of directors: **Neal Berinhout**, AT&T Mobility; **Ralph Knowles**, Doffermyre Shields Canfield & Knowles, LLC; and **Brian Gordon**, DLA Piper. The Georgia Appleseed Center for Law and Justice is a non-partisan, nonprofit organization that seeks to increase justice in Georgia through law and policy reform.

The South Carolina Bar recognized **Bradford T. Cunningham** with a **2012 Pro Bono Award**. Cunningham, attorney for the town of Lexington, S.C., has been a pro bono volunteer since 2004, averaging six or more pro bono cases per year. As attorney for Lexington, he also accepts pro bono cases on a walk-in basis, drafting wills and powers of attorney and handling real estate and probate issues.

The Leadership Georgia Board of Trustees announced that **Joy Lampley Fortson** was elected as a **trustee** for a three-year term. Leadership Georgia stands apart as one of the nation's oldest and most successful leadership-training programs for young business, civic and community leaders with the desire and potential to work together for a better Georgia. Its primary purpose is to identify, train and inspire a network of emerging young leaders. Lampley Fortson is an assistant chief counsel with the U.S. Department of Homeland Security where she practices immigration law.

James C. "Jim" Weidner was **appointed** by Gov. Nathan Deal to the **Georgia Superior Court Clerks Cooperative Authority** (GSCCCA). The GSCCCA was established in 1993 with the legislated mandate of implementing and administering a statewide central index for UCC filings. Weidner is a partner and managing member of the law firm **Oliver & Weidner, LLC.**

On the Move

In Atlanta


Belagodu


Tacy

Kilpatrick Townsend & Stockton LLP announced the addition of two new **associates** to the firm's Atlanta office. **Akarsh Belagodu** joined the electronics and software team in the intellectual property department and **Kimberly Tacy** joined the real estate finance and capital markets team. The firm is located at 1100 Peachtree St., Suite 2800, Atlanta, GA 30309; 404-815-6500; Fax 404-815-6555; www.kilpatricktownsend.com.

Duane Morris LLP appointed **L. Norwood "Woody" Jameson**, the managing partner of the firm's Atlanta office, to **lead the firm's intellectual**

property practice group. Jameson practices in the area of intellectual property law and litigation with particular emphasis on patent litigation.

Duane Morris has also formalized five divisions within its IP practice: patent prosecution; trademark and copyright; ANDA and generic pharmaceuticals; life sciences; and IP litigation. **Matthew C. Gaudet** was chosen to lead the **IP litigation division**. Gaudet, a partner in the Atlanta office, is a trial lawyer who practices in the area of intellectual property litigation with a focus on patent litigation as well as related complex commercial litigation and technology litigation. The firm is located at Atlantic Center Plaza, Suite 700, 1180 W. Peachtree St. NW, Atlanta, GA 30309; 404-253-6900; Fax 404-253-6901; www.duanemorris.com.


Hamrick


Burnside

Holland & Knight announced that associate **John M. Hamrick** and senior counsel **Cynthia G. Burnside** were elevated to the **partnership**. Hamrick and Burnside are members of the firm's litigation section. The firm is located at One Atlantic Center, Suite 2000, 1201 W. Peachtree St. NW, Atlanta, GA 30309; 404-817-8500; Fax 404-881-0470; www.hklaw.com.

Locke Lord LLP announced that **Elizabeth J. Campbell** was elected **partner**. Campbell is a member of the business litigation & arbitration, class actions and corporate insurance practice areas. The firm is located at Terminus 200, Suite 1200, 3333 Piedmont Road NE, Atlanta, GA 30305; 404-870-4600; Fax 404-872-5547; www.lockelord.com.


Sedki


Dunn

James Bates, LLP, announced the addition of **Alec N. Sedki** and **Michael A. Dunn** as **of counsel** to the firm's litigation practice. Sedki's practice areas include commercial and business litigation. Dunn practices in the areas of complex commercial litigation, general business litigation and construction and development disputes. The firm is located at The Lenox Building, 3399 Peachtree Road NE, Suite 1700, Atlanta, GA 30326; 404-997-6020; www.jamesbatesllp.com.


McGrath


Burris


Kendall


Seth


Witt


Shelton


Morel


Nagy


Porter

Nelson Mullins Riley & Scarborough LLP announced that **Matthew R. McGrath** joined the firm's Atlanta office as an **associate**. McGrath focuses his practice on corporate and technology law. Formerly of counsel, **Ross Burris, Jonathan Kendall, Suhail Seth, Amanda Witt** and former associate **Amanda Shelton** were promoted to **partner**. Associates **Brooks Morel Marro, Allie Nagy** and **Reese Porter** were promoted to **of counsel**. The firm is located at 201 17th St. NW, Suite 1700, Atlanta, GA 30363; 404-322-6000; Fax 404-322-6050; www.nelsonmullins.com.


DeNapoli


Grounds


McGuffey


Ward


Wooldridge

Troutman Sanders LLP announced that **Tina A. DeNapoli, Alison A. Grounds, Caroll W. McGuffey III** and **Trenton A. Ward** were promoted to **partner**; and **M. Drew Wooldridge** was promoted to **of counsel**. DeNapoli is a member of the firm's employee benefits & executive compensation group. Grounds is a member of the firm's intellectual property practice group, serves on the firm's technology committee and is the co-founder and leader of the firm's electronic discovery and data management team. McGuffey is a member of the firm's environmental & natural resources and environmental & toxic tort litigation practice groups, as well as the firm's climate change and renewable energy teams. Ward is a member of the firm's intellectual property practice group. Wooldridge is a member of the firm's state regulation of utilities practice group. The firm is located at 600 Peachtree St.

NE, Suite 5200, Atlanta, GA 30308; 404-885-3000; Fax 404-885-3900; www.troutmansanders.com.

Littler Mendelson, P.C., elevated **Whitney Ferrer** to **shareholder** in its Atlanta office. Ferrer specializes in counseling employers regarding compliance with the Fair Labor Standards Act. The firm is located at 3344 Peachtree Road NE, Suite 1500, Atlanta, GA 30326; 404-233-0330; Fax 404-233-2361; www.littler.com.

The Gartzman Law Firm, P.C., announced the addition of **Judson Mallory** as an **associate tax attorney**. The firm is located at 2851 Henderson Mill Road, Atlanta, GA 30341; 770-939-7710; Fax 770-939-7743; www.gartzmantaxlaw.com.

Baker

Caudle

Ferber

Zawrotny

Jones Day named **Emily C. Baker, Lillian Nash Caudle, Amy Edgy Ferber** and **William J. Zawrotny** as **partners** in the Atlanta office. Baker is a member of the product liability & tort litigation practice. Caudle is a member of the securities litigation & SEC enforcement practice. Ferber is a member of the business restructuring & reorganization practice. Zawrotny is a member of the mergers & acquisitions practice. The firm is located 1420 Peachtree St. NE, Suite 800, Atlanta, GA 30309; 404-521-3939; Fax 404-581-8330; www.jonesday.com.

Fennelly

Fougerousse

Parker, Hudson, Rainer & Dobbs LLP announced that **Sean E. Fennelly** and **J. P. Fougerousse** were elected to the **partnership**. Fennelly is a member of the health care practice group and Fougerousse is a member of the real estate practice group. The firm is located at 1500 Marquis Two Tower, 285 Peachtree Center Ave. NE, Atlanta, GA 30303; 404-523-5300; Fax 404-522-8409; www.phrd.com.

Bovis, Kyle & Burch, LLC, announced that **Benjamin Leonard, Anne-Marie Shipe** and **Wayne Tartline** were named **partners** of the firm. Leonard's primary areas of practice are workers' compensation law and subrogation. Shipe's practice concentrates on labor & employment law defense. Tartline's primary areas of practice include complex litigation and intellectual property law. The firm is located at 200 Ashford Center N, Suite 500, Atlanta, GA 30338; 770-391-9100; Fax 770-668-0878; www.boviskyle.com.

Graubart

Smith

Fish & Richardson named **Noah Graubart** and **Jack P. "Jay" Smith III** as **principals** in its IP litigation group in Atlanta. Graubart will continue to focus his practice on patent litigation as well as other areas of intellectual property litigation, including trademark, trade secret and copyright cases, complex commercial litigation and appellate cases. Smith will continue to focus his practice on intellectual property litigation, including patent and trade secret litigation, as well as antitrust litigation in cases involving intellectual property rights. The firm is located at 1180 Peachtree St. NE, 21st Floor, Atlanta, GA 30309; 404-892-5005; Fax 404-892-5002; www.fr.com.

Burr & Forman, LLP, announced that **Ashby L. Kent** was named **partner**. Kent has practiced in the firm's litigation section since 2003, where she specializes in general commercial litigation. The firm is located at 171 17th St. NW, Suite 1100, Atlanta, GA 30363; 404-815-3000; Fax 404-817-3244; www.burr.com.

Choi

Cohen

Pak

Plott

Kim

Ballard Spahr expanded its litigation, real estate and public finance capability in the Southeast with the addition of five well-respected Atlanta attorneys. **Partners Han C. Choi, Ethan H. Cohen, Byung J. Pak** and **Tracy S. Plott**, and **of counsel Isidor J. Kim** have diverse practices and represent regional, national and international clients, including banks, financial services firms, life science and technology companies, universities, governmental entities and manufacturers. The new partners join Ballard Spahr from Schiff Hardin; Kim was formerly at Miller & Martin. The firm is located at 999 Peachtree St., Suite 1000, Atlanta, GA 30309; 678-420-9300; Fax 678-420-9301; www.ballardspahr.com.

Laurie Speed-Dalton announced the relocation of her personal injury law firm. **The Speed Firm, PC**, is now located at 1629 Monroe Drive, Atlanta, GA 30324; 404-442-8851; Fax 404-442-8852; www.thespeedfirm.com.

Mohan

Boling

Morris, Manning & Martin, LLP, announced that **Daniel J. Mohan**, most recently with Kilpatrick Townsend, rejoined the firm as a **partner**, and **Bill Boling**, formerly with Smith, Moore Leatherwood, joined the firm as **of counsel**. The firm is located at 1600 Atlanta Financial Center, 3343 Peachtree Road NE, Atlanta, GA 30326; 404-233-7000; Fax 404-365-9532; www.mmmlaw.com.

Barnes & Thornburg LLP announced that **Jeffrey C. Morgan** joined the firm's Atlanta office as a **partner** in the intellectual property department. He was previously a partner in the Atlanta office of Troutman Sanders LLP. Morgan focuses his practice in the areas of patent litigation and strategy. The firm is located at 3475 Piedmont Road NE, Suite 1700, Atlanta, GA 30305; 404-846-1693; Fax 404-264-4033; www.btlaw.com.

Chamberlain Hrdlicka promoted **Rose K. Drupiewski** to **income shareholder**. Drupiewski maintains a broad tax planning practice, with significant experience in estate and gift tax planning and tax exempt organizations. The firm is located at 191 Peachtree St. NE, 34th Floor, Atlanta, GA 30303; 404-659-1410; Fax 404-659-1852; www.chamberlainlaw.com.

Hall Booth Smith & Slover, P.C., announced that **John E. Parkerson Jr.** joined the firm as **of counsel**. In this role, Parkerson will focus on general corporate counseling as well as on international transactions. The firm is located at 191 Peachtree St. NE, Suite 2900, Atlanta, GA 30303; 404-954-5000; Fax 404-954-5020; www.hbss.net.

Berman Fink Van Horn P.C. announced that **Steven H. Lang** became **of counsel** to the firm. Lang represents businesses, entrepreneurs and investors, and will continue his general corporate, securities and mergers and acquisitions practice. The firm is located at 3423 Piedmont Road NE, Suite 200, Atlanta, GA 30305; 404-261-7711; Fax 404-233-1943; www.bfvlaw.com.

Wayne D. Toth announced the formation of **The Toth Law Firm, LLC**. Toth's primary areas of practice include plaintiff's personal injury and medical malpractice. The firm is located at 400 Galleria Parkway, Suite 460, Atlanta, GA 30339; 404-822-3873; Fax 404-584-7002; www.waynetothlaw.com.

In Brunswick

Boone

Dorminy

Hall Booth Smith and Slover, P.C., announced that **Beth Boone** and **Charles A. Dorminy** were named as **partner**. Boone practices in the areas of professional negligence and medical malpractice defense as well as probate, estate planning and administration, trusts, fiduciary law and general civil litigation. Dorminy practices in a wide variety of areas including medical malpractice defense, health care, local government law and litigation, employment law and general insurance defense litigation. The firm is located at 3528 Darien Highway, Suite 300, Brunswick, GA 31525; 912-554-0093; Fax 912-554-1973; www.hbss.net.

HunterMaclean announced that **Robert M. Cunningham** joined the firm's Brunswick office as a **partner**. Cunningham has more than 30 years of experience in the areas of creditors' rights including bankruptcy, foreclosure and forbearance; estate planning and probate, real estate closings, small business formations and Social Security disability. The firm is located at 777 Gloucester St., Suite 305, Brunswick, GA 31520; 912-262-5996; Fax 912-279-0586; www.huntermaclean.com.

In Canton

Hasty Pope LLP named associate **John Andrew Early** as new **lead counsel** for the firm's **workers' compensation division**. The firm is located at 211 E. Main St., Canton, GA 30114; 770-479-0366; Fax 770-479-0139; www.hastypope.com.

In Columbus

Hudson

Stutzman

Rhodes

Hatcher, Stubbs, Land, Hollis & Rothschild, LLP, announced the addition of **Edward P. Hudson** as **part-**

ner and **D. Nicholas Stutzman** and **Carl A. Rhodes Jr.** as **associates**. Hudson and Stutzman will continue their practice centered in the area of residential and commercial real estate. Rhodes focuses his practice on corporate law and estate planning and administration. The firm is located at 233 12th St., Suite 500 Corporate Center, Columbus, GA 31901; 706-324-0201; Fax 706-322-7747; www.hatcherstubbs.com.

In Fayetteville and Jonesboro

> **T. Michael Martin** and **Jason M. Martin** announced the creation of **The Martin Law Firm, LLC**. The firm focuses on criminal defense, family law and personal injury. The Fayetteville office is located at 320 W. Lanier Ave., Suite 150, Fayetteville, GA 30214; 770-716-2181 Fax 770-716-2183. The Jonesboro office is located at 118 S. Main St., Jonesboro, GA 30236; 770-478-8000; Fax 770-471-1091; www.themartinfirm.net.

In Macon

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Hall, Bloch, Garland & Meyer, LLP, announced that **Amanda M. Morris** became a **partner** in the firm. She practices in the firm's litigation section, focusing on the areas of railroad defense, insurance defense and Medicare compliance issues. The firm is located at 577 Mulberry St., Suite 1500, Macon, GA 31201; 478-745-1625; Fax 478-741-8822; www.hbgm.com.

In Savannah

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Morris, Manning & Martin, LLP, announced that **John D. Northup III** joined the firm as an **associate** in the firm's corporate, commercial real estate, banking and health care practices. The firm is located at 24 Drayton St., Suite 712, Savannah, GA 31401; 912-232-7182; Fax 912-232-7184; www.mmmlaw.com.

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Weiner, Shearouse, Weitz, Greenberg and Shawe, LLP, announced the association of **L. Rachel Wilson** in the general practice of law. The firm is located at 14 E. State St., Savannah, GA 31401; 912-233-2251; Fax 912-235-5464; www.wswgs.com.

In Birmingham, Ala.

> 

Burr & Forman, LLP, announced that **Amy K. Jordan** was named **partner**. Jordan advises and represents employers in a broad range of labor and employment matters. Her practice includes defending employers in Equal Employment Opportunity Commission and state agency investigations. The firm is located at 420 N. 20th St., Suite 3400, Birmingham, AL 35203; 205-251-3000; Fax 205-458-5100; www.burr.com.

In Jacksonville, Fla.

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Bachara Construction Law Group announced that **Brian Crevasse** became a **partner** in the firm. Crevasse is board certified by The Florida Bar in construction law. The firm is located at One Independent Drive, Suite 1800, Jacksonville, FL 32202; 904-562-1060; Fax 904-562-1061; www.bacharagroup.com.

In Tampa, Fla.

> 

Shannon M. Sheppard joined **Bricklemyer Smolker & Bolves, P.A.**, as **of counsel**. Sheppard concentrates her practice in the area of commercial real estate transactions. The firm is located at 500 E. Kennedy Blvd., Suite 200, Tampa, FL 33602; 813-223-3888; Fax 813-228-6422; www.bsbfirm.com.

In West Palm Beach, Fla.

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Gunster announced that **John W. Little III** joined the West Palm Beach office as a **shareholder**. Little focuses his practice on environmental and land use law as well as business litigation. The firm is located at 777 S. Flagler Drive, Suite 500 E, West Palm Beach, FL 33401; 800-749-1980; Fax 561-655-5677; www.gunster.com.

In Winston-Salem, N.C.

> 

Dennis L. Boothe Jr. joined **Blanco Tackabery**, practicing in the affordable housing group. He previously served as general counsel for a regional affordable housing developer headquartered in Raleigh, advising on numerous housing projects across North Carolina, and in cities such as New Orleans and Dallas. The firm is located at Stratford Point Building, 5th Floor, 110 S. Stratford Road, Winston-Salem, NC 27104; 336-293-9000; Fax 336-293-9030; www.blancolaw.com.

If It's Confidential, Keep it That Way

by Paula Frederick

"We need to finalize the complaint in the *Jones* case," you instruct your paralegal. "There were a few details we asked Ms. Jones to confirm, and I've heard back from her. It might be easiest if I just forward her email to you, and you can plug in the information."

An hour later your paralegal returns with the completed document. "Hey boss?" she inquires. "Did you realize that Ms. Jones is emailing us from work?"

"I didn't really think about it, but that doesn't surprise me," you respond. "Why?"

"I'll bet she used BigCo's computer to send that email; she's certainly using one of their email addresses . . . ."

". . . and we're suing BigCo," you add, finally recognizing the potential problem. "Surely Ms. Jones knows better than to use *their* computer to email confidential information about her case!"

"Ummm . . . apparently not. You probably need to remind her they have access to everything on that computer," your paralegal adds helpfully. "And while you're at it, ask whether BigCo provided her cell phone!"

Like the rest of the world, lawyers and clients increasingly rely upon electronic communication to conduct business. Clients often send personal email from a work computer or an occasional text message from a company-owned smartphone, with little regard for policies that reserve the company's right to review such communication.

A recent advisory opinion from the American Bar Association[1] finds that "a lawyer sending or receiving substantive communications with a client via email or other electronic means ordinarily must warn the client about the risk of sending or receiving electronic communications using a computer or other device, or email account, where there is a significant risk that a third party may gain access."

Most lawyers don't know much about how electronic communication is transmitted, where it is stored or whether it ever really goes away. How, then, could we possibly be expected to advise others about its use?

The ABA opinion is more about confidentiality and privilege than about metadata or cloud computing. A lawyer should remind clients that confidential information could be compromised if sent electronically, and caution clients against using electronic communication for substantive matters. The opinion cites cases holding that information is not protected by attorney-client privilege even when sent from an employee's personal email account, if the employee used a work computer.

And needless to say, the lawyer herself should not send email or text messages to (or respond to messages sent from) an employer-owned device. GBJ

Paula Frederick is the general counsel for the State Bar of Georgia and can be reached at paulaf@gabar.org.

Endnotes

1. Formal Opinion 11-459, *Duty to Protect the Confidentiality of E-mail Communications with One's Client*, issued August 4, 2011 by the American Bar Association Standing Committee on Ethics and Professional Responsibility. The opinion is available at www.americanbar.org.

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Discipline Summaries

(December 15, 2011 - February 10, 2012)

by Connie P. Henry

Voluntary Surrender/Disbarments

Parmesh N. Dixit
Atlanta, Ga.
Admitted to Bar in 1995

On Jan. 9, 2012, the Supreme Court of Georgia accepted the petition for voluntary surrender of license of Parmesh N. Dixit (State Bar No. 223241). Dixit entered a guilty plea to a conspiracy to harbor illegal aliens as part of a money-making scheme that involved fake documents.

James Michael Green
Loganville, Ga.
Admitted to Bar in 1994

On Jan. 9, 2012, the Supreme Court of Georgia accepted the petition for voluntary surrender of license of James Michael Green (State Bar No. 306956). Green entered a guilty plea to conspiracy to commit bank and wire fraud. Green participated in the conspiracy in his capacity as a closing attorney.

Joseph A. Maccione
Stockbridge, Ga.
Admitted to Bar in 1976

On Jan. 9, 2012, the Supreme Court of Georgia accepted the petition for voluntary surrender of license of Joseph A. Maccione (State Bar No. 462925). Maccione admitted serious misconduct in failing to properly supervise an unethical employee and by facilitating his unauthorized practice of law. Maccione also acknowledged that he currently suffers from an ongoing medical impairment that significantly affects his ability to practice law.

Kota Chalfant Suttle
Atlanta, Ga.
Admitted to Bar in 2002

On Jan. 9, 2012, the Supreme Court of Georgia disbarred Kota Chalfant Suttle (State Bar No. 693483). The following facts are deemed admitted by default:

Suttle was under a two-year suspension with conditions for reinstatement following his conviction on one felony count of residential mortgage fraud, for which he received a misdemeanor sentence as a first offender. In that matter, a consent order was entered on March 22, 2010, prohibiting Suttle from engaging in the practice of law. In July 2010 Suttle agreed to handle a real estate transaction for a client and was given $2,000,000 for deposit into his attorney trust account. The client later determined that the transaction was fraudulent and directed Suttle to return the money. Suttle returned the funds, less $18,000, which he claimed as attorney's fees. The client requested the return of the $18,000, but Suttle refused to do so. The Investigative Panel determined that Suttle's efforts in the matter did not justify an $18,000 fee or any fee. In aggravation, the Investigative Panel considered Suttle's deceit, his unauthorized practice of law, his complete failure to respond to the disciplinary matter and his prior disciplinary record.

James B. Johnson Jr.
Lawrenceville, Ga.
Admitted to Bar in 1986

On Jan. 9, 2012, the Supreme Court of Georgia disbarred James B. Johnson Jr. (State Bar No. 394420). The following facts are deemed admitted by default:

Between 1998 and 2009, an Alabama attorney referred multiple collection cases from 19 different clients to Johnson for representation in Georgia. In January 2009, the Alabama attorney sent him a letter for each of the cases advising that the Alabama attorney was, on his clients' behalf, transferring each of those cases to new Georgia counsel and demanded that he forward particular information about each case and close the files. Johnson failed to respond to 113 of those letters and failed to communicate regarding the status of the cases. Johnson collected funds in garnishment actions which he failed to deliver to his clients. Johnson failed to account for the money he received in a fiduciary capacity and commingled his clients' funds with this own funds. In mitigation, Johnson had no prior disciplinary history. The State Bar found in aggravation that Johnson acted with a dishonest and selfish motive, acted willfully and dishonestly, and that he had substantial experience in the practice of law. The Court noted in aggravation that the Notice of Discipline set our multiple offenses and revealed a pattern of misconduct.

Lagrant Anthony
Atlanta, Ga.
Admitted to Bar in 1987

On Jan. 23, 2012, the Supreme Court of Georgia disbarred Lagrant Anthony (State Bar No. 020615). The following facts are admitted by default:

Anthony personally solicited a non-lawyer for professional employment. The non-lawyer retained Anthony to represent her in a criminal case and her mother paid him $500. Anthony arrived two hours after the conclusion of a bond hearing and gave no explanation for his tardiness. Thereafter, Anthony did not respond to telephone calls from the client and her mother. Nor did he refund their money. Anthony has a disciplinary history and he failed to respond to this and other disciplinary complaints.

Matthew Marvin Wathen
Ortonville, Mich.
Admitted to Bar in 2005

On Jan. 23, 2012, the Supreme Court of Georgia disbarred Matthew Marvin Wathen (State Bar No. 141830). The following facts are admitted by default:

Wathen settled a personal injury action for $2,250 without his client's consent and converted the settlement proceeds to his own use. Wathen's former partners refunded the client's money. In aggravation of discipline, Wathen acted with a dishonest or selfish motive, refused to acknowledge the wrongful nature of his conduct and showed indifference to making restitution.

Miles Lamar Gammage
Cedartown, Ga.
Admitted to Bar in 1979

On Jan. 23, 2012, the Supreme Court of Georgia accepted the petition for voluntary surrender of license of Miles Lamar Gammage (State Bar No. 283550). Gammage represented a client in a workers' compensation case. The client executed an agreement for the client's former employer and its insurance carrier to pay a lump sum settlement amount, part of which was to be paid to the client and part to be paid to Gammage. Gammage received the check payable to the client but failed to notify the client, deliver the funds to him or provide a full accounting regarding the funds.

In another case Gammage represented a client in a workers' compensation case. The client executed a settlement agreement for the former employer and its insurance carriers to pay a lump sum amount, part to be paid to the client and part to Gammage. The settlement included a provision that a certain amount would be provided as "seed money" for a Medicare set-aside allocation and that annual payments would be made to the client's account beginning Jan. 30, 2011. The insurer sent Gammage three checks. Gammage did not promptly notify his client when he received the checks, did not promptly deliver the funds and did not promptly render a full accounting regarding the funds.

Suspensions

Paul Lawrence Erickson
Asheville, North Carolina
Admitted to Bar in 1995

On Jan. 9, 2012, the Supreme Court of Georgia suspended Paul Lawrence Erickson (State Bar No. 249902) for five years with conditions for reinstatement. In this reciprocal discipline case, identical discipline was imposed in North Carolina due to Erickson's representation of multiple clients in 2003 and 2004, whom he knew to be participating in fraudulent mortgage-elimination and debt-elimination schemes. On their behalf he knowingly made false and misleading statements in court and advanced fraudulent and frivolous legal arguments which relied upon documents that he knew to be fraudulent, all with the intent of misleading the court. According to the North Carolina tribunals, his actions caused significant expense and delay in creditors' pursuit

of their legitimate claims; caused delay and waste of court time; prejudiced the administration of justice; and left his clients in a worse position than he found them.

Erickson's reinstatement to the practice of law in Georgia is conditioned upon proof that he has been reinstated to practice law in North Carolina and has fully complied with all of the conditions for reinstatement set forth in the order of the North Carolina Disciplinary Hearing Commission dated Aug. 14, 2008.

Review Panel Reprimands

John Stephen Olczak
Atlanta, Ga.
Admitted to Bar in 2000

On Jan. 9, 2012, the Supreme Court of Georgia accepted the petition for voluntary discipline of John Stephen Olczak (State Bar No. 551355) and ordered that he be administered a Review Panel reprimand. Olczak was retained by a client in 2001 to represent her as a co-executor of her husband's estate. His legal work for the client expanded to include other financial and business matters and, after the client established a charitable foundation in late 2004, he served as the foundation's director. Although Olczak held frequent meetings with the client, he did not adequately document the time devoted to her matters or sufficiently communicate with her. The client subsequently discharged Olczak and hired new counsel to assist her in obtaining information from Olczak, who was slow to deliver the information to the client's new lawyer. Though subsequent review of his work indicated no financial misconduct, Olczak's failure to adequately communicate with the client caused her to become uncertain of his motives and the legitimacy of the fees he charged.

In mitigation the Court found that Olczak does not have a disciplinary record; he has made full and free disclosure and has displayed a cooperative attitude in the disciplinary proceedings; and he has exhibited good moral character and has a good reputation in the community. Olczak stated that he has donated time to the Atlanta Volunteer Lawyers Foundation and the Pro Bono Project of the State Bar and contains a letter from Judge Floyd Propst III, which states that he has known Olczak since 2006, has observed him in various settings and that Olczak has always exhibited the type of character, integrity and professionalism that serves the profession well.

Valerie Brown-Williams
Albany, Ga.
Admitted to Bar in 1996

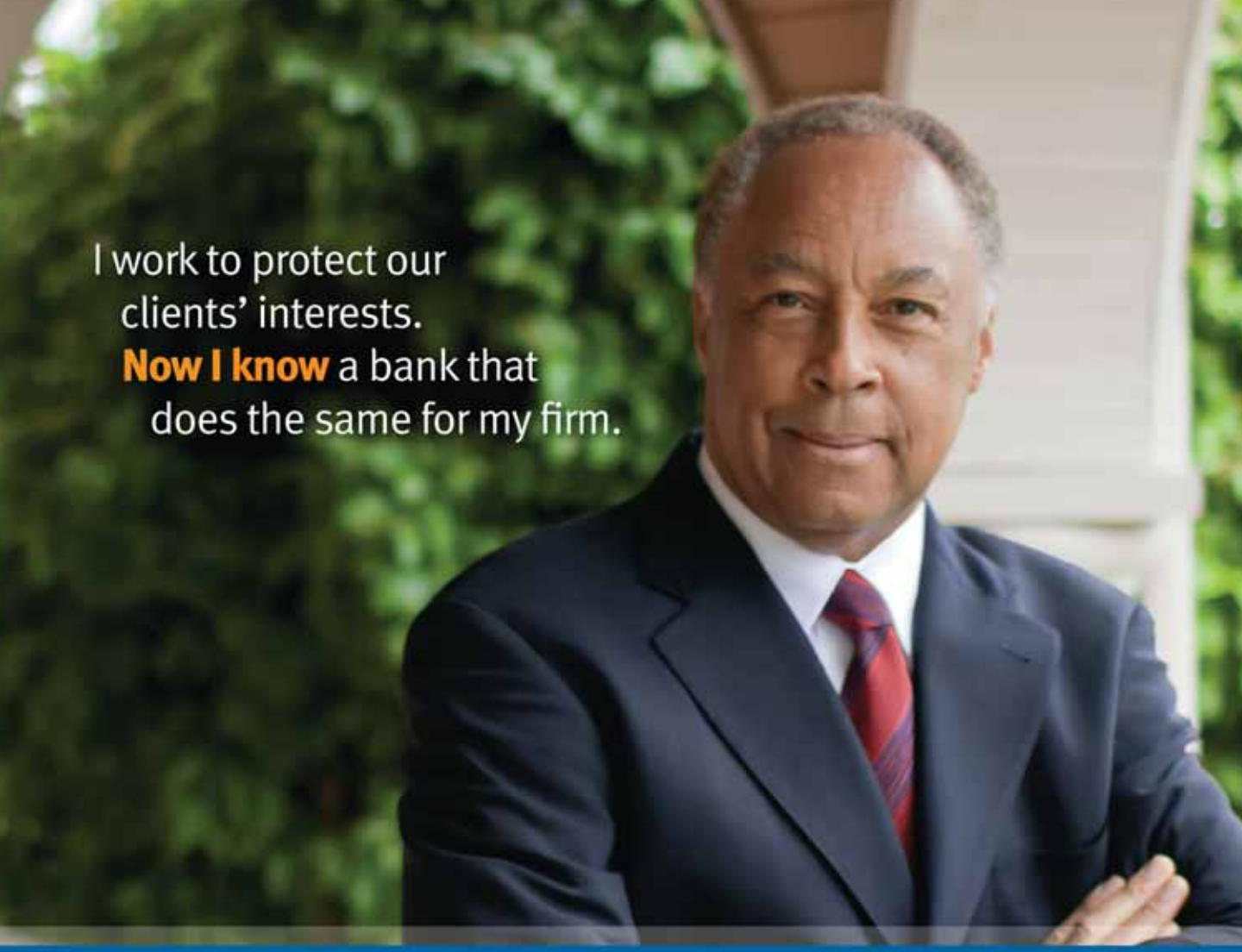
On Feb. 6, 2012, the Supreme Court of Georgia accepted the petition for voluntary discipline of Valerie Brown-Williams (State Bar No. 089695) and ordered that she be administered a Review Panel reprimand. Brown-Williams represented a client in his efforts to pursue compensation for a work-related injury. She reviewed the documents that the client brought her within a few weeks, but neglected to file a workers' compensation claim or any other legal matter on his behalf. She asserted that she did have some communications with the client by phone, but there were occasions where she failed to return his calls. She notified the client that she was going on maternity leave and referred him to another attorney who advised the client that the statute of limitations had expired on his workers' compensation claim and that he had no other available options. Brown-Williams asserted that she believed that the client's case fell under a longer statute of limitations. Brown-Williams had no prior discipline, she cooperated in the disciplinary proceedings and she did not have a selfish or dishonest motive.

Interim Suspensions

Under State Bar Disciplinary Rule 4-204.3(d), a lawyer who receives a Notice of Investigation and fails to file an adequate response with the Investigative Panel may be suspended from the practice of law until an adequate response is filed. Since Dec. 15, 2011, five lawyers have been suspended for violating this Rule and none have been reinstated. GBJ

Connie P. Henry is the clerk of the State Disciplinary Board and can be reached at connieh@gabar.org.

For the most up-to-date information on lawyer discipline, visit the Bar's website at www.gabar.org.



Private Wealth Management Legal Specialty Group. You're always focused on what's best for your clients. With SunTrust's dedicated Legal Specialty Group, you'll get that very same treatment. Our knowledgeable financial advisors provide firms like yours with valuable strategies on everything from cash flow to expense management to insurance. Simply put, your interests are our passion. How can we help you? Visit us at suntrust.com/law or contact one of our advisors and get to know all the benefits of working with SunTrust.

Steve Allen, Managing Director, SunTrust Investment Services, Inc.,
Atlanta, 404.813.2922, steve.allen@suntrust.com

Gene Perkins, Managing Director, SunTrust Investment Services, Inc.,
Columbus, 706.649.3626, gene.perkins@suntrust.com

Kay Ford, Managing Director, SunTrust Investment Services, Inc.,
Savannah, 912.944.1277, kay.ford@suntrust.com

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What's Up With Law Practice Management in 2012?

by Natalie R. Kelly

Following is a general review of some of the standard services provided by the Law Practice Management Program (LPM), along with a sneak peek at some of the upcoming sessions and events we will be presenting in the next few months. Because LPM works hard to ensure we are providing timely and appropriate services as it relates to the business side of your practice, please let us know if there is ever a program, topic or service you feel can benefit you and your practice. We are happy to work on developing resources and services for a better and more efficient practice.

Office Start-Up Kits

LPM continues to provide free copies of this kit to members. In fact, we have found that the kit is not only beneficial in assisting lawyers looking to hang out their own shingle, but is also helpful from the general business planning position of those members who did not have the benefit of the kit when they opened their offices. Contact Kim Henry at 404-527-8772, or stop by our office if you would like a kit.

Resource Library

New titles and expanded offerings are available in the LPM Resource Library. With more than 1,000 items to check out, you should be able to find material to assist with issues and topics related to managing your practice and more. If you haven't checked out any material recently, take note that we now allow

up to three items to be checked out at a time for a two-week period. You can even go online to request material at www.gabar.org. Some of the newest titles include: *Lawyer's Guide to Microsoft Outlook 2012; Lawyer's Guide to Microsoft Word 2012; Social Media for Lawyers; Cloud Computing for Lawyers*; and *The ABA Checklist for Family Heirs*.

Consulting

LPM also continues to assist members with the nitty-gritty issues of operating your law practice via its general management consultations. Do you want to see the top of your desk? Don't know what software or hardware to invest in, or even just how to use what you already have? We regularly assist many firms via our low-cost, on-site consultations. Just give LPM a call to schedule your firm's "alone time" with us.

Sample Forms and Checklists

If your New Year's office resolution was to get your policies and procedures in writing, then you should take a look at the downloadable practice forms and checklists. While most are not practice-area specific, they will ensure you have what you need in terms of practice operations. The forms and checklists can be found on the State Bar's website at LPM's program page. If you can't find the form you need available for download, then feel free to contact us to help further.

Law Practice Management CLE

You don't want to miss this year's program on Moving Your Practice Forward, scheduled for April 27. The agenda is available online at ICLE's website at www.iclega.org and highlights programming on financial management, generational issues in practice, hot technology topics, a sharing panel discussion on General Tips for the Modern Practice and more.

The services of LPM are in place to assist you with everyday practice issues, and we continue to provide help via phone, fax and email. If you have questions that you don't know how to address in your daily operations, or want to take advantage of LPM's many resources or services, please contact us: Natalie Kelly, director, nataliek@gabar.org, 404-527-8770; Pam Myers, resource advisor, pamm@gabar.org, 404-526-8621; Sheila Baldwin, member benefits coordinator, sheilab@gabar.org, 404-526-8618; and Kim Henry, administrative assistant, kimh@gabar.org, 404-527-8772.

We are here to help you stay on top of your practice, and that's what's happening with the Law Practice Management Program. GBJ

Natalie R. Kelly is the director of the State Bar of Georgia's Law Practice Management Program and can be reached at nataliek@gabar.org.

State Bar Sections Affect State Legislation

by Derrick W. Stanley

Sections, with the assistance of the Advisory Committee on Legislation (ACL), enable the Bar to effect legislation that can positively affect attorneys. Over the years, chairs and legislative liaisons of sections have been informing the Board of Governors, and legislators, on implications of the laws up for vote. The ACL is part of the Legislative Program of the Bar and is a standing committee. The purpose of the committee is:

> The Advisory Committee on Legislation shall prepare for legislative action such matters requiring legislation as may have received the approval of the State Bar's Board of Governors. It shall keep itself informed as to all proposed legislation affecting members of the Bar and the practice of law, and shall take appropriate action for support or opposition to such legislation. It also shall make due presentation of such proposed legislation to the appropriate legislative committee or bodies. (Ad hoc committees will be created as needed for specific legislation.)

In addition, the Bar utilizes the services of Capitol Partners Public Affairs Group, LLC, as legislative consultants. With the assistance of the consultants, and the ACL, sections have been able to effectively and successfully navigate the legislative process.

The process to introduce/support legislation starts months prior to the beginning to the legislative session. The ACL chair sends a memo to the section chairs requesting input. As with all legislative actions of the Bar, State Bar Standing Board Policy 100 is adhered to in all aspects of the process. In order to initiate the

process of soliciting State Bar action, sections should submit the following information:

1) The specific legislation, if any, which is pending or proposed.
2) If no specific legislation is pending or has been proposed, a statement of the issues to be addressed by the legislation.
3) A summary of the existing law.
4) Potential proponents or opponents of the legislation and a brief statement of the reasons for support or opposition.
5) A listing of all Bar committees or sections that may have an interest in the legislation, and documentation that these Bar committees/sections have been provided a copy of the proposal well in advance of

its transmission to the ACL, so that the interested sections will have an opportunity to review and comment. When in doubt, proposals should be shared with every possible committee/section that may have an interest.

6) The position which the committee, section or group recommends be adopted by the State Bar.

Section 1.01 General Legislative Policy of Standing Board Policy 100 contains the information that applies most to sections. Please see page 53 for the text of the policy in its entirety. Sections 1.02 – 1.05 define the duties and responsibilities of the Board of Governors, the Executive Committee, the Advisory Committee on Legislation and Legislative Drafting and Consulting Services. These sections can be viewed by going to www.gabar.org and searching the handbook.

The submittals are then reviewed by the committee where a member of the section's legislative committee is invited to present the proposal. The next step is to present the proposal to the Board of Governors. Based upon submission deadlines, the proposals are heard at either the Fall or Midyear Meetings of the Board, at which time the Board may vote on adopting the proposal.

The State Bar Legislative Program depends exclusively on voluntary contributions from members. When sections ask the Bar to support a legislative proposal, the section is asking those members who have contributed to the legislative fund to support the bill. It is therefore encouraged that every effort be made to encourage significant participation by section members in the legislative program, and to include a synopsis of those efforts in the transmittal materials conveying the legislative requests. This process ensures that the proposals will pass the germane test.

In addition to proposing legislation, the sections are also requested to provide input on legislation throughout the legislative session. When bills are introduced that may or may not have a positive impact on the practice of a specific area of law, section chairs are asked to review the legislation and request input from their legislative committee or section members. The ACL relies heavily upon the sections since there are so many sub-specialties in the practice of law. This feedback assists the Bar leadership in determining the true impact of certain legislation on lawyers. As these issues usually come up with little notice, the chairs are often requested to review important documents with a quick turn-around. The section structure allows for quick dissemination of the information and a vehicle to receive answers quickly so that the ACL can provide informed advice to the Board.

The Bar's legislative consultants track all the changes made to bills

Section Sponsored and Supported Legislation: 2007-2011

- Business Law Section — Amendments to Corporate Code
- Business Law Section — Amendments to LLC
- Dispute Resolution Section — Ga. International Commercial Arbitration Code
- Elder Law Section — Support HB 646 Reversing Age Discrimination for Pooled Trusts
- Family Law Section — Long Arm Statute Amendment
- Fiduciary Law Section — Repeal of Rule against Perpetuities
- Fiduciary Law Section — Trust Code Revisions
- Fiduciary Law Section — Uniform Estate Tax Apportionment
- Fiduciary Law Section — Uniform Prudent Management of Institutional Funds Act
- Judicial Section — Funding Request for ICJE
- Real Property Law Section — Disbursement of Settlement Proceeds
- Real Property Law Section — Prohibition of Transfer Fee Covenants
- Real Property Law Section — Utility Liens
- Taxation Law Section — Ga. Tax Court of 2008

2012-13 Section Membership

Section Dues

Name _____

Bar Number _____

Firm/Organization _____

Credit Card Number _____

Expiration Date _____

Security Code (3 or 4 digits) _____

Email _____

Amount to bill _____

☐	Administrative Law	$15
☐	Agriculture Law	$20
☐	Animal Law	$20
☐	Antitrust Law	$20
☐	Appellate Practice	$15
☐	Aviation Law	$15
☐	Bankruptcy Law	$35
☐	Business Law	$20
☐	Child Protection & Advocacy	$20
☐	Consumer Law	$25
☐	Corporate Counsel Law	$25
☐	Creditors' Rights	$15
☐	Criminal Law	$20
☐	Dispute Resolution	$15
☐	Elder Law	$20
☐	Eminent Domain	$35
☐	Employee Benefits Law	$20
☐	Entertainment and Sports Law	$25
☐	Environmental Law	$25
☐	Equine Law	$20
☐	Family Law	$35
☐	Fiduciary Law	$30

☐	Franchise and Distribution Law	$20
☐	General Practice and Trial Law	$35
☐	Government Attorneys	$10
☐	Health Law	$20
☐	Immigration Law	$15
☐	Individual Rights Law	$15
☐	Intellectual Property Law	$35
☐	International Law	$25
☐	Judicial	$10
☐	Labor and Employment Law	$20
☐	Legal Economics Law	$10
☐	Local Government Law	$10
☐	Military / Veterans Law	$15
☐	Nonprofit Law	$25
☐	Product Liability Law	$25
☐	Professional Liability	$15
☐	Real Property Law	$25
☐	School and College Law	$15
☐	Senior Lawyers	$10
☐	Taxation Law	$20
☐	Technology Law	$25
☐	Tort and Insurance Practice	$15
☐	Workers' Compensation Law	$25

Please complete this form and e-mail to derricks@gabar.org or mail a check to:
State Bar of Georgia Section Liaison
104 Marietta St. NW
Atlanta, GA 30303

State Bar of Georgia

and records them on the Bar's website. The State Bar Tracking Sheet can be found on gabar.org by clicking on the "Committees, Programs and Sections" tab and then selecting "Legislative Program." This tracking sheet lists the bill number (with a hyperlink to the full document), actions, description, author and committee. As bills progress, the site is updated and changes are listed. All updates pertaining to a bill are kept together in chronological order. The consultants also provide us with legislative updates on a regular basis. These PDFs provide more in-depth information about the legislation. This distilled information divides the bills into sections and gives understandable descriptions with links to the full bill. The legislative updates are found on the same page as the State Bar Tracking Sheet.

Just as the sections assist the ACL, the ACL provides the sections with an opportunity to introduce legislation and track it through the process. The chart on page 51 details legislation that has been introduced over the last five years to the Georgia General Assembly. The Bar has put processes into place that allow sections to further the practice of law by influencing legislation in a positive way.

The most important part of the process is to remember that "No committee or section of the State Bar shall recommend, support or oppose any legislation except in the manner herein provided." GBJ

Derrick W. Stanley is the section liaison for the State Bar of Georgia and can be reached at derricks@gabar.org.

Standing Board Policy 100

1.01. General Legislative Policy.

(a) The Bylaws set forth the restrictions on establishing a legislative policy. Article II, Section 6 of the Bylaws provides that: No legislation shall be recommended, supported or opposed by the State Bar unless:

(1) such action has been initiated by an appropriate committee or section, or by any ten members of the Board of Governors; and

(2) the text of the legislation is furnished to the President, the President-elect and the Advisory Committee on Legislation at least thirty days prior to its submission for support or opposition as set forth below; and

(3) provided further:

(i) that such legislative position receives a majority vote of the members of the State Bar present at a meeting; or

(ii) that such legislative position receives a two-thirds vote of the members of the Board of Governors present and voting; or

(iii) when the Board of Governors is not in session, such legislative position receives a two-thirds vote of the members of the Executive Committee voting.

In addition to and in aid of these legislative powers, the Board shall have the power to adopt, by a vote of two-thirds of the members of the Board present and voting, a Standing Board Policy regarding legislation. Such Standing Board Policy shall be binding from session to session unless suspended, modified or rescinded pursuant to a two-thirds vote of the members of the Board present and voting.

No committee or section of the State Bar shall recommend, support or oppose any legislation except in the manner herein provided.

(b) No legislative position shall be taken by the State Bar or any committee, section or other organizational element thereof except as provided for in this policy. Committees, sections or other organizational elements of the Bar are encouraged to debate and discuss legislation relating to their areas of expertise and to let the Advisory Committee on Legislation know of their positions. The ultimate position of the State Bar, however, will be determined pursuant to this Policy.

(c) A legislative position, once adopted, shall remain an official position of the State Bar during the full biennial session of the General Assembly in which it was adopted unless rescinded or modified.

(d) Failure to receive a necessary two thirds vote to favor or oppose legislation shall not be considered adoption of the contrary position.

(e) All legislative positions adopted by the State Bar shall be reduced to writing and communicated to the General Assembly as the organizational positions of the State Bar.

(f) The Advisory Committee on Legislation, the Board, or the Executive Committee may allow any interested person to appear before it in person and in writing in support of or in opposition to any legislative proposal being considered subject to reasonable limitations on available time.

(g) The Board and Executive Committee shall have authority to take reasonable action necessary to communicate and advocate legislative positions adopted pursuant to the Bylaws and this policy.

(h) The Board or the Executive Committee shall have the authority to designate persons to promote State Bar legislative positions. Persons so designated shall be authorized to agree to and to support amendments and substitute legislation which are consistent with legislative positions previously adopted pursuant to the Bylaws and this Policy. No section, committee or other Bar-related organization shall hire or designate any persons or entities to promote State Bar or their own legislative positions nor shall such sections, committees or Bar-related organization expend any funds of the section, committee or organization in the support of or opposition to any legislative positions unless expressly approved by the Board of Governors or the Executive Committee. Should the Board of Governors or the Executive Committee approve such expenditures, the funds of the section, committee or Bar-related organization shall be paid into the Legislative Advocacy Fund.

(i) Nothing in this policy shall be construed to prevent members of the State Bar from presenting their own personal views concerning any legislative matter and members are encouraged to do so while making clear that they are speaking only in their personal capacity.

Fastcase Goes App!

by Sheila Baldwin

Back in 2010 Fastcase launched its mobile app, giving Georgia attorneys the ability to carry a mobile law library in their pocket and iPhone. This same app works on the iPad and is easier to read, making it convenient to search cases from all 50 states as well as federal cases. The U.S. Code and most state statutes are also searchable.

The smart search intelligence that makes Fastcase efficient when searching on your desktop is functional within the app. Filters for jurisdiction, date range and authority check are found under the initial "search case law" field and these can be sorted according to relevance, decision date, name, cited generally and cited within. Pull the most relevant case to the top of your search query just as you would on your work computer and save it for later review. Both the saved documents and 10 most recent searches are accessed by tapping the appropriate icon at the bottom of the app screen (see fig. 1).

Fastcase has just announced a free upgrade to its legal research apps for iPhone and iPad by launching Mobile Sync, which allows full integration of mobile apps with the desktop version of Fastcase. Mobile Sync securely synchronizes a user's favorite documents, favorite jurisdictions and search history between apps. Favorites and search history saved on a member's iPhone or iPad will now automatically save to the desktop; cases saved on the desktop will now appear on the mobile device. The sync is so smooth, it is possible for an attorney to have an assistant at the office finding relevant cases and saving them in favorites, and the attorney remotely retrieving them on an iPad in court or elsewhere. I tested mobile sync by simultaneously using my desktop account, iPhone and iPad and the information translated instantly. Of course, I was doing this in one location but it was impressive.

It is not surprising that our members are enthusiastic about this added member benefit. The American Bar Association's 2011 Legal Technology Survey reported that Fastcase dominated the mobile category, with more users than Westlaw and LexisNexis combined and the American Association of Law Libraries named it the 2010 New Product of the Year and the 2011 Legal Productivity App of the Year. Mobile Sync is another in a series of recent Fastcase innovations to which our members have free unlimited access.

To sync your accounts, follow the instructions below:

- Log in to Fastcase through the members area on the top right corner of the bar website, www.gabar.org
- Once logged in, scroll over the Options menu and select Mobile Sync (see fig. 2).
- Once on the Mobile Sync page, you will be prompted to enter an email address. This will be your username for logging in using the mobile app. When you've entered your email address, click "Go." Fastcase will send an email to this address to confirm that you own it. The email will contain a link that you must click to complete the sync process.
  Tip: If you already use Fastcase for the iPhone or Fastcase for the iPad and are syncing your accounts, please use the email address associated with your pre-existing app account.

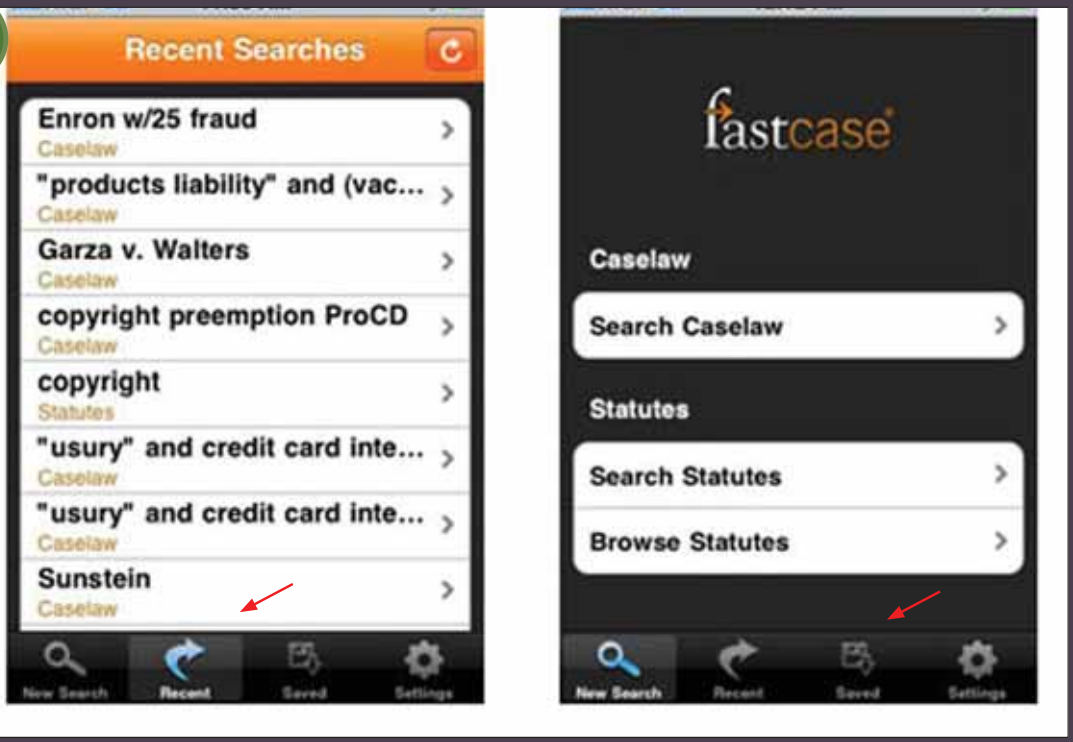
If you have already established a mobile app account, simply click the link in the email and your two accounts will automatically link together.

If you are creating a new mobile app account, you will be prompted to enter a password and to confirm your first and last name. After that, just click Finish, and your existing desktop account will be linked to your new mobile account.

The team at Fastcase is also working on an Android app for release later this year. Questions? Call Fastcase at 1-866-773-2782 or email support@fastcase.com, or you may reach me at sheilab@gabar.org or 404-526-8618. GBJ

Sheila Baldwin is the member benefits coordinator of the State Bar of Georgia and can be reached at sheilab@gabar.org.

1



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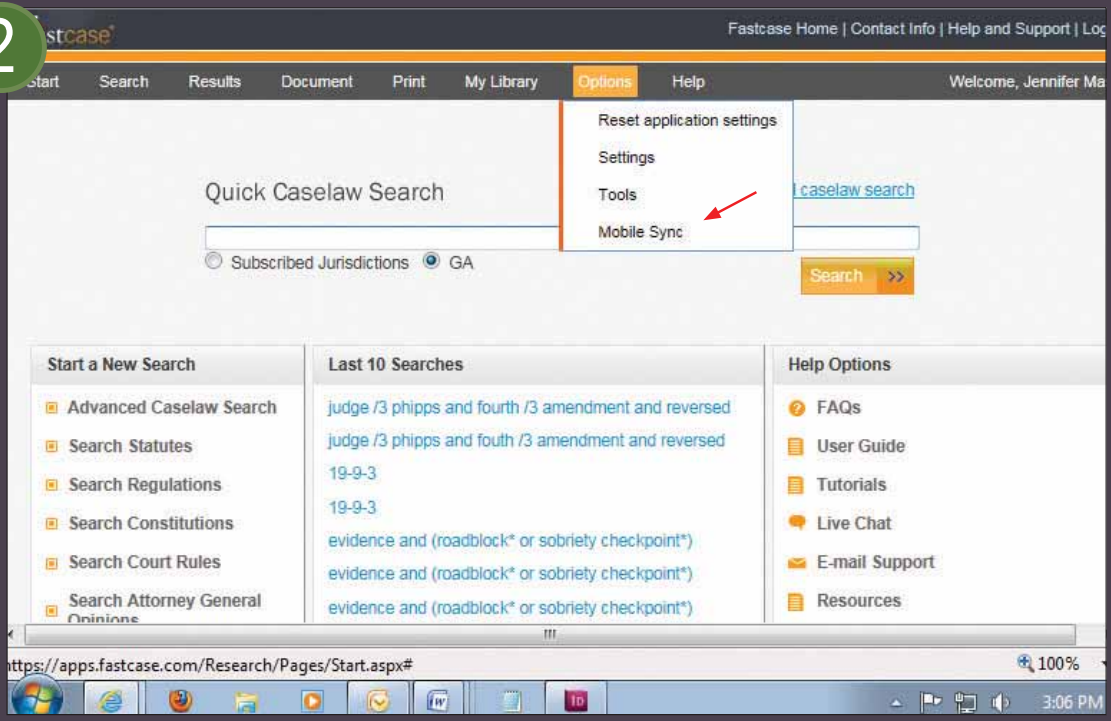

Fastcase training classes are offered four times a month at the State Bar of Georgia in Atlanta. Training is available at other locations and in various formats and will be listed at www.gabar.org under the “Bar News & Events” section. Please call 404-526-8618 to request onsite classes for local and specialty bar associations.

From Chambers: Legal Writing for Trial Courts

by Hon. Samuel D. Ozburn and Amanda Lewis

Very few hard and fast rules exist about drafting pleadings, briefs and orders for the court. Perhaps the most commonly known rule is that pleadings should contain "short and plain" language.[1] A complaint must give notice to the opposing party (and likewise, to the court) as to what is being sought, according to the Georgia Civil Practice Act.[2] In addition, the Uniform Rules for the various courts in Georgia give some guidance as to what forms should be submitted in different types of cases and what specific motions should contain. Familiarity with these rules is important because they regulate the standards and time frames in which to file motions, affidavits, pretrial orders and other documents.[3] However, neither the statutes nor the rules give substantive guidance as to what judges really want.

So what do judges really want? Disclaimer: There is no uniform way to answer this question. Judges, like all human beings, have their preferences, and no two judges are the same. Nevertheless, here are some practical considerations.

Judges are in the Business of Judging.

This is perhaps one of the most obvious statements in the world, and yet some attorneys (judging by the documents they submit to the court) are oblivious to the fact that judges and their staffs may form negative impressions of the attorneys based on the documents the court receives. Practicing attorneys prepare documents every day, and they submit these documents to many different courts and many different judges within those courts. Therefore, what the attorney may see as one document among many, a judge may see as the only opportunity to form an impression of the professionalism and competence of the attorney.

The best way to make a positive impression on a judge through pleadings and briefs is to do all those things that are taught in any writing class. Punctuation, grammar and spelling are all important, and pleadings come in every day that contain errors from at least one

of those categories. Proofread the pleadings, and do make an effort to spell both your client's and the judge's name correctly.

"Is this attorney being paid by the word?" Many judges ask themselves this question after reading briefs, pleadings and correspondence from attorneys. Nebulous, verbose language and lengthy sentences detract from an otherwise sound legal argument. The best way to convince a court that your argument is valid (and that you are an intelligent and competent attorney) is to write a brief that is so clear, simple and logical that any alternative reasoning or resolution seems inadequate or unreasonable.

One of the best ways to make a clear and logical argument is to follow the format given by many legal writing professors: explain the facts of your case, explain the law and apply the law to the facts. If you are addressing multiple legal issues, provide a "roadmap" explaining the order in which you will address those issues. Then take each issue in turn, and apply the facts to that issue in full before moving on to another legal issue.

State clearly the action you are requesting that the court take. The more clearly the requested action is explained, the more likely the court is to consider your request favorably. Moreover, the more complete your explanation of the relief requested and the reason for the relief, the more comfortable the judge will feel granting your request because he or she will know that a proper record has been made if the case continues on appeal.

Judges are Conscious of Being Judged.

Judges constantly have their work reviewed by other judges when cases are appealed. When submitting a proposed order for a judge to sign, be aware that the order must be in a form and of a quality to which the judge would feel comfortable attributing his or her name.

Judges will often make rulings from the bench at the end of a hearing and ask an attorney to prepare an order for the judge to sign. While many judges will accept a skeleton order either granting or denying the motion, it is important to remember that, unless the hearing was both taken down and transcribed by the court reporter, without a detailed order there will be no record for appeal of the reasons the judge decided to grant or deny the relief sought. Findings of fact and conclusions of law in an order are beneficial to both the parties and the appellate court because they eliminate any doubt as to why the lower court made the ruling it did.

How are You Being Judged?

George D. Gopen, a professor of rhetoric at Duke University, recently noted that trial lawyers arguably have the most difficult writing task because their audience is almost always hostile.[4] Judges, like opposing counsel, are critical readers and look for leaps in logic, assertions of law for which no authority is given and failure to respond to the arguments of opposing counsel. Attorneys often have one or, at most, two opportunities to make their arguments known to the court—through an oral argument and written briefs. The most brilliant oral argument will pale in comparison with a poorly written brief that is reviewed by the court several weeks later in preparing to write an order. Keeping the concerns and goals of your audience in mind while writing will offer you the greatest opportunity to prevail in your cause. GBJ

Hon. Samuel D. Ozburn is a superior court judge for the Alcovy Judicial Circuit, which is comprised of Newton and Walton counties. He graduated from the University of Georgia in 1973 and Walter F. George School of Law, Mercer University, in 1976, where he was administrative editor of *Mercer Law Review*. He practiced law in Covington, Ga., from 1976 until 1995 when he was appointed to the bench by Gov. Zell Miller. He received the Justice Robert Benham Award for Community Service from the State Bar of Georgia in 2011 in recognition of his judicial outreach programs and service to the community.

Amanda Lewis is law clerk to Hon. Samuel D. Ozburn. She graduated from Kenyon College with high honors in political science in 2007 and from Walter F. George School of Law, Mercer University, in 2010, where she was a member of the Moot Court Board. In addition to fulfilling her law clerk duties and avidly editing any writing that crosses her desk, she coaches a high school mock trial team, organizes tours of the courthouse and edits and updates the new Alcovy Judicial Circuit website.

Endnotes

1. O.C.G.A. § 9-11-8(a)(2)(A); Fed. R. Civ. P. 8.
2. O.C.G.A. §§ 9-11-8(a)(2)(A), (b).
3. Unif. Sup. Ct. R. 6, 6.1, 6.5, 7, 7.1, 25, 31.
4. George D. Gopen, A New Approach to Legal Writing, Litigation 21, at 22 (ABA Summer 2011), at 21, 22 (ABA), available at http://www.americanbar.org/publications/litigation_journal/2010_11/summer.html.

Correction

David Hricik should have been listed as the co-author for the February 2012, Vol. 17, Issue 5, installment of Writing Matters. We apologize for the omission.

2012 Benham Award Recipients

by Avarita L. Hanson

More than 300 well-wishers were welcomed to the Bar Center on Feb. 28 as they came to show their support for the 10 recipients of the Justice Robert Benham Awards for Community Service. For the 13th year, the State Bar of Georgia and the Chief Justice's Commission on Professionalism (the Commission) collaborated on honoring the nine lawyers and one judge who were selected to receive the prestigious community service awards at a special ceremony emceed by Avarita L. Hanson, executive director of the Commission.

State Bar President Ken Shigley welcomed honorees, friends, family members and colleagues. Chief Justice Carol W. Hunstein inspired the audience with her remarks on the importance of public service to our profession and the community. WXIA-TV Business Editor and Help Desk Manager William "Bill" Liss introduced the awards' namesake, former Chief Justice Robert Benham, who shared his vision that lawyers, as the healers of society, help to shape the public's view of the legal profession.

John F. Sweet, Clements & Sweet, LLP, Atlanta, was the recipient of the Lifetime Achievement Award, the highest recognition given for community service, in recognition of his more than 38 years as a lawyer who has demonstrated an extraordinarily long and distinguished commitment to volunteer participation in the community. Sweet served on the Atlanta City Council and as board chair of the Atlanta Housing Authority, Metro Fair Housing, Georgia League of Conservation Voters and GreenLaw. He also served on the City of Atlanta Citizens Review Board, Georgia for Clean Energy and Georgians for Smart Energy and EarthShare executive committee and founded the Atlanta Youth Soccer League and Georgia Legal Foundation. Other organizations benefitting from his service leadership include: Atlanta Recovery Center, Taxicab Recodification Commission, Help House, Inc., North Central Georgia Health Services Agency, Sevananda Natural Food Cooperative, Georgia ACLU, Community Friendship, Inc., US-China Peoples Friendship Association and Dad's Garage Theatre Company.

Photos by Don Morgan Photography & Video

2012 Community Service Award recipient William B. Hill Jr. with Chief Justice Carol W. Hunstein.

Wanda Andrews, senior staff attorney with Georgia Legal Services Program's Savannah office, enjoys the strong and unanimous support for her commu-

nity work from four bar organizations—the Savannah Bar, Georgia Association of Black Women Attorneys, Georgia Association for Women Lawyers and Port City Bar. Widely known and respected for her career work—advocating for women and children—her community work informs, supports and compliments her professional work. She has served on the Savannah-Chatham County Family Violence Council, Ogeechee Judicial Circuit Domestic Violence Task Force, City of Savannah Public Safety Task Force, and as president of the Savannah Area Family Emergency Shelter Board and Hostess City Business and Professional Women's Organization. Andrews consistently demonstrates her commitment to protect women, children and others in her community from the prison of domestic violence and to strengthen families and the community.

Former superior and state court judge **William B. "Bill" Hill Jr.**, partner, Ashe, Rafuse & Hill, LLP, Atlanta, is committed to securing access to justice through his work with Atlanta Legal Aid Society Inc., and supporting his alma mater Washington & Lee through many leadership roles. He chaired Atlanta Legal Aid's 2011 annual campaign and also serves in that capacity for the 2012 campaign. He is currently a member of the board of directors of The Law Pipeline Foundation that supports high school students at South Atlanta School of Law and Justice and serves on the board of the Atlanta History Center. He served on the governor's Judicial Nominating Committee, State Commission on Domestic Violence and was a founding member of the board of the Georgia Drug Abuse Resistance Program.

Victor Y. Johnson, member/manager, Graham Law Firm, LLC, Danielsville, is active in many community efforts to support the environment, social services and civic associations. He co-chairs the board of the Legal Environmental Assistance Foundation and has served on other boards including the Broad River Watershed Association, Georgia River Network, Oconee River Resource Conservation and Development, GeoJourney, Inc., Friends of Watson Mill Bridge State Park, Chapter Friends Group and Madison County Parks Committee. He has also served as chair and vice chair of the Friends of Madison County Library and Madison County Library Board. Johnson's patience, caring, humor and civic spirit, as well as the expertise he shares on a daily basis, continue to uplift the people in the rural area in which he works and lives.

Ruth A. Knox became president of Macon's Wesleyan College, her alma mater, in 2003, after serving as president of its Alumnae Association and chairing its board of trustees. She leads many nonprofit boards including the Georgia Women of Achievement and Georgia Humanities Council, and serves on the boards of the Community Foundation of Central Georgia, Inc., Georgia

(Front row, left to right) Honorees, special guests and emcees: Avarita L. Hanson, Justice Robert Benham, Chief Justice Carol W. Hunstein, State Bar President Ken Shigley, William J. "Bill" Liss (WXIA-TV). *(Back row, left to right)* William L. Lundy Jr., Hon. Chung Hun Lee, Ruth A. Knox, Michael S. Meyer von Bremen, Victor Y. Johnson, Noni Ellison Southall, Michael W. Tyler, John F. Sweet, William B. Hill Jr. and Wanda Andrews.

United Methodist Foundation, University Senate of the United Methodist Church, Central Georgia Health System, Tubman African American Museum, Career Women's Network, Public Leadership Education Network, Cherry Blossom Festival, Macon Rotary Club and Education First Committee. She is past board chair of the Girl Scouts of Historic Georgia and has served in leadership capacities with the Georgia Foundation for Independent Colleges, Inc., United Way of Central Georgia, Macon Symphony Orchestra, Jerusalem House, Inc., Atlanta Preservation Center and the Athens YWCO Camp for Girls.

Hon. Chung Hun Lee serves as associate judge of the City Court of Duluth while maintaining his practice with the Law Office of Lee & Associates, PC. The first Asian-American judge in Gwinnett County, Lee served on the boards of many organizations including the Korean American Lawyers Association of Georgia, Korean American Tennis Association, Korean American Softball Association, Korean American Golf Association, First Presbyterian Korean American School, American Cancer Society for Gwinnett County, Gwinnett Housing Authority and Gwinnett Hospital/Health System, United Way and Community Foundation for Northeast Georgia. A religious leader, he has done missionary work abroad through Peachtree Corners Baptist Church of Norcross and First Korean Presbyterian Church of Tucker. Lee has helped organizations, locally and internationally, the poor and the needy and is a faithful servant who is well-known and respected for his integrity, concern and cordiality.

William L. Lundy Jr., partner, Parker and Lundy, Cedartown, is a founding member of the Cedartown Theatrical Performers Company, LLC, engages area youths each year in a production and has served on the Cedartown Civic Arts Commission. He founded the Lundy Christian Academy, is an officer with the Cedartown Jaycees, worked to create the Alabama Kids Chance Program and started a Safe and Defensive Driving School for teenagers. Lundy is the local radio voice of the Cedartown High School Bulldogs football team and hosts the "Birthday & Anniversary Club" through which he discusses legal topics on the radio.

Former state senator **Michael S. Meyer von Bremen**, partner, Hall, Booth, Smith & Slover, P.C., Albany, serves the people of Georgia and his community through the Albany Helpline, Inc., American Cancer Society, United Way of Southwest Georgia, Dougherty County Tripartite Committee, Magnolia Manor, Food Bank of Southwest Georgia and the City of Albany Board of Ethics. He chaired the trustee and administrative boards of Porterfield United Methodist Church and sings in the Chancel Choir. During his Senate service, he chaired the Ethics Committee, Special Judiciary Committee and served on the Appropriations, Ethics, Judiciary and Natural Resources Committees, along with the Supreme Court of Georgia's Commission on Indigent Defense, National Conference of State Legislatures' Environment and Natural Resources Committee and Congressional Youth Leadership Council.

Noni Ellison Southall, senior counsel, Turner Broadcasting System, Atlanta, leads and serves on the boards of major Atlanta community organizations and nonprofits. She chairs the board of the Urban League of Greater Atlanta, serves on the Atlanta Speech School Board of Advisors and Guild of Directors, and as vice chair of the United Negro College Fund Annual Mayor's Masked

Ball. A leader on diversity in the law, she serves on the board of Corporate Counsel Women of Color and is a founding member of the Turner Legal Department Diversity Committee. Committed to educational opportunity, she is an active participant in the State Bar of Georgia Diversity Program's High School Pipeline Program, ACC Street Law Pipeline Program and Gate City Bar's Justice Benham Law Camp.

Michael W. Tyler, partner, Kilpatrick Townsend & Stockton LLP, Atlanta, is a corporate litigator who worked to create the Booker T. Washington High School Freedom Writers Program that mentored 78 students through four years of high school. He is a trustee of Providence Missionary Baptist Church, vice chair of Piedmont Park Conservancy, board president of Providence Manor Development Corporation and former vice chair of the Lawyers Committee for Civil Rights Under the Law. He chaired the Metropolitan Atlanta Rapid Transit Authority Board and served on the board of the Georgia Regional Transportation Authority, Atlanta Urban League, Atlanta Zoning Review, State Bar of Georgia Disciplinary Board, Economic Opportunity Atlanta, National Black Arts Festival and The Children's School.

The evening concluded with a reception during which honorees and their guests enjoyed refreshments and the sounds of jazz musician Eric Thomas. Special thanks to the members of the selection committee: Janet G. Watts, chair, Lisa E. Chang, Mawuli M. Malcolm Davis, Elizabeth L. Fite, Laverne Lewis Gaskins, Michael D. Hobbs Jr., W. Seaborn Jones, William J. Liss, J. Henry Walker IV and Brenda C. Youmas. Thanks also to the volunteers: Angela M. Hinton, Aaron Jones, Brittany Jones, Elisabeth M. Koehnemann, Ashley M. Masset, Mary K. McAfee, Paula M. Mickens, Ethan Pham, Jonathan R. Poole, Sherry Ellen Streicker, Stacey Suber-Drake, Deepa M. Subramanian, Crystal Tran and Kristi Winstead Wilson. Much gratitude to the Commission staff, Terie Latala and Nneka Harris-Daniel, for making this event such a success.

The 2012 honorees exemplify the very best of the legal profession through their good deeds. We know that many more colleagues are working to make their corners of the world better each day. We know lawyers are often called upon and as often answer the call to serve on many boards and with organizations in a wide variety of fields including social service, public service, education, faith-based efforts, sports, recreation, the arts, the environment and youth mentoring. We just don't know who all these lawyers are. Each year as the Chief Justice's Commission on Professionalism and the State Bar of Georgia solicit nominations for the Justice Robert Benham Awards for Community Service, we cast a wide net, seeking nominations not only from members of the bar but from the larger community throughout Georgia. We are constantly looking for the deserving judges and lawyers who combine a professional career with outstanding service and dedication to their communities through voluntary participation in community organizations, government-sponsored activities and humanitarian work outside their professional practice or judicial duties. Please help bring to our attention those judges and lawyers who should be honored. Look for the call for nominations in the fall of 2012 on the State Bar of Georgia website, www.gabar.org, or in the *Georgia Bar Journal*. GBJ

Avarita L. Hanson is the executive director of the Chief Justice's Commission on Professionalism and can be reached at ahanson@cjcpga.org.

The Lawyers Foundation of Georgia Inc. sponsors activities to promote charitable, scientific and educational purposes for the public, law students and lawyers. Memorial contributions may be sent to the Lawyers Foundation of Georgia Inc., 104 Marietta St. NW, Suite 630, Atlanta, GA 30303, stating in whose memory they are made. The Foundation will notify the family of the deceased of the gift and the name of the donor. Contributions are tax deductible.

William Earl Brannon
Rome, Ga.
Atlanta Law School (1979)
Admitted 1980
Died March 2011

Lawrence G. Dillon
Savannah, Ga.
Atlanta's John Marshall Law School (1968)
Admitted 1973
Died February 2012

John Tye Ferguson
Atlanta, Ga.
Harvard Law School (1954)
Admitted 1953
Died February 2012

Lamar Gibson
Waycross, Ga.
University of Georgia School of Law (1949)
Admitted 1949
Died November 2011

James O. Hale
Hilton Head Island, S.C.
University of South Carolina School of Law (1985)
Admitted 1986
Died February 2012

Milton Harrison
Eastman, Ga.
Mercer University Walter F. George School of Law (1960)
Admitted 1960
Died July 2011

James Lane Johnston Sr.
Statesboro, Ga.
University of Georgia School of Law (1954)
Admitted 1954
Died January 2012

William L. Kirby II
Columbus, Ga.
Mercer University Walter F. George School of Law (1974)
Admitted 1974
Died March 2012

Charles P. Phillips III
Atlanta, Ga.
Woodrow Wilson College of Law (1979)
Admitted 1979
Died November 2011

John Scott Pickerel Jr.
Roswell, Ga.
Memphis State University Cecil C. Humphreys School of Law (1971)
Admitted 1987
Died January 2012

Pedro Quezada
Columbus, Ga.
Woodrow Wilson College of Law (1982)
Admitted 1984
Died February 2012

Albert P. Reichert
Macon, Ga.
Mercer University Walter F. George School of Law (1948)
Admitted 1947
Died February 2012

Anat L. Shmueli
Baltimore, Md.
Atlanta's John Marshall Law School (1978)
Admitted 1979
Died March 2011

Henry R. Smith
Augusta, Ga.
Mercer University Walter F. George School of Law (1951)
Admitted 1951
Died July 2011

Dale P. Smith
Toccoa, Ga.
University of Georgia School of Law (1985)
Admitted 1985
Died March 2012

Clyde M. Thompson Jr.
Savannah, Ga.
University of Louisville Louis D. Brandeis School of Law (1965)
Admitted 1974
Died February 2012

Paul S. Weiner
Jonesboro, Ga.
Atlanta's John Marshall Law School (1968)
Admitted 1968
Died February 2012

J. Douglas Willix
Atlanta, Ga.
South Texas College of Law (1972)
Admitted 1973
Died January 2012

need help?

Lawyer Assistance Program Confidential Hotline

800-327-9631

Lawyers Recovery Meetings: The Lawyer Assistance Program holds meetings every Tuesday night from 7 p.m. to 9 p.m. For further information about the Lawyers Recovery Meeting please call the Confidential Hotline at 800-327-9631.

The Lawyer Assistance Program (LAP) provides free, confidential assistance to Bar members whose personal problems may be interfering with their ability to practice law. Such problems include stress, chemical dependency, family problems, and mental or emotional impairment. Through the LAP's 24-hour, 7-day-a-week confidential hotline number, Bar members are offered up to three clinical assessment and support sessions, per year, with a counselor during a 12-month period. All professionals are certified and licensed mental health providers and are able to respond to a wide range of issues. Clinical assessment and support sessions include the following:

- Thorough in-person interview with the attorney, family member(s) or other qualified person;
- Complete assessment of problems areas;
- Collection of supporting information from family members, friends and the LAP Committee, when necessary; and
- Verbal and written recommendations regarding counseling/treatment to the person receiving treatment.

2011-12 Lawyer Assistance Committee

Chairperson
Robert T. Thompson Jr., Atlanta

Vice Chairperson
Charles B. Pekor Jr., Atlanta

Members
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**denotes non-attorney*

April-May

APR 4
ICLE
Hot Topics in Public Interest Law
Atlanta, Ga.
See www.iclega.org for location
3.5 CLE hours

APR 5
ICLE
Professionalism and Diversity
Atlanta, Ga.
See www.iclega.org for location
6 CLE hours

APR 12
ICLE
Meet the Judges
Atlanta, Ga.
See www.iclega.org for location
3 CLE hours

APR 13
ICLE
Child Welfare Attorney Training
Atlanta, Ga.
See www.iclega.org for location
6 CLE hours

APR 16
ICLE
Annual Sports Law Seminar
Atlanta, Ga.
See www.iclega.org for location
3 CLE hours

APR 19
ICLE
Staying Connected—A Professional Development Seminar
Atlanta, Ga.
See www.iclega.org for location
6 CLE hours

APR 25
ICLE
International Business and Crime
Atlanta, Ga.
See www.iclega.org for location
6 CLE hours

APR 26
ICLE
Aviation Law
Atlanta, Ga.
See www.iclega.org for location
6 CLE hours

APR 27
ICLE
Stewards of Children Training
Atlanta, Ga.
See www.iclega.org for location
3 CLE hours

APR 27
ICLE
Law Practice Management 2012
Atlanta, Ga.
See www.iclega.org for location
6 CLE hours

MAY 4
ICLE
Dispute Resolution for Trial and Non-Trial Lawyers
Savannah, Ga.
See www.iclega.org for location
6 CLE hours

MAY 10-12
ICLE
34th Annual Real Property Law Institute
Amelia Island, Fla.
See www.iclega.org for location
6 CLE hours

MAY 24-26
ICLE
30th Annual Family Law Institute
Amelia Island, Fla.
See www.iclega.org for location
12 CLE hours

Note: *To verify a course that you do not see listed, please call the CLE Department at 404-527-8710. Also, ICLE seminars only list total CLE hours. For a breakdown, call 800-422-0893.*

We wish to express our sincerest appreciation to those who volunteered to serve as attorney coaches, regional coordinators, presiding judges and scoring evaluators during our state mock trial season.

The 2012 State Champion Team is from Henry W. Grady High School in Atlanta

The State Champion Team will represent Georgia at the National High School Mock Trial Championship in Albuquerque, N.M., May 4-5.

The 2011 Regional Champion & Wildcard Teams are:

Lowndes County HS *(Region 1 – Albany);* ***Athens Academy*** *(Region 2 – Athens);* ***Grady HS*** *(Region 3 – Atlanta);* ***Woodland HS*** *(Region 5 – Cartersville);* ***Union County HS*** *(Region 6 – Dalton);* ***Northview HS*** *(Region 7 – Decatur);* ***Jonesboro HS*** *(Region 8 – Jonesboro);* ***Wesleyan School*** *(Region 9 – Lawrenceville);* ***Middle GA Christian Homeschool Assoc.*** *(Region 10 – Macon);* ***Mt. Paran Christian School*** *(Region 11 – Marietta);* ***Eagle's Landing HS*** *(Region 12 – McDonough);* ***Christian Home Educators & Encouragement Resources*** *(Region 13 – Douglasville);* ***Pierce County HS*** *(Region 14 – Savannah);* ***Sandy Creek HS*** *(Region 15 – Covington);* ***Atlanta International School*** *(Region 16 – Atlanta);* ***North Forsyth HS*** *(Region 17 – Cumming);* ***Greenbrier HS*** *(Region 18 – Augusta);* ***Riverdale HS*** *(Southern Wildcard Team) and* ***Eastside HS*** *(Northern Wildcard Team)*

For more information about the program or to make a donation to the state champion team to support their participation at nationals, please contact the mock trial office:
404-527-8779 or toll free 800-334-6865 ext. 779; Email: mocktrial@gabar.org

GEORGIA MOCK TRIAL COMPETITION

The State Bar of Georgia has three offices to serve you.

HEADQUARTERS
104 Marietta St. NW
Suite 100
Atlanta, GA 30303
404-527-8700
800-334-6865
Fax 404-527-8717

SOUTH GEORGIA OFFICE
244 E. 2nd St.
Tifton, GA 31794
229-387-0446
800-330-0446
Fax 229-382-7435

COASTAL GEORGIA OFFICE
18 E. Bay St.
Savannah, GA 31401-1225
912-239-9910, 877-239-9910, Fax 912-239-9970

Notice of Public Hearing

Pursuant to Bar Rule 14-9.1, the Standing Committee on the Unlicensed Practice of Law has received a request for an advisory opinion as to whether certain activity constitutes the unlicensed practice of law. The particular situation presented is as follows:

A consulting forester represents a landowner in the sale of his timber. The consulting forester, in the past, had an attorney draft a timber contract for the sale of timber by a different landowner. The consulting forester wants to use the same timber contract for closing the present timber sale, and not have an attorney involved in the sale and closing of the timber sale. He proposes to merely change name of landowner, name of timber company purchaser, sales price, timber being purchased and land description where the timber is located. All of this to be done so that the sale of timber can be accomplished without timber company employing an attorney to close the timber sale. Is the consulting forester engaging in the unauthorized practice of law?

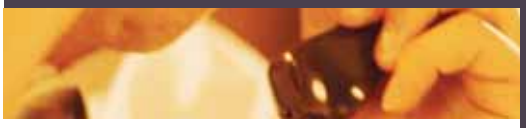
In accordance with Bar Rule 14-9.1(f), notice is hereby given that a public hearing concerning this matter will be held at 12:30 p.m. on Friday, June 1, 2012, at the Savannah International Trade & Convention Center, One International Drive, Savannah, GA. Prior to the hearing, individuals are invited to submit any written comments regarding the issue to UPL Advisory Opinions, State Bar of Georgia, 104 Marietta Street NW, Suite 100, Atlanta, GA 30303.

Notice of and Opportunity for Comment on Amendments to the Rules of the U.S. Court of Appeals for the 11th Circuit

Pursuant to 28 U.S.C. ‘ 2071(b), notice and opportunity for comment is hereby given of proposed amendments to the Rules of the U.S. Court of Appeals for the 11th Circuit.

A copy of the proposed amendments may be obtained on and after March 19, 2012, from the court’s website at www.ca11.uscourts.gov. A copy may also be obtained without charge from the Office of the Clerk, U.S. Court of Appeals for the 11th Circuit, 56 Forsyth St. NW, Atlanta, Georgia 30303 [phone: 404-335-6100]. Comments on the proposed amendments may be submitted in writing to the Clerk at the above address by April 19, 2012.

For the most current information on rules and policies, visit the Bar’s website at www.gabar.org.



Books/Office Furniture & Equipment

LegalEats, A Lawyer's Lite Cookbook is a fun legal-themed cookbook, with easy to prepare gourmet recipes, targeted to the legal community. A "must" for any lawyer with a demanding palate, "LegalEats" makes a great gift and is a welcome kitchen shelf addition. Available at leading online bookstores such as Barnes & Noble and Amazon.com.

Property/Rentals/Office Space

SANDY SPRINGS COMMERCE BUILDING, 333 Sandy Springs Cir. NE, Atlanta, GA 30328. Full service building, high-quality tenant profile, great location, well-maintained. (1) Office suites available starting at $595/month; and (2) Law office space sharing available in building currently used by two attorneys. Cost negotiable. Call Ron Winston - 404-256-3871

Practice Assistance

Appeals, Briefs–Motions, Appellate & Trial Courts, State, Civil & Criminal Cases, Post Sentence Remedies. Georgia brief writer and law researcher. Over 35 years experience. Reasonable rates. First consultation free. Curtis R. Richardson, attorney; 404-377-7760 or 404-643-4554; Fax 404-377-7220. E-mail to curtis@crichlaw.net.

Handwriting Expert/Forensic Document Examiner. Certified by the American Board of Forensic Document Examiners. Former Chief, Questioned Documents, U.S. Army Crime Laboratory. Member, American Society of Questioned Document Examiners and American Academy of Forensic Sciences. Farrell Shiver, Shiver & Nelson Document Investigation Laboratory, 1903 Lilac Ridge Drive, Woodstock, GA 30189, 770-517-6008.

Medical Malpractice. We'll send you to an expert you're happy with, or we'll send your money back. We have thousands of testimony experienced doctors, all board certified, all in active practice. Fast, easy, flat-rate referrals. Also, case reviews by veteran MD specialists for a low flat fee. Med-mal EXPERTS. www.medmalExperts.com 888-521-3601.

Experienced Disability Attorneys handling individual disability policy claims for doctors, dentists, chiropractors, attorneys and business owners. We also handle group policies governed by ERISA. Services include

claim filings, ERISA appeals, monthly claim management and lump sum buyout/settlement negotiations. Free phone consultation and case review. We can be reached at 877-631-0330.

STATE APPELLATE SPECIALIST: Providing consultation services in complex state appeals. I also present oral arguments before state appellate and trial courts, write and edit briefs, and process appeal applications, responses, and motions. Over 30 years experience as a staff attorney in both Supreme Court of Georgia and Court of Appeals. Over two years experience as an appellate litigator. 404-239-9441 (phone and fax); 404-791-5548 (mobile). Reasonable rates. References and CV provided upon request. Simon Weinstein.

CPA & Forensic Accountant for commercial insurance claims, fraud examination, shareholder disputes, mergers & acquisitions, bankruptcy & turnaround, and analysis of accounting and financial information. I consult with attorneys related to discovery and depositions regarding financial information. Greg DeFoor, CPA, CFE—Marietta, GA—678-644-5983—gdefoor@defoorservices.com.

Position Wanted

Personal Injury Attorney—Well-established, successful Atlanta plaintiff's firm seeking personal injury attorney. Excellent financial opportunity. Collegial, professional environment. Great support. Send resume to: GBJ at spshns@me.com.

Notice

Legal Services Corporation Notice of Availability of Competitive Grant Funds for Calendar Year 2013 - The Legal Services Corporation (LSC) announces the availability of competitive grant funds to provide civil legal services to eligible clients during calendar year 2013. A Request for Proposals (RFP) and other information pertaining to the LSC grants competition will be available from www.grants.lsc.gov during the week of April 9, 2012. In accordance with LSC's multiyear funding policy, grants are available for only specified service areas. To review the service areas for which competitive grants are available, by state, go to www.grants.lsc.gov/about-grants/where-we-fund and click on the name of the state. A full list of all service areas in competition will also be posted on that page. Applicants must file a Notice of Intent to Compete (NIC) through the online application system in order to participate in the competitive grants process. Information about LSC Grants funding, the application process, eligibility to apply for a grant and how to file an NIC is available at www.grants.lsc.gov/about-grants. Complete instructions will be available in the Request for Proposals Narrative Instruction. Please refer to www.grants.lsc.gov for filing dates and submission requirements. Please email inquiries pertaining to the LSC competitive grants process to competition@lsc.gov.

Advertisers Index

State Bar of Georgia 2012 Annual Meeting

Westin Savannah Harbor Golf Resort & Spa
Savannah, Ga. | May 31 - June 3

Early-bird Cut-off Date: May 4
Hotel Cut-off Date: May 4
Final Cut-off Date: May 18

Opening Night

Join fellow Bar members, their families and guests for an evening of music and entertainment. Put on your favorite casual attire and head for the lawn (weather permitting). Food and drinks will be provided throughout the evening. Games and other activities will be available for the young and the young-at-heart.

CLE

A flat registration fee of $100 (early-bird) / $120 (standard) will allow you to attend as many CLE sessions as you like. Professionalism credit is self reporting using the optional self-report form. Please be sure to check with CLE moderator at the door to validate your attendance.

Presidential Inaugural Dinner

The evening will begin with a reception honoring the Supreme Court of Georgia Justices, followed by dinner and the Awards and Inauguration Ceremony where Robin Frazer Clark will be sworn in as the 2012-13 State Bar president. Following the inauguration and the awarding of the Distinguished Service and Employee of the Year awards, the dance floor will open and attendees and their guests will have the opportunity to show off their moves to the high-energy sounds of Flavor Big Band.

Sections & Alumni Events

Catch up with section members and fellow alumni at breakfasts, lunches and receptions.

Social Events

Enjoy the Opening Night Festival, the Supreme Court Reception and Presidential Inaugural Dinner, along with numerous recreational and sporting events.

Family Activities

Golf, tennis, shopping, sightseeing and other activities are offered by the resort and are available at your convenience.

Children's & Teen Programs

Programs designed specifically to entertain children and teens will be available.

Exhibits

Please don't forget to visit the exhibit booths at the Annual Meeting. Get your exhibitor card stamped and turned in to be entered into a drawing to win a great prize.

Register Online
www.gabar.org

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