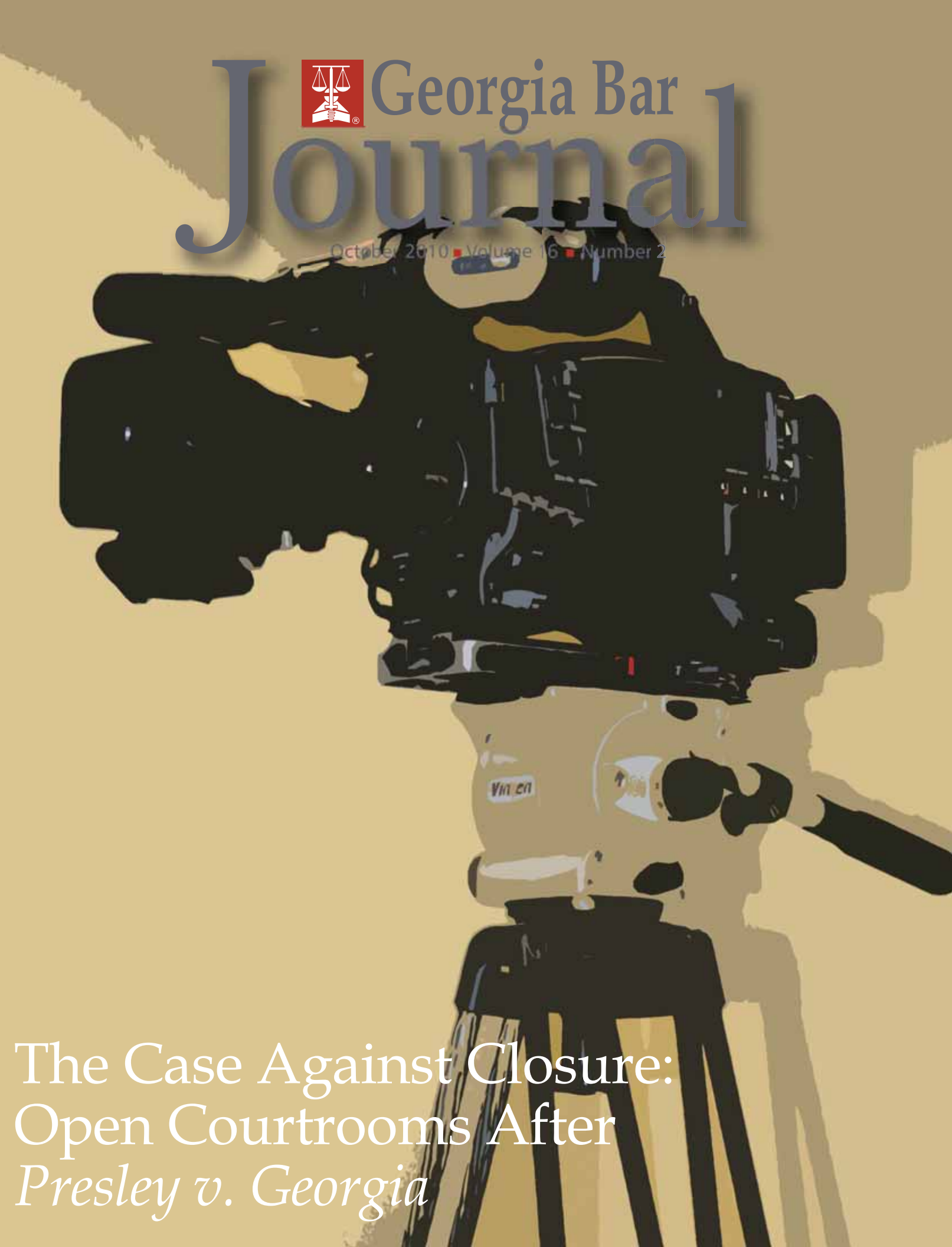
Georgia Bar Journal
October 2010 ■ Volume 16 ■ Number 2



The Case Against Closure: Open Courtrooms After *Presley v. Georgia*

What do you Deserve?

Choose professional liability coverage with *Georgia Lawyers Insurance Program,* and you deserve to be Treated Fairly®.

With a continuing presence led by Aubrey Smith, based in the greater Atlanta area, you deserve:

- **Respect for your busy schedule.** Aubrey and his team care about your practice, providing personalized attention and quick answers to your questions. They know the pulse of law in Georgia.
- **Freedom from letting go of coverage worries.** You buy insurance to cover potential claims and deserve to trust your carrier's financial stability. ProAssurance Casualty Company pays settled claims promptly and is rated A (Excellent) by A.M. Best.
- **Less hassle.** Rely on us to provide unparalleled support—from effective risk management to thoughtful claims counsel.

Don't *you* want to be Treated Fairly®?

Think about it.

GEORGIA LAWYERS INSURANCE PROGRAM

Call Aubrey Smith today at 866.372.3435 for a free, no-obligation quote, or visit galawic.com.

PROASSURANCE®
Treated Fairly

Professional Liability Insurance for Lawyers & Law Firms
Rated A (Excellent) by A.M. Best • ProAssurance.com

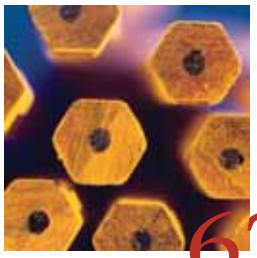
WARD'S 50 SAFETY • CONSISTENCY • PERFORMANCE
2007 • 2008 • 2009

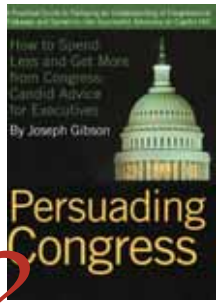
Georgia Bar Journal
October 2010 ■ Volume 16 ■ Number 2


10


34


52


62



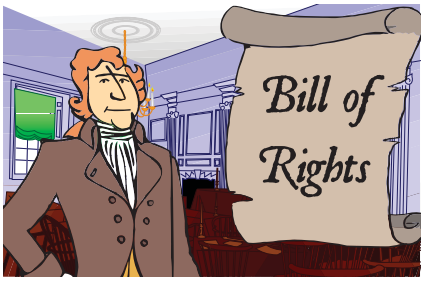
72

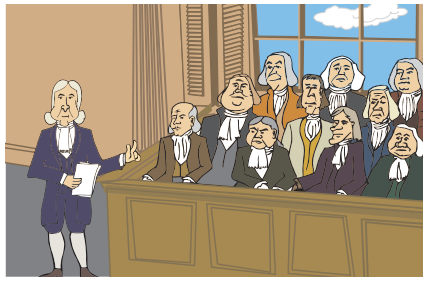
GBJ Legals

GBJ Features

Departments

Trial By Jury: What's the Big Deal?



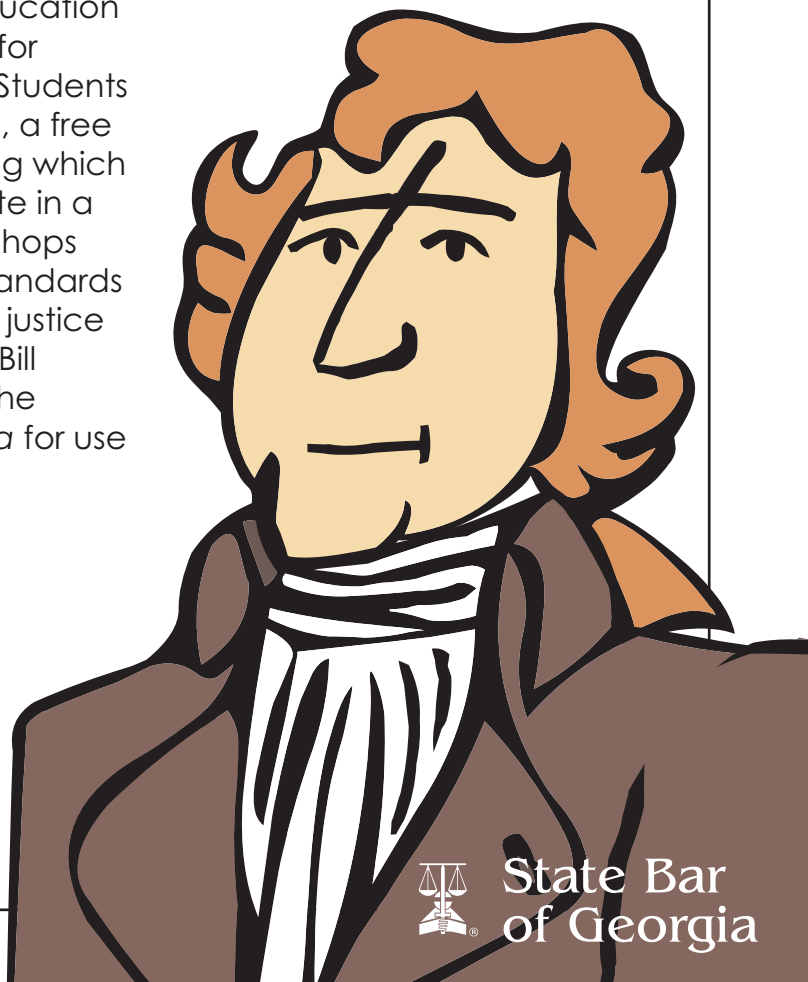



"Trial By Jury: What's the Big Deal?" is an animated presentation for high school civics classes in Georgia to increase court literacy among young people. This presentation was created to be used by high school civics teachers as a tool in fulfilling four specific requirements of the Social Studies Civics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



State Bar of Georgia

Quick Dial

Attorney Discipline	800-334-6865 ext. 720
	404-527-8720
Consumer Assistance Program	404-527-8759
Conference Room Reservations	404-419-0155
Fee Arbitration	404-527-8750
CLE Transcripts	404-527-8710
Diversity Program	404-527-8754
ETHICS Helpline	800-682-9806
	404-527-8741
Georgia Bar Foundation/IOLTA	404-588-2240
Georgia Bar Journal	404-527-8791
Lawyer Assistance Program	800-327-9631
Lawyers Foundation of Georgia	404-659-6867
Law Practice Management	404-527-8773
Law-Related Education	404-527-8785
Membership Records	404-527-8777
Meetings Information	404-527-8790
Pro Bono Project	404-527-8763
Professionalism	404-225-5040
Sections	404-527-8774
Unlicensed Practice of Law	404-527-8743
Young Lawyers Division	404-527-8778

Manuscript Submissions

The *Georgia Bar Journal* welcomes the submission of unsolicited legal manuscripts on topics of interest to the State Bar of Georgia or written by members of the State Bar of Georgia. Submissions should be 10 to 12 pages, double-spaced (including endnotes) and on letter-size paper. Citations should conform to A UNIFORM SYSTEM OF CITATION (18th ed. 2005). Please address unsolicited articles to: Robert R. Stubbs, State Bar of Georgia, Communications Department, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303. Authors will be notified of the Editorial Board's decision regarding publication.

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.

Disabilities

If you have a disability which requires printed materials in alternate formats, please contact the ADA coordinator at 404-527-8700 or 800-334-6865.

Headquarters

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

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

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

Publisher's Statement

The *Georgia Bar Journal* (ISSN-1085-1437) is published six times per year (February, April, June, August, October, December) with a special issue in November by the State Bar of Georgia, 104 Marietta St. NW, Suite 100, Atlanta, Georgia 30303.

One copy of each issue is furnished to members as part of their State Bar dues. Subscriptions: $36 to non-members. Single copies: $6. Periodicals postage paid in Atlanta, Georgia and additional mailing offices. Opinions and conclusions expressed in articles herein are those of the authors and not necessarily those of the Editorial Board, Communications Committee, Officers or Board of Governors of the State Bar of Georgia. Advertising rate card will be furnished upon request. Publishing of an advertisement does not imply endorsement of any product or service offered. POSTMASTER: Send address changes to same address.

by Lester Tate

Election Year:

Open Season on Lawyers

With about a month remaining before the Nov. 2 general election, early voting is well under way here in Georgia. Our television airwaves and mailboxes are filling up with campaign ads, and it won't be long before our phones are ringing off the hook with "robo calls" on behalf of one candidate after another.

> "As I stated upon taking office, I believe the State Bar has two main purposes: to promote the cause of justice and to protect the integrity of the legal profession."

Since we are well aware this is an election year, those of us in the legal profession also know it's also open season on lawyers. With each election cycle, it has become increasingly in vogue for some politicians to disparage lawyers in their campaign messaging. The reasoning is simple enough to understand: fueled by the fact that every court case results in a winner and loser, lawyers rank fairly low as a profession in public opinion polls. I suppose it is not as plausible to blame the world's ills on used car salesmen.

Oddly, these attacks have increased even as the policymaking influence of the legal profession has sharply declined. As my predecessor Bryan Cavan pointed out during the last legislative session, the number of lawyers in the Georgia General Assembly has dwindled to an all-time low of 38, or about 16 percent of the combined 236 members of the Senate and House of Representatives. That number will possibly be reduced even further by the time the 2010 election is over.

The national percentage of lawyers serving in state legislatures has also declined to about 15 percent. An unfortunate result has been an epidemic of bad laws across the country, weakening our courts and threatening citizens' access to the justice system to protect their constitutional rights. Yet lawyers somehow remain an easy target for those seeking political power.

Texas Trial Lawyers Association President Tex Quesada of Dallas said recently, "As a general rule, the trial lawyers are attorneys who are representing small

businesses or families who have claims against insurance companies, or Wall Street bankers, or oil refineries." Accordingly, he said, they "tend to make powerful enemies among very powerful groups."[1] By the same token, when those lawyers who defend insurance companies, Wall Street bankers or oil refineries run for public office, they are open to criticism for siding with the powerful and against the average citizen.

Not one American would give up our Sixth Amendment right to counsel, but lawyers who have represented criminal defendants are especially vulnerable to smear campaigns. Massachusetts Gov. Deval Patrick, while running for the office in 2006, was accused by his opponent during a debate of being "soft on crime" because he had once represented a criminal seeking parole. Patrick responded, "I have on occasion represented the unsavory defendant. And you better be glad somebody does because that's what puts the justice in the justice system."[2] There are two sides to this coin as well, because prosecuting attorneys who hold or seek elected positions often have to defend their records when a certain case is singled out for political exploitation.

And so it is that an entire profession is attacked, despite the fact that it is the very same profession that articulated our American way of life in the form of the Declaration of Independence, the Constitution, the Bill of Rights and the Gettysburg Address. The attacks continue, despite the fact that our great country has turned to lawyers more than any other profession to lead this nation. The attacks continue, despite the fact that the 2000 U.S. presidential election was settled peacefully in a courtroom, when it would have been contested violently in the streets in many countries without our common law tradition.

Editorializing on a political group's recent video that targets a number of U.S. Justice Department lawyers who had represented suspected terrorists detained at Guantanamo Bay when the lawyers were in private practice, *The New York Times* recently commented, "If lawyers who take on controversial causes are demonized with impunity, it will be difficult for unpopular people to get legal representation—and constitutional rights that protect all Americans will be weakened. That is a high price to pay for scoring cheap political points."[3]

As I stated upon taking office, I believe the State Bar has two main purposes: to promote the cause of justice and to protect the integrity of the legal profession. Both of those efforts are undermined every time a candidate seeking an office of public trust launches an attack on lawyers simply for political gain. Particularly abhorrent are the attacks that come from candidates who are lawyers themselves. Non-lawyer candidates may just be too ignorant of our country's history or the judiciary's role to know better. A lawyer who attacks our profession, however, is, at best, a hypocrite and, at worst, an outright charlatan.

Regardless of the angle of attack, politicizing how our justice system works in an effort to win votes is wrong and should not go unanswered by members of the Bar or members of the public who love our Constitution.

It has often been said that it is easy to hate lawyers until you need one. Likewise, it is apparently easy for many politicians to bad-mouth lawyers—except, of course, when they are asking us for campaign contributions. GBJ

Lester Tate is president of the State Bar of Georgia and can be reached at sltate3@mindspring.com.

Endnotes

1. *The Texas Tribune*, April 23, 2010.
2. National Association of Criminal Defense Lawyers *Champion*, Martin S. Pinales, President's Column, January/February 2007.
3. *New York Times*, May 7, 2010.

by Cliff Brashier

ICLE: Convenience and a Bargain for Bar Members

Active Georgia lawyers are required to complete a minimum of 12 hours of continuing legal education (CLE) to enhance their professional competence and thus protect the public. For more than 40 years, the State Bar of Georgia has helped facilitate this process through the Institute of Continuing Legal Education (ICLE), the Bar's not-for-profit educational service.

Based in Athens, ICLE is an independent consortium of the State Bar and Georgia's five law schools at the University of Georgia, Emory University, Mercer University, Georgia State University and Atlanta's John Marshall Law School. The institute is fully self-supporting and receives all of its income from tuition charges and sale of publications. ICLE exists solely to serve the educational needs of practicing lawyers, with any surplus revenues being devoted entirely to the improvement of CLE products and services.

ICLE offers approximately 160 live CLE seminars each year, about 70 percent of which take place at the Bar Center in Atlanta, the Coastal Georgia Office in Savannah or the South Georgia Office in Tifton. Through videoconferencing capabilities, some of the sessions are conducted simultaneously at all three State Bar offices.

Self-study or "distance learning" is also approved by the Commission for Continuing Lawyer Competency as a method of satisfying up to six hours of the annual mandatory continuing legal education (MCLE) requirements. Approved self-study formats include live CLE activities presented via video or audio, replays of live CLE activities, online CLE activities, CD-ROM and DVD interactive CLE activities; telephone CLE activities and written correspondence CLE courses.

> "No longer do our attorneys have to trek to Atlanta to participate in many of our CLE sessions, as they can now attend and participate at one of our two satellite offices through teleconferencing capabilities."

According to Executive Director Larry Jones, now in his 28th year with ICLE, the total number of attorneys served last year—including live and satellite programs, online classes and video rentals—was approximately 27,000. In addition to offering a majority of CLE courses at one or more of the State Bar's offices, the institute also offers sessions in conjunction with Bar meetings held at other locations and works closely with each of the Bar's 43 sections and the Young Lawyers Division (YLD) and its committees to schedule appropriate seminars when and where those groups are meeting.

"We have a good relationship with every Bar section and the YLD and its committees, staying in touch with their chairs and executive committees, to provide CLE sessions in conjunction with the annual meeting and other meetings," Jones said. "If an outside person wants to come and do a program on workers' compensation, for example, we tell them to contact the Workers' Compensation Law Section and work through its leadership. We won't do one in competition with the section. We're loyal to them, and they are loyal to us, which works well for everyone."

Georgia's ICLE program not only offers conveniently located sessions for Bar members; its registration fees are by far the least expensive of any CLE provider, whether for-profit or not-for-profit, when considering the average per MCLE hour cost. (See accompanying chart.)

"The main thing that makes that possible is using the Bar Center for most of our programs," Jones said. "When we go to a hotel, the room rental usually costs at least $1,000, in addition to food and beverage, audio/visual equipment costs and service charges. We don't have to pay for any of that at the Bar Center, except for food and beverage, and we use a caterer who is very reasonable compared to what the charges would be at a hotel or outside meeting facility."

Jones added, "Because we do a high volume of programs, we are able to spread out our overhead costs, which helps us further reduce registration fees."

Another key ingredient to ICLE's success, according to Jones, is the willingness of Bar leaders and top jurists to participate in the CLE programs. "We enjoy a great relationship with the Bar and our appellate courts," Jones said. "Our Supreme Court justices and Court of Appeals judges often speak at our seminars."

Bryan M. Cavan, immediate past president of the State Bar, currently serves as chairperson of the ICLE Board of Trustees. Other members include current State Bar officers S. Lester Tate III, Kenneth L. Shigley, Robin Frazer Clark and Charles L. Ruffin; immediate past chair and past State Bar president Jeffrey O. Bramlett; YLD officers Michael G. Geoffroy, Stephanie J. Kirijan and Amy V. Howell; law school representatives A. James Elliott of Emory University, Ray Lanier and Roy M. Sobelson of Georgia State University, Dean Richardson Lynn and Michael Mears of John Marshall Law School, Dean Gary Simson and Nancy Terrill of Mercer University, and J. Ralph Beaird and David Shipley of the University of Georgia; and at-large trustees Thomas C. Chambers, Gregory L. Fullerton, Denny C. Galis, Karlisle Y. Grier, Laurel P. Landon, past State Bar President Rudolph N. Patterson, Judge Mary E. Staley, John W. Timmons and Derek J. White.

Provider	Per MCLE Hour Cost
ABA	$89.58
N.C. Foundation	$69.12
ALI-ABA	$62.90
Lawprose	$57.50
South Carolina Bar	$54.54
NBI	$51.50
Lorman	$50.38
Missouri Bar	$48.83
Texas Bar	$47.02
Alabama ICLE	$43.33*
ICLE in Georgia	$23.33

**The closest fee to ours is Alabama ICLE, which has a base fee for a six-hour seminar of $260. That amount does not include lunch or MCLE fees.*

"During my year as president, traveling the state of Georgia, I heard firsthand from our members how pleased they were with our continuing legal education program," Cavan said. "I also had the opportunity to talk about our CLE programs with my fellow State Bar presidents from across the country, and I learned that several of our ICLE efforts are being studied or imitated. Of particular note, our Transition into Law Practice Program and its attendant CLE programs for our new lawyers received the American Bar Association's 2010 E. Smythe Gambrell Award for Professionalism at the Annual Meeting of the National Conference of Bar Presidents in August."

Cavan concluded, "Larry Jones and his talented staff put together quality CLE programs at an affordable cost, year after year, on topics ranging from the 'nuts and bolts' to the most sophisticated areas of law practice. The program presenters include national speakers in addition to our Georgia lawyers and law school professors. No longer do our attorneys have to trek to Atlanta to participate in many of our CLE sessions, as they can now attend and participate at one of our two satellite offices through teleconferencing capabilities. We should all take great pride in ICLE."

For more information, visit www.iclega.org.

As always, your thoughts and suggestions are welcomed. My telephone numbers are 800-334-6865 (toll free), 404-527-8755 (direct dial), 404-527-8717 (fax) and 770-988-8080 (home). GBJ

Cliff Brashier is the executive director of the State Bar of Georgia and can be reached at cliffb@gabar.org.

by Michael G. Geoffroy

One Circuit, One County, One Judge

The Rockdale Circuit is an anomaly among Georgia circuits. Most are formed of either one or two urban counties with as many as 20 judges, or they sprawl multi-county rural areas where judges seem to spend as much time in a car as on the bench. The Rockdale Circuit is close to Atlanta, but only has two superior court judges, tied with the Bell-Forsyth Circuit for the fewest number of judges in a circuit. It is a one-county circuit, carved out of the Stone Mountain Circuit in 1982. Its creation is largely the story of one man, Hon. Clarence R. Vaughn Jr.

As the circuit's first superior court judge, and the only one at the time, he was a wealthy and powerful former legislator who was instrumental in drafting the very legislation that created the circuit. It sounds like a bad formula for abuse of power and waste of taxpayer funds in this day of the Judicial Qualifications Committee, budget cuts and recusals, but nothing could be further from the truth. Vaughn was an intelligent and thoughtful man, who shaped the town where I grew up while affecting my life in a positive manner.

Vaughn's message of justice and his commitment to service were especially poignant considering who he was. He didn't need the Rockdale Circuit, but it sure needed him. When he began practicing law, Vaughn was one of a handful of attorneys in Conyers. He was elected to the Legislature in 1959 and served for 24 years, including stints as the governor's floor leader and majority leader. Vaughn wielded political might across the state. His family owned a large part of the county, and he was a man of means. At that time, Vaughn could have done a great many things with his money and influence that would have benefitted himself and his family, and no one would have thought less of him. Instead of running for Congress or becoming a businessman or developer, Vaughn served the citizens of Rockdale as a superior court judge.

"Vaughn was an intelligent and thoughtful man, who shaped the town where I grew up while affecting my life in a positive manner."

Rockdale County is the second smallest county in the state, and its judicial needs were being sidelined from sharing a circuit with the much larger and faster growing DeKalb and Gwinnett counties. Vaughn saw that the people of Rockdale needed to break away from the big city problems that take up so much of a court's time. While serving in the Legislature, Vaughn helped draft the legislation for the creation of the circuit, and then became its first judge. I have *never* met one person, lawyer or laymen, who did not say he was a *great* judge.

When Justice George Carley of the Supreme Court of Georgia swore me in as YLD president, the first thing he said to me was that he was proud to have sat on the bench alongside such a great judge as Vaughn, helping to start the Rockdale Circuit.

Vaughn presided on the bench in Rockdale for 18 years, from 1982 until his retirement in 1998 at the age of 78. He passed away in 2007 at the age of 86. Vaughn was honored posthumously by the Georgia House of Representatives in House Resolution 733. Unfortunately, I never had the pleasure of practicing before him.

He never knew my name, but he was always kind to me. And the things he said always had meaning. He knew my mother, and I recall being with her when I first met him. He gave me firm handshake, calling me "young man," as if it were some official title. Later, when I was in middle school, I remember hearing him speak in Conyers near the courthouse, in what we call "Olde Town." His words didn't sound like those of a judge or a legislator. He spoke like he was our equal, just one of the many doing his duty for Rockdale County. After he addressed a small crowd by Reagan Pharmacy, he shook a lot of folks' hands and laughed with a great many people. Then he walked over to a group of young kids, including myself. He took time from politicking and seeing old friends to teach us about judges, juries, courts and more. Vaughn explained that justice meant everyone was treated the same. Whether you were black or white, rich or poor, we all had the same rights. He didn't talk down to us or tell us that we would understand someday. He wanted us to understand the rule of law right then, and he wanted us to know the message was important.

There isn't enough room in this article to say all the things he did for Rockdale. Few were headline grabbing, sweeping actions. Most acts were done quietly and wouldn't mean much to folks who live outside Rockdale, such as starting the Rockdale House to treat addiction, helping to build a veterans memorial and countless other actions that were so important to the people they affected.

Today, I like to think Rockdale County is carved in Vaughn's image. He helped make Rockdale a great place to grow up and all of us who remember him work to keep it that way. Georgia's legal history is full of great stories and great Georgians who made up the towns and counties that dot the map. Hon. Clarence R. Vaughn Jr. was one of them. He was a great man, not because he created a circuit or was its first judge, but because he stood for justice, equality, public service and the rule of law. GBJ

Michael G. Geoffroy is the president of the Young Lawyers Division of the State Bar of Georgia and can be reached at michael@thegeoffroyfirm.com.

The Case Against Closure:

Open Courtrooms After *Presley v. Georgia*

by Edward D. Tolley and Devin Hartness Smith

In deciding whether to close pretrial and trial proceedings to the press and public, a court must integrate the constitutional concerns of due process, free speech, free press, public trial and impartial jury. Often the concern is the effect of pretrial publicity on potential and sitting jurors—that such publicity will create bias that cannot be prevented or overcome by remedies other than closure. Although the right of the accused is supreme, the general rule is in favor of openness, and courts must take special care to balance these interests. The recent U.S. Supreme Court decision in *Presley v. Georgia*[1] reaffirmed the federal position with regard to open courtrooms during each phase of criminal trials and reminded courts that all reasonable alternatives must be considered and articulated on the record before closure is granted.

Federal Closure Law Leading to *Presley*

In federal closure law, the constitutional right of the criminal defendant to a fair trial is paramount. As the

U.S. Supreme Court said in 1984 in *Press-Enterprise Co. v. Superior Court* (*Press-Enterprise I*), "[n]o right ranks higher than the right of the accused to a fair trial."[2] The Court's fair trial jurisprudence has been grounded in the due process clauses of the Fifth and Fourteenth

"Although the right of the accused is supreme, the general rule is in favor of openness, and courts must take special care to balance these interests."

Amendments and the public trial and impartial jury clauses of the Sixth Amendment.[3] The Court has said that the purpose of the public trial is "to guarantee that the accused [will] be fairly dealt with and not unjustly condemned."[4] Meanwhile, the First Amendment's free speech and press clauses provide a right of access for the press and the public that is constitutional but not absolute in nature.[5] The rights of the accused and of the press and public find a "common concern [in] the assurance of fairness."[6] As the U.S. Court of Appeals for the 11th Circuit said in *United States v. Noriega*, "'It is better to err, if err we must, on the side of generosity in the protection of a defendant's right to a fair trial before an impartial jury.'"[7] Therefore, the right of the press and the public to be present in the courtroom must sometimes yield when it could lead to "prejudice[] or disadvantage[]" for the accused.[8]

As the Court noted in 1986 in *Press-Enterprise Co. v. Superior Court* (*Press-Enterprise II*), the analysis of a First Amendment right of access claim involves two complementary considerations: first, whether the "place and process have historically been open to the press and general public," and second, whether access "plays a significant positive role in the functioning of the particular process in question."[9] If the proceeding at issue affirmatively meets these considerations, then a First Amendment right of access exists.[10] The Court has found that the public and the press have a First Amendment right of access to a criminal trial.[11] In *Press-Enterprise I*, the Court also found a First Amendment right of access to voir dire jury selection proceedings,[12] while in *Waller v. Georgia*, the Court found that the Sixth Amendment right to a public trial extends to pretrial suppression hearings.[13] Of course, the right of the accused to a fair trial being chief in these cases, it follows that the most "significant positive role" that the presence of the press and public can play is in assuring fairness, and as such, the defendant's wish regarding closure is of principal importance in the court's analysis.

As noted above, the right of access is not absolute, and "[t]he presumption of openness may be overcome only by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest."[14] If the prosecution, or the court, sua sponte, seeks closure over the objection of the defendant, then such closure must be required by a compelling government interest and narrowly tailored to serve that interest. As noted in *Waller*, these instances will be extremely rare.[15] In contrast, when the accused seeks closure, the court need only find a "substantial probability that the defendant's right to a fair trial will be prejudiced by publicity that closure would prevent" and that "reasonable alternatives to closure cannot adequately protect the defendant's fair trial rights."[16] If the defendant's request meets this burden, closure must still be narrowly tailored to serve the interest for which it is imposed.[17] In sum, where the defendant seeks closure, only a substantial probability of prejudice must be shown, whereas closure over the defendant's objection must meet a compelling interest. A trial court that finds closure necessary to preserve a fair trial must make specific findings demonstrating a substantial probability of prejudice by publicity that closure would prevent, and that no reasonable alternatives to closure exist.[18]

Georgia Closure Law

Georgia closure law is grounded primarily in the public trial clause of the Georgia Constitution.[19] The Supreme Court of Georgia has stated that the Georgia Constitution is more protective of open courtrooms than the federal one because of its demand that criminal trials "shall" be public.[20] At the outset, it should be noted that Georgia law cannot diminish the defendant's paramount federal constitutional right to a fair trial, and therefore Georgia's open courtroom rule can only be true insofar as an open trial furthers the objective of a fair trial. Once the accused's right to a fair trial is impinged, a proper application of the Georgia public trial clause requires maximum protection of the defendant's fair trial right.

In *R. W. Page Corp. v. Lumpkin*, the Supreme Court of Georgia emphasized the strong presumption in Georgia that the criminal trial and all its pre-, mid- and post-trial hearings shall be open unless the movant can "demonstrate on the record by 'clear and convincing proof' that closing the hearing to the press and public is the only means by which a 'clear and present danger' to his right to a fair trial or other asserted right can be avoided."[21] The Court said that a trial judge in Georgia has less discretion than a federal judge because the state constitution "commands that open hearings are the nearly absolute rule and closed hearings the very rarest of exceptions."[22] In determining whether and when trial and pretrial hearings in criminal cases may be closed, the Court held that Georgia judges must use jury sequestration

as an alternative to closure "unless for some reason fully articulated in his findings of fact and conclusions of law jury sequestration (or another remedy) would not adequately protect the defendant's right to a fair trial."[23] In the rare case that a closure order is granted, it must be narrowly drawn and strictly construed in favor of openness; likewise, the trial court must make written findings of fact as to the alternatives to closure considered and why such alternatives would be insufficient.[24]

In *Rockdale Citizen Publishing Co. v. State* (*Rockdale I*), the accused and the state both moved for closure of pretrial hearings.[25] The Supreme Court of Georgia noted again that closure is for rare circumstances and cited *Lumpkin* for the proposition that it is only acceptable when a fair trial is "jeopardized by a clear and present danger."[26] The *Rockdale I* Court was not satisfied by the "conclusory fashion" in which the trial court stated that it considered alternatives to closure, and it remanded the case for consideration of alternatives, emphasizing, as it had in *Lumpkin*, that an order for closure "must fully articulate the alternatives" and reasons why those alternatives would not protect the movant's right to a fair trial.[27] On remand, the trial court ordered closure of all pretrial hearings, and the newspaper again appealed. In *Rockdale II*, the Court found that the defendant's right to a fair trial was not put in clear and present danger by media coverage of the pretrial hearings, and it reiterated that closure should be rare and "'only for cause shown that outweighs the value of openness.'"[28]

More recently, in *Berry v. State*, two concerned jurors sent a note to the trial court regarding their personal connections with the defendant's family.[29] At one juror's request, the trial court cleared the courtroom of all spectators and questioned each juror separately. Berry argued that the dismissal was a violation of his right to a public trial. Affirming the conviction, the Court distinguished the case from *Waller*, where the trial court granted a pretrial closure motion by the state; in *Berry*, the trial court responded to an affirmative juror request in keeping with the juror privacy concerns expressed in *Press-Enterprise I*.[30] The Court noted also that the defendant never objected to the exclusion of the public for the brief period of questioning.[31]

Electronic Media in Georgia

In addition to case law, Georgia trial judges facing closure issues find guidance in O.C.G.A. § 15-1-10.1, setting forth standards for courts in granting requests for televising, videotaping or filming of judicial proceedings. The Georgia Code requires that a court consider several factors, including the nature of the proceeding, the consent or objection of the parties, whether coverage "will promote increased public access to the courts and openness of judicial proceedings" and the impact on due process and truth-finding.[32] The Code gives the trial court discretion in granting requests made under this section.[33] Uniform Superior Court Rule 22, which governs electronic and photographic news coverage of judicial proceedings, was amended in 1997 to defer to O.C.G.A. § 15-1-10.1.[34]

Georgia Television Co. v. State[35] distinguished the standard set forth in *Lumpkin* from circumstances in which judicial proceedings are not closed but the court has excluded cameras (or other electronic media). The press brought a motion to televise pretrial hearings in a murder case, and the defendant opposed the motion. The trial court, citing the long history of the case (including a conviction that was set aside due to broad pretrial publicity), banned television cameras from the courtroom during the pretrial hearings on a finding that the accused's due process rights would be "substantially violated" by such coverage.[36] On appeal, the Supreme Court of Georgia found that the clear and convincing proof and clear and present danger standard applied in *Lumpkin* because the press and public were excluded from the courtroom. In the case at hand, however, the Court said, proceedings were open to both press and public, with the exception that television cameras were not allowed, and therefore the proper standard was judicial discretion of the trial judge.[37]

Likewise, in *WALB-TV, Inc. v. Gibson*,[38] the trial court denied a television station's request for electronic media access to court proceedings in two murder trials. After conducting a hearing on the standards set forth in O.C.G.A. § 15-1-10.1, the trial court determined that camera coverage would put in jeopardy the due process rights of the defendants and excluded the requested audio/video equipment from the proceedings. The Supreme Court of Georgia held that these findings were within the trial court's discretion under the Code and sufficient to support the denial of camera coverage in the first trial, where testimony would be similar to that presented in the second trial and could lead to a tainted jury pool.[39]

In *Morris Communications, LLC v. Griffin*, a newspaper's request to use a still camera for photographs in covering a 2005 murder trial was denied by the trial court in part on the basis of the defendant's objection to the newspaper's request and a finding that the camera's presence would not increase the openness of judicial proceedings.[40] On appeal, the Supreme Court of Georgia held that the trial court did not make findings regarding the accused's due process rights, nor did the trial court or the defendant express any basis for the notion that the still camera would harm the defendant's right to a fair trial.[41] In addition, the Court found no basis for the finding that a camera would not increase openness, stating that a camera "generally will increase the openness of a judicial proceeding."[42]

Work with an advisor who specializes in helping lawyers and their firms reach financial goals.

Don't let the recent economic climate affect the goals of your firm. You can still reach them with the help of dedicated advisors who uniquely understand the new financial opportunities and ongoing concerns of the legal industry. At SunTrust, advisors with our Private Wealth Management Legal Specialty Group work solely with lawyers and their firms to deliver solutions designed for the legal community. So they can give you sound guidance on everything from maximizing cash flow and wading through benefits planning to understanding how to retain attorneys and staff. To schedule an appointment, contact an advisor from the list below, or visit suntrust.com/law to learn more.

Steve Allen, Client Advisor, SunTrust Investment Services, Inc.,
Atlanta, 404.813.2922, steve.allen@suntrust.com

Jason Connally, Client Advisor, SunTrust Investment Services, Inc.,
Columbus, 706.649.3638, jason.connally@suntrust.com

David Schultz, Client Advisor, SunTrust Investment Services, Inc.,
Savannah, 912.944.1214, david.schultz@suntrust.com

Treasury and Payment Solutions Lending Investments Financial Planning

SUNTRUST
Live Solid. Bank Solid.

Presley v. Georgia

The most recent pronouncement by the U.S. Supreme Court on the issue of closure arrived in the case of *Presley v. Georgia*.[43] In 2009, the Supreme Court of Georgia reviewed a trial court ruling excluding spectators from the courtroom during voir dire.[44] The defendant's uncle was sitting in the courtroom before the potential jurors were brought in for voir dire, and the trial court said that he could not sit in the audience with the jurors, and indeed had to leave that floor of the courthouse.[45] The defense counsel objected to the exclusion of the public, and the trial court responded that there simply was not enough room and that mingling relatives and witnesses with the potential jurors would give grounds for a mistrial on the basis of a tainted jury. Holding that the trial court did not err in excluding spectators from the courtroom during jury voir dire, the Supreme Court of Georgia held that, per *Waller*, the trial court had an overriding interest in keeping potential jurors from prejudicial remarks by observers.[46] Declaring that the U.S. Supreme Court in *Waller* "did not provide clear guidance regarding whether a court must, sua sponte, advance its own alternatives" to closure, the Supreme Court of Georgia found that the trial court's failure to discuss alternatives on the record was not an error where the defendant failed to present such alternatives.[47] Instead, "[w]hen neither the defendant nor the State directs the court's attention to alternatives," the Court found "no abuse of discretion in the [trial] court's failure to sua sponte advance its own alternatives."[48] In dissent, Chief Justice Sears declared the trial court's failure to consider alternatives to closure a clear violation of *Waller* and the Court's own decision in *Lumpkin*.[49]

Finding that the Supreme Court of Georgia's affirmance of Presley's conviction contravened clear precedents, the U.S. Supreme Court reversed. In a per curiam opinion, the Court said that public trial rights rest upon both the First and Sixth Amendments (both applicable to the states via the due process clause of the Fourteenth Amendment), but acknowledged that "the extent to which the First and Sixth Amendment public trial rights are coextensive is an open question."[50] The Court noted that the *Waller* holding, though it relied heavily on *Press-Enterprise I*, found that pretrial suppression hearings must be open to the public under the Sixth Amendment right to a public trial, even though *Press-Enterprise I* relied on the First Amendment in finding that voir dire must be open to the public. The *Presley* Court held that both *Press-Enterprise I* and *Waller* had settled that the Sixth Amendment right to a public trial extends to jury voir dire.[51] The Court then repeated that there are exceptions to the right to public voir dire and that the *Press-Enterprise I* and *Waller* standards must be applied before a trial court could exclude the public from any part of the criminal trial. Here, said the Court, was where the Supreme Court of Georgia had erred in finding that the trial court was not required to consider alternatives to closure when the moving party failed to present them. Instead, the Court held that the language in *Waller*—"the trial court must consider reasonable alternatives"[52]—and *Press-Enterprise I*—"[a]bsent consideration of alternatives to closure, the trial court could not constitutionally close the voir dire"[53]—was explicit in requiring the trial court to deliberate alternatives, regardless of whether the parties proposed them. Finding that "[t]rial courts are obligated to take every reasonable measure to accommodate public attendance at criminal trials," the Court found nothing in the record to support excluding the public from Presley's trial;[54] in fact, as alternatives to closure, the Court suggested that some rows in the courtroom could have been reserved for the public, the jury panel could have been divided and the jurors could have been directed not to interact with the spectators.[55] Although circumstances may arise where the trial court could close voir dire because of improper communication or safety concerns, the Court emphasized that the particular interest, the threat to that interest and specific findings must be articulated.[56]

Shortly after the Court decided *Presley*, the Supreme Court of Georgia handed down its decision in another closure case, *Reid v. State*.[57] Reid was denied a motion for a new trial after a jury found him guilty of malice murder, and he appealed on several grounds, including ineffective trial counsel for failing to object to temporary closure during the testimony of two witnesses concerned for their safety.[58] The Court distinguished the case from *Presley* because the defendant did not object to closure; accordingly, the Court said that he must show that he was prejudiced by counsel's failure to object. The majority cited *Glover v. State*[59] for the position that prejudice could not be presumed because the failure to object was not a structural error, stating that to "hold otherwise would encourage defense counsel to manipulate the justice system by intentionally failing to object in order to ensure an automatic reversal on appeal."[60] The Court found that Reid failed to demonstrate harm resulting from the closure. In dissent, Chief Justice Hunstein said that the trial court's findings were "clearly inadequate" to support closure and that it had failed to consider alternatives as required under *Presley*.[61] As a result, she said, Reid was not required to show prejudice for the structural error that violated his right to a public trial.[62]

Closure in Practice

What does all of this mean for the courts and practitioners? The federal presumption of openness

at all phases of trial means that there must be an overriding interest in favor of closure, and the closure itself must be narrowly tailored to meet that interest. When the state or court desires closure, a strict standard must be met—a compelling interest and narrowly tailored closure—and the instances in which that standard can be met will be quite rare. In contrast, when the defendant seeks closure, he will need only to show a substantial probability that his right to a fair trial will be prejudiced, and the court will have to find that no reasonable alternatives to closure exist. If it finds closing the courtroom necessary, the court must narrowly tailor the closure and articulate specific findings on the issue. In light of *Presley*, a court must make every reasonable effort to accommodate the public at criminal trials, and it must be deliberate and explicit in considering alternatives to closure.

Georgia law has professed to be even more in favor of the open courtroom than the federal system. For example, Georgia judges have to use jury sequestration as an alternative to closing the courtroom unless they can make specific findings of fact and conclusions of law that sequestration, or other relief, will not suffice to protect the accused's right to a fair trial. Like the federal system, in the rare circumstance that a trial court finds closure warranted—that is, when there is a clear and present danger to the defendant's right to a fair trial and cause has been shown that outweighs the value of openness—the closure order must be narrowly drawn and strictly construed in favor of openness, and the trial court must make written findings regarding closure alternatives and their deficiency. A defendant who opposes closure should object to it at trial as a violation of his right to a public trial. In considering a Rule 22 request to install recording or photographing equipment in a courtroom during a judicial proceeding, a trial court must consider the standards set forth in O.C.G.A. § 15-1-10.1 in using its discretion to grant the request.

Practitioners should look to the guidelines provided by the case law and, for electronic media, by statute. A policy of openness means that practitioners should aim to keep closure requests reasonable. Providing objective proof of the need for closure and the failure of alternatives to closure helps to ensure that a judge's consideration of the closure request, as well as his order granting it, is fact-driven and well-articulated for the record, and therefore most likely to be upheld on appeal. GBJ

"When the state or court desires closure, a strict standard must be met—a compelling interest and narrowly tailored closure—and the instances in which that standard can be met will be quite rare. In contrast, when the defendant seeks closure, he will need only to show a substantial probability that his right to a fair trial will be prejudiced, and the court will have to find that no reasonable alternatives to closure exist."

Edward D. Tolley is a partner in the firm of Cook, Noell, Tolley & Bates, LLP, in Athens. A 1975 graduate of the University of Georgia School of Law, he is a recipient of the State Bar of Georgia Professionalism Award, the Chief Justice's Award for Community Service and the Tradition of Excellence Award. Tolley has authored numerous trial practice and academic articles.

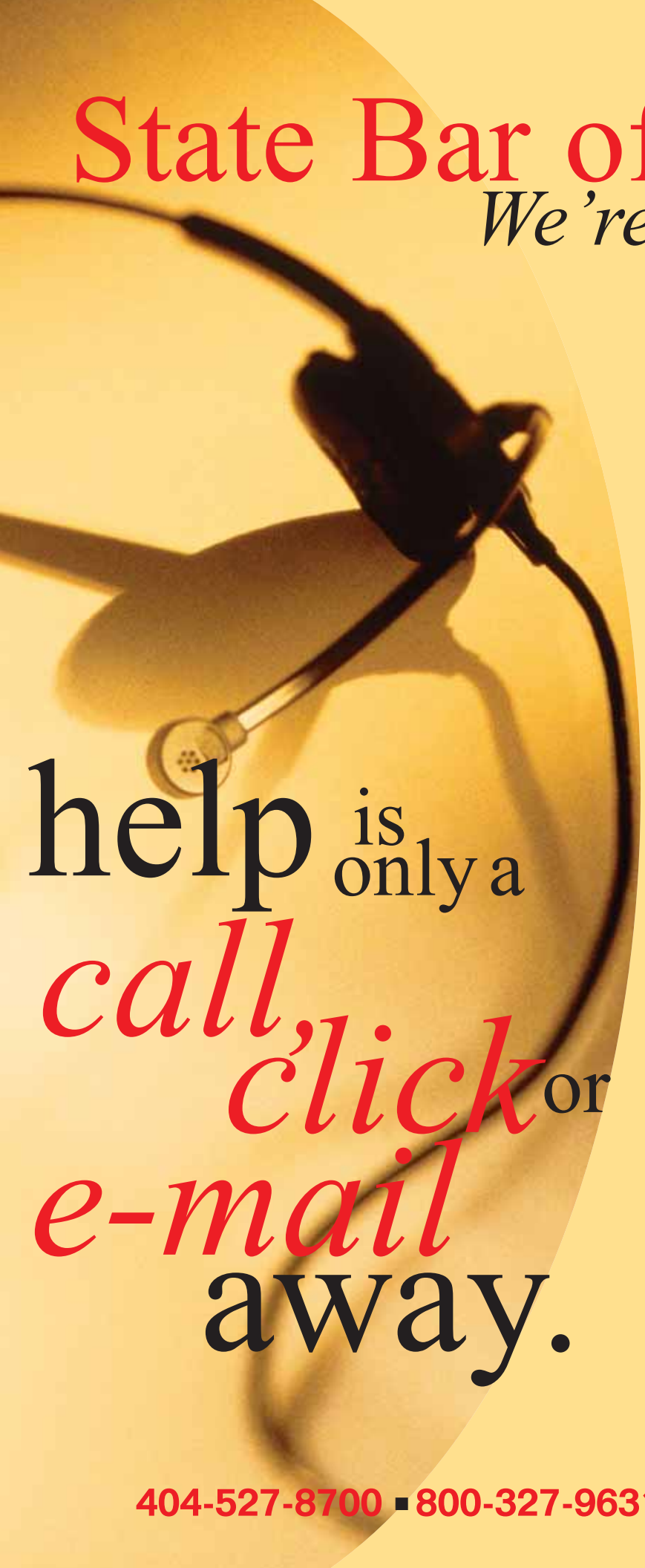
Devin Hartness Smith earned her B.A. in journalism and later her J.D. from the University of Georgia, where she served as senior notes editor of the *Journal of Intellectual Property Law*. She is presently employed as an associate at the firm of Cook, Noell, Tolley & Bates, LLP.

Endnotes

1. 130 S. Ct. 721 (2010) (per curiam).
2. 464 U.S. 501, 508 (1984). *See also* Estes v. Texas, 381 U.S. 532, 540 (1965) (asserting that a fair trial is "the most fundamental of all freedoms" and "must be maintained at all costs").
3. *See* Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555 (1980); Gannett Co. v. DePasquale, 443 U.S. 368 (1979) (First Amendment, Sixth Amendment and due process); Sheppard v. Maxwell, 384 U.S. 333 (1966) (due process); *Estes*, 381 U.S. 532 (due process).
4. *Estes*, 381 U.S. at 538-39.
5. *See* Globe Newspaper Co. v. Superior Court, 457 U.S. 596, 606 (1982); *see also Estes*, 381 U.S. at 539 (noting that freedom of the press "must necessarily be subject to the maintenance of absolute fairness in the judicial process").
6. Press-Enter. Co. v. Superior Court, 478 U.S. 1, 7 (1986).

State Bar of Georgia

We're here for you!



help is only a *call, click* or *e-mail* away.

Law Practice Management Program

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 Consumer Assistance Program has a dual purpose: assistance to the public and attorneys. CAP responds to inquiries from the public regarding State Bar members and assists the public through informal methods to resolve inquiries which may involve minor violations of disciplinary standards by attorneys. Assistance to attorneys is of equal importance: CAP assists attorneys as much as possible with referrals, educational materials, suggestions, solutions, advice and preventive information to help the attorney with consumer matters. The program pledges its best efforts to assist attorneys in making the practice of law more efficient, ethical and professional in nature, 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.

404-527-8700 ▪ 800-327-9631 ▪ www.gabar.org

7. 917 F.2d 1543, 1549 (11th Cir. 1990) (per curiam) (quoting Belo Broadcasting Corp. v. Clark, 654 F.2d 423, 431 (5th Cir. Unit A 1981)).
8. *Sheppard*, 384 U.S. at 358 (1966).
9. 478 U.S. at 8.
10. *Id.* at 9.
11. *See* Globe Newspaper Co. v. Superior Court, 457 U.S. 596 (1982).
12. *See* Press-Enter. Co. v. Superior Court, 464 U.S. 501 (1984).
13. Waller v. Georgia, 467 U.S. 39, 46 (1984) (finding that the "explicit Sixth Amendment right of the accused is no less protective of a public trial than the implicit First Amendment right of the press and public").
14. *Press-Enter. I*, 464 U.S. at 510.
15. *Waller*, 467 U.S. at 44 (noting the rarity of such cases and the "special care" that the court must take to balance interests).
16. Press-Enter. Co. v. Superior Court, 478 U.S. 1, 14 (1986).
17. *Press-Enter. I*, 464 U.S. at 510. For cases where the accused requested restricting press access and the Supreme Court of the United States upheld closure or reversed convictions for lack of closure, *see Estes*, *Sheppard*, and *Gannett Co*. In *Richmond Newspapers* and *Press-Enterprise I*, the Court reversed closure, despite that fact that the criminal defendant sought it, because the trial courts failed to make specific findings supporting closure and made no inquiry into alternative solutions.
18. *Press-Enter. II*, 478 U.S. at 14.
19. GA. CONST. art. I, § I, ¶ XI (1983) ("In criminal cases, the defendant shall have a public and speedy trial by an impartial jury").
20. R. W. Page Corp. v. Lumpkin, 249 Ga. 576, 578, 292 S.E.2d 815, 819 (1982).
21. *Id.* at 579, 292 S.E.2d at 820.
22. *Id.*, 292 S.E.2d at 820.
23. *Id.* at 580, 292 S.E.2d at 820. The Court also noted that other ways of "at least partially ameliorating the impact of prejudicial facts" include change of venue, postponement of trial, searching voir dire and jury instructions to consider only open court evidence. *Id.* at 580 n.8, 292 S.E.2d at 820 n.8.
24. *Id.* at 580, 292 S.E.2d at 820 (noting that an agreement between the state and the accused as to closure does not excuse the trial court's obligations).
25. 266 Ga. 92, 463 S.E.2d 864 (1995).
26. *Id.* at 93, 463 S.E.2d at 866. The Court also noted that the burden on the movant to present clear and convincing evidence of the need for closure will be easier to meet in a pretrial proceeding because some of the alternatives to closure, such as sequestration, are unavailable. *Id.*, 463 S.E.2d at 866.
27. *Id.* at 93-94, 463 S.E.2d at 866.
28. Rockdale Citizen Publ'g Co. v. State, 266 Ga. 579, 580, 468 S.E.2d 764, 766 (1996) (quoting Press Enter. Co. v. Superior Court, 464 U.S. 501, 509 (1984)).
29. 282 Ga. 376, 651 S.E.2d 1 (2007).
30. *Id.* at 379, 651 S.E.2d at 5 (quoting *Press-Enter. I* for the premise that "[t]he jury selection process may, in some circumstances, give rise to a compelling interest of a prospective juror when interrogation touches on deeply personal matters that person has legitimate reasons for keeping out of the public domain").
31. *Id.* at 380, 651 S.E.2d at 5-6 (in fact, defense counsel made a strategic decision not to object).
32. O.C.G.A. § 15-1-10.1(b) (2008).
33. *Id.* § 15-1-10.1(e).
34. GA. UNIF. SUPER. CT. R. 22(P) ("A request for installation and use of electronic recording, transmission, videotaping or motion picture or still photography of any judicial proceeding shall be evaluated pursuant to the standards set forth in O.C.G.A. § 15-1-10.1.").
35. 257 Ga. 764, 363 S.E.2d 528 (1988).
36. *Id.* at 765, 363 S.E.2d at 529.
37. *Id.*, 363 S.E.2d at 529.
38. 269 Ga. 564, 501 S.E.2d 821 (1998).
39. *Id.* at 565-66, 501 S.E.2d at 823. For the same reasons, the Court found that the trial court had abused its discretion in excluding cameras from the second trial, at which point the second jury would already be seated. The trial court was also found to have abused its discretion in excluding a camera from the second trial on grounds that it would be a distraction where the only evidence given was that the camera would be still and silent. *Id.* at 566 & n.3, 501 S.E.2d at 823 & n.3.
40. 279 Ga. 735, 736, 620 S.E.2d 800, 801-02 (2005); *see* O.C.G.A. § 15-1-10.1 (2008).
41. 279 Ga. at 737, 620 S.E.2d at 802.
42. *Id.* at 737, 620 S.E.2d at 802; *see also* Savannah Morning News v. Jeffcoat, 280 Ga. App. 634, 634 S.E.2d 830 (2006) (following *Griffin* and reversing a trial court's denial of the newspaper's request for a courtroom still camera).
43. 130 S. Ct. 721 (2010) (per curiam).
44. Presley v. State, 285 Ga. 270, 674 S.E.2d 909 (2009), *rev'd*, 130 S. Ct. 721 (2010) (per curiam).
45. *Id.* at 271, 674 S.E.2d at 910.
46. *Id.* at 272, 674 S.E.2d at 911.
47. *Id.* at 273, 674 S.E.2d at 911.
48. *Id.* at 274, 674 S.E.2d at 912.
49. *Id.*, 674 S.E.2d at 912 (Sears, C.J., dissenting) (asserting that "[a] room that is so small that it cannot accommodate the public is a room that is too small to accommodate a constitutional criminal trial").
50. Presley v. Georgia, 130 S. Ct. 721, 724 (2010) (per curiam).
51. *Id.* at 723-24.
52. Waller v. Georgia, 467 U.S. 39, 48 (1984).
53. Press-Enter. Co. v. Superior Court, 464 U.S. 501, 511 (1984).
54. *Presley*, 130 S. Ct. at 725.
55. *Id.*
56. *Id.*
57. 286 Ga. 484, 690 S.E.2d 177 (2010).
58. *Id.* at 484, 690 S.E.2d at 179.
59. 292 Ga. App. 22, 26-27, 663 S.E.2d 772, 777 (2008).
60. 286 Ga. at 488, 690 S.E.2d at 181 (finding a structural error only if the defendant had objected at trial and raised the issue on appeal).
61. *Id.* at 490, 690 S.E.2d at 182 (Hunstein, C.J., dissenting).
62. *Id.*, 690 S.E.2d at 182 (asserting in a footnote that she would overrule as wrongly decided the Georgia Court of Appeals cases cited on that point, including *Glover*).

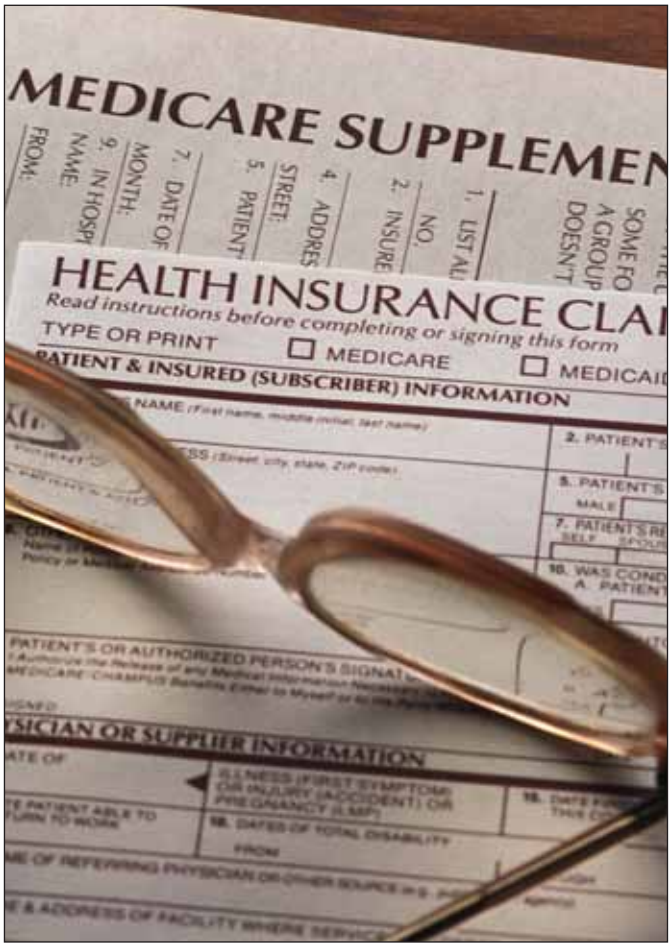
Special Needs Trusts:

A Planning Tool with Promise

by Ruthann P. Lacey

With one in every 26 American families reporting raising a child with a disability,[1] interest in and demand for special needs trusts is on the rise. The prospective client may be a child or an adult with a lifelong disability or someone newly eligible, because of an accident or illness, for insurance-based programs such as Social Security Disability Insurance (SSDI) and Medicare benefits, as well as needs-based programs such as Supplemental Security Income (SSI) and Medicaid.

While there is not a financial component to gaining eligibility for insurance-based programs, financial criteria are a significant part of the eligibility determination for needs-based programs. As public benefit eligibility law becomes more complicated, it should come as no surprise that legal planning tools are evolving to enable children and adults with disabilities to more easily become eligible for these public benefits while also providing for at least partial reimbursement to the



government for some of these public benefits. Special needs trusts (SNTs, also sometimes known as supplemental needs trusts) are among the legal planning tools that fill this need.

SSI Eligibility Criteria

SSI is a federal welfare program established under Title XVI of the Social Security Act[2] to provide cash assistance to financially needy individuals who are age 65 or older, or blind or disabled,[3] to assure such individuals a minimum level of income ($674 per month in 2010).

An individual is considered financially needy if he has "countable assets" of no more than $2,000 (or $3,000 for a married couple),[4] and has limited income. Assets that are not considered when determining this valuation include: the individual's home place, limited household goods, an automobile, burial spaces and certain life insurance or up to $1,500 designated for funeral expenses.[5]

The Social Security Administration defines income as "anything you receive in cash or in kind that you can use to meet your needs for food and shelter."[6] This includes gifts, inheritances,[7] in-kind assistance, earned and unearned cash and non-cash income and funds received in settlement of a lawsuit or other windfall. To be eligible for SSI benefits in 2010, an individual's countable monthly income cannot exceed $674 (or $1,011 for a couple).[8] However, because many kinds of income are not counted in determining SSI eligibility, an individual may be eligible for SSI even though his income is somewhat higher.

Medicaid Eligibility Criteria

Medicaid is a joint program between the state and federal governments that pays for necessary health care expenses of eligible individuals.[9] In Georgia, as in many states, eligibility for SSI automatically entitles the SSI recipient to Medicaid eligibility and coverage.[10] In fact, in many situations it is the Medicaid benefit that is most valuable to the SSI recipient.

While Congress establishes the Medicaid eligibility criteria, each state applies that criteria as it sees fit. There are a number of different Medicaid programs in Georgia, and each program has specific financial eligibility criteria. The general criteria is that one must be aged, blind or disabled,[11] have no more than $2,000 in countable resources and may retain exempt resources including the home place, an automobile, certain life insurance, burial spaces and limited funds designated for funeral expenses.[12]

Why Plan to Maintain Public Benefits Eligibility?

When a child or adult who is presently eligible for SSI or Medicaid benefits receives an inheritance, personal injury settlement or other windfall, these

Courts have held attorneys liable for malpractice for failing to identify and address issues relating to settling litigation and establishing special needs trusts.

resources will be considered by SSI and Medicaid to be "countable resources."[13] If the value exceeds the $2,000 resource limit, the individual will be ineligible for further benefits. Prudent planning to prolong the benefit of these funds may be appropriate when the individual has needs beyond essential medical care, such that it would be to his benefit to preserve these resources to purchase goods and services not covered by Medicaid.

The objective, however, is not to preserve the funds indefinitely while the individual with a disability relies on public benefits to pay for living and medical expenses. Rather, good planning allows such excess assets to be invested to generate income and then be spent carefully over a longer period of time—ideally for the individual's lifetime—for the full and sole benefit of the individual. If proper planning is not done and SSI and Medicaid benefits are lost, the funds may be spent very quickly for medical care and living expenses and the person will be returned to poverty status before he again becomes eligible for benefits.

Transfer Rules

So, what can legally be done with the excess assets? There are several options. They can be spent to purchase exempt resources that will benefit the individual, or they might be gifted to another individual with the expectation that the recipient will hold the assets for the benefit of the donor. However, if a gift is made, then both SSI and Medicaid rules impose a transfer penalty upon the donor. A penalty is a period of time during which the donor cannot become eligible for SSI or Medicaid benefits *because* he made this gift.

For SSI purposes,[14] a transfer made after Dec. 13, 1999, will result in an ineligibility penalty period of up to three years.[15] This ineligibility period is determined by dividing the total value of the gifts by the maximum monthly SSI benefit effective on the date of application,[16] but the maximum penalty period is 36 months from the date of the transfer.[17]

The Medicaid rules, as of Feb. 8, 2006, provide for a five-year lookback, meaning that any transfer made in the five-year window prior to filing an application for Medicaid benefits will be penalized and result in a period of ineligibility for the applicant. A transfer to an individual or a trust may result in a penalty period of as much as 60 months,[18] which can be extended if a Medicaid application is filed before the penalty period has elapsed.[19] Thus, if an individual makes a gift of his windfall, he will become ineligible for SSI and Medicaid benefits for a time, during which it will be necessary for him to pay for all of his living and medical expenses from his own funds.

Special Needs Trusts: Exception to the Transfer Rules

Special needs trusts are an important exception to the transfer rules.[20] A special needs trust is a discretionary spendthrift trust created for a beneficiary with a disability which supplements but does not supplant public benefits for which the beneficiary may be eligible.[21] It must be carefully drafted to conform with statutory and regulatory requirements to assure the ongoing SSI and Medicaid eligibility of the person with a disability. The SSI and Medicaid rules regarding SNTs are similar though not identical.

Certain SNTs, which are specifically authorized by federal and state law for use by individuals who receive a windfall and presently are, or expect to become, eligible for SSI or Medicaid benefits, are the Individual Self-Settled Special Needs Trust and the Pooled Special Needs Trust. In addition, the Pooled Special Needs Trust and the Third Party Settled Special Needs Trust are useful advance planning tools when the planning is oriented toward using third party assets to supplement public benefits.

Individual Self-Settled Special Needs Trusts

An irrevocable SNT funded with assets belonging to the beneficiary is a self-settled SNT. A self-settled SNT can be created with proceeds from the settlement of a lawsuit (often times the lawsuit that was initiated to recover for injuries that caused the disability for which the individual now must pursue eligibility for benefits), or with the proceeds of an inheritance that was left outright to the individual. The trust can be funded with one lump sum or over time with a structured settlement, after existing Medicaid, Medicare and private insurance liens have been negotiated and paid.[22]

A SNT created under 42 U.S.C. § 1396p (d)(4)(A) (commonly called a "d4A trust") must be "established" by a parent, grandparent, legal guardian or court for a beneficiary with a disability who is under age 65, and must be irrevocable.[23] It can continue in effect after the beneficiary becomes 65, but assets cannot be added to it after that time unless they are part of a structured settlement.

For both SSI and Medicaid purposes, the trust document must state that the trust is "for the sole benefit" of the beneficiary,[24] and must provide for Medicaid (but not SSI) to be reimbursed at the death of the beneficiary for the medical care provided during his lifetime.[25] Remainder beneficiaries can be named to receive those residual assets not needed to reimburse Medicaid.[26]

Some see the requirement that Medicaid be reimbursed as a potential downside to a d4A trust. However, because Medicaid pays less for health services than the beneficiary would pay in the open market, the expense is not as large as it would have been had trust assets instead been spent to provide medical care during the beneficiary's lifetime. Further, this is an equitable way to provide for the beneficiary during his lifetime while alleviating some of the burden on the state's Medicaid programs.

Although the statute is silent as to provisions for distributions to or for the beneficiary, such trusts usually require that such distributions either be entirely discretionary with the trustee, or be limited to distributions that will "supplement and not supplant"[27] public benefits. Another option is to provide for absolute discretion by the trustee, with a statement of intent that the distributions be used to "supplement and not supplant" public benefits.[28] To avoid ambiguity, yet another possibility is to provide expressly that the trustee may make distributions that disqualify the beneficiary for benefits, if the trustee in its discretion determines that to do so is in the beneficiary's best interests.

Pooled Special Needs Trusts

An irrevocable pooled SNT account (commonly called a "d4C trust") can be established for a beneficiary who is under age 65 by the individual (if he is a competent adult), a parent, grandparent, legal guardian or a court.[29] In Georgia, a pooled SNT can be created through the Georgia Community Trust.[30]

The pooled SNT can be a self-settled trust (if funded with assets belonging to the beneficiary), or a third party trust (if funded with third party funds). It is managed by a non-profit association such as the Georgia Community Trust (GCT),[31] the first pooled trust entity based in Georgia, where each sub-account is tracked separately while the funds are pooled for investment purposes. The assets in the trust can be used to supplement the public benefits the beneficiary receives.

If the funds transferred to the trust belonged to a third party, then the funds remaining after the death of the beneficiary will be distributed to the beneficiaries designated in a joinder agreement. If the funds were transferred by the beneficiary to the trust, the remaining balance must first be used to reimburse the state for Medicaid payments made on behalf of the beneficiary; the remainder can then be distrib-

uted via the joinder agreement or be retained by the trust for the benefit of indigent individuals with a disability. In that event, there is no requirement to reimburse the state.[32]

Among the benefits of a pooled SNT is the fact that a person with a disability can establish his own account. Further, the GCT already exists, so there are no lengthy documents to draft; completing a joinder agreement is all that is required to open an account and the costs are nominal for professional management and trustee services. A pooled account trust is often a good option when the size of the trust estate is insufficient to make it economically feasible to engage a corporate trustee for purposes of managing the trust estate.

Third Party Settled Special Needs Trusts

Third Party Settled Special Needs Trusts are those to which assets are contributed by someone *other than* the beneficiary.[33] Typically they are created by family members of persons with disabilities, naming the person with a disability as the beneficiary. They may be created by transfers during life (inter vivos trusts)[34] or in a Last Will and Testament document (testamentary trusts).[35] As long as the beneficiary does not have the legal authority to revoke the trust or direct the use of the trust assets for his or her own support and maintenance, the trust principal is not considered to be the beneficiary's resource for SSI and Medicaid purposes.[36]

The benefit to planning with a Third Party SNT is obvious: because the funds do not belong to the beneficiary these SNTs need not have provisions for repaying Medicaid benefits after the beneficiary's death, and they are not affected by the age restrictions on self-settled trusts discussed above. As such, it is not generally wise to commingle estate planning (third party) SNT funds with the beneficiary's (self-settled) SNT funds as discussed above. The option of establishing such a trust should be seriously considered in any estate plan involving a disabled beneficiary.

For example, a third party SNT can be a particularly attractive option when planning for a family member who has a known disability such as Alzheimer's disease or schizophrenia and who now or later may be eligible for public benefits. A SNT for the person with a disability created under the will of the grantor will be funded with third party assets.

Failure to properly plan in advance may mean that the only option is to use a d4A trust to "save" an inheritance when the grantor has died and the beneficiary with a disability is entitled to the assets; however, to do so while maintaining SSI and/or Medicaid eligibility requires that the SNT include a payback provision, with the result that Medicaid is the first remainder beneficiary. Further, due to the age restriction, if the beneficiary is 65 years of age or older it would be impossible to establish a self-settled SNT.

Attorney Liability

Courts have held attorneys liable for malpractice for failing to identify and address issues relating to settling litigation and establishing special needs trusts. It is critical for attorneys to be aware of claims by workers' compensation and health insurers as well as governmental agencies based on subrogation in personal injury actions. An Illinois appellate court ordered to trial an attorney malpractice case in which the plaintiffs alleged that the attorneys who drafted their father's will were aware that two of his children were disabled, and that they were negligent in failing to advise the testator of the possibility of establishing a "special needs" trust for his children which would not impair their eligibility for certain public assistance benefits.[37]

In Texas, a plaintiff settled a personal injury case, but later sued the attorney and guardian ad litem for malpractice alleging that the defendants failed to consult competent experts concerning a structured settlement and failed to plan to preserve her SSI and Medicaid eligibility. She alleged that a structured settlement with a d4A Special Needs Trust would have protected her personal injury settlement from dissipation, as well as provided tax benefits and protected her SSI and Medicaid benefits. The case was settled by all defendants for a combined sum of $4.1 million.[38]

In Connecticut, a court held that there was a fiduciary duty on the part of an estate's conservator, and indirectly the fiduciary's lawyer, to protect the settlement of a client with a disability.[39] As a part of the application to compromise and settle the claim, the conservator requested that the net settlement amount be placed in a d4A special needs trust for the ward to preserve his Medicaid eligibility. The state of Connecticut objected. The Supreme Court of Connecticut rejected the attorney general's argument that the conservator should spend down all of the ward's assets and then reapply for Medicaid assistance. The court ruled: "By contrast, with the creation of the trust, [the ward] will retain his Medicaid eligibility and [the conservator] can provide for his supplemental needs from the trust assets, while Medicaid provides for his basic medical care. Therefore, not only is the latter course of action clearly better for [the ward], it may be fairly stated that by failing to follow it, the Probate Court, and [the conservator] could be deemed to be in dereliction of their duties to [the ward]."[40]

Conclusion

It's been said that a society will be judged by how it treats its weakest members. Congress' authorization of the use of special needs trusts reasonably addresses that inequity. SNTs provide a socially responsible mechanism to enable a beneficiary to become or remain

eligible for SSI and Medicaid benefits, while procuring supplemental benefits that he would not otherwise receive. At the same time, SNTs help remove the pressure off an already overburdened benefits system thereby allowing for the continuation of these benefits to future generations of individuals with disabilities.

Ruthann P. Lacey is one of just seven certified elder law attorneys in Georgia. She concentrates her practice in elder law and special needs law, a general practice dedicated to the unique and often complex planning concerns of seniors, their adult children and individuals with special needs. Lacey is a graduate of Emory University School of Law, is a member of the Special Needs Alliance and the National Academy of Elder Law Attorneys and is past chair of the Elder Law Section of the State Bar of Georgia. She can be reached at rlacey@elderlaw-lacey.com.

Endnotes

1. "Disability and American Families: 2000," US Census Bureau, July 2005 Report.
2. Title XVI of the Social Security Act, 42 U.S.C. §§1381 *et seq*. (2009); 20 CFR § 416.101 *et seq*. (2010); governed by operational guidelines contained in the Social Security *Program Operation Manual System* (POMS).
3. Disabled is defined as "unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months." 42 U.S.C. §1382c (a)(3)(A) (2009).
4. 20 C.F.R. § 416.1205 (2010).
5. 20 C.F.R. § 416.1210 (2010).
6. 20 C.F.R. § 416.1102 (2010).
7. 42 U.S.C. §1382a(a)(2)(D) (2009).
8. C.F.R. § 416.1102 (2010).
9. Title XIX of the Social Security Act, 42 U.S.C. §§1396 *et seq* (2009).
10. 42 U.S.C. §1396a(a)(10)(A)(i)(II) (2009); Georgia Department of Human Services, Medicaid Manual Volume II/MA, MT 29-02/08 § 2111-1.
11. O.C.G.A. § 49-4-81.
12. O.C.G.A. § 49-4-6(a); Volume II/MA, MT 1-01/02 §§2300 *et seq*.
13. 20 C.F.R. § 416.1201 (2010).
14. Foster Care Independence Act of 1999, Pub. L. No. 106-169, December 14, 1999.
15. 42 U.S.C. §1382b (c)(1)(A)(ii)(I) (2009); 20 C.F.R. § 416.1246 (2010).
16. 42 U.S.C. §1382b (c)(1)(A)(iv) (2009).
17. 42 U.S.C. §1382b (c)(1)(A)(iv)(II) (2009).
18. 42 U.S.C. §1396p (c)(1)(B)(i) (2009); Volume II/MA, MT 39-08/10 §2342-1.
19. *See generally* Volume II/MA, MT 39-08/10 §2342-6.
20. 42 U.S.C. §1382b (c)(1)(C)(ii)(IV) (2009); 42 U.S.C. §1396p (d)(4) (2009); POMS § SI 01120.203 B.; SI 01150.121 A.3.
21. *See* Volume II/MA MT 35-08/09 § 2346-2.
22. 42 U.S.C. §1396a(a)(25)(A) and (B) (2009); *see generally* Patricia Cricchio v. Joseph A. Pennisi *et al*. and James H. Link v. Town of Smithtown *et al*., 90 N.Y.2d 296, 683 N.E.2d 301, 660 N.Y.S.2d 679 (1997); O.C.G.A. § 49-4-149(a).
23. 42 U.S.C. §1382b(c)(1)(C)(ii)(IV) (2009); 42 U.S.C. §1396p(d)(4)(A) (2009) ("A trust containing the assets of an individual under age 65 who is disabled [as defined in §1614(a)(3)] and which is established for the benefit of such individual by a parent, grandparent, legal guardian of the individual, or a court if the State will receive all amounts remaining in the trust upon the death of such individual up to an amount equal to the total medical assistance paid on behalf of the individual under a State plan under this [title]."); POMS § SI 01120.203 B.1.; Volume II/MA, MT 35-08/09 §2346-1.
24. 42 U.S.C. §1382b(c)(1)(C)(ii)(IV) (2009); 42 U.S.C. §1396p(c)(2)(B) (2009); POMS § SI 01120.201.F.2.
25. 42 U.S.C. §1396p(d)(4)(A) (2009); POMS § SI 01120.203 B.1.h.; POMS § SI 01120.203 B.2.g.
26. POMS § SI ATL01120.201.
27. Volume II/MA, MT 35-08/09 § 2346-2.
28. *Id*.
23. 42 U.S.C. §1382b(c)(1)(C)(ii)(IV) (2009); 42 U.S.C. §1396p(d)(4)(C) (2009) ("A trust containing the assets of an individual who is disabled [as defined in §1614(a)(3)] that meets the following conditions: (i) The trust is established and managed by a non-profit association; (ii) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts; (iii) Accounts in the trust are established solely for the benefit of the individuals who are disabled [as defined in §1614(a)(3)] by the parent, grandparent, or legal guardian of such individuals, by such individuals, or by a court; (iv) To the extent that amounts remaining in the beneficiary's account upon the death of the beneficiary are not retained by the trust, the trust pays to the State from such remaining amounts in the account an amount equal to the total amount of medical assistance paid on behalf of the beneficiary under the State plan under this [title].").
30. 42 U.S.C. §1382b(c)(1)(C)(ii)(IV) (2009); 42 U.S.C. §1396p(d)(4)(C) (2009); O.C.G.A. §§30-10-1 - 30-10-9; Volume II/MA, MT 39-08/10 §2337-2.
31. www.georgiacommunitytrust.com.
32. 42 U.S.C. §1396p(d)(4)(C)(iv) (2009); POMS § SI 01120.203 B.2.g.
33. POMS § SI 01120.200 B.17.
34. 42 U.S.C. §1382b(c)(1)(C)(ii)(III) (2009); 42 U.S.C. §1396p(c)(2)(B)(iii) and (iv) (2009).
35. 42 U.S.C. §1382b(e)(2)(A) (2009); 42 U.S.C. §1396p(d)(2)(A) (2009); Volume II/MA, MT 39-08/10 §2337-1; Volume II/MA, MT 39-08/10 § 2338-2.
36. POMS § SI 01120.200 D.1.a. and b.; Volume II/MA, MT 37-02/10 §2338-1.
37. *See* Catherine Rajcan *et al*. v. Donald Garvey & Associates, Ltd. *et al*., 347 Ill. App. 3d 403, 408, 807 N.E.2d 725, 729, 283 Ill. Dec. 120 (2004).
38. *See* Josephine Grillo v. Tom Pettiette *et al*., Cause No. 96-145090-92, 96th Judicial District Court, Tarrant County, Texas.
39. *Department of Social Services v. Edith A. Saunders*, 247 Conn. 686, 709, 724 A.2d 1093, 1105 (1999).
40. *Id*.

Rule of Law Doesn't Just Happen

by Hon. James F. Morris

We like to believe that criminal cases are tried by impartial juries, presided over by untouchable judges, given "Just the facts, ma'am" by the prosecutors and police and enthusiastically represented by devoted defense attorneys. We can be outraged when confronted with evidence that the system is sometimes corrupted, that the "rule of law" we so treasure can break down through the manipulation of individuals, special interests and even large communities. Sometimes it is easier to see at a distance the immense pressures occasionally exerted on the legal system, and to understand how malleable the rule of law is, how it must be nurtured to live up to its claim of righteousness.

In this story the distance is provided by time. All the principals are long passed but the record of their efforts still instructs. This story is not another about Leo Frank, but Frank's experiences certainly were fresh in the minds of our players.

In 1913, much of the world was caught up in the accusation that Frank had murdered Marietta resident Mary Phagan, a controversy that for years tore apart the Atlanta area, setting newspapers, politicians, races and religions against each other. That the case still reverberates is evidenced by the movie-length treatment it received last year from PBS. Frank's jury recommended the death penalty, habeas corpus petitions were repeatedly denied by the U.S. Supreme Court, but the sentence was commuted to life by Gov. John M. Slaton the week before he went out of office.

Steve Oney wrote a wonderful account of the investigation, trial and the eventual lynching of Frank in his 2003 book, "And the Dead Shall Rise," recounting the power struggles led by various local newspapers, national publishing chains, the *New York Times*, the Ku Klux Klan (KKK), the Jewish community and any number of other groups to impact the outcome of the drama. When Frank was ultimately kidnapped from prison in Milledgeville, hauled to Marietta and lynched in 1915, evidence indicates that the lynchers were led by the best citizens of Marietta, the superior court judge, law enforcement officers, the prosecutor and others. Their motive seems to have been that the rule of law, to their mind it was the Fulton County jury's death penalty verdict, had been subverted by special interests and needed to be carried out by their righteous selves. The local community then locked arms and successfully derailed any effort to prosecute the lynchers. The community's

Photos provided by Hon. James F. Morris

George Goumas

Emma Stell Goumas

behavior colored the city of Marietta and Cobb County's reputation for years and not every contemporary local citizen was pleased with this world view.

In 1931 another murder occurred, this time inside Marietta. Though many of the same social pressures were in play, the outcome was very different and the way the fascinated community managed the issues makes *Goumas v. The State* worth remembering.

George Goumas emigrated from Greece in 1905 as a teenager. Five years later he was living in Marietta, speaking English and soon operating the restaurant next to the Cobb County courthouse. As was characteristic of Greek businessmen, he networked with other Greeks, turning his restaurant over to a countryman in 1914 and opening a Marietta meat market with the profits. Goumas had an eventful year in 1913, becoming an American citizen and later quietly entering a guilty plea to "possession of a pistol not in an open manner" resulting in a hefty fine of $60. In 1917 he was indicted for possession of 13.5 gallons of non-tax paid corn whiskey and, as happened to so many accused, sought shelter in the U.S. Army which was just gearing up to fight WWI.

Goumas was a natural soldier, proud and attentive to his duties. He was trained as a signalman, joining a dangerous detail in France that ran telephone lines from forward observers who were targeting artillery and providing "eyes on" intelligence information about what the Germans were doing on their side of the trenches. On Oct. 21, 1918, Goumas and his team were in a trench when two enemy artillery shells landed in it. Goumas was wounded, knocked unconscious for a time, but woke to find five of his buddies to be in worse shape than he. One-by-one he carried each man through the continuing artillery bombardment, through machine-gun fire, snow and mud to a distant military ambulance. After delivering the last man to the medics, Goumas returned to the trench and repaired the telephone wires so the commanders could successfully repel the attack. He remained on the job until directly ordered to report for medical treatment.

For his heroism, Goumas was awarded the Distinguished Service Cross (DSC) among other honors. The DSC is just one step below the Medal of Honor. He was the most decorated veteran of The Great War to return to Cobb County, and the populace marked his heroism with parades, displays of his medals, receptions and membership in the American Legion and the Masons. He reopened his meat market. The prosecutor dismissed his moonshine indictment, citing his patriotism on the field of battle in France. He was a great American hero—until he started dating a white, Anglo-Saxon telephone operator named Emma Stell.

Greek-Americans were frequently of "olive complexion," and described as "swarthy." They were also likely to be of Catholic faith, both offenses to the KKK which was resurgent during the '20s. Goumas defied their threats of retribution if he did not break off the relationship with Emma; he mar-

ried her in 1923, and they soon had two lovely daughters. That same year the *Cobb County Times*, a local weekly, ran anti-KKK editorials nearly every week, preaching the danger that the "Koo-Koo's" message and behavior held for the community. The KKK boycotted Goumas' meat market and enough of the community supported the effort that, with the further complications of the Great Depression, Goumas was bankrupt by 1931. He was broke, and he was drinking.

In June, Goumas was stopped by Cobb County Sheriff Sanders for being in a car similar to one reported stolen from Forrester Ford in Marietta. He was allowed to drive off with orders to report the next day to Forrester Ford and work the problem out with them. He met with Forrester two days later. The following morning he returned to the dealership, apparently after drinking some alcohol, but Forrester was away. Goumas continued to drink, returned again with the same results. The third time he returned, he pulled out a pistol and shot Forrester's general manager Doyle Butler in the gut. Butler staggered out of the showroom and fell in the gutter outside where Goumas shot him in the back. Butler managed to make it across the street where the sheriff's son was working at a gas station. The son stopped Goumas from firing a third shot, telling him, "George, you have already killed him." Butler died later that night. There were innumerable eye-witnesses to the murder; it happened just off the Marietta Square in the middle of the business day. While Goumas still carried the pistol, another off-duty deputy sheriff walked with him the couple of blocks to Goumas' home where Sanders soon arrived and talked him into giving up the gun.

Butler was reported to be the most popular man in town. He was a graduate of Marietta High School and a trained pharmacist; he was Goumas' fellow Mason and the president-elect of the Rotary Club. Most important, he was the first Ford dealer in Cobb County, starting when there were but six Fords registered and selling his business in 1928 after more than 3,000 sales. He knew everyone, and everyone admired Butler. His quiet but absolutely devoted wife was helping him parent their three model children. They were stalwarts in their church.

As Butler was driven to the nearby hospital, terrified bystanders multiplied into curious observers and then into excited and angry crowds when they learned who had been shot. One mob coalesced outside the Goumas home and another at the sheriff's office, many eager to take revenge for this murder. Sanders quickly instructed his men to take Goumas to the local jail but moments later rethought that decision and had them take him to the Fulton Tower, the impregnable Fulton County jail across the county line, the same place Frank had been safely and comfortably jailed during his trial and most of his appeals. Sanders also had one of his men take Emma Goumas and their children to the safekeeping of her sister's home so they would not be harmed by others.

No Cobb County lawyer would represent Goumas, but Greeks were not without advocates in the area. In 1923 Atlanta was the birthplace of AHEPA, the American Hellenic Educational and Progressive Association, formed to help educate and socialize Greek immigrants. Its public purpose was to teach Greeks to speak English, to teach business skills and to help them network employment, social and political opportunities. AHEPA had a subtext, however, to oppose discrimination against Greeks—especially to forcefully counteract the blatant anti-Greek activities of the KKK. In 1923 the *Atlanta Constitution*, in praising the good works of AHEPA, said not unadmiringly, "the organization is secret." By 1931 it had thousands of members throughout the nation and had even gone international. This had to be a case that AHEPA found right in its wheelhouse! Quickly, Goumas had an Atlanta lawyer, Augustus Lee.

Goumas also had a judge, Judge Harold Hawkins of the Blue Ridge Circuit for all of three months.[1] Hawkins had never been to college or law school. He was a graduate of the Draughon School of Commerce and worked as a stenographer and court reporter while he read law in the office of Newton Morris, the superior court judge whom Oney alleges kicked the table out from under the feet of Frank at the lynching. Hawkins was admitted to the Bar in 1916, clerked for an appellate judge, practiced law with Morris and was a popular appointment to the bench. This was his first big case. The first decision he made was to resist the public urging to call a special grand jury; he insisted that the case proceed on a normal schedule. Goumas was indicted the next month and on July 21 Lee filed a motion for a change of venue, first claiming that

It is a fascinating view of a coordinated effort by the courthouse and the press to manage the case and public opinion, not for a particular outcome in favor of one side or the other, but to further the rule of law and safeguard the system and its components.

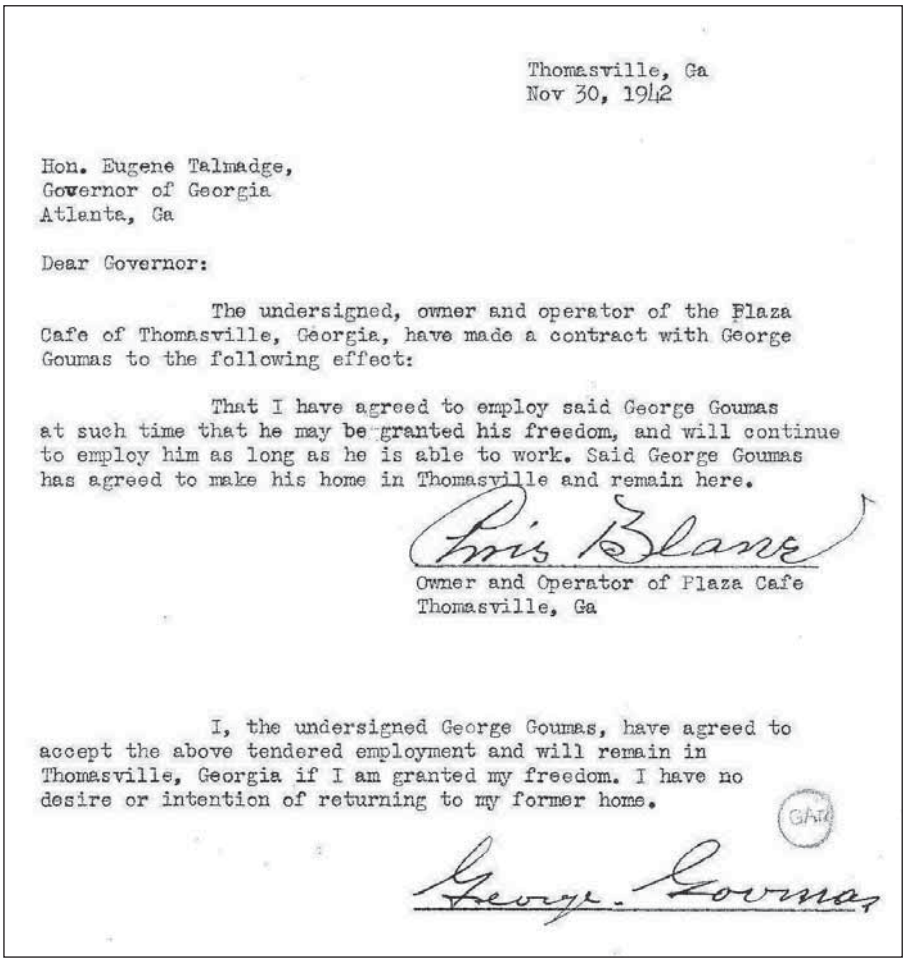
his client would be lynched if forced to even return to Cobb County, and second, that his client could not get a fair trial in Cobb County because the citizenry were so aroused against him. The motion was opposed by Solicitor-General George D. Anderson and he was assisted by John S. Wood, a legislator and ex-superior court judge, a formidable team. Hawkins set the motion for hearing on Saturday, July 25, a schedule that would be unthinkable today but was typical then. At the hearing on the motion, the courthouse was jammed from early in the morning and hundreds had to be excluded from the building. Goumas waived his presence, stating through his lawyer that he feared being lynched if he even crossed the river. Lee presented several witnesses including Sanders who struggled to explain his transfer of Goumas to Fulton County without admitting overt threats of violence. He finally settled on having just followed his instinct, this being "such an unusual case." Sanders' ultimate opinion was, "Well, I don't think he could get any fairer trial anywhere on earth than he could here."

Lee offered as evidence an affidavit filed by J. Colton Lynes, the 87-year-old Inspector General of the Confederate Veterans Association, a most respected citizen of Cobb County. Lynes swore that based on his conversations with others and his personal observations, "It is my opinion that the said George Goumas can not (sic) now, and will not be able to obtain a fair and impartial jury trial in said County and State." "I further believe that it would be dangerous for the said defendant to be carried back to Cobb County Georgia for any purpose whatsoever, as in my opinion there exist imminent danger of his being lynched if taken back to said county." Twenty-two affidavits from Cobb citizens agreeing with Lynes were tendered into evidence. In rebuttal, the state tendered into evidence affidavits from 841 Cobb citizens saying they had witnessed no ill will against Goumas in Cobb County and that they could be fair and impartial jurors. These affidavits had been gathered in the courthouse, the sheriff's office and other public places in three days. This was before the advent of the copying machine, fax and Twitter, etc., an amazing demonstration of community organization and determination to exercise self-rule. Hawkins denied the motion, a decision that was affirmed by the Court of Appeals of Georgia which upheld his decision in *Goumas v. The State, 44 Ga. App. 210, 160 S.E. 682 (1931)*.

The trial was scheduled soon after the return of the decision from the Court of Appeals, during the November term of the trial court. Recognizing that having representation by an Atlanta lawyer was a tremendous cultural liability for Goumas in the upcoming Cobb County trial, Hawkins took an extraordinary step the week before trial. He called in two young Marietta lawyers and told them Goumas needed local representation to have a fair trial, but that they may never be able to work in Cobb County again if they took the case. He wanted to appoint them to assist Lee. Though both were fairly young, they were not unknown. L.M. "Rip" Blair was the son of a past superior court judge and was also a WWI vet.[2] Sam Welsch was a well-respected former teacher and coach in town.[3] They both agreed to take the case. Immediately, an editorial titled, "Able Defense," appeared in the *Cobb County Times*, praising appointed lawyers generally, explaining that conscientious lawyers accept these appointments as ethical trusts even when it may work a hardship on the lawyer. The article then focused specifically on Welsch and Blair, "two of Marietta's most distinguished and successful lawyers," commending them for their efforts to assure that "there can be no hint of an unfair trial for the defendant." It is a fascinating view of a coordinated effort by the courthouse and the press to manage the case and public opinion, not for a particular outcome in favor of one side or the other, but to further the rule of law and safeguard the system and its components.

George Goumas pictured wearing his Distinguished Service Cross.

On the trial day, jury selection was brief and the attorneys set out sharply opposing cases. The state was straightforward in its presentation and the defense consisted only of a well-told unsworn statement delivered by Goumas, describing his life, his war actions, his blackouts from shell shock and his sincere regret at killing his friend. Why kill Doyle Butler? The official history of AHEPA written in the 1980s includes this suggestion regarding Greeks in general, ". . . when he was abused to the extent that he felt insulted, his Greek pride quickly broke the bonds of restraint and this was when he occasionally found himself in trouble with the law." Goumas blamed his actions on the blackout, but his motivations were widely believed to be a response to the auto theft allegations. Interestingly, in his statement, Goumas never mentioned any friction with the KKK, a matter that must have been tactically excluded in consideration of the likely sympathies of some on the jury.



Thomasville, Ga
Nov 30, 1942

Hon. Eugene Talmadge,
Governor of Georgia
Atlanta, Ga

Dear Governor:

The undersigned, owner and operator of the Plaza Cafe of Thomasville, Georgia, have made a contract with George Goumas to the following effect:

That I have agreed to employ said George Goumas at such time that he may be granted his freedom, and will continue to employ him as long as he is able to work. Said George Goumas has agreed to make his home in Thomasville and remain here.

Chris Blane
Owner and Operator of Plaza Cafe
Thomasville, Ga

I, the undersigned George Goumas, have agreed to accept the above tendered employment and will remain in Thomasville, Georgia if I am granted my freedom. I have no desire or intention of returning to my former home.

George Goumas

The letter above was sent to Gov. Eugene Talmadge by Chris Blane, a Greek immigrant who ran a local restaurant, on George Goumas' behalf. In the bottom paragraph, Goumas assures the board that he has no intention of returning to Marietta.

It seems very likely that the closing arguments of counsel greatly determined the outcome of the trial. The state argued that it was a deliberate murder and that there was no evidence that Goumas had ever sought any kind of treatment for war injuries, that the shell shock story was just a recent concoction. Blair was notoriously dramatic, reportedly clattering Goumas' original medals on the table in front of the jurors, defying them to execute a man who had displayed such heroism for his country. He promised that Goumas, if given mercy, would not appeal and would never seek clemency; he would appreciatively serve out his life sentence to atone for the wrong he had committed. The jury deliberated for four and one-half hours and came back with a verdict of guilty but recommended mercy, life in prison.

Hawkins froze the courtroom in place prior to the verdict and during the sentencing, allowing no word of the verdict to go outside until the sheriff had transferred Goumas to a deputy's car and headed down the road to the Fulton Tower. By the time the crowd outside learned the verdict, Goumas was safely isolated from any outcry.

The next edition of the *Cobb County Times* included an article, "Smooth Justice," disparaging the allegations by outsiders that Mariettans could not be depended on to see that Goumas got a fair trial. The writer observed that, if there were any "thrill-lovers" who looked forward to individual or systemic injustice, they would have been disappointed. "For never was justice meted out with smoother carriage, less delay, more sober and detached judgment, or more decorum than in the case of the *State v. George Goumas*, charged with the murder of a prominent Marietta citizen." Finally, the public was congratulated that it conducted itself with such restraint. The article had a palpable sense of relief that the case had come to a civilized conclusion. Cobb County was not delivered from lynch law with this case, but there was a major transformation in attitude toward trust of legal process.

The antagonists were not through with the case, however. Newspaper articles beginning as soon as Dec. 6, 1936, reported the fact that the State Prison Commission had denied Goumas' attorneys' application for clemency, adding that his attorneys planned to apply directly to Gov. Eugene Talmadge. The article explained that then Cobb County Sheriff E.M. Legg was strongly opposed to clemency and would appear in person to argue against any application. The same article recites that Goumas was given mercy by the trial jury with the understanding that he would never apply for relief from the sentence. It goes on to state that true to his word, the clemency application is not being sought by Goumas but, rather, by "members of the Greek American colony in Atlanta." That would appear to be AHEPA. Other articles report that clemency was again denied in 1941.

Goumas' clemency file at the Georgia Archives is unexpectedly thin according to an archivist, indicating that it may have been culled by some interested party. It does contain a recommendation by his warden for his release, offers from members of the Thomasville Greek community to employ him and assurances that he will never return to Cobb County. Goumas was granted clemency in the mid-1940s and settled into Thomasville where he was an honored member of the American Legion, ran a couple of downtown small businesses that

sold magazines, candy, sandwiches and the like. He ate nightly in a local Greek restaurant and lived an apparently quiet life until he died in 1960 and was buried in the Barrancas National Cemetery in Pensacola, Fla.

What does this say about the rule of law? That it isn't clearly written in black and white. That it isn't necessarily linear in its application. That it takes nurturing to keep it alive. That it isn't just the responsibility of the courthouse to make it work. That sometimes we are just lucky. That sometimes we are good. GBJ

Hon. James F. Morris served as the senior judge of the Courts of Georgia from 2002 until his retirement in 2009. He previously served as the presiding judge of the juvenile court of Cobb County, an assisting superior court judge and assistant district attorney in the Cobb County District Attorney's Office. He has served on numerous committees including the State Bar of Georgia Commission on Family Courts, the Unified Court Committee, president of the Council of Juvenile Court Judges of Georgia and a member of the Judicial Council of Georgia. Morris received his B.A. in sociology from San Jose State College in 1970 and his J.D. from Atlanta's Woodrow Wilson College of Law in 1975.

Endnotes

1. Hon. Harold Hawkins was elected to the Supreme Court of Georgia in 1949 and served in that capacity until 1960.
2. Attorney Rip Blair became a powerful politician, was fundamental in attracting Bell Aircraft to Cobb County and served as mayor of Marietta from 1938-47.
3. Attorney Sam Welsch served in the Georgia House and Senate and served most of three terms as Marietta mayor, once defeating Rip Blair. The current city council meeting room is named in his honor.

20th Annual Fiction Writing Competition

Deadline Jan. 21, 2011

Past winners include:

"Out From Silence"
by Cynthia Lu Tolbert (2010)

"Death Tax Holiday"
by Lawrence V. Starkey Jr. (2009)

"The Dark Part of the Road"
by Lisa Smith Siegel (2008)

"Life for Sale"
by Lisa Smith Siegel (2007)

"Treasure of Walker County"
by Thomas Ellis Jordan (2006)

"Doubting Thomas"
by Gerard Carty (2005)

"First Tuesday"
by Gerard Carty (2004)

"The Devil Came Down to Georgia"
by Bradley M. Elbein (2003)

"Equitable Division"
by Stephen L. Berry (2002)

"The House"
by Stephen L. Berry (2001)

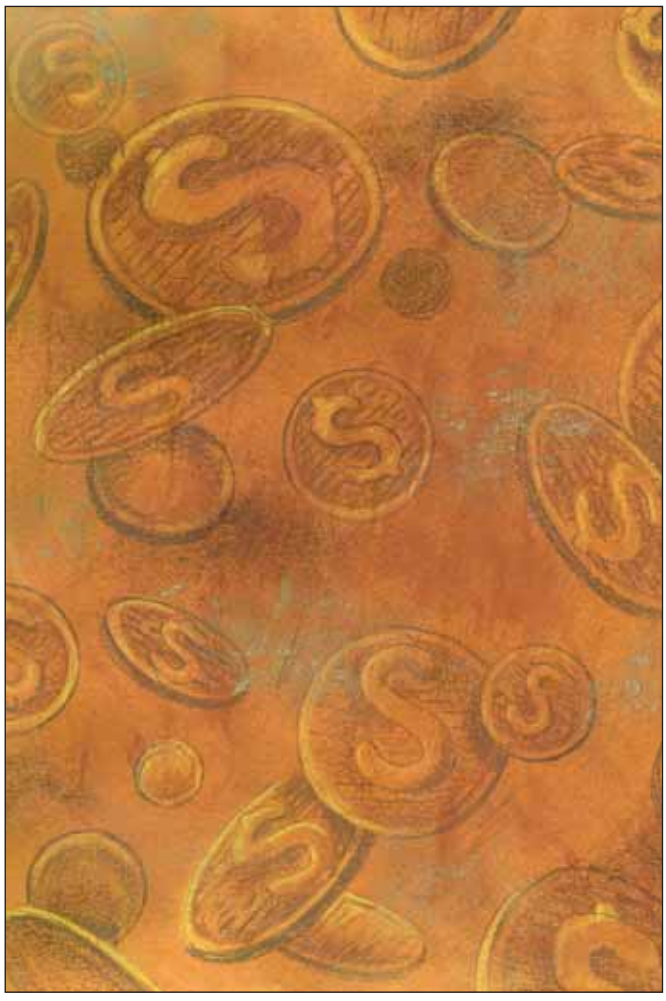
If you would like to read one of the past entries that you might have missed, you can obtain a copy from the State Bar's Communications Department by calling 404-527-8792.

For more information, see page 36.

The Georgia Bar Foundation Awards $1,348,223

by Len Horton

Sometimes a crisis creates heroes. Whether they already existed and were waiting to step forward or were created by the economic crisis that is gripping our state and nation, we may never know. But we do know that at the annual grants meeting of the Georgia Bar Foundation (the Foundation) on Friday, Aug. 27, two heroes emerged.



Just how serious a crisis was the board of trustees facing? As part of the regular flow of gloomy news each day, Nobel Prize-winning economist Paul Krugman had written in *The New York Times* that he feared we are at the beginning of a third depression. As if the board needed further proof of the challenges it faced in the meeting, available resources for grant awards from IOLTA (Interest On Lawyer Trust Accounts) had been cut just about in half compared to what was available at last year's meeting. A total of only about $1,261,000 was available for 30 grant applicants who had requested $2,107,450. Some applicants had made it known that anything from the Foundation could be what would keep their doors open. A few had already decided to lay off some staff and one had relocated to reduce rent costs. If every penny available at the meeting went to our primary purpose, which is Atlanta Legal Aid and

Georgia Legal Services, those organizations would receive 36 percent less than last year.

Caught in this downward revenue spiral and a whirlwind of increasingly bad news, the board of trustees of the Foundation faced a daunting task. Which programs would have to be cut entirely? Which could be kept alive by at least some funding? Which, if any, would be fully-funded? No matter how the applications were examined and what criteria might be applied, some very worthy programs could not be supported and might be jeopardized.

If ever a situation called for a hero to step forward, this was it. Out of a situation that was frustrating to the 19 lawyers and bankers who had agreed to serve on the Foundation's board of trustees came an unexpected hero: Chief Justice Carol Hunstein. Already battered by Supreme Court of Georgia budget cuts forcing staff reductions and furlough days of the justices themselves, Chief Justice Hunstein found almost $87,000 in previously unused grant funds for the Foundation to award to the Georgia Appellate Practice and Educational Resource Center, which provides civil legal services to death penalty inmates in habeas cases. Without her stepping forward, Foundation funding for that applicant probably would have dropped from last year's $249,700 to a mere $100,000, having a grave impact on this vital organization.

In an unassuming manner and a soft voice, Chief Justice Hunstein announced that she had ordered a check of $86,916.44 to be sent to the Foundation to expand its support for the Georgia Appellate Practice and Educational Resource Center. This important organization still faces a cutback compared to last year's grant, but not a disastrous one. She acknowledged that she had just squeezed the last drop of resources available to her and admitted that she did not know what would happen next year. She said that one of her highest priorities was getting greater support of the Legislature for the Resource Center. The Board sighed in relief since the money would almost double the Foundation's grant award to the Center for fiscal year 2010-11.

Another leader who learned at the meeting about the challenge of trying to re-establish unlimited FDIC insurance on IOLTA accounts nationally also stepped up to assist the board. State Bar President Lester Tate, who no matter what he did would never consider himself to be a hero, quickly pledged the support of the State Bar of Georgia to lobby our U.S. senators and representatives. The recent Wall Street Reform Bill that was signed into law by President Obama accidentally excluded IOLTA accounts from its unlimited FDIC insurance protection effective Jan. 1, 2011. The national IOLTA community had previously worked hard to get the FDIC to include IOLTA accounts in its definition of transaction accounts covered by unlimited FDIC insurance. When the federal government decided to extend the unlimited insurance legislatively, IOLTA was forgotten. Tate's offer means that all Georgia's legislators will be knowledgeable and, the IOLTA community hopes, supportive of adding unlimited insurance on IOLTA accounts as an amendment to other federal legislation before the new Wall Street Reform Bill takes effect at the end of this year.

This wasn't the first time Tate assisted the Foundation. At the Annual Meeting of the State Bar of Georgia in June, he helped rescue several programs of interest both to the State Bar and the Foundation. Throughout its grants history, the Foundation has provided a total of $849,300 for the Pro Bono Project, $1,402,622 for the Law-Related Education Consortium, $2,138,800 for the Resource Center, and $1,316,401 for BASICS. But the drastic reduction of interest rates associated with the Federal Reserve's program to stimulate business investment created a drastic reduction in IOLTA income, limiting the ability of the Foundation to continue its support for those programs.

So, Tate joined with his predecessors, Jeff Bramlett (08-09) and Bryan Cavan (09-10), in successfully advocating that the Board of Governors of the State Bar supply maintenance funding for all these organizations from its set aside funds. Seth Kirchenbaum deserves special recognition for convincing the Board of Governors to provide one-time funding of $140,000 to the BASICS program, which the board had previously declined. Foundation President Patsy Porter thanked Tate and the State Bar's Board of Governors for their extraordinary support for these programs. Tate led the State Bar to support these worthy programs, and on behalf of the board of the Foundation, Porter wanted him to know how much the Foundation appreciated it.

"This challenging meeting was made a lot easier by Chief Justice Hunstein and State Bar President Lester Tate," said Porter. "When the Board realized how tough these decisions were going to be at this meeting and when they saw the Chief and Lester set a tone of cooperation, they put aside any special concerns they had as individuals and joined together in making the meeting go so smoothly that it ended early."

Because Porter, Fulton State Court's new chief judge, ran a tight, no nonsense meeting, the board quickly agreed to fund 10 applicants, a total of $1,348,223. Georgia's two Legal Services Corporation grant recipients, Atlanta Legal Aid and Georgia Legal Services, split $1,016,806 or 75.4 percent of the total funds awarded. Another applicant seeking support to continue supplying civil legal services to its clients was the Georgia Law Center for the Homeless, which received $20,000. This organization is led by Amy Zaremba and is the only applicant focusing exclusively on the special problems of the homeless.

Let CAP Lend a Helping Hand!

What is the Consumer Assistance Program?

The State Bar's Consumer Assistance Program (CAP) helps people with questions or problems with Georgia lawyers. When someone contacts the State Bar with a problem or complaint, a member of the Consumer Assistance Program staff responds to the inquiry and attempts to identify the problem. Most problems can be resolved by providing information or referrals, calling the lawyer, or suggesting various ways of dealing with the dispute. A grievance form is sent out when serious unethical conduct may be involved.

Does CAP assist attorneys as well as consumers?

Yes. CAP helps lawyers by providing courtesy calls, faxes or letters when dissatisfied clients contact the program.

Most problems with clients can be prevented by returning calls promptly, keeping clients informed about the status of their cases, explaining billing practices, meeting deadlines, and managing a caseload efficiently.

What doesn't CAP do?

CAP deals with problems that can be solved without resorting to the disciplinary procedures of the State Bar, that is, filing a grievance. CAP does not get involved when someone alleges serious unethical conduct. CAP cannot give legal advice, but can provide referrals that meet the consumer's need utilizing its extensive lists of government agencies, referral services and nonprofit organizations.

Are CAP calls confidential?

Everything CAP deals with is confidential, except:

1. Where the information clearly shows that the lawyer has misappropriated funds, engaged in criminal conduct, or intends to engage in criminal conduct in the future;
2. Where the caller files a grievance and the lawyer involved wants CAP to share some information with the Office of the General Counsel; or
3. A court compels the production of the information.

The purpose of the confidentiality rule is to encourage open communication and resolve conflicts informally.

Call the State Bar's Consumer Assistance Program
at 404-527-8759 or 800-334-6865 or visit www.gabar.org/cap.

The Atlanta Volunteer Lawyers Foundation (AVLF), led by Marty Ellin, received $60,000 to continue its work exporting its guardian ad litem program to other places in Georgia and to maintain its domestic violence project in Fulton County. Created under the leadership of Debbie Segal and expanded statewide by Ellin at the request of the Foundation, the guardian ad litem concept of AVLF has been exported to multiple communities throughout the state.

Legal assistance to women and their children in shelters continued to receive support from the Foundation. The Northeast Georgia Council on Domestic Violence, which is a consortium of five women's shelters, received $5,000, and in Thomasville the Halcyon Home for Battered Women received $2,000. While the awards were less than last year, the funds will help provide a basic level of legal assistance to women needing temporary protective orders and other legal services.

At-risk children's programs promoted by Georgia Bar Foundation Past President Rudolph Patterson, and based on the entrepreneurial teachings of Ed Menifee, were awarded sustenance funding. Ash Tree Organization and Metro Savannah Baptist Church, both in Savannah, received a total of $7,500. Dealing with at-risk children referred by the juvenile court, these two programs take on the core problems that threaten the futures of these kids.

In addition to these at-risk children's programs, the Foundation's board awarded $40,000 to Terry Walsh's Truancy Intervention Project of Georgia (TIP). Several years ago the Foundation asked Walsh to expand TIP beyond Fulton County. This program recognizes that a child staying in school is more likely to become an adult with a meaningful life, who becomes a contributor to society rather than a burden. Relying on funding from the Foundation, TIP made the decision to expand throughout the state. This grant award acknowledges the important work of TIP and continues the Foundation's promised support of this highly successful program.

Even with reduced funds to make grant awards, the board, with the help of Chief Justice Hunstein and State Bar President Tate, found a way to provide meaningful assistance to thousands of Georgians. This partnership of lawyers and bankers continues to make a difference in the lives of Georgians statewide. It is a partnership that should make all Georgians proud. GBJ

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

The Burke County Courthouse at Waynesboro:

The Grand Old Courthouses of Georgia

by Wilber W. Caldwell

The exact dates and locations of the early Burke County Courthouses are not known with any degree of certainty. In his *History of Burke County*, Albert Hillhouse hazards a "guess" that the first courthouse was built just outside of what is now Waynesboro sometime before 1783 when the town was laid out. He further speculates that the second Burke County Courthouse was built sometime between 1786 and 1791 on the present courthouse square. This building burned in 1825 and was replaced by a third courthouse, probably a frame structure, which burned in 1856 and was replaced by the brick building that lies at the heart of the present structure.

Historically, when it came to towns, Burke County was never really much of a place. But when it came to

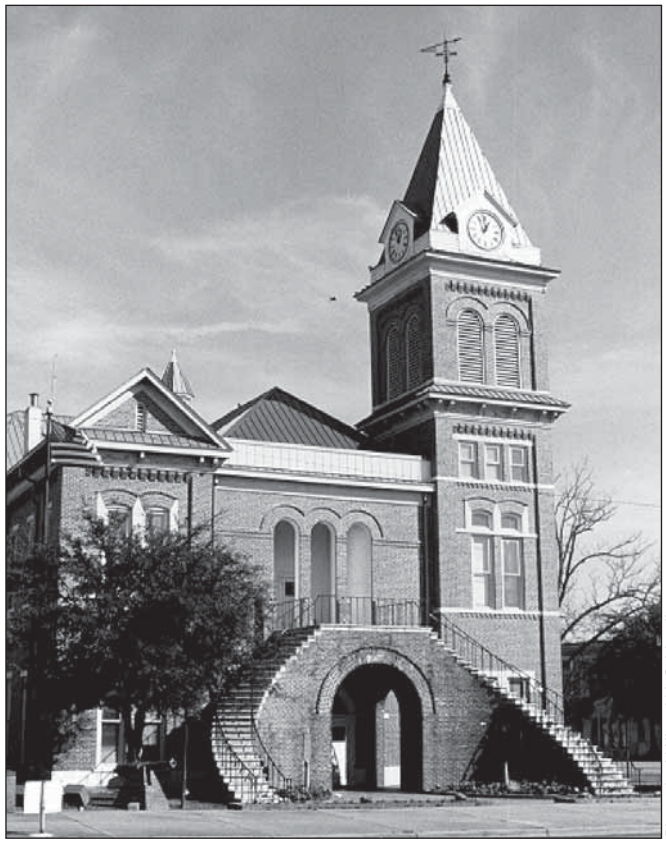


Photo by Wilber W. Caldwell

The Burke County Courthouse at Waynesboro, built 1956, remodeled in 1898 and 1983. Lewis F. Goodrich, 1898 remodeling architect.

cotton, Burke was a giant, and when cotton was king, she had little need for towns. With the exception of Waynesboro, and much later Midville, the history of towns in Burke County is a history of failure. 1836 records show five landings on the Savannah River in Burke County, but like other small villages in the county, these would fade away. Waynesboro, the county seat, was the only incorporated town in Burke County during antebellum times. The towns of Midville and Millen were placed on the map by The Central of Georgia Railroad in the 1840s. But Jenkins County took Millen in 1905, and with the coming of The Augusta and Florida Railroad in that same year, Midville soared only briefly, and then slowly slid back into oblivion like so many railroad towns in Georgia. A few tiny lumber settlements like Perkins were spawned by the Millen to Augusta line in the 1850s; still the 1860 manufacturing roster of the entire county was all but non-existent, listing only 11 grist mills, seven lumber companies, a boot factory and a brick yard. After the turn of the century The Augusta and Florida Railroad (later The Georgia and Florida Railroad) would spark hamlets and land speculation at places like Gough, Vidette and Rosier, while The Brinson Railroad (later The Savannah and Atlanta), created Sardis. Predictably none of these autumn blossoms of the railroad era thrived. Waynesboro remains the only town in Burke County of any size at all.

Burke County has always been a very rural place. In 1860, the county had a population of more than 17,000, while Waynesboro, the county seat and its only real town, had a population of only 307. The town's population increased to just over 1,000 by 1880, but the last decades of the century proved difficult for Burke County. As the price of cotton fell, tenancy wrought its ruin on the already ruined land, and the exodus from the old Cotton Belt continued. Waynesboro was down to around 800 inhabitants in

Annual Fiction Writing Competition

Deadline Jan. 21, 2011

The editorial board of the *Georgia Bar Journal* is pleased to announce that it will sponsor its Annual Fiction Writing Contest in accordance with the rules set forth below. The purposes of this competition are to enhance interest in the *Journal*, to encourage excellence in writing by members of the Bar and to provide an innovative vehicle for the illustration of the life and work of lawyers. For further information, contact Sarah I. Coole, Director of Communications, State Bar of Georgia, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303; (404-527-8791.

Rules for Annual Fiction Writing Competition

The following rules will govern the Annual Fiction Writing Competition sponsored by the Editorial Board of the *Georgia Bar Journal*:

1. The competition is open to any member in good standing of the State Bar of Georgia, except current members of the Editorial Board. Authors may collaborate, but only one submission from each member will be considered.
2. Subject to the following criteria, the article may be on any fictional topic and may be in any form (humorous, anecdotal, mystery, science fiction, etc.). Among the criteria the Board will consider in judging the articles submitted are: quality of writing; creativity; degree of interest to lawyers and relevance to their life and work; extent to which the article comports with the established reputation of the *Journal*; and adherence to specified limitations on length and other competition requirements. The Board will not consider any article that, in the sole judgment of the Board, contains matter that is libelous or that violates accepted community standards of good taste and decency.
3. All articles submitted to the competition become the property of the State Bar of Georgia and, by submitting the article, the author warrants that all persons and events contained in the article are fictitious, that any similarity to actual persons or events is purely coincidental and that the article has not been previously published.
4. Articles should not be more than 7,500 words in length and should be submitted electronically.
5. Articles will be judged without knowledge of the author's identity. The author's name and State Bar ID number should be placed on a separate cover sheet with the name of the story.
6. All submissions must be received at State Bar headquarters in proper form prior to the close of business on a date specified by the Board. Submissions received after that date and time will not be considered. Please direct all submissions to: Fiction Writing Competition, Sarah I. Coole, Director of Communications, State Bar of Georgia, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303. The author assumes all risks of delivery by mail. Or submit by e-mail to sarahc@gabar.org
7. Depending on the number of submissions, the Board may elect to solicit outside assistance in reviewing the articles. The final decision, however, will be made by majority vote of the Board. Contestants will be advised of the results of the competition by letter. Honorable mentions may be announced.
8. The winning article, if any, will be published. The Board reserves the right to edit articles and to select no winner and to publish no article from among those submitted if the submissions are deemed by the Board not to be of notable quality.

1890, and was back to only 1,200 in better times just after 1900.

The 1898 remodeling of the Burke County Courthouse testifies to at least a hint of turn-of-the-century hope. Spirits were not high enough to set aside the old altogether, but the extensive remodeling featured a monumental Romanesque façade and clock tower. This is recognizably the work of Lewis F. Goodrich of Augusta. Goodrich's remodeling and enlargement of the nearby Washington County Courthouse at Sandersville, 1899, and his twin courthouses at Crawfordville, 1902, and neighboring Sylvania, 1897, exhibit similar fenestration and corbeling. All feature the architect's distinctive louvered openings in their towers. Like Goodrich's other courthouses, the Burke County addition plays architectural "lip service" to the styles of the day without the usual elaborate ornamentation. Just beneath the surface lies a simple, vernacular spirit that must have had great appeal in places like Waynesboro where the power of the New South myth was weak and the power of the past was compelling. The 1939 addition of a large annex to the rear of the old building completed the disguise, and the old 1857 courthouse was effectively hidden by successive efforts to enlarge, remodel and renovate its simple lines.

The original 1857 building was another of those simple vernacular brick buildings. But the power of cotton and of Burke County's prominence in antebellum cotton production was voiced by great double circular stairways which flanked an arched ground floor entrance and led to a second floor landing and the courtroom entrance above. Although not in the Greek mode, the forceful grace of this stairway flanking the deep arched portals recalls Robert Mills' early work in South Carolina, notably his courthouses in Union, Greenville and Orangeburg counties. These stairs were removed in the 1898 remodeling, but in 1983, an effort was made to recall the former elegance of the original building by recreating the exterior stairs. The result is unfortunate. The graceful curve of the stairs and their wrought iron rail are totally out of place against the backdrop of the massive, angular, Romanesque Revival, eastern elevation. The transformation of the typically Romanesque triple arched window grouping, into a second-story, triple entrance fails miserably, and the elongation of these three brick arches gives a surprisingly contemporary impression. The result is neither modern, Romanesque nor Federal, but an unhappy marriage of unlike elements and conflicting symbols.

All across Georgia, the destruction wrought by courthouse fires has been fearful, but sadder still is the destruction wrought by the wrecker's ball during the 1960s and '70s. It is not so much that architectural treasures were destroyed—few of these buildings were really that. It is that a piece of the soul of these counties was destroyed, a piece of history, and every Georgian is poorer for that. Slated for demolition in 1971, the Burke County Courthouse stands triumphant against a thoughtless and an all-too-common kind of "progress" that turns a deaf ear to the past. The successful effort by the people of Burke to save this building shines brightly in the otherwise dark story of mid-20th century courthouse demolition Georgia. GBJ

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

Notice of Expiring BOG Terms

Listed below are the members of the State Bar of Georgia Board of Governors whose terms will expire in June 2011. These incumbents and those interested in running for a specific post should refer to the election schedule (posted below) for important dates.

Alapaha Circuit, Post 1 .....Carson Dane Perkins, Nashville
Alcovy Circuit, Post 1 .....Steven A. Hathorn, Covington
Appalachian Circuit.....Will H. Pickett Jr., Jasper
Atlanta Circuit, Post 1.....Diane E. Bessen, Atlanta
Atlanta Circuit, Post 3 .....Whitney Diane Mauk, Atlanta
Atlanta Circuit, Post 5 .....Catherine Koura, Atlanta
Atlanta Circuit, Post 7 .....William M. Ragland Jr., Atlanta
Atlanta Circuit, Post 9 .....Damon Erik Elmore, Atlanta
Atlanta Circuit, Post 11 .....Jill Pryor, Atlanta
Atlanta Circuit, Post 13 .....Emily S. Bair, Atlanta
Atlanta Circuit, Post 15.....Letitia A. McDonald, Atlanta
Atlanta Circuit, Post 17 .....Rita Arlene Sheffey, Atlanta
Atlanta Circuit, Post 19 .....Elizabeth Louise Fite, Atlanta
Atlanta Circuit, Post 21 .....Patricia Anne Gorham, Atlanta
Atlanta Circuit, Post 23.....Donna G. Barwick, Atlanta
Atlanta Circuit, Post 25 .....Phyllis J. Holmen, Atlanta
Atlanta Circuit, Post 27 .....Nancy Jean Whaley, Atlanta
Atlanta Circuit, Post 29 .....Tina Shadix Roddenbery, Atlanta
Atlanta Circuit, Post 30.....Karlise Yvette Grier, Atlanta
Atlanta Circuit, Post 32 .....Seth David Kirschenbaum, Atlanta
Atlanta Circuit, Post 34 .....Allegra J. Lawrence, Atlanta
Atlanta Circuit, Post 36 .....J. Marcus Edward Howard, Atlanta
Atlanta Circuit, Post 39 .....Anita Wallace Thomas, Atlanta
Atlantic Circuit, Post 2 .....D. Jay Stewart, Claxton
Augusta Circuit, Post 1 .....J. Benjamin Kay III, Augusta
Augusta Circuit, Post 3 .....Thomas Reuben Burnside III, Augusta
Blue Ridge Circuit, Post 2.....Eric Alvin Ballinger, Canton
Brunswick Circuit, Post 1 .....J. Alvin Leaphart, Jesup
Chattahoochee Circuit, Post 2 .....William C. Rumer, Columbus
Chattahoochee Circuit, Post 4 .....Earle F. Lasseter, Columbus
Cherokee Circuit, Post 2 .....Thomas Neal Brunt, Cartersville
Clayton Circuit, Post 1.....H. Emily George, Forest Park
Clayton Circuit, Post 3 .....Charles J. Driebe, Jonesboro
Cobb Circuit, Post 2 .....Ronald Arthur Lowry, Marietta
Cobb Circuit, Post 4 .....Patrick H. Head, Marietta
Cobb Circuit, Post 6 .....J. Kevin Moore, Marietta
Conasauga Circuit, Post 2 .....Henry C. Tharpe Jr., Dalton
Cordele Circuit .....James W. Hurt, Cordele
Coweta Circuit, Post 2 .....James Charles Thornton, LaGrange
Dougherty Circuit, Post 2 .....Gordon Robert Zeese, Albany
Dublin Circuit.....Edward Burton Claxton III, Dublin
Eastern Circuit, Post 2 .....Lester B. Johnson III, Savannah
Eastern Circuit, Post 4 .....N. Harvey Weitz, Savannah
Flint Circuit, Post 1 .....Gregory A. Futch, McDonough
Griffin Circuit, Post 2 .....Roy B. Huff Jr., Peachtree City
Gwinnett Circuit, Post 1 ..... David S. Lipscomb, Lawrenceville
Gwinnett Circuit, Post 3.....Robert V. Rodatus, Lawrenceville
Lookout Mountain Circuit, Post 2 .....Christopher A. Townley, Rossville
Macon Circuit, Post 1.....John Flanders Kennedy, Macon
Macon Circuit, Post 3 .....John Christopher Clark, Macon
Member-at-Large, Post 1* .....Anna Patricia Marcucci, Tucker
Member-at-Large, Post 2* .....Christine Anne Koehler, Lawrenceville
Middle Circuit, Post 2 .....William Steven Askew, Vidalia
Mountain Circuit .....James T. Irvin, Toccoa
Northeastern Circuit, Post 2 .....Nicki Noel Vaughan, Gainesville
Northern Circuit, Post 1.....C. Patrick Milford, Carnesville
Ocmulgee Circuit, Post 2.....Wilson B. Mitcham Jr., Gray
Oconee Circuit, Post 2 .....John P. Harrington, Eastman
Ogeechee Circuit, Post 2 .....Susan Warren Cox, Statesboro
Out-of-State, Post 1 .....Michael V. Elsberry, Orlando
Pataula Circuit.....William Harry Mills, Blakely
Piedmont Circuit .....John Elwin Stell Jr., Winder
Rome Circuit, Post 1 .....Paul T. Carroll III, Rome
South Georgia Circuit, Post 2 .....Patrick Neill Millsaps, Camilla
Southern Circuit, Post 2 .....Brian Allen McDaniel, Moultrie
Southwestern Circuit .....R. Rucker Smith, Americus
Stone Mountain Circuit, Post 2 .....Johnny W. Mason Jr., Atlanta
Stone Mountain Circuit, Post 4 .....John M. Hyatt, Decatur
Stone Mountain Circuit, Post 6 .....Claudia Susan Saari, Decatur
Stone Mountain Circuit, Post 8 .....R. Javoyne Hicks White, Decatur
Stone Mountain Circuit, Post 10 .....Tara Lee Adyanthaya, Atlanta
Tallapoosa Circuit, Post 1 .....Michael Douglas McRae, Cedartown
Toombs Circuit .....Dennis C. Sanders,Thomson
Towaliga Circuit .....John Byrd Garland, Jackson
Waycross Circuit, Post 2.....C. Deen Strickland, Waycross
Western Circuit, Post 1 .....Lawton E. Stephens, Athens

**Post to be appointed by President-Elect*

State Bar of Georgia 2011 Election Schedule

OCT	Official Election Notice, October issue *Georgia Bar Journal*
DEC 3	Mail Nominating Petition Package to incumbent Board of Governors Members and other members who request a package
JAN 13-15	Nomination of Officers at Midyear Board Meeting, Gaylord Opryland Hotel, Nashville, Tenn.
JAN 31	Deadline for receipt of nominating petitions for incumbent Board Members (Article VII, Section 2)
MAR 4	Deadline for receipt of nominating petitions by new candidates
MAR 18	Deadline for write-in candidates for Officer to file a written statement (not less than 10 days prior to mailing of ballots (Article VII, Section 1 (c))
APR 1	Ballots mailed
MAY 2	11:59 p.m. deadline for ballots to be cast in order to be valid
MAY 6	Election results released to the State Bar

If she can't afford an attorney, where does she go for legal assistance?

When Ms. Baker, a hardworking mother with two young children, came to GLSP, she was working 12-hour shifts, often overnight, trying to support her family and make up for lost income after losing her previous job. Her previous employer had opposed her unemployment application, claiming she had excessive absences. She had appealed that disqualification on her own, but the appeal was denied because the hearing was held on the same day she started her badly needed new job.

Her GLSP attorney filed a petition to reopen the case, and at the new hearing, submitted pay records showing that Ms. Baker worked on many of the days her employer had said she was absent. The documents included statements from Ms. Baker's doctor explaining other absences, and copies of the employer's own policies which contradicted its allegations.

The hearing officer reversed the initial determination and awarded Ms. Baker full retroactive unemployment benefits. She was able to pay bills that had mounted during her unemployment.

Working together we can fulfill the promise of Justice for All.

Georgia Legal Services Program®

GLSP is a non-profit law firm recognized as a 501(c)(3) organization by the IRS.

This client story is used with permission. The photograph and name do not necessarily represent the actual client.

Give easily online at www.glsp.org (click Donate Now) or return this form with your check.

❑ Individual ❑ Firm Gift ❑ Mr. ❑ Ms. ❑ Mrs. ❑ Judge

Name: _____
PLEASE WRITE YOUR FULL NAME AS IT SHOULD APPEAR IN OUR DATABASE or HONOR ROLL

Firm: _____

Address: _____
I UNDERSTAND MY TAX-DEDUCTIBLE GIFT WILL PROVIDE LEGAL ASSISTANCE TO LOW-INCOME GEORGIANS.

Yes! I support the Georgia Legal Services Program (GLSP).

Enclosed is my check in the amount of $ _____

Substantial gifts of $150 or more will be included in the Honor Roll of Contributors in the Georgia Bar Journal.

❑ ***Please keep my gift anonymous.***

Pledges

❑ I will pledge a gift. Please bill me on _____ for a pledge of _____
(Final payments are due December 31st of this year.)

❑ I am interested in learning more about the Georgia Legal Services Foundation.

You may give by credit card at www.glsp.org!

Make checks payable to:
Georgia Legal Services Program

Kudos


Taylor


Street


Barkley


Vayner


Zacks


Andrews


Hooker

Kilpatrick Stockton LLP announced that partner **Virginia Taylor** was elected to the **Board of Trustees for Atlanta Girls' School**. Opened in August 2000, the school is a nondiscriminatory, nonsectarian college preparatory school for girls grades six through 12.

Partner **Colin Bernardino** was elected **president** of **The Dartmouth Club of Georgia**, and associate **Vanessa Blake** was elected **secretary**. The club represents Dartmouth in Georgia and serves as a resource for qualified and interested high school students to learn more about the college and undergraduate life in Hanover, N.H. The club also promotes continuing education by providing a variety of educational opportunities in Atlanta and the surrounding areas throughout the year.

Partner **Phillip Street** was named a **2010 IMPACT Leader** by ***Business to Business*** magazine. Honorees for this prestigious distinction were selected for being key contributors in their company's growth and success. They are also individuals dedicated to making a difference and contributing to the betterment of the Atlanta business and civic community.

Partner **Ben Barkley** was elected to serve as a member of **The Georgia Trust for Historic Preservation's Board of Trustees**. The Georgia Trust's mission is to promote an appreciation of Georgia's diverse historic resources and provide for their protection and use to preserve, enhance and revitalize Georgia's communities.

Associate **Sabina Vayner** was selected to participate in the **2010-11 Anti-Defamation League Glass Leadership Institute**. Vayner was one of 22 individuals selected to be a part of the prestigious program, which is now in its 12th year. Participants are chosen based on their demonstrated leadership qualities, as well as their interest in social and political justice.

Partner **David Zacks** was named **co-chair** of the **Law Board of Visitors, Wake Forest University School of Law**. The purpose of the board is to assist, in an advisory capacity, the dean, the faculty and students of the School of Law in strengthening its total educational enterprise.

Associate **Blair Andrews** was elected to serve on the **2010-11 National Association of Women in Construction (NAWIC) Atlanta Board of Directors.** NAWIC strives to enhance the success of women in the construction industry, promote education and contribute to the betterment of the construction industry and encourage women to pursue and establish careers in the construction industry.

Associate **Charles Hooker** was selected as a **member** of the **Board of Directors** of **The Intown Academy**. Intown Academy is a tuition-free, public charter school that opened in August 2010 in Atlanta's Old Fourth Ward neighborhood. Its mission is to ensure that students experience a world-class education in an innovative, community-based public school setting that embodies the diversity, creativity and global and entrepreneurial character of its surrounding intown Atlanta communities.

Swift, Currie, McGhee & Hiers, LLP, announced that partner **Lynn M. Roberson** was elected **secretary-treasurer** of the **Georgia Defense Lawyers Association**. Roberson is the first female to hold this position on the organization's executive committee.

Russell C. Ford, counsel at Verrill Dana LLP, received the **First Decade Award** from the **National Association of College and University Attorneys** (NACUA) during its 50th Annual Conference in Washington, D.C. The award recognizes a member representative who has made a significantly innovative contribution to NACUA or provided outstanding service to the association and to the practice of higher education law, and who has been a member of NACUA for 10 or fewer years.

HunterMaclean announced that **Janet A. Shirley**, a partner in the firm's Brunswick office, was elected **president** of the **Auxiliary of Hospice of the Golden Isles**. Auxiliary of Hospice of the Golden Isles, a fundraising organization, strives to educate the five-county areas it serves about the importance of local hospice services. All money raised through the auxiliary's member-driven activities is used to fund specific patient

or operational needs and to encourage community understanding about the organization's services.


Painter


Fowler


Keogh

Hull Barrett, PC, announced that **James V. Painter** was certified as a **diplomat** of the **American Board of Professional Liability Attorneys** (ABPLA) with special competence in medical professional liability. Painter practices in the area of general civil litigation, with an emphasis on medical malpractice defense. He also serves as chairman of the litigation department and team leader of the firm's medical negligence practice group.

Michael E. Fowler Jr. was one of 23 individuals selected into the **2010-11 Leadership Columbia County class**. Leadership Columbia County was started in 2010 as an affiliate of the Columbia County Chamber of Commerce.

William J. Keogh III was appointed to serve as **chairperson** for the **Committee on the Judiciary** and **vice chairperson** for the **Statewide Judicial Evaluation Committee** for the State Bar of Georgia. He also currently serves on the Board of Governors.

Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., announced that managing shareholder **Linda A. Klein** became **chair** of the **American Bar Association (ABA) House of Delegates**, the policy-making body of the largest voluntary membership professional organization in the world. The ABA House of Delegates, with more than 550 members, meets twice each year to set association policies on issues ranging from service to the legal profession to national policies related to the law.

For the sixth consecutive year, Baker Donelson was named among the **"Top 100 Law Firms for Diversity"** by ***MultiCultural Law,*** a magazine focused on diversity in the legal profession. The firm also received its third consecutive ranking on *MultiCultural Law*'s list of **"Top 100 Law Firms for Women."**

Weissman, Nowack, Curry & Wilco, P.C., announced that **Leigh M. Wilco**, a shareholder with the firm, was named **president** of the **Board of Directors of the Georgia Legal Services Program (GLSP)**. GLSP provides access to justice and opportunities out of poverty for low-income Georgians.

Andrew Rogers was named **chair** of the **Board of Directors of the DeKalb Rape Crisis Center** (DRCC) for a two-year term. He has served on the board of DRCC since 2000. Rogers is a partner at the law firm of Deitch & Rogers, LLC, The Crime Victim Law Group, specializing in the representation of crime victims in premises liability/negligent security cases.


Jones


Kolczak

Owen, Gleaton, Egan, Jones & Sweeney, LLP, announced that firm founder **W. Seaborn Jones** was honored by the Atlanta Bar Association with a **Leadership Award**. The award is presented to members who inspire by their example, challenge by their deeds and remind us all of our debt to our profession and our community. Jones, a past president of the Atlanta Bar Association, has been a dedicated leader in efforts to enhance professionalism within the Atlanta Bar and around the country through his local and national service.

Partner **Amy J. Kolczak** was presented with a **Justice Robert Benham Award for Community Service**. Since 1998, these awards have been presented to honor lawyers and judges in Georgia who have made significant contributions to their communities and demonstrated the positive contributions of members of the State Bar of Georgia beyond their legal or official work.

Burr & Forman LLP announced that **Betsy P. Collins**, a partner in the Mobile office, was selected as a **co-chair** of the **Pretrial Practice and Discovery Committee of the American Bar Association's Section of Litigation** for 2010-11. The Section of Litigation, the largest specialty section of the American Bar Association, is dedicated to helping litigators become more effective advocates for their clients.

Hatcher, Stubbs, Land, Hollis & Rothschild, LLP, announced that partner **Alan F. Rothschild Jr.** became **chair** of the **American Bar Association Section of Real Property, Trust and Estate Law**. Rothschild concentrates his practice in estate planning, including family business and land succession planning, exempt organizations and charitable give planning. He is only the

second lawyer from Georgia to chair the section during its 76-year history.

Morris, Manning & Martin, LLP, announced that partner **James "Mac" Hunter** will be inducted into the **Gate City Bar Association's Hall of Fame** during its annual gala event in November. Past honorees include civil rights legend Donald Hollowell, Atlanta Mayor Maynard Jackson, former Gov. Roy Barnes and state Supreme Court Justices Robert Benham and Leah Ward Sears. The Gate City Bar Association is the oldest African-American Bar Association in the state of Georgia.

Drew Eckl & Farnham, LLP, announced that partner **John C. Bruffey Jr.** was selected as a **member** of **Campbell Law School's** newly formed **Board of Visitors**, a select group of thought leaders assembled to serve as an ongoing resource for innovative ideas and a sounding board for the dean, senior administration and faculty. The Board of Visitors was brought together following the school's move to Raleigh, N.C. in 2009.

Ford & Harrison LLP, a national labor & employment law firm, was named one of the top immigration practices in the 2010 edition of ***The Legal 500: The Clients Guide to the US Legal Profession***. *The Legal 500* is a guide to commercial law firms in the United States and it conducts extensive research on lawyers it considers, including interviewing clients.

The firm was recognized for the third consecutive year as a **Diversity Leader** by the **Law Department of Sodexo Inc.**, a leading foodservice and facilities management company with an objective to integrate diversity and inclusion into all aspects of its business approach. Ford & Harrison is one of three law firms to earn this distinction in 2010.

On the Move

In Atlanta

Fisher & Phillips LLP announced that the firm is moving its national headquarters to Midtown Atlanta. As of November, the firm will be located at 1075 Peachtree St. NE, Suite 3500, Atlanta, GA 30309; 404-231-1400; Fax 404-240-4249; www.laborlawyers.com.

Gregory A. Jacobs, Scott R. King and **Sanford A. Wallack** announced the formation of **Jacobs King & Wallack, LLC**. **Cary S. King** is **of counsel** to the firm. The firm handles trust and estate planning, tax planning, commercial litigation, family law and criminal defense. The firm is located at 1117 Perimeter Center W, Suite W501, Atlanta, GA 30338; 404-920-4490; Fax 404-920-8670; www.jkwlawfirm.com.

Homer "Lee" Walker joined **Morris, Manning & Martin, LLP**, as a **partner** in the firm's real estate development and finance and real estate capital markets practices where he focuses on the development and operational aspects of commercial and residential projects, including complex mixed-use projects, as well as formation and capitalization of joint venture platforms and investment funds. The firm is located at 1600 Atlanta Financial Center, 3343 Peachtree Road NE, Atlanta, GA 30326; 404-233-7000; Fax 404-365-9532; www.mmmlaw.com.

Freeman Mathis & Gary, LLP, announced that **Winter Wheeler** joined the firm as an **associate**. Wheeler was previously with Conroy Simberg of Hollywood, Fla. The firm is located at 100 Galleria Parkway, Suite 1600, Atlanta, GA 30339; 770-818-0000; Fax 770-937-9960; www.fmglaw.com.

JAMS, the largest provider of mediation and arbitration services worldwide, announced the addition of the **Hon. Stanley F. Birch Jr.** (Ret.) to its panel. Birch is based in the JAMS Atlanta Resolution Center, where he specializes as a mediator, arbitrator and discovery master for disputes in a variety of areas including appellate, IP, taxation, business/commercial, employment, entertainment, environmental, insurance and securities. JAMS is located at 1201 W. Peachtree St. NW, Suite 2650, Atlanta, GA 30309; 404-588-0900; Fax 404-588-0905; www.jamsadr.com.

Richard D. Sanders announced the opening of **The Sanders Law Firm, P.C**. With offices in Atlanta and Birmingham, the firm represents health care providers in corporate and regulatory matters. The firm is located at 3525 Piedmont Road, 7 Piedmont Center, Suite 300, Atlanta, GA 30305; 404-364-1819; Fax 866-871-2238; www.rdslawfirm.com.

> **Miller & Martin PLLC** announced that **Robert H. G. Lockwood** joined the firm as a **member** of the corporate department. He was formerly with Hunton & Williams. Lockwood's practice focuses on intellectual property counseling, licensing and prosecution. The firm is located at 1170 Peachtree St. NE, Suite 800, Atlanta, GA 30309; 404-962-6100; Fax 404-962-6300; www.millermartin.com.

> 
Wagner

Baker
Owen, Gleaton, Egan, Jones & Sweeney, LLP, announced that **Gretchen Holt Wagner** and **Richard J. Baker** became **partners** with the firm. Wagner is currently engaged in a general health care and business practice. The primary focus of Baker's litigation practice is the defense of manufacturers and sellers in complex product liability cases. The firm is located at 1180 Peachtree St. NE, Suite 3000, Atlanta, GA 30309; 404-688-2600; Fax 404-525-4347; www.og-law.com.

> 
Spear

Rubinger

Ghosh
Nelson Mullins Riley & Scarborough LLP announced that **Douglas R. Spear** and **Michael E. Rubinger** joined the firm as **partners**, and **Sanjay Ghosh** joined as an **associate**. Spear focuses on the representation of emerging and growth stage technology companies in various sectors, as well as venture capital firms and angel investors. Rubinger practices in the areas of mergers and acquisitions, joint venture transactions, with an emphasis on commercial real estate developments, and private equity/venture capital investments. Ghosh focuses his practice on product liability litigation, pharmaceutical and medical device litigation and commercial litigation. The firm is located at 201 17th St. NW, Suite 1700, Atlanta, GA 30363; 404-322-6000; Fax 404-322-6050; www.nelsonmullins.com.

> **Ballard Spahr** announced that **Katrina M. Quicker** joined the firm as a **partner**. Quicker's practice encompasses patent infringement, trademark and trade dress, copyright, and trade secrets and non-compete litigation. The firm is located at 999 Peachtree St., Suite 1000, Atlanta, GA 30309; 678-420-9300; Fax 678-420-9301; www.ballardspahr.com.

> 
Locke Lord Bissell & Liddell LLP announced that **William Osterbrock** joined the firm as an **associate** in the Atlanta office. He is also a member of the firm's corporate and corporate insurance practice groups. The firm is located at 1170 Peachtree St. NE, Suite 1900, Atlanta, GA 30309; 404-870-4600; Fax 404-872-5547; www.lockelord.com.

> 
Hunton & Williams LLP announced that **Cherie Phears** joined the firm as an **associate** on the litigation and intellectual property practice team. She was formerly an associate at Sutherland. The firm is located at 600 Peachtree St. NE, Atlanta, GA 30308; 404-888-4000; Fax 404-888-4190; www.hunton.com.

> 
Burr & Forman LLP announced that **Kelly E. Culpin** joined the firm as an **associate** in the creditor's rights and bankruptcy practice group. Prior to joining Burr & Forman, Culpin practiced in the bankruptcy and public finance sections at Troutman Sanders LLP. The firm is located at 171 17th St. NW, Suite 1100, Atlanta, GA 30363; 404-815-3000; 404-817-3244; www.burr.com.

> 
McKenna Long & Aldridge LLP announced that **Matt Martin** joined the Atlanta office as a **partner** in the firm's litigation practice. Martin's practice is focused on helping clients with product liability and toxic tort claims, commercial contract disputes and issues related to bankruptcy, creditor rights, lender liability and trade secrets. The firm is located at 303 Peachtree St. NE, Suite 5300, Atlanta, GA 30308; 404-527-4000; Fax 404-527-4198; www.mckennalong.com.

In Macon

> 
Wilkerson

Bennion
James Bates Pope & Spivey LLP announced that **John B. "Burt" Wilkerson Jr.** joined the firm as **of counsel** and **Peter E. Bennion** joined the firm as an **associate**. Wilkerson, formerly regional director of the U.S. Department of Housing and Urban Development, Region IV, practices in the areas of real estate, bankruptcy, public and

affordable housing and general business. Bennion's practice areas include insurance litigation and personal injury. The firm is located at 231 Riverside Drive, Macon, GA 31201; 478-742-4280; Fax 478-742-8720; jbpslaw.com.

In Savannah

Oliver Maner LLP announced that **Adam M. Collins** joined the firm as an **associate** in the litigation department. His practice areas include litigation and real estate. The firm is located at 218 W. State St., Savannah, GA 31412; 912-236-3311; Fax 912-236-8725; www.olivermaner.com.

HunterMaclean announced that **Jared Scott Westbroek** joined the firm's specialty litigation practice group as an **associate**. Westbroek assists senior litigation attorneys who regularly represent a wide range of corporate clients in federal and state appellate courts, administrative proceedings, arbitration panels and other alternative dispute resolution tribunals. The firm is located at 200 E. Saint Julian St., Savannah, GA 31412; 912-236-0261; Fax 912-236-4936; www.huntermaclean.com.

In Alexandria, Va.

Retired Air Force Reserve **Maj. Gen. Joseph G. Lynch** began duties as the **general counsel and corporate secretary** for the **Military Officers Association of America (MOAA)**. MOAA is the nation's largest veterans' service organization for currently serving National Guard, Reserve, former and retired officers and their families. Gen. Lynch's last assignment before his retirement in 2003 was mobilization assistant to the Air Force Judge Advocate General in Washington, D.C. MOAA is located at 201 N. Washington St., Alexandria, VA 22314; 703-549-2311; www.moaa.org.

In Birmingham, Ala.

Richard D. Sanders announced the opening of **The Sanders Law Firm, P.C.** With offices in Birmingham and Atlanta, the firm represents health care providers in corporate and regulatory matters. The firm is located at 1744 Oxmoor Road, Birmingham, AL 35209; 205-930-4289; Fax 866-871-2238; www.rdslawfirm.com.

In Minneapolis, Minn.

Charles E. Feuss joined the law firm of **Felhaber Larson Fenlon & Vogt PA**. He was formerly the managing partner of Ford & Harrison's Minneapolis office. Feuss' practice includes the representation of a broad spectrum of employers in a wide range of industries including automotive, aerospace, bakery and food service, construction, health care, hospitality, manufacturing, retail and transportation. The firm is located at 220 S. 6th St., Suite 2200 Minneapolis, MN 55402; 612-339-6321; Fax 612-338-0535; www.felhaber.com.

In Washington, D.C.

Brian Gallagher, formerly vice president of compliance for Rite Aid, joined the **American Pharmacists Association (APhA)** as **senior vice president of government affairs**. He is a pharmacist-attorney and former member of the West Virginia State Legislature. APhA is located at 2215 Constitution Ave. NW, Washington, DC 20037; 800-237-2742; www.pharmacist.com.

If you have information you want to share in the Bench & Bar Section of the *Georgia Bar Journal*, contact Stephanie Wilson at stephaniew@gabar.org.

The Best Lawyers in America 2011

Since its inception in 1983, *Best Lawyers* has become regarded as the definitive guide to legal excellence. Because *Best Lawyers* is based on an exhaustive peer-review survey in which more than 39,000 leading attorneys cast almost 3.1 million votes on the legal abilities of other lawyers in their practice areas, and because lawyers are not required or allowed to pay a fee to be listed, inclusion in *Best Lawyers* is considered a singular honor. Attorneys are voted into practice areas entirely as a result of the votes they receive from their peers.*

Burr & Forman LLP
Gary W. Farris
Richard A. Fishman
Oscar N. Persons
Edgar C. Snow Jr.

Christine D. Hanley & Associates, P.A.
Christine D. Hanley

Fisher & Phillips LLP
Robert W. Ashmore
D. Albert Brannen
Burton F. Dodd
Donald B. Harden
C. L. "Tex" McIver
Ann Margaret Pointer
Roger K. Quillen
John E. Thompson
Kim Kiel Thompson
James M. Walters

Holland & Knight LLP
Alfred B. Adams III
Thomas B. Branch III
Harold T. Daniel
Laurie Webb Daniel
Gregory J. Digel
Milford B. Hatcher Jr.
Robert S. Highsmith Jr.
Robert L. Rhodes Jr.
Keith M. Wiener

Hull Barrett, PC
Douglas D. Batchelor Jr.
Mark S. Burgreen
James B. Ellington
George R. Hall
William F. Hammond
R.E. Hanna III
David E. Hudson
James V. Painter
Patrick J. Rice
F. Michael Taylor
James S. V. Weston

Kilpatrick Stockton LLP
Miles J. Alexander
Rupert M. Barkoff
Joseph M. Beck
Thomas J. Biafore
W. Stanley Blackburn
James F. Bogan III
William H. Boice
Richard R. Boisseau
William H. Brewster
Christopher P. Bussert
Susan A. Cahoon
Richard R. Cheatham
Wendy Choi
Thomas H. Christopher
Richard Cicchillo Jr.
Gregory K. Cinnamon
A. Stephens Clay IV
James H. Coil III
Brian G. Corgan
Theodore H. Davis Jr.
Scott M. Dayan
William E. Dorris
Stephen A. Edwards
James L. Ewing IV
Candace L. Fowler
Lynn E. Fowler
Jamie L. Greene
Randall F. Hafer
R. Charles Henn Jr.
Brenda O. Holmes
Hilary P. Jordan
Wab P. Kadaba
M. Andrew Kauss
Laurel J. Lucey
Alfred S. Lurey
John K. McDonald
Dennis S. Meir
Daniel J. Mohan
Matthew H. Patton
William R. Poplin Jr.
Judith A. Powell
John S. Pratt
Diane L. Prucino
Susan H. Richardson
Dean W. Russell
Jennifer Stobie Schumacher
Perry R. Sentell III
W. Craig Smith
Caroline W. Spangenberg
James D. Steinberg
David A. Stockton
Mitchell G. Stockwell
Phillip H. Street
Jerre B. Swann
Neal J. Sweeney
G. Kimbrough Taylor Jr.
Virginia S. Taylor
James A. Trigg
Rex R. Veal
William J. Vesely Jr.
Kathryn Wade
David M. Zacks

Nelson Mullins Riley & Scarborough LLP
Steven L. Berson
Paul J. Cox
Taylor T. Daly
Richard K. Hines V
Stanley S. Jones Jr.
Kenneth L. Millwood

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
John K. Anderson
Margaret H. Campbell
A. Craig Cleland
Homer L. Deakins Jr.
Dara L. DeHaven
William A. Gray
Robert O. Sands
Rebecca L. Sigmund

Oliver Maner LLP
David H. Dickey
William P. Franklin Jr.
Julian R. Friedman
I. Gregory Hodges
Patrick T. O'Connor
Christopher L. Ray
Timothy D. Roberts
Robert W. Schivera
Lee A. Summerford

Smith Moore Leatherwood LLP
William H. Boling
Elizabeth J. Bondurant
H. Sanders Carter Jr.

Taylor English Duma LLP
Bill Clineburg
Foy Devine
John Hopkins
Jeff Kuester
Mickey Ross

Troutman Sanders LLP
James W. Addison
Saba Ashraf
Gregory W. Blount
Terry C. Bridges
Richard H. Brody
Margaret C. Campbell
Ezra H. Cohen
Mark H. Cohen
John J. Dalton
N. Karen Deming
Hazen H. Dempster
W. Brinkley Dickerson
Arthur H. Domby
Robert P. Edwards Jr.
Mark L. Elliott
Scott A. Farrow
Robert D. Fortson
Ira Genberg
Richard W. Gerakitis
Kevin C. Greene
Robert W. Grout
Stanley H. Hackett
Douglas A. Henderson
Hollister A. Hill
Michael D. Hobbs Jr.
John P. Hutchins
Donald W. Janney
John H. Johnson Jr.
Jeffrey W. Kelley
Mark J. Newman
Charles F. Palmer
Thomas O. Powell
D. C. Presten III
J. Kirk Quillian
Daniel S. Reinhardt
Carolyn Peterson Richter
Stephen W. Riddell
Frank E. Riggs Jr.
Andrea L. Rimer
Miller Peterson Robinson
DeWitt R. Rogers
Harvey A. Rosenzweig
Douglas D. Salyers
June Ann Sauntry
Leslie F. Secrest
James L. Smith III
William Calvin Smith III
Marlon F. Starr
Robert D. Strauss
Norman L. Underwood
Mark S. VanderBroek
Wayne R. Vason
Allen S. C. Willingham
William N. Withrow Jr.

**This is not a complete list of all State Bar of Georgia members included in the publication. The information was compiled from Bench & Bar submissions from the law firms above for the October* Georgia Bar Journal.

Pro Hac Vice Admission—Be Careful Who You Sponsor!

by Paula Frederick

You can feel your hackles rise as you review the pleading you received in the morning mail. You thought representing BigCo would be a real boost for your career, but things are escalating and you wonder if it's too late to prevent the case from spinning out of control.

"This guy is a jerk!" you announce to your assistant. "I am *not* looking forward to working with him!"

"Who *is* opposing counsel, anyway?" your assistant asks.

"Huh? Oh—Jessie Dortch is plaintiff's counsel—I've got no problem with him," you admit. "I'm talking about my *co-counsel*! He's in-house with BigCo. Look at this—he's already accusing Jessie of misconduct and demanding sanctions! Last week he denied we have *any* documents that are responsive to Jessie's discovery request—that's just not true!"

"Wow! Who is this guy?"

"A former partner of my law school roommate. I signed off on his *pro hac* application, so now I'm stuck with him!"

"I can't believe you got talked into sponsoring a stranger for *pro hac vice* admission! You may be stuck with more than you know," your assistant replies. "The court may hold *you* responsible for his shenanigans!"

Your assistant is correct. When a Georgia lawyer serves as sponsor for a lawyer seeking admission *pro hac vice*, the Georgia lawyer must appear as co-counsel of record in the case. Uniform Superior Court Rule 4.4 provides that the Georgia lawyer is responsible to both the client and the court for the conduct of the proceeding.

The consequences for a Georgia lawyer can be severe, even when she serves as co-counsel rather than lead counsel. Pursuant to Formal Advisory Opinion 05-10, a lawyer may be disciplined for discovery abuses committed by out-of-state co-counsel when the

Georgia lawyer knows of the abuse and ratifies it by his or her conduct.

The opinion warns that a Georgia lawyer cannot escape culpability by turning a blind eye to potential problems. "Ratification" might be inferred when the lawyer has not acted affirmatively to oppose the misconduct.

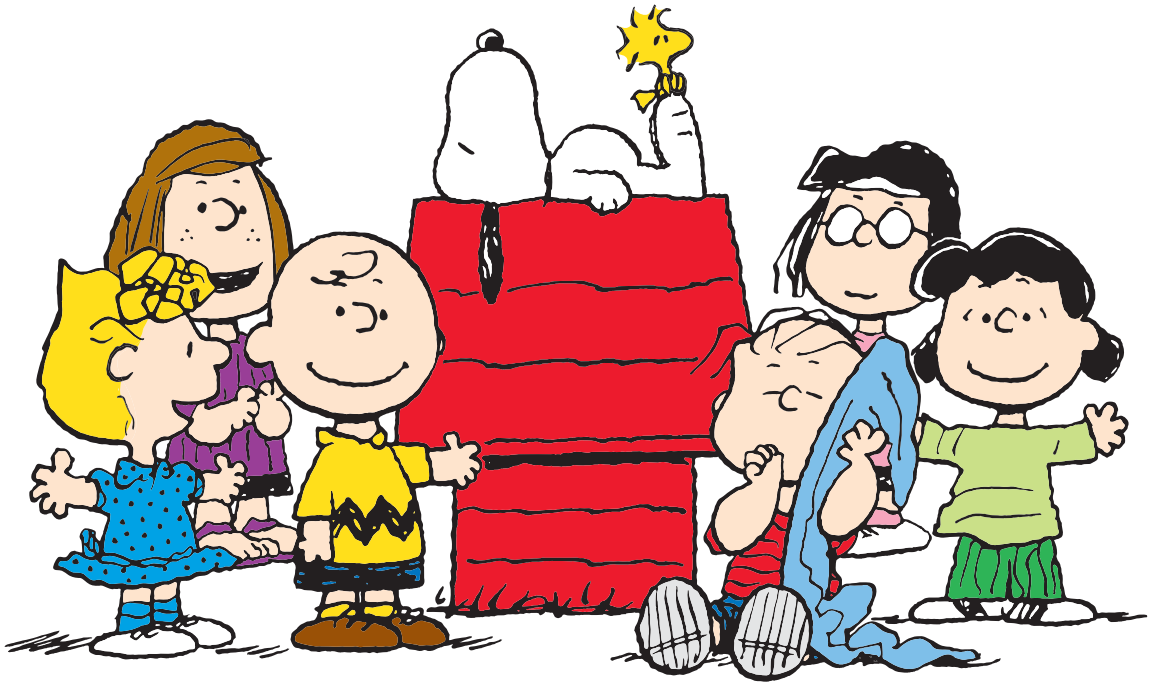
That means that you cannot ignore your co-counsel's stonewalling; you have to call a halt to it.

Wincing, you pick up the telephone. "Guess I'm going to have to tell this guy how we do things in Georgia," you acknowledge to your assistant. GBJ

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

Great Reasons to Switch Your Auto Insurance Carrier

- **Special Group Discount for Georgia Lawyers**
- **Affordable & Easy Payment Options**
- **Superior Service**
- **A Company You Know and Trust**



Learn more about the auto insurance discounts available to Georgia Lawyers from MetLife Auto & Home®.

Call today for a free insurance review and no obligation quotes!

1 800 GET-MET 8
(1-800-438-6388)

Products and services are sold and serviced through Metlife Auto & Home and BPC Financial, and are not sponsored or affiliated with the State Bar of Georgia.

BPC FINANCIAL

MetLife
For the **if** in **life**®

Discipline Summaries

(June 15, 2010 through Aug. 13, 2010)

by Connie P. Henry

Voluntary Surrender/Disbarments

Sai Hyun Lee
Duluth, Ga.
Admitted to Bar in 1990

On June 28, 2010, the Supreme Court of Georgia accepted the Petition for Voluntary Surrender of License of attorney Sai Hyun Lee (State Bar No. 443998). Lee pled guilty on Nov. 18, 2009, to a felony offense of violating 28 USC §1746 in the U.S. District Court for the Northern District of Georgia, Atlanta Division.

Thomas Edwin Sasser III
Blakely, Ga.
Admitted to Bar in 1991

On June 28, 2010, the Supreme Court of Georgia accepted the Petition for Voluntary Surrender of License of attorney Thomas Edwin Sasser III (State Bar No. 626880). On March 16, 2010, Sasser pled guilty under the first offender statute in the Superior Court of Early County to one count of theft by conversion, a felony violation of the Criminal Code of Georgia.

Donald Keith Knight Jr.
Atlanta, Ga.
Admitted to Bar in 1994

On June 28, 2010, the Supreme Court of Georgia accepted the Petition for Voluntary Surrender of License of attorney Donald Keith Knight Jr. (State Bar No. 425555). Following the filing of three formal complaints and the appointment of the special master, Knight filed a petition and amended petition for voluntary surrender of license in which he admitted that he suffered from drug addition to the extent that it impaired his competency as an attorney.

Knight forged his former law partner's name to bank documents, removed client funds from his trust account, deposited checks payable to his firm into his personal bank account, converted firm checks payable to third parties to his own use, accepted fees from clients then failed to communicate with them, willfully abandoned clients' cases and converted funds he received in a fiduciary capacity to his own use.

Derrick L. Wallace
McDonough, Ga.
Admitted to Bar in 1992

On June 28, 2010, the Supreme Court of Georgia disbarred attorney Derrick L. Wallace (State Bar No. 733760). Three Notices of Discipline were filed against Wallace by the State Bar. Wallace represented clients in legal matters at a time when he was on administrative suspension for failure to pay his State Bar dues.

In addition, in one case Wallace essentially abandoned a client at a time when the trial of her case was imminent and he refused to refund the fee he had been paid for the representation. Another of his client's appeals was dismissed by the by the Court of Appeals because Wallace failed to properly prosecute the appeal. In each case Wallace failed or refused to file a response with the Investigative Panel of the State Disciplinary Board. Wallace failed to reject the Notices of Discipline.

The Court found in aggravation of discipline that multiple disciplinary matters were being pursued simultaneously, thereby evidencing a pattern and practice of wrongful behavior. The Court also found that

Wallace acted willfully and dishonestly in practicing law when he knew he was ineligible to do so, and that he had already received two Review Panel reprimands.

Michael H. Graham
Savannah, Ga.
Admitted to Bar in 1976

On July 12, 2010, the Supreme Court of Georgia disbarred attorney Michael H. Graham (State Bar No. 304650). The following facts are admitted by default. In August 2006, Graham was retained by a client with regard to a patent matter. The client paid him a $1,500 retainer, but Graham did not communicate with her the basis or the rate of the fee. The client became dissatisfied with Graham's efforts and asked for a refund of the retainer. In March 2007, Graham wrote the client a check for $1,500 on his personal checking account, but it was returned for insufficient funds. Graham acknowledged service of the Notice of Investigation and informed the Bar that he had refunded the money in two installments in April and May 2008. He informed the Bar that he would respond under separate cover to the Notice of Investigation under oath and in accordance with Bar Rules, but he failed to file a timely response, though he did file a belated response in October 2008.

In aggravation of discipline the Court found that Graham had been sanctioned in several previous cases, receiving at least four formal letters of admonition. In addition, the Court found that Graham had a history of failing to respond to Notices of Investigation, which resulted in several interim suspensions.

Suspensions

H. Owen Maddux
Chattanooga, Tenn.
Admitted to Bar in 1983

On July 12, 2010, the Supreme Court of Georgia imposed a five-month suspension on H. Owen Maddux (State Bar No. 465516). Maddux received a five-month suspension in Tennessee. The Tennessee Supreme Court found that Maddux was retained to pursue a personal injury action on behalf of a woman and her husband arising out of a car accident in Florida, even though he was not licensed to practice in Florida. He failed to investigate the facts and failed to file a complaint within the applicable statute of limitation. He then lied to his clients about the status of the matter and failed to tell them that he missed the statute. After they filed a grievance, he offered them $9,000 in settlement, but he wrote the check on his attorney trust account after depositing personal funds in the account and thus commingled personal funds with client funds.

Jeffrey G. Gilley
Summerville, Ga.
Admitted to Bar in 1983

On July 12, 2010, the Supreme Court of Georgia accepted the petition for voluntary discipline of

need help?

Lawyer Assistance Program Confidential Hotline

800-327-9631

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

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

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

2010-11 Lawyer Assistance Committee

Chairperson
Robert T. Thompson Jr., Atlanta

Vice Chairperson
Charles B. Pekor Jr., Atlanta

Members
*Michael D. Banov, Marietta
Henry R. Bauer Jr., Atlanta
Frederick Victor Bauerlein, Marietta
Robert A. Berlin, Macon
*Steve Brown, Atlanta
Allan Legg Galbraith, Atlanta
Howard Kirk Henson, Doraville
Stanley S. Jones Jr., Atlanta
N. Wallace Kelleman, Stone Mountain
*Joanne Max, Atlanta
Robert E. Mulholland, Atlanta
*William W. Porter, Marietta
Homer S. Mullins, Princeton
James R. Puhger, Jasper
Darrell P. Smithwick, Lawrenceville
A. Thomas Stubbs, Decatur
Jeffrey David Talmadge, Roswell
Lemuel Herbert Ward, Atlanta

Executive Committee Liaison
Michael G. Geoffroy, Covington

Advisor
*George W. Martin Jr., Atlanta

Staff Liaison
*Sharon L. Bryant, Atlanta

**denotes non-attorney*

Jeffrey G. Gilley (State Bar No. 294866) and imposed an indefinite suspension. In connection with the representation of two separate clients Gilley failed to file civil suits on their behalf within the applicable statutes of limitation and thereafter failed to communicate with his clients and failed to respond to grievances they filed. He attributed his lack of diligence in these matters to severe depression. He is currently being treated by a psychiatrist and has no prior discipline. He made monetary settlement offers to the two former clients, but those matters remain unresolved. He has not taken any new cases since 2007, has closed his law office and stopped practicing law in 2009.

Gilley must meet the following conditions: (1) He shall continue treatment with a board certified psychiatrist for evaluation, treatment and monitoring of any condition the psychiatrist deems appropriate; (2) He shall provide any and all waivers required to allow his psychiatrist to provide information to the Office of the General Counsel concerning his condition, treatment and progress; and (3) He may seek reinstatement to the Bar by (a) obtaining from his psychiatrist a written certification that he exhibits no symptoms of any condition that would make him a danger to the public or to his clients; (b) serving the psychiatrist's certification upon the Office of the General Counsel and then obtaining from that office a written certification that its records reflect no indication that he has engaged in conduct making him a danger to the public or clients; (c) providing both certification to the State Disciplinary Board; and (d) filing with the Review Panel a request for reinstatement establishing that he has satisfied all conditions for reinstatement.

Morris P. Fair Jr.
Atlanta, Ga.
Admitted to Bar in 2000

On June 28, 2010, the Supreme Court of Georgia disbarred attorney Morris P. Fair Jr. (State Bar No. 581019). A Notice of Discipline was filed against Fair by the State Bar in connection with three grievances. On July 27, 2010, the Court reconsidered this matter and remanded the case to the Investigative Panel and a Special Master to determine if Fair's physical, mental and emotional problems prevented him from filing a timely response to the Notice of Discipline. The Court ordered that Fair be temporarily suspended.

Review Panel Reprimand

Clark Jones-Lewis
Atlanta, Ga.
Admitted to Bar in 1985

On July 12, 2010, the Supreme Court of Georgia accepted the petition for voluntary discipline of Clark Jones-Lewis (State Bar No. 398595) and ordered that she be administered a Review Panel reprimand. This matter arose in connection with Jones-Lewis's largely pro bono representation of eight couples regarding their complaint that an adoption service had selected each couple to adopt the same infant. Jones-Lewis admitted that she became overwhelmed by the direction the case took after some of the clients took their frustration and complaints to the national media and that she should have withdrawn from the representation. She failed to file a timely written response under oath to the Notice of Investigation. In mitigation, she stated that after the client hired new counsel, she cooperated fully with replacement counsel and she expressed deep remorse.

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 June 15, 2010, five lawyers have been suspended for violating this Rule and one has been reinstated.

Reinstatement Granted

Richard R. Harste
Savannah, Ga.
Admitted to Bar in 1986

On July 12, 2010, the Supreme Court accepted the petition for reinstatement of Richard R. Harste (State Bar No. 333333). By opinion issued Feb. 23, 2009, the Court suspended Harste with conditions for reinstatement. Respondent demonstrated that he met all the required conditions for reinstatement. GBJ

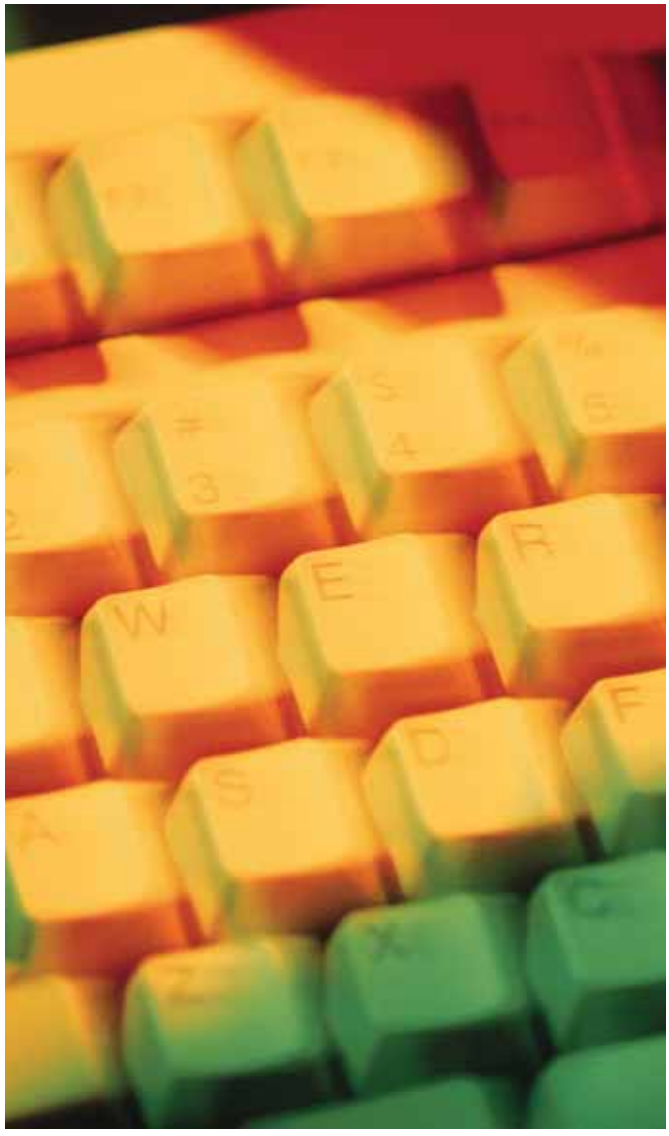
Connie P. Henry is the clerk of the State Disciplinary Board and can be reached at connieh@gabar.org.

Why Can't I Kick the Computer?

by Natalie R. Kelly

This article previously appeared in the June 2005, Vol. 10, No. 7 issue of the Georgia Bar Journal. *It is reprinted here as a part of the Law Practice Management Program's 15th Anniversary.*

Computer problems in the law office are not only aggravating, but can be very costly both in terms of time and money. Here are some helpful tips and planning options to consider so that you are not a regular victim of the inevitable computer gremlins.



Back Up Systems Regularly

Without any backups, you make your firm's data vulnerable to loss. Often it is only after a disaster that one realizes a backup could have saved his or her practice. Backups should be performed daily! Include backup information in your disaster recovery plan.

Verify That Backups are Complete

Many firms have mistakenly believed that their data was being backed up, but failed to adhere to on-screen information showing otherwise. You also have to make sure that data is being captured properly.

Take Computer Backups Offsite

When backups remain in the office where the other data resides, you again expose your firm's information to the possibility of loss. Fire, theft or other "acts of God" could potentially take away all of your hard work. Leaving a copy on site or near your firm is also a good safeguard. It is acceptable to use reputable online or remote backup sources provided you understand the risk of not being able to access your data in the

event of nonpayment to the vendor or other eventualities that cause them to prohibit your access. Make sure you understand what type of backups are being performed. Is your entire system backed up? Are rolling backups performed or complete overwrites or just data that registers as changed or added?

Do Regular Test Restores

You ensure your backups are actually working by restoring information from the backups. Be sure you can retrieve and use the data you restore.

Don't Assume Your Software is the Problem

Technology issues can be very difficult to diagnose. There are so many little factors that go into the equation. Is everything compatible? Was a new driver needed? The sound card could be the culprit. There are simply too many possibilities, so work with a good "techie" to get a reasonable answer. Sometimes it really is the hardware and not the software.

Re-Index Database Programs and Perform Maintenance Services Regularly or as Needed

Like changing oil in your car, you service your software programs with these steps. Don't forget to backup your data before you run any maintenance programs!

Write Down Your Computer Hardware and Software Problems

Note dates, other applications that were running and the exact thing you were doing at the time of the problem. Capture error messages by using ALT + PrtScrn (Print Screen) and pasting in a word document. Keeping a log is not only helpful to you, but any support personnel you work with. You might also log the answers and share everything with your entire office.

Force Vendors to Deal with Support Issues

Don't get caught in a finger pointing game that keeps you running from vendor to vendor for support. Have them identify concerns they have from their respective ends. Seek help from a third party if you can't come to some reasonable choice about who to believe.

Purchase Support Agreements if Necessary

Agreements can safeguard you in the event of emergencies routinely handled by tech support. Otherwise, you may find yourself having to pay astronomical minute charges for assistance. Again, write down any solutions and share them with your firm.

Update Virus Protection and Security Software Regularly

Have a routine of checking for the latest fixes and utility applications. Hackers and virus authors work every day. You have to remain vigilant about keeping up with them. Turn on any available automatic updates if you think you won't remember to do the updates yourself and have the software prompt you before installing them. Layered protection is your best defense against the outside forces.

Hire Technology Consultants Who Have Experience with Law Firms

Your computer staff should be able to assist you in your time of need—even if that means every day.

Only Do it Yourself if You Have the Time or It's in Your Job Description

Do not get yourself and your firm into a computer bind if you do not have expertise but simply like to play around with computers. Your firm information is much too valuable. Insist on using experts.

Refer to Online Sources and General Support Vendors

Some technology solutions are easily located online. Even typing in error messages to your favorite search engine could lead to valuable information or even a solution to your problem. Visit your vendors' sites and look for discussion forums and knowledge bases. Call general tech companies that provide support.

Don't Kick the Computer

You might actually have a greater problem on your hands if you do.

Technology is a wonderful tool in law offices. But like all tools, you may have to tweak or work with them in unexpected ways in order for them to behave properly. Understanding that computer problems are inevitable can help after you have done everything you can to ensure they are working smoothly otherwise. GBJ

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

Multifaceted Moultrie

A Jewel in the Southern Circuit

by Bonne D. Cella

Two hundred miles south of Atlanta and 60 miles northeast of Tallahassee lies the seat of Colquitt County—Moultrie. A part of the Southern Judicial Circuit,[1] Moultrie shines like a diamond with many facets. Showing much civic pride, local bar President Jody Weathers and attorney John Carlton happily shared the particulars on what makes their town and region unique.

Moultrie was established in 1859 and named for Revolutionary War general and governor of South Carolina William Moultrie. With 44 attorneys listed in the State Bar of Georgia directory, one former Moultrian lawyer is now Georgia's senior U.S. Senator. Taking a moment from his endless meetings in Washington, Sen. Saxby Chambliss graciously agreed to a telephone interview for this article.

"I have lived in Moultrie since 1969. It is home. My children were born and grew up there. I try to get home at least once a month. I love Colquitt County. It is the most diversified region east of the Mississippi. If you can eat it, wear it or smoke it—it probably came from Colquitt County."

Photo provided by the Office of Sen. Saxby Chambliss

U.S. Sen. Saxby Chambliss

With approximately 588 working farms, Colquitt County is No. 1 in Georgia for the production of agri-

culture and is host to the largest outdoor farm show in North America. Each year the Sunbelt Agricultural Expo brings in more than 200,000 visitors giving a tremendous boost to South Georgia's economy.

Moultrie was home to nationally recognized architect, William Frank McCall who died in 1991. His well-proportioned detailed classical designs are well known all over Georgia, especially at Sea Island where he enjoyed a large following. The eye-catching Moultrie home of Robert B. Wright Jr. on Tallokas Road was designed by McCall and built in 1961. Wright was a local millionaire Ford dealer, art collector, financier and one-time chairman of the Georgia Board of Education who enjoyed a close association with some of Georgia's leading politicians of the era. When McCall learned that the Paramount Theatre in Atlanta was going to be demolished in 1960, he suggested to Wright that he buy the hand-carved limestone façade from the theater to incorporate onto the front of his home. With the help of 12 flatbed trucks, it was brought to Moultrie with stunning results.

Another landmark building in Moultrie is the 1902 Neoclassical Revival Colquitt County Courthouse standing in the center of town square. It was once voted the "Prettiest Courthouse" in Georgia and is especially beautiful at Christmas when thousands of twinkling lights glisten from the white structure. A new courthouse annex with a state of the art courtroom enhance this judicial center.

Looking for your Scottish heritage? The Ellen Payne Odom Genealogy Library in Moultrie is internationally known for its comprehensive Scottish genealogy records that trace over 100 Scottish clans. *Ye ur welcome haur!*

Moultrie has supplied the NFL with several players over the years, including Virgil Seay, Nate Lewis and Antonio Edwards. Former UGA head coach Ray Goff hails from Moultrie as does five-time All-American diver Lauryn McCalley. During the 1996 Olympics, athletes from six countries used Moultrie's world class Moss Aquatic Center[2] for practice sessions.

Because of an active chamber of commerce and vibrant economic development council, Moultrie enjoys a low unemployment rate. Among the many businesses that call Moultrie home are Ameris Bank, Southwest Georgia Bank, Icehouse America, Bob's Athletic Wear, National Beef, Sanderson Farms, Destiny Industries and Riverside Manufacturing. The Maule Air manufacturing company in Moultrie makes the STOL (Short Takeoff or Landing) airplanes that cater to a worldwide market. Hollywood has featured their planes in several movies.

The active Colquitt County Arts Center at Moultrie provides a repository for many talented local artists including nationally known landscape artist, Lynwood Hall. He has the distinction of having one of his art pieces selected as a gift for First Lady Michelle Obama.

For the naturalist among you, Colquitt County provides one of the last safe havens for endangered pitcher plants at the Doerun Pitcher Plant Bog. Pitcher plants are most magnificent between April and May. These colorful carnivorous trumpet-shaped plants with a pleasing smell easily ensnare and digest flies, mosquitoes and other pests. You may tour this protected area located on state Highway 133 just outside Moultrie.

Colquitt County is also a mecca for hunters with its abundance of quail, dove, wild turkeys and deer. Hunting plantations and preserves abound tucked neatly into the bucolic landscape. John Carlton's home (another one of Frank McCall's designs) rests in one of these natural and peaceful settings not far from his law practice, Whelchel & Carlton,[3] in downtown Moultrie. The "country cottage" features reversed board and batten made from cypress trees gathered from the Ochlockonee River. The home's serene natural

Photos by Bonne D. Cella

The Carlton home is tranquil and relaxing . . . as evidenced by their dog, Sandy.

The Robert B. Wright home on Tallokas Road designed by Frank McCall.

The Colquitt County Courthouse.

Pitcher Plants by Anna Carlton, wife of local attorney John Carlton.

setting invites wildlife and is a haven of inspiration for John's wife Anna, a noted artist.

In speaking to both Jody Weathers and John Carlton, natives of Colquitt County with 54 years between them in the practice of law, it is easy to see how much they love living and working in Moultire. Weathers, a former Ambassador of the Year for the Colquitt County Chamber of Commerce remarked, "The attorneys here give much to the community. They serve in many diverse areas and that is a very good thing. We all take pride in our profession and we take pride in giving back to our community." And Sen. Chambliss offered these comments when asked about his legal career in Moultrie, "When I started as a new lawyer in 1969—I was in awe of the older attorneys. They had so many interesting stories about the early days of the Southern Circuit when they would get on a train and ride the circuit to Thomasville or Valdosta and chase each other all day in court and then at the end of the day sit down together as friends never mentioning business. The Southern Circuit is unique in that it has always been a close-knit group of lawyers. I used to know everyone in the circuit and developed lifelong friendships. That type of lifestyle is difficult to duplicate. It is a great place to practice law." GBJ

Bonne D. 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. The Southern Circuit includes Colquitt, Thomas, Brooks Lowndes and Echols counties with 335 attorneys.
2. The Moss Aquatic Center is named for Robert C. "Moose" Moss, a "Flying Tiger" during WWII, who started a diving facility on his farm in Colquitt County in 1960 and became a nationally honored diving coach.
3. Hoyt Whelchel started the firm in 1920 and it is the oldest continously-operating firm in Moultrie.

Giving a Helping Hand

by Derrick W. Stanley

We have heard a great deal about how the economic downturn is wreaking havoc on the non profit legal entities across Georgia, and about the difficult decisions these organizations are facing. However, there have been some bright lights shining through the darkness of the financial situation, coming to the aid of those who need help. Over the past year, one of those bright lights supporting legal organizations in need has been your State Bar Sections.

During the most recent fiscal year, a number of sections have donated more than $138,000 of their unrestricted funds to provide assistance to programs in need. The Pro Bono Project, Atlanta Volunteer Lawyers Foundation, Atlanta Legal Aid and Georgia Legal Services Program, in addition to several community organizations, benefited from this generosity. Many of these programs would have closed their doors and been unable to assist their clients with legal and other basic needs.

Patrise Perkins-Hooker, chair of the Real Property Law Section, said, "Our section felt that we needed to do everything we could to respond to the devastating impact the economy has had on the real estate industry, on our members and on citizens in our communities without resources to handle foreclosure, eviction and mortgage-related legal issues. We continued the reduced section membership fees for our members and we invested some of our reserves in programs that provide services to those in need of pro bono representation with real estate-related matters. We felt that this was just the right thing to do."

Steve Wigmore, chair of the Intellectual Property Law Section, stated, "The IP Section donated money to the Georgia Lawyers for the Arts (GLA) because the executive committee of the IP Section, after discussing the request from GLA, believed that the goals and objectives of GLA are in line with the section's goals and objectives for promoting intellectual property law in the Georgia legal community. The IP Section also donated money to the Red Cross after the Haiti earthquake. The section understood that the Red Cross would be able to appropriately distribute funds or keep funds in reserve should another disaster occur."

In addition to the IP Section, the Technology Law Section also helped an organization outside of the legal profession. It donated time and computers to the Computers for Youth Program (CFY). CFY is a national educational non-profit organization launched in 1999 that is dedicated to helping low-income children perform better in school by improving their learning environment at home. The section has supported this program for several years.

Sections continually give back to communities and to attorneys either by donating time or money. Several sections have been supporting communities by contributing pro bono hours to many local organizations. These donations of both time and services are not only helping children, families and those in need, they are helping the profession by putting a positive face on the perceived image of attorneys.

Sections are a valuable resource for attorneys and the legal and non-legal communities alike. Special thanks goes out to the Business Law, Corporate Counsel, Family Law, Health Law, Intellectual Property Law, Labor and Employment Law, Real Property Law and Technology Law sections for the time, energy and money they have contributed to local organizations. They have truly shown what it means to give back. The organizations they have helped are truly appreciative of their contributions. GBJ

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

Member Benefits on the State Bar's Website

by Sheila Baldwin

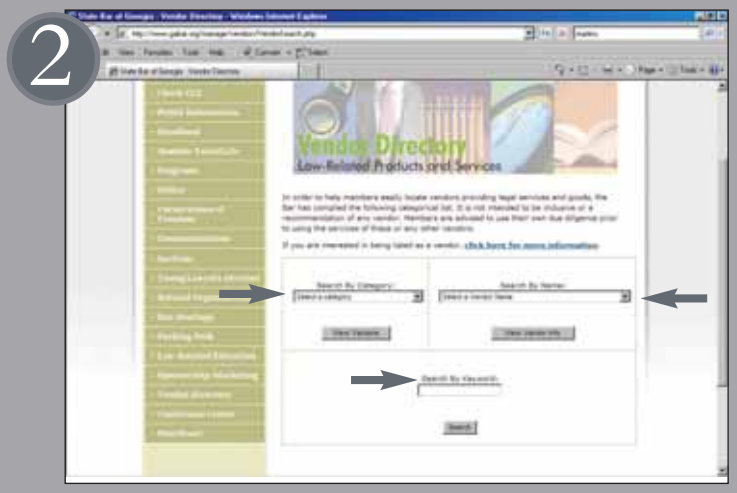
Have you ever wondered where to find a local expert witness for your upcoming medical malpractice trial? Maybe you need someone to upgrade your website, or you simply need to book a room near the Bar Center for an upcoming meeting. As part of your member benefits, the State Bar offers its members an online listing of a wide variety of products and services that provide a solution to these and many other professional needs.

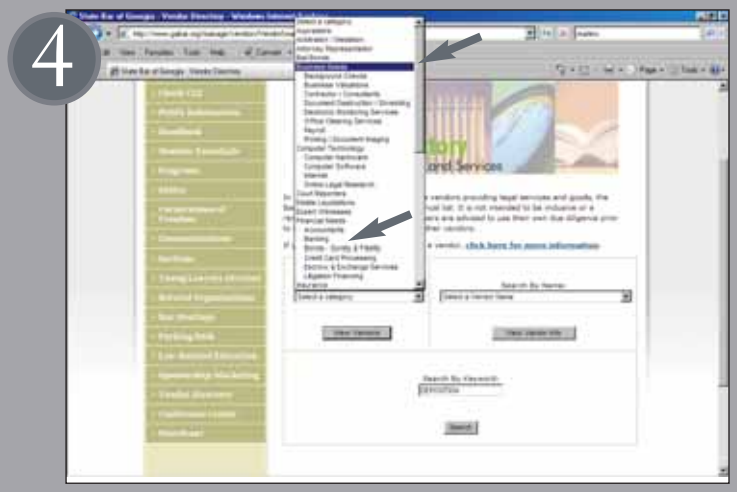
Visit the website at www.gabar.org and look for the Vendor Directory button at the bottom of the left hand column (see fig. 1). Our goal with this resource is to provide an easy method for you to find this information by giving you three ways to search; by name, by category and by keyword (see fig. 2). In order to find by name you must have specific information; however, the category and keyword search is great for finding services when you have little or no information. The category search is broken down into 23 categories with 36 subcategories. The keyword search works best when you enter only one or two terms. An example would be *deposition* which brings up seven entries in a business card format (see fig. 3). All listings conveniently contain at minimum, a link to the company e-mail address, while others link you directly to the company website (see fig. 3). Those vendors whose listing is marked with a gold star provide a discount to our members (see fig. 3). When searching categories, it is sometimes best to use the larger category name to include all related services, eliminating the possibility that you might miss something that does not exactly fit one of the subcategories (see fig. 4). Hopefully, you will easily find products and services you may need through the vendor directory.

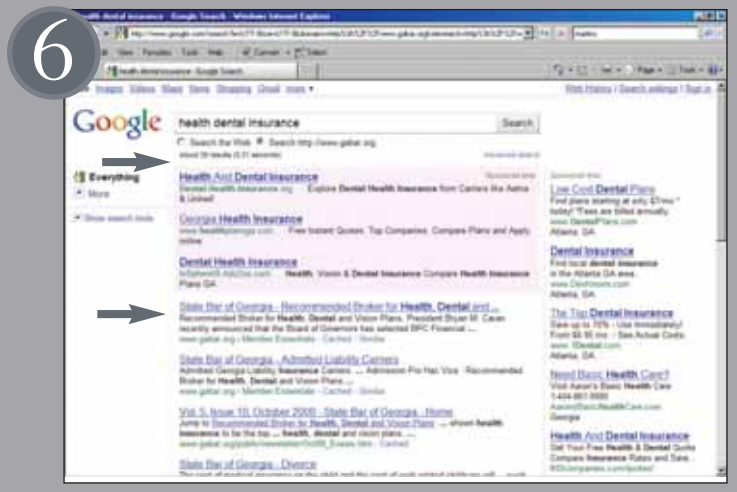
Due to the wide range of resources available on our website, it can be daunting to find specific information. The search bar at the top right-hand corner of the page is a useful tool to eliminate time consuming hunts (see fig. 5). If you are interested in finding out about what resources are available through the Law Practice Management Program you can enter a term into this field and get right to the information you need. For example, many attorneys are starting up solo practices and may need to find practice forms. Enter the term *forms* in the search box and you will find a variety of ready to use of free forms (see fig. 5). Finding solutions to health insurance is a common concern; by entering the terms *health dental insurance* in the search area, you will be taken to a Google search that links to information about our recommended health broker, a program that has been appreciated by many of our members (see fig. 6). Notice that the search is filtered to look first within the State Bar website; however you can change that to a global search by changing the filter (see fig. 6).

As the member benefits coordinator and a member of the Law Practice Management team, I can assure you that we are ready and willing to help you with all of your practice management needs. If you don't find what you are looking for using the tips provided in this article, call me at 404-526-8618 or e-mail sheilab@gabar.org and I will be happy to help. GBJ

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







Save Money by Using the State Bar's Online Vendor Directory

Did you know that Bar members can save money on products or services by using the Bar's Online Vendor Directory? The directory is tailored specifically for an attorney's business and personal needs. There are more than 100 vendors that offer a range of services which include, but are not limited to, financial and technology needs. To start saving money today, visit the website at www.gabar.org/vendor_directory/.

Three General Principles of Good Drafting

by Karen J. Sneddon and David Hricik

Some "rules" about writing depend on the type of document while others apply to all of them. This installment describes three of these general principles of good drafting.[1]

Principle 1: Format Matters

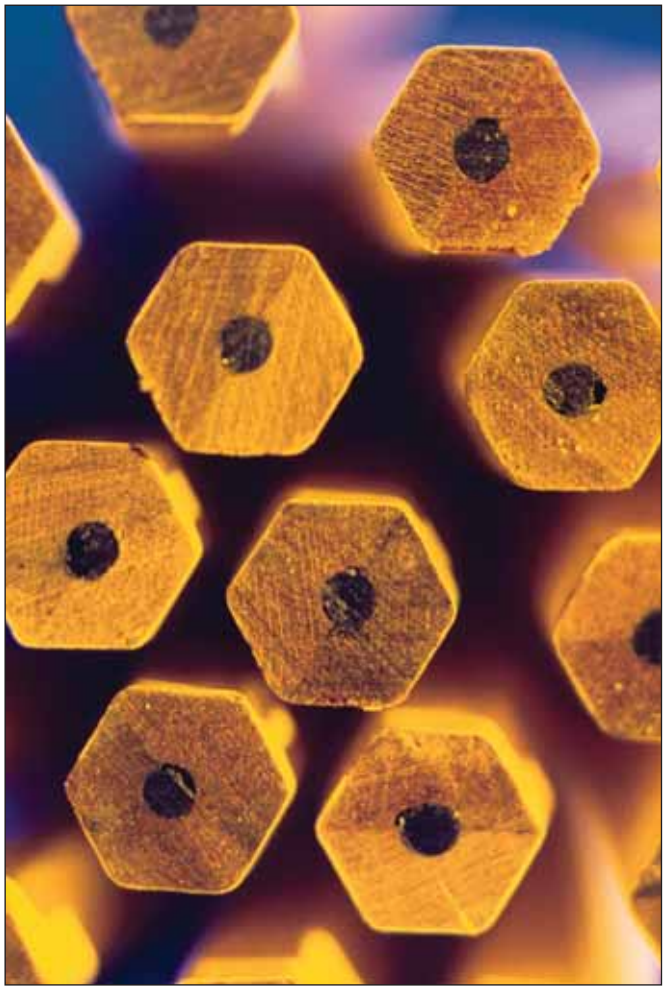
All documents are drafted to be read, understood and implemented in some manner. As draftspersons, we should construct the document to facilitate the document's purpose. One often overlooked step is to format the document to increase accessibility and comprehension.

Word processing programs allow the drafter to change all aspects of a document's formatting, including its numbering scheme, heading and subheading style, typeface, font (font, font style and size) and the amount of white space (including indents, line spacing, line justification and white space). Each choice can increase the document's ability to perform its function.

The impact can be amazing. Here is the same text formatted in two different ways:

Example 1:

Article Two. Distribution of Principal and Income. Trustee shall hold, manage, invest, and reinvest the trust estate, shall collect and receive the income therefrom, and, after deducting all taxes, fees and expenses paid or incurred in the administration of the trust, shall pay and distribute the principal and net income of the estate to or for the benefit of Settlor's children in one common trust until all then living children reach the age of 22. During such time, the trust property is to be administered as follows:



Example 2:

Article Two

Distribution of Principal and Income

A. Trustee shall hold, manage, invest, and reinvest the trust estate, shall collect and receive the income therefrom, and, after deducting all taxes, fees and expenses paid or incurred in the administration of the trust, shall pay and distribute the principal and net income of the estate to or for the benefit of Settlor's children as follows:

1. Until all then living children reach age 22, the trust property will be held in one common trust.

2. During such time, is to be administered as follows:

Although the language in this excerpt may not be perfect, the second example is much easier to read and implement simply because it is formatted better. Using a numbering scheme, bold and centered headings, proportionally spaced font and left justification are seemingly small changes. But these small changes increase the readability of the provision. The easier a document is to read, the easier it is to spot mistakes while drafting, and the easier it is to implement later.

Principle 2: Draft for Multiple Audiences

"Knowing your audience is the first step to good legal drafting."[2] Audience is a singular noun that can mask a variety of potential audiences for any legal document. We'll return in more detail to this topic in a future installment, but we wanted to highlight some general points.

Audiences can be categorized as primary, secondary and unexpected. Primary audiences are the parties to the transaction. Secondary audiences include other individuals or entities who work with the document, such as accountants, employees, business managers or beneficiaries. Secondary audiences also include mediators, judges and court personnel. Unexpected audiences include individuals who may use the document in a manner unforeseen by the draftsperson, such as other attorneys in the firm who may use the document as a form for a new document, a member of the public or a student who found the document on the Internet.

Audiences can be friendly or hostile. Audiences can also be immediate or future. Balancing the different needs of the audience can seem impossible. To help draft for multiple audiences, below are three tips:

- **Be Consistent with Language**
  Variety is the spice of life. But not with language used in most legal documents. In legal documents, consistency is critical.
- **Avoid Ambiguity**
  Ambiguous words or structure often fails to capture the intent of the parties and lead to multiple interpretations. Consider the following: The seller shall arrange for shipment of the goods no later than Nov. 1, 2010. Does this mean that the seller must ship the goods by Nov. 1? Or simply have made some "arrangements" by Nov. 1?[3] Generally, ambiguity leads to misunderstanding and that is seldom the draftsperson's goal.
- **When Possible, Draft in Plain English**
  Avoid unnecessary jargon and legalese. Some may be necessary as a result of conventions, as when the law requires the use of certain words to effectuate a transfer of real property. But too often legalese can lead an audience to misapprehend or not apprehend the meaning of a document.

Principle 3: Understand Each Clause and Provision in the Document

Legal forms have been used for hundreds of years. Jurisdictions even endorse using fill-in-the-blank forms in certain situations.[4] Yet, forms present challenges to the draftsperson. As Joseph Trachtman wrote,

> As in all writing, you must first have something to say. That something is not acquired by stringing together paragraphs plucked from a form book, because the language sounds good. As "something to go by" forms are indispensable. But forms should never be substituted for thinking. They are only stimuli for thought.[5]

Moreover, the Model Rules of Professional Responsibility requires that "[a] lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and representation reasonably necessary for the representation."[6] Specifically, "[c]ompetent handling of a particular matter includes inquiry into an analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. . . ."[7]

Thus, the draftsperson must understand the meaning, function and impact of each provision. It can be tempting to simply copy and paste from a form. However, even when cobbling together provisions from various sources, a draftsperson should understand each clause.

Conclusion

This, of course, is just a start. For additional reading, consider these sources:

- Kenneth A. Adams, A MANUAL OF STYLE FOR CONTRACT DRAFTING (ABA 2d ed. 2008).
- Kenneth A. Adams & Alan S. Kaye, *Revisiting the Ambiguity of "And" and "or" in Legal Drafting*, 80 ST. JOHN'S L. REV. 1167 (2006).
- Susan M. Chesler, *Drafting Effective Contracts: How to Revise, Edit, and Use Form Agreements*, 19 BUS. L. TODAY 35 (Nov./Dec. 2009).
- David Crump, *Against Plain English: The Case for a Functional Approach to Legal Document Preparation*, 33 RUTGERS L.J. 713 (2002).
- Howard Darmstadter, HEREOF, THEREOF, AND EVERYWHEREOF: A CONTRARIAN GUIDE TO LEGAL DRAFTING (ABA 2d ed. 2008).
- Lenné Eidson Espenschied, CONTRACT DRAFTING: POWERFUL PROSE IN TRANSACTIONAL PRACTICE (ABA 2010).
- Elizabeth Fajans, Mary R. Falk, and Helene S. Shapo, WRITING FOR LAW PRACTICE (Thomson West Pub. 2004).
- Helen W. Gunnarsson, *Anatomy of a Will: A Step-by-Step Guide*, 97 ILL. B.J. 506 (Oct. 2009).
- George Hathaway, *An Overview of the Plain English Movement in the Law – 15 Years Later*, 79 MICH. B.J. 30 (2000).
- M. H. Sam Jacobson, *A Checklist for Drafting Good Contracts*, 5 J. ALWD 79 (2008).
- Joseph Kimble, LIFTING THE FOG OF LEGALESE: ESSAYS ON PLAIN LANGUAGE (2006).
- David Mellinkoff, THE LANGUAGE OF THE LAW (1963).
- Kevin D. Millard, DRAFTING WILLS, TRUSTS, AND OTHER ESTATE PLANNING DOCUMENTS: A STYLE MANUAL (Bradford Pub. Co. 2006).
- Benjamin H. Pruett, *Tales from the Dark Side: Drafting Issues from the Fiduciary's Perspective*, 35 NO. 4 ACTEC J. (Spring 2010).
- Wayne Schiess, *The Art of Consumer Drafting*, 11 SCRIBES J. LEGAL WRITING 1 (2007).
- Wayne Schiess, *What Plain English Really Is*, 9 SCRIBES J. LEGAL WRITING 43 (2003-2004).
- Lynn B. Squires & Robert S. Mucklestone, *A Simple 'Simple' Will*, 57 WASH. L. REV. 461 (1982).
- Tina L. Stark, DRAFTING CONTRACTS: HOW AND WHY LAWYERS DO WHAT THEY DO (Aspen Pub. 2007).
- Tina L. Stark, ed., NEGOTIATING AND DRAFTING CONTRACT BOILERPLATE (ALM Pub. 2003).
- Thomas S. Wood, Jr. *A Brief for Plain English Wills and Trusts*, 14 U. RICH. L. REV. 471 (1980). GBJ

Karen J. Sneddon is an associate professor at Mercer Law School and teaches in the Legal Writing Program.

David Hricik is a professor at Mercer Law School who has written several books and more than a dozen articles. The Legal Writing Program at Mercer Law School is currently ranked as the nation's number one by *U.S. News & World Report*.

Endnotes

1. This installment was informed by a variety of sources, including the following conference presentation: *Beyond the Boilerplate: Contract and Will Drafting*, Fourteenth Biennial Conference of the Legal Writing Institute, Marco Island, Fla., June 30, 2010 (with Prof. Susan Chesler and Prof. Susan Payne).
2. Howard Darmstadter, HEREOF, THEREOF, AND EVERYWHEREOF: A CONTRARIAN GUIDE TO LEGAL DRAFTING xi (2d ed. 2008).
3. This does not mean that every provision needs to be explicit. Some provisions may be intentionally vague to build in some flexibility.
4. O.C.G.A. § 31-32-4 (Form for Advance Directive for Health Care); MCKINNEY'S GENERAL OBLIGATIONS LAW § 5-1501(For General Power of Attorney).
5. Joseph Trachtman, *Maxims for Estate Planners*, 1963 U. ILL. L.F. 123, 127.
6. MODEL RULES OF PROF'L CONDUCT R. 1.1.
7. MODEL RULES OF PROF'L CONDUCT R. 1.1, cmt 5.

• ANY STATE • ANY NATION • ANYWHERE • ANY STATE • ANY NATION • ANYWHERE•

ANY STATE • ANY NATION • ANYWHERE • ANY STATE • ANY NATION • ANYWHERE • ANY STATE • ANY NATION

"IF WE DON'T SERVE IT, YOU DON'T PAY"®

ANYWHERE IN THE U.S.A.

1-800 PROCESS

International Not Included.

ANY STATE • ANY NATION • ANYWHERE • ANY STATE • ANY NATION • ANYWHERE • ANY STATE • ANY NATION

•ANY STATE • ANY NATION • ANYWHERE• ANY STATE • ANY NATION • ANYWHERE•

Professionalism from the First Day of Law School

by Avarita L. Hanson

During the first few days of law school, students may feel bombarded with all the different types of information they receive from professors and other law professionals. One such group who took time to speak with the students were those involved in the 2010 Law School Orientations on Professionalism. The members of the State Bar's Committee on Professionalism and the Chief Justice's Commission on Professionalism (CJCP), along with volunteer attorneys and law school representatives, collaborate to ensure that aspiring lawyers understand the highest ideals of our profession thereby giving us a return on our investment by becoming colleagues with whom we want to work.

Photos by Terie Latala

Georgia State University 1Ls recite the Professionalism and Honor Code Pledge.

During orientation week at each Georgia law school, entering students participate in this rite of passage into the legal profession. Since 1993, aspiring attorneys have enjoyed hearing from outstanding jurists and practitioners on professionalism ideals, as well as interacting with lawyers, judges and professors in small groups where they have the opportunity to address hypothetical problems on issues of professionalism. Students engage in conversation based on situations giving rise to law school honor code violations and the proper way to handle them. Some students also discuss real world issues of professionalism through hypothetical problems rooted in attorney-client situations.

The Law School Orientation Program is spearheaded each year by the State Bar's Committee on Professionalism in partnership with the CJCP and the law schools. Professionalism Committee Chair Dick Donovan, a dedicated leader in this movement, attends most of the orientations and contributes along with others on the committee to update the hypothetical problems so that they remain current, relevant and instructive as the backdrop for the group discussions. Today's hypotheticals go beyond the basic topics of plagiarism to include subjects such as inappropriate blogging. These discussions help students understand the consequences of unprofessional conduct in law school.

This year's orientation programs had an impressive lineup of keynote speakers for the large numbers of students (please see sidebar). Each speaker shared important messages with students regarding professionalism in their own law school experiences as well as what the students should anticipate in the practice of law.

Alison Burleson, assistant district attorney, Ocmulgee Circuit, spoke to incoming students at Georgia State. Her message regarding the nature of professionalism was that "it starts today." She advised the students that each of them has "the power . . . to formulate your professional reputation . . . [and] what people are going to think about our profession 20 or 30 years from now." In working through defining professionalism, Burleson remarked that she sought input from many of her colleagues. The consensus was that professionalism is defined by: maintaining civility, controlling your emotions, seeking excellence by always being prepared, being honest and acting with integrity. With regards to civility, Burleson commented that, "It's common courtesy. Frankly, it means don't be a jerk. Law school and the practice of law can be a jerk-free environment." She advised the students not to let their emotions take control and reminded them that it is possible to "be a formidable adversary without being hostile to one another."

Law School	# of Students	Keynote Speaker/Position
Atlanta's John Marshall	272	Hon. Christopher S. Brasher, Superior Court of Fulton County, Atlanta (GSU J.D., 1991)
Emory University	324	Hon. Orinda D. Evans, Judge, U.S. District Court, Atlanta (Emory J.D., 1968)
Georgia State University	235	Alison T. Burleson, Assistant District Attorney Ocmulgee Circuit, Madison (GSU J.D., 2000)
Mercer University	166	Virgil L. Adams, Adams, Jordan & Treadwell P.C., Macon (Mercer J.D., 1980)
University of Georgia	248	Hon. C. Ashley Royal, Chief U.S. District Judge, Middle District of Georgia, Macon (UGA J.D., 1974)

Students reacted positively to Burleson's message with one individual saying, "It pushed me to consider the fact that professionalism starts now and not at the end of law school." Another said about the orientation experience, "It made me realize that you can teach people the law but you can't teach people to be good people. Professionalism training aims to get close to moral education." Specifically regarding the breakout group discussions, a student said "It was great to talk through the hypos with professors and other students. We will all face different situations where our professionalism will be challenged and it's good to talk through the hypos." A lawyer who served as a group leader was equally as positive about the orientation program and said, "I thoroughly enjoyed speaking with the students. I felt this

2010 Law School Orientations on Professionalism Volunteers

Atlanta's John Marshall Law School

Patricia G. Abbott
Ashley A. Adams
Ebony C. Ameen
Roy P. Ames
Frederick V. Bauerlein
Stanley M. Baum
Hon. Christopher S. Brasher
Robert D. Brooks
John C. Bush
Jennifer A. Campbell
Shiriki L. Cavitt
David S. Crawford
Donald R. Donovan
Gregory T. Douds
Hassan H. Elkhalil
Elizabeth L. Fite
Jennifer B. Grippa
Anthony A. Hallmark
Duncan M. Harle
Jennifer N. Johnson
Anne M. Kirkhope
Sam L. Levine
Corey B. Martin
James T. Martin
Edward T. McAfee
Gary S. Meinken
Hon. Joseph H. Oczkowski
Irvan A. Pearlberg
Timothy J. Santelli
Lawrence N. Sinkler Jr.
Katie A. Smith
Molly B. Sutter
Ashley M. Tumlin
Angel M. Van Wieren
Derick C. Villaneuva
David A. Wisniewski
Lisa D. Wright

Emory University

Prof. Thomas C. Arthur
B. Phillip Bettis
Scott L. Bonder
Jay D. Brownstein
Mark G. Burnette
Hon. Jack T. Camp
Prof. William J. Carney
Lesley G. Carroll
Bryan M. Cavan
Ben Chapman
Darryl B. Cohen
Karen B. Cooper
Michael D. Cross Jr.
Theodore H. Davis
Gregory M. Eells
Dean A. James Elliott
Mindy A. Goldstein
Blake D. Halberg
Gregory R. Hanthorn
Prof. Timothy Holbrook
Joseph A. Homans
Prof. James B. Hughes Jr.
Prof. Lindsay R. M. Jones
Elena Kaplan
Deborah G. Krotenberg
Jennifer W. Mathews
T. Shane Mayes
Robert E. Norman
Dean David F. Partlett
Jonathan B. Pierce
Prof. Polly J. Price
Jennifer M. Romig
Ethan Rosenzweig
Kevin A. Ross
Lawrence D. Sanders
Prof. Robert A. Schapiro
Prof. Julie Seaman
Prof. Charles A. Shanor
Ian E. Smith
Margaret E. Strickler
Cheryl F. Turner
Prof. Liza S. Vertinsky
Randee J. Waldman
James M. Walters

Georgia State University

Noelle A. Abastillas
Hon. Cynthia J. Becker
Prof. Lisa R. Bliss
Paige E. Boorman
Sarah T. Brooks
Prof. Sylvia B. Caley
Mary McCall Cash
Rory S. Chumley
Isaiah D. Delemar
Hon. Mary Grace Diehl
Sri Hermanth Digumarthi
Amy S. Dosik
Prof. Anne S. Emanuel
Belinda W. Engelmann
Thomas C. Grant
Thomas E. Griner
Avarita L. Hanson
Hon. Jason T. Harper
Beth Anne Harrill
Joy B. Harter
Prof. L. Lynn Hogue
Kimberly J. Johnson
David S. Kerven
John W. Kraus
Roger F. Krause
Joy Lampley-Fortson
Prof. Charles A. Marvin
Samuel G. Merritt
Thea A. Nanton-Persaud
Prof. Ellwood F. Oakley III
Charles C. Olson
Bharath Parthasarathy
Lara P. Percifield
Sloane S. Perras
Jody L. Peskin
Anandhi S. Rajan
Michael N. Rubin
Prof. Natsu T. Saito
Laura Sauriol-Gibris
Prof. Charity Scott
Martin A. Shelton
Rebecca Sue S. Smith
Adriana I. Sola Capifali
Hyen-Yeng Sung
Prof. B. Ellen Taylor
Willard N. Timm Jr.
Monika D. Vyas
Kathleen A. Wasch
C. Noelle Whitmire
Roderick B. Wilkerson
Prof. Douglas H. Yarn

Mercer University

Larry D. Brox
Stephanie D. Burton
Walter H. Bush Jr.
Crystal G. Buttimer
William P. Claxton
Valerie E. Cochran
John P. Cole
Maura C. Copeland
Christine M. Cruse
Prof. Deryl D. Dantzler
Patrick A. Dawson
James M. Donley
Tamika L. Fluker
John P. Fox
Elizabeth S. Hall
A. Cullen Hammond
Paula E. Kapiloff
Kevin Kwashnak
Donald L. Lamberth
Prof. Patrick E. Longan
William H. McAbee II
Kim M. Minix
Amanda M. Morris
Steven A. Moulds
Prof. David G. Oedel
J. Warren Ott
W. Warren Plowden II
Mary E. Robb
Ryan C. Springer
Thomas G. Traylor III
Monica L. Wilburn
Randolph E. Wynn
Brenda C. Youmas
Che'ferre L. Young

University of Georgia

William G. Bain
Dean C. Bucci
A. Leigh Burgess
Ann M. Byrd
Jerry W. Cain Jr.
James W. Cobb
Donald R. Donovan
Charles E. Dorr
Deborah Gonzalez
Hon. Stephen S. Goss
Donald E. Henderson
Steven D. Henry
Sara H. Honeywill
Walden G. Housman Jr.
Katherine E. Hudson
Hon. Gary E. Jackson
Sally S. Jarratt
Laura K. Johnson
Charles A. Jones, Jr.
Paul Kilpatrick Jr
Raegan M. King
C. George Kleeman IV
John K. Larkins Jr.
John K. Larkins III
Donyale N. Leslie
Allison E. McCarthy
Joshua M. Moore
John A. Nix
Hon. William M. Ray II
Christy L. Sanders
Audrey M. Seidle
Donald C. Suessmith Jr.
Thomas L. Walker
Sharon W. Ware
R. David Ware
Harvey S. Wasserman
Amelia M. Willis
Jessica C. Wilson

Thank You

(Left to right) Committee on Professionalism chair Dick Donovan follows along as Superior Court Judge Christopher S. Brasher administers the Law School Pledge at John Marshall Law School.

Breakout group at Emory University.

Breakout group at Georgia State University.

Breakout group at the University of Georgia.

program served the purpose because the students stated they had not thought about the concepts until this program."

The members of the State Bar of Georgia were the first to initiate a law school professionalism orientation program. This program is now replicated in more than 40 law schools across the country. We at the CJCP continue to field requests for information from the bench and bar throughout the country about this and our other programs. Many thanks to the more than 200 volunteer attorneys, judges, law professors and administrators who made the 2010 orientations successful, as well as the staff of the CJCP, Terie Latala, assistant director, and Nneka Harris-Daniel, administrative assistant. Attorneys who wish to participate in the 2011 law school orientations should look for notices in the *Georgia Bar Journal* or online on the State Bar's website, www.gabar.org, next spring.

The State Bar of Georgia is known for its innovation in addressing challenges in our profession, such as working with entering law students. The CJCP will now take the opportunity to look at issues affecting lawyers today and the practice of law given the economic climate and technological advances. It will hold its CLE Convocation on Professionalism, "Law Practice 2010 and Beyond: Challenges and Opportunities," at the Bar Center on Nov. 30. All Georgia attorneys are invited to attend. For more information and to register, contact the Institute of Continuing Legal Education in Georgia at www.iclega.org. GBJ

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

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

David T. Armitage
Silver Spring, Md.
Augusta Law School (1977)
Admitted 1978
Died November 2009

Donald A. Bacek
Dahlonega, Ga.
Harvard Law School (1974)
Admitted 1974
Died February 2010

Leo E. Benton Jr.
Gainesville, Ga.
University of Georgia School of Law (1971)
Admitted 1971
Died April 2010

Hon. Debra Halpern Bernes
Atlanta, Ga.
University of Florida College of Law (1978)
Admitted 1979
Died July 2010

Rebecca J. Davis
Villa Rica, Ga.
Samford University Cumberland School of Law (1980)
Admitted 1981
Died July 2010

Thomas Joseph Dillon Sr.
Athens, Ga.
University of Georgia School of Law (1953)
Admitted 1953
Died December 2009

Harry Downs
Atlanta, Ga.
Harvard Law School (1955)
Admitted 1995
Died November 2009

Laura Caryne Dunlop
Atlanta, Ga.
University of Washington School of Law (2007)
Admitted 2009
Died October 2009

Thomas M. Farrell
Lawrenceville, Ga.
Western State University College of Law (1979)
Admitted 1981
Died July 2010

Joseph T. Farrell
Orlando, Fla.
University of Georgia School of Law (1980)
Admitted 1980
Died July 2010

Hon. Harold N. Hill Jr.
Atlanta, Ga.
Emory University School of Law (1957)
Admitted 1957
Died July 2010

Hon. Richard L. Hodge
Albany, Ga.
Mercer University School of Law (1977)
Admitted 1977
Died June 2010

Tamara Jacobs
Thomaston, Ga.
Harvard Law School (1980)
Admitted 1980
Died July 2010

William Clay McKey
Roswell, Ga.
Mercer University School of Law (1981)
Admitted 1982
Died May 2010

Jill Nicole Meekins
Mableton, Ga.
Mercer University School of Law (1997)
Admitted 1998
Died July 2010

James G. Morgan
Duluth, Ga.
Emory University School of Law (1981)
Admitted 1981
Died June 2010

Charles A. Moye Jr.
Atlanta, Ga.
Emory University School of Law (1943)
Admitted 1943
Died July 2010

D. Lake Rumsey
Atlanta, Ga.
University of Texas School of Law (1972)
Admitted 1973
Died May 2010

Frank W. Scroggins
Atlanta, Ga.
Emory University School of Law (1959)
Admitted 1958
Died August 2010

Hon. George T. Smith
Marietta, Ga.
University of Georgia School of Law (1948)
Admitted 1947
Died August 2010

William "Bill" F. Underwood Jr.
Albany, Ga.
John Marshall Law School (1974)
Admitted 1975
Died July 2010

Charles A. Wetherington Jr.
Valdosta, Ga.
University of Georgia School of Law (1989)
Admitted 1990
Died August 2010

George W. Wiese
Ellenwood, Ga.
Emory University School of Law (1958)
Admitted 1959
Died July 2010

Kevin Vincent Williams
Las Vegas, Nev.
Georgia State University College of Law (1988)
Admitted 1989
Died March 2010

Peter S. Wynkoop
Atlanta, Ga.
Emory University School of Law (1977)
Admitted 1977
Died March 2010

Hon. Harold N. Hill Jr., former chief justice of the Supreme Court of Georgia, died in July 2010. Hill was born in Houston, Texas, in April 1930 but spent most of his childhood in Atlanta. He attended college at Washington and Lee University. After two years of military service in the U.S. Army, Hill graduated first in his class at Emory University School of Law in 1957.

He began practicing with the firm led by E. Smythe Gambrell (a forerunner to Smith, Gambrell & Russell), where he had worked during law school.

When Arthur K. Bolton became state attorney general in 1965, Hill joined the attorney general's office. There he was a mentor to younger lawyers as he rose to the position of chief executive assistant attorney general. Hill worked on election cases while at the AG's office, giving him the opportunity to join the small circle of Georgia lawyers to have argued at the U.S. Supreme Court.

Hill left the AG's office to practice at Jones, Bird and Howell (a predecessor of Alston & Bird). It wasn't long, however, before Gov. Jimmy Carter called Hill back into public service, appointing him to a seat on the Supreme Court of Georgia in his last days as governor. Hill served there until 1986, acting as chief justice from 1982 until his retirement from the court.

During his tenure as chief, Hill directed the project to develop uniform rules for each of the state's five classes of trial courts. He also headed up a commission created by then-Gov. Joe Frank Harris that examined various questions of state court administration, such as the creation of family courts and the state Supreme Court's jurisdiction. Hill advocated dividing the Court of Appeals into geographical districts and turning the state Supreme Court into one of more discretionary jurisdiction—although not much came of the commission's recommendations.

After his retirement from the court, Hill spent approximately a decade in private practice and also served as a mediator and arbitrator. Following his retirement from the practice of law, Hill authored the book *A History of the Supreme Court of Georgia: 1946-1996.*

Hon. George T. Smith, retired presiding justice of the Supreme Court of Georgia, died in August 2010. Smith attended Abraham Baldwin Agricultural College. After graduation, he joined the U.S. Navy in 1940, attaining the rank of lieutenant commander and received the Naval Merit Citation.

Following his naval service, he entered the University of Georgia School of Law and received his L.L.B. in 1948. After his graduation he served as county attorney, solicitor of the State Court of Grady County, Cairo city attorney and attorney for the Grady County Board of Education. He was elected to represent Grady County in the Georgia House of Representatives in 1958, where he served for eight years. Smith became speaker of the House of Representatives in 1963 and held that position through 1966.

In 1966, he was elected lieutenant governor of Georgia and is the only person to ever serve as presiding officer of both the House, as speaker, and the Senate, as lieutenant governor, and presiding justice of the Supreme Court of Georgia. In 1976 he was elected to a six-year term as judge on the Court of Appeals of Georgia. He thus became the only person in Georgia history to win contested elections in all three branches of government.

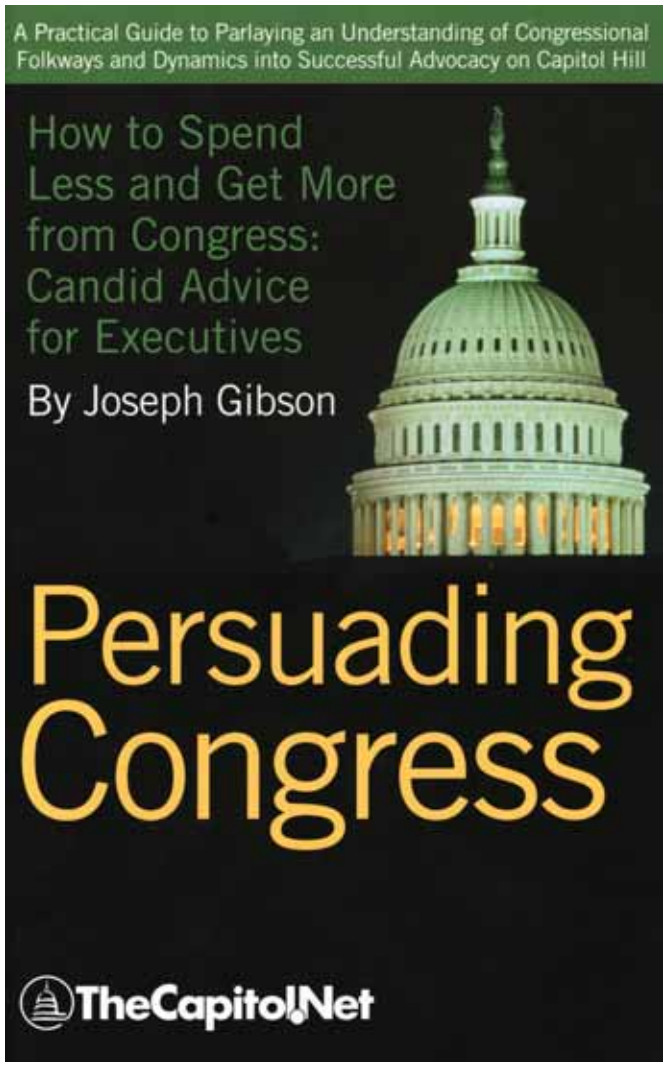
Smith was elected to the Supreme Court of Georgia in 1980, and joined the court in January 1981. He was elected by his colleagues as presiding justice and took office in that position in January 1990. GBJ

Persuading Congress: How to Spend Less and Get More from Congress

by Joseph Gibson, The Capitol.Net, 141 pages

reviewed by George W. "Buddy" Darden

At a time when the strengths and weaknesses of our legislative branch are illustrated by both decisive action and protracted stalemates, Joseph Gibson offers keen insight into the process and practical advice for those wishing to interact with Congress. In "Persuading Congress: How to Spend Less and Get More from Congress: Candid Advice for Executives" the author is clear, concise and brief. Not always the three most common descriptors that spring to mind when discussing the work of Congress. Gibson is respectful of his reader's time. He presents information that is easily and rapidly absorbed, with helpful chapter summaries throughout.



Part one of the guide is an overview of how Congress works. Avoiding unnecessary detail, Gibson reviews the most important elements in the internal dynamics of leadership, committees, staff and the rules by which legislative action occurs. There are also chapters explaining the external influences that come into play, such as the president, the courts, interest groups,

lobbyists, federal departments and agencies, the news media, public opinion and, of course, elections. In an astute observation, Gibson says the following about the amount of time and energy that members and their staff spend thinking about the next election cycle: "Until you experience it, you cannot appreciate how all consuming it is." For those readers seeking more detail about many of these aspects and influences, there are helpful footnotes that reference both Gibson's own appendices and works like the "Congressional Deskbook."

Part two is where Gibson's expertise really comes into play. In fewer than 100 pages you'll find a review of how you can influence Congress. The author's personal experience working for all three branches of the federal government as well as working as a lobbyist and advocate on Capitol Hill is apparent as he describes the tools, opportunities and considerations of attempting to influence the lawmaking process. First up: a review of what the author calls the Facts of Life. He explains that first and foremost, the actions of Congress and its members are guided by self-interest. He warns readers not to be put off by this fact. "The framers of the Constitution grasped this utterly human tendency all too well. They carefully designed the system to pit interest against interest so that no one got too much power." But as Gibson explains, it is just this tendency toward self-interest that gives those seeking influence their most powerful tools. If you can convince a member that action or inaction on your issue serves their self-interest and the interests of their constituents, you're more likely to succeed. He goes on to explain additional issues—ego, ideology, credit, inertia and the size of the majority of the controlling party—that are all important factors in crafting your approach to members of Congress.

Next up: the tools of influence. Gibson divides these tools into four categories: personal, intellectual, environmental and practical. Personal tools include constituency and reputation. Every resident of the 50 United States is a constituent of three members of Congress, one representative and two senators. Gibson advises to always begin any advocacy effort with these members. It can also be a matter of courtesy to keep your members informed about your efforts. That courtesy is a part of the second personal tool of reputation. The author stresses the importance of cultivating and preserving a reputation for honesty and fairness.

The intellectual tools detailed include setting clear, achievable, timely goals. The quality of your ideas and the facts and arguments you plan to use in your efforts are also reviewed in these chapters. Environmental tools are comprised of reading political signals and using them to your advantage, recruiting allies to your cause and identifying a member or members who can act as the champion for your issue. Contained in Gibson's list of practical tools are money, grassroots, grasstops and the Internet. Money refers to campaign contributions. While acknowledging that it costs a great deal of money to run for office, Gibson

warns contributors not to look to money as a means to an end. Rather, he suggests looking at campaign contributions as "one of a number of ways of building a long-term relationship with a member." Grassroots refers to a group or groups of average people who can collectively bring pressure to bear on Congress. The less familiar term of "grasstops" refers to influence brought by CEOs and other VIPs. Both grassroots and grasstops efforts can be difficult to activate and may have limited utility depending on the issue. The Internet can also be a powerful practical tool, but has its shortcomings. As Gibson observes, "Posting something on the Internet does not mean anybody gets your message."

Opportunities to use these tools to influence Congress can be focused in several ways, most namely, in meetings with members and then at specific points during the legislative process. Hearings, markups, floor consideration, conference committees, crisis situations—these are all opportunities to attempt to exert influence or affect the outcome. Gibson reinforces an ongoing theme in addressing these opportunities: that the ability of an individual or organization to wield influence depends largely on the relationships that have been cultivated with members and staff.

The final section of the guide is titled Long-Term Considerations. Here Gibson speaks to patience, intensity, courage and understanding. Passing laws is a long and complicated process. As the author recommends, "You must remember that it is a marathon, not a sprint."

Throughout the guide, Gibson advises consultation with an experienced lobbyist or lobbyists to craft an approach and guide you during the process. Interacting with Congress can be complicated. Gaining an understanding of the basics from a book like "Persuading Congress" is just the beginning. Any serious effort to lobby Congress should involve professional lobbyists.

Gibson occasionally illustrates certain points with specific examples that may not always be information rich for the sake of brevity. Having access to the Internet will prove helpful when you want to get more information about referenced legislative action or news stories. Overall, he has created a straightforward guide about effective interaction with Congress and its members. It is accurate and diplomatic in its approach, a refreshingly candid treatment of a complex and nuanced subject. GBJ

George W. "Buddy" Darden is senior counsel for McKenna Long & Aldridge LLP in Atlanta. His concentration is public policy, public finance and litigation. He he chairs the Judicial Advisory Panel for the Georgia Democratic Congressional Delegation and served as chair of the Judicial Nomination Commission for former Gov. Roy Barnes. Prior to joining McKenna Long & Aldridge, Darden represented Georgia's Seventh Congressional District in the U.S. House of Representatives for six terms from 1983 until 1994. He received his B.A. and J.D. from the University of Georgia. Before his election to Congress, Darden was a member of the Georgia General Assembly and served as district attorney of the Cobb Judicial Circuit.

Murphy House Project

The Murphy Family
all 24 of them!!!

The new house in Henry County, complete with adaptive therapy and safety features

The Murphys just celebrated a one-year anniversary in their new home and to help celebrate, the Murphy House Project joins the Keenan's Kids Foundation in hosting upcoming 2010 events geared toward child safety awareness and fundraising. We welcome all our friends and supporters throughout Georgia to get involved!

MORE HELP & SUPPORT NEEDED!

Donations today help pay off the house tomorrow and provide support for the Project and Foundation into the future — protecting the kids and this new state-of-the-art home! Fundraising efforts continue to work toward achieving our goal of $400,000. Every donation helps, from $5 to $50 to $500!

Become a volunteer, attend one of our exciting upcoming events or find out what other opportunities exist to get involved today!

keenan's kids foundation

www.murphyhouseproject.com

October-December

OCT 14-15
ICLE
Eleventh Circuit Appellate Practice Institute
Atlanta, Ga.
See www.iclega.org for location
12 CLE Hours

OCT 14-15
The Seminar Group
7th Annual Labor & Employment Law
Atlanta, Ga.
12 CLE Hours

OCT 15
ICLE
Lawson Lectures
Atlanta, Ga.
See www.iclega.org for location
6 CLE

OCT 20
ICLE
Beginning Lawyers – Replay
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

OCT 20
ICLE
Family Law
Augusta, Ga.
See www.iclega.org for location
6 CLE Hours

OCT 21
ICLE
Federal Criminal Practice
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

OCT 21
ICLE
Premises Liability
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

OCT 22
ICLE
Mortgage Meltdown Crisis
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

OCT 22
ICLE
Technology Law Institute
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

OCT 22
NBI, Inc.
Fall 2010 Elder Care Matters Symposium
Atlanta, Ga.
2 CLE Hours

OCT 22-23
ICLE
Business Law Institute
Pine Mountain, Ga.
See www.iclega.org for location
8 CLE Hours

OCT 28
ICLE
How to Take Control of Your Practice
Atlanta, Ga.
See www.iclega.org for location
4 CLE Hours

OCT 28-29
ICLE
Consumer & Business Bankruptcy
Greensboro, Ga.
See www.iclega.org for location
9 CLE Hours

OCT 29
ICLE
Auto Insurance Law
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

OCT 29
ICLE
U.S. Supreme Court Update
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

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

OCT 29
ICLE
Securities Litigation
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

OCT 29
ICLE
Entertainment Law Institute
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

OCT 29
NBI, Inc.
What Civil Court Judges Want You to Know
Atlanta, Ga.
6 CLE Hours

NOV 3
NBI, Inc.
Nuts and Bolts of Collection Law
Atlanta, Ga.
6 CLE Hours

NOV 3
NBI, Inc.
Advanced Issues in Real Estate Law
Atlanta, Ga.
6 CLE Hours

NOV 3
American Arbitration Association
The Employment and Labor Arbitrator Code
Atlanta, Ga.
2 CLE Hours

NOV 3-4
ICLE
Trial Evidence
Atlanta, Ga.
See www.iclega.org for location
12 CLE Hours

NOV 3-5
National Association of Criminal Defense Lawyers
Confronting the Mob Mentality – Defending Sexual Assault Cases
Savannah, Ga.
14 CLE Hours

NOV 4
ICLE
Nuts & Bolts of Labor Employment Law
Savannah, Ga.
See www.iclega.org for location
3 CLE Hours

NOV 4-6
ICLE
Medical Malpractice Institute
Amelia Island, Fla.
See www.iclega.org for location
12 CLE Hours

NOV 4-8
ICLE
Entertainment, Sports & Intellectual Property Law Institute
Guanacaste, Costa Rica
See www.iclega.org for location
12 CLE Hours

NOV 5
ICLE
Common Carrier
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

NOV 5
ICLE
Keep it Simple
Statewide Live Broadcast
See www.iclega.org for locations
6 CLE Hours

NOV 6-13
ICLE
Advanced Urgent Legal Matters
Carnival Dream Cruise
See www.iclega.org for location
12 CLE Hours

NOV 8-9
Practicing Law Institute
Patent Litigation 2010
Atlanta, Ga.
12 CLE Hours

NOV 10
ICLE
Buying & Selling Privately Held Businesses
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

October-December

NOV 11
ICLE
Commercial Real Estate
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

NOV 11
ICLE
Keep it Simple
Statewide Rebroadcast
See www.iclega.org for locations
6 CLE Hours

NOV 12
ICLE
Immigration Removal Law
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

NOV 12
ICLE
Milich on Georgia Evidence
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

NOV 12
ICLE
Real Property Foreclosure Law
Statewide Live Broadcast
See www.iclega.org for locations
6 CLE Hours

NOV 15
Atlanta Tax Forum, Inc.
Partnership Update
Atlanta, Ga.
1 CLE Hour

NOV 18
ICLE
Revisiting Younger's Ten Commandments
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

NOV 18
ICLE
Real Property Foreclosure Law
Statewide Live Rebroadcast
See www.iclega.org for locations
6 CLE Hours

NOV 18
Lorman Education Services
Unemployment Insurance 101
Atlanta, Ga.
6.7 CLE Hours

NOV 18
NBI, Inc.
Intro to Zoning and Land Use Litigation
Atlanta, Ga.
6 CLE Hours

NOV 19
ICLE
Business Organization Litigation
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

NOV 19
ICLE
Recent Developments
Statewide Live Broadcast
See www.iclega.org for locations
6 CLE Hours

NOV 30
ICLE
Convocation on Professionalism
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

DEC 2
ICLE
Trust Code
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

DEC 2
ICLE
Recent Developments
Statewide Rebroadcast
See www.iclega.org for locations
6 CLE Hours

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

DEC 2
ICLE
Georgia Economic Development
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

DEC 2
American Arbitration Association
Chairing an Arbitration Panel
Atlanta, Ga.
2 CLE Hours

DEC 2-3
ICLE
Defense of Drinking Drivers Institute
Atlanta, Ga.
See www.iclega.org for location
13.5 CLE Hours

DEC 3
ICLE
Antitrust Law Basics
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

DEC 3
ICLE
Matrimonial Law TP Workshop
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

DEC 3
ICLE
Professionalism, Ethics & Malpractice
Statewide Live Broadcast
See www.iclega.org for locations
3 CLE Hours

DEC 6
NBI, Inc.
Top Title Defects – Cured
Atlanta, Ga.
6 CLE Hours

DEC 7
NBI, Inc.
Divorce Law Guide from A to Z
Atlanta, Ga.
6 CLE Hours

DEC 9-10
ICLE
Corporate Counsel Institute
Atlanta, Ga.
See www.iclega.org for location
12 CLE Hours

DEC 9
ICLE
Trial Evidence
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

DEC 9
ICLE
Labor & Employment Law
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

DEC 9
ICLE
Professionalism, Ethics & Malpractice
Statewide Rebroadcast
See www.iclega.org for locations
3 CLE Hours

DEC 9
ICLE
Georgia Law Update
Augusta, Ga.
See www.iclega.org for location
6 CLE Hours

DEC 9
NBI, Inc.
Truck Accident Litigation from Start to Finish
Atlanta, Ga.
6 CLE Hours

DEC 10
ICLE
Dispute Resolution Institute and Neutrals' Conference
Atlanta, Ga.
See www.iclega.org for location
6 CLE Hours

Notice of Motion to Amend the Rules and Regulations of the State Bar of Georgia

No earlier than 30 days after the publication of this Notice, the State Bar of Georgia will file a Motion to Amend the Rules and Regulations for the Organization and Government of the State Bar of Georgia pursuant to Part V, Chapter 1 of said Rules, *2009-2010 State Bar of Georgia Directory and Handbook,* p. H-6 to H-7 (hereinafter referred to as "*Handbook*").

I hereby certify that the following is the verbatim text of the proposed amendments as approved by the Board of Governors of the State Bar of Georgia. Any member of the State Bar of Georgia who desires to object to these proposed amendments to the Rules is reminded that he or she may only do so in the manner provided by Rule 5-102, *Handbook*, p. H-6.

This Statement, and the following verbatim text, are intended to comply with the notice requirements of Rule 5-101, *Handbook*, p. H-6.

Cliff Brashier
Executive Director
State Bar of Georgia

IN THE SUPREME COURT
STATE OF GEORGIA

IN RE: STATE BAR OF GEORGIA
Rules and Regulations for its Organization and Government

MOTION TO AMEND 2010-1
MOTION TO AMEND THE RULES AND REGULATIONS OF THE STATE BAR OF GEORGIA

COMES NOW, the State Bar of Georgia, pursuant to the authorization and direction of its Board of Governors, and upon the concurrence of its Executive Committee, and presents to this Court its Motion to Amend the Rules and Regulations of the State Bar of Georgia as set forth in an Order of this Court dated December 6, 1963 (219 Ga. 873), as amended by subsequent Orders, and published at *2009-2010 State Bar of Georgia Directory and Handbook,* pp. 1-H, *et seq.,* The State Bar respectfully moves that the Rules and Regulations of the State Bar of Georgia be amended in the following respects:

I.

Proposed Amendments to Part I, Creation and Organization, of the Rules of the State Bar of Georgia

It is proposed that Rule 1-202(d) of Part I of the Rules of the State Bar of Georgia regarding Emeritus Members be amended by deleting the struck-through sections and inserting the sections underlined and italicized as follows:

Rule 1-202. Classes of Members.

.....

(d) **Emeritus Members.** Any member in good standing of the State Bar of Georgia who shall have attained the age of 70 years and who shall have been admitted to the practice of law ~~in the State of Georgia~~ for *at least* 25 years, *5 years of which must be as a member in good standing of the State Bar of Georgia,* may retire from the State Bar upon petition to and approval by the ~~Executive Committee~~ *Membership Department*. Such a retired member shall hold emeritus status. An emeritus member of the State Bar shall not be required to pay dues or annual fees. An emeritus member of the State Bar shall not be privileged to

practice law except that an emeritus member may handle pro bono cases referred by either an organized pro bono program recognized by the Pro Bono Project of the State Bar or a non-profit corporation that delivers legal services to the poor. An emeritus member may be reinstated to active or inactive membership upon application to the ~~Executive Director~~ *Membership Department* and payment of non-prorated dues for the year in which the emeritus members returns to active or inactive service.

If the proposed amendments to the Rule are adopted, the new Rule 1-202(d) would read as follows:

Rule 1-202. Classes of Members.

.....

(d) **Emeritus Members**. Any member in good standing of the State Bar of Georgia who shall have attained the age of 70 years and who shall have been admitted to the practice of law for at least 25 years, 5 years of which must be as a member in good standing of the State Bar of Georgia, may retire from the State Bar upon petition to and approval by the Membership Department. Such a retired member shall hold emeritus status. An emeritus member of the State Bar shall not be required to pay dues or annual fees. An emeritus member of the State Bar shall not be privileged to practice law except that an emeritus member may handle pro bono cases referred by either an organized pro bono program recognized by the Pro Bono Project of the State Bar or a non-profit corporation that delivers legal services to the poor. An emeritus member may be reinstated to active or inactive membership upon application to the Membership Department and payment of non-prorated dues for the year in which the emeritus members returns to active or inactive service.

SO MOVED, this _____ day of _____, 2010

Counsel for the State Bar of Georgia

_____

Robert E. McCormack
Deputy General Counsel
State Bar No. 485375

OFFICE OF THE GENERAL COUNSEL
State Bar of Georgia
104 Marietta Street NW, Suite 100
Atlanta, Georgia 30303
404-527-8720

Proposed Amendments to Uniform Superior Court Rules 4, 6, 16, 17, 39 and Proposed New Rules 47 and 48

At its business meeting on July 29, 2010, the Council of Superior Court Judges approved proposed amendments to Uniform Superior Court Rules 4, 6, 16, 17, 39 (including proposed new sentencing forms) and proposed new Rules 47 and 48. A copy of the proposed amendments may be found at the council's website at www.cscj.org. Should you have any comments on the proposed changes, please submit them in writing to the Council of Superior Court Judges at 18 Capitol Square, Suite 104, Atlanta, GA 30334 or fax them to 404-651-8626. To be considered, comments must be received by Friday, Dec. 31, 2010.

Postage Statement

United States Postal Service

Statement of Ownership, Management, and Circulation

1. Publication Title	2. Publication Number	3. Filing Date
Georgia Bar Journal	0217 _ 560	Sept. 21, 2010
4. Issue Frequency	5. Number of Issues Published Annually	6. Annual Subscription Price
Bimonthly	7	$36

7. Complete Mailing Address of Known Office of Publication (Not printer) (Street, city, county, state, and ZIP+4) — Contact Person: Sarah Coole; Telephone: 404-527-8791
State Bar of Georgia Communications Department
104 Marietta St. NW, Suite 100, Atlanta, Fulton Co., GA 30303-2743

8. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer)
State Bar of Georgia
104 Marietta St. NW, Suite 100, Atlanta, Fulton Co., GA 30303-2743

9. Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor (Do not leave blank)
Publisher (Name and complete mailing address)
State Bar of Georgia
104 Marietta St. NW, Suite 100, Atlanta, Fulton Co., GA 30303-2743
Editor (Name and complete mailing address)
Robert R. Stubbs
1175 Peachtree Street NE, 100 Colony Square, Suite 1650
Atlanta, GA 30361
Managing Editor (Name and complete mailing address)
Sarah Coole, Director of Communications
State Bar of Georgia
104 Marietta St. NW, Suite 100, Atlanta, Fulton Co., GA 30303-2743

10. Owner (Do not leave blank. If the publication is owned by a corporation, give the name and address of the corporation immediately followed by the names and addresses of all stockholders owning or holding 1 percent or more of the total amount of stock. If not owned by a corporation, give the names and addresses of the individual owners. If owned by a partnership or other unincorporated firm, give its name and address as well as those of each individual owner. If the publication is published by a nonprofit organization, give its name and address.)

Full Name	Complete Mailing Address
State Bar of Georgia	104 Marietta St. NW, Ste. 100
	Atlanta, GA 30303-2743

11. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check box → ☑ None

Full Name	Complete Mailing Address

12. Tax Status (For completion by nonprofit organizations authorized to mail at nonprofit rates) (Check one)
The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes:
☐ Has Not Changed During Preceding 12 Months
☐ Has Changed During Preceding 12 Months (Publisher must submit explanation of change with this statement)

PS Form **3526**, October 1999 (See Instructions on Reverse)

13. Publication Title: Georgia Bar Journal	14. Issue Date for Circulation Data Below: August 2010	
15. Extent and Nature of Circulation	Average No. Copies Each Issue During Preceding 12 Months	No. Copies of Single Issue Published Nearest to Filing Date
a. Total Number of Copies (Net press run)	31,521	35,500
b. Paid and/or Requested Circulation (1) Paid/Requested Outside-County Mail Subscriptions Stated on Form 3541. (Include advertiser's proof and exchange copies)	30,190	35,066
(2) Paid In-County Subscriptions Stated on Form 3541 (Include advertiser's proof and exchange copies)	0	0
(3) Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Non-USPS Paid Distribution	0	0
(4) Other Classes Mailed Through the USPS		
c. Total Paid and/or Requested Circulation (Sum of 15b. (1), (2),(3),and (4))	30,190	35,066
d. Free Distribution by Mail (Samples, complimentary, and other free) (1) Outside-County as Stated on Form 3541	0	0
(2) In-County as Stated on Form 3541	0	0
(3) Other Classes Mailed Through the USPS	184	182
e. Free Distribution Outside the Mail (Carriers or other means)	95	100
f. Total Free Distribution (Sum of 15d. and 15e.)	259	282
g. Total Distribution (Sum of 15c. and 15f)	30,449	35,348
h. Copies not Distributed	302	347
i. Total (Sum of 15g. and h.)	30,751	35,695
j. Percent Paid and/or Requested Circulation (15c. divided by 15g. times 100)	99.1	99.2

16. Publication of Statement of Ownership
☑ Publication required. Will be printed in the October 2010 issue of this publication. ☐ Publication not required.

17. Signature and Title of Editor, Publisher, Business Manager, or Owner: Director of Communications — Date: Sept. 23, 2010

I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).

Instructions to Publishers

1. Complete and file one copy of this form with your postmaster annually on or before October 1. Keep a copy of the completed form for your records.
2. In cases where the stockholder or security holder is a trustee, include in items 10 and 11 the name of the person or corporation for whom the trustee is acting. Also include the names and addresses of individuals who are stockholders who own or hold 1 percent or more of the total amount of bonds, mortgages, or other securities of the publishing corporation. In item 11, if none, check the box. Use blank sheets if more space is required.
3. Be sure to furnish all circulation information called for in item 15. Free circulation must be shown in items 15d, e, and f.
4. Item 15h., Copies not Distributed, must include (1) newsstand copies originally stated on Form 3541, and returned to the publisher, (2) estimated returns from news agents, and (3), copies for office use, leftovers, spoiled, and all other copies not distributed.
5. If the publication had Periodicals authorization as a general or requester publication, this Statement of Ownership, Management, and Circulation must be published; it must be printed in any issue in October or, if the publication is not published during October, the first issue printed after October.
6. In item 16, indicate the date of the issue in which this Statement of Ownership will be published.
7. Item 17 must be signed.

Failure to file or publish a statement of ownership may lead to suspension of Periodicals authorization.

PS Form **3526**, October 1999 (Reverse)

Update Your Member Information

Keep your information up-to-date with the Bar's membership department. Please check your information using the Bar's Online Membership Directory. Member information can be updated 24 hours a day by logging on to the Members Only area at www.gabar.org.

Books/Office Furniture & Equipment

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

Property/Rentals/Office Space

Office available in existing firm. Great location, great atmosphere. I-85 at N. Druid Hills in the Druid Chase complex. Large office features wall of windows overlooking trees. Practice with experienced attorneys, free parking, conference space, receptionist. Below market. Call 404-321-7733.

Dunwoody law building for sale or lease. Beautifully furnished law building for sale or lease including: 4,400 to 5,000 square feet of furnished office space; two spacious conference rooms; law library; two private entrances and reception areas; free parking adjacent to building; two file/work rooms; storage room; break room adjacent to kitchen; security system. This brick law building, overlooking a pond, is in a great location directly across the street from the North Springs MARTA Station; easy access to I-285 and GA 400; and close to Perimeter shopping, hotels, restaurants, hospitals, etc. Call 770-396-3200 x24 for more information.

Practice Assistance

Appeals, Briefs—Motions, Appellate & Trial Courts, State, Civil & Criminal Cases, Post Sentence Remedies. Georgia brief writer & researcher. Reasonable rates. 30+ years experience. Curtis R. Richardson, attorney; 404-377-7760 or 404-643-4554; fax 404-377-7220; e-mail: curtisr1660@bellsouth.net. References upon request.

Mining Engineering Experts. Extensive expert witness experience in all areas of mining — surface and underground mines, quarries etc. Accident investigation, injuries, wrongful death, mine construction, haulage/trucking/rail, agreement disputes, product liability, mineral property management, asset and mineral appraisals for estate and tax purposes. Joyce Associates 540-989-5727.

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

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

Experienced Appellate Attorney. (former U.S. Attorney's Office appellate chief, 400+ appellate briefs) available to assist with federal appeals and to provide legal research and writing support. Excellent quality work, fast service. Please contact Amy Lee Copeland at amy.lee.copeland@federalappeals.pro or 912-544-0910.

"Suing a defendant in a foreign country?" Let our staff attorney help you bring a foreign defendant into your court. Free consultation and quote for service. Visit us at www.AncillaryLegal.com.

Position Wanted

Unique opportunity to join newly forming Law Firm in Peachtree City, Ga. Professionally staffed, beautiful facility, excellent location, Abacus Law software. Call in confidence: 770-354-7676.

Axiom, a modern alternative to the traditional law firm, is changing the way attorneys work and offering corporations a new way to work with them. Axiom offers attorneys sophisticated work and a more self-directed practice. We are seeking highly skilled attorneys to help us open our Atlanta office. To find out more, go to www.axiomlaw.com.

Attorney with 17 years experience in the PI and Workers' Comp fields is seeking an association on a full-time/contract-fee-sharing basis in the Greater Atlanta area. Please respond to e-mail: law0097@yahoo.com.

Insurance defense attorney in Macon. Government Employees Insurance Company (GEICO) seeks an attorney with substantial civil litigation experience in the personal injury area, preferably in insurance defense. Applicants must have Georgia Bar membership. The successful candidate will manage a one attorney/one support staff office, which will defend GEICO insured's in third party cases and GEICO in first party cases in the Macon, Ga., area. The office will also handle subrogation cases for GEICO. EOE/M/F. Send cover letter, resume, and salary requirement to James Peelman at JPeelman@Geico.com or by fax to 301-986-3001.

Insurance defense attorney in Augusta. Government Employees Insurance Company (GEICO) seeks an attorney with substantial civil litigation experience in the personal injury area, preferably in insurance defense. Applicants must have Georgia Bar membership. The successful candidate will manage a one attorney/one support staff office, which will defend GEICO insured's in third party cases and GEICO in first party cases in the Augusta, Ga.. area. The office will also handle subrogation cases for GEICO. EOE/M/F. Send cover letter, resume and salary requirement to James Peelman at JPeelman@Geico.com or by fax to 301-986-3001.

Insurance defense attorney in Savannah. Government Employees Insurance Company (GEICO) seeks an attorney with substantial civil litigation experience in the personal injury area, preferably in insurance defense. Applicants must have Georgia Bar membership. The successful candidate will manage a one attorney/one support staff office, which will defend GEICO insured's in third party cases and GEICO in first party cases in the Savannah, Ga., area. The office will also handle subrogation cases for GEICO. EOE/M/F. Send cover letter, resume and salary requirement to James Peelman at JPeelman@Geico.com or by fax to 301-986-3001.

CLE Opportunity

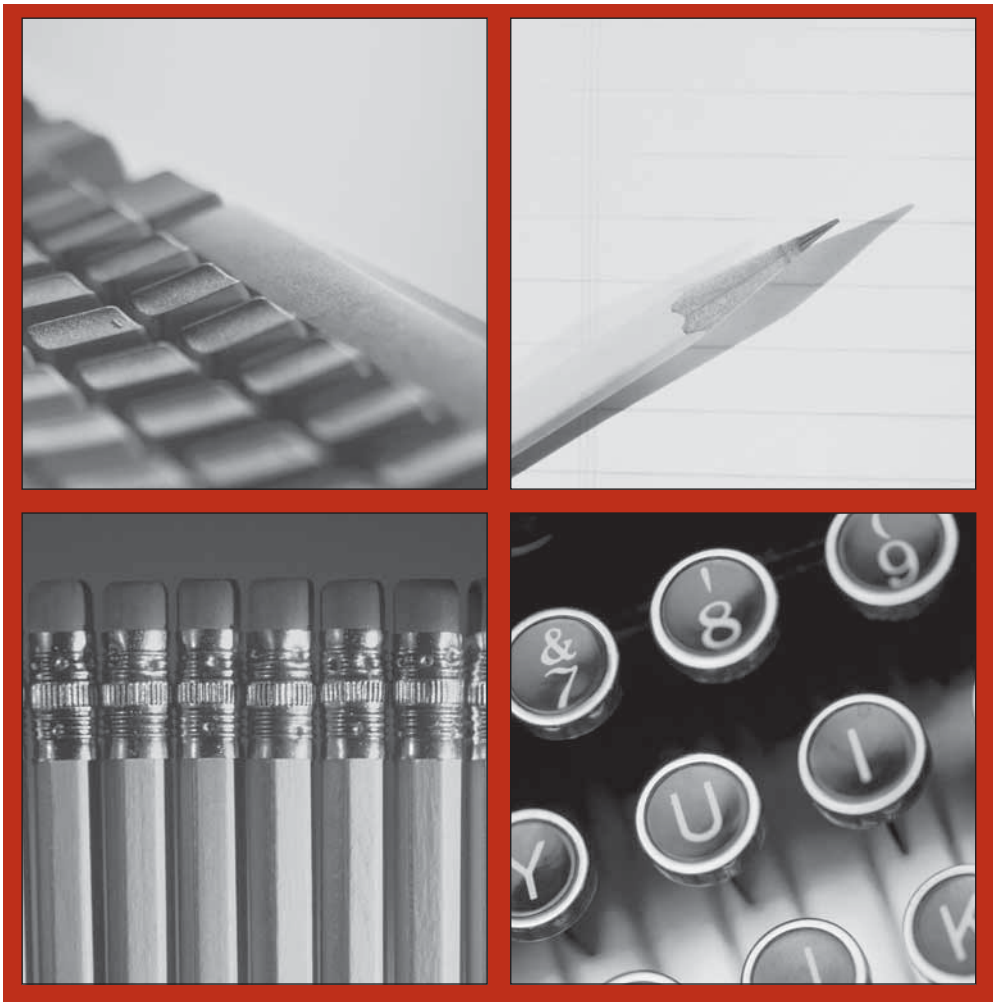
Free CLE "Suing a defendant in a foreign country." One-hour approved (trial credit) workshop presented at your firm. (Additional 2 hour workshop with the purchase of course materials.) Visit us at www.AncillaryLegal.com.

Direct Mail

Use Direct Mail to Connect with Clients. Legal Notice Registry (est. 2003) will help you find bankruptcy cases quickly and easily, so you can concentrate on servicing client needs. Subscribe to our Microsoft Word/Avery label compatible **mailing lists delivered direct to your inbox each week**. Now accepting orders for lists covering Gwinnett, Fulton, DeKalb, Richmond and Cobb counties. Contact us for other counties or custom solutions. 301-650-9000 x605. **Michael@legalnotice.org**.

Advertisers Index

GET PUBLISHED



EARN CLE CREDIT

The Editorial Board of the *Georgia Bar Journal* is in regular need of scholarly legal articles to print in the *Journal*. Earn CLE credit, see your name in print and help the legal community by submitting an article today!*

Submit articles to Sarah I. Coole, Director of Communications,
104 Marietta St. NW, Suite 100, Atlanta, GA 30303 or sarahc@gabar.org.
If you have additional questions, you may call 404-527-8791.

**Not all submitted articles are deemed appropriate for the* Journal.
The Editorial Board will review all submissions and decide on publication.

WestlawNext™

One reason WestlawNext™ helps you get more done is that it's powered by our new search engine – WestSearch™, which leverages the Key Number System and other West assets to streamline the search process. In fact, it helps **reduce your research time by up to 64 percent,** while still assuring that you haven't missed anything important. Hear what Brent and other customers are saying – and see details of the efficiency study yourself – at **WestlawNext.com**.

THOMSON REUTERS™