



Georgia Bar Journal

February 2013 ■ Volume 18 ■ Number 5



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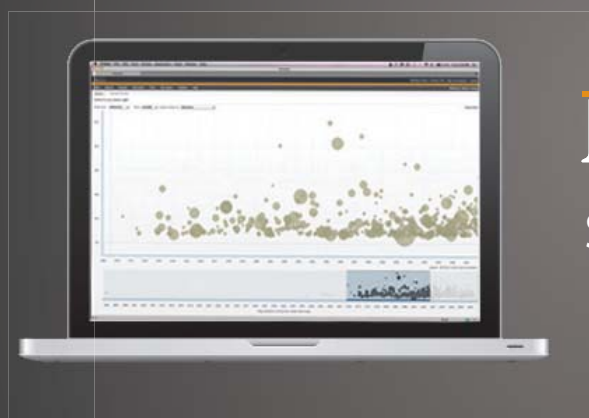


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The *Georgia Bar Journal* welcomes the submission of news about local and circuit bar association happenings, Bar members, law firms and topics of interest to attorneys in Georgia. Please send news releases and other information to: Sarah I. Coole, Director of Communications, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303; phone: 404-527-8791; sarahc@gabar.org.

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10



Georgia Bar Journal

February 2013 ■ Volume 18 ■ Number 5

GBJ Legal

10

The Criminalization of Georgia's Youth
by J. Tom Morgan

GBJ Features

18

Working with an Interpreter:
Providing Effective
Communication and Ensuring
Limited English Proficient Clients
Have Meaningful Access
to Justice
by Jana J. Edmondson

24

Diversity Program Celebrates
its 25th Anniversary
by Marian Cover Dockery

28

Cubbedge Snow Jr. and
J. Douglas Stewart Win
James M. Collier Award
by Len Horton

Departments

4 From the President

8 From the YLD President

30 Bench & Bar

36 Office of the General
Counsel

38 Lawyer Discipline

40 Law Practice Management

42 South Georgia Office

44 Pro Bono

48 Section News

52 Member Benefits

54 Writing Matters

56 Professionalism Page

60 In Memoriam

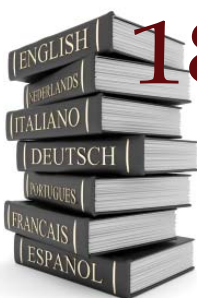
64 Book Review

66 CLE Calendar

70 Notice

71 Classified Resources

72 Advertisers Index



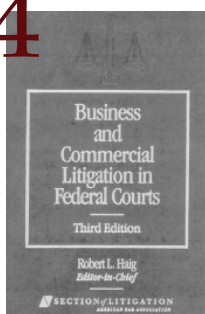
18

36



44

64



Cover Photo: State Bar President Robin Frazer Clark pictured
with lawyer-legislators in the Georgia General Assembly

(Bottom) Speaker of the House Rep. David Ralston. (Left to right, first row) Rep. Regina Quick; Rep. LaDawn Jones; Sen. Jesse Stone, Chairman, Judiciary Non-Civil; Rep. Rich Golick, Chairman, Judiciary Non-Civil; Rep. Wendell Willard, Chairman, Judiciary; Rep. Edward Lindsey, Majority Whip. (Second row) Sen. Ronald B. Ramsey Sr., Chairman, Urban Affairs; Rep. Johnnie Caldwell Jr.; Rep. Stacey Evans; Rep. Mike Jacobs, Chairman, MARTOC; Rep. Mary Margaret Oliver; Robin Frazer Clark, President, State Bar of Georgia. (Third row) Rep. Scott Holcomb; Rep. Pam Stephenson; Rep. Ronnie Mabry; Sen. Bill Cowser, Chairman, Higher Education; Rep. Dustin Hightower; Rep. Stephen Allison; Rep. Dar'shun Kendrick. (Fourth row) Rep. Matt Ramsey; Sen. Lindsey Tippins, Chairman, Education and Youth; Rep. Alex Atwood; Sen. Judson Hill, Chairman, Finance; Sen. Curt Thompson, Chairman, Special Judiciary. (Fifth row) Rep. Barry Fleming; Sen. Charlie Bethel, Governor's Floor Leader; Sen. Joshua McKoon, Chairman, Judiciary; Rep. Tom Weldon, Chairman, Juvenile Justice. (Sixth row) Sen. William T. Ligon Jr., Chairman, State and Local Governmental Operations; Rep. B.J. Pak; Rep. Stacey Abrams, Minority Leader; Rep. Larry O'Neal, Majority Leader; Rep. Brian Strickland. (Seventh row) Rep. Jay Powell, Chairman, Appropriations Subcommittee on Public Safety; Sen. John Crosby, Chairman, Banking and Financial Institutions; Sen. Jason Carter; Rep. Andy Welch. **Not pictured:** Rep. Christian Coomer.

by Robin Frazer Clark



Photo by Zach Porter Photography

Decisions Are Made by Those Who Show Up

You have no doubt heard that “half of life is showing up.” It’s a quote that is most often attributed

to Woody Allen, who, according to some reports, might have actually said, “Eighty percent of success is showing up.” Regardless of the percentage of importance, the point is well taken.

When I am speaking to groups on behalf of the State Bar of Georgia, I will often take it a step further, because as the theory applies to people in positions of leadership or influence we need to remember this: *Decisions are made by those who show up.*

The 38 lawyers who serve among the 236 members of the Georgia General Assembly understand what that

means (see accompanying list on page 7). The issues and challenges facing our state were important enough to these dedicated men and women for them to make the professional and personal sacrifices necessary to

serving in public office. They show up, and the rest of us should be glad that they do.

Seeking public office these days takes a tremendous amount of money, effort, courage, humility and—most of all—time. If you happen to get elected to the state House of Representatives or the Senate, then you know that for the first quarter of each calendar year, your law practice will have to operate pretty much without you as the 40-day legislative session stretches from early January through late March or sometimes into April.

During this time, you’ll get to know Georgia’s highway system very well and, if you live outside metro-Atlanta, spend many a night away from home. You’ll no doubt miss some of your children’s ball games or dance recitals while doing the people’s business at the State Capitol.

“All State Bar members should appreciate the sacrifices our 38 colleagues make every year to represent the interests not only of their constituents from their districts but also those of the rule of law and the constitutional rights of all citizens.”

The rest of the year, you're expected to attend committee meetings and community events, make speeches and handle all sorts of requests from constituents. And don't forget, that next election is always less than two years away.

For all your time and efforts, you'll receive an annual salary of \$17,342—perhaps a shade less than your normal hourly rate would bring in.

All State Bar members should appreciate the sacrifices our 38 colleagues make every year to represent the interests not only of their constituents from their districts but also those of the rule of law and the constitutional rights of all citizens. We are also fortunate at this time to have a lawyer, Gov. Nathan Deal, leading the Executive Branch, and a lawyer, Rep. David Ralston (R-Blue Ridge), serving as Speaker of the House. Our legislative process is better because they are there.

Why is it vital for lawyers to serve in the Georgia General Assembly? The general reason is obvious: to effectively write the law, it helps to know something about the law. But it goes much deeper than that,

which was a main topic of discussion at the State Bar's Inaugural Legislative Forum during the Midyear Meeting in January.

The forum, moderated by former Rep. Nick Moraitakis, who chairs the Bar's Advisory Committee on Legislation, was a tremendous success. We had a full house, and the panelists—Rep. Stacey Abrams (D-Atlanta), Sen. Jason Carter (D-Decatur), Sen. Bill Cowser (R-Athens), Rep. Rich Golick (R-Smyrna), Rep. Edward Lindsey (R-Atlanta), Sen. Joshua McKoon (R-Columbus), Sen. Jesse Stone (R-Waynesboro) and Rep. Wendell Willard (R-Sandy Springs) each provided keen insights on the major issues of 2013 and the important role that lawyers fulfill in the drafting and perfecting of all types of legislation.

Sen. Cowser noted the public's misperception that the Legislature is dominated by lawyers, who actually make up less than 16 percent of the current General Assembly. "The general public assumes that about 50 percent of the legislators are attorneys. It couldn't be farther from the truth," he said. "It's a much smaller number than you can

imagine." But, he added, the influence of lawyer-legislators in the Capitol can be disproportionately greater than their actual numbers.

"Our fellow senators and representatives look to us," Sen. Cowser said. "They'll come and ask us to look at a bill for them. It gives us a little undue influence. It's a rewarding experience, and it's something our skill set as attorneys lends itself to. It's a very detail-oriented job to look at the fine print of the bills. It's sort of inherent in our nature to weigh evidence. We are used to hearing the evidence pro and con, weighing it out and making a determination or judgment. That's a necessary skill in the legislative process as we are working these bills through the system and the committee process in particular."

Noting that lawyer-legislators often have to shoot down their colleagues' ideas because of potential constitutional issues or unintended consequences, Rep. Lindsey said, "Our most important contribution sometimes is just to stand up and say 'No, you can't do that. I know what you're trying to do and want to do, and I know that emotions are hot on that particular issue. I know



State Bar President Robin Frazer Clark expresses her thanks to all of the lawyer-legislators who took time out of their busy schedules to participate in the legislative forum.



(Left to right) Sen. Jesse Stone, Rep. Stacey Abrams and Rep. Wendell Willard speak on the importance of State Bar members being available at the Capitol during the legislative session should their expertise be needed. Rep. Abrams says, "There are many committees where the presence of attorneys can illuminate issues long before legislators notice there's a problem."

Photos by Sarah I. Coole

it's going to be difficult to explain to your constituents back home, but you just can't do that.' Lawyers understand that you can't be tough on crime if you are not strong on defense. That's the best security for a free society, and it's up to lawyers to say we have to provide for that."

A number of panelists suggested that lawyer-legislators are often a moderating influence in the legislative chambers when the tension runs high on various issues because of attorneys' ability to exhibit professionalism even while waging heated battles in the courtroom. "The lawyers in the Legislature lead that collegiality, which exists 95 percent of the time," said Sen. Carter. "Five percent of the time, yes, there is partisan politics, and those are the things that get in the newspapers. You should know that lawyers down there are trying to lead the charge for working together."

The panel members also encouraged fellow Bar members to get involved, noting the time away from the office and other necessary commitments can be well worth it. "You would not realize how much good you can do," said Sen. Stone. "People come to

us for advice, and we do a lot of screening out of bad legislation and improving legislation as it works its way through the process. The session is like a sabbatical. It is a break from our practice. It expands our horizons. It forces us out of our boxes that we all seem to specialize in our areas of practice. It does refresh us, and we do look forward to coming back to our law practices."

Rep. Willard, chairman of the House Judiciary Committee, encouraged law firms to support their partners' and associates' forays into legislative service. "We need to keep emphasizing this, especially to the younger lawyers coming along. I find that from talking with people in the larger firms, there's a tendency to have their lawyers avoid getting involved in public issues because they fear having the firm take on a stigma of being pro or con, one way or the other. This is a limitation, I think, of the good talent that comes out of firms."

The bottom line for Georgia lawyers is that if you are considering a run for a state Senate or House seat, do it. If a colleague is talking about becoming a candidate, encourage it. We need more law-

yers providing influence in state government. But, of course, "showing up" in the legislative process or other avenues of public service is not limited to actual service in the General Assembly. Here are some other ways that Bar members can become involved and engaged:


- Participate in our new Grassroots Program to connect you with your local legislators at the Capitol and in your district.
- Offer your expertise as a resource to your House member or Senator, especially on issues related to your area of practice.
- Stay informed by paying close attention to the regular legislative reports from our lobbying team on the Bar's website.
- When possible, come to the Capitol during the session, attend pertinent committee meetings and meet face-to-face with your elected officials to let them know your opinion on the issues being addressed.

Rep. Abrams, the House Minority Leader, said the mere presence of Bar members at the Capitol is critical. "There are many committees

Looking for more legislative information?
Visit the State Bar's website at
www.gabar.org.



where the presence of attorneys can illuminate issues long before legislators notice there's a problem," she said. "Your daily practice involves understanding and really contemplating the effect of what we do. I think it's critical for the Bar to be much more present in the day-to-day lives of legislators. We begin with the best intentions, but somewhere along the way we get a bit confused. I think the role that the Bar can play is to help bring us back to where we began, with good intentions. Lawmaking is a difficult and often contentious and complicated process. Having Bar members' eyes and ears tuned in can be very helpful."

Between now and the end of the current legislative session, a great many decisions will be made under the Gold Dome of the Capitol that will have a significant impact on the practice of law, the justice system and the lives of all Georgians. And they will be made by the dedicated lawyers and citizens who showed up. 

Robin Frazer Clark is the president of the State Bar of Georgia and can be reached at robinclark@gatriallawyers.net.

Lawyer-Legislators in the Georgia General Assembly


House of Representatives

Rep. Stacey Abrams (D-Atlanta)
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Rep. Johnnie Caldwell Jr. (R-Thomaston)
Rep. Christian Coomer (R-Cartersville)
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Rep. Mary Margaret Oliver (D-Decatur)
Rep. B.J. Pak (R-Lilburn)
Rep. Jay Powell (R-Camilla)
Rep. Regina Quick (R-Athens)

Speaker David Ralston (R-Blue Ridge)
Rep. Matt Ramsey (R-Peachtree City)
Rep. Pam Stephenson (D-Atlanta)
Rep. Brian Strickland (R-McDonough)
Rep. Andrew J. Welch (R-McDonough)
Rep. Tom Weldon (R-Ringgold)
Rep. Wendell Willard (R-Sandy Springs)

Senate

Sen. Charlie Bethel (R-Dalton)
Sen. Jason Carter (D-Decatur)
Sen. Bill Cowser (R-Athens)
Sen. John Crosby (R-Tifton)
Sen. Judson Hill (R-Marietta)
Sen. William T. Ligon Jr. (R-Brunswick)
Sen. Joshua McKoon (R-Columbus)
Sen. Ronald B. Ramsey Sr. (D-Decatur)
Sen. Jesse Stone (R-Waynesboro)
Sen. Curt Thompson (D-Tucker)
Sen. Lindsey Tippins (R-Marietta)



Would you like
to spend a day
at the Capitol?

Contact Grassroots Coordinator Zach Johnson
at zachj@gabar.org for Lobby Day dates.



by Jon Pannell

Georgia CASA: Championing the Child's Best Interests

On Saturday, March 2, the Young Lawyers Division will hold its annual Signature Fundraiser at Atlanta's Capital City Club—Brookhaven. The proceeds raised by this year's

event will benefit the Georgia Court Appointed Special Advocates (CASA) program. Georgia CASA, Inc., is a non-profit organization that establishes and supports affiliate programs across the state to recruit, screen, train and supervise adult volunteers to advocate for Georgia's children who have been placed by the courts into the foster care system due to abuse and/or neglect.

The CASA concept originated more than 35 years ago by Superior Court Judge David Soukup of Seattle,

Wash., when he took notice that the life-changing decisions about the safety, permanency and well-being of children were too often made without sufficient information having been presented in the courtroom on behalf of the child. Soukup raised the necessary funds to recruit and train community volunteers to speak on children's interests in court. Based on the judge's vision

for addressing this need, a CASA pilot program was developed in 1977. Five years later, the National CASA Association was established to direct CASA's emerging presence across the country.

The predecessor to Georgia CASA, Inc., known as Kids of Georgia Need Volunteers, Inc., was formed in 1988. The next year, pilot CASA programs and the first CASA volunteers began advocating in Hall and Newton counties. The nonprofit's name

was changed to Georgia CASA, Inc., in 1992. Federal law requires that a guardian ad litem (GAL), a person appointed by the court to advocate for the best interests of a child involved in a juvenile court deprivation proceeding, or a CASA, or both, be appointed in all cases of child abuse or neglect. Georgia law provides for GALs and/or CASAs for children in similar proceedings and specifies the responsibilities and limitations of CASA volunteers.

**"Georgia CASA strives to
provide its affiliate programs
with the services they need
so all children can receive
the highest quality of
advocacy possible from their
CASA volunteers."**

According to Georgia CASA, the program is committed to maintaining a network of well-administered, affiliate programs across the state that operate independently with mutual accountability, resulting in the highest level of advocacy for all of Georgia's deprived children. Presently, 47 affiliate CASA programs exist, serving 140 of Georgia's 159 counties and 47 of 49 judicial circuits. Georgia CASA strives to provide its affiliate programs with the services they need so all children can receive the highest quality of advocacy possible from their CASA volunteers. CASA programs work directly with CASA volunteers as they recruit, train, screen and supervise them.

What does a CASA volunteer do? They serve as the eyes and ears of the court. They gather information from anyone who may be able to shed light on the child's situation. Often working alongside the attorney appointed to the child, the CASA volunteer attends court proceedings and makes an independent recommendation to the judge about what is in the child's best interests. As a community partner in the child welfare system, a CASA volunteer increases a deprived child's access to services, promotes safety and advocates for timeliness and permanency for

children involved in juvenile court proceedings. The CASA volunteer remains involved until the case is permanently resolved to keep the focus on the child.

Georgia CASA Director of Advocacy & Program Development, Angela Tyner, writing in the Winter 2012 edition of *The YLD Review*, provides examples of the situations of children who can benefit from CASA services: "... the little girl, who has already suffered in an abusive home, enters foster care and ends up in four different homes in just a few months. Or the two siblings who lost their mother to incarceration are split up and live on different sides of the same county. Or the teenager, whose father overdoses, winds up living in a group home until he ages out of the system."

Today, according to Tyner, approximately 60 percent of Georgia's foster children have a CASA volunteer advocating on their behalf. About 2,900 children still need an advocate. The goal is to add 1,500 CASA volunteers to the currently appointed 2,100, and to expand CASA services to the remaining 19 counties in Georgia.

"At its heart, this is not just an issue of abuse or neglect, or a broken system or overburdened workers, but of the unalienable rights of a child," Tyner states.

"Our children need to do more than simply survive. They deserve to thrive in the safety and love of a family throughout their childhood and into adulthood . . . We want every child who cannot live safely at home to have a CASA volunteer who will help ensure his safe passage out of foster care and to champion, without compromise, what is in his best interests."

I encourage you to support the Georgia CASA program by attending the 7th annual YLD Signature Fundraiser on March 2. If you are unable to attend, I encourage you or your law firm to become a sponsor or donate to this great event. This year, the theme is a masquerade ball and will feature music by Yacht Rock Schooner, live and silent auctions, a raffle, buffet dinner, open bar and more. I promise you'll have a great time for a great cause.

Tickets and sponsorship packages are available at www.gacasa.org/yld_fundraiser.php, and for more information, contact Mary McAfee, marym@gabar.org or Jessica Odom, odomj@gtlaw.com. 

Jon Pannell is the president of the Young Lawyers Division of the State Bar of Georgia and can be reached at jonpannell@gpwlawfirm.com.

Please support the **7th Annual YLD Signature Fundraiser** benefitting



**Saturday, March 2, 2013
8 p.m.**

**Capital City Country Club—
Brookhaven**

The Masquerade Ball
will feature music by
Yacht Rock Schooner,
Live and Silent Auctions,
Raffle, Buffet Dinner,
Open Bar & More

General Admission
\$125 door/\$100 advance

Host Committee
\$150 includes 1-hour VIP pre-event

Have questions or need more information?
Contact **Mary McAfee** at marym@gabar.org
or **Jessica Odom** at odomj@gtlaw.com.



For tickets or sponsorship packages, please visit www.gacasa.org/yld_fundraiser.php



The Criminalization of Georgia's Youth

by J. Tom Morgan

Four UGA students, all under 21 years of age, were gathered in a dorm room in Athens, watching Georgia defeat Florida in a football game. They were also drinking beer. A resident hall advisor observed the activity and called the University Police Department. The students were arrested, handcuffed and taken to jail. Within days, a local newspaper featured a photo of the students' arrest on the front page. Less than 30 years ago, the students' actions would not have constituted criminal behavior.

A 20-year-old student at Kennesaw State University enjoys the company of friends who are old enough to drink, but chooses not to drink alcohol herself. She often volunteers to act as a designated driver. She carries a false ID because she is not old enough to legally enter many of the nightclubs and bars her friends enjoy. One evening she attempted to use the false ID to enter an establishment in Cobb County. Police arrested her and took her to jail. In 1985, a 20-year-old could legally consume alcohol and would not have needed to provide false identification to enter a club with friends.

A 19-year-old female college student was a summer lifeguard at a local swimming pool. While working at the pool, she met a young man who told her he was 17 years old, and they entered into a sexual relationship. The young man's parents discovered the relationship and notified local police. Police officers interviewed the young woman, who freely admitted to the relationship. After hearing her admission, the police officers revealed the young man's misrepresentation: he was not 17, but 15 years old, only a couple months shy of his 16th birthday. Police arrested the student for aggravated child molestation. Today, she faces the possibility of 25 years in prison without parole and a lifetime on the sex offender registry. Seventeen years ago, a 19-year-old would not have faced criminal charges for engaging in a sexual relationship with a partner who was almost 16 years old.

Law enforcement officials arrested two girls, a 16-year-old and a 17-year-old, for misdemeanor shoplifting. The state will prosecute the 16-year-old in juvenile court, which means the charges against her and the disposition of her case will be sealed forever in a confidential juvenile record. Had the arrests occurred in one of the vast majority of states that prosecute suspects aged 18 and older as adults, the 17-year-old would also be arguing her case before a juvenile court. Unfortunately, she faces charges in the state of Georgia, where 17-year-olds must be prosecuted as adults.

The scenarios described above are not hypotheticals, but actual cases. They represent a few of the thousands of criminal cases in Georgia in which young people are arrested for behaviors that either were not crimes when many attorneys were their age or are not crimes in other states.

A recent article in *Pediatrics* compared actual arrests among Americans 23 years of age and younger to a projection of youth arrest rates by R. Christensen in 1965.¹ Using Christensen's work, which assumed 1965 conditions would remain stable, the authors of the *Pediatrics* article estimated that 22 percent of the current population would have been arrested at least once for a non-traffic offense by age 23.² By using individual-level survey data from a nationally representative sample, the authors determined the actual arrest prevalence rate is likely much greater, lying somewhere between 30.2 percent and 41.4 percent.³ The *Pediatrics* article suggests increasingly aggressive criminal justice systems, especially as applied to cases related to or involving drugs and violent crime, may be responsible for growing youth arrest rates.⁴

This article examines growing youth arrest rates in Georgia in light of legislative changes to the drinking age, laws prohibiting false identification, tougher DUI laws and changes to the age of sexual consent. Correlations between these legislative changes and increases in youth arrest rates suggest a causal effect. Because 17-year-olds are responsible for a high number of arrests in Georgia, this study also investigates how these legislative changes interact with Georgia's mandated criminal prosecution of 17-year-olds. The numbers suggest the Georgia Legislature has contributed to growing youth arrest rates by passing criminal laws that specifically target or disproportionately affect young people.

Rather than using a statistical self-reporting sample which was done by the authors of the *Pediatrics'* article, I studied actual arrest data. Through open records requests to the Georgia Bureau of Investigation, I retrieved arrest data for 17- to 20-year-olds in Georgia by age, criminal charge and arrest location. The arrest data reflected in this study only represents instances in which suspects were formally arrested and taken into custody. In addition to collecting state arrest records, I retrieved jurisdiction-specific policy information by mailing surveys with stamped, self-addressed return envelopes to 25 Georgia police and sheriff's departments.

Alcohol and Related Offenses

Minor in Possession

Practicing lawyers old enough to remember a draft for military service may also remember one mantra about alcohol: "If I am old enough to fight and die for my country in Vietnam, then I am old enough to drink a beer!" Vietnam and the draft ended, and young adults who had reached their 18th birthday continued to drink alcohol until the National Minimum Drinking Age Act took effect. Through its taxing and spending power, Congress provided in the Act that any state declining to increase its drinking age would lose 10 percent of its federal highway building funds.⁵ In response, the General Assembly of Georgia passed legislation that would increase the legal drinking age to 21 years of age on Sept. 30, 1986.⁶

Currently, the United States is one of only four countries that impose a drinking age of 21. The others include Pakistan, Sri Lanka and Palau, an island country in the western Pacific Ocean.⁷ Most countries allow alcohol consumption at age 18, but several countries, including Germany, Belgium, Portugal and Spain, lower that age to 16.⁸ In most Canadian prov-

inces, the drinking age is 19, but the remaining provinces allow alcohol consumption at age 18.⁹ In all countries south of the United States, the drinking age is 18.¹⁰ In Georgia, an underage person may be charged with possession of alcohol by consumption; therefore, a law enforcement officer who smells alcohol on an underage person's breath has sufficient probable cause to arrest the person for violating O.C.G.A. § 3-3-23, Minor in Possession (MIP). As a result, an underage person who is neither intoxicated nor carrying any sort of alcoholic beverage may be formally arrested because an officer subjectively believes that person's breath smells of alcohol.

In 1980, no 18-, 19- or 20-year olds were arrested for MIP because persons aged 18 years and older could purchase and consume alcohol legally.¹¹ Seven thousand ninety-nine individuals in this age group were arrested for MIP in 2009. In 2010, 6,729 individuals in this age group were arrested for MIP. In 2011, 6,434 young adults in Georgia of 18, 19 and 20 years of age were formally arrested for MIP. These numbers suggest the statutory increase of the drinking age has increased youth arrests in Georgia each year by the thousands.

I gathered county-specific arrest data from one metropolitan Atlanta jurisdiction, Fulton County, and four counties that contain residential college campuses. State arrest records reveal the totals of MIP arrests in Bulloch, Clarke, Fulton, Lowndes and Lumpkin counties in 2009, 2010 and 2011. (See chart on page 13.)

Some states, including Georgia, have created statutory exceptions to laws prohibiting consumption by persons younger than 21.¹² For example, Georgia law allows underage consumption of alcohol at religious ceremonies and as prescribed by medical doctors.¹³ In Georgia, an underage person may also consume alcohol in the privacy of the family home and under parental supervision.¹⁴ These exceptions raise inquiries about the

evil to be avoided and a legislative effort to monitor who is providing the alcohol to persons under 21, not the general consumption of alcohol by persons under 21. Georgia's exceptions to the drinking age also suggest legislative recognition that certain situations involving youth alcohol consumption are less risky than others.¹⁵ Nevertheless, penalties for MIP violations are not graduated to account for varying degrees of risk other than whether the person convicted is a repeat offender.¹⁶

Formal Arrest vs. Issuance of Citation

Georgia law provides that a person charged with underage possession of alcohol may be issued a citation in lieu of formal arrest if he or she is not intoxicated.¹⁷ Therefore, the extent to which police officers employ their discretion to issue citations may affect youth arrest rates. Under O.C.G.A. § 3-3-23(1)(d),

Unless the officer has reasonable cause to believe such person is intoxicated, a law enforcement officer may arrest by issue of a citation, summons, or accusation a person accused of violating any provision of Code Section 3-3-23.¹⁸

I surveyed 25 police and sheriff's departments throughout the state to ascertain policies governing officers' discretion to issue citations to MIP suspects. Of the departments responding to the survey, most reported that these decisions are left to the discretion of individual officers. Other departments, including Athens-Clarke County, reported their officers must formally arrest all persons charged with MIP, even when the suspect is not intoxicated.¹⁹ By contrast, the city of Decatur Police Department reported the department has a written policy requiring officers to issue citations to MIP suspects who are not intoxicated and not involved in other criminal activity.²⁰

Although the ultimate legal consequences of citations and formal arrests are usually the same, formal arrests have more serious practical implications. Arrests appear on a person's criminal record; citations do not. Most colleges and employers require applicants to disclose all recorded arrests, including expunged arrests and arrests for charges that have been dismissed or defeated in court. Formal arrest also carries financial implications; a person who is formally arrested and booked in must post a bond.

False Identification Documents

Before the legal drinking age in Georgia increased, 18-year-olds did not need to use false identification documents to purchase alcohol or enter age-restricted establishments.²¹ Laws that increased the drinking age created a demand for ways to circumvent the new age restrictions, and many young adults used false identification documents to misrepresent their ages. In 1988, two years after the current drinking age took effect, the General Assembly enacted O.C.G.A. § 16-9-4, which criminalized the manufacture, sale and distribution of false identification documents.²² After Sept. 11, 2001, the Legislature amended the statute to make possession of false identification documents into a felony offense punishable by up to five years in prison.²³ Due to the large number of young adults who were being arrested for this crime, the General Assembly enacted a 2008 amendment that reduces possession of a false ID to a misdemeanor in cases in which an underage suspect has attempted to use the false ID to purchase alcohol or enter an age-restricted establishment.²⁴

Hundreds of youth arrests in recent years can be attributed to Georgia's false ID statute. In 1987, not a single 18-, 19- or 20-year-old was arrested for false identification; in 2009, Georgia law enforcement officers arrested 170 18-, 19- and 20-year-olds for this offense. Arrests for false identifica-

County	Minor in Possession Arrests		
	2009	2010	2011
Bulloch	220	193	218
Clarke	968	965	986
Fulton	226	219	195
Lowndes	124	171	228
Lumpkin	61	52	52

tion increased to 224 in 2010 and fell slightly to 208 arrests in 2011. None of these arrests would have occurred if not for youth-specific legislation related to increasing the drinking age.

Driving Under the Influence

In contrast to other laws that criminalize formerly legal behavior, tougher DUI laws and enforcement policies have coincided with declining DUI arrest rates. For drivers over 21, the maximum blood alcohol content (BAC) permitted by Georgia law is 0.08 grams.²⁵ In 1997, the General Assembly lowered the maximum BAC to 0.02 grams for drivers under 21.²⁶ In years following enactment of stricter DUI legislation, DUI arrest rates among 18-, 19- and 20-year-olds have decreased significantly. In 1990, one year before the Georgia Legislature began incrementally lowering BAC limits for young drivers, 6,746 persons 17 to 20 years of age were arrested for driving under the influence in Georgia. In 2011, only 3,954 persons within this age group were arrested for DUI. Although stricter standards for young drivers may have contributed to declining DUI arrest rates, increased public awareness of the dangers of driving while under the influence and increased use of self-imposed driving safeguards (such as designated drivers) are likely to have played a significant role in reducing DUI arrests.

Offenses Related to Sex

In 1983, the age of sexual consent in Georgia was 14.²⁷ The Child

Protection Act of 1995 amended O.C.G.A. §§ 16-6-3 and 16-6-4, regarding statutory rape and child molestation, respectively, to increase the age of consent in Georgia to 16 years.²⁸ The Act also made § 16-6-3 gender-neutral by removing the element of a female victim from the crime of statutory rape.²⁹

Prior to 2006, a person over 16 years of age who engaged in sexual intercourse with someone younger than 16 could be charged with a felony.³⁰ In 2006, the Georgia Legislature codified the Romeo and Juliet exception, which reduces the crime to a misdemeanor in cases in which (1) the person charged is not over 18 and (2) the partners engaging in sexual intercourse are no more than four years apart in age.³¹ The Romeo and Juliet exception also applies to crimes of child molestation and aggravated child molestation.³² In some states, the Romeo and Juliet exception decriminalizes sex acts involving an underage partner altogether if the persons involved fit within the age range dictated by the exception.³³

A person who engages in a sex act(s) with a 14- or 15-year-old violates current criminal laws in Georgia, but his or her actions would not have violated the law before the Child Protection Act of 1995.³⁴ On the other hand, a person who engages in a sex act with a person younger than 14 years of age would have violated the law before the Act took effect.³⁵ The Georgia Bureau of Investigation does not keep the ages of sex crime victims on record. Because I could not determine whether suspects'

acts would be legal or illegal before the Child Protection Act, I was unable to determine the extent to which the change of law directly increased youth arrest rates without incurring further costs.

Recent arrest rates of 17-, 18- and 19-year-olds charged with statutory rape and child molestation are significantly higher than they were before the Child Protection Act. In 1993, 188 of 17-, 18- and 19-year-olds were arrested for statutory rape or child molestation in Georgia. Arrest rates for statutory rape and child molestation among this age group have increased by more than 100 percent since 1993. In 2009, 551 of 17-, 18- and 19-year-olds were arrested for statutory rape or child molestation. In 2010, 541 individuals in this age group were arrested for statutory rape or child molestation. Four hundred and forty-three individuals in this age group were arrested for statutory rape or child molestation in 2011. Even without having information to identify the victims, one might assume with reasonable certainty that some percentage of the increase, however small, must be attributable to the change in law regarding the age of consent.

Seventeen-Year-Olds Charged As Adults

Since 1950, Georgia law has mandated adult prosecution for persons 17 years of age and older.³⁶ Currently, Georgia is one of only 12 states that automatically prosecutes 17-year-olds as adults.³⁷ Thirty-eight states prosecute 17-year-olds as juveniles for most crimes.³⁸ Charges and dispositions do not appear on criminal histories in any case in which a charge is adjudicated in juvenile court. Therefore, a person prosecuted in juvenile court may truthfully say he has never been arrested and convicted of a crime. Defendants who adjudicate their charges in adult courts do not have these advantages.

Due in part to its requirement of prosecuting 17-year-olds

as adults, Georgia contributes a large number to the national total of young adult arrests. In 2009, Georgia law enforcement officers arrested 16,463 17-year-olds. Of these arrests, 11,295 were for misdemeanor offenses only. In 2010, law enforcement officers arrested 15,191 17-year-olds. Of these arrests, 10,552 were for misdemeanors only. In 2011, officers arrested 13,736 17-year-olds. Of these arrests, 9,604 were for misdemeanors only. In 38 other states, many of these charges would be handled in juvenile courts, where young people are provided confidentiality and, in most cases, spared from criminal convictions and the correlative criminal records that may impair their future college and employment eligibility.

Diversion Programs

In some Georgia jurisdictions, prosecutors use their inherent powers to defer some of the offenses described above to diversion programs, which replace jail time with socially productive alternatives such as substance abuse awareness education and community service. A person who successfully completes a diversion program can usually have an arrest expunged from his or her criminal history.

Diversion programs are created by prosecutor initiative, not by statute. In some jurisdictions, prosecutors do not provide diversion programs for young adults. Among jurisdictions that do offer diversion programs, the programs vary extensively in availability, eligibility requirements, program length and costs to participants. For example, Clarke County offers a diversion program for alcohol-related offenses that requires a minimum of six months on probation, plus an additional 12 months if the participant was also charged with false identification. A participant in the Clarke County diversion program must pay \$40 per month in probation supervision fees, plus additional costs, and may not apply for arrest expungement

until his or her 21st birthday. Upon successful completion of the Cobb County diversion program, on the other hand, a person can apply for expungement regardless of his or her age. Cobb County's diversion program only lasts for 10 weeks and imposes no probation requirement. Participants pay a flat fee of \$150.

Most jurisdictions that offer diversion programs allow participants to apply for expungement of their arrests, but an expungement will not wipe the slate completely clean. Government and law enforcement agencies have access to records of all arrests, regardless of expungement. Furthermore, a person must disclose his or her arrest record if prompted by school or job applications, even if the arrest has been expunged.

Conclusion and Recommendations

A growing body of new criminal legislation has likely contributed to increased arrest rates among young adults in recent decades. The Georgia Legislature has imposed criminal sanctions for actions that were not crimes when many practicing lawyers were young adults. Georgia's mandated prosecution of 17-year-olds as adults has compounded the effects of these laws on youth arrest rates and unnecessarily put young Georgians' futures at risk.

Georgia's young adults must compete with their peers from other states for employment opportunities and for college and graduate school admissions. Young adults in Georgia can be arrested for behaviors other states do not recognize as crimes, and they can be formally arrested for crimes that would result only in citations in other states. An arrest disclosed on an application could be an institution's deciding factor in offering an opportunity to an applicant from a neighboring state over an applicant from Georgia.

If law enforcement officers were to uniformly issue citations for

certain crimes, young Georgians could avoid some of the obstacles that often come with an arrest record. Georgia law gives individual officers discretion to issue citations for MIP cases, but departmental policies in some jurisdictions have largely invalidated this discretion.³⁹ Rather than leaving the matter to officer discretion, Georgia law should mandate issuance of citation for MIP cases in which the person charged is not intoxicated or committing other crimes. This amendment would significantly reduce youth arrest rates and establish a more predictable and uniform statewide standard of MIP enforcement.

I recommend adopting policies similar to North Carolina's system of graduated punishment for alcohol-related crimes. Under N.C. Gen. Stat. § 18B-302(i) (2012), 19- and 20-year-olds charged with purchasing, attempting to purchase or possessing beer or wine are issued citations in lieu of for-

mal arrest and will not serve jail time for a first offense.⁴⁰ Georgia law, conversely, makes no distinction between hard liquor and beer and wine; a 19- or 20-year-old charged with possession of a beer or glass of wine in Georgia could face up to six months in jail.⁴¹ Statutory exceptions to state drinking restrictions, including a provision allowing in-home consumption under supervision of a parent, suggest the Georgia Legislature recognizes that certain situations involving youth alcohol consumption are less risky than others.⁴² Legislators should expand this concept of graduated risk by developing a system of graduated punishment that accounts for variances in the seriousness of potential MIP violations.

Arrests for sex crimes carry serious long-term consequences, even when those crimes are punished as misdemeanors. Georgia law should not impose the consequences and stigma that inevi-

tably result from an arrest and conviction of a sex crime on teenagers who engage in consensual sex. Currently, Georgia's Romeo and Juliet exception reduces consensual sexual acts or intercourse with a person less than 16 years of age to a misdemeanor if the person charged is not older than 18 and the engaging parties are no more than four years apart in age.⁴³ I suggest the Romeo and Juliet exception in Georgia follow North Carolina's example by decriminalizing consensual sex and sexual acts between teenagers who fall within the scope of parties protected by the statutory exception.⁴⁴

Finally, Georgia laws requiring automatic adult prosecution of 17-year-olds should be abolished. These laws result in personal, social and economic consequences for individuals and their families. By automatically prosecuting 17-year-olds as adults, Georgia creates a class of young criminals

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who must compete for college and job placement with young adults from states where 17-year-olds, under most circumstances, cannot accumulate criminal records. By continuing to follow this overly punitive policy, Georgia disadvantages its young citizens by reducing their social capital and diminishing their ability to compete in a national job market. 

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Endnotes

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19. Memorandum, Joseph Lumpkin, Chief of Police, Athens-Clarke County Police Department (Apr. 2008) (responding to questions asked during Criminal Justice Task Force meeting regarding underage alcohol arrest policies), attached to email from Richard White III, Assistant Manager, Athens-Clarke County Unified Government, to Athens-Clarke County Task Force Members (Apr. 18, 2008) (both email and memorandum on file with the Athens-Clarke County Department of Police Services).
20. Memorandum from James M. Booker, Chief of Police, City of Decatur Police Department, to All Sworn Personnel, City of Decatur Police Department (June 7, 2012) (establishing enforcement procedures for incidents involving possession of alcoholic beverages by underage persons) (on file with the City of Decatur Police Department).
21. See 1981 Ga. Laws 1281.
22. 1988 Ga. Laws 761; see also O.C.G.A. § 16-9-4 (2012).
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29. 1995 Ga. Laws 957.
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32. O.C.G.A. § 16-6-4 (b)(2).
33. See N.C. GEN. STAT. § 14-27.7A (2012) (decriminalizing vaginal intercourse and sexual acts with persons who are thirteen, fourteen, and fifteen years of age if engaging parties are no more than four years apart in age).
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35. *Id.*
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Working with an Interpreter

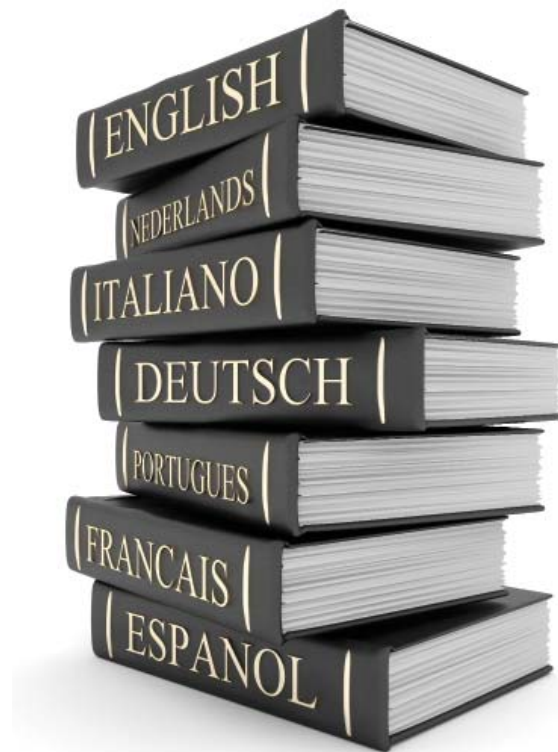
Providing Effective Communication and Ensuring Limited English Proficient Clients Have Meaningful Access to Justice

by Jana J. Edmondson

Legal malpractice experts and Georgia ethical rules counsel Georgia lawyers to communicate effectively with their clients.¹

Communication can be difficult with any client, but what if the client cannot communicate with you in English? Imagine this: Maria has been covering up bruises for the past 35 years of her marriage. She finally took the first step to end the abuse and has filed for divorce. Although Maria speaks some English, she is not fluent. Her first language is Italian. Maria has lived in Georgia for more than 40 years. She is a retired factory worker and often finds it difficult to communicate because of her limited English proficiency.

She contacts you, and you agree to represent her. Perhaps you grew up speaking Italian with your own grandparents or studied it in college; nonetheless, you have no problem understanding her. She seems to understand you pretty well, too. During various conversations, you observe that this situation is very



hard on her, as she frequently begins to cry and gets easily flustered when answering your questions. You spend extra time translating court documents for her and explaining what she should expect during the process. In further preparation for the Rule Nisi, you ask Maria whether she would like an interpreter at the hearing to help her communicate. She tells you no. She says that she trusts you and prefers for you

to communicate for her, not some stranger. You decide to oblige her wish and do not request an interpreter for the Rule Nisi.

STOP. Was that in the best interest of your client? Before you make that decision, consider the following.

What is LEP?

A limited English proficient (LEP) person is one who speaks a language other than English as her primary language and/or who has a limited ability to read, speak, write or understand English. The term LEP includes individuals who are hearing impaired as well. As an attorney, you may find yourself representing clients who are LEP. Their limited English proficiency will add an additional layer of responsibility to you as their advocate. It is your duty to protect their meaningful access to the judicial system. You will need to ensure that your clients are able to communicate effectively with you, the court and any other relevant parties.

Why Use an Interpreter?

As an attorney, you first need to be able to focus solely on providing effective advocacy of the issues and not on the language barriers that exist. Second, using an interpreter ensures that a client understands the information that you provide to her as you intend for her to receive it. Third, using the interpreter will ensure that the client is able to communicate her questions and/or concerns to you effectively. Using an interpreter will help you adhere to your ethical obligation to communicate effectively with clients.

Use of an Interpreter/ Ethical Considerations and Attorney-Client Privilege

The Georgia Rules of Professional Conduct specifically require an attorney to "explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representa-

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tion.”² Failing to secure an interpreter for an LEP client prevents an attorney from fulfilling that ethical obligation of effective communication. Failing to do so may also affect a client’s right to due process, right to be present and right to effective assistance of counsel. For bilingual attorneys, it may also prove to be in the best interest of the client to employ an interpreter when the attorney needs to ensure that the client understands a very complex issue or a settlement agreement. Using an interpreter during preparation for a hearing or trial also allows the client the opportunity to get accustomed to communicating with an interpreter before the first day of court. An in-person interpreter is always preferred over a telephonic interpreter because communication is more effective when it can be provided face-to-face.

Bilingual attorneys should be aware that it is very unwise to wear the hats of both advocate and interpreter for a hearing or trial. Wearing both hats often presents an ethical conflict of interest.³

Communications between attorney and client are privileged if the interpreter is acting as the agent of the attorney.⁴ Specifically, the content of attorney-client communications where an interpreter is present is just as privileged as if the interpreter is not present. Attorneys should be aware, however, that if the interpreter intentionally or accidentally reveals privileged information to a third party, the privilege will be waived.⁵ For example, suppose that your interpreter also works in another occupation, which classifies her as a mandatory reporter under Georgia law.⁶ If information regarding child abuse is discussed during a client meeting, the interpreter’s statutory duty to reveal that information to a third party overcomes the fact that the information was obtained from a privileged communication.⁷ It is important that the attorney discover this type of conflict *before* using the particular interpreter.

Appointment and Compensation of the Interpreter

The Supreme Court of Georgia Rules on Use of Interpreters for Non-English Speaking and Hearing Impaired Persons in Georgia (Interpreter Rules) make it clear that the responsibility of finding and appointing an interpreter, in applicable cases, falls on the court and not on litigants or attorneys.⁸ In its March 8, 2012, letter to the North Carolina Administrative Office of the Courts (AOC), the U.S. Department of Justice (DOJ) concluded that budget constraints do not excuse a federal funding recipient’s failure to provide LEP individuals with meaningful access to court operations in a case.⁹

Specifically, Assistant Attorney General Thomas E. Perez stated that

any focus only on the financial costs of providing additional interpreter services ignores the significant fiscal and other costs of *non-compliance* with the AOC’s obligation to take reasonable steps to ensure access to court operations for LEP individuals. It costs money and time to handle appeals and reversals based on the failure to ensure proper interpretation and effective communication. Similarly, delays in providing interpreters often result in multiple continuances, which needlessly waste the time and resources of court staff. And ineffective communication deprives judges and juries of the ability to make reliable decisions; renders victims, witnesses and defendants effectively absent from proceedings that affect their rights; and causes other significant costs in terms of public safety, child welfare, and confidence in the judicial system.¹⁰

Although Georgia currently does not have a unified, statewide compensation system, the Interpreter Rules state that the

local courts shall be responsible for developing and testing various approaches of compensation that are consistent with guidelines set by the Georgia Commission on Interpreters (Commission) and Georgia law, until such time as the Commission implements a unified, statewide system.¹¹ Attorneys at Georgia Legal Services Program have developed a set of standard pleadings, including a Motion for Interpreter and a supporting brief.¹² These pleadings formalize the request for an interpreter and are often helpful in educating the court on current federal and state laws requiring that LEP clients have meaningful access to the courts.

Legal Background

Title VI of the Civil Rights Act of 1964 requires that all recipients of federal funding make reasonable efforts to provide LEP persons with meaningful access to their programs and services at no cost. This includes federal and state courts of law as well as administrative forums.¹³ Ten years after enactment of Title VI, the U.S. Supreme Court interpreted Title VI by holding that failure to provide instruction in Chinese to a group of 1,800 non-English speaking students of Chinese national origin violated Title VI’s ban on discrimination based upon national origin.¹⁴

It was not until 2000 that federal agencies and federal financial recipients seriously began to address LEP compliance. On Aug. 11, 2000, President Clinton issued Executive Order 13,166,¹⁵ which had two main purposes. First, the Executive Order provides guidance to all recipients of federal funds administered by the respective agency. Second, the Executive Order requires federal agencies to develop an internal LEP policy compliant with Title VI and the Executive Order. The latter did not create any new obligations or duties; rather, it was a mechanism for enforcing pre-existing obligations.

Find people worthy of the name on the door. That was my mentor's advice. But the landscape has changed over the last few years. Profits are harder earned and have to be more wisely spent. So I'm getting help to keep our practice healthy enough to attract and retain top talent. After all, it might as well be my name on the door.

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The Supreme Court of Georgia has held that an interpreter must be appointed for those who cannot communicate effectively in English in criminal cases.¹⁶ In *Ling v. State*, the Court also strongly stated that meaningful access to justice must be provided in *all* Georgia courts, including civil courts, for persons who are limited English proficient in order to comply with federal law. Specifically, the Court's opinion states that "vigilance in protecting the rights of non-English speakers is required in all of our courts."¹⁷

In February 2012, the American Bar Association (ABA) adopted Standards for Language Access in Courts.¹⁸ The purpose of the ABA Standards, which are not binding on state courts, is to assist state courts in designing, implementing and enforcing a comprehensive system of language access services that is suited to the needs of the communities that they serve.

Georgia attorneys have had guidance on language access and interpreter use since 2001, by virtue of the Interpreter Rules cited earlier. In 2003, the Court created the Georgia Commission on Interpreters, whose mission is to provide interpreter licensing and regulatory and education services for Georgia courts so they can ensure the rights of non-English-speaking persons. The Commission has since amended the Interpreter Rules, with the Supreme Court adopting the latest amendments in May 2011. Specifically, the May 2011 amendments resulted in the following general rule:

The following rules apply to all criminal and civil proceedings in Georgia where there are non-English speaking persons in need of interpreters. See also *Ling v. State*, 288 Ga. 299 (702 SE2d 881) (2010). All other court-managed functions, including information counters, intake or filing offices, cashiers, records rooms, sheriff's offices, probation and parole offices, alter-

native dispute resolution programs, *pro se* clinics, criminal diversion programs, anger management classes, detention facilities, and other similar offices, operations and programs, shall comply with Title VI of the Civil Rights Act of 1964.¹⁹

Additionally, Georgia has two statutes creating rights to interpreters. In domestic violence cases brought under Chapter 13 of Title 19 of the Georgia code, LEP litigants and witnesses have a statutory right to a free court-appointed foreign language or sign language interpreter.²⁰ The statute mandates that the court-appointed interpreter be compensated out of the local victims' assistance fund.²¹ Likewise, hearing impaired litigants and witnesses have a statutory right to an interpreter.²²

Recognizing that mere bilingualism does not qualify an individual to be an efficient interpreter, the Interpreter Rules further state that interpreters should be appointed or hired with preference for a "Certified" interpreter. If a "Certified" interpreter is unavailable, then an interpreter who is recognized by the Commission as "Registered" or "Conditionally Approved" should be used. As a last resort, a telephonic or other less qualified interpreter should be used.²³ To find a qualified interpreter in Georgia, please visit the "Locate an Interpreter" section found on the homepage of the Commission's website.²⁴

In the March 8, 2012, letter discussed earlier,²⁵ the DOJ issued the following statement on the competency of interpreters:

It is critically important to ensure that interpreters are competent and not merely bilingual. A bilingual person may inaccurately interpret or roughly interpret a summary of communications between the court and an LEP person, they may have a conflict of interest, or they may even be adverse. Under these

circumstances, an LEP person is denied meaningful access to court operations in a way that a fluent English speaker is not. The DOJ Guidance emphasizes the importance of interpreter competency and states: "Competency requires more than self-identification as bilingual. Some bilingual staff and community volunteers, for instance, may be able to communicate effectively in a different language when communicating information directly in that language, but not be competent to interpret in and out of English." DOJ Guidance, 67 Fed. Reg. at 41,461.²⁶

Practice Tips for Working with an Interpreter

Before the Client Meeting

- Discuss confidentiality – explain to the interpreter that she is prohibited from sharing the content of conversations with a third party
- Proper positioning (varies depending on forum)
 - Attorney should face the client
 - Interpreter generally sits next to or behind the client

During the Meeting

- Allow for introductions between the client and interpreter
- You and the interpreter should greet the client together
 - Remember, the interpreter works for the attorney
- Speak directly to the client in the *first* person (*do not* say "Ask her to tell me . . .")
- *Do not* address the interpreter
- Discuss confidentiality – explain to the client that the interpreter's presence does not destroy attorney-client privilege
- Ensure that everything is interpreted
- Be clear
 - Use concise, simple sentences
 - Ask one question at a time
 - Avoid using slang or jargon

- Explain legal terms in plain language
- Check for understanding (Nodding from your client is not a guarantee that she understands)

During a Hearing/Trial

- Follow all of the suggestions above
- Attempt to arrive early to the courtroom to show your client where she will stand and where the interpreter will probably be standing
- Ask the judge whether she has a place that she prefers for the interpreter to stand in her courtroom

Remember . . .

- Using a qualified interpreter provides you the opportunity to *focus on the issues* and not the language barrier
- Interpreters and translators *interpret/translate ideas*, not just mere words
- Fluency in a language *does not equal* competency in the *terms of art* for your field/practice area
- Title VI and the Supreme Court of Georgia Rules governing interpreter use in Georgia require an interpreter, as needed, in all court proceedings – *criminal and civil*
- This includes all “critical phases” of the entire litigation process
- O.C.G.A § 15-6-77(e)(4) – Right to interpreter in Title 19 domestic violence cases
- O.C.G.A §§ 24-6-652, -654 – Right to interpreter for the hearing-impaired
- When an interpreter is working as an agent of the attorney, the presence of the interpreter does not automatically waive the attorney-client privilege²⁷

For more information on working with interpreters, attorneys may also view “Working with Interpreters: An Effective Method for Providing LEP Advocacy” at <http://media.gls.org/podcasts/71-working-with-an-interpreter>.

The webinar is approved by ICLE for one hour of general CLE credit for Georgia attorneys. 



Jana J. Edmondson is a bilingual staff attorney with Georgia Legal Services Program, Inc., providing legal

counsel and representation to individuals in federal and state administrative forums as well as courts of law. Edmondson was recognized in 2012 by The Latino American *Who's Who* and in 2011 as a “Trailblazing Lawyer for Justice.” Prior to practicing law, Edmondson worked part-time for four years as a professional interpreter/translator (English/Spanish). She is a member of several professional organizations including the Georgia Association of Black Women Attorneys where she currently serves as regional vice president, the State Bar of Georgia’s Access to Justice Committee and the YLD Executive Council. Edmondson is a graduate of Mississippi College School of Law and Spelman College and may be contacted at jedmondson@glsp.org.

Endnotes

1. Ga. R. of Prof’l Conduct R. 1.4.
2. *Id.* R. 1.4(b).
3. *See id.* R. 1.7(a) & cmt. 11 (providing additional guidance regarding non-litigation conflicts).
4. GA. SUP. CT. R. ON USE OF INTERPRETERS FOR NON-ENGLISH SPEAKING AND HEARING IMPAIRED PERSONS IN GA. [hereinafter INTERPRETER RULES], APP’X C, GA. CODE OF RESPONSIBILITY FOR INTERPRETERS, STANDARD X, available at http://www.georgiacourts.org/files/INTERPRETERS%20RULES_FINAL_07_03_12.pdf. Before the most recent revisions, effective Jan. 13, 2013, the INTERPRETER RULES were called GA. SUP. CT. R. ON USE OF INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS IN GEORGIA.
5. Protecting Privilege: Using Interpreters Responsibly, available

at http://www.americanbar.org/content/dam/aba/migrated/domviol/pdfs/protecting_privilege.authcheckdam.pdf.

6. *See* O.C.G.A. § 19-7-5(c) (2012).
7. *See id.* § 19-7-5(g).
8. INTERPRETER RULES, APP’X A, UNIF. R. FOR INTERPRETER PROGRAMS, § VII.
9. DOJ Letter to NC Admin. Office of the Courts, at 3 (Mar. 8, 2012), available at http://www.justice.gov/crt/about/cor/TitleVI/030812_DOJ_Letter_to_NC_AOC.pdf.
10. *Id.*
11. INTERPRETER RULES § V.
12. Private attorneys volunteering with the Georgia Legal Services Program may access these pleadings by visiting georgiaadvocates.org.
13. *See* 42 U.S.C. § 2000d (“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”).
14. *Lau v. Nichols*, 414 U.S. 563, 568-69 (1974).
15. Exec. Order No. 13,166, 65 Fed. Reg. 50,121 (Aug. 11, 2000).
16. *Ling v. State*, 288 Ga. 299, 300-01, 702 S.E.2d 881, 883 (2010).
17. *Id.* at 302, 702 S.E.2d at 884.
18. Available at <http://www.abanow.org/2012/01/2012mm113>.
19. INTERPRETER RULES, APP’X A, § II (emphasis added).
20. *See* O.C.G.A. § 15-6-77(e)(4) (2012).
21. *Id.*
22. *Id.* §§ 24-6-652, -654 (2013).
23. INTERPRETER RULES, APP’X B.
24. GEORGIA COMMISSION ON INTERPRETERS, <http://w2.georgiacourts.org/coi> (last visited Nov. 8, 2012).
25. *See supra* text accompanying notes 9-10.
26. DOJ Letter to NC Admin. Office of the Courts, Report of Findings, at 9 (Mar. 8, 2012), available at http://www.justice.gov/crt/about/cor/TitleVI/030812_DOJ_Letter_to_NC_AOC.pdf.
27. GEORGIA CODE OF RESPONSIBILITY FOR INTERPRETERS, Standard X, available at http://www.georgiacourts.org/files/INTERPRETERS%20RULES_FINAL_07_03_12.pdf.

Diversity Program Celebrates its 25th Anniversary

by Marian Cover Dockery

The Georgia Diversity Program (GDP) celebrated its 25th anniversary at the Bar Center with a CLE, a reception with international fare and an evening program where Bar President Robin Frazer Clark welcomed the participants.

Ambassador Andrew Young gave a memorable speech regarding the civil rights movement in Atlanta and how the city and its leaders won the bid for the Olympics. Barbara Arnwine, director of Lawyers for Civil Rights Under the Law, moderated the “Conversation” with the GDP founders, retired Fulton County Court Judge and civil rights activist Hon. Marvin Arrington and retired Sutherland partner Charles T. Lester Jr., educating attendees on the State Bar Diversity Program’s beginnings. 2012 also marked the fifth anniversary of the GDP High School Pipeline Program which has provided training and mentoring to more than 100 high school students since its inception.

Thank you to the sponsors of the State Bar of Georgia Diversity Steering Committee whose members’ unwavering talent, time and treasures have continued the conversation on the importance of diversity in the profession through its continuing legal education and promoted diversity in the profession through its annual High School Pipeline Program and its Summer Associates Reception. Our 2012 sponsors for both programs are listed on page 26.

Sponsoring firms of the State Bar of Georgia’s fifth High School Pipeline Program provided the stu-



Photo by Don Morgan

Ambassador Andrew Young speaks to the attendees about the civil rights movement in Atlanta.

dents with lunch and mentoring programs on topics including one-on-one mentoring, managing credit, preparing for college, interviewing tips, goal setting, study skills, social media etiquette and leadership skills. Attorneys from Atlanta law firms, the courts and Atlanta’s John Marshall Law School professors coached students in multiple speech sessions on techniques to improve oral presentations. The students attended one hour of grammar, writing instruction and speech classes at John Marshall School of Law each morning before visiting sponsoring firms and corporations. During the students visits they met partners and associates who shared their experiences

Snapshots of the 25th Anniversary Celebration and the 5th Annual High School Pipeline Program



Photo by Don Morgan

(Left to right) Panelists Robert James Jr., DeKalb County district attorney; Hon. Leah Ward Sears, partner, Schiff Hardin LLP; Marian Cover Dockery, executive director, Georgia Diversity Program; Linda Klein, managing partner, Baker, Donelson, Bearman, Caldwell & Berkowitz, PC; Robin Sangston, vice president legal compliance, Cox Enterprises; and Lovita Tandy, associate professor, Atlanta's John Marshall Law School.



Photo by Don Morgan

Speaker Kathleen Nalty, Center for Legal Inclusiveness



Photo by Don Morgan

(Left to right) Charles Huddleston, Hon. Marvin Arrington, Barbara Arnwine, Marian Cover Dockery, Aja Diamond, Charles Lester and Clyde Mize pose at the conclusion of the 25th Anniversary Celebration.



Photo by Roger H. Washington

2012 High School Pipeline students pose with Robert James Jr. following the oral and written competition. (Front row, left to right) Jillian Martin, Alina Xu, Imani Redd and Nia Wynn-Sullivan. (Second row, left to right) Amber Johnson (2nd place winner), Kelsey Key, Daryl Mitchell, Kaetlyn Knight, Henderson Johnson II and Ayanna Gaines. (Third row, left to right) William Poole, Reginald McBride II, Gabrielle Richie (3rd place winner), Robert James Jr., Spenser Thompson (1st place winner), Jalen Coleman and Eric Pinckney.



Photo by Roger H. Washington


Pipeline students listen while one of their classmates presents an oral argument. (Front row, left to right) Alina Xu, Daryl Mitchell and Eric Pinckney; (second row, left to right) Ayanna Gaines, William Poole and Kelsey Key; (third row) Reginald McBride.

in law school and working in the profession. Students also visited the Bar Center and participated in the Journey Through Justice Program. Following nine intense days of classes, daily homework assignments and writing a research paper, the program concluded with an oral and written competition judged by members of the Diversity Committee. DeKalb County District Attorney Robert James spoke to the students and assisted in the presentation of the certificates of completion for the program. The Diversity Program and The Leadership Institute for Women of Color Attorneys funded monetary awards presented to the top three winners, Spenser Thompson, 1st place; Amber Johnson, 2nd place; and Gabrielle Richie, 3rd place.

This year's lone senior, Henderson Johnson II, received a stipend for books. Johnson, a Gates Scholar and freshman at Georgia Tech in the Aerospace Engineering Program, aspires to be a patent attorney. He recently emailed the director of the Pipeline Program and said:

"On the last day [of class], I went in to speak with my Calculus II professor expecting to have to convince him to bump me up to an A (I'd done the math and was sitting at an 89.3), and it turns out he knew my name (mind you, I had never gone to office hours once, just spoke up and asked questions in class) and he had already given me that extra bump that I needed. I was overjoyed, and am happy

to say that the sessions regarding keeping a close relationship with professors were key! Thanks again and have a Happy New Year!"

We congratulate Johnson and our three Pipeline winners and wish them continued success in their studies and plans to attend law school. 



Marian Cover Dockery is an attorney with a background in employment discrimination and the executive director of the State Bar of Georgia Diversity Program. For more information on the Diversity Program, go to www.gabar.org.

Diversity Program 25th Anniversary Sponsors

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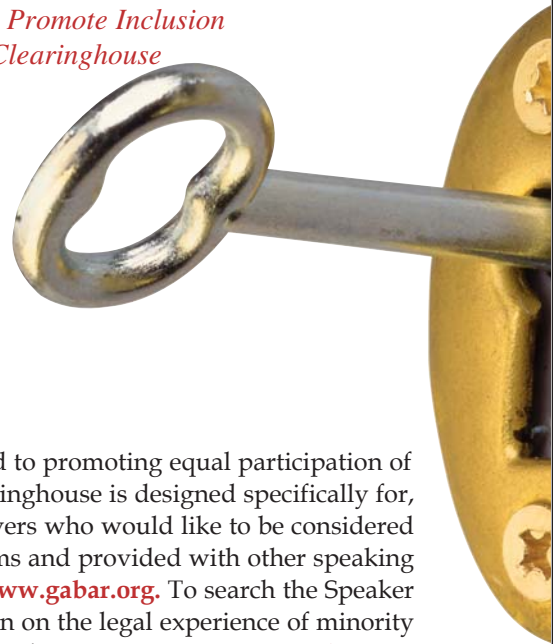
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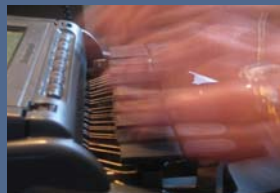
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Cubbedge Snow Jr. and J. Douglas Stewart Win James M. Collier Award

by Len Horton

Each year the Georgia Bar Foundation (the Foundation) presents its highest award, the James M. Collier Award, to those who have given extraordinary service to the Foundation. This year the award went to Cubbedge Snow Jr. of Macon and J. Douglas Stewart of Gainesville.

"Given what each of these gentlemen has done for the Georgia Bar Foundation, I was so proud to present to both Cubbedge and Doug this year's James M. Collier Award," said Aasia Mustakeem, president of the Foundation.

Stewart, as president of the Foundation, managed the creation of most of the extant policies and procedures of the Foundation. Working with then Chief Justice Harold Clarke, he focused the Foundation on serving without bureaucratic heavy-handedness Georgia's lawyers and bankers in assisting impoverished Georgians. The goal was to make Interest On Lawyer Trust Accounts (IOLTA) an easy way for lawyers and bankers to give back to the needful throughout the state. The primary focus was on helping citizens who needed but could not afford legal assistance.

Snow faced a big challenge when he became president of the Foundation. He had to convince a number of skeptics that IOLTA money should be focused on civil litigation rather than criminal litigation, which was the responsibility of the state. Indefatigable and fearless, Snow went about preserving the preponderance of IOLTA funds to assist law abiding Georgians who could not afford personal civil legal representation. Without his determination and focus, thousands of Georgians would not have had their legal issues resolved.


The James M. Collier award is named for the Dawson lawyer and banker who was president of the



Photo by Sarah I. Coole

(Left to right) Cubbedge Snow Jr., Aasia Mustakeem and J. Douglas Stewart

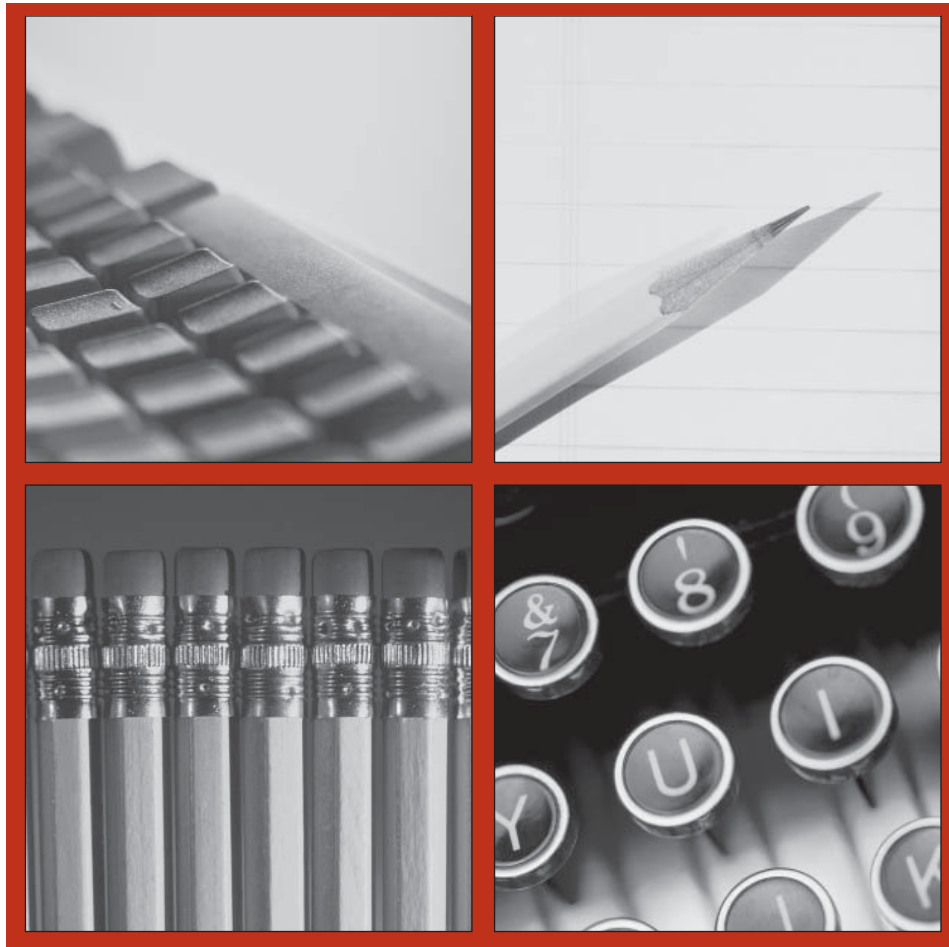
Georgia Bar Foundation and is responsible for the Bank of Dawson's paying a significantly higher interest rate on the investment funds of the Foundation. With his influence, the Bank of Dawson paid to the Georgia Bar Foundation an interest rate significantly higher than was being paid by any other financial institution in the United States. The generosity of the Bank of Dawson and the leadership of Jim Collier combined to assist thousands of impoverished Georgians.

The Georgia Bar Foundation is the largest law-related charity in Georgia and the Foundation named by the Supreme Court of Georgia to be the recipient of IOLTA revenues. To date, cumulative IOLTA revenues are approaching \$100 million. Almost every law-related charity in Georgia has received some funding from the Georgia Bar Foundation. 



Len Horton is the executive director of the Georgia Bar Foundation. He can be reached at hortonl@bellsouth.net.

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*Not all submitted articles are deemed appropriate for the Journal.
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Kudos

- >   **Kilpatrick Townsend & Stockton LLP** announced that partner **Chris Bussert** was recognized at the American Bar Association's 35th Annual Forum on Franchising, which was held

in October in Los Angeles, Calif. Bussert, who just finished a three-year term as editor-in-chief of the *Franchise Law Journal*, was elected to the Forum on Franchising's Governing Board for a three-year term.

Partner **Miles Alexander** was inducted into the **Gate City Bar Association's Hall of Fame**. Established in 1948, the Gate City Bar Association is the oldest African-American Bar Association in Georgia. The Hall of Fame is the Gate City Bar's highest award.


- >  **Jack B. Hood** published a **fourth novel** in his "Banjo" series, called *Banjo Songs*. In this installation, Sam Stone, a retired assistant U.S. attorney in Birmingham, Ala., defends a Pakistani-American physician accused of murdering his brother due to an attempted honor killing in the family. He published his first novel *Banjo Lessons* in 2004. Hood presently works as an assistant U.S. attorney in the Northern District of Alabama.


- > **James E. Brim III**, a partner in the firm of **Forrester & Brim** in Gainesville, Ga., was inducted as a **fellow** of the **American College of Trial Lawyers**. Founded in 1950, the College is composed of the best of the trial bar from the United States and Canada. Fellowship in the College is extended by invitation to those experienced trial lawyers who have mastered the art of advocacy and whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility and collegiality. Attorneys must have a minimum of 15 years trial experience before they can be considered for fellowship.

- > **Lynita Mitchell-Blackwell** was elected **president** of the **Georgia Chapter of the American Association of Attorney Certified Public Accountants (AAA-CPA)**. She will serve as the president of the organization for a two-year term. Founded in 1964, the AAA-CPA's purpose was to protect the rights of those dually qualified to practice as both attorneys and certified public accountants as they see fit, be it law, accounting or both. Today, the AAA-CPA not only continues to protect those rights but offers an array of products and services to help members suc-


ceed in their practice such as networking and referral opportunities; national, chapter and regional meetings; and continuing education credit.

- > The **National Association of Prosecutor Coordinators (NAPC)** in conjunction with the **National Highway Traffic Safety Administration (NHTSA)** selected **Erin Ann O'Mara**, senior assistant solicitor-general in Forsyth County, to participate in their **Prosecutor Fellow Program**. The NAPC/NHTSA Prosecutor Fellowship is awarded to only one prosecutor nationwide and the recipient serves for up to two years.


- >  **Baker, Donelson, Bearman, Caldwell & Berkowitz, PC**, announced that shareholder **Erica V. Mason** was recognized by **Phenomenal Women's Health, Inc.**, as one of its **2012 Community Service Award** recipients. This recognition is given to powerful women who work tirelessly in the Atlanta community for the betterment of women and their families.


- >  **Miller & Martin PLLC** announced that member **Shelby R. Grubbs** was appointed to the **International Business Advisory Board** of The University of Alabama Culverhouse College of Commerce and Business Administration. Founded in 1992, the Board has been comprised of business and campus leaders bound by a commitment to assisting the College of Commerce in furthering its international initiatives.

- > The **Georgia Defense Lawyers Association (GDLA)** was presented the **2012 Rudolph A. Janata Award** by DRI, the national defense bar. The award is presented annually to one outstanding state or local civil defense bar association. DRI commended the GDLA's membership drive, RecruitOne, which resulted in a 10 percent membership increase. Also noted was the expansion of civil defense-focused CLE programming and the robust amicus program. Finally, DRI commended the GDLA newsletter, *Georgia Defense Lawyer*, which was honored by the State Bar of Georgia as "Best Newsletter" for the second consecutive year.

- >  **Charles "Chuck" Beaudrot** was appointed by Gov. Nathan Deal as an **administrative law judge** on the newly created **Georgia Tax Tribunal**, an independent, executive branch forum dedicated to tax appeals. He was formerly a


senior partner in the Tax Practice of Morris, Manning & Martin, LLP. Beaudrot began his four-year term on the Tribunal in January.

- >  **Taylor English Duma LLP** member **Lacreia Cade** was selected to serve on the **2012-13 United Way Young Professional Leaders Advisory Board**. Members of this board are professional leaders under the age of 40 who share a passion for community involvement and philanthropy, and who have a strong drive to make a positive impact in the Atlanta area. Cade, along with the other 29 board members, will support the community's goals for education in metro-Atlanta to ensure children enter school ready to learn and graduate prepared for careers.

- >  U.S. Supreme Court Chief Justice John G. Roberts Jr. appointed **Supreme Court of Georgia Justice David E. Nahmias** to the **U.S. Judicial Conference Advisory Committee on Civil Rules**. The Judicial Conference is the principal policymaking body for the administration of the federal courts. Its advisory committees on the federal appellate, bankruptcy, civil, criminal and evidence rules review and recommend amendments to those rules, which apply to proceedings in federal courts and serve as a model for the similar rules of many states, including Georgia.

- > The Atlanta office of **McKenna Long & Aldridge LLP** was named the **2012 "GAIN Volunteer Law Firm of the Year"** by the **Georgia Asylum and Immigration Network (GAIN)**. GAIN provides pro bono legal representation through metro-Atlanta volunteer attorneys to asylum seekers, immigrant victims of human trafficking, domestic violence, sexual assault and other crimes.

- > After 32 years as a legal academic, **Prof. Paul von Nessen** announced his **retirement** from the Department of Business Law & Taxation of **Monash University** in Melbourne, Australia. With approximately 60,000 students from more than 170 countries, Monash is Australia's largest university.

- >  **Fortson, Bentley and Griffin, P.A.**, announced that associate **Wade A. Schueneman** earned his **Masters of Laws (LLM)** in taxation through New York University. He primarily assists clients with estate planning, tax law and corporate law, as well as business planning.

On the Move In Atlanta

>



McKeon



Nielsen



Brychcy



Crabtree



Fisher



Brown



Roe

Kilpatrick Townsend & Stockton LLP announced the addition of **Tina McKeon** to the firm's

Atlanta office as **partner** and **Sally Nielsen** as **counsel**. McKeon joined the health and life sciences team. Nielsen joined the corporate finance and real estate department as a member of the employee benefits team. The firm also announced the addition of five new **associates**: **Damian Brychcy** and **Elizabeth Crabtree** joined the construction team; **Jeffrey Fisher** joined the technology litigation team; and **Tiffany Brown** and **Shiveh Roe** joined the trademark and copyright team. The firm is located at Suite 2800, 1100 Peachtree St., Atlanta, GA 30309; 404-815-6500; Fax 404-815-6555; www.kilpatricktownsend.com.

>



Steve Caley joined **GreenLaw** as **senior attorney**. Prior to joining the nonprofit, Caley worked at a private litigation practice and provided pro bono services to GreenLaw. GreenLaw is located at 104 Marietta St. NW, Suite 430, Atlanta, GA 30303; 404-659-3122; Fax 404-522-5290; www.greenlaw.org.

>



Barnes & Thornburg LLP announced that **Stuart C. Johnson** was re-elected as **managing partner** of the firm's Atlanta office. Johnson also serves as a member of the firm's management committee, chairman of the firm's private equity practice group and a member of the firm's corporate department. The firm is located at 3475 Piedmont Road NE, Suite 1700, Atlanta, GA 30305; 404-846-1693; Fax 404-264-4033; www.btlaw.com.

>



Litvak



Garavaglia

Nelson Mullins Riley & Scarborough LLP announced that **Andy Litvak** joined the firm as a **partner** and **Anne Marie Garavaglia** joined the firm

as **of counsel**. Both are members of the commercial real estate group. The firm is located at 201 17th St. NW, Suite 1700, Atlanta, GA 30363; 404-322-6000; Fax 404-322-6050; www.nelsonmullins.com.

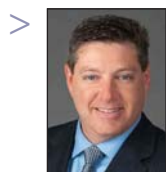


Gunnin

Michalove

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, announced the addition of **Carla J. Gunnin** to the firm's Atlanta office as a **shareholder** and **Scott H. Michalove** as **of counsel**. Gunnin is a mem-

ber of the labor and employment department. Michalove is a member of the financial institutions advocacy practice and the mortgage industry service team. The firm is located at 3414 Peachtree Road NE, Suite 1600, Atlanta, GA 30326; 404-577-6000; Fax 404-221-6501; www.bakerdonelson.com.



FordHarrison LLP announced the addition of **Gordon M. Berger** as a **partner** in the firm's Atlanta office. Previously, Berger was a partner with Wagner, Johnston & Rosenthal PC. The firm is located at 271 17th St. NW, Suite 1900,

Atlanta, GA 30363; 404-888-3800; Fax 404-888-3863; www.fordharrison.com.

Federal & Hasson LLP announced that **R. O. "Ray" Lerer** joined the firm as **of counsel**. He was formerly a deputy attorney general for the Georgia Department of Law. The firm is located at 2 Ravinia Drive, Suite 1776, Atlanta, GA 30346; 678-443-4044; Fax 678-443-4081; www.federalhasson.com.



Blicht

Wood

James D. Blicht IV announced the opening of **Blicht Law, P.C.**, a business litigation firm. Joining him is **Julie A. Wood**, who is **of counsel** with the firm. The firm is located at 191

Peachtree St. NE, Suite 3285, Atlanta, GA 30303; 404-221-0400; Fax 404-221-0402; www.blichtlaw.com.

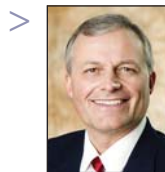


Bryan Cave LLP announced that **Jay Latzak** was elected **partner**. He practices with the real estate and the banking client service groups. The firm is located at One Atlantic Center, 14th Floor, 1201 W. Peachtree St. NW, Atlanta, GA 30309;

404-572-6600; Fax 404-572-6999; www.bryancave.com.

Roslyn S. Falk joined **Schiff Hardin LLP** as **counsel** in the private clients, trusts and estates group from

Andre & Blaustein LLP. The firm is located at One Atlantic Center, Suite 2300, 1201 W. Peachtree St. NW, Atlanta, GA 30309; 404-437-7000; Fax 404-437-7100; www.schiffhardin.com.



Burr & Forman LLP announced that **Anton F. Mertens** joined the firm as a **partner** in the firm's labor and employment practice group with a focus on immigration law. He was formerly with Smith, Gambrell & Russell, LLP. The

firm is located at 171 17th St. NW, Suite 1100, Atlanta, GA 30363; 404-815-3000; Fax 404-817-3244; www.burr.com.



Meeks

Meeks

Wilson

James Bates Brannan Groover LLP announced that **R. Harold Meeks Jr.** and **Jo Lanier Meeks** joined the

firm as **partners**, and **Amanda N. Wilson** joined the firm as an **associate**. All were formerly with Pursley Lowery Meeks LLP. The firm is located at 3399 Peachtree Road NE, Suite 1700, Atlanta, GA 30326; 404-997-6020; Fax 404-997-6021; www.jamesbatesllp.com.

Miller & Martin PLLC announced that **Jonathan D. Edwards** joined the firm's Atlanta office as an **associate** in the corporate department. Edwards was previously with Deloitte Tax LLP where he was a senior consultant in real estate services. The firm is located at 1170 Peachtree St. NE, Suite 800, Atlanta, GA 30309; 404-962-6100; Fax 404-962-6300; www.millermartin.com.

In Albany

Watson Spence LLP announced that **Chris Cohilas** was named **partner**. He focuses his practice on commercial and tort litigation. The firm is located at 320 Residence Ave., Albany, GA 31701; 229-436-1545; Fax 229-436-6358; www.watsonspence.com.

In Athens



Lowry



Trujillo

Fortson, Bentley and Griffin, P.A., announced that **H. Scott Lowry Jr.** and **Miguel A. Trujillo** joined the firm as **associates**. Lowry concentrates his practice in the areas of business and commercial law, business organizations, contracts and mergers and acquisitions. Trujillo practices in the

areas of family law, criminal law, business litigation, general litigation and appellate. The firm is located at 2500 Daniell's Bridge Road, Building 200, Suite 3A, Athens, GA 30606; 706-410-1210; www.fbglaw.com.

In Columbus

- > **Page, Scrantom, Sprouse, Tucker & Ford, P.C.**, announced that **Alex Shalishali** joined the firm as an **associate**. He focuses his practice in the areas of litigation, labor and employment law, and general business and corporate matters. The firm is located at 1111 Bay Ave., Third Floor, Columbus, GA 31901; 706-324-0251; Fax 706-243-0417; www.columbusgalaw.com.



- > **Hatcher, Stubbs, Land, Hollis & Rothschild, LLP**, announced the addition of **David L. Mize** as an **associate** with the firm's litigation group. The firm is located at 233 12th St., Suite 500, Columbus, GA 31901; 706-324-0201; Fax 706-322-7747; www.hatcherstubbs.com.

In Dalton



- > **The Cowan Law Firm, LLC**, announced that **Brian D. Wright**, formerly of Minor Bell & Neal, joined the firm. Wright represents clients in personal injury litigation and commercial disputes. The firm is located at 315 N. Selvidge St., Dalton, GA 30720; 706-278-2099; Fax 706-278-2022; www.cowanlawoffice.com.

In Macon

- > **Martin Snow, LLP**, announced the addition of **J. Slade Edwards** as **of counsel** to the firm's medical malpractice defense group and **Benjamin F. McElreath Jr.** as **of counsel** to the firm's real estate group. The firm also announced the addition of **Amy M. Fletcher** as an **associate** in the business/probate and estate planning group and **William J. Davis** as an **associate** in the litigation group. The firm has two offices in Macon: 240 Second St., Macon, GA 31201, and 4008 Vineville Ave., Macon, GA 31210; 478-749-1700; Fax 478-743-4204; www.martinsnow.com.



- > **Constangy, Brooks & Smith, LLP**, welcomed **John Weltin** to its Macon office as an **associate**. He focuses his practice in employment law litigation. The firm is located at 577 Mulberry St., Suite 710, Macon, GA 31201; 478-750-8600; Fax 478-750-8686; www.constangy.com.

Judging Panel Volunteers Still Needed for the 2013 State Finals Tournament

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The Law Practice Management Program is a member service to help all Georgia lawyers and their employees put together the pieces of the office management puzzle. Whether you need advice on new computers or copiers, personnel issues, compensation, workflow, file organization, tickler systems, library materials or software, we have the resources and training to assist you. Feel free to browse our online forms and article collections, check out a book or videotape from our library, or learn more about our on-site management consultations and training sessions, 404-527-8772.

Consumer Assistance Program

The purpose of the Consumer Assistance Program (CAP) is to serve the public and members of the Bar. Individuals contact CAP with questions or issues about legal situations, seeking information and referrals, complaints about attorneys and communication problems between clients and their attorneys. Most situation can be resolved informally by CAP's providing information and referrals to the public or, as a courtesy, contacting the attorney. CAP's actions foster better communications between clients and attorneys in a non-disciplinary and confidential manner, 404-527-8759.

Lawyer Assistance Program

This free program provides 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, 800-327-9631.

Fee Arbitration

The Fee Arbitration program is a service to the general public and lawyers of Georgia. It provides a convenient mechanism for the resolution of fee disputes between attorneys and clients. The actual arbitration is a hearing conducted by two experienced attorneys and one non-lawyer citizen. Like judges, they hear the arguments on both sides and decide the outcome of the dispute. Arbitration is impartial and usually less expensive than going to court, 404-527-8750.

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In Norcross

- > **Jeffrey A. Yost**, formerly with Locke Lord LLP, joined **RockTenn Company** as **senior corporate counsel**. RockTenn is one of North America's leading producers of corrugated and consumer packaging and recycling solutions. RockTenn's home office is located at 504 Thrasher St., Norcross, GA 30071; 770-448-2193; www.rocktenn.com.

In Savannah



DeBacker

Morgan

Lawson

HunterMaclean announced that **Gregory O. DeBacker** joined the firm as an **associate** with the firm's corporate and tax practice group; **Parker C. Morgan** joined the firm as an **associate** with the firm's real estate practice group and **Kate Chaplin Lawson** joined the firm as an **associate** with the firm's specialty litigation group. The firm is located at 200 E. Saint Julian St., Savannah, GA 31401; 912-236-0261; Fax 912-236-4936; www.huntermaclean.com.

> **Charles J. Bowen** announced the formation of **The Bowen Law Group**. Previously, Bowen headed the Savannah branches of Weinstock & Scavo, P.C., and Taylor English Duma LLP. The Bowen Law Group focuses primarily on banking, commercial and tort litigation. The firm is located at 7 E. Congress St., Suite 1001, Savannah, GA 31401; 912-544-2050; Fax 912-544-2070; www.thebowenlawgroup.com.

In Valdosta

- > **Young, Thagard, Hoffman, Smith, Lawrence & Shenton, LLP**, announced that **Justin Purvis** joined the firm as an **associate**. Purvis practices in the areas of medical malpractice defense and general civil litigation. The firm is located at 801 Northwood Park Drive, Valdosta, GA 31604; 229-242-2520; Fax 229-242-5040; www.youngthagard.com.

In Washington, D.C.



> **Robert A. Enholm** was named **executive director** of the **Woodrow Wilson House** in Washington, D.C. The Wilson House is a historic site of the National Trust for Historic Preservation. The Wilson House is located at 2340 S St. NW, Washington, DC 20008; 202-387-4062; www.woodrowwilsonhouse.org.

In Berlin, Germany

- > **Ogletree, Deakins, Nash, Smoak & Stewart, P.C.**, announced the opening of an office in Berlin. The office is located at Fasanenstrasse 77, 10623 Berlin; + 49 0 30 862030 0; Fax +49 0 30 862030 100; www.ogletreedekins.com.

In Shanghai, China

- > **Kilpatrick Townsend & Stockton LLP** announced the opening of an office in Shanghai. The office is located at No. 50 Boxia Road, Building R, Suite 401, 4th Floor, Shanghai Pudong Software Park, Shanghai 200040; +8618616624802; www.kilpatricktownsend.com.

WANT TO SEE YOUR NAME IN PRINT?

How to Place an Announcement in the Bench & Bar column

If you are a member of the State Bar of Georgia and you have moved, been promoted, hired an associate, taken on a partner or received a promotion or award, we would like to hear from you. Talks, speeches (unless they are of national stature), CLE presentations and political announcements are not accepted. In addition, the *Georgia Bar Journal* will not print notices of honors determined by other publications (e.g., Super Lawyers, Best Lawyers, Chambers USA, Who's Who, etc.). Notices are printed at no cost, must be submitted in writing and are subject to editing. Items are printed as space is available. News releases regarding lawyers who are not members in good standing of the State Bar of Georgia will not be printed. For more information, please contact Stephanie Wilson, 404-527-8792 or stephaniew@gabar.org.

It's A Small World After All

by Paula Frederick

"GiantCo is bringing in the big guns," your partner announces as he enters your office. "We just got a Motion for Admission *Pro Hac Vice* for their general counsel. They want to fly the big guy in to try the case himself!"

"They're running scared," you surmise with satisfaction. "Where's the GC from? New York?"

"Hmm . . . says here he's a member of the *Ilustre Colegio de Abogados de Madrid*," your partner reads.

"Madrid, Spain?" you ask. "Do we allow that?"

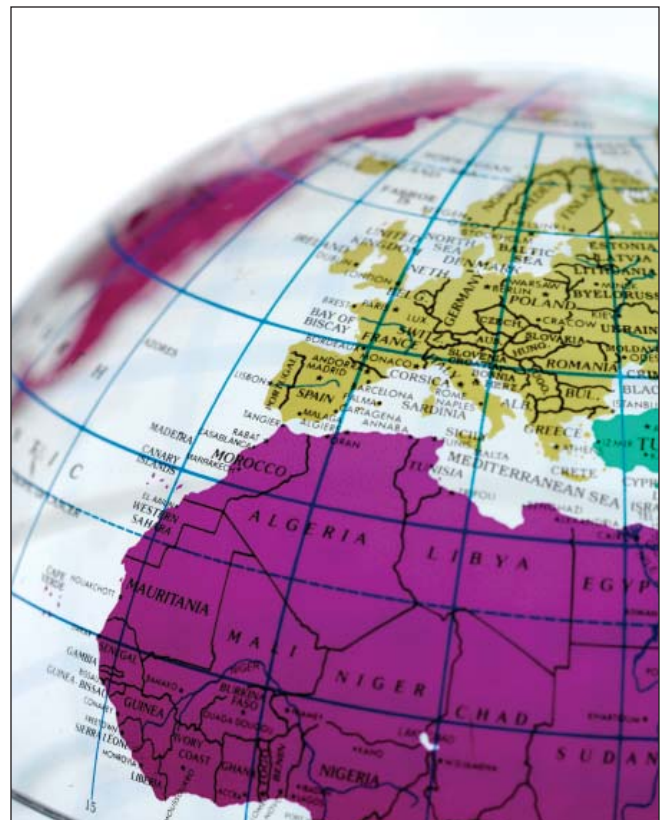
Yes, we do.

Georgia has been a leader in opening practice to foreign lawyers on a limited basis. Our Supreme Court has approved rules that allow practice by lawyers from non-U.S. jurisdictions in the following circumstances:


- A foreign lawyer may serve as in-house counsel in Georgia (Bar Rule 5.5(f));
- Pursuant to our Bar Rule on Multijurisdictional Practice, a foreign lawyer may engage in *temporary* practice in this state under the same terms as a non-Georgia lawyer (Rule 5.5(e)); and
- A foreign lawyer may apply for admission *pro hac vice* pursuant to Uniform Superior Court Rule 4.4.

A lawyer educated in a foreign country may even sit for the Georgia Bar if the lawyer can demonstrate that her educational background is the equivalent of that provided by an American Bar Association-approved law school.

To be admitted *pro hac*, a foreign lawyer must meet the same requirements as a U.S. lawyer. The applicant must be authorized to practice and in good standing in his home jurisdiction, and except for in-house counsel, must not live or regularly practice in Georgia. A



foreign lawyer applicant must agree to be bound by the Georgia Rules of Professional Conduct and must maintain lawful immigration status.

The Bar hopes that these rules will make our state an attractive venue for international commercial arbitration, benefitting lawyers, clients and the people of Georgia. 



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



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Discipline Summaries

(Oct. 20, 2012 through Jan. 4, 2013)

by Connie P. Henry

Suspensions

Warner Russell Hodges

Cumming, Ga.

Admitted to Bar in 2009

On Oct. 29, 2012, the Supreme Court of Georgia suspended attorney Warner Russell Hodges (State Bar No. 110209) for 60 days as reciprocal discipline for his 60-day suspension in Tennessee. Hodges violated the Tennessee Rules of Professional Conduct by undertaking to represent a client while his Tennessee law license was inactive.

James H. Dickey

Atlanta, Ga.


Admitted to Bar in 1988

On Nov. 5, 2012, the Supreme Court of Georgia suspended attorney James H. Dickey (State Bar No. 001030) for two years as reciprocal discipline for his two-year suspension in South Carolina. Dickey was charged in South Carolina with eight instances of misconduct occurring from 2001-06. The South Carolina Supreme Court found three instances of misconduct (creating a document that appeared to be a medical record and including it in a settlement package to the insurance company; wilfully failing to comply with a fee arbitration award; and failing to inform a client that her medical malpractice claim had been dismissed), and ordered that he be suspended for two years, retroactive to the date of Dickey's 2005 interim suspension, with reinstatement conditioned upon payment of costs and payment of the fee arbitration award. Dickey's reinstatement in Georgia is conditioned upon proof that he has been reinstated to the practice of law in South Carolina.

Interim Suspensions

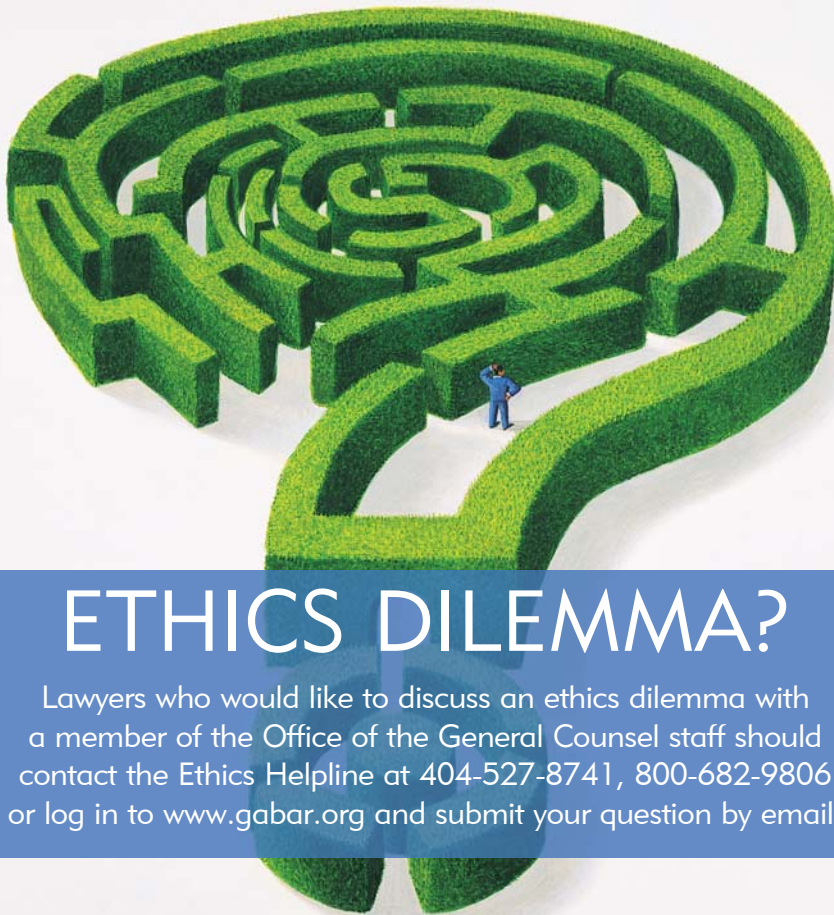
Under State Bar Disciplinary Rule 4-204.3(d), a lawyer who receives a Notice of Investigation and fails to



file an adequate response with the Investigative Panel may be suspended from the practice of law until an adequate response is filed. Since Oct. 20, 2012, eight lawyers have been suspended for violating this Rule and two have been reinstated. 



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



ETHICS DILEMMA?

Lawyers who would like to discuss an ethics dilemma with a member of the Office of the General Counsel staff should contact the Ethics Helpline at 404-527-8741, 800-682-9806 or log in to www.gabar.org and submit your question by email.

*"He who is his own lawyer
has a fool for a client."*



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Make it your Homepage!

Solo and Small Firm Resources Page Debuts

by Natalie R. Kelly

You've heard the sayings, "you're not alone" and "no man is an island unto himself." Well, these are definitely true statements when it comes to practicing in a solo or small law office in Georgia. The State Bar's Law Practice Management Program, along with the help of several others offering invaluable amounts of their time and great ideas, has developed a new Solo and Small Firm Resources page for Georgia lawyers. This new benefit is currently located under the Law Practice Management Program's webpage at www.gabar.org and you must be logged in with your Members Only credentials in order to access the page.

So, what's on the resources page and why should you go there? Here is a rundown of the initial offerings.

Listing of CLE Programs Geared Toward Solo and Small Firm Practice

The resources page lists CLE events that might be of interest to solo and small firm lawyers. For instance, the new Solo and Small Firm Quarterly CLEs delivered through ICLE are highlighted along with other CLE programs offering assistance with small firm practice issues.



Link to the New Georgia Solo and Small Firm Lawyers Discussion Board

The Discussion Board is the new place where members can discuss their day-to-day concerns of law practice. This non-moderated discussion space allows members to share and learn from each other. The hope is to build

a stronger “team” for Georgia solo and small firm lawyers.

Exclusive Video of the Practice Start Up Conference

This past November, the Chicago Bar held a first-ever event to teach new and well-minted lawyers how to start a law practice. This day-long nuts and bolts event was recorded and provided as free resource to the members of the Bar associations of the presenters. Program segments delivered by speakers Catherine Sanders Reach, Jim Calloway, Reid Trautz and myself included: Starting a Practice; Budgeting and Financing (Start Up \$\$ and the 1st Year); Practice Development: Building a Client Base; Web/Social Media; Money Talks; All About Clients; Managing the Matter; Risk Management; The Life of the Lawyer; and Pandora’s Box. The 550-plus pages of written material will also be made available on this new resource page.

Access to Members Only Webinars

Members gain exclusive access to regularly scheduled webinar events on a range of practice management,

technology and small firm practice topics. The first scheduled webinar was a Microsoft-backed program on the utility of Office 365 and other Microsoft products in law firms, “Finding the 25th Hour—A How-To for Lawyers.” The session was presented by James Province, the founder of TabletLawyer, and each attendee was provided with a small gift from Microsoft.

Links to Other Resources for Solo and Small Firm

With a greater focus on the needs of solos and small firms, the legal profession is seeing an explosion of information to help attorneys in these practice settings. The links to information along these lines are aggregated on the Resources page to help extend the benefit of the page.

Thanks to the following groups and their named representatives for making the Solo and Small Firm Resources page for Georgia attorneys a reality:

- Law Practice Management Program Advisory Committee Members—Sally Akins, chair; Eric Ballinger, Kellye Moore, Sam Choy, Tonya Jeffords and Chris Meeks

- Law Practice Management Program Solo and Small Firm Quarterly CLE Participants—Alexia Roney and Ronne Kaplan, presenters
- Law Practice Management Program—Pam Myers, resource advisor
- Young Lawyers Division Solo and Small Firm Committee—Natalie Woodward, past committee co-chair
- Transition into Law Practice Program—Tangela King, director
- Chief Justice’s Commission on Professionalism—Avarita Hanson, executive director
- Georgia’s Pro Bono Project—Mike Monahan, director
- Georgia Association of Black Women Attorneys Solo and Small Firm Section—Yolvondra Martin, past section chair
- Atlanta Bar Association Sole Practitioner/Small Firm Section—David Lilenfeld, past section chair
- Cobb County Bar Association Solo and Small Firm Section—Ian Falcone, past section chair. 



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.

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Resilience— A Beautiful Concept

by Bonne Davis Cella

I am not concerned that you have fallen; I am concerned that you arise. — Abraham Lincoln

The Lawyer Assistance Program (LAP) is intentionally kept at arm's length from the State Bar of Georgia," said George Martin, CEO of CorpCare Associates, Inc., when he addressed the Tifton Judicial Circuit Bar Association. CorpCare is LAP's independent crisis mediation and counseling service that responds to help Georgia lawyers, law students and judges challenged by relational problems, substance abuse, stress, depression and anxiety. If you ask Cliff Brashier, executive director of the State Bar, he will tell you he has no idea about the number or nature of calls made to LAP—it is just that confidential.

Martin's presentation¹ to the Tifton Judicial Circuit Bar on resiliency in life and law practice perpetuated candid discussion. He told members that relationship concerns are the No. 1 problem they currently handle. "These are difficult days for attorneys; the economy impacts your profession and it can filter down to your relationships." Citing the research of Dr. Al Siebert² on the inner nature of highly resilient survivors, Martin



Photo by Bonne Davis Cella


George W. Martin Jr., M.Div., MA, and president/CEO of CorpCare Associates, Inc., addresses the Tifton Judicial Circuit Bar Association.

noted that everyone has some dysfunction in their life, which is normal. "We are veterans of our past and we can use it to be resilient today," he said. Martin then identified the five levels of stress:

- Eustress—the good stress of being overcome with the excitement from a desired outcome.
- Stress—everyday life, the universal condition of living.
- Distress—we become a victim to our problems.
- Burnout—our body never lies and we begin to have somatic complaints, trouble sleeping, etc.
- Blowout—a tragic stage when a person thinks nothing will get better and considers suicide.

An engaging and humorous speaker, Martin said that State Bar President Robin Frazer Clark and the members of the LAP Committee are on a mission to get the word out about this vital resource for Bar members. To that end, the Institute of Continuing Legal Education (ICLE) is offering a live 6-hour CLE program, "The Attorney's First Aid Kit," on Feb. 20, at the State Bar. Among the presenters for the CLE are former Fulton County Superior Court Judge M. Gino Brogden Sr., and respected Atlanta psychiatrist Dr. Steven R. Lee. For more information or to register contact ICLE at www.iclea.org or 800-422-0893.

Martin is chairman of this CLE program and stated, "We do not wish to create a clinically 'heavy' day but to cover the concern and focus on resiliency, as in, how attorneys can aid themselves while in the midst of distress. President Nixon's comment after his resignation is appropriate here . . . 'Fire makes soft iron into steel.'"

As he concluded his presentation to the Tifton Judicial Circuit Bar, Martin advised, "Never buy a book on how to live a stress free life—it just isn't possible." But getting help is possible and is only a phone call away at 800-327-9631. 

*In the midst of winter,
I finally learned
there was in me
an invincible summer.*
— Albert Camus



Bonne Davis Cella is the office administrator at the State Bar of Georgia's South Georgia Office in Tifton and can be reached at bonnec@gabar.org.

Endnotes

1. Contact bonnec@gabar.org if you are interested in having a similar program for your bar association.
2. Al Siebert was internationally recognized for his research on highly resilient survivors. His book, *The Survivor Personality*, is now in its 18th printing.

LAWYER ASSISTANCE PROGRAM

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I Have Called Legal Aid for Help and They Turned Me Down

by Michael Monahan

I published the following article on my personal blog in August 2011. Many low-income Georgians—and lawyers and judges—did not understand why or how cash-strapped legal aid and pro bono programs make decisions about the kinds of cases they accept or decline. I urge lawyers and judges to consider this a call for help for the public interest law community. Continue on to read Chief Justice Hunstein’s letter to Bar members on page 45.

I Have Called Legal Aid for Help and They Turned Me Down

You may be wondering why you can’t find a lawyer to help you with your legal problem. First, legal aid lawyers care about your legal problem. Second, whether this makes you feel better or not, you are not alone—by far—in your inability to find a lawyer to help you. Third, some lawyer-designed and supervised options may be available to help you.

You are angry or upset or maybe frustrated that you have a legal problem in the first place. Like many people, you can’t afford to put down \$2,500 as a retainer and \$200 or more per hour for legal help. You may be



just making ends meet or you may be unemployed. The legal problem you might have may be the reason you don’t have any money. You may feel you don’t know enough about your rights, how much money or

time are needed to fix the problem or whether you'll win in the end. You may be thinking that if you could just get a form that you could help yourself in some significant way, even if you can't fully resolve your legal problem with that form.

Money makes the world go around and somebody's money allows a legal aid or pro bono program to help you for free. If you understand how someone else's money is converted into legal help for you, then you'll have a better understanding of why you may have been turned down when you called legal aid for help.

By and large, legal aid programs and pro bono programs operate with funding from four sources: the federal government, the state government, nonprofit foundations and private funders. Pro bono programs also operate with the donation of time and other non-money resources of lawyers.

Here in Georgia, there are two large legal aid programs. One program serves Atlanta, and the other serves the rest of Georgia. Both these programs receive a large grant from the federal government to provide free legal help. Both programs receive significantly smaller amounts from state government. These state and federal funds have been reduced because of the current financial crisis, the recession and political decisions that legal help for the poor is either not a function of the federal and/or state governments or because, if it is a function of the government, it is one that is of a lower priority.

In addition to government funding, foundations and members of the public provide funds to legal aid programs to provide free legal help. Generally, foundations will provide funding and specify who can be helped with the money they have given. You and your legal problem may not be the focus of a foundation's generosity, so the legal aid program can't use that pot of money to help you, but instead, must spend the money on a person who has the kind of legal prob-



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CAROL W. HUNSTEIN
CHIEF JUSTICE

(404) 656-3475

Dear Colleague:

The two organizations in Georgia that do civil legal work for the poor have been squeezed by cuts to federal funding and the dwindling of other revenue sources. The Georgia Legal Services Program and the Atlanta Legal Aid Society together have represented thousands of Georgians who cannot afford legal services and otherwise would have no access to justice. They represent women who are battered and need to get their kids out of potentially lethal situations. They represent families with sick children who are trying to get basic help to keep their children healthy, fed, and in school. They represent elderly people who need help negotiating with bureaucracies to get food on the table and still be able to buy their prescription drugs. All of them need the skills of a lawyer, but often they can't afford one – unless they turn to legal aid or, increasingly, represent themselves.

I know as a judge how difficult it is to ensure a fair procedure when one side is unrepresented by an attorney, not to mention the delays required to help a pro se litigant get up to speed in a complex court proceeding.

The judiciary does everything it can to provide access to the courts. I would like to challenge and encourage each member of the Bar to do likewise by volunteering some measure of your time to make sure our justice system functions the same way for every citizen, regardless of his or her income. It is my hope that each of us would find time to donate our skills, advice, and leadership to those in need and to those organizations that work so hard to provide legal services throughout Georgia.

To those of you already donating your time and energy, on behalf of the Supreme Court of Georgia, I applaud and thank you. I encourage all others to take the same step. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Carol W. Hunstein".

Chief Justice Carol Hunstein
The Supreme Court of Georgia

lem the foundation would like to address. Because of the recession, foundations have had less money to give to legal aid programs or they have decided to give their money to another kind of program. So, in addition to it being more likely that foundation funding can't help you, even if it could help you, the funding is shrinking and will help fewer people.

The pot of money to help provide legal help for low-income Georgians has never been anywhere near sufficient to help all those who had a legal problem. Over the years, legal aid programs had funding to help one out of every 20 people who asked for legal assistance. But that one person was able to save her home, escape from violence or deal with a crooked contractor.

The legal aid and pro bono programs have to make very hard choices in who they can help. They are like legal emergency rooms. At the hospital, you may have had the experience that the car accident victim is rushed into the emergency room for treatment ahead of you, even though you had been waiting for two hours with a broken arm or other medical problem. Similarly, a legal aid program may accept the case of a family about to lose its home rather than accept your divorce case; or, the program may choose to help a senior citizen stay in a nursing home instead of helping you resolve a legal problem with a used car you purchased. That the legal aid program helped someone else but not you does not mean your legal problem is not important.



Georgia Legal Services Program Presents

The 1st Annual **Champions of Justice** Recognition Event

March 14, 2013 • 6-8 p.m. • 3rd Floor Gallery • State Bar Center • Atlanta, Georgia



I didn't just have an attorney by my side. I had a caring friend. We can never thank Georgia Legal Services enough. – S.L.

2011-12 Honorees

Thomas E. Dennard, Jr., Esq.

Nightingale, Liles, Dennard & Carmical
Brunswick, GA

A. James Elliott, Esq., Associate Dean

Emory Law School
Atlanta, GA

Ms. Isabel Harper

Community Activist
Waynesboro, GA

R. William Ide, III, Esq.

McKenna Long & Aldridge
Atlanta, GA

Ms. Cora Johnson, Executive Director

Treutlen County Community Sewing Center
Soperton, GA

Walter Jospin, Esq.

Paul Hastings LLP
Atlanta, GA

Ms. Elizabeth "Betsy" Neely, Esq.

GLSP Founder
Atlanta, GA

J. Ben Shapiro, Jr., Esq.

Baker Donelson Bearman Caldwell & Berkowitz PC
Atlanta, GA

Ms. Rosita M. Stanley, Vice-chair

National Legal Aid and Defender Association
Macon, GA

Ms. Lillie Winn, Former State Chairperson

Georgia Clients Council
Walthourville, GA

Celebrate Georgia's unsung heroes for justice

Please join the Georgia Legal Services Program (GLSP) in honoring its 2011-12 Champions of Justice. A Champion of Justice acts as an ambassador for GLSP with the Bar and/or state and federal policymakers and/or the public at large and is recognized for achievements, contributions, or other services to GLSP and continuing service to the legal profession and the cause of justice.

Become a sponsor of this important event

As a sponsor, your firm will receive complimentary tickets, recognition at the event, in the Program Booklet, the Georgia Bar Journal, on GLSP's website and Honor Roll of Contributors.

**To request a sponsorship package, contact GLSP's
Development Office at 404-563-7710, ext. 1611.**

Advertise your firm in the program booklet

Program booklet ads are offered for minimum fees. Contact GLSP's Development Office at **404-563-7710, ext. 1611** for more information on program ads.

Purchase tickets

Individual tickets of \$50 each can be purchased online at www.glsp.org starting February 1, 2013.



Georgia Legal Services Program®
Delivering on our nation's promise of justice for all!

Our legal aid programs do need assistance in identifying resources for people whose legal problem they cannot handle. You might ask, what about pro bono attorneys? Well, somebody else's money also makes pro bono available. First, a legal aid program needs money to run a pro bono program—to recruit lawyers to help you, train those lawyers and match you with one of those lawyers. That money comes from the shrinking federal, state, foundation and private money the legal aid programs already use to provide direct legal help to people. Second, you can be matched with a pro bono attorney when an attorney who can handle your kind of legal problem has been identified and that particular attorney has the time and money to help you. As a side note, we have so many areas of Georgia where there are very few lawyers available.


There are federal and state government policies that control or direct how legal aid programs can operate and which dictate

how funds may or may not be spent.

As a community, our legal aid programs are making great efforts to conserve the funds they have to help people like you resolve their legal problems. They are seeking more foundation and private funding. Federal and state funding is dependent upon the voice of the taxpayer and upon the importance the public places on access to justice and access to the courts. The programs are reaching out to lawyers as never before to ask for pro bono service and tax-deductible donations.

There is no one solution. There are no easy answers.

But your legal problem matters. And we do care. We became lawyers to help, not to turn a blind eye.

For access to free legal information and links to resources that may be able to help you, visit GeorgiaLegalAid.org. Here, you can find forms, links to court-based help centers and a range of legal advocacy programs and legal information. 

This article first appeared in <http://lawscape.wordpress.com>. Mike Monahan, director of the Pro Bono Project is the author of the blog. You can learn more about pro bono in Georgia by texting "probono" to 99699.



Michael Monahan is the director of the Pro Bono Project for the State Bar of Georgia and can be reached at mikem@gabar.org.



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ESI ROUNDTABLE

2013 ESI Roundtable – Atlanta, Ga.

Schedule

All 2013 CLE programs will be held from 8:30 – 9:30 a.m.
Burr & Forman, 171 17th St., Ste. 1100, Atlanta, GA

- **March 15** – Meet & Confer/Special Master: *Jennifer Keaton*
- **May 17** – Search Methodology/TAR/Preservation: *Rose J. Hunter Jones*
- **August 16** – Social Media: *Beth K. Toberman*
- **October 18** – Healthcare & Privacy: *David W. Bignault*
- **December 6** – Update in Case Law: *Lorene F. Schafer*

Cost

Attorneys – \$50
Law Firm Staff – \$35
Webinar outside of Atlanta – inquire with RSVP

Receive a \$5 discount on registration fee when you mention you saw this ad in the Georgia Bar Journal.

The ESI Roundtable is a community of local judges and lawyers who volunteer their time to help lawyers and legal support staff understand and navigate the complex world of e-discovery through education, panel discussions and webinars. It is different from other groups in that it is not designed to sell any particular product but, instead, it is a forum for discussions about best practices and methods that work. At each program, attendees will also be introduced and given the opportunity to discreetly evaluate highly-qualified e-discovery service providers.

www.esiroundtable.org
rogo@esiroundtable.org
205-873-1234

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¹Profile of Legal Malpractice Claims: 2008 – 2011, American Bar Association, September 2012.

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Section Events Draw Big Name Speakers

by Derrick W. Stanley

What do Justice Sandra Day O'Connor, Atlanta Mayor Kasim Reed, federal circuit judges and U.S. Patent and Trademark officers have in common? If you answered they are all attorneys, you are correct. But they have also all been invited guests and served as speakers at section events.

Sections are not only a great way to network with your peers, they often provide you exclusive access to high level speakers. From lunch and learn programs to ICLE institutes, section leadership excels at recruiting quality and knowledgeable speakers to provide timely information on hot topics. A few of the more recent events are highlighted below.

The annual Family Law Institute provides an energizing environment to network with peers and judges. The 2012 event was attended by more than 24 judges from across the state. More than 500 family law attorneys ranging from the newly admitted to seasoned experts made the trip and were able to take advantage of an exclusive opportunity to learn from those judges. The 2013 Family Law Institute is being hosted in Sandestin, Fla., over Memorial Day weekend, and the same type of educational opportunity is being planned.

Likewise, the General Practice and Trial Law Section will be highlighting the winners of the Tradition of Excellence Award, the section's highest honor, during



Justice Sandra Day O'Connor delivers brief remarks at the reception in her honor on Nov. 29, 2012.

Photo by Guerry Redmond of Guerry Redmond Photography

their Institute scheduled for March 14-16, at the Omni Amelia Island in Amelia Island, Fla.

Several federal judges attended the North American Sports, Entertainment and Intellectual Property Institute in November 2012. Both our Entertainment and Sports Law and Intellectual Property Law Sections co-sponsor this program. Hon. Sharon Prost, circuit judge, and Hon. Kimberly A. Moore, circuit judge for the U.S. Court of Appeals for the Federal Circuit, sat on a judges panel where they discussed issues related to intellectual property. Supreme Court of Georgia Chief Justice Carol W. Huntstein presented the professionalism portion of the program. In addition to the judicial presenters, leaders from the entertainment industry across the United States also served as speakers and panelists.

While the institutes pose a significant draw for speakers, sections have been bringing the same caliber speakers to lunchtime programs and receptions. The U.S. Patent and Trademark Office (USPTO) presented a program on the American Invents Act in September 2012. After the program, a reception was held in the Ferst Room of the Georgia Tech Library. In attendance from the USPTO were: Patent Commissioner Peggy Focarino; Janet Gongola, director of patent reform; Chief Judge Michael Tierney; Hon. Salley Medley; Hiram Bernstein, Office of Patent Legal Administration; Nicole Haines, Office of Patent Legal Administration; and Michelle Picard, Office of the Chief Financial Officer.

In October 2012, the Creditors' Rights Section hosted a luncheon program with Cicely Barber, court administrator for the State Court of Fulton County. Barber informed the attendees on what they could expect in 2013 based upon the current conditions of the court.

In November 2012, the Appellate Practice Section engaged Justice Keith Blackwell of the Supreme Court of Georgia in a lunchtime conversation that addressed Blackwell's path to the Supreme



Photo by Derrick W. Stanley

(Left to right) Jeffrey Prost-Greene, Hon. Sharon Prost, U.S. Court of Appeals for the Federal Circuit, and Chad Pannell at the North American Sports, Entertainment and IP Institute.

Constitutional Law Section Formed

On Saturday, Jan. 12, 2013, the State Bar of Georgia Board of Governors unanimously approved the creation of the Constitutional Law Section. The purpose of the section as listed in the bylaws is stated below. Please send an email to Derrick Stanley at derricks@gabar.org for information on how to join the section.

Section 1: The name of this Section shall be the "Section of Constitutional Law."

Section 2: The purpose of this Section shall be to promote the objectives of the State Bar of Georgia within the field of constitutional law (state and federal); to actively sponsor the continuing education of the members of the State Bar of Georgia in this field; to make appropriate recommendations in this field to the State Bar of Georgia; and to further the purposes of a Section of the State Bar of Georgia as contemplated under the provisions of Article XIV of the bylaws of the State Bar of Georgia.



Share Ideas.

Join a Section Online.

Log in to your account at www.gabar.org and select "Join a Section." Section dues are currently half-off and membership will be valid through June 30.



(Left to right) Ellen Hastings, assistant Atlanta VA Regional Counsel; Cary S. King, partner, Jacobs & King LLC and 2012 Marshal-Tuttle Award winner; Patricia Hooks, general counsel, regional general counsel for Department of Veterans Affairs, Atlanta Region; Thomas Grace, associate director of Atlanta Veterans Medical Center; Wm. John Camp, chair, Military/Veterans Law Section, partner, Westmoreland Patterson Moseley & Hinson, LLP; and Drew Early, vice chair, Military/Veterans Law Section, of counsel, Shewmaker & Shewmaker, LLC.



Military/Veterans Law Section Signs Memorandum of Understanding with the Atlanta Veterans Administration Medical Center

by Wm. John Camp, chair, Military/Veterans Law Section

The Military/Veterans Law Section has partnered with the Atlanta Regional General Counsel's Office of the U.S. Department of Veterans Affairs to formalize the presence of a Volunteer Veterans Legal Assistance Office at the Atlanta VA Medical Center. The signing of this Memorandum of Understanding with the Atlanta VAMC on Jan. 11, 2013, at the State Bar is historic. Efforts are underway to establish a similar Volunteer Veterans Legal Assistance Clinic in Georgia's VA Medical Center in Augusta and then in Dublin.

Georgia has more than 774,000 Veterans. Many of them struggle with personal legal problems that arise from their service connected injuries and illnesses they obtained in protecting our freedoms and the American way of life. Individual efforts by Cary King and the 700 volunteer attorneys who offer their services through the Bar's Military Legal Assistance Program promote a positive image for all Georgia Bar members.

Court. Blackwell was appointed to the Supreme Court on June 25, 2012, by Gov. Nathan Deal.

Later in the month, the Appellate section, the Federal Bar Association (FBA) and the 11th Circuit Court of Appeals welcomed more than 200 members of the bench and bar to a reception honoring retired U.S. Supreme Court Justice Sandra Day O'Connor. Since her retirement in 2006, O'Connor has remained active in her public life, and came to Atlanta to sit with the 11th Circuit as a visiting judge.

The reception was coordinated by Atlanta appellate practitioner Amy Levin Weil; and Hon. Beverly Martin welcomed guests on behalf of the court. Following the judge's welcome, Appellate Practice Section Chair Paul Kaplan and FBA President Meryl Roper presented O'Connor with a commemorative Georgia peach handcrafted by renowned Atlanta glassblower Hans Frabel.

In December 2012, Atlanta Mayor Kasim Reed addressed the Entertainment and Sports Law Section about business being brought to the city of Atlanta and state of Georgia based upon favorable tax conditions. This program was presented to a sold-out crowd of guests. Chair Steve Weizenecker, said, "We were so happy that Mayor Reed took time from his busy schedule to speak to the section at our initial quarterly lunch and learn series. Mayor Reed is a great speaker and leader. He shared his vision for the growing entertainment industry in Atlanta. We hope that other leaders in Georgia can follow his example."

The Taxation Law Section co-sponsored a reception at the Bar Center with the Atlanta Bar Association Tax Law Section in January to honor Charles "Chuck" Beaudrot. Beaudrot was appointed by Gov. Nathan Deal as an administrative law judge on the newly created Georgia Tax Tribunal, an independent, executive branch forum dedicated to tax appeals. The reception that followed and



Photo by Derrick W. Stanley

The Entertainment and Sports Law Section held a lunch program with special guest Atlanta Mayor Kasim Reed. (Left to right) Steve Weizenecker, chair; Mayor Kasim Reed; Leron Rogers, vice-chair, entertainment; Elizabeth Wheeler, secretary; Marga Regina "Gina" Henschen, member-at-large, entertainment.




Photo by Stephanie J. Wilson

(Left to right) David Golden, Hon. Charles "Chuck" Beaudrot and Vivian D. Hoard, vice chair of the State Bar Taxation Law Section, at the reception honoring Beaudrot as judge of the newly created Georgia Tax Tribunal.

Atlanta Bar CLE program, where Beaudrot spoke, gave tax practitioners the opportunity to network and meet the judge of this new tribunal.

The International Law Section presented a three-part series of programs about foreign companies doing business in Georgia. Other sections were able to put together timely programs about case law that had been recently reviewed. Topics ranged from "Presumption of Irreparable Harm in Requests for Injunctions After eBay" to "The Health

Care Law: Updates and How It Affects Franchising."

You can always check the calendar at www.gabar.org for upcoming section events. Institutes and day-long programs can also be found by visiting ICLE's website at www.iclega.org. 



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

Fastcase Advance Sheets

by Sheila Baldwin


Georgia attorneys are beginning the third year using Fastcase for research. Finding case law and statutes, acts, attorney general opinions, court rules and other Georgia-specific legal information has never been easier. As an added benefit, Fastcase has been adding advance sheets over the past year and now is publishing Georgia cases for our members (see fig. 1). These eBooks contain the latest decided cases coming out of the courts and are available in an electronic format viewable on iPad, Kindle, Android and Nook devices.

Advance sheets have been around for more than 100 years and were originally meant to give attorneys a way to view the most recent decisions in their area of interest. Subscriptions are costly; they accumulate into a series of reporters and are eventually published in a book with an additional price tag. Fastcase publishes monthly advance sheets that include judicial opinions from the U.S. Supreme Court, federal circuit and state courts.

With the vast number of cases coming out each year and the need for a better delivery system, Fastcase has come up with a great way to publish advance sheets electronically. Our members can now take advantage

of this economical and easy way to keep up on legal trends by reading cases from a tablet, iPod (2nd generation or later) or iPhone (3G or later). The format is much like reading a traditional book with pages that turn or flip. You are able to view a table of contents with summaries from the courts which highlight the issues in the case. If a particular case seems on point, click the link to open to the full case. Text can be highlighted, copied, annotated and shared. Fastcase eBooks can be searched for key words or terms and the text can be enlarged if you are reading on a small screen. Best of all, they are free for our members as part of their State Bar of Georgia member benefits.

To get started, go to www.fastcase.com/ebooks/, and locate the link to the iTunes store for Apple users (iPad, iPod or iPhone), or to the Internet archive for Kindle users (see fig. 2). Once the site has opened, simply click the volume in which you are interested, select “view in iTunes” and download the book to your library. Next, open up your iBooks or Kindle App on your device and locate the book in your library (see fig. 3). Remember, the advance sheets are viewable only on iBooks, Kindle or on your iOS device, not on a computer.

Please feel free to contact the Fastcase support team, 866-773-2782, or support@fastcase.com to ask questions about this new feature. As always, you may contact sheilab@gabar.org or call 404-526-8618 to reach our office for assistance. 

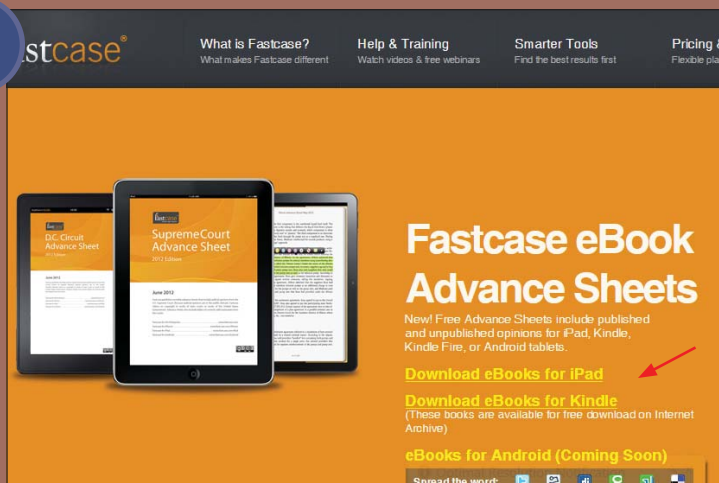


Sheila Baldwin is the member benefits coordinator of the State Bar of Georgia and can be reached at sheilab@gabar.org.

1



2



3



Fastcase training classes are offered four times a month at the State Bar of Georgia in Atlanta for Bar members and their staff. Training is available at other locations and in various formats and will be listed on the calendar at www.gabar.org. Please call 404-526-8618 to request onsite classes for local and specialty bar associations.

Improving Routine Documents Part 3: Transmittal Letter

by Karen J. Sneddon and David Hricik

This installment of *Writing Matters* continues our series on improving everyday documents. This installment discusses the lowly transmittal letter and recommends something beyond a generic “please see the enclosed.”

Perhaps no letter is more common than the transmittal letter. At its most basic level, the transmittal letter ensures that the proper recipient receives the proper document. But the function of the letter can easily be given a broader purpose that lends efficiency. The transmittal letter can help the recipient understand the nature of the enclosure (or in the case of an email, the nature of the attachment) and what action the recipient needs to take.

Like all formal business letters, transmittal letters should include a heading, date, recipient’s address, salutation and a closing. The body of the transmittal letter should: (1) identify the enclosure, (2) give basic context for the enclosure, (3) summarize the enclosure, (4) state any request—comment or action—and a deadline, and (5) specify to whom any response should be directed. Each topic is considered in detail below.

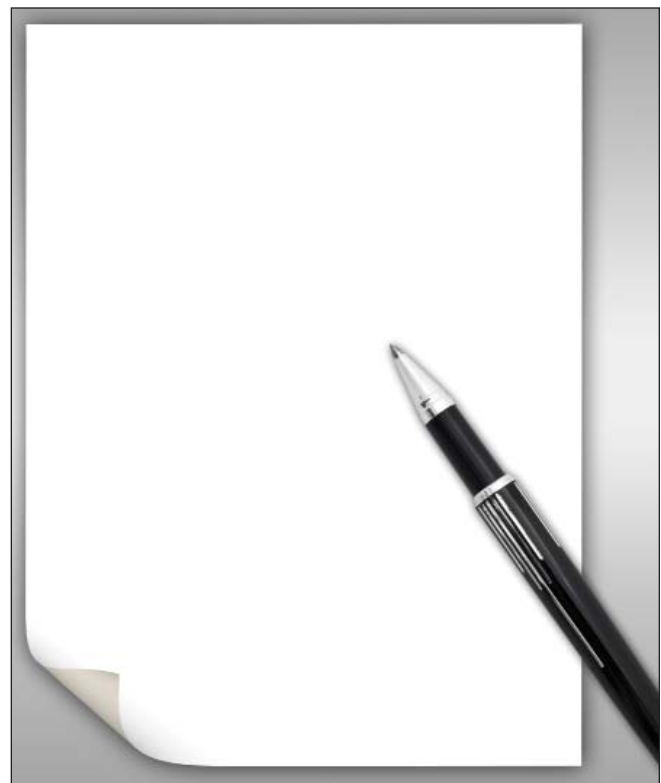
Identify the Enclosure

The first sentence of the letter should clearly identify the enclosure.

As we discussed, enclosed is a copy of the draft term sheet for your review.

Give Basic Context

This component helps the recipient connect the enclosure to prior conversations and communications, such as client meetings or email exchanges. This allows the recipient to quickly place the enclosure in the broader context of the relationship. It should answer



the question the reader—particularly less sophisticated readers—might have of “why am I getting this?”

The enclosed draft term sheet is based on the previous exchanges with the prospective buyer. Although the term sheet is not a formal contract, the term sheet memorializes the key terms of the transaction. The term sheet will prevent future misunderstanding about the basic terms and establish the nature of the continuing negotiations.

Summarize the Enclosure

Even for a sophisticated client, a multi-page legal document may be difficult to absorb. Moreover, a summary may obviate the need for the reader to give a close reading of a lengthy, but routine, document.

The prospective buyer has offered \$50,000 and a closing date of . . .

Request Action and State a Deadline

Enclosures are sent for a reason. Sometimes, it may be purely informational, and no action will be needed. More often, the lawyer needs the recipient to act. For example, a lawyer may need a client to confirm a term of a transaction, supply information or elect one of several courses of action. The transmittal letter can highlight the request and establish a deadline.


After I receive your comments about the draft, I will finalize the term sheet and send the term sheet to the prospective buyer's legal counsel. If it is acceptable as is, please let me know. We need to respond by Feb. 14.

Specify to Whom Any Response Should Be Directed

Most often, of course, any response will be directed to the sender. This is not always the case. Further, sometimes a written response may be required, either by law or for good risk management. So, a request should specify how and to whom any response should be directed.

You may call me at 555-555-5555 or email me at email@address.com.

Some Further Tips

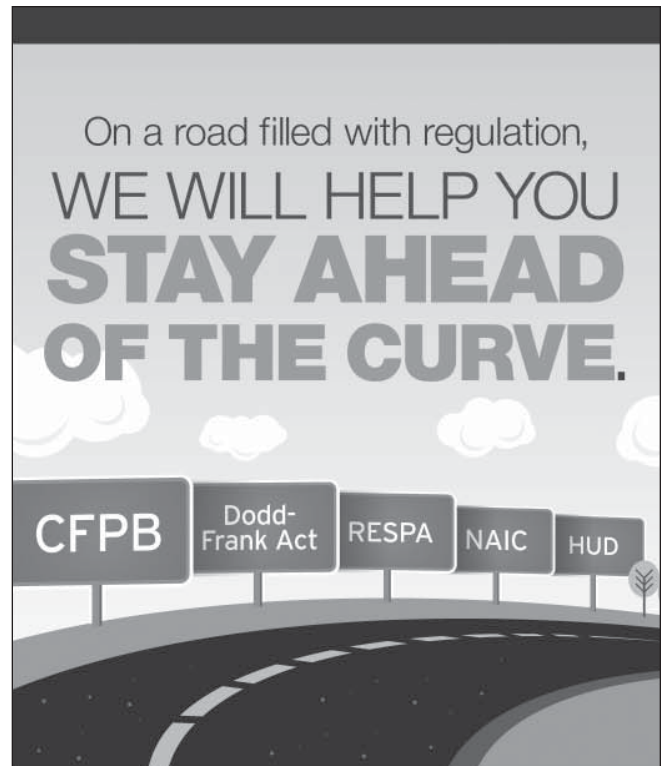
Because of its function transmittal letters are brief, and seldom run more than half a page. The tone should be professional, but not use legalese or jargon except as truly necessary. In addition, the transmittal letter should be kept and sent as a separate document. That means any hard copy should not be bound, stapled or otherwise physically attached to the enclosure. By email, it should be either in the email text itself or a separate document, appropriately titled. 



Karen J. Sneddon is an associate professor of law at Mercer University School of Law.



David Hricik is currently on leave from Mercer University School of Law, serving as law clerk to Chief Judge Randall R. Rader of the U.S. Court of Appeals for the Federal Circuit during 2012-13. He will return to Mercer in 2013. The legal writing program at Mercer University continues to be recognized as one of the nation's top legal writing programs.



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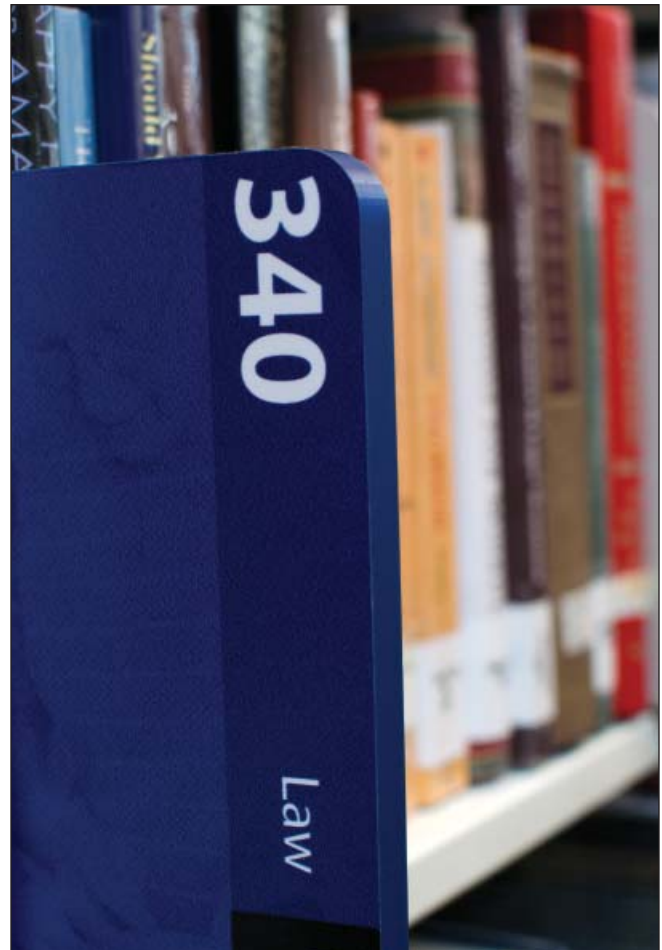


Commission Explores the Future of Legal Education

by Avarita L. Hanson

The Chief Justice's Commission on Professionalism (CJCP) convened the stakeholders in the future of legal education on Nov. 15, for full day of discussions on the legal profession and how it is meeting the needs of the people. Under the leadership of Chief Justice Carol W. Hunstein, CJCP chair, the 2012 Convocation on Professionalism addressed the theme: "The Future of Legal Education: Will It Produce Practice-Ready Lawyers?"

Avarita L. Hanson, CJCP executive director and program chair, brought in law professors, administrators, mentoring program advocates, ethics professors, recent graduates, advanced law students, law firm hiring partners, major public attorneys, legal aid lawyers, prosecutors and public defenders, along with the bench and bar from across the state and country to look at current trends in legal education and options for educating graduates on how to effectively serve client needs into the future.



Based on the general premise that law schools earn top grades for educating students about the doctrinal law, passing grades for teaching lawyering skills and marginal grades for conveying professional values, this conference looked at what could be done for a “straight A” performance. Against the backdrop of the *Carnegie Report*, a 2007 study on educating lawyers and preparing them for the legal profession, this event explored law schools’ performance in inculcating values and teaching the skills required for today’s legal professionals. Participants looked at programs, activities and policies that can advance recent graduates’ skills and values to meet the demands of today’s practice and the environment for practice today and tomorrow. Moderated by Prof. Steven Hobbs, University of Alabama School of Law, this continuing legal education program included two morning sessions giving an overview of the issues and two afternoon roundtable sessions where Georgia stakeholders discussed options and opportunities for innovation in law school and for recent graduates to practice.

The first session provided an overview of current and future trends of legal education in light of notable reports, law school accreditation standards and the ever-changing legal profession’s ability to meet client needs. Prof. Thomas D. Morgan, George Washington University Law School, Washington, D.C., opened with comments on the state of the profession and legal education. Additional panel members included Hulett “Bucky” H. Askew, immediate past consultant, ABA Section on Legal Education; Linda A. Klein, managing shareholder, Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, and past president of the State Bar; and former judge Ralph Simpson, chair, Georgia Board of Bar Examiners.

The second session looked at current options for law school



Panelists Linda A. Klein and Hulett “Bucky” H. Askew participate on the panel providing an overview of current and future trends of legal education, law school accreditation standards and the legal professional’s ability to meet client needs.



(Left to right) Panelists Ralph F. Simpson and Thomas D. Morgan

curricula and post-graduate experiences to prepare students to become practitioners. Prof. James Moliterno, Washington and Lee University School of Law, spoke of the program’s third year curriculum that focuses on client representation skills. C. Lash Harrison, managing partner, Ford & Harrison LLP, described his

firm’s new attorney training program and options for practice when advancing. Prof. Carol Needham, St. Louis University School of Law, provided references and resources for law school curricular options. Fred Rooney, director, CUNY School of Law Community Legal Clinic, described development of law school incubator programs



(Left to right) A. James Elliott, Frank S. Alexander, Avarita L. Hanson, John Ingersoll, Berta Laney, Dr. James T. Laney, Robin Frazer Clark and Rev. John L. Cromartie Jr.



(Left to right) Gate City Bar sponsors L. Chris Stewart and Lynnette D. Espy-Williams; Atlanta's John Marshall Law School sponsor Dean Richardson Lynn.

whereby recent graduates can successfully practice in under-served areas providing reasonable cost representation to clients.

At midday, a tribute luncheon was held honoring Dr. James T. Laney, a co-founder of the CJCP. In a lecture given in 1986 on "The Moral Authority in the Professions," Laney, then-

president of Emory University, expressed concern about the decline in moral authority of all the professions, with a focus on the legal profession because of the respect and confidence in which it has traditionally been held and because it is viewed by the public as serving the public. The Supreme Court of Georgia and the State

Bar then embarked on a long-range project to raise the professional aspirations and actions of Georgia lawyers, beginning with a meeting in 1988 and resulting in the Supreme Court's official formation of the Chief Justice's Commission on Professionalism in 1989. Present at this luncheon were several attendees from the 1988 meeting including: Emory Associate Dean A. James Elliott; Prof. Frank Alexander, E. Wycliffe Orr and Ben Weinberg. The invocation was presented by Rev. John L. Cromartie Jr., a retired lawyer, former member of the CJCP and former director of the Georgia Legal Services Program. Special tributes to Laney were given by John Ingersoll, Dean Elliott and Prof. Alexander. Eric L. Barnum, partner with the Atlanta office of luncheon sponsor Schiff Hardin, LLP, presented remarks on the responsibility of the practicing bar to prepare lawyers for practice.

The third session, Georgia Stakeholders Roundtable I, addressed what is a "practice-ready attorney." Prof. Frank Alexander, Emory University School of Law, critiqued the dual and sometimes conflicting roles of law schools to engage scholarship while educating students to become lawyers. Steven Kaminshine, dean, Georgia State University College of Law, acknowledged that law schools should and do offer an impressive array of practical skills courses while stating that law schools are not solely responsible for preparing graduates for law practice.

Atlanta attorney Shatorree Bates, founder of the Young Lawyers Division's Solo and Small Firm Practice Committee, described programs and resources she found helpful and necessary to set up her now successful four-year-old solo practice. Giving a young and new lawyer's perspective, Bates made specific suggestions for how the State Bar and law schools can support newly-minted attorneys who want to practice as solo practitioners and in small firms. Bates eval-

uated her law school doctrinal and skills courses, finding most helpful to preparing her for practice. She then complimented State Bar of Georgia programs and resources—Transition Into Law Practice Program (TILPP), Law Practice Management Program, Fastcase, Ethics Hotline—as invaluable to her practice. She also recommended several different ways the Bar and related organizations could continue providing support to newly-admitted attorneys.

Jennifer Davis, lay member, CJCP, stated that consumers have a vested interest in lawyers' education because they will need affordable legal representation. Tangela King, TILPP director, addressed the requirements for developing professionalism in new attorneys. Charles C. Olson, general counsel for the Prosecuting Attorneys' Council of Georgia, reviewed the particular requirements to train a new prosecutor in both the ethics and practical skills required of a lawyer, which are in addition to the subjects addressed in the TILPP. In the same vein, Steve Gottlieb, director of the Atlanta Legal Aid Society, noted the time, effort, expense and supervision required to train a capable legal aid attorney is beyond the timeframe of a short law school externship.


The final session, Georgia Stakeholders Roundtable II, explored what legal educators, the bench, bar and others, can do to promote meaningful innovation to prepare practice-ready attorneys in the future. State Bar President Robin Frazer Clark, Prof. Patrick Longan, Mercer School of Law and former judge J. Antonio DelCampo, chair, Georgia Board to Determine Fitness of Bar Applicants, focused on the requisite attributes of professionalism. Prof. Kimberly D'Haene, Atlanta's John Marshall Law School, pointed to the nuances of developing professionalism in law students in the millennial generation. John T. Marshall, retired attorney with Bryan Cave

LLP, and Jon Pannell, president of the Young Lawyers Division, offered comments from two generations of lawyers on career choices and satisfaction. Dean Rebecca White, University of Georgia School of Law, concluded the program by saying: "One size does not fit all; each law school may have a unique mission in educating its students—some more focused on practical training and others on scholarship—both undeniably important aspects of legal education."

The convocation, a unique program, enjoyed top reviews by participants. One said, "This was one of the more interesting programs I have attended in the last few years." Others said, "Well organized, thoughtful, staff went above" and "really appreciated the attempts to include racial and gender division." Focusing on the importance of legal education, the practicing bar came together with legal educators and client representatives for a gathering which attracted local legal media interest.¹

The 2012 Convocation on Professionalism was more than a CLE program; it was an event which required the efforts of many people to produce. We thank Schiff Hardin LLP and Chief Justice Leah Ward Sears (Ret.) for sponsoring the Tribute Luncheon. We thank our other sponsors for their contributions including: Dean Richardson Lynn and Atlanta's John Marshall Law School and its student ambassadors, the Board of Bar Examiners, the Board to Determine Fitness of Bar Applicants, Gate City Bar Association, Committee on Professionalism, Law Practice Management Program and the Young Lawyers Division. Special thanks to Justice Harris Hines for his luncheon remarks; Eric Thomas for the luncheon music; CJCP staff, Terie Latala and Nneka Harris-Daniel; and CJCP interns, Andrea M. Tyler, Sanchia Jeffers and Aaron Jones for researching and helping to shape the issues. Thanks also to Sally Lockwood, director of Bar

Admissions, for bringing the convocation idea to us.

The future of legal education in Georgia looks bright. The six law schools in our state—Atlanta's John Marshall, Emory, Georgia, Georgia State, Mercer and Savannah—all benefit from inspired leadership and have committed to graduating well-prepared lawyers for today's and tomorrow's law practice. Service is the cornerstone of our profession and the people of Georgia will be well-served. 



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

Endnote

1. Meredith Hobbs, Panelists Debate Law Schools and Practice-Ready Grads, DAILY REPT., (Nov. 30, 2012), at: <http://www.dailyreportonline.com/PubArticleDRO.jsp?id=1202579528555&slreturn=20121106161941>

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In Memoriam honors those members of the State Bar of Georgia who have passed away. As we reflect upon the memory of these members, we are mindful of the contributions they made to the Bar. Each generation of lawyers is indebted to the one that precedes it. Each of us is the recipient of the benefits of the learning, dedication, zeal and standard of professional responsibility that those who have gone before us have contributed to the practice of law. We are saddened that they are no longer in our midst, but privileged to have known them and to have shared their friendship over the years.

John Leon Adair

Suwanee, Ga.
University of Alabama School
of Law (1957)
Admitted 1965
Died December 2012

Kathryn M. Aldridge

Hardeeville, S.C.
University of Georgia School
of Law (1975)
Admitted 1975
Died December 2012

Frederick L. Bateman Jr.

Tallahassee, Fla.
University of Florida College
of Law (1983)
Admitted 1985
Died December 2012

Barbara Anne Becraft

Cordele, Ga.
Mercer University Walter F.
George School of Law (1981)
Admitted 1981
Died December 2012

Elizabeth Nesmith Campbell

Sylvester, Ga.
University of Georgia School
of Law (2002)
Admitted 2002
Died January 2013

David L. Cannon

Canton, Ga.
Woodrow Wilson College of Law
(1982)
Admitted 1982
Died November 2012

J. Susan Clark

Conyers, Ga.
Mercer University Walter F.
George School of Law (1990)
Admitted 1990
Died November 2012

H. Howard Cleveland

Marietta, Ga.
Emory University School of Law
(1977)
Admitted 1977
Died November 2012

Bobby L. Cobb

Norcross, Ga.
Atlanta Law School (1961)
Admitted 1964
Died December 2012

George Washington Cronin

Hull, Ga.
Woodrow Wilson College of Law
(1946)
Admitted 1946
Died November 2012

John W. Denney

Midland, Ga.
Mercer University Walter F.
George School of Law (1957)
Admitted 1957
Died November 2012

Reka R. Eaton

Atlanta, Ga.
Woodrow Wilson College of Law
(1979)
Admitted 1982
Died December 2012

Joseph Gardner III

Tucker, Ga.
Emory University School of Law
(1968)
Admitted 1968
Died July 2012

Raymond S. Gordon Jr.

Jesup, Ga.
Atlanta's John Marshall Law
School (1973)
Admitted 1974
Died September 2012

Harold Irvin

Tucker, Ga.
Emory University School of Law
(1950)
Admitted 1949
Died July 2012

Harold Jose

Evans, Ga.
University of Georgia School
of Law (1966)
Admitted 1966
Died November 2012

Randolph C. Karrh

Swainsboro, Ga.
Emory University School of Law
(1962)
Admitted 1962
Died November 2012

Harry W. Krumenauer

Marietta, Ga.
Mercer University Walter F.
George School of Law (1976)
Admitted 1976
Died November 2012

Rufe Edwards McCombs
Columbus, Ga.
University of Georgia School
of Law (1942)
Admitted 1941
Died December 2012

Christopher N. Shuman
Atlanta, Ga.
Mercer University Walter F.
George School of Law (1985)
Admitted 1985
Died December 2012

Jack B. Smith
Decatur, Ga.
Emory University School of Law
(1952)
Admitted 1952
Died November 2012

Sol Spielberg
Atlanta, Ga.
Atlanta Law School (1955)
Admitted 1955
Died December 2012

Luther Strickland Jr.
Macon, Ga.
Woodrow Wilson College of Law
(1978)
Admitted 1980
Died October 2012

Frank D. Sutton
Clayton, Ga.
Admitted 1961
Died November 2012

Larry W. Threlkeld
Mableton, Ga.
Atlanta's John Marshall Law
School (1977)
Admitted 1977
Died October 2012

John L. Westmoreland Jr.
Atlanta, Ga.
Emory University School of Law
(1949)
Admitted 1948
Died December 2012

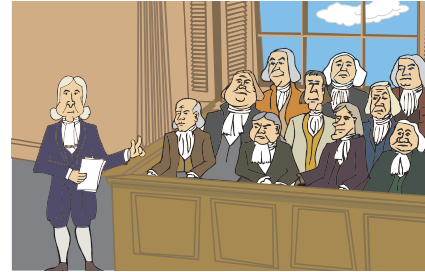
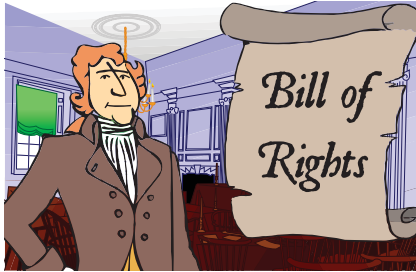
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Trial By Jury: What's the Big Deal?



"Trial By Jury: What's the Big Deal?" is an animated presentation for high school civics classes in Georgia to increase court literacy among young people. This presentation was created to be used by high school civics teachers as a tool in fulfilling four specific requirements of the Social Studies Civics and Government performance standards.

This animated presentation reviews the history and importance of trial by jury through a discussion of the Magna Carta, the Star Chamber, the trial of William Penn, the Constitutional Convention in 1787, the Constitution and the Bill of Rights. Also covered in the presentation are how citizens are selected for jury duty, the role of a juror, and the importance of an impartial and diverse jury.

The State Bar of Georgia's Law-Related Education Program offers several other opportunities for students and teachers to explore the law. Students can participate in Journey Through Justice, a free class tour program at the Bar Center, during which they learn a law lesson and then participate in a mock trial. Teachers can attend free workshops correlated to the Georgia Performance Standards on such topics as the juvenile and criminal justice systems, federal and state courts, and the Bill of Rights. The LRE program also produces the textbook *An Introduction to Law in Georgia* for use in middle and high school classrooms.

You may view "Trial By Jury: What's the Big Deal?" at www.gabar.org/cornerstones_of_freedom/civics_video/. For a free DVD copy, e-mail stephaniew@gabar.org or call 404-527-8792. For more information on the LRE Program, contact Deborah Craytor at deborahcc@gabar.org or 404-527-8785.



John G. Wilbanks Jr.
Gainesville, Ga.
University of Georgia School
of Law (1984)
Admitted 1984
Died December 2012



Harold Jose died in November 2012. He was a former member of Curtis Baptist Church and a current member of First Baptist Church of Atlanta. He met and married the former Miss Merle Hensley at Curtis Baptist Church in 1957. Jose fought in the Korean War. He earned his undergraduate and his law degree from the University of Georgia. Jose practiced law for 45 years in Atlanta. He retired at the age of 73 and moved to Columbia County. Jose was a loving, devoted husband and an honorable christian man. His hobbies were gardening and woodworking.



Hon. Jack B. Smith died in November 2012. He was born in October 1924, the son of Dorsey and Katie Smith and the youngest of three children. After graduating from Decatur High School and a short stint in college, he entered the military where he flew 33 missions as a navigator on a B-17 during World War II. Upon returning from the war Smith remained active in the Air Force Reserves, retiring years later with the rank of lieutenant colonel.

Smith finished his college education at Emory University where he obtained a degree in journalism. He then received his J.D. from Emory University School of Law. After a brief time in private practice, Smith became an assistant solicitor in DeKalb County followed by promotion to head solicitor. He was appointed to the bench in 1968 as a judge in the State Court of DeKalb County. He later became senior judge of the state court where he presided in total for more than 33 years. Upon retirement, Smith took senior status and continued to remain active on the bench.



Frank D. Sutton passed away in November 2012. He was born in February 1934, the youngest of nine children of Jerry Sutton and Elsie Baldree Sutton.

Sutton graduated from Cook High School in Adel, after 11 years of schooling. The following year Georgia began requiring 12 years for a high school diploma. Following graduation from high school, Sutton worked at a variety of jobs from Miami, Fla., to Patterson, N.J., before settling on a career in journalism. He was a reporter for the Georgia newspapers *The Nashville Herald*, *The Tifton Gazette* and *The Macon Telegraph*. He was also a stringer for *The Associated Press*.

In 1959, Sutton left journalism and took a job as a clerk in a two-

man law partnership, "sharpening pencils and carrying coffee" as he often put it. He came to work an hour early and stayed an hour late each day, using this time, as well as weekends, to read and study law. Based upon his graduation from high school and two years of office study, he was permitted to take the Georgia Bar Exam in 1961. He then established the law firm Sutton, Kelly & Pitman in Tifton.

He left private law practice in 1969 and began working for the state in the governor's office, serving as senior aide to Gov. Jimmy Carter. He was the governor's lobbyist, working with the Legislature to get the administration's programs enacted into law. He also aided the governor in appointing judges and district attorneys to fill vacancies caused by retirement and resignations in those offices.

Growing tired of public practice, Sutton returned to private practice in 1972, opening an office for the general practice of law in Clayton. He practiced there for about 30 years until retirement in 2003. Sutton served as a county attorney for Rabun County for a number of years, as well as the Rabun County Board of Education and chief magistrate judge.

Sutton and his wife, Helen Coalley Sutton, were married 39 years. At the time of his death they lived in Clayton. GBJ



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Business and Commercial Litigation in Federal Courts, 3rd. ed.

Editor Robert L. Haig

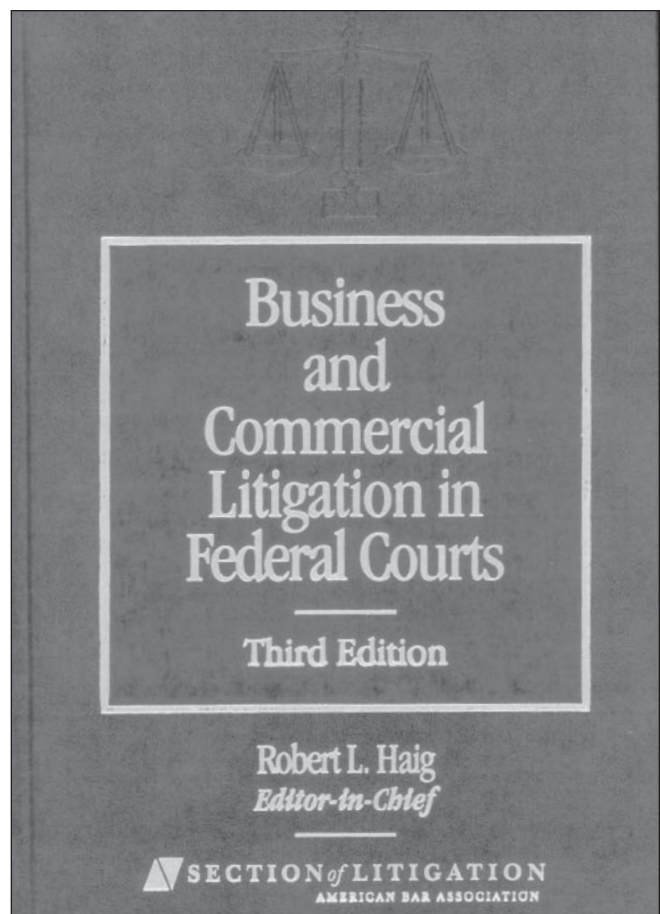
(in cooperation with the ABA Section of Litigation)

11 volume set

reviewed by John A. Chandler

The young lawyer is incensed by his adversary's gamesmanship in responding to perfectly reasonable interrogatories. Having just concluded a case with a big firm in New York where contention interrogatories were served, answered and used effectively, he has just received non-answers to his contention interrogatories in his business case in federal court in Atlanta. What an opportunity. He can move to compel, go to court, argue a motion, show the judge what unprincipled creeps the other lawyers are and obtain answers to the questions.

Complete disaster. The court actually holds a live, in chambers hearing, and says what did you expect? You ask interrogatories, you know you are going to get lawyer written answers. The questions are way too broad. And the judge thinks I'm wasting his time. Yes, the young lawyer was me. I wish that "Business and Commercial Litigation in Federal Courts" had been



available back then, but it was not.

The ABA Section of Litigation has done it again. Its new, now 11-volume third edition, fills a unique role in handling commercial cases in federal court. Edited for the third time by Robert L. Haig of Kelley Drye & Warren in New York, the volumes cover the subject thoroughly in 130 chapters ranging from subject matter jurisdiction to information technology. Each chapter analyzes the applicable rules and law and then provides sound practical advice. The latter distinguishes this work from all others in the field.

Practical advice, however, is only as good as the advisor. Again, these volumes are unique. Its 251 principal authors are leading lawyers and judges in our profession. Interrogatories? The principal author of the chapter is Hon. William S. Duffey Jr. of the U.S. District Court for the Northern District of Georgia. If his piece had been written when I was a young lawyer, I would have taken the advice. He advises that broad interrogatories are likely to produce little of value and that a court's resolution is most often a compromise, giving the interrogator less than all. He cautions that the interrogatory may let the other side know about its otherwise unknown weaknesses. The chapter then includes drafting tips, model interrogatories, strategic and tactical advice and relevant law. At least three times in the 70-page chapter he cautions that courts are not much enamored with disputes about interrogatories—a lesson learned the hard way.

The authors include 21 other judges. An example of the quality of those authors is Chapter 25 on e-discovery; the principal author is Hon. Shira A. Scheindlin of the Southern District of New York, who is practically the mother of e-discovery law. Scheindlin wrote the decision in *Zubulake v. UBS Warburg*, the seminal and authoritative decision on that subject that haunts all business litigants.


Her chapter includes strategy and objectives, the duty to preserve the law, spoliation, and practice aids and checklists among its other enlightening subjects. How could one do better than to follow Scheindlin's suggestions?

The practitioners who wrote for this series are the leaders in federal court litigation. I am tempted to name all 251, but let me provide a sample of the quality of the individuals who give their best practical advice. A number are from Atlanta, including Hal Daniel of Holland & Knight who writes on litigation management by the law firm (with the counterpart litigation management by the corporation written by my partner Meghan Magruder); Todd David of Alston & Bird on executive compensation litigation; Pat Brumbaugh (King and Spalding partner), and Dan King on sanctions; and the inimitable Chilton Davis Varner, president of the American College of Trial Lawyers, who is a leading expert on trying tort claims for drug companies, writing on that very subject with Steve Devereaux.

Would you follow the advice of David Boies on litigation technology? I will never forget his use of the same in cross examining Bill Gates in the Microsoft antitrust litigation. How about Steve Susman, one of the countries' leading plaintiff's business lawyers on expediting and streamlining litigation? If you have ever tried a case with or against Steve, you'll vouch for his tenacious ability to get to trial

simply and quickly, with no side shows. Dan Webb writes on consumer protection. Finally, the late Jerry Solovy from Jenner & Block advises on RICO cases, a subject at which he was a master.

The penultimate paragraph of favorable *New York Times* book reviews seems always to be a negative paragraph. I am not up to those standards—I have no criticism of this work.

This is my third time to review this series for the *Georgia Bar Journal*, having previously reviewed the first and second editions in 1998 and 2005. Like last time, this edition is not just dead trees—it comes with an extremely useful electronic version. It is a pleasure to watch this series grow and evolve. "Business and Commercial Litigation in Federal Courts" remains an invaluable tool for this kind of litigation. 



John A. Chandler is a senior litigation partner in King & Spalding's Atlanta office with more than 36 years of trial

experience and a member of the Business Litigation Practice Group. He is a Fellow of the American College of Trial Lawyers and has been lead trial counsel for all of the Big Four accounting firms and a number of prominent national law firms in addition to insurance companies, health care providers, individuals and partnerships.

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UPL Advisory Opinion No. 2012-1

Issued by the Standing Committee on the Unlicensed Practice of Law on August 13, 2012.

Note: This opinion is only an interpretation of the law, and does not constitute final action by the Supreme Court of Georgia. Unless the Court grants review under Bar Rule 14-9.1(g), this opinion shall be binding only on the Standing Committee on the Unlicensed Practice of Law, the State Bar of Georgia and the petitioner, and not on the Supreme Court of Georgia, which shall treat the opinion as persuasive authority only.

QUESTION PRESENTED

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 of 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?

SUMMARY ANSWER

To the extent any questioned activity involves the preparation or execution of a deed of conveyance, one should look to prior opinions of the Committee and the Supreme Court of Georgia. If, however, a consulting forester's actions do not extend beyond the use of a pre-existing contract, that activity would not by itself constitute the unlicensed practice of law.

OPINION

In UPL Advisory Opinion No. 2003-2, the Committee addressed issues surrounding the preparation and execution of deeds of conveyance. That opinion was approved by the Supreme Court of Georgia. In re UPL Advisory Opinion 2003-2, 277 Ga. 472 (2003). To the extent any questioned activity related to a timber sale involves the preparation or execution of a deed of conveyance, one should consult those two opinions for guidance.

In Georgia, the licensure of registered foresters is based upon statute. O.C.G.A. §12-6-40 et seq. Such licensees are regulated by the State Board of Registration for Foresters. O.C.G.A. §12-6-42. The Board issues licenses, has the authority to discipline licensees, and has the power to seek injunctive relief when it appears that an individual or other entity is falsely holding himself out as a registered forester. O.C.G.A. §§12-6-52, 12-6-57 and 12-6-60. It is illegal to engage in the unlicensed practice of professional forestry. O.C.G.A. §12-6-61. "'Professional forestry' . . . means any professional service relating to forestry, such as investigation, evaluation, development of forest management plans or responsible supervision of forest management, forest protection, silviculture, forest utilization, forest economics, or other forestry activities in connection with any public or private lands . . ." O.C.G.A. §12-6-41(2).

Registered foresters are sometimes used in connection with timber sales. To the extent the forester's activity is analogous to that of a licensed Georgia real estate broker, the Committee is unconcerned. It notes that real estate brokerage law allows a real estate transaction broker to assist any party by "[p]roviding pre-printed real estate form contracts, leases, and related exhibits and addenda" and by "[a]cting as a scribe in the preparation of real estate form contracts, leases, and related exhibits and addenda." O.C.G.A. §§ 10-6A-14(a)(3) and 10-6A-14(a)(4). Real estate brokers engaged by sellers, landlords and buyers have the authority to carry out the same acts. O.C.G.A. §§10-6A-5(c), 10-6A-6(c) and 10-6A-7(c). Furthermore, it is lawful for real estate brokers "to complete listing or sales contracts or leases whose form has been prepared by legal counsel and such conduct shall not constitute the unauthorized practice of law." O.C.G.A. §43-40-25.1. A broker completing a written offer to buy, sell or lease real property "shall include a description of the property involved, a method of payment, any special stipulations or addenda the offer requires, and, such dates as may be necessary to determine whether the parties have acted timely in meeting their responsibilities under the lease, offer, or contract." Id. The Committee finds that if a registered forester engages in similar activity in relation to a timber sale, that activity does not by itself amount to the unlicensed practice of law.



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Advertisers Index

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BPC Financial	37
Daniels-Head Insurance Agency, Inc.	41
ESI Roundtable	47
Georgia Lawyers Insurance Program.....	IFC
Gilsbar, Inc.....	15
Imbordino Polygraph	59
Marsh	47
Norwich Document Laboratory	65
SoftPro Corporation	55
SunTrust	21
Thomson Reuters	BC
Warren R. Hinds, P.C.....	39

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