

Georgia Bar Journal

February 2014 ■ Volume 19 ■ Number 5



A Special Thank You to
Georgia's Lawyer-Legislators



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

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



PROASSURANCE
Treated Fairly

Professional Liability Coverage
for Georgia Lawyers & Firms



ABA TECHSHOW[®] 2014

CONFERENCE AND EXPO • MARCH 27-29, 2014

PRESENTED BY THE:

**ABA LAW
PRACTICE
DIVISION**
The Business of Practicing Law

Conference: March 27-29, 2014 • EXPO: March 27-28, 2014 • Hilton Chicago • Chicago, IL

Bringing Lawyers & Technology Together

Discount for Bar Association Members

Get the best legal technology with a discount on registration to ABA TECHSHOW for the members of

State Bar of Georgia

Register for ABA TECHSHOW under the Event Promoter rate and
enter your Association's unique code EP1417

James I. Keane Award

50+
CLE
Sessions

#ABATECHSHOW

100+
Technology
Vendors

Vendor
Track

Expert Faculty

Register now at www.techshow.com
@ABATECHSHOW #ABATECHSHOW

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. Copyright State Bar of Georgia 2014. 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.

Editorial Board

Editor-in-Chief

Bridgette E. Eckerson

Members

Julia Anderson	Christina Virginia Hendrix
Robert Henry Beer	Michelle J. Hirsch
Donald P. Boyle Jr.	Michael Eric Hooper
John Clay Bush	Hollie G. Manheimer
Clayton Owen Carmack	Edward Alexander Marshall
James William Cobb	Addison Johnson Schreck
Timothy Jerome Colletti	Jack P. Smith III
Lynn Gavin	Pamela Y. White-Colbert

Editors Emeritus

Robert R. Stubbs, 10-12	William L. Bost Jr., 91-93
Donald P. Boyle Jr., 07-10	Charles R. Adams III, 89-91
Marcus D. Liner, 04-07	L. Dale Owens, 87-89
Rebecca Ann Hoelting, 02-04	Donna G. Barwick, 86-87
Marisa Anne Pagnattaro, 01-02	James C. Gaulden Jr., 85-86
D. Scott Murray, 00-01	Jerry B. Blackstock, 84-85
William Wall Sapp, 99-00	Steven M. Collins, 82-84
Theodore H. Davis Jr., 97-99	Walter M. Grant, 79-82
L. Brett Lockwood, 95-97	Stephen E. Raville, 77-79
Stephanie B. Manis, 93-95	

Officers of the State Bar of Georgia

Charles L. Ruffin	President
Patrise M. Perkins-Hooker	President-Elect
Robin Frazer Clark	Immediate Past President
Robert J. Kauffman	Treasurer
Rita A. Sheffey	Secretary
Darrell L. Sutton	YLD President
V. Sharon Edenfield	YLD President-Elect
Jon Pannell	YLD Past President

Communications Committee

Jay Cook	Co-Chair
Robert Ingram	Co-Chair

Communications Staff

Sarah I. Coole	Director
Jennifer R. Mason	Assistant Director
Derrick W. Stanley	Section Liaison
Stephanie J. Wilson	Administrative Assistant

The opinions expressed in the *Georgia Bar Journal* are those of the authors. The views expressed herein are not necessarily those of the State Bar of Georgia, its Board of Governors or its Executive Committee.

10



Georgia Bar Journal

February 2014 ■ Volume 19 ■ Number 5

GBJ Legal

10

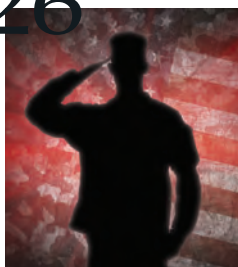
Georgia Law Needs Clarification: Does it Take Willful or Wanton Misconduct to Defeat a Contractual "Exculpatory" Clause, or Will Gross Negligence Suffice?

by Robert B. Gilbreath and C. Shane Keith



16

26



44



54



36

Whitfield County Courthouse at Dalton: The Grand Old Courthouses of Georgia
by Wilber W. Caldwell

Departments

4 From the President

8 From the YLD President

38 Bench & Bar

44 Office of the General Counsel

46 Lawyer Discipline

50 Law Practice Management

52 Section News

54 Member Benefits

56 Writing Matters

58 Professionalism Page

62 In Memoriam

66 CLE Calendar

71 Classified Resources

72 Advertisers Index

GBJ Features

16

2014 Midyear Meeting Features 50th Anniversary Celebration

by Linton Johnson

26

The Emory Law Volunteer Clinic for Veterans: Serving Those Who Have Served

by H. Lane Dennard Jr. and Rachel L. Erdman

34

Honoring Attorney William John Camp for Work with MLAP

by Norman E. Zoller

Cover Photo: State Bar President Charles L. Ruffin pictured with lawyer-legislators in the Georgia General Assembly

(Front row, left to right) Speaker of the House David Ralston; State Bar President Charles L. Ruffin. (Second row) Sen. Jesse Stone, Chairman, Judiciary Non-Civil; Rep. Rich Golick, Chairman, Judiciary Non-Civil; Rep. Wendell Willard, Chairman, Judiciary; Sen. John Crosby, Chairman, Banking and Financial Institutions; Rep. Christian Coomer. (Third row) Rep. LaDawn Jones; Rep. Regina Quick. (Fourth row) Rep. Mike Jacobs, Chairman, MARTOC; Rep. Mary Margaret Oliver; Rep. Dar'shun Kendrick; Rep. Ronnie Mabra. (Fifth row) Sen. Ronald Ramsey, Chairman, Urban Affairs; Rep. Pam Stephenson; Sen. Curt Thompson, Chairman, Special Judiciary; Rep. Dusty Hightower; Rep. Stacey Evans; Rep. Brian Strickland. (Sixth row) Rep. Alex Atwood; Clerk of the House of Representatives Bill Reilly; Rep. Tom Weldon, Chairman, Juvenile Justice; House Minority Leader Stacey Abrams; Rep. Andy Welch. (Seventh row) Sen. Charlie Bethel; Rep. Jay Powell, Chairman, Appropriations Subcommittee on Public Safety; Rep. Scott Holcomb; Rep. Chuck Efrstration. (Eighth row) Sen. Bill Cowser, Chairman, Higher Education; House Majority Leader Larry O'Neal; Rep. Barry Fleming; Rep. Trey Kelley. (Ninth row) Sen. William Ligon, Chairman, State and Local Governmental Operations; House Majority Whip Matt Ramsey; Sen. Josh McKoon, Chairman, Judiciary. Not pictured: Rep. Stephen Allison; Rep. Johnnie Caldwell; Sen. Jason Carter; Sen. Judson Hill, Chairman, Finance; Rep. Edward Lindsey; Rep. BJ Pak; Sen. Lindsey Tippins, Chairman, Education and Youth.



Photo by Zach Porter Photography

by Charles L. Ruffin

The Wonderful Life of Cliff Brashier

On the Friday before Christmas, we received the devastating news that Cliff Brashier, executive director of the State

Bar of Georgia for the past two decades, had lost his battle with cancer. Everyone associated with the State Bar immediately realized the tremendous loss we had just suffered. Cliff was not only a superb leader of this organization, but to many of us he was one of our closest friends.

After the holiday season, several hundred of Cliff's closest friends gathered at the Bar Center on Jan. 8, for a memorial service, titled "In Celebration of Cliff Brashier."

To begin the service, we were led by Stephanie Wilson of our Communications Department, accompanied by ICLE Associate Director Douglas Ashworth, in singing "Amazing Grace." At the end, we sang Cliff's home-state anthem, "Yellow Rose of Texas."

"For those of us in Bar leadership and on the Bar staff, Cliff had the unique ability to impart wise counsel without you knowing he was doing it—until you realized it later."

Between the songs, several of us did our best to express what Cliff had meant to us personally, to the operations of the State Bar, to the legal profession and to the justice system. Our words were, of course, punctuated by some tears and, because of the person Cliff was, much laughter. In this article, as a tribute to Cliff, I would like to share part of what my colleagues and I had to say.

"Encapsulating a life as big as Cliff's in a few moments is like stuffing the Lone Star State into Rhode Island. And

we remember Cliff was a proud Texan," said Jeff Davis, director of the Judicial Qualifications Commission. "Hebrews 13:7 tells us, 'Remember your leaders . . . Consider the outcome of their way of life and imitate their faith.' Cliff was a man of unwavering faith, faith not only in his God, but faith in his family, this organi-

zation, the State Bar, that he served so sacrificially. As the writer of Hebrews suggests, let us now take time to remember our leader Cliff, consider the outcome of his way of life and imitate it."

The phrase "leading from behind" has entered our political lexicon these days, and it is not meant as compliment when ascribed to a public office holder. But "leading from behind the scenes" is a wholly different matter, and that is what Cliff did with such expertise. So many Bar initiatives over the years were successful because of his vision, his direction and his work.

As one Bar president after another would come in full of vigor and big ideas and leave 12 months later fulfilled but exhausted and eager to hand the gavel over to the next person, Cliff was always there. While the Bar's budget was growing from \$3 million to \$10 million, while the Bar was growing from 24,000 members to 46,000, while the Bar staff was increasing from 47 employees to 88, while the Bar Center building was being purchased and then developed into the finest such facility in the nation, while our CLE programs expanded to meet the needs of a growing profession, Cliff was the constant presence, providing the strong, consistent leadership that has carried this organization to such great heights.

As Chief Justice Hugh Thompson of the Supreme Court of Georgia said, "Cliff was like the Bar's support beam. When you see a beautiful building, you never see the support beam. But Cliff was never seeking the glory or attention for himself. He wanted to uphold our profession to make it the best it could be."

For those of us in Bar leadership and on the Bar staff, Cliff had the unique ability to impart wise counsel without you knowing he was doing it—until you realized it later.

Yet he always made sure that others got the credit. He never wanted



Cliff Brashier, Executive Director, State Bar of Georgia, 1993-2013

the limelight and would go to great lengths to avoid it. For someone so vital to an organization of this size, Cliff was the most humble person you would ever meet.

That is why, not long after his portrait was placed in the executive office suite of the Bar Center, he had it taken down. (It has now been re-hung.)

That is why, at every Annual Meeting, he would barely acknowledge the thunderous applause that would always accompany the Board's unanimous vote to re-elect him as Executive Director—not because he wasn't appreciative of the recognition, but because he no doubt thought that the less he reacted, the sooner it would be over.

That is why this *summa cum laude* graduate of Midwestern University, who earned his J.D. degree from the University of Texas School of Law and his L.L.M. degree from the Emory University School of Law, was first honor graduate of the MBA program at the Emory University School of Business, this member of the Alpha Chi and Beta Gamma Sigma National Honorary Societies—if he ever mentioned his academic background at all—would simply refer to himself as a "P.E. major."

That is why he would have been horrified to know that our newly published history book on the legal profession in Georgia, which went to press before his

passing, was dedicated to him—but I am so glad now that we made that decision.

The respect that Cliff earned in his position of leadership was so high that, said 2003-04 Bar President Bill Barwick, “Like a number of people over the years that I have met who claimed to have been at Atlanta-Fulton County Stadium when Hank Aaron hit his 715th home run, I’ve met at least 750 people who say they were on the committee that helped select Cliff Brashier to be the executive director of the State Bar.”

Last July, shortly after I took office, I got a call from Cliff. He opened the conversation by saying, “Buck, I want you to know that you’re going to have a great year, and I am going to do all that I can to help you in any way that you need me.” Then, he shared with me the news that he had been diagnosed with a serious illness and the schedule of treatments and surgery that he would be facing in the months ahead.

That was the quintessential Cliff Brashier. Before talking about his own health, he wanted to talk about helping me during this Bar year. For Cliff, it was always about putting others first, emphasizing the Bar programs, the Bar staff and the Bar leadership before himself. You also need to know this: Cliff approved the Board of Governors’ agenda for our Midyear Meeting from his hospital room the morning of Dec. 20, the day he died.

John Sammon, who in 1993-94 was the first Bar president during Cliff’s service as executive director and actually was on the selection committee that hired Cliff, said of Cliff’s leadership and management skills, “If a Bar leader had an impetuous notion, and all of us did, Cliff was able to put us back on the right path without us ever really knowing that he had done so . . . Cliff was the best manager of people that I’ve ever been around. He was beloved by the people that worked for him. He was an excellent listener. He never had to

demand respect to receive respect. He had a unique way of motivating his co-workers. He was dedicated to his profession. Knowing him made me a better person. He made the Bar what it is today. He made the world a better place and managed to do all this without sacrificing his all-important family life.”

The memorial service was, as I mentioned, a time for tears and a time for laughter. We knew that while Cliff would have preferred no attention at all, he certainly would not have wanted a gathering in his memory to be a sad occasion. After all, did you ever not feel better after any conversation with Cliff? They nearly always concluded with one of his multitude of jokes, intended to take the edge off any heavy subject of a conversation.

My predecessor, 2012-13 Bar President Robin Frazer Clark, spoke of the “literally thousands” of emails she and Cliff had exchanged, recalling, “Cliff would usually set the tone of the email with the subject line. For example, you knew you were in trouble when the subject line read ‘Have an aspirin ready when you read this.’ Or, ‘Have a bourbon in hand when you read this.’ Another favorite subject line was ‘Not making this up,’ and after that came, ‘Cannot make this up.’ . . . But the best emails from Cliff had the subject line ‘To brighten your day,’ and these emails included some little story about friendship, leadership, the Golden Rule, kindness to one another or just love of your fellow man. And Cliff sent those to me on a regular basis just to brighten my day.”

During the Christmas season, I again watched one of my favorite movies, “It’s a Wonderful Life.” As you know, Jimmy Stewart stars as the long-suffering George Bailey, who time after time is required by life’s circumstances to put his own dreams on hold in order to help others, rescue the family business and preserve his hometown’s way of life. When facing his greatest

crisis, George is on a bridge on the outskirts of Bedford Falls, praying to God to show him the way to deal with his desperate situation. At that moment, another person jumps from the bridge into the icy waters below. Instinctively, George jumps in to rescue the man, who turns out to be an angel named Clarence.

After George tells Clarence he wishes he had never been born, the angel is able to show George what the world would have been like without him, all the lives that he touched in a positive way, and how much worse things would have been for the people and the town that he loved had he not been born.

It occurred to me the fictional story of George Bailey is analogous to the real life of Cliff Brashier. When you think of the positive impact that Cliff had on so many State Bar employees, Georgia lawyers and judges, members of the Board of Governors and Executive Committee, Bar officers, CLE participants, students who take the “Journey Through Justice” field trip here at the Bar Center, members of the middle school girls’ basketball team he coached at The Walker School, family members and friends, there is no question that Cliff Brashier, too, had a wonderful life and was a wonderful man.

As Bill Smith, who served as the Bar’s general counsel alongside Cliff for most of his tenure, said from the perspective of the Bar staff, “A lot of us have been here a long time. People don’t stay where they are not happy. This is a happy place to be. It’s happy because Cliff made it so. He had a leadership style that was honed by life experiences. I think his time as a tennis player served him well in that regard. I think his favorite book must have been *The Art of Lawn Tennis* by William Tilden, because he was always quoting from it: ‘Above all, never change a winning game. Always change a losing game.’ Somehow he had the ability to recognize the two and act accordingly.”

Cliff's wife Tammy, his daughters and other family members joined us for the service on Jan. 8, and we were honored to have his eldest daughter, Loren Gleason, speak about her father as a Bar leader and a family man. "He was devoted to the Bar, and you were like family to him," she said. "He was brilliant, and he was so accomplished, but he would be the last to tell you those things. He made it his goal for others to be happy, and he would often close a text message or a voicemail by saying, 'Have fun.' He taught me so much in life. He would always say that anything that is worth doing is worth doing well, that someone shouldn't have to ask for your help, but you should see that they need help and just start helping."

Everyone who knew Cliff Brashier received many valuable life lessons. In fact, in this time of grief, we are comforted in knowing that we have been left with a great gift—a guiding principle that we all picked up from having Cliff in our lives. We can use it whenever we need direction with a professional decision, an ethical dilemma or merely our daily efforts to serve others and further the cause of justice.

This gift is a simple question that we can ask ourselves. Only four words:

What would Cliff do? 

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

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

ON THE COVER: A Special Thank You to Georgia's Lawyer-Legislators

For a number of years, the State Bar of Georgia has enjoyed great success with our Bar-supported legislative initiatives earning approval in the General Assembly and being signed into law by the governor. Some of the major legislation we have supported includes the new evidence code approved in 2011, criminal justice reform package of 2012, an overhaul of the juvenile justice code in 2013 and, also last year, legislation making attorney malpractice claims unassignable.

Without a doubt, a contributing factor in this success has been the support of our fellow Georgia lawyers who serve as elected members of the state Senate and House of Representatives. We are most appreciative of these dedicated men and women and the personal and professional sacrifices they must make in order to run for office every two years and spend a major part of each year at the Capitol.

We are glad they are there, not only to serve the interests of their constituents from their home districts, but also to use their experience and expertise in the law to have a positive impact on the legislative process. The participation of these lawyer-legislators in shaping public policy helps ensure that the laws enacted are consistent with Georgia values and compliant with the Constitutions of our state and our nation.

On behalf of the Bar leadership, I want to take this opportunity to thank our lawyer-legislators for their extraordinary service, and I ask each of you to do the same when you can.

— State Bar President Charles L. Ruffin

House of Representatives

Rep. Stacey Abrams (D-Atlanta)
Rep. Stephen Allison (R-Blairsville)
Rep. Alex Atwood (R-Brunswick)
Rep. Johnnie Caldwell (R-Thomaston)
Rep. Christian Coomer (R-Cartersville)
Rep. Chuck Efstration (R-Dacula)
Rep. Stacey Evans (D-Smyrna)
Rep. Barry Fleming (R-Harlem)
Rep. Rich Golick (R-Smyrna)
Rep. Dusty Hightower (R-Carrollton)
Rep. Scott Holcomb (D-Atlanta)
Rep. Mike Jacobs (R-Brookhaven)
Rep. LaDawn Jones (D-Atlanta)
Rep. Trey Kelley (R-Cedartown)
Rep. Dar'shun Kendrick (D-Lithonia)
Rep. Edward Lindsey (R-Atlanta)
Rep. Ronnie Mabra (D-Fayetteville)
Rep. Larry O'Neal (R-Bonaire)
Rep. Mary Margaret Oliver (D-Decatur)
Rep. BJ Pak (R-Lilburn)
Rep. Jay Powell (R-Camilla)

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

Senate

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



by Darrell L. Sutton

YLD Leadership Academy:

The State Bar of Georgia's Gate of Opportunity

My undergraduate years were spent in Georgia's city of seven hills, Rome, where I attended Berry College.

Berry sits along the western side of a stretch of U.S. Highway 27 named for the college's founder, Martha Berry. And at the college's entrance stands a curved brick edifice known as the "Gate of Opportunity."

For me and the hundreds of thousands of students preceding and following, passing through that gate was indeed an opportunity because over those four years, we gained something that we otherwise would not have. Berry College was founded to provide an education to those children living in poverty in the rural areas around Rome at the turn of the 20th cen-

"It is because Berry allowed me to pass through that gate and into a world of possibilities that did not exist for me on the other side of it that I so often speak about opportunities and the necessity of seizing them."

tury. And for those of us who attended the college more recently, the school's work program, which ensures each Berry student a paid on-campus work position each semester, provided a means of affording a college education to those who may not have otherwise been able to do so. In other words, for more than 110 years, walking onto the world's largest (and according to at least one poll, the United States' eighth most beautiful) campus has meant a chance, an opening, an occasion to combine our natural talents with a world-class education that we may not have had—or at least would have had extreme difficulty obtaining—and, as a result, make something of ourselves.

It is because Berry allowed me to pass through that gate and into a world of possibilities that did not exist for me on the other side of it that I so often speak about opportunities and the necessity of seizing them. I therefore take particular pride in knowing that for Georgia's more than 10,000 young lawyers, opportunity does not exist only alongside the Martha Berry Highway. Instead, because of the YLD's

Leadership Academy, opportunity abounds in the Young Lawyers Division (YLD).

Created during Laurel Payne Landon's presidency, the YLD Leadership Academy has become the YLD's "Gate of Opportunity." The Leadership Academy has become every Georgia young lawyer's chance, opening, occasion to combine his or her natural talents with exposure to people and programs that they otherwise would not have encountered—or at least would have had extreme difficulty encountering—and, as a result, to become a leader in the YLD and beyond that they otherwise might not have been. Don't take my word for it, though; just look at the facts.


Under the leadership of Sharri Edenfield, Carl Varnedoe, John Jackson, Ivy Cadle, Adriana Capifali, Yari Lawson and Rachel Fields, the Leadership Academy has graduated Laurel Landon, Damon Elmore, Jon Pope, Elena Kaplan, Amy Howell, Michael Geoffroy, Stephanie Kirijan, Jon Pannell and me. Together we are 10 of the last 11 YLD presidents. That's right. More than 90 percent of the YLD presidents over the last decade are Leadership Academy alumni. And this trend will only continue as the YLD's president-elect, treasurer and secretary are all Leadership Academy alumni, as are the two candidates for YLD secretary.

In addition to these YLD presidents, the Leadership Academy has graduated Stephanie Burton, JaDawnya Butler, Matt Crowder, Tommy Duck, Elizabeth Fite, Whitney Mauk and Carl Varnedoe. These two groups combined are the 15 Leadership Academy alumni who have or are currently serving on the State Bar's Board of Governors.

The Leadership Academy's influence doesn't end at 104 Marietta Street. It extends to the departments of our state government, the Gold Dome and several city council chambers and school board offices. For example, Amy Howell, an alumna of the

first Leadership Academy class, is a past commissioner of Georgia's Department of Juvenile Justice and the current general counsel of the Georgia Department of Behavioral Health. In addition, Stacey Evans, an alumna of the second Leadership Academy class, is a two-term member of the Georgia General Assembly representing a district that includes Smyrna. And Evans is not the only alumni who has parlayed Leadership Academy experience into elected office. In November, alumnus Graham McDonald became the newest member of the Sandy Springs City Council.

Leadership Academy alumni also include Mawuli Davis, a member of the inaugural Leadership Academy class and one of Atlanta's, if not Georgia's, most recognizable and influential lawyers who has represented clients in some of the most high profile cases of the last five years. Leadership Academy alumni also have been included on three of the last five *Fulton County Daily Report* "On the Rise: 10 to Watch" lists, and in 2012, Stephanie Kirijan became the first Leadership Academy alumna to be named to *Georgia Trend's* 40 Under 40 list.

In January, the eighth Leadership Academy class began its journey. Most, if not all, of these 55 young lawyers did not have an opportunity, as I did, to actually walk through Berry College's Gate of Opportunity. But if history is any indicator, by the time they graduate from the Leadership Academy in June at the State Bar's Annual Meeting, they will undoubtedly have realized the proverbial "Gate of Opportunity" through which they have passed and as a result, the chance, opening, occasion to be a leader in the Bar and beyond. 

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.

The State Bar is now on Facebook.
www.facebook.com/statebarofgeorgia

Come join us!

Georgia Law Needs Clarification:

Does it Take Willful or Wanton Misconduct to Defeat a Contractual “Exculpatory” Clause, or Will Gross Negligence Suffice?

by Robert B. Gilbreath and C. Shane Keith

Dating back to at least 1915, the law in Georgia has been that to avoid a liability-limiting or exculpatory clause¹ in a contract governing the parties’ relationship, a plaintiff must establish that the defendant engaged in willful or wanton misconduct.² Starting in the late 1970s, however, the Court of Appeals—unintentionally it seems—planted the seeds for a gross-negligence standard. Now, there exists a parallel line of cases, one indicating that willful or wanton misconduct must be established, and the other suggesting that gross negligence is sufficient.

The two standards are very different. Willful or wanton conduct reflects a willful intent to inflict the injury or conduct that was so reckless or charged with indifference to the consequences, as to justify the jury in finding a wantonness equivalent in spirit to actual intent.³ Gross negligence means the failure to exer-



cise that degree of care that every man of common sense, however inattentive he may be, exercises under the same or similar circumstances, or lack of the diligence that even careless men are accustomed to exercise.⁴ A party acts with gross negligence when it fails to exercise even a slight degree of care.⁵ Compared to many other jurisdictions, Georgia's threshold for establishing gross negligence is very low.⁶

This article will show that, at least in commercial cases, the weight of authority requires courts to continue applying the willful or wanton standard, not the gross negligence standard.

Formerly, it was clear that willful or wanton was the controlling standard.

Before 1979, Georgia law was clear that to avoid a liability-limiting clause in a contract governing the parties' relationship, the plaintiff was required to establish that the defendant's conduct rose to the level of willful or wanton.⁷ Thus, for example, in a 1975 case involving meat that spoiled after a rental truck's refrigeration unit failed, the Court of Appeals of Georgia held that the rental company's contractual limitation of liability was enforceable because the plaintiff had not alleged any willful or wanton misconduct.⁸ That same year, the Court of Appeals affirmed summary judgment for the defendant in a case involving a vehicle lease contract containing a liability-limiting clause because the plaintiff did not "claim that its damages were caused by acts of wanton and wilful misconduct by defendant."⁹

The gross negligence standard makes its first appearance in telephone directory cases.

The drift toward a gross negligence standard began in a 1979 case involving the phone compa-

ny's failure to publish a customer's yellow pages advertisement, *Tucker v. Southern Bell Telephone & Telegraph Company*.¹⁰ In *Tucker*, the Court of Appeals of Georgia explained that for the customer to avoid the limitation of liability in the parties' contract, the plaintiff was required to show willful or wanton conduct.¹¹ Then, however, the Court launched into a discussion of the standards for proving gross negligence.¹² The Court seems to have mistakenly conflated willful or wanton misconduct with gross negligence—two standards that Georgia courts have repeatedly held are not synonymous.¹³

The Court in *Tucker* cited a 1977 decision, *Southern Bell Telephone & Telegraph Company v. C & S Realty Company*,¹⁴ for its discussion of the types of evidence needed to establish gross negligence, but *C & S Realty* discussed and applied the gross negligence standard only because the parties' contract explicitly stated that the limitation of liability would not apply if the phone company acted with gross negligence.¹⁵ *C & S Realty* did not hold that even without such an express qualifier, gross negligence is sufficient to defeat a limitation of liability.

After *Tucker*, the Court of Appeals of Georgia in *Southern Bell Telephone & Telegraph Company v. Coastal Transmission Service, Inc.*, overlooked that the contract in *C & S Realty* established a gross neg-

ligence standard.¹⁶ The Court's opinion in *Coastal Transmission* could be read as suggesting that any contractual exculpatory clause may be defeated by a showing of either willful or wanton misconduct or gross negligence.¹⁷ On the other hand, *Coastal Transmission* involved telephone directories, and one could argue that the Court was referring exclusively to the typical telephone directory exculpatory clause of the day, which limited the telephone company's liability only for "errors and omissions."¹⁸ That language could be construed as exculpating liability for ordinary, but not gross, negligence.

The Court of Appeals of Georgia begins to apply the gross negligence standard in some cases while continuing to apply the willful or wanton standard in others.

Despite these telephone directory cases, the Court of Appeals of Georgia, after 1983, continued to hold in commercial cases that willful or wanton conduct was required to defeat a contractual exculpatory clause. For example, in a 1984 case involving a fire-detection system that failed to work properly, the Court explained that "[a] clause in a contract limiting one's liability

ARTHUR T. ANTHONY

Certified Forensic Handwriting and Document Examiner

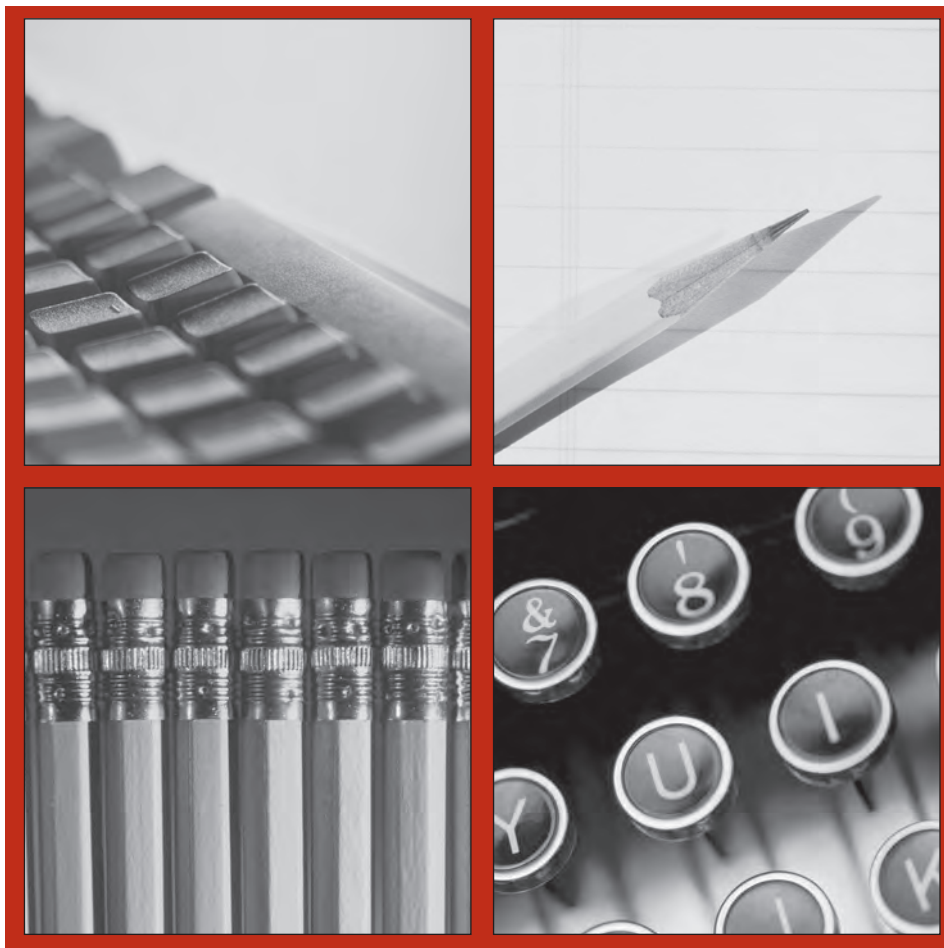
(770) 338-1938

Diplomate-American Board of Forensic Document Examiners
American Society of Questioned Document Examiners
American Academy of Forensic Sciences

P.O. Box 620420
Atlanta, Georgia 30362

Practice Limited to Civil Matters

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.

for negligent acts does not serve to limit one's liability for wilful or wanton conduct."¹⁹ In a 1988 case involving a burglar alarm system that failed to operate properly, the Court cited the same rule in support of its holding.²⁰ The Court also stated and applied the same rule in 2001 and 2004 commercial cases.²¹

Starting in 2000, however, the Court of Appeals, in a series of cases, stated that proof that the defendant's conduct was grossly negligent would defeat an exculpatory clause. The first such case, *Barbazza v. International Motor Sports Association, Inc.*, involved a personal injury claim.²² The Court declared, "[a]n injured party may recover for acts of gross negligence despite a valid release for negligence."²³ Oddly, as support for that statement, the Court cited two earlier decisions holding that willful or wanton conduct, not gross negligence, was required.²⁴ Once again, the Court appears to have been under the misapprehension that willful or wanton conduct and gross negligence are synonymous.

Since *Barbazza*, the Court of Appeals has held or stated several times that gross negligence is sufficient to defeat an exculpatory clause.²⁵ Those cases, however, are personal injury and reputational injury cases and, in one instance, a suit by trust beneficiaries against the trustee. The Court of Appeals has suggested that commercial contract cases are to be treated differently for exculpatory clause purposes.²⁶ The Court has largely continued to require a finding of willful or wanton misconduct to avoid the contract's limitations on liability.²⁷

The Court of Appeals of Georgia mistakenly imports the gross negligence standard into a commercial case.

In a 2002 commercial case, however, the Court of Appeals declared that "exculpatory clauses

do not relieve a party from liability for acts of gross negligence."²⁸ The decision in *Colonial Properties Realty Limited Partnership v. Lowder Construction Company, Inc.*, involved a subrogation claim by a property owner's insurer against a construction company that damaged an apartment building.²⁹ The Court held that a waiver-of-subrogation clause would be defeated by a showing of gross negligence on the defendant's part and reversed summary judgment for the defendant because whether the defendant acted with gross negligence was a fact question for the jury.³⁰ For the proposition that gross negligence will defeat a contractual exculpatory clause, the court in *Colonial Properties* cited *Barbazza*, but as discussed earlier, *Barbazza* mistakenly conflated gross negligence and willful or wanton misconduct when it cited two prior Georgia cases, both of which specifically required willful or wanton misconduct, not gross negligence.

Further, the holding in a personal injury case like *Barbazza* arguably should not control in a commercial case. As a New Jersey court aptly summarized the issue in an alarm system case: "[T]his case only involves the validity of an exculpatory clause as applied to property loss for which the buyer of an alarm system may obtain its own insurance coverage. It does not involve the validity of such a clause as applied to a personal injury claim, with respect to which differently public policy considerations would have to be evaluated."³¹

Finally, in addition to erroneously conflating gross negligence with willful or wanton misconduct, *Colonial* also incorrectly equated a waiver-of-subrogation clause with an exculpatory clause when it stated that a waiver-of-subrogation clause is defeated by a showing of gross negligence.³² Courts distinguish between exculpatory clauses and waiver-of-subrogation clauses, the latter of which simply shifts the source of compensation without restricting the injured party's ability

to recover.³³ Subrogation waivers thus deter litigation and help parties avoid higher costs that result from having multiple insurance policies and overlapping coverage.³⁴ No other Georgia decision has held that a waiver-of-subrogation clause is defeated by gross negligence.³⁵


Because courts uniformly reject the notion that a waiver-of-subrogation clause is an exculpatory clause, the majority rule is that the clause will bar a subrogation claim based on gross negligence.³⁶ These clauses are not contrary to public policy unless they purport to waive subrogation rights for damages caused by an *intentional* injury.³⁷

Conclusion

Georgia law on the standard for avoiding a contractual liability limitation or exculpatory clause needs clarifying. Willful or wanton conduct is the proper standard in commercial cases because public policy does not require a gross-negligence exception.³⁸ This is particularly true given that, in Georgia, as compared to some other states, gross negligence is barely a step above ordinary negligence.

For businesses dealing with one another in an arm's length transaction, the showing necessary to avoid a contractual promise should be higher than mere gross negligence. After all, it is "the paramount public policy" of Georgia that courts "will not lightly interfere with the freedom of parties to contract."³⁹ And as one court explained in upholding an exculpatory clause: "In this commercial setting . . . no overriding public interest and no special relationship between the parties exists which would warrant relieving the plaintiff of its contract."⁴⁰

Georgia courts should uphold a limitation of liability or exculpatory clause against a gross negligence challenge when the clause is "part of a bargain in fact between business concerns that have dealt with one another at arm's length in a commercial setting."⁴¹ Freedom of contract allows commercial par-

ties to “use their business judgment to exculpate claims for liability in exchange for lower cost.”⁴² Meanwhile, waiver-of-subrogation clauses, which are not exculpatory clauses, should be upheld unless the defendant intentionally caused the plaintiff’s damages. 



Robert B. Gilbreath is a partner with the law firm of Hawkins Parnell Thackston & Young LLP and practices in the firm’s

Dallas office. A former law clerk for the Texas Supreme Court, he is Board Certified in Civil Appellate Law by the Texas Board of Legal Specialization. He graduated with honors from Baylor Law School in 1989.



C. Shane Keith is a partner with the law firm of Hawkins Parnell Thackston & Young LLP and practices in the firm’s Atlanta

office. He practices in the field of civil defense with an emphasis on premises liability, products liability and professional negligence. Keith graduated Auburn University in 1997, *summa cum laude*, and received his law degree in 2000 from Emory University, where he graduated with honors.

Endnotes

1. Some jurisdictions do not consider a clause limiting a party’s liability to be an “exculpatory” clause. See *Leprino Foods Co. v. Gress Poultry, Inc.*, 379 F. Supp. 2d 659, 679 (M.D. Pa. 2005) (while acknowledging a difference in Kansas law, explaining that, under Pennsylvania law, liability limiting “clauses are not subjected to the same stringent standards applied to exculpatory and indemnity clauses”); see also *Russ v. Woodside Homes, Inc.*, 905 P.2d 901, 905 (Utah Ct. App. 1995) (explaining that exculpatory clauses “relieve one party from the risk of loss or injury in a particular transaction or occurrence and deprive the other party of the right to recover damages for loss or injury”).
2. See *Nashville, C. & St. L. Ry. v. C.V. Truitt Co.*, 17 Ga. App. 236, 86 S.E. 421, 424 (1915) (in suit for loss of “first class” mule that died during shipment by railroad company, showing of “gross negligence as might amount to willful and wanton negligence” would defeat exculpatory clause); see also *King v. Smith*, 47 Ga. App. 360, 170 S.E.2d 546, 549 (1933) (suit based on damage to tenant’s property caused by steam, heat, and moisture); *Brady v. Glosson*, 87 Ga. App. 476, 478, 74 S.E.2d 253, 255-56 (1953) (contract provision relieving landlord or carrier from liability for damages resulting from simple negligence is enforceable but does not relieve landlord or carrier from liability for wanton and willful conduct).
3. *Martin v. Gaither*, 219 Ga. App. 646, 652, 466 S.E.2d 621, 625 (1995); see also *Charles R. Adams III*, *GEORGIA LAW OF TORTS* § 3:5 (2012-2013 ed.).
4. *Heard v. City of Villa Rica*, 306 Ga. App. 291, 294, 701 S.E.2d 915, 918-19 (2010); see also *O.C.G.A.* § 51-1-4 (2010).
5. *O.C.G.A.* § 51-1-4 (2010).
6. See, e.g., *Tex. Civ. Prac. & Rem. Code* § 41.001(11) (defining gross negligence as an act or omission (i) that when viewed objectively from the actor’s standpoint at the time of its occurrence involves an extreme degree of risk, and (ii) of which the actor has actual, subjective awareness of the risk involved, but nevertheless proceeds with conscious indifference to the rights, safety, or welfare of others); *Princetel, LLC v. Buckley*, 944 N.Y.S.2d 191, 193 (N.Y. App. Div. 2012) (to constitute gross negligence for purposes of an exemption from an exculpatory agreement, a party’s conduct must smack of intentional wrongdoing or evince a reckless disregard for the rights of others); see also *City of Santa Barbara v. Superior Court*, 41 Cal. 4th 747, 754 n.4 (2007) (explaining that some jurisdictions define gross negligence as tantamount to wanton or reckless misconduct).
7. *Redfern Meats, Inc. v. Hertz Corp.*, 134 Ga. App. 381, 215 S.E.2d 10 (1975) (collecting cases).
8. *Id.*
9. *S. Protective Prods. Co. v. Leasing Int’l, Inc.*, 134 Ga. App. 945, 947, 216 S.E.2d 725, 728 (1975).
10. 149 Ga. App. 2, 253 S.E.2d 390 (1979).
11. 149 Ga. App. at 3; 253 S.E.2d at 391.
12. *Id.*
13. *Culpepper v. Thompson*, 254 Ga. App. 569, 570, 562 S.E.2d 837, 839 (2002); *Ford v. Whipple*, 225 Ga. App. 276, 283, 483 S.E.2d 591, 596 (1997); *Seaboard Coast Line R. Co. v. Clark*, 122 Ga. App. 237, 242, 176 S.E.2d 596, 600 (1970); *Caskey v. Underwood*, 89 Ga. App. 418, 422, 79 S.E.2d 558, 561-62 (1953). One decision sows confusion by stating that an exculpatory clause does not absolve a defendant “of wilful and wanton conduct or gross negligence amounting to same.” *Hitchcock v. Mayfield*, 133 Ga. App. 546, 547, 211 S.E.2d 612, 614 (1974) (emphasis added).
14. 141 Ga. App. 216, 233 S.E.2d 9 (1977), *overruled on other grounds by Georgia-Carolina Brick & Tile Co. v. Brown*, 153 Ga. App. 747, 752, 266 S.E.2d 531, 537 (1980).
15. 141 Ga. App. at 218, 233 S.E.2d at 11.
16. *So. Bell Tel. & Tel. Co. v. Coastal Transmission Serv., Inc.*, 167 Ga. App. 611, 612-13, 307 S.E.2d 83, 86 (1983).
17. 167 Ga. App. at 612-13, 307 S.E.2d at 86.
18. 167 Ga. App. at 612, 307 S.E.2d at 86.
19. *Lenny’s Inc. v. Allied Sign Erectors, Inc.*, 170 Ga. App. 706, 708, 318 S.E.2d 140, 142 (1984).
20. *Peck v. Rollins Protective Serv., Inc.*, 189 Ga. App. 381, 383, 375 S.E.2d 494, 496 (1988). For a discussion of cases applying liability limiting clauses in the alarm system context, see *Martin J. McMahon, Liability of person furnishing, installing, or servicing burglary or fire alarm system for burglary or fire loss*, 37 A.L.R.4th 47 (1985). Liability limiting clauses in fire and burglar alarm contracts “are commonly ruled enforceable by courts.” *D.L. Lee & Sons, Inc. v. ADT Sec. Sys., Mid South, Inc.*, 916 F. Supp. 1571, 1582 (S.D. Ga. 1995).
21. *Neighborhood Assistance Corp. v. Dixon*, 265 Ga. App. 255, 256, 593 S.E.2d 717, 719 (2004); *Flanigan v.*

- Executive Office Ctrs., Inc., 249 Ga. App. 14, 15, 546 S.E.2d 559, 561 (2001).
22. 245 Ga. App. 790, 538 S.E.2d 859 (2000)
 23. 245 Ga. App. at 792, 538 S.E.2d at 861.
 24. *Id.* (citing *Turner v. Walker County*, 200 Ga. App. 565, 408 S.E.2d 818 (1991) and *Hawes v. Central of Ga. R. Co.*, 117 Ga. App. 771, 162 S.E.2d 14 (1968)).
 25. *See Heiman v. Mayfield*, 300 Ga. App. 879, 883, 686 S.E.2d 284, 287 (2009) (suit by trust beneficiaries against trustee); *Holmes v. Clear Channel Outdoor, Inc.*, 284 Ga. App. 474, 477, 644 S.E.2d 311, 314 (2007) (personal injury); *McFann v. Sky Warriors, Inc.*, 268 Ga. App. 750, 758, 603 S.E.2d 7, 14 (2004) (personal injury); *Barbazza v. Int'l Motor Sports Ass'n, Inc.*, 245 Ga. App. 790, 792, 538 S.E.2d 859, 861 (2000) (personal injury); *McClesky v. Vericon Res., Inc.*, 264 Ga. App. 31, 33, 589 S.E.2d 854, 856 (2003) (defamation); *Sewell v. Dixie Region Sports Car Club of Am., Inc.*, 215 Ga. App. 611, 613 n.2, 451 S.E.2d 489, 490, n.2 (1994) (personal injury); *S. Bell Tel. & Tel. Co. v. Coastal Transmission Serv., Inc.*, 167 Ga. App. 611, 613, 307 S.E.2d 83, 87 (1983) (defamation) (noting difference between gross negligence and willful or wanton conduct).
 26. *See, e.g., Underwood v. NationsBanc Real Estate Serv., Inc.*, 221 Ga. App. 351, 353, 471 S.E.2d 291, 293-94 (1996) (“[The defendant guarantors] also contend Georgia law prevents anything in the guaranty from operating as a waiver of any bank conduct beyond ‘simple negligence.’ This is not a tort case involving a release. The bank’s obligations to the Underwoods are governed by the terms of the contract of guaranty, not by tort concepts of duty of care. [T]he agreement permitted the bank’s actions, and the protections afforded by O.C.G.A. §§ 10-7-21 and 10-7-22 can be, and were, waived.” (citations omitted)).
 27. *See, e.g., Winton v. Adams Transfer & Storage Co., Inc.*, 192 Ga. App. 766, 767, 386 S.E.2d 528, 529 (1989) (claim for property loss caused by moving company); *Peck v. Rollins Protective Serv., Inc.*, 189 Ga. App. 381, 383, 375 S.E.2d 494, 496 (1988); *Lenny’s Inc. v. Allied Sign Erectors, Inc.*, 170 Ga. App. 706, 708, 318 S.E.2d 140, 142 (1984).
 28. *Colonial Props. Realty Ltd. P’ship v. Lowder Const. Co., Inc.*, 256 Ga. App. 106, 112, 567 S.E.2d 389, 394 (2002). The Court recently repeated this rule in another commercial case, but only in dicta. *Monitronics Int’l, Inc. v. Veasley*, 323 Ga. App. 126, 135, 746 S.E.2d 793, 809 (2013), *cert. denied*, 2013 Ga. LEXIS 914 (Nov. 4, 2013) (citing *Holmes v. Clear Channel Outdoor, Inc.*, 284 Ga. App. 474, 477, 644 S.E.2d 311, 314 (2007)).
 29. 256 Ga. App. at 106, 567 S.E.2d at 390.
 30. 256 Ga. App. at 112, 567 S.E.2d at 394.
 31. *Synnex Corp. v. ADT Sec. Servs., Inc.*, 928 A.2d 37, 45-47 (N.J. Super. Ct. App. Div. 2007); *see also Nat’l Union Fire Ins. Co. of Pittsburgh, Pa. v. Guardtronic, Inc.*, 64 S.W.3d 779, 785 (Ark. Ct. App. 2002) (upholding enforceability of liability-limiting provisions in alarm contract because the parties “were businesses dealing at arm’s length”).
 32. *Colonial*, 256 Ga. App. at 112, 567 S.E.2d at 394.
 33. *See St. Paul Fire & Marine Ins. Co. v. Universal Builders Supply*, 409 F.3d 73, 86 (2d Cir. 2005); *see also Ace Am. Ins. Co. v. Keystone Const. & Maint. Servs., Inc.*, No. 3:11cv1136 (SRU), 2012 WL 4483913, at *14 (D. Conn. Sept. 27, 2012); *Chadwick v. CSI, Ltd.*, 629 A.2d 820, 825-26 (N.H. 1993); *Best Friends Pet Care, Inc. v. Design Learned, Inc.*, No. X06CV0001697555, 2002 WL 1949202, at *2 (Conn. Super. July 22, 2002) (collecting cases).
 34. *Reliance Nat’l Indem. v. Knowles Indus. Servs., Corp.*, 868 A.2d 220, 227 (Me. 2005)
 35. The Court of Appeals of Georgia has, however, mistakenly referred to a waiver-of-subrogation clause as an exculpatory clause in at least one other case. *Midtown Glass Co., LLC v. Levent Indus., Inc.*, 316 Ga. App. 422, 423, 729 S.E.2d 556, 557 (2012). In another case, the Court of Appeals seems to have recognized the distinction between a waiver-of-subrogation clause and an exculpatory clause. *F.P. Plaza, Inc. v. Sugrue*, 144 Ga. App. 543, 544, 241 S.E.2d 644, 645 (1978), *overruled on other grounds*, *Country Club Apts., Inc. v. Scott*, 246 Ga. 443, 271 S.E.2d 841 (1980).
 36. *See, e.g., Abacus Fed. Sav. Bank v. ADT Sec. Servs., Inc.*, 967 N.E.2d 666, 670 (N.Y. 2012); *Metlife Auto & Home v. ADT Sec. Sys., Inc.*, No. 10-10679-GAO, 2011 WL 1223023 at *7 (D. Mass. Mar. 31, 2011) (Massachusetts law); *Jewelers Mut. Ins. Co. v. ADT Sec. Serv., Inc.*, No. C 08-02035 JW, 2009 WL 2031782, at *5-6 (N.D. Cal. July 9, 2009) (California law); *Lexington Ins. Co. v. Entrex Comm’n Servs., Inc.*, 749 N.W.2d 124, 131 (Neb. 2008); *Reliance*, 868 A.2d at 226; *Behr v. Hook*, 787 A.2d 499, 504 (Vt. 2001); *see also Marc M. Schneider, AIA Waiver of Subrogation Provision in Construction Contract Applies to Owner’s Claim of Gross Negligence Against Contractor*, 29 NO. 9 CONST. LITIG. REP. 12 (2008).
 37. *St. Paul*, 409 F.3d at 86.
 38. *See Hall v. Fruehauf Corp.*, 179 Ga. App. 362, 363, 346 S.E.2d 582, 583 (1986) (“A limitation of remedies in a commercial setting is not considered unconscionable”).
 39. *Coleman v. B-H Transfer Co.*, 290 Ga. App. 503, 506, 659 S.E.2d 880, 883 (2008) (internal quotation marks omitted) (noting that “[a] contractual provision which releases or indemnifies a party from liability for injuries arising out of the contract is enforceable unless it contravenes public policy”).
 40. *Sanif, Inc. v. Iannotti*, 500 N.Y.S.2d 798, 798 (N.Y. App. Div. 1986); *accord Atlas Mut. Ins. Co. v. Moore Dry Kiln Co.*, 589 P.2d 1134, 1136 (Or. Ct. App. 1979) (courts will uphold an exculpatory clause “when it is part of a bargain in fact between business concerns that have dealt with one another at arm’s length in a commercial setting”); *Chicago Steel Rule & Die Fabricators Co. v. ADT Sec. Sys., Inc.*, 763 N.E.2d 839, 849 (Ill. Ct. App. 2002) (“Freedom of contract allows commercial parties to use their business judgment to exculpate claims for liability in exchange for lower cost”).
 41. *Atlas*, 589 P.2d at 1136.
 42. *Chicago Steel Rule & Die Fabricators Co. v. ADT Sec. Sys., Inc.*, 763 N.E.2d 839, 849 (Ill. Ct. App. 2002).

2014 Midyear Meeting Features 50th Anniversary Celebration

by Linton Johnson

The 2014 Midyear Meeting of the State Bar of Georgia took place Jan. 9-11 at the InterContinental Buckhead Hotel in Atlanta, featuring the official celebration of the 50th anniversary of the establishment of the unified State Bar. The three-day meeting was also filled with CLE seminars, receptions, section events, law school alumni gatherings, committee meetings and more.

More than 400 Bar members and guests attended the 50th Anniversary Gala on Friday evening, Jan. 10. Gov. Nathan Deal delivered the keynote address.

Chief Justice Hugh Thompson of the Supreme Court of Georgia, Chief Judge Herbert Phipps of the Court of Appeals of Georgia and Hon. Beverly Martin of the U.S. Court of Appeals, 11th Circuit, also spoke during the celebration, reflecting on the relationship between the State Bar and the court system over the past 50 years.

State Bar of Georgia President Charles L. Ruffin presented the Founders Award to former Gov. Carl Sanders, whose leadership and support resulted in the passage of the 1963 legislation to create the State Bar, culminating a 40-year unification effort by leaders of the Georgia Bar Association. Sanders was



Photos by Sarah I. Coole, Jennifer R. Mason and Derrick W. Stanley

(Left to right) Former Gov. Carl Sanders accepts the Founders Award from President Charles L. Ruffin.

unable to attend the dinner, but the presentation was made through a video presentation of an interview

between Ruffin and the former governor, which had been recorded earlier in the week.

Ruffin also unveiled the Bar's new history book on the legal profession in Georgia, *From Banished to Unified*, which was published in observance of the 50th anniversary. All Bar members in attendance received a copy of the book.

Ruffin closed the Gala evening with the following toast:

To Cliff Brashier, may he rest in peace; to our profession, may it always be noble; to the State Bar of Georgia, may it sail on to an ever bright future.

Board Meeting Highlights

On Saturday, Jan. 11, Ruffin presided over the 250th meeting of the Board of Governors of the State Bar of Georgia. He opened the meeting by recognizing members of the State Bar staff for their efforts to carry on the Bar's work following the passing of Executive Director Cliff Brashier on Dec. 20, 2013. He specifically thanked Chief Operating Officer Sharon Bryant, Chief Financial Officer Steve Laine and General Counsel Paula Frederick for their help and support.

Ruffin also recognized Linton Johnson, Director of Meetings Michelle Garner, Director of Communications Sarah Coole and Meetings Administrative Assistant Gakii Kingoriah for their work in preparing the 50th Anniversary Gala and the history book.

Board members observed a moment of silence in memory of Cliff Brashier, which was followed by Ruffin recognizing the past presidents of the Bar, members of the judiciary and other special guests who were in attendance.

JQC Appointment

As part of the consent agenda, the Board of Governors voted unanimously to appoint Past Bar President James B. Franklin of Statesboro to serve on the Judicial Qualifications Commission through 2017.



President Charles L. Ruffin presents Gov. Nathan Deal with a statue of Lady Justice commemorating the governor's keynote address at the 50th Anniversary Celebration.



Chief Justice Hugh P. Thompson and wife Jane arrive for the reception at the InterContinental Hotel Buckhead.



Chief Judge Herbert E. Phipps reflects on the relationship between the State Bar of Georgia and the Court of Appeals of Georgia during the 50th Anniversary Celebration.



Court of Appeals Presiding Judge John J. Ellington and wife Sandra Kate enjoy the evening.

Bylaw Change

Following a report by Bob McCormack, the Board of Governors voted unanimously to dissolve the Resolutions Committee and the accompanying Bylaw Article II, Section 5.

2014 Legislative Program

With the 2014 session of the Georgia General Assembly scheduled to convene on Monday, Jan. 13, President Ruffin introduced Thomas Worthy, who previously served on the staff of Gov. Deal, as the Bar's new Director of Governmental Affairs.

Following a report from Advisory Committee on Legislation Chair Dan Snipes, the Board of Governors voted unanimously to support a legislative proposal on the unlicensed practice of law, recommended by the Real Property Law Section, and HB 674 on state-funded positions for the Juvenile Court.

Lobbyist Rusty Sewell presented a preview of the 2014 legislative session, which he said would be a short one because of an earlier beginning of the election season this year, with candidate qualifying scheduled to begin

March 3. Sewell reported that Zach Johnson has coordinated legislative programs for 14 local bar associations around the state, reaching at least 827 attorneys and 43 legislators. Major issues of interest expected to be addressed during the session include medical malpractice litigation, gun carrying rights, criminal justice reform and the budget. Carryover legislation includes guardianships and military parental rights. Groundwork is being laid for increases in judicial salaries, but no action is expected to be taken on this issue until 2015.

Ruffin reported on the 2014 Legislative Forum, which was held Thursday, Jan. 9, the first day of the Midyear Meeting.

Civil Legal Services Task Force

Prior to Secretary Rita Sheffey reporting on the activities of the Civil Legal Services Task Force, Ruffin announced that the IOLTA rate comparability proposal on the agenda would not be voted on at this meeting. Sheffey reported that on average, the Atlanta Legal Aid Society (ALAS) and the Georgia Legal Services Program (GLSP) jointly lost \$3 million from their annual budgets since 2008. At the

same time, Georgia's poverty population has increased by 64 percent. She reported that the president and director of the Georgia Bar Foundation asked for additional time to review the proposed revisions to Bar Rule 1.15 and New Part XV, which is the reason for withdrawing the proposal from the Midyear Meeting agenda. She expects that the proposal will be an action item at the Board's Spring Meeting.

Other funding options being explored by the task force are pro hac vice fees, and she referred Board members to the handout on proposed amendments to Rule 4-4(E) of the Uniform Superior Court Rules for their review and comment. The task force will be asking the Council of Superior Court Judges to modify the pro hac vice rules to incorporate a \$75 per matter application fee and a \$200 annual renewal fee, if the case is still pending. The \$75 fee would go to General Counsel's office for administration, and the \$200 fee would go to the Georgia Bar Foundation. If approved, the proposal would likely be adopted in the state, magistrate and probate courts. Similarly, the Supreme Court of Georgia has a pro hac vice rule, but no fee associated with it, so the task force has begun talks with it about implementing a fee and will do the same with the Court of Appeals of Georgia.

The task force is also looking at county law library funds and hopes to facilitate conversations with those boards and ALAS and GLSP. The task force plans to embark on an informational campaign to explain and encourage trial judges statewide to consider legal services when disbursing cy pres awards. The task force has also been looking at the expense side of ALAS and GLSP. While it is not in the purview of the task force to dictate how these organizations should be run, a checklist of items is being prepared for consideration.

Ruffin reported that there is no limit on the number of times



(Left to right) State Bar President Charles L. Ruffin, Sally Ruffin, Sandra Deal and Gov. Nathan Deal.

an out-of-state attorney can come into Georgia and practice pro hac vice, and he hopes the Task Force will explore that. At every opportunity he has to speak to civic groups or local bar associations, he has made a point of talking about what it is that GLSP does and provides examples of how they have helped in dramatic ways people who cannot afford a lawyer. He also reported that he thinks it is equally important for the civil legal services organizations to go out and talk to groups and encourage donations.

Officer James Neal Bowers Resolution

President Ruffin reported that a resolution was to be presented to the family of Police Officer James Neal Bowers of Columbus, who attended night law school in Atlanta and had passed the Bar exam, but was killed in the line of duty before he could be sworn in to the Bar. Since his family was unable

to attend the meeting, the resolution is being sent to the Columbus Bar Association for presentation at a later time.

Marshall-Tuttle Award

Norman Zoller presented the Military Legal Assistance Program's 2014 Marshall-Tuttle Award to William John Camp for providing legal expertise in working with military service members and veterans, and for his unwavering support of the program. (See story on page 26.) Zoller also announced that there is a CLE trip to Normandy and Paris in May, which is open to all Bar members.

Nomination of Officers

The Board of Governors received nominations for officers to serve during the 2014-15 Bar year and, there being no others, declared the nominations closed.

Robert J. Kauffman was nominated for president elect by S. Lester Tate III, with a second by Kenneth R. Bernard Jr.

Rita A. Sheffey was nominated for treasurer by Dawn M. Jones, with a second by Thomas W. Herman.

Patrick T. O'Connor was nominated for secretary by Allegra J. Lawrence-Hardy, with a second by Daniel Brent Snipes.

Nomination of ABA Delegates

The Board of Governors, by unanimous voice vote, nominated the following attorneys to serve two-year terms as Georgia's delegates to the American Bar Association:

- **Robert Leonard Rothman**, Post 1, to succeed Rudolph Patterson
- **Hulett Askew**, Post 3, to succeed Cubbedge Snow Jr.
- **Gerald Edenfield**, Post 7

Executive Director Selection

In his President's Report, Ruffin announced that, during the time

The 50th Anniversary Celebration of the State Bar of Georgia

1



2



3



4



5



1. (Left to right) Carol V. Clark, State Bar Ethics Counsel Bill Smith, Dot Smith and Gayle Camp during the reception.
2. State Bar President Charles L. Ruffin welcomes attendees and guests to the 50th Anniversary Celebration.
3. Gov. Nathan Deal delivers the keynote address during the 50th Anniversary Celebration.
4. Hon. Beverly B. Martin, U.S. Court of Appeals, 11th Circuit, addresses the audience.
5. Members and their guests enjoy dinner at the InterContinental Buckhead during the 50th Anniversary Celebration.

6



8



7



9



6. (Left to right) J. Marcus Howard, Justice David Nahmias, John F. Kennedy and Sally Akins.
7. (Left to right) YLD President-Elect Sharri Edenfield, YLD Past President Amy V. Howell and Christina Varnedoe.
8. 2005-06 YLD President Damon Elmore and wife Paulette enjoy the evening.
9. (Left to right) YLD Immediate Past President Jon Pannell, Gov. Nathan Deal and YLD President Darrell Sutton.
10. (Left to right) Sue Kauffman and Treasurer Bob Kauffman; Becky and Hon. William C. Rumer; Ellene Welsh and Tom Holder at the 50th Anniversary Celebration.

10



InterContinental Buckhead Atlanta
January 9, 2014



(Left to right) J. Michael Cranford and wife Teresa with 2009-10 State Bar President Bryan Cavan after the Board of Governors dinner.



(Left to right) Sandra and Gov. Nathan Deal, Immediate Past President Robin Frazer Clark and Bill Clark following the 50th Anniversary Dinner.

the executive director's position is vacant after the passing of Cliff Brashier, operational questions that call for a legal discussion will be directed to Paula Frederick, and Sharon Bryant will take on the day-to-day role of running the Bar as necessary. He also announced that the Executive Committee had unanimously approved the appointment of a search committee to oversee the selection process.

Serving on the search committee will be Ruffin, President-elect Patrise Perkins-Hooker, Immediate Past President Robin Frazer Clark,

Young Lawyers Division (YLD) President Darrell Sutton, YLD President-Elect Sharri Edenfield, YLD Immediate Past President Jon Pannell, State Bar Past Presidents Jeff Bramlett, Bryan Cavan, Jim Durham, Ben Easterlin, Robert Ingram and Paul Kilpatrick Jr., Court of Appeals Judge Carla Wong McMillian and YLD Past President Derek White. The search committee will engage the services of an executive search firm to assist with the process.

Ruffin also reported the Executive Committee felt it was

preferable for the new executive director to be a practicing lawyer or law school graduate. The Board of Governors, by unanimous voice vote, authorized the president to use the executive director's salary line item to hire a professional executive recruit to assist with the selection.

YLD Report

YLD President Darrell Sutton reported that 185 young lawyers attended the YLD General Session. He said four of the five Georgia law schools are participating in the Law School Fellows Program allowing 2L and 3L students to serve on the YLD Executive Council. Sutton provided an update on the Local Affiliate Outreach efforts. He reported 11 young lawyers received scholarships in order to participate in the 2014 Leadership Academy. Fifty-five young lawyers were selected for the new class out of 140 applicants. In an effort to establish an endowment to obtain permanent funding for the Public Interest Internship Program, that program will be the beneficiary of the 2014 Annual Signature Fundraiser. Sutton encouraged board members to make a donation to help the YLD reach its endowment goal.

Long-Range Planning & Bar Governance Committee

Patrick T. O'Connor reported on the activities of the Long-Range Planning & Bar Governance Committee and its Midyear CLE: The Future of the Practice of Law and Access to Justice. Participants heard that change in the legal landscape is rapid. Now, non-legal firms worldwide are providing legal services, and legal services are being auctioned on eBay. Law school admissions are down 24 percent nationwide. Today there are almost 1 million lawyers in the nation. Job opportunities are increasingly challenging. New lawyers in Georgia are forming virtual law firms. In South Dakota,

the state bar and the state legislature are providing financial incentives to lawyers to practice in rural areas in that state. There is a rise in pro se litigation in Georgia and the nation. He reported that the committee plans to address specific proposals that it will bring to the Board designed to assist all lawyers as they face these and other issues.

Law Day 2013

Secretary Sheffey reported on the 2013 Law Day Program, a collaborative effort between Georgia's legal community, the National Center for Civil and Human Rights and school systems in Atlanta and Fulton. The program, *Realizing the Dream—Equality to All*, is being honored with a Law Day 2013 Outstanding Activity Award from the American Bar Association. That same collaborative group has begun planning the 2014 Law Day program on *Why Every Vote Matters*. If anyone is interested in working on the program they should contact Sheffey or President-elect Patrise Perkins-Hooker.

Members Benefits Committee

John Flanders Kennedy reported on an insurance exchange that will soon be available to all Bar members through Member Benefits Inc., the Bar's recommended insurance broker. It is a private marketplace for attorneys' health insurance rather than going through the federal government's exchange. There will be a presentation on the exchange at the Spring Board meeting.

Steven Liebel asked if there is a way for the Bar to get policy information for each member for a minimum insurance for malpractice. As part of dues structure, there could be a minimum limits malpractice insurance policy for all members of the Bar, so that there are insurance funds available when something happens rather than using funds from the State



(Left to right) William Alexander, M.D., and wife Avarita L. Hanson, executive director of the Chief Justice's Commission on Professionalism, enjoy a moment with Sandra and Gov. Nathan Deal.

Bar. He was asked to attend the next Member Benefits Committee meeting and make that proposal.

Other Actions and Reports

The Board of Governors also voted unanimously to:


- Approve the creation and bylaws for a new Law and Economics Section.
- Approve the creation and bylaws for a new E-Discovery and Use of Technology Section.
- Approve a recommendation to the Supreme Court of Georgia that Article 1 of the Bylaws be amended as follows:

- Section 1. Registration of Members.

Persons admitted by the courts to the practice of law shall, within sixty days after admission to the bar of the Superior Court, register with the State Bar and pay a monthly pro-rated dues amount calculated from the date of Superior Court admission through the remainder of the State Bar's fiscal year.

The Board of Governors also received the following reports:

- Treasurer's Report as of Nov. 30, 2013, presented by Treasurer Bob Kauffman.
- ABA Annual Meeting Report, presented by Paula Frederick. She announced that State Bar Past President Linda Klein has announced her candidacy for president-elect of the ABA.
- Written reports from the Office of the General Counsel, Military Legal Assistance Program, Law Practice Management Program, Consumer Assistance Program, South Georgia Office Usage, Coastal Georgia Office Usage, July 2013 Georgia Bar Examination General Statistics Summary and the Spring Street Viaduct Replacement Project.

In its final action of the meeting, the Board of Governors, by unanimous voice vote, approved a motion acknowledging confidence and support in Sharon Bryant and Paula Frederick and all of the Bar staff going forward until a new executive director takes office. 



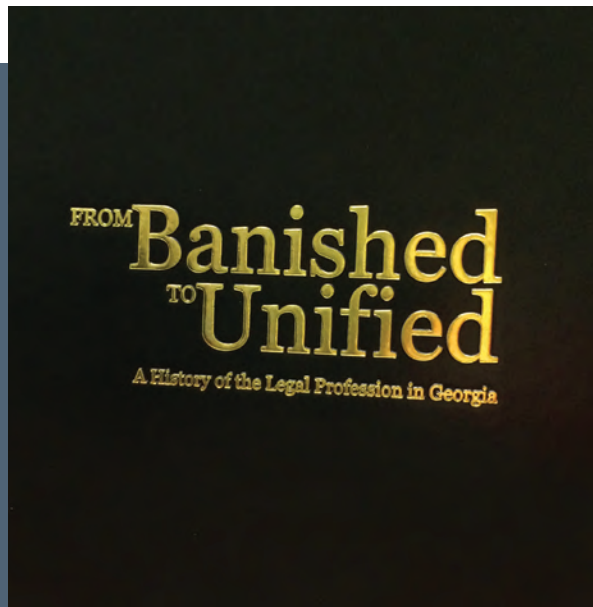
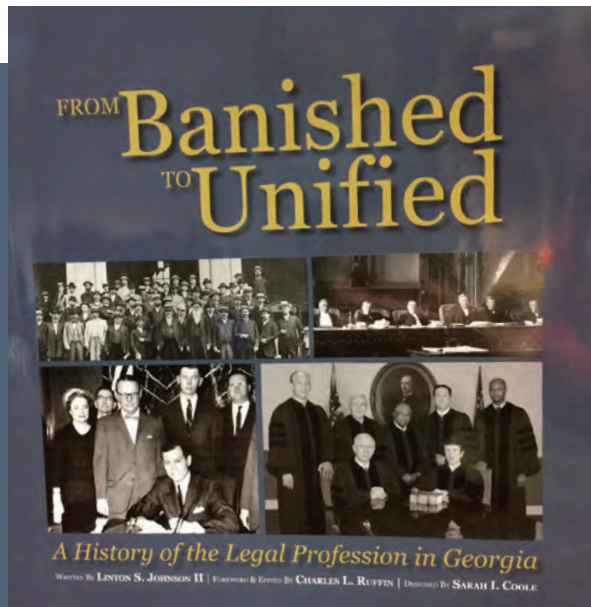
Linton Johnson is a media consultant for the State Bar of Georgia.

FROM Banished TO Unified



A History of the Legal Profession in Georgia

WRITTEN BY LINTON S. JOHNSON II | FOREWORD & EDITED BY CHARLES L. RUFFIN | DESIGNED BY SARAH I. COOLE



A History of the Legal Profession in Georgia

On the Occasion of the 50th Anniversary of
the Establishment of the State Bar of Georgia

This 252-page leather-bound coffee table book helps celebrate the unified State Bar's 50th anniversary by following the growth of Georgia lawyers and courts from their humble beginning up to the modern justice system that serves the people today.

The cost of the book is \$65, which includes tax and shipping.

To order, visit www.gabar.org or contact Stephanie Wilson at 404-527-8792 or stephaniew@gabar.org.

The Emory Law Volunteer Clinic for Veterans:

Serving Those Who Have Served

by H. Lane Dennard Jr. and Rachel L. Erdman

The Needs of Our Veterans

In his second Inaugural Address, Abraham Lincoln recognized that our nation should “care for him [and her] who shall have borne the battle and for his widow and orphan.” The needs of our veterans are significant today. There are more than 750,000 veterans in Georgia and more than 200,000 of this total live in the Atlanta Metropolitan Area.¹ Many of these individuals have returned from Iraq and Afghanistan with service connected injuries and mental illnesses such as Post Traumatic Stress Syndrome (PTSD) and Traumatic Brain Injury (TBI). Older veterans, including those who served in Vietnam and prior wars, also have disabilities associated with their prior military service. Many of these men and women who have served their country have a variety of legal issues, both related to their disability claims and other civil matters.²



The State Bar of Georgia has recognized this need by creating a dialog with law schools in the state encouraging them to create legal clinics for veterans. Both the Military/Veterans Section and the Military

Legal Assistance Program (MLAP) actively support the creation of law school clinical programs to address these needs. Norman Zoller, coordinator of the MLAP has observed, "When the State Bar of Georgia and two of its veterans' committees and law sections first began considering the issue of whether, how and who might be willing to engage and support students at a law school in Georgia, Emory Law School was approached and the first to step forward. As one will read in the ensuing text of this article, the results have been exemplary and extraordinary. Much credit and appreciation goes to the faculty and administrative leadership at the school, the co-directors of the program and especially to the students who continue to participate, consulting with many deserving veterans on real-life VA benefit matters."³

At Emory Law School, the National Security Law Society president, Martin Bunt, and its faculty sponsor, Prof. Charles Shanor, decided to explore the possibility of creating such a clinic. Following discussions with the State Bar representatives mentioned above, Emory offered an adjunct professor appointment to Lane Dennard, a retired King & Spalding lawyer who has handled a number of claims for veterans, and he accepted the challenge of leading this enterprise in conjunction with Shanor.

The National Security Law Society at Emory invited representatives from the well-established Veterans Benefit Clinic at John Marshall Law School in Chicago to conduct a two-day program focusing on its operations. John Marshall, as a part of this visit, provided a three-hour training session concerning the handling of veterans benefit claims. Twenty-seven students participated in this training. Following further internal discussion focused on the resources available at Emory Law School and its desire to provide the best opportunities for pro bono opportunities for students to work on veterans' legal matters, procedures were developed and the



The Public Service Jobs Directory Pro Bono Award Ceremony in honor of Martin Bunt's volunteer work through the Veteran's Clinic. (Left to right) Susan McAvoy, Dean Robert Shapiro, Prof. Charles Shanor, Martin Bunt, Lane Dennard and Christina Jackson.

Photo by LeahAndMark & Co.



Martin Bunt and Rachel Erdman meeting with a veteran. Student-client meetings are encouraged by the clinic.

Photo by Emory Law Marketing

Emory Law Volunteer Clinic for Veterans started operations. Shanor explained, "The clinic is a wonderful opportunity for students to experience the best aspects of lawyering. Serving clients, analyzing problems and helping to articulate and solve their problems—that's what legal education is about."

An increasing number of our veterans need legal assistance with claims for service-connected disabilities filed with the Department of Veterans Affairs (VA). Many of these veterans cannot afford to hire

a lawyer. During the past year the following veterans in need have turned to the clinic for help:

- 77-year-old Air Force veteran was exposed to Agent Orange during the Vietnam war, but his VA claims have been denied. He currently has Ischemic heart disease, prostate cancer and peripheral neuropathy, all of which are conditions on the Agent Orange list.⁴ This veteran needed help filing a request to reopen his denied claims.



(Left to right) Attorneys Craig Cleland, Dara DeHaven and Amie Willis of Ogletree Deakins who are currently assisting veterans through the Emory Veterans' Clinic.

- The VA denied a Marine combat veteran's claim for PTSD and TBI. He needed to appeal this decision to the Board of Veterans Appeals.
- The widow of an Army veteran whose service related condition contributed significantly to her husband's death has been denied a pension. She has three minor children to support and needs to appeal the VA denial of her claim.
- A Marine combat veteran with substantially debilitating PTSD needs to increase the low disability rating assigned by the VA. He needed assistance in filing of an appeal with the VA (which included a private psychological evaluation).
- A female Navy veteran who was subjected to sexual harassment in the service and, after she complained of this, was discharged because she had a "personality disorder." It is now clear that she had PTSD resulting from her sexual harassment. This veteran needs assistance to correct her military records.

Teams including Emory law students and their attorney mentors are in the process of helping these veterans and many more.

The Work of the Clinic

The mission of the clinic is to help those who have served our country by assisting them with the legal issues they face, especially those veterans with service-connected disability claims. The clinic will normally accept the following types of cases:

- **Disability Claims before the Department of Veterans Claims:** The focus of this work is on appeals to the Board of Veterans Appeals and the U.S. Court of Appeals for Veterans Claims. The clinic will consider acceptance of an existing VA claim where there is a demonstrated need for legal research or additional fact-finding. Initial claims may also be referred to the Georgia Department of Veterans Service.
- **Pension Claims before the VA:** This type of work includes the need-based pension and the pension that may be available to the veteran's surviving spouse or children based on the service-connected death of a veteran.
- **Claim for Increased Rating Before the Regional Office of the VA:** The VA will consider a claim for an increased rating if the veteran shows that his or

her mental or physical condition has worsened.

- **Request to Reopen a Claim Previously Denied by the VA:** Legal assistance and intense investigation are frequently needed in these cases because the VA requires that requests to reopen denied claims be supported by "new and material evidence."⁵
- **Application for Discharge Upgrade and Record Correction:** All of the branches of the service have Boards that consider applications for correction of military records and discharge upgrades.
- **Criminal Records:** As with other ex-offenders, veterans with criminal records frequently experience problems with employment, housing and the right to benefits. Clinic lawyers working with students may assist veterans whose records are incomplete or erroneous. They may also help veterans restrict access to arrest records under the Georgia Statute.⁶ In some of these cases the clinic partners with the Georgia Justice Project to help the veterans.⁷
- **Wills, Powers of Attorney and Medical Directives:** Pro bono lawyers may assist veterans and their family members in the preparation of simple wills, powers of attorneys and medical directives. Attorneys at Alston & Bird have handled clients under their existing program and Kim Kimbrough, an experienced trust and estates attorney in Athens, has also assisted. Student volunteers are supervised by these lawyers.

The clinic does not accept criminal cases, probate matters, family law matters, personal injury, immigration matters, bankruptcy matters or insurance law matters.

In addition to the casework, the clinic has also been deeply involved in two important public policy initiatives: homeless veterans and veterans' treatment courts.

Five student volunteers participated in the Homeless Veterans Stand Down sponsored by the VA Hospital in October. The students interviewed 20 homeless veterans with legal issues and the clinic continues to work through this intake. Drew Early, chair of the Military/Veterans Law Section of the State Bar, participated in the Stand Down and observed the positive interactions of three of the Emory students with the veterans at that event. He found that "the Emory presence was great for the students as it showed them the real-world needs of these veterans that so many of us simply take for granted. It was great for the veterans as they got a compassionate and understanding review of their issues, with an eye toward immediacy of resolution." The clinic has also been a strong proponent of enabling legislation for Veterans Courts in Georgia. Students Will Evans and Patrick Hartobey prepared research papers that were submitted to the governor's

Criminal Justice Reform Council and House Legislative Counsel. Their papers have also been accepted for presentation at the Accountability Courts Conference in September 2014 sponsored by the State Administrative Office of the Courts.

How the Work is Accomplished

Experience at the clinic has demonstrated that there are three critical elements to the successful operation: the referral of quality cases, an adequate number of student volunteers and an adequate number of pro bono lawyers to serve as mentors for the students. Initially, most cases were referred by the Military Legal Assistance Program of the State Bar and the Legal Clinic at the VA Hospital in Decatur. During Fall Semester, the clinic initiated an intake process of its own. Student volunteers responded to contacts by veterans by completing a ques-

tionnaire and preparing a summary memorandum. The cases were then presented to potential student volunteers and the pro bono lawyers/mentors.

The students in the clinic are all volunteers. At this point, no class credit has been provided. However, students who work in the clinic receive credit for both Emory Law pro bono hours as well as hours awarded by the Emory Public Interest Committee (EPIC). EPIC gives between 25 and 30 scholarships every summer, each worth \$5,000 for students who do public interest work for their summer internships. Students must complete at least 30 EPIC hours to be eligible for the summer scholarships. The initial group of clinic students all attended the John Marshall VA Disability Training and had priority in the assignment of cases and projects. In Fall Semester, 21 new student volunteers watched the VA training online. The total number of trained students is 43.

» Proliability Lawyer Malpractice Program:
Administered by Mercer Consumer, a service of Mercer Health & Benefits Administration LLC

Attorney Malpractice Claims are Skyrocketing
Are you protected?

Malpractice claims are skyrocketing. In fact, according to the American Bar Association, the **number of legal malpractice claims has increased by more than 50%** over the last several years.¹

Mercer Consumer's **Proliability Lawyer Malpractice Program** can help protect you against negligent acts, errors and omissions. Once you purchase insurance coverage, you have reduced your risk.

Get the legal malpractice specialists on your side.
Underwritten by Liberty Insurance Underwriters Inc.
(a member company of Liberty Mutual Insurance Group)

1-800-365-7335, ext. 6444
Sharon Ecker, Vice President
www.proliability.com/lawyer

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

AR Ins. Lic. #303439 CA Ins. Lic. #0G39709
In CA d/b/a Mercer Health & Benefits Insurance Services LLC

65541, 65542, 65543, 65544, 65545, 65546 (2014) Copyright 2014 Mercer LLC. All rights reserved.

 **MERCER**

The Lawyer Assistance Program of the State Bar of Georgia

Stress?
Chemical dependency?
Family Problems?
Mental or Emotional Impairment?

The Lawyer Assistance Program is a free program providing confidential assistance to Bar members whose personal problems may be interfering with their ability to practice law.

For more information, please call the confidential hotline number at

800-327-9631



The clinic receives a constant stream of phone calls from veterans. The Intake Team responds to these veterans, and collects and compiles the veteran's information into case memos. The memos are sent to Lane Dennard, who ultimately decides whether the veteran can be taken as a case. (Left to right) Alexander Garcia, Oliver Shaw and Angela Hwang.



(Left to right) Emily Hootkins, Stacy Clark, Pat DiCarlo, Julia Dempewolf and Brendan Krasinski, attorney volunteers at Alston & Bird who are currently working with the Emory Veterans Clinic.

One of the clinic's student leaders, Martin Bunt, was recently named the national winner of the Public Service Jobs Directory Pro Bono Publico Award for his work with the startup and operation of the clinic. Rachel Erdman, another student leader, is equally deserving for her work coordinating student volunteers. After Fall semester, she was presented The Epic Inspiration Award for outstanding commitment to public service. An article

co-authored by Bunt and Erdman appeared in the Fall issue of the *Emory Lawyer*.

Fifty-eight attorneys have been recruited to serve as pro bono counsel and mentors for the student volunteers. Twenty-four of these lawyers have participated to date. As cases are referred during each semester, volunteer attorney/mentors are paired with students to work on these cases. The clients are represented by the law-

yers and assisted by the students. The clinic currently has volunteers from many of the large law firms in Atlanta, including Alston & Bird, King & Spalding, Kilpatrick Townsend, Ogletree Deakins, McGuire Woods, Baker Donelson, Hunton & Williams, and Troutman Sanders. Equally as important, there are several practitioners in the area of veterans' disability law who have volunteered.

Early Success

The Emory Law Volunteer Clinic for Veterans opened its doors in February of 2013, and, operating for the past year, the clinic has been a huge success. The focus of the work of the clinic is on the representation of veterans with service-connected disabilities. To date, the clinic has had 35 student volunteers working on 31 cases for veterans and their family members. As of March 2013, there are 17 recorded legal clinics at law schools across the country, but the Emory Clinic is the first such clinic in Georgia and one of the few existing in the South. At Emory, the Veterans Clinic has more volunteers than any of the other clinics at the school. It is also the only clinical program currently available to first-year students.

The clinic has already obtained several successful dispositions despite the slow-moving nature of the VA process. For example, resolution of a VA disability and pension case normally takes at least one year, while an appeal of a decision by the regional director may take two to three years, or even longer, before being considered by the Board of Veterans Appeals. For one client with a 100 percent disability rating for PTSD, a VA determination of incompetency was reversed. For the same client, the VA issued an additional special compensation award of \$1,160 per month for the physical effects of the veteran's PTSD condition. Of the five cases before the U.S. Court of Appeals for Veterans Claims, clients have already prevailed in two cases. In both situations, the clients' disability

claims were remanded to the Board of Veterans Appeals for further consideration of the veterans' claims.

The clinic has also succeeded in helping veterans navigate internal VA procedures. One such veteran attended Georgia State University on the GI Bill. For two years, the VA deposited the Veteran's GI benefits into his personal bank account, which were then used to pay GSU. But after those two years, the veteran's benefits were inexplicably transferred into a bank account that was not his, at a bank that he had never used. For the next several months the veteran repeatedly asked the VA to fix the mistake. The summer term ended and he was forced to take out loans in order to continue attending school. Meanwhile, due to a mistake in GSU's system, the VA determined that the veteran owed the VA a semester's worth of tuition. Unable to pay his "debt," the VA threatened to garnish the veteran's disability benefits—the benefits that paid his low-income rent. At this point, not only was the veteran going to be unable to attend school, but he was also going to end up homeless. He had been set to graduate this Fall semester.

Fortunately, this young veteran talked to one of the student volunteers at the VA Stand Down mentioned earlier in the article. Although his case did not technically meet clinic guidelines, he was accepted as quickly as possible. The clinic reached out to the VA on the client's behalf in September. Extremely concerned by the veteran's situation, the VA re-routed his benefits to the correct bank account in just two weeks. On the day he discovered that his money had been returned to his account, he called the clinic exclaiming, "It's all there! It's back, all of it. I can't thank you guys enough!" The clinic work in this case was also applauded by VA Legal Counsel, George Bradford who said, "Please keep up the excellent work."

The clinic strives to provide clients with an overall positive

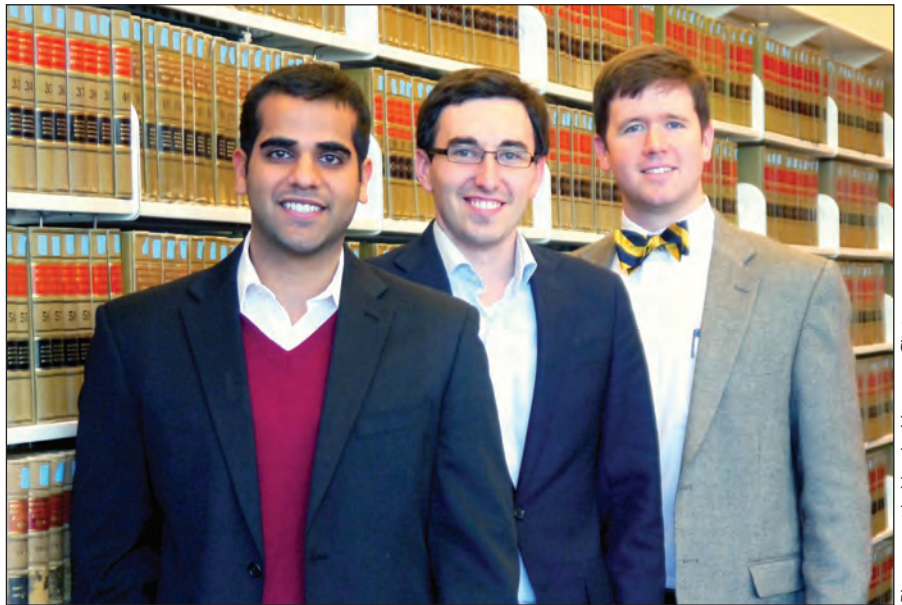


Photo provided by the Veterans Clinic

Student team currently writing an amicus curiae brief to the U.S. Supreme Court in support of petition for certiorari, *Ritchie v. United States*. (Left to right) Karan Jhurani, Tyler Dutton and Robert Jones.

experience through attorney-client relationships, student-client relationships and concern for a client's overall needs beyond just the presented legal issues. Attorney-client relationships are essential to a positive experience. Clients appreciate an attorney who actually cares about their problems. The attorney's interaction with the client often has the greatest impact in fostering trust between the veteran and the legal community. "To have a successful high-powered attorney, helping a blue collar guy like me, was just something I couldn't, can't, explain. I'm blown away by how giving the guy is, how down to earth he is," one client said. To date, our attorney volunteers have been exemplary. The clinic

hopes that through its work, it will help foster a positive relationship between veterans and the overall legal community.

Students also play a critical role. Although students receive pro-bono hours, clinic work is intensive and time consuming. The students who volunteer for the clinic are therefore very client focused. Veterans have frequently commented on student dedication. "The help I've gotten from my student," one veteran said, "I'm just in awe. She's all ears—when I talk I know she's listening. It's real life, it's my life, and she wants to learn it." Students at the clinic treat client cases seriously—it is not a classroom project but a case central to that individual's life. These positive



Norwich Document Laboratory
 Forgeries - Handwriting - Alterations - Typewriting
 Ink Exams - Medical Record Examinations - "Xerox" Forgeries

F. Harley Norwich - Government Examiner, Retired
 Court Qualified Scientist - 30+ years. Expert testimony given in
 excess of four hundred times including Federal and Offshore

17026 Hamlin Boulevard, Loxahatchee, Florida 33470
www.questioneddocuments.com
 Telephone: (561) 333-7804 Facsimile: (561) 795-3692

interactions not only help the client, but also encourage and prepare the student to continue to contribute to the pro bono community.

The clinic also tries to identify any issues that the veteran may have other than those initially presented to the clinic. As referenced above, the clinic recently partnered with Alston & Bird to provide wills, trusts and estates services to existing clients. The clinic also helps with non-legal issues, having created, for example, a list of veteran aid organizations approved by the VA. Veterans applaud this attention to the entire person. "You guys [the clinic], take care of the whole picture, the whole person. I'm not just a number. I get help face-to-face. Now I'm not asking for help—I'm being given help that I didn't even know I needed. I could never put into words how grateful I am for y'all." The clinic aims to be a resource to the veteran community. Even if the clinic cannot take on the veteran as a client, students will still attempt to refer the veteran to appropriate organizations.

The final key component of the clinic involves the attorney-student relationship. These relationships often directly impact the client. As one veteran observed, "It's good to see those people [attorney mentors] that are just more than willing to help someone along like they were helped along; kind of like passing it on to the next generation of lawyers." Good attorney mentors coupled with dedicated students are key. A strong attorney-student relationship creates a more welcoming environment for the client, and a good attorney mentor provides the student with an invaluable role model.

Drew Early concluded, "Coupling the Emory effort with the other ongoing activities of the State Bar's Military Legal Assistance Program has resulted in verified, quantitative enhancements in legal support to our state's military, veterans and their families. I commend Emory for their initiative in bringing this clinic into reality. At the same time, it sets the tone for the Emory students in demonstrat-

ing what the legal profession is all about—not just taking care of individual clients, but also serving as a positive force in society."

Challenge for the Future

The clinic does have significant challenges, mainly associated with fundraising. It needs to raise sufficient funds to hire a director who will also teach a class for credit on veterans disability law. There is also a need for more volunteer attorney/mentors who would accept a VA disability case and a discharge upgrade. Volunteers can contact Lane Dennard at 404-572-2507 or ldennard@kslaw.com.

The work is time-sensitive and demanding for students who volunteer. For some students, this is a barrier to participation in the clinic. A course for credit would substantially increase the clinic potential case load and allow the clinic to accept more intensive cases such as those before the U.S. Court of Appeals for Veterans Claims. The clinic would not limit itself to students taking the course, but would

Local and Voluntary Bar Activities Awards

Deadline: May 9


Attention all Local and Voluntary Bars in Georgia! It's time to submit your entries to be recognized for all your hard work! The awards will be presented at the State Bar's Annual Meeting on June 6.

For more information and guidelines,
visit www.gabar.org or call **404-527-8792**.

instead continue to be available to the general student body. With this model, the clinic would maximize its potential student volunteer pool and thereby increase its potential capability to help more veterans.

The clinic also plans to create new outreach programs as needs are identified. For example, one program is the Homeless Veteran and Mental Health Initiative. This initiative will involve the combined efforts of faculty, staff and students from Emory's School of Public Health and the Emory Medical School.

State Bar President Charles L. Ruffin observed, "The State Bar of Georgia strongly supports efforts to assist our returning veterans with their unmet legal needs. The Emory Clinic is one more way that lawyers and law students can leverage limited resources to help in this critical effort. I commend Emory Law School, Lane Dennard and Charles Shanor for leading this vital activity. As is true of all such efforts, money and volunteers are required to support these activities. I hope that Georgia lawyers will contribute their service and the funds to help continue this good work."⁸

The clinic directors and student volunteers appreciate the strong support by State Bar leadership and the attorneys who have volunteered to be pro bono counsel and mentors for the students. The Emory Law Volunteer Clinic for Veterans is a testament to what can be accomplished by volunteer attorneys and volunteer students. Great appreciation is also offered to active service members and veterans. Thank you for your service to our country. 



H. Lane Dennard Jr. is a retired partner at King & Spalding, and for the past year has been co-director of the Emory Law Volunteer

Clinic for Veterans along with Prof. Charles Shanor. He is also a veteran, having served as a

Captain and Infantry Company Commander in Vietnam in 1969.



Rachel L. Erdman is a third-year law student at Emory and student coordinator at the Emory Law Volunteer

Clinic. For her work in assisting the startup of the clinic, she received the Emory University 2013 Leadership, Service and Diversity Award. She also took part in the Emory Law School Supreme Court Advocacy Project and was Outstanding Member and author of the Brief of the Year. She has accepted a job with Finnegan's Atlanta office.

Endnotes

1. For this article, the veteran population in Atlanta, Ga., is defined by 10 counties: Cherokee, Clayton, Cobb, DeKalb, Douglas, Fayette, Fulton, Gwinnett, Henry and Rockdale. GEORGIA CENTER FOR NONPROFITS, METRO ATLANTA VETERANS SERVICES REPORT 5 (2012), available at [http://www.gcn.org/sites/default/files/ctools/Metro%20Atlanta%20Veterans%20Services%20Report%20\(2012\).pdf](http://www.gcn.org/sites/default/files/ctools/Metro%20Atlanta%20Veterans%20Services%20Report%20(2012).pdf).
2. In January 2014, 685,686 veteran rated claims were pending. (U.S. DEPARTMENT OF VETERANS AFFAIRS, JAN. 6, 2014 MONDAY MORNING WORKLOAD REPORT (2014), available at <http://www.vba.va.gov/reports/mmwr/>).
3. The MLAP of the State Bar of Georgia provides connection between a cadre of volunteer attorneys (about 800 throughout the state) and service members and veterans who seek legal assistance. MLAP assists on most all categories of civil law matters but not on criminal matters. MLAP also helps veterans with service connected disability issues with the Department of Veterans Affairs (VA). Since the program's onset in 2009, MLAP has connected more than 1,100 service members and veterans with a lawyer. Norman Zoller coordinates the program and may be reached at 404-527-8765 or at normanz@gabar.org. See also

Military Legal Assistance Program, STATE BAR OF GEORGIA, <http://www.gabar.org/publicservice/militarylegalassistance.cfm> (last visited Jan. 19, 2014).

4. See 38 C.F.R. § 3.309(e) (2013).
5. See 38 U.S.C.A. § 5108 (2012); 38 C.F.R. § 3.156(a) (2013).
6. Private access to criminal records can be restricted in some circumstances, including arrests that do not result in convictions, first offender treatment, and drug court dispositions. O.C.G.A. § 35-3-37 (2010).
7. The Georgia Justice Project is a non-profit group of lawyers, social workers and staff that represents indigent clients accused of crime. Their "Coming Home" Project is focused on assisting ex-offenders with problems associated with their criminal records. See GEORGIA JUSTICE PROJECT, www.gjp.org (last visited Jan. 19, 2014).
8. For more information on the work of the Emory Law Volunteer Clinic for Veterans, see the clinic website at <http://www.law.emory.edu/centers-clinics/volunteer-clinic-for-veterans.html>. Donations may be made to Emory Law for the Emory Law Volunteer Clinic for Veterans by mail or online. Donations by mail can be sent to Joella Hricik at the following address: Associate Dean for Development and Alumni Relations, Emory University School of Law, 1301 Clifton Road NE, Atlanta, GA 30322.

Earn up to 6 CLE credits for authoring legal articles and having them published.

Submit articles to:
Bridgette Eckerson
Georgia Bar Journal
104 Marietta St. NW
Suite 100
Atlanta, GA 30303

Contact sarahc@gabar.org for more information or visit the Bar's website, www.gabar.org.

Honoring Attorney William John Camp for Work with MLAP

by Norman E. Zoller

Georgia native William John Camp was honored with the Marshall-Tuttle Award, presented by the State Bar of Georgia during its Midyear Meeting on Jan. 11. Camp, who practices law in Macon and Warner Robins, was cited for providing legal expertise in working with military service members and veterans and for his unwavering support of the Bar's Military Legal Assistance Program.

Camp is a partner in the firm of Westmoreland Patterson Moseley & Hinson and has 38 years' experience as an attorney, including 22 years of service in the Air Force as a staff judge advocate. Over the years he has handled many cases involving federal benefits, child support, complex custody and visitation, and related family law matters. He is admitted to practice in Georgia and in Florida and the bars of the Supreme Courts of Georgia and Florida, the U.S. Court of Appeals for the 11th Circuit, the U.S. Court of Appeals for the Armed Forces, the Court of Appeals of Georgia and the U.S. District Court for the Middle District of Georgia.

Camp graduated *magna cum laude* from Auburn University in 1971 and was commissioned as a Distinguished Military Graduate into the Regular Air Force. In 1974, he graduated from the University of

Georgia School of Law, and was then designated as an Air Force Judge Advocate. His diversity in practice while in the Air Force included serving as a Special Assistant U.S. attorney; trial and defense counsel in more than 700 courts-martial; chief military counsel, National Security Agency; and, as deputy staff judge advocate to U.S. Central Command, where he was the principal legal architect in drafting many special operational orders, including the Rules of Engagement and legal annexes for Operations Desert Shield and Desert Storm. Of significance was his General Order No. 1, which allowed for more than a half million U.S. military personnel to enter the Middle East Area of Combat Operations. More than two decades later, that Order remains in place in the United States Central Command Area of Combat Operations. In a report to Congress on "Lessons Learned from the 1990-1991 Conflict," military and international legal experts credited General Order No. 1 as instrumental to integrating the armed forces of the United States with allies from Muslim countries.

Camp also was recognized for his humanitarian efforts for displaced civilians and prisoners of war. In 1991, the International Committee of the Red Cross recognized Camp for his service as the legal adviser to the United States and Coalition Forces Delegation to Geneva for negotiations with Iraq leading to the repatriation of more than 90,000 enemy prisoners of war and displaced civilians.

Since 1996, Camp has devoted himself to the developing area of military family law. He is a recognized national expert in the area of military health care, pension division, survivor benefits and custody

disputes involving military families. He is often called upon as an expert witness in family law cases that concern military benefits and children's issues. His 2010 American Bar Association Family Law Quarterly Article on "Health Care Options for Former Military Spouses" is a principal reference for family law attorneys throughout the nation.

The Board of Governors of the State Bar of Georgia recognized Camp for his extraordinary legal services in three notable pieces of Georgia legislation, including Military Compensation issues in the Child Support Guidelines (OGCA sect 19-6-15); the Military Parents Rights Act (SB 112); and the currently pending Uniform Deployed Parents Custody and Visitation Act (HB 685). On these and related matters, he is a respected speaker, author and advocate on such issues as health care options for former military spouses, access to TRICARE and the Continued Health Care Benefit Program, to cite only a few.

Camp and his wife, Dr. Teresa Luhrs, live in Macon. Camp's son, Corbin, is a senior computer systems analyst in Birmingham, Ala., and his daughter, Lauren, is a full-time mother and homemaker in Mobile, Ala.

Presenting the Marshall-Tuttle Award, Norman Zoller, coordinating attorney of the State Bar's Military Legal Assistance Program, said, "John Camp is one of the exemplary lawyers handling military family law and related cases in our state, if not in the nation. He brings unique skills, steadiness and confidence to his clients and is a credit to our State Bar's legal assistance program. Camp inspires other attorneys with his 'Follow Me!' leadership in assisting the Georgia military community."

The Marshall-Tuttle Award was named in honor and memory of Army Cpl. Evan Andrew Marshall, a soldier from Athens, who was killed in action in Iraq in 2008, and in honor and memory




(Left to right) William John Camp with MLAP Coordinating Attorney Norman Zoller after the presentation of the Marshall-Tuttle Award.

Photo by Sarah I. Coole

of U.S. Circuit Judge Elbert Parr Tuttle. Tuttle was in the Army for 30 years, was a founding partner of the Atlanta law firm of Sutherland Asbill and served as a federal judge for 43 years. He also provided pro bono legal services to many people, including John Johnson, a young Marine. In 1938, the U.S. Supreme Court held in *Johnson v. Zerbst* that counsel must be provided for all defendants in federal criminal trials who cannot afford to hire their own attorneys. The State Bar determined that these two men, Evan Marshall and Elbert Tuttle, each contributed mightily to the state of Georgia and the nation and to the ideal of service and sacrifice for the public good.

Since the Military Legal Assistance Program began, help has been provided to more than 1,100 military service members and veterans throughout Georgia. Through its Continuing Legal Education programs, the Bar has also provided training for more than 600 lawyers seeking accreditation to practice before the U.S. Department of Veterans Affairs. Currently in Georgia, more than 115,000 men and women are on

active duty or serve in the National Guard or Reserves, and more than 774,500 veterans have chosen to live in Georgia. 



Norman E. Zoller has devoted the majority of his legal career to public service. He served as the first clerk of court for the U.S.

Court of Appeals for the 11th Judicial Circuit from 1981 to 1983, when he was named circuit executive, a post he held until his retirement in 2008. Previously, he managed the Hamilton County, Ohio, courts for nearly a decade. He is admitted to practice in Georgia and Ohio. An Army veteran, Zoller served almost seven years on active duty as a field artillery officer, including two tours of duty in Vietnam, first with Special Forces and then with the 82nd Airborne Division in response to the Tet Offensive in 1968. He also served 15 years in the national Guard and Army Reserves as a judge advocate officer.

Whitfield County Courthouse at Dalton:

The Grand Old Courthouses of Georgia

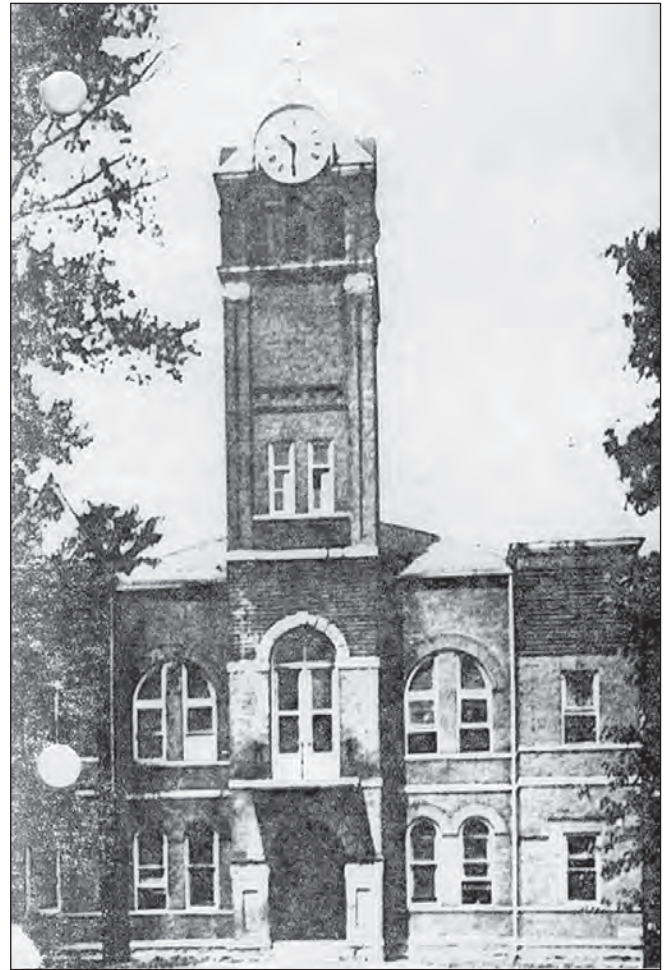
by Wilber W. Caldwell

Dalton was already booming in 1851 when Whitfield County was created from parts of Murray, Cass and Floyd counties.

In that same year, the East Tennessee and Georgia Railroad had completed track connecting Dalton with Loudon, Tenn., on the way to Knoxville, and only a year earlier the first train had made the run up the new Western and Atlantic Railroad from Atlanta, through Dalton, to Chattanooga. The effect of the two railroads on the new county seat of Dalton was electric. One local account contends that Dalton's population grew from 300 to more than 1,500 the year the railroad was completed. While this is probably something of an exaggeration, it points to the fact of remarkable growth.

As the first train on the Western and Atlantic chugged through Whitfield County, George White praised Dalton's prosperity in the 1850 edition of his *Statistics of the State of Georgia* declaring it: "the market town for large portions of Eastern Tennessee, Western North Carolina and Northern Georgia. . . immense quantities of produce are hauled here by wagon." White goes on to describe Dalton in 1849 as a town with three or four hotels, 18 stores, 10 or 12 carpenters, three brick layers, a candle factory, a candy manufacturer, three lawyers, 14 doctors and its own newspaper.

Despite considerable Civil War damage, the town's post-war resurgence was swift, and in 1885, the town celebrated the opening of the Crown Cotton Mill. Dalton is typical of the handful of towns that experi-



The Whitfield County Courthouse at Dalton, built in 1891, demolished in 1960, Walter Chamberlain, architect.

Photo Courtesy of Georgia Department of Archives and Records

enced some semblance of economic growth immediately after the war. Certainly, other towns on The Western and Atlantic and its branch are in this group including Marietta, Cartersville and Rome, as well as Augusta, Columbus, Americus and a few others on Georgia's other early railroads. Here we find an early embrace of the New South Creed and a formidable, although transparent, form of boosterism fashioned after that shown by Atlanta, but somehow less convincing.

This was enough to move the county commissioners to call for plans for a new court building in May

of 1890. There is no clue as to how the design selection process proceeded; only a brief mention in *The Dalton Argus* on Nov. 29, that "a most imposing plan of structure had been selected," and the announcement of the letting of the contract to build in April of the next year.

Although the name of the architect of this building is lost to history, if we look at the later work of the architectural firm W. Chamberlain and Company of Knoxville, Tenn., we find compelling similarities. Chamberlin's Berrien County Courthouse in Nashville, Ga., (1898) and his Macon County Courthouse in Oglethorpe (1894) share rather fundamental details with the Dalton court building. Most notable are the square corner pavilions with their pyramidal caps and the distinctive, if not attractive, brick banding in the second story of these pavilions. A closer examination reveals similar brick detail accenting the window headers and other common details. The resemblances here are not mere similarities of style but of architectural plan, and there can be little doubt that the 1891 Whitfield County Courthouse is the work of the same designer who created the plans for Nashville and Oglethorpe: Walter Chamberlain

One of the many restrictions placed upon architects creating buildings to be erected in rural areas was the necessity to design something within the capabilities of local masons and carpenters. The ability of these artisans to handle precise classical proportion and elaborate Renaissance decoration was very much in question. Thus, the choice of brick and the Romanesque Revival Style was a natural. Similarly, a distinguishing characteristic of Walter Chamberlain's style is that he borrowed directly from the brick vernacular of the day. Buildings like this one and its sisters at Oglethorpe and Nashville, as well as Lewis Goodrich's courthouses at Sylvania and Crawfordville, are examples of architects taking a cue from the vernacular brick masonry forms of the day and incorporating that type of decoration into simple buildings for simple folk. The results are aesthetically questionable, but remarkably appropriate. Whether this is designing down to the skill of the work force or to the tastes of the customer, is a question whose answer we can only guess. Perhaps it was simply the style that Chamberlain and Goodrich knew and preferred. (GB)

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.


Making Sense of New Regulations isn't Easy. **SoftPro Can Help.**

In an industry filled with constant regulatory changes, understanding these changes and how they affect your business can be a daunting task. You need a software partner that is working alongside you to help make sense of everything. As the nation's leading provider of closing and title software, you can count on SoftPro to deliver state-of-the-art technology that is always current with the latest industry regulations and requirements.



Call **800-848-0143** for a **FREE 30 DAY TRIAL** or visit **www.softprocorp.com**.

Kudos

>  **Lewis C. Horne Jr.**, coordinating partner in **Schiff Hardin's** Atlanta office, was appointed by Gov. Nathan Deal to serve on the **board of directors** of **Georgia Regents Health System**, a world-class academic medical center in Augusta, Ga., serving Richmond, Columbia and Aiken counties. Prior to this appointment, Horne served for three years on the board of directors for Georgia Regents University Medical Center.

> **Alston & Bird** received the **2013 John H. Pickering Award** given by the **Pro Bono Institute (PBI)** in recognition of the firm's unwavering commitment and dedication to pro bono. Given annually by PBI and the firm of WilmerHale, the award honors the memory of John H. Pickering, a founding partner of WilmerHale and a distinguished appellate lawyer known for his extraordinary commitment to pro bono and public interest law. Alston & Bird's pioneering pro bono efforts have provided real-time, on-the-ground assistance to countless people and community organizations throughout the world by responding to critical legal needs that would have otherwise gone unmet.

> **Fisher & Phillips LLP** won **first place** in the social/interactive media category of the **Legal Marketing Association Southeastern Chapter "Your Honor Awards"** for its FMLA leave calculator app. Fisher & Phillips created the app which allows employers to calculate basic leave requests and determine how much FMLA leave an employee has available.

>    **Kilpatrick Townsend & Stockton LLP** announced that partner **Yendelea Neeley**

Anderson

Barkley


Vayner

Anderson was selected as a member of the **2014 Class of Fellows** to participate in a landmark program created by the **Leadership Council on Legal Diversity (LCLD)** to identify, train and advance the next generation of leaders in the legal profession. The LCLD Fellows Program offers participants a rich year of relationship-building, virtual and in-person training, peer-group projects and extensive contact with LCLD's top leadership.


Partner **Ben Barkley** was elected to the **Board of Directors** of **Camp Sunshine**. Camp Sunshine enriches the lives of Georgia's children with cancer and their families through recreational, educational

and support programs. Camp Sunshine provides programs throughout the year to give children with cancer the opportunity to enjoy normal activities like swimming, horseback riding, arts and crafts, and making friends.

Associate **Sabina Vayner** was appointed to serve a two-year term on the **Anti-Defamation League's Southeast Region Board of Directors**. Founded in 1913, the Anti-Defamation League (ADL) is the nation's premier civil rights/human relations agency, fighting anti-Semitism and all forms of bigotry and discrimination in the United States and abroad through information, education, legislation and advocacy. The ADL serves as a resource for government, media, law enforcement, educators and the public.

>  **Nelson Mullins Riley & Scarborough LLP** announced that partner **Anita Wallace Thomas** was appointed to **Mercer University's Walter F. George School of Law Board of Visitors**. The board serves as an advisory group to the dean of the law school. Thomas earned her Juris Doctor from the school in 1989.

> **Piedmont Healthcare Foundation** welcomed attorney **Allen Meadors** to its **Board of Directors**. Since 1976, the Foundation has been at the center of fundraising efforts for Piedmont Healthcare. The Foundation helps drive and coordinate contributions from private donors. The Board is made up of members of the community along with Piedmont Medical employees, physicians and Piedmont Healthcare board members who volunteer their time improving health care for Atlanta and its surrounding communities.

>  **Hatcher, Stubbs, Land, Hollis & Rothschild, LLP**, announced that partner **Alan F. Rothschild Jr.** was named **chair** of the **Board of Directors of Greater Columbus Georgia Chamber of Commerce**. The Chamber, originally the Columbus Board of Trade, was founded in 1847.

> **Womble Carlyle Sandridge & Rice, LLP**, announced that **John Thomson**, a member of the firm's bankruptcy and restructuring group, was elected as a **fellow** in the **American College of Bankruptcy**. Fellows include commercial and consumer bankruptcy attorneys, corporate turnaround specialists, U.S. trustees, insolvency accountants, law professors, judges and others involved in the bankruptcy and insolvency community. Nominees are extended

an invitation to join based on a proven record of the highest standards of professionalism and service to the practice of bankruptcy and insolvency law in the United States.

- > The **Georgia Italian American Bar Association (GIABA)** had its **inaugural dinner** in January with **Gwinnett County State Court Judge Joseph Iannazzone** as its **guest speaker**. GIABA is a non-profit organization which strives to be the voice of the growing Italian-American legal community in Atlanta. GIABA's goals are to preserve the traditions of Italian heritage, promote legal excellence and professionalism and to encourage relationships amongst its members. The bar association is open to all attorneys and legal professionals who are of Italian descent or who share a passion for Italian culture. For further information, please contact Gina Micalizio at 404-432-2866 or gmicalizio@bellsouth.net.

On the Move

In Atlanta

>



Cao



Donnalley



Johnson

Kilpatrick Townsend & Stockton LLP announced the addition of three new **associates** to the

firm's Atlanta office: **Carrie Cao** joined the firm's trademark and copyright team in the intellectual property department; **Kelsey Donnalley** joined the firm's mergers and acquisitions and securities team in the corporate, finance and real estate department; and **Daniel Johnson** joined the firm's construction and infrastructure team in the litigation 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.

>



Carter



Pins

Nelson Mullins Riley & Scarborough LLP announced that **W. Thomas Carter III** joined the firm's Atlanta office as a **partner**, and **Marisa Pins** joined as an **associate**. Carter focuses

his practice on mergers and acquisitions, joint ventures, public securities disclosure and corporate governance. Pins focuses her practice in the area of health care law. The firm is located at 201 17th St. NW, Suite 1700, Atlanta, GA 30363; 404-322-6000; Fax 404-322-6050; www.nelsonmullins.com.

- > **Deborah S. Ebel** announced the relocation of **Ebel Family Law** to 1201 Peachtree St. NE, 400 Colony Square, Suite 960, Atlanta, GA 30361; 404-228-4441; Fax 404-228-4539; www.ebelfamilylaw.com.

>



Nall & Miller, LLP, announced that **Patrick N. Arndt** joined the firm as an **associate**. Arndt concentrates his practice in the areas of construction law, governmental liability, health care law, motor carrier litigation, product liability, professional liability and trial practice. The firm is located at 235 Peachtree St. NE, Suite 1500, Atlanta, GA 30303; 404-522-2200; Fax 404-522-2208; www.nallmiller.com.

>



Baker Donelson announced that **Elizabeth Satterfield** joined the firm's Atlanta office as an **associate** in its transportation group. Satterfield focuses her practice on commercial litigation, personal injury and property damage

cases for corporate and individual clients in transportation. She also handles complex insurance coverage matters and related litigation. The firm is located at 3414 Peachtree Road NE, Suite 1600, Atlanta, GA 30326; 404-577-6000; Fax 404-221-6501; www.bakerdonelson.com.

- > **Jeffrey P. Ganek**, a long-time named partner of **Ganek Wright Minsk PC** and its former managing partner, has chosen to become **senior counsel** of the firm. He will continue to provide legal services to Atlanta's real estate community. The firm is located at 197 14th St. NW, Atlanta, GA 30318; 404-892-7300; www.titlelaw.com.

>



Bronstein



Hall




Stay


Stites & Harbison, PLLC, announced that **Louann Bronstein** joined the business & corporate services group as a **member** of the firm, **S. Elizabeth Hall** was elected to **membership** and **Ronald Stay** was elected to **counsel** in the firm's Atlanta office. Bronstein has a broad commercial transaction practice, with a focus on mergers and acquisitions. Hall and Stay are litigators in the firm's creditors' rights and bankruptcy service group. Hall's practice focuses primarily on representing institutional lenders and businesses in litigation related to bankruptcy, contracts, foreclosures and workouts. Stay's practice focuses on represent-


ing institutional lenders and businesses in litigation related to creditors' rights, contracts, foreclosures, workouts and bankruptcy, as well as general commercial litigation. The firm is located at 303 Peachtree St. NE, 2800 SunTrust Plaza, Atlanta, GA 30308; 404-739-8800; Fax 404-739-8870; www.stites.com.

- > **Miller & Martin PLLC** announced that **Randall B. Scoggins** and **Robert F. Goodman Jr.** joined the firm's Atlanta office as **members**, **Julian Nealy** joined as **of counsel** and **Jonathan E. Smith** joined as an **associate**. Scoggins, Goodman and Smith continue to practice in the area of commercial real estate. Nealy concentrates his practice in the area of real estate finance. The firm is located at 1170 Peachtree St. NE, Suite 800, Atlanta, GA 30309; 404-962-6100; Fax 404-962-6300; www.millermartin.com.

- >  **Taylor English Duma LLP** announced that **LeeAnn Jones** joined the firm as a member of the litigation & dispute resolution group. Jones represents clients in commercial, mass tort, class action, pharmaceutical and medical device, and products liability litigation. She is also a registered mediator. The firm is located at 1600 Parkwood Circle, Suite 400, Atlanta, GA 30339; 770-434-6868; Fax 770-434-7376; www.taylorenglish.com.

- >  **BarkerGilmore**, a New York-based executive search firm focused on corporate board, general counsel and compliance positions, announced that **Lori L. Garrett** joined the firm as **managing director** of the firm's Atlanta office, and will co-chair the firm's women and diversity initiative. The firm is located at 925B Peachtree St. NE, Suite 364, Atlanta, GA 30309; 404-627-1390; www.barkergilmore.com.


- >  **James-Bates-Brannan-Groover-LLP** announced that **Sara Kate Brannan** joined the firm as an **associate**. Her practice focuses on health care, corporate, financial institutions and real estate. The firm is located at 3399 Peachtree Road NE, Suite 1700, Atlanta, GA 30326; 404-997-6020; Fax 404-997-6021; www.jamesbatesllp.com.

- >  **Carlock, Copeland & Stair, LLP**, announced that **T. Evan Beauchamp** joined the firm as an **associate** in its Atlanta office. Beauchamp focuses his practice on the defense of false or inflated workers' compensation claims. The firm is located at 191 Peachtree St. NE, Suite 3600,


Atlanta, GA 30303; 404-522-8220; Fax 404-523-2345; www.carlockcopeland.com.




Hall Booth Smith, P.C., welcomed **Jeffrey Daniel**, **Ariel Adams**, **Andrew Hazen** and **Jacquelyn Smith** to the firm's Atlanta office as **associates**. Daniel's practice areas include governmental liability, education and business litigation. Adams focuses her practice on professional negligence and medical malpractice. Hazen practices in the areas of agriculture, general liability, professional negligence and medical malpractice. Smith's practice areas include environmental, mass torts and land use, bankruptcy and creditors' rights, government contracting, construction, non-medical and fiduciary professional negligence, and medical malpractice. The firm is located at 191 Peachtree St. NE, Suite 2900, Atlanta, GA 30303; 404-954-5000; Fax 404-954-5020; www.hallboothsmith.com.

- >  **Alfred L. Evans III** announced the founding of **Evans Litigation & Trial Law, LLC**. Previously with Austin & Sparks, P.C., in Buckhead, Evans handles cases involving wrongful death, truck, commercial vehicle and car accidents, accidents involving drunk and/or drugged drivers, dram shop liability and premises liability including trips and falls, slips and falls, and negligent apartment and hotel security. The firm is located at 1447 Peachtree St., Suite 540B, Atlanta, GA 30309; 404-334-8009; www.evansltl.com.

- > **Carlton Fields, P.A.**, and **Jorden Burt, LLP**, announced the formal completion of their merger. They are now operating as **Carlton Fields Jorden Burt, P.A.** The firm is located at 1201 W. Peachtree St. NW, Suite 3000, Atlanta, GA 30309; 404-815-3400; Fax 404-815-3415; www.cfjblaw.com.


- >  **FordHarrison LLP** announced the addition of **Katherine (Katie) Parvis** as an **associate**. Parvis focuses her practice on the representation of management in labor and employment law matters. She also drafts and reviews employment policies, employment contracts and employee handbooks. The firm is located at 271 17th St. NW, Suite

1900, Atlanta, GA 30363; 404-888-3800; Fax 404-888-3863; www.fordharrison.com.


- >  **Barnes & Thornburg LLP** announced that **Stuart C. Johnson**, managing partner of the firm's Atlanta office, is a member of the firm's **2013-14 Management Committee**. Johnson is also the chairman of the firm's private equity practice group, and is a member of the firm's corporate department. The firm is located at 3475 Piedmont Road NE, Suite 1700, Atlanta, GA 30305; 404-846-1693; Fax 404-264-4033; www.btlaw.com.

- > **Thompson Hine LLP** announced that **Peter D. Coffman** joined the firm as a **partner** in the firm's business litigation group and **Aaron Watson** joined as **senior counsel** in the firm's corporate transactions and securities practice group. The firm is located at Two Alliance Center, 3560 Lenox Road, Suite 1600, Atlanta, GA 30326; 404-541-2900; Fax 404-541-2905; www.thompsonhine.com.

- > **Casey Gilson P.C.** announced the relocation of the firm. Casey Gilson is now located at Two Lakeside Commons, 980 Hammond Drive, Suite 800, Atlanta, GA 30328; 770-512-0300; Fax 770-512-0070; www.caseygilson.com.

- >  **Stanton Law LLC** announced that **Clancy V. Mendoza** joined the firm as **counsel**. Mendoza's practice areas include employee benefits, executive compensation and tax law. The firm is located at 1579 Monroe Drive, Suite F206, Atlanta, GA 30324; 404-881-1288; www.stantonlawllc.com.

In Alpharetta

- >  **Robinson & Miller, P.C.**, announced that **Lindsay Culver** joined the firm as an **associate**. Culver represents clients in the areas of business law, estate planning and trusts. The firm is located at 3460 Preston Ridge Road, Suite 100, Alpharetta, GA 30005; 770-817-4999; Fax 770-817-4994; www.robinsonmiller.com.

- > **David J. Maher** announced the establishment of his appellate practice, **The Law Office of David J. Maher, LLC**. A former litigator at Drew, Eckl & Farnham in Atlanta and judicial clerk at the U.S. Court of Appeals for the 11th Circuit, Maher is also an experienced Florida litigator and appellate lawyer, having been a partner at the Miami firm of Harke & Clasby LLP. Maher's new firm focuses


on civil appeals for trial lawyers in both Georgia and Florida. The firm is located at 555 Northpoint Center East, Suite 400, Alpharetta, GA 30022; 770-973-8700; www.davidjmaherlaw.com.


In Columbus

- > **Page, Scrantom, Sprouse, Tucker & Ford, P.C.**, announced that **Patrick A. Coleman** joined the firm of as an **associate**. He represents individuals and corporations in the areas of corporate law, estate planning, real estate and general litigation. The firm is located at 1111 Bay Ave., Third Floor, Columbus, GA 31901; 706-324-0251; Fax 706-243-0417; www.columbusgalaw.com.


In Macon

- > **Adams, Hemingway & Wilson, LLP**, announced that **Mason Bryan** joined the firm as an **associate**. Bryan's practice areas include personal injury, school/education law, real estate, probate/estate planning and social security. The firm is located at 544 Mulberry St., Suite 1000, Macon, GA 31201; 478-201-9941; Fax 478-746-8215; www.ahwllp.com.

- >  **James-Bates-Brannan-Groover-LLP** announced that **Natalie Stroud Brown** joined the firm as an **associate**. Her practice areas include banking, civil litigation, eminent domain and insurance. The firm is located at 231 Riverside Drive, Macon, GA 31201; 478-742-4280; Fax 478-742-8720; www.jamesbatesllp.com.

- >  **Jason E. Downey** announced the creation of **The Downey Law Firm, LLC**. The firm specializes in personal injury plaintiff's practice, with a focus on motor vehicle wrecks, as well as civil and domestic mediation. The firm is located at 544 Mulberry St., Suite 902A, Macon, GA 31201; 478-743-4771; Fax 478-743-8772.

In Marietta

- >  **David R. Willingham** announced the opening of **Willingham Law Firm, P.C.** He concentrates his practice on DUI defense, criminal defense and civil litigation. Willingham was previously with the Cobb County District Attorney's Office. The firm is located at 191 Roswell St., Marietta, GA 30060; 678-909-2528; Fax 770-884-8059.

In Savannah



> **HunterMaclean** announced that **Daniel J. Monahan** joined the firm's specialty litigation group as an **associate**. He focuses his practice in the area of business litigation. The firm is located at 200 E. Saint Julian St., Savannah, GA 31401; 912-236-0261; Fax 912-236-4936; www.huntermaclean.com.

In Suwanee



Clark



Oxendine



Sauls

Superior Court Judge Michael C. Clark will join **Jarrod Oxendine** and **Trey Sauls** in practice on March 1, which

will then establish the firm as **Clark, Oxendine & Sauls LLP**. Clark's goal is to use his experience as a judge to effectively handle litigation in which he has an interest. The firm is located at 1325 Satellite Blvd., Building 600, Suite 606, Suwanee, GA 30024; 770-497-8688; Fax 770-497-9756; www.oxslaw.com.

In Columbia, S.C.



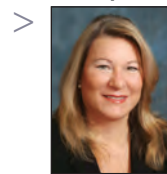
> The **Greater Columbia Chamber of Commerce and Columbia Opportunity Resource (COR)** announced the selection of **Anissa Floyd** as **vice president of talent and leadership development** and **executive director** of COR. In her new

role, Floyd will coordinate and manage Leadership Columbia and Leadership Columbia Alumni Association, the Columbia Chamber's flagship programs. Additionally, Floyd will serve as the executive director of COR, leading its mission to connect young, talented professionals in Columbia to diverse and meaningful networks for leadership, service and fun. COR is located at 930 Richland St., Columbia, SC 29202; 803-733-1110; Fax 803-733-1149; www.columbiachamber.com; www.ourcor.org.

In Memphis, Tenn.

> **Stites & Harbison, PLLC**, announced the opening of an office in Memphis, located at 20 S. Dudley St., Suite 802, Memphis, TN 38103; 901-969-1133; Fax 901-881-3653; www.stites.com.

In Tampa, Fla.



> **Greenspoon Marder** announced that **Tina E. Dunsford** joined the firm's Tampa office as a **shareholder**. Dunsford is the chair of the expanding health care law practice for the firm. The firm is located at 401 E. Jackson St., Suite 2450, Tampa, FL 33602; 813-769-7020; Fax 813-426-8580; www.gmlaw.com.

Georgia's Law Day 2013 'Dream Team' Receives ABA Award

by Rita A. Sheffey

The American Bar Association (ABA) announced that Georgia's Law Day 2013 'Dream Team' received a Law Day 2013 Outstanding Activity Award at the ABA's Midyear Meeting in Chicago, in February 2014. The national honor recognizes the successful efforts of a unique collaboration of organizations to promote Law Day.

In April 2013, the Atlanta Bar Association teamed up with seven other voluntary bar associations—the Gate City Bar Association, the Georgia Asian Pacific American Bar Association, the Georgia Association for Women Lawyers, the Georgia Association of Black Women Attorneys, the Georgia Hispanic Bar Association, the South Asian Bar Association of Georgia and the Stonewall Bar Association; the State Bar of Georgia, the Chief Justice's Commission on Professionalism, the Multi-Bar Leadership Council, the Atlanta Public Schools and the National Center for Civil and Human Rights (Center) to present the award-winning Law Day program for lawyers, middle and high school students, and the public. The ABA's 2013 Law Day theme of "Realizing the Dream: Equality for All!" inspired our efforts.

Our nomination of the 'Dream Team' for the ABA Award demonstrates how well the collaborative effort met the ABA's six criteria for Outstanding Law Day Activity Awards:

Expands Public Awareness of the Rule of Law: Four substantive sessions targeted to students, lawyers and members of the public included content and discussion regarding the role of lawyers and the legal profession in addressing human and civil rights issues, past and present.

Highlights the 2013 Law Day

Theme: The ABA's theme was the perfect inspiration for collaborating with the Center. Session 1 focused on making the connection between the American civil rights movement and the principles of human rights to middle and high school students. Session 2 analyzed a broad spectrum of human rights violations in the United States and abroad. Session 3 looked specifically at human trafficking. Finally, Session 4 was a conversation among prominent civil and human rights leaders from multiple generations exploring current impacts of the civil rights movement: Former U.S. Ambassador to the United Nations Andrew Young, executive director of the Andrew Young Foundation Andrea Young, and Georgia Senators Jason Carter and Nan Orrock.

Engages the Target Audience:

We set out to reach a broad, diverse audience. We particularly sought to engage students. "Youth Talk" featured accomplished student speakers talking to their peers. We were joined at the Bar Center in Atlanta by more than 100 high school students from Grady High School and the D.M. Therrell High School of Law, Government and Public Policy. Participating by video conference were more than 30 middle and high school students in Tifton. The students in Atlanta had an opportunity not only to listen, but also to ask questions. Feedback was extremely positive and the teachers are interested in collaborating with us again. Sessions 2 and 3 also were interactive and designed to engage the public as well as lawyers. Session 4 afforded a unique opportunity to eavesdrop on a conversation among civil and human rights leaders from multiple generations.

Forged Partnerships with Community Groups, Schools and the Legal Community: This Law Day event was unique in the collaboration of local bar associations with each other and with the State Bar of Georgia, the Chief Justice's Commission on Professionalism, the Atlanta Public Schools System and the National Center for Civil and Human Rights. This was the first such collaboration with the Atlanta Public Schools System.

Quality and Innovation of the Program: The Center created outlines of the substantive sessions based on the ABA theme, drawing upon the Center's deep knowledge of the subject matter and connections to extraordinarily well-qualified speakers. Dream Team members refined the program outlines and added their contacts to create the final stellar list of speakers and moderators. The Center's expertise contributed to the high quality of the topic outlines and the broad collaboration was truly a "Dream Team."

Impact Extends Beyond Law Day: Our program's impact already has extended beyond Law Day through re-broadcast of Session 1 to students in social studies classes in the Atlanta Public Schools, as well as to students in two independent schools. We plan to distribute the DVD of Session 1, and others, to additional schools for use during the next school year. In addition, we are creating video highlights for the Dream Team partners and to promote Law Day 2014.

Coincidentally, I learned of the ABA Award the day before the Dream Team was scheduled to meet to begin planning for Law Day 2014. That meeting began with a celebration not only of the success of the 2013 program, but also knowing that the national recognition means that many other state and local bars around the country will learn about our outstanding program and perhaps be inspired to forge new collaborations of their own. We understand and strongly believe that our unique collaboration was a true winner here. Needless to say, the Dream Team is energized to tackle the 2014 theme, "American Democracy and the Rule of Law: Why Every Vote Matters." Our tentative date for this program is April 22, 2014. We hope you will mark your calendars and watch for more information. Heartfelt thanks to every individual and organization whose efforts were recognized with the ABA Outstanding Activity Award.



Georgia Law Day 2013 "Dream Team" (left to right): Patrise Perkins-Hooker, Law Day 2013 Dream Team co-chair and State Bar of Georgia president-elect; Deborah Richardson, executive vice president of the National Center for Civil & Human Rights; Session 3 moderator Jason Carter of the Georgia Senate; Session 4 speaker Maria Saporta, *Atlanta Business Chronicle* columnist; Session 4 moderator Andrew Young, former U.S. Ambassador to the United Nations; Session 4 speaker Andrea Young, executive director of the Andrew Young Foundation; Session 4 speaker Nan Orrock of the Georgia Senate; Session 4 speaker Nefertari Kirkman-Bey, National Center for Civil and Human Rights fellow and Law Day 2013 Dream Team co-chair; Session 1 moderator Rita A. Sheffey, Hunton & Williams, Law Day 2013 Dream Team co-chair, Atlanta Bar Association past president and State Bar of Georgia secretary; and Melody Z. Richardson of the Atlanta Bar Association and Law Day chair.

To Friend or Not to Friend?

by Paula Frederick

You sure lucked out with your dog bite case,” your partner announces as he walks into your office. “Judge Jimmy is scared of dogs! And you can stop with the trial preparation,” he adds. “I happen to know that the judge is going to be out of town next week.”

“If I thought that was true I could play golf this weekend,” you respond. “What makes you think the judge won’t be in court calling my case for trial on Monday morning?”

“We’re Facebook friends,” your partner declares. “Judge Jimmy’s mother-in-law died last night and he’s been lamenting the fact that he has to go to Outer Mongolia next week for the funeral.”

“So what did he say about dogs?” you ask.

“Hates ‘em!” your partner replies cheerfully. “Apparently he was bitten when he was a child and he never got over it!”

“That’s good to know,” you respond. “Maybe I’ll drop my jury demand and go with a bench trial.”

“Hmmm . . . I wonder if opposing counsel knows about this?” you add. “Did you happen to notice whether he’s Facebook friends with the judge too?”

What are the ethics implications of maintaining a social media relationship with a judge?

The judge typically has more to worry about than the lawyer.


The Rules of Professional Conduct have little to say on the subject beyond prohibiting *ex parte* communication or improper attempts to influence the court. Judges, on the other hand, should “avoid any conduct that would undermine the judge’s independence, integrity or impartiality, or create an appearance of impropriety.” *American Bar Association Formal Opinion 462, Judge’s Use of Electronic Social Networking Media*, Feb. 21, 2013.

Some judges deal with the perils of social networking by avoiding it altogether, but those who must run for re-election usually find an online presence neces-



sary for campaigning and fundraising. Even maintaining a social media presence that is strictly personal with no hint of one’s status as judge is not foolproof.

While it would certainly be inappropriate for a judge to share information about a case or other matter pending before him, even innocent social chitchat could potentially be useful to parties appearing before a judge. That’s why the ABA opinion cautions judges that they may need to disclose Facebook relationships to the other side in a case. It might be advisable to “unfriend” a lawyer who is appearing before the judge.

In most cases a Facebook relationship without more indicia of real life friendship would not require disqualification of a judge—a relief for judges who want “friends.” 



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



A Non-Profit Organization 501(c)(3)

Celebrating 20 Years of Service



Clothing Drive for At-Risk Kids
680,000+ items donated



Food for the Homeless
560,000+ turkey and cheese sandwiches distributed

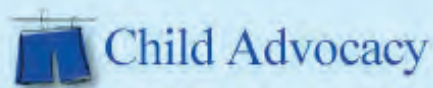


More than a half-dozen child safety campaigns annually, including:

Toy Safety Campaign
"10 Most Dangerous Toys List"



Playground Safety Campaign
Survey of metro area playgrounds



365 Ways to Keep Kids Safe
Don Keenan's nationally acclaimed child safety book



Kathy Jo v. DFACS
First US case to establish constitutional rights for foster children



Terrell v. DFACS
Expanded constitutional rights for foster children



*Thank You to the Many
Volunteers and Donors!*
- Don C. Keenan

Other Foundation Projects:

- Tickets for Children's Shows/Events
- Ethics Speeches by Don Keenan
- Annual Child Safety Campaigns
- Law School Competition
- Murphy House Project
- Stars of the South

For more information about the foundation, volunteering and/or giving, please contact
• 404-223-kids (5437) • www.keenanskidsfoundation.com • office@keenanskidsfoundation.com •

Discipline Summaries

(Oct. 19, 2013 through Dec. 13, 2013)

by Connie P. Henry

Disbarments/Voluntary Surrenders

James F. Steckbauer

Norcross, Ga.

Admitted to Bar in 1989

On Oct. 21, 2013, the Supreme Court of Georgia disbarred attorney James F. Steckbauer (State Bar No. 677395). The following facts are deemed admitted by default:

A client hired Steckbauer to represent him in a dispossessory action. The client met with Steckbauer and Scott Fitz Randolph. Steckbauer allowed Randolph, a disbarred attorney, to represent himself as a lawyer and to have contact with clients. Steckbauer failed to act with reasonable diligence in representing the client and did not keep him informed about the status of the case or comply with requests for information. Steckbauer did not inform his client about a hearing or the outcome of the hearing. The client asked Steckbauer to withdraw but he did not do so until almost a year later.

A client hired Steckbauer to represent her to recover property, including money taken from her in a traffic stop in Louisiana. The client met with Randolph. Steckbauer failed to abide by his client's decisions concerning representation, failed to act with reasonable diligence and promptness, failed to explain matters, failed to keep her informed and failed to comply with requests for information. Steckbauer did not tell his client that Randolph filed documents falsely purporting that Randolph was eligible to practice law in Louisiana. He also failed to inform her that a document she signed was a waiver of any right she had to the money. Steckbauer refused to communicate with the client and failed to withdraw from representation.

A collection agency that had intermittently hired Steckbauer conducted an audit and determined that he received \$2,292.88 regarding four cases but did not file suit in the cases. That failure harmed some of the clients. Steckbauer also submitted an Invoice for Suit Requirements for \$1,373.15, which the client paid, but the parties had agreed to a settlement. Steckbauer failed to attend a hearing so the court dismissed the case with prejudice. He did not file motions to reopen the case or compel settlement. He failed to act with reasonable diligence and promptness in representing the client, failed to explain matters, failed to keep his client informed about the case and failed to comply with requests for information. The Court noted Steckbauer's prior discipline, his selfish and dishonest motives and his pattern of misconduct.

Thomas S. Sunderland

Buford, Ga.

Admitted to Bar 1972

On Nov. 18, 2013, the Supreme Court of Georgia accepted the Petition for Voluntary Surrender of License of attorney Thomas S. Sunderland (State Bar No. 692400). Sunderland pled guilty in August 2013 to one count of felony theft by conversion, arising out of his theft of approximately \$188,600 from a minor's conservatorship estate. The minor's funds were reimbursed by Sunderland's surety, and Sunderland entered into an agreement to reimburse his surety, but he has not made payments.

Michael Louis Rothenberg

Marietta, Ga.

Admitted to Bar 2002

On Nov. 18, 2013, the Supreme Court of Georgia accepted the Petition for Voluntary Surrender of

License of attorney Michael Louis Rothenberg (State Bar No. 615671). Rothenberg was convicted of wire fraud in the U.S. District Court for the Northern District of Georgia, in which he entered a guilty plea.

Suspensions

Michael Frederick Greene

Atlanta, Ga.

Admitted to Bar 1993

On Oct. 21, 2013, the Supreme Court of Georgia accepted the petition for voluntary discipline of attorney Michael Frederick Greene (State Bar No. 307901) and suspended him for 18 months with conditions for reinstatement. Greene was retained by a client in a case arising out of an automobile accident. Greene settled the case but did not fully remit all the funds due the insurance provider. After a grievance was filed, Greene fully compensated his client, as the provider chose not to assert a claim for the funds.

In another matter Greene failed to appear for a trial and judgment was entered against his client. After a grievance was filed, Greene reimbursed his client for the judgment amount and attorney fees.

Greene stated that he experienced personal and emotional problems at those times; that he is undergoing treatment; that he has not practiced law since he received the grievances; and that he is remorseful for his actions. Prior to reinstatement, Greene must provide certification from a licensed psychiatrist that he has no impairment that would affect his ability to practice law.

Murble Anita Wright

Jonesboro, Ga.

Admitted to Bar 1993

On Nov. 25, 2013, the Supreme Court of Georgia suspended Murble Anita Wright (State Bar No. 778525) for one year with conditions on reinstatement. Wright represented a married couple and their daughter regarding an auto collision, and entered separate contingency fee contracts with all three

family members. Wright settled the family's personal injury claims in late 2008. She signed their names on releases and on checks, which she then deposited into her escrow account. Wright did not tell her clients that the checks had been issued or that she had deposited them into her escrow account.

Wright also represented the couple and their corporation in a landlord/tenant dispute under an hourly fee Memorandum of Engagement in the fall of 2007. That Memorandum provided that they would receive periodic itemized statements for fees and costs and that they could assign any proceeds from the personal injury claims to pay for legal expenses. The court granted the landlord's motion for summary judgment. In December 2008, Wright sent the couple a letter offering to represent them in an appeal if they paid additional fees, but advised them that she could not continue to work on the contingency arrangement that would allow them to pay her fees once they received their settlements from the personal injury suit, because her fees now exceeded \$10,000. This was the first indication the couple had as to the fees they owed. Wright wrote a Dec. 22, 2008, letter indicating that it is a follow up to "a telephone conversation that we had" informing the family that the settlement offers in the personal injury case had been accepted with their permission, but that Wright would retain all proceeds realized to defray her fees in the landlord/tenant litigation. It is unclear if the family received this letter, but Wright admits that she only spoke to the husband and that she did not get a separate agreement from the wife allowing her to retain the proceeds of her personal injury settlement. Although Wright testified that the daughter called her to provide authority to retain the proceeds, the daughter testified that she never did so, and the special master found that Wright fabricated her testimony about that telephone call. Wright later transferred all the settlement funds out of her

escrow account for her own use. In February 2009, Wright sent the couple her bill regarding the landlord/tenant action, but it contained no indication that the entirety of the earlier settlement proceeds had been applied. The husband denied Wright's contention that the family authorized her to retain the proceeds. In March the family sent Wright a certified letter demanding a copy of their files and requesting a billing statement for all services. Wright ignored their request and did not provide copies of their files until the State Bar told her to do so. Instead, Wright filed three lawsuits in magistrate court: one against each family member seeking to recover the contingency fee from the personal injury cases, plus fees and expenses. Wright later initiated a separate action in magistrate court seeking fees she contended were due on the landlord/tenant case. Wright's reinstatement is conditioned upon her paying \$5,713.50 to the daughter, together with interest from January 2009 forward; attending ethics school; and successfully

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



Warren R. Hinds, P.C.

"an Attorney's Attorney"

- BAR COMPLAINTS
- MALPRACTICE DEFENSE
- ETHICS CONSULTATION

Call (770) 993-1414

www.warrenhindslaw.com

implementing the recommendations of the State Bar's Law Practice Management Program within six months of reinstatement.

Herbert Adams Jr.

Jonesboro, Ga.

Admitted to Bar 1986

On Oct. 21, 2013, the Supreme Court of Georgia accepted the petition for voluntary discipline of attorney Herbert Adams Jr. (State Bar No. 003335) and suspended him for 18 months with conditions for reinstatement.

Adams was appointed to represent a client in a criminal case in November 2010. In February 2011, he was notified that motion hearings were scheduled for June and the trial for July. He unsuccessfully attempted to obtain continuances and in July a jury was selected. The next day the trial court held an emergency hearing and found that Adams was not prepared. The court had to continue the trial to a later date.

Adams was appointed to represent a client on appeal from a criminal conviction. He obtained the trial transcripts but failed to file an amended motion for new trial and had limited communication with his client. He filed a motion to withdraw from representation a year later.

Adams was appointed in 2000 to represent a client on appeal in a criminal case. He filed a motion for new trial and an application and amended application for sentence review. He was unable to obtain trial and sentencing transcripts until 10 years later. He filed a motion to withdraw from representation in 2010.

The special master noted in aggravation of discipline that Adams received an Investigative Panel reprimand in 2006, and that these cases indicate a pattern of misconduct and multiple offenses. In mitigation, the special master found that Adams had no selfish motive or dishonesty; that he showed a cooperative attitude; and that he is remorseful for his actions.

Prior to reinstatement, Adams must provide to the State Bar certification from a licensed psychiatrist that he is mentally competent to practice law.

Jarlath Robert MacKenna

Decatur, Ga.

Admitted to Bar in 2009

On Nov. 4, 2013, the Supreme Court of Georgia accepted the petition for voluntary discipline of attorney Jarlath Robert MacKenna (State Bar No. 136109) and suspended him for 18 months. MacKenna had a consensual sexual relationship with a client while representing her in her divorce action, and he assisted the client in submitting false discovery responses in the divorce action concerning the relationship. MacKenna submitted in mitigation of discipline that (1) he had no prior discipline, (2) he made a full and free disclosure and displayed a cooperative attitude, (3) he was inexperienced in the practice of law at that time and believed that evidence of his relationship with the client was not subject to discovery under existing case law and because he made the discovery responses subject to objections for relevancy, (4) he otherwise exhibited good character, integrity and reputation, and (5) he has undergone rehabilitation through a licensed psychologist.

Review Panel Reprimand

David Guy Carter


Atlanta, Ga.

Admitted to Bar in 2004

On Oct. 21, 2013, the Supreme Court of Georgia accepted the petition for voluntary discipline of attorney David Guy Carter (State Bar No. 141355) for a Review Panel reprimand. Carter failed to supervise an independent contractor who improperly sought to solicit a client. Carter stated that he learned in investigating the grievance that the contractor making the solicitation had assisted

him with filling out paperwork for clients who contacted Carter or were referred to him. He stated that he had no knowledge of the solicitation contact, he had not asked the contractor to find new clients and he terminated the contractor's services. In mitigation of discipline, Carter stated that he does not have a prior disciplinary record, he made full disclosure and displayed a cooperative attitude toward the proceedings, that at the time he was inexperienced as a solo practitioner, that he otherwise demonstrated good character, integrity and reputation, that he implemented measures of interim rehabilitation, including the State Bar's Law Practice Management program and that he is extremely remorseful.

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 Sept. 11, 2013, three lawyers have been suspended for violating this Rule and none have been reinstated. 

Reinstatement Granted

Marcea O'Brien-Carriman

Stone Mountain, Ga.

Admitted to Bar in 2005

Suspended 4/24/12 and
Reinstatement Granted 10/25/13.

Robert P. Midtlyng

McDonough, Ga.

Admitted to Bar 1974

Disciplinary suspension terminated but under administrative suspension pending payment of Bar dues. Supreme Court order dated 11/15/13.



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



MemberBenefits

PRIVATE HEALTH INSURANCE EXCHANGE

ADMINISTERED BY: MEMBER BENEFITS

RECOMMENDED
BROKER OF THE:



State Bar
of Georgia



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

Whether you're an 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 a private exchange full of options for health, dental, life, disability, long term care insurance, and more.

The exchange is an online marketplace where members, and their employees, can compare and purchase products and services from insurance

providers that compete for business within the exchange.

Unique decision support technology within the exchange is backed by the same licensed benefits counselors that have been working with state bar members for years. Member Benefits also takes additional steps to assist members and their staff in accessing reduced costs through the public exchange in the event that you qualify.

SHOP THE ONLINE MARKETPLACE:

www.gabar.memberbenefits.com

OR CALL US 1-800-282-8626

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.

"Excuse Me, You Dropped Your File Cabinet"

Document Management Tips for Our Security-Focused and Mobile World

by Natalie R. Kelly

As most legal professionals have wrapped their heads around electronic data and mobility, it's amazing that we still see so much paper being carried around and piled up in our offices. Even though it is likely paper will be around for some time to come, many lawyers and legal professionals have moved on. They have come to rely on systems where they find themselves working in a digital environment either completely, or to a much greater extent than ever before. Some lawyers have even made it all the way to carrying around their entire office in their pockets.

This new day of mobile integration into the law office working environment calls for some new rules, and definitely some new ways of going about getting your work done effectively. You have to learn how to best navigate and remain productive while your documents are stored on your office desktop computer, on your smart phone, in your online email inbox, on that new tablet device you got over the holidays and now, even on opposing counsel's or the court's file management system. (If you think that's bad, there's talk of wearing technology, so in the very near future you may literally have your office on your back, too.)



Refer to these document management tips to ensure you're being productive and working as effectively as you can in this new mobile and security-focused world of ours.

Don't Forget Your Ethical File Management Rules

Client confidentiality requirements and file retention guidelines drive lawyers to make sure they are taking

every reasonable step to keep client information safe and stored properly. For most file information situations, that means you need to know how long to keep files and what you need to do to keep that information safe. Georgia lawyers should maintain trust accounting records for six years according to the Rules of Professional Conduct, and the grievance process in Georgia would also have lawyers keep files for at least six years. However, the file retention rules you set up for your firm can be developed to comport with the needs of your practice area, e.g., keeping real estate and wills and estates records for 10 or more years, and the recommendations of your malpractice insurance carrier.

Digitize Files

Paperless offices make sure that all of their documents are in electronic format. The general method of digitizing files is that you simply scan incoming paper documents; don't make copies or print out any material that you need internally. All documents being copied or printed are those that will be sent or taken out of the office by other parties. Because a vast amount of information comes into the office via email, be sure to adhere to the paperless rules, and if you intend to keep digital copies of emails, consider using the archiving features in Microsoft Outlook, using an online email system or generating PDFs for email messages and folders. Also, to ensure the security of your documents make sure you have backed up the data in multiple places.

Secure Your Mobile Documents

Be sure to review any procedures you have in place for keeping closed files separate from active files when stored on your local computer network. Pay close attention to how documents move and are accessed from one system to another, i.e., how easy is it to work on a document stored

in Dropbox or Box, move it (save) to your computer network drive (synchronize with online system) and then work with it in your practice management, or even pull it up in your local document management software system or on an iPad. Is that process secured with password-protected system files or programs, and do you have security options and firewalls and other precautions in place for dealing with documents stored locally and online?


This daisy-chained set up and hodge-podge grouping of systems are often the way you have to access documents while working in and out of the office. So be vigilant about every part of the chain in accessing and working with those documents. Set up policies and guidelines to include disclaimers and best practices so you can ensure the safety of documents while working with them no matter where you are. Look to mobile management and data security systems in larger firms, and for smaller outfits, have a clear understanding of what is and is not allowed for people working on firm documents outside the office.

From encrypting documents as they are being transmitted in and out of your office via email to ensuring your mobile device is locked, you should make sure that you secure documents wherever they are stored and when you are moving or passing them around. Again, backups are critical and should be layered and done daily. Also make sure your test restore routines address every aspect of your mobile document cycle.

Master Document Management and Make Document Collaboration Work for You Online and Off

Using cloud-based software programs and even working locally in a document management system

requires management via effective policies and procedures. If you are using cloud-based document storage services, be sure you have enough space to hold your work. You may need to upgrade to enterprise versions of some of the popular services to ensure you have enough space for your documents. Also, if you collaborate with others, then be sure that you understand the nuances and general functionality of the system you are using. Ask for an in-depth training or review so that you can make the most use out of the system. Google Drive, Box, NetDocuments and Dropbox, plus programs like Office 365 or Sharepoint and other online collaboration services, in addition to the plethora of cloud-based practice management systems like Clio, MyCase and Rocket Matter, all have different ways of how you access and work with documents. Likewise, internal document management systems like Worldox or even the on-board search features in your office desktop programs need to be thoroughly explored so that you work most effectively.

Ultimately, keeping up with documents in your practice—whether you have the entire file cabinet with you or not—requires an investment in learning which products and services work best and which policies and procedures are best suited to make sure you can work efficiently no matter where you are. As always, the Law Practice Management Program can assist you with working through deciding upon which document management products and services are a good fit for your practice, and help with resources you can use to develop appropriate document management policies and procedures. 



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.

Two New Sections Approved at the Midyear Meeting

by Derrick W. Stanley

On Saturday, Jan. 11, the State Bar Board of Governors unanimously approved the formation of two new sections bringing the number of sections to 48. Bar Counsel Robert McCormack introduced the new sections where short presentations were given to the members.

John Cole of Macon and John Flanders Kennedy, James Bates Brannan Groover LLP, spoke on behalf of the Law & Economics Section. The purpose of this section shall be to increase awareness of the economic impact of statutes, regulations and case law decisions by bringing together lawyers and scholars to discuss and study such issues. The section dues will be \$25 per year.


The second section approved was the E-Discovery and Use of Technology Section. The purpose of this section shall be to provide education and training to lawyers across practice areas about all facets of legal technology and e-discovery, including the tools and applications; best practices and procedures; applicable rules and laws; and ethical considerations. Rachael Zichella, Taylor English Duma LLP, and Scott Hilsen, KPMG, gave an informative outline of the section and its purpose. The section dues will also be \$25 per year.

Sections are formed when a group of attorneys feel there is a need for a particular area of practice to



Scott Hilsen informs the Board of Governors about the E-Discovery and Use of Technology Section.

have a way to network. The group crafts the bylaws which are then sent to all State Bar section chairs to ensure there is not overlap between the sections, and if there is, a sub-committee is created. While the section chairs are reviewing the bylaws and providing comments, the group is obtaining signatures petitioning the creation of the section. Once this information is gathered, the bylaws are reviewed by Bar counsel to ensure they are in compliance. The next step is approval by the Board of Governors. Once approved, the section is active and ready to provide a network of opportunity and camaraderie with attorneys who practice or have interest in the section itself.

With the addition of these two sections, there are now 48 sections from which you can choose to belong. The State Bar pro-rates section dues by 50 percent after Jan. 1 of each year. You can join a section by logging into your Bar account and clicking on the "Join A Section" link. The system will automatically charge you the reduced rate. 



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

Employee Benefits Law Section Visits MedShare

by Paulette Adams-Bradham, Employee Benefits Law Section co-chair

The Employee Benefits Law Section of the State Bar began their year by conducting a volunteer project at MedShare on Jan. 11. Together with other groups of volunteers, 129 boxes of lifesaving medical supplies were packaged and prepared for shipping to countries in need, including the Philippines, Haiti, Malawi, Belize and Columbia. Redistribution of these items prevented more than 1,000 pounds of unused medical equipment from ending up in landfills. Kudos to the section members and their families for working hard to help this nonprofit fulfill its mission.

MedShare is a nonprofit organization dedicated to improving health care and the environment through the efficient recovery and redistribution of the surplus of medical supplies and equipment to those most in need. The organization collects surplus medical supplies and equipment from hospitals, distributors and manufacturers, and then redistributes it to qualified healthcare facilities in the developing world. They also outfit medical missions and safety net clinics in both the U.S. and abroad.



Immediate Past President Ed Marshall and Mary Lynley Marshall

Photo by Paulette Adams-Bradham



Share Ideas.

Join a Section Online.

Log in to your account at www.gabar.org and select "Join a Section."

Section dues are currently half-off and membership will be valid through June 30.

Private Health Insurance Exchange Announced for State Bar Members

Jan. 1, 2014, marked the enactment date for many key features of the Patient Protection and Affordable Care Act (PPACA). Open enrollment in state and federally run public exchanges has already begun around the country, establishing a new marketplace for individuals and small businesses to purchase coverage. The new law also transforms the health insurance market for individuals, requiring carriers to guarantee coverage without exclusions for pre-existing conditions and mandating coverage meet certain criteria.

The website HealthCare.gov, managed by the U.S. Department of Health & Human Services, contains information on how the Affordable Care Act will affect you. One tool on this site, *Find Insurance Options*, will help you find health insurance options through a series of question-and-answer prompts. The other, *Timeline*, tells what's changing and when. Since Oct. 1, the site has provided information about all the plans available in your area and offered a self-enrollment process, directly through the website, or by calling a toll-free hotline.

Through your membership in the State Bar of Georgia, you now have access to a private exchange



offered by Member Benefits Inc., the recommended broker of the State Bar for health insurance. The private exchange is an online marketplace where members and their employees can compare and pur-


chase products and services from insurance providers that compete for business within the exchange.

Unique decision support technology within the exchange is backed by licensed benefits counselors that specialize in working with association members. Member Benefits also takes additional steps to provide assistance for members and their staff in accessing reduced costs through the public exchange in the event that you qualify. Also included in the exchange are specially priced ancillary product options such as dental, vision, disability, life and more.

The exchange consists of two components:

- The *Individual Marketplace* provides members and small firms (less than five employees) with the ability to create and manage their own individual benefits portfolio comparable to those currently offered by large employers. Decision support tools, recommendation algorithms, educational videos and provider search tools guide participants through the process and assist in choosing a plan that meets their families' needs.
- The *Small Employer Exchange*, available to groups with five to 49 employees, includes many of the features of the Individual Marketplace and allows employers to compare individual health plans with their current group plan. Employers then setup and manage a fixed-dollar health care allowance for its employees. Employees then use that money to purchase insurance through the exchange, making individual, cost-based decisions about the type of health, dental and other ancillary benefits that best meet their unique needs. This model allows employers to set their annual benefits budget, helping them cope with ever-increasing health care costs. Likewise, employees have more choices than before and the ability to secure the coverage they need. Additional features such as benchmarking tools, mobile apps, payroll integration, online enrollment, reporting and administration tools, allow employers to fully manage their employee benefits online through one portal. The exchange also consolidates the transfer of monies between the employer, employee and each insurance provider, significantly streamlining the administrative burden on small businesses. As with any employee benefit program, there can be federal and state tax implications, so please consult your tax advisor during the decision process.

Employers with 50 or more employees may also have options available. Since different guidelines apply under PPACA for these groups, custom arrangements may need to be considered for participation in the private exchange.

To get started or for more information, visit www.gabar.memberbenefits.com or call 1-800-282-8626. If you have any problems, please contact Sarah Coole at sarahc@gabar.org. 

SUICIDE AWARENESS CAMPAIGN

*How To
Save A Life*

NEED HELP?

Call the State Bar's *confidential*
Lawyer Assistance Program Hotline at

800-327-9631

The State Bar of Georgia has produced an educational DVD, titled "How to Save a Life," which is directed toward those who are suffering from anxiety and depression and may be at risk for suicide, as well as all Bar members, who need to recognize the severity of the problem and be able to identify warning signs among colleagues.

If you are thinking about suicide or are worried a friend may be contemplating suicide, immediate action is critical. **Call the confidential LAP Hotline 800-327-9631.**

The DVD includes three video lengths: 24 minutes, 11 minutes and six minutes. For more information or to obtain your copy of the DVD, call 404-527-8792.

What I Learned About Appellate Writing While Clerking for a Judge

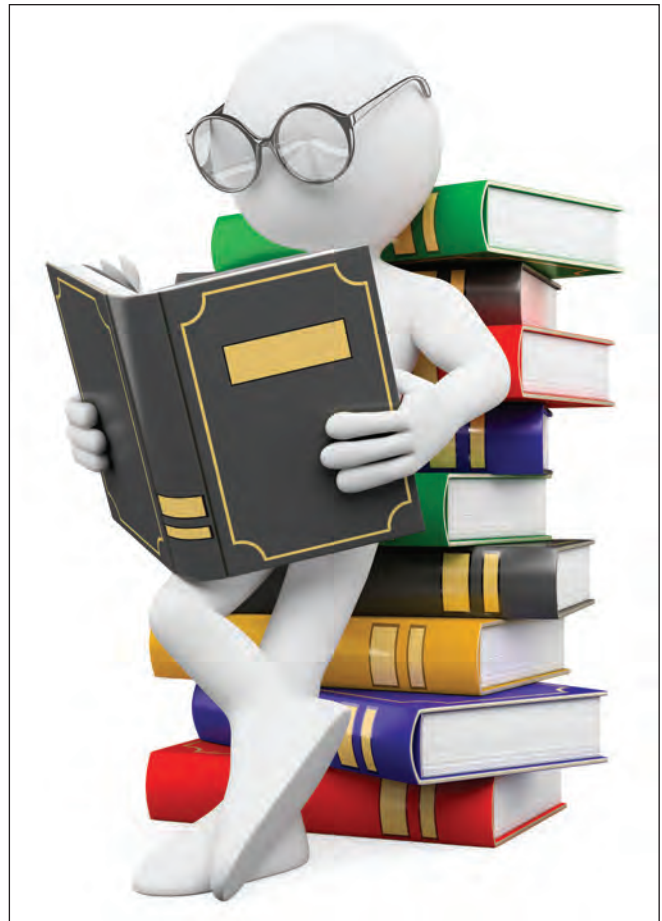
by David Hricik

I just returned from a year off from Mercer Law School to clerk in Washington, D.C., for Chief Judge Randall R. Rader at the U.S. Court of Appeals for the Federal Circuit. I did so because, although I had practiced law for 15 years before starting to teach in 2002, I had not been fully engaged in law practice in 10 years, and that's a long time to not be doing what you are teaching others to do.

I learned a lot. This column shares some lessons learned about writing for appellate courts, and concludes with brief observations about oral argument. Some of the following observations should sound old and familiar. But, given what I observed while at the court, many lawyers are not following these important lessons, and their failures are hurting their clients.

Your briefs, not the oral argument, will likely control the outcome of the appeal.

This is probably the principal lesson I took away: while there were a few appeals where oral argument changed where I thought the judges were headed, those were, by far, the exception. Writing matters. Because of this, consider whether trial counsel is best to handle the appeal. Yes, trial counsel knows the case, but they



also may not have the skill set to handle an appeal. Trials and appeals are different animals. The rhetoric, arguments and approach to persuading a jury or district judge to reach a certain result are very different from those necessary to persuade a three-judge panel

reviewing that result to affirm. As noted more fully below, for example, appellate courts focus on the standard of review and harmful error—principles that are not normally the focus of trial practice.

Do not do “shotgun” appeals, even if “justified.”

A shotgun appeal is one that raises many issues, not just three or four. For three reasons, I think there are no exceptions to the rule against shotgun appeals. First, courts limit the length of briefs (and oral argument). As a result, it is difficult in limited space to adequately educate and persuade a judge on more than three or four issues. More importantly to me, at least, is that a shotgun brief implies, not only did the district court get pretty much everything wrong, but each thing it got wrong is worthy of reversing the judgment below. The second problem exacerbates the first, since the proposition that the district judge got everything wrong will require more detail, but including a dozen issues means that less space for that detail is available. The third reason is that shotgun appeals violate a fundamental principle of writing: do not waste the reader’s time. A court will examine every issue you preserve, and if it turns out that the brief has wasted the court’s time, it cannot do anything but hurt your appeal. Do not do shotgun appeals.

Do not quote cases that have the wrong result, no matter how great the quote.

Suppose a plaintiff needs to argue that dismissal of a claim was improper because, under *Iqbal* and *Twombly*, the complaint stated a plausible claim for relief. To support its position, the plaintiff as appellant quotes cases that state the applicable rule, but which under somewhat similar facts *affirmed dismissal* of the complaint. This is like

throwing a slow pitch across the center of the plate to the appellee, who can *agree* that the appellant’s cases control and so *require the same result*. To mix metaphors: do not hand the other side a bat to hit you with. Your job is hard enough already. As a direct consequence, appellate counsel should be extremely cautious when using excerpts from a brief filed in the district court, or one used in some other appeal.

As appellant, be sure to confront the standard of review and, as appellee, call out the appellant if it did not do so.


One of the more excruciating aspects of being a clerk was reading an appellant’s brief that failed to confront the standard of review. For example, it may be that there was some evidence that the defendant did not breach the contract, but if the jury found a breach, the fact that there was evidence that would have supported a different verdict is irrelevant: the defendant must show no evidence supported the jury’s verdict. Likewise, an appellant who seeks to reverse a district judge’s exercise of discretion, say for denying amendment of a pleading, but yet essentially says the district judge was wrong—asks implicitly for *de novo* review. As noted above, appellate practitioners are keenly aware of standards of review; trial lawyers, not so much.

Some thoughts about oral argument.

At the beginning of this column, I mentioned that in my view the writing is what matters; oral arguments can, but in my anecdotal view seldom did, change how I thought the court was going to rule. Nonetheless, to increase the odds of oral argument saving the day, or at least not ruining it, consider the following.

First, hold a few moot oral arguments. It was painful to see a judge ask a question of a lawyer that the record clearly raised, but nonetheless see the lawyer handle like a deer in the headlights. I’ve done moot arguments for lawyers handling appeals, and often, the same questions I asked during practice were asked at the real argument. Practice makes perfect, and so it makes little sense to not practice. Second, and again, consider having an appellate specialist, not trial counsel, handle oral argument. In my experience, appellate lawyers better understand a number of the points discussed here, including the importance of the standard of review. Finally, be ready to stop talking. Particularly as the appellee, if the judges are leaning back in their chairs, or have given other obvious verbal or physical clues that they are going to affirm, there is no need to blather on: say, “unless the court has additional questions, I give back my time.” Yes, that takes confidence, but doing so reveals confidence. Further, you will not risk talking yourself into a problem. I saw that happen. Again, a skilled appellate lawyer will understand this; trial lawyers may not.

So what did I learn?

As I noted at the start, I clerked for Chief Radar because I wanted to reconnect with practice. I learned a lot of new law and learned a lot about this particular court and its judges. But the lessons discussed here confirmed what I had learned during those 15 years ending 10 years ago: writing matters. 



David Hricik is a professor at Mercer Law School who has written several books and more than a dozen articles. The

Legal Writing Program at Mercer Law School continues to be recognized as one of the nation’s top legal writing programs.

What's Professional About a Creed?

by Avarita L. Hanson

As any lawyer knows, when creating an organization, you should articulate its mission, objectives and even aspirational goals. These precepts are usually found in such documents as articles of incorporation, constitutions and bylaws. It is also important to clearly state the organization's creed—its statement of beliefs or principles—to provide guidance and expectations to its members.

The Chief Justice's Commission on Professionalism, (the Commission), officially created by the Supreme Court of Georgia in 1989, came into existence after a series of meetings attended by some of Georgia's leading attorneys and jurists. The judges and lawyers provided input into how professionalism should be defined and how this new entity would address professionalism by providing educational and outreach activities to carry out its mission. Once the Commission was formed, its members started to draft its statements of teachings for general acceptance—A Lawyer's Creed and Aspirational Statement on Professionalism.¹



The original Commission members intended to provide Georgia attorneys with a statement of beliefs and principles that would be generally accepted as the highest standards for lawyer behavior. In one of the earliest Commission meetings, A. Gus Cleveland "urged that

the adoption of an approved creed was important, and ought not to be delayed.”² Twenty-five years later, whether looking at professionalism in the context of one’s practice or for general educational purposes, it is always helpful to go back to the simple statements found in “A Lawyer’s Creed.”

Other state and local bar associations followed Georgia’s lead in establishing similar lawyer creeds.³ Some scholars opine that such creeds are worthless statements that provide no real insight or guidance into practical applications of professionalism because they do not address a common moral ground for competing interests and relationships.⁴ Other legal experts posit that from the standpoint of practicing attorneys and judicial officers, the simplicity of lawyers’ creeds makes them helpful reminders of good lawyering behaviors.⁵

Whatever position one might consider on the effect of creeds on the legal profession, for 25 years Georgia lawyers have had our lawyer’s creed to serve as an individual and collective guidepost to recognize and respect the important relationships and the duties owed to all individuals and entities that matter to practicing lawyers and judges. Those duties can, perhaps, be summed up as “the Golden Rule” — “do unto others as you would have them do unto you.” The Lawyer’s Creed, like the Golden Rule, is simple, easy to remember and to apply. Simplicity is a good thing; like those wise admonitions from your mother lingering in your thoughts, particularly in situations when you really need to remember to behave professionally.

I often say that ultimately it is not what we do for a living that matters, it is what we do for the living. From the Lawyer’s Creed, I would add that how we lawyers do what we do ultimately matters. Guided by the creed’s lofty yet attainable principles, we can do our work competently and professionally — serving clients, working with

A LAWYER’S CREED

TO MY CLIENTS, I offer faithfulness, competence, diligence, and good judgment. I will strive to represent you as I would want to be represented and to be worthy of your trust.

TO THE OPPOSING PARTIES AND THEIR COUNSEL, I offer fairness, integrity, and civility. I will seek reconciliation and, if we fail, I will strive to make our dispute a dignified one.

TO THE COURTS, AND OTHER TRIBUNALS, AND TO THOSE WHO ASSIST THEM, I offer respect, candor, and courtesy. I will strive to do honor to the search for justice.

TO MY COLLEAGUES IN THE PRACTICE OF LAW, I offer concern for your welfare. I will strive to make our association a professional friendship.

TO THE PROFESSION, I offer assistance. I will strive to keep our business a profession and our profession a calling in the spirit of public service.

TO THE PUBLIC AND OUR SYSTEMS OF JUSTICE, I offer service. I will strive to improve the law and our legal system, to make the law and our legal system available to all, and to seek the common good through the representation of my clients.

The State Bar of Georgia
Handbook is available online
at www.gabar.org/barrules/.

“and justice for all”

Your Gift Impacts Lives.

Ms. Lewis was horribly bruised and battered by her husband. He smashed her head against a wall and the floor, choked her, blackened her eyes, busted her mouth, and broke one of her ribs. She suffered in silence until she finally was able to break free and get medical help. Then, she contacted the Georgia Legal Services Program (GLSP) for legal assistance in getting a divorce. A GLSP attorney assisted Ms. Lewis to obtain a restraining order against her husband and a divorce. The abuser was ordered to pay \$13,000 in medical bills from the last beating, and \$800 per month in alimony. Ms. Lewis is starting a new life thanks to the Georgia Legal Services Program.

“And Justice for All” 2014 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 is used with permission. The photograph and name do not necessarily represent the actual client.)



opposing parties, their counsel, others in the profession, the courts and the public. Take a look at the Lawyer's Creed on a regular, even daily basis. Carry it imprinted on a card in your wallet. Post it prominently in your office. It is a living credo and a simple reminder that being professional means that you are being your best. 



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

Endnotes

1. The chronology of the development and approval of the Lawyer's Creed and Aspirational Statement is found in the minutes of the Chief Justice's Commission on Professionalism ("Commission") as follows: (1) The concept of an aspirational statement on professionalism was introduced at the first meeting of the Commission on April 18, 1989; (2) The Committee to develop the Creed and Aspirational Statement was appointed by Chief Justice Thomas O. Marshall at the second Commission meeting on May 12, 1989. The Committee was chaired by Thomas G. Sampson and Portia Scott, a lay person, and Judge Thomas Day Wilcox Jr. served as members; (3) At the June 29, 1989 meeting the Chair reported that the draft document was distributed to

other Commission members; (4) At the July 27, 1989 meeting, the Chair reported that the Committee was looking at law firm creeds and was advised to proceed without delay; (5) During the Sept. 7, 1989 meeting the Committee was asked to complete its work by the end of the year and have a draft suitable to send to the Supreme Court for its review prior to adoption; (6) The proposed Creed and Aspirational Statement were distributed for review at the October 5, 1989 meeting; (7) At the Nov. 2, 1989 meeting, Leah Fallin Sumner moved "that the Lawyer's Creed, drafted principally by (Jack) Sammons and previously circulated, by (sic) approved," "The Creed is to be offered as an exemplar for the assistance of local bar associations, and they would be encouraged to adopt their own creeds." The Creed was unanimously adopted; (8) At the Dec. 7, 1989 meeting, Thomas Sampson presented a revised Aspirational Statement that was approved without dissent, subject to appropriate editorial alternations; (9) On March 9, 1990, the Creed and Aspirational Statement were formally adopted by the Commission; (10) On May 17, 1990, the Commission unanimously voted to forward the Creed and Aspirational Statement to the Supreme Court of Georgia to become appendices to the State Bar Rules; and (11) The Supreme Court entered its written order nunc pro tunc on July 3, 1990, making the Lawyer's Creed and Aspirational Statement on Professionalism part of the Rules and Regulations for the Organization and Governance of the State Bar of

Georgia (according to Commission Minutes of Nov. 2, 1992).

2. Chief Justice's Commission on Professionalism, Minutes of July 27, 1989.
3. A collection of state and local bar association lawyer's creeds is found on the excellent website maintained by the Nelson Mullins Riley & Scarborough Center on Professionalism at the University of South Carolina. See, <http://professionalism.law.sc.edu/barinitiatives.php?id=21>.
4. Moliterno, James E., "Lawyer Creeds and Moral Seismography" (1997). Faculty Publications. Paper 929. <http://scholarship.law.wm.edu/facpubs/929>. Prof. Moliterno concludes: "Aspiration is a good thing when it is unenforceable, when it is confined to topics that are not complicated balances of competing interests, and when it is based on a moral rationale that fairly represents the common moral ground of the aspirants. The current wave of professionalism creeds fail on all three grounds. Valuable aspiration can be pursued. Its basis must be a new common moral ground, one that accepts and honors a wider range of acceptable models of the good lawyer."
5. Maron, David, "A Good Lawyer & The Golden Rule," Capital Area Bar Ass'n. (May 2012), at: <http://www.caba.ms/articles/features/good-lawyer-golden-rule.html>. See also, Kitchens, Jim, "Some Thoughts on Legal Ethics and Lawyer Etiquette: A Symbiotic Relationship," at: http://www.roscoepound.org/docs/Kitchens_2011_Twiggs_Lecture_Paper.pdf.



The Chief Justice's Commission on Professionalism will celebrate its 25th anniversary with a dinner and tribute to Co-Founder A. James Elliott, on Tuesday, March 25, from 6-9 p.m. at the Commerce Club, 191 Peachtree St., Atlanta. This event will benefit the Georgia Legal Services Program. For sponsorship and ticket information please go to <https://donatenow.networkforgood.org/CJCP25thAnniversaryCelebration>, or contact Executive Director Avarita L. Hanson at 404-225-5040 or professionalism@cjcpga.org for more information.

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.

Tyrus R. Atkinson Jr.

Atlanta, Ga.
George Washington University
Law School (1956)
Admitted 1958
Died September 2013

Alan B. Blaisdell

Lawrenceville, Ga.
Woodrow Wilson College of Law
(1954)
Admitted 1961
Died January 2014

Clifton A. Brashier Jr.

Smyrna, Ga.
University of Texas School of Law
(1969)
Admitted 1976
Died December 2013

Alexander Lawrence Cann

Savannah, Ga.
University of Georgia School
of Law (1958)
Admitted 1957
Died December 2013

Christopher A. Collins

Marietta, Ga.
Chicago-Kent College of Law
(1988)
Admitted 2003
Died December 2013

A. Ronald Cook

Griffin, Ga.
Atlanta's John Marshall School
of Law (1968)
Admitted 1969
Died August 2013

Zack D. Cravey Jr.

Atlanta, Ga.
University of Georgia School
of Law (1950)
Admitted 1951
Died January 2014

Lyman Lee Dailey

Cumming, Ga.
Atlanta Law School (1959)
Admitted 1961
Died August 2013

Lewis Sandford Fine

Atlanta, Ga.
University of Tulsa College
of Law (1998)
Admitted 1998
Died January 2014

Barbara H. Gallo

Atlanta, Ga.
Samford University Cumberland
School of Law (1981)
Admitted 1984
Died January 2014

Dennis J. Gerschick

Kennesaw, Ga.
Drake University Law School
(1983)
Admitted 1985
Died December 2013

Lauren Elizabeth Goodhart

Decatur, Ga.
Atlanta's John Marshall School
of Law (2011)
Admitted 2011
Died January 2014

Michael Benner Hagler

Augusta, Ga.
University of Georgia School
of Law (1980)
Admitted 1980
Died January 2014

Thomas R. Herndon

Savannah, Ga.
Atlanta's John Marshall School
of Law (1980)
Admitted 1981
Died January 2014

James S. Hutto

Saint Simons Island, Ga.
Atlanta's John Marshall School
of Law (1957)
Admitted 1959
Died December 2013

John Paul Jones

Cartersville, Ga.
University of Georgia School
of Law (1973)
Admitted 1973
Died December 2013

Edward W. Klein III

Marietta, Ga.
University of Georgia School
of Law (1976)
Admitted 1976
Died December 2013

Charles M. Lako Jr.
Oviedo, Fla.
Atlanta's John Marshall School
of Law (1977)
Admitted 1977
Died January 2014

Kenneth G. Levin
New York, N.Y.
Yale University Law School (1969)
Admitted 1970
Died November 2013

Ralph Edward Lowe
Aurora, Ill.
University of Illinois College
of Law (1956)
Admitted 1974
Died May 2013

Arthur B.L. Martin
Atlanta, Ga.
University of Georgia School
of Law (1949)
Admitted 1949
Died January 2014

George P. Montis
Ponte Vedra Beach, Fla.
Woodrow Wilson College of Law
(1970)
Admitted 1971
Died December 2013

Cyril F. Musser
Atlanta, Ga.
Woodrow Wilson College of Law
(1960)
Admitted 1961
Died November 2013

J. Norman Pease
Midland, Ga.
University of Georgia School
of Law (1960)
Admitted 1959
Died December 2013

Dan T. Pressley Sr.
Toccoa, Ga.
Atlanta's John Marshall School
of Law
Admitted 1975
Died December 2013

Michael Edward Schmidt
Dallas, Texas
Oklahoma City University School
of Law (1992)
Admitted 2006
Died January 2014

Thomas C. Shelton
Atlanta, Ga.
Yale University Law School (1951)
Admitted 1951
Died January 2014

Elliott A. Shoenthal
Decatur, Ga.
Emory University School of Law
(1983)
Admitted 1983
Died December 2013

John Scott Summerlin
Pearson, Ga.
University of Georgia School
of Law (1951)
Admitted 1990
Died December 2013

Bradley J. Taylor
Atlanta, Ga.
Vanderbilt University Law School
(1977)
Admitted 1977
Died January 2014

James T. Thomasson Jr.
LaGrange, Ga.
Duke University School of Law
(1951)
Admitted 1952
Died November 2013

Sara S. Turnipseed
Atlanta, Ga.
University of South Carolina
School of Law (1974)
Admitted 1977
Died November 2013



Tyrus R. Atkinson Jr.
died in September
2013. A native of
Atlanta, he was the son
of the late Tyrus R.
Atkinson Sr. and Jayne
Morgan Swain.

He was a graduate of the
University of Georgia School

of Journalism in 1957 and the
University of Georgia School of
Law in 1965. He served on active
duty in the U.S. Air Force as an
officer and navigator from 1957-60
being stationed in Texas and Alaska
and then continued his service until
1966 in the Air National Guard.

The majority of Atkinson's legal
career was spent in Atlanta in
the private practice of law. His
legal career also included service
as an assistant U.S. attorney for
the Middle District of Georgia,
assistant district attorney of the
Atlanta Judicial Circuit, staff attor-
ney in the Fulton County Public
Defender's Office and as a judge
in the Magistrate Court of Fulton
County. After his retirement from
private practice, he continued
working as a National Arbitration
Forum arbitrator. He was a mem-
ber of the Lawyers Club of Atlanta
and the Old War Horse Lawyers
Club of Atlanta.

Atkinson was a man of many
varied interests and talents. He
was an avid golfer, a championship
marksman and a sport fisherman.
He was a 33rd Degree Mason and
a past master of the Sandy Springs
Lodge 124 in Atlanta.

He read history continuously
and traveled extensively with
his wife. His continual pursuit
of knowledge in diverse areas all
of his life made him a true
renaissance man.



Clifton A. Brashier Jr.
was born in March
1944. He graduated
summa cum laude from
Midwestern University
in Wichita Falls, Texas,
earning a B.S. degree in education.
He earned his J.D. degree from the
University of Texas School of Law
and, after moving to Georgia, an
L.L.M. degree in taxation from the
Emory University School of Law
and an M.B.A. (as first honor grad-
uate) from the Emory University
School of Business. He was a
member of the Alpha Chi and
Beta Gamma Sigma National
Honorary Societies.

Consumer Pamphlet Series



The State Bar of Georgia's Consumer Pamphlet Series is available at cost to Bar members, non-Bar members and organizations. Pamphlets are priced cost plus tax and shipping. Questions? Call 404-527-8792.

The following pamphlets are available:

Advance Directive for Health Care ■ Auto Accidents ■ Bankruptcy ■ Buying a Home ■ Divorce ■ How to Be a Good Witness ■ How to Choose a Lawyer ■ Juror's Manual ■ Lawyers and Legal Fees ■ Legal Careers ■ Legal Rights of Nursing Home Residents ■ Patents, Trademarks and Copyrights ■ Selecting a Nursing Home ■ Selecting a Personal Care Home ■ Wills

Visit www.gabar.org for an order form and more information or email stephaniew@gabar.org.

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



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

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

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



Brashier's legal career began as an associate with Sanders, Masters, Watson & Brown in Wichita Falls, Texas. He also served as an assistant staff judge advocate with the U.S. Army Safeguard Systems Command in Huntsville, Ala., and was an assistant professor of business law at Alabama A&M University.

He became a member of the State Bar of Georgia in 1976 and joined the State Bar staff in 1980 as director of the Designation and Fee Arbitration program and, starting in 1982, as assistant executive director for special programs.


Brashier was named executive director of the State Bar of Georgia in March of 1993. Under his leader-

ship, the State Bar's financial standing has been strengthened over the past two decades with total revenues growing from approximately \$3.3 million in 1993 to nearly \$10.4 million in 2013 and total Bar membership increasing from 24,000 to 46,000. The State Bar's staff has grown from 47 to 88 employees under Brashier's leadership.

Working closely with a succession of Bar presidents in the late 1990s and early 2000s, Brashier oversaw and was deeply involved in the Bar's purchase of the former Federal Reserve Bank building in downtown Atlanta and its development as what is widely regarded as the finest Bar Center headquarters facility in the nation.

Brashier also contributed to the advancement of continuing legal education in Georgia through his position as executive director of the Commission on Continuing Lawyer Competency, a position he held since 1984.

In 2006, Brashier received the Distinguished Service Award, the highest honor bestowed by the State Bar of Georgia for conspicuous service to the cause of jurisprudence and to the advancement of the legal profession in Georgia.

He is survived by his wife, Tammy Brashier; his daughter, Caroline Brashier; his daughter and son-in-law, Loren and Jon Gleason; and his grandchildren Anna, Ben and Andrew Gleason. 

Judging Panel Volunteers Still Needed for the 2013 State Finals Tournament

Saturday, March 16

Gwinnett Justice Center, Lawrenceville

At least two rounds of HSMT judging panel experience or one year of coaching experience required to serve at state.

**VOLUNTEER FORMS ARE AVAILABLE ONLINE
IN THE "VOLUNTEER" SECTION OF OUR WEBSITE**

www.georgiamocktrial.org

Contact the Mock Trial Office with questions:

404-527-8779 or toll free 800-334-6865 ext. 779

Email: mocktrial@gabar.org

Join us on Facebook! www.facebook.com/GeorgiaMockTrial



February-March

FEB 12 ICLE
Winning Before Trial
Atlanta, Ga.
See www.iclega.org for location
6 CLE

FEB 13 ICLE
Advanced Debt Collection
Atlanta, Ga.
See www.iclega.org for location
6 CLE

FEB 13 ICLE
Landlord and Tenant
Atlanta, Ga.
See www.iclega.org for location
6 CLE

FEB 13 ICLE
Residential Real Estate
Statewide Rebroadcast
See www.iclega.org for location
6 CLE

FEB 14 ICLE
Successful Trial Practice
Atlanta, Ga.
See www.iclega.org for location
6 CLE

FEB 14 ICLE
Solo Small Firm Winter Seminar
Atlanta, Ga.
See www.iclega.org for location
6 CLE

FEB 14 ICLE
Georgia Insurance Claims Law
Savannah, Ga.
See www.iclega.org for location
6 CLE

FEB 19 ICLE
Attorneys First Aid Kit
Atlanta, Ga.
See www.iclega.org for location
6 CLE

FEB 19 ICLE
Advanced Topics Franchise Law
Atlanta, Ga.
See www.iclega.org for location
3 CLE

FEB 20-21 ICLE
Social Security Institute
Atlanta, Ga.
See www.iclega.org for location
10.5 CLE

FEB 20 ICLE
Advanced Securities Law
Atlanta, Ga.
See www.iclega.org for location
6 CLE

FEB 21 ICLE
Elder Law
Statewide Broadcast
See www.iclega.org for location
6 CLE

FEB 21 ICLE
*14th Annual Georgia Symposium
on Ethics and Professionalism*
Athens, Ga.
See www.iclega.org for location
6 CLE

FEB 22 ICLE
23rd Bar Media and Judiciary Conference
Atlanta, Ga.
See www.iclega.org for location
6 CLE

FEB 24 ICLE
Beginning Lawyers Program
Atlanta, 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.



FEB 25	ICLE <i>Georgia Appellate Practice</i> Atlanta, Ga. See www.iclega.org for location 6 CLE	FEB 28	ICLE <i>21st Annual Criminal Practice Seminar</i> Kennesaw, Ga. See www.iclega.org for location 6 CLE
FEB 26	ICLE <i>22nd Annual Product Liability Seminar</i> Atlanta, Ga. See www.iclega.org for location 6 CLE	MAR 5	ICLE <i>Nuts and Bolts of Local Government Law</i> Atlanta, Ga. See www.iclega.org for location 6 CLE
FEB 27	ICLE <i>Eminent Domain Law</i> Atlanta, Ga. See www.iclega.org for location 6 CLE	MAR 5	ICLE <i>Anatomy for Lawyers</i> Atlanta, Ga. See www.iclega.org for location 6 CLE
FEB 27	ICLE <i>Negotiated Corporate Acquisitions</i> Atlanta, Ga. See www.iclega.org for location 6 CLE	MAR 6	ICLE <i>Handling Fall Cases Professionally</i> Atlanta, Ga. See www.iclega.org for location 6 CLE
FEB 27	ICLE <i>Elder Law</i> Statewide Rebroadcast See www.iclega.org for location 6 CLE	MAR 6	ICLE <i>Plaintiff's Personal Injury</i> Statewide Rebroadcast See www.iclega.org for location 6 CLE
FEB 27-MAR 1	ICLE <i>24th Annual Tropical Seminar</i> St. Marten See www.iclega.org for location 12 CLE	MAR 7	ICLE <i>Catastrophic Commercial Vehicle Cases</i> Atlanta, Ga. See www.iclega.org for location 6 CLE
FEB 28	ICLE <i>Georgia Insurance Claims Law</i> Atlanta, Ga. See www.iclega.org for location 6 CLE	MAR 7	ICLE <i>Professionalism and Ethics Update</i> Statewide Broadcast See www.iclega.org for location 3 CLE
FEB 28	ICLE <i>Plaintiff's Personal Injury</i> Statewide Broadcast See www.iclega.org for location 6 CLE	MAR 10	ICLE <i>Selected Video Replays</i> Atlanta, Ga. See www.iclega.org for location 6 CLE

February-March

- MAR 11** ICLE
Group Mentoring
Atlanta, Ga.
See www.iclega.org for location
No CLE
- MAR 12** ICLE
Post Judgment Collection
Atlanta, Ga.
See www.iclega.org for location
6 CLE
- MAR 12** ICLE
MBA Concepts for Lawyers
Atlanta, Ga.
See www.iclega.org for location
6 CLE
- MAR 12-14** ICLE
Constitutional Symposium
Atlanta, Ga.
See www.iclega.org for location
13 CLE
- MAR 13** ICLE
11th Annual Nonprofit Law Seminar
Atlanta, Ga.
See www.iclega.org for location
6 CLE
- MAR 13** ICLE
Proving Damages
Atlanta, Ga.
See www.iclega.org for location
6 CLE
- MAR 13** ICLE
Professionalism and Ethics Update
Statewide Rebroadcast
See www.iclega.org for location
2 CLE

- MAR 13-15** ICLE
13th Annual General Practice and Trial Institute
Pine Mountain, Ga.
See www.iclega.org for location
12 CLE
- MAR 14** ICLE
Milich on Evidence
Atlanta, Ga.
See www.iclega.org for location
6 CLE
- MAR 14** ICLE
Fundamentals of Health Care
Atlanta, Ga.
See www.iclega.org for location
7 CLE
- MAR 14** ICLE
Trial and Error
Statewide Broadcast
See www.iclega.org for location
6 CLE
- MAR 19** ICLE
Not Your Typical Malpractice Seminar
Atlanta, Ga.
See www.iclega.org for location
6 CLE
- MAR 19** ICLE
Georgia's False Claim Act/Whistleblower
Atlanta, Ga.
See www.iclega.org for location
6.5 CLE
- MAR 19** ICLE
Benjamin Franklin on Ethics
Statewide Rebroadcast
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.



- MAR 20** ICLE
3rd Annual Same Sex Legal Issues Seminar
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE
- MAR 20** ICLE
Entertainment Law Institute
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE
- MAR 20** ICLE
Trial and Error
 Statewide Rebroadcast
 See www.iclega.org for location
 6 CLE
- MAR 20** ICLE
Georgia Law Update
 Columbus, Ga.
 See www.iclega.org for location
 6 CLE
- MAR 21** ICLE
Workers Comp for the General Practitioner
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE
- MAR 21** ICLE
Winning Settlement Strategies
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE
- MAR 21** ICLE
Jury Trial
 Statewide Rebroadcast
 See www.iclega.org for location
 6 CLE

Vote Electronically in 2014 and Opt Out of Paper Ballots

The State Bar now offers the option to vote electronically in Bar elections, in lieu of receiving a paper ballot.

Contact the State Bar's Membership Department at membership@gabar.org by Friday, Feb. 28, to opt in to electronic voting. If you have previously opted in to electronic voting, there is no need to do it again. (If you don't opt in, you will continue to receive a paper ballot.)

When the voting site opens this spring, all active members who have opted to vote electronically will receive an email which explains how to log in and vote. Easy step-by-step instructions will help you complete your ballot online.



February-March

MAR 25

ICLE
Beginning Lawyers Program
 Statewide Rebroadcast
 See www.iclega.org for location
 6 CLE

MAR 26

ICLE
Georgia Law of Torts
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

MAR 26

ICLE
Family and Trial Law on Professionalism
 Atlanta, Ga.
 See www.iclega.org for location
 3 CLE

MAR 27

ICLE
Trials of the Century
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

MAR 27

ICLE
Professional and Ethical Dilemmas in Litigation
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

MAR 28

ICLE
Mediation Advocacy
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

MAR 28

ICLE
Basic Fiduciary Practice
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

MAR 28

ICLE
Advanced Cross Examination
 Statewide Rebroadcast
 See www.iclega.org for location
 6 CLE

MAR 28

ICLE
Internet Legal Research
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

MAR 28

ICLE
Main Street Lawyers
 Macon, Ga.
 See www.iclega.org for location
 6 CLE

MAR 31

ICLE
Toxic Torts
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

MAR 31

ICLE
General Practice for New Lawyers
 Atlanta, 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.



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. Misc. small office suites available; Also available is a large professional office space with high quality upgrades, including fine wall coverings, built-in desks and cabinets and beautiful conference room with granite conference room table and built-in cabinets. Rental and term negotiable.

EAST ATLANTA LAW OFFICE BUILDING FOR SALE OR LEASE, 1892 Highway 138 SE, Conyers, Ga. 30013. Contact Mo Talley (770-483-1431); mo@talleyre-law.com. 5400 square feet, reception area, two conference rooms, three bathrooms, twelve offices, two bullpen work areas, IT/maintenance room, break room/kitchen, large file storage room and dining patio. Four AC/Heating zones.

OFFICE SPACE—Class A office space for one or two attorneys, window offices with two other lawyers in Park Central building, 2970 Clairmont Road, near I-85. Includes conference room, phone/internet, copy/fax/scan, secretarial space, \$1,200 to \$1,500 per month. Call Salu Kunnatha at 404-633-4200 or email: skk@kunnathalaw.com.

Office available in South Fulton. Prestigious Promenade Park building off Cascade Road (Exit 7, near airport). Free parking, internet, conference room usage, phone and e-fax. Secretarial services available at reasonable cost. \$600/month. Also, virtual offices with mailbox, phone, e-fax and conference room usage for \$150/month. Call Robert at 404-549-6773.

Practice Assistance

Appeals, Briefs-Motions, Appellate and Trial Courts, State, Civil & Criminal Cases, Post Sentence Remedies. Georgia brief writer and law researcher. Over 40 years experience. Reasonable rates. 20 percent discount for AMAC and tea party supporters. First consultation free. 404-377-7760, 404-643-4554 or fax to: 404-377-7220. Email to curtis@crichlaw.net.

Pro Bono on the go!



<http://probono.mymobisite.us>

Use Your Smartphone
to learn about
Pro Bono in Georgia.

Access available cases.
Find training and resource materials.
Read news about Pro Bono.

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: Owner disputes, analysis of transactions, commercial insurance claims, fraud investigations, bankruptcy and troubled businesses, business litigation, estate and trust matters, ADR. Greg DeFoor, CPA, CFE | 678-644-5983 | gdefoor@defoorservices.com.

Korean Court Interpreter. Licensed by GA Commission on Interpreters. Extensive experience in depositions, trials, and other proceedings both civil and criminal. The only licensed Korean Court Interpreter in Georgia as of this month's issue of *Georgia Bar Journal*. Call Accurate Language Services @ 770-827-8820 and ask for Jason Lee (GA Commission on Interpreters, License No. CA-01065).

New York & New Jersey Transactions and Litigation. Georgia bar member practicing in Manhattan, also with New Jersey office, can help you with your corporate transactions and litigation in state and federal courts. Contact E. David Smith, Esq., 570 Lexington Avenue, 23rd Floor, New York, New York 10022; 212-661-7010; edsmith@edslaw.net.

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.

Miscellaneous

Website Services: Do you need a website, better website, more clients? Our internet marketing service is by an attorney for attorneys. Complete website packages starting at \$350 a month. www.legalmarketingguru.com. Call today 1-855-487-8101.

ADVERTISE

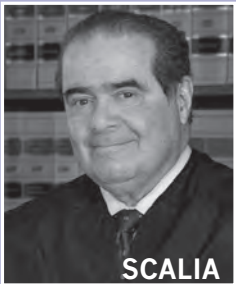
Are you attracting the right audience for your services? Advertisers are discovering a fact well known to Georgia lawyers. If you have something to communicate to the lawyers in the state, be sure that it is published in the *Georgia Bar Journal*.

**Contact Jennifer Mason
at 404-527-8761 or
jenniferm@gabar.org.**

Advertisers Index

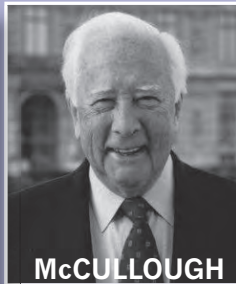
Arthur T. Anthony.....	11
Keenan's Kids Foundation	45
Member Benefits, Inc.	49
Mercer Health and Benefits Administration LLC	29
Norwiche Document Laboratory	31
ProAssurance LawyerCare.....	IFC
SoftPro Corporation	37
Thomson Reuters	BC
Warren R. Hinds, P.C.	47

Celebrating the United States Constitution 225 years



SCALIA

Photo credit: The Collection of the Supreme Court of the United States



McCULLOUGH

Photo credit: William B. McCullough



VIVIAN

Photo credit: www.parade.com



CLEMENT

Photo credit: media.washtimes.com



TOTENBERG

Photo credit: NPR



WAXMAN

Photo credit: www.mainjustice.com



CONSTITUTIONAL SYMPOSIUM

Please join the **State Bar of Georgia** in celebrating
the United States Constitution 225 years after its ratification.

March 12-14, 2014

**The Westin Buckhead Atlanta
Atlanta, Ga.**

Confirmed speakers include:

U.S. Supreme Court Justice Antonin Scalia, David McCullough, Reverend
Dr. C.T. Vivian, Paul D. Clement, Nina Totenberg and Seth Waxman.

For more information, visit www.iclega.org.

WestlawNext®



FASTER ALERTS. DEEPER INSIGHTS. FOCUSED ON WHAT MATTERS TO YOU.

GET EXCLUSIVE CONTENT AND EXPERT ANALYSIS, INCLUDING:

- **NEW** Westlaw® Daily Briefings
- Reuters Legal
- Select Wolters Kluwer Daily Reports
- CQ Roll Call Washington Briefings
- The largest collection of litigation content, and more

INTRODUCING WESTLAW NEXT PRACTITIONER INSIGHTS

Life moves fast. It's important to stay on top of current events and related legal developments that have an impact on the decisions you make every day. WestlawNext Practitioner Insights™ gives you the expert insight and analysis you need.

Plus, now you can create and manage all of your alerts from one platform, ensuring you're always up to date on emerging legal developments. Stay focused – and stay in the know – with Practitioner Insights.

Learn more at westlawnext.com/current-awareness



THOMSON REUTERS™