Georgia Bar Journal
October 2013 Volume 19 Number 2

Live-In Lover Complaints: Think Twice Before You File

How does your firm face risk?

Claims against attorneys are reaching new heights.

Are you on solid ground with a professional liability policy that covers your unique needs? Choose what's best for you and your entire firm while gaining more control over risk. LawyerCare® provides:

- **Company-paid claims expenses—**granting your firm up to $5,000/$25,000 outside policy limits
- **Grievance coverage—**providing you with immediate assistance of $15,000/$30,000 in addition to policy limits
- **Individual "tail" coverage—**giving you the option to cover this risk with additional limits of liability
- **PracticeGuard® disability coverage—**helping your firm continue in the event a member becomes disabled
- **Risk management hotline—**providing you with immediate information at no additional charge

It's only fair your insurer provides you with protection you can trust. Make your move for firm footing and call today.

LawyerCare

ProAssurance
Treated Fairly

Professional Liability Coverage for Georgia Lawyers & Firms

Rated A+ (Superior) by A.M. Best
LawyerCare.com • 800.292.1036

Ward's 50
Safety • Consistency • Performance®
2007-2013
7 Years Running

Quick Dial

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

Manuscript Submissions

The *Georgia Bar Journal* welcomes the submission of unsolicited legal manuscripts on topics of interest to the State Bar of Georgia or written by members of the State Bar of Georgia. Submissions should be 10 to 12 pages, double-spaced (including endnotes) and on letter-size paper. Citations should conform to A UNIFORM SYSTEM OF CITATION (19th ed. 2010). Please address unsolicited articles to: Bridgette Eckerson, State Bar of Georgia, Communications Department, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303. Authors will be notified of the Editorial Board's decision regarding publication.

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

Disabilities

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

Headquarters

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

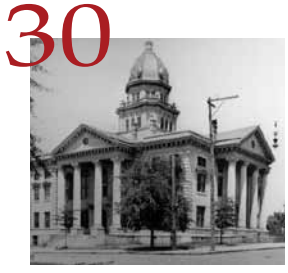
South Georgia Office
244 E. Second St. (31794) P.O. Box 1390
Tifton, GA 31793-1390
800-330-0446, 229-387-0446, FAX 229-382-7435

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

Publisher's Statement

The *Georgia Bar Journal* (ISSN-1085-1437) is published six times per year (February, April, June, August, October, December) with a special issue in November by the State Bar of Georgia, 104 Marietta St. NW, Suite 100, Atlanta, Georgia 30303. One copy of each issue is furnished to members as part of their State Bar dues. Subscriptions: $36 to non-members. Single copies: $6. Periodicals postage paid in Atlanta, Georgia and additional mailing offices. Opinions and conclusions expressed in articles herein are those of the authors and not necessarily those of the Editorial Board, Communications Committee, Officers or Board of Governors of the State Bar of Georgia. Advertising rate card will be furnished upon request. Publishing of an advertisement does not imply endorsement of any product or service offered. POSTMASTER: Send address changes to same address.

Georgia Bar Journal
October 2013 ■ Volume 19 ■ Number 2



GBJ Legals

GBJ Features

Departments

Photo by Zach Porter Photography

by Charles L. Ruffin

Georgia Legal Legends: Horace T. Ward and Ben F. Johnson Jr.

Second in a series of historical profiles in observance of the 50th anniversary of the State Bar of Georgia.

August of this year was the 50th anniversary of the March on Washington and Dr. Martin Luther King Jr.'s famous "I Have a Dream" speech. Dr. King called on America to rise up and live out the true meaning of its creed that all men are created equal and should be judged not by the color of their skin but by the content of their character.

"As we also celebrate the 50th anniversary of the State Bar of Georgia this year, I would like to take this opportunity to celebrate the legacy of two Georgia lawyers who did their part to live out that creed."

As we also celebrate the 50th anniversary of the State Bar of Georgia this year, I would like to take this opportunity to celebrate the legacy of two Georgia lawyers who did their part to live out that creed.

During the 1950s and early 1960s, the dominant public policy issue in Georgia—for all three branches of government, the rule of law and society in general—was school desegregation. A significant part of the civil rights movement was the effort to gain admission for African-American students into Georgia's primary and secondary schools, colleges and universities—including our state's law schools.

Efforts to desegregate Georgia's law schools—public and private—were centered on two separate cases, prominently featuring two men who would become household names in our state's legal community: Horace T. Ward and Ben F. Johnson Jr.

In 1950, Georgia native Horace T. Ward became the first African-American to apply for admission to the University of Georgia School of Law. The denial of his application was not unexpected, but it set in motion a lengthy saga in Georgia's legal history that would change our state forever. And Horace Ward would play a leading role in that change,

later becoming the first African-American to serve as a federal judge in Georgia.

According to his biography in the *New Georgia Encyclopedia*, written by Robert A. Pratt of the University of Georgia, Judge Ward was born July 29, 1927, in LaGrange, the only child of Minnie Ward. He never knew his father, and because his mother was a live-in domestic worker, Ward lived with his maternal grandparents. Despite not starting school until age 9, he was a bright student whose fourth-grade teacher convinced the principal to allow him to skip the fifth grade. He would graduate as valedictorian of the East Depot Street High School Class of 1946.

Ward left LaGrange bound for Atlanta and Morehouse College, where he majored in political science. He completed his bachelor's degree in three years and by 1950 had earned a master's degree from Atlanta University (now Clark Atlanta University). During his postgraduate studies, Ward was taken under the wing of William Madison Boyd, chair of the political science department at Atlanta University and president of the Georgia branch of the NAACP.

Ward's interest in becoming a lawyer stemmed from his learning about Austin Thomas Walden, one of the few African-American attorneys practicing in Georgia in those days. Ward did not want to have to leave the state to attend law school. Boyd had been looking for someone to break the color barrier at the University of Georgia; in Ward, he believed he had found someone with the credentials to do so. Ward agreed to take the first step in the application process, which Robert Pratt describes this way:

> On Sept. 29, 1950, Ward formally applied to law school at UGA. The university registrar forwarded Ward's application to the Board of Regents—a procedure that was not followed for white applicants. When the executive secretary of the Board of Regents offered Ward out-of-state tuition assistance, Ward refused it and insisted that his application be judged on its merits. Despite Ward's repeated requests for updates on the status of his application, the regents continued to stall. Finally, on June 7, 1951, the registrar informed Ward by letter that his application had been denied. The university's decision came more than nine months after Ward had filed his application.
>
> For the next 12 months Ward tried in vain to get university officials to give him a reason for their decision. Up to this point, university officials, including the president and University System of Georgia chancellor, had insisted that Ward was simply "not qualified" for admission, despite his stellar academic performance at both Morehouse and Atlanta University. University officials steadfastly denied that UGA excluded blacks; the fact that no black had ever been admitted to the university was merely coincidental. Meanwhile, the Board of Regents decided to 'modify' the admissions crite-

ria by requiring that candidates take an entrance exam and that they get two additional letters of recommendation—one from a UGA law school alumnus and the other from the Superior Court judge in the area where the applicant resided.

The attorneys who were representing Ward included Walden, Constance Baker Motley and Donald Hollowell, who had just set up his practice in Atlanta on Hunter Street (now Martin Luther King Jr. Boulevard) with $300 he had borrowed from a friend. Hollowell was one of only a dozen or so African-American lawyers in Atlanta in 1952. It was clear to them that Ward would have to take the University of Georgia to court to have any chance of entering its law school.

Their suit was filed in U.S. District Court in Atlanta on June 23, 1952, an event that was followed by numerous delays and legal maneuvers by the state's attorneys over the next several years. On Sept. 9, 1953, less than one month before the scheduled court date of Oct. 5, Ward was drafted into military service, effectively suspending his case. He served two years in the Army, including a year in Korea, before returning home in 1955 and reactivating the lawsuit. After multiple new motions for dismissal filed by lawyers for the university and state were unsuccessful, the court date was rescheduled for Dec. 17, 1956, which was more than six years after Ward's original application to law school.

By then, however, Ward had already enrolled in law school at Northwestern University in Evanston, Ill., as prospects for his admission to the UGA School of Law anytime in the near future appeared dim. His assessment of the situation was correct; on Feb. 12, 1957, the U.S. District Court dismissed Ward's suit on the grounds that he had failed to reapply for admission to UGA under the newly instituted guidelines requiring letters of recommendation and that Ward's entering another law school had rendered his UGA application moot.

Ward decided not to appeal the decision, having already gotten on with his life at Northwestern, where he earned his law degree in 1959. He then returned to Georgia and worked with Hollowell and Motley on their successful efforts, realized in 1961, to desegregate the state's flagship university. On Jan. 6, of that year, U.S. District Court Judge William A. Bootle of the Middle District of Georgia ordered UGA to admit Hamilton E. Holmes and Charlayne A. Hunter as the first African-American students in the institution's 175-year history.

Ward joined Hollowell's firm, which would become Hollowell, Ward, Moore & Alexander. In 1964, Ward was elected to the Georgia State Senate, where during his first term one of the fellow senators with whom he crossed paths was a South Georgia peanut farmer named Jimmy Carter.

Fifteen years later, Carter was serving as the 39th president of the United States and made the historic appointment of Ward as a judge on the U.S. District Court for the Northern District of Georgia. "In an interesting twist of fate," Robert Pratt wrote, "Ward later presided over several cases in which UGA was the defendant."

Ward served in active status from 1979 through 1994, when he took senior status. He retired from the bench last September.

Bootle's ruling having effectively desegregated Georgia's public institutions of higher learning, the issue was, however, far from settled at the state's private colleges and universities. State law still denied tax exemptions to integrated private schools.

At the time, Ben F. Johnson Jr. was the new dean of the Emory University School of Law. Working closely with Henry Bowden Sr., who was chairman of Emory's Board of Trustees and the university's general counsel, Johnson pushed for and argued the landmark case that would integrate Georgia's private universities. Throughout his career, he remained a strong and effective advocate for women and minorities.

Johnson was born in Atlanta in 1914. Following his undergraduate work at Emory, Georgia State University and the University of Georgia, he received a J.D. from Emory Law School in 1939 and was admitted to the Georgia Bar Association the same year. From 1940 through 1943, Johnson practiced law at Sutherland, Tuttle & Brennan in Atlanta, where he came under the influence of Georgia legal giants

Judge Elbert P. Tuttle and Randloph W. Thrower, among others.

Johnson served in the Naval Reserve from 1943 to 1946, including time on the U.S.S. Yorktown during its landings on Iwo Jima and Okinawa. Following the war, Johnson began 36 years at Emory Law School, including his service as dean from 1961 to 1972. During this period, he also served as a deputy assistant attorney general for Georgia from 1955 to 1961 and as a state senator from 1963 to 1969. In the Senate, he was chiefly responsible for writing the resolutions to permit the creation of the Metropolitan Atlanta Rapid Transit Authority (MARTA).

In 1962, Johnson and Bowden filed *Emory v. Nash*, which sought to overturn a state law that denied tax exemptions to integrated private schools. As William B. Turner, a visiting assistant professor at Emory Law in 2007 wrote in his paper *The Racial Integration of Emory University: Ben F. Johnson Jr. and the Humanity of Law*, the story of Emory's desegregation is very different from that of the public institutions in the South.

"Emory's leaders sought integration in 1962 while others fought it," Turner wrote. "Emory briefly found itself in the peculiar position of being unable to admit African-American students for fear of losing its tax exemption even after the state legislature had enacted legislation desegregating the state's public institutions."

Turner continued, "The obvious difference between these institutions and Emory is that they are public, but Emory is private. It is, therefore, less subject to the vagaries of electoral politics and stands in an importantly different relationship to the applicable law. But the difference between integration at Emory and integration at the [public institutions] lay not only in the specific statutes. It lay also in the posture of the universities' administrators. In the suit to integrate [a public college], the university administrator was the defendant. In *Emory v. Nash*, the university and its representatives served as plaintiffs."

Challenging identical provisions of the Georgia Constitution and Georgia statutes, the suit was initially unsuccessful in DeKalb County Superior Court, where one defendant's motion for dismissal and summary judgment on behalf of the remaining defendants was granted. But Emory appealed to the Supreme Court of Georgia, which reversed the trial court.

According to William Turner's account, "The opinion rehearses the claim of the original petition that the two provisions of the statute contradicted each other, such that the first provision, limiting the tax exemption to institutions that served the general public, must stand while the second provision, limiting the tax exemption depending on the race of the institution's constituents, must fall. The opinion makes no reference to the equal protection argument, but Bowden and Johnson had achieved their goal. The Supreme Court of Georgia expressly held that 'Emory, as a private school, can accept colored students without jeopardizing its tax exemptions.'"

Following the Supreme Court's action, Turner added, "Lesser men might have rested on their laurels. Others might have revealed a measure of cynicism or ignorance in their contributions to racial integration by winning the suit to strike down the segregation statute, then waiting idly for African-Americans to matriculate. Johnson was just getting warmed up. He had high aspirations for Emory Law School and Emory University, and deliberately increasing the number of African-American students was part of his plan."

In 1965, more than two years after the *Emory v. Nash* decision, Emory Law admitted its first two full-time African-American students: Marvin S. Arrington Sr., who would go on to serve for 16 years as president of the Atlanta City Council and 10 years as a Fulton County Superior Court judge before his retirement last year, and Clarence Cooper, who has served as a judge for the Atlanta Municipal Court, Fulton County Superior Court, Court of Appeals of Georgia and, since 1994, U.S. District Court for the Northern District of Georgia (in senior status since 2009). Johnson went on to create the unique Pre-Start Program, a vehicle for recruiting African-American students to Emory Law School.

After leaving Emory, Johnson capped his career at the College of Law at Georgia State University, serving as its founding dean from 1981 to 1985. Since 1994, the Georgia State University College of Law has presented the Ben F. Johnson Jr. Public Service Award to a deserving Georgia attorney. Johnson died June 30, 2006, at his home in Atlanta.

I have been privileged during my legal education and during my law practice to know both of these men. Ben Johnson was my tax law professor at Emory and allowed me to earn a passing grade. Judge Ward presided over my first trial within five months after I started my own practice, and I was fortunate to prevail in that trial. I can personally attest that Georgia is a better place because of these two giants of Georgia's legal community. GBJ

Charles L. Ruffin is president of the State Bar of Georgia and can be reached at cruffin@bakerdonelson.com.

Correction

In the August edition of the *Georgia Bar Journal*, my President's Page article contained an erroneous reference to the Revolutionary War and "Gen. Cornwallis's surrender at Yorktown, Pa." We all know, of course, that the surrender took place in Virginia, not Pennsylvania.

While you might think that was an uncaught typographical error, it was actually a contest to see which readers, if any, were paying attention. The winner: my good friend, colleague and State Bar past president, Jeff Bramlett.

by Darrell L. Sutton

Great Lawyer: Scholar, Orator and Servant

When we lawyers hear the word "professionalism," we immediately think about conflicts of interest; the lawyer-client relationship; duty; how we conduct ourselves with judges and other lawyers; abusive litigation tactics; and in general, being truthful. All of these are important things.

Professionalism is more than that, though. It is the grander concept of a lawyer's professional responsibility. And lawyers, along with doctors and the clergy, are members of noble professions; professions set apart from all others by their one shared characteristic: service, especially service to others. We cannot, therefore, truly fulfill our professional responsibility unless we are serving others.

Service is not only a necessary ingredient to the fulfillment of our professional responsibility, though; it is the key to becoming a great lawyer. State Bar of Georgia Past President Lester Tate once told me that to be a great lawyer you have to be all three of the following: scholar, orator and politician. You can be a lawyer by being just one of those three, and a good lawyer by being two of the three. But to be a great lawyer, you have to be all three.

The first two of these three traits are self-explanatory, and lawyers are rarely confused about what they mean as they are learned in law school and legal practice. But the third of these three traits—politician—is often misunderstood.

When we think of a politician, we are generally led to the contemporary caricature of the demagogue. One who is running for some elected office, and who in doing so, is willing to tell others whatever they need to hear to be convinced to vote for him or her. But that is not what I mean by "politician."

The politicians I am referring to are the lawyers who make themselves available to others. The lawyers who are devoted not only to their practice, but also to their profession and community. The lawyers who don't just consume what others have to offer, but who seek to produce what others who are similarly situated—whether it be by geography, profession or oth-

> "When you became a member of the State Bar of Georgia, and thus the YLD, you passed through a proverbial gate of opportunity. But with that opportunity comes the responsibility to be noble and to serve."

erwise—can consume. The lawyers who, in other words, serve.

Don't get me wrong: doing this is neither natural, nor easy. It requires effort. It requires taking yourself out of your comfort zone and putting yourself into uncomfortable circumstances. It requires sacrifice—both of your time and your talents. It is a skill that the vast majority of us do not naturally possess but instead have to work to attain. It is for these reasons that the politician is the most elusive and most difficult trait to achieve.

The good news, though, is that not only can it be achieved, but the means of achieving it are at your disposal as a member of the YLD. The YLD is the service arm of the Bar and has dedicated its 67-year existence to service, both to the profession and the public. It has 26 committees dedicated to service to the profession, including, business law, criminal law, elder law, family law, intellectual property law, judicial law clerk, juvenile law, labor and employment, litigation, real estate—and service to others, including minorities in the profession, women in the profession, community service projects, advocates for students with disabilities, aspiring youth, disaster legal assistance and law-related education.

Perhaps your chosen path to becoming a great lawyer—the servant lawyer—is instead on the local level. There are 13 affiliate young lawyer divisions spread throughout the state. From Albany to Blue Ridge, Augusta to Columbus, Atlanta to Valdosta, Rome to Savannah, Gwinnett to Macon, and everywhere in between, there is a local YLD near your home or office that will benefit from having you as part of it.

Perhaps you see interacting with other young lawyers as the means by which to become a complete lawyer. The YLD holds five meetings each year at various locations. So far this Bar year the YLD has held a meeting in Chicago, and will hold meetings in Chattanooga, Atlanta, Charlotte and Amelia Island. Each meeting offers CLEs and interaction with young lawyers from across the state, not to mention a little fun here and there.

When you became a member of the State Bar of Georgia, and thus the YLD, you passed through a proverbial gate of opportunity. But with that opportunity comes the responsibility to be noble and to serve. How will you use the YLD to seize that opportunity? How will you become professionally responsible? How will you be noble? How will you serve? GBJ

Darrell L. Sutton is the president of the Young Lawyers Division of the State Bar of Georgia and can be reached at dls@sutton-law-group.com.

Live-In Lover Complaints: Think Twice Before You File

by Deborah S. Ebel and Margaret E. Simpson

Imagine the following scenario: Hubert and Winona decide to divorce after many years of marriage during which Hubert has been the financial breadwinner. Hubert agrees to pay $5,000 per month in alimony to Winona for a period of five years. The parties enter into a written settlement agreement which is adopted by the court and made a part of their divorce decree.

After one year of consistently paying $5,000 each month to Winona, Hubert discovers that Winona has begun dating Beau. Hubert further learns that Beau has been spending the night at Winona's home. Hubert is overjoyed, thinking that his days of paying alimony to Winona are over now that she has found someone new. If Hubert were to come to you seeking legal advice about this situation, however, then you may have to give him some bad news.

Georgia's "live-in lover" statute would give Hubert grounds to modify his alimony payments downward or even terminate them, but only if he can meet a pretty high burden of proof.[1] Hubert will have to be able to show that Winona and Beau are living together openly and continuously *and* that they are either having sex or sharing living expenses. You will also need to warn Hubert that the consequences of filing a "live-in lover complaint" *and losing* are a bit drastic. O.C.G.A. § 19-6-19(b) provides for a mandatory award of the reasonable attorney's fees of the defendant if the plaintiff does not prevail.

Proving Your Case

In order to win his live-in lover complaint, and thus not get stuck with Winona's attorney's fees, Hubert must prove by a preponderance of the evidence:

- an open and continuous cohabitation of Winona with Beau, and
- either sexual intercourse between Winona and Beau or sharing of expenses of cohabitation between Winona and Beau.

Georgia's "live-in lover law," O.C.G.A § 19-6-19(b), provides in part:

> Subsequent to a final judgment of divorce awarding periodic payment of alimony for the support of a spouse, the voluntary cohabitation of such former spouse with a third party in a meretricious relationship shall also be grounds to modify provisions made for periodic payments of permanent alimony for the support of the former spouse. As used in this subsection, the word "cohabitation" means dwelling together continuously and openly in a meretricious relationship with another person, regardless of the sex of the other person. [emphasis added].

As in a typical modification based on changes in financial status or income, the evidence must be from a

period of time after entry of the final judgment. In addition to proving a continuous and open cohabitation, the claimant must also prove the existence of a meretricious relationship. Although the word meretricious connotes a cheap or vulgar relationship, that is not the meaning for this term of art as used in this statute. Rather, Georgia courts have held, that for the purposes of this statute, a meretricious relationship is simply one in which there is either sexual intercourse or a sharing of the expenses of cohabitation.[2]

In *Hathcock v. Hathcock,* 249 Ga. 74, 76, 287 S.E.2d 19 (1982), we construed "meretricious" as used in O.C.G.A. § 19-6-19(b) to define the two situations which would justify the trial court's modification of alimony under that section:

> [U]pon proof of sexual intercourse between the former spouse and the third party although no proof is offered tending to establish that the former spouse received from, gave to, or shared with the third party expenses of their cohabitation. . . . [T]he statute also applies upon proof that the former spouse received from, gave to, or shared with the third party expenses of their cohabitation although no proof is offered tending to establish sexual intercourse between the former spouse and the third party.[3]

Thus, one of these elements, namely sexual intercourse or shared living expenses, must be proven in addition to the element of an open and continuous cohabitation.

Open and Continuous Cohabitation

Cohabitation must be open and continuous, not secret and hidden, and akin to the living arrangements of married people.[4] For the purposes of a live-in lover claim, Georgia courts have considered situations in which there was proof that a former spouse had had the same overnight guest on a number of occasions; in these situations, the courts have held that having the same overnight guest even on multiple occasions is not the equivalent of continuous cohabitation.

> Since the constitutionality of O.C.G.A. § 19-6-19(b) depends upon the meretricious relationship being one similar to marriage, it follows that the cohabitation must go beyond periodic, physical interludes. [emphasis added].[5]

As the cases cited above set forth, periodic physical interludes are not proof of open and continuous cohabitation. The ruling of the trial court in *Donaldson*—that having an unrelated male guest past midnight for more than four nights out of any 30-night period would be tantamount to being in a meretricious relationship—was considered unreasonably intrusive and against the holding in *Hathcock*. So, even if Hubert has airtight evidence that Beau has spent the night with Winona on multiple occasions, that alone will not be enough to meet his burden of proof.

Receiving mail at a given address is not the same as residing at the address continuously.[6] It takes far more than a third party receiving mail at the former spouse's residence to prove that the third party continuously resided at that address.[7] So, even if Hubert can prove that Beau has spent the night with Winona on multiple occasions and that Beau recieves mail at Winona's address, without further evidence, he will not prevail.

Sexual Intercourse or Shared Expenses of Cohabitation

If a former spouse who pays alimony has sufficient evidence of an open and continuous cohabitation by his or her former spouse who receives the alimony, then the second prong of the test examines whether the relationship is "meretricious." In other words, did the former spouse/alimony recipient have sexual intercourse with the third party with whom he or she is openly and continuously cohabiting, or did the former spouse/alimony recipient share the expenses of cohabitation with the third party with whom he or she is cohabiting?

To terminate alimony based on the sexual intercourse element, there must be actual proof of sexual intercourse by a preponderance of the evidence. No reported Georgia case has held that romantic involvement, the opportunity to have sex and/or expressions of love or lust are sufficient to prove that sexual intercourse has occurred. This is obviously difficult to prove without an admission by the alimony-receiving spouse or his/her lover, or the rare case in which the couple in question videotapes themselves in the act, or the even rarer case in which a private investigator or other third party lawfully videotapes sexual intercourse.

The Supreme Court of Georgia has also recognized that, without proof of continuous cohabitation, proof of sexual intercourse alone will not be sufficient to justify termination of alimony under O.C.G.A. § 19-6-19(b). In *Daniels v. Daniels,*[8] the relationship in question had resulted in the birth of a child. The Court held, however:

> [a]lthough the evidence supports a finding of periodic sexual encounters, there is no evidence that the parties dwelled together continuously or openly. Therefore, the relationship fails to meet the standard authorizing a modification of permanent alimony under O.C.G.A. § 19-6-19(b).[9]

In the alternative, if sexual intercourse cannot be proven, a court can terminate alimony if the alimony payor can establish that the alimony recipient shares the expenses of cohabitation (shared payments of rent, mortgage, utilities, yard maintenance, food, etc.) with his or her co-inhabitant. Under *Hathcock*, receiving from, giving to or sharing with the co-inhabitant the expenses of cohabitation will be sufficient to

show the existence of a meretricious relationship. Coupled with proof of open and continuous cohabitation, this would present a valid claim to take before a court to seek termination of the alimony.

Even if Hubert can prove that Winona and Beau are living together openly and continuously and that they are having sex or sharing living expenses, however, there is still a chance that he may not prevail because the ultimate decision is, after all, in the court's total discretion. Below are some additional considerations to be taken into account.

Other Considerations

Even if you are able to establish both prongs of the live-in lover law, there are some other things to consider before bringing an action to modify or terminate alimony under this statute.

The Court Has Discretion

Courts are not required to terminate alimony even if a party proves all of the elements of the live-in lover statute by a preponderance of the evidence. A court may choose not to modify a defendant's alimony even if she/he is cohabiting continuously and openly with someone with whom she/he is having sexual intercourse and/or sharing living expenses. Winona may become disabled and struggle financially, whereas Hubert is financially well heeled. Other family members may be financially dependent on Winona. If these few situations exist, Winona's lawyer could make a compelling argument for keeping the alimony in place, or merely reducing it, instead of terminating it altogether.[10]

Timing

O.C.G.A. § 19-6-19

> (b) *Subsequent to a final judgment of divorce* awarding periodic payment of alimony for the support of a spouse, the voluntary cohabitation of such former spouse with a third party in a meretricious relationship shall also be grounds to modify provisions made for periodic payments of permanent alimony for the support of the former spouse. . . . [emphasis added].

Living in a meretricious relationship with another *prior* to entry of the final divorce decree will not serve to prove the elements of the live-in lover statute, unless of course one proves that the meretricious cohabitation started before entry of the divorce and continued after entry of the final divorce decree. If Hubert were to find out that after he and Winona separated, but before they were divorced, Winona had been living with Beau and was also having sex or sharing living expenses with Beau, this would not be grounds to modify or terminate his alimony under O.C.G.A. § 19-6-19.

No Recoupment of Alimony Already Paid

In an action to terminate alimony under the live-in lover statute, a plaintiff may not recoup any alimony already paid even if the court finds that the defendant cohabited openly and continuously in a meretricious relationship. "Retroactive modification of an alimony obligation would vitiate the finality of the judgment obtained as to each past due installment. . . . [A] judgment modifying an alimony obligation is effective no earlier than the date of the judgment."[11]

In *Hendrix v. Stone*,[12] the Supreme Court of Georgia held that a trial court may not retroactively modify an alimony obligation, reversing a trial court's modification under O.C.G.A. § 19-6-19(b) of alimony in which the modification was to be effective prior to the date of the judgment granting the modification.[13] In *Donaldson*, the trial court held that the former wife had forfeited alimony for four months while she was living with another man.

The trial court found that she was not cohabitating openly, continuously and meretriciously at the time of the hearing, but imposed a self-executing termination of her alimony if at any time in the future she had male company past midnight more than four times per month. The Court of Appeals of Georgia reversed, holding that the trial court could not retroactively terminate alimony during the four months that the wife was meretriciously cohabitating with the third party. The Court held that the self-executing four-night per month limit was unauthorized and not in accordance with prior holdings that require that modification or termination under O.C.G.A. § 19-6-19(b) must be proven by showing open *and* continuous cohabitation and sexual intercourse or shared living expenses. Having occasional overnight guests is not sufficient proof of such a relationship. On remand, the trial court in *Donaldson* was not permitted to order disgorgement by the former wife of alimony she had received while meretriciously cohabitating because that would be an impermissible retroactive modification. Because the trial court found that the wife was not currently in a relationship within the meaning of O.C.G.A. § 19-6-19(b) at the time of the hearing, it did not terminate her right to future alimony either.[14]

Mandatory Award of Attorney's Fees

Attorney's fee awards are not discretionary in an action to terminate alimony under the live-in lover statute in the event the plaintiff does not prevail. O.C.G.A. § 19-6-19(b) provides in pertinent part:

> In the event the petitioner does not prevail in the petition for modification on the ground set forth in this subsection, the petitioner shall be liable for reasonable attorney's fees incurred by the respondent for the defense of the action. [emphasis added].

Even if you can prove continuous cohabitation, unless you have an admission of sexual intercourse or a legally obtained video or photographs, you will need to focus on proof of shared expenses of cohabitation. Do not bring an action under O.C.G.A. § 19-6-19(b) without adequate proof; the consequence is a mandatory award to the former spouse of his or her reasonable attorney's fees, on top of the attorney's fees already paid to the plaintiff's own attorney.

Constitutionality of the Live-in Lover Statute

If you have proof of the necessary elements of an open and continuous meretricious relationship, a constitutional challenge to the live-in lover law is not likely to derail your case. You should be prepared, however, to defend against such a challenge.

In *Sims v. Sims*,[15] the Supreme Court of Georgia held that O.C.G.A. § 19-6-19(b) survived a challenge on equal protection grounds, finding that the "classification of former spouses who have elected voluntarily to cohabit with a third party of a different sex[16] in a meretricious relationship is a rational classification which furthers legitimate governmental objectives." Although Sims is the only known challenge to the constitutionality of O.C.G.A. § 19-6-19(b), cases in which a constitutional challenge has been made to other mandatory fee award statutes have upheld their constitutionality. In *Smith v. Baptiste*,[17] appellant's motion for attorney's fees under O.C.G.A. § 9-11-68(b)(1) was denied by the trial court on the grounds that the statute violated various articles of the Georgia Constitution. The statute mandated an award of reasonable attorney's fees and expenses if a settlement offer was rejected and the judgment was only a certain percent less than the rejected settlement offer, similar to the scheme in O.C.G.A. § 19-6-19(b). The Supreme Court of Georgia reversed the trial court and held O.C.G.A. § 9-11-68(b) to be constitutional.[18]

Tips for Drafting Settlement Agreements

If you represent the alimony-payor spouse, there is really no need to add a provision in your termination of alimony section of a settlement agreement (i.e., alimony terminates on the death of either spouse or the alimony recipient's remarriage) to the effect that alimony also terminates upon a finding by a court of continuous cohabitation in a meretricious relationship. The law allows for such a claim to be filed anyway, regardless of whether the settlement agreement includes such language. It doesn't hurt, however, to add this provision. If you represent the alimony recipient, you will want to make sure that the settlement agreement provides that alimony may terminate only after a court of competent jurisdiction determines that the requirements of 19-6-19(b) have been met and that the court, in its discretion, finds that alimony should be either modified or terminated. The authors are not aware of any Georgia cases in which the court was faced with a live-in lover claim involving a poorly drafted settlement agreement that provided that "alimony ceases upon entry by the alimony-receiving spouse into a meretricious cohabitation with a third party." Such a situation violates the language and requirements of the live-in lover statute in that it leaves the determination of meretricious cohabitation to the alimony payor former spouse. In our hypothetical, if Hubert simply unilaterally stops paying alimony to Winona, Winona would have a successful contempt action; otherwise, the court would be validating an illegal unenforceable settlement provision. So, even if Hubert and Winona's marital settlement agreement provides that Hubert can stop paying alimony if Winona is cohabiting in a meretricious relationship, and does not include language that this must first be determined by a court of competent jurisdiction, Hubert

risks being held in contempt if he stops paying before a court has determined that all of the requisite factors have been proven.

Conclusion

Once you have taken your client through the divorce process and obtained a final judgment and decree of divorce, be aware of the relationships that your client and his or her former spouse have with others. Advise the client of what activities are likely to result in a termination or reduction of alimony so that the client can either govern himself or herself accordingly to avoid a claim for alimony termination, or so that the client can be on the lookout for activities of his/her former spouse that would otherwise unfairly result in alimony continuing to be received by an ex-spouse who has the equivalent of a new spouse, although not formally remarried.

If Hubert and Winona both know exactly what it would take in order for Hubert's alimony to be terminated under the live-in lover statute, they could both be spared some needless bickering or harassment from one another about the issue. Hubert could be spared having to pay Winona's attorney fees for bringing a live-in lover complaint without the proof he needs.

Deborah S. Ebel began her legal career in 1975 at Atlanta Legal Aid Society, moving to what is now known as McKenna, Long & Aldridge in 1985, where she practiced business litigation, became an equity partner and began and developed the firm's family law practice. She started her family law practice, Ebel Family Law, in 2012. Ebel has been recognized as a Super Lawyer; as one of the top 50 women lawyers in Georgia; and by *Georgia Trend* and *James* magazines for her leadership in the legal community. She is a master in the Bleckley Inn of Court and a member of the Advisory Board for the Emory Public Interest Committee. Ebel received her B.A. in American Intellectual History from the University of Rochester, her Master's in social work from the University of Michigan and her J.D. from Emory University School of Law.

Margaret E. Simpson joined Edwards & Associates in July 2011, and practices exclusively in family law. She attended college at the University of Montevallo majoring in political science with a minor in pre-law. After graduating *magna cum laude* in 2005, Simpson pursued her J.D. at the University of Alabama School of Law. During law school, she worked as a law clerk in the areas of family law, consumer protection and employment discrimination. Simpson was admitted to the Alabama State Bar in 2008. She returned to her hometown where she served as law clerk to the senior judge of Montgomery County's Family Court Division. Simpson was appointed as special master and presided over preliminary hearings in domestic relations cases, making written recommendations to the judge regarding temporary custody, child support and alimony issues.

Endnotes

1. O.C.G.A. § 19-6-19(b).
2. Donaldson v. Donaldson, 262 Ga. 231, 416 S.E.2d 514 (1992).
3. *Id*. at 231
4. Shapiro v. Shapiro, 259 Ga 405 (1989).
5. Reiter v. Reiter, 365 S.E.2d 826, 258 Ga. 101 (1988). *See also* Donaldson, 262 Ga. 231, 416 S.E.2d 514 (holding that trial court's order that alimony would be forfeited for "any thirty-day period during which [former wife] had an unrelated male companion stay with her past midnight for more than four nights" was "unreasonably intrusive," and also "unauthorized, since it is not in accordance with [the standard] of Hathcock v. Hathcock.").
6. Kean v. Marshall, 294 Ga. App. 459, 669 S.E.2d 463 (2008); Johnson v. Woodard, 208 Ga. App. 41, S.E.2d 701 (1993).
7. *See* Dunlap v. Dunlap, 234 Ga. 304, 215 S.E.2d 674 (1975); Rice v. Rice 240 Ga. 272, 240 S.E.2d 29 (1977).
8. 258 Ga. 791, 374 S.E.2d 735 (1989).
9. *Id*. at 736.
10. Hurley v. Hurley, 249 Ga. 220, 290 S.E.2d 70 (1982).
11. Branham v. Branham, 290 Ga. 349, 720 S.E.2d 623 (2012).
12. 261 Ga. 874, 412 S.E.2d 536 (1992).
13. Donaldson v. Donaldson, 416 S.E.2d 514, 262 Ga. 231 (1992).
14. The appellate court does not address whether the trial court could have terminated future alimony based upon a previous live-in lover relationship that was no longer ongoing, but the implication is that this would not have been permissible.
15. 245 Ga. 680, 266 S.E.2d 493 (1980).
16. The live-in lover statute used to apply only to meretricious relationships between persons of the opposite sex. *V*an Dyck v. Van Dyck, 262 Ga. 720, 425 S.E.2d 853 (1993). The statute was subsequently amended to apply to all meretricious relationships, regardless of the sex of the other person.
17. 287 Ga. 23, 694 S.E.2d 83 (2010).
18. The special concurrence by Justice Nahmias in Smith v. Baptiste rejected the notion that such a statute impedes or chills litigants from filing and pursuing claims out of fear that the litigants will have to pay attorney's fees if they lose. Justice Nahmias went on to state that even with this statute on the books: "[t]hese appellees accessed the court by filing their tort claims. They then pursued those claims vigorously, ignoring a settlement offer, until the claims were fully resolved with a grant of summary judgment against them." *Id*. at 32.

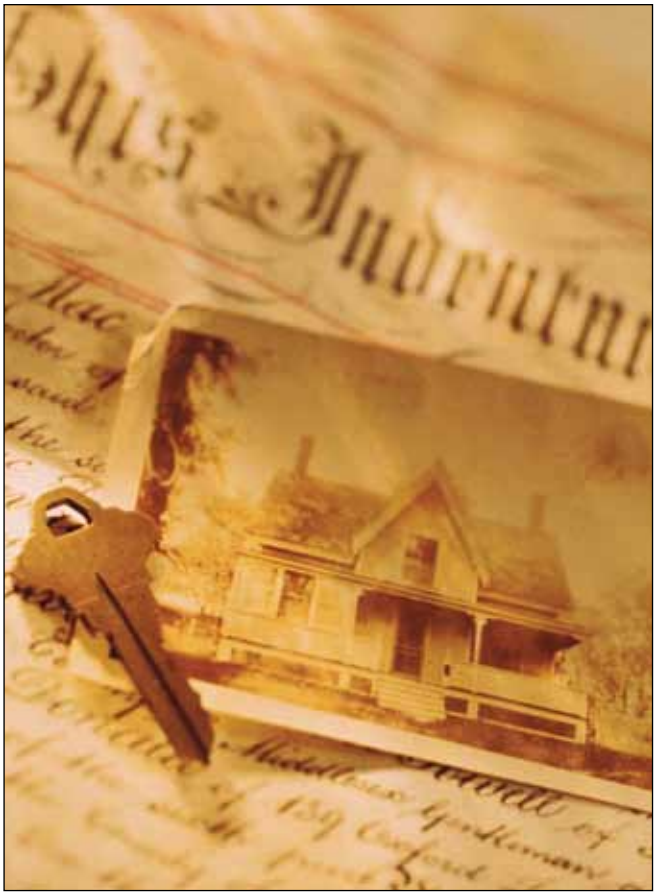
A Primer on Heirs Property and Georgia's New Uniform Partition of Heirs Property Act:

Protecting Owners of Heirs Property

by Crystal Chastain Baker and Shunta Vincent McBride

"Heirs property" is land that has been informally passed down from one generation to the next without a will or deed.[1] The transfer of heirs property occurs by operation of law through a process known as intestate succession.[2] In Georgia, when a landowner dies without a will, title to the property automatically vests in the landowner's next of kin at death, which is typically the surviving spouse and children, if any.[3]

As described in more detail below, the heirs property problem is best characterized by the inability of owners to fully realize the benefits of landownership and the risk of involuntary land loss due to partition sales. Historically, the heirs property problem has adversely affected rural and economically depressed communities in the South. The forced sale of heirs property that is "not otherwise for sale" has long impacted people of color in disproportionate numbers, especially African-American farmers.[4] Today the heirs property problem continues to impact low to mid-income landowners and communities of color traditionally disadvantaged by this form of common ownership. However, the heirs property problem impacts Georgians of all socioeconomic backgrounds, and affects rural and metropolitan communities alike.



On April 16, 2012, Georgia became the second state in the United States and first state in the South to enact the Uniform Partition of Heirs Property Act (the Act).[5] Originally introduced as HB 744, the Act became effective on Jan. 1, 2013, and applies to partition actions involving heirs property commencing on or after Jan. 1, 2013.

Heirs Property

As stated earlier, "heirs property" is land that has been informally passed down from one generation to the next without a will or deed. The creation of heirs property through operation of Georgia's intestate succession laws results in the surviving kin owning heirs property as "tenants in common." The tenancy in common form of ownership is a tenancy by two or more persons having equal or unequal undivided shares, with each person having an equal right to possess the whole property without a right of survivorship.[6] Because each co-tenant has an interest in the whole, each has the right to use, possess, rent, mortgage and farm the property, which rights are limited by the right of fellow co-tenants to do the same. Absent an ouster,[7] co-tenants can be made liable to one another resulting at times in one co-tenant bearing an unfair proportion of his share of the costs to repair, insure and pay taxes on the property.[8] Similarly, if one co-tenant receives rental income in excess of his proportionate share, one can be made liable to share in the profits.[9]

The Heirs Property Problem

Because heirs property culminates from undocumented land conveyances, title to heirs property is often clouded and unmarketable. Lack of clear title is the first half of the heirs property problem—the inability of heirs to fully realize the economic benefits of land ownership. In the absence of clear title, heirs typically must "sign-off" on agreements in order to effectively participate in transactions to rent, improve, encumber and sell the land. Because heirs often disagree on how property should be used, the opportunity to earn rental income or obtain financing can be lost as a result of this form of land ownership. Essentially, the land and its wealth-creation potential becomes "locked" and remains inaccessible to owners of heirs property.[10]

The second half of the heirs property problem is the right of each co-tenant to partition the land. The right of partition is unique to the form of ownership created by a tenancy in common. Each co-tenant has the right to petition a court to partition, and there are two types of partition: partition in kind and partition by sale. A partition in kind results in a physical subdivision of the land so that each co-tenant receives a conveyance (via deed or court order) to a separate, smaller parcel of land. Co-tenants may also request a partition by sale, in which case the land is sold and the sale's proceeds are divided among the co-tenants according to their ownership interests. Real estate speculators who are strangers to the ancestral title can purchase one family member's interest, become a co-tenant with the remaining co-tenant heirs and exercise a right to force a partition sale, which can often yield less than the property's true value.

Heirs property is typically partitioned by sale, due to the overwhelming number of heirs and their highly fractionalized (i.e., small) ownership interests. If the subject property is small, as in the case of an in-town parcel, the heirs small ownership interests can make it difficult, if not impossible, to physically divide the land in such a way that it could be put to productive use.

Partition Laws—Then and Now

The law of partition is centuries old and dates back to English common law. Early partition laws provided that partition among tenants in common could be achieved only through a voluntary agreement.[11] As tenancy in common laws changed, so did partition laws, allowing for co-tenants to demand partition without the consent of other co-tenants.[12] Early partition law did not contemplate that land would be sold in its entirety, but instead included provisions for a sale of a small portion of land in order to defray litigants' costs.[13] Further, where urban or improved property was involved, partition by sale was permitted under early English common law only where a physical division and partition of the land could not be accomplished without great prejudice to the landowners.[14] Additionally under early English statutes, partition was available only to "coparceners" or co-tenants related by blood and deriving their title from a common ancestor.[15] Much of this English doctrine permitting partition was incorporated into American common law[16] through the adoption by the states of statutes permitting the forced partition of co-tenancies.[17] Each state has promulgated statutes giving courts the power of sale where partitioning in kind would injure or inconvenience parties and/or where property cannot be easily divided.[18]

Partition sale statutes have been enacted in all 50 states.[19] Many states experienced significant changes in courts' application of partition laws in the 20th century. During this time courts began to favor partition sales over partitions in kind, based on the oft-claimed impracticality of physical divisions in kind. However, the practice of dividing by sale often contradicted statutory preferences for divisions in kind and the common law and equitable principles on which such statutory preferences were based.[20]

Partition law in Georgia dates back to the Act of 1767,[21] and is currently found in Title 44, Chapter 6, Article 7, Part 2, of the Official Code of Georgia Annotated.[22] The history of partition law in Georgia suggests that though early case law evidenced courts' preferences to physically divide land in kind, subsequent Georgia courts followed the trend in the majority of states over the past century in favor of court-ordered partition sales.[23]

As heirs property scholar Phylliss Craig-Taylor noted, "the heart of the problem is the inadequate protection given to property owners in the context of partition proceedings," and "the right of co-tenants to partition does not yield to considerations of hardship, inconvenience or motivations of the petitioner."[24] Georgia's adoption of the Act seeks to provide protections not previously afforded owners of heirs property, and give credence to subjective factors traditionally ignored for purpose of assigning a fair market value to heirs property. Among the many legislative purposes enumerated in the preamble to HB 744, the drafters recite an intention to provide partition alternatives. This may fairly be regarded as the drafters' attempt to craft a solution in response to the inherent risk of land loss associated with the ownership of heirs property.

The Act originated from the model Uniform Partition of Heirs Property Act, adopted by the Uniform Law Commission and the American Bar Association in 2010. The Act establishes protections for heirs property owners in partition actions. The safeguards are designed to help those who own heirs property maintain ownership of their property when possible, or to insure at the very least that any court-ordered sale of the property is conducted under commercially reasonable circumstances that will protect the owners from losing substantial wealth upon the sale of their property.[25]

Introduced and unanimously approved in 2012 by the Georgia Legislature, the Uniform Partition of Heirs Property Act is codified in Title 44 of the Official Code of Georgia Annotated.

Overview

The Act does not create a new partition law. Rather, this Act adds a subpart to the Georgia's existing equitable and statutory partition statute in that it applies only to actions involving "heirs property" as defined under the Act. Further, in partition actions commencing on or after Jan. 1, 2013, the Act is controlling notwithstanding the pre-existing partition statutes. The Act does not displace existing partition law for non-heirs property, nor does it prohibit a party from petitioning for a partition by sale. The Act establishes rules, which are designed to provide additional protections against the risk of forced sale and involuntary loss of heirs property. Overall, the Act affords owners of heirs property certain beneficial statutory rights in partition proceedings that are not otherwise given to owners who hold land as tenants in common, and generally provides some of the protections normally afforded co-tenants where a private co-tenancy agreement is in place.

Definition of Heirs Property

For the first time in Georgia's history, the Georgia Code now defines the term "heirs property." Despite the historical significance of this type of tenancy in common relationship, "heirs property" had never before been defined in the Georgia Code. Defining heirs property is the first step that must be taken in determining the applicability of the Act on partition actions filed on or after Jan. 1, 2013. Once an action has met the definition of heirs property, then the Act's new partition rules will apply. The Act defines heirs property as land that is held in tenancy in common which satisfies all of the following requirements as of the date of filing of the partition action:

1. There is no agreement in a record binding all the co-tenants, which governs the partition of the property;
2. One or more of the co-tenants acquired title from a relative, whether living or deceased; and
3. Any of the following applies:
   a. Twenty percent or more of the interests are held by co-tenants who are relatives;
   b. Twenty percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or
   c. Twenty percent or more of the co-tenants are relatives.[26]

Through this definition, the Act sets forth three requirements for tenancy in common property to qualify for the new partition procedures. First, the parties must not already have a binding co-tenancy agreement in place. A co-tenancy agreement is an agreement among tenants in common that governs the various rights and obligations of joint land ownership, including payment of taxes and insurance premiums; such agreements may also govern partition of the property. Because a co-tenancy agreement would typically include provisions protecting co-tenants from partition, the presence of such an agreement serves to disqualify property that would otherwise qualify as heirs property under the Act.

The second requirement is that one or more of the co-tenants must

have acquired the land from a relative. As is typical in the case of heirs property, this requirement is satisfied through operation of Georgia's intestate succession laws, which set forth a specific succession order for determination of heirs, beginning with the spouse and children and continuing through the chain until an heir is determined.[27]

Once the familial relationship to the landowner is established, the third and final requirement is to establish the 20 percent rule. Three options exist. First, at least 20 percent of the interests must be held by related co-tenants. This option does not require any passing of time, rather, only a percentage of relatives who are owners. The second option requires that at least 20 percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased, which speaks to multigenerational ownership. As long as a minimum of 20 percent of the interests were passed down from one generation to another, this definition will apply. Lastly, the third option requires that at least 20 percent of co-tenants to be relatives. Though similar to the first option, this third option speaks to the number of co-tenants and not the percentage of interest owned in the land. Regardless of the size of interest in the land, as long as a minimum of 20 percent of the co-tenants are relatives, the definition will apply and the property will qualify as heirs property under the Act.

Required Posting of Notice at Property

The Act provides a major change in the notice provisions as compared to previously existing statutory and equitable partition statutes. In traditional partition actions, the Georgia Code requires that the petition set forth the names of all known interest holders and their respective interests. Each co-tenant has the right to petition a court to partition prior to filing, and the petitioner must provide all interested parties notice of his/her intent to file, which constitutes sufficient process.[28] Service of process by publication for parties residing out of state is at the discretion of the court.[29]

The Act adds an additional requirement to the notice required under Georgia's pre-existing partition statute by requiring that the plaintiff in an heirs property partition action post a conspicuous sign in the right of way adjacent to the property that provides notice of the partition action. Specifically, the Act provides that if an order for service by publication is granted, then the plaintiff "not later than 10 days after the court's determination that the property may be heirs property, shall post a sign in the right of way adjacent to the property which is the subject of the partition and the plaintiff shall maintain such sign while the action is pending."[30]

The Act is very specific about the information that must be set

out in the posting. It requires the plaintiff to include a statement that a partition action has commenced, the name and address of the court in which the action is pending and the commonly known name of the property. An optional element, which is at the discretion of the court, is the name of the plaintiff and names of known defendants.[31]

It is generally thought that notice by posting affords landowners greater protection in preserving land interests than traditional notification methods, specifically for those owners who, although not living on the land, return to the land on a regular basis.

Requirement of Disinterested Partitioners

With respect to partitions in kind, Georgia's pre-existing partition statute requires that following the delivery of the required notice and service of process, the court shall examine the plaintiff's title and issue an order directing the clerk to issue a writ of partition to five freeholders of the county in which heirs property is located. The freeholders shall serve as partitioners and are tasked with the responsibility of developing a plan to divide the land in kind according to the parties' varying ownership interests, within three months of appointment by the court.[32] The Act adds a requirement that each partitioner be "a discreet person, disinterested, impartial and not a party to or a participant in the writ of partition."[33] This provision provides an added layer of protection to landowners by requiring that all partitioners be disinterested. Historically, partitioners in partition actions have been associated with less than honest proceedings, resulting in land loss for heirs property owners.

Requirements for Establishing Value

The Act departs from the traditional partition valuation process in heirs property actions. Georgia's existing partition law requires that with respect to partitions by sale of non-heirs property, a court shall appoint three appraisers who shall value the property and the court shall take the average of all three appraisals and use such value for purpose of selling the property in a private sale among the co-tenants in the exercise of defendant co-tenant's preferred buyout option.[34] The Act modifies this procedure by establishing a hierarchy of price setting methods for purpose of establishing the value of the property. Specifically, the Act requires that the court adopt a valuation of the property determined by one of the following methods, in the following order: by private agreement of the co-tenants; by determination of the court following an evidentiary hearing on the property's value if the cost of the appraisal outweighs the value provided by an appraisal; and by determination of the court following an evidentiary hearing on the value of the property where the court orders a disinterested appraiser to conduct an appraisal of the property.[35] The Act expressly requires that the appraiser appointed by the court be both disinterested and licensed in the state of Georgia and that the appraiser, in arriving at a value, assume fee simple ownership of the land when determining fair market value.[36] This requirement ensures a fair value of the land as a whole rather than a value considering disaggregated fractional interests. After the appraisal is filed with the court, the court must send notice to all known parties stating the appraised value, and a hearing must be conducted to determine the fair market value and to hear any objections to the value.[37] As mentioned above, the court-ordered appraisal process will be employed by the court unless the co-tenants have agreed to the value of the property or the court determines that the evidentiary value of the appraisal is outweighed by the cost of the appraisal. If the latter is the case, then the court will order an evidentiary hearing to determine the fair market value.[38] All these possible valuation methods are departures from the existing valuation system under Georgia's existing partition statute, which requires that the court use the average of three appraisers' valuations following a hearing.

Modified Buyout Option and Statutory Preference for Divisions In Kind

Georgia partition law has contained a buyout provision in favor of co-tenant parties hauled into court to defend a partition action.[39] Though considered a strong point in Georgia partition law, the buyout provision has been modified by the Act in the context of heirs property. In the existing buyout provision a petitioner[40] may become a "party in interest"[41] and vice versa. Thus under Georgia's existing partition framework, a third-party co-tenant unrelated to the heirs who petitions for partition, can switch sides and become a party in interest and later exercise the preferred purchase option to buy out other co-tenants. Under the Act, a petitioner is the equivalent of "a co-tenant who requested partition by sale," and this person may not become a party in interest entitled to the preferred buyout option, which will prohibit the original partitioning party from buying out the interests of non-partitioning co-tenants.[42]

Specifically, the buyout option under the Act works as follows: In partition actions involving heirs property, the court must provide notice to the defendant heirs that they have the right to buy out all of the shares of the plaintiff that requested partition by sale. Following the court's determination of the fair market value of the property, the court shall then notify the parties that any co-tenant other than the co-tenant requesting partition by sale may buy all of the interests of the co-tenant(s) that requested partition by sale (the Buyout Notice). The defendant co-

tenants that did not request partition by sale have 45 days following the Buyout Notice (the Buyout Election Period) to notify the court that they wish to buy all the interests of the co-tenant(s) requesting partition by sale. The defendant co-tenants also have 45 days from the Buyout Notice to request the court to authorize the sale of the interests of co-tenant defendants who were served but who did not appear in the action.[43] Where the defendant heirs elect to buyout the plaintiff, and timely deliver notice to the court of their election to exercise their buyout rights prior to expiration of the Buyout Election Period, then the court shall notify the parties that defendant co-tenant(s) have elected to buyout the plaintiff. Where the court notifies the parties that defendant co-tenants have elected to buyout the plaintiff, the court shall set a date that is not sooner than 60 days after such notice by which the electing defendant co-tenants shall pay their price into the court and buyout the plaintiff. Upon payment of the buyout price, the court shall then issue an order reallocating all of the interests of the co-tenants and disburse the amounts held by the court to the persons entitled to receive the buyout funds.[44]

As in the standard partition code, the Act permits co-tenant heirs who are "parties in interest" to buy out the petitioner; however, the Act does not alleviate the challenges heirs must overcome to pool resources sufficient to buy out all of the petitioner's interests. Under the existing partition statute, co-tenants must complete the buyout within 90 days, but under the Act, co-tenant heirs are granted an additional 15 days and so they must complete the buyout within 105 days.

Following conclusion of the buyout procedures, the Act affords owners of heirs property a statutory preference for resolving the partition action via partition in kind, over a partition by sale. The Act provides that if all interests of all co-tenants that requested partition by sale are not purchased by other co-tenants pursuant to the buyout provisions of the Act, or if after conclusion of the buyout procedures, there remains a tenant wishing to partition in kind, then the court shall order partition in kind unless the court finds that it will result in manifest prejudice to the co-tenants as a group.[45]

Subjective Considerations

Much the same as friendship, loyalty or fidelity, historical or personal attachment to land may be inside of one's "self-construction" or "self-identity." Scholars have recognized the continuing cross-cultural importance of land to one's sense of self. The "homeplace" may be more important to African-Americans because of their struggle to achieve land ownership, and because of their need for refuge, solace and self-determination in a persistently discriminatory social landscape. For many African-Americans the home-

place is a place that can be created and controlled as a place of dignity, something so often denied African-Americans in society at large. Thus, land is not fungible and defies valuation along one common metric (citations omitted).[46]

It is because of the history of African-American land loss that the drafters of the Act wanted a provision in place for subjective considerations when determining whether land should be partitioned in kind or sold. The Act requires, for the first time in Georgia history, that courts engage in a subjective analysis which encompasses non-economic factors prior to a court ordering a partition in kind. The following non-economic factors are to be considered: whether the land has ancestral or sentimental value to heirs; whether a co-tenant would be harmed if not allowed to continue to use the property in the same manner following the conclusion of the action; whether there is a collective duration of ownership among generations of heirs; and the degree to which co-tenants have contributed their share of taxes, maintenance and upkeep of the property; and other factors relevant to the court.[47]

In addition to the changes to Georgia's partition laws afforded by the Act in the areas of codifying "heirs property" notice, value determination and the buyout option, the Act also provides additional benefits to not previously afforded to heirs under Georgia law. These additional protections include the following:

- The court must notify the heirs of their right to buyout the co-tenant requesting partition by sale;[48]
- Heirs at a minimum are given an additional 15 days to gather funds in efforts to buyout the co-tenant requesting partition by sale;[49]
- Heirs are given a statutory right to give notice and authorize the court to sell interests of co-tenants who were noticed but who did not appear in court after being served of notice of partition action.[50] This is significant in that it permits heirs to buy-out absent relatives and further consolidate title amongst family members so that the land stays within the family;
- A statutory preference for partitions in kind over partition by sale is established and requires that the court partition the property in kind unless doing so would result in manifest prejudice to the co-tenants as a group;[51]
- The court must consider both economic and non-economic factors prior to ordering a partition in kind, which non-economic factors include but are not limited to the following: whether the land has ancestral or sentimental value to heirs; whether a co-tenant would be harmed if not continued to use the property the same following the conclusion of the action; whether there is a collective duration of ownership among generations of heirs; and the degree to which co-tenants have contributed their share of taxes, maintenance and upkeep of the property;[52]
- Following the buyout process, if the court does not order a partition in kind, and none of the remaining co-owners have requested partition by sale, then the Act requires that the court dismiss the action;[53]
- Sales of heirs property must be open-market sales unless the court determines sale would be more advantageous for co-tenants by public sale or by sealed bids. Open market sales under the Act are those that are offered for sale by a broker at a price no lower than the fair market value as determined by the court.[54]

The Uniform Partition of Heirs Property Act is an important addition to the partition law in Georgia. The Act provides heirs property owners with significant protections against unexpected and often devastating land loss. The Act will assist heirs property owners, particularly low- to moderate-income heirs property land owners, with the ability to preserve the integrity and value of property that has both economic and strong familial significance.

Crystal Chastain Baker is the Heir Property project manager at Georgia Appleseed. She has dedicated the past five years of her career to finding a solution to the heirs property problem in Georgia. The Heir Property Project began through the University of Georgia School of Law Cousins Fellowship in 2008 and has continued as a Georgia Appleseed initiative since that time. Baker is a graduate of Auburn University and the University of Georgia School of Law. She lives in Coastal Georgia with her husband, Stan, also a UGA law graduate and her two daughters, Anna Beth and Bella Grace.

Shunta Vincent McBride is an associate in the commercial real estate group in DLA Piper's Atlanta office. Her practice focuses on representing commercial investors and developers acquire, develop, finance, sell and lease commercial real property, for a variety of uses, including office, hotel, health care, senior living, apartment and mixed-use projects. She has volunteered for Georgia Appleseed's Heir Property Initiative and represented pro bono clients to resolve heir property issues since 2008.

Endnotes

1. Georgia Appleseed Center for Law & Justice, *Unlocking Heir Property Ownership: Assessing the Impact on*

Low and Mid-Income Georgians and Their Communities (2013), http://www.gaappleseed.org/heir/.

2. *Id.*
3. For Georgia's intestate succession laws setting forth the rules on which family members acquire title to land when a landowner dies without will, *see* O.C.G.A. § 53-2-1.
4. For an oft-cited and critical discussion of the causes of black land loss in recent decades, see Thomas W. Mitchell, *From Reconstruction to Deconstruction: Undermining Black Landownership, Political Independence, and Community Through Partition Sales of Tenancies in Common, 95* Nw. U. L. Rev. 505, 507 (2001); for figures on Black land loss in U.S., *see* also John G. Casagrande, *Acquiring Property Through Forced Partitioning Sales: Abuses and Remedies*, 27 B.C. L. Rev. 755, 756 (1986) (citing U.S. Commission on Civil Rights data indicating an approximately 93 percent loss in the amount of agricultural land holdings among blacks from 1920-1978, and describing generally the loss of heirs property as property that is "not otherwise for sale").
5. Nevada became the first state to adopt the Uniform Partition of Heirs Property Act in 2011. The three states that have adopted the Act so far are Nevada, Georgia and Montana. States with legislation introducing the Act for adoption include the following: Connecticut, Hawaii, South Carolina and the District of Columbia. *See* Uniform Laws Commission, Acts, Partition of Heirs Property Act, http://www.uniformlaws.org/Act.aspx?title=Partition of heirs property Act.
6. BLACK'S LAW DICTIONARY (7th ed. 2009).
7. A division of a co-tenancy may also occur on adverse possession grounds where one co-tenant effects an ouster of all other co-tenants. O.C.G.A. § 44-6-123 (2013).
8. O.C.G.A. § 44-6-122 (2013).
9. O.C.G.A. § 44-6-121 (2013).
10. *See supra*, Note 1.
11. *See* Phyliss Craig-Taylor, *Through a Colored Looking Glass: A View of Judicial Partition, Family Land Loss, and Rule Setting*, 78 Wash. U. L. Q. 737, 744 n.42 (2000) (citing 4 THOMPSON ON REAL PROPERTY § 32.08 (a)-(b), 88-89 (David A. Thomas ed., 1994)).
12. *Id.* (citing 7 PATRICK ON REAL PROPERTY (Richard R. Powell & Patrick J. Rohen, eds., at ¶ 609) (1986).
13. Robert Ludlow Fowler, *Novel Partition Procedure*, 3 Colum L. Rev. 295, 301-302 (1903).
14. *Id.* at 302.
15. Casagrande, *supra* note 4, at 789 n. 32.
16. *Id.* at 760 n.44.
17. *Id.* at 760.
18. *Id.* at 760 n.46.
19. *Id.* at 760.
20. *Id.*
21. Adams v. Lamar, 8 Ga. 83 (Ga. 1850) (recognizing in dicta that the Georgia's Act of 1767 prescribed the method of partition actions in Georgia).
22. O.C.G.A. § 44-6-140-174 (2013).
23. Lankford v. Milhollin, 200 Ga. 512, 37 S.E.2d 197 (1946) (noting that the Court may direct a partition by sale where it appears that the common property cannot be fairly and equitably divided by metes and bounds division); *see also* Stone v. Benton, 258 Ga. 539, 371 S.E.2d 864 (1988) (noting that a petitioner in a partition action has two options for seeking a remedy at law, under either O.C.G.A. §44-6-160 (statutory partition in kind) or under O.C.G.A. §44-6-167 (statutory partition by sale); in the case of a partition by sale, the petitioner must convince the court that a fair and equitable division of the property cannot be made by a metes and bounds division because of improvements on the property, because the premises are valuable for mining purposes or for the erection of mills or other machinery, or because the value of the entire property will be depreciated by partition applied for).
24. Craig-Taylor, at *supra,* 741 and 752.
25. Uniform Law Commission Partition Legislative Fact Sheet, O.C.G.A. § 44-6-180(5) (2013) http://www.uniformlaws.org/LegislativeFactSheet.aspx?title=Partition%20of%20Heirs%20Property%20Act.
26. *See* O.C.G.A. § 53-2-1 (2013). The order is generally as follows: spouse and children; if none, then to surviving parents; if none, then to surviving siblings. The statute then goes on to list by degrees of kinship those that would inherit in the absence of any of these relatives.
27. *See* O.C.G.A. § 44-6-160 (2013).
28. *See* O.C.G.A. § 44-6-162 (2013).
29. *See* O.C.G.A. § 44-6-162 (2013).
30. O.C.G.A. § 44-6-182 (2013).
31. O.C.G.A. § 44-6-182 (2013).
32. O.C.G.A. § 44-6-143 (2013).
33. O.C.G.A. § 44-6-183 (2013).
34. O.C.G.A. § 44-6-166.1 (2013).
35. O.C.G.A. § 44-6-184 (2013).
36. O.C.G.A. § 4-6-184(d) (2013).
37. O.C.G.A. § 44-6-184(f) (2013).
38. O.C.G.A. § 44-6-184 (b), (c) (2013).
39. O.C.G.A. § 44-6-166.1 (2013) was enacted in 1983.
40. O.C.G.A. § 44-6-166.1(a)(2) (2013) defines "petitioner" as "any person petitioning for partition of property."
41. O.C.G.A. § 44-6-166.1(a)(1) (2013) defines "party in interest" as "any person, other than a petitioner, having an interest in the property."
42. O.C.G.A. § 44-6-185 (2013).
43. O.C.G.A. § 44-6-185 (2013).
44. *Id.*
45. O.C.G.A. § 44-6-186(a) (2013).
46. Phyliss Craig-Taylor, *supra* note 11, at 767.
47. O.C.G.A. § 44-6-186(a)(2)(A) (2013).
48. O.C.G.A. § 44-6-185(a) (2013).
49. *See* O.C.G.A. § 44-6-185(b) (2013) providing heirs with a 45 day period to notify the court of election to exercise buyout rights, and O.C.G.A. § 44-6-185(e) (2013) providing heirs with no less than 60 days to tender purchase money into court registry following court's notice to parties of heirs election to exercise buyout rights; *contrast with* O.C.G.A. § 44-6-166.1(e)(1) (2013) of Georgia's statutory partition statute, which provides heirs with no more than 90 days after the court's determination of fair market value to tender purchase money into court registry to buyout plaintiff.
50. O.C.G.A. § 44-6-185(g) (2013).
51. O.C.G.A. § 44-6-186 (2013).
52. O.C.G.A. § 44-6-186(a)(2)(A) (2013).
53. O.C.G.A. § 44-6-186(b) (2013).
54. O.C.G.A. § 44-6-187 (2013).

Georgia Bar Foundation Awards $435,822 in Grants

by Len Horton

The Georgia Bar Foundation awarded a total of $435,822 to two of the 24 applicants: Atlanta Legal Aid and Georgia Legal Services at its July 19, grant decisions meeting.

"We were even more limited than last year and decided to focus on our primary purpose, which is civil legal services for the poor. So, we awarded $141,642 to Atlanta Legal Aid and $294,180 to Georgia Legal Services," said Georgia Bar Foundation President Aasia Mustakeem. "It was a difficult meeting because all of our other applicants are worthy organizations that are well-managed. Deciding how to distribute our limited funds is far from easy."

Some of the most poignant moments came as appeals were made to fund specific organizations. Because he could not attend the meeting, Senior Superior Court Judge Conley Ingram wrote a moving letter, which was read in its entirety to the Board of Trustees. As others joined in the following discussion, a vigorous debate ensued. After several reluctant compromises, the end result was the decision to focus exclusively on civil indigent legal services by funding Georgia's two major civil legal services providers that receive funding from the Legal Services Corporation.

"The IOLTA grants today reflect the work of the legal profession, guided by the Supreme Court of Georgia, in supporting the charitable work of the Georgia Bar Foundation through IOLTA," said Mustakeem. "And when this economy gets back on track, this revenue source will quickly push on toward its second hundred million dollars. The Supreme Court of Georgia, Georgia's lawyers and Georgia's bankers have become a partnership to make IOLTA a success in helping thousands of Georgians. It is a partnership of which we can all be proud."

Athens Justice Project

Former Georgia Bar Foundation President William Harvard thanked the Board for having awarded a $20,000 emergency grant to the Athens Justice Project (AJP) the previous month. That emergency award kept the organization alive. The Georgia Bar Foundation felt a special need to help AJP since the it had actually asked that the organization be created more than a decade ago. Harvard, speaking on behalf of the entire Board of the Athens Justice Project, wanted everyone at the grants meeting to know how much the AJP's leadership appreciated the support.

Photo by Lisa Smith

(Left to right) 2012-13 Georgia Bar Foundation President Aasia Mustakeem presents the 2013 James M. Collier Award to Chief Justice Carol W. Hunstein.

Chief Justice Carol Hunstein Receives the James M. Collier Award

Each year, the Georgia Bar Foundation presents the James M. Collier award to an individual who has done the most to assist the Georgia Bar Foundation with its mission of supporting primarily civil indigent legal services but also other law-related organizations throughout the state.

Mustakeem presented this year's award to Chief Justice Carol W. Hunstein for her many years of ser-

vice to the Georgia Bar Foundation. Chief Justice Hunstein is the only justice of the Supreme Court of Georgia in the history of the Georgia Bar Foundation regularly to attend Board of Trustee meetings of the Georgia Bar Foundation. She was instrumental with former Chief Justice Leah Ward Sears in preserving IOLTA revenues for the support primarily of civil indigent legal services but also of some other law-related organizations throughout the state. Throughout her career, she has been devoted to the principles of ensuring civil legal assistance to those who cannot afford representation. Thank you, Chief Justice Hunstein, and congratulations!

The Fellows Program of the Georgia Bar Foundation

Many Georgia lawyers still do not know that the Fellows Program is once again part of the Georgia Bar Foundation. This occurred at the unanimous request of the Board of Trustees of the Lawyers Foundation of Georgia, which has now been dissolved. From the 1980s until 1996, the Fellows Program was part of the Georgia Bar Foundation. In 1996, the State Bar requested a grant from the Georgia Bar Foundation in the amount of $500,000, the approximate present value at that time of the paid-in capital of the fellows of the Georgia Bar Foundation. That money was given to the Public Service Foundation, which eventually changed its name to the Lawyers Foundation of Georgia. The recent return of the Fellows Program to the Georgia Bar Foundation is a coming home of that program.

A new local fellows grants program is being tested in Statesboro under the leadership of Jimmy Franklin, the new president of the Georgia Bar Foundation. As part of that model project, the Georgia Bar Foundation Board of Trustees decided to award Safe Haven a fellows grant in the amount of $2,500. Safe Haven is a Statesboro charity that focuses on assisting the victims of domestic violence. It has served Bulloch, Candler, Effingham, Jenkins, Screven and Washington counties since 1989.

Photo by Len Horton

Former Georgia Bar Foundation President William Harvard presents the emergency grant check to the Athens Justice Project. *(Left to right)* William Harvard, Athens Justice Project Secretary William Overend and Athens Justice Project Executive Director Jenni Olson.

Photo by Frank Fortune, Fortune Photography and Graphics

A special fellows grant was presented to Safe Haven in Statesboro. *(Left to right)* Dan Snipes, Gerald Edenfield, Laura Wheaton, Kim Wilson (on behalf of Safe Haven), Foundation President Jimmy Franklin, Susan Cox and Sharri Edenfield.

Near the end of the meeting, new officers were elected. Jimmy Franklin, president; Hon. Bobby Chasteen, vice president; Kitty Cohen, treasurer; and Timothy Crim, secretary.

The Georgia Bar Foundation is the charitable arm of the Supreme Court of Georgia. It is the named recipient of interest on lawyer trust accounts. To date, cumulative IOLTA revenues are approaching $100 million. The offices of the Georgia Bar Foundation are located in the Bar Center in downtown Atlanta. GBJ

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

State Bar of Georgia Election Overview

by Judy Hill

With the publication of this issue of the *Georgia Bar Journal*, the annual Bar election process begins. This issue contains a list of all Board of Governors posts that will be voted on in the 2014 election, the name of the member that currently represents that post and a schedule of important election dates (see page 28).

In the process of forming a unified Bar in 1963, it was determined that establishing a governing body was of the utmost importance. The Board of Governors was created to provide guidance and direction going forward. The State Bar Rules and Regulations begin with Part I, Creation and Organization. Chapter one speaks to the creation and organization of the Bar itself; chapter two establishes the membership of the Bar; and chapter three defines the Board of Governors, its purpose, composition and the election of its members. When the first Board of Governors election was held after the formation of the unified Bar, there were approximately 4,500 eligible voters; today there are 35,400. (Active members in good standing are eligible to vote in State Bar elections.)

The Board of Governors controls and administers the affairs of the State Bar. As stated in the Bylaws, Article III, Section 10. Power and Duties, "The Board . . . shall have the power to do all things and take all actions which in its judgment may be necessary or desirable to carry out the purposes of the State Bar in keeping with the Rules and these Bylaws." Therefore, a Board member representing any particular circuit serves as that circuit's voice in the governance of the State Bar.

In circuits with multiple posts, all Board members, regardless of post number, represent all members in that circuit. A post within a circuit does not represent a specific geographic region of the circuit.

The number of Board members from each circuit is determined by Article III, Section 6, of the Bylaws. Currently there are 151 seats on the Board of Governors, the maximum number allowed unless geographical changes are made to current judicial circuits, or new judicial circuits are added. Two of the seats on the Board

are for all out-of-state members and three of the seats are appointed by the president-elect of the Bar. The appointed seats were expressly created to promote diversity within the Board of Governors. Once an appointed member's two-year term ends, the member is encouraged by the Executive Committee to run for a seat on the Board from their home circuit.

Any member of the State Bar who is active and in good standing is eligible to run for a post in their circuit. The two-year term begins at the conclusion of the Annual Meeting following the election. There are approximately four Board meetings per year at various locations, usually in Georgia but occasionally in a neighboring state. Standing Board Policy 300 governs attendance at these meetings by Board members. Travel to and from the meetings and all accompanying expenses are each Board member's responsibility.

In addition to the Board of Governors races specific to a member's circuit, the ballot for the annual Bar election includes the statewide races of the office of president-elect, secretary and treasurer of the Bar, in addition to the American Bar Association delegates. Those Bar members who are also members of the Young Lawyers Division (YLD) will also have the president-elect, secretary and treasurer of the YLD on their ballot. All active members who are eligible to vote may elect to receive a paper ballot and use it to vote by mail or online, or they may choose to participate in paperless voting, an option that was introduced during the 2013 election cycle. If you are one of the members who utilized the paperless option in 2013, you will automatically receive voting instructions via email when the 2014 election opens. If you would like to sign up for paperless voting, simply email your request to membership@gabar.org and include your Bar number. It's that simple. You will also receive email notification when the voting site is open.

Paperless voting enables the Bar to reduce the overall cost of the election and to conserve Bar resources, along with the added benefit of preserving one of our natural resources.

The Bar election is overseen by the Elections Committee, chaired by Thomas R. Burnside III of Augusta. The staff liaison is Judy Hill. If you have questions about the election process or need information on how to become a candidate, please contact Judy at judyh@gabar.org. GBJ

Judy Hill is the assistant director of membership and serves as the staff liaison to the Elections Committee. She can be reached at judyh@gabar.org.

Notice of Expiring BOG Terms

Listed below are the members of the State Bar of Georgia Board of Governors whose terms will expire in June 2014. These incumbents and those interested in running for a specific post should refer to the election schedule (posted below) for important dates.

Alapaha Circuit, Post 2 ..... Thomas C. Chambers III, Homerville
Alcovy Circuit, Post 2 ..... Michael R. Jones Sr., Loganville
Atlanta Circuit, Post 2 ..... Brian DeVoe Rogers, Atlanta
Atlanta Circuit, Post 4 ..... Jeffrey Ray Kuester, Atlanta
Atlanta Circuit, Post 6 ..... Dwight L. Thomas, Atlanta
Atlanta Circuit, Post 8 ..... Kenneth Bryant Hodges III, Atlanta
Atlanta Circuit, Post 10 ..... Myles E. Eastwood, Atlanta
Atlanta Circuit, Post 12 ..... Elena Kaplan, Atlanta
Atlanta Circuit, Post 14 ..... Edward B. Krugman, Atlanta
Atlanta Circuit, Post 16 ..... Dawn M. Jones, Atlanta
Atlanta Circuit, Post 18 ..... Foy R. Devine, Atlanta
Atlanta Circuit, Post 20 ..... William V. Custer IV, Atlanta
Atlanta Circuit, Post 22 ..... Frank B. Strickland, Atlanta
Atlanta Circuit, Post 24 ..... Joseph Anthony Roseborough, Atlanta
Atlanta Circuit, Post 26 ..... Anthony B. Askew, Atlanta
Atlanta Circuit, Post 28 ..... J. Henry Walker IV, Atlanta
Atlanta Circuit, Post 31 ..... Michael Brian Terry, Atlanta
Atlanta Circuit, Post 33 ..... S. Kendall Butterworth, Alpharetta
Atlanta Circuit, Post 35 ..... Terrence Lee Croft, Atlanta
Atlanta Circuit, Post 37 ..... Samuel M. Matchett, Atlanta
Atlanta Circuit, Post 38 ..... Michael Dickinson Hobbs Jr., Atlanta
Atlanta Circuit, Post 40 ..... Carol V. Clark, Atlanta
Atlantic Circuit, Post 1 ..... H. Craig Stafford, Hinesville
Augusta Circuit, Post 2 ..... William James Keogh III, Augusta
Augusta Circuit, Post 4 ..... William R. McCracken, Augusta
Bell Forsyth Circuit ..... Philip C. Smith, Cumming
Blue Ridge Circuit, Post 1 ..... David Lee Cannon Jr., Canton
Brunswick Circuit, Post 2 ..... Jeffrey S. Ward, Brunswick
Chattahoochee Circuit, Post 1 ..... Gwyn P. Newsom, Columbus
Chattahoochee Circuit, Post 3 ..... Thomas Frederick Gristina, Columbus
Cherokee Circuit, Post 1 ..... Randall H. Davis, Cartersville
Clayton Circuit, Post 2 ..... Harold B. Watts, Jonesboro
Cobb Circuit, Post 1 ..... Dennis C. O'Brien, Marietta
Cobb Circuit, Post 3 ..... David P. Darden, Marietta
Cobb Circuit, Post 5 ..... J. Stephen Schuster, Marietta
Cobb Circuit, Post 7 ..... William C. Gentry, Marietta
Conasauga Circuit, Post 1 ..... Terry Leighton Miller, Dalton
Coweta Circuit, Post 1 ..... Gerald P. Word, Carrollton
Dougherty Circuit, Post 1 ..... Joseph W. Dent, Albany
Douglas Circuit ..... Kenneth Ray Bernard Jr., Douglasville
Eastern Circuit, Post 1 ..... Sarah Brown Akins, Savannah
Eastern Circuit, Post 3 ..... Patrick T. O'Connor, Savannah
Enotah Circuit ..... Steven Keith Leibel, Dahlonega
Flint Circuit, Post 2 ..... John Philip Webb, Stockbridge
Griffin Circuit, Post 1 ..... Janice Marie Wallace, Griffin
Gwinnett Circuit, Post 2 ..... Judy C. King, Lawrenceville
Gwinnett Circuit, Post 4 ..... Gerald Davidson Jr., Lawrenceville
Houston Circuit ..... Carl A. Veline Jr., Warner Robins
Lookout Mountain Circuit, Post 1 ..... Archibald A. Farrar Jr., Summerville
Lookout Mountain Circuit, Post 3 ..... Lawrence Alan Stagg, Ringgold
Macon Circuit, Post 2 ..... Thomas W. Herman, Macon
Member-at-Large, Post 3* ..... Jeffery O'Neal Monroe, Macon
Middle Circuit, Post 1 ..... John Kendall Gross, Metter
Northeastern Circuit, Post 1 ..... Mark William Alexander, Gainesville
Northern Circuit, Post 2 ..... R. Chris Phelps, Elberton
Ocmulgee Circuit, Post 1 ..... Green Berry Moore III, Gray
Ocmulgee Circuit, Post 3 ..... Christopher Donald Huskins, Eatonton
Oconee Circuit, Post 1 ..... Ashley Wedrell McLaughlin, McRae
Ogeechee Circuit, Post 1 ..... Daniel Brent Snipes, Statesboro
Out-of-State, Post 2 ..... Ralph John Caccia, Washington, DC
Paulding Circuit ..... Martin Enrique Valbuena, Dallas
Rockdale Circuit ..... William Gilmore Gainer, Conyers
Rome Circuit, Post 2 ..... J. Anderson Davis, Rome
South Georgia Circuit, Post 1 ..... Lawton Chad Heard Jr., Cairo
Southern Circuit, Post 1 ..... James E. Hardy, Thomasville
Southern Circuit, Post 3 ..... Gregory Tyson Talley, Valdosta
Stone Mountain Circuit, Post 1 ..... Katherine K. Wood, Atlanta
Stone Mountain Circuit, Post 3 ..... J. Antonio DelCampo, Atlanta
Stone Mountain Circuit, Post 5 ..... Amy Viera Howell, Atlanta
Stone Mountain Circuit, Post 7 ..... John G. Haubenreich, Atlanta
Stone Mountain Circuit, Post 9 ..... Sherry Boston, Decatur
Tallapoosa Circuit, Post 2 ..... Brad Joseph McFall, Cedartown
Tifton Circuit ..... Render Max Heard Jr., Tifton
Waycross Circuit, Post 1 ..... Douglass Kirk Farrar, Douglas
Western Circuit, Post 2 ..... Edward Donald Tolley, Athens

**Post to be appointed by president-elect*

State Bar of Georgia 2014 Election Schedule

OCT	Official Election Notice, October Issue *Georgia Bar Journal*
DEC 2	Nominating petition package mailed to incumbent Board of Governors members and other members who request a package
JAN 9-11	Nomination of officers at Midyear Meeting, InterContinental Buckhead, Atlanta
JAN 30	Deadline for receipt of nominating petitions for incumbent Board members including incumbent nonresident (out-of-state) members
FEB 28	Deadline for receipt of nominating petitions for new Board members including new nonresident (out-of-state) members
MAR 14	Deadline for write-in candidates for officer to file a written statement (not less than 10 days prior to mailing of ballots (Article VII, Section 1 (c))
MAR 14	Deadline for write-in candidates for Board of Governors to file a written statement (not less than 10 days prior to mailing of ballots (Article VII, Section 2 (c))
MAR 28	Ballots mailed
APR 29	11:59 p.m. Deadline for ballots to be cast in order to be valid
MAY 5	Election service submits results to the Elections Committee
MAY 12	Election results reported and made available

GEORGIA LAWYERS

Health Insurance Program
Administered By: Member Benefits

ADMINISTERED BY: MEMBER BENEFITS

RECOMMENDED BROKER OF THE:

State Bar of Georgia

HEALTH | DENTAL | VISION | DISABILITY | LONG TERM CARE
INDIVIDUALS | LAW FIRMS

Whether you're a individual member searching for an affordable family health plan or a law firm working to manage costs, we are here to consult with you about your options. As a member of the State Bar of Georgia, you have access to exclusive plans and pricing for health, dental, disability, and long term care insurance.

Our innovative hybrid health plan package, Health Plan Advantage, was designed to help you save money on your health insurance premiums without sacrificing the quality of your benefits.

We also understand the importance of offering flexible benefits. Benefit choices affect employee morale and help employers attract and retain quality employees. That's why we help firms develop comprehensive benefit packages that balance benefit and cost, both to employers and employees.

VISIT OUR WEBSITE FOR QUOTES:
www.memberbenefits.com/SBOG
OR CALL US 1-800-282-8626

MB | MemberBenefits

Products sold and serviced by the State Bar of Georgia's recommended broker, Member Benefits. The State Bar of Georgia is not a licensed insurance entity and does not sell insurance.

Crisp County Courthouse at Cordele:

The Grand Old Courthouses of Georgia

by Wilber W. Caldwell

Cordele was the creation of The Americus Investment Company, the holding company which built The SAM (Savannah, Americus and Montgomery Railroad) and aggressively exploited the commercial potential of the many towns the new road created as it expanded across Georgia. In 1886, SAM Chairman Samuel Hawkins grasped the opportunities presented by the collision course of The SAM as it pressed eastward from Americus and The Georgia Southern and Florida Railroad as it laid its rails southward from Macon. In 1887, it was clear that the two roads would cross somewhere, and Samuel Hawkins intended to dictate the location of this crossing and to reap the financial rewards.

By early 1888, Cordele was a village of 300 people, "a few wooden shacks . . . and numerous pine trees." By 1890, the town had its third railroad, Nelson Tift's Albany, Florida and Northern. This line immediately fell on hard times and was leased to The SAM, giving Samuel Hawkins a vital link to Albany. By 1893, Cordele was a city of almost 1,500. Ironically, just as Cordele began to surge towards real commercial power, The SAM and The Georgia Southern and Florida both collapsed.

The story of the rise and fall of The Savannah, Americus and Montgomery Railroad and of Samuel Hawkins is surely one of the most compelling and romantic episodes of the era. Accounts of the fall of Hawkins' empire are all the more gripping when viewed against the backdrop of the commercial success at Cordele.

Samuel Hawkins died in 1905, just as Cordele became the county seat of the newly created Crisp County. The collapse of The SAM may have ruined Hawkins, but it had little long-term effect on Cordele's growth. By the time Crisp County was born, The old SAM had become the main artery of the mighty Seaboard Air Line, and The Georgia Southern and Florida had become part of J. P. Morgan's sprawling Southern Railway. The Albany, Florida and Northern was back on it feet as The Georgia Southwestern and Gulf, and the new and powerful Atlanta, Birmingham and Atlantic Railroad crossed all of these older roads at Cordele. Samuel Hawkins' vision was being called the "The Magic City," "South Georgia's Rising Star," "The Gate City to Southern Georgia" and "The Birmingham of the Pines." Suddenly, Americus had a new rival. As that old city of 7,500 paid its final respects to Samuel Hawkins, Cordele boasted more than 6,500 residents, 128 retails stores, 4 hotels, a large

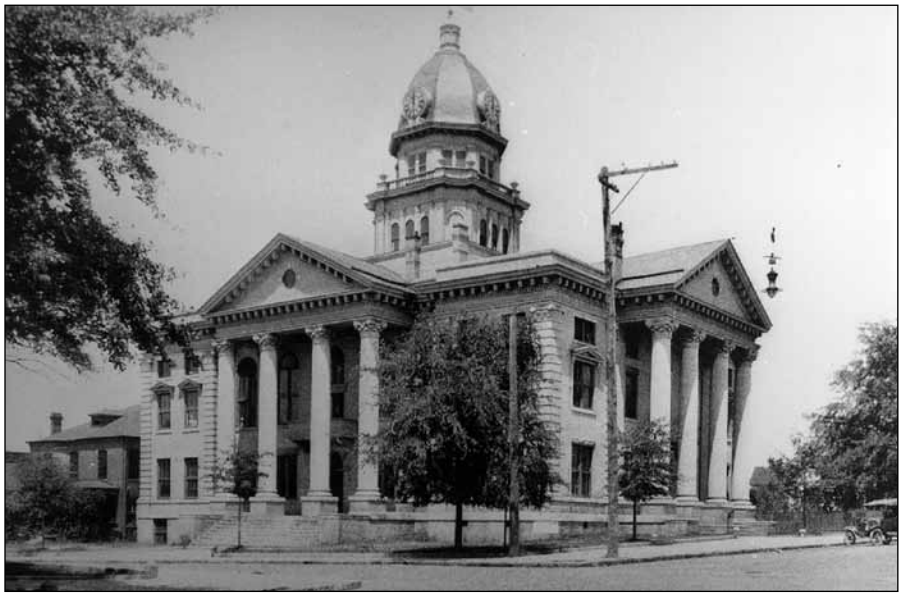


Photo courtesy of the Georgia Department of Archives and Records

The Crisp County Courthouse at Cordele built in 1907, T. F. Lockwood, architect.

foundry, two newspapers, electric lights, paved sidewalks, a steam laundry and a fine depot at the junction of three of the most powerful railroads in Georgia.

The New County Movement of 1905 brings the power of Cordele's railroads into focus. Four of the eight new counties created in that year lay either on The Georgia Southern and Florida or on the old line of The SAM. The citizens of Cordele petitioned the state legislature with compelling arguments for the creation of Crisp County, and although the old rationales concerning the distance to be traveled by rural residents to the county seat were included, they were far down the list. Cordele's most convincing arguments were built on hard statistics: Cordele was the largest city in Georgia that was not a county seat. It had four railways, 10 warehouses and 128 retails stores. The proposed Crisp County would contain more wealth and population than any other proposed new county, and the new county would contain more railroad mileage than 123 of Georgia's 137 counties. Opposition in Dooly was vigorous, but futile.

One of Cordele's arguments for her new county was the fact that she already had a building suitable for use as a courthouse. While this may have been true, as soon as the new county of Crisp was created, the citizens of Cordele, fueled by new zeal and unfettered aspirations, set about building a monument to their railroad driven success. The choice of T. F. Lockwood is not surprising. With his brother, the New York trained architect, Frank Lockwood, T. F. Lockwood began his practice in Columbus in the late 1890s. In 1895, Frank moved to Montgomery, Ala., and most of his best work is in that state. Nonetheless, the Lockwood Brothers' 1903 Dougherty County Courthouse at Albany was one of the state's first court buildings built in the emerging Neoclassical Style, and in 1905 Cordele must have looked to the great success that was blossoming at Albany for more than architectural models. Despite its importance in the early Neoclassical Revival in Georgia, Lockwood's courthouse at Albany was inferior to many of the early Neoclassical court buildings that began to cover the state in the early years of the new century. Notable superior examples are just down the rails from Cordele. At Abbeville ,Frank Milburn's exceptional Wilcox County Courthouse rose in 1903, and at Valdosta, that same architect created his fine Lowndes County Courthouse in 1905. It is not surprising that the brash upstart, Cordele, would grasp at the most modern of symbols to speak for her meteoric success. Indeed, the streets of Cordele were lined with Beaux-Arts finery by 1910. Notable examples are James Golucke's Carnegie Library and T. F. Lockwood's grand Cordele Masonic Lodge both completed in 1907.

Despite Lockwood's rather lackluster neoclassical efforts at Albany and later at Monticello, here in Cordele his design answered to a higher muse. Perhaps it was the opulent $80,000 budget which allowed Lockwood to soar. Whatever the case, the addition of the attic story allowed the grand Ionic porticos to reflect a lofty and graceful verticality absent at Albany, and the addition of the half basement afforded the opportunity to set the great columns atop monumental stairs. Perhaps these were lessons gleaned from Frank Milburn's skillful examples at nearby Abbeville and Valdosta. Whatever the source, they represent an advancement in Lockwood's Classical education, and his 1907 Crisp County house was a fitting monument for both Cordele's already substantial successes and for her even more ambitious aspirations. Sadly, this building was demolished in the early 1950s. GBJ

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

Kudos

Lyle & Levine, LLC, announced that partner **Dawn R. Levine** was awarded the **Richard L. Moore Volunteer of the Year Award**. This award is given by the Cobb Justice Foundation and Legal Aid of Cobb County for significant contributions to pro bono work in Cobb County.

Walker Hulbert Gray & Moore, LLP, announced that the firm's managing partner **Kellye C. Moore** was featured in the ***ABA Journal's*** June cover story: "Meet Six Law Firm Leaders, Each with a Different Story, Each at the Top of Her Game." The article showcased six female law firm leaders from various law firms nationwide, each claiming a unique success story.


Spangenberg


Zacks


Kadaba


Stockton


Richardson


Burke

Kilpatrick Townsend & Stockton LLP announced that partner **Caroline Spangenberg** was elected a **member** of the **American College of Coverage and Extracontractual Counsel** (ACCEC) by the ACCEC Board of Regents. Members of the college are recognized authorities in a wide range of legal and insurance disciplines. The mission of the ACCEC is to educate all sectors involved in insurance disputes on critical topics such as best practices in policy formation and claims handling, developing trends in insurance law and bad faith.

Partner **David Zacks** was named to the **Wake Forest Baptist Medical Center Board of Visitors**. Zacks, a North Carolina native, has deep roots in the Wake Forest family. He earned his law degree from Wake Forest University School of Law, with honors, in 1967 after completing his B.A., with honors, from Wake Forest University. Zacks is the recipient of the Wake Forest University Distinguished Alumni Award. He also served as co-chair of the Law Board of Visitors for Wake Forest University School of Law.

Partner **Wab Kadaba** received the **North American South Asian Bar Association (NASABA) Cornerstone Award**. Recipients are those individuals who best exemplify through their legal work the objectives of the NASABA and its local chapters including: promoting the professional development of the South Asian legal community through networking, education advocacy and mentoring; ensuring the civil liberties of the South Asian community; serving the legal interests of the South Asian community and the community at large; encouraging greater participation by the South Asian community in the legal profession and the government.

Partner **David Stockton** was named **treasurer** of the **Partnership Against Domestic Violence (PADV) Board of Directors**. PADV works to end the crime of intimate partner violence and empower its survivors. For 37 years, PADV, the largest non-profit domestic violence organization in Georgia, has provided professional, compassionate and empowering support to battered women and their children in metro-Atlanta.

Partner **Susan Richardson** was named **chair-elect** of the **Board of Directors** for the **Institute for Georgia Environmental Leadership** (IGEL). IGEL is a leadership program dedicated to building and sustaining a diverse network of environmentally educated leaders who will help resolve Georgia's environmental challenges. The IGEL program provides leadership and personal development with the goals of fostering a deeper understanding of Georgia's environmental issues.

Associate **Cristin Burke** finished her first full **Ironman Triathlon**. Burke completed the Ironman Coeur d' Alene in Coeur d'Alene, Idaho. A full Ironman entails a 2.4-mile swim, a 112-mile bike ride and a 26.2-mile run which must be completed in less than 17 hours. Burke and her teammates raised more than $226,000 to support the Leukemia and Lymphoma Society in the battle to find a cure for blood cancers.

Kilpatrick Townsend & Stockton LLP qualified for the **Women in Law Empowerment Forum's Gold Standard Certification**. This prestigious designation is given to firms that have integrated women equity partners into top leadership positions.

Crawford & Company announced that **Allen W. Nelson** joined the **Board of Trustees of the Woodruff Arts Center**. Nelson chairs the Global Firms Committee of the Arts Center's Annual Fund and was the recipient of the 2011-12 Charles R. Yates Award for recognition of his outstanding work as a volunteer for the organization.

Chaiken Klorfein, LLC, announced that **Stephen R. Klorfein** was elected **president** of the **Atlanta Tax Forum**, the oldest professional organization for tax practitioners serving the Atlanta

Metropolitan Area. Klorfein began his career with the Chief Counsel's Office of the Internal Revenue Service and has represented businesses and individuals in both federal and state tax controversies for the past 30 years.

Dale M. Schwartz & Associates LLP announced that partner **Dale Schwartz** was elected **chairman** of the board of the **Hebrew Immigrant Aid Society** (HIAS), the global Jewish nonprofit that protects refugees—including women and children, and ethnic, religious and sexual minorities—whose lives are in danger for being who they are. HIAS offers international aid and immigration and refugee resettlement programs. The organization's advocacy work in Washington, D.C., educates policy makers on issues impacting refugees and asylum seekers and promotes fair and comprehensive immigration reform.

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, announced that shareholder **Erica V. Mason** was selected by the **Hispanic National Bar Association** to serve as one of their 17 representatives at the **Collaborative Bar Leadership Academy** which took place in June in Minneapolis, Minn. The academy is a joint initiative of the American, National, Hispanic National, National Asian Pacific and National Native American Bar Associations, coordinated to strengthen the pipeline of diverse bar association leaders by providing leadership training and professional development programs.

McKenna Long & Aldridge LLP announced it earned a **2013 Gold Standard Certification** from the **Women in Law Empowerment Forum** (WILEF), an organization dedicated to assisting women in law to assume leadership roles within their legal and respective communities. The WILEF Certification emphasizes the leadership roles achieved by equity women partners.

Balch & Bingham LLP announced that partner **Richard E. Glaze Jr.** co-authored ***Practicing Law Institute EPA Compliance and Enforcement Answer Book 2013***. The book is designed to help firms and individuals comply with the extensive array of federal environmental laws and regulations and deal effectively with the EPA by providing an overview of the main federal environmental laws and analysis of the practical aspects of compliance and enforcement.

Boyd Collar Nolen & Tuggle, LLC, announced the appointment of partner **Kathleen B. "Katie" Connell** to the **board of directors** of **The Charles Longstreet Weltner Family Law American Inn of Court**. In this role, she will work to uphold the mission of the organization, which promotes professionalism, collegiality and continuing education among Atlanta's family law community.

Fulcher Hagler LLP announced that partner **James W. Purcell** was elected to serve on the **President's Advisory Council** of the **Children's Organ Transplant Association** (COTA). COTA is a national charity that provides fundraising assistance to transplant families. Since 1986, COTA's priority is to assure that no child or young adult is denied a transplant or excluded from a transplant waiting list due to lack of funds. One hundred percent of all funds raised in honor of transplant patients are used for transplant-related expenses.

O'Dell & O'Neal Attorneys announced that **Leslie Dean O'Neal** was selected to the **Leadership Cobb Class of 2013-14**. O'Neal joins 44 other diverse and qualified individuals to participate in this leadership development program sponsored by the Cobb Chamber of Commerce. Through various programs and retreats, Leadership Cobb enhances personal and professional growth while participants gain awareness of current issues, community resources and the social, political and economic needs of the community.

The Law Offices of Nathan M. Jolles, PC, announced that **Nathan M. Jolles** was recognized at the State Bar of Georgia in June as the **Small Law Firm Division winner** for the **2013 Georgia Legal Food Frenzy**. Jolles was awarded two prestigious gavels from Attorney General Sam Glens for collecting a total of 7,093 pounds as a firm, capturing both the per capita and total pounds awarded.

Carlock, Copeland & Stair, LLP, announced that **William P. Jones** was appointed to **Catholic Charities Atlanta's Leadership Class Advisory Board**. This program works to empower Catholic professionals who seek to become servant leaders in the business community through professional development, education and mentoring. Jones was also asked to serve on the board of the **South Dakota School of Mines**

Alumni Association. The Alumni Association promotes communication and interaction among alumni, students, faculty and administration at the School of Mines with the objective of strengthening the school's academic, research and service roles.

> 

Stout Kaiser & Hendrick, LLC, announced that **Carter L. Stout** was awarded the **Member of Distinction Award** by the **Real Estate Section of the Atlanta Bar Association**. This award is given to a member who has given outstanding service to the section. Stout practices almost exclusively in the commercial real estate field, including representation of buyers, sellers and lenders and dealing with complex title issues.

> The **Judicial Council for the U.S. 5th Judicial Circuit** appointed **Paul Benjamin Anderson Jr.** as the **circuit executive** for the **5th Judicial Circuit**. The circuit executive exercises administrative powers and performs duties delegated by the council, under the general supervision of the chief judge. The 5th Circuit is composed of the states of Texas, Louisiana and Mississippi and represents the second largest circuit—both in case filings and authorized personnel—in the federal system.

> **U.S. Circuit Judge Ed Carnes** assumed the duties of **chief judge** of the **U.S. Court of Appeals for the 11th Circuit** and **chairman** of the **11th Circuit Judicial Council** in August. In fulfilling the duties of the office, Carnes becomes the highest-ranking judicial officer in the 11th Circuit and fills one of the 11th Circuit's two positions on the Judicial Conference of the United States, the principal policy making organization for the U.S. courts.

On the Move

In Atlanta

> 
Newsom


Whitehart

Miller & Martin PLLC announced that **Edward M. Newsom** joined the firm as a **member, Kelly L. Whitehart** as **of counsel** and **Elisabeth M. Koehnemann** as an **associate** in the Atlanta office. Newsom continues his practice in products liability and toxic torts. Whitehart continues her practice in technology and intellectual property. Koehnemann is a member of the firm's intellectual property practice group. The firm is located at 1170 Peachtree St. NE, Suite 800, Atlanta, GA 30309; 404-962-6100; Fax 404-962-6300; www.millermartin.com.

> **Boyd Collar Nolen & Tuggle, LLC**, announced the promotion of **Brooke M. French** to **senior associate**, and the addition of **Kimberli C. Withrow** as **of counsel** and **Amy B. Saul** as an **associate**. French represents clients in all aspects of domestic relations litigation. Withrow serves clients with a range of family law issues, including divorce, custody arrangements, child support and alimony issues. Saul previously served as staff attorney to Cobb County Superior Court Judge J. Stephen Schuster. The firm is located at 100 City View, Suite 999, 3330 Cumberland Blvd., Atlanta, GA 30339; 770-953-4300; Fax 770-953-4700; www.bcntlaw.com.

> 
Justice


Hall


Keller


Walker


Winks

Hall Booth Smith, P.C., announced that **Paul Justice** joined the firm as a **partner**. With more than a decade of service to Emory Healthcare and Saint Joseph's Health System, Justice's extensive experience will allow the firm to provide a greater level of service to its health care clients. The firm also welcomed five new associates: **Pamela Coleman, Laura E. Hall, Michael Keller, Brent Walker** and **Tiffany Winks**. Coleman's practice areas include long term care and senior housing industry law, health care law, business litigation, construction law, transactional law and wills, trusts & estates. Hall is a member of the education and professional malpractice/non-medical and fiduciary practice groups. Keller's practice areas include professional negligence/medical malpractice and long term care and senior housing industry law. Walker has experience and expertise in the areas of personal injury, medical malpractice, workers' compensation and construction litigation. Winks practices in the areas of construction law, insurance coverage and general liability. The firm is located at 191 Peachtree St., Suite 2900, Atlanta, GA 30303; 404-954-4000; Fax 404-954-5020; www.hallboothsmith.com.

> 

Barnes & Thornburg LLP announced that **Stephen Weizenecker** joined the firm as a **partner** in the entertainment and music practice group. Weizenecker works with companies in the entertainment and technology industries, with a focus on film and television, on branding and mar-

keting endeavors. The firm is located at 3475 Piedmont Road NE, Suite 1700, Atlanta, GA 30305; 404-846-1693; Fax 404-264-4033; www.btlaw.com.

Nelson Mullins Riley & Scarborough LLP announced that **W. Drake Blackmon** joined its Atlanta office as **of counsel**, where he practices business litigation, product liability, pharmaceutical and medical device litigation, class actions and consumer finance litigation. The firm is located at 201 17th St. NW, Suite 1700, Atlanta, GA 30363; 404-322-6000; Fax 404-322-6050; www.nelsonmullins.com.

Krevolin & Horst, LLC, announced that **Jonathan E. Hawkins** joined the firm as a **partner**. While he focuses his practice on business divorces and shareholder and partnership disputes, Hawkins also handles business fraud and commercial tort cases, contract disputes and real estate disputes. The firm is located at One Atlantic Center, 1201 W. Peachtree St. NW, Suite 3250, Atlanta, GA 30309; 404-888-9700; Fax 404-888-9577; www.khlawfirm.com.

Smith Moore Leatherwood attorney **Bob Wedge** was elected to the firm's **Management Committee** and will serve as the **partner** in charge of the Atlanta office. Wedge is an experienced trial lawyer who engages in commercial contract and lease litigation, insurance coverage litigation, construction litigation and professional liability litigation involving attorneys, architects and engineers. He is also an experienced appellate lawyer and has acted as a mediator of large commercial and construction cases for more than 20 years. The firm is located at 1180 W. Peachtree St. NW, Suite 2300, Atlanta, GA 30309; 404-962-1000; Fax 404-962-1200; www.smithmoorelaw.com.

Constangy, Brooks & Smith, LLP, announced the addition of **Hon. Stephen J. Simko Jr.** as **of counsel** to its Atlanta office. Simko began his career in the U.S. Department of Labor as a trial attorney in the Solicitor's Office, before becoming counsel for safety and health in that office. He was a judge for the Occupational Safety and Health Review Commission for 15 years, where he presided over cases as a trial judge. The firm is located at 230 Peachtree St. NW, Suite 2400, Atlanta, GA 30303; 404-525-8622; Fax 404-525-6955; www.constangy.com.


Forestner


Bounds


Lemery

Carlton Fields announced the addition of **David J. Forestner** as **shareholder** and **Justan C. Bounds** and **Samantha T. Lemery** as **associates** to its Atlanta office. Forestner and Bounds practice in the firm's business litigation and trade regulation practice group. Lemery's practice areas including insurance, product liability and professional liability, including defense of claims against medical and other professionals. The firm is located at 1201 W. Peachtree St. NW, Suite 3000, Atlanta, GA 30309; 404-815-3400; Fax 404-815-3415; www.carltonfields.com.


Harris


Hinson

Swift, Currie, McGhee & Hiers, LLP, announced the addition of **Roger E. Harris** to the firm's **partnership.** Additionally, the firm welcomed new **associate**, **Shannon S. Hinson**. Harris practices primarily in the fields of professional liability, commercial litigation, and trucking and transportation litigation. Hinson's practice is focused primarily in general civil litigation, including medical professional liability, trucking litigation and general insurance defense. The firm is located at 1355 Peachtree St. NE, Suite 300, Atlanta, GA 30309; 404-874-8800; Fax 404-888-6199; www.swiftcurrie.com.

Jackson Lewis LLP announced that **Evan Rosen** joined the firm's Atlanta office as a **partner**. Rosen represents employers in a variety of labor and employment matters arising under federal and state law, including Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act, Section 1981 and restrictive covenants. The firm is located at 1155 Peachtree St. NE, Suite 1000, Atlanta, GA 30309; 404-525-8200; Fax 404-525-1173; www.jacksonlewis.com.

Stites & Harbison, PLLC, welcomed **Christopher Gant** to the firm's Atlanta office as a member of the creditors' rights and bankruptcy service group. Gant's practice focuses on bankruptcy and creditors' rights matters, loan workouts and restructuring, lender liability matters, commercial and residential foreclosures, and commercial

litigation. The firm is located at 2800 SunTrust Plaza, 303 Peachtree St. NE, Atlanta, GA 30308; 404-739-8800; Fax 404-739-8870; www.stites.com.

Kilpatrick Townsend & Stockton LLP announced the addition of **Jonathan Olinger** to the firm's Atlanta office as an **associate**. Olinger joined the firm's patent litigation team in the intellectual property department. The firm is located at 1100 Peachtree St. NE, Suite 2800, Atlanta, GA 30309; 404-815-6500; Fax 404-815-6555; www.kilpatricktownsend.com.

Hough

Norden

Greenberg Traurig LLP announced that **Andrew R. Hough** joined the firm as a **shareholder** in the firm's corporate and securities practice, and **David F. Norden** joined the firm as an **associate** in the firm's pharmaceutical, medical device and health care litigation practice. Hough was previously with McGuireWoods, LLP, where he served as a partner. Norden was previously with King & Spalding, LLP, where he was a senior associate. The firm is located at Terminus 200, 3333 Piedmont Road NE, Suite 2500, Atlanta, GA 30305; 678-553-2100; Fax 678-553-2212; www.gtlaw.com.

DeLoach

Rivner

Caldwell & Watson, LLP, announced that **Donald B. DeLoach** joined the firm as a **partner** and **Peter A. Rivner** joined the firm as an **associate**. DeLoach continues his estate planning and corporate practice, and Rivner continues his focus on family law and domestic litigation. The firm is located at Two Ravinia Drive, Suite 1600, Atlanta, GA 30346; 404-843-1956; Fax 404-843-2737; www.cwlaw.org.

Johns

Richards

MendenFreiman LLP welcomed **Nathan T. Johns** as a **senior associate** in the firm's business and estate planning practice areas. In addition, the firm promoted **Megan L. Richards** to **senior associate** in the firm's business, estate planning and estate administration practice areas. The firm is located at Two Ravinia Drive, Suite 1200, Atlanta, GA 30346; 770-379-1450; Fax 770-379-1455; www.mendenfreiman.com.

Burr & Forman LLP announced the addition of **Chester J. "Chet" Hosch** as **partner** in the firm's corporate and tax practice group. Hosch brings extensive experience serving clients in the areas of mergers and acquisitions, corporate finance and taxation. The firm is located at 171 17th St. NW, Suite 1100, Atlanta, GA 30363; 404-815-3000; Fax 404-817-3244; www.burr.com.

S. Megan Klein announced the opening of **Two Roads Mediation, LLC**, a mediation practice focusing on civil and domestic matters. The firm can be contacted at P.O. Box 566873, Atlanta, GA 31156; 678-609-3901; www.tworoadsmediation.com.

In Alpharetta

Shires

Shawkat

Gowder

Lueder, Larkin & Hunter, LLC, announced the addition of **Kevin T. Shires** and **Hillary Shawkat** as **partner** and **Ashley Gowder** as an **associate**. Shires brings 17 years of experience in civil litigation defense. Shawkat's litigation practice focuses mainly on the defense of premises liability, automobile liability and commercial vehicle claims. Gowder's areas of practice include general insurance defense, automobile negligence, commercial vehicle negligence, common carrier liability, construction defect litigation, coverage and declaratory judgment actions, premises liability, uninsured motorist claims, first and third party casualty claims, and vertical transportation defense. The firm is located at 5900 Windward Parkway, Suite 390, Alpharetta, GA 30005; 770-685-7000; Fax 770-685-7002; www.luederlaw.com.

In Athens

Hall Booth Smith, P.C., announced that **Andrea L. Jolliffe** was named **partner**. Jolliffe devotes the majority of her practice to the defense and representation of educational institutions. The firm is located at 440 College Ave. N, Suite 120, Athens, GA 30601; 706-316-0231; Fax 706-316-0111; www.hallboothsmith.com.

In Augusta

Hull Barrett, PC, announced that **Mary Runkle Smith** joined the firm's Augusta office as an **associate**. Her practice focuses on commercial litigation. The firm is located at 801 Broad St., 7th

Floor, Augusta, GA 30901; 706-722-4481; Fax 706-722-9779; www.hullbarrett.com.

In Decatur


Masseoud


Cruz


Ayala

Hadeel N. Masseoud, Cherish A. Dela Cruz and **Karissa Ayala** announced the opening of **Masseoud, Dela Cruz and Ayala, LLC**, a practice dedicated to corporate and small business matters, immigration, family law, real estate and wills, trusts and estates. The firm is located at 315 W. Ponce de Leon Ave., Suite 1067, Decatur, GA 30030; 678-781-0390; www.mda-law.com.

In Hartwell


T. Van Dora


J. Van Dora

Tash J. Van Dora is proud to announce the formation of **The Van Dora Law Firm, LLC**. His primary areas of practice are workers' compensation insurance defense, employment law, EEOC matters, agriculture law and immigration matters with a focus on self-insured group funds. He was joined by **associate Jeremiah T. Van Dora**, whose practice focuses on workers' compensation, personal injury and other civil and criminal matters. The firm is located at 21 Vickery St., Hartwell, GA 30643; 706-377-4044; Fax 678-623-3859; www.vandoralawfirm.com.

In Macon

Smith, Hawkins, Hollingsworth & Reeves, LLP, announced that **G. Boone Smith IV** was named a **partner** of the firm. Smith specializes in the areas of estate planning, estate and corporate taxation, business transactions, tax exempt organizations and income tax conflicts. The firm is located at 688 Walnut St., Suite 100, Macon, GA 31201; 478-743-4436; Fax 478-746-8722; www.shhrlawfirm.com.

In Marietta

Lyle & Levine, LLC, announced that **Alan J. Levine** joined the firm. He handles the firm's trust and estate litigation and contested guardianship and conservatorship cases. The firm is located at 274 Washington Ave., Marietta, GA 30060; 770-795-4992; www.lylelevine.com.

In Savannah

W. Joseph Turner and **Emily M. Usry** announced the creation of their new law firm, **The Turner Firm, LLC**. The firm specializes in claimant's workers' compensation law, as well as criminal defense. The firm is located in the historic Manger Building at 7 E. Congress St., Suite 611-B, Savannah, GA 31401; 912-226-7662; www.turnerfirmattorneys.com.

In Jacksonville, Fla.

Nelson Mullins Riley & Scarborough, LLP, announced the opening of a new office located at 50 N. Laura St., Suite 2800, Jacksonville, FL 32202; 904-665-3600; Fax 904-665-3699; www.nelsonmullins.com.

In Los Angeles, Calif.

Gregory L. Young joined the **Haney Law Group** where he continues his practice focusing on the areas of entertainment law, intellectual property law, business law and litigation. Young also serves as an adjunct professor of business law at California State University, Northridge. The firm is located at 1055 W. Seventh St., Suite 1950, Los Angeles, CA 90017; 213-228-6500; Fax 213-228-6501; www.haneylawgroup.com.

In Raleigh, N.C.

Smith, Currie & Hancock LLP announced that **Sarah E. Carson** was promoted to **lead counsel** for the firm's Raleigh office. Carson represents national and international clients in the construction of data centers, pharmaceutical manufacturing plants, commercial properties, mixed-use developments, energy retrofits, casinos, hotels and golf courses. The firm is located at 410 N. Boylan Ave., Raleigh, NC 27603; 919-256-3696; Fax 919-256-3739; www.smithcurrie.com.

In Tuscaloosa, Ala.

Herbert E. "Chip" Browder LLC announced that **David B. Welborn** joined the firm. His practice focuses primarily on estate planning, elder law, business planning and tax law. The firm is located at 2216 14th St., Tuscaloosa, AL 35401; 205-349-1910; Fax 205-349-1552; www.chipbrowder.com.

In Winter Park, Fla.

Page, Scrantom, Sprouse, Tucker & Ford, P.C., announced the opening of its Winter Park office. The office is located in 631 W. Morse Blvd., Suite 202, Winter Park, FL 32789; 321-304-6030; Fax 321-304-6034; www.psstf.com.

But *That's* Not a Secret!

by Paula Frederick

"Thanks for letting the whole world know that I'm now a millionaire," your former client says sarcastically. "I bet I'll have everyone from my long-lost cousins to my ex-husband asking for a handout!"

"What are you talking about?" you ask, taken aback. "I haven't told anybody anything about you! I can't; the ethics rules forbid it!"

"Do you ever look at your own website, Jimmy? I just googled myself and the first thing that pops up is you bragging about how much money you recovered from BigPockets in my lawsuit!"

"But . . . the trial was public! The outcome is public information!" you sputter.

"That may be, but no one knew about it until you put it on your website," your former client grumbles.

You head to your partner's office for a reality check. "Any 12-year-old with an internet connection could find out about that lawsuit," you whine. "And I'm proud of winning that case! What's wrong with featuring it on the firm website?"

"Nothing!" your partner agrees. "I just wish you'd gotten the client's permission first. . . ."

Must a lawyer treat *all* information about a client as confidential, even when it is publicly available?

Pretty much.

Lawyers know that they have to keep client secrets—particularly information that would be detrimental if disclosed, or information that the client has asked the lawyer not to reveal. But Georgia's Rule 1.6, "Confidentiality of Information," covers far more than just secrets. The rule requires a lawyer to "maintain in confidence *all information gained in the professional relationship with a client*."

The rule covers information that is technically within the public realm but is not generally known, such as the content of public documents or court pleadings. It covers both information the client has given the lawyer and information that the lawyer has learned from other sources. Even posting case citations with the amount recovered for each client can violate the rule.

Around the country lawyers are testing the limits of Rule 1.6. The Virginia Bar is involved in litigation over the ability of a lawyer to blog about his own cases using actual client's names and truthful descriptions of their cases; that case is ongoing. In the meantime, the safest course of action is to get the client's permission before publishing any information about current or former client matters. GBJ

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


Don’t let nanny taxes trip you up.
With more than 20 years of household payroll expertise, Care.com HomePay℠ can handle every nanny tax obligation for you. No paperwork. No headaches. No hassles. From setting up automatic payments to preparing returns, we’ll get nanny taxes off your mind—and out of your way.
Learn more at care.com/law
NO WORK GUARANTEED NO WORRY
Care.com®
HomePay℠
Managed by Breedlove
Care.com and HomePay are service marks or registered service marks of Care.com, Inc. ©2013 Care.com, Inc.

Discipline Summaries

(June 15, 2013 - September 11, 2013)

by Connie P. Henry

Disbarments/Voluntary Surrenders

Donald O. Nelson
Townsend, Ga.
Admitted to Bar in 1969

On Sept. 9, 2013, the Supreme Court of Georgia disbarred attorney Donald O. Nelson (State Bar No. 537800). Nelson improperly witnessed a quitclaim deed after a real estate closing and made false statements in connection therewith to the State Bar. In aggravation of discipline, the Special Master found that Nelson had two prior disciplinary offenses: a lengthy suspension following his 1995 guilty plea to one count of money laundering and an Investigative Panel reprimand. In addition, Nelson obstructed the disciplinary proceeding, submitted false and misleading statements during the disciplinary proceeding, refused to acknowledge the wrongful nature of his conduct and had substantial experience in the practice of law.

Robert B. Lipman
Atlanta, Ga.
Admitted to Bar in 1977

On Sept. 9, 2013, the Supreme Court of Georgia accepted the voluntary surrender of license of attorney Robert B. Lipman (State Bar No. 453550). Lipman was hired to represent a client who was injured in an automobile accident. The opposing party's insurance carrier issued a check for the settlement amount payable to the client and his wife. Lipman signed his client's and wife's name on the release and had the signatures notarized. He made inconsistent statements regarding the nature of the disbursements from the client's proceeds to his client and the State Bar. Lipman also failed to accurately account for and deliver all of the funds to which his client was

entitled, and he commingled trust account funds with his own funds.

Reinstatements

Robbie M. Levin
Atlanta, Ga.
Admitted to Bar in 1996

On June 17, 2013, the Supreme Court of Georgia reinstated attorney Robbie M. Levin (State Bar No. 448280) to the practice of law in Georgia.

Brenden Miller
Jonesboro, Ga.
Admitted to Bar in 2000

On June 17, 2013, the Supreme Court of Georgia reinstated attorney Brenden Miller (State Bar No. 506214) to the practice of law in Georgia.

Brooks E. Blitch III
Homerville, Ga.
Admitted to Bar 1961

On July 1, 2013, the Supreme Court of Georgia vacated its decision on Feb. 28, 2011, to disbar attorney Brooks E. Blitch III (State Bar No. 063400). Respondent's felony conviction was vacated by the U.S. District Court for the Middle District of Georgia.

Interim Suspensions

Under State Bar Disciplinary Rule 4-204.3(d), a lawyer who receives a Notice of Investigation and fails to file an adequate response with the Investigative Panel may be suspended from the practice of law until an adequate response is filed. Since June 15, 2013, two lawyers have been suspended for violating this Rule and one lawyer has been reinstated.

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

22nd Annual Fiction Writing Competition

Deadline Jan. 17, 2014

The editorial board of the *Georgia Bar Journal* is pleased to announce that they are now accepting entries in the Annual Fiction Writing Competition. The purposes of this competition are to enhance interest in the *Journal*, to encourage excellence in writing by members of the Bar and to provide an innovative vehicle for the illustration of the life and work of lawyers. See page 54 for further information, or contact Sarah I. Coole, Director of Communications, at 404-527-8791; sarahc@gabar.org.

Law Firm Bling:

Seven Ways to Polish Your Marketing and Make Sure Your Firm Shines

by Natalie R. Kelly

Lawyers and law firms market to get new business and develop relationships that may create opportunities for future business. So, how does one "shine" or stand out when marketing? How does one "bling"—in a good way, of course? Here are seven tips that might help.

Market Ethically and Professionally

There's a lawyer advertising piece everywhere you look and listen. Do you ever wonder if this is acceptable regardless of what you may think of the advertising medium and message? Did you see a lawyer do something you know they won't be able to live down professionally; or do something great that doesn't get mentioned anywhere?

If you want your firm to truly shine when it comes to marketing you must do your homework and make sure what you are representing about your practice, lawyers, results, etc., is proper from an ethical standpoint. You also need to make sure your marketing passes muster when it comes to showing off your firm's professionalism. Did you think about the audience? Did you portray a true picture of what your firm can do or has already done? Did you get appropriate permissions? Did you vet your strategy with the Office of the General Counsel's Ethics Helpline? (That number is 404-527-8741, if you need to do that now.)

Take the time to make sure your efforts—whether advertising, networking or some other form of marketing—remains above board when it comes to following the rules for advertising and the highest standards of professionalism.

Revamp Your Branding

Take a look at everything that represents your firm; the business cards, the reception area, the building marquee, the firm website, even your own shoes—everything! Does the information need updating? Can you be cleaner or clearer in your design? Is the firm tagline displayed throughout your marketing/advertising? Is your brand recognized by your existing and former clients? Do other lawyers and law firms know you by your brand? Have you put it out there in a new format lately? Try stepping up your efforts to make your brand known by re-working the format or layout or simply making sure to put it out there in ways you haven't thought of before.

Say Thanks

Want to be noticed? Show how polite you are and what professional manners you have by saying thanks all the time. The genuine gesture of passing

along appreciation for someone else's deeds or acts almost always comes back to you in a positive way. When you genuinely thank people, you create a positive, outward vibe that can transcend the moment of being appreciated and can show up in referral business much later. While it's not guaranteed to generate revenue (nothing in marketing is), it is sure to pay you back in the future. Plus, it's just plain nice.

Reach Out and Give Back

Don't let your good deeds stop at saying thank you. Build up an exemplary practice of managing a key pro bono matter or two each year. This process is made simpler by working with the State Bar's Pro Bono Project. The vast number of resources available at www.georgiaadvocates.org and the Pro Bono Project, www.gabar.org/publicservice, can help you get noticed from your efforts in helping others. If you are not planning a pro bono undertaking, be sure to involve yourself and your firm in a community service event or program that truly gives back. This exposure alone helps you keep your firm's name, brand and purpose on the mind of others as you serve the public.

Keep Staff Involved in Marketing

The good name of your law office and its work should not stop with the lawyer. Staff should also participate in marketing the practice. Take time to script out a short and descriptive answer for the question, "What does your law firm do?" Make sure staffers don't make negative comments or reveal information unbecoming to the practice. (I've had a law office staff person reveal that their lawyer doesn't know what they're doing, and that they don't like their workplace—outside the confines of my position with the State Bar and their knowing what I do!) Staff should have business cards, easy access to basic intake materials and knowledge about the firm for dissemination to the public, if asked.

Update Firm Policies and Procedures

Marketing plans should be written down. Not only should the plan be written as a separate part of a lawyer's individual and firm business plans, but it should also be incorporated into the overall policies and procedures of the practice. Make sure that you have addressed the goals of marketing in the policies and procedures of the practice. Is there a new policy for employees on their use of social media while at work? Who handles the firm website and what can or should be placed on the site? What's the process for dealing with law office visitors and callers?

Stay on Top of Technology

Marketing online is inching closer to the top of the list of the best way to get business. While it may still come second to word-of-mouth referrals, keep in mind that even many of those referrals are now managed online as well. This digital age of marketing is requiring lawyers to speak the technology language. And lawyers should let their clients and potential clients know they know how to effectively use technology to not only manage their legal matters through online portals and efficient practice and document management programs and the like, but also to use technology to make their delivery of services more efficient and cost effective. Marketing through the use of technology is here to stay, and whether it's a new social media campaign for the practice, or simply sharing cost-savings on legal work for a client by using a new technology, the goal should be to stay on top of technology to not only make the client happy, but the firm, too.

Marketing can be a chore to some lawyers but a natural and easy process for others. Still, the underlying goal of developing new business and cultivating relationships that lead to helping answer legal concerns and problems is one of the necessary parts of practicing law. Having your firm shine is often a simple matter of focusing on some of the tips outlined above. If you need assistance with developing your law firm's "bling," then please contact our office for more useful marketing resources and assistance. GBJ

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

Expanding Your Practice

by Derrick W. Stanley

The ups and downs in the economy are a true test of time for attorneys and their practices. Long gone is the time when practicing law secured your future until retirement. The fact is that every year thousands of new attorneys are entering the workforce, and to be successful you must differentiate yourself from the competition.

The State Bar has 46 sections you can join in order to learn about different areas of practice. Sections offer you the ability to network with peers, providing resources to grow your practice. Educational opportunities are offered through CLE programs and institutes, and several offer newsletters that provide updated case law and court decisions.

You may also want to hone your leadership skills by volunteering in a section and working your way up through the ranks. Officer positions provide you with a chance to shape the direction of the section, all while developing bonds with fellow attorneys.

You can join a section by logging into your account at gabar.org and selecting "Join a Section." Once a member, you can contact the section chair and volunteer on a committee, or provide input on topics you

would like to see addressed in upcoming newsletters and educational events. You may even want to help by planning a social event.

Sections are only as strong as their members. By volunteering and networking, you will learn who to contact when you need help and what trends are developing in the law. Below is a list of current State Bar Sections. Review the descriptions and then join those that pique your interest, or reinforce the skills you have been honing.

Administrative Law

Provides a forum for attorneys to become better acquainted with the Georgia Administrative Procedures Act and the numerous administrative agencies of the state government.

Agriculture Law

Seeks to increase the awareness and further the knowledge of members of the State Bar and general public in agricultural law issues.

Animal Law

Provides networking and educational opportunities to its members in addition to providing a forum for members to exchange ideas, study and understand laws, regulations and case law pertaining to all areas of animal law.

Antitrust Law

Facilitates awareness and compliance with federal antitrust laws. It does so primarily through meetings and programs that alert section members to recent antitrust developments and allows them to get together with other antitrust practitioners in the private bar and government enforcement agencies.

Appellate Practice

Fosters professionalism and excellence in appellate advocacy and to encourage improvements in the appellate process. The work of the section involves sponsoring programs and seminars, encouraging appellate pro bono representation, providing a forum for dialogue between the appellate bench and bar of this state and, when appropriate, advocating improvements in appellate practice and procedure through legislation.

Aviation Law

Offers opportunities to members of the Bar to acquire and share knowledge of aviation-related topics in order to foster a better understanding of the issues that are unique to aviation law.

Bankruptcy Law

Serves all members of the Bar whose practice involves debt or creditor issues in the consumer or commercial law areas by its sponsorship of seminars, publications and networking opportunities throughout the state.

Business Law

Hosts standing committees on the Corporate Code, the UCC, Securities, Partnerships, Legal Opinions and Publications and continues to consider legislative proposals and monitor legislative developments in their respective areas.

Child Protection & Advocacy

Provides a forum for dissemination of information on aspects of juvenile law practice related to children: prosecution and agency representation, parent representation, child representation and guardian ad litem work in deprivation or dependency and termination of parental rights proceedings in juvenile and probate courts; defense and prosecution of delinquency and status offender or CHINS (Children in Need of Services) cases; miscellaneous juvenile court advocacy regarding competency, emancipation and parental notification issues; and handling of adoption proceedings.

Constitutional Law

Promotes the objectives of the State Bar of Georgia within the field of constitutional law (state and federal); to actively sponsor the continuing education of the members of the State Bar in this field; and to make appropriate recommendations in this field to the State Bar.

Consumer Law

Fosters professionalism and excellence in consumer law advocacy, both through individual and class actions, and to promote improvements in laws governing consumer transactions and fair or deceptive business practices.

Corporate Counsel Law

Engages Bar members who practice corporate law with corporations, associations and law firms, the section annually sponsors a two-day Corporate Counsel Institute.

Creditors' Rights

Seeks to provide learning opportunities for its members and to serve the needs of attorneys practicing in the area of collections and commercial litigation.

Criminal Law

Conducts activities to help keep members updated on the finer points of criminal law and disseminates information on matters affecting criminal practice.

Dispute Resolution

Facilitates the methods for resolving legal disputes other than through litigation and plans continuing education seminars.

Elder Law

Promotes the development of substantive skills of attorneys working with older clients by offering continuing education programs.

Eminent Domain

Promotes education relating to the law of eminent domain in the state of Georgia.

Employee Benefits Law

Seeks to promote knowledge and understanding of laws regulating employer sponsored benefit plans through continuing legal education opportunities in the field of executive compensation, pensions, health and welfare and ERISA litigation and develops collegiality among practitioners within the employee benefits area of practice.

Entertainment & Sports Law

Educates and promote networking among section members and guests. Varied programs include a monthly luncheon lecture series with CLE credits as well as local and international seminars.

Environmental Law

Provides its members with a unique opportunity to get to know other lawyers from industry, federal and state government, public interest organizations and private law firms who practice environmental law on a day-to-day basis. Membership in the section also enables members to stay informed on current environmental subjects, including legislative and regulatory developments.

Equine Law

Provides opportunities for members to develop their knowledge and professional abilities in equine matters of law in order to render better service to their clients and the general public.

Family Law

Promotes continuing legal education by annually sponsoring the Family Law Institute in May and Nuts and Bolts of Family Law in the fall with ICLE; monitors legislation and assists in drafting legislation in the area of family law; and publishes a quarterly newsletter which includes articles on emerging areas of the practice, interviews with members of the judiciary, summaries of new appellate cases and updates on the latest legislation and changes to superior court rules.

Fiduciary Law

Seeks to improve the skills of lawyers who practice in the fiduciary area by sponsoring seminars such as the Fiduciary Law Seminar, the Estate Planning Institute in Athens, the Basic Estate Planning Seminar and other programs. It also monitors legislation in the fiduciary area and helps in drafting fiduciary legislation.

Franchise & Distribution Law

Promotes the education and best practices of franchise and distribution law among section members.

General Practice & Trial Law

Provides benefits that include *Calendar Call*, luncheons, liaison to other sections and the American

Bar Association and a web presence. Section seminars focus on trial practice, law staff training, office technology, mediation and basic corporate practice.

Government Attorneys

Provides a forum for government attorneys and promotes their interests before and participation in the Bar.

Health Law

Deals with a variety of health care law issues relevant to attorneys for hospitals, physicians, insurers, employers, patients and government agencies. The section conducts education seminars throughout the year, as well as sponsoring health law projects among the Georgia law schools.

Immigration Law

Provides education and advice and disseminates information regarding current conditions relating to the practice before various government agencies including the Department of Homeland Security, U.S. and state Department of Labor, etc., to its members in the area of U.S. immigration law.

Individual Rights Law

Serves the Bar through educational activities intended to protect and promote the rights of individuals. During the legislative session it monitors legislation likely to have a significant impact on members. The section sponsors community service projects and hosts informal gatherings for its members and guests.

Intellectual Property Law

Provides networking and educational opportunities to its members. The section also fosters networking and education for intellectual property attorneys and professionals nationwide, including co-sponsoring the annual IP Institute.

International Law

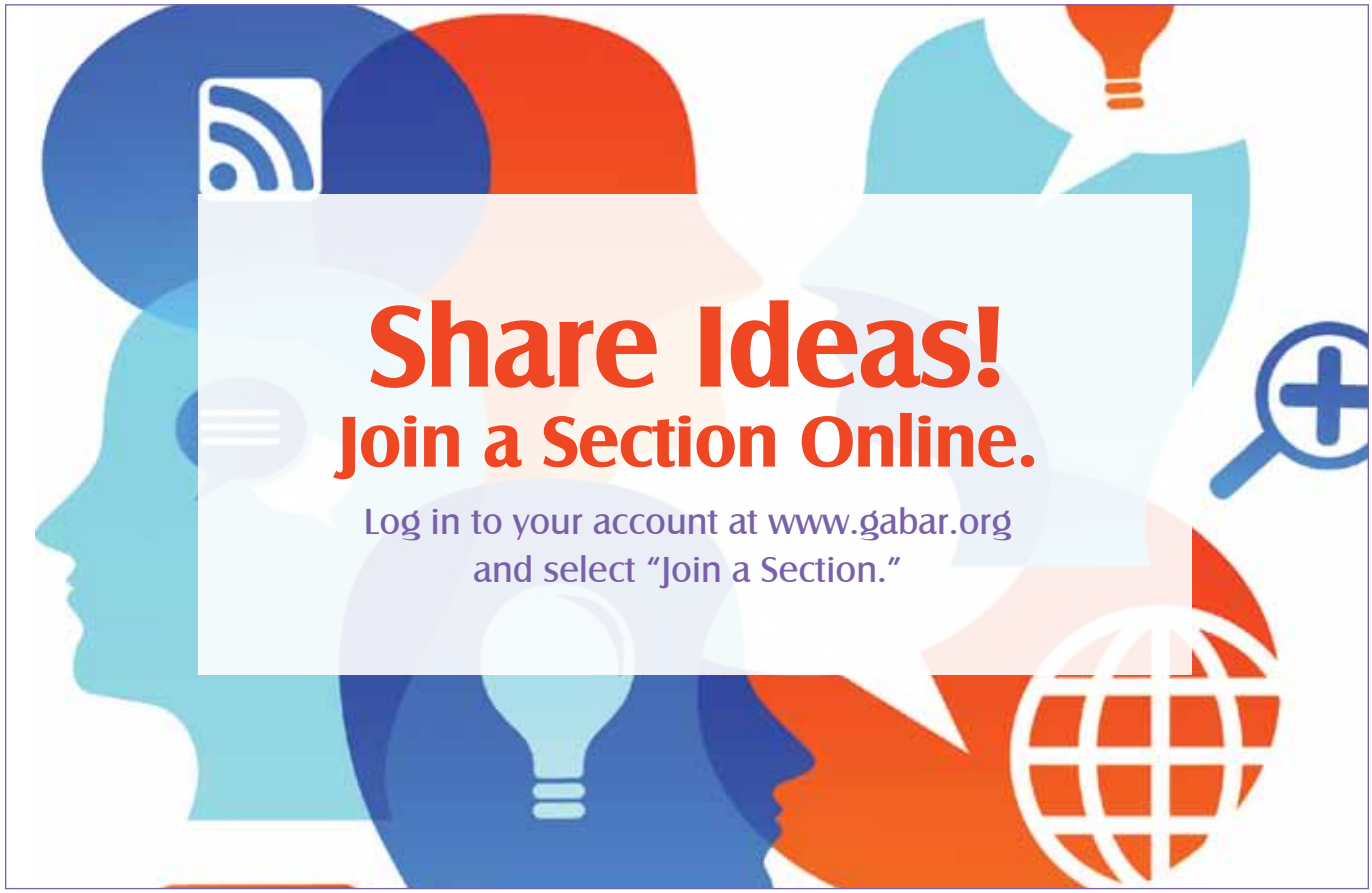
Provides a forum for members to exchange ideas and experiences related to representation of domestic or foreign clients in connection with matters involving more than one national jurisdiction. The section keeps its members informed of the latest developments in the areas of international law and practice through an annual continuing legal education seminar, luncheon study groups and periodic presentations by experts in their field.

Judicial

Fosters professionalism and excellence in the judiciary, encourages improvements in judicial process and court operations, solicits input from non-judicial bar members upon judicial procedures and court operations and encourages interaction between bench and bar.

Labor & Employment Law

Focuses attention on all areas of labor/management-employee/employer relationships through continuing legal education.



Legal Economics Law

Provides information and assistance on the administrative, business and practical aspects of the practice of law. The section produces a newsletter with the Law Practice Management Program of the State Bar of Georgia and co-sponsors seminars.

Local Government Law

Provides a forum for attorneys representing local governments to exchange ideas and experience and hosts the Local Government Institute for city and county attorneys annually in Athens.

Military/Veterans Law

Sponsors two continuing legal education programs each year promoting awareness and training among Bar members of legal issues particular to military service. The section annually conducts training for attorneys seeking approval to practice before the VA.

Nonprofit Law

Establishes and maintains, as an integrated group, members of the Bar who are legal advisors in the field of nonprofit law; to provide an opportunity for the exchange of information and ideas; to improve the professional responsibility with respect to the practice of nonprofit law; to provide, serve and act as a central association and forum for the study, discussion, resolution, collection and dissemination of ideas, information, data, conclusions and solutions with respect to, and common problems created by, the field of nonprofit law.

Product Liability Law

Co-sponsors two seminars annually and provides current case law updates when available.

Professional Liability

Promotes the objectives of the Bar within the fields of professional liability and malpractice. The section's emphasis shall be upon liability in fields other than medical or veterinary professions, including but not limited to: architects; attorneys; certified public accountants; land surveyors; professional engineers. The purposes shall be to provide a medium through which practitioners in the fields of professional liability can organize, concentrate and coordinate their activities to enhance the practice and understanding of professional liability law.

Real Property Law

Promotes continuing legal education by co-sponsoring with ICLE annually, a commercial real property law seminar in the fall, a basic real estate practice seminar in the winter and a Real Property Law Institute in May. The section monitors legislation at the state and federal level that impacts its members, publishes a newsletter and maintains a section website. It also maintains a listserv for members to post questions and receive real time responses, with helpful guidance from other practitioners.

School & College Law

Provides members with opportunities to interact with those actively engaged in practicing school and college law. The section co-sponsors annually, with the ICLE, a seminar on school and college law issues.

Senior Lawyers

Informs lawyers of retirement opportunities, options and benefits, support and assistance to senior lawyers in continuing their careers, improved representation for the disadvantaged, increased pro bono work, encouraging the development of alternate provisions of dispute resolution, advancement of substantive elderly law and professional collegiality.

Taxation Law

Pursues the continuing education of the members of the Bar in the field of federal and state taxation; maintains liaison with the Internal Revenue Service, the State Department of Revenue and the Georgia State University Tax Clinic; monitors state legislation affecting taxation; and makes recommendations concerning legislative and administrative rules.

Technology Law

Provides a forum for lawyers to discuss legal issues related to technology.

Tort & Insurance Practice

Functions to: (1) further the education of its members by providing seminars on insurance-related legal topics; (2) keep its members abreast of current developments in insurance law, such as case law, legislation or regulations; (3) provide a forum for the exchange of views on the insurance-related aspects of the practice of law; (4) influence for the better, when appropriate, those activities which relate to insurance and affect lawyers; and (5) develop a relationship with the State Insurance Commissioner's Office that will enhance the interests of the members of the section.

Workers' Compensation Law

Seeks through its work to keep its members fully informed in the area of workers' compensation. The section works closely with the State Board of Workers' Compensation to convey information regarding new rules changes and statutes to its members. It actively participates in and supports workers' compensation seminars and continuing legal education.

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

Your Gift Saves Lives.

"When I was married, my husband would beat me repeatedly. One night, he choked me and broke my right hand. I escaped to a local shelter with my children and nothing more than the clothes on our backs. I sought GLSP for legal assistance to obtain a divorce. My GLSP lawyer helped me with the divorce and with finding a new home. Thanks to GLSP, I am rebuilding a wonderful new life for my children. We're having so much fun!" – Ms. Olivia Dotson

"And Justice for All" 2013 State Bar Campaign for the Georgia Legal Services Program, Inc.

Supporting GLSP is not about charity. Supporting GLSP is about justice for all.

State Bar of Georgia **Georgia Legal Services Program**

Scan the QR code with your smart phone, or go to www.glsp.org (click on Donate Now)

Thank you for your generosity and support.

The Georgia Legal Services Program (GLSP) is a 501(c)(3) nonprofit law firm. Gifts to GLSP are tax-deductible to the fullest extent allowed by law.
(The client story and photo is used with permission.)

Anatomy of a Search

by Shelia Baldwin

It's hard to keep up with all the ways Fastcase makes legal research easier. In case you haven't made use of this great member benefit, offered at no extra charge as a part of your Bar dues, perhaps this article will convince you to jump on board and try it out. When you log in to your member account on the State Bar of Georgia's website, you are able to access all federal and all state case law (back at least to 1950) and all state statutes through the Fastcase link. Members enjoy a premium account and will incur no "out-of-network" charges, so don't be afraid to explore. In this article, I'll run a basic search to highlight how it works using some of the most recent features.

Consider a case where an appellant argues that as a matter of law, attorney's fees cannot be awarded in arbitration proceedings. One approach would be to view the statutes to find which code applies. Go to the browse mode of the statutes and find that under Title 9, Civil Code, you will see that Chapter 9 governs Arbitration with Part I containing the Arbitration Code. Notice that 9-9-17 deals with fees and expenses of arbitrators (see fig. 1). It might be good to read this section and use some of the language in the statute when you conduct your case search. Look up any other statutes that may govern the particulars of your case.

Choose "Search Cases" from the navigation tool bar under Search. Using Georgia as the jurisdiction, enter *9-9-** in the search box to see more than 230 results. Using the wildcard (asterisk) instead of the specific subsection "17" opens up your search slightly by encompassing anything within the arbitration code while ensuring relevant results. To narrow those results, use a few key words such as *attorney* fee* or counsel* fee**; the wildcard operator will catch any form of the word and return more than 70 results. Using the "search within" tool at the top of the page, add the phrase "*arbitration proceedings*" within quotations and narrow to 23 cases. In summary, we searched using *Georgia* as the jurisdiction and *(9-9-* and (attorney* fee* or counsel* fee*)) and "arbitration proceedings"* and can now explore the best of our 23 results.

One technique to pinpoint the top cases is to reorder the results by clicking on the column entitled "these results" at the top of the second column from the right. This finds the most highly cited cases within your search criteria. The No. 1 case in our list is now *Hope & Associates, Inc. v. Marvin M. Black Co.,* which is also ranked as one of the most relevant cases. Click on the blue underlined 3 to see the Authority Check Report that gives you a nice summary of later citing cases to *Hope & Associates,* which can be printed or saved for later viewing (see fig. 2.) A quick read of the relevant paragraphs of these cases indicates no negative treatment and con-

firm that this is a good case. Make sure that you have the "show most relevant paragraph" selected under the Results dropdown menu (see fig. 3). Continue reading over cases from the list of 22 cases in the results list to find other authoritative cases.

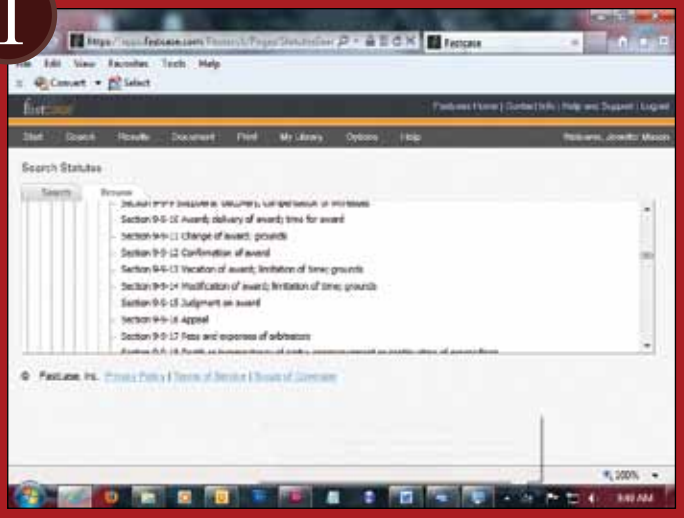
Don't forget to view the cases at the top of the list under the "Forecite" banner which lists several highly cited cases that may not have come up in your list because they are outside of your search criteria but may be on point. The interactive timeline view is helpful as it highlights all 22 cases with the option to filter by several criteria at one time. Hold your mouse over a bubble that represents a case to preview information about the case (see fig. 4).

By now you should have a pretty good idea what the law says about your issue; can attorney's fees be awarded in arbitration proceedings? *Hope & Associates* specifically states that "there is no statutory prohibition on the right to contract for the recovery of attorney's fees in arbitration proceedings. If the parties contract for attorney's fees, that agreement will be enforced. If the parties do not contract for attorney's fees, each party will be responsible for the payment of his own attorney's fees."

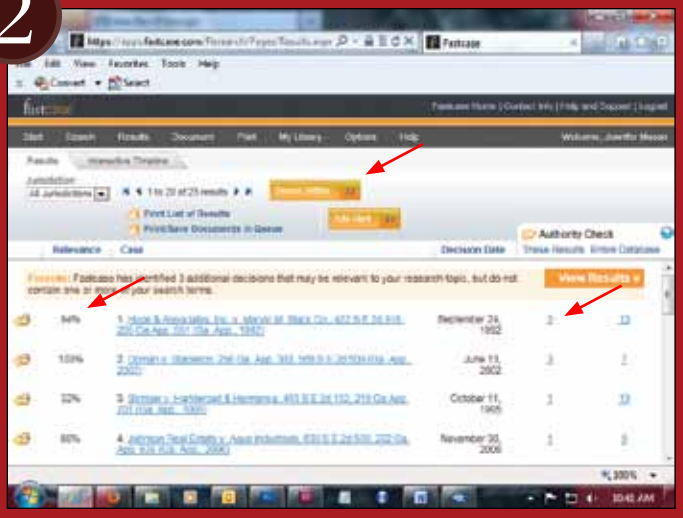
For more ideas on how to make the most of this valuable member benefit, sign up for a free webinar hosted by Fastcase. The schedule and form are posted on the State Bar of Georgia calendar at the top right side of our website. As always, contact sheilab@gabar.org or 404-526-8618 for Fastcase help, or call Fastcase toll free at 866-773-2782. GBJ

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

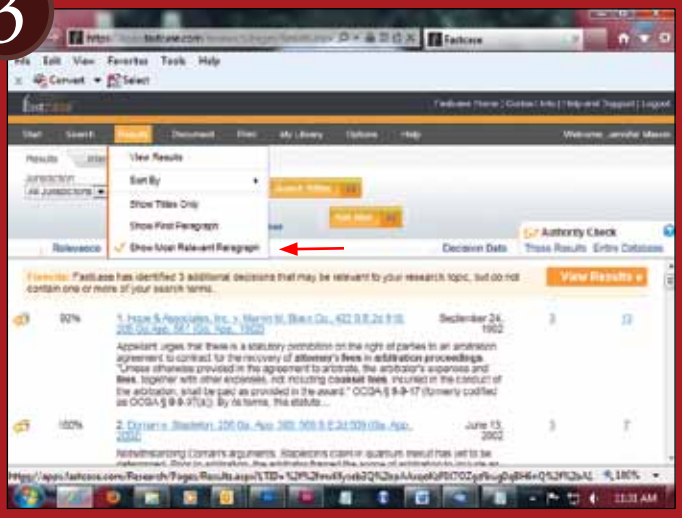
1



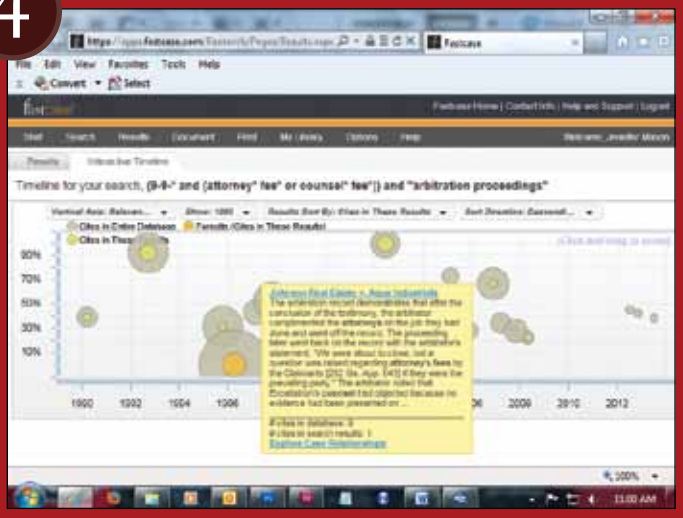
2



3



4



Common Ground:

Five Essential Writing Skills for Litigators and Contract Drafters

by Sue Payne and Jennifer Murphy Romig

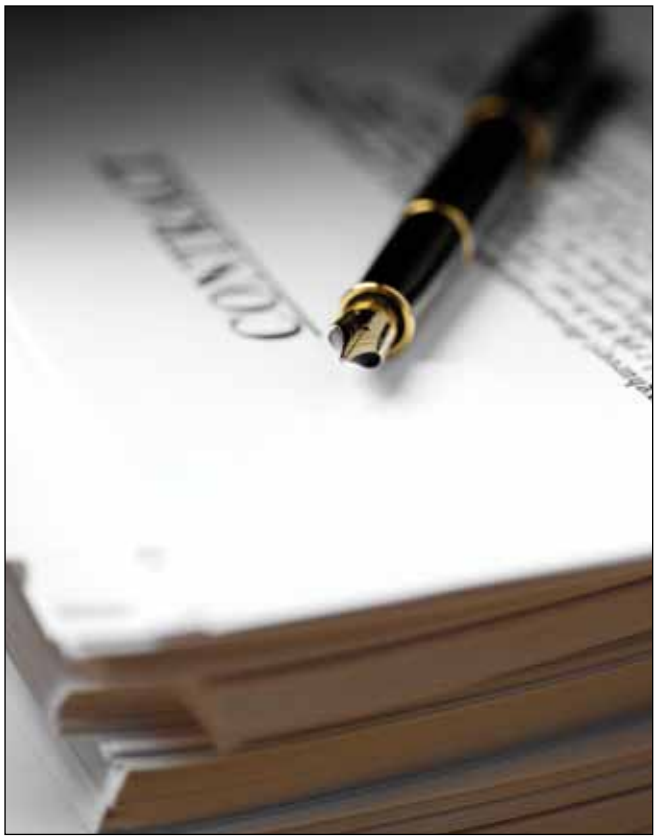
Attorney Carmen Contracts is drafting a contract. In the office next door, Lawrence Litigator is writing a brief. They share a quick lunch and end up in a heated conversation about legal writing, of all things. Mr. Litigator says that his writing is creative, persuasive and difficult to craft—compared with the "cut and paste" work of the contract drafter. Ms. Contracts says that she is creating a private law between the parties[1] while he is merely writing around and about the law.

These attorneys should not need a mediator to help them recognize that they have more in common than they think. Just what are some of the essential writing skills that highly effective litigators and contract drafters share?

Judicious Use of Samples

Both litigators and contract drafters need to understand when and how to use samples. Senior attorneys often advise junior attorneys not to "reinvent the wheel," but this advice does not mean "please mindlessly cut and paste from the first sample you find."

For example, the litigator drafting a motion may be more efficient if he works from a sample. But he must use the sample strategically, tailoring the text to the situation at hand and discarding portions that do not fit. Likewise, the contract drafter may work from a contract used in another similar deal, but she must be very careful not to copy fully negotiated provisions tailored just for that other, similar deal.



And both litigators and contract drafters must know when to move away from samples and start from scratch. For litigators, a sample may not be a good model if it emphasizes a different aspect of the law or the wrong type of legal argument altogether. It may not even be good for a formatting model, if the court rules have changed. When the litigator realizes that following a sample would waste time and generate an ineffective argument, the litigator should open up a new document and start from scratch.

Similarly, contract drafters must know how to draft from scratch because they may not always have applicable samples in hand. They must master what Tina L. Stark calls "translating the business deal into con-

tract concepts."[2] Then, after talking to a client about a deal, the contract drafter can translate the deal terms into covenants, representations and warranties, conditions, etc. Additionally, when an applicable sample contract is available, the drafter trained to draft from scratch knows to ask: Why is it drafted this way? Does it achieve my client's objectives? Can it be drafted more effectively?

Appropriate Attention to Audience

The importance of audience is another area of common ground. Writing to your audience can be difficult to do when the audience comprises many groups, present and future, some with different competing interests.

Litigators write not only to judges and their law clerks, but also to the client, opposing counsel and the opposing party. What they write may affect future arguments to judges on appeal. Thus, the best litigators can artfully address different audiences without neglecting others. For example, a great brief can use precedent and other arguments to suggest that the court "will" and "must" do something, thereby affecting opposing counsel's view of settlement—but without risking offense to the court in saying what the court "must" do.[3]

Highly effective contract drafters remember to consider multiple audiences as well. Besides the client, the other side and the other side's attorney, contract drafters must think about any adjudicator who may one day have to interpret or enforce the document. Also, from a practical standpoint, the contract drafter's audience includes the business people who will have to implement or follow the contract. If the contract contains a complex formula for calculating royalties, for example, the business people responsible for performing the calculation have to be able to understand it.

The Right Amount of Concision

Both litigators and contract drafters need to know how to write concisely. Judges and clients alike frequently complain that lawyers use more words than necessary to communicate. Upon receiving a party's motion to extend a brief's page limit, one federal judge responded by editing part of the motion from 125 words down to 47 words.[4] The judge denied the motion and instructed the lawyer to meet the page limit by eliminating "redundancy, verbosity, and legalism."[5]

Similar critiques regarding contracts abound because some contract drafters remain wedded to "sounding like a lawyer" as opposed to communicating clearly and concisely. As chronicled in the *Steve Jobs* biography by Walter Isaacson, Jobs once received a proposed contract from IBM spanning 125 pages. Jobs threw it down and ranted, "You don't get it." As Isaacson reports: "He demanded a simpler contract of only a few pages, which he got within a week."[6]

But both litigators and contract drafters have to avoid taking concision too far. The scourge of the first-year legal writing student, "skipping analytical steps," can infect experienced lawyers' briefs as well, owing to their familiarity with their own case. Great brief writers achieve the perfect balance: they include everything they need to fully support a point in appropriate language for the audience—but nothing more.

In a contract, some attorneys take concision too far by losing sight of their multiple audiences and drafting as if everyone is familiar with the terms of the deal. They begin to use a kind of shorthand that only the parties to the deal understand. Nevertheless, although contract

Annual Fiction Writing Competition

Deadline January 17, 2014

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

Rules for Annual Fiction Writing Competition

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

1. The competition is open to any member in good standing of the State Bar of Georgia, except current members of the Editorial Board. Authors may collaborate, but only one submission from each member will be considered.
2. Subject to the following criteria, the article may be on any fictional topic and may be in any form (humorous, anecdotal, mystery, science fiction, etc.). Among the criteria the Board will consider in judging the articles submitted are: quality of writing; creativity; degree of interest to lawyers and relevance to their life and work; extent to which the article comports with the established reputation of the Journal; and adherence to specified limitations on length and other competition requirements. The Board will not consider any article that, in the sole judgment of the Board, contains matter that is libelous or that violates accepted community standards of good taste and decency.
3. All articles submitted to the competition become the property of the State Bar of Georgia and, by submitting the article, the author warrants that all persons and events contained in the article are fictitious, that any similarity to actual persons or events is purely coincidental and that the article has not been previously published.
4. Articles should not be more than 7,500 words in length and should be submitted electronically.
5. Articles will be judged without knowledge of the author's identity. The author's name and State Bar ID number should be placed on a separate cover sheet with the name of the story.
6. All submissions must be received at State Bar headquarters in proper form prior to the close of business on a date specified by the Board. Submissions received after that date and time will not be considered. Please direct all submissions to: Sarah I. Coole, Director of Communications, by email to sarahc@gabar.org. If you do not receive confirmation that your entry has been received, please call 404-827-8791.
7. Depending on the number of submissions, the Board may elect to solicit outside assistance in reviewing the articles. The final decision, however, will be made by majority vote of the Board. Contestants will be advised of the results of the competition by letter. Honorable mentions may be announced.
8. The winning article, if any, will be published. The Board reserves the right to edit articles and to select no winner and to publish no article from among those submitted if the submissions are deemed by the Board not to be of notable quality.

drafters sometimes have to spell things out methodically, they do not have to use lengthy, convoluted sentences. Moreover, they can make use of headings and tabulation to shorten sentences and make provisions more readable.

The Right Amount of Clarity

Highly effective litigators and contract drafters know how and when to be vague or abstract for a strategic reason. In litigation, a classic example is selectively using passive voice to strategically emphasize the object of the action or to de-emphasize the action itself. In a copyright-infringement case, the defendant might want to consider the occasional use of passive voice to describe how images "were reproduced" rather than continually emphasizing that the defendant actively reproduced them.

With the exception of some representations and warranties and some standard boilerplate, contract drafters generally use active voice because they want to assign responsibility to a particular party. But contract drafters may choose to be intentionally vague in other ways. For example, a contract drafter may fail to define a key term such as "reasonable" or "material" because it is to the client's advantage to leave the term vague or because it would take the parties too much time to hammer out a mutually agreeable definition.

Creativity and Advocacy Within Formal Structures

Both litigators and contract drafters must write creatively and advocate for their clients within certain formal structures. Some legal writing experts analogize writing for litigation to a sonnet or a haiku: it is creative, within a structure established by custom.[7] The creativity comes from what the lawyer does within that form to advocate for the client. This analogy may also be applicable to contract drafting. A contract must have certain essential parts; within this structure established by custom, the contract drafter strives to capture the unique terms of the particular deal.

While exercising their creativity within certain structures, both kinds of writers must advocate strategically. A litigator must zealously advocate for her client without alienating the judge by being overly aggressive. There is written advocacy in contract drafting, too. One reason for taking the laboring oar on the first draft is that the drafter gets to have the first word on provisions that the parties may not have discussed yet. Of course, the contract drafter who makes the first draft too one-sided can lose credibility with the other side, making continued negotiations difficult.

Conclusion

Ms. Contracts and Mr. Litigator should amicably end their lunch by acknowledging that they share common ground. They both need to know how to use samples judiciously, pay appropriate attention to multiple audiences, write clearly and concisely, and be creative advocates within formal structures. These attorneys would do well to acknowledge that, even though one is drafting a contract and the other is drafting a brief, they are both engaged in the act of writing.

The authors would like to thank attorneys Bard Brockman and Lou Spelios for their feedback on earlier drafts of this article.

Sue Payne is the executive director of the Center for Transactional Law and Practice at Emory University School of Law, where she teaches Contract Drafting and Deal Skills. She is the author of *Basic Contract Drafting Assignments: A Narrative Approach (2011).*

Jennifer Murphy Romig has taught Legal Writing, Research and Advocacy at Emory University School of Law since 2001. She recently founded the blog "Listen Like a Lawyer," www.listenlikealawyer.com, to explore listening skills for lawyers and legal professionals as well as law students and professors.

Endnotes

1. *See* Mary Beth Beazley, E-mail to LRW-Prof Listserv re: "Legal Writing—What Is it?" (April 11, 2013) (on file with Jennifer Murphy Romig).
2. Tina L. Stark, DRAFTING CONTRACTS: HOW AND WHY LAWYERS DO WHAT THEY DO 11 (2007).
3. *See, e.g.*, Linda H. Edwards, LEGAL WRITING: PROCESS, ANALYSIS, AND ORGANIZATION 361-362 (5th ed., Aspen 2010).
4. Judith D. Fisher, *A Federal Judge Demonstrates the Value of Editing*, Legal Writing Prof Blog, November 15, 2012, http://lawprofessors.typepad.com/legalwriting/2012/11/a-federal-judge-demonstrates-the-value-of-editing.html (linking to *Belli v. Hedden Enterprises, Inc.*, No. 8:12-cv-1001-T-23MAP (August 7, 2012), https://docs.google.com/file//0B88bY5UGykqoclZra0thaEN1M3c/edit?pli=1).
5. *Belli*, at 2 (citing Bryan Garner, *The Elements of Legal Style* (2d. ed. 2002)).
6. Walter Isaacson, STEVE JOBS 232 (2011).
7. *E.g.*, Joseph Rosenberg, *Confronting Clichés in Online Instruction: Using a Hybrid Model to Teach Lawyering Skills*, 12 SMU SCI. & TECH. L. REV. 19, 50 n. 67 (2008) ("Similar to any endeavor that operates within a particular structural framework, for example a Haiku poem, a legal brief must have certain components that are woven together in ways that integrate fact and law, and synthesize legal authority, usually in the form of legal rules and cases."); Peter Suber, *Legal Reasoning after Post-Modern Critiques of Reason*, 3 LEGAL WRITING: J. LEG. WRIT. INST. 21, 38 (1997) (analogizing legal reasoning to sonnet-writing).

2013 Law School Orientation Program

by Avarita L. Hanson

Joy Lampley Fortson, chair of the State Bar of Georgia's Committee on Professionalism, provided an overview of the 2013 Law School Orientation Program:

> "This year marks another season of successful law school orientations throughout Georgia. From Mercer to Atlanta's John Marshall Law School, the students took a deep dive into the material and really engaged in the orientation experience. Just days before they begin law school and embark upon one of the most challenging experiences of their lives, we challenge the students to analyze real-life ethics and professionalism issues, and they always rise to the occasion. Each year I continue to be impressed with the students' intellect and moral compass."

Fifty years ago, Dr. Martin Luther King Jr. went to our nation's capital and told a hopeful crowd of more than 250,000 people about his dream for a better America. His dream was the American Dream—life, liberty, justice, jobs, education and housing—not just for some, but for all. As the bells rang out this year to commemorate the anniversary of the Aug. 28, 1963, March on Washington, the elements of Dr. King's dream reverberated through the nation. The call for justice tolls perhaps even louder for those of us drawn to the legal profession. Much of King's dream has come to fruition; but much is left to be done to make freedom ring for all.

Fifty years ago, the State Bar of Georgia was created, unifying Georgia lawyers under one governing authority. All lawyers would become members of the State Bar of Georgia as the sun set on the Georgia Bar Association. The unified State Bar of Georgia was racially integrated and welcoming to women.

Photo by Terie Latala

Hon. Tammy M. Stokes administers the Law Student's Oath of Professionalism at Savannah Law School.

Twenty-five years ago, a small group of Georgia lawyers were encouraged by the dream of another theologian, Dr. James Laney, who spoke about the moral authority of the legal profession. In the midst of growing incivility and the legal profession becoming more businesslike and less of a noble profession, five leaders, Dr. Laney; then State Bar President A. James Elliott; and Supreme Court of Georgia Justices Thomas Marshall, Harold Clarke and Charles Weltner, sought a solution. Consequently, the Supreme Court of Georgia created the Chief Justice's Commission on Professionalism (the Commission). Over the years, the Commission has been

the catalyst for programs that have addressed the primary aspects of professionalism: competence, civility, community and public service and ensuring access to justice.

Twenty-one years ago, the State Bar's Committee on Professionalism started the Law School Orientation on Professionalism Program, in partnership with the Commission on Professionalism—another first. All entering students in Georgia's six law schools—Atlanta's John Marshall, Emory, Georgia State, Mercer, Savannah and the University of Georgia—participate in the program, which is now conducted at 40 additional law schools across the country. After hearing from a keynote speaker, students spend time with volunteer attorneys who engage them in small group discussions centered on hypothetical situations presenting professionalism and ethical challenges. Some of the situations are based on law school experiences; others situations are law practice scenarios. Thousands of law students and attorneys have participated in this program since its inception.

Keynote Speakers

Keynote speakers focus the students' attention on the meaning and elements of professionalism. Speakers for the 2013 Program included: Hon. William S. Duffey Jr., U.S. District Court, Northern District of Georgia, at the University of Georgia; Chief Judge Herbert E. Phipps, Court of Appeals of Georgia at Emory University; and Hon. Shawn E. LaGrua, Fulton County Superior Court at Georgia State University.

Darrell Sutton, president of the Young Lawyers Division of the State Bar, delivered the keynote address at Mercer and strongly focused on the service aspect of professionalism. Sutton's well-taken point: "How you serve matters not; that you serve matters the most."

At Savannah Law School, its second incoming class heard from Hon. Tammy M. Stokes who defined professionalism in three words: "character, competence and civility."

Photo by Billie Brooks Frys

YLD President Darrell Sutton delivers the keynote address to Mercer University law students.

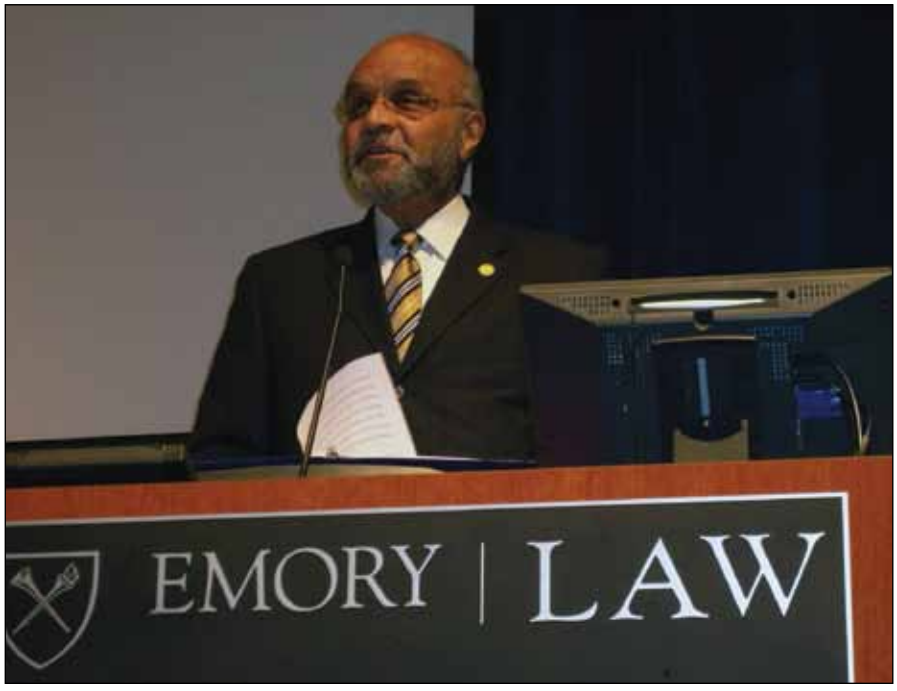


Photo by Terie Latala

Chief Judge Herbert E. Phipps addresses law students at Emory.

At Atlanta's John Marshall Law School, Hon. Robert D. Leonard II advised students to improve the profession's reputation as a whole by improving their reputations.

Group Leaders

Group leaders not only guided discussions with the students for the students' learning experiences, but reflected on the evolution of their own professional identity. Committee Vice Chair Elizabeth Fite returned to her law school and participated as a group leader. "I was truly impressed by the student discussions during the Professionalism Orientation held at Emory University School of Law on Aug. 16. The students had obviously given serious consideration to the hypotheticals, which was evidenced by their lively debate. The Professionalism Orientation is an excellent start to the students' legal careers, and I always enjoy

Photo by A.J. Doucett

Hon. Robert D. Leonard II speaks to John Marshall law students.

my time as a group leader. I look forward to meeting with the students again in January to see how they've progressed."

Another group leader, Bryan Babcock, says about his experience: "I enjoyed myself with the orientation. I remembered my 1L year doing this same orientation, and I still remembered talking about these hypotheticals. It was a great chance to impart wisdom on the incoming class the same way it was imparted on me when I first began my legal education. The students were excited to talk about professionalism, and stayed engaged in the conversation the entire time. I loved hearing their gut reactions to the hypotheticals because it reassured me that the students have what it takes to face these challenges in their careers."

Paula Kapiloff reflected: "So glad that the State Bar endorses the Supreme Court decision to expand professionalism from the very beginning. I've been working with the professionalism program for a number of years and each year it reminds me that each of us needs to refresh our goals in professionalism as well. . . . Justice Clarke said years ago that ethics is a requirement and professionalism is what is to be expected. This is what I expect from my profession and from these students."

Teresa Aitkens added: "As a practicing attorney, I believe that these students should be introduced to professionalism in law school so that they are aware of the rules of conduct and ethical considerations. We as a group have the opportunity to really take advantage of others in the legal system and society in general if we are not grounded in rules of conduct and ethical behavior. So, the opportunity to introduce the concept early and often can only result in (at least) more educated attorneys entering the work force that will hopefully result in more ethical practicing attorneys."

These statements are a clear indicator that the volunteer attorneys find their efforts at orientations with incoming law students well-spent. All want to see this program continued, and some want to see law schools present another forum addressing professionalism for second- or third-year students.

The Student Experience

Students often find the orientation on professionalism the highlight of their law school orientation period. Their comments demonstrate the effectiveness of the program:

- "It was very beneficial for me to be given the different (and at times complicated) scenarios to dissect and consider as a professional."
- "It awakened me to the fact that I will be exposed to situations that will require the best that I have to give. Before, I had almost assumed that if I did things the right or correct way then I would be fine."
- "I thought the discussion of some of the moral and honesty issues we discussed reflected realistic situations."
- "The program raised issues that I hadn't considered and was excellent in terms of interacting with practicing attorneys."
- "The program has provided me with a good understanding of what is expected of lawyers with respect to professionalism."
- "This program clarified different approaches/viewpoints and helped enlighten the core values through effective examples."
- "It was thought provoking and I enjoyed engaging in conversation with the group leaders and my fellow students about potential ethical situations I may encounter as an attorney and as a student."
- "I loved the interaction and discussion we were able to have in the format of the session. It was also nice to discuss these issues with practicing professionals."
- "The scenarios are very practical and pragmatic and make you think like a lawyer."

The effectiveness of this program may ultimately rest in the actions, character and demeanor of every Georgia lawyer. For more than two decades, this program has contributed to helping Georgia law school graduates define their professional identity and develop their character and fitness for the legal profession at the outset of their legal education. Many thanks to all those who work to make this program possible: the State Bar of Georgia staff and particularly its Committee on Professionalism, Chair Joy Lampley Fortson and Vice Chair Elizabeth L. Fite; the hundreds of

2013 Law School Orientation on Professionalism Volunteers

Atlanta's John Marshall Law School

Ebony Ameen
Roy P. Ames
Frederick V. Bauerlein
George E. Bradford Jr.
Robert D. Brooks
John C. Bush
David S. Crawford
Willie G. Davis Jr.
Hon. Donald R. Donovan
Hon. Gregory T. Douds
Hon. James E. Drane
Randall W. Duncan
Hassan H. Elkhalil
Irwin M. Ellerin
C. Joy Lampley Fortson
Patricia A. Hall
Duncan M. Harle
Simone N. Hylton
Charis L. Johnson
John W. Kraus
Hon. Robert D. Leonard II
Corey B. Martin
Robert E. Norman
Craig S. Oakes
Joseph H. Oczkowski
Shalamar J. Parham
Irvan A. Pearlberg
Tashwanda C. Pinchback
Timothy J. Santelli
Janet C. Scott
Toronda M. Silas
Evelyn Y. Teague
Derick Villanueva

Emory University

Prof. Frank S. Alexander
Prof. Thomas C. Arthur
Hon. Larry A. Baldwin II
Sarah S. Bennah
Hon. Diane E. Bessen
B. Phillip Bettis
Scott L. Bonder
Lauren G. Brown
Jay D. Brownstein
Mark G. Burnette
Melissa D. Carter
Benjamin J. Chapman
Elizabeth D. Christian
Darryl B. Cohen
Hon. Brenda S. Hill Cole
Theodore H. Davis Jr.
Hon. J. Antonio DelCampo
Hon. Donald R. Donovan
Hon. Sara L. Doyle
Gregory M. Eells
Dean A. James Elliott
Prof. Mark Engsberg
Jennifer G. Fernandez
Elizabeth L. Fite
Amy M. Flick
Hon. John E. Girardeau
Mindy Goldstein
Hon. Reuben M. Green
Hon. Timothy G. Hagan
Gregory R. Hanthorn
Michelle M. Henkel
Joseph A. Homans
Prof. James B. Hughes Jr.
Aaron R. Kirk
Deborah G. Krotenberg
David N. Krugler
Paige F. Laine
Emily Liu
Hon. Dax E. Lopez
T. David Lyles
Jennifer W. Mathews
Kevin A. Maxim
Hon. Christopher J. McFadden
Ruth L. R. McMullin
Justice David E. Nahmias
Robert E. Norman
Prof. Sue Payne
Hon. Herbert E. Phipps
Jonathan B. Pierce
Prof. Polly J. Price
Hon. William M. Ray
Richelle Reid
Dean Gregory L. Riggs
Jennifer M. Romig
Ethan Rosenzweig
John C. Sammon
Dean Robert A. Schapiro
Prof. Sarah M. Shalf
Thomas Sneed
Hon. Wesley B. Tailor
Prof. Johan D. Van der Vyver
Randee Waldman
James M. Walters
Kirsten Widner
Laura E. Yearout

Georgia State University

Patricia G. Abbott
Natalie Ashman
Prof. Lisa R. Bliss
Prof. Cass Brewer
Jacqueline F. Bunn
Margaret Butler
Ann M. Byrd
Prof. Sylvia B. Caley
Kendall W. Carter
Rory S. Chumley
Lindsey G. Churchill
Constancia E. Davis
Isaiah D. Delmar
Lawrence Dietrich
Hassan H. Elkhalil
Prof. Jessica D. Gabel
David H. Glass
Dan R. Gresham
Thomas E. Griner
Prof. Nicole G. Iannarone
Hon. Phillip Jackson
Kendall L. Kerew
Nathan W. Kotas
John W. Kraus
Hon. Shawn E. LaGrua
Thomas E. Lavender III
Kelly A. C. McMichael
Brett A. Miller
Ellwood F. Oakley
Charles C. Olson
Bharath Parthasarathy
Patricia L. Pearlberg
Lara P. Percifield
Tashwanda C. Pinchback
Michael N. Rubin
Martin A. Shelton
Deana M. Spencer
Margaret E. Strickler
Prof. Emily F. Suski
Michael J. Tempel
S. James Tuggle
Kathleen A. Wasch
Robert G. Wellon
Jocelyn R. Whitfield
Roderick B. Wilkerson
Delores A. Young

Mercer University

Bryan O. Babcock
John H. Baker
James W. P. Barnes
C. Joyce Baumgarner
Rebekah S. Betsill
Stephanie D. Burton
Valerie E. Cochran
Lisa R. Coody
Cory P. DeBord
James M. Donley
James E. Elliott Jr.
Terry T. Everett
Deron R. Hicks
Stephen J. Hodges
April R. Holloway
Michael E. Hooper
Michael G. Horner
Paula E. Kapiloff
John F. Kennedy
Tangela S. King
Kevin Kwashnak
Donald L. Lamberth
Pamela N. Lee
John R. B. Long
Prof. Patrick E. Longan
Ronald A. Lowry
L. Scott Mayfield
Amanda M. Morris
Prof. Mary Helen Moses
Steven A. Moulds
Hon. Samuel D. Ozburn
Kevin C. Patrick
W. Warren Plowden Jr.
Sarah E. Smith
Darrell L. Sutton
A. Robert Tawse Jr.
Mary Beth Tolle
Thomas G. Traylor III
Richard A. Waller Jr.
Randolph E. Wynn

Savannah Law School

Frederick V. Bauerlein
Charles E. Dorr
Avarita L. Hanson
William H. McAbee II
William H. Pinson Jr.
Amanda R. Roberts
James B. Smith
Katie A. Smith
Hon. Tammy M. Stokes
Wayne D. Toth
Cheryl L. Weaver

University of Georgia

Teresa T. Aitkens
William D. Barwick
David B. Bell
Jessica I. Benjamin
Hon. Stephen E. Boswell
Carolina D. Bryant
Dean C. Bucci
Jerry W. Cain Jr.
Albert Caproni III
James E. Carlson
James W. Cobb
Walter N. Cohen
Hon. David P. Darden
C. Wilson DuBose
Hon. William S. Duffey Jr.
Pamela L. Hendrix
Emily M. Hetherington
T. Tucker Hobgood
Kenneth B. Hodges III
Eric T. Johnson
Charles A. Jones Jr.
Raegan M. King
David A. Kleber
John K. Larkins Jr.
Morgan R. Luddeke
Alexander S. Lurey
Tiffany M. Mallory
Christopher A. McGraw
John A. Nix
Benjamin A. Pearlman
Granville L. Powers
James A. Reed
B. Shawn Rhodes
Tracy Rhodes
Sara D. Sibley
Mary Jane Stewart
Sharon D. Stokes
Donald C. Suessmith Jr.
Ryan J. Swingle
Hon. Edward J. Tarver
Henry C. Tharpe Jr.
Thomas L. Walker
Amelia M. Willis
C. Knox Withers

volunteer judges, attorneys and law professors who serve as group leaders; and the law school deans, professors and administrators who schedule and plan the program logistics. Thanks also to the staff of the Chief Justice's Commission on Professionalism for their efforts: Avarita L. Hanson, executive director; Terie Latala, assistant director; and Nneka Harris-Daniel, administrative assistant.

In closing, I would like to share with you a letter we received from Judge Samuel D. Ozburn, Superior Court, Alcovy Judicial Circuit, Covington:

Dear Ms. Hanson,

Last week I had the honor of participating in the professionalism orientation for incoming law students at my alma mater, Mercer University School of Law. I want to thank you and commend you and the Chief Justice's Commission on Professionalism for working with the State Bar to make these programs possible. There is an ever-growing need to emphasize the importance of professionalism in this noble profession and I just wanted to thank you. God bless.

Sammy Ozburn

Professionalism is really about lawyers living their career dreams, as shaped by the American Dream of liberty and justice for all. It is also about helping—through the laws of this nation—to make others' dreams a reality, particularly clients. Professionalism is competency, civility and ensuring access to justice and service. Ultimately, what counts is not what we do for a living but what we do for the living.

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

Law School	# of Students	# of Group Leaders	Keynote Speaker
Atlanta's John Marshall	193	32	Hon. Robert D. Leonard II, Judge, Superior Court, Cobb County
Emory	340	64	Hon. Herbert E. Phipps, Chief Judge, Court of Appeals of Georgia
Georgia State	204	45	Hon. Shawn E. LaGrua, Judge, Fulton County Superior Court
Mercer	187	39	Darrell L. Sutton, YLD President, Sutton Law Group
Savannah	49	10	Hon. Tammy M. Stokes, Chief Judge, Chatham County Recorders Court
University of Georgia	201	43	Hon. William S. Duffey Jr., Judge, U.S. District Court, Northern District of Georgia

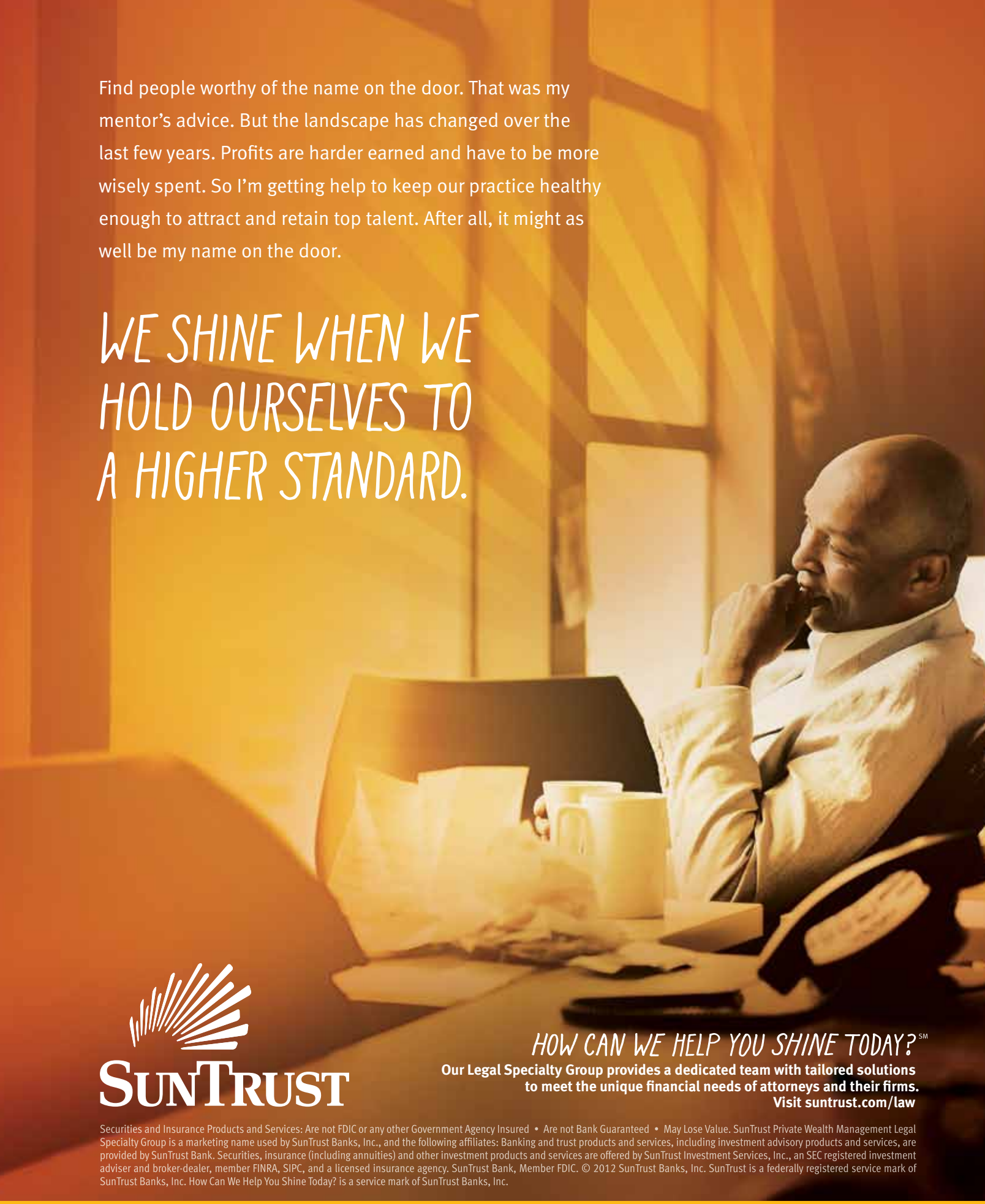
Justice Robert Benham Awards for Community Service

Nominations are now being accepted for the 15th annual Justice Robert Benham Awards for Community Service. Awards will be presented at a special ceremony on Feb. 25, 2014, at the Bar Center.

Judges and lawyers meet the criteria for these awards if they have combined a professional career with outstanding service and dedication to their communities through voluntary participation in community organizations, government-sponsored activities or humanitarian work outside of their professional practice. Contributions may be made in any field, including but not limited to: social service, education, faith-based efforts, sports, youth and mentoring, recreation, the arts or politics.

Eligibility: Nominees must: 1) be a member in good standing of the State Bar of Georgia; 2) have a record of outstanding community service and continuous service over a period of time to one or more cause, organization or activity; 3) not be a member of the Selection Committee, staff of the State Bar of Georgia or Chief Justice's Commission on Professionalism; and 4) not be in a judicial or political race for 2013 and 2014.

Please go to www.gabar.org for a nomination form.



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

A. Dale Albritton
Macon, Ga.
Mercer University Walter F. George School of Law (1959)
Admitted 1960
Died June 2013

R. Lee Aston
Elberton, Ga.
Woodrow Wilson College of Law (1984)
Admitted 1987
Died September 2013

Upshaw C. Bentley Jr.
Athens, Ga.
University of Georgia School of Law (1949)
Admitted 1949
Died August 2013

R. Lamar Brannon
Decatur, Ga.
Emory University School of Law (1965)
Admitted 1965
Died August 2013

Otis A. Brumby Jr.
Marietta, Ga.
University of Georgia School of Law (1965)
Admitted 1964
Died September 2013

Reuel B. Buttram
Atlanta, Ga.
Woodrow Wilson College of Law (1948)
Admitted 1948
Died August 2013

Daniel P. Camp
Carrollton, Ga.
Mercer University Walter F. George School of Law (1970)
Admitted 1970
Died July 2013

Edward E. Carriere Jr.
Decatur, Ga.
Loyola University New Orleans College of Law (1967)
Admitted 1971
Died June 2013

Larry Cohran
McDonough, Ga.
Woodrow Wilson College of Law (1958)
Admitted 1963
Died May 2013

Marlene R. Duwell-Capouya
Lawrenceville, Ga.
University of Georgia School of Law (1993)
Admitted 1993
Died July 2013

Jerry B. Dye
Augusta, Ga.
Mercer University Walter F. George School of Law (1962)
Admitted 1961
Died August 2013

Gary F. Eubanks
Marietta, Ga.
University of Georgia School of Law (1971)
Admitted 1971
Died August 2013

Henry Allen Flanders Jr.
Millen, Ga.
Woodrow Wilson College of Law (1951)
Admitted 1951
Died September 2013

William P. Gaffney
Marietta, Ga.
University of Wisconsin Law School (1968)
Admitted 1972
Died August 2013

William D. Harris
Greensboro, N.C.
Atlanta's John Marshall Law School (1974)
Admitted 1975
Died March 2013

Herbert E. Heitman
Conyers, Ga.
Glendale University College of Law (1977)
Admitted 1979
Died July 2013

Maureen Katherine Keating
Dunkirk, Md.
Thomas M. Cooley Law School (1990)
Admitted 1993
Died July 2013

H. W. Lott
Lenox, Ga.
Mercer University Walter F. George School of Law (1951)
Admitted 1951
Died August 2013

Sarah L. Manning
Lexington, Ky.
Samfod University Cumberland School of Law (1983)
Admitted 1983
Died October 2012

John O. McCoy
Atlanta, Ga.
Duke University School of Law (1948)
Admitted 1950
Died July 2013

Glover McGhee
Darien, Ga.
Emory University School of Law (1949)
Admitted 1949
Died July 2013

Eugene A. Medori Jr.
Atlanta, Ga.
Emory University School of Law (1967)
Admitted 1967
Died August 2013

Harry Mixon
Ocilla, Ga.
University of Georgia School of Law (1959)
Admitted 1964
Died July 2013

Charles C. Pritchard
Atlanta, Ga.
Emory University School of Law (1953)
Admitted 1953
Died July 2013

Barbara Doster Pruitt
Columbus, Ga.
Mercer University Walter F. George School of Law (1986)
Admitted 1986
Died July 2013

James Scott Sibold
Dunwoody, Ga.
University of Georgia School of Law (1982)
Admitted 1982
Died July 2013

John E. Simpson
Savannah, Ga.
Yale University Law School (1947)
Admitted 1948
Died July 2013

Gordon B. Smith
Savannah, Ga.
Samfod University Cumberland School of Law (1969)
Admitted 1970
Died August 2013

Cheryl Paulette Smith
Atlanta, Ga.
Duke University School of Law (1975)
Admitted 1975
Died September 2013

John W. Sognier
Savannah, Ga.
Catholic University of America Columbus School of Law
Admitted 1946
Died September 2013

John M. Yarborough
Annapolis, Md.
Vanderbilt University Law School (1982)
Admitted 1982
Died April 2013

Hon. Edward E. Carriere Jr. passed away at his home in June 2013 of complications from throat cancer. Born Dec. 7, 1941, in Brooklyn, N.Y., to Edward Etienne and Ursula Meyers Carriere of New Orleans, "Eddie" grew up in Dallas, Texas, graduated Jesuit High in 1960 and Loyola University of New Orleans College of Law in 1967. He served in the U.S. Army, 1st Lt., Military Police Corps, 1967-69. In 1998 Gov. Zell Miller appointed Carriere as judge of the State Court of DeKalb County where he served until his 2010 retirement.

Carriere began his legal career with HUD, then worked as an assistant district attorney in DeKalb County before settling into the private practice of law in Decatur, Ga. While in private practice, he served as an associate judge in DeKalb County Recorders Court for nine years and as a municipal judge for the City of Decatur for 24 years.

Carriere was a member of the State Bar of Louisiana and an active member of the State Bar of Georgia. He served on the Board of Governors for 20 years and on the Council of State Court Judges, serving as president of the Council in 2003 and 2004.

An avid storyteller, teacher, reader and sailor, Carriere enjoyed spending time on the water, entertaining a crowd, engaging in lively philosophical discussions and delivering corny puns. He savored a good book, an engaging conversation and time spent watching his grandchildren grow and mature. Among his many passions was his volunteer work with the State Bar of Georgia High School Mock Trial competition, where he served as an evaluator and judge at regional, state and national competitions, and teaching seminars with the Institute of Continuing Judicial Education.

October-November

OCT 10
ICLE
Trial of the Plaintiff's Employment Case
Atlanta, Ga.
See www.iclega.org for location
6 CLE

OCT 11
ICLE
Premises Liability
Atlanta, Ga.
See www.iclega.org for location
6 CLE

OCT 16
ICLE
VA Accreditation Seminar
Atlanta, Savannah & Tifton, Ga.
See www.iclega.org for location
6.5 CLE

OCT 16
ICLE
What Every Family Lawyer Needs to Know
Atlanta, Ga.
See www.iclega.org for location
6 CLE

OCT 17
ICLE
Deposing the Artful Dodger
Atlanta, Ga.
See www.iclega.org for location
6 CLE

OCT 17
ICLE
Beginning Lawyers (video replay)
Statewide Rebroadcast
See www.iclega.org for location
6 CLE

OCT 18
ICLE
Basic Fiduciary Practice
Macon, Ga.
See www.iclega.org for location
6 CLE

OCT 18
ICLE
Expert Testimony in Georgia
Atlanta, Ga.
See www.iclega.org for location
6 CLE

OCT 18
ICLE
9th Family Law Seminar
Augusta, Ga.
See www.iclega.org for location
6 CLE

OCT 24
ICLE
U.S. Supreme Court Update
Atlanta, Ga.
See www.iclega.org for location
6 CLE

OCT 25
ICLE
28th Technology Law Institute
Atlanta, Ga.
See www.iclega.org for location
6 CLE

OCT 25
ICLE
Securities Litigation
Atlanta, Ga.
See www.iclega.org for location
6 CLE

OCT 25
ICLE
Georgia Auto Insurance Claims Law
Atlanta, Ga.
See www.iclega.org for location
6 CLE

OCT 28
ICLE
IP Boot Camp
Atlanta, Ga.
See www.iclega.org for location
3 CLE

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

OCT 30-31 ICLE
32nd Business Law Institute
Atlanta, Ga.
See www.iclega.org for location
12 CLE

OCT 31 ICLE
Solo & Small Firm Fall Seminar
Atlanta, Ga.
See www.iclega.org for location
6 CLE

OCT 31 ICLE
Nuts & Bolts of Labor & Employment Law
Savannah, Ga.
See www.iclega.org for location
3 CLE

NOV 1 (Tent.) ICLE
LLCs
Atlanta, Ga.
See www.iclega.org for location
3 CLE

NOV 1 ICLE
E-Discovery
Atlanta, Ga.
See www.iclega.org for location
6 CLE

NOV 1 ICLE
Real Property Foreclosure (video replay)
Statewide Broadcast
See www.iclega.org for location
6 CLE

NOV 6 ICLE
Commercial Real Estate
Atlanta, Savannah & Tifton, Ga.
See www.iclega.org for location
6 CLE

NOV 7-9 ICLE
25th North American Entertainment, Sports & Intellectual Property Law Conference
Montego Bay, Jamaica
See www.iclega.org for location
12 CLE

NOV 7-9 ICLE
29th Medical Malpractice Liability
Amelia Island, Fla.
See www.iclega.org for location
12 CLE

NOV 7 ICLE
Buying & Selling Privately Held Businesses
Atlanta, Ga.
See www.iclega.org for locations
6 CLE

NOV 7 ICLE
RICO
Atlanta, Ga.
See www.iclega.org for location
6 CLE

NOV 7 ICLE
Real Property Foreclosure (video replay)
Statewide Rebroadcast
See www.iclega.org for location
6 CLE

NOV 8 ICLE
Advanced Health Care Law
Atlanta, Ga.
See www.iclega.org for locations
6 CLE

NOV 8 ICLE
Advanced Adoption Law
Atlanta, Ga.
See www.iclega.org for location
6 CLE

October-November

NOV 8
ICLE
Advanced Topics in Guardianships
Atlanta, Ga.
See www.iclega.org for location
6 CLE

NOV 8
ICLE
Trial Advocacy
Statewide Broadcast
See www.iclega.org for location
6 CLE

NOV 9-17
ICLE
Advanced Urgent Legal Matters at Sea
Caribbean Cruise
See www.iclega.org for location
12.5 CLE

NOV 13
ICLE
10 Commandments of Cross Examination
Atlanta, Ga.
See www.iclega.org for locations
6 CLE

NOV 14
ICLE
Litigation Under 42 USC 1983
Atlanta, Ga.
See www.iclega.org for location
6 CLE

NOV 14
ICLE
Trial Advocacy (video replay)
Statewide Rebroadcast
See www.iclega.org for location
6 CLE

NOV 14
ICLE
Georgia's New Juvenile Code
Atlanta, Ga.
See www.iclega.org for location
6 CLE

NOV 15
ICLE
Keep It Short & Simple
Atlanta, Ga.
See www.iclega.org for location
6 CLE

NOV 15
ICLE
Recent Developments in Georgia Law
Statewide Broadcast
See www.iclega.org for location
6 CLE

NOV 20
ICLE
How to Maximize the Revenues & Sale Value of Your Practice
Atlanta, Ga.
See www.iclega.org for location
3 CLE

NOV 21
ICLE
Secrets to Staying Successful & Ethical in the New Economy
Atlanta, Ga.
See www.iclega.org for location
6 CLE

NOV 21
ICLE
Recent Developments in Georgia Law
Statewide Rebroadcast
See www.iclega.org for location
6 CLE

NOV 22
ICLE
Nuts & Bolts of Family Law
Statewide Broadcast
See www.iclega.org for locations
6 CLE

NOV 22
ICLE
Enhancing Your People Skills As An Attorney
Atlanta, Savannah & Tifton, Ga.
See www.iclega.org for location
6 CLE

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

Supreme Court Approves Amendment to Bar Rule 1-208

The Court having considered Motion 2013-2 to Amend the Rules and Regulations for the Organization and Government of the State Bar of Georgia, it is ordered that the State Bar's motion to amend Rule 1-208—Resignation from Membership is hereby approved, effective September 4, 2013 to read as follows:

Rule 1-208. Resignation from Membership

(a) **Resignation while in good standing.** A member of the State Bar in good standing may, under oath, petition the Executive Committee for leave to resign from the State Bar. Upon acceptance of such petition by the Executive Committee by majority vote, such person shall not practice law in this state nor be entitled to any privileges and benefits accorded to active members of the State Bar in good standing unless such person complies with part (f) or part (g) of this Rule.

(b) **Resignation while delinquent or suspended for failure to pay dues or for failure to comply with continuing legal education requirements.** Resignation while delinquent or suspended for failure to pay dues or for failure to comply with continuing legal education requirements: A member of the State Bar who is delinquent or suspended (but not terminated) for failure to pay dues or failure to comply with continuing legal education requirements may, under oath, petition the Executive Committee for leave to resign from the State Bar. Upon acceptance of such petition by the Executive Committee by majority vote, such person shall not practice law in this state nor be entitled to any privileges and benefits accorded to active members of the State Bar unless such person complies with part (f) or part (g) of this Rule.

(c) **A petition for leave to resign from membership with the State Bar shall comply with the following:**

(1) the petition shall be filed under oath with the Executive Director of the State Bar and shall contain a statement that there are no disciplinary actions or criminal proceedings pending against the petitioner; and
(2) the petition shall contain a statement as to whether the petition is being filed under part (a) or part (b) of this Rule. If the petition is being filed under part (b), the petition shall state the term of the delinquency and/or suspension for failure to pay dues or to comply with continuing legal education requirements.

(d) No petition for leave to resign shall be accepted if there are disciplinary proceedings or criminal charges pending against the member, or if the member is not in good standing for failure to pay child support obligations under Bar Rule 1-209.

(e) A petition filed under this Rule shall constitute a waiver of the confidentiality provisions of Rule 4-221(d) as to any pending disciplinary proceedings.

(f) **Readmission within five years after resignation.** For a period of five years after the effective date of a voluntary resignation, the member of the State Bar who has resigned pursuant to this Rule may apply for readmission to the State Bar upon completion of the following terms and conditions:

(1) payment in full of any delinquent dues, late fees and penalties owing at the time the petition for leave to resign was accepted, and payment in full of

the current dues for the year in which readmission is sought;
(2) payment of a readmission fee to the State Bar equal to the amount the member seeking readmission would have paid during the period of resignation if he or she had instead elected inactive status;
(3) for resignations while suspended for failure to comply with continuing legal education requirements under part (b) of this Rule, submission of a certificate from the Commission on Continuing Lawyer Competency declaring that the suspended member is current on all requirements for continuing legal education; and
(4) submission to the membership department of the State Bar of a determination of fitness from the Board to Determine Fitness of Bar Applicants. Provided the former member seeking readmission has applied to the Board to Determine Fitness of Bar Applicants before the expiration of the five year period after his or her resignation, the former member shall be readmitted upon submitting a determination of fitness even if the five year period has expired.

(g) **Readmission after five years.** After the expiration of five years from the effective date of a voluntary resignation, the former member must comply with the Rules governing admission to the practice of law in Georgia as adopted by the Supreme Court of Georgia.

Proposed Amendments to Uniform Superior Court Rules 4, 5, 6, 15 and 24

At its business meeting on July 24, 2013, the Council of Superior Court Judges approved for first reading proposed amendments to Uniform Superior Court Rules 4, 5, 6, 15 and 24.

A copy of the proposed amendments may be found at the Council's websites at www.georgiasuperiorcourts.org and www.cscj.org.

Should you have any comments on the proposed changes, please submit them in writing to the Council of Superior Court Judges at 18 Capitol Square, Suite 104, Atlanta, Georgia 30334, or fax them to 404-651-8626. To be considered, comments must be received by Monday, Jan. 6, 2014.

Postage Statement

United States Postal Service
Statement of Ownership, Management, and Circulation

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

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

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

9. Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor (Do not leave blank)
Publisher (Name and complete mailing address)
State Bar of Georgia
104 Marietta St. NW, Suite 100, Atlanta, Fulton Co., GA 30303-2743
Editor (Name and complete mailing address)
Bridgette E. Eckerson
One Premier Plaza, Suite 900 5605 Glenridge Drive
Atlanta, GA 30342
Managing Editor (Name and complete mailing address)
Sarah Coole, Director of Communications
State Bar of Georgia
104 Marietta St. NW, Suite 100, Atlanta, Fulton Co., GA 30303-2743

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

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

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

Full Name	Complete Mailing Address

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

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

13. Publication Title: Georgia Bar Journal	14. Issue Date for Circulation Data Below: August 2013	
15. Extent and Nature of Circulation	Average No. Copies Each Issue During Preceding 12 Months	No. Copies of Single Issue Published Nearest to Filing Date
a. Total Number of Copies (Net press run)	28,071	32,232
b. Paid and/or Requested Circulation (1) Paid/Requested Outside-County Mail Subscriptions Stated on Form 3541. (Include advertiser's proof and exchange copies)	27,104	30,921
(2) Paid In-County Subscriptions Stated on Form 3541 (Include advertiser's proof and exchange copies)	0	0
(3) Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Non-USPS Paid Distribution	0	0
(4) Other Classes Mailed Through the USPS		
c. Total Paid and/or Requested Circulation (Sum of 15b. (1), (2),(3) and (4))	27,104	30,921
d. Free Distribution by Mail (Samples, complimentary, and other free) (1) Outside-County as Stated on Form 3541	0	0
(2) In-County as Stated on Form 3541	0	0
(3) Other Classes Mailed Through the USPS	190	207
e. Free Distribution Outside the Mail (Carriers or other means)	97	111
f. Total Free Distribution (Sum of 15d. and 15e.)	287	318
g. Total Distribution (Sum of 15c. and 15f)	27,391	31,239
h. Copies not Distributed	156	119
i. Total (Sum of 15g. and h.)	27,547	31,358
j. Percent Paid and/or Requested Circulation (15c. divided by 15g. times 100)	98.4	99.0

16. Publication of Statement of Ownership
☑ Publication required. Will be printed in the October 2013 issue of this publication. ☐ Publication not required.

17. Signature and Title of Editor, Publisher, Business Manager, or Owner: Sarah E. Coole, Director of Communications — Date: 9/30/13

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

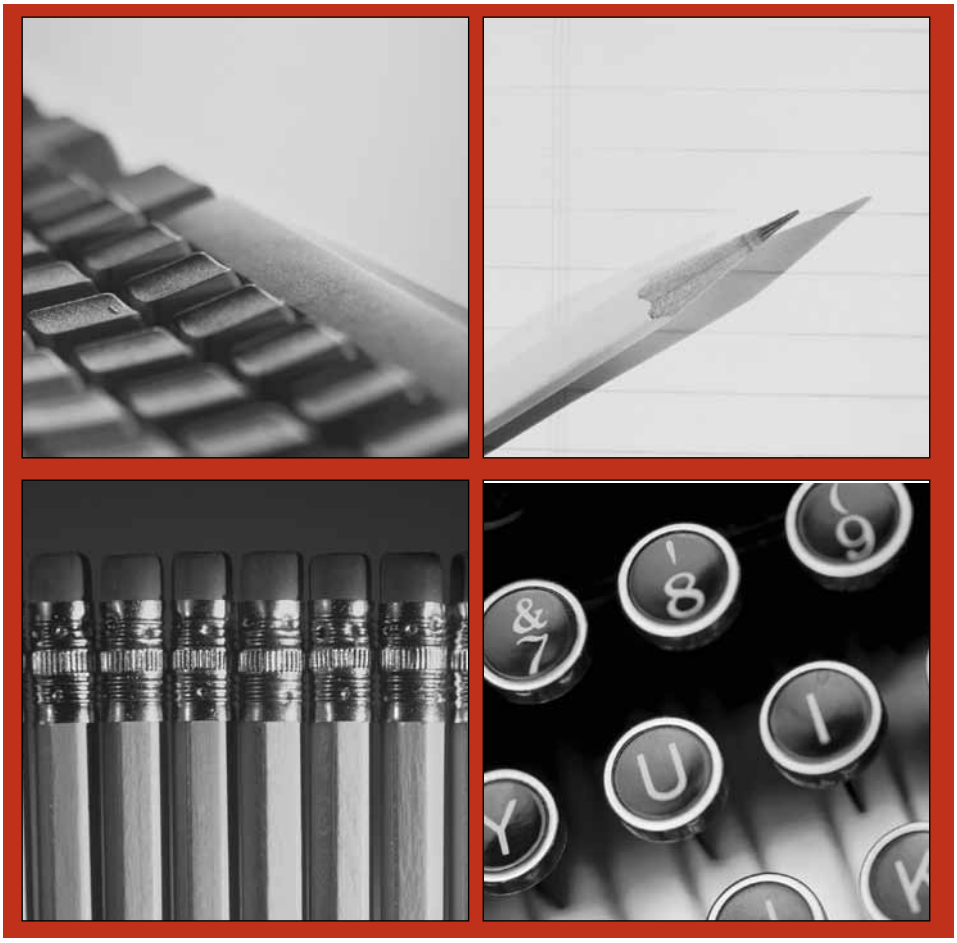
Instructions to Publishers

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

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

PS Form 3526, October 1999 (Reverse)

GET PUBLISHED



EARN CLE CREDIT

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

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

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

Property/Rentals/Office Space

SANDY SPRINGS COMMERCE BUILDING, 333 Sandy Springs Cir. NE, Atlanta, GA 30328,. Contact Ron Winston—(w) 404-256-3871; (email) rnwlaw@gmail.com. Full service, high-quality tenants, great location, well-maintained. (1) Office suites available (336 s.f. to 2,000 s.f.); and (2) Law office space sharing in law office in building used by two attorneys.

Sandy Springs Law Building for Sale. Beautifully furnished 6579 square foot law building for sale including: two beautiful and spacious conference rooms; law library; two private entrances and reception areas; abundant free parking; two file/work rooms; storage room; break room adjacent to kitchen; security system. This brick law building overlooks a pond and is in a great location directly across the street from the North Springs MARTA Station; easy access to I-285 and GA 400; and close to Perimeter Mall, hotels, restaurants, hospitals, etc. Call 770-396-3200 x24 for more information.

Office closing. Ga. Digest (updated); Ga. Jurisprudence (not updated); phone system with 10 phones; misc. furnishings; original art. Contact Laurel @ 404-695-1421.

Sandy Springs Executive Office, 5180 Roswell Rd. NW, Atlanta, Ga. 30342. One mile inside I-285. Second floor corner office, over 300 square feet. Elevator and handicap access. Share space with four attorneys. Conference room. Kitchen area. Free unlimited parking. Cost negotiable. Call Don—404-402-7419.

Prime Buckhead Peachtree Offices for Rent—Brand new, award-winning, high tech Class A office on glass in new Peachtree Tower. Client wow factor Peachtree views. Concierge service, valet parking, three restaurants, across from Phipps Plaza. Support staff. Share with other former big firm lawyers. Referral work opportunities. Contact: rlmoss@mossgilmorelaw.com.

Offices available, Ponce de Leon Ave, rent from $700-$1,200. Conference room, law library, central receptionist, central scanner/printer/copier. Building and street parking available. On a major thoroughfare, easy to find, high visibility. Near DeKalb and Fulton Courthouses. DSL, all-inclusive utilities, and insurance. Call Terp or Brandee, 404-872-7086.

Practice Assistance

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

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

Forensic Accounting & Litigation Support. CPA since 1982. Analysis of financial information for commercial insurance claims, owner disputes, business litigation, fraud examinations, bankruptcy and nonprofits. Greg DeFoor, CPA, CFE—Cobb County—678-644-5983—gdefoor@defoorservices.com.

Security Expert Witness—Premises Liability/Negligent Security Expert. Plaintiff and Defense. Former Secret Service agent with over 40 years experience covering apartment complexes, condos, restaurants, bars, shopping centers, parking lots/garages, buildings, etc. Howard B. Wood, 850-906-0516; www.securcorpinc.com.

Forensic Psychiatrist Available—Psychiatrist, certified in both General and Forensic Psychiatry, with extensive experience in civil and criminal trial work recently relocated to Atlanta now available to review records and consult with legal professionals. Harold C. Morgan, MD dochmorgan@gmail.com, telephone 404-885-1236, cell 803-238-7040.

Attorney/ Registered Surveyor (Multi-State)—Specializing in land title and boundary problems. Experience includes multi-state & federal courts—expert, co-counsel, pro hac vice. CLE instructor, author, over 60 years experience in public & private employment. Available for short term or extended issues. Contact: W.G. Robillard, Esq., RLS, waltrobillard@gmail.com, Telephone 404-634-4993.

Dear Judges and Attorneys, Are you using a Korean interpreter in any of your cases right now? If so, that person is *not* a licensed court interpreter. Save yourself time, money and trouble by using the only Licensed Korean Court interpreter in GA today (as of October 2013). Call me, Jason Lee, at 770-827-8821.

Position Wanted

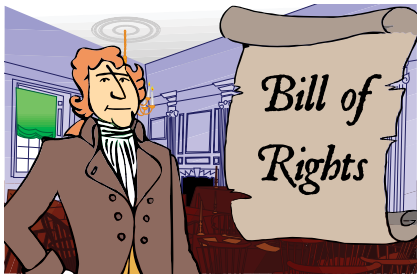
Personal Injury Attorney—Well-established, successful Atlanta plaintiff's firm seeking personal injury attorney. Excellent financial opportunity. Collegial, professional environment. Great support. Send resume to: GBJ at spshns@me.com.

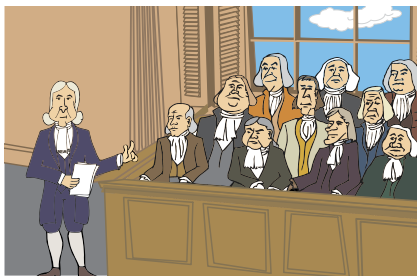
General

Afraid to admit your P.I. practice doesn't bring the joy, freedom or money you'd hoped? Feel trapped and need clients without a mega-firm budget? Another lawyer transforms your law firm—you'll love it or remotely run it. FREE Ebook "7 Painless Practice Changes. . ." PLUS 20 minutes Coaching before Halloween; www.LawFirmRescue.com 770-333-3301.

Advertisers Index

Trial By Jury: What's the Big Deal?



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

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

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

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

State Bar of Georgia

WestlawNext®

"The WestlawNext search engine makes the difference."

"WestlawNext® is the best investment you can make in your office." Just ask Tom Carpenter, who manages the Little Rock City Attorney's Office. He describes WestlawNext as "a tool that helps my lawyers be more in-depth and productive in their research." He loves the benefits of WestSearch®, the scope of materials readily available, and the ability to quickly come up with a conclusion to a legal issue. "WestlawNext is my default provision on my operating budget," Tom says. "This is what I've got to have; anything else comes after that."

Hear what Tom and others are saying at **WestlawNext.com** or call **1-800-328-0109** for a demonstration.

The WestlawNext Difference:

- **Build the strongest argument** by leveraging proprietary research tools, including the West Key Number System® and KeyCite®; exclusive analytical content; and the largest collection of litigation materials and forms.
- **Deliver the best answers faster** with WestSearch, the world's most advanced legal search engine. Retrieve relevant results even when the phrasing differs from your query.
- **Save time and money** by sharing research folders with colleagues and clients.
- **Be responsive anytime, anywhere** with the award-winning iPad® app, Android™ app, and mobile solutions that enable efficient research when you're away from the office.

THOMSON REUTERS™