

# GEORGIA BAR Journal

JUNE 2000 • VOL. 5 NO. 6



## PRO BONO: LENDING A HELPING HAND

LEGISLATIVE WRAP-UP • SPRING MTG. • NEW CIVIL CASE FINDINGS FORM

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# GEORGIA BAR Journal

JUNE 2000 • Vol. 5 No. 6

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**On the Cover:** *This issue is dedicated to lawyers — like Atticus Finch — who ensure access to justice for all regardless of socio-economic status.*

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Layout and Design by Lenz Design & Communications, Inc. 119 E. Court Sq. #201, Decatur, Georgia

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## PUBLISHER'S STATEMENT

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The *Georgia Bar Journal* (SSN-1085-1437) is published six times per year (bi-monthly) by the State Bar of Georgia, 800 The Hurt Building, 50 Hurt Plaza, Atlanta, Georgia 30303-2934. © State Bar of Georgia 2000. 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. 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.

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# GEORGIA BAR Journal

JUNE 2000 VOL. 5 NO. 6

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# REMEMBERING THE LAW IS A PROFESSION



By Rudolph N. Patterson

As the practice of law continues to evolve, we must not lose sight of the needs of those less fortunate. This issue of the *Journal* focuses on the importance of preserving access to justice for all Americans regardless of socioeconomic status. I can only wonder how the underprivileged will fare should we as lawyers open our doors to multi-disciplinary practice, side-by-side practice or whatever arrangement that might be adopted that puts “the business of law” — which is largely motivated by monetary gain — ahead of “the profession of law.”

It may be that Judge William Wilson from the U.S. District Court of Arkansas explained it best in the last issue of the *Georgia Bar Journal*:

The citizens of this country put their property, their livelihood, their hopes, their dreams and sometimes their freedom and even their lives in the hands of these stalwart lawyers.

I do not believe it is farfetched to say that these lawyers are, indeed the trustees of liberty. But this is so only if we look beyond the mechanics of drafting a will, drawing a complaint, putting the witness on the stand, and the like. We must, among other things, steep ourselves

in the history of our Constitution, especially the Bill of Rights and most of the other amendments. I believe that it was Learned Hand, the great jurist of two generations ago, who wrote something to the effect that we will not have our rights and privileges in America because our Constitution is written on a certain type of parchment, and preserved carefully at our nation’s capital. We will have these rights and liberties only as long as they exist in the hearts and minds of the people.

Is the financial gain in becoming a “one stop shopping law firm” a short term step towards achieving financial success at the expense of the profession known as the practice of law? Is it the opportunity to exchange financial gain for the privileges we take for granted that now come with the practice of law? Does the majority of the public really want to give up their long standing legal rights, which have been created by common law and professional regulation — *i.e.*, confidentiality, attorney-client privilege, absolute loyalty to the client as long as the cause is ethical? Will lawyers be supervised and controlled by non-lawyers? Will multi-disciplinary or side-by-side advocates try to limit this type of practice to the financial world? If the practice of law is in fact to become a business effort only, should the personal injury lawyer, malpractice lawyer, family lawyer, bankruptcy lawyer, real estate lawyer and all other lawyers in active practice be allowed to seek out non-attorney “partners” who can increase

the bottom line? Should the object of the practice of law be to let everyone make more money with “one stop shopping”? Have we served the public by allowing the practice of law to become only a piece of the business world? If we sacrifice our clients’ legal rights for the sake of a multi-disciplinary or side-by-side practice, what have we done to future generations of Americans?

If we adopt the concept of law as a business and forfeit the privileges that make it a profession, will we still believe that all citizens should have access to the judicial system? Will we still donate our time to pro bono service to make that access a reality?

I wish Bibb Superior Court Judge Oscar Long, who swore me in as a lawyer in 1962, was still alive. Maybe he could analyze these problems and explain how they compare to the ideas he shared with us at the swearing-in ceremony:

The practice of law is a privilege and a jealous mistress. Total loyalty to a client is demanded and it is not your option to decide the guilt or innocence of your client. If the Lord will protect you from your friends and relatives you can handle your enemies.

The practice of law is a privileged profession. It is not a business. If you want to make a lot of money go into business rather than be a practicing attorney.

Keep your hands off your client’s money.

Would Judge Long’s charge and explanation be any different today?

I hope that as each of us studies and advocates our respective side of these issues we will remember what Judge Long said and Benjamin Franklin meant when he said: “They that can give up an essential liberty to obtain a little temporary safety, deserve neither liberty nor safety.” ☒

# EMERITUS MEMBERS KEEP SERVING THROUGH PRO BONO



By Cliff Brashier

**T**he State Bar has a membership class known as “emeritus.” It is an honorary, retirement status for members who are at least 70 years old and have been admitted to the practice of law in Georgia for 25 or more years. Those

members pay no dues and have no CLE requirements, but they may not practice law while in that status.

Harold Russell, a friend and mentor to me, called several years ago to suggest that the practice prohibition in the emeritus rule kept him and other emeritus members from continuing their commitment to handling pro bono cases. He was, as usual, correct. Today, the emeritus membership rule contains an important exception to allow pro bono service by retired attorneys.

A few years later, in 1997, Harold Russell passed away after a long, distinguished legal career. But

“his” amendment to the emeritus rule and his commitment to pro bono service live on to inspire all of us to enrich our professional lives by making our system of justice available to all.

To the thousands of Georgia lawyers, both past and present, who honor us all through their pro bono service, their character, dedication, and highest standards of professionalism, the State Bar of Georgia proudly expresses its thanks and gratitude.

Your comments regarding my column are welcome. If you have suggestions or information to share, please call me. Also, the State Bar of Georgia serves you and the public. Your ideas about how we can enhance that service are always appreciated. My telephone numbers are (800) 334-6865 (toll free), (404) 527-8755 (direct dial), (404) 527-8717 (fax), and (770) 988-8080 (home). ☒

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# Our Duty and Responsibility

By Gov. Roy E. Barnes

**A**t one time the practice of law was not a right but a matter of grace of the sovereign. In accepting that grace, lawyers accepted a duty to represent, for free if necessary, people who could not afford their services.

Somehow in modern life we have forgotten this basic premise. Very few law school graduates today have decided to represent poor people in landlord-tenant cases or Social Security claims or to practice criminal law. The reasons are many: the pay is low, the hours are long, the clients are far from glamorous. With some large Atlanta firms paying \$100,000 plus for securities, tax, corporate and intellectual property associates, who in their right mind would want to represent someone being kicked out of their apartment or a criminal who is odds on guilty anyway?

Well, the answer is we all have a duty to represent them.



Our legal system is one of the main reasons for our greatness as a nation. But the cold hard reality is that far too many people face the possibility of an unjust outcome because they must attempt to navigate an often complicated legal system without the benefit of competent counsel.

Why? Because competent lawyers engaged in the corporate practice don't want to get involved. They don't have time. They have too many hours to bill. They have ever-increasing bills to pay. It wouldn't help their reputation. It might hurt their career.

None of those reasons are new.

Twenty-six years ago a young African-American man stood in the middle of the road and stopped a car driven by a 17-year-old white girl, the daughter of a Steward of the local Methodist Church. The young man had never been in trouble before, but he was arrested and charged with rape. He confessed on the spot and again at the police station after signing every waiver of rights known to man.

Judge Luther Hames, a tough-minded former district attorney, appointed a young lawyer who had just left the DA's office to defend the young black man charged with rape.

When the young lawyer found out about his appointment, he went to see the judge. He had left his job as a prosecutor to run for office, he explained, and he was in the middle of his first campaign. It wasn't good politics, the young lawyer said, to defend a rapist, especially a black one, in the middle of an election. And, he told the judge, he's guilty anyway.

Judge Hames slowly rose from behind his desk and told that lawyer that the defendant might be guilty, and the next hundred after him might be guilty. But there was

someone out there he would represent one day who would be innocent. And if he prejudged them all, then he would never be able to tell the difference. Judge Hames then

reminded him that the system of justice which separates us from lawless societies only works when everyone receives competent representation.

Finally, in a near-fatal blow to the young lawyer's self-confidence and self-esteem, Judge Hames told him that perhaps he should reconsider whether he really wanted to be a lawyer or not.

I was that young lawyer, and I represented that young man. He went to the penitentiary, and his mother wept in my arms at the conclusion of the case.

There are not enough judges like Luther Hames, who expect every lawyer to do his duty without excuses — to protect the helpless and represent even the guilty, not to pervert justice, but to guarantee it.

This issue of the *Georgia Bar Journal* is filled with examples of lawyers who have dedicated their lives to helping those who do not have a voice in our society. We

should study the example they set carefully and use this as an opportunity to reflect on whether we have met the obligations of a lawyer.

Every lawyer has certain duties that are the price you must pay for the grace to practice this glorious profession:

You must speak when others remain silent.

You must demand fairness when others seek expediency.

You must confront injustice when others seek comfort.

You must question when others seek silence.

This is what it means to be a lawyer. ☒

Photo by Richard T. Bryant



**Far too many people face the possibility of an unjust outcome because they must attempt to navigate an often complicated legal system without the benefit of competent counsel.**

Roy E. Barnes is Governor of Georgia.

# Chief Justice Robert Benham's Commitment to Serving the Community

*Editor's Note: When interviewed for this issue, Chief Justice Benham added enthusiastically, "I am very pleased to see the official publication of our State Bar dedicating an entire issue to pro bono service. I thank the Editor-in-Chief and Associate Editors for their vision and am grateful to the authors for their participation. At this time of rapidly escalating attorney starting salaries and in the midst of the lateral hiring phenomenon, it is essential that we lawyers remain true to the commitments that make our profession so special: we help neighbors in need and make equal access to the civil and criminal justice systems more than a worthy aspiration."*

Since his appointment to the Court of Appeals by Governor Joe Frank Harris in April of 1984, the Honorable Robert Benham has constantly and consistently reminded the legal community of its responsibilities and opportunities in community service and service to the profession. After becoming Georgia's 26th Chief Justice in 1995, Chief Justice Benham, time after time, has returned to this familiar theme. In a law school commencement address not long after assuming leadership of the Court, Chief Justice Benham addressed certain priorities:

We could talk about the nuances of the law. We could talk about emerging issues in constitutional law. But I want to talk about something I think is a little more

important today, and it's interfacing with life, downloading some basic principles and going on-line with your own family. . . . So I want to talk to you about using the law to build up your community. I want to talk to you about community service, sacrifice, the role of the law and the relationship with your own family.

He concluded his remarks in the same vein: "So, on this Graduation Day as you prepare to become lawyers, I leave you with these words . . . of [a] poet, who said:

Do not live, just to make a living,  
Rather live to make a life.  
For the true measure of succeeding

Is the service you give in the strife.  
For all you'll have left when your soul crosses the bar,  
Is the good you have done for others  
As you journey near and far."

In April, 1996, The Chief Justice, on behalf of the Supreme Court, chose the occasion of the Court's 150<sup>th</sup> anniversary to present Amicus Curiae awards to distin-

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**I decided to encourage lawyers to become involved in community service because it will help not only to improve their community, but also it will help to improve the quality of their own life.**

**— Chief Justice Robert Benham**

guished members of the Bar. These community leaders were formally recognized by the Court, their peers, and the legal profession at a special ceremony during the Court's Sesquicentennial celebration. In connection with this presentation, Chief Justice Benham answered the following questions on community and professional service:

**Q. What prompted you to focus on encouraging lawyers and firms to engage in community service projects?**

**A.** As I was working with my son in my woodworking shop building birdhouses for Habit for Humanity, I realized how much enjoyment I get out of working with my son on community projects. As the saws were buzzing and the wood chips were flying and as the sawdust rose up from my son's sanding, I saw a birdhouse take form. As we worked, I reflected on my quarter of a century at the Bar. The legal profession has been good to my family, but life has been good to us too. It was then that I realized that I go to the Court to make a living, but I go to my woodworking shop to make a life.

So many young lawyers are spending countless hours honing their skills as lawyers and missing out on the joy

of being involved in community activities. They fail to realize that their profession, the law, was designed to improve the quality of life. Life was never designed to improve the law. With this thought in mind, I decided to encourage lawyers to become involved in community service because it will help not only to improve their community, but also it will help to improve the quality of their own life.



**Q. Who do you believe benefits most from volunteering within the community – the giver or the receiver?**

**A.** Not only does the community benefit from community service, the lawyers will also benefit in seeing the community improved; and they can have a real feeling of satisfaction in knowing that they played a meaningful part in the improvement.

The Chief Justice has been a frequent speaker at meetings of community groups. In one such appearance, the Chief Justice surprised some in attendance by stressing that, while careers are important, they are not as important as making a life and one's community better: "I'll share with you what is on my mother's tombstone — 'Blessed is she who serves her God, sacrifices for her family and shares with her neighbors.'"

To make not only the community but also oneself better, Chief Justice Benham urged those present to give back through charity and community programs such as working with children or in nursing homes.

In 1998, to encourage community service, Chief Justice Benham and the Chief Justice's Committee on

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**CONTINUED ON PAGE 76**

# Pro Bono 2000: A Bridge Over Troubled Waters

By W. Terence Walsh

Consider, if you will, a Rod Serlingesque extraordinary meeting of the law partnership, Bendini, Lambert & Locke.<sup>1</sup> While outside it was a sparkling spring Saturday morning and fine strands of filtered sunlight refracted off the morning dew, inside the prospect of uncharacteristic frugality hung heavy over the reluctant participants. The diplomatic managing partner opened the meeting with some innocuous reporting that served only to increase rampant anxiety about the central purpose of the meeting. "With all due respect, let's get on with it," advanced one partner. "We might as well start examining options in an effort to find out how the



heck we're going to pay for it," said another. By "it" was meant the absolutely unprecedented seismic explosion in associate compensation. While the epicenter of the quake was the Silicon Valley, its effect rippled inexorably eastward, exploding compensation levels in all legal communities in its path.

The managing partner, knowing that a significant hit to per partner income might relegate him to hostage status, began to throw out other possibilities. There followed an examination of the expense budget, the possibility of raising hourly rates, and other ways to broaden the revenue base. In the course of these discussions, the partnership unwittingly divided physically into three groups: the bean counters, the humanists, and "others." When the subject of reducing certain perks from the expense budget was raised, the first group, in a fashion akin to a Euripidian chorus of Johnny Cochran's, in unison said:

Someone else needs to pay;  
It's always the better way.

Later, the partners discussed raising hourly rates a second time in a 24-month period. Not surprisingly, the consensus was to conduct a new, anti-trust sensitive survey of selected firms' rates. Meanwhile, the bean counters opined with vehemence:

With our providential power  
We will goose the billable hours!  
Gotta jack the time  
To boost the bottom line.

As soon as the topic of bringing in new laterals was suggested — this prospect being rendered more remote due to the fact that there were few firms that Bendini had not previously victimized — the chorus responded:

Associate pain, we gain  
Let the partners be sustained!

As the humanists, first, and then the others were irritated by this rhythmic rhetoric, the managing partner, trying to restore a semblance of order, suggested, "Let's look at our inventory of business to see where we're spending our time. Maybe there are efficiencies to be gained there." After concluding that certain transactional work was not yielding the desired realization and that some contingency-basis litigation had been busts and were to be avoided in the future, the brooding group was startled by the excited utterance of the head bean counter, Lance deBoyle, whose vexing voice pierced the delibera-

tions: "I've got it! Look there, in the non-billable time keeping. In the aggregate, last year we devoted over five percent of our otherwise billable time to pro bono legal work. The value of that time approximates our projected revenue shortfall, so all we have to do is convert pro bono time to billable and our financial model regains momentum. We will have reduced a fiscal mountain to a mere bump in the road!"

Until then, the humanists had held back while the number crunchers had the floor. At this point, however, a mature, plainspoken partner, Atticus, known for his unconditional and compassionate dedication to numerous pro bono efforts, rose with dignity and said, "Our pro bono commitment is this law firm's soul, its essence. It always has been and, especially in times like this when our financial plan is sorely challenged, must be absolutely insulated from such pressures. Reducing service to our community and our profession cannot be an option." A significant number of partners concurred, creating a clear impasse. The managing partner appointed a committee to study the situation and report back immediately.

This article suggests that the current national climate in law office economics casts the above dynamics in high relief, thereby affording us an opportunity and, perhaps, the necessity to reconsider and reaffirm the "why" of pro bono service.<sup>2</sup>

## Why Do It?

I believe that, to be a complete lawyer, one must have a deep and abiding passion for justice. Isn't that why most of us went to law school in the first place? In private practice, this fervor must be tempered by one's billable workload. Yet, the fire is always burning. It is not an ephemeral commitment that one switches on and off. It can't be relegated to hypothetical but non-existent spare time. In my experience, poor people do not get arrested or dispossessed at convenient times. When the need presents itself, other professional and personal workloads are juggled in the pursuit of justice. For those of us in civil practice, constitutional issues involving life and death are infrequent visitors. In such a practice, it is easy to experience a full (*i.e.* totally consumed) life, but is it a fulfilled life? And, if not, where is fulfillment found?

### It is Invigorating and Satisfying.

Judge Harry Edwards, in a provocative article published almost 10 years ago, stated, "A person who deploys his or her doctrinal skill without concern for the public interest is merely a good legal technician — not a good lawyer."<sup>3</sup> It is in pro bono service that true enrichment of one's professional life occurs. As Will Rogers



said, “A man makes a living by what he gets — he makes a life by what he gives.”<sup>4</sup> Justice Oliver Wendell Holmes, speaking to some Harvard undergraduates about the legal profession after describing many mundane aspects of the practice, concluded by stating the following:

What is all this to my soul? ... How can the laborious study of a dry and technical system, the greedy watch for clients and practice of shopkeepers’ arts, the mannerless conflicts over often-sordid interests, make out a life? ... If a man has the soul of an idealist he will make — I do not say find — his world ideal. . . . [H]e may wreak himself upon life, may drink the bitter cup of heroism, may wear his heart out after the unattainable.<sup>5</sup>

### **It is a Way to Express Deeply Felt Religious and Ethical Commitments.**

The word “ethical” in this case refers to “ethos,” or moral character, as opposed to the Canons 1, 2, 8 interpretations. I do not believe ethical rules are what induce pro bono service (see below). I know best the Christian faith, but I feel certain that counterpart precepts are contained in Buddhism, Islam, and Judaism. In Christianity, love of God and neighbor are inextricably intertwined, as evidenced by the two great commandments described in Matthew<sup>6</sup> and The Good Samaritan parable in Luke.<sup>7</sup>

As the consciousness of our relationship to God develops, the sense of solidarity with our fellow men [and women] increases. This sense of solidarity with the neighbor should serve as an impetus for Christians to develop and manifest qualities such as justice, impartiality, unselfishness, . . . sincerity, . . . and benevolence.<sup>8</sup>

That we should find pro bono service uplifting, meaningful, and self-esteem building in a religious or ethical context is entirely consistent with Lincoln’s reference, in his First Inaugural Address, to “the better angels of our nature.”<sup>9</sup> In a lighter vein, Georgia’s legendary Chief Justice Logan Bleckley referred to moral character in a legal context with his tongue-in-cheek description of the proper treatment of debt: “Blessed is the man that pays. The practice of paying promptly, and to the last cent, tends to the cultivation of one of the most *excellent traits of human character*. If debtors were guided by their *own true interests*, on an enlarged scale,

they would be even more clamorous to pay than creditors are to receive.”<sup>10</sup>

I believe that our better angels and our own true interests are nourished and sustained by pro bono service and, thus, we gain self-esteem and satisfaction from such contributions.

### **It Meets a Demonstrated Community Need.**

The *extent* to which the need for legal services, particularly among the poor, are unmet varies from source to source, but it is significant regardless of the method of measurement.<sup>11</sup> Most lawyers subsist as a consequence of the health of their legal communities. While trying to attract new clients is not an appropriate goal of pro bono service, it may well be a consequence. Certainly, indigent citizens’ access to the justice system has a direct bearing on community health. Also, by enlisting segments of the bar in pro bono service, we can leverage our discrete resources and have a greater impact. As

Mark Twain said, “To be good is noble; but to show others how to be good is nobler and no trouble.”<sup>12</sup>

### **It Affords Leadership Opportunities.**

It is axiomatic that in all law firms, regardless of size, there are only so many opportunities for leadership and, thus, if a lawyer is determined to pursue his or her leadership aspirations only in the law firm context, that lawyer will often become frustrated. On the other hand, the need for leadership in the pro bono community is infinite and can be limited only by our collective inertia.

### **It Affords Opportunities for Training and Client Contact.**

In this highly specialized legal environment, young lawyers often encounter training that consists more of observing than actually doing. Yet, beginning lawyers crave client contact and the ability to have their “own” cases. Through pro bono opportunities, lawyers can improve communication skills,<sup>13</sup> gain trial experience,<sup>14</sup> broaden their legal perspective,<sup>15</sup> and experience eye-opening direct contact with poverty-related problems.<sup>16</sup>

### **It is Good for Recruiting New Lawyers.**

Recent law school graduates, uninitiated in the pressures of the billable practice of law, are disposed to

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**Pro bono activities are not spare time, ancillary activities; rather, they define who we, as lawyers, are.**

**CONTINUED ON PAGE 81**

# Taking a Second Look At Pro Bono

By Esther F. Lardent

**I**n Georgia, as in many areas around the nation, the late 1970s and early 1980s was a time of great innovation and growth for pro bono service. It was a time when many organized pro bono programs were created as a result of 1) growing interest in and support for volunteer legal services, and 2) heightened demand for legal assistance by the poor, due to cutbacks in federal funding.

## Charges in Our Midst

Since that “heyday” of pro bono activity, the legal profession has grown and changed dramatically. Lawyers practice in a greater variety of settings, yet at the same time they have become more specialized. The legal economy has experienced roller coaster-like ups and downs. Laws have become more complex and pervasive.

And technology has emerged as a pivotal player in the legal arena. These are all factors that many of us could not have imagined even 20 years ago.

The delivery of legal services to the poor has also changed dramatically and become more complex in the process. Downturns in federal funding have led to the emergence of Interest on Lawyers Trust Accounts (IOLTA) and other non-federal funding sources. With these developments have come broad restrictions on the work that publicly funded legal services programs may undertake. Specialized legal service providers that focus their efforts on a single legal issue or segment of the population have proliferated. The use of technology and new approaches to client service have also impacted legal services, spawning greater reliance on pro se mechanisms, hotlines, and online provision of information and materials.



The most dramatic changes of the past 20 years, however, have been the public policy shifts that have so fundamentally impacted the lives of low-income persons. These changes have literally transformed the lives of those least capable of adapting easily to change — the poor, the elderly and children. These public policy shifts include the following: 1) the devolution of many programs from the federal to the state level, 2) the transition from welfare to a work-based system of temporary assistance for poor families, 3) far greater restrictions on immigrants' benefits and rights and on the ability of this fast-growing segment of the population to access the courts to challenge those policies, 4) severe curbs on prisoners lawsuits, 5) fundamental shifts in the direction of housing and health care programs for the poor, and 6) more limited access by death row inmates to habeas corpus review.

## Innovation is the Key to Success

In acknowledging this upheaval and rapid and profound change, it is important to ask how pro bono legal assistance can and should adapt in response to these changes. I cannot claim more than passing familiarity with Georgia's pro bono programs. On a national basis, however, it appears that most pro bono programs have, for the most part, remained relatively static over the past 20 years. They enroll about the same percentage of the total attorney population, conduct intake, screen and place matters in much the same way that they have traditionally done so, focus on the same types of cases and activities that they have in the past, and maintain similar structures and staffing patterns.

Some programs, of course, have been innovators. In Georgia, Atlanta Volunteer Lawyers was one of the first

pro bono programs to establish a Web site. The Atlanta Legal Aid Society's Fellowship program has enlisted more law firms than many other cities in the nation. The Atlanta Bar Association's Truancy Intervention Project is an early example of the growing trend toward holistic (i.e. interdisciplinary) services for low income persons and families. And the Georgia Bar's ABC program is a leading example of the new trend of involving non-litigation lawyers in providing transactional/business assistance to nonprofit groups that serve low-income individuals and communities.

In light of the heightened need today for pro bono assistance, it is absolutely essential that pro bono programs and their supporters step up the pace of innovation and reshape their goals and services, so that they can respond effectively to the legal problems emerging from a new and changed environment.

#### A. Widening Service Priorities

For the most part, pro bono programs today maintain a very narrow substantive focus. According to the Legal Services Corporation, for example, 59.6 percent of cases closed by pro bono programs in 1996 involved family law matters. The percentage of housing and public benefits matters closed by pro bono lawyers in that same year actually decreased somewhat.

While domestic relations problems are obviously very important, they are not, contrary to conventional wisdom, the area of greatest unmet need among low-income persons. The American Bar Association's Comprehensive Legal Needs Survey,

conducted in 1993, showed clearly that other problem areas — such as housing, health, employment, finance and consumer issues, and community/regional problems — generated *more* need for legal services than family law matters.



Even more notable was the fact that, while there was a greater need for legal assistance in a variety of non-family matters, there was also far less likelihood that those with non-family law problems would locate legal help. The ABA study found that while more than three quarters of those with a family law problem actually got the legal assistance they needed, 70 to 90 percent of low-income households with non-family law problems failed to get such assistance.

The findings of a Georgia legal needs study conducted in conjunction with the ABA study are strikingly similar. The three greatest areas of legal need among low-income households in Georgia were consumer and finance, housing, and community and regional problems.

Family law (including divorce, adoption, guardianship, domestic violence, etc.) was a distant fourth.

Some find these survey results untrustworthy, noting that many, perhaps the vast majority, of those who contact legal services and pro bono programs in search of assistance seek help for family and domestic relations problems. This client demand, however, reflects only legal needs

that are easily recognized as such by low-income persons. Everyone, no matter how inexperienced in the law and the legal system, knows that they need legal assistance when they are seeking a divorce or child custody matter. All too often, as the ABA studies show, low-income families — facing eviction, lack of access to health care, denial of public benefits, or consumer fraud — are not aware that the law offers a remedy for their problem. And even when they recognize their need for legal assistance, the study results demonstrate that they almost never find a source of desperately needed help.

Since the 1993 ABA and Georgia studies, the legal problems of low-income households have changed even more dramatically. In this era of welfare-to-work employment, issues undoubtedly loom large in the lives of poor persons. Problems like lack of transportation and affordable childcare have greater impact. Increasingly, tax issues, such as the Earned Income Tax Credit, and a high incidence of audits among low-income taxpayers have become more prevalent and more important.

Family law matters continue to be important. My point is that it is essential, particularly in helping low-income families make the transition from welfare to

**While there was a greater need for legal assistance in a variety of non-family matters, there was also far less likelihood that those with non-family law problems would locate legal help.**

work, that other, even more frequently experienced — yet infrequently addressed — legal problems also receive the support of pro bono lawyers.

## Widening the Range of Services

Many pro bono programs also continue to call upon a narrow range of lawyer advocacy skills — typically litigation and advice and brief counsel. However, new problems and changing times demand different strategies and skills. The good news is that those skills are often available in abundance among private practitioners. The bad news is that often, pro bono programs simply do not effectively tap into those skills because they are focused on litigation cases and brief advice clinics. How else could pro bono attorneys contribute? Here are a few examples:

▮ *Business and transactional pro bono.* There is a growing awareness that helping to build stronger non-profit institutions, particularly community groups, can ultimately help low-income persons directly. In larger law firms as many as half of all the lawyers may be non-litigators who have specialized skills and expertise that these nonprofit groups need. In the past, non-litigators were often either encouraged to undertake litigation work or were underutilized. Asking a senior tax or corporate expert to draft by-laws or seek tax-exempt status is like asking a 20-year litigator to take on an uncontested divorce.

What can non-litigators do? They can handle the complex financing, real estate, and zoning issues involved in the development of an affordable housing project or the improvement or creation of tenant ownership of existing housing. They can work with community groups to site a grocery store, mall, or major employer in economically depressed communities. They can help small nonprofits comply with an increasingly complex set of compliance and accountability requirements. They can work with a coalition of neighborhood groups to promote small businesses that aid low-income persons — low-cost childcare providers, laundromats, computer skills training companies, rural food cooperatives, and so much more.

▮ *Policy advocacy.* Attorneys for major corporate clients often address systemic concerns or recurring problems by either proposing new legislation or changing existing onerous laws. Many firms now have a public policy expert or department, working with the executive and legislative branches and with administrative agencies, to rework or reinterpret existing policies, laws and regulations to benefit their clients' interests. Now that Legal Services Corporation-funded programs are, for the most part, unable to undertake this type of advocacy, pro

bono programs can fill the gap by providing assistance.

For example, pro bono attorneys can represent a group of low-income parents whose goal is to use state revenues (whether tobacco settlement funds, state surpluses or unused federal

welfare-to-work money) to subsidize childcare costs of poor families. They can assist a community group seeking to mitigate the environmental impact of new highway construction in their neighborhood. They can work with a welfare rights organization to alter regulations that often unfairly result in denial of public benefits.

▮ *Research projects.* Lawyers who do not choose to litigate can benefit the lives of many low-income persons by using their research skills to undertake legal or factual research on issues of great import to the poor. Research projects in other parts of the country have involved issues such as the disproportionate tax burden on working families in one jurisdiction, the inadequacies of the foster care program in another, and the need to equalize public school funding in a third state.

▮ *Unbundled legal services.* Increasingly, courts, lawyers, and legal services providers have realized that there is a “third way” between providing the full range of representation and turning clients away. Unbundled legal services often involves assisting the growing number of pro se litigants by providing carefully agreed to limited legal advice, guidance and services at points in the matter where an attorney's involvement can be most useful. For example, in a jurisdiction that accommodates pro se litigants in uncontested divorces, those litigants may still seek out lawyers to draft their financial and property agreements. By using pro bono attorneys to provide more than simple advice, but less than full representation, programs can maximize attorney time while acknowledging the growing interest among clients in becoming more fully involved in their legal matters.

Other non-litigation skills that can and should be tapped include tailored community education and dispute resolution. These activities, as well as those featured above, are regularly undertaken by lawyers in private practice on behalf of their paying clients. They could and should be accessible to poor persons as well.



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## JUVENILE COURT SUCCESS STORIES ABOUT CHILDREN AND FAMILIES

# What a Welcome Change in the News

By Judge Sharon N. Hill

### Introduction

From reports of school shootings to shoplifting scams, the media is saturated with news stories of children committing shocking crimes. We as a community are saddened and stunned by these reports and are left seeking answers to the heartfelt questions: How can we as a community stop the harm before it starts? How can we prevent the creation of another victim? How can we change these young peoples' lives for the better?

While there is no absolutely infallible predictor of future delinquent behavior, a number of studies have focused on school failure as a starting point.<sup>1</sup> According to these studies, "the children most at risk [for serious delinquency] are those who by age ten have learning difficulties in school, especially in reading, *and* who face

significant stresses at home . . . that weaken family bonds."<sup>2</sup>

If these studies are correct, then addressing the educational neglect of young children and the truancy of older children should be the first order of business of any Juvenile Court. Since 1991, the Fulton County Juvenile Court has done just that, put the focus on the front end of delinquent behavior rather than on the back end, in an effort to slow the creation of more victims in our community and in an effort to help children and their families get back on the right track. This article discusses an extremely effective program that the court is using to accomplish these goals and provides some real-world examples of how the program is improving the lives of those families that it touches.



# Truancy InterventionProject

The program is known as the Truancy Intervention Project (TIP), which is a joint effort of the Fulton County Juvenile Court and the Atlanta Bar Association, and is now in its ninth year. Since the first child was served in 1992, TIP has helped more than 1,200 children. Of the children served before January 1, 2000, more than 70 percent have not returned to Juvenile Court for any reason.

TIP serves two types of children: (1) Children 11 years old or younger who are not going to school because of their parents' neglect of their education. This type of child is suffering from what is known as "educational neglect," which is a form of deprivation; and (2) children 12 years old or older who are skipping school without their parents' knowledge or approval. This type of child is involved in "truancy," which is a status offense.

## A. Educational Neglect

Sometimes, Educational Neglect cases are easy to resolve. For example, in a scenario seen many times over, Sarah,<sup>3</sup> a low-income, working mother who lacked both health insurance and transportation, decided that she had no choice but to keep her six-year-old<sup>4</sup> child, Emily, home from first grade because Emily suffers from asthma. Sarah thought that if she sent Emily to school and she suffered an asthma attack, then Sarah would be

unable to come to the school to pick Emily up when the school called. Sarah was also convinced that the school would then call the Fulton County Department of Family and Child Services (DFACS) and report Sarah's neglect. However, the outcome of Sarah's case was much more positive than Sarah imagined once TIP became involved.

First, a TIP Probation Officer, a DFACS caseworker and a Volunteer Attorney Guardian Ad Litem (GAL) were assigned to the case. Sarah was represented by a court-appointed attorney and received assistance in applying for PeachCare for Kids. With this low cost health insurance,<sup>5</sup>

Emily received treatment for her asthma. Once the treatment was in place, and once Sarah understood that she must let

the school know each time Emily had to miss school due to illness, Emily's unexcused absences diminished dramatically. The educational neglect was resolved, much to Emily's delight, because she loves school, and much to the relief of Sarah, who had been at her wit's end worrying over her.

In another recent case, Ben, an eight-year-old, had missed 33 days from school without any legitimate excuse. In investigating the case, the TIP Probation Officer

learned that Ben's mother, Destiny, had been pregnant during much of the time that the child was missing school and eventually delivered a baby girl who tested positive for cocaine. Before the hearing, the volunteer attorney GAL, the TIP Probation Officer and the DFACS caseworker conferred with Destiny and her attorney. Destiny agreed to accept help in overcoming her cocaine addiction. At the court hearing, Destiny was placed under a protective order and was required to attend and complete a drug treatment program. Not only did the mother

**REPORT CARD-CHILD**

ELEMENTARY GRADES

TO PARENTS OR GUARDIANS:

This student record will be issued four times each school year for purpose is to keep you informed regarding your child's progress in school, and gives the student a dual rating. The marks in column I represent achievement, and the marks in column II represent effort.

Our school's educational philosophy also considers proper thinking and good citizenship as an essential part of a student's education. This report will give you each teacher's estimate on a most apparent in them.

In order that a pupil may achieve a reasonable amount of success, it is desirable for him to:

1. Attend school promptly and regularly.
2. Keep in good physical condition.
3. Make reasonable steady efforts in his school program.
4. Work and play well with his associates.
5. Grow in self-reliance and dependability.
6. Make some worth-while, unselfish contributions in time and energy to the school.

Your principal as well as your teacher will be the school progress of your child.

	TERM I		TERM II	
	I	II	I	II
Language	F	F	F	F
Reading	F	F	F	F
Spelling	F	F	F	F
Writing	F	F	F	F
Arithmetic	F	F	F	F

**REPORT CARD-PARENT**

ELEMENTARY GRADES

TO PARENTS OR GUARDIANS:

This student record will be issued four times each school year for purpose is to keep you informed regarding your child's progress in school, and gives the student a dual rating. The marks in column I represent achievement, and the marks in column II represent effort.

Our school's educational philosophy also considers proper thinking and good citizenship as an essential part of a student's education. This report will give you each teacher's estimate on a most apparent in them.

In order that a pupil may achieve a reasonable amount of success, it is desirable for him to:

1. Attend school promptly and regularly.
2. Keep in good physical condition.
3. Make reasonable steady efforts in his school program.
4. Work and play well with his associates.
5. Grow in self-reliance and dependability.
6. Make some worth-while, unselfish contributions in time and energy to the school or community.

Your principal as well as your teacher will be the school progress of your child.

	TERM I		TERM II		TERM III		TERM IV	
	I	II	I	II	I	II	I	II
Discipline	F	F	F	F	F	F	F	F
Responsible	F	F	F	F	F	F	F	F
Employed	F	F	F	F	F	F	F	F
Stable	F	F	F	F	F	F	F	F
Outlook	F	F	F	F	F	F	F	F

complete the program successfully, she also completed a job placement program through DFACS and obtained full-time employment with the employer that had offered the job training. Destiny also attended school conferences as required by her protective order and insured that Ben had perfect attendance for the remainder of the school year. That case was closed satisfactorily after only seven months.

## **B. Truancy**

While the court is handling increasingly more Educational Neglect cases, the bulk of the TIP caseload continues to be Truancy cases involving students from age 12 to 16 years. Some Truancy petitions allege as few as 15 unexcused absences from school, while others allege more than 100. A volunteer attorney is assigned to represent the child in court on truancy matters. Many times, particularly in those cases with high absenteeism, the child admits to the truancy. The main job of the volunteer attorney at that point is to represent the child in disposition and to assist the child in carrying out the requirements of his court-ordered supervision.

If a volunteer attorney suspects, however, that the child's truancy is due to an underlying problem, such as an undiagnosed learning disability or the parent's failure to maintain stable housing for the child, the volunteer attorney may seek to continue disposition to put certain resources or alternative plans in place. One important resource is the court's Educational Advocate program, wherein attorneys trained in the federal and state special educational laws are paid from a grant to help behavior or learning disabled children obtain the special education services they need in the public school setting.

If lack of stability is the problem, the volunteer attorney, along with the TIP Probation Officer, may suggest to the parent an alternative plan: that the parent transfer temporary legal guardianship over the child to a stable relative to allow the child to go to school while the parent works on restoring stability to the home. If the child takes advantage of these opportunities by going to school regularly, even after having missed so much school in the past, then it is possible that the truancy case

either will not be sustained or will be closed quickly after adjudication, once everyone is confident that the problems have been resolved.

In a recent truancy case, David, a 15-year-old, came to the court's attention because he had missed 71 days of school without excuse, and had been in school only 18 days by the time a school social worker had filed the truancy petition. In the previous school year, David had missed 99 days of school. He was a special education student who was known by the school to be a "virtual nonreader," but who was required to attend ninth grade special education classes in literature/composition, math, biology, political science and occupational planning.

Being a "virtual non-reader," David was destined for failure under such a curriculum; therefore, the reason for his truancy was not a mystery to the court. A combination of court insistence and the appointment of an educational advocate helped to change David's educational life.

Now, David has a schedule of the following classes: Functional English, Functional Math, Pre-Vocational

Skills, Personal Management, JROTC, and Occupational Planning. At his most recent review hearing, the court learned that, since the implementation of this new schedule, his attendance has improved significantly. He has also had two internships: in the first, he worked in a bank sorting checks by check number, and in the second, he worked as an assistant in a nursing home. The young man reportedly enjoyed both employment experiences and even liked wearing a suit (provided by the school) when he worked at the bank. The educational advocate, along with the volunteer attorney, have reported that the school's goal in the functional reading and math program is for David to achieve a third or fourth grade level so that he can read employment "want ads" and complete job applications. That particular court hearing ended with David smiling broadly and his mother having real hope for the future.

## **C. Educational Neglect and Truancy in the Same Family**

There are times when the court addresses both an educational neglect problem and a truancy problem at the

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**One important resource is the court's Educational Advocate program, wherein attorneys trained in the federal and state special educational laws are paid from a grant to help behavior or learning disabled children obtain the special education services they need in the public school setting.**

same time in the same family. Recently, Ally, an eight-year-old child, came to the court's attention when she had missed 24 days of school and was tardy almost every day that she did come to school. The child had a poor history of attendance dating back to kindergarten. Because of her mother's suspected substance abuse problem, the family was referred to DFACS for help. The mother was placed under a protective order to cooperate with DFACS and to send Ally to school.

A few weeks later, the school social worker filed a Truancy petition on Ally's 14-year-old sister, Jessie. The volunteer attorney who served as the Guardian ad Litem in the educational neglect case for Ally volunteered again to serve as the attorney for Jessie. Jessie had missed 44 days from school without excuse. After a hearing, she was placed under court supervision to monitor her school attendance. Jessie was also evaluated by the Child & Adolescent Psychiatry Clinic at Grady Hospital and thereafter began individual therapy.

Meanwhile, it became clear to the professionals involved in the two cases that Ally and Jessie's mother was indeed abusing illegal drugs. She was tested by DFACS. The results of the test were positive for cocaine. DFACS then placed her in an outpatient substance abuse treatment program, which she attended regularly. With the mother's permission, Jessie moved in with a family friend while the mother worked on straightening out her own life.

The outcome of this double case was positive: with Jessie and Ally's mother in treatment, Ally's school attendance improved significantly and her tardiness dropped dramatically. Jessie's school attendance improved significantly as well.

## Conclusion

The Truancy Intervention Project has been tremendously successful in Fulton County, but it is not meant to be kept a secret. In fact, an adaptation of TIP has been successfully utilized by Judges Robert Rodatus and Stephen Franzen in Gwinnett County. Discussions are underway to share the TIP model in other jurisdictions. The tax-exempt legal entity that supports TIP, which is known as Kids In Need of Dreams, Inc., has created a presentation that it shares with other counties to show how the program can work in any environment. One of the founders of TIP, Terry Walsh of the law firm Alston & Bird, has remarked that a primary goal for TIP now is to "export" the concept throughout Georgia. Walsh observed: "Unfortunately, no one has a monopoly on school failure," whether the schools are in urban, suburban or rural areas.

Likewise, school success is something everyone wants. While school failure can lead to teen pregnancy, delinquency, victimization and unsafe communities, school success can lead to productive lives and a powerful measure of happiness, outcomes of which everyone in the community can be proud. Programs like TIP can make a real difference in a child's life, a parent's life and the volunteer attorney's life. Pro bono efforts like TIP are a credit to the attorneys who serve in them and to the communities in which they are offered. To learn more about how to start a Truancy Intervention Project in your county's Juvenile Court, please contact Jessica Pennington, Executive Director, Kids In Need Of Dreams Inc. at (404) 584-9500 or Terry Walsh at (404) 881-7161. ☒

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*Associate Judge Sharon N. Hill was appointed by former Chief Judge Glenda Hatchett of the Fulton County Juvenile Court in 1997. Prior to her appointment, she practiced at Sutherland, Asbill & Brennan, Troutman, Sanders, and was a staff attorney at Atlanta Legal Aid Society. She received her B.A. degree from Williams College in 1981 and her J.D./MBA from Emory in 1985. In addition to her other duties, she hears all cases assigned to the Truancy Intervention Project.*

*Judge Hill extends a special "thank you" to TIP Probation Officers Penny Wright and Harry Hudson for contributing case examples for use in this article.*

## Endnotes

1. THE DEVELOPING PERSON THROUGH THE LIFE SPAN, Berger, 4th ed. (1998), at 454 (citing Kupersmidt, J. B., Coie, J. D. (1990): Preadolescent peer status, aggression, and school adjustment as predictors of externalization problems in adolescence, *Child Development*, 61, 1350-62; Moffitt, Terrie E. (1993): The neuropsychology of conduct disorder, *Development and Psychopathology*, 5, 135-51; Sampson, Robert J., & Laub [sic], John N. (1993): *Crime in the making: Pathways and turning points through life*, Cambridge, MA: Harvard University Press.).
2. *Id.*, (emphasis in original).
3. Please note the names and situations described in this article are not actual names and situations, but are merely based on cases we have seen.
4. The Compulsory School Attendance Law (O.C.G.A. § 20-2-690.1) also attaches to "[a]ll children enrolled for 20 school days or more in the public schools of [Georgia] prior to their seventh birthday . . . ." O.C.G.A. § 20-2-150(c).
5. PeachCare for Kids is health insurance for the children of the working poor. The premiums are only \$7.50 per month per child and not more than \$15.00 per month per family regardless of the number of children in the family. Children under age 6 are covered free of charge. Applications can be obtained by calling toll-free 1-877-GA PEACH (1-877-427-3224).

# Airmen Gain Access To Georgia Courts

By Colonel Fraser B. Jones Jr.

**O**n November 30, 1999, Major General William Moorman, Judge Advocate General for the United States Air Force, gave approval for Robins Air Force Base to conduct a test program allowing Air Force attorneys to represent military personnel and their families in civil court. The test program, called the Expanded Legal Assistance Program or ELAP, marks a watershed for the Air Force Judge Advocate General's Department. It is the first time Air Force attorneys have been permitted to enter appearances in connection with private civil litigation involving individual military clients in judicial or administrative proceedings.

The Air Force has long had a program to provide legal advice on personal, civil legal problems to airmen, military family members and military retirees. Eligible clients receive wide-ranging legal services including assistance with wills, living wills, powers of attorney, notary services, dependent care issues, Soldiers' and Sailors' Civil Relief Act issues, veterans' reemployment rights, casualty affairs, landlord-tenant and lease issues, and tax matters. However, until ELAP, Air Force attorneys were prohibited from representing their clients in a

state court or administrative proceeding.

ELAP is a program that promotes equal access to justice. It is intended to make state courts accessible to military members who would otherwise have difficulty obtaining legal representation. In doing so, ELAP helps ensure that important legal matters confronting its junior enlisted personnel are not ignored. For those whose economic situation affords them the least access to Georgia's court system, ELAP affords equal representation, and thereby greater opportunity.

Active-duty members serving in the grade of E-4 (senior airman) or below, their immediate family members, and active-duty members who qualified for earned income credit on their last federal income tax return will be eligible to receive legal services under ELAP. In developing eligibility guidelines, the Robins Air Force Base Legal Office looked to the financial guidelines followed by the Georgia Legal Services Program. Approximately 18 percent of the nearly 5,000 clients seen by the Robins Air Force Base Legal Office each year fall within this range.

Phyllis J. Holmen, Executive Director of the Georgia Legal Services Program, has indicated that her agency's regional offices often receive requests for assistance from

members of the military or their families; and, while Legal Services provides what help they can, their resources are not enough to totally meet this need. The Robins Air Force Base program should help to fill that void. With the approval of Robins Air Force Base as the Air Force's test base for ELAP, the authority to provide greater and better representation for the most financially vulnerable service members has been enhanced.

The types of civil court actions that will be handled under ELAP have been narrowed to those best suited to

The Pro Bono Project, State Bar of Georgia; and Judy Davenport, Domestic Relations Coordinator, Georgia Legal Services Corporation, to discuss ELAP. The Robins Air Force Base program received the unanimous support of everyone who attended the meeting.

The value of the program was clearly demonstrated in the first case handled by the Robins Air Force Base Legal Office. The case involved a military family with a child born out of wedlock in a Western state. The family desired to legitimize the child but needed the appropriate court order



the needs of military clients and the Air Force, in light of the resources available to support the program. Air Force attorneys will be authorized to represent clients in landlord-tenant, breach of contract and consumer affairs cases in Magistrate Court; guardianships, probate and administration of estates, application for years' support in Probate Court; and uncontested adoptions, name changes, legitimations, and paternity actions in Superior Court. ELAP does not extend to representation of clients in any form of criminal proceedings, divorce cases, or personal injury actions. All cases will be handled by civilian attorneys employed by the Air Force at Robins Air Force Base who are members of the State Bar of Georgia.

In January, representatives from the Robins Air Force Base Legal Office met with Houston County judges and representatives of the Houston County bar including Hon. George F. Nunn, Chief Judge of the Houston County Superior Court; Hon. Janice Spires, Judge of the Houston County Probate Court; Hon. David M. Pierce, Chief Judge of the Houston County Magistrate Court; Hon. Brenda H. Morton, Judge of the Houston County Magistrate Court; H.J. Walker III, President of the Houston County Bar Association; Michael E. Monohan, Director,

authorizing a change in the child's birth certificate. Debby Stone of the Robins Air Force Base Legal Office handled the matter through an uncontested legitimation action in the Houston County Superior Court. The filing was quickly accomplished and the court order followed promptly thereafter. The military family was extremely appreciative of Stone's representation in that matter.

The Robins Air Force Base Legal Office is genuinely excited by the opportunity to lead the way in developing new and better legal services for the active-duty men and women of the United States Air Force. ☐

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*Colonel Fraser B. Jones Jr. is currently assigned as the Staff Judge Advocate of the Warner Robins Air Logistics Center, which is the largest industrial complex in the State of Georgia. His principal responsibilities include supervising a staff of 38 attorneys and paralegals who provide legal support for all Air Force operations there. Colonel Jones is a 1976 honors graduate (economics) from Michigan State University, and a 1979 graduate (J.D.) of New York Law School. He received his commission under the Air Force Direct Appointment Program in April 1980. Colonel Jones earned a masters of law degree in labor law as an Air Force Institute of Technology student in 1989, graduating from the Georgetown University Law Center with distinction.*



# Is This Any of Your Business?

By Mike Monahan

**T**here are about a million people in Georgia living at or below the federal poverty guide lines, most living not in the shadows of Atlanta's skyscrapers but in our smaller cities and towns. They have their share of landlord/tenant and consumer problems. Domestic violence remains entrenched. The aim of civil legal services and coordinated pro bono programs is to meet these most critical personal legal needs of low-income Georgians. Until recently, the pro bono community has overlooked another pressing need: community economic development. Business lawyers can help build communities by volunteering to be lawyers for the poor, handling legal matters associated with economic development and microenterprise efforts.

Georgia's nonprofit sector is healthy and growing. According to the Georgia

Nonprofit Resource Center, Georgia is home to 14,155 active charitable organizations.<sup>1</sup> Georgia's nonprofit community is comprised of arts organizations, child care, health and education programs – the full range of community-centered activities. The top one-third in terms of organization budget is distributed over 138 of Georgia's 159 counties with over one-half located in metro Atlanta alone.<sup>2</sup> Thus, rural areas of Georgia lag behind the rest of the state in nonprofit activity that draws outside capital, improves the community, and increases work and entrepreneurial opportunities. Lawyers in rural Georgia and in Atlanta can, however, make a difference and correct that situation.

In 1997, the State Bar of Georgia created the *A Business Commitment Committee*. The goal of this committee is to encourage business lawyers to



**Cora Johnson and her Doll Project were helped by the ABC Committee.**



volunteer their time by handling legal matters for emerging or existing nonprofit businesses serving the poor, or for microenterprise efforts within the low-income community. The Committee works hand-in-hand with Georgia Legal Services in an effort called the "ABC Project," which matches volunteer lawyers and community-based groups. Numerous community-based organizations have emerged recently in response to state and federal welfare reform initiatives. Many of these groups will seek nonprofit organizational status, but because of their nature, many existing Georgia nonprofit organizations and emerging organizations lack the resources to obtain necessary legal counsel. Many more are unaware that they may have a legal issue. Many nonprofit organizations, rushed into creation, need legal audits and advice on corporate restructuring. Volunteer lawyers handle such matters as incorporation, tax exemption, real property issues and contracts, as well as just about any legal issue arising in the business context.

The Georgia ABC Project is a model pilot project of

the American Bar Association Section on Business Law and uses all volunteer lawyers, from solo practitioners to lawyers from small, medium and large firms. Through a structured, coordinated pro bono program like the ABC Project, business lawyers can provide assistance to individuals that otherwise may not be able to afford legal counsel. To volunteer, please contact the State Bar Pro Bono Project at (800) 334-6865 or via e-mail at [mike@gabar.org](mailto:mike@gabar.org). ☒

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*Mike Monahan is the Director of the State Bar Pro Bono Project. The Pro Bono Project's mission is to involve volunteer lawyers in the coordinated delivery of legal services. He works with the Bar's Access to Justice Committee and the A Business Commitment Committee.*

## Endnotes

1. *Snapshots: Georgia Nonprofits*, NONPROFIT GEORGIA (Non-profit Resource Center, Atlanta, Georgia) Winter 2000, at 6.
2. *Id.* at 8.

S. Ga. Mediation  
pickup 4/00 p7

# The Grandparents Project

*A Pro Bono Collaboration Between The Atlanta Legal Aid Society and Kilpatrick Stockton*

By Steven Gottlieb and Karen Steanson

**C**urrently, more than 1.5 million children in the United States are being raised by their grandparents. Whether it is because their parents are addicted to drugs, are abusive, or are hospitalized, these children have found security and a stable home only by living with their grandparents. Such family arrangements, however, face problems that are often difficult to overcome. Fortunately, in Georgia, the Grandparents Project—which provides pro bono legal services to “skipped-generation” families—is available to lend a helping hand.

This article discusses the problems facing “skipped-generation” families, explains how the Grandparents Project got its start, and discusses the impact the Project has had to date.

## The Problems Associated with “Skipped-Generation” Families

However loving grandparents may be, the addition of a rambunctious toddler or a growing adolescent to a

“retired” household can be both a financial and an emotional strain on the entire family. The voracious appetite of a fourteen-year-old boy, who guzzles down a quart of milk without taking a breath, can devastate a small Social Security income. Many grandparents who live on fixed incomes have been forced to stretch their limited means to feed, shelter, and clothe several children, as well as themselves, sometimes over a period of years. Furthermore, children who come to their grandparents under traumatic circumstances often need special psychological counseling or physical treatment to overcome their rough beginnings in life, and such treatments can be costly.

In addition, the legal relationship of the “skipped-generation” family is often unclear or vulnerable. In many cases grandparents lack the legal authority to make decisions about the children’s educational and medical needs. And, if legal protections are not in place, there is always the fear that the abusive, unfit parent may try to remove their child without warning from the grandparents.

## The Grandparents Project is Born

For several years, lawyers at the Atlanta Legal Aid Society's Senior Citizens Law Project, which focuses on the problems faced by people over 60, had noticed an increasing number of grandparents who were struggling to care for their grandchildren. Government census data—which showed that the number of children being raised by their grandparents increased by one-third between 1990 and 1994—convinced these lawyers that their observations were not anecdotal. The data also showed that more of these families live in the South than in all other areas of the country combined.

To help its clients who had taken on the responsibility of caring for their grandchildren, the Atlanta Legal Aid Society created the Grandparents Project to provide them legal assistance. The Project started on a part-time basis through the Senior Citizens Law Project. In 1998, support from several local founda-

tions allowed the Grandparents Project to be assigned a full-time attorney, Monoka Venters, who not only handled cases herself, but developed a corps of volunteer attorneys trained to take cases that she had screened.

The project was really able to blossom after Richard A. Horder, a partner at Kilpatrick Stockton, persuaded his firm to adopt the Project as a major pro bono commitment. The firm sponsored three training sessions that were conducted by Ms. Venters during the first year of the program for volunteer attorneys. The 24 attorneys that graduated from these sessions include six attorneys from

Georgia Legal Services Program, who will handle adoptions in other Georgia cities.

The focus of the training is to teach the volunteer attorneys about adoption, custody orders, and guardianship procedures. By using these tools, the volunteers can help their clients formalize their family relationship.

## The Positive Impact of the Grandparents Project

Through adoption, many grandchildren become eligible for financial support and continued Medicaid

through the State Adoption Assistance Program. Instead of Temporary Aid to Needy Families benefits, which are \$150 per month for one child, \$235 per month for two, and \$280 per month for three, Adoption Assistance provides a monthly stipend of over \$340 per child. If the grandparent is receiving Social Security retirement benefits, the children can



**Willie Mae Parker with her granddaughters, Ciara Monae Tyler and Jazma Parker, a "new" family formed with the help of the Atlanta Legal Aid Society.**

become eligible for Social Security benefits, too. In a typical case where three children are adopted, the family income can increase from under \$1,000 to over \$2,000 a month. This, of course, can have a dramatic impact on the financial security of the family.

Through adoption, a "skipped-generation" family can also gain emotional security. Until the grandparents adopt their grandchild, the grandchild's parent can always demand that the grandchild be returned to them. This can

**CONTINUED ON PAGE 78**

# Paralegals and Pro Bono

By Laurie R. Mansell

**T**he question is often asked by both paralegals and attorneys – what can paralegals do to assist with the delivery of pro bono legal services? The answer to that question is limited only by statute.

The best way for a paralegal to become involved with pro bono activities is to join a local paralegal association. The National Federation of Paralegal Associations Inc. (NFPA), which has 56 member associations and represents over 17,000 paralegals nationwide, is the oldest and largest national paralegal association in the United States. Many NFPA member associations have formal pro bono programs and pro bono chairs who can provide paralegals with extensive information on organized pro bono programs in the local community. Contact information for local NFPA paralegal associations and additional information on the NFPA Pro Bono Program may be found at [www.paralegals.org](http://www.paralegals.org).

If there is not a paralegal association in the local area, paralegals should contact the local bar association or local legal aid office for more information on becoming involved in a pro bono program. Many paralegals also participate in pro bono activities as part of an employer-

sponsored pro bono program.

The majority of paralegals who participate in pro bono activities assist in the area of family law. This includes, for example, assisting with preparation of protection from abuse complaints, determining financial eligibility for pro se litigants, supervising a court-ordered parent-child visitation or acting as a court-appointed special advocate for children. The assistance of paralegals in the family law pro bono area has become crucial to providing access to justice for many low-income individuals. These more traditional pro bono activities also have gained recognition for paralegals and the profession with bar associations and the judiciary.

The ABA Comprehensive Legal Needs Study, however, estimates that while 59 percent of pro bono involvement focuses on family law, there are great unmet legal needs in housing, health, employment, community/regional problems and finance/consumer problems. And paralegals are responding by participating in many other pro bono activities as well.

In Maryland, for example, paralegals are trained as advocates who may appear before district justices on behalf of indigent clients in landlord-tenant disputes.

Paralegals in Connecticut, working in cooperation with the local utility company, assist low-income individuals in obtaining reduced-cost utilities. Other paralegals in New York act as precinct captains for school districts that are teaching students about good citizenship and the voting process.

Still other paralegals help residents of homeless shelters sort out legal problems through intake interviewing and screening, assist at AIDS clinics or nursing homes with the preparation of wills and other estate documents, work with small budget nonprofit organizations to help them incorporate, assist new or struggling artists with intellectual property matters, perform legal research on behalf of legal clinics that service mentally ill clients, or complete often incomprehensible paperwork at immigration clinics.

Paralegals also become involved with case investigation and monitoring, coordination and development of legal education clinics and the development and maintenance of manuals and training references. And, too, environmental and citizens groups utilize the skills of paralegals on a pro bono basis, as do bankruptcy clinics and organizations such as holocaust survivors and the American Civil Liberties Union.

Of course, as mentioned earlier, imagination is tempered by statute even when it comes to the delivery of pro bono legal services. Paralegals always must be aware

of unauthorized practice of law statutes in whichever jurisdiction they are participating in pro bono activities.

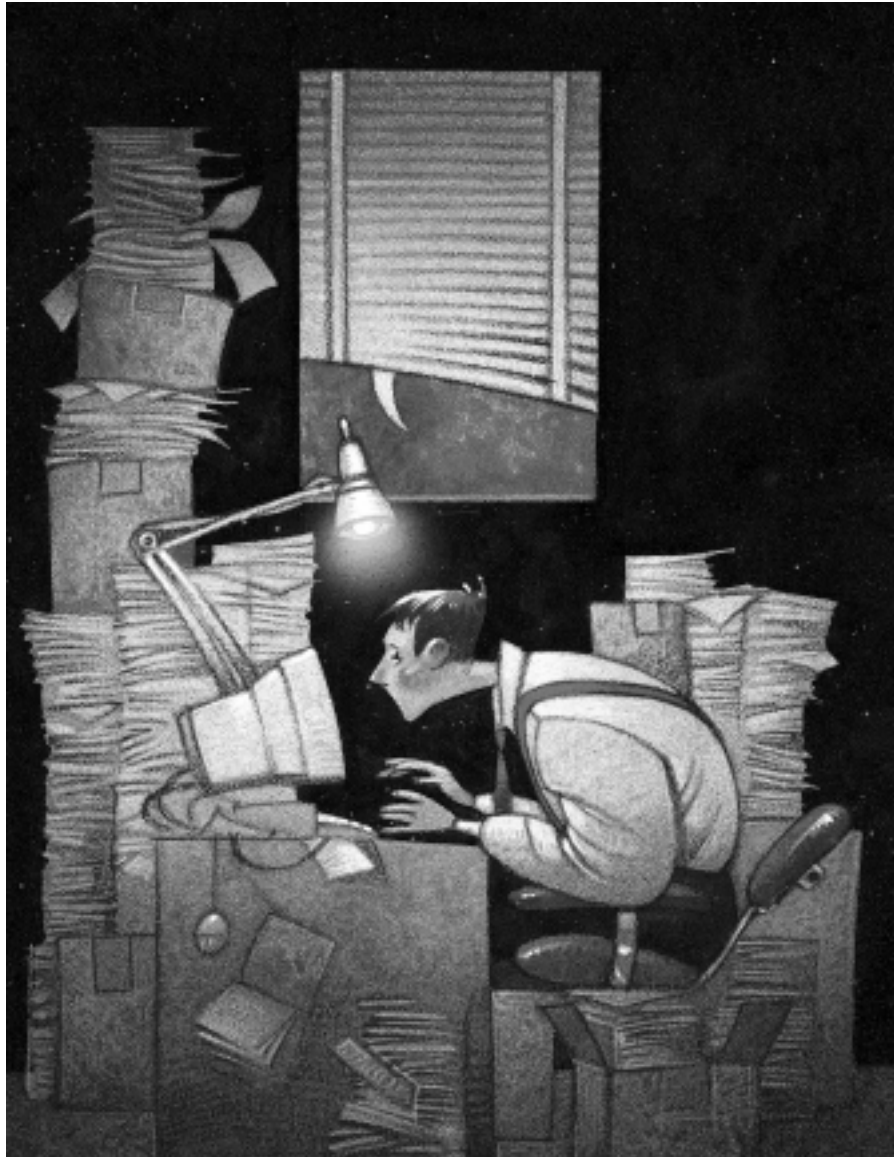
That being said, however, pro bono is an area where paralegals have the greatest opportunities for an expanded role. Pro bono resources are often scarce and the need so overwhelming that paralegal participation is welcomed

and additional responsibilities often assigned.

Whether a paralegal wants to branch out and learn about a new area of the law through pro bono training provided by pro bono providers or local paralegal associations, or enhance skills and opportunities in a current practice area, pro bono activities can be the avenue to professional growth and recognition, while serving those in the community that might not otherwise have access to the justice system.

For more information regarding NFPA, its history and positions on various issues, see *Statement on Issues Affecting the Paralegal Profes-*

*sion*, which can be found in electronic format at: [www.paralegals.org](http://www.paralegals.org) or contact: NFPA at P.O. Box 33108, Kansas City, MO 64114-0108. (816) 941-4000. Fax: (816) 941-2725 or [Info@paralegals.org](mailto:Info@paralegals.org). ☐



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*Laurie R. Mansell, RP, is the NFPA Pro Bono Coordinator and the recipient of the 1999 Pro Bono Award sponsored by The Affiliates and NFPA. She is the immediate past president of the Pittsburgh Paralegal Association, where she currently serves as the NFPA Primary Representative.*

# Pro Bono Honor Roll

The Pro Bono Project of the State Bar of Georgia salutes the following attorneys, who demonstrated their commitment to equal access to justice by volunteering their time to represent the indigent in civil pro bono programs during 1999.

## GEORGIA LEGAL SERVICES PROGRAM

### Abbeville

David Morgan

### Albany

(Sponsored by The Dougherty Circuit Bar Association)

Eugene Black, Jr.

Valerie Brown-Williams

William Cannon

Greg Clark

Cawthon Custer

Samuel Engram

William Erwin

Gregory Fullerton

Walter Kelley

Rodney Keys

Michael S. Meyer von Bremen

Britt Priddy

Ralph Scoccimaro

### Alma

Frank Gonzalez

### Alpharetta

Daniel Mitnick

### Americus

Cecelia Cooper

Benjamin F. Easterlin, IV

George R. Ellis, Jr.

### Ashburn

Stephen Ivie

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Brian Carney

Stan Durden

James R. Gray

James S. Grimes

Barry Irwin

John Kupris

Ben Parker

George Peters

William Sotter

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Jeremy Arkin

Pamela Atkins

William Dyer

Alysa Freeman

Amy Groves

Michael Lambros

Felix Moring

Vicky Norrid

Bruce Walker

### Augusta

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J. Patrick Claiborne

Lisa L. Clarke

Jean Colohan

Douglas J. Flanagan

Benjamin Kay

Leon Larke

John B. Long

Jennifer McKinzie

William J. Marcum

Richard T. Pacheco

Evita A. Paschall

Marilyn Protzeller

Catherine V. Ryan

### Barnesville

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### Brunswick

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Denise S. Esserman

Patrick J. Fetter

Newell M. Hamilton, Jr.

Kristi E. Harrison

Eugene Highsmith

Karen M. Krider

Ellen M. Mayoue

Steven L. Morgan

Holle Weiss-Friedman

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Barry Benton

### Carrollton

Michael Flinn

Charles Pinkard

Christopher Scott

Greg Shadrix

Allen Trapp, Jr.

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Don Evans

Christina Stahl

### Cedartown

Billie Crane

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Danny Griffin

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Jacob Beil

Gary O. Bruce

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Leslie P. Cohn

Larae A. Dixon

William A. Edwards

Walter L. Fortson

Kimberly C. Harris

Maxine Hardy

Kenneth M. Henson, Jr.

Ronald S. Iddins

Robert K. Imperial

Gary L. Johnson

Thomas C. Kearns

Ernest Kirk, II

Tony Kitchen

Clay D. Land

Elizabeth McBride

Bemon G McBride, III

Ashley Cooper

McKenna

John R. Mobley, II

Elizabeth S. Morgan

Donald W. Morgan, Jr.

Ted D. Morgan

William Nash, II

John H. Nix, III

John P. Partin

William C. Pound

Houser Pugh

Pedro Quezada

Alan F. Rothschild, Jr.

William Rumer

Ronald W. Self

Angela Sellers

J. Mark Shelnutt

Larry L. Taylor

Hillman Toombs

William Tucker

Joseph W. Wiley

Dorothy Williams

Robert D. Wilson

Richard B.

Zimmerman, Jr.

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(Sponsored by The Rockdale County Bar Association)

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William Lavigno

John Martin

Albert Myers

John Nix

Paul Oeland

Richard Schlueter

Michael Waldrop

### Cordele

Clifford Harpe

### Cornelia

James R. Acrey

### Covington

Ronnie Cowan

John Degonia

Reed Edmondson

Donald Kelly

Mario Ninfo

Michael Walker

### Cumming

Thomas P. Knox

### Dahlonega

Dean Grindle

### Dallas

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### Dalton

(Sponsored by The Conasauga Bar Association)

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Tommy Goddard

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Matthew Thames

Karen Luffman Webb

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Dale Perry

### Dawson

Wilbur Gamble, III

### Donaldsonville

William Shingler

### Douglas

Clyde W. Royals

### Douglasville

Leonard Danley

Victoria Embs

Ellene Welsh

### Dublin

Rocky Adams

Jacquelyn Sanders

### Eastman

John P. Harrington

### Elberton

Patricia S. Bryant

John M. Clark

### Ellenwood

Betty Williams-Kirby

### Ellijay

Robert M. Ray

### Fayetteville

Michael Maxwell

Leonard Presberg

### Fitzgerald

Robert Chasteen, Jr.

### Fort Oglethorpe

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Susan D. Brown

Thomas M. Calkins

Michael R. Casper

William Hardman

Catherine H. Hicks

Troy Millikan

Fred V. Westberry

Christopher W. Willis

### Griffin

Tim Cramer

Don Taliaferro

### Hartwell

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### Hiram

Donald Donovan

Randall Williams

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### Jesup

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Alvin J. Leaphart

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### LaGrange

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Lee R. Hasty

Luther W. Jones

Ricardo G. Samper

Frank Thornton

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Mathis

John W. Strickland, Jr.

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Don Gaskill

### Leesburg

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### Louisville

H. Brannen Barger

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(Sponsored by The Macon Bar Association)

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Nancy Atkinson

James Avant

Thomas Bohan

Pamela Boylan-Hill

Josephine Bryant-

Jones

Michael Carpenter

Brian Causey

Paul Christian

Charles Cork, III

Donna Culpepper

Karen Daniels

Shelley Davidson

Robert O. Davis

Jeanna Fennell

Diane Flynn

Andrew S. Foster

Robert Fricks

Miguel Garcia

Kathleen Hall

Kevin Hall

Jeffrey B. Hanson

Sarah Harris

Thomas W. Herman

Roxanne Hinson

Thomas Hinson

Thomas Jarriel

Mary Katz

Richard Katz

John Flanders

Kennedy

A. G. Knowles

Allen Lawson

Hubert Lovein



# Pro Bono Honor Roll

## Powder Springs

James Hindmon

## Ringgold

Lawrence Stagg

## Rome

*(Sponsored by The Rome Bar Association)*

Paul Ray Cadle

Timothy Crouch

Floyd Farless

Virginia Harman

Regina Wilson

## Sandersville

Thomas J. O'Donnell

## Savannah

*(Sponsored by The Savannah Bar Association)*

Kathleen Aderhold'

Norman C. Anderson

Solomon A. Amusan

Nancy Askew

Karen Dove Barr

Langston T. Bass, Jr.

Thomas R. Bateski

Charles W. Bell

James B. Blackburn, Jr.

Frank P. Brannen

Robert B. Brannen, Jr.

Dana F. Braun

Kenneth "Chip" Cail, Jr.

Dolly Chisholm

Amy Lee Copeland

Dorothy W.

Courington

Clarence Cuthpert, Jr.

Brian Daly

Charles M. Dalziel

Richard M. Darden

Robert J. Duffy

Gwendolyn Fortson-

Waring

Joseph M. Gannam

J. Hamrick Gnann, Jr.

Charles C. Grile

Richard J. Harris

Arvo H. Henifin

John M. Hewson, III

William F. Hinesley, III

Edward Hughes

Leamon R. Holliday

Kathleen Horne

George M. Hubbard

William T. Hudson

Martin S. Jackel

G. Terry Jackson

Lester B. Johnson, III

J. Stephen Lewis

Charles V. Loncon

Malcolm Mackenzie

Janna Martin

Albert Mazo

Christine T.

McDonnell

Richard C. Metz

Burton F. Metzger

Shari S. Miltiades

Diane Morrell

Gary Michael

Newberry

Patrick T. O'Connor

Virginia E. Patterson

Patricia T. Paul

Janice Powell

Kran Riddle

Christopher Rouse

Michael G. Schiavone

William W.

Shearouse, Jr.

Robert B. Simonton

Christian J.

Steinmetz, III

Kevin J. Street

Bridget D. Swing

Leonard M. Trosten

J. Soctt Vaughan

Janice Wahl

J. Reid Williamson, III

Willie T. Yancy, II

## Snellville

Danny Ludwig

## St. Marys

Harold R. Moroz

John S. Myers

## Stockbridge

Michelle Boyd Clark

## Summerville

Albert C. Palmour

## Sylvania

Evelyn S. Hubbard

## Thomaston

Alan Connell

Ben T. Smith, Jr.

Don Snow

## Thomasville

Royal A. McGraw

John G. Runyan

## Tifton

Betty Walker-Lanier

## Toccoa

Russell W. Smith

Willie J. Woodruff, Jr.

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John R. Bennett

Pauline Carter

Council

Laverne Lewis

Gaskins

Patricia McCorvey

Karras

Vernita Laverne Lee

Floyd Moon

James Gostin

Tunison, Jr.

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## Warner Robins

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Danielle Hynes

Gail Robinson

Keith Salmon

Charles Taylor

Randy Wynn

Wayne Yancey

Diane M. Zimmerman

## Washington

M. V. Booker

## Watkinsville

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James M. Green

## Waycross

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Martin H. Eaves

William R. Little, III

Huey W. Spearman

John D. Staggs, Jr.

Talethia R. Weekley

## Winder

John D. Russell

## Woodbine

Catherine M.

DiLorenzo

**ATTORNEYS WHO  
VOLUNTEERED  
THROUGH THE PRO  
BONO PROJECT IN  
1999**

## Albany

Eugene C. Black, Jr.

Joseph W. Dent

Willie C. Weaver

## Athens

Donarell Green, IV

## Atlanta

Bradley T. Adler

J. Michael Brown

Caren Elayne Cloud

Patrick C. DiCarlo

J. Allen Dougherty

Melvin Drukman

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Gilbert Holzer

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E. Jewelle Johnson

Stephen Kaplan

Maribeth Kijowski

Karen Lautz Kropp

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David E. Oles

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Yinka Omole

Jennifer Potter

James Rayis

Stacey Clarissa

Robinson

Phillip B. Russell

Tacita A. Mikel Scott

Andrew Surdykowski

Brian S. Tatum

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Lauren E. Wagner

Bruce Walker

Bettina Yip

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Kipler S. Lamar

Samantha G. Steffen

A. Stephenson

Wallace

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## Birmingham, AL

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## Brunswick

R. Flay Cabiness

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Cunningham

## Cartersville

Deborah Owens

## Chattanooga, TN

Tammy Owens

Combs

## College Park

Delisa Williams

## Conyers

Kim King

## Dalton

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## East Point

Valerie Adams

## Fayetteville

Leonard Presberg

## Gainesville

Marcia A. Cook

Fred V. Westberry

## Hawkinsville

David Venable

## Kennesaw

A. B. Clements

## Lawrenceville

Harold M. Hubbard

## Lithia Springs

Rory Starkey

## Macon

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John D. Reeves

## Marietta

Rachel L. Crow

Manjunath Gokare

## Martinez

Suzanne Guido

## Norcross

Glenn E. Cooper

Bret T. Thrasher

## Roswell

Pamela Atkins

## Smyrna

Chaundra D. Lewis

## Stone Mountain

Jamie Hollimon

Toni G. McDowell

## Swainsboro

Kathy S. Palmer

## Tallahassee, FL

Michael Cavanaugh

## Tifton

Larry B. Mims

## Tucker

Robert L. Osteen

## Valdosta

Kimberly M. Ballard

## Vidalia

D. Duston Tapley, Jr.

## Watkinsville

Bryndis Roberts

## Waynesboro

Jerry M. Daniel

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VOLUNTEER  
LAWYERS  
FOUNDATION**

## Alpharetta

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Stephen F. Dermer

Tara McNaull

Brad Schoenfeld

## Atlanta

Alfred B. Adams III

Amy K. Alcoe

Jan Allen

Carsten Alting

Precious Anderson

Moore

W. Christopher

Arbery

Lisa Arent

Julie Arp

Kathrine Arrington

Susan Arrington

William R. Asbell, Jr.

Mike Athans

Sonia F. Auda

G. William Austin III

Andrea L. Bailey

Emily S. Bair

Mark A. Baker

Lisa L. Ballentine

Patricia T. Barmeyer

# Pro Bono Honor Roll

Nikola R. Djuric	Holly Hill	Allegra Lawrence	Jenny K. Mittelman	Richard W.	Connie Walters
Rich Dolder	Scott Hilsen	Stanley Lefco	Kenneth L. Mooney	Schiffman, Jr.	Kimberly A. Warden
Alex J. Dolhancyk	Lydia Mitchell Hilton	Michael Leff	Latonya Moore	David Schoenberg	Jonathan Ware
Art Domby	Allen I. Hirsch	Kimberly Lerman	Jennifer Morgan	Mary Jo Schrade	Jody Warner
Leigh Dowden	Michael Hobbs	Amy Letters	Melinda Mosley	Barry Schwarz	James Washburn
Melvin Drukman	Kimberly Holladay	Jonathan R. Levine	Rob Muething	Kevin A. Sebert	Kathryn E. Watson
Michael Dubus	William Holley	Rachel Levy	Catherine Munson	Salmon Shamad	Dennis J. Webb
John A. Earles	James L. Hollis	Sarah A. Lewis	Jennifer Murphy	Johnathan H. Short	E. Adam Webb
Sterling P. Eaves	James E. Holmes, Jr.	Stephen E. Lewis	Nirupa L. Narayan	Debra Siert Cline	David Webster
Deborah Ebel	Dorsey E. Hopson	Scott Liebschutz	Mike Nations	Joel L. Silverman	Daniel Weede
Kurt D. Ebersbach	Donald S. Horace	Edward H. Lindsey, Jr.	Jesus Nerio	Angela Simpson	Beryl Weiner
C.T. Ejisoby-Nwosu	Susan Housen	Ramie Cay Little	Elizabeth H. Noe	Clayton Sinclair	Alice Weinstein
Donald J. Ellis	Marc Howard	Rebecca Littleton	Richard M. Nolen	Howard P. Slomka	Amy L. Weisbecker
Robert A. Elsnor	Monica Howard	David W. Liu	Julie T. Northup	Heather Slovensky	Rob Wellon
Marian Exall	Susan Howick	Jay E. Loeb	Mary Ann B. Oakley	Alvah O. Smith	Tom Westbury
Neil D. Falis	Jennifer Huber	Alysia Long	Celey Ogawa	Lynette Eddy Smith	Frank N. White
Guanming Fang	Dan Huff	James Long	Ugo Okafor	Rachel Snider	Karen D. Wildau
Rebecca D. Farber	Lawrence T. Humphrey	Tammi S. Long	David Oles	David A. Soofian	Susan Wilkerson
Joe Farrell	Deborah J. Hunter	J. Anthony Love	Christopher D. Olmstead	Matthew Sours	David H. Williams
Charles E. Feuss	Emily Hunter	Willie Lovett	Teresa Ou	Lee Ann Sparks	Karen Brown
Claire Fishman	Susan A. Hurst	Sarah N. Lowe	Andy Pachman	Jesse J. Spikes	Williams
David Foshee	Nicole M. Imamshah	Deborah Lubin	Benjamin C. Pargman	Thomas A. Spillman	Michael Williams
Anne Franklin	Erika N. Jackson	Susan L. Ludi	Tracy Parsons	John C. Spinrad	John Williams, Jr.
Elizabeth Frazier-May	Gregory Jacobs	Joseph M. Lweinski	Russell Patterson	Robert E. Stanley	Chandra P. Wilson
Scott E. Friedlander	Mary James	Catherine G. Lynch	Peter J. Pawlak, Jr.	Keisha Steed	Debra Wilson
Toni Friess	Robert E. James II	Anita Lynn	Jacqueline L. Payne	Bruce Steinfeld	Joseph M. Winter
Eric J. Frisch	Anne Jarrett	Charles W. Lyons	Craig K. Pendergrast	David N. Stern	Sandra Denise Witherspoon
Karen D. Fultz	Alan R. Jenkins	Dana K. Maine	Ralph Perales	Carla Strobl	Timothy W. Wolfe
Richard Gaalema	Derek W. Johanson	Russell Maines	Joseph Perrotta	J. David Stubins	Janet L. Womack
Richard Game	Julye Johns	Dennis Manganiello	Robert G. Petix, Jr.	Donald L. Swift, III	W. Swain Wood
Adam R. Gaslowitz	Charis Johnson	Joana P.L. Mangum	Michel Phillips	James Tabb	John F. Woodham
George Geeslin	David Johnson	Jessica Margolis	Charles R. Pickering	Laura Tallaksen	Laura Woodson
Carol Geiger	David V. Johnson	David Markus	Holly Pierson	Mary W. Tapper	Angelyn M. Wright
David Ghegan	James Johnson	John T. Marshall	Keith A. Pittman	Brian S. Tatum	Scott Wright
Tiffany Gilbert	Jonathan Johnson	Shawn Martin	Jeffery Plowman	Eric J. Taylor	Lela M. Young
Jenny Gillon	Michael Johnson	Sylvia Martin	Evan Pontz	Jeffrey Michael Taylor	Leslie Zacks
Monica K. Gilroy	Nancy Johnson	Adrienne Marting	Robert C. Port	Scott E. Taylor	Jeffery Zitron
Neil Ginn	Tracie Johnson	Lori Marysculk	Scott M. Porter	Renee Tedrick	<b>College Park</b>
Rebecca Godbey	Will Johnson	Michael L. Mason	Carol B. Powell	David Thatcher	Fred Eady
M. Debra Gold	Andrea Cantrell Jones	Robert B. Matlock	Benjamin H. Pruett	Travis Thayer	<b>Decatur</b>
David Golden	Laura Jones	William W. Maycock	Louis Pugh	Ruby J. Thomas	Teresa Garcia
Julia Gonzalez	Lewis B. Jones	Julie Mayfield	Nancy Rafuse	Andrew M. Thompson	Stephen M. Gibbs
Dale R. F. Goodman	Tracye Jones	John C. Mayoue	Michelle B. Rapoport	James R. Thompson	Yvonne Hawks
Andrea Goodrich	Seth S. Katz	Douglas J. McAlpine	Rayne Rasty	William C. Thompson	Wendell Henry
Schuylla Goodson	Lisa Katz Golod	Emily McBurney	Brooks Rathet	Thurmond C. Brooks III	Rebecca Hoelting
Joseph J. Gottlieb	Sandra Kaye	Brendan McCarthy	David K. Ray	Stephanie E. Tillman	Deborah Johnson
Joseph J. Graves	James H. Keaten	Kathie G. McClure	Michael T. Reynolds	Torin Togut	Stephanie Rivers
Jamie Graves	Kurt Kegel	Rosemarie McConnell	Mike Rhim	Rusty Tolley	Donna Rowe-Hibler
Paul Greco	Leslie Kehoe	Charles M. McDaniel, Jr.	Tom Rhodes	Jeffrey J. Toney	Katrina V. Shoemaker
Regan Greene	Stephen V. Kern	Dan McDevitt	Richard Rice	Jennifer Tourial	David R. Trippe
Nancy Levy	Randy Kessler	Kenneth P. McDuffie	William M. Rich	Pamela L. Tremayne	<b>Doraville</b>
Grossman	Dawn Elizabeth King	P. Joseph McGee	Nicole A. Richardson	Lisa Tripp	Coral Robinson
Cheri A. Grosvenor	Joyce E. Kitchens	Carl McGehee	Kimberly Houston	Cheryl Turner	<b>Douglasville</b>
Amy E. Groves	Dena R. Klopfenstein	Amy C. McLean	Ridley	Renata Turner	Michelle Gozansky
Andrew C. Hall	D. Keith Knight	Rick McMurtry	Mike Ring	John G. Valente	<b>Duluth</b>
Christopher B. Hall	Naho Kobayashi	Paul Mercer, Jr.	Tina Shadix	Shelly Valente	Holly A. Trenam
Roger B. Handberg	Martha J. Kuckleburg	Chad I. Michaelson	Roddenbery	Richard K. Valdejuli, Jr.	<b>Ellenwood</b>
Carrie A. Hanlon	Jeanney M. Kutner	B. Rose Miller	Beth E. Rogers	Jeannine M. Van der Linden	Sharon Adams
John Harbin	Tom Lacy	Greg Miller	Rupal Naik Romero	Travis Vance	Jonesboro
Sarah Hardy	Patrick Lail	Janice Miller	Pam Roper	Frank Virgin	Richard Genirberg
Steven W. Hardy	Judy Lam	Paula R. Miller	Teresa Wynn	Michael T. Voytek	<b>Lawrenceville</b>
Peter Hasbrouck	John Lamberski	John B. Miller, Jr.	Roseborough	Amy R. Walker	Tyleis Davidson
Stewart Haskins	Frank Landgraff	Christopher B. Millner	Chip Rowan	Betty Walker	<b>Marietta</b>
D. Tully Hazell	Walter Landow	Christine L. H. Mitchell	Thomas Sampson	Kent Walker	Kathy Landis
Mark Hebbeln	Holly B. Lanford	M. Todd Mitchem	Thomas G. Sampson II	Tom Walker	Bruce R. Steinfeld
Mary Beth Hebert	W. Scott Laseter		Ted Scartz		Stephen Worrall
Charlie Henn	Nancy F. Lawler		Kenneth H. Schatten		
Steven J. Hewitson					
Anne H. Hicks					

# Pro Bono Honor Roll

## Norcross

Jo Ann Holmes

## Peachtree City

Mark Oldenburg

## Roswell

Lauren Alexander

Sean Dunn

Nina J. Edidin

Margaret C. Gibson

Patricia Sue Glover

Robert D. Johnson

Janis L. Rosser

Eileen Thomas

## Stone Mountain

Beverly L. Bull

Bridgette Dawson

Robert W. Hughes, Jr.

Terry L. Ross

Sabrina R. Scott

## Tucker

J. Henry Norman

Tahira Piraino

Timothy J. Santelli

## Woodstock

Kathleen A. Kerr

## CLAYTON COUNTY PRO BONO PROJECT

## Atlanta

Gary Flack

## College Park

Christine A. Vandross

## Decatur

Matthew Collins

Andrew Williams

## East Point

Glen E. Ashman

Willie G. Davis

Karen Robinson

Scott Walters, Jr.

## Forest Park

Emily George

Sylvia Goldman

## Jonesboro

Emmett J. Arnold, IV

Allen W. Bodiford

Barbara Briley

Johnny Castoneda

Nan Deegan

Billy J. Dixon

Monroe Ferguson

Pam Ferguson

Don Foster

Steven Frey

Richard Genirberg

Leslie Gresham

Darrell L. Hopson

Glen B. Icard, Jr.

Randall L. Keen

Larry M. Melnick

Bryon Morgan

Jerry L. Patrick

Gloria Reed

Darnell Reynolds

Margot Roberts

Avery T. Salter, Jr.

Arlene Sanders

Lee Sexton

Ronald E. Smith

Kevin W. Sparger

Janet M. Taylor

Pandora Terry

Louise Thomas

Joseph M. Todd

David Walker

Harold Watts

Jan Watts

William W. West

Stephen White

Keith Wood

Fred Zimmerman

## McDonough

Faye W. Hayes

## Morrow

Carl Adcock

Greg Hecht

## Riverdale

Sandra E. McMillian

Hillman J. Toombs

## DEKALB VOLUNTEER LAWYERS FOUNDATION

(Sponsored by the  
DeKalb Bar  
Association)

## Atlanta

Stanley M. Baum

Kenya D. Berry

Arthur D. Castleberry

R. Peter Catlin

Jerry Cuccinello

David E. Danda

Melvin Drukman

Richard Farnsworth

George R. Ference

Gary Flack

Jeff Flynn

D. Joseph Girardot

Scott Halpern

Edwin L. Hamilton

Charles F. Hicks

Mary J. Huber

John Hulsey, Jr.

T. Wayne Marshall

James D. McGuire

Charles M. Medlin

Daniel N. Meyer

Charles M. Medlin

Daniel N. Meyer

Anne H. Orr

Tahira P. Piraino

Beth E. Rogers

Albert R. Sacks

Lois D. Shingler

Randie H. Siegel

Theodore A. Speaker

Brian S. Tatum

Anthony Zezima

## Avondale Estates

Joe A. Weeks

## Decatur

L. Katherine Adams

Richard S. Alembik

Susan Rebecca Bailey

Herman D. Baker

Chandler R. Bridges

Prince A. Brumfield, Jr.

Mark G. Burnette

JoAnn D. Collins

John P. Cross, II

Carl Anthony

Cunningham

Teresa M. Garcia

Stephen M. Gibbs

Donald Hillsman

Laura C. Horlock

William T. Hudson, Jr.

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Mary Brock Kerr

Lawrence R. Landry

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Larry A. Pankey

Teddy R. Price

Carl A. Puls

Bette Elaine

Rosenzweig

Michael R. Sheppard

Elliott A. Shoenthal

M. T. Simmons

Donald Charles

Suessmith, Jr.

W. Jason Uchitel

Mary Walton

Whiteman

William G. Witcher

## Lawrenceville

Ronnie K. Batchelor

## Lithonia

Lisa A. Patrick

## Scottsdale

Gerard D. Hegstrom

## Snellville

William Clinton

Rhodes

## Stone Mountain

Randy Joan Comins

Dana M. Harris-

Abraham

N. Wallace Kelleman

## Tucker

William H. Arroyo

Cynthia L. Horton

William L. Skinner

Sandra W. Thornton

Marvin Zion

## GEORGIA LAW CENTER ON HOMELESSNESS AND POVERTY

## Alpharetta

Dan Mitnick

## Atlanta

Russell S. Bonds

Lance Chernow

Katrenia Collins

Thomas A. Cox

Robert Dow

Thomas A. Farnen

Lisa Foster

Bruce Gaynes

Jeffrey Golomb

John Greer

Tucker P. Guerrey

Victor Haley

Christian Henry

Charles B. Jones

Tim Klob

Forrest Morad

Alice Murtos

William G. Rothchild

William R. Wildman

Brad Wolff

## Decatur

James Feagle

## Newnan

Robin Mayer

## Smyrna

Gracy Barksdale

## GWINNETT COUNTY PRO BONO PROJECT

## Atlanta

Franklin D. Hughes, Jr.

David C. Will

## Buford

Roger J. Bauer

Marion E. Ellington, Jr.

Dianne Frix

Stan Sunderland

## Decatur

Teresa M. Garcia

## Duluth

Mary A. Prebula

## Lawrenceville

Christopher T. Adams

Barbara B. Bishop

Jerry A. Daniels

Chet Dettlinger

Larry L. Duttweiler

Tracy Mason

Joseph C.

McLaughlin

Mark Merritt

Steven M. Reilly

Macklyn A. Smith, Sr.

Scott Spooner

Nelson H. Turner

Margaret G.

Washburn

Lawrence Lee

Washburn

Jack Wilson

## Lilburn

Anne Marie Lugo

## Lithonia

Robert L. Mack, Jr.

## Norcross

Richard A. Campbell

Clark and Washington

Glenn E. Cooper

Leighton Deming

Fred Stokes

Larry H. Tatum

## Snellville

Charles P. Giallanza

Clint Rhodes

## Stone Mountain

Steven R. Ashby

Robert W. Hughes, Jr.

N. Wallace Kelleman

## TRUANCY INTERVENTION PROJECT

(Sponsored by the  
Atlanta Bar  
Association)

## Atlanta

C. Michael Abbott

Benjamin Bang

Mary Benton

E. Thomas Branch, Jr.

Samuel Brannan

James Brantley

Susan Bronston

Gigi Bugg

Brian Burgoon

Rebecca Burnaugh

Kristen Carpenter

Rebecca Christian

Lynette Clark

Robin Clark

Marsha Courtright

Traci Green Courville

Rufus Dorsey, IV

Horatio Edmondson

N. Sandy Epstein

Deborah Gale Evans

Jerolyn Webb Ferrari

Edward T. Floyd

David Forbes

Fannie Gilliam

Patricia Gorham

Sherri Graves

Ruth Greenberg

Jeff Handler

Alicia Head

Bradley Heard

Chad Henderson

Owen Hill

Susan Himmer

Oni Holley

Theresa Hood

Ashley Hufft

# ASSEMBLY PASSES BILL 176

## New Data Information Form Now Required for all Civil Case Filings

By Jerry Garland

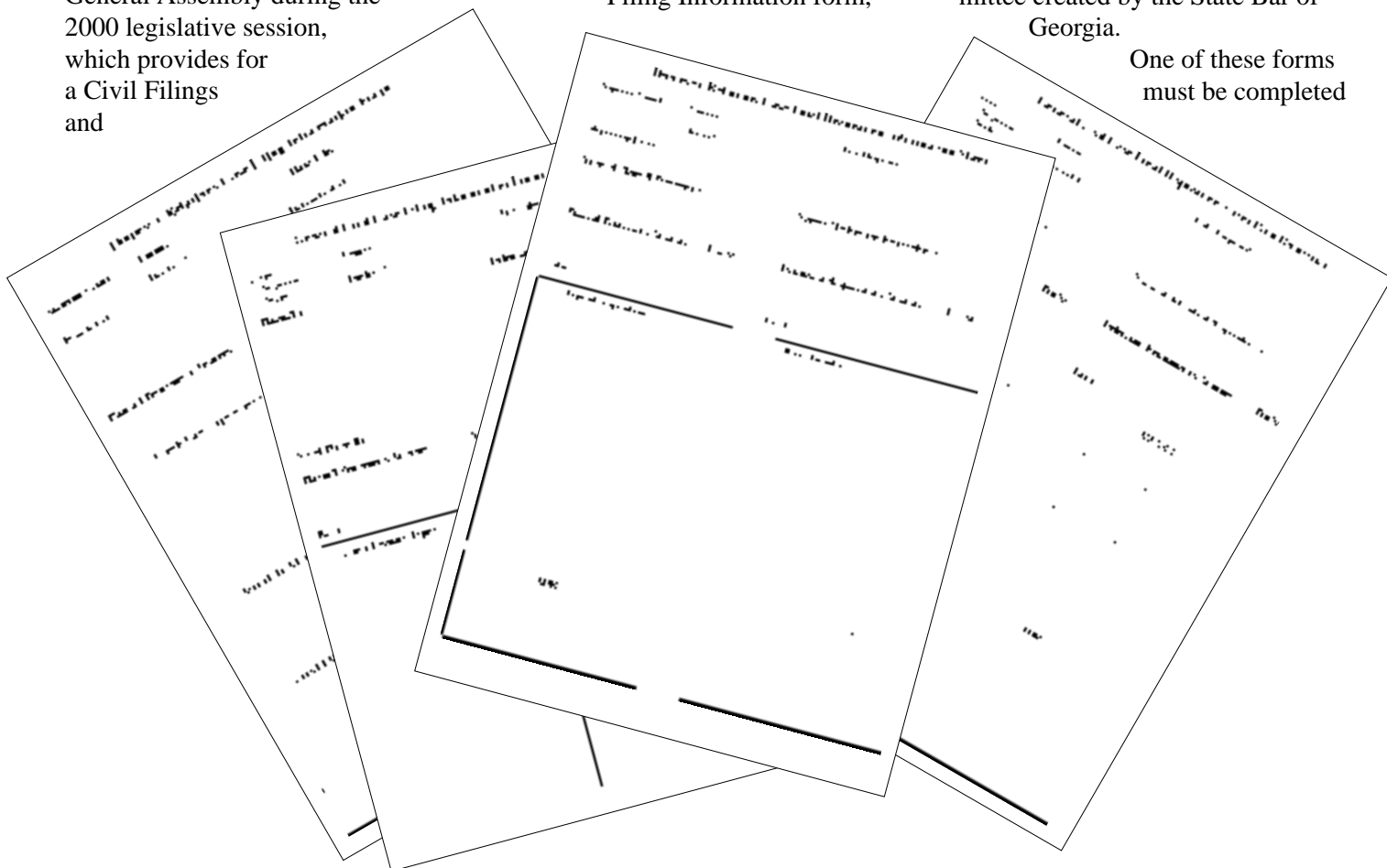
**EFFECTIVE JULY 1, PLAINTIFF** attorneys (or individuals in a pro se action) will need to complete an additional form when filing a civil action or final judgement in a Georgia superior or state court. This is in accordance with Senate Bill 176, passed by the Georgia General Assembly during the 2000 legislative session, which provides for a Civil Filings and

Dispositions Information System requiring that one of four applicable forms be submitted to the court clerk whenever a civil case is filed.

The four new forms, which may be obtained from the superior and state court clerks or which may be downloaded from the State Bar of Georgia Web site at [www.gabar.org/datainfo.htm](http://www.gabar.org/datainfo.htm) are: General Civil Case Filing Information form,

Domestic Relations Case Filing Information form, General Civil Case Final Disposition form, and Domestic Relations Case Final Disposition form. In creating the forms, the General Assembly adopted much of the information contained in the Report and Recommendations of the 1997-1998 Court Filings Committee, a special committee created by the State Bar of Georgia.

One of these forms must be completed



in its entirety and submitted to the clerk for every civil case beginning July 1. This task should prove virtually effortless for attorneys, however, since each one-page form contains easy-to-follow directions and, for the most part, may be completed by simply placing checkmarks next to the applicable information items. The court clerks will provide forms for pro se plaintiffs.

The superior and state court clerks will be responsible for routing this information through the Georgia Superior Court Clerks Cooperative Authority to the Georgia Courts Automation Commission (GCAC). According to Superior Court Judge

Hilton Fuller, chair of the Commission, the collected data will provide the courts with a database of civil actions for case profiles, workload

becomes more widespread, the manual processes required by this and other applications will eventually be performed electronically,

demanding little or no effort on the part of the filing attorney. Until then, the success of this project depends on the

timely and complete cooperation of each individual involved. For more information on this subject, go to [www.state.ga.us/courts](http://www.state.ga.us/courts) and click on the Georgia Courts Automation Commission home page. ☐

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*Jerry Garland is the project manager for the Georgia Courts Automation Commission.*

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## **The collected data will provide the courts with a database of civil actions for case profiles, workload distribution, case counts, and tort data.**

distribution, case counts, and tort data. The GCAC will collect, compile, and process the data to provide reports to the Administrative Office of the Courts for their dissemination to the judicial agencies, the executive branch agencies as appropriate, and to the General Assembly as requested.

As court automation evolves and

# house ad

# David Joel new

# 2000 General Assembly Successful for Bar

By Mark Middleton

**IN AN ELECTION YEAR WHERE** legislators concentrated on education reform, the State Bar managed to have a very successful legislative session in which all of the Board of Governors' legislative proposals were passed into law. The General Assembly passed State Bar endorsed bills establishing a procedure for collecting court filing data, revising the corporate code, allowing for waiver of service of process, creating a state-funded juvenile court, and requiring Superior Court Clerks to maintain printed copies of the real estate index. The legislature also appropriated extraordinary increases in state funding for the Court Appointed Special Advocates (CASA) Program, the Indigent Defense Council, Georgia Appellate and Educational Resource Center, and continued funding for the Victims of Domestic Violence Program.

## 2000 Legislative Accomplishments

### Court Filing Data Base

S.B. 176 creates a procedure for collecting civil and criminal case filing data on a statewide basis. This initiative will allow the Bar and policy makers to obtain reliable data to consider in matters relating to the practice of law. The Bar's legislative representatives spent a tremendous amount of time in the negotiation of this bill. The Bar is pleased that, under the bill, the collected data belongs to the public and will be

available for the benefit of the public.

The Bar owes a debt of gratitude to Senator Clay Land (R-Columbus), who authored the bill and worked diligently with the parties to accomplish this important goal. Several members of the legislature, including Senate Judiciary Chairman Rene Kemp (D-Hinesville) and House Judiciary Chairman Jim Martin (D-Atlanta), were instrumental in making this idea a reality. "The Bar is particularly thankful to Speaker Tom Murphy and Lt. Governor Mark Taylor for their support of the bill," said Bar President Rudolph Patterson. (See article on this project on page 36.)

### State-Funded Juvenile Court

The Bar recommendation to create a state-funded juvenile court in every jurisdiction was passed and funded by the General Assembly. Effective October 1, 2000, new juvenile courts will be created and the judgeships funded at 85 percent of the superior court salaries. This initiative will provide improved service in areas that do not have a designated juvenile court judge and budgetary relief to counties that already maintain separate juvenile court judges.

### Corporate Code Revision

In recent years, the Corporate & Banking Law Section has been very proactive in bringing recommendations to improve the practice of law in the corporate area. This year's effort resulted in the passage of S.B. 397, authored by Sen. Mike Egan (R-

Atlanta). This bill is an extremely important revision to the corporate code for those Georgia public companies that seek to protect themselves from hostile takeovers. The bill clarifies the law regarding the use of so-called "poison pill" provisions by corporations.

Corporate and Banking Law Section Sub-Committee Chair Rich Brody was intimately involved in the presentation of these highly technical issues to the House Judiciary Committee and the Senate Special Judiciary Committee. Representative Robert Reichert (D-Macon) and Senate Special Judiciary Chairman Egan carried the bill on the floor of each chamber. "The passage of this bill shows the value of the Bar's bipartisan approach," said Tom Boller, the Bar's legislative representative. "We were able to achieve unanimous passage through both chambers of the legislature."

### Real Property Section Initiative

The Real Property Law Section initiated H.B. 597, authored by Allen Hammontree (R-Cohutta). This bill requires superior court clerks to maintain printed copies of the grantor/grantee index, even if they computerize the filing system. This provision protects against computer system failures and addresses questions over accuracy and availability of records.

### Waiver of Service

H.B. 708, authored by Tom Bordeaux (D-Savannah), basically conforms service of process procedures to the federal rule. Under this

bill, a plaintiff can initiate a lawsuit by sending the defendant a waiver of service notice rather than serving the defendant directly. The measure, which balances the rights of defendants and plaintiffs, is designed to lower the costs of service. The measure was initiated by the Bar's Judicial Procedure & Administrative Committee.

### **Funding of Bar Endorsed Initiatives**

In an extremely competitive funding process, the General Assembly appropriated new funding for several State Bar initiatives. CASA received a total increase of \$490,000 in the FY 2000 Supplement Budget and the FY 2001 Budget. CASA's total funding is approximately \$1.2 million. "CASA is well respected for their support of children," said Jim Durham, chair of the Bar's Advisory Committee for Legislation (ACL), "We are extremely grateful for this generous support from the legislature."

The Georgia Indigent Defense Council received increased funding of \$240,000 for FY 2000, and an additional \$550,000 for FY 2001. The State will now fund approximately \$5 million for the Indigent Defense Council and the Multi-County Public Defender's Office.

The Georgia Appellate Resource Center received the entire \$200,000 increase that it had requested. The Resource Center now receives a total of \$700,000 for its continued operation. "These are enormous percentage increases in these programs," said Boller. "We owe a special thanks to Senator Greg Hecht (D-Jonesboro) and Representative Larry Smith (D-Jackson), chairs of their respective Judicial Appropriation Subcommittees, for their support of the Bar's funding initiatives."

### **Other Bar Victories**

The Bar also opposed several bills that affected the practice of law.

In particular, the Bar opposed S.B. 19, which would have allowed non-lawyers to file garnishment pleadings on behalf of corporations. The bill passed the Senate in 1999, but did not move beyond committee in the House. The Bar also opposed a title insurance bill that would have allowed lawyers to be regulated by various members of the executive branch rather than by the Supreme Court. The Bar traditionally defends the authority of the Supreme Court to regulate matters pertaining to the governance of attorneys and the practice of law.

### **Bar Section Legislation Tracking Program**

The Bar continues to rely on its Bar Section Legislative Tracking Program, in which its substantive law sections and individual members monitor bills of importance to the Bar during the legislative session. About 30 sections and committees participated in the Bar Section Program. Also, numerous bills were sent out to the sections for review and comment.

A special word of thanks goes out to all Bar members who provided timely responses to the legislative representatives regarding issues affecting the practice of law. In particular, Bill Dodson of the Real Property Law Section provided timely advice and expertise on the title insurance bill and another bill amending a previous Bar initiative restricting liens on the property of public officials.

### **Lawyer Involvement**

The 2000 Session brought reminders of the sacrifices that Bar members make in order to serve in the General Assembly. Several key Bar members, citing personal and professional concerns, are retiring from the legislature. We thank these lawyers for their public service. Respected lawyers such as Mike

Egan, Clay Land, and Dan Ponder will be difficult to replace.

At a time when first-year associate salaries soar beyond \$100,000, our lawyer/legislators serve full-time for three months for about \$16,000. In spite of the public perception to the contrary, election to office does not necessarily bring perks and privileges. Many legislators struggle to simply make ends meet. In fact, most lawyer members practice law at night and on weekends during the session in order to maintain their legal practices while they serve.

The Bar's extraordinary legislative success over the past several years may seem routine to casual observers of the legislative process. However, this ability to influence the laws and policies that affect the practice of law does not come easily. This privilege exists because lawyers from all over this state answer the call to public service. In campaigns, candidates are often attacked for being lawyers. Yet, when difficult issues are addressed in the General Assembly, lawyer/legislators are often looked to by their colleagues to provide clarity and guidance.

In this election year, every member of the Bar should find ways to support our colleagues and friends who step into the arena of public life. The Bar members in the legislature are as diverse as the state itself. So, whether it's making a financial contribution, putting up yard signs, or running a race, we in the Bar can and should find candidates to support. The State Bar and our state will be the beneficiaries. ■

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*The State Bar legislative representatives are Tom Boller, Rusty Sewell, Wanda Segars, and Mark Middleton. Please contact them at (404) 872-2373 or (770) 825-0808 for further legislative information, or visit the State Bar's Web site at [www.gabar.org](http://www.gabar.org). Bar members can track bills through the GeorgiaNet Web site, found at [www.ganet.org/services/leg](http://www.ganet.org/services/leg).*



# Conference Highlights Benefits & Challenges of New Technology for Media & the Courts

By Nikki Hettinger

## LAWYERS, JUDGES, REPORT-

ers and other law and media professionals attended informative lectures and participated in candid discussions at the 2000 Georgia Bar Media and Judiciary Conference, held April 28 in Atlanta. The conference theme was *News and the Courts in the New Century; a Primer for Judges, Journalists and Lawyers on Emerging Issues & the Law*. Panelists included such leading authorities in their fields as executives of CNN, the *Online Journalism Review* and several television stations, as well as local news anchors, editors from the *Atlanta Journal-Constitution* and *Fulton County Daily Report*, and a number of distinguished judges and attorneys.

## Georgia E-Tour

The first presentation of the day, titled *Open Government: Current Internet Access Issues and Possible Legislative Topics*, took the audience on a guided tour through the GeorgiaNet Authority Web site ([www.ganet.org](http://www.ganet.org)), which provides electronic access to a slew of public information. GeorgiaNet's Tom Bostick addressed the inevitable security and privacy issues associated with any Internet project. He referred to the State as the "custodian" of its public information. As such, he said, it should (and does, in

Georgia's case) take the necessary precautions against data tampering. Bostick also mentioned GeorgiaNet's



**Silver Gavel award winners, above: (l-r) Brad Aaron, Flagpole Magazine; Susanna Capelouto, Peach State Public Radio; Joe Oreskovich, WATC-TV; and Sandy Hodson, Augusta Chronicle. Below, Channel 5's Randy Travis (right) leads a breakout group in discussion, along with Mike Mears.**



future plans for an "E-Georgia" Web site, which will enable first-time business owners to submit all the information required by the different state agencies online in one simple step.

## A Hypothetical Situation

At the second session, *Covering Government and the Courts: A Fred*

*Friendly Discussion*, interlocutor Jim Rawls read aloud a hypothetical scenario, then asked panelists to explain what their reactions would be to particular situations. All the questions dealt with the relationship between media and the law, and the answers offered reporters and attorneys insight into each other's thought processes while on the job. Mike Cavendar, News Director for WGNX/CBS in Atlanta, summed up the views of the entire panel on the subject when he said that the interaction between media and the law "has to be an arm's length relationship" because there is "too much potential for compromise."

## Silver Gavel Awards

The *Fred Friendly Discussion* was followed by small breakout groups, which expounded upon the subject for an hour before breaking for lunch and the presentation of the 2000 Silver Gavel Awards. The Silver Gavel competition accords statewide recognition to published material and

radio and television broadcasts that fulfill one or more of the following:

1. Foster greater public understanding of the inherent values of our legal and judicial system;
2. Inform and educate citizens as to the role of the law, the courts, law enforcement agencies, and the legal profession in today's society;

3. Disclose practices and procedures in need of correction or improvement; and/or
4. Encourage and promote local and state legislative efforts to update and modernize our laws, courts and law enforcement agencies.

## This years' winners were:

### Daily Newspapers Under 20,000 Circulation

*Forsyth County News*

Cumming, Georgia

"Legal Group Raises Questions about Searches"

Written by Colby Jones

### Daily Newspapers Over 20,000 Circulation

*The Augusta Chronicle*

Augusta, Georgia

Series of articles covering the legal system

Written by Sandy Hodson

### Weekly Newspapers Over 3,000 Circulation

*Flagpole Magazine*

Athens, Georgia

"The Toughest Love"

Written by Brad Aaron

### Television: Commercial, Education & Cable Stations

WATC-TV Channel 57

Norcross, Georgia

The Gravedigger Show

Hosted by Joe Oreskovich

### Radio: Programs Produced by Stations in Top 5 Metro Areas

Peach State Public Radio

Atlanta, Georgia

"University of Georgia

Admissions Policy"

Reported by Susanna Capelouto

All but one of the honorees attended the luncheon, and awards

were presented by State Bar President Rudolph N. Patterson.

## Morkey See, Morkey Do

*Does Breaking and Saturation Coverage of Violent News Events Spawn Violence in Real Life?* The title of the first afternoon session put forward a timely and challenging question, which panelists tackled head on.

"Fear of crime continues to climb, even as the actual crime rate goes down," said Arthur Kellerman, M.D., M.P.H., Chairman of the Department of Emergency Medicine and Director of the Center of Emergency Control at Emory University in Atlanta. Judge James G. Bodiford of the Cobb Superior Court echoed this belief that our perception of crime is not necessarily based on fact. He explained that he cannot cite one case over which he has presided that can be tied directly to a media event. Yet, he still has a "sense" that media coverage contributes to his case load, particularly when young people are involved. Rick Davis, Executive Vice President of CNN News Standards and Practices, expressed a similar sentiment, saying he and his staff are "sensitive to the copy cat issue, even though we don't know if there is one." The presenters referred to several recent violent events including the Columbine high school tragedy and the accidental deaths of Lady Diana and John F. Kennedy Jr.

## All the News that's Fit to Click

"An industrial revolution is taking place before our eyes," said Larry Pryor, Executive Editor of *Online Journalism Review*, a publication of the University of Southern California's Annenberg School of Journalism. He and the other panel-

ists of the last session, *Internet Topic: Shifting Paradigms, Shifting Ethics: Is the Internet Making Journalistic Standards Obsolete?* examined how the advent of news on the Web has blurred the lines between information and commercialism. The use of buy buttons, the juxtaposition of news and editorial content, and the corporate underwriting of health care and other Web sites were among the topics discussed.

The Bar Media and Judiciary Conference was presented by the ICLE and sponsored by various media organizations. Attendees earned up to 5.5 CLE hours including one ethics hour and one professionalism hour. ☒

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*Nikki Hettinger is the communications coordinator for the State Bar of Georgia.*

**Dan turner**  
**Builders**  
**pickup 4/00**  
**p73**

## BUSINESS AND PLEASURE DURING CHERRY BLOSSOM FESTIVAL

# Board of Governors Meets in Macon

By Jennifer M. Davis

**THE BOARD OF GOVERNORS** gathered in President Rudolph N. Patterson's hometown of Macon, Georgia, for its Spring Meeting held March 24-26, 2000. The event was held in conjunction with Macon's world famous Cherry Blossom Festival, and the city was bursting with colorful pink blooms from its 230,000 Yoshino cherry trees.

## Halls of Fame

While there were numerous committee and board meetings plus a section leaders retreat on Friday afternoon, the convention officially opened that evening with a reception at the Georgia Sports Hall of Fame. The educational and interactive exhibits showcased heroes from the state's top high school, collegiate, professional and amateur athletic fields.

President-elect George Mundy was astonished to find his signature on a football from his old high school team, the 1963 state champion Cedartown Bulldogs. And Secretary Jimmy Franklin's wife, Fay Foy, spotted her father in a photo from the 1932-33 conference championship basketball team from Georgia Southern. They were in good company with notables like home run king Hank Aaron and football legend Fran Tarkenton behind the glass too.

The Sports Hall of Fame was a hit

for all ages, especially the interactive games on the upper level. Lawyers and their guests drove a race car, kicked field goals, shot free throws in a basketball cage, tested their agility on a balance beam, and announced the famous "Sid Bream slide" into home to take the Braves from worst to first.

It was hard to pull the "big kids" away to walk across the street for dinner at the Georgia Music Hall of Fame. But once everyone had indulged in a delectable Southern spread of barbeque, ribs and more, the crowd realized the Music Hall of Fame was just as fun and interesting as the neighboring sports shrine.

Life size buildings representing a rhythm and blues revue, vintage vinyl record store, Coca-Cola drugstore, country café, backstage alley, and gospel theater invited visitors to enjoy a vast collection of memorabilia and musical selections from each genre. The exhibits included historical perspectives on the multitude of artists whose impact has spanned the globe, including Otis Redding, Johnny Mercer, REM, Lena Horne, Chet Atkins, the B-52's, James Brown, Alan Jackson, the Allmann Brothers and Little Richard.

## Active Dues Increased \$25

The Board of Governors convened for its 173rd meeting on Saturday morning, while spouses and guests enjoyed the Mulberry Street Arts and Crafts Show.

The most important item on every spring meeting agenda is setting the dues for the upcoming year. Treasurer Jim Durham presented a proposal to increase the license fees by \$25 for active members, which ultimately passed by unanimous voice vote. Dues for active members had been at \$150 for five years. Durham explained that over the past seven to eight years, the Bar has grown from 7-8 percent with the budget growing around \$450,000 annually. On the other hand, with about 900 members passing the bar each year, our revenue is only \$135,000. Needless to say, the income generated by new members is not meeting our financial growth.

Durham added that the prospective move to the new Bar Center in 2001 may offer the greatest financial opportunity, since we will have 139,000 sq. ft. in leasable space. However, there are too many unknowns at this point to bank on that projected income; especially since we will offer law related entities a reduced rental rate as incentive to move in.

The Finance and Programs Committees are holding growth this year by budgeting an increase of only six percent. As President Rudolph Patterson explained, "We need to preserve the financial integrity of the Bar and bite the bullet before we face a dire financial crisis."

Durham also reported the Bar is moving \$300,000 to a restrictive operating reserve so it can not be



**1. President Rudolph Patterson (left) talks with MDP Committee Chair and Past President Linda Klein (right) and Mercer professor Chris Wells, who serves as reporter for the MDP Committee. 2. St. Joseph's Catholic Church was one stop on the historical tour. 3. At the Sports Hall of Fame, Board member David Darden calls the famous "Sid Bream slide" into home plate**



**to take the Braves to the World Series. 4. (l-r) Supreme Court Justices George Carley and Hugh Thompson point out historical landmarks on the grounds of the Hay House. 5. The Macon Bar Presidents welcomed everyone to their hometown: Cubbedge Snow, who served from 1974-75, visits with his wife, Edyth, and Margaret and Rudolph Patterson.**



spent without first seeking approval from the Board of Governors. He added that the Bar is also looking for alternative sources of funding and non-dues revenue.

Even with the \$25 increase to active dues, the State Bar of Georgia remains among the lowest dues in the country, although we are the ninth largest bar.

## Lawyer Discipline

The Board also continued its review of the disciplinary process, which began with a complete overhaul proposed to the Supreme Court of Georgia in May 1999. The Supreme Court has not yet ruled on the proposed changes to the rules of professional conduct; although, they

did hold public hearings about the proposal this past April. The proposed rules were published in the April 1999 edition of the *Journal* and are available online at [www.gabar.org/ga\\_bar/prc.html](http://www.gabar.org/ga_bar/prc.html).

At this meeting, the Board broke into small groups to discuss confidentiality within the lawyer discipline process (Rule 4-221). The

Disciplinary Rules & Procedure Committee is studying this issue and will ultimately make a recommendation to the Board to amend the current rule.

## Jury Reform

Judge Ben W. Studdard III, chair of the Court Futures Committee, presented his group's recommendations regarding jury reform in civil trials. The committee worked on the proposal for two years in response to the public's eroding confidence in the justice system, which increasingly involves accusations of inadequate verdicts.

Judge Studdard reported, "The recommended reforms, we believe, will improve the ability of our trial juries to perform the difficult task given them: understanding the law and the evidence to arrive at a true verdict."

The reforms include the following: 1) Have counsel give a mini-opening statement prior to voir dire. 2) Allow use of juror notes during deliberation. 3) Provide the jury with written copies of preliminary instructions and the final charge. 4) Give the final charge to the jury prior to closing argument. 5) Strive to fully answer deliberating juror's questions and meet their requests. 6) Encourage the parties to civil cases to consent to use 6-person juries. 7) Upon prior consent of counsel, allow alternate jurors to participate in jury deliberations, but not to vote. 8) Upon prior agreement of counsel, allow civil juries to proceed with less than a full panel when one member is disqualified or dismissed.

The State Bar's Board of Governors endorsed these eight reforms for circulation to superior and state court judges as a pilot program. These reforms will be available for use by an individual judge on a voluntary basis for a 12-month period. Judges

will be asked to obtain feedback from jurors and counsel which will be given to the committee for study. Ultimately, the committee hopes to formulate changes which will be adopted statewide.

The goal is threefold: to address public perception that juries are not able to deal with cases and render

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**"The recommended reforms, we believe, will improve the ability of our trial juries to perform the difficult task given them: understanding the law and the evidence to arrive at a true verdict."  
— Judge Ben Studdard**

proper verdicts; to increase the satisfaction of those who serve on juries; and to improve jurors' ability to do their jobs.

## CLE Charges

With the concept of reform at hand, Immediate Past President William E. Cannon Jr. — who also serves as chairperson of the Board of Trustees for the Institute of Continuing Legal Education (ICLE) and serves on the Commission on Continuing Lawyer Competency (CCLC) — announced upcoming changes to the current CLE structure in Georgia.

Beginning January 1, 2001, Georgia lawyers will be able to obtain their CLE in new ways

according to the following regulation passed by the CCLC:

In addition to traditional approved continuing legal education activities attended live and in-person by groups of attorneys, distance learning delivery formats are acceptable provided they are designed specifically as organized programs of learning and meet the other accreditation standards set out in these Rules and Regulations. These distance learning CLE activities may be attended by an individual attorney with no minimum number of attendees needed to receive approved MCLE credit, but must comply with the In-House/Self Study CLE Regulation 5 to Rule 8-106(B). Examples of qualifying distance learning formats include: live CLE activities presented via video or audio replays of live CLE activities; on-line computer CLE activities, CD-ROM and DVD interactive CLE activities; and written correspondence CLE courses. When attended by an individual attorney, the distance learning activity constitutes Self-Study CLE. Examples of non-qualifying educational activities that are encouraged on a non-MCLE approved credit basis include: reading cases and advance sheets, legal research, internet chat groups, observations of trial and jury duty.

In response to the new rules, ICLE plans to enhance its course offerings by broadcasting seminars, both live and recorded, via their Web site. Look for more details about these CLE changes in an upcoming issue.



1. (l-r) Board member Drew Whalen visits with Jack Flynt, who was president of the Bar from 1954-55, when it was a voluntary organization. 2. General Counsel Bill Smith leads a breakout group discussion regarding confidentiality in the lawyer discipline process. 3. President Rudolph Patterson and his wife, Margaret, show off their hometown's Georgia Music Hall of Fame. 4. Bringing some Scottish flair to the Sports Hall of Fame were: (l-r) Past President Hal Daniel and Executive Committee member Rob Reinhardt. 5. Judge Ben Studdard discussed proposed jury reform. 6. Enjoying the interactive games at the Sports Hall of Fame were: (l-r) YLD President Joe Dent and YLD Past President and current Board member Henry Walker.



## Other Business

Other highlights from the Board meeting include:

- Legislative Representative Tom Boller reported on the outcome of the legislative session (see article on page 38).
- A new Elder Law Section was created.
- Several proposals to amend the current Board of Governors apportionment were reviewed.
- Susan Cole of Macon was appointed to the Chief Justice's Commission on Professionalism.

## Historical Perspective

Following the Board of Governors meeting, many of the attendees took a historical tour of Macon. With 5,500 individual structures in 11 historic districts listed on the National Register of Historic Places, Macon has more acreage listed on this prestigious Register than any other city in the South.

Among the many sites on the tour was the Hay House, an Italian Renaissance Revival mansion, built in the 1850s. When constructed, it had hot and cold running water, three bathrooms, an intercom system, central heat, and an advanced

ventilating system. The resplendent home boasts 18,000 square feet and 24 rooms, complete with hidden doors, which were used during the Civil War to hide money.

The tour featured other stops in the historic district including St. Joseph's Catholic Church, an exemplary display of Romanesque Neo-Gothic style architecture with striking Bavarian stained glass and exquisite Italian marble carvings, statues and altars.

The day concluded with a reception that evening; then everyone headed outdoors to relish the Cherry Blossom Festival Street Party. ☒

# YLD PROVIDING A CHANCE TO SERVE



By Joseph W. Dent

One message I have been preaching this past year is that the YLD provides an opportunity to participate in community service for all lawyers regardless of age. Although, by definition, a member of the YLD is any lawyer in the State of Georgia who has not reached the age of 36 or who has been in practice less than three years (soon to be changed to less than five years), a lawyer does not have to be a definitional YLDER to participate in the many projects of the Division.

I like to believe that all lawyers recognize their obligation to be active in the community. Whether it is through pro bono work or through participating in hometown service projects, to be a complete lawyer, I believe community service is a must.

The YLD is the service arm of the Bar. Our stated mission is to provide service to the members and the public. However, the YLD's mission is truly a mission of the entire Bar. Therefore, it is important for members of the "Big Bar" to remember the YLD is working for the entire Bar. Whether it is supporting an associate in your firm or participating in a project of a committee, the support of the "Big Bar" is imperative for the YLD to fulfill its mission. Without the "Big Bar's"

support, the YLD could not continue the many excellent projects designed to serve to the Bar and the public.

A classic example of Big Bar participation in a YLD project is the Great Day of Service. I talked about Great Day of Service from the day I took office. As I leave office, I can only say thank you to the many young lawyers who helped organize the community service projects, and

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**Whether it is supporting an associate in your firm or participating in a project of a committee, the support of the "Big Bar" is imperative for the YLD to fulfill its mission**

thank you to all of the lawyers and judges who participated.

The Great Day of Service is a classic example of how the YLD works for the "Big Bar" to provide an opportunity for all members to participate in community service as a group. Hopefully, all lawyers are civic-minded and involved in a community organization in one form or fashion. However, the Bar as a group does not have that many opportunities to participate in community service. The Great Day

of Service is a group project for lawyers, and to all those who participated this year, "Big Bar" and YLD alike, thank you.

Another classic example of how "Big Bar" participation is important to the YLD is our Elder Law Committee. The Elder Law Committee has existed for several years, and many of its current members were YLDers who organized the original committee, but have since "aged out." But because of their practice area, they stayed active in the committee, and the roster has more "Big Bar" members than YLDers. As a result, a new State Bar Elder Law Section was created, and it will have its first organizational meeting during the Annual Meeting. Because of the YLD committee and the continued participation of those members of the committee who "aged out," a new section is being created to serve a valid legal need. Now, through the joint efforts of the Elder Law Section and the YLD Elder Law Committee, senior legal needs will be fulfilled. Many thanks to those on the Elder Law Committee who continued to participate after "aging out" and who will continue to work with the YLD Elder Law Committee to provide a valid service to the public.

These are just two examples of how the YLD provides service opportunities for all lawyers. Our mission is to provide service to the Bar and the public, but the YLD recognizes that, in fulfilling its mission, every member of the Bar should have an opportunity to serve. As the 2000-2001 year begins, eager committee chairs and committee members will begin to plan projects for the year. To all members of the Bar, I simply ask that you keep a watchful eye open for a project that interests you, join the YLD regardless of your age, and fulfill your obligation to serve. ☐



lois law new full bw

# Lawyers Come Out As a Group to Make Change in the Community

By Damon E. Elmore

ON APRIL 29, LAWYERS AND friends of the bar all across Georgia participated in the Young Lawyers Division's Annual Great Day of Service. The event, celebrating its 5<sup>th</sup> year, was successful and made a positive impact on several Georgia communities, thanks to the efforts and hard work of Georgia lawyers like you.

The event, affectionately known as GDS, was designed to allow lawyers in the State Bar to participate in a community service project that is germane to the community in which the attorney lives and practices. It specifically reflects the dedication and commitment of Georgia's lawyers to the broad needs of the public.

Lawyers who participated in cities and areas like Atlanta, Macon, Savannah, Marietta, Decatur/DeKalb County, Albany, Columbus and many more, volunteered their time, and donated some of their money to provide services such as minor construction and renovation, park beautification, group support and fund-raising. Additionally, the project allowed for the further development of inter-bar relations as several voluntary and local bars, including the Atlanta Council of Young Lawyers, donated their time and talent.

The GDS was the brainchild of concerned young lawyers who sought

to help the community, as well as enhance and improve the reputation of lawyers across the state. What separates the GDS from any other community service project is the fact that it is done across the entire state on one specific day. And it has a dual mission,

**GDS allows "attorneys of all ages to give back to the community, and to show the public that, together as a bar, we are actively involved in volunteer work."**

**— YLD President Joe Dent**

as proclaimed by YLD President Joe Dent, of "allowing attorneys of all ages to give back to the community, and to show the public that, together as a bar, we are actively involved in volunteer work." GDS also serves as an introduction and springboard to regular community service as volunteers are encouraged to follow-up later with their respective projects.

This year, the project attracted several "VIP" volunteers as numerous members of the bench participated in their local projects in Albany, Columbus and Marietta. In

Atlanta, support and lunch were provided by City Councilmember Michael Bond.

Recently, members of the state GDS Committee — including YLD President Joe Dent, GDS chairperson Damon E. Elmore, GDS Northern Region co-chair Beth Guerra, and GDS Southern Region co-chair Sharell Lewis — were invited by the American Bar Association to participate in the Spring Affiliate Outreach Project of the ABA Young Lawyers Division in Washington, D.C. There, the GDS was presented to other ABA affiliates with the hope that the other states and local bars would adopt a project similar to the trailblazing efforts in Georgia. Like the GDS project itself, the seminar was a success as members of both the Louisiana and South Carolina bars have already expressed interest in hosting a similar event in their states.

The YLD is committed to affecting change in Georgia through service to and for the Bar. The GDS project has evolved over the past five years where it focused on 10 communities, to targeting 16. Next year, it is anticipated to grow even larger. If you did not participate this year, be sure to watch for news related to the project for 2001. ☒

*Damon E. Elmore is the Great Day of Service chair and can be reached at (404) 239-1150 for more information about next year's event.*



**Scenes from the YLD Great Day of Service: 1. Marietta Detention Center beautification. 2. Christmas in April, Albany. 3. Habitat for Humanity, Columbus. 4. The Tifton Bar Association participated in cleaning up debris from a downtown vacant lot. Representing the group were (l-r) Lon Kemeness, Render Herad, Mike Burke, Joseph Carter, Ben Gratz, Harvey Davis, Bill NeSmith, Chris Cella, Bob Richbourg (holding daughter Quinn), Tommy Pittman, Tony Cella and Jo Gray. Not pictured: Nan Shivone and Dawson Morton from GLSP. 5. Atlanta Park beautification.**



## Section Leaders Hold Annual Retreat/Orientation

**ANNUALLY, SECTION LEADERS** come together for a half-day orientation during the State Bar's Board of Governors weekend in March. This year it was held in Macon at the Crowne Plaza.

### Sections Sponsored Annual Meeting Events

Twenty-one sections sponsored the elaborate Opening Reception, which began the State Bar's Annual Meeting this year. They also held a variety of breakfasts, luncheons, receptions, and CLE events. Look for photos from these various Section activities in the next issue.

### Section Web Sites

Look for more immediate postings to Section pages in the new bar year, as the State Bar's Web site will be brought in-house.

### New Section Formed

The State Bar has a new Section: the Elder Law Section is chaired by Eleanor Crosby. A monthly luncheon lecture series is planned as well as CLE seminars and a newsletter that will keep members apprised of emerging topics in the area of elder law.

### Corporate & Banking Section Changes Name

The Section will now be called the "Business Law Section."

— *Lesley T. Smith, Section Liaison*



**Scenes from the Section Leaders Orientation: 1. Pictured (l-r) are Jeff Kuester of the Computer Law Section with Bill Dodson, incoming Chair of the Real Property Law Section. 2. Alan Stuckey Clarke, Chair of the Entertainment & Sports Law Section. 3. Denny Galis of the ADR Law Section.**



**Time to Join a Section for  
the New Bar Year**

**Consult Your 2000-2001 Dues  
Notice and sign up today.**

# Computer Law Section Aids Tech Corps Georgia

**THE COMPUTER LAW SECTION** of the State Bar of Georgia supports Tech Corps Georgia, an Atlanta-community program that puts computers and training at the hands of teachers and families.

## About Tech Corps Georgia

Tech Corps Georgia, established in 1993, is a charter affiliate of the national TECH CORPS volunteer organization. Tech Corps Georgia's core program is the "Technology Education Program." The purpose of the program is to help bridge the technology gap for K-12 teachers, students and parents living and working in poor communities where access to technology and the Internet is still very limited.

### Since 1993:

- Over 800 donated computers have been refurbished by TCGA technical volunteers.
- 475 teachers from over 40 Metro Atlanta area schools have received computers and training.
- 100 low-income families with school-age children have received computers and training.
- TCGA volunteers have helped wire more than 15 Atlanta area inner city schools for Internet access through its participation in the nationally sponsored NetDay program.

The four major components of the Technology Education Program include: 1) equipment refurbishment; 2) computer for teachers training; 3) family technology training classes; and 4) volunteer training.

## How Can You Help?

Tech Corps Georgia needs:

1. **Financial Support:** Tech Corps Georgia is a non-profit organization. Donations may be mailed to the address at the end of this article;
2. **Computer Equipment:** 486s and higher, printers, monitors, keyboards, mice and modems. Tech Corps provides the licensed software for the computers, so no need to find the installation discs for that old computer. Donations need to be delivered to Tech Corps Georgia's main office in East Point, Georgia (at the "Buggy Works" near the East Point Marta Station); and
3. **Volunteers:** Tech Corps Georgia recruits technical volunteers to refurbish donated equipment, to train students in basic and advanced computer skills, to maintain the network system and the Web site, and to provide technical support to clients while they are learning.

*Following is the experience of one Computer Law Section member who helped build donated computers and provided training for lower income families and teachers at Tech Corps Georgia.*

**WHAT IMPRESSED ME THE MOST WAS HOW** much we have come to take for granted the power of these boxes — we pull our hair out if we get stuck on an old PC that won't load a graphics-intensive WWW site in a flash.


I found it so tremendously rewarding to watch the thrill on the faces of the women when their machines responded to their input. It was all so new and fascinating to some of them — from being able to put wallpaper on the desktop that was a color they liked, to seeing a screen saver kick in for the first time, to being able to manipulate and format text in their first word processing document.

I am also frankly amazed at how much value Tech Corps is able to provide to their customers. One-hundred dollars gets them a refurbished 486 PC with a VGA monitor, pre-loaded with this New Deal software (that does just about anything they'll ever really need at home and a lot they would need in the transition to an office environment), and then 10 hours of training starting with "Here's the power button."

Given how thoroughly computer literate lawyers are these days, and seeing how thrilled Sharon was to be able to progress more quickly with "spotters" to give individual help to students, I heartily recommend that the State Bar take this on as a bar-wide service project so that one of these days, Tech Corp might be able to count on a different handful of people dropping in every Saturday to facilitate the basic training class (and whatever else is needed, obviously). Seriously, if we could maintain an ongoing "sign up" and dole out the volunteers over time, even three spotters in that class (we had five) on a given Saturday would make a major impact. Thanks for the opportunity,

— Christopher R. Stovall  
Andersen, Davidson & Tate, P.C., Lawrenceville

### For further information, contact:

Chris Miller, Executive Director  
Tech Corps Georgia  
1514 East Cleveland Ave., Suite 100  
East Point, GA 30344  
(404) 768-9990  
[www.techcorpsga.org](http://www.techcorpsga.org) 



## WHO'S WHERE

### InAtlanta

**C. Wilson DuBose**, formerly of Schnader Harrison Segal & Lewis LLP, has joined **H. James Winkler** and **Jeffrey R. Davis** to form **Winkler, DuBose & Davis LLC** with offices in Atlanta and Madison (see listing under Madison).

**Powell, Goldstein, Frazer & Murphy LLP** has named two attorneys as new partners and one attorney as counsel. Named to the partnership were **Linzy O. Scott III**, of Atlanta and **Sara Kay Wheeler** of Atlanta. **Deborah Renee Kurzweil** of Atlanta was named as counsel. Also, **Georges A. Hoffman** has joined the Atlanta office in the firm's international and immigration practices. Visit their Web site at [www.pgfm.com](http://www.pgfm.com).

**Mary A. Prebula PC** announces that **Dennis L. Johnson** has become associated with the firm, located at 3483 Satellite Boulevard, N.W., Suite 200, The Crescent Building, Duluth, GA 30096-5800; (770) 495-9090.

**Macey, Wilensky, Cohen, Wittner & Kessler LLP** announces that **Richard C. Litwin** has been promoted to partner of the 50-year-old law firm. Litwin practices in the areas of tax controversies and tax litigation, with particular emphasis on state and local taxation and bankruptcy taxation.

**Casey, Gilson & Williams PC** is pleased to announce that the firm's name changed to **Casey, Gilson, Williams & Shingler PC**, as of March 1, 2000, as the firm celebrates its 10th Anniversary. **George P. Shingler**, former Deputy Attorney General for the State of Georgia,

joined the firm in July 1997. The firm's offices will remain at 31st Floor, Six Concourse Parkway, Atlanta, GA 30328; (770) 512-0300. Visit the firm's Web site at [www.caseygilson.com](http://www.caseygilson.com).

**Huntington & Williams** announces that **S. Tammy Pearson** has been elected partner in the firm's Atlanta office. The firm, founded in 1901, has more than 680 attorneys serving clients in 80 countries from 15 offices around the world.

**Davis, Matthews & Quigley PC** announces that **Robert D. Boyd** has joined the firm as a shareholder. Boyd will continue his practice in the area of family law. The firm is located at 3400 Peachtree Road, N.E., 14th Floor, Lenox Towers II, Atlanta, GA 30326; (404) 261-3900, Fax (404) 261-0159.

**Schnader Harrison Segal & Lewis, LLP** is proud to announce that **Allen N. Bradley** has joined the firm's Atlanta office as a partner. Also, **Joseph R. Delgado Jr.**, has joined as an associate. Founded in 1935, Schnader Harrison is a 300-lawyer firm with a national and international practice. Visit the firm's Web site at [www.schnader.com](http://www.schnader.com).

**Foltz Martin LLC** has elected **Halsey G. Knapp Jr.** as a member and named **Michael D. Robl** as an associate of the 12-lawyer firm. Knapp's specialty areas include technology and business litigation; Robl has experience in business, creditor's rights and banking litigation.

The international law firm **Greenberg Traurig LLP** has named attorney **Jess Rosen** as a new shareholder in the firm's Atlanta office. Rosen had been an associate

in the firm's entertainment practice. **Greenberg Traurig** is a full-service international law firm with nearly 600 attorneys practicing in 18 cities. Visit the firm's Web site at [www.gtlaw.com](http://www.gtlaw.com).

**Victor Roberts, Theodore A. Erck, and Edwin J. Schklar** are pleased to announce the formation of **Roberts, Erck & Schklar**. The office is located at 945 East Paces Ferry Road, Suite 2220, Resurgens Plaza, Atlanta, GA 30326; (404) 888-0100.

**Altman, Kritzer & Levick PC** takes pleasure in announcing that **David B. Kurzweil** and **James R. Sacca** have become members of the firm and will lead the firm's practice in the areas of bankruptcy, creditor's rights and financial restructuring. Visit the firm's Web site at [www.akl.com](http://www.akl.com).

**Morris Manning & Martin, LLP** is proud to announce the following new additions and promotions: **James Walker IV** and **John Harris** join the firm as partners. **George Hibbs** and **Kristen McGuffey** are promoted to partner. The following attorneys join the firm as of counsel: **David Hansen** (mergers and acquisitions), **Jeff Joyce** (mergers and acquisitions), **Mike Mehrman** (intellectual property), **Ann Moceyunas** (technology group), **Susan Spenser** (corporate securities) and **Terresa Tarpley** (corporate securities). Nineteen associates join the firm: **Brian Anderson** (intellectual property), **Lorie Boe** (technology group), **Kevin Broyles** (corporate technology), **David Cicero** (corporate securities), **John Doughty** (intellectual

tual property), **James Fisher** (corporate technology), **Matthew Gries** (corporate securities), **David Hagy** (commercial litigation), **Rob Hoskyn** (litigation group), **Robert Joseph** (corporate securities), **Andrew Kaiser** (corporate securities), **Larry Kunin** (intellectual property), **Heath Linsky** (corporate securities), **Bill McDaniel** (corporate securities), **Colleen O'Brien** (corporate securities), **Heather Sample** (real estate group), **Leslie Sherman** (labor & employment), **Gerry Williams** (corporate securities), **Sandra Young** (creditor's rights & bankruptcy). Visit the firm's Web site at [www.mmmlaw.com](http://www.mmmlaw.com).

## InColumbus

The firm of **Hatcher, Stubbs, Land, Hollis & Rothschild** announces that **Gregory S. Ellington** has been named partner. The firm's office is located at 233 12th Street, Suite 500 Corporate Center, Columbus, GA 31901; (706) 324-0201.

## InMarietta

**Dawson & Huddleston** announces **Jason R. Manton** and **Jason L. Nohr** have joined the firm as associates. Both Manton and Nohr will help continue the firm's practice in securities arbitration, products liability, medical malpractice, and personal injury. Visit the firm's Web site at [www.dawsonhuddleston.com](http://www.dawsonhuddleston.com).

## InMadison

**H. James Winkler** and **Jeffrey R. Davis** of **Winkler & Davis LLC** announce that **C. Wilson DuBose** has joined them as a partner, and the new firm will be known as **Winkler, DuBose & Davis LLC**. DuBose formerly was managing partner of the Atlanta office of Schnader Harrison

Segal & Lewis LLP. While he will principally practice in Madison, he will also maintain an Atlanta office at 2800 SunTrust Plaza, Atlanta, GA 30308-3252; (404) 215-8109. The Madison office is located at 300 Hancock St., P.O. Box 671, Madison 30650; (706) 342-7900; fax (706) 342-0011. Visit the firm's Web site at [www.wddlaw.com](http://www.wddlaw.com). ☐

## Official Opinions

No official opinions were issued in the month of February.

## Unofficial Opinions

**Governor.** The Governor's power to veto individual appropriations does not include the power to reduce an appropriation. (2/11/2000 No. U2000-2)

**Juvenile courts.** Local legislation is not necessary to establish a juvenile court for Liberty County alone, but the powers of the juvenile court cannot be restricted to only that county. (2/21/2000 No. U2000-3)

**Open Records Act.** The billing and payment records of public employees and officials to a municipally owned and operated public utility system are subject to disclosure under the Georgia Open Records Act, barring the proper application of any exception. Additionally, any special treatment of those public officials by such utilities may need to be disclosed under the Ethics in Government Act and the failure to do so could subject the recipients to legal action. (2/25/2000 No. U2000-4) ☐



**Attorney General  
Thurbert Baker**

Creative  
Legal Re-  
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# POSTCARDS FROM A DISTURBING TIME

**James Allen, Hilton Als, Congressman John Lewis, and Leon F. Litwack, *Without Sanctuary: Lynching Photography in America*, Twin Palms Publishers 209 pages \$60**

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**Reviewed by Janet E. Hill**

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**WITHOUT SANCTUARY EXPLORES THE AMERICAN** phenomenon of “lynching postcards,” once popular but outlawed in 1908. Using these postcards as a focal point, the authors have painstakingly documented the personal history of the lynching victims, describing the events which led to their deaths, as well as depicting the harsh reality of their tortures and deaths. As horrific as the descriptions may be, the spectators’ joy and pride at their participation in the lynchings reflected in the postcards are even more disturbing. The mobs’ eyes and expressions have no sense of shame or fear of having broken a law. Indeed, there is an air of glee about the spectators as they gather, often with their children, to witness vigilante “justice.”

Readers will be haunted by the postcard inscriptions, such as: “Well, John — This is a token of a great day we had in Dallas, March 3rd, a negro was hung for an assault on a three year old girl. I saw this on my noon hour. I was very much in the bunch. You can see the negro hanging on a telephone pole.”

Another particularly disturbing card shows the charred corpse of Jesse Washington, a mentally retarded seventeen-year-old boy, who was convicted, after four minutes of deliberations, of murdering the white woman on whose farm he worked. After all . . . he had “confessed.” The authors recount what happened next: he was taken from the courtroom, beaten and dragged through town, castrated, his ears and fingers cut off; the mob lowered him repeatedly into a raging fire, to the shouts of the crowd, until

he was totally charred; then, to make an example of him, his corpse was hung on public display in front of the blacksmith shop in a nearby town that had a large black population. The postcard’s (grammatically insufficient) inscription reads: “This is the Barbecue we had last night my picture is to the left with a cross over it your son Joe.”

Reading this book may make readers feel sick and unclean. The images and stories still crowd this reviewer’s mind: a nine-year-old commenting “I have seen a man hanged, now I wish I could see one burn”; Mary Turner, eight months pregnant, being lynched for making unwise remarks about her husband’s execution; her unborn child being stomped to death by the mob; and Same Hose’s severed knuckles being displayed in the window of an Atlanta grocery store. In his Foreword to

*Without Sanctuary*, Congressman John Lewis asks: “What is it in the human psyche that would drive a person to commit such acts of violence against their fellow citizens?” The book cannot answer this question. Perhaps no one really can.

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**The images and stories still crowd this reviewer’s mind: a nine-year-old commenting “I have seen a man hanged, now I wish I could see one burn”**

My one criticism of this book is its emphasis on the South’s history of lynching. As Ida B. Wells stated in 1909, “Time was when lynching appeared to be sectional, but now it is national — a blight upon our nation, mocking our laws and disgracing our Christianity.” Nowhere in the commentary is there any discussion of lynching outside the South, even though the photographs and stories are not limited to Southern atrocities. Indeed, only half of the lynchings depicted in the book are in the Confederate states, with the remaining having taken place in Ohio, Indiana, Illinois, Minnesota and other states.

Unfortunately, lynchings and other hate crimes are not geographically or culturally limited. The evening news brings us constant reminders of humans’ capacity to hate. Despite that flaw, this book left this reviewer determined to continue what Ida B. Wells described as the

*Editor’s Note: Photographs from Without Sanctuary: Lynching Photography in America are on exhibit at the New-York Historical Society (2 West 77<sup>th</sup> Street at Central Park West) through July 9, 2000.*

### Alcohol/Drug Abuse and Mental Health Hotline

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Albany .....	H. Stewart Brown .....	(912) 432-1131
Athens .....	Ross McConnell .....	(706) 359-7760
Atlanta .....	Melissa McMorries .....	(404) 522-4700
Florida .....	Patrick Reily .....	(850) 267-1192
Atlanta .....	Henry Troutman .....	(770) 980-0690
Atlanta .....	Brad Marsh .....	(404) 876-2700
Atlanta/Decatur .....	Ed Furr .....	(404) 231-5991
Atlanta/Jonesboro .....	Charles Driebe .....	(404) 355-5488
Cornelia .....	Steven C. Adams .....	(706) 778-8600
Fayetteville .....	Glen Howell .....	(770) 460-5250
Hazelhurst .....	Luman Earle .....	(912) 375-5620
Macon .....	Bob Daniel .....	(912) 741-0072
Macon .....	Bob Berlin .....	(912) 745-7931
Norcross .....	Phil McCurdy .....	(770) 662-0760
Rome .....	Bob Henry .....	(706) 234-9442
Savannah .....	Tom Edenfield .....	(912) 234-1568
Valdosta .....	John Bennett .....	(912) 242-0314
Waycross .....	Judge Ben Smith .....	(912) 285-8040
Waynesboro .....	Jerry Daniel .....	(706) 554-5522

“work of making the ‘law of the land’ effective and supreme upon every foot of American soil — a shield to the innocent; and to the guilty, punishment swift and sure.” Indeed, such determination is the ultimate goal of the authors:

It is my hope that *Without Sanctuary* will inspire us, the living, and as yet unborn generations, to be more compassionate, loving, and caring. We must prevent anything like this from ever happening again. (Congressman John Lewis, *Foreword, Without Sanctuary*)

The authors should be commended for their professional presentation of such graphic and disturbing materials, which will both attract and repulse the reader. They should also be congratulated for contributing the photographs and postcards to Robert W. Woodruff Library’s Special Collection, Emory University, where they are only available to researchers by appointment, thereby removing this potential “collectible” from the market place.

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*Janet E. Hill is a partner in the firm of Nelson, Hill, Lord & Beasley, LLP, a plaintiffs’ civil rights and employment litigation law firm with offices in Athens and Decatur. Hill is also Vice-President of the National Employment Lawyers Association. She graduated from the UGA School of Law in 1982 and has been practicing employment law since that time.*

## Duly Noted

***Civil Rights in the United States*, 2 vols. Eds. Waldo E. Martin, Jr. and Patricia Sullivan  
Macmillan Reference \$250**

The goal of this two-volume reference compendium is to make information about the civil rights struggle available to “a wide audience in a highly accessible format.” In addition to supplying an informative overview of civil rights and entries on well-known figures such as Booker T. Washington and Martin Luther King, Jr., the books conceptualize civil rights as “evolving out of many, often diverse, sources and moments” in American history. As such, information is provided about leaders, writers, activists and artists from a number of contexts, including: Gay and Lesbian Rights, the Woman Suffrage Movement, the Chinese Americans Citizens Alliance, the Chicano Movement, and the Native American Movement. As an outgrowth of a series of NEH Summer Institutes at Harvard University’s W.E.B. Du Bois Institute on Teaching the History of the Civil Rights Movement, this set provides valuable insights into the ongoing civil rights struggles in the United States. ☒

## DISCIPLINE NOTICES (March 10 - April 26, 2000)

### Disbarred

#### John J. Sowa Atlanta, Georgia

John J. Sowa (State Bar No. 668595) voluntarily surrendered his license to practice law in the State of Georgia. The Supreme Court accepted Sowa's surrender by order dated March 13, 2000. Sowa pled guilty to 27 counts of mail fraud, and was disbarred based on these felony convictions.

### Suspended

#### Constance Pinson Heard Stone Mountain, Georgia

On March 13, 2000, the Supreme Court suspended Constance Pinson Heard (State Bar No. 342190) from the practice of law for six months to run concurrently with a six-month suspension previously imposed.

Heard was retained to represent a client in a divorce proceeding. The client paid Heard \$750, along with court filing fees. She never filed the divorce action and refused to account for the disposition of the client's funds.

### Review Panel Reprimand

#### R. Gawyn Mitchell Columbus, Mississippi

R. Gawyn Mitchell (State Bar No. 513420) petitioned the Supreme Court for voluntary discipline. The Court accepted Mitchell's petition on March 10, 2000, and ordered him to receive a Review Panel reprimand. A resident of Mississippi retained a Mississippi attorney, who was not admitted in Georgia, to represent him in divorce proceedings. The Mississippi attorney associated Mitchell,

who gave legal advice and signed and filed pleadings as Georgia counsel. Although Mitchell is an active member of the Mississippi bar, he has been an inactive member of the State Bar of Georgia since 1990, and was therefore practicing in Georgia in violation of the Bar Rules.

### 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 March 10, 2000, five lawyers have been suspended for violating this Rule. ☒

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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., 800 The Hurt Building, 50 Hurt Plaza, Atlanta, Georgia 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.

Abram, Morris B. Geneva, Switzerland	Admitted 1940 Died March 2000	Pond, Lawrence J. Norcross	Admitted 1985 Died April 2000
Carr, Terry A. Morrow	Admitted 1982 Died March 2000	Reese, Arthur C. Lawrenceville	Admitted 1975 Died 2000
Hunt, Edwin F. Atlanta	Admitted 1959 Died March 2000	Regan, James Ignatius Atlanta	Admitted 1994 Died March 2000
Johnston, McCready St. Simons	Admitted 1949	Schlosberg, Myra Joy Marietta	Admitted 1997 Died December 1999
Lumpkin Jr., Frank G. Columbus	Admitted 1935 Died March 2000	Sterne, Edwin L. Atlanta	Admitted 1929 March 2000
Monsky, E. H. Decatur	Admitted 1949 Died March 2000	Sumner, Walter Edwin Atlanta	Admitted 1976 Died March 2000
Moore, Elizabeth Felton Toccoa	Admitted 1993 Died April 2000	Watson, Jess H. Gainesville	Admitted 1941 Died March 2000
Mostiler, Johnny Baxter Griffin	Admitted 1972 Died April 2000	Wilson Jr., Alexander E. Atlanta	Admitted 1931 Died April 2000
Pinkston, Frank C. Macon	Admitted 1947 Died March 2000		

## Honor Colleagues With A Memorial

The Lawyers Foundation of Georgia will soon be furnishing the *Georgia Bar Journal* with Memorials Pages to honor deceased members of the State Bar of Georgia. These pages will include information about the individual's accomplishments. For information about placing a memorial, please contact the Lawyers Foundation at 404-526-8617 or 800 The Hurt Building, 50 Hurt Plaza, Atlanta, GA 30303.



**ATLANTA ATTORNEY GARY D. Zweifel** has been elected member of the Board of Directors of the National Guardianship Association (NGA). Founded in 1988, NGA is comprised of more than 500 individuals in public and private, for-profit and not-for-profit agencies and organizations. It provides members with education and training as well as the opportunity to network and

help set a national agenda to ensure standards of excellence for persons serving as guardians.

The **Greater Atlanta Hadassah's Attorney's Council** presented **Judge Phyllis Kravitch** of the 11th Circuit of the United States Circuit of Appeals with its first **Trailblazer Award** during a dinner held in her honor on May 3 in Atlanta. The evening's program,

titled, "The Four P's of Success: Presentation, Power, Politics & Policy," was presented by Judge Joyce Bihary of the U.S. Bankruptcy Court; Connie Glaser, author of "Swim with the Dolphins"; Judge Stephanie Manis of the Superior Court of Fulton County; and Karen Wildau, partner of Powell, Goldstein, Frazier & Murphy LLC. Hadassah, the Women's Zionist Organization of America, is the largest Jewish volunteer women's organization in the U.S. Its programs include health education; community volunteer projects; social action and advocacy; Jewish education and research; and partnerships with Israel. Hadassah also supports health care, education and youth institutions, and reforestation and parks projects in Israel. The Greater Atlanta Hadassah has existed for more than 80 years.

**F. Sheffield Hale**, a partner in the business practice group of the Atlanta firm Kilpatrick Stockton LLP, was elected **chairman of the Georgia Trust for Historic Preservation** during the Trust's Annual Meeting held on April 1 in Columbus. Hale joined the Board of Trustees of the Georgia Trust in 1995 and has served as First Vice-Chairman since 1998, the year the Trust named him Volunteer of the Year. Hale has served as chairman of St. Jude's Recovery Center and the Rhodes Hall Board of Governors, and on the boards of The Atlanta Historical Society, The Historic Oakland Foundation, The Atlanta Preservation Center and The Joel Chandler Harris Association. He is also a member of the 1996 class of Leadership Atlanta and the 1999 class of Leadership Georgia.

## Focus onFirms

**Holland and Knight**, one of the ten largest law firms in the U.S., is the first firm to be honored by the **United Way of America (UWA)** for corporate community involvement. The firm received the **Summit Award** as part of the UWA's annual Spirit of America Program for members of its National Corporate Leadership program. Holland and Knight contributes time equal to three percent of its total billable hours to pro bono work, which averages to about 50 hours per lawyer per year – a value of approximately \$7 million. Additionally, the firm has a Community Services Team and a Charitable Foundation, which focus on pro bono and other community service issues.

The national law firm of **Alston & Bird LLP** was recently nominated by BellSouth for the **Computer World Smithsonian Award** in recognition of its role in a "first of its kind" federal bankruptcy case, in which the firm petitioned for and received ground-breaking permission to serve process to a defendant via electronic mail

(please see *Service of Process by E-mail* in the February 2000 issue of the *Georgia Bar Journal*). Each year, the **Computer World** Smithsonian Awards Program presents to the Smithsonian Institution a group of outstanding users of information technology who have helped revolutionize the way we communicate, conduct business, govern our lives and learn about the world. **J. William Boone** and **Jeffrey J. Swart**, members of the Alston & Bird team involved in the case, were presented with a Smithsonian medallion on behalf of the firm at a special ceremony held on April 3 at the Smithsonian in Washington, DC. Once nominated, firms submit their case studies. They are then designated "Laureates" under the **Computer World** Smithsonian Awards Program and are honored by having their case studies included in the Smithsonian Institution's Permanent Research Collection. Within each of the program's ten categories, one Laureate will receive the **Computer World** Smithsonian Award for that category.

# Supreme Court Convenes at Local High School



On April 11, 2000, the Supreme Court of Georgia heard oral argument at D.M. Therrell High School in Atlanta. *Porter v. State* was an appeal from a murder conviction and *Wade v. Wade* involved child custody issues. This marked the first time in Georgia and possibly only the second time in U.S. history that any State Supreme Court has heard oral argument at a high school.

Therrell students were an integral part of the process. Student preparation for the Supreme Court's visit began in January 2000. Therrell teachers and administrators structured the entire semester around issues associated with the Court's visit. Therrell students received short briefs of the cases and literature about the Supreme Court and the judicial process. Students participated in court-related projects in Law and Government classes as well as Social Studies, Art, History, Speech and Drama.

The Supreme Court, the Atlanta Bar Association, the Atlanta School Board, the State Bar of Georgia, the Atlanta Bar Association and the staff of Therrell High School worked together to create an enriching experience for everyone involved.

Also, Kilpatrick Stockton partner **C. Ray Mullins** was appointed by the 11th Circuit Court of Appeals as the new **Bankruptcy Judge for the U.S. Bankruptcy Court for the Northern District of Georgia.**

Another Kilpatrick Stockton attorney, **J. Stephen Shi**, is among 39 of the firm's lawyers to be recognized in the Eighth Edition of *The Best Lawyers in America 1999-2000*. Inclusion in this publication is considered a singular honor, as it is a compilation of the top lawyers in the nation as selected by their peers and competitors. Lawyers throughout the state were asked to rate the clinical abilities of other lawyers in their respective practice areas, and only those attorneys who earned the consensus support of their peers were included. The survey was

executed by Woodward/White Inc. Shi is a partner in the Environmental Practice Group's Atlanta office, with extensive experience in virtually all aspects of environmental law.

**Judge Thomas B. Wells** was elected **Chief Judge of the United States Tax Court** for a two-year term that began June 1. Wells is a member of the American Bar Association's Tax Section and of the State Bar of Georgia, where he served on the Board of Governors and the Board of Editors of the *Georgia State Bar Journal*. Wells received his J.D. from Emory University Law School in 1973, and his Masters of Law in Taxation from New York University Law School in 1978.

**Thomas L. West III** was recently elected president-elect of

the **American Translators Association** for a two-year term. West practiced international and corporate law for five years with the Atlanta firm of Alston & Bird before founding Intermark Language Services, an Atlanta-based provider of translations to lawyers, bankers and accountants around the world. He is also the author of the *Spanish-English Dictionary of Law and Business*. West is a graduate of the University of Virginia School of Law and holds a bachelor's degree in French, *summa cum laude*, from the University of Mississippi as well as a master's in German from Vanderbilt University. ☐

# Words of Wisdom, Inspiration Mark Tribute to Retiring Appellate Court Judge

A SPECIAL SESSION OF THE Court of Appeals of Georgia held on Monday, April 3, 2000, paid touching tribute to retiring Presiding Judge and Former Chief Judge William LeRoy McMurray Jr.

The number of family members, colleagues and friends of McMurray who turned out for the event exceeded the capacity of Room 617 of the State Judicial Building in Atlanta, and a second room was set up to allow viewing of the proceedings via teleprompter. In keeping with the Court's long-standing tradition, the tribute culminated with the unveiling of a portrait of McMurray, painted by artist George Mandus, which will be hung in the Court of Appeals courtroom alongside portraits of other appellate retirees.

The two-hour presentation was a poignant one throughout, beginning with the invocation by Dr. R. Page Fulgham, pastor of the Sylvan Hills Baptist Church in Atlanta, during which he explained that McMurray "chose early on to serve God rather than man." Distinguished presenters included Governor Roy E. Barnes, who referred to McMurray as a "true gentleman." This sentiment was reiterated time and again by such long-time acquaintances of McMurray as Former Governor George D. Busbee (who first appointed McMurray to the Court), Supreme Court Justice George H. Carley, Attorney General Thurbert E.

Baker, and Court of Appeals Chief Judge Edward H. Johnson, who presided over the morning's proceedings.

The speakers provided glimpses into McMurray's extraordinary life, from his military service during World War II and the Korean con-

including Attorney General Baker, who said of McMurray, "He has served this state with honor and integrity for almost a quarter of a century."

Cordele attorney Guy Velpoe Roberts Jr., was so overwhelmed with emotion that he opted to have

his speech presented by Dr. John F. Gibson, a retired Baptist minister from Macon. And McMurray himself chose not to step up to the podium but rather had Brother Daniel D. Tamburo, Jr., lay lector and commentator in Michigan as well as McMurray's brother-in-law, read aloud his very moving, written response to the occasion. "It is a long, long way from South Georgia to this hallowed place," said Tamburo, reading McMurray's words.

"Each of you is a very special person to me . . . you honor me by your presence." McMurray's speech credited "the will and grace of God" for his accomplishments and said about the tribute, "I am humbled." In parting, he offered words to live by: "If you are seeking inner peace in your life, then be nice to one another . . . be able to say, before you go to sleep, 'I hold no animosity'."

McMurray's retirement was effective March 31, 2000, but he will go on to serve as Senior Appellate Court Judge. ☒

— Nikki Hettinger



**Retiring Judge William LeRoy McMurray Jr. is congratulated by Bar President Rudolph Patterson and his wife, Rosemary, upon his retirement.**

flict, to his work with the Federal Bureau of Investigation (where he met his wife) and, of course, his brilliant legal career.

He has written or participated in 13,500 published opinions, a record that, according to Justice Carley, "may never be surpassed." He was reelected to the Court of Appeals without opposition an unprecedented five times where, according to Former Supreme Court Justice Hardy Gregory, Jr., he has "presided not as a tyrant but as a servant." In 1979, he became Presiding Judge, a title he held for a record 20 years. And throughout, he earned the admiration and respect of his colleagues,





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Law schools	Date	Time	Reception/ Lunch
Emory I*	August 25, 2000	10 a.m.-noon	Noon-1 p.m.
Emory II*	October, 2000	TBA	
Emory III*	February, 2001	TBA	
Georgia State	August 15, 2000	3:15-5:15 p.m.	5:15-6 p.m.
John Marshall	August 15, 2000	10 a.m.-noon	TBA
Mercer	August 18, 2000	2-4 p.m.	4- 5 p.m.
UGA	August 14, 2000	2-4 p.m.	4 -5 p.m.

\*Emory has expanded its Orientation to three sessions.

#### Please return to:

State Bar Committee on Professionalism

Attn.: Terie Latala

800 The Hurt Building

50 Hurt Plaza

Atlanta, Georgia 30303

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### THE ORIENTATIONS ON PROFESSIONALISM

conducted by the State Bar Committee on Professionalism and the Chief Justice's Commission on Professionalism at each of the state's law schools have become a permanent part of the orientation process for entering law students. The Committee is now seeking lawyers and judges to volunteer from across the state to return to your alma maters or to any of the schools to help give back part of what the profession has given you by dedicating a half-day of your time this August to introduce the concept of professionalism to first-year students. ☒

# Insurance Specialists new

# Second Publication of Proposed Formal Advisory Opinion

## Second Publication of Proposed Formal Advisory Opinion Request No. 98-R7

Members of the State Bar of Georgia are hereby NOTIFIED that the Formal Advisory Opinion Board has made a final determination that the following Proposed Formal Advisory Opinion should be issued. *(As a result of comments received from members of the State Bar and for purposes of clarification, the Formal Advisory Opinion Board has added language to the fifth paragraph of the **OPINION** section of the Proposed Opinion. The added language is underlined.)* Pursuant to the provisions of Rule 4-403(d) of Chapter 4 of the Rules and Regulations of the State Bar of Georgia, this proposed opinion will be filed with the Supreme Court of Georgia on or after June 19, 2000. Any objection or comment to this Proposed Formal Advisory Opinion must be filed with the Supreme Court within twenty (20) days of the filing of the Proposed Formal Advisory Opinion and should make reference to the request number of the proposed opinion.

## Proposed Formal Advisory Opinion Request No. 98R7

### QUESTION PRESENTED:

May a Georgia attorney contract with a client for a non-refundable retainer?

### SUMMARY ANSWER:

A Georgia attorney may not contract with a client for a non-refundable special retainer. Generally, there are two forms of retainer agreements with clients: general retainers (also known as "true" retainers) and special retainers. It is important to distinguish between these two forms in answering the question presented. A non-refundable special retainer, as opposed to a general retainer, is a contract for specific services by an attorney paid in advance by the client and not refundable to the client regardless of whether the services have been provided. As such a non-refundable special retainer violates Standard 23 obligating an attorney to promptly refund all unearned monies upon withdrawal by the attorney, including withdrawal prompted by the client, and also violates the client's absolute right to terminate a representation without penalty. In addition, in that non-refundable retainers permit payment for services that have not been provided, such retainers necessarily violate Standard 31 prohibiting any "fee in excess of a reasonable fee".

This prohibition on non-refundable special retainers does not prohibit *general* retainers. General retainers are not advance payments for specific services to be provided but are, instead, payment for the availability of an attorney without regard to specific services to be

provided. General retainers are a commitment by an attorney to a particular client, thus disqualifying the attorney from representations in conflict with that client, and are fully earned at the time of contracting.

Nor does the prohibition on non-refundable retainers prohibit an attorney from designating by contract points in a representation at which specific advance fees payments will have been earned, so long as this is done in good faith and not as an attempt to penalize a client for termination of the representation or otherwise avoid the requirements of Standard 23. All such fee arrangements are, of course, subject to Standard 31.

### OPINION:

In answering the question presented, it is necessary to clearly distinguish between general and special retainers. *General retainers* are agreements providing for the *availability* of an attorney to a client for services without regard to specific services to be provided. General retainers require no future acts by the attorney, only continued availability. By the act of committing himself or herself to be available to the client for future representation, should the need for such arise, and thus disqualifying himself or herself from representations in conflict with this client, the attorney has earned the monies paid under a general retainer. Clients may recover such fees only upon proof of

acts by the attorney inconsistent with the commitment. Specifically, if a client terminates a general retainer, no fees paid for the general retainer need be returned to the client for such fees have been fully earned.

*Special retainers* are agreements providing for the advance payment of fees for specified services to be provided. *This is true regardless of the manner of determining the amount of the fee or the terminology used to designate the fee, e.g., hourly fee, percentage fee, flat fee, fixed fee, minimum fee, advance fee, or prepaid fee.*

In FORMAL ADVISORY OPINION 91-2 (FAO 91-2), we said:

“Terminology as to the various types of fee arrangements does not alter the fact that the lawyer is a fiduciary. Therefore, the lawyer’s duties as to fees should be uniform and governed by the same rules regardless of the particular fee arrangement. Those duties are . . . : 1.)To have a clear understanding with the client as to the details of the fee arrangement prior to undertaking the representation, preferably in writing; 2.)To return to the client any unearned portion of a fee; 3.)To accept the client’s dismissal of him or her (with or without cause) without imposing any penalty on the client for the dismissal; 4.)Comply with the provisions of Standard 31 as to reasonableness of the fee.”

Also, citing *In the Matter of Collins*, 246 Ga. 325 (1980), we said, in the same Formal Advisory Opinion:

“The law is well settled that a client can dismiss a lawyer for any reason or for no reason, and the lawyer has a duty to return any unearned portion of the fee.”<sup>1</sup>

Non-refundable special retainers, as we have defined them above, would be contracts to violate the ethical duties and law specifically addressed in FAO 91-2. As such they would be in violation of Standard 23<sup>2</sup> and Standard 31 and are not permitted in Georgia. Since FAO 91-2 was issued, the Supreme Court of Georgia has confirmed that non-refundable retainers, *i.e.*, contracts for specific services by an attorney paid in advance by the client and not refundable to the client regardless of whether the services have been provided, are in violation of the client’s absolute right to terminate without penalty and, therefore, in violation of the ethical obligations an attorney has as a fiduciary of a client. See, *AFLAC, Inc. v. Williams*, 264 Ga. 351 (1994). In so doing, the Court followed the lead of *Matter of Cooperman*, 83 N.Y. 2d 465 (1994), by specifically referring to the analysis upon which that opinion was based. See, *AFLAC, Inc. v. Williams*, 264 Ga. 351, 353 *fn* 3, *citing* Brickman & Cunningham, Nonrefundable Retainers: Impermissible Under Fiduciary, Statutory, and Contract Law, 57 FORDHAM L. REV. 146, 156-57 (1988) for the proposition that most non-refundable retainers are unethical and illegal.

This ethical and legal prohibition on non-refundable retainers, however, does not prohibit Georgia attorneys from designating by contract, points in the representation at which specific advance fees will have been earned so long as this is done in good faith and not as an attempt to penalize a client for termination of the representation. See, *Fogarty v. State*, 270 Ga 609 (1999). And, of course, the prohibition described here does not call in to question the use of flat fees, minimum fees, or any other form of special retainer or advance fee payment so long as such fees are not made non-refundable upon withdrawal by the

attorney including withdrawal prompted by the client. Nor need an attorney place any fees into a trust account absent special circumstances necessary to protect the interest of the client. See Georgia Formal Advisory Opinion 91-2. Finally, there is nothing in this opinion that prohibits an attorney from contracting for large fees for excellent work done quickly. When the contracted for work is done, however quickly it may have been done, the fee is earned and there is no issue as to its non-refundability. There is nothing in the prohibition on non-refundable fees that requires the value of an attorney’s services to be measured by the time spent. Instead, all fee arrangements are subject to Standard 31, which provides that the reasonableness of a fee shall be determined as follows:

A fee is clearly excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee. Factors to be considered as guides in determining the reasonableness of a fee include the following:

- (1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly.
- (2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer.
- (3) The fee customarily charged in the locality for similar legal services.
- (4) The amount involved and the results obtained.
- (5) The time limitations imposed

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**CONTINUED ON PAGE 73**

# Notice of Motion to Amend State Bar Rules

On or after the 30th day of June 2000, 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 (hereinafter referred to as "Rules").

It is hereby certified by the undersigned 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 desiring to object to these proposed Rules is reminded that he or she may only do so in the manner provided by Rule 5-102, *Ga. Ct. and Bar Rules*, pp. 11-1 *et seq.*

This statement and the following verbatim text are intended to comply with the notice requirements of Bar Rule 5-101.

## IN THE SUPREME COURT STATE OF GEORGIA

IN RE: STATE BAR OF GEORGIA  
Rules and Regulations  
for its Organization  
and Government  
MOTION TO AMEND 00-1

### MOTION TO AMEND RULES AND REGULATIONS OF THE STATE BAR OF GEORGIA

The State Bar of Georgia, pursuant to authorization and direction of its Board of Governors in a regular meeting held on March 25, 2000, and upon concurrence of its Executive Committee and Committee on Organization of the State Bar, presents to the Court his Motion to Amend the Rules and Regulations for the Organization and Government 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, *Ga. Ct. and Bar Rules*, pp. 11-1 *et seq.*, and respectfully moves that the Rules and Regulations of the State Bar be amended further in the following respects:

### **I. Amendments to Part I, Creation and Organization, Chapter 5, Finance**

It is proposed that Part I, Creation and Organization, Chapter 5, Finance be amended by deleting the stricken portions and by inserting the ***boldfaced italicized*** phrases as follows:

#### **CHAPTER 5 FINANCE**

#### **Rule 1-501. License Fees.**

(a) Annual license fees for membership in the State Bar shall be due and payable on July 1 of each year. Upon the failure of a member to pay the license fee by September 1, the member shall cease to be a member in good standing. When such license fees and late fees for the current and prior years have been paid, the member shall automatically be reinstated to the status of member in good standing, except as provided in section (b) of this Rule.

(b) In the event a member of the State Bar of Georgia is delinquent without reasonable cause in the payment of license fees for a period of one (1) year, ~~the member his membership in the State Bar of Georgia shall be terminated~~ ***automatically suspended***, and he shall not practice law in this state. ~~He~~ ***The suspended member*** may thereafter ~~reinstate lift such suspension of membership~~ ***lift such suspension of membership*** only upon the successful completion of the Georgia Bar Examination ***all of the following terms and conditions:***

- (i) *payment of all outstanding dues, assessments, late fees, reinstatement fees, and any and all penalties due and owing before or accruing after the suspension of membership;*
- (ii) *provide the membership section of the State Bar the following:*

***(A) a certificate from the Office of General Counsel of the State Bar that the suspended member is not presently subject to any disci-***

*iplinary procedure;*

*(B) a certificate from the Commission on Continuing Lawyer Competency that the suspended member is current on all requirements for continuing legal education;*

*(C) a determination of fitness from the Board to Determine Fitness of Bar Applicants;*

*(iii) payment to the State Bar of a non-waivable reinstatement fee as follows:*

*(A) \$150.00 for the first reinstatement paid within the first year of suspension, plus \$150.00 for each year of suspension thereafter up to a total of five years;*

*(B) \$250.00 for the second reinstatement paid within the first year of suspension, plus \$250.00 for each year of suspension thereafter up to a total of five years;*

*(C) \$500.00 for the third reinstatement paid within the first year of suspension, plus \$500.00 for each year of suspension thereafter up to a total of five years; or*

*(D) \$750.00 for each subsequent reinstatement paid within the first year of suspension, plus \$750.00 for each year of suspension thereafter up to a total of five years.*

*The yearly increase in the reinstatement fee shall become due and owing in its entirety upon the first day of each next fiscal year and shall not be prorated for any fraction of the fiscal year in which it is actually paid.*

*(c) A member suspended for a license fee delinquency for a total of five years in succession shall be immediately terminated as a member without further action on the part of the State Bar. The terminated member shall not be entitled to a hearing as set out in section (d) below. The terminated member shall be required to apply for membership to the Office of Bar Admissions for readmission to the State Bar. Upon completion of the requirements for readmission, the terminated member shall be required to pay the total reinstatement fee due under subsection (b)(iii) above plus an additional \$750.00 as a readmission fee to the State Bar.*

*(d) Prior to ~~terminating~~ suspending membership for a*

license fee delinquency, the State Bar shall send by certified mail a notice thereof to the last known address of the member as contained in the official membership records. It shall specify the years for which the license fee is delinquent and state that either the fee and all penalties related thereto are paid within sixty (60) days or a hearing to establish reasonable cause is requested within sixty (60) days, the membership shall ~~terminate~~ **be suspended**.

If a hearing is requested, it shall be held at State Bar Headquarters within ninety (90) days of receipt of the request by the Executive Committee. Notice of time and place of the hearing shall be mailed at least ten (10) days in advance. The party cited may be represented by counsel. Witnesses shall be sworn; and, if requested by the party cited, a complete electronic record or a transcript shall be made of all proceedings and testimony. The expense of the record shall be paid by the party requesting it and a copy thereof shall be furnished to the Executive Committee. The presiding member or special master shall have the authority to rule on all motions, objections, and other matters presented in connection with the Georgia Rules of Civil Procedure, and the practice in the trial of civil cases. The party cited may not be required to testify over his or her objection.

The Executive Committee shall (1) make findings of fact and conclusions of law and shall determine whether the party cited was delinquent in violation of this Rule 1-501; and (2) upon a finding of delinquency shall determine whether there was reasonable cause for the delinquency. Financial hardship short of adjudicated bankruptcy shall not constitute reasonable cause. A copy of the findings and the determination shall be sent to the party cited. If it is determined that no delinquency has occurred, the matter shall be dismissed. If it is determined that delinquency has occurred but that there was reasonable cause therefor, the matter shall be deferred for one (1) year at which time the matter will be reconsidered. If it is determined that delinquency has occurred without reasonable cause therefor, the membership shall ~~terminate~~ **be suspended** immediately upon such determination. An appropriate notice of ~~termination~~ **suspension** shall be sent to the clerks of all Georgia courts and shall be published in an official publication of the State Bar of Georgia. Alleged errors of law in the proceedings or findings of the Executive Committee or its delegate shall be reviewed by the Supreme Court. The Executive Committee may delegate to a special master any or all of its responsibilities and authority with respect to ~~terminating~~ **suspending** membership for license fee delinquency in which event the special master shall make a report to the Committee of its findings for its approval or disapproval.

After a finding of delinquency, a copy of the finding

shall be served upon the Respondent attorney. The Respondent attorney may file with the Court any written exceptions (supported by the written argument) said Respondent may have to the findings of the Executive Committee. All such exceptions shall be filed with the Clerk of the Supreme Court and served on the Executive Committee by service on the General Counsel within twenty (20) days of the date that the findings were served on the Respondent attorney. Upon the filing of exceptions by the Respondent attorney, the Executive Committee shall within twenty (20) days of said filing, file a report of its findings and the complete record and transcript of evidence with the Clerk of the Supreme Court. The Court may grant extensions of time for filing in appropriate cases. Findings of fact by the Executive Committee shall be conclusive if supported by any evidence. The Court may grant oral argument on any exception filed with it upon application for such argument by the Respondent attorney or the Executive Committee. The Court shall promptly consider the report of the Executive Committee, exceptions thereto, and the responses filed by any party to such exceptions, if any, and enter its judgement. A copy

of the Court's judgement shall be transmitted to the Executive Committee and to the Respondent attorney by the Court.

Within thirty (30) days after a final judgement which ~~terminates~~ **suspends** membership, the ~~terminated sus-~~ **pended** member shall, under the supervision of the Supreme Court, notify all clients of said ~~terminated~~ **suspended** member's inability to represent them and of the necessity for promptly retaining new counsel, and shall take all actions necessary to protect the interests of said ~~terminated~~ **suspended** member's clients. Should the ~~terminated~~ **suspended** member fail to notify said clients or fail to protect their interests as herein required, the Supreme Court, upon its motion, or upon the motion of the State Bar of Georgia, and after ten (10) days' notice to the ~~terminated~~ **suspended** member and proof of failure to notify or protect said clients, may hold the ~~terminated~~ **suspended** member in contempt and order that a member or members of the State Bar of Georgia take charge of the files and records of said ~~terminated~~ **suspended** member and proceed to notify all clients and take such steps as seem indicated to protect their interests. Any member of the State Bar of Georgia appointed by the Supreme Court to take charge of the files and records of the ~~terminated~~ **suspended** member under these Rules shall not be permitted to disclose any information contained in the files and records in his or her care without the consent of the client to whom such file or record relates, except as clearly necessary to carry out the order of the court.

*(e) Any member terminated solely for license fee delinquency after January 1, 1997 shall be eligible to apply for reinstatement on the same terms and conditions and in the same manner as a member suspended for license fee delinquency may apply for lifting of suspension pursuant to (b) above.*

#### **Rule 1-501.1. License Fees — Late Fee.**

Any member who has not paid his or her license fee on or before August 1 shall be penalized in the amount of seventy-five dollars (\$75.00). Any member who is delinquent in his or her license fee on or after January 1 of each year shall be penalized in the additional amount of one hundred dollars (\$100) for a total of one hundred seventy-five dollars (\$175).

#### **Rule 1-502. Amount of License Fees.**

The amount of such license fees for active members shall not exceed \$250.00, and shall annually be fixed by the Board of Governors for the ensuing year; provided, however, that except in the case of an emergency, such annual dues shall not be increased in any one year by more than \$25.00 over those set for the next preceding

# Insurance Specialists new

year. The annual license fees for inactive members shall be in an amount not to exceed one-half (1/2) of those set for active members. Subject to the above limitations, license fees may be fixed in differing amounts for different classifications of active and inactive membership, as may be established in the bylaws.

#### **Rule 1-502.1. Fees for Associates.**

The amount of fees for associates as provided in Rule 1-206 shall be fixed by the Board of Governors at an amount less than the amount prescribed for active members pursuant to Rule 1-502, but for such amount as will reasonably cover the cost of the publications furnished; provided, however, law student association fees may be fixed at a nominal level.

#### **Rule 1-503. Disbursements.**

The Board of Governors shall have the power to direct the disbursement of funds of the State Bar of Georgia. No officer named herein and no member of the Board of Governors shall receive any compensation for his *or her* services except that the Board of Governors may provide for the reimbursement of the actual and necessary expenses incurred by officers in the discharge of their duties.

#### **Rule 1-504. Bonds.**

Every person having the duty or right to receive or disburse the funds of the State Bar of Georgia shall be required to furnish bond conditioned on his *or her* faithful performance with such security as the bylaws or the Board of Governors may require.

#### **Rule 1-505. Audit.**

The Board of Governors shall annually cause an audit of the financial affairs of the State Bar of Georgia to be made, and the bylaws shall provide for the communication of the findings thereof to the membership.

#### **Rule 1-506. Clients' Security Fund Assessment.**

(a) The State Bar of Georgia is authorized to assess each member of the State Bar of Georgia a fee of \$100.00. This \$100.00 fee may be paid in minimum annual installments of \$20.00 for a period of five (5) years. Each new member of the *State* Bar will also be assessed a similar amount payable in a similar manner upon admission to the State Bar of

Georgia. This fee shall be used only to fund the Clients' Security Fund and shall be in addition to the annual license fee as provided in Rule 1-501 through Rule 1-502.

(b) The Clients' Security Fund assessment shall be due and payable in \$20.00 installments on July 1 of each year until the balance of \$100.00 is paid. The failure of a member to pay the minimum annual installments shall subject the member to the same penalty provisions, including late fees and ~~termination~~ *suspension* of membership, as pertain to the failure to pay the annual license fee as set forth in Bar Rules 1-501 and 1-501.1.

#### **Rule 1-507. Bar Facility Assessment.**

(a) The State Bar is authorized to assess each member of the State Bar a fee of \$200.00. This \$200.00 fee may be paid in minimum annual installments of \$50.00 for a period of four (4) years. This fee shall be used to purchase, maintain, and operate a facility for the State Bar offices and shall be in addition to the annual license fee as provided in Rule 1-501 through Rule 1-502 and the Clients' Security Fund Assessment as provided in Rule 1-506.

(b) The Bar Facility assessment shall be due and payable in \$50.00 installments on July 1 of each year until the balance of \$200.00 is paid. For members admitted to the *State* Bar prior to July 1, 1997, such installments shall begin on July 1, 1997. For newly admitted members of the Bar, such installments shall begin when a new member is admitted to the State Bar. The failure of a member to pay the minimum annual installments shall subject the member to the same penalty provisions, including late fees and ~~termination~~ *suspension* of membership, as pertain to the failure to pay the annual license fee as set forth in Bar Rules 1-501 and 1-501.1. ☒

Arthur Anthony  
pickup 4/00 p67



# Supreme Court Issues Formal Advisory Opinion

During the month of January 2000, the Supreme Court of Georgia issued a formal advisory opinion that was proposed by the Formal Advisory Opinion Board. Following is the full text of the opinion issued by the court.

STATE BAR OF GEORGIA  
ISSUED BY THE SUPREME  
COURT OF GEORGIA  
ON JANUARY 21, 2000

Health  
Care  
Auditors  
pickup  
4/00 p49

## Formal Advisory Opinion No. 00-1 (Proposed Formal Advisory Opinion No. 98-R6)

### QUESTION PRESENTED:

When the City Council controls the salary and benefits of the members of the Police Department, may a councilperson, who is an attorney, represent criminal defendants in matters where the police exercise discretion in determining the charges?

### SUMMARY ANSWER:

Representation of a criminal defendant in municipal court by a member of the City Council where the City Council controls salary and benefits for the police does not violate any Standards and does not subject an attorney to discipline. In any circumstance where it may create an appearance of impropriety, however, it should be avoided.

### OPINION:

We have previously addressed a related question, that is, the ethical propriety of an attorney/city council member representing private clients before city-appointed judges when the council is involved in appointing judges. Formal Advisory Opinion No. 89-2. That opinion recognized that no Standards were applicable, but upon consideration of Directory

Rule 8-101(a)(2), concluded that as an ethical matter, the attorney should remove himself to avoid creating the appearance of impropriety.

Directory Rule 8-101-1(a)(2) provides: "A lawyer who hold public office shall not ... use his public position to influence, or attempt to influence, a tribunal to act in favor of himself or a client..." It is not directly applicable here, because the concern is not with influence upon a tribunal, but rather with influence upon a law enforcement officer. Where the law enforcement officer works with the prosecutor and has significant impact on the exercise of prosecutorial discretion, however, any improper influence may affect the tribunal by affecting the charges presented to the tribunal.

This opinion addresses itself to a situation where the City Council member votes on salary and benefits for the police. Particularly in small municipalities, this situation could give rise to a perception that a police officer's judgment might be affected. For example, a police officer might be reluctant to oppose a request that he recommend lesser charges or the dismissal of charges when the request comes from a council member representing the accused. As Formal Advisory Opinion No. 89-2 explains, situations like the one at hand give rise to inherent influence which is present even if the attorney

who is also a City Council member attempts to avoid using that position to influence the proceedings.

Directory Rule 9-101, "Avoiding Even the Appearance of Impropriety", is also implicated in this situation. Directory Rule 9-101 provides in section C that "A lawyer shall not state or imply that he is able to influence improperly or upon irrelevant grounds any tribunal, legislative body, or public official." As a general matter, a police officer is a public official. *See White v.*

*Fireman's Fund Ins. Co.*, 233 Ga. 919 (1975); *Sauls v. State*, 220 Ga. App. 115 (1996). *But see* O.C.G.A. §45-5-6. Where a police officer exercises discretion as to the prosecution of criminal charges, the police officer is a public official within the meaning of Directory Rule 9-101. Pursuant to Directory Rule 9-101, therefore, an attorney should not represent a criminal defendant where an inference of improper influence can reasonably be drawn.

This opinion, as did Formal Advisory Opinion No. 89-2, "offers ethical advice based on the applicable ethical regulations." The representation discussed, if engaged in, would not *per se* violate any Standard and would not subject the attorney to discipline. We also note that the ethical concerns raised by this representation are personal to the attorney and would not be imputed to other members of the law firm. ☒

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pickup 4/00 p71

# Board of Governors Meeting Attendance

6-99(Fri) Savannah	6-99(Sat) Savannah	8/99 Amelia	11-99 Brasstown	1-00 Atlanta	3/00 Macon	
*	*	*	*	*	*	Ross Adams
*	*	*	*	*	*	Anthony B. Askew
*	*	*	*	*	*	William Steven Askew
			*	*		Thurbert E. Baker
*	*	*	*	*	*	Donna Barwick
	*	*	*	*	*	William D. Barwick
*	*		*	*	*	Robert L. Beard, Jr.
n/a	*		*	*	*	J. Lane Bearden
*		*	*	*	*	James D. Benefield III
*	*		*	*	*	Barbara B. Bishop
	*	*		*	*	Joseph A. Boone
*	*	*		*	*	Wayne B. Bradley
*	*	*	*	*	*	Jeffrey O. Bramlett
*	*		*	*	*	Sam L. Brannen
		*	*	e	e	James C. Brim, Jr.
n/a	*	*	*	*	*	William K. Broker
n/a	n/a	*	*	*	*	James Michael Brown
*	*	*	*	*	*	Thomas R. Burnside, Jr.
n/a	*		*	*	*	S. Kendall Butterworth
*	*	*	*	*	*	William E. Cannon, Jr.
*	*	*	*	*	*	Edward E. Carriere, Jr.
*	*	*	*	*	*	Paul Todd Carroll, III
*	*	*	*	*	*	Bryan M. Cavan
*	*	*	*	*	*	Thomas C. Chambers, III
	*	*	*	*		F. L. Champion, Jr.
*	*	*	*	*		John A. Chandler
*	*	*	*	*	*	Joseph D. Cooley, III
*	*	*	*	*	*	Delia T. Crouch
*	*	*	*	*	*	William D. Cunningham
*	*	*	*	*	*	William V. Custer, IV
*	*	*	*	*	*	David P. Darden
*	*	*	*	*	*	Dwight J. Davis
*	*	*	*	*	*	Joseph W. Dent
*	*	*	*	*	*	Ernest De Pascale, Jr.
	*	*	*	*	*	Foy R. Devine
*	*	*	*	*	*	Charles J. Driebe
*	*	*	*	*	*	C. Wilson DuBose
*	*	*	*	*	*	James B. Durham
*	*	*	*	*	*	Myles E. Eastwood
*	*	*	*	*	*	Gerald M. Edenfield
*	*	*	*	*	*	J. Franklin Edenfield
*	*	*	*	*	*	O. Wayne Ellerbee
*	*	*	*	*	*	Michael V. Elsberry
*	*	*	*	*	*	J. Daniel Falligant
*	*	*	*	e	e	B. Lawrence Fowler
*	*	*	*	*	*	James B. Franklin
*	*	*	*	*	*	Gregory L. Fullerton
*	*	*	*	*	*	Gregory A. Futch
*	*	*	*	*	*	H. Emily George
*	*	*	*	*	*	Adele P. Grubbs
n/a	*	*	*	*	*	Robert R. Gunn, II
*	*	*	*	*	*	John P. Harrington
*	*	*	*	*	*	Walter C. Hartridge
n/a	*	*	*	*	*	Steven A. Hathorn
*	*	*	*	*	*	James A. Hawkins
*	*	*	*	*	*	Joseph J. Hennesy, Jr.
*	*	*	*	*	*	Phyllis J. Holmen
*	*	*	*	*	*	Roy B. Huff
*	*	*	*	*	*	Donald W. Huskins
*	*	*	*	*	*	Robert D. Ingram
*	*	*	*	*	*	James Irvin
*	*	*	*	*	e	Rachel K. Iverson
*	*	*	*	*	*	Michael R. Jones, Sr.
*	*	*	*	*	*	William Alan Jordan
n/a	*	*	*	*	*	J. Benjamin Kay, III
n/a	*	*	*	*	*	Dow (Kip) N. Kirkpatrick
*	*	*	*	*	*	William P. Langdale, Jr.
e	*	*	e	*	*	Earle F. Lasseter
*	*	*	*	*	*	J. Alvin Leaphart
*	*	*	*	*	*	Francis Marion Lewis
*	*	*	*	*	*	David S. Lipscomb

6-99(Fri) Savannah	6-99(Sat) Savannah	8/99 Amelia	11-99 Brasstown	1-00 Atlanta	3/00 Macon	
*	*	*	*	*	*	Hubert C. Lovein
*	*	*	*	*	*	Leland M. Malchow
n/a	*	*	*	*	*	Edwin Marger
*	*	*	*	*	*	H. Fielder Martin
*	*	*	*	*	*	C. Truitt Martin, Jr.
n/a	*	*	*	*	*	Johnny W. Mason, Jr.
*	*	*	*	*	*	William C. McCalley
*	*	*	*	*	*	William C. McCracken
*	*	*	*	*	*	Ellen McElyea
*	*	*	*	*	*	Joseph Dennis McGovern
*	*	*	*	*	*	Larry M. Melnick
*	*	*	*	*	*	C. Patrick Milford
*	*	*	*	*	*	J. Brown Moseley
*	*	*	*	*	*	A. L. Mullins
*	*	*	*	*	*	George E. Mundy
*	*	*	*	*	*	Aasia Mustakeem
*	*	*	*	*	*	John A. Nix
*	*	*	*	*	*	Dennis C. O'Brien
*	*	*	*	*	*	Bonnie C. Oliver
*	*	*	*	*	*	Rudolph N. Patterson
*	*	*	*	*	*	Matthew H. Patton
*	*	*	*	*	*	Carson Dane Perkins
*	*	*	*	*	*	Patrise Perkins-Hooker
*	*	*	*	*	*	J. Robert Persons
*	*	*	*	*	*	R. Chris Phelps
*	*	*	*	*	*	John C. Pridgen
*	*	*	*	*	*	Thomas J. Ratcliffe, Jr.
*	*	*	*	*	*	George Robert Reinhardt
*	*	*	*	*	*	Jeffrey P. Richards
n/a	*	*	*	*	*	Robert V. Rodatus
*	*	*	*	*	e	Tina Shadix Roddenbery
*	*	*	*	*	*	Joseph Roseborough
*	*	*	*	*	*	William C. Rumer
n/a	*	*	*	*	*	Dennis C. Sanders
*	*	*	*	*	*	Thomas G. Sampson
n/a	*	*	*	*	*	Robert L. Shannon, Jr.
*	*	*	*	*	*	Michael M. Sheffield
n/a	*	*	*	*	*	Kenneth L. Shigley
*	*	*	*	*	*	M.T. Simmons, Jr.
*	*	*	*	*	e	Lamar W. Sizemore, Jr.
*	*	*	*	*	*	William L. Skinner
n/a	*	*	*	*	*	Philip C. Smith
*	*	*	*	*	*	R. Rucker Smith
*	*	*	*	*	*	S. David Smith
n/a	n/a	*	*	*	*	Hugh D. Sosebee
*	*	*	*	*	*	Huey Spearman
*	*	*	*	*	*	Lawrence A. Stagg
*	*	*	*	*	*	John Stell
*	*	*	*	e	*	Frank B. Strickland
*	*	*	*	*	*	Richard C. Sutton
*	*	*	*	*	*	Jeffrey B. Talley
*	*	*	*	*	*	John J. Tarleton
*	*	*	*	*	*	S. Lester Tate, III
*	*	*	*	*	*	Henry C. Tharpe, Jr.
*	*	*	*	*	*	Dwight L. Thomas
*	*	*	*	*	*	Edward D. Tolley
*	*	*	*	*	*	Christopher A. Townley
*	*	*	*	*	*	Carl A. Veline, Jr.
*	*	*	*	*	*	Joseph L. Waldrep
*	*	*	*	*	*	J. Henry Walker
*	*	*	*	*	*	J. Tracy Ward
*	*	*	*	*	*	George W. Weaver
*	*	*	*	*	*	N. Harvey Weitz
*	*	*	*	*	*	A. J. Welch
*	*	*	*	*	*	Andrew J. Whalen, III
*	*	*	*	*	*	James L. Wiggins
*	*	*	*	*	*	William N. Withrow, Jr.
*	*	*	*	*	*	Gerald P. Word
*	*	*	*	*	*	Anne Workman
*	*	*	*	*	*	Gordon R. Zeese
*	*	*	*	*	*	Marvin H. Zion

\* - attended; e - excused; **blank**- did not attend; **n/a** - not on Board; For a list of the Board of Governors by circuit, see the Directory pg. 9.

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ing citation research pickup 4/00  
p56



CLE/Ethics/Professionalism/Trial Practice  
Note: Due to space limitations, only seminars held in Georgia are listed.

## JULY 2000

14  
NATIONAL BUSINESS INSTITUTE  
Employee Handbooks in Georgia:  
Drafting & Enforcing Sound Procedures  
Atlanta, GA  
3.0/0.0/0.0/0.0

16  
NATIONAL CRIMINAL DEFENSE COLLEGE  
Trial Practice Institutes 2000  
Atlanta, GA  
76.0/12.0/2.0/0.0

18  
NATIONAL BUSINESS INSTITUTE  
Commercial Lending in Georgia  
Atlanta, GA  
6.0/0.5/0.0/0.0

19  
NATIONAL BUSINESS INSTITUTE  
Health Law in Georgia  
Atlanta, GA  
6.0/0.5/0.0/0.0

20  
NATIONAL BUSINESS INSTITUTE  
Advanced Construction Law in Georgia  
Atlanta, GA  
6.0/0.5/0.0/0.0

21  
NATIONAL BUSINESS INSTITUTE  
Child Support & Enforcement In Georgia  
Atlanta, GA  
6.0/0.5/0.0/0.0

23  
ICLE  
Fiduciary Law Institute  
St. Simon's, GA  
12.0/1.0/1.0/3.0

25  
NATIONAL BUSINESS INSTITUTE  
Effective Planning for the Small Estate  
in Georgia  
Atlanta, GA  
3.0/0.0/0.0/0.0

28  
PROFESSIONAL EDUCATION SYSTEMS  
An Intensive Introduction to Law, Tax &  
Formation  
Atlanta, GA  
6.9/0.8/0.0/0.0

NATIONAL BUSINESS INSTITUTE  
The Law of the Internet  
Atlanta, GA  
6.0/1.0/0.0/0.0

LORMAN BUSINESS CENTER  
Workers' Compensation in Georgia  
Macon, GA  
6.0/0.0/0.0/0.0

## AUGUST 2000

2  
NATIONAL BUSINESS INSTITUTE  
A Practical Guide to Estate Administra-  
tion in Georgia  
Atlanta, GA  
6.7/0.5/0.0/0.0

8  
NATIONAL BUSINESS INSTITUTE  
Workers' Compensation Hearing Georgia  
Atlanta, GA  
6.0/0.5/0.0/0.0

9  
NATIONAL BUSINESS INSTITUTE  
Selecting & Terminating Employees in  
Georgia  
Atlanta, GA  
6.0/0.0/0.0/0.0

11  
ICLE  
Environmental Law Institute  
Jekyll Island, GA  
8.0/1.0/1.0/3.0  
PROFESSIONAL EDUCATION  
General Fiduciary Income Tax Workshop  
Atlanta, GA  
6.7/0.0/0.0/0.0

LORMAN BUSINESS CENTER  
Organization & Operation  
Atlanta, GA  
6.7/0.0/0.0/0.0

25  
GEORGIA INDIGENT DEFENSE COUNCIL  
Statewide Criminal Defense Training  
(Advanced)  
Athens, GA  
6.0/0.0/0.0/4.0

## SEPTEMBER 2000

7  
GEORGIA INDIGENT DEFENSE COUNCIL  
New Lawyer Training  
Atlanta, GA  
12.5/0.0/0.0/12.5

18  
SOUTHERN FEDERAL TAX INSTITUTE  
35th Annual Southern Federal Tax  
Institute  
Atlanta, GA  
35.0/1.0/1.0/0.0

# Basic Systems new

by the client or by the circumstances.

- (6) The nature and length of the professional relationship with the client.
- (7) The experience, reputation, and ability of the lawyer or lawyers performing the services.
- (8) Whether the fee is fixed or contingent.

## Endnotes

1. Georgia Formal Advisory Opinion 91-2.
2. See also, ABA Model Rule of Professional Conduct 1.16(d), "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as . . . refunding any advance payment of fees that has not been earned." Georgia is now in the process of considering adoption of a version of the ABA Model Rules of Professional Conduct including Model Rule 1.16(d). As noted in this Opinion Model Rule 1.16(d) is consistent with the current ethical obligations of Georgia lawyers

# Ga Legal Services new

## Rethinking Intake, Case Placement, and Case Handling

At many pro bono programs, the majority of staff/administrative time is spent in recruiting potential volunteers, screening possible cases for placement, and placing individual cases with individual attorneys. The current system has its strengths, but it is highly time-intensive, particularly when the cases to be placed are relatively simple matters that will not require a substantial investment of volunteer attorney time. How can pro bono programs reconfigure their operations to minimize staff time and maximize volunteer participation? Creative approaches include, but are not limited to, the following:

■ *Self-contained volunteer projects.* One important technique to reduce staff administrative time is to transfer infrastructure responsibilities to legal employers and institutions and other collections of attorneys that not only provide access to many lawyers but also have administrative and other capacities. Atlanta has been at the forefront of this innovation. The Children's SSI project, in which the Atlanta office of Nelson, Mullins partnered with Atlanta Volunteer Lawyers to provide outreach and screening, is an excellent example of such a project, as is the Atlanta Bar's Truancy Intervention Project, in which Alston & Bird LLP has played a leading role.

However, these projects need not be limited to large firm participation. In other states, law school alumni associations, bar sections, or lawyers who belong to a particular religious group or institution have banded together to design, sponsor, administer and staff their own projects, freeing up the pro bono staff for

more sophisticated training, support and mentoring work.

■ *Ending intake as we know it.* Rather than spending a great deal of staff or volunteer time screening low-income clients who are seeking legal assistance, some programs are now relying on others to perform that time-consuming function, training social workers, physicians' assistants, nurses' aides and others who spend a great deal of their time reaching out and working with low-income families to conduct effective screening of legal issues. Not only is this a time-saver for pro bono program and legal services staff, it also builds stronger ties with social services providers and often leads to the identification of previously unrecognized legal problems, because the social service staff is often more attuned and adept at "getting the full story."

■ *Ending recruitment as we know it.* Traditionally, pro bono programs have recruited attorneys on a one-on-one basis to participate in pro bono work and have viewed only those lawyers officially signed up with the program as potential volunteers. This is both an artificially narrow and a highly time-consuming approach to recruitment and placement. Some programs now use faxes and e-mail to contact a subset of all practicing lawyers (not simply those who have affirmatively "joined" the program) regarding clients who need counsel. Since attorneys are often impelled to do pro bono work because they are moved or excited about the facts of a particular case, programs that reach out broadly report placement rates as high (or even higher) than the rates of case placement among officially recruited volunteers.

■ *Holistic delivery (and going where the clients are).* For many low-income clients, resolving their presenting legal problem without addressing other issues often results

in only short-term relief. Representation of a child in a juvenile matter may be somewhat futile if that juvenile returns to a highly dysfunctional family. Obtaining SSI benefits for a sick child, while a beneficial outcome, may only address one facet of a family's even more pressing concerns about the child's development. A number of programs increasingly recognize the importance of providing legal assistance in the context of a constellation of broader services — medical, financial, counseling, etc. — to insure better outcomes and better lives for poor families. Increasingly, this also means that, rather than waiting for clients to come to their offices with problems, these programs go where people needing help can be found — elderly day care centers and housing, hospitals, social service centers.

■ *Technology.* Technology is a vitally important tool in promoting innovative approaches to pro bono service. As noted above, the use of e-mail to solicit pro bono attorneys can help programs to substantially increase volunteer participation. Listservs can help in the management of self-contained and self-administered volunteer projects. Programs now use television/computer links to serve clients in remote rural areas, cutting down on the travel time that often drastically limited access to legal assistance in those areas, and making staff and volunteer attorneys from more populous parts of the state available to serve poor people in areas with few or no lawyers. In one city, all United Way-funded programs — including legal services — are now linked electronically so that they can more easily provide complimentary interdisciplinary services to their common clients.



## Conclusion

Pro bono services currently offer an important but somewhat limited legal resource for low-income persons. When viewed in a more creative fashion, pro bono — by leveraging every possible lawyer, aligning with other service providers, and offering a wide range of legal skills — can become a source of long-term, effective solutions to problems faced by the poor. If the nation's full-time advocates in legal services and pro bono programs begin to view themselves not as the primary case handlers, but rather as strategists and resource managers

who engage and support a larger community of advocates, including private lawyers, community groups, social services providers, and even government agencies, we can truly make justice for all a reality. ☒

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*Esther F. Lardent is president and chief operating officer of The Pro Bono Institute. She is immediate past Chair of the American Bar Association's Consortium on Legal Services and the Public, and currently serves on the ABA's Board of Governors. Lardent received her undergraduate degree, magna cum laude, from Brown University, and her law degree from the University of Chicago.*

**Author's Note:** This article is based, in part, on an earlier article by the same author that appeared under the title *Reinventing Pro Bono* in the November 1999 issue of the *Cornerstone*, a newsletter published by the National Legal Aid and Defender Association. For further information about the Pro Bono Institute, please contact the PBI Web site at [www.probonoinst.org](http://www.probonoinst.org).

# Morningstar new

## Continued from Page 11

Professionalism created a community service award to be presented to a lawyer from each of Georgia's ten judicial circuits. In making these awards, the Chief Justice demonstrated his conviction that such service is a cornerstone of professionalism in the law. "I want lawyers to focus on their roles in community service," he said. "Sometimes they get so involved with the profession that they don't see it as part of a bigger picture."

People are so involved with their professions that it takes them away from their community," he continued. "If I decide I won't attend my son's Eagle Scout ceremony to put in another hour at the office, in ten years' time I won't remember much about the case, but my son will remember I wasn't there. When your son gets a merit badge or an autistic child is able to lift a bite of food to [her] mouth — those are important occasions for you."

Further, the Chief Justice cited his own experiences, including volunteering for Habitat for Humanity and participating in numerous church and community programs, as a source of great personal satisfaction. Beyond his personal benefit, the Chief Justice stressed that his pro bono work is "designed to enrich the community and offer tools for addressing problems. I have a vested interest — the more problems the community can solve, the fewer problems they'll be bringing to court."

Chief Justice Benham has shared his philosophy and personal experience with members of the Georgia General Assembly:

We are also proud of all of our legislators, and we are proud of our lawyer legislators — those who have given of their time, energy, effort, and service to their fellow human beings. As the new legislators assume their roles, I want to remind you of something my dad told me when I was twelve. Simple message: he sat us down, my two brothers and me, and said, "This is what it takes to live in this family: you

will serve your God, you will sacrifice for your family, you will share with your neighbors, and you will perform public service if called upon to do so."

He concluded the 1999 State of the Judiciary address by reciting a poem from an unknown author containing a familiar theme:

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**"If I decide I won't attend my son's Eagle Scout ceremony to put in another hour at the office, in ten years' time I won't remember much about the case, but my son will remember I wasn't there."**

**— Chief Justice Robert Benham**

I have not lived in vain if  
I've lit some spark of  
hope in some helpless  
soul or helped some  
struggling brother or sister  
lift a heavy load.

If I have shed a light in a  
darkened hour then I  
have not lived in vain.

If we've erred as all men  
and women have and dis-  
pleased the God from

whence we came, but heard him say thou are for-  
given, then our prayers have not been in vain.

We put our heart and soul within our labor.

We didn't strive to reach the hall of fame.

We labored among the meek and the lowly.

We've seen our fruits, our work has not been in vain. ☒

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*Chief Justice Robert Benham — who received a B.S. degree from Tuskegee University in 1967, J.D. from University of Georgia in 1970, and LLM from University of Virginia in 1989 — served on the Court of Appeals from 1984 to 1989 when he was appointed to the Supreme Court by Governor Joe Frank Harris. He has served as the 26th Chief Justice since 1995.*

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put an enormous strain on grandparents and grandchildren alike. Furthermore, once grandparents adopt their grandchildren, they then have the legal authority to make decisions concerning their medical care and education.

The Grandparents Project also helps relatives other than grandparents with adoptions when they are caring for children who are not their birth children. For example, one client, Dorothy, who was 26, had taken care of her brother and sisters almost all of her life.

Their parents had a long history of alcohol and drug abuse. Their father died nine years ago, and their mother died five years ago of AIDS. Dorothy's youngest sister is HIV-positive and requires extra care, and Dorothy is the mother of four children of her own. The household income was under \$1,000 a month from a combination of welfare, Social Security disability payments, and child support.

By adopting her siblings Dorothy gained the stable legal relationship that she needed to make medical and educational decisions for them, as well as the financial help they needed to pay for school clothes and other essentials. After adoption the family will get over \$1,000 in Georgia's Adoption Assistance alone. The Social Security Disability payments and other support will continue, and the adopted children will get to keep their Medicaid benefits. Best of all, each child has a stable, secure, and permanent home.

The Grandparents Project's first full year was very productive. From July 1, 1998 through June 30, 1999, Venters placed 31 cases involving 77 children with volunteer attorneys, mostly from Kilpatrick Stockton. An additional 18 cases involving 49 children were ready to be placed as those cases were completed. Another 76 clients were provided counsel and advice about other options besides adoption; some of these clients, while not eligible for adoption now, could well be eligible in the future.

## Conclusion

What does this mean to the clients and to the community? It means increased stability for 49 new families. As the volunteer attorneys completed these adoptions, each child began to receive adoption assistance. The overall

increase in income for the 126 children in these 49 families was \$42,525 per month — or over half a million dollars in the course of a year. With this money, the grandparents paid for decent housing, good food, clothing, and educational and cultural enrichment.

The work of Rick Horder and the specially trained volunteer attorneys at Kilpatrick Stockton significantly enhanced the resources of the Grandparents Project and allowed it to create secure and enduring homes for neglected, sometimes abused children. For its contribution to the Grandparents Project, Kilpatrick Stockton won the

1999 William B. Spann Award from the State Bar of Georgia for leadership in the field of pro bono legal services. ☐

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*Steve Gottlieb has been Executive Director of the Atlanta Legal Aid Society since 1980. In addition to the Grandparents Project, he has created many programs that address special legal problems and vulnerable populations, for example, the AIDS Legal Project, the Fundraising Project, and the Georgia Senior Legal Hotline. He graduated from Hamilton College and received his law degree from the University of Pennsylvania Law School.*

*Karen Steanson has been Director of Development of the Atlanta Legal Aid Society since August 1998. Her responsibilities include management of the recent campaign for the Society's Endowment Fund (raising over \$1 million in outright gifts and deferred commitments from individuals) and the Annual Bar Campaign, communications, foundation proposals, and special events—such as the celebration of the Society's 75<sup>th</sup> Anniversary throughout 1999. She graduated from Stetson University and earned a Ph.D. in English literature and an MBA from Yale University.*

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engage in pro bono service. There is empirical data to support the proposition that recruitment is enhanced by a well supported, structured, user-friendly firm pro bono program and that firms with such programs command a recruiting advantage.<sup>17</sup>

### It Allows us to Meet our Ethical Duty as Lawyers.

This is listed where it is because, as stated above, I don't believe this is a terribly meaningful factor. We all know the ethics rules relating to our profession and either appreciate the duty and contribute or rationalize our way around it. I do not believe that you can legislate, impose, or require morality.

## Conclusion

Now — while we are under the duress of trying to fund astronomical associate starting salaries — is perhaps the best time to review why lawyers engage in pro bono service and to recommit to it. This is so because there should be no relationship between lawyers' essential core values and the periodic negative economics of law practice.

Pro bono activities are not spare time, ancillary activities; rather, they define who we, as lawyers, are. They are nuclear priorities on the road to fundamental fairness and equal justice, a road that we, as custodians of the justice system, are uniquely qualified to walk. Our commitment to walk this road and serve our neighbor must never be compromised by the swirling winds of economic change.

I am happy to report that the Bendini committee appointed by the Managing Partner rejected Lance deBoyle's recommendation, leaving its commitment to pro bono activities intact, and otherwise found funding for associate salary increases. And Atticus, smiling slightly, left the office early, picked up Scout and Jem and took them to the annual Legal Aid picnic. ■

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*W. Terence Walsh is a partner in the Alston & Bird trial and appellate practice and intellectual property litigation practice groups, a Past President of the Atlanta Bar Association and the Younger Lawyers Division of the State Bar, and he served on the State Bar Board of Governors from 1979-99. He received his A.B. degree from Brown University in 1965 and his J.D. from Emory in 1970. Walsh currently chairs the State Bar Committee on Children and the Courts.*

## Endnotes

1. Bendini, Lambert & Locke is the law firm in the popular John Grisham novel *The Firm*.
2. This article is not going to quibble over the definition of "pro bono," accepting the definition of the Law Firm Pro Bono Challenge with a frequently stated preference for an expansion thereof to include more activities and thereby encourage service on a broader scale, nor will this article enter into the thicket of mandatory pro bono, a non sequitur to this author. Rather, this article will posit that there are numerous and enduring bases for pro bono service and that these transcend the vagaries of financial markets and extraordinary economic environments.
3. Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34, 66 (1992).
4. Memorandum from Annemarie Stoll, Theater Operations Assistant, Fisher Theater, Detroit, Michigan to Heather K. Gerken, Editor-in-Chief, Michigan Law Review 1 (June 8, 1993).
5. OLIVER WENDELL HOLMES, *The Profession of the Law*, in COLLECTED LEGAL PAPERS 29, 29-30 (1920).
6. *Matthew* 22:37-40.
7. *Luke* 10:25-37.
8. Nitza Milagros Escalera, *A Christian Lawyer's Mandate to Provide Pro Bono Publico Service*, 66 FORDHAM L. REV. 1393, 1399 (1998) (footnotes omitted).
9. President Abraham Lincoln, First Inaugural Address (Mar. 4, 1861).
10. *Robert v. Tift*, 60 Ga. 566, 571 (1878) (emphasis added).
11. Ester F. Lardent, *Mandatory Pro Bono: in Civil Cases: The Wrong Answer to the Right Question*, 49 MD. L. REV. 78 (1990); see also Richard C. Baldwin, "Rethinking Professionalism" — *And Then Living It!*, 41 EMORY L. J. 433 (1992).
12. MARK TWAIN, *FOLLOWING THE EQUATOR* (1897).
13. Jennifer Gerarda Brown, *Rethinking "The Practice of Law,"* 41 EMORY L.J. 451 (1992).
14. Deborah L. Rhode, *Cultures of Commitment: Pro Bono for Lawyers and Law Students*, 67 FORDHAM L. REV. 2415 (1999).
15. Debra Burke, et al., *Pro Bono Publico: Issues and Implications*, 26 LOY. U. CHI. L.J. 61 (1994).
16. Rhode, *supra*, note 13, at 2417.
17. Burke, et al., *supra*, note 14, at 62.



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