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GEORGIA BAR
JOURNAL

Encryption:
So Easy a Lawyer
Can Do It

Georgia's Linda
Klein, Leading
the ABA 'Back
to Basics'

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

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**The
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**ENCRYPTION:
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Ted Solley



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The October Issue

In this issue, the *Georgia Bar Journal* celebrates 100 years of women practicing law in the state of Georgia. In a seven-day span in August 1916, the Georgia General Assembly passed a long-overdue law allowing women to practice law in the state, the governor signed the law, and Minnie Hale Daniel became the first woman admitted to practice law in Georgia. The law marked the end of a five-year battle fought by Minnie Hale Daniel, who in June 1911 became the first female graduate of a Georgia law school. This issue's feature article "Hailing Minnie Hale Daniel on the 100th Anniversary of Women in the Practice of Law in Georgia" recounts Minnie Hale Daniel's struggle and ultimate vindication.

This issue also includes a feature on Linda Klein, the first woman to serve as president of the State Bar of Georgia as well as the current president of the American Bar Association. This issue's "From the Executive Director" column profiles Madrid Williams, the first executive director of the State Bar of Georgia and its predecessor the Georgia Bar Association, serving from 1942 until 1976. In the "From the President" and "From the YLD President" columns, State Bar President Pat O'Connor and YLD President Jennifer C. Mock focus of the

importance of women in the Bar, and Bar officers answer the question, "How has a woman attorney influenced you?" For this issue's Georgia Lawyer Spotlight, Editorial Board Member Jake Daly interviewed Chilton Varner, a King & Spalding senior partner who, in 1976, was the first female litigator at the firm. The Pro Bono Star Story features Thomas E. Ray, retired attorney and in-house volunteer for the Brunswick Regional Office of Georgia Legal Services Program.

Also in this issue of the *Journal* are several articles with practical and pertinent information on how technology can affect or improve a law practice and law firms' profitability. This issue's legal article, "Encryption: So Easy a Lawyer Can Do It," highlights current and future ethical issues and obligations for attorneys in the digital age. The feature article "The Ten Commandments of Teleworking" explains when and how an alternative work arrangement can be the optimal work arrangement for both employer and employee. And our recurring Legal Tech Tips column offers quick and easy tips on how technology can streamline your practice and your life.

Happy reading, and as always, be sure to let us know what you think. ●



TIM COLLETTI

Editor-in-Chief, *Georgia Bar Journal*
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ON THE COVER

Minnie Hale Daniel was the first woman licensed to practice law in Georgia. This issue helps celebrate that important milestone by highlighting women in the profession.

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**PATRICK T.
O'CONNOR**

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Women in the Bar: A Century of Progress

This year, we celebrate a milestone—the 100th anniversary of the first woman licensed to practice law in Georgia, which resulted from the 1916 adoption of legislation approved by the Georgia General Assembly. In August, the Women in the Profession Committee of the State Bar's Young Lawyers Division held a commemorative program at the Bar Center—featuring an informative film, dramatic reading, panel discussion and an exhibit documenting the achievements of women lawyers—which I was honored to attend.

The milestone we celebrate was not easily reached. In 1911, Minnie Hale Daniel became the first woman to graduate from a law school in Georgia—the Atlanta Law School—receiving her law degree along with 40 male students in her class. However, she soon discovered that obtaining a law degree did not entitle her to legally sit for the bar exam, much less practice law in the state of Georgia. For the next five years, she worked to remedy this situation, lobbying for the passage of the “Woman Lawyer’s Bill” under consideration by lawmakers at the State Capitol.

When her efforts finally did pay off, she and the women who followed her were granted the right to practice law. But even after five years of effort, the events of 1916 did not come easy. There remained much resistance in the legal community toward the concept of women practicing law.

On June 3, 1916, during the final day of its 33rd annual session at Tybee Island, the Georgia Bar Association considered a proposed resolution, presented by R.C. Alston of Atlanta, which urged the General Assembly to pass legislation to admit women into law practice. Throughout the existence of the Georgia Bar Association (1884-1964), its membership was always voluntary and “selective.” This was particularly true in its early years. The association’s ranks were entirely made up of white males and were mostly limited to what some called the “elite” of the legal profession.

Following a lengthy afternoon debate, the resolution was defeated by a vote of 45 against and 29 in favor—despite an impassioned closing statement in support of the proposal from Judge Joel Branham of Rome.

"It is not a question of sentiment; it is a question of simple right," Judge Branham said. "I think that a man and his wife should stand upon equal terms. I think that every woman should have the same rights that a man has, and that every avenue of employment suitable to woman would be open to her. . . . We are willing for her to cook, and milk the cows, wash the floors, work in the factories, and work anywhere except at the bar. . . . The question is to give her the right to earn her own living and support her own family, if necessary, and, if she wants to do that as a lawyer, let her be admitted to the bar to practice law."

As a voluntary bar association at the time, that vote did not have a binding impact. Whether women could practice law in Georgia was solely a decision for the General Assembly. On June 14, 1916, the Supreme Court of Georgia said as much, once again denying women the right to practice law while declaring, "A system of laws is created by statutes governing the admission of applicants to the bar of the courts of this State, and prescribing standards of eligibility of the applicants. Under a proper construction of these statutes, a woman is ineligible for admission to the bar."

In response, on Aug. 19, 1916, the General Assembly passed an act to permit women to practice law "upon the same terms and qualifications as now apply to male citizens." Georgia thus joined the ranks of the 45 states that had already admitted women to the bar on equal terms with men.

The first woman allowed to practice law in Georgia was admitted Aug. 21, 1916, two days after the legislative action. Five years after Minnie Hale Daniel graduated from law school, she succeeded in changing the civil code which allowed only men to practice law, resulting in her application to the Bar finally being approved.

The opposition to women practicing law in Georgia on the part of Bar leaders had been long and substantial. During an 1894 symposium on "Requirements for Admission to the Bar," a speaker noted: "(The Code requires that) the applicant be of the male gender. Georgia is not yet ready to swap wifehood and

OFFICERS' BLOCK

In recognition of the 100th anniversary of women practicing law in Georgia, the State Bar of Georgia officers were asked, "How has a woman attorney influenced you?"



PATRICK T. O'CONNOR
President

Chilton Varner defines professionalism, leadership and lawyering skills. She has served as president of the American College of Trial Lawyers and has tried numerous major cases across the nation. But, most importantly, Chilton taught me to never forget your roots and to always treat your clients, and adversaries, with dignity.



BRIAN D. "BUCK" ROGERS
President-Elect

One of my greatest hero/mentors in the Bar is Robin Clark. Robin is a true servant-leader and she exemplifies self-sacrifice for the Bar, community, family and clients. She has always worked hard to serve her clients and her constituents with intense advocacy, while being balanced with professionalism, compassion and courtesy.



KENNETH B. "KEN" HODGES III
Treasurer

At UGA I worked in the public defender's office where the female supervising staff attorneys had a positive and early influence on my career by instilling a strong desire to zealously represent all clients. They were inspirational and instrumental in developing my work ethic and trial skills. I will always be grateful for their guidance and example.



DARRELL L. SUTTON
Secretary

Women attorneys have influenced every facet of my professional and personal life. Professionally, I was mentored by a woman attorney. Learning from her how to practice law. Personally, and more importantly, I had the good fortune to marry a woman attorney. It is solely because of her influence that every day I become a better man than I was the day before.

motherhood even for female legal lore. The Georgia Code does not lend its influence to bring woman down from her present high estate.”

Logan E. Bleckley, chief justice of the Supreme Court of Georgia, speaking in 1893 on the subject of “The Future of Woman at the Georgia Bar,” verbalized the prevailing narrow-minded sentiment of that era surrounding female attorneys that their place should be at home rather than in the adversarial courtroom: “. . . Rearing lawyers is a higher vocation than practicing law. To be the mother of a great lawyer ought to content, and does content, a true woman more than to be a great lawyer herself . . . I consider the Georgia Bar almost ready for the advent of gown and petticoat, provided these habiliments are worn by married ladies and are attended in every instance of appearance at court by the conjugal trousers . . . For unmarried ladies, whether maidens or widows, there is absolutely

no opening at the Georgia Bar, nor is there likely to be any for one or two generations yet to come.”

Indeed, when Georgia authorized women to practice law, it was one of the final three states in the Union to do so. Only Arkansas and West Virginia held out longer. Arabella Babb Mansfield had been admitted to the Iowa Bar in 1869, becoming—at age 23—the first female lawyer in the United States. She had successfully challenged the state law excluding women from taking the bar exam. Shortly thereafter, Iowa amended its licensing statute and became the first state to accept women and minorities into its bar. Despite having won her right to practice law, Mansfield instead concentrated her career on academics, as a college instructor and administrator.

Mansfield died in 1911, the same year that Minnie Hale Daniel graduated from Atlanta Law School. As Lee Wallace, then-president of the Georgia Association

of Women Lawyers (which was founded by Daniel and eight other women lawyers in 1928), wrote in 2007, when Daniel “went to law school, she knew that in order to practice law, she would have to pass a lot of very tough courses, just as every other student would have to do. But unlike every other student, Minnie Hale Daniel also knew that in order to practice law, she would have to change the law.”

Compared to the vast majority of states, the Georgia legal profession was slow in its admittance of women, but it should be noted that Minnie Hale Daniel became a practicing lawyer four years before ratification of the 19th Amendment to the U.S. Constitution, which gave women the right to vote. Progress for women in other areas of Georgia’s justice system was not immediate. Given the numbers and quality of female lawyers and judges today, it hardly seems possible, but the state law barring women from serving on juries was not changed until 1953, and nearly two



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more decades would pass before the first woman became a judge and presided in a Georgia courtroom.

Much has changed in the past half-century—for the better. In 1972, Dorothy Robinson was appointed as judge of Cobb County State Court. In 1974, Phyllis A. Kravitch of Savannah became the first woman elected to a Superior Court judgeship in Georgia. In 1977, Dorothy Beasley was appointed to the Fulton County State Court and was subsequently re-elected to that judgeship.

In 1979, Judge Kravitch was appointed by President Jimmy Carter to be the first female U.S. Circuit Court judge in Georgia and the third in the nation. Also in 1979, Orinda D. Evans was appointed to the U.S. District Court for the Northern District of Georgia. In 1980, Judge Dorothy Robinson was elected to a Cobb County Superior Court judgeship.

In more recent years, great women lawyers have begun to fill seats on our state's highest courts and the top leadership posts in our professional organizations—including three of my predecessors in this office: Linda Klein (who is now president of the American Bar Association), Robin Frazer Clark and Patrise M. Perkins-Hooker.

In September of this year, there were 13,791 women lawyers listed among the 37,054 active members of the State Bar of Georgia, more than 37 percent. That percentage will continue to rise over time. In the past year, for example, the Bar has grown by 1,217 new members, of whom 591 were women—48.5 percent.

In Bar leadership, our 160-member Board of Governors includes 42 female members (26 percent), half of whom make up a majority of 21 of the 40 members representing the Atlanta Judicial Circuit, the board's largest delegation. And of the 14 members elected to serve on the Executive Committee, six are women (43 percent).

In 1984, Decatur lawyer Carol W. Hunstein became the first woman elected to the Superior Court bench in DeKalb County and, in 1991, the first woman to serve as president of the Georgia Council of Superior Court Judges. She was appointed as a justice on the Supreme Court of Georgia in 1992. She served as chief justice from

2009 through 2013 and is the second longest-serving current member of the court (behind only Justice Robert Benham).

She was the second woman to hold those positions, following Leah Ward Sears, who was appointed earlier in 1992 as the first woman and the youngest justice to sit on the Supreme Court of Georgia. She served for 17 years on the state's highest court, including a term as chief justice from 2005 until 2009, becoming the first African-American woman to serve as chief justice of any state Supreme Court in the nation.

Meanwhile, Chief Judge Sara L. Doyle is the third woman to lead the Court of Appeals of Georgia, following Anne Elizabeth Barnes (2007-08) and M. Yvette Miller (2009-10), both of whom continue to serve as presiding judges. The current 15-member Court of Appeals also includes Judges Elizabeth L. "Lisa" Branch, Carla Wong McMillian and Amanda H. Mercier.

Fortunately, Georgia no longer trails the rest of the nation when it comes to women lawyers or women serving as leaders of our judiciary. In fact, Georgia has become a leader in this important effort. On behalf of the State Bar and its leadership team, I salute the YLD's Women in the Profession Committee on a most successful 100th anniversary celebration and for its members' sustained commitment to ensure the continued progress of women attorneys.

Reflecting in 1984 on the progress that had already been made, Donna G. Barwick wrote in the *Georgia Bar Journal*, "Women bonded in groups to attain equality with men in practice, to eliminate discrimination in admission to law schools, in hiring and promotion and generally in correcting legislation that discriminated against women. In the 1980s, it (appeared) most women would prefer not to be singled out at all, but rather to blend in quietly. This attitude is reflected by the advice U.S. Supreme Court Justice Sandra Day O'Connor gave when asked what women lawyers should do to succeed: 'Do the very best job you can.'"

In that regard, I believe Justice O'Connor, Minnie Hale Daniel and even Justice Bleckley would today be proud of Georgia's women lawyers. ●

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JENNIFER C. MOCK

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Women in Leadership: Young Lawyers Lead the Way

When current American Bar Association President Linda Klein was elected in 1997 as the first woman to serve as president of the State Bar of Georgia, members of the Younger Lawyers Section (YLS), soon to become the Young Lawyers Division (YLD), certainly had reason to ask their senior and more experienced counterparts, “What took you so long?”

After all, it had been nine years since the YLS had installed its first woman president, Donna Barwick, for the 1988-89 Bar year. And four women had already followed in her footsteps as YLS president—in consecutive years, no less, from 1992-93 through 1995-96—before Linda Klein accepted the State Bar’s gavel. On top of that, it took 15 more years before Robin Frazer Clark became the State Bar’s second woman president in 2012-13.

Writing about the gender disparity in leadership between the young lawyers and the “big Bar,” then-YLD President Elena Kaplan wrote in the June 2008 *Georgia Bar Journal*: “. . . the YLD has had great success in attracting women to serve in leadership positions. This may be a function of the large numbers of women now entering law school, pro-

viding women with experiences that lead them to be comfortable taking the lead in Bar service. If this bears out, then the issue of underrepresentation may right itself as more and more women come to the point in their career when lawyers typically run for a Board seat.”

However, Elena added, “. . . waiting for the issue to right itself is not enough. The bottom line is that more women must step up and run for State Bar leadership positions. The solution is simple in theory and difficult in practice. There are societal issues standing in the way that we can’t fix in a global fashion. However, what we can do is provide encouragement and support to make it easier for women to step up. That is your charge: if you are a woman, consider seeking a State Bar leadership position; if you know a woman who you think would make a great State Bar leader, encourage her to run and support her in that endeavor.”

Simple math would indicate that in the years ahead the big Bar indeed will catch up with the YLD’s success in gender diversity in its top leadership. There are 4,626 young women lawyers, which is now a majority (51 percent, to be ex-

act) of YLD membership. That means that over time, we will continue to see higher and higher numbers of women represented on the Board of Governors and serving on the Executive Committee, the traditional pathway to the officers' positions.

I am proud to be the 12th woman to serve as YLS/YLD president in the past 28 years and hold the same office as former U.S. Attorney General Griffin Bell, former ABA President Bill Ide and so many other legendary figures in the history of Georgia's legal profession. In the spirit of celebrating the 100th anniversary of the first woman being admitted to practice law in our state, I would like to devote the remainder of this column to my 11 predecessors, along with a highlight or memory shared by each of them—either from a previously published report or in response to a recent request—about the year they led the young lawyers of Georgia, familiarly known as the “service arm” of the State Bar.

Donna G. Barwick (1988-89)

(Recent interview.)

My first thought is that while it (serving as the first woman president of YLS) was “historic” in absolute terms, it didn't really feel that way to me at the time. There was such an explosion in numbers of women in law school and the practice around that time that I was part of that it felt natural. Other women bar leaders around my age like Barbara Mayden, and others in the ABA made it very comfortable. I ran a statewide race for the new young lawyer representative slot to the ABA against another female lawyer.

There were venues like the meetings with the Supreme Court justices where it was noted, usually with the comment that they could no longer tell dirty jokes. Of course when I invited Bob Steed to be the speaker at my meeting in Savannah, where we had some new initiatives to help battered women, he proceeded to say that brought to mind nubile bodies being dipped in milk and flour.

There were some justices at the time who thought that we should have all Georgia Bar meetings in Georgia and not go out of state. Under that pressure, I had my Fall YLD meeting in Albany, and the Saturday

OFFICERS' BLOCK

In recognition of the 100th anniversary of women practicing law in Georgia, the Young Lawyers Division officers were asked, “How has a woman attorney influenced you?”



JENNIFER C. MOCK

YLD President

I have admired Amy Howell since I became involved with the YLD. Amy is passionate about service to our profession and always seems to gracefully balance her dedication to her job with her commitments to her family and community.



RIZZA O'CONNOR

YLD Treasurer

The summer before college I was a member of a criminal jury. The female prosecutor was sharp and confident in her presentation. I found her command of the courtroom inspiring. I wanted to be a lawyer just like her.



WILLIAM T. "WILL" DAVIS

YLD Secretary

I began my legal career with the GLSP Albany office under the leadership of great women attorneys. In my first three years, Cheryl Griffin, Tina Battle and Rhonda Bass taught me trial and skills that I still use in my practice today.



SHAMIRACLE S. JOHNSON

YLD Newsletter Co-Editor

Allegra Lawrence-Hardy embodies the quote: to whom much is given, much is required. Allegra has influenced me because she practices law at the highest level, serves the Bar and positively affects change in her community. Simply put, Allegra is amazing!



HEATHER RIGGS

YLD Newsletter Co-Editor

My friend, Ginger Arnold, has had a tremendous positive impact on my life, both personally and professionally. She balances wife- and motherhood, managing her law firm and advocating for her clients, yet somehow has grace, kindness and energy to spare.

afternoon activity was a dove shoot. The next YLS Newsletter headline was “Donna Barwick Shoots Her First Bird.”

**Elizabeth B. “Betsy” Hodges
(1992-93)**

(Recent interview.)

Some of the highlights of my year as president include the High School Mock Trial Committee (of which I was a founding co-chair) hosting its first ever Summer Law Camp; Georgia hosting the National High School Mock Trial Competition for the first time; the YLS immediate past president being added as a member of the State Bar’s Executive Committee; the YLS Child Advocacy Committee being formed to volunteer at Child Advocacy Centers, which provide services to the victims of child abuse and their families; and, perhaps most importantly, the birth of my daughter, Alek.

Rachel K. Iverson (1993-94)

(Excerpts from the year.)

The year started with a belief that we could make a difference in the legal profession by improving our image as lawyers and help fix the cynicism surrounding lawyers by being better lawyers in

the community. Lawyers were called to take a stand for the profession and be a good example—especially when you heard the outside community putting lawyers down.

Young lawyers were encouraged to be mindful of and take wellness seriously and to make time for exercise, spirituality and to make time for themselves.

Highlights from the year included the first presentation of the Commitment to Justice Award. The YLS Elder Law Committee published a guide for selecting a nursing home, and the YLS Juvenile Law Committee established the Children’s Legal Advocacy Coalition. The YLS Disaster Legal Services Committee met for a training session—having never been called for duty in Georgia, but helping in efforts in Florida during Hurricane Andrew (1992), in Kansas and Missouri during the floods (1993) and in California during the earthquakes (1994).

**Tina Shadix Roddenberry
(1994-95)**

(Recent interview.)

My presidency occurred during the four consecutive years when women were president. We received a lot of attention for that from the State Bar and at the ABA. With the help of my executive committee, we planned and executed the first YLD officer retreat, which took place at Amicalola Falls State Park and Lodge. We also organized and hosted the first leadership retreat for all YLD committee chairs and officers.

A 500-year flood hit much of Albany just after I took office, and our Disaster Legal Assistance Committee was activated for its first time. For several weeks we manned a table in Albany near the FEMA table where young lawyers provided free legal advice to residents harmed by the flood.

Our Community Service Projects Committee planned and executed the first Great Day of Service, a one-day event around the state when YLD members performed community service for a philanthropic cause of their choosing.

South Gwinnett High School won the High School Mock Trial National Championship. We helped write and publish an

The biggest highlight of my year was sweeping the ABA YLD’s Award of Achievement Competition, as the Georgia YLD took first place in every category in the competition. This recognition validated what I knew all along: when good people work together, they can do great things.

—Kendall Butterworth

update to the textbook "Introduction to Law in Georgia," which taught high school students about the legal system.

Nolie J. Motes (1995-96)

(Excerpts from the newsletter.)

The "Representing Special Needs Children" seminar, put on by the newly created Advocates for Special Needs Children Committee, was a complete sell-out, with nearly 200 attendees. The intensity and dedication of the attendees was far beyond anything I have ever witnessed. When the seminar rolled to a close at 5:05 p.m. on a Friday evening in Atlanta, more than 95 percent of the attendees were still there—all the more astounding due to the fact that this particular Friday was the kickoff to Freaknik weekend!

In the Georgia Mock Trial Competition, the team from Lorenzo Benn High School, also known as a Youth Detention Center for young people convicted of adult crimes, saw its team soundly defeat its opponents in the regional competition, allowing them to enter the state finals. When the announcement of victory was made in the courtroom by the presiding judge, the Lorenzo Benn team nearly brought down the rafters. The team coach explained to the presiding judge that all of these kids had had experience in the courtroom, and they were not used to winning there.

S. Kendall Butterworth (2000-01)

(Excerpts from the newsletter.)

My year as YLD president for the 2000-01 Bar year is filled with very special memories. I had the chance to work with many talented and dedicated young lawyers across the state, some of whom became dear, personal friends. The biggest highlight of my year was sweeping the ABA YLD's Award of Achievement Competition, as the Georgia YLD took first place in every category in the competition. This recognition validated what I knew all along: when good people work together, they can do great things.

Laurel Payne Landon (2004-05)

(Excerpts from the year.)

The year started with a call for young lawyers to get involved—join a committee and attend meetings. A "spotlight" column was to highlight young lawyers' accomplishments both professionally and personally—to appear in future issues of the YLD Newsletter. The Georgia Legal Services Program was highlighted, having been founded by the YLS, and young lawyers were asked to give back by donating time or money.

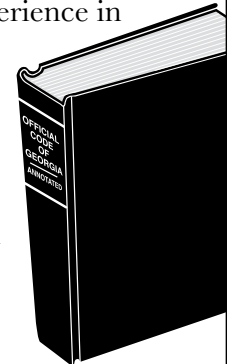
Highlights from the YLD's year including distribution of "bar survival" kits to students taking the July bar exam, creation of the YLD Family Law Committee and the YLD Intellectual Property Law Committee, and Georgia State University winning the YLD Intrastate Moot Court Competition.

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Elena Kaplan (2007-08)

(Excerpts from the newsletter.)

After four years of hard work by the Juvenile Law Committee (JLC) and others, the model juvenile code was recently released to the public for comment. In early 2004, the JLC began a project to revise the Georgia Juvenile Code. The revisions were an effort to make the code better organized, more internally consistent and reflective of research-based best practices.

The JLC also participated in the legislative study committee on the juvenile code created by SR 161 and signed into law by Gov. Sonny Perdue. The process of making the code available to the public for comment, and of incorporating public comment into a legislative package for introduction during the 2009 legislative session, was led by JUSTGeorgia, a coalition established by Georgia Appleseed, as well as Emory University Law School's Barton Child Law & Policy Clinic and Voices for Georgia's Children.

The revised and restructured juvenile code was intended to ultimately provide judges and practitioners the legal tools to better meet the overarching goals of the juvenile code: to protect and restore the well-being of Georgia's at-risk children.

Amy V. Howell (2009-10)

(Excerpts from the newsletter.)

Our major new initiative, the Summer Public Interest Internship Program (PIIP), started with a goal of providing at least one internship with a \$5,000 paid stipend in each of Georgia's three federal judicial districts. Thanks to the tremendous success of our Signature Fundraiser, "Black Tie and Blackjack," PIIP was able to fund 10 such internships in its inaugural summer. As a result, these law school students and recent graduates will gain invaluable legal training and experience while helping meet the legal needs of the indigent and underprivileged—a true win-win situation.

At the beginning of my term, I charged each of our 26 committees to identify meaningful efforts to support the "Children and Families" theme, and each of our 42 Executive Council members to

develop and implement a service project in their communities. Dozens of local and statewide service projects helping Georgia's children and families were carried out. We also addressed the "Children and Families" issue internally, establishing a Parents and Caregivers in the Profession Committee to provide networking and CLE opportunities that are family friendly and to give lawyers a forum in which to address our common challenges.

Stephanie J. Kirijan (2011-12)

(Excerpts from the newsletter.)

For its 65th anniversary, the YLD selected the theme of inclusive leadership. Seeing diversity and inclusion through the eyes of its members helps sustain a professional association where all feel welcomed, valued and engaged—allowing the YLD to better respond to the needs of young lawyers throughout the state. I am proud that this year, the YLD has its most inclusive Board of Directors in the organization's history.

The YLD also hosted two statewide affiliates' conferences this year in order to assist in the engagement of young lawyers from every corner of the state.

The YLD partnered with the Office of the Attorney General and the Georgia Food Bank Association in the statewide inaugural Legal Food Frenzy. Attorney General Sam Olens encouraged the legal community to rise to the challenge and help reduce hunger in Georgia. More than 220 Georgia law firms and legal organizations and more than 15,500 people in cities across the state took part. This first Food Frenzy united the legal community and helped the 1.6 million Georgians who are in need of food assistance.

The YLD focused its fundraising efforts on the Georgia Legal Services Program (GLSP). The YLD also hosted two of its most successful fundraisers to date, the Signature Fundraiser and the Supreme Cork, raising a combined total of nearly \$95,000 to benefit GLSP.

Finally, the YLD's Public Interest Internship Program provided legal services worth \$500,000 to partner organizations; \$143,000 of that was directed to GLSP.

V. Sharon "Sharri" Edenfield (2014-15)

(Excerpts from the newsletter.)

As YLD president, I appointed the largest Board of Directors ever, with 31 members. Besides the obvious benefit of having many hands making less work, I think that having such a big board has enabled the YLD to include as many people as possible in our projects in service to our profession.

Attendance at YLD meetings was often two or three times greater than our expectations and broke attendance records. A total of 104 YLD members came to our Spring Meeting in New Orleans, a record attendance for a meeting not held jointly with the Bar.

Our newly created military support initiative resulted in more than 40 lawyers being trained to volunteer at the State Bar's Military Legal Assistance Clinics around the state and become accredited to represent veterans in VA benefits appeals through CLEs offered at the YLD Fall and Midyear Meetings.

Our new Succession Planning Pilot Program—matching new and recent law school graduates with seasoned Georgia attorneys interested in succession planning for their practices—received strong initial feedback since its unveiling.

I should also point out that the first glass ceiling in YLS/YLD leadership was broken in 1978, when Gail Lione Masee was elected as secretary and became the organization's first female officer.

Perhaps Betsy Hodges summed up all of these achievements best, stating, "To borrow from an '80s ad: 'We've come a long way, baby!' When I first announced my candidacy for YLS president, only one other woman had held the position. During my term as president, all of the current YLS officers were women (for the first and only time), and the next year four of the five YLS officers were women. Three women immediately followed me as YLS president."

Today, for the 12th time, the YLD president is female and, again, four of the five YLD officers are women, including next year's president (Nicole Leet). What a trend we started! ●

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The Inspiring Legacy of Madrid Williams

When Gov. Carl Sanders signed legislation on March 11, 1963, to create the unified State Bar of Georgia, he was surrounded by an assortment of attorneys and members of the General Assembly who had supported the bill—all of whom were men. The one woman who participated in the signing ceremony that day at the State Capitol was neither a lawyer nor a legislator, but she was undoubtedly one of the most influential leaders in the history of our State Bar.

Madrid Loyd Williams began her service as executive secretary of the Georgia Bar Association in 1942 and retired as executive director of the State Bar of Georgia in 1976. As H. Holcombe Perry Jr., who was president of the Bar the year the unification law was enacted, wrote years later, “. . . no one can overestimate how significant her talents and hard work were to the ultimate success in establishing the State Bar of Georgia.”

Williams was born in Aragon, Ga., in 1911—the same year that Minnie Hale Daniel, who would become Georgia’s first female lawyer, graduated from Atlanta Law School. But law school was never in the plans for young Madrid (whose given name, unlike the capital of Spain,

is pronounced MAY-drid). According to a biography written for her posthumous induction into the Georgia Women of Achievement in 2010, Madrid’s family moved to Macon when she was 12 so that her father, a traveling carpenter, could work on the Bibb County Courthouse and Auditorium construction projects.

Although she was an excellent student, Madrid had to drop out of high school at age 15 and go to work to help out with the family’s finances. She was said to have been heartbroken about this and would spend the rest of her life learning all she could about literature, art and the law.

She eventually became a secretary with the Macon law firm of Harris, Harris, Russell & Weaver and in 1934 married Grant Williams. The Georgia Bar Association had been headquartered in Macon since its inception in 1884 but did not have a permanent office until 1942. One of the firm’s partners, John B. Harris, was serving as secretary of the Georgia Bar that year and would become its president a year later. The Harris firm offered part of its space in the Persons Building for the association to have an office. Madrid Williams assumed duties as the executive secretary.

“At that time there were 1,389 members of the bar, and one of her jobs was to plan and manage their meetings,” the Georgia Women of Achievement bio states. “Over the years, as the size of the State Bar increased, so did Mrs. Williams’ responsibilities. Her superior organizational skills and leadership led the Bar ‘from one file folder, to a file cabinet,’ and eventually into its own offices. Her duties included serving as administrative editor of the *State Bar Journal*, book editing, and supervising a staff that continued to grow.”

The induction ceremony for Williams’ induction into Georgia Women of Achievement featured a video, produced by Georgia Public Broadcasting, which contains the following voice-overs:

- **Voice of Charles L. Gowen (1945-46 Georgia Bar Association President):** During the 1940s, Madrid ran the association. The various presidents during that period never realized or appreciated that she—not they—was the guiding head of the association.
- **Voice of Cubbedge Snow Jr. (1974-75 State Bar President):** First of all, you’ve got to remember she did not have any legal background other than working for a lawyer. She used a word to address us that I thought was very unique. Colonel is a term, a good Southern term for lawyers. “Colonel, how are you doing, Colonel? Can I get you to do this, Colonel?” Well, she called all of us Colonel.
- **Voice of Judge Jack Adams (1973-74 State Bar President):** How many a grandiose plan made by an aspiring president has gone down the drain when Madrid said, “Now, Colonel, you can’t do that.”?

In an interview with my predecessor Cliff Brashier for the August 2011 edition of the *Bar Journal*, 1968-69 State Bar President Frank C. Jones of Macon recalled, “During those years, I had frequent contact with Mr. Harris and his firm’s personnel, including Madrid Williams, a remarkably able and talented individual. I was president of the Younger Lawyers Section in 1956-57 and worked closely with Mrs. Williams in that respect. John D. Comer, who was then practicing with the Harris



Madrid Williams looks on as Gov. Carl Sanders signs the Unified Bar Bill into law on March 11, 1963.



Portrait of Madrid Williams as it hangs in the State Bar of Georgia headquarters in Atlanta.

firm, and I served for several years as associate editors of the *Georgia Bar Journal*. We would review proposed articles and meet on a regular basis with Mr. Harris and Madrid to discuss the acceptability of these articles and other matters.”

It was under the leadership of Jones, ironically, that the decision was made for the State Bar to move its headquarters from Macon to Atlanta. According to Jones, “The great majority of (Bar) meetings were held in Atlanta, with virtually none in Macon, because Atlanta was more convenient to a majority of attendees and the facilities were limited in Macon. Madrid Williams or Judge Mallory C. Atkinson, our first general counsel, and sometimes both, usually accompanied me in traveling to Atlanta for such meetings, and we would talk from time to time about the probable need someday to move the office to Atlanta.”

Supervising the monumental task of moving the Bar headquarters, which took years of planning and was completed in 1973, was none other than Madrid Williams. She had originally told Bar leaders that she would retire when the office left Macon, but, Jones recalled, “she got caught up in the excitement” and wound up personally coordinating the moving and purchase of equipment, furniture and

decorations, as well as interviewing and hiring new staff members.


In 1970-71, she was elected and served with distinction as president of the National Association of Bar Executives, one of the first three women to do so. She had previously been secretary and program chair for the organization, which was made up of the chief administrative officers of the bars from each state. She also served on the Board of Continuing Legal Education and the Bar’s State Disciplinary Board and was secretary of the Georgia Bar Foundation.

Williams stayed on the job for three more years after the move from Macon to Atlanta, and, according to Jones, “her help was invaluable during those first years.” By the time of her retirement in 1976, Bar membership had grown to approximately 9,600. Then-Bar President W. Stell Huie said on that occasion, “No one has contributed more to the strength of the State Bar of Georgia than Madrid Williams. Her retirement will leave a void which will be impossible to fill.”

Today, I am blessed to supervise a staff of 95 dedicated Bar employees. It should be noted here that the original State Bar staff consisted of a bookkeeper, a secretary, a part-time mail clerk and one Madrid Williams.



In retirement, she exercised her passion for gardening and continued to serve as an active community volunteer. She was local president and Southern Region governor of the Soroptimist Club, an international organization of business and professional women. She would later serve as chair of the American Federation of Soroptimist Clubs. She was also a founding member of St. Andrews Presbyterian Church, where the Montessori preschool facility is known as the Madrid Williams Educational Building. She was later elected as the first woman deacon of Vineville Presbyterian Church in Macon.

Madrid Williams passed away in 1993. As her Georgia Women of Achievement biography concludes, “She rose from humble beginnings and a lack of formal education to succeed in the then-male-dominated world of law, and accomplish great things. The legacy of Madrid Williams will inspire young women today. In addition to breaking glass ceilings and holding positions of respect and authority, there are tangible tributes that educate us about the women who went before us. Mrs. Williams’ portrait hangs in the Bar Offices in Atlanta, reminding all that hard work, dedication and perseverance can take us farther than we might have thought.” ●



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
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Encryption: So Easy a Lawyer Can Do It

Risks to data security are continuously evolving. This article summarizes the ethical and business considerations regarding encryption with some practical advice for lawyers interested in securing their communications.

BY TED SOLLEY

Ever seen a warning like this one from your bank or credit card issuer?

We do not request your personal information via email. If you receive an email requesting personal information or asking you to verify personal details, do not respond. We will never ask for this information over email.

Most people at least think twice, and probably refuse, a request to send sensitive information such as a Social Security number via email. If a bank would never ask its customers to send personal information via email, why would lawyers—who are duty-bound to protect the attorney–client privilege—routinely send confidential information via email?

Risks to data security, and the technologies that mitigate those risks, are con-



tinuously evolving. Because most lawyers are too busy to keep up with either side of that race, this article provides a quick and easy reference. After providing a brief introduction to encryption and an overview of prominent data security stories, this article summarizes the ethical and business considerations regarding encryption and then concludes with some practical advice for lawyers interested in securing their communications.

How Does Encryption Relate to Ethics?

Under the Model Rules of Professional Conduct, lawyers must make “reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.”¹¹ Although the State Bar of Georgia has not addressed, either in rule or opinion format, the specific issue of inadvertent disclosure, its members have an obligation to “maintain in confidence all information gained in the professional relationship with a client.”¹²

This ethical standard requires lawyers to reevaluate whether their own efforts to protect attorney–client communications still qualify as “reasonable efforts” consistent with their ethical obligations. To put this into perspective for the technophobe lawyer, ignoring data security as an important part of practicing law in 2016 is akin to ignoring email in 1999, except that the ramifications are ethical in addition to practical.

The single best way to ensure the privacy of electronic communications is to use end-to-end encryption. For the uninitiated, end-to-end encryption converts your data into gibberish during transfer from your device to the recipient and converts it back into readable or listenable format when it reaches the recipient. This protects the privacy of the communication because even if it is intercepted by a hacker, the contents are indecipherable. A related measure, disk encryption, performs essentially the same function on data stored on your phone or computer—storing the data as gibberish except when accessed by

your personal passcode. When end-to-end and disk encryption are combined with basic security measures like strong passwords, it all but guarantees that your communications are available only to you and the intended recipient.

For lawyers, there is a clear ethical obligation to use encryption in certain circumstances. There is arguably an ethical obligation to do so all the time. Just as importantly, there is good business sense in at least offering clients the option to communicate securely. Lawyers simply need to recognize this issue and consider the available solutions.

The good news is that new and evolving technologies, including some discussed below, are making encrypted communication methods as easy to use as non-encrypted methods.

Ignore Scary Facts at Your Own Peril

Governments and private hackers are after your data—all of it. Unfortunately, the 2015 ABA Legal Technology Survey Report found that the legal industry is woefully underprepared to protect data. The survey found that more than 15 percent of all law firms, and a higher percentage of larger firms, have experienced a data breach due to a hacker, website attack, break-in, or lost or stolen computer or smartphone.³ Given the broad definition of data breach to include incidents as routine as lost phones, those estimates are almost certainly too low, and indeed the legal industry has been criticized for its reluctance to disclose data breaches.⁴ At the same time, data breaches have become alarmingly commonplace.

At this point, the data breach horror stories are well known and require little repetition except as a reminder that nobody is immune and that nobody should assume that any unencrypted communication is truly private.

Regarding the widest-spread and most commonplace data breach, thanks to Edward Snowden, there is no denying that the National Security Agency (NSA) approach to surveillance is to “collect it all,” meaning the NSA aspires to inter-

cept and archive every single electronic communication, period.⁵ This is accomplished by, among other methods, installing surveillance equipment directly onto the Internet hubs of major telecom providers such as AT&T and Verizon to vacuum up Internet traffic (the Upstream program), as well as obtaining data directly from companies like Google and Apple (the PRISM program) and storing all intercepted communications in the vast NSA data center in Utah.⁶

Nevertheless, if governments were the only entities intercepting and storing private communications, perhaps many people would accept the intrusion as justified, benign or simply unavoidable. That is not the case.

In 2015 WikiLeaks published 170,000 hacked internal emails from Sony Pictures,⁷ enabling the world to revel in petty Hollywood gossip. A separate 2015 hack focused on celebrities who stored their cell phone photos in the cloud, publishing nude photos of dozens of high-profile celebrities.⁸

While movie stars and other celebrities make splashy headlines, the real action for hackers is in the sensitive personal data that people and corporations share with their lawyers. The following is a brief and very incomplete list of recent, high-profile corporate data breaches:

- Anthem (health insurance)—80 million patient and employee records;
- Ashley Madison (online dating)—33 million user accounts;
- eBay (e-commerce)—145 million customer accounts;
- JP Morgan (banking and finance)—76 million households and 7 million small businesses;
- Home Depot (home improvement)—More than 50 million credit card accounts and email addresses; and
- Target (household goods)—40 million credit and debit card accounts.

It is only a matter of time before law firms are in the headlines because of intercepted or stolen emails.

The Ethics of Consensus Requires Lawyers to Consider Encryption

With threats seemingly everywhere, do all lawyers have an affirmative duty to encrypt every electronic communication? The simple answer is not yet. This is an evolving area of ethics, and without the benefit of clear precedent, the various bar associations wrestling with the situation do their best to give guidance to the well-intentioned lawyer. As of this writing, neither the ABA nor any state bar association, including Georgia, has required encryption of all attorney–client communications. That day may be approaching.

Some circumstances clearly require use of encryption. For example, companies in regulated industries such as banking and health care may require that any of their confidential or proprietary information passing outside their networks be encrypted. This could require, for example, that two lawyers serving as outside counsel for such companies encrypt any email between themselves that contains the client’s confidential documents or information. More broadly, the ethical obligation to encrypt arises any time a lawyer knows that specific communications are highly sensitive or susceptible to unauthorized interception, whether or not there are applicable data protection laws, regulations or policies.

In other instances the obligation is less clear because, as in so many other areas of the law, the answer turns on a determination of what is a “reasonable effort.”

As noted above, the Model Rules of Professional Conduct impose an obligation to make “reasonable efforts” to protect attorney–client confidentiality, including in electronic communications. The ubiquitous privilege/confidentiality disclaimer in lawyers’ email signature blocks may not, in light of modern technology and surveillance, constitute the required reasonable efforts. As one commentator opined, relying on such disclaimers is “akin to putting a note inside a box that says, ‘Do not open this box.’”⁹

Without an objective and universal definition, reasonable efforts are what the majority says they are. Applied to data security, the obligation to encrypt communications arises when there is a consensus within the legal community that doing so is reasonable for a specific circumstance or as a general practice. As long as the bar agrees that end-to-end encryption for all communications goes beyond “reasonable efforts,” it does. If and when a critical mass of encryption-using lawyers is reached, using encryption becomes reasonable by consensus. For now, we can only observe the trends in data security, technology and ethical consensus.

Recent commentary from the ABA recognizes the potential shift in consensus, including pointing out the State Bar of Texas’ opinion that a lawyer “should consider” using encryption “if the lawyer is concerned that the NSA or other law enforcement agency may read the lawyer’s email communication, with or without a warrant.”¹⁰ Similarly, a California ethics opinion concluded that an attorney has an ethical duty to evaluate the security of any wireless network, home or public, before it is used for client communications and to take appropriate precautions in using it.¹¹

When enough lawyers become concerned about their electronic communications being intercepted, “should” becomes “must” with regard to encryption. In the meantime, lawyers may find increased peace of mind by using encryption even if not required. As one technology expert opined, “if there are legal ramifications to information leakage . . . you have exactly two options: [a]void email altogether [or] [e]ncrypt.”¹²

With encryption’s increasing ubiquity and ease of use, the decision not to encrypt communications is becoming harder to justify.

Getting With the Times is Good for Business

As a group, lawyers tend to be behind the times with technology, adopting new hardware or software (or going paperless) only when old habits become untenable. Lawyers all agree, however, that privacy is critical to the profession. Making the leap to end-to-end encryption is an easy way to walk the walk in protecting clients' privacy.

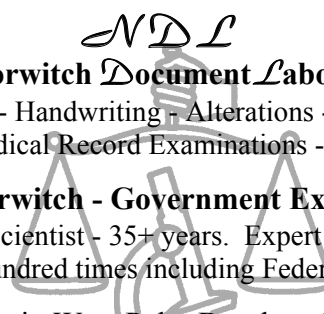
Lawyers in big firms or corporations need to be on board with encryption as it becomes more difficult to justify a failure to embrace security, particularly when working with clients in areas such as banking and health care with enhanced security requirements.¹³ For those with smaller or more limited practices, getting on board with encryption is an easy way to demonstrate dedication to clients' privacy.

Perhaps most importantly, to provide the best legal representation, it is incumbent upon lawyers to ensure that clients feel the highest level of comfort, which facilitates candor.

In his seminal TED Talk "Why Privacy Matters,"¹⁴ journalist Glenn Greenwald explains why, no matter how much people insist they have nothing to hide or are unconcerned about privacy, their actions belie that statement. Why, asks Greenwald, do so many people publicly profess indifference to privacy yet lock their bathroom doors and put privacy fences in their yards?

The reason is that when we're in a state where we can be monitored, where we can be watched, our behavior changes dramatically. The range of behavioral options that we consider when we think we're being watched severely reduce. This is just a fact of human nature . . . [W]hen somebody knows that they might be watched, the behavior they engage in is vastly more conformist and compliant.¹⁵

The realm of privacy created by the attorney-client privilege is an integral part of the attorney-client relationship, which is why Greenwald astutely observes, "There are all sorts of things that we do and think that we're willing to tell



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our physician or our lawyer or our psychologist or our spouse or our best friend that we would be mortified for the rest of the world to learn."¹⁶

Even a client who is not consciously concerned about monitored emails or phone calls may feel more at ease when reassured that his or her communications with the lawyer are secure. Even a client who declines to use secure email or phone systems may feel more at ease when reassured that his or her attorney is committed to guarding the attorney-client privilege. In other words, the mere fact of offering secure communication options encourages client candor regardless of whether those options are used.

So Easy a Lawyer Should Do It

Today, encryption is as easy to use as the software you already use. So if you know how to use Outlook, Gmail and your phone's text messaging application, you can use encryption for emails, text messages, phone calls and instant messages.

All iterations of Microsoft Outlook support encrypted email.¹⁷ For non-Outlook users, there are multiple (and free) web-based email services that support encryption. One of them, Protonmail, recently released applications for iPhone and Android that make encrypted email as simple as using your Gmail application.

Also available in abundance are encryption applications and services for telephone calls and text messages. For the purposes of this article, two free applications—WhatsApp and Signal—are worth highlighting. Both install like any other

application, work as intuitively as standard text messaging applications and can automatically encrypt both phone calls and text messages with other users (telephone calls may require a fast internet connection for good voice quality). WhatsApp alone has more than a billion users worldwide.¹⁸

Communicating in private is not just about making sure bits of data are unreadable to the hacker on the coffee shop Wi-Fi network. Sometimes the simple fact of consulting with a lawyer is sensitive information, even in civil matters. Because Signal uses the Internet instead of cellular networks, the cellular provider obtains no records at all, meaning that printouts of cell phone statements do not identify calls or texts made with Signal. You can make a phone call that is completely private: no third party can intercept the call and hear its contents, and no third party will find a record of the phone call occurring. Of course, if your security needs are such that you need to avoid creating metadata records of your communications, you should consult a security expert to ensure your practices are sound.

Lastly, if you carry a laptop or thumb drive or smart phone that stores your email or files, there is no reason not to use full disk encryption. For nearly all current computers and phones, full disk encryption is a standard feature that merely needs to be enabled, which will prevent anyone who obtains physical access to your device from reading its contents without knowing your passcode (for example by removing the hard drive and bypassing your standard login).

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With encryption's increasing ubiquity and ease of use, the decision not to encrypt communications is becoming harder to justify.

Conclusion

While threats to data security are bad and getting worse, end-to-end encryption has never been easier to use and in many cases can be implemented with no need for technical assistance.

Given the risks of failing to encrypt and the ease with which lawyers can use encryption to protect attorney–client privilege communications, lawyers should act now to stay ahead of consensus, even if only to avoid the embarrassment of having to disclose a data breach to clients. ●



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The Ten Commandments of Teleworking

Telework is one of the most popular types of alternative work arrangements among lawyers. Employees who feel they would be most productive in a telework environment should pay heed to the following commandments.

BY LEANNA BANKESTER PITTARD



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Teleworking, also called telecommuting or flex-place, “can mean working from home full time, or working from home only one or two days a week, with the remainder of the week spent in the office.”¹ Telework is one of the most popular types of alternative work arrangements (AWA) among lawyers,² but it is not for everyone. Some simply prefer an office setting; others, for one reason or another, cannot successfully manage a telework arrangement.

“To help assure that the firm maximizes each lawyer’s potential, lawyers need the option to decide where they can be most productive.”³ Employees who feel they would be most productive in a telework environment should pay heed to the following commandments.

1. Exercise self-discipline.

The single most important factor to a productive telework arrangement is the exercise of self-discipline. To decide whether telework is for you, do some critical self-evaluation:

- Do I have good time management skills and the ability to set clear priorities?
- Am I willing to sometimes work when a manager or coworkers are not in the office to complete a project, or to work longer days? Do I have the competence and confidence to make sound business decisions without the input of others?
- Am I able to function with limited or no supervision? Am I trustworthy? Can I self-direct?⁴

If you answer yes to these questions, you may find that telework is a good fit for you and a significant step toward much desired work/life balance. Self-discipline includes: (a) creating a distraction-free environment, which is important to employers and clients, and (b) monitoring your work hours, which is important for you and your loved ones.

Creating a Distraction-Free Environment

Set yourself up to succeed by creating a distraction-free environment. It need not be large, but you should allocate a dedicated space in your home that will allow for quiet and focused work. Remember that telework is not a substitute for child or other dependent care.⁵ You cannot take care of another person for any length of time while teleworking any more feasibly than you could if the person were sitting in your office building. Secure adequate and reliable dependent care before transitioning to telework, and inform your employer of the arrangement. In addition to your regularly scheduled caregiver(s), create a backup network and “obtain as much assistance as you can from family, friends, and household employees or services.”⁶

Distractions such as social media and general web browsing are temptations for anyone with a phone or computer, whether off-site or in the office. But if you are liking, posting, pinning, tweeting, Instagramming and setting your fantasy football lineup while teleworking, you are doing yourself a disservice, and you risk leaving behind a time-stamped trail of activity that your employer might discover. Clearly you cannot

separate yourself from your phone for any length of time as a teleworker, but therein lies the danger. Eliminate these production killers, even if it means removing certain applications from your cell phone.

Monitoring Your Work Hours

Telework often means more flexible work hours, which can be a blessing and a curse. The positive aspect is that it allows for the work/life balance so often lacking in law practice. The negative aspect is that, left unchecked, your work hours can consume your nonwork hours, leaving you with no start and no end to your day. This is particularly true when a teleworker has a reduced or compressed hours arrangement. Many teleworkers with such an arrangement complain of “part-time status but full-time work.”⁷

Even if your employer does not require it and your time is not billable, keep up with your work hours. When establishing the number of days or hours you will work each week or month, remember to account for a “reasonable number of nonbillable hours that can be allocated to administration, continuing legal education, and similar matters.”⁸ Determine with your employer how prolonged periods of “schedule creep” will be compensated. For instance, will the extra hours be banked for additional compensation or time off?⁹ Keep in mind that additional compensation should be only a temporary solution;¹⁰ the real goal is a reduced and/or more flexible schedule.

2. Be highly accessible.

One concern employers might raise is whether they will be able to reach off-site workers when they need them. As telework advocate Nicole Belson Goluboff assures employers, “If you have hired the right lawyers, properly equipped them and trained them to use their technology, they can—and will—always ‘be there’ for you.”¹¹

Because your primary sources of communication are likely telephone and email, it is critical that you answer calls and return messages almost immediately during working hours. Since telework often provides for more flexibility in hours, it may be encouraging to everyone involved if you establish “core” hours or

days when everyone knows you will be at your desk and available for meetings.¹² If someone tries to reach you and finds you unavailable, your absence is more understandable if it is outside those core hours.

If you propose a telework arrangement and your employer voices concerns over availability, suggest that he or she keep track for a week of what percentage of time he or she gets a live response from an in-office worker.¹³ It will likely be less than a third of the time.¹⁴ “There’s a myth of constant accessibility” of on-site workers that is not necessarily true.¹⁵ Challenge yourself to be even more available remotely to those in-office as the person physically sitting in the office next to them.

At times, telework may actually be critical for continuing operations, such as emergency situations, inclement weather, unexpected office closings or even a pandemic.¹⁶ In fact, all federal agencies have been required by law to have teleworking policies in place since 2000.¹⁷

3. Put your telework agreement in writing.

A telework contract can clarify expectations, identify performance indicators and eliminate misunderstandings down the road.¹⁸ The agreement does not have to be lengthy or overly formal. The agreement might include the anticipated duration of the arrangement (even indefinite), hours and office schedule.¹⁹ Some organizations require the reason for the request.²⁰

The agreement should “specify the criteria that will apply to promotions of lawyers on alternative schedules.”²¹ AWAs are great in that they “allow lawyers to further their careers at a different pace,”²² but you should know from the outset if and how the arrangement might affect partnership, retirement or other goals. This is particularly true if the telework arrangement includes reduced hours. Some firms are open to a new status for lawyers short of full equity partnership, including “non-equity partner,” “senior attorney,” “staff attorney” or “of counsel.”²³

Take advantage of performance reviews or evaluations to discuss your telework arrangement. If your firm or office does not have reviews or evaluations at

regular intervals, it is all the more important for you to speak up if, for example, you are not receiving appropriate assignments or your working hours have consumed your non-working hours.²⁴ There may be no way for your employer to know about such issues unless you tell them. On the flip side, remember that organizations have the right to terminate an alternative work schedule as well.²⁵

4. Be flexible.

The ultimate goal for everyone involved is to produce excellent work for your firm or company and its clients. Sometimes this may require coming into the office or, like any other attorney, returning phone calls and emails and working during your typical nonworking hours.²⁶ Just as you request flexibility of your employer and coworkers, you must be flexible yourself. If these instances become too frequent and the arrangement becomes unsatisfactory, speak to your supervising attorney or office manager. "Expect to do some adjusting at the outset and as often as necessary."²⁷

Deborah L. Rhode, in a report prepared for the American Bar Association, gave these tips:

- Demonstrate flexibility and commitment.
- Do not make unreasonable demands, but do not settle for unreasonable responses.
- If your initial request or arrangement is unsuccessful, try to develop a constructive alternative.²⁸

5. Be effective and reliable.

Some employers are hesitant to allow AWAs due to their concern over how much work will actually be done when the employee is not in the office.²⁹ Source after source reports, however, "remote employees [are] among our most excellent performers."³⁰ Research shows that employees with flexible schedules are actually more focused, more productive and better able to concentrate.³¹ To allay any fears, the teleworker must manage his time effi-

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ciently and be sure his schedule reflects his priorities.³² Productivity must be measured by results rather than by hours worked. A good manager will judge an employee's success "through performance management, not through 'face time.'"³³

"Develop a track record of effective performance before requesting an . . . alternative schedule."³⁴ Some employers may require a minimum period of full-time work or satisfactory performance before allowing such an arrangement.³⁵ Do not let this deter you; rather, view it as an opportunity to become invaluable to your firm or office.

It is all the more important for a teleworker to fulfill obligations to colleagues and clients. During non-working hours, maintain sufficient contact with the office by periodically checking voicemails and emails for urgent matters.³⁶ Provide staff with explicit instructions on what information to provide clients and how to handle urgent matters in your absence.³⁷

6. Actualize the benefits to your employer.

Just because a traditional in-office setting is "the way it's always been done," that does

In addition, teleworkers and firms report "increased productivity and marketability" and increased work time, in that teleworkers are "available twenty-four hours a day, seven days a week anywhere they are."⁴⁴ Another benefit to employers is increased employee loyalty and retention. Effective programs "can save legal offices millions through increased retention rates."⁴⁵ "By conservative estimates, it costs a firm \$200,000 to replace a second-year associate," if one includes lost productivity, training, recruiting costs and signing bonuses.⁴⁶

The benefits to teleworking employees are many as well, and such benefits make their firm or company an attractive employer, with the ability to bring in and retain exceptional workers.⁴⁷ Telework supports work/life balance, allowing attorneys to practice law while juggling other duties, earning decent wages and maintaining better relationships with family members.⁴⁸ Teleworkers report greater perceived happiness.⁴⁹ Telework reduces transportation time and costs.⁵⁰ Eliminating unproductive commute time frees up an extra hour each day, allowing the employee to start working earlier and get more done.⁵¹ The flexibility of working remotely also means

employees can conduct global meetings at odd hours without leaving their homes.⁵² Finally, when employees are "more rested and less distracted by pressures outside the office, they perform better in the office," which is good for everyone.⁵³

If employers "understand that their ability to reduce attrition costs, meet client demand for stability and diversity, and compete with other firms for legal talent—all issues that ultimately impact their wallets—depends on the success of [a] balanced hours program, they will make it work."⁵⁴

7. Embrace technology.

Simply put, technology makes telework possible. "Advances in portable, afford-

able technology are the main drivers of an increasingly mobile and dispersed workforce."⁵⁵ "With the advent of cloud-based storage, encryption technologies, high-speed data connections and ubiquitous mobile devices, legal professionals now can function almost anywhere. All that's required is a basic technological literacy, a modest investment in computer gear and an internet connection."⁵⁶

In addition to cellular phones, fax, email and remote servers, take advantage of videoconferencing, intranet bulletin boards and instant messaging.⁵⁷ Work with your office to determine "the most effective media, i.e., phone, voice mail, shared drives, etc., to ensure ongoing information sharing."⁵⁸ Embrace technology and seize opportunities to learn more.

8. Protect your work.

Because technological advancements provide for an increasingly mobile workstation, you must be able to assure your employer and clients that your work will enjoy the same security and confidentiality it would have in an office setting. Model Rule of Professional Conduct 1.6(a) prohibits a lawyer from revealing "information relating to the representation of a client."⁵⁹ "[I]t is now commonly accepted that this duty applies to digital information as well."⁶⁰ Anyone who has ever left the office with a work-issued laptop is at some risk for data breach. Teleworkers must be all the more vigilant. Take great care not to transmit sensitive "information across an insecure connection or leav[e] confidential documents in a public space."⁶¹ Reasonable measures must be in place to protect the confidentiality, security and integrity of electronic documents, including firewalls and intrusion detection software.⁶² Ensure that electronically stored files are routinely backed up, just in case your computer crashes or is misplaced, damaged or destroyed.⁶³

9. Avoid becoming disconnected.

Remote workers face the challenge of becoming disconnected.⁶⁴ The key is communication—lots of it and in many different forms. Communication skills are

Once you are on the path to a successful telework arrangement, help others find the same work/life balance.

not mean other, better ways do not exist.³⁸ Prove it to your colleagues and superiors that "working outside of the office is no different than sitting in front of the company issued laptop, at the company issued desk, in [a] company issued chair."³⁹

A significant incentive for employers in allowing telework is the financial savings. Telework is widely accepted as "a more profitable way to run a law firm than traditional practice strategies."⁴⁰ "Most of the savings come from consolidating space."⁴¹ In 2005, Sun Microsystems reported savings of \$69 million in real estate costs due to its telework program.⁴² AT&T saved \$25 million between 1992 and 2001 thanks to its telework program.⁴³

critical to the teleworker, especially when there is a mix of teleworkers and office workers in one department.⁶⁵

Although no one wants to be seen as tooting his or her own horn, it is often simply a matter of communication to let supervisors know when a significant project has been completed and, even better, by deadline. Otherwise they may not know. “[P]lan a relationship management strategy and act systematically to make yourself and your contributions visible.”⁶⁶ Remember that no one—whether a teleworker or an office worker—completes a significant project completely on his or her own, so be sure to credit those who helped you.

Make face time a priority. Schedule office visits and meet with as many people as possible while you are there. The advantage to these meetings as opposed to impromptu meetings that regularly occur in-office is “participants come better prepared and the meetings are more consistently productive.”⁶⁷ “Volunteer[] for high-impact but manageable committees or task forces.”⁶⁸ Attend key functions,⁶⁹ like firm picnics, Christmas parties and retreats. Send birthday and holiday greetings to those in your department or on your team.

Avoid isolation. Get involved in your local community, volunteer organizations or the bar association. Make time for professional meetings and business development.⁷⁰

Finally, make time for exercise. Eliminating your commute also likely means eliminating a great deal of walking and stair climbing you would otherwise do each day. Assuming you have no face-to-face meetings or video conferences, wake up and put on your exercise clothes and shoes and, if nothing else, walk around your neighborhood for 30 minutes. As one of innumerable benefits of exercise, it will refresh your mind and body and help avoid stagnation.

10. Pay it forward.

Once you are on the path to a successful telework arrangement, help others find the same work/life balance. There is room for everyone. If your firm or office does not have a written policy regarding telework or other AWAs, help develop one.⁷¹ Support and encourage fellow teleworkers. If you have a voice in allowing another person to telework and think the arrangement would be successful, allow it. As stated by Honey Lynn Goldberg, divisional vice president and associate general counsel at Abbott Laboratories, “If we can do something that attorneys want that doesn’t cost the department anything, then it is a good thing to do.”⁷²

The desire for work/life balance is not unique to women or parents, and AWAs

are “less likely to be stigmatized if they are not used exclusively by mothers,”⁷³ fathers or women in general. Remember that “lawyers with [AWA]s generally are attempting to balance the demands of professional practice with other socially valuable commitments.”⁷⁴ Those commitments may take more than one shape.

Conclusion

Telework offers significant benefits to employers, employees and clients. Employers and employees who are forward-thinking enough to embark on this journey have a responsibility to make it work, not only for the benefit of their firm and clients, but for others who might benefit from a similar arrangement. “As law firms and departments continue to look more like America, lawyers will increasingly demand flexibility to enjoy professional success and a rewarding personal life. Companies and firms who lead the way with effective AWAs will win the war for talent and a healthy bottom line.”⁷⁵ ●



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Georgia's Linda Klein Leading the ABA 'Back to Basics'

Linda Klein was the first woman president of the State Bar of Georgia in 1997. Now president of the ABA, Klein is an exemplary example of longtime commitment to the legal profession.

BY LINTON JOHNSON



PHOTO COURTESY OF THE ABA JOURNAL

The late, great Southern writer Lewis Grizzard was referring to his brief stint with the *Chicago Sun-Times*—which had interrupted his career as a sports writer and columnist for the *Atlanta Journal-Constitution*—when he titled one of his books, “If I Ever Get Back to Georgia, I’m Going to Nail My Feet to the Ground.”

It’s possible that Atlanta lawyer Linda A. Klein will have echoed that sentiment at least once by the time she completes her current term as president of the American Bar Association next summer.

“They tell me I’m going to be on the road for more than 300 days, so we’ll see,” Klein said the day after she was installed as president of the largest legal organization in the United States. She was sworn in Aug. 8 by Justice Carol W. Hunstein of the Supreme Court of Georgia during the ABA Convention in San Francisco.

Klein, senior managing shareholder of Baker Donelson Bearman Caldwell & Berkowitz P.C., said she is well-prepared for the year of travel required of an ABA president. During much of the previous year, as president-elect, she went

Linda Klein is sworn in as the 2016-17 ABA President by Supreme Court of Georgia Justice Carol Hunstein on Aug. 8 during the ABA Annual Meeting.

around the country—“from Savannah to Tacoma, Wash., to Burlington, Vt., and many cities in between”—on a listening tour around the country, hearing directly from other members about what they thought the association could do to help them.

“I was asking lawyers what they need to better serve their clients,” Klein told the ABA’s House of Delegates in her inaugural speech. “I learned that lawyers want to do more pro bono and reduced-fee work, but they can’t. The burdens of running a practice detract from the time they have to practice law. As I traveled through the country meeting with lawyers—members and non-members—time and again, lawyers told me they need information and tools to improve their practices.

“During the very first stop of my listening tour in Fargo, a lawyer told me his legal secretary quit to become a greeter at a car dealership. Why? She needed health insurance for herself and her family, and the solo practitioner couldn’t offer it. Then a solo lawyer in Denver told me, ‘I don’t have time to practice law because I have to make time to send client bills and collect them and pay my own bills.’ I heard those comments over and over again across the country.”

In response, Klein has created a working group that is developing a web portal called ABA Blueprint, which is a one-stop shop for members to get what they need while saving far more than they pay in dues.

“For lawyers who want to open a new practice, ABA Blueprint will have a package of technology, virtual receptionist, time and billing software,” Klein said. Any ABA member who wants marketing help, information on retirement or life insurance plans, technology or benefits assistance can access the new service at www.abablueprint.com.

The advances in technology available to assist lawyers have been important to Klein at least since December 1997, when she wrote, “On the internet, lawyers find lost witnesses, government documents, court opinions and much more. Not even the largest law firm library can rival the information that is available on the Internet. Every lawyer can compete now.”

Klein actually wrote those words for the *Georgia Bar Journal* while she was serving as president of the State Bar of Georgia. Klein was the first woman elected to serve in that office, but when asked to reflect on that breakthrough in Georgia Bar leadership, she prefers to downplay its trailblazing historical significance and focus on what was accomplished during her year.

“Certainly I do recognize that it was an incredible privilege,” she said, “but it was a privilege to be president of the State Bar period. Most of what people remember was how we worked together to get the Legislature, for the first time, to appropriate \$2 million for legal assistance to victims of domestic violence. We

“So let’s focus on the basics by doing things that everyone, all lawyers and the public, can get behind. Let’s use our talents in the law to bring fairness to our communities. Let’s focus on bringing to our members what they need to better serve their clients.”

undertook a complete review of the rules of professional conduct, under the leadership of Judge Ed Carriere. We brought all the bars of color at the time together and showed them how the services offered by the State Bar could help them.”

Klein is the fifth Georgian to serve as ABA president, following Peter W. Meldrim of Savannah (1914-15), E. Smythe Gambrell of Atlanta (1955-56), William B. Spann of Atlanta (1977-78) and R. William Ide III of Atlanta (1994-95). She joined the ABA during her first year of law school at Washington & Lee University, years before her 1983 admission to the State Bar of Georgia.

In her inaugural address to the ABA House of Delegates, she said, “Like many of you, I’ve always been an ABA member—as a law student, a summer clerk, a small-firm lawyer, then a medium-sized firm lawyer and now a lawyer at Baker

Donelson. As my practice and my clients’ needs evolved, the ABA was always there to guide me, to counsel me, with thousands of opportunities for learning, for teaching, for leadership development and for networking.” Her ascension through the leadership ranks to the ABA presidency, according to Klein, “has just been very, very exciting. I hope to represent the state of Georgia with pride.”

She appointed a number of fellow Georgia Bar members to serve on her ABA leadership team for 2016-17, including Justice Hunstein, whom she appointed as chair of the Board of Elections and calls “my friend and hero, who fought for judicial independence and then won

a tough re-election campaign in 2006, despite being targeted and outspent. She honored me by coming to administer my oath of office.”

State Bar General Counsel Paula J. Frederick, ABA Delegate from Georgia, has already completed her work as chair of the Appointments Committee and is also serving as chair of the Professional Discipline Committee. Robert L. Rothman of Arnall Golden Gregory LLP in Atlanta is serving in the 11th Circuit seat on the ABA Standing Committee on the Federal Judiciary, which reviews the qualifications of candidates for presidential nominations to the federal bench.

Other Georgians appointed to ABA committee service this year include:

- Carla Elisia Frazier of Pooler, chair of the Lawyer Referral and Information Committee.

- Teri McClure, UPS, chair of the Africa Law Initiative Council and member of the Rule of Law Initiative Committee.
- Cari K. Dawson, Alston & Bird LLP, Atlanta, and Adam R. Gaslowitz, Gasolwitz Frankel LLC, Atlanta, members of the Legal Opportunity Scholarship Fundraising Committee.
- Mellori E. Lumpkin, Greenberg Traurig LLP, Atlanta, member of the Legal Opportunity Scholarship Committee.
- Meredith M. Lackey, Colonial Pipeline Company, Alpharetta, and Joe D. Whitley, Baker Donelson Bearman Caldwell & Berkowitz, Atlanta, members of the Cybersecurity Legal Task Force.
- Allegra J. Lawrence-Hardy, Lawrence & Bundy LLC, Atlanta, member of the Assuring Every Child's Right to a High-Quality Education Committee.
- Jenny K. Mittelman, Office of the General Counsel, State Bar of Georgia, Atlanta, member of the Editorial Board of ABA/BNA Lawyers' Manual on Professional Conduct Committee.
- James C. Nobles Jr., James Nobles LLC, Atlanta, member of the International Trade in Legal Services Committee.
- William R. Montross Jr. of Atlanta, who is affiliated with the UDC David A. Clarke School of Law in Washington, D.C., member of the Death Penalty Due Process Review Project Committee.
- Cicely Barber, Lawrence & Bundy, and Tangela King, ICLE in Georgia, members of the Paralegals Committee.
- Almeta Cooper, Morehouse School of Medicine, Atlanta, member of the Specialization Committee.
- J. Randy Evans, Dentons, Atlanta, member of the Government Affairs Committee.
- Daisy Floyd, Mercer University Law School Dean, Macon, member of the Professionalism Committee.
- Angela Hinton, City of Atlanta Law Department, member of the Law and National Security Committee.
- Joe Kingma, Carlock, Copeland & Stair, Atlanta, member of the Lawyers' Professional Liability Committee.
- Lauren Sudeall Lucas, Georgia State University College of Law Center for Access to Justice, Atlanta, member of the Legal Aid and Indigent Defendants Committees.
- Erica Mason, Constangy, Brooks, Smith & Prophete, Atlanta, and Rita Sheffey, Emory University Law School, Atlanta, members of the American Judicial System Subcommittee on Federal Courts.
- S. Lester Tate III, Akin & Tate, Cartersville, member of the American Judicial System Subcommittee on State Courts.
- Michael Neuren, Georgia Administrative Office of the Courts, Atlanta, member of the Law Library of Congress Committee.
- Stephanie Parker, Jones Day, Atlanta, member, Public Education Committee.
- Claudia Saari, DeKalb County Public Defender's Office, Decatur, member of the Gun Violence Advisory Committee.
- Allan Tanenbaum, Atlanta, member of the Audit Committee.
- Sidney Welch, Polsinelli, Atlanta, member of the Medical Professional Liability Committee.
- Tara Adyanthaya, TLA Healthcare Ethics Consulting & Mediation LLC, Atlanta, member of the Bioethics and the Law Special Committee.
- Lee DeHihns, Alston & Bird, Atlanta, member of the Human Rights Advisory Committee.
- Glenn Hendrix, Arnall Golden Gregory, Atlanta, member of the Central European and Eurasian Law Initiative Council.
- John Hutchins, LeClairRyan, Atlanta, member of the Death Penalty Representation Project.
- Monica Khant, Georgia Asylum and Immigration Network, and Debbie Segal, Kilpatrick Townsend & Stockton, Atlanta, members of the Domestic and Sexual Violence Special Committee.
- Jeffrey Kuester, Taylor English Duma, Atlanta, and LaKeisha Randall, State Farm, Atlanta, members of the Commission on Lawyer Assistance Programs.
- Eleanor Crosby Lanier, University of Georgia School of Law, Athens, member of the Commission on Law and Aging.
- Erika Robinson, Georgia Gwinnett College, Lawrenceville, member of the Racial and Ethnic Diversity in the Educational Pipeline Special Committee.
- Michelle West, Transition Into Law Practice Program, State Bar of Georgia, Atlanta, member of the Hispanic Legal Rights and Responsibilities Special Committee.
- William K. Whitner, Atlanta, member, Legal Opportunity Scholarship Fundraising Committee
- Laverne Gaskins, Augusta, ABA Representative to the United Nations Economic and Social Council.
- Hon. Alvin T. Wong, Decatur, member, Standing Committee on Ethics and Professional Responsibility-Judges Advisory Committee.

It should also be noted that ABA Executive Director Jack L. Rives has Georgia roots as a native of Rockmart and graduate of the University of Georgia School of Law.

In addition to the ABA Blueprint online resource portal, Klein said the association will be rolling out a series of promotional messages "that underscore the value lawyers bring to solving problems for individuals, business and their communities," to be made available to state and local bars for tailoring and placement.

"On my listening tours, lawyers also told me they're bothered by negative public perceptions of the profession. They want the ABA to help," she said. "Though we can't solve misperceptions overnight,

we can work together on solutions. These ads will focus on the practical value that lawyers bring and how online forms are not enough to solve legal problems. This is a perfect example of how we can work together to solve members' problems and lift up the profession."

Klein's public service initiatives for the ABA this year are focused on providing legal assistance for veterans, encouraging voter participation and supporting quality education.

Veterans Legal Services: Noting the United States has nearly 40,000 homeless veterans, Klein says, "... when our justice system fails those who protected us, we as lawyers must act to protect them ... Like many Americans, many veterans don't know the problem they have is a legal one. And that's why we have to use the vast expertise of ABA membership and our extensive nationwide relationships to build a comprehensive online resource that will inform veterans of legal issues that could affect them and direct them to local resources and legal providers." The ABA initiative will engage law schools and bar associations to promote legal service incubators, particularly in rural areas, to bring services to veterans while providing training for new and underemployed lawyers.

Klein called the State Bar of Georgia's successful pioneering Military Legal Assistance Program "a model program for the rest of the country, and I talk about it wherever I go." The ABA initiative is also aiming to promote medical/legal partnerships, pair doctors with lawyers to solve clients' underlying problems, and encouraging "legal checkups" for veterans, their families and caregivers. Klein is also encouraging participation in veterans-specific activities in conjunction with the ABA's national pro bono celebration in October, which is extended this year to include Veterans Day on Nov. 11.

The celebrateprobono.org website has a link to a great free CLE webinar titled "Effectively Representing the Veteran Client: Legal and Cultural Basics" which will help when you volunteer.

Voter Participation: Referring to voting as "a basic right and obligation of the citizenry," Klein said the ABA is activating

its nonpartisan resources on election law and encouraging lawyers to get involved, as well as distributing a new video to schools nationwide that encourages youth to become involved in the electoral process.

Lawyers are asked to "encourage your firms, your clients and your communities to vote," Klein said. The ABA has developed a voter card on the importance of voting and points to valuable resources. Lawyers can personalize the cards for their firm or bar association and then print or distribute the cards electronically to clients or community organizations. Those resources, including links to state-by-state information on voter registration, voter ID requirements, time off to vote rules and other areas are available at www.ambar.org/vote.

Education Support: "Every child needs and deserves a quality education," Klein said. A new Education Commission will leverage efforts of other ABA entities to enhance the legal profession's support for education. It will advocate for practical solutions to this vexing problem of a substandard educational system being a burden for so many of our children and their families. "As lawyers, we know the rule of law depends on an educated citizenry. There's no pipeline of new lawyers if youngsters cannot get a primary education that prepares them for college."

These initiatives are part of what Klein calls a "back-to-basics" approach to ABA programming for this year. "It's pretty simple, really: serving our clients and our profession, strengthening our communities and our great country, supporting and defending the Constitution of the United States," she said. "That's why I became a lawyer. So let's focus on the basics by doing things that everyone, all lawyers and the public, can get behind. Let's use our talents in the law to bring fairness to our communities. Let's focus on bringing to our members what they need to better serve their clients."

Klein said she became involved in ABA leadership through regular attendance at seminars and other meetings during her earliest days of membership. "When you are a young lawyer, they'll give you a certain job. And if you do a good job, they'll give you a bigger job. Pretty soon, I was

chairing conferences and committees. I happened to be involved in the ABA at the same time I was involved in the State Bar, and being president of the State Bar better prepared me for this job."

At Klein's inauguration, her predecessor as ABA president, Paulette Brown of New Jersey, said, "Linda often humbly credits her grandparents for teaching her the importance of respecting and helping others. Their influence is evidenced by Linda's longtime commitment to serving society's most vulnerable. ... This is just the type of person Linda is. She is a genuinely giving person, a very hard worker, tenacious and extremely committed to the American Bar Association and the legal profession."

The day after she was sworn in, Klein replied to the final question of a telephone interview on what she wanted to tell her Georgia colleagues about the programming offered by the ABA this year by saying, "Tell them how much we would welcome their participation."

Then she was off to finish up business in San Francisco. Klein was flying out the next morning for Ottawa to attend a Canadian Bar meeting, the first of her 300-plus days away from Georgia as the new president of the American Bar Association. ●



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Hailing Minnie Hale Daniel on the 100th Anniversary of Women in the Practice of Law in Georgia

When denied the right to practice law in Georgia in 1911, Minnie Hale Daniel continued to fight for her right, and the rights of others, to enter the profession of law.

BY LINLEY JONES, ANGELA FORSTIE, MORGAN CLEMONS & TALI SCHROEDER



PHOTO COURTESY OF GEORGIA DIVISION OF ARCHIVES AND HISTORY—MANUSCRIPTS: AC-91-003M

“A woman lawyer! Help us to keep our girls at the fireside and let our young mothers raise, by the help of God, boys to speak and vote and live the life they would live if He had made them men; and O for a Paul to command our women keep silence and be keepers of the home,” exclaimed a Georgia state legislator in August 1911, quoting a mother’s letter to him. The bill in question, descriptively named the woman lawyer’s bill, was in the early stages of becoming a hotly contested piece of women’s rights history in Georgia.¹

In 1911, Georgia was one of only three states in the United States that still did not permit women to practice law. The Georgia Code allowed only “male citizens of good moral character”² to be admitted to the bar. Minnie Hale Daniel, the first female graduate of a Georgia law school, challenged that law in the Fulton Superior Court. When Hale graduated from the Atlanta Law School in June 1911, she promptly took the necessary step at that time to become li-

Minnie Anderson Hale (later Minnie Hale Daniel).

censed. She appeared before Judge Pendleton of the Fulton County Superior Court, along with her fellow Atlanta Law School classmates, to be sworn in and admitted to practice law.³ In support of her application, Hale cited Georgia Code § 4406 which specified that “none of the preceding requisitions are applicable to any graduate of the law department of . . . the Atlanta Law School, but upon presentation of a diploma of graduation . . . such graduate shall be authorized to plead and practice in all courts of the state without further examination.”⁴ She argued that the section did not specify that the graduate be male in order to practice. Judge Pendleton was unpersuaded; he denied her application and refused to admit her.⁵ She was denied based in part on the aforementioned law and in part on another law that banned women from holding civil office,⁶ commonly known as the “female disability” section.⁷

Following the ruling, Hale told the *Atlanta Georgian* newspaper, “It is a question of principle with me. It is not for myself alone that I will pursue the matter . . . It is for all women of Georgia who may desire to enter the profession of law and who prove their ability to practice it.”⁸ Hale promptly turned her attention to changing the state’s legislation. The woman lawyer’s bill—colloquially referred to as the “Portia bill” based on the female character in Shakespeare’s “The Merchant of Venice” who disguises herself as a male lawyer—was introduced in late June 1911 with the support of Speaker of the House John N. Holder.⁹ Passage of the bill seemed imminent, yet it was narrowly defeated by the Judiciary Committee in a 6-5 vote.

Hale did not lose her spirit. Regarding the outcome of the vote, Hale stated, “I do not think these men acted advisedly, and with due deliberation. When they have considered the matter thoroughly I feel sure that all opposition will vanish.”¹⁰ Just two weeks later, the Judiciary Committee reconsidered the Portia bill and passed it with only one vote against it. By that point, the bill had gained the support of many Georgia attorneys, leaders of the Federation of Women’s Clubs of Georgia, Hamilton Douglas, dean of the Atlanta Law School, and his wife, who had formerly practiced law in a different state.¹¹

To the Honorable Legislators of Georgia:

It having been reported to me, last year’s champion of the same bill, that the Georgia Legislators are citing me as an opponent of the WOMAN LAWYER’S BILL, I beg to place myself on record as one who earnestly desires the passage of the bill in question.

It is my one ambition to be granted a license in Georgia. I am entitled to such, whether I practice LAW in Georgia or China.

If such representatives of the LAW as Judge John L. Hopkins, interpreter and writer of the LAW, and Hon. John Holder, Speaker of the House of Representatives of Georgia, advocate and plead for admission for WOMEN,—WHY NOT YOU?

I believe in the progress of Georgia and I believe that the posterity of you Legislators will cry out against you, if you ignore the best interests of your WOMEN!

At present, I am not interested in the actual PRACTICE OF LAW, anywhere, but I am interested in the study of EQUITABLE JURISPRUDENCE, and, following the maxim, I repeat “Equity looks upon that done as ought to be done,” and I am assured that so intellectual a body of Law Makers, will exact justice and deal justice for the benefit of WOMEN, who are always held in man’s hand CESTUI QUE TRUST.

Yours truly,

MRS. MINNIE ANDERSON HALE.

Minnie Anderson Hale, later Minnie Hale Daniel, writes a note addressed to Georgia legislators.

However, the bill was again narrowly defeated in the House of Representatives in August 1911.¹² The debate was lengthy and focused on maintaining women's place in the home. Representative Adams of Hall County, a vocal opponent of the bill, was quoted saying, "For God's sake, leave the breeches to the men . . . I am willing to give woman everything she wants, but let's not give her breeches."¹³ After five hours of debate, the House of Representatives defeated the bill after it fell eight votes short of a constitutional majority.

The following year, the Georgia Bar Association held a symposium regarding changing the law. The speakers held a variety of opinions, ranging from support of the woman lawyer's bill to maintaining the status quo. Judge Henry C. Hammond addressed several members of the Bar directly, stating, "If you have such women at the bar, and one such were to open an office in Georgia, it would only be a short time until (referring to fellow attendees) Roland Ellis would be her chief clerk, Gene Black would be her typewriter, and Luther Rosser would be her office boy," to raucous applause.¹⁴ Roland Ellis, representing the opposite opinion, urged his fellow Bar members to "keep charge of the last masculine profession remaining in Georgia."¹⁵ The Georgia Bar Association concluded its meeting without taking further action.

Though she had little luck with the Legislature and the State Bar, Hale pressed on, attempting to bring the Portia bill to fruition in the Legislature year after year.¹⁶ Hale also took her case to the Supreme Court of Georgia. The Court affirmed

the lower court's ruling, stating "When the statutes of this State are properly construed, a woman by reason of her sex is ineligible to become a member of the bar in this State," with all justices in agreement.¹⁷

Just a few short weeks later, the woman lawyer's bill was back before the Legislature. The bill was passed by the House of Representatives on July 20, passed by the Senate on Aug. 15, and signed into law by Gov. Nathaniel Harris on Aug. 19. The law simply read, in part, "from and after the passage of this Act female citizens shall be admitted to the practice of law in this State upon the same terms and qualifications as now apply to male citizens."¹⁸

Hale was licensed to practice law on Aug. 21, 1916. Even after this accomplishment in the Legislature, female lawyers in Georgia and elsewhere in the United States still had to work to earn the respect of their colleagues and potential clients. Viola Ross Napier, a Georgia woman who began practicing in 1920, was once told that "nobody would go to a woman unless it was cheaper."¹⁹ Women around the country faced similar ridicule and condescension, including Hale herself, who was described as a "plucky little woman" in the *Atlanta Journal*.²⁰ However, African-American women faced even greater hardships in the field of law. By 1940, only 39 African-American women practiced law, compared to more than 4,000 white women and nearly 175,000 white men.²¹

Hale and others worked tirelessly for years to gain access to the practice of law. Many newly licensed female lawyers partnered with other women to open their own practices, having little luck in existing firms.²² Hale and Betty Reynolds Cobb, the first woman to pass the Georgia State Bar Exam, joined together to form a professional organization, the Georgia Association for Women Lawyers (GAWL).²³ In 1928, Hale served as GAWL's first president, succeeded by Cobb in 1929.²⁴

Other progress followed, if slowly. The Georgia Association of Black Women Attorneys (GABWA) was formed in 1981 by Justice Leah Ward Sears, Judge Bensonetta Tipton Lane and Judge Barbara A. Harris.²⁵ In 1991, Zell Miller appointed Georgia's first female district attorney, Cheryl Fisher Custer.²⁶ In 1997, Georgia lawyers

While many inequities remain, today's women lawyers in Georgia no doubt owe a debt of gratitude to our legal forebears, and enter into the practice of law through the door that they opened.

elected their first woman State Bar president, Linda Klein, who just recently went on to become president of the American Bar Association.²⁷ Of course, Georgia has yet to elect its first woman governor.

In the present year, the centennial celebration of women in the practice of law in Georgia, we look back with appreciation for the courage and tenacity of Minnie Hale Daniel and the early, pioneering Georgia women lawyers. While many inequities remain, today's women lawyers in Georgia no doubt owe a debt of gratitude to our legal forebears, and enter into the practice of law through the door that they opened. ●



Linley Jones practices with The Linley Jones Firm, PC, and is past president of the Georgia Trial Lawyers Association. Her practice focuses on legal malpractice, catastrophic injury and wrongful death.



Angela Forstie is an associate with The Linley Jones Firm, PC, where she represents plaintiffs in claims for legal malpractice, catastrophic injuries and wrongful death.



Morgan Clemons is an associate with Aldridge Pite LLP. She counsels financial institutions on regulatory compliance matters. She is the co-chair for the State Bar of Georgia YLD Women in the Profession Committee.



Tali Schroeder is a recent graduate of Oglethorpe University and a current sales operations intern at Porsche Cars North America, Inc.

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25. See generally GA. ASS'N BLACK WOMEN ATT'YS, <http://gabwa.org> (last visited Sept. 15, 2015).
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27. Bill Rankin, *As ABA President, Atlanta Lawyer to Focus on Legal Aid for Veterans*, ATLANTA J. CONST. (Aug. 5, 2016, 8:00 AM), <http://www.myajc.com/news/news/local/as-aba-president-atlanta-lawyer-to-focus-on-legal-/nr9yG>; Linda Klein, A.B.A., http://www.americanbar.org/groups/leadership/aba_officers/klein.html (last visited Sept. 15, 2016).



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Appointed as co-chair of the Women in the Profession Committee of the State Bar's Young Lawyers Division, Morgan Clemons set out to provide an exhibit for all to enjoy on the 100th anniversary of women practicing law in Georgia.

BY MORGAN CLEMONS

WOMEN IN THE PROFESSION: 100 Years of Georgia Women Lawyers



EXHIBIT GUIDE

Aug. 24, 2016 • 5:30 p.m.

*Presented by the State Bar of Georgia Young Lawyers Division
Women in the Profession Committee*

In July 2015, I was appointed co-chair of the Women in the Profession Committee of the Young Lawyers Division (YLD) of the State Bar of Georgia by then-YLD President Jack Long. Previously I had served two years as the co-chair of the Minorities in the Profession Committee of the YLD, so I embraced this new role. Through a bit of digging and research, I learned that the first woman was admitted to practice law in Georgia in 1916 and that 2016 would mark the 100th anniversary of this event. I believed this was worth commemorating, and I decided to embark on a year of celebration with monthly, relevant programming for attorneys.

As the year went on, I became more and more fascinated by the history of women being admitted to the Bar, and I thought how amazing it would be to share some of the information that I was discovering with other young women lawyers across the state, and lawyers and the public in general. As a result, I came up with the idea to host an exhibit on women lawyers at the State Bar of Georgia that would provide a unique opportunity for the members of the Bar and the public to learn about the history of women practicing law in Georgia, as well as being introduced to the phenomenal women lawyers who fought for the right to make that a reality.

The cover of the exhibit guide created for the Women in the Profession: 100 Years of Georgia Women Lawyers Exhibit.

Creating an exhibit is a huge undertaking for anyone and I knew that it would be a challenge, but one that I felt I was fully prepared for. As an active member of the Emory Alumni Association, I completed an oral history project in 2013 titled “Unite, Educate, Celebrate,” that commemorated the 45th anniversary of the Black Student Alliance and the 25th anniversary of the Caucus of Emory Black Alumni. I obtained photographs and audio clips from Emory’s Manuscript and Rare Books Library (MARBL) for that project, and I knew it would be the perfect place to start for the women lawyer’s history project.

I researched online the “Finding Aids” and library collections that I thought might be relevant to my women’s legal history project, and on a rainy Saturday morning in April, I visited MARBL. There, I met with the librarian and gave her the list of items that I had previously requested. She indicated that my “carts were on their way up.”

“Carts?” I questioned. What had I gotten myself into? An assistant appeared from deep in the recesses of the building rolling a cart of file folders and redwells to my station, where I was only permitted to look at one item at a time. I combed through the personal papers and case files of Atlanta attorney Margie Pitts Hames, who argued the case of *Doe v. Bolton*, the companion case to *Roe v. Wade*, at the U.S. Supreme Court. Two of these items, a 1972 letter that Hames wrote to Effie Mahan, then-president of the Georgia Association for Women Lawyers, encouraging the organization to take a stand on the Equal Rights Amendment and a 1982 letter Hames wrote to the chair of the Family Law Section asking that more women and minorities be given speaking opportunities on panels, made it into the final exhibit at the State Bar. I donned gloves to hold law degrees of some of the first women to graduate from Emory’s law school in the 1920s, including Ellyne Strickland and Odessa Moore. I knew I had stumbled onto something that could be interesting, but I did not want the exhibit to be Emory-focused. And it was at that time I was told that Emory’s archive items were, on occasion, available to loan

to other museums. This was the first time it occurred to me that, in addition to finding other sources I needed to determine the logistics of the exhibit.

After some research, I learned how expensive it was to create a museum exhibit: procuring display cases, signage, permissions and licensing, and many other details were involved in the process. I headed to the State Bar, with whom I had reserved the space, to determine how the exhibit would be implemented. At that time, I was also given the instruction that nothing could be hung on the walls of the State Bar, even temporarily, so I needed



Supreme Court of Georgia Docket Book

PHOTO BY MORGAN CLEMONS

to find a means to meet this specific challenge as well as coming up with the funding for the project. I set on the path of reaching out to potential sponsors.

In search of more information and materials for the exhibit, I next visited the Georgia Archives. I had spent the past few weeks on the archives website loading and reloading lists of materials that might be relevant to my search terms: woman + lawyer + Georgia; my legal research creativity was being put to the test. Upon signing in, I entered a quiet room where I was given an *Atlanta Constitution* article about the first woman on the Court of Appeals of Georgia, Hon. Dorothy Beasley, referred to as the “Iron Rose of Justice.” My search also yielded a picture and article of Gov. Harris signing the “Woman Lawyer’s Bill” into law in 1916. I

looked at an address given by Minnie Hale Daniel, the first woman admitted to practice law in Georgia, to Georgia legislators in 1915, as well as Ms. Hale Daniel’s 1928 membership card for the Georgia Association for Women Lawyers. I knew I hit the jackpot when the docket book, forgotten for 100 years, was wheeled out. There it was handwritten: *Ex Parte Hale*, refusal of admission to the bar, Affirmed, Mrs. M.A. Hale, *in propria persona*.

Upon leaving the Georgia Archives, I felt excited and impassioned, but I believed that articles and pictures were not enough to excite others, so I set out to find some

tangible items for the exhibit along with other means to bring the history to life. I contacted the State Bar to find out what, if any, historical items they may have archived and was excited to learn that they had volumes of all Bar meeting minutes from the 1800s onward, and a wealth of *Bar Journals* and *Young Lawyers Newsletters* just waiting for someone like me, attorney by day and curator by night, to wipe off the first layer of dust and take a look inside. So, over two days, some friends and I, with the help of YLD Administrative Assistant Danielle Buteau, thumbed through all of the minutes, *Journals* and newsletters looking for pictures and articles worth including. I learned more about the first women who held leadership roles in the Bar, the history of the Women in the Profession Committee and gender issues



Examples of women lawyers professional wear, on loan from the Atlanta History Center.



Display cases housed historical documents and other items used to tell the story of women in the law.

that the Bar tackled, including the Equal Rights Amendment. Danielle located the 1916 volume of meeting minutes where the debate was held on whether the Bar should support a woman's admission to practice. The arguments against admitting women were so ridiculous and entertaining to someone reading them 100 years later that she, jokingly at first, suggested that we should have someone act them out; I agreed.

I then tackled the expansive *Atlanta Journal Constitution* archives. I found great material there but was disappointed to learn that it was cost-prohibitive to reproduce the material for a larger audience outside of personal use. It was time to phone in a favor and to use my women lawyer's network. I contacted Tori Silas, an attorney

with Cox Enterprises, to obtain *AJC's* permission to use the articles for the exhibit.

Finally, as a member of the Atlanta History Center, I learned of a recent exhibit that was opening there: *Fashion in Good Taste*. In my research of women lawyers, I commonly came across references, criticism and commentary related to professional women's attire—particularly what women wore to court. This was what I believed would be the key to having a real exhibit—having authentic historical items that people could see and at least want to touch, even if prohibited from doing so. I contacted the Atlanta History Center to find out whether they had any ladies' suits or other professional clothes from different decades. I was excited to learn that they had some items that they would be willing

to allow us to show, provided we were able to meet their conditions of use. Fortunately, with a lot of luck and all hands on deck, all provisions were satisfied and we were able to secure the items from the Atlanta History Center, along with a number of other sources, to complete the exhibit.

My next challenge was to determine the best way to showcase the personality and emotion of the exhibit in a way that simply looking at the photos and articles would not. I wanted to share who the individuals were, what they accomplished, their personal triumphs and disappointment along with the significance of the cases I had chosen to highlight. I worked to draft an exhibit guide and posters to enhance the experience. With assistance from State Bar Communications Director Sarah Coole, we created a program and posters that lent a personal touch to the exhibit, allowing visitors to step inside the struggle women lawyers faced over the last 100 years.

This process was exciting for a lover of history and research. I must admit that I did not know much about the history of women lawyers when I first began the project. There were times during the process that I stumbled upon something that made me giddy. And to read about someone in a historical record and then meet them in person and hear them talk about their experiences is an opportunity to be experienced by all. It has been my pleasure to research the history of some of Georgia's most prominent women lawyers and to have shared the fruits of that labor with the more than 200 people in attendance at the commemorative event held on Aug. 24 at the State Bar of Georgia. I hope you were able to learn something new about the significant contributions of Georgia's women lawyers over the last 100 years, and that, in the next 100 years, we can only hope to accomplish half as much. ●



Morgan Clemons is an associate with Aldridge Pite LLP. She counsels financial institutions on regulatory compliance matters. She is the co-chair for the State Bar of Georgia YLD Women in the Profession Committee.



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Promoting the Engagement and Promotion of Women Attorneys

With the creation of the State Bar's special committee on the Involvement of Women and Minorities in the Profession Committee, now known as the Committee to Promote Inclusion in the Profession, the late 1980s brought about a focus on advances for women in the legal profession.

BY AVARITA L. HANSON

The excellent program spearheaded by the YLD's Morgan Clemons to commemorate the 100th anniversary of women entering the State Bar of Georgia and accompanying exhibits at the Bar Center have provided a very thoughtful snapshot of the history of women lawyers in Georgia. For me, this celebration brought memories of Bar initiatives to engage women and uplift our status as Georgia lawyers.

You've heard the expression, "where you stand, depends on where you sit." I am now one of the more senior female lawyers in Georgia. I became a member of the State Bar of Georgia in 1983, having previously been admitted as a Texas lawyer in 1979. When I completed the University of Pennsylvania Law School in 1978, women were reportedly more than 9 percent of the legal profession, about 25 percent of all law students, and "making gains in all areas of legal work."¹

My first stop after law school was a four-year stint with the Houston-based Fulbright & Jaworski law firm. While my law school class was 40 percent female and my class of lawyers at the firm had a lot of females, there were then no female partners. That was the case in most large law firms in the late 1970s. As for Georgia, the U.S. Supreme Court in 1984 ruled that a

woman law firm associate who was denied an invitation to the partnership had a cognizable claim for sex discrimination under Title VII of the Civil Rights Act of 1964.² For many women, particularly those of color, there was not just a "glass ceiling" to the upper echelons of law practice, there was a perceived "brick wall."

Significant advances for women in the legal profession were to come in the late 1980s. In his State Bar of Georgia Annual Report of June 16, 1989, outgoing president A. James Elliott noted two important matters of professionalism concern. The first was the founding of the Chief Justice's Commission on Professionalism and the second was support for women and minorities. Elliott said that during his 1988-89 Bar year: "A strong effort was made to reverse the perception that black and women lawyers are not welcome and actively encouraged to become involved in the activities of the State Bar. A committee was appointed for the purpose of dealing with the unique problems of women and black lawyers."³ That committee, the State Bar's Special Committee on the Involvement of Women and Minorities in the Profession, was chaired by the late esteemed attorney Randolph Thrower, and I was the Bar staff liaison. One of the committee's first acts was to undertake a

gender and racial bias study, the extensive results of which were published in 1991.⁴

Thrower was deeply involved with the American Bar Association and worked closely with the chair of the ABA Special Commission on Women in the Profession, Hillary Rodham Clinton, bringing her to Georgia to meet with our committee. In 2011, under Chair Javoyne Hicks, the committee changed its name to the Committee to Promote Inclusion in the Profession,⁵ reflecting new views on gender and diversity, and chaired by Derrick Pope and Joyce Gist Lewis for 2016-17. Its mission is:

To facilitate, analyze and present for consideration initiatives and programs which increase participation, retention and representation of diverse attorneys in the legal profession in Georgia that accurately reflects the makeup of our state. In this effort, the committee will work toward inclusion of lawyers who have been historically underrepresented. It shall advise the Executive Committee and Board of Governors with regard to those interests.

Women are no longer formally shut out of the routes to climbing the legal ladders. There are many female law firm

partners, associates, general counsels, law school deans and professors, city and county attorneys, district attorneys and solicitors. Georgia has had two female chief justices of the Supreme Court and several chief judges of the Court of Appeals. Georgia has had three female presidents of the State Bar of Georgia.

What does the future portend? With the assistance of the State Bar's Membership Department, we can look at the number of lawyers who hold an active license to practice.⁶ Of Georgia's 37,054 active Bar members, 13,791 or 37.2 percent are female. There are no female lawyers today who were born before 1925. Of the 1,892 active lawyers in the Silent Generation born from 1925 to 1945 (ages 71-91), 157 or 8.2 percent are female. Of the 13,138 active Baby Boomer lawyers born from 1946 to 1965 (ages 51-70), 3,647, or 27.7 percent, are females. Of the 13,504 Generation X lawyers born from 1966 to 1979 (ages 37-50), 5,727 or 42.4 percent are females, and of the 8,512 active Millennial lawyers born from 1980 to 2000 (ages 24-36), 4,260 or 50 percent are females. While law schools have nearly 50:50 female to male enrollments, gender parity has been reached only in the youngest group of lawyers.

I am proud that our Bar leadership has taken the position that diversity and inclusion are important and supports efforts to ensure that these professionalism ideals are safeguarded and supported. During his 1988-89 Bar presidency, Jim Elliott appointed two women and two black lawyers to replace Board of Governors members who resigned during that year for two reasons: "to add highly qualified lawyers to the Board" and to "send a clear signal to all lawyers that participation in activities of the organized Bar is open to all who are interested in participating."⁷ Things have changed in the practice of law, as Atlanta attorney Jennifer Ide said 10 years ago: "What my generation does not find itself up against is conduct and attitudes that are less obvious and less iniquitous on the surface, but still result in holding women and minorities back from full participation in the legal workplace."⁸ As Derrick Pope says,

National reports suggest that the law is still the least diverse of all professions.



PHOTO BY DON MORGAN PHOTOGRAPHY & VIDEO

(Left to right) Derrick Alexander Pope, co-chair, Committee to Promote Inclusion in the Profession; Joyce Gist Lewis, co-chair, Committee to Promote Inclusion in the Profession; Robert J. "Bob" Kauffman, immediate past president, State Bar of Georgia; E. Jewelle Johnson, senior counsel and chief employment counsel, Graphic Packaging International, Inc.; award recipient Hon. Herbert E. Phipps, Court of Appeals of Georgia; Richard H. Deane, partner-in-charge, Jones Day; award recipient Avarita L. Hanson, executive director, Chief Justice's Commission on Professionalism; and Sherwin K. Figueroa, member, Committee to Promote Inclusion in the Profession, program chair, Commitment to Equality Awards. (Photo taken at the 2016 Commitment to Equality Awards Ceremony.)

In Georgia we have made great strides toward a more inclusive profession. Unhappily, the picture of our most recent Bar leadership does not reflect what we know to be our commitment to our goals. We can—and—must do better.

As for me, I hope to see promotion and inclusion of women and diverse attorneys as continued priorities of the Bar. That will keep the State Bar of Georgia great. ●



Avarita L. Hanson, Atlanta attorney, has served as the executive director of the Chief Justice's Commission on Professionalism since May of 2006. She can be reached at 404-225-5040 or professionalism@cjcpga.org.

Endnotes

1. Jim Drinkhall, *Ladies of the Bar: Women Attorneys, Now Over 9% of Profession, Keep Making Gains in All Areas of Legal Work*, WALL ST. J., May 31, 1978, at 46.
2. *Hishon v. King & Spalding*, 467 U.S. 69 (1984). See also, Mary Katz, *Women Still Have Trouble Climbing the Legal Ladder*, ATL. J. & ATL. CONST., May 27, 1984, at 1.
3. A. James Elliott, *State Bar of Georgia Annual Report June 16, 1989*, 26 GA. ST. B. J., August 1989, at 36-37.
4. Linda R. Hall, *Georgia Lawyers Report on Gender and Racial Bias In Legal Practice: A Review of the Georgia Bar's Survey*, 28 GA. ST. B. J., August 1991, at 6-18.
5. The Committee to Promote Inclusion in the Profession's signature annual program is presentation of the Commitment to Equality Awards, including the Randolph Thrower Lifetime Achievement Award. It also presents, in cooperation with diverse bar associations, a CLE at the State Bar's Annual Meeting, CLE programs around the state and programs directed at aspiring attorneys to fuel the pipeline for the next generation.
6. State Bar of Georgia, Membership Department, September 7, 2016.
7. A. James Elliott, *State Bar of Georgia Annual Report June 16, 1989*, 26 GA. ST. B. J., August 1989 at 37.
8. Jennifer N. Ide, *Diversifying Georgia's Legal Profession: A Professionalism Cause to Appreciate*, GA. B. J., June 2007, at 68.

Women, Mentoring and the Profession

BY MICHELLE E. WEST

PHOTO PROVIDED BY MICHELLE E. WEST



2016-17 GAWL Board Retreat at Serenbe in Chattahoochee Hills, Ga., June 2016.

An appeal to mentor rang through the halls of the State Bar Conference Center on Aug. 24 during the celebration of the Women In the Profession: 100 Years of Georgia Women Lawyers. The panel discussion, which included Hon. Dorothy Toth Beasley, Virginia “Ginger” Arnold, Seth Kirschenbaum and Melanie Slaton, ended with moderator Erica Mason ask-

ing for a final takeaway. The majority of the panels’ responses referenced the service of mentorship. In honor of this centennial celebration and the remarks of the esteemed panelists, it is only fitting to highlight Georgia’s women bar associations and the advances they have made in providing mentoring and professional development to both new and experienced attorneys.

The State Bar of Georgia Transition Into Law Practice Program (TILPP) seeks to afford beginning lawyers with meaningful access to experienced lawyers equipped to teach the practical skills, seasoned judgment and sensitivity to ethical and professionalism values necessary to practice law in a highly competent manner. The Georgia Association for Women Lawyers (GAWL) and The Georgia Association for Black Women Attorneys (GABWA), through their various programs geared toward mentoring, champion many aspects of TILPP. Both bar associations have made historic strides in the advancement of women in the profession, as evidenced by the Young Lawyers Division Women in the Profession Committee (WIP) exhibit recently displayed at the State Bar of Georgia Conference Center. These innovative organizations continue to create programming that support their missions, through which many new and more experienced lawyers have benefitted.

Georgia Association for Women Lawyers (GAWL)

GAWL, founded in 1928, proudly serves the diverse interests of women lawyers around Georgia. GAWL has a chap-

ter for students at John Marshall Law School and regional chapters in Blue Ridge, Columbus, Douglas-Paulding, Gwinnett, Savannah and Valdosta. GAWL has been a supportive advocate for women lawyers for nearly 90 years, staying true to its mission to enhance the welfare and development of women attorneys and to support their interests. The organization has not only played a strong and decisive role in the evolution of Georgia's women lawyers, but in the legal history of Georgia as well. GAWL founders include Minnie Hale Daniel, the first woman to graduate from law school in Georgia, and Betty Reynolds, the first woman to pass Georgia's bar examination. This year under the leadership of GAWL President Alicia Grahn Jones, GAWL is conducting a study examining the Leaky Pipeline of Women in the Law and will release its findings next year. GAWL has various programs geared toward mentoring, and the professional and personal development of its member appealing to lawyers at all levels of practice.

GAWLedu is a practical and informative low cost boot camp program for lawyers practicing three years or less. The program seeks to ease new lawyers into the practice of law and foster community among its class members. The program is both practical and substantive, allow-



2016 GAWL Leadership Academy volunteering at the Foreverfamily 5K4Kids Run Walk Service Project, Aug. 27.

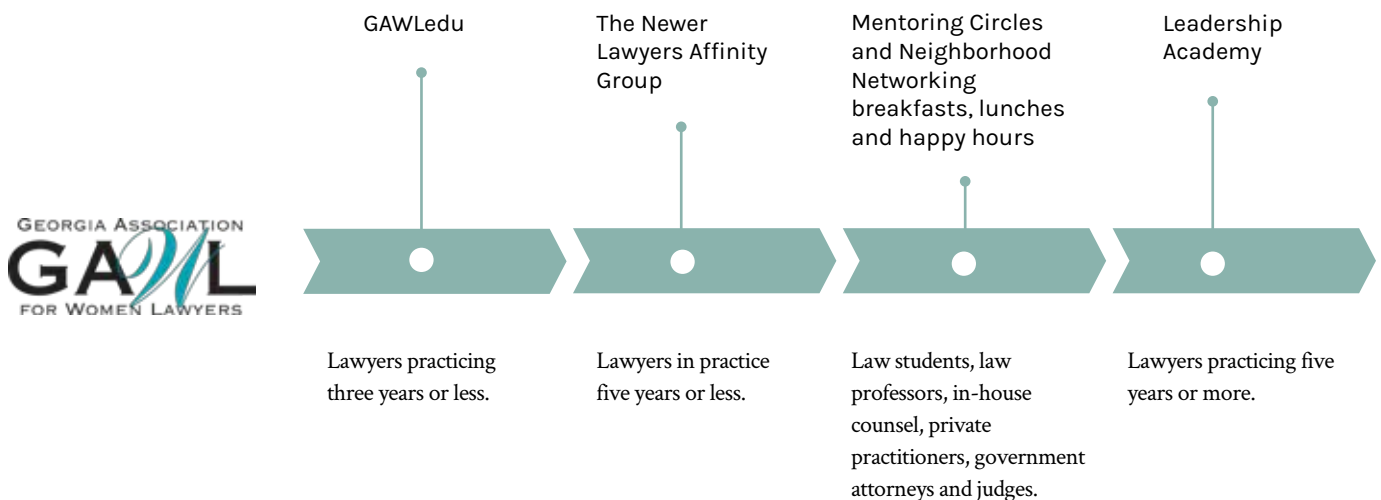
ing participants to take part in 12 4-hour monthly sessions. It affords new lawyers the opportunity to participate in seminars on various relevant topics from more than 30 female attorneys who have practiced for 10 years or more.

GAWL also offers more informal opportunities for relationship building through its various Affinity Groups. GAWL strives to represent a wide range of working and social interests for women attorneys in Georgia by supporting a number of Affinity Groups designed to meet the specific needs and interests of its members. The Newer Lawyers Affin-

ity Group is one such opportunity. This group, which meets monthly, provides attorneys an opportunity to network and access to legal resources. This program is open to lawyers in practice five years or less.

Mentoring Circles and Neighborhood Networking breakfasts, lunches and happy hours (affectionately known as NNBs, NNLs and NNHHs) are great vehicles for member networking and support regardless of years in practice. These programs provide an opportunity for the new lawyer and more experienced attorney to connect. GAWL's Mentoring Circles,

GAWL Programs



limited to practicing attorneys, provide a chance to bond with a small group of women in a relaxed setting. Mentoring Circles accept new members annually in November. GAWL hosts several NNBs, NNLs and NNHHs throughout the Atlanta metropolitan area. Attendees include law students, law professors, in-house counsel, private practitioners, government attorneys and judges.

GAWL continues its mission to enhance the welfare of women lawyers practicing for five years or more through its Leadership Academy. This intensive leadership training program assists attorneys in developing meaningful and practical leadership skills for use in law practice, community and life. Participants interact with numerous high-profile women leaders in the profession, including a panel discussion with past GAWL presidents, and engage in team-building, coaching and mentoring exercises.

Georgia Association for Black Women Attorneys (GABWA)

GABWA was founded in 1981 by a group of African-American women who sought to form a voluntary bar organization that would 1) focus on women and children's issues, 2) increase black female representation in the judiciary and in public offices, and 3) take a proactive stance on political issues. Today, GABWA has an active membership of women and men who strive each day to fulfill the organization's mission: to nurture, support and galvanize the power of black women attorneys, advocate for women and children and empower our communities. GABWA, currently led by President Janet C. Scott, is celebrating its 35th anniversary. This year's theme is "GABWA at 35: Galvanized to Change Georgia and the World" and its focus is on the "E.B.C.'s—Economic Empowerment, Building Communities and Creating a Global Presence." GABWA is open to all persons, regardless of race or sex. The organization has regional representation in Savannah, Albany, Augusta, Macon and Columbus.



PHOTO BY SARAH I. COOLE

GABWA past presidents and members at the 2016 Annual Meeting.



PHOTO PROVIDED BY JANET C. SCOTT

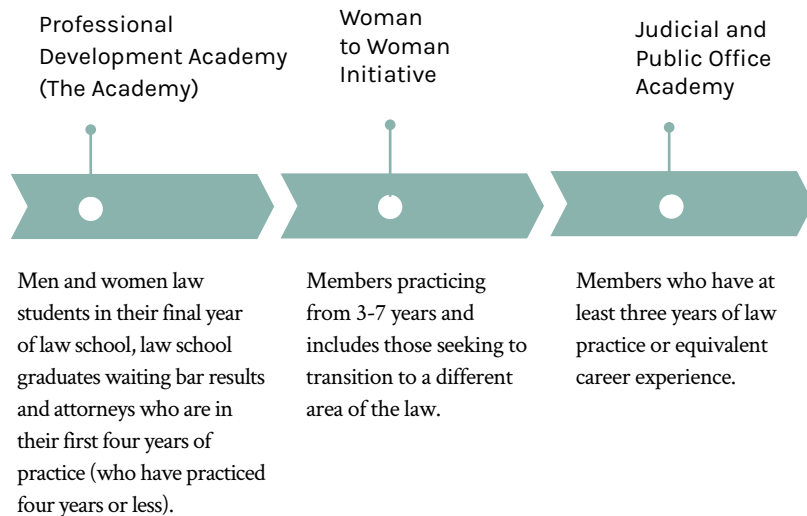
GABWA Community Service event "GABWA Serves Day Mach 5, 2016" at Foreverfamily.

GABWA begins its support and outreach at the student level by visiting campuses to meet students and share the benefits of the organization. The organization has a Student Programs Committee which coordinates activities for the purpose of fostering positive mentoring relationships with GABWA's student members and increasing student mem-

bership and involvement. GABWA members support law students through resume and interviewing workshops and an annual Blue Jeans Brunch that introduces law students to the organization's leaders and members.

For newer lawyers, GABWA established the Professional Development Academy. The academy is an intensive,

GABWA Programs



four-week professional development program that prepares new attorneys for a successful career that includes leadership and service. The academy is open to men and women law students in their final year of law school, law school graduates waiting bar results and attorneys who are in their first four years of practice. Participants meet twice per week for two hours and are exposed to top leaders in the legal field as well as other professions. In 2009, the academy won the National Council of Women's Bar Association's Outstanding Member Program Award.

GABWA also provides mentoring and professional development opportunities to its more experienced membership through its Women to Women Initiative and the Judicial and Public Office Academy (JPOA).

GABWA's Woman to Woman Initiative is a mentoring program which partners seasoned attorneys with beginning lawyers. Committee members are responsible for facilitating the mentor/mentee matching process by geographic location, practice areas, interest and number of years in practice. The program is for mem-

bers practicing from 3-7 years and includes those seeking to transition to a different area of the law.

The JPOA is a six-week program developed to support, educate, promote, and fuel the pipeline of well-prepared African-American female attorneys who are interested in seeking judicial positions and other public office positions. In the JPOA, participants gain insight into how to position themselves as viable future candidates. The program is open to current members who have at least three years of law practice or equivalent career experience. The JPOA Committee is responsible for planning and overseeing the program sessions and the participant selection process. It is a non-partisan effort which aims to: promote awareness among GABWA members about opportunities to serve in judicial and public office; arm GABWA members with the knowledge and resources needed to prepare and successfully compete for judicial and public office; provide an opportunity to build relationships among potential candidates, office holders, and campaign professionals; and strategize among potential candidates

to maximize the positions that GABWA members attain.

GABWA and GAWL continue to uplift the profession through their unwavering advocacy and support of women lawyers. Programs geared toward mentoring, professional development and personal growth remain a necessity for all lawyers to excel in the profession. This principle was echoed in the remarks made by the WIP panel on Aug. 24, and will continue for centuries to come. The State Bar of Georgia salutes the efforts of these and all other organizations for their continued quest to foster and support TILPP's mission. ●



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Georgia Bar Foundation Awards \$649,250 in Grants

While Atlanta Legal Aid and Georgia Legal Services received a large portion of this year's grants, a few long-time grant applicants also received some much needed support.

BY LEN HORTON



PHOTO BY ISTOCK.COM/VAENMA

At its annual grants meeting on July 21, the Board of Trustees of the Georgia Bar Foundation awarded eight grants totaling \$649,250. Signaling its renewed confidence in revenues, the Board modestly expanded its grants beyond civil indigent legal services for the first time since the beginning of the Great Recession.

"The board decided that it was time to resume some funding for a few of our long-term grant applicants we have not been able to fund in recent history because of limited funds," said Hon. Robert Chasteen, president of the Georgia Bar Foundation. "It was not that we have so much more funds, but it was more that we have wanted to provide some funding to organizations we used to support."

Atlanta Legal Aid and Georgia Legal Services together received \$549,250, leaving \$100,000 to be awarded among other applicants. Atlanta Legal Aid received \$175,760, and Georgia Legal Services received \$373,490. The funding of civil indigent legal services is the primary purpose of the foundation. Both organizations have received funding from the foundation since the 1980s. Steve Gottlieb, executive director of Atlanta Legal Aid, and Phyllis Holmen, executive director of Georgia Legal Services, are nationally recognized leaders in the access to justice movement.

Georgia Applesseed received \$25,000 for its "Race, Law Enforcement, and the Law" program that seeks to improve police interaction with the public through several initiatives. Led by Hon. Sharon Hill, Applesseed is focusing on a problem area called to the nation's attention in the last few

years. From examining existing statutory law to reviewing law enforcement policies and procedures to rethinking law enforcement training, this new initiative takes a look at anything that may affect this problem. Community relations projects shown to be effective in other areas along with the possible use of body cameras will also be examined. Anyone who knows Hill knows that she will make sure that all stakeholders and interested parties will be more than merely listened to; they will be heard.

The Atlanta Volunteer Lawyers Foundation (AVLF) received \$20,000 to fund part of one lawyer position to recruit, train and supervise family law attorneys in its Safe Families Office, Georgia's only courthouse-based, lawyer-staffed, walk-in clinic for victims. More than providing just protective orders, effective in April of this year AVLF is using volunteers in its Family Law Project to provide legal assistance for those requiring divorces or having custody issues. AVLF executive director Marty Ellin and his predecessor, Debbie Siegel, are leaders whose good work has them recognized throughout Georgia, not just in the Atlanta area.

Terry Walsh's Truancy Intervention Project (TIP) received \$20,000 to resume Georgia Bar Foundation support for its truancy prevention program throughout Georgia. Originally existing only in Fulton County, TIP was asked by the Georgia Bar Foundation to expand into a number of jurisdictions throughout the state. Keeping kids in school was deemed too important for the program to be confined to the Atlanta area. The program recruits and trains volunteers to advocate for students both inside and outside the classroom to reduce the likelihood of school failure. Jessica Pennington, mentored by Walsh, is a behind the scenes executive director who knows how to get things done. When the Georgia Bar Foundation saw the impact of Walsh's vision on student motivation and performance, we almost immediately asked TIP to expand throughout Georgia.

The Georgia Justice Project (GJP) received \$10,000 to help update and publish, "Guide to Understanding and Correcting Criminal Records in Georgia." Under

the leadership of Doug Ammar, GJP is famous for its no-nonsense approach to extricating supposedly lost individuals from criminal quicksand and teaching them firm footing on a new path to personal success and often self-actualization. But that path to success is often a mushy trail where even the most motivated can become mired in their criminal past. This guide can help make the footing firm even for those suffering from past criminal transgressions. It will also be of real value to judges who are weighing options when confronted with people who have made poor choices and whose lives could still be meaningful and productive.

Running a tight ship is easier to talk about than it is to accomplish. As executive director, Chris Marsh is much more than a talker. Halcyon Home for Battered Women in Thomasville has been a safe harbor for battered women and their children in southwest Georgia for years. It is there when women and their children need it. The Board of Trustees gave Halcyon Home \$10,000.

Superior Court Judge Louisa Abbot in Savannah does not praise to be nice. She has praised Safe Shelter Center for Domestic Violence Services as a well-run operation in an excellent facility. Cheryl Branch is the executive director. The \$15,000 award funds stipends for attorneys who assist domestic violence victims with divorce cases and temporary protective orders. It serves all of Chatham County.

The board also discussed plans for dealing with funds received from the Bank of America settlement totaling \$12,991,167, the largest single inflow of money to the foundation in its history. Vice President Kitty Cohen reported on the thinking of the Settlement Funds Committee, which was working on a request for proposals (RFP). After additional feedback from the board, the committee produced the revised RFP in September and it was distributed soon after. ●



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Notice of Expiring Board Terms

Listed below are the members of the State Bar of Georgia Board of Governors whose terms will expire in June 2017. These incumbents and those interested in running for a specific post should refer to the election schedule (posted below) for important dates.

State Bar of Georgia 2017 Election Schedule

2016

AUG 12 Deadline for submission of election schedule for publication in October issue *Georgia Bar Journal*

OCT Official Election Notice, October issue *Georgia Bar Journal*

DEC 1 Nominating petition package mailed to incumbent Board of Governors members and other members who request a package

2017

JAN 5 - 7 Nomination of Officers at Midyear Board Meeting, The Ritz-Carlton Buckhead, Atlanta, GA

JAN 27 Deadline for receipt of nominating petitions for incumbent Board members including incumbent nonresident (out of state) members

FEB 24 Deadline for receipt of nominating petitions for new Board members including new nonresident (out of state) members

MAR 10 Deadline for write-in candidates for officer to file a written statement (not less than 10 days prior to mailing of ballots (Article VII, Section 1 (c))

MAR 10 Deadline for write-in candidates for Board of Governors to file a written statement (not less than 10 days prior to mailing of ballots (Article VII, Section 2 (c))

MAR 27 Ballots mailed

APR 28 11:59 p.m. Deadline for ballots to be cast in order to be valid

MAY 5 Election service submits results to the Elections Committee

MAY 12 Election results reported and made available

Alapaha Circuit, Post 1
Carson Dane Perkins, Nashville

Alcovy Circuit, Post 1
William Gregory Pope, Covington

Appalachian Circuit
Will H. Pickett Jr., Jasper

Atlanta Circuit, Post 1
Diane E. Bessen, Atlanta

Atlanta Circuit, Post 3
Kathleen M. Womack, Atlanta

Atlanta Circuit, Post 5
Catherine Koura, Atlanta

Atlanta Circuit, Post 7
William M. Ragland Jr., Atlanta

Atlanta Circuit, Post 9
Damon E. Elmore, Atlanta

Atlanta Circuit, Post 11
Jill Pryor, Atlanta

Atlanta Circuit, Post 13
R. Gary Spencer, Atlanta

Atlanta Circuit, Post 15
Letitia A. McDonald, Atlanta

Atlanta Circuit, Post 17
JaDawnya C. Butler, Atlanta

Atlanta Circuit, Post 19
Elizabeth L. Fite, Atlanta

Atlanta Circuit, Post 21
Patricia Gorham, Atlanta

Atlanta Circuit, Post 23
Donna G. Barwick, Atlanta

Atlanta Circuit, Post 25
Phyllis J. Holmen, Atlanta

Atlanta Circuit, Post 27
Nancy J. Whaley, Atlanta

Atlanta Circuit, Post 29
Tina Shadix Roddenbery, Atlanta

Atlanta Circuit, Post 30
Karlise Yvette Grier, Atlanta

Atlanta Circuit, Post 32
Seth D. Kirschenbaum, Atlanta

Atlanta Circuit, Post 34
Allegra J. Lawrence-Hardy, Atlanta

Atlanta Circuit, Post 36
J. Marcus Edward Howard, Atlanta

Atlanta Circuit, Post 39
Anita Wallace Thomas, Atlanta

Atlantic Circuit, Post 2
Carl Robert Varnedoe, Hinesville

Augusta Circuit, Post 1
Sam G. Nicholson, Augusta

Augusta Circuit, Post 3
Thomas R. Burnside III, Augusta

Blue Ridge Circuit, Post 2
Eric A. Ballinger, Canton

Brunswick Circuit, Post 1
J. Alvin Leaphart, Jesup

Chattahoochee Circuit, Post 2
William C. Rumer, Columbus

Chattahoochee Circuit, Post 4
Donna S. Hix, Columbus

Cherokee Circuit, Post 2
Thomas Neal Brunt, Cartersville

Clayton Circuit, Post 1
Fred A. Zimmerman, Jonesboro

Clayton Circuit, Post 3
Martin L. Cowen III, Jonesboro

Cobb Circuit, Post 2
Ronald Arthur Lowry, Marietta

Cobb Circuit, Post 4
Patrick H. Head, Marietta

Cobb Circuit, Post 6
Laura J. Murphree, Marietta

Conasauga Circuit, Post 2
Robert Harris Smalley III, Dalton

Cordele Circuit
James W. Hurt, Cordele

Coweta Circuit, Post 2
Sandra N. Wisenbaker, Newnan

Dougherty Circuit, Post 2
Thomas V. Duck III, Albany

Dublin Circuit
Joseph Carl Sumner Jr., Dublin

Eastern Circuit, Post 2
Lester B. Johnson III, Savannah

Eastern Circuit, Post 4
John Bell Manly, Savannah

Flint Circuit, Post 1
Gregory A. Futch, McDonough

Griffin Circuit, Post 2
Roy B. Huff Jr., Peachtree City

Gwinnett Circuit, Post 1
David S. Lipscomb, Lawrenceville

Gwinnett Circuit, Post 3
Robert V. Rodatus, Lawrenceville

Lookout Mountain Circuit, Post 2
Douglas R. Woodruff, Ringgold

Macon Circuit, Post 1
John Flanders Kennedy, Macon

Macon Circuit, Post 3
John Christopher Clark, Macon

Member-at-Large, Post 1*
Aimee Pickett Sanders, Augusta

Member-at-Large, Post 2*
Shondeana Genean Morris, Decatur

Middle Circuit, Post 2
John Alexander Fitzner III, Swainsboro

Mountain Circuit
James T. Irvin, Toccoa

Northeastern Circuit, Post 2
Nicki Noel Vaughan, Gainesville

Northern Circuit, Post 1
Walter James Gordon Sr., Hartwell

Ocmulgee Circuit, Post 2
Wilson B. Mitcham Jr., Gray

Oconee Circuit, Post 2
Stephanie Diane Burton, Eastman

Ogeechee Circuit, Post 2
Susan Warren Cox, Statesboro

Out-of-State, Post 1
Jeb Tolliver Branham, Jacksonville Beach, Fla.

Pataula Circuit
Edward R. Collier, Dawson

Piedmont Circuit
Barry E. King, Jefferson

Rome Circuit, Post 1
Paul T. Carroll III, Rome

South Georgia Circuit, Post 2
Joshua Clark Bell, Whigham

Southern Circuit, Post 2
Laverne Lewis Gaskins, Augusta

Southwestern Circuit
R. Rucker Smith, Americus

Stone Mountain Circuit, Post 2
William Dixon James, Decatur

Stone Mountain Circuit, Post 4
Gary Stuart Freed, Atlanta

Stone Mountain Circuit, Post 6
Claudia S. Saari, Decatur

Stone Mountain Circuit, Post 8
R. Javoyne Hicks, Stone Mountain

Stone Mountain Circuit, Post 10
Dax Eric Lopez, Decatur

Tallapoosa Circuit, Post 1
Michael Douglas McRae, Cedartown

Toombs Circuit
Dennis C. Sanders, Thomson

Towaliga Circuit
Curtis Stephen Jenkins, Forsyth

Waycross Circuit, Post 2
C. Deen Strickland, Waycross

Western Circuit, Post 1
Lawton E. Stephens, Athens

***Post to be appointed by president-elect.**

GEORGIA LAWYERS LIVING WELL

www.lawyerslivingwell.org



The State Bar of Georgia has made lawyer wellness a priority this year. In addition to CLEs and other activities related to wellness, we've launched lawyerslivingwell.org. Visit the new site to view articles and resources related to wellness, and learn more about State Bar programs that help lawyers in their lives and practices. Be sure to check out the wellness partners and get discounts on gym memberships, fitness classes and more.



Learn more by visiting
www.lawyerslivingwell.org

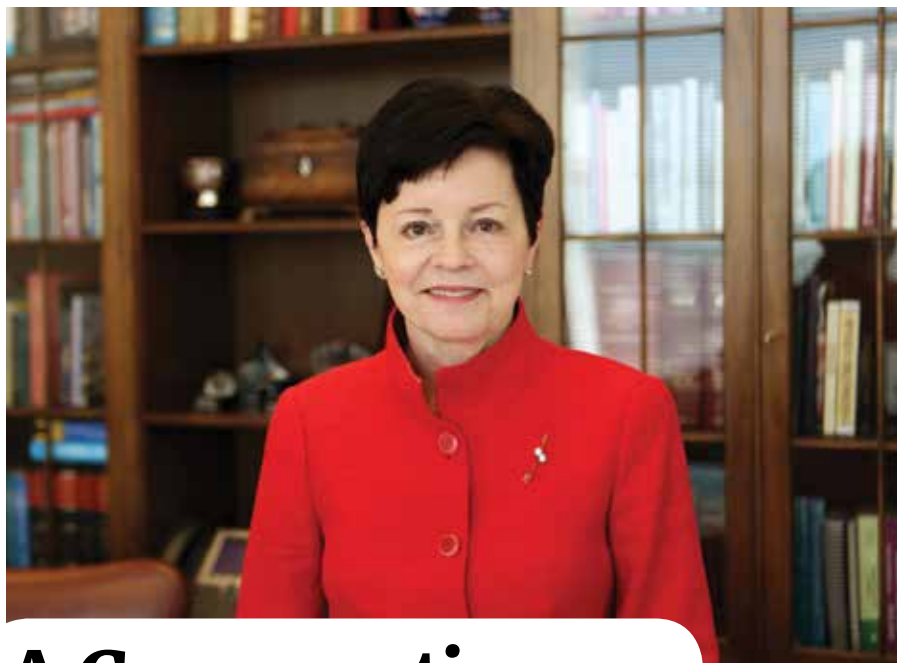


PHOTO BY SARAH I. COOLE

A Conversation with Chilton Varner

BY JACOB E. DALY

In celebration of the 100th anniversary of the first woman to practice law in Georgia, the October installment of the Georgia Lawyer Spotlight will highlight the life and career of Chilton Varner, senior partner at King & Spalding.

October 2016 marks the 100th anniversary of Minnie Hale Daniel becoming the first woman licensed to practice law in Georgia. As you look back over your career, what does this mean to you?

Varner: I'm now approaching 40 years of practice. I'm old enough now that young lawyers, particularly young female lawyers, talk to me about what it was like to be a trailblazer. Minnie Hale lays me in the shade. I'm just a piker where she's concerned. Doing what she did, she could not have been looking at an encouraging

landscape, and yet she got admitted to practice 100 years ago. That is a long time. She is an inspiration, really, in terms of just sticking with it.

Another female trailblazer was Eléonore Raoul Greene, who was the first woman admitted to Emory University and graduated from its law school in 1920. You were recognized as the inaugural recipient of the Eléonore Raoul Greene Trailblazer Award given by the Emory Law Alumnae Association in 2012.

Varner: I was delighted to be honored by being the inaugural recipient of that award, because there is still room for trailblazers amongst women lawyers. I don't think we should rest on our laurels about all the progress that's been made. Indeed, great progress has been made, but

a lot remains to be done. So the Eléonore Raoul Greene Trailblazer Award is a great thing for Emory to have instituted, and it recognizes women who have paved the way for much of that progress.

At the time you entered law school at Emory, women had been admitted to practice for about 60 years, but there still weren't that many women in the profession. What or who motivated you to go into that field?

Varner: That's a very easy answer. My husband is a lawyer. Our first year of marriage was his third year of law school at Duke. He worked on a project whereby Duke law students canvassed Duke alumni in North Carolina, primarily sole practitioners, and asked if they had any research that they needed. The project was paid something like 50 cents a page for the resulting memorandum, and I made a little as the typist. I discovered that what I was typing was generally pretty interesting. It was as varied as anything you can imagine, ranging from family law to criminal law to commercial law. I'd always liked to write, and I thought "Now, this is an interesting profession." Once Morgan finished law school and his army service, we came to Atlanta. After a couple of years with a larger firm, Morgan decided to hang out his own shingle. We still didn't have very much money, and so I was his receptionist, typist and bookkeeper. I eventually decided that I liked the law better from his side of the desk than I did from my own at the dictation slide. So it was my husband who really inspired me to be a lawyer.

What was your experience at Emory like as a female law student in the 1970s?

Varner: I started in 1973 and graduated in 1976. My class was one-third female. That was hugely unusual in 1973. I had prepared myself to be an outlier. I thought I would be older than most of the people in my class. I thought I would be unusual because I was female. I thought I would be unusual because I was balancing family and children with starting a legal education. Not one of those things proved to be true. There were a number of women who had had a prior career, whether it

was homemaking, marriage and children, or working at a different job. They decided that they wanted to secure a law degree. Those people were in my age group, and there were plenty of people that were married and even a few who had children.

Let's talk about your experience searching for a job. Although she came along about 15 years before you, Justice Sandra Day O'Connor famously has talked about her difficulties finding a job when she was in law school because men in law firms didn't want to hire a woman. In fact, she took a job for no pay. Did you experience anything like that?

Varner: I've talked with Justice O'Connor about that as a matter of fact. Several years ago, we shared a legal exchange, and it was an interesting conversation. I think her role was a lot harder than mine was. By 1976, the Atlanta firms were interested in hiring women. I won't say that all of them were interested in hiring a lot of women, but they were interested in interviewing women, and they were interested in looking for female legal talent. So I think I had a much more varied list of interviews than Justice O'Connor.

The 11th Circuit asked me one year to chair its committee for a program on gender equality along with Judge Kravitch, who was the first woman to serve on the 11th Circuit bench. We did a survey of women lawyers who were admitted to practice before the federal courts in Georgia, Alabama and Florida. It was eye-opening to me because I have had a fine career with a fine law firm, and I have been exceedingly well treated during my career by almost everybody. There were a couple of hiccups. None of them within the firm. Once from a judge, once from an adversary lawyer in a heated case. But that's twice, and neither instance was something that I couldn't handle. The responses of the female lawyers from all over the 11th Circuit were eye-opening, because there were a number of anecdotes that were troubling. It was a good experience for me because I really appreciated my own career and growth in a different way once I saw that inclusion had been difficult for a lot of women.

When you joined King & Spalding in 1976, you were the only female litigator in the firm. What was that experience like?

Varner: I have a certain competitive streak, and I thought it would be played out in litigation more than it would be in the bond department or the corporate department or the tax department. I love the art of persuasion, whether through writing or oral advocacy, and so I determined that I wanted to be a litigator. I had great opportunities given to me. I had three mentors. One was Griffin Bell, the former U.S. attorney general, one was Frank Jones, whom everyone described as maybe the best trial lawyer in Georgia—ever—and Byron Attridge, who was the head of the litigation practice at King & Spalding. They were all enormously different, and they all taught me different things about being a good trial lawyer. Because there were no female role models, I had to figure out what they did extremely well and then determine how I could modify and adjust that to be a persuasive part of my own individual personality as a female.

What are the areas where you still see room for growth and improvement for women in the profession?

Varner: In Atlanta, in most of the large firms about 50 percent of the associates are now female. That's an astounding change since I started, but there still remains much to be done to facilitate the transition of those women from being associates to being partners to being the leaders of their firms. We see attrition after the associate years. In the circles in which I travel, that attrition is not traceable to discrimination. More often it is a lifestyle choice that I see young women making, particularly if they are married, have young children or want to have children, because practicing law in the private sector, especially if you want to do it in a high-performance law firm, is a demanding job.

The women who make a decision to go somewhere else usually do so as a lifestyle choice. They are surely entitled to that choice. But we can continue to facilitate the progress of those who want to continue to practice. When we moved

into this building, we started a childcare center a block away. It's been extremely well received. We have mentoring programs that are aimed particularly at women, we have business development projects that are aimed at women and drafted for women and we have regular attempts to elevate women within leadership positions in the firm. There are lots of different ways of doing it, but the firm wants to make it possible for women to have access to leadership positions. The more women leaders there are, the easier it will be for other women behind them to be leaders. I hope we can do a better job of retaining our talented women lawyers past the associate years and well into the partnership ranks because it's important to have women role models and women leaders.

What advice do you have for women who are just starting in the profession?

Varner: What I would tell young women starting out is first, figure out what and where your passion is in the law. Second, you ought to learn as much as you can and be engaged in the business of your clients. You are the guardian of that client's legal future and fortune, and you need to be engaged if it's to be fun. Third, work hard and look for opportunities; and if none present themselves in the first instance, go make your own opportunity. It's a marvelous time to be a woman lawyer. The prospects are brighter than they have ever been, and the obstacles are lower. That's not to say obstacles have vanished, but I believe the future is bright. ●



Jacob E. Daly is of counsel with Freeman Mathis & Gary, LLP, in Atlanta and a member of the *Georgia Bar Journal* Editorial Board. He

represents private companies, government entities and their employees in personal injury litigation with a focus on defending property owners, management companies and security companies in premises liability lawsuits.

Kudos



Dentons announced that Gordon Giffin was presented the Governor General of Canada's Medalion by the Consul General of Canada in recognition of his contributions to the vibrant Canada-U.S. relationship. Since the adoption of the Canada-U.S. Free Trade Agreement (1989) and NAFTA, the Canada-U.S. bilateral trading relationship has more than tripled with trade in goods and services exceeding \$670 billion in 2015.

Jones Walker LLP announced that partners Neal J. Sweeney and Chad J. Theriot edited the recently released "2016 Construction Law Update," published by Wolters Kluwer, and special counsel Tyler Scarbrough and Jennifer S. Lowndes authored two chapters in the book. The "2016 Construction Law Update" includes 12 chapters on a variety of construction law-related topics authored by respected experts in the field across the United States and overseas.



Barnes & Thornburg announced that partner Stephen Weizenecker was appointed to Georgia's Joint Music Economic Development Study Committee by Lt. Gov. Casey Cagle. The committee, comprised of both legislators and industry experts, examines the state's music industry to look for new and innovative ways to ensure its sustained growth.

Ballard Spahr announced that partner Brian Meadows was elected as a fellow by the American Chemical Society (ACS). The ACS Fellows Program honors members for their outstanding achievements and contributions to science, the chemistry profession, the ACS community and its members.

Boyd Collar Nolen & Tuggle LLC announced that Brooke M. French was certified as a family law and civil matters mediator by the Georgia Commission of Dispute Resolution. With this designation, French serves as a neutral and provides an alternative to traditional litigation, as well as continues to represent her clients in all family law matters.

The Savannah Bar Association announced that the following attorneys were sworn in as officers for 2016-17: Mathew M. McCoy, president, McCorkle & Johnson, LLP; Margaret W. S. "Maggie" Puccini, president-elect, Bouhan Falligant, LLP; Robert C. Hughes III, treasurer, Lueder Larkin & Hunter, LLC; and Leesa A. Bohler, secretary, Moore, Clark, DuVall & Rodgers.

Douglas J. Witten was appointed chair of the Alternative Dispute Resolution Affinity Group of the American Health Lawyers Association (AHLA). AHLA is the nation's largest, non-partisan, 501(c)(3) educational organization devoted to legal issues in the health care field.

Taylor English Duma LLP announced that Alison M. Ballard was appointed as president of the Georgia Applesseed Center for Law and Justice Young Professionals Council (YPC) and Rachael Lee Zichella was appointed to the executive committee. Georgia Applesseed launched its YPC in 2008 to engage professionals aged 39 and under in their systemic social justice work.



DAVIS

Kilpatrick Townsend & Stockton announced that attorney Kimberlynn Davis was elected to the Jumpstart Atlanta Advisory Board. Jumpstart is a national early education organization that recruits and trains college students and community Corps members to serve preschool children in low-income neighborhoods.



O'REILLY

Attorney Shayne O'Reilly was appointed to the board of trustees of The Ron Clark Academy, a highly acclaimed nonprofit middle school that has received both national and international recognition for its success in educating students with academic rigor, passion and creativity balanced by a strict code of discipline.



Attorney Zachary B. Harris of Atwood Choate, PC, was appointed to the Georgia Coastal Marshlands Protection and Shore Protection committees by the Board of Natural Resources. The committees hear permit applications for coastal projects and activities under the jurisdiction of the Coastal Marshlands Protection and Shore Protection Acts.



Bouhan Falligant announced that partner Kathy Horne was inducted as counselor for the Judge W. Homer Drake Georgia Bankruptcy Inn of Court, a statewide organization of attorneys and judges involved primarily in the practice of bankruptcy.

On the Move

IN ATLANTA



FordHarrison LLP announced the addition of Loren C. Locke as senior associate. Locke focuses her practice on the representation of employers and employees in issues related to business immigration. The firm is located at 271 17th St. NW, Suite 1900, Atlanta, GA 30363; 404-888-3800; Fax 404-888-3863; www.fordharrison.com.



DLA Piper announced the addition of Steven Park as a partner. Park focuses his practice on patent litigation and licensing, as well as counseling on patent portfolio management and enforcement of IP rights in the United States and abroad. The firm is located at 1201 W. Peachtree St., Suite 2800, Atlanta, GA 30309; 404-736-7800; Fax 404-682-7800; www.dlapiper.com.



Pursley Friese Torgrimson announced the addition of Bob Stubbs as of counsel. Stubbs' expertise includes highly effective negotiating for both commercial office, retail and industrial leases; for the purchase and sale of commercial real estate; and for construction and commercial real estate loans. The firm is located at 1230 Peachtree St. NE, Suite 1200, Atlanta, GA 30309; 404-876-4880; www.pftlegal.com.

Lawrence and Bundy LLC announced the addition of John Lewis Jr. as a partner. Lewis focuses his practice on internal and government investigations, including Foreign Corrupt Practices Act investigations, corporate compliance, commercial litigation, including class action litigation, business bankruptcy/creditors' rights/receiverships and diversity consulting. The firm is located at 1180 W. Peachtree St., Suite 1650, Atlanta, GA 30309; 404-400-3350; Fax 404-609-2504; www.lawrencebundy.com.



MendenFreiman LLP announced the election of Nathan T. Johns as a partner. Johns focuses his practice on business law and all aspects of business and commercial real estate transactions. The firm is located at 5565 Glenridge Connector, Suite 850, Atlanta, GA 30342; 770-379-1450; www.mendenfreiman.com.

BakerHostetler announced the addition of Eric L. Barnum and James D. Levine as partners. Barnum has experience in employment law, national high-profile matters, including multiparty complex civil litigation, noncompete and trade secrets litigation and administrative investigations and hearings. Levine focuses

his practice on U.S. immigration and nationality law for domestic and multinational companies large and small across a multitude of industries, including engineering, architecture, health care, manufacturing, technology and financial services. The firm is located at 1170 Peachtree St. NE, Suite 2400, Atlanta, GA 30309; 404-459-0050; Fax 404-459-5734; www.bakerlaw.com.



OneDigital announced the addition of Erica N. Cordova as vice president, legal counsel. Cordova practices primarily in the area of employee benefits with a focus on health and welfare plans. The agency is located at 200 Galleria Parkway, Suite 1950, Atlanta, GA 30339; 770-250-2923; www.onedigital.com.



Dentons announced the addition of Edward H. Lindsey Jr. as a partner. Lindsey joins the policy and regulation practice. The firm is located at 303 Peachtree St. NE, Suite 5300, Atlanta, GA 30308; 404-527-4000; Fax 404-527-4198; www.dentons.com.



Jones Day announced the addition of Charles "Chuck" Hodges II as a partner. Hodges focuses his practice on civil and criminal federal tax cases and complex tax planning, with a particular attention to the taxation of intellectual property. The firm is located at 1420 Peachtree St. NE, Suite 800, Atlanta, GA 30309; 404-521-3939; Fax 404-581-8330; www.jonesday.com.



Sutherland Asbill & Brennan LLP announced the addition of SoRelle Brown as counsel. Brown focuses her practice on employment and labor law, with an emphasis on counseling and compliance. The firm is located at 999 Peachtree St. NE, Suite 2300, Atlanta, GA 30309; 404-853-8000; Fax 404-853-8806; www.sutherland.com.

Chamberlain, Hrdlicka, White, Williams & Aughtry announced the relocation of its Atlanta office. The firm is located at 191 Peachtree St. NE, 46th Floor, Atlanta, GA 30303; 404-659-1410; Fax 404-659-1852; www.chamberlainlaw.com.



Nelson Mullins Riley & Scarborough LLP announced the addition of MaryGrace K. Bell as an attorney. Bell joins the education group with experience in litigation. The firm is located at 201 17th St. NW, Suite 1700, Atlanta, GA 30363; 404-322-6000; Fax 404-322-6050; www.nelsonmullins.com.



TYDE

Kilpatrick Townsend & Stockton announced the addition of Michelle Tyde as counsel and Edgar Callaway and Brooke McGuffey as associates. Tyde focuses her practice on intellectual property and technology transactions, global sourcing transactions and data privacy and security. Callaway focuses his practice on business and finance, securities and mergers and acquisitions. McGuffey focuses her practice on privacy, data security, information technology and technology licensing. The firm is located at 1100 Peachtree St. NE, Suite 2800, Atlanta, GA 30309; 404-815-6500; Fax 404-815-6555; www.kilpatricktownsend.com.



CALLAWAY



Weinberg Wheeler Hudgins Gunn & Dial announced the addition of Henry C. "Dee" DeBardeleben IV as partner. DeBardeleben's civil trial practice focuses on cases involving allegations of professional negligence, litigation in the construction and transportation industries, premises and product liability cases, and catastrophic injury cases. The firm is located at 3344 Peachtree Road NE, Suite 2400, Atlanta, GA 30326; 404-876-2700; Fax 404-875-9433; www.wwhgd.com.



Drew Eckl & Farnham announced the addition of John S. Stevens as of counsel. Stevens focuses his practice on the defense of various classes of medical litigation, including the defense of individual medical professionals, acute care hospitals, psychiatric hospitals and long term care facilities in medical malpractice, regulatory and administrative matters. The firm is located at 880 W. Peachtree St., Atlanta, GA 30309; 404-885-1400; Fax 404-876-0992; www.deflaw.com.



COIA



CRUMBY

Hall Booth Smith, P.C., announced the addition of Erin Coia, Daniel Crumby, Christopher Fairchild and Sam Sykes as associates. Coia has experience defending drivers and their employers involved in motor vehicle collisions, including trucking companies and other commercial fleets. Crumby focuses his practice on federal and state regulations of health care providers, suppliers and other industry participants. Fairchild's areas of practice include dental, professional negligence and medical malpractice. Sykes areas of practice include employment, general liability, 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.



FAIRCHILD



SYKES



LEONARD



RUBIN

Boyd Collar Nolen & Tuggle LLC announced the election of Katie Kiihnl Leonard and Kevin J. Rubin as partners. Leonard focuses her practice exclusively on family law matters related to simple and complex actions for divorce, child custody, support and modification of previous orders. Rubin counsels clients in all aspects of family law and has developed his practice with an emphasis on complex and high asset divorce cases, tax and other complicated financial issues, as well as drafting and negotiating prenuptial and postnuptial agreements. The firm is located at 3330 Cumberland Blvd. SE, Suite 999, Atlanta, GA 30339; 770-953-4300; Fax 770-953-4700; www.bcintl.com.

Taylor English Duma announced the addition of Leah J. Knowlton as a partner. Knowlton focuses on counseling clients on environmental regulatory matters and advising clients involved in criminal and civil litigation arising from chemical contamination and other environmental violations. The firm is located at 1600 Parkwood Circle, Suite 400, Atlanta, GA 30339; 770-434-6868; Fax 770-434-7376; www.taylorenglish.com.



Council & Associates, LLC, announced the addition of Jamie Agnew as an associate. Agnew's practice includes representing individuals who have suffered catastrophic injuries due to day care abuse, automobile accidents and trucking accidents. The firm is located at 170 Mitchell St., Suite 100, Atlanta, GA 30303; 404-526-8857; Fax 404-478-8423; www.thecouncilfirm.com.



CAMPBELL



MITCHELL



SIPPEL

McAngus Goudelock & Courie announced the addition of John Campbell, Trula Mitchell and Thomas Sippel as partners. Campbell practices liability and commercial litigation, with a focus on products liability, premises liability and business tort litigation. Mitchell's practice focuses on workers' compensation defense. Sippel has experience in litigation and insurance defense. The firm is located at 3399 Peachtree Road NE, Suite 1625, Atlanta, GA 30326; 678-500-7300; Fax 678-669-3546; www.mgclaw.com.

IN BLUE RIDGE

Thompson, Meier & King, P.C., announced the firm's expansion with the opening of a new office. The firm is located at 730 E. Second St., Suite 105, Blue Ridge, GA; 706-946-1844; www.thompsonmeierking.com.

CORRECTION

In the August 2016 issue of the *Georgia Bar Journal*, we incorrectly identified K. Julie Hojnacki as a current attorney at the Law Offices of Bruce S. Harvey. Hojnacki is no longer with the Law Offices of Bruce S. Harvey and is the sole CEO and attorney of Legal Backup. Legal Backup is not connected to the Law Offices of Bruce S. Harvey. We apologize for this error.

IN CANTON

Thompson, Meier & King, P.C., announced the election of Ashley T. Carlile to partner and the addition of Rachel D. Conley as an associate. Carlile's practice areas include family law and criminal law. Conley focuses her practice on family law. The firm is located at 341 E. Main St., Canton, GA 30114; 770-479-1844; www.thompsonmeierking.com.

IN CUMMING

Attorneys Jennifer Patterson, Tracy Ann Moore, Logan Butler and associate attorney Ryan Brumlow announced the formation of Patterson Moore Butler. The firm focuses on family law, criminal defense, mediation and employment law. The firm is located at 327 Dahlonge St., Suite 801, Cumming, GA 30040; 770-899-0846; www.pattersonmoorebutler.com.

IN DULUTH



Andersen, Tate & Carr announced the addition of Erin T. Burnett as of counsel. Burnett specializes in commercial leasing, representing both landlords and tenants in drafting and negotiating retail, office and industrial leases. The firm is located at 1960 Satellite Blvd., Suite 4000, Duluth, GA 30097; 770-822-0900; Fax 770-822-9680; www.atclawfirm.com.

IN OMAHA, NEB.



Kutak Rock announced that partner David L. Amsden was elected to serve as vice chair. Amsden's practice focuses on public finance with an emphasis on single-family housing, multifamily housing and tax allocation district finance. The firm is located at 1650 Farnam St., Omaha, NE 68102; 402-346-6000; Fax 402-346-1148; www.kutakrock.com.

FICTION WRITING COMPETITION

DEADLINE: JANUARY 15, 2017

The editorial board of the *Georgia Bar Journal* is pleased to announce that it will sponsor its annual Fiction Writing Contest. The purposes of this competition are to enhance interest in the *Journal*, to encourage excellence in writing by members of the Bar and to provide an innovative vehicle for the illustration of the life and work of lawyers. See the back cover for more information, or contact Sarah I. Coole, director of communications, at 404-527-8791; sarahc@gabar.org.

Don't Call Me Sweetie, Honey.

BY PAULA FREDERICK

“Hesaid what?” you roar into the phone, hoping you’ve gotten it wrong. “Did you just say that opposing counsel called you sweetie?”

“Yep,” your young associate confirms. “The judge sent us out into the hall to settle my motion for back child support. Ralph didn’t have a leg to stand on, so I guess he thought he could intimidate me into dropping the motion!”

“What did you do? What did you say?” you ask, wondering how you would handle a similar situation. “Did you tell the judge? You should call the Bar on that Neanderthal!”

“I have to admit that my first instinct was to call him senile—I’ll bet he defaults to ‘sweetie’ any time he forgets a woman’s name. But professionalism prevailed and I ignored him. Then I cleaned his clock in court!”

“Good for you!” you respond. “We were just talking about this at that celebration at the Bar Center. Can you believe Georgia has only licensed women lawyers for 100 years? Maybe someday we won’t have to deal with this stuff.”

Should there be professional consequences for a lawyer who disparages opposing counsel?

In Georgia we treat name calling as a problem with professionalism and not as a disciplinary violation. But a recent revision to the American Bar Association Model Rules of Professional Conduct makes it professional misconduct for a lawyer to engage in harassing or discriminatory conduct based on a number of factors, including gender.

The ABA House of Delegates approved revisions to Model Rule 8.4 at its Annual Meeting in August.¹ The original proposal was criticized as overbroad, with some opponents claiming that it violated lawyers’ right to free speech, freedom of religion and freedom of association.

Significant revisions to the draft resolution took care of some of the criticism and led to near-unanimous adoption of the proposal as revised. The revisions included inserting a knowledge requirement and an exception for “legitimate advice or advocacy.” The rule is limited to conduct related to the practice of law.

Of course the ABA amendment is not binding in Georgia. It is too soon to tell whether a significant number of states will adopt new Rule 8.4(g). Georgia is rarely among the first states to adopt a

change to the Model Rules; we usually take a “wait and see” approach so that we can benefit from the experience of other jurisdictions. ●



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Endnote

1. As adopted, ABA Model Rule 8.4(g) reads:

It is professional misconduct for a lawyer to

(g) engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation in accordance with Rule 1.16.

This paragraph does not preclude legitimate advice or advocacy consistent with these Rules.

Attorney Discipline Summaries

(June 18, 2016 through Sept. 12, 2016)

BY CONNIE P. HENRY

DISBARMENTS

George Houser

Smyrna, Ga.

Admitted to Bar 1976

On June 20, 2016, the Supreme Court of Georgia disbarred attorney George Houser (State Bar No. 369225). Houser was convicted in the U.S. District Court for the Northern District of Georgia on one felony count of conspiracy to commit health care fraud, eight felony counts of payroll tax fraud and two counts of failure to file income taxes.

Kurt A. Raulin

Atlanta, Ga.

Admitted to Bar 2000

On June 20, 2016, the Supreme Court of Georgia disbarred attorney Kurt A. Raulin (State Bar No. 595545). The following facts are admitted by default. Raulin was hired to represent a client and three of the client's companies in the defense of a civil suit. The facts show that Raulin filed a late answer to the civil

complaint; that opposing counsel moved to strike the untimely answers and for default judgment and partial summary judgment; that Raulin filed 11 motions for extension of time to respond, which motions the court ultimately denied; that Raulin failed to respond to discovery or to attend depositions; and that the trial court granted the motions to strike and for default judgment as to three of the defendants in the civil case, granted the motion for partial summary judgment as to all four defendants, and awarded attorney fees and punitive damages.

In another matter a client paid Raulin \$500 in December 2014 to represent him in a garnishment action. The client was unable to reach Raulin between his hiring and March 2015, at which point Raulin informed the client he would refund the \$500 payment, but failed to do so. Raulin's representation of this client also occurred while Raulin was suspended for a prior disciplinary violation.

In aggravation of discipline, the Investigative Panel found that these two matters show a pattern of misconduct. Raulin received an Investigative Panel reprimand in 2012, was suspended from Feb. 4, 2011 to Feb. 25, 2011, and received a suspension from the Supreme Court in 2014 that was still in place at the time of this order.

C. Michael Rose

Watkinsville, Ga.

Admitted to Bar 1993

On Sept. 12, 2016, the Supreme Court of Georgia disbarred attorney C. Michael Rose (State Bar No. 614173). The following facts are deemed admitted by

default. As a part of a real estate closing, Rose was entrusted with \$3,549.08 by the seller and \$113,162.63 by the buyer, which he deposited in separate trust accounts. He failed to promptly pay off the seller's mortgage and he either misused the funds held in trust for the real estate transaction for the benefit of other clients or commingled those funds with his own. He failed to account for the funds,

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

Warren R. Hinds, P.C.

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and although he eventually paid off the seller's mortgage, he did so only after the seller filed a lawsuit against him, and he had to deposit his own funds into his trust account to make the payment. The special master noted that Rose had no prior discipline, but noted his disregard for the disciplinary process. Rose failed to provide any mitigating explanation of his conduct.

Holly De Rosa Hogue
 Macon, Ga.

Admitted to Bar 2005

On Sept. 12, 2016, the Supreme Court of Georgia accepted the Petition for Voluntary Surrender of License of attorney Holly De Rosa Hogue (State Bar No. 142263). Hogue was convicted of distribution of oxycodone and methamphetamine.

Timothy Eugene Moses

Augusta, Ga.
 Admitted to Bar 1994

On Sept. 12, 2016, the Supreme Court of Georgia accepted the Petition for Voluntary Surrender of License of attorney Timothy Eugene Moses (State Bar No. 526535). From August 2009 through September 2011, Moses directly invoiced clients in excess of \$77,000 and accepted payments directly from clients that should have been submitted to the law firm. Moses repaid the funds by October 2013 and did not have a prior disciplinary record. Moses was also disbarred by the Supreme Court of South Carolina for the misconduct at issue.

SUSPENSIONS

Chalmer Edwin Detling II

Marietta, Ga.
 Admitted to Bar 2004

On Sept. 1, 2016, the Supreme Court of Georgia accepted the Petition for Emergency Suspension filed by the State Bar of Georgia under Bar Rule 4-108 against attorney Chalmer Edwin Detling II (State Bar No. 219500).

Nathan Everette Hardwick IV

Dunwoody, Ga.
 Admitted to Bar 1991

On Sept. 12, 2016, the Supreme Court of Georgia suspended attorney Nathan Everette Hardwick IV (State Bar No. 325686) from the practice of law in this state during the pendency of criminal charges against him.

INTERIM SUSPENSIONS

Under State Bar Disciplinary Rule 4-204.3(d), a lawyer who receives a Notice of Investigation and fails to file an adequate response with the Investigative Panel may be suspended from the practice of law until an adequate response is filed. Since June 17, 2016, three lawyers have been suspended for violating this Rule and four have been reinstated. ●



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Legal Tech TIPS



Hilary G. Smith
Regional Operations
Manager and
Paralegal
Farmworker Rights
Division of Georgia
Legal Services

Google Voice

Google Voice is a dynamic tool that helps us better serve our clients. Clients text photos of original documents to be reviewed or added to their file, of the conditions of the barracks or hotels where they are housed, and farmworkers who work long hours can privately type us messages in the evenings without needing access to email. We are also able to send and receive messages with clients whose phones have run out of minutes but who still have texting capabilities. This helps our low-income clients whose tech and phone services are often sporadic maintain consistent contact and get all their materials and messages to their legal advocates.”



Avoid Humans

<http://avoidhumans.com/>

Yes, for those times when you need some downtime to relax or focus, you can avoid the crowds. This service uses data from Foursquare and Instagram to learn where people won't be found.

Pocket

<https://getpocket.com>

Gather your online material in one place for later reading or viewing using Pocket. Pocket works across all your devices.

Waybackmachine

Waybackmachine.org

Have you ever wondered what a particular website used to look like many years ago? Use Waybackmachine.org to view a site. Simply type in the URL of the site you would like to review. You can also use Waybackmachine to capture a web page as it appears now for use as a trusted citation in the future.

Ghost Detector

Who you gonna call? Don't bother. Just download the Ghost Detector App on your smartphone and get started rooting out the spirits nearby. It's available in iTunes and Google Play. Now you can actually gauge the paranormal at the office!

TripIt

www.TripIt.com

Lawyers on the go should use TripIt. TripIt organizes all the details of your travel itinerary—flight, shuttle, hotel, rental, and more—in one convenient place. TripIt also lets you share travel info with family and friends, as well as other colleagues who use TripIt for their travel.

Delayed Messages

<https://support.office.com>

Have you ever regretted sending an email? Outlook can help you. You can delay the delivery of an email message or you can use rules to delay the delivery of all messages by having them held in the Outbox for a specified time after you click Send. For detailed instructions, go to <https://support.office.com> and search on “Delay or schedule sending email messages.”

Google Voice

You can give out a single phone number to clients that rings to one or more of your different phones (office, home, mobile). You can set the hours of its operation, if you like. Google Voice also provides an online voicemail account that sends transcriptions of voice messages to your Gmail account, conference calling, SMS-to-email message and more.

Yonder

<http://www.yonder.it/download/>

If your hashtag is #LawyersLivingWell (and it should be), then download Yonder. Enter your location and find dozens of suggestions for hiking, biking, kayaking and skiing with reviews and tips from fellow outdoorsmen and women.

Shopwell and Fooducate

<http://www.shopwell.com/mobileapp>

<http://www.fooducate.com/>

These are apps that can help you choose in-store the best grocery store items that line up with your health goals.

Flight Status

Need to check your flight status pronto? Just Google your airline and flight number.

Lawyer Communication Revisited: Tips for Talking to All Generations

BY NATALIE R. KELLY



Lawyers should pay closer attention to how they communicate with others. Communicating effectively can sometimes prove challenging, and may cause unexpected results if you haven't paid attention to your individual communication style. It is important to take into account the audience and purpose, whether it is attracting and retaining clients or interacting with the court, opposing counsel or support staff. Each group may require a different communication technique; don't forget that business etiquette for communicating is dictated by your audience. And regardless of the situation or the audience, remember to always strive to be polite.

Recent generational studies have focused on the preferred communication styles of the multiple generations in today's legal workforce from traditionalists to Gen Xers and Millennials. One such study indicated that traditionalists, the oldest generation represented in today's workforce, are accustomed to one-on-one meetings and written memos; among the younger set of workers, millennials communicate through email and fast-moving social media channels; and Baby Boomers communication preferences typically lie somewhere in between. So what's the best way to communicate effectively with so many predilections at play, and how can you tweak your "talking style" to get your point across to all generations? Following are a few general tips.

Starting with Your Ethical Requirements

Make sure no matter how or with whom you are communicating, you are doing so ethically. Know what the ethics rules say regarding client communications, prospective client communications and lawyer advertising. Don't assume you have them down. Many lawyers admit they didn't know about recent Rules changes when seeking assistance to help with a disciplinary issue they are facing.

Ensure you are not violating any ethical rules when you interact with others—period! In situations where there is a question about the ethical implications of any communication you wish to make, contact the State Bar's Ethics Helpline at 404-527-8741 or submit your question via email online under the members' only area of the Bar's website. A great rule of thumb to follow is if there is a question about doing it, then contact the Ethics Helpline.

Communicating to Attract Clients

Present your individual and firm strengths in generationally-preferred media—live meetings, video conferences or online meetups—but don't overlook whitepapers and other written delivery formats when reaching out. The methods should vary in order to reach differing audiences. This practice of communicating to the masses applies to your online presence as well. Manage your online presence regularly and attempt to reach all audiences by including video, articles, blogs and social media connection points. Older generations and those with disabilities will appreciate the effort, and this could help to improve your ranking with search engines.

Communicating to Retain Clients

It's always best to ask how your audience prefers to be contacted and then apply that method each and every time communication is required. If the preference is email, it is important to educate your audience on what is appropriate to include in that format.

Due to the increased use of email communication, many firms are adopt-

ing encryption techniques which have become less cumbersome. You should always seek to encrypt information and communications that are highly sensitive. If you don't have these systems in place, consider Absio, Zixcorp and Virtru, among others. Local system file encryption steps are easy first steps, too. Contact the Law Practice Management Program for more options.

Stay in touch with clients through phone calls or emails. Whether or not you set up quick chat sessions or calls may be determined by the preferences of your audience. Keep abreast of tools to make online video conferencing and collaborating easier. Older audiences may respond better to sessions where they can see and hear you more readily. Try out services and continue to monitor their level of reliability and security. FreeConferenceCall, Zoom, GoToMeeting, Join.Me and other services make meeting up online easier.

Communicating with the Court

Formal is the norm when communicating with courts. Don't cut corners—texting or emailing would likely not be recommended—at least not unless explicitly directed to do so. You're your communications professional. Proofread documents and take advantage of programs like WordRake in order to be as succinct as possible. Note, too, that many courts and its judges are moving forward with technology adoption. Keep up!

Communicating with Support Staff

Texting assignments and notices of appointments is one way to leverage our mobile technology. But please remember security is not guaranteed, even with two-factor authentication, so be vigilant and careful in securing communications. For instance, you might come up with internal codes and terminology to add more protection to online and mobile communications. You can also investigate using encrypted documents for both transmission and storage. Check the use of PDF and protected word processing documents for additional security. It is

imperative that you are protected from any misuse or inadvertent disclosure of your document's metadata.

Advise your staff what's appropriate by creating your own firm etiquette guide. Give specific examples of how your team is expected to communicate. Share horror stories, and even use written communication scripts and templates to keep everyone on the same page. You never want to be called out for being the firm where the receptionist answered the phone, "Yeah!" The idea is to prevent the need for correcting your staff when communicating with others, and to avoid any embarrassment, or worse, disciplinary action.

Communicating with Opposing Counsel

Follow up phone and in-person conversations with written communication confirming what was said. This not only creates the opportunity to clear up any misunderstandings, but provides clarification and record of your communication. Older generations prefer this type of contact. You can learn—regardless of which worker generation type you are—to use time tracking and practice/matter management tools to prevent duplicative entries. For instance, utilize online practice management portal access and secure online spaces to share documents and information—not too much of a stretch with e-filing requirements already set for many courts.

As you can see, there's not one best way to communicate with others so be flexible with your approach. Leverage what you learn about how all generations prefer to communicate to reach each individual in the way they prefer to hear from you.

If you have additional tips on communication styles and techniques, contact the Law Practice Management Program and let us know. We like to communicate in all formats! ●



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The Tiny Fireball from the Alapaha Circuit: Elsie Higgs Griner

A chance encounter propels a young girl on a long and satisfying legal career and then influences her granddaughter to follow her example—and that’s the gospel truth.

BY BONNE DAVIS CELLA



PHOTO COURTESY OF GALLEN MIRATE

Elsie Higgs Griner, a petite redheaded dynamo, practiced law in Nashville, Ga., for more than 68 years. She lived to be 106 years old and was the oldest living member of the State Bar of Georgia in 2002. According to Galen Mirate, Elsie’s granddaughter and law partner, she reluctantly retired at age 94.

“My grandmother really had a heart for people who were powerless and she undertook representation of unpopular people and that sometimes caused dissention in our family. She was very progressive and her own person. She did not hesitate to express what lay within her. She believed in justice—she valued justice,” said Galen.

Elsie’s law career began many years ago with a chance encounter at the post office in Nashville. An attorney she knew asked her what she was doing with herself and she told him that she was thinking of becoming a teacher. “Why don’t you study law?” he asked. Law was something that she had not considered but he piqued her interest. He told her to come to his office the next morning and that he and

Elsie as a young girl—circa 1912.



PHOTO BY BONNE DAVIS CELLA

Elsie's law license hangs at the State Bar of Georgia's South Georgia Office.

his partner would start to teach her everything they knew about law. He then asked Elsie if she could type. She fibbed and said yes. She borrowed a typewriter and taught herself that night how to type using two fingers from each hand. Her two finger method served her efficiently for the next 68 years.

In 1922, Elsie was ready for her bar exam. The lovely 4'11" 26-year-old wore a black cape lined with silk and climbed into a horse drawn carriage to go to Homerville, Ga., some 35 miles away. There she "read the law" for the Superior Court Judge and received her certificate to practice law.

Law was Elsie's great love—but not her only love. Her husband, George Griner, died in 1928, leaving her a widow at age 32. By then, Elsie was the mother of two children, eight-year-old Geunie and four-year-old Elsie Jr.

Elsie loved to sing gospel music (hitting the high notes) and her children were also musically talented and creative. Geunie became an excellent pianist and the three of them formed the Gospel group The Holy Notes. RCA Victor cut their records and they loved to perform. Elsie Jr. decided to change her name to



PHOTO COURTESY OF GALEN MIRATE

Adversaries in court and friends for life: 82-year-old Elsie with Vickers Neugent, Alapaha Circuit DA, at the Berrien County Courthouse, November 1978.

Annabel and went on to have a successful career as a stage performer, novelist, poet, talk radio show host and political satirist. Annabel's daughter, Galen, was influenced by Elsie to become an attorney. In 1983 at age 59, Annabel left show business and graduated from the Georgia Regional Police Academy (the only female) and took her place with her mother and daughter at the family firm in Nashville, as an investigator.

"It was never dull at our office," said Galen. (The colorful Elsie Jr., Annabel Alderman, died in 2011 at age 87.)

A young female attorney once asked Elsie if she experienced discrimination from her male counterparts when she first began her practice.

"I didn't notice—I was too busy trying to raise my children and make a living," Elsie said. Judge H.W. Lott, who was standing nearby added: "Ha! She discriminated against them."

Galen remembers the day Elsie was walking to the courthouse and was struck by a car and knocked to the ground. She refused medical treatment and rested only briefly before returning to court. "She loved to practice law—it was a delight to her," said Galen.

Alapaha Superior Court Judge Dane Perkins well remembers "Miss Elsie." Once while taking the back roads to court in Lakeland, Ga., and "clicking along pretty fast," he noticed a car far behind him. In no time at all, the car was on his bumper and then it passed him on a curve. It was Elsie—her head was even with the dashboard—barely over the steering wheel. She was making time in her green Chrysler station wagon. When Dane arrived at the courthouse, "Miss Elsie" was already trying her case—at 90 years old.

Galen now lives in Valdosta and occasionally returns to Nashville where almost invariably "Miss Elsie" is brought into the conversation. It is obvious that Galen's tiny trailblazing grandmother rocked the Alapaha Circuit and will long be remembered. In closing, please enjoy one of Elsie's favorite sayings: "I'd rather have it, and not need it, than need it, and not have it." Elsie definitely had "it." ●



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Key Strategies for Working Effectively with Pro Bono Clients

Many attorneys have taken pro bono cases with the best of intentions, only to face challenges with their clients. This article will give you tools for effectively representing clients in the scarcity mindset.

BY SARAH BABCOCK



PHOTO BY ISTOCK.COM/SHUTTERATAKAN

Two associates meet for lunch, and the conversation quickly turns to their respective workloads:

“Alex, how is that pro bono case you picked up going? I remember it sounded like a really strong case for illegal eviction.”

“Ugh, terrible,” Alex responds. “I had to give it back—I scheduled two meetings with the client, but she missed both of them, and I could never reach her because her phone number kept changing. It was like she didn’t even want my help.”

Many attorneys have taken pro bono cases with the best of intentions, only to face the same situation as Alex. Clients fail to show up for scheduled meetings, are hard to reach or withhold important details from the volunteer attorney. Understandably frustrated, these attorneys sometimes feel that their efforts are not appreciated by the clients, and, like Alex, they simply give up.

According to recent behavioral economics science, however, Alex should not take her pro bono client’s actions personally. Missing scheduled meetings or failing to identify important facts are actually characteristic behaviors for any person who is experiencing scarcity, as many pro bono clients are. Indeed, attorneys themselves often experience time scarcity, which produces the same effects. Being mindful of the similarities between the challenges faced by a busy attorney and a pro bono client will allow volunteer attorneys to approach their clients with

empathy instead of judgment. With that mindset and some concrete tools to counteract the effects of scarcity, volunteer attorneys can both better serve their pro bono clients and achieve better results.

The Effects of Scarcity

In their book “Scarcity: Why Having too Little Means so Much,” economist Sendhil Mullainathan and psychologist Eldar Shafir challenge the reader to imagine two different scenarios for packing a suitcase for a business trip.¹ In the first scenario, the suitcase is large and has plenty of room for everything one could need, plus anything else that one might want.² There is even some extra room in case an unexpected need for more space arises. The suitcase is packed easily and without much thought.³

In the second scenario, however, the suitcase is much smaller. So small, in fact, that all of the necessary items do not fit.⁴ In this scenario, the reader has to start making difficult choices about which pair of shoes to take, how many shirts will be sufficient, and whether to forego an umbrella, even though it may rain. And there is no room in the suitcase to accommodate any unexpected event. Packing the second suitcase takes more thought and more precision, and is more taxing.⁵ The focus required to pack the suitcase might even lead to forgetting an important event, like a meeting with a friend or a family member’s birthday.⁶

For pro bono clients, the issue is not a small suitcase, but a small budget. These clients are often making difficult decisions about how to pay for necessities when there simply is not enough money for every needed item. While the attorneys serving these clients may not face the same financial constraints, the concept quickly becomes familiar if we substitute time for the suitcase. Many attorneys are “time poor,” chronically having more things to do than there is time to do them.

Our young, hardworking associate Alex, for example, might have a number of assignments with pressing deadlines. She naturally focuses on the assignment with the closest deadline—perhaps a draft of a brief that is due in two days. According to Mullainathan and Shafir’s research,

PRO BONO STAR STORY



THOMAS E. RAY



Thomas E. Ray
Retired lawyer and
in-house volunteer for
the Brunswick Regional
Office of Georgia Legal
Services Program

After practicing bankruptcy law for 44 years in Chattanooga, Tenn., I retired in April 2015 and moved to Amelia Island, Fla. While contemplating how I could contribute to the community and also pass the time other than walking the beach and laying by the pool (which beats working by a long shot!), I decided that I wanted to work a couple of days a week pro bono with a much reduced stress level than I had experienced the past four decades.

While looking into taking the Florida Bar Exam, it suddenly struck me that I had barely passed the Tennessee Bar Exam 44 years ago, so why would I even think of taking another bar exam now! Besides I really didn’t want to study that much at the beach. So I checked out my locale and realized that I was close to Brunswick, Ga., So while still in Chattanooga, I decided to get a Georgia license which didn’t involve study or a test.

After retirement, I contacted the Georgia Legal Services Program (GLSP) in Brunswick and told them I wanted to work one or two days a week filing mostly bankruptcy cases. At first they were surprised and wanted to know why I would give up my time

in retirement to work pro bono. I had always wanted to do volunteer work but had never done much as a practicing attorney. They hired me on the spot (for no pay, of course).

The past 15 months of working mostly one day a week have been very rewarding and fulfilling for me. While primarily filing chapter 7 bankruptcies, my most memorable cases have been filing name change petitions. This is an area that I had limited experience in but I have found the clients to be very appreciative of my efforts. One particular elderly lady needed her name changed in order to obtain a photo ID so she could vote. She was married in 1954, but her birth certificate had her first name as “Lisa” with no middle name while she had been known as “Lois Marie” all of her life. One of her aunts had even written that name in the family Bible. She thought her mother simply forgot the given name when she filled out the birth certificate. We met on several occasions to gather the facts, prepare the petition, and attend the court hearing. I found her to be such a delight. She told me all about her life and childhood. After the court hearing for the name change, we were leaving the courthouse when she gave me a big hug, and after thanking me, she said that she “would never forget me!” While I have many fond memories as a practicing lawyer, I have found that my retirement is even more fulfilling because of my work at GLSP. ●

Alex’s time scarcity will result in some characteristic behaviors. First, she will “tunnel”—focusing intensely on the brief, to the exclusion of all else.⁷ This focus will allow her to complete the draft on time, but will lead her to neglect the discovery responses and client memo that are due

the following week. In addition, scarcity taxes Alex’s “bandwidth”—her fluid intelligence, executive control and mental capacity.⁸ After finishing the brief, Alex is left with fewer mental resources to address a partner’s concern about her legal research for another case. Turning her attention to

that issue, she may forget about a meeting scheduled with a different partner the next day. And as a result of diminished self-control, Alex might give into temptation and watch her favorite reality TV show when she gets home instead of working, which could cause her to be unprepared for a meeting with a client the next day.

It may be tempting to attribute these missteps to lack of discipline on Alex's part. But what Mullainathan and Shafir's research shows is that Alex's behavior is characteristic of anyone experiencing scarcity. Alex's actions are caused not by an inherent lack of control, work ethic or attention to detail, but rather by scarcity itself. In other words, scarcity creates the lack of discipline, not the other way around.

As applied to scarcity of financial resources, Mullainathan and Shafir describe the effects of scarcity this way: "[I]f you want to understand the poor, imagine yourself with your mind elsewhere. You did not sleep much the night before. You find it hard to think clearly. Self-control feels like a challenge. You are distracted and easily perturbed. And this happens every day."⁹ Most clients seeking pro bono assistance are experiencing scarcity and its effects to some degree. Given all of the obstacles that scarcity creates, it can be a real challenge for attorneys to represent these clients effectively.

Tools for Effectively Representing Clients in the Scarcity Mindset

Luckily, there are a number of trainings and resources that provide some easy tools to address many of the common scarcity pitfalls. Two excellent sources of training and tools are the Breaking Poverty Barriers to Equal Justice training given by Donna Beegle and the Practising Law Institute's recent massive open online course on Effective Communication with the Legal Services Client given by Alicia Aiken. These trainings, along with the research on scarcity, provide some concrete tips on how attorneys representing pro bono clients can manage some of the effects of scarcity on those clients:

- Make small talk and try to find 1-2 areas of connection with the client,

just as you would for a billable client.¹⁰ Building rapport leads to trust, which will increase the likelihood that your client will divulge all of the essential facts about her case. This in turn leads to a more successful representation.

- Don't attribute motive to a client's behavior.¹¹ For example, when a client doesn't show up to a scheduled meeting, don't assume it is because he doesn't value your time or your services. The client was likely focused on other, more immediate pressing needs, and the meeting escaped his attention.
- Remember that clients in poverty have scarce resources, as do most of their neighbors and family. Ask your client about the resources available to him: Internet, phone, mail, etc.¹² Ask which form of communication is best for him. Don't assume that your client's U.S. mail is secure.
- Ask your client about the constraints on her time and ability to travel when setting meeting times. Allow your client to choose from several options instead of proposing a time yourself.¹³ This will make it more likely that the client will choose a time and location that truly works for her instead of simply going along with your suggestion.
- Don't assume your client can read. Offer to read things aloud or to go over important documents with the client.
- Repeat new information so the client has a chance to absorb it fully.¹⁴ Take the time to ask if he has any questions for you and to answer them thoroughly.
- Remember that these clients are likely in crisis. Follow up with them regularly instead of waiting for them to contact you. Don't assume that your client's lack of responsiveness means that she does not want your help.
- Many low-income clients have received and internalized deficiency messages. Society has not communicated to these clients that they are valued members of our community;

to the contrary, they have likely received many messages that are just the opposite. Counteract this by focusing on your client's strengths and assets. Compliment them on the things they have done "right" and the obstacles they have overcome.¹⁵

- Give your client the benefit of the doubt.

So if Alex applied a few of these suggestions with her pro bono client, how could things have turned out differently?

"Alex, how is that pro bono case you picked up going? I remember you said the client missed an appointment with you."

"It's going great, actually. She did miss an appointment, but it was scheduled at the end of the month when she was stressed out about making rent, and it just slipped her mind. I totally understood—the same thing has happened to me when I've got too much going on. After I asked her what the best way for us to stay in touch was, we agreed that she would call me once a week at a set time since her number tends to change. We go to court next week and I feel really good about the case." ●



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Endnotes

1. Mullainathan & Shafir, *Scarcity: Why Having too Little Means so Much*, Times Books (2013), at 69.
2. *Id.*
3. *Id.* at 70.
4. *Id.* at 69.
5. *Id.* at 70.
6. *See id.* at 41.
7. *Id.* at 27-29.
8. *Id.* at 39-66.
9. *Id.* at 161.
10. Beegle, *Breaking Poverty Barriers to Equal Justice Companion Guidebook*, at 71.
11. *Id.* at 99.
12. Aiken, Practising Law Institute training, June 2016.
13. *Id.*
14. Beegle at 90.
15. *Id.* at 96-98.

STATE BAR OF GEORGIA

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Fall Into a Section

BY DERRICK W. STANLEY

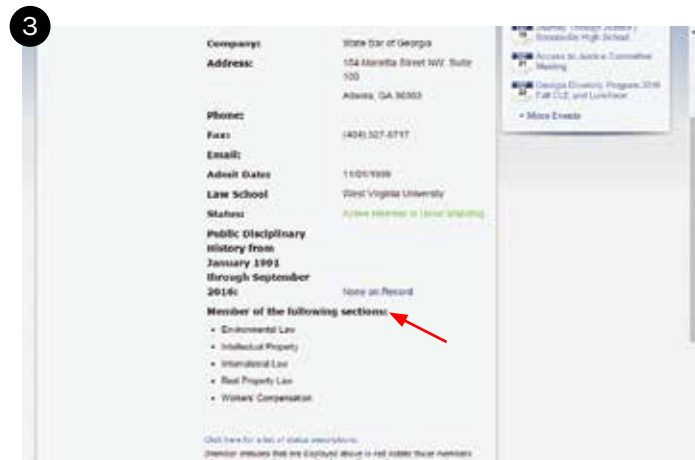
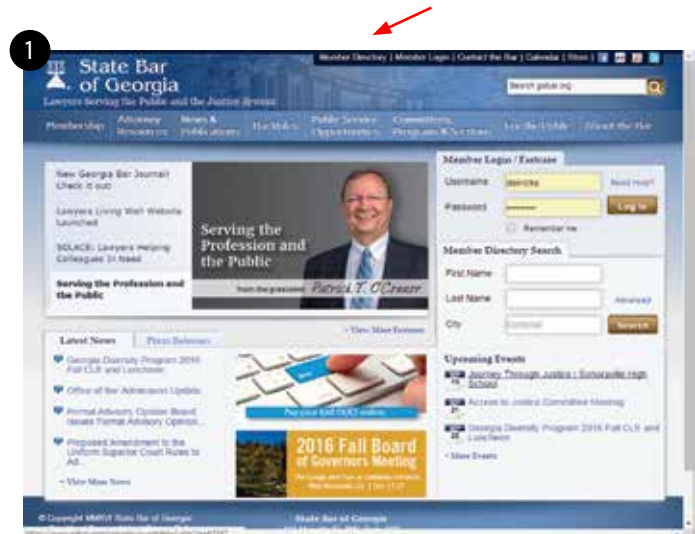
Now that summer has ended and the weather is changing, it is a prime time to check your memberships and join sections that fit your interests.

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22. Equine Law
23. Family Law
24. Fiduciary Law
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27. Government Attorneys
28. Health Law
29. Immigration Law
30. Individual Rights Law
31. Intellectual Property Law
32. International Law
33. Judicial
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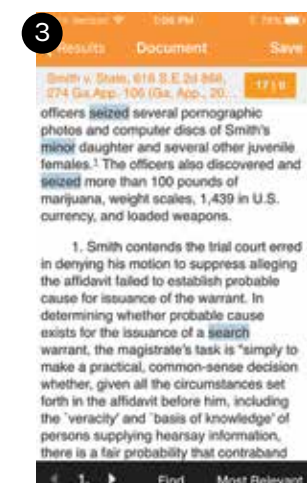
BY SHEILA BALDWIN

Fastcase launched its mobile app in 2010, giving Georgia attorneys the ability to carry a mobile law library in their pocket on iPhones and tablets. It quickly became the nation's most popular legal app among lawyers, especially solos. Although the design has not changed since it was first introduced, it is currently the most often downloaded app according to the most recent ABA Legal Technology Survey Report with 41 percent of attorneys having done so in 2015. Why is the Fastcase app such a dominant legal research tool? The smart search intelligence that makes Fastcase efficient on your desktop is equally functional, and arguably easier, within the app.

The ability to search cases from all 50 states as well as all cases in federal courts from a mobile device increases productivity for litigators and for those who have mobile law firms, and it's free to all Georgia Bar members. The U.S. Code and all state statutes are also included. If you don't have the Fastcase app installed on your device, go to the App Store for iPhone or

iPad users or Google Play for Android devices and do so.

Once installed, open the app and select from the list of jurisdictions, date range, number of results and the way you would like them sorted (see fig. 1). It's possible to select jurisdictions across a court level such as All Federal Appellate or All State, or choose from a drop down list to find a specific jurisdiction. After choosing filters tap back to the query box screen and put your finger on the text box and the keyboard pops up. Type your query using a citation, phrase or key words in Boolean syntax (see fig 1). A list of cases appears in a list view with the relevance rating and authority check link at the top right of the screen. If the case is highly relevant it can be opened and saved by tapping Save at the top right of the screen. Beneath each case you will see the Title, Title + First Paragraph or Title + Most Relevant Paragraph depending on how you set the filter in the settings area (see fig. 2). When returning later to resume your research tap Recent at the bottom of your screen



to resume from the last search without retyping the query.

Open the case and notice all search terms are highlighted in yellow. It's possible to search for a term within the case and find all mentions of it by using the scroll feature which moves through the case finding each incident it's used (see fig. 3). Tap Most Relevant and move to the most relevant paragraph in the case. These features are especially helpful on small devices by giving you the ability to maneuver easily. Spell check is an additional feature not available on the desktop version, although it doesn't seem to work in statutes. Copy and paste by tapping a portion of the text or citation and copying it to a note pad, document or email. Technology options include limiting the local storage

on your phone and choosing to view while offline by selecting static rather than dynamic scaling.

Code searching is available by using text or browsing just like your desktop version. Tap Search Statutes to open the keyword or citation query box or tap Browse to get to the U.S. Code and state statutes. The advantage to text searching is that you will find any codes in your chosen jurisdiction that have your search terms. Browsing is advantageous when looking for a particular code section or to see in an indexed format with descriptive language. Archives of the Georgia Code and Acts going back to 2009 are also available in browse mode.

The Mobile Sync function under the options tab on your desktop Fastcase ac-

count allows full integration of mobile apps with the desktop version of Fastcase. Mobile Sync securely synchronizes a user's favorite documents, favorite jurisdictions, and search history between apps. To engage this feature look under the Options menu on your desktop account and follow the directions. If you have difficulty, call Fastcase at 866-773-2782 or email support@fastcase.com, or you may reach me at sheilab@gabar.org or 404-526-8618. ●



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Seven Characteristics of Good Legal Writing

Good legal writing shares certain characteristics. Aim to produce well-written text, regardless of the form of legal writing.

BY KAREN J. SNEDDON
AND DAVID HRICIK

For us and no doubt for many of your children, the fall season is the start of a new school year. So, we thought we'd take you back to basics, and identify the basic but essential characteristics of all forms of good legal writing. Even though in a typical day a lawyer's legal writing takes myriad forms that serve different purposes—from one-paragraph emails to 30-page appellate briefs—and even though each form has its own conventions that arise from the particular form's audience and purpose—they all should share common characteristics of good legal writing. Those characteristics transcend a particular form of legal writing. This installment showcases seven characteristics of good legal writing.

Purposeful

Good legal writing has a purpose. Whether to inform or persuade, good legal writing always supplies an answer to the reader's question of "so what?" As melodic as prose may be, if it doesn't convey meaning, it's not good legal writing.



PHOTO BY ISTOCK.COM/SASAJO

Organized

Good legal writing is organized. We noted at the start that each form of legal document has a structure of its own that is dictated by its particular function. A will is structured in a particular way, as is a brief or letter to opposing counsel trying to solve a discovery dispute. Though form does follow function, common to all is the need for an organized and logical structure. Organization means the text has an introduction, a body and a conclusion. Within the body, the text uses paragraphing, thesis sentences and transitions that guide the reader through the text.

Accurate

Good legal writing is accurate, a characteristic closely related to clarity, the characteristic discussed next. Every legal communication should convey the facts accurately. Even when the goal of a text is to persuade, it should accurately represent the relevant facts, as well as the pertinent law and policy considerations. Yes, a persuasive text will present the facts and law differently, but lawyers should accurately present information.

Clarity

Good legal writing is clear. Clarity doesn't mean bland and doesn't mean generic. Instead, clarity means that the writer avoids convoluted constructions and antiquated phrasing. Clarity is also ensured by using a variety of sentence constructions and sentence lengths. Words and phrases should be chosen to further the reader's ability to understand the substance. These things aid readability and thereby convey meaning clearly and more accurately.

What should be avoided? Long sentences. Legalese, jargon, confusing acronyms and inelegant variation. Awkward sentence constructions that cause the reader to get tangled in a text. Pronouns may be used, but with care. Passive voice, like nominalizations, may be used, but they should be used strategically and also with care. Clarity is enhanced when sentences are short, verbs are active and pronouns are used with care.

Supported

Good legal writing is supported by authority, whether that is fact or law. Good legal writers recognize the importance of not only locating relevant authority, but using authority in the text. The text should support assertions of law or fact by citing the source. Support is not the goal, of course. Support provides credibility to the points made in the text.

Accessible

Good legal writing is accessible to the reader. Ever tried to read a full-justified single-space text with half-inch margins in Times New Roman 9 point font? The appearance of the text affects the reader's ability to engage with the text.

Good legal writing segments the text into visible units. This can be done through paragraphing, page breaks, headings, enumerations and bullet point lists. Other formatting decisions, such as justification, line spacing, margins, font selection, font size and typeface, are selected by the writer to ensure the reader engages with the text.

Professional

Good legal writing is professional. A professional voice can be strong and direct, but is never sarcastic or brusque. In the era of instant communication, it's easy to forget the importance of a polished text. Good legal writing respects the standards of grammar and punctuation. Typographical mistakes happen, but proofreading seeks to minimize the distractions of cut-and-paste glitches, slipshod punctuation use and misspellings.

Conclusion

No matter what its form, good legal writing shares certain characteristics. As you write various documents throughout the day, aim to produce well-written text, regardless of the form of legal writing.

Finally, if you want to read more about the characteristics of good legal writing, consider these articles.

- Heidi K. Brown, *Converting Benchslaps to Backslaps: Instilling Pro-*

fessional Accountability in New Legal Writers by Teaching and Reinforcing Context, 11 LEGAL COMM. & RHETORIC: JALWD 109 (2014).

- Mark K. Osbeck, *What Is "Good Legal Writing" and Why Does it Matter?*, 4 DREXEL L. REV. 417 (2012).
- Tracy Tuggle Miller, *Ten Basic Rules of Writing for New Lawyers*, 72 ALA. LAW. 406 (Sept. 2011).
- M.H. Sam Jacobson, *Tips for Writing Clearly*, 71 OR. ST. B. BULL. 13 (Apr. 2011).
- Erika Abner & Shelley Kierstead, *A Preliminary Exploration of the Elements of Expert Performance in Legal Writing*, 16 LEGAL WRITING 363 (2010).
- John W. Bissell, *Effective Legal Writing: One Size Does Not Fit All*, 257 N.J. LAW. 28 (Apr. 2009).
- Kathleen Elliott Vinson, *Improving Legal Writing: A Life-Long Learning Process and Continuing Professional Challenge*, 21 TOURO L. REV. 507 (2005).
- Edward D. Re, *Increased Importance of Legal Writing in the Era of "The Vanishing Trial,"* 21 TOURO L. REV. 665 (2005).
- Rosalie C. Sisson, *The Written Word*, 44 ADVOCATE 26 (May 2001).
- John D. Ferrick, *Writing Like a Lawyer*, 21 FORDHAM URB. L.J. 381 (1994).
- Pamela Samuelson, *Good Legal Writing: Of Orwell and Window Panes*, 46 U. PITT. L. REV. 149 (1984). ●



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



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

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

Law School Orientations Earn Top Grades

BY AVARITA L. HANSON



PHOTOS BY TERIE LATALA

For the past 24 years, the Chief Justice’s Commission on Professionalism and the State Bar of Georgia’s Committee on Professionalism have partnered with Georgia law schools to present orientations on professionalism to incoming students. The law school orientations on professionalism are a part of each law school’s orientation program for new, transfer and visiting students. Its primary goal is to help students differentiate between ethics and professionalism, in addition to understanding that professionalism requires higher standards of behavior expected of lawyers than the minimal standards set forth in the Georgia Rules of Professional Conduct and student conduct codes. This year, from student and lawyer accounts, the orientations earned top grades as a very valuable program with an excellent format, keynote speakers, and relevant and timely hypotheticals to effectively

Timothy J. Santelli leads a breakout group at Atlanta’s John Marshall Law School.

frame small group discussions. Students learned that relationships matter—with professionalism, there are duties owed to clients, society, the legal profession, colleagues and themselves.

The volunteer judges, attorneys and law school administrators who served as group leaders for the small group discussions at Atlanta's John Marshall Law School, Emory University School of Law, Georgia State University College of Law, Mercer University School of Law, Savannah Law School and the University of Georgia School of Law, brought diverse experiences, stories and viewpoints to the discussions. Using carefully crafted hypothetical scenarios rooted in law school experiences and law practice, they provided realistic, frank and straightforward feedback to the students, as well as advice for handling the situations. The discussions emphasized that everyone has a moral compass and ethical values that should guide one in law school and the profession. Many of the situations were complex, yet very realistic, and did not lead to one answer. Students found that challenging issues of ethics and professionalism will require careful consideration before taking action and that the rule of law is not the same as professionalism standards.

The small group breakout sessions followed remarks from prominent keynote speakers at the schools. The keynote speakers included: Hon. Craig L. Schwall, judge, Atlanta Circuit Superior Court (Atlanta's John Marshall); Hon. David Nahmias, justice, Supreme Court of Georgia and Associate Dean Rita Sheffey (Emory); Hon. Eleanor L. Ross, judge, U.S. District Court, Northern District of Georgia (Georgia State); Hon. Stephen Louis A. Dillard, judge, Court of Appeals of Georgia (Mercer); and Hon. Steve Jones, judge, U.S. District Court, Northern District of Georgia (UGA). At Savannah, in lieu of a speaker, the group leaders, including State Bar YLD President Jennifer Mock, were called upon to provide professionalism tips. In addition, students were introduced to a number of personal professionalism guidelines by group leader Michelle West, director of the State Bar's Transition Into Law Practice Program.



Group leaders at the University of Georgia School of Law.



(Facing, left to right) Prof. Michael Broyde, Laura Williams and Mariangela Corales lead a breakout group at Emory University School of Law.

What Motivates This Generation's Law Students?

While attending the Orientations on Professionalism, students at Atlanta's John Marshall Law School, Emory University School of Law, Georgia State University College of Law, Mercer University School of Law, Savannah Law School and the University of Georgia School of Law were asked to share their reasons behind why they were attending law school. Some of the answers might surprise you.

Several found attending law school the natural transition from their undergraduate studies; others just were not ready to start working. Some were attracted by the versatility of a law degree; liked the analytical study of law; or wanted to transition from a job to career. The things that inspired students to attend law school varied from pop culture references such as the movie "My Cousin Vinny" and the lawyer-writer John Grisham; to more personal reasons such as a love of the Constitution or experience as a first-generation immigrant. Still others took this route because they had always wanted to be a lawyer or judge and were inspired by family members and lawyers in the family, as well as personal mentors including judges, supervisors and professors.

Still other entering students were inspired by the sentiment expressed by Mahatma Gandhi: wanting to "be the change you want to see in the world." Of those, the majority responded that they were lead to law school because they wanted to help others and strengthen the trust between society and the criminal justice system. In short, to be a leader. Many provided that attending law school would positively affect their life and career. Several had prior experiences in law-related fields, externships, and jobs and attended mock trials and were on winning debate teams.

So how did these differently motivated students grade the professionalism orientation programs? The overwhelming majority graded the programs overall as excellent, very valuable and very effective. While learning how to deal with conflicts and how to treat their classmates and aspiring fellow lawyers, they learned to see things from different perspectives and to rethink their initial ideas. One comment received was, "My overall satisfaction with the orientation cannot be overstated."

The student interaction with "real" i.e., practicing, attorneys are always a highlight of the orientation period. Some clamor for more opportunity to talk to the visiting attorneys—either during the fall orientation period or thereafter at the school. They enjoy hearing seasoned lawyers share their experiences in addition to listening to their classmates' and peers' approach to the same issues. Some say the small groups facilitate more engagement particularly for more socially challenged students.

As for the takeaways, students find this program not only teaches them how to think like a lawyer, it reminds them of the importance of morality and respect in every aspect of their life and career, that they should not be afraid to tell the truth, that good judgment is important and that professionalism is important for their reputation. Students enjoyed their exposure to people who have practiced for numerous years and gave them advice—both practical and academic—to use throughout their careers.

Elizabeth Fite, chair of the Professionalism Committee, conveyed her thanks to all who worked to make the 2016 Orientation on Professionalism Program successful: keynote speakers, judges, lawyers, law school faculty and staff (see list on page 81); the students themselves; and the staff of the Chief Justice's Commission on Professionalism, Avarita L. Hanson, executive director; Terie Latala, assistant director; and Nneka Harris-Daniel, administrative assistant.

Attorneys who want the opportunity to participate in the 2017 Law School Orientation Program should watch for the call for volunteers in the April *Georgia Bar Journal*, State Bar Enews communications or contact Nneka Harris-Daniel at 404-225-5040 or professionalism@cjcpga.org. ●



Avarita L. Hanson, Atlanta attorney, has served as the executive director of the Chief Justice's Commission on Professionalism since May of 2006. She can be reached at professionalism@cjcpga.org or 404-225-5040.

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

JOHN M. BOWLING
Gulf Breeze, Fla.
University of Georgia School of Law (1957)
Admitted 1957
Died July 2016

JAMES EDWARD BOYETT
Jacksonville Beach, Fla.
Atlanta Law School (1981)
Admitted 1981
Died August 2016

JEFFREY O. BRAMLETT
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University of Texas School of Law (1980)
Admitted 1981
Died July 2016

RICHARD B. CAUGHMAN
Roswell, Ga.
Atlanta's John Marshall Law School (1954)
Admitted 1954
Died August 2016

RONALD C. CRAWFORD
Savannah, Ga.
Gilbert Johnson Law School (1966)
Admitted 1966
Died July 2016

MICHAEL D. DAUNT
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Woodrow Wilson College of Law (1972)
Admitted 1972
Died July 2016

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Mercer University Walter F. George School of Law (1951)
Admitted 1951
Died August 2016

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Admitted 2005
Died March 2016

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Died July 2016

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Died April 2016

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Died August 2016

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Admitted 1973
Died August 2016

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Died May 2016

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Emory University School of Law (1958)
Admitted 1957
Died July 2016

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Died August 2016

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Died May 2016

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Admitted 1976
Died February 2016

ARON G. WEINER
Savannah, Ga.
University of Georgia School of Law (1960)
Admitted 1960
Died August 2016

ANEDRA S. WILLIAMS
Atlanta, Ga.
Emory University School of Law (2003)
Admitted 2006
Died July 2016

OBITUARIES



Jeffrey O. "Jeff" Bramlett of Atlanta, who served as the 46th president of the State Bar of Georgia in 2008-09, died July 28, 2016. He was 62.

Bramlett earned his law degree from the University of Texas School of Law, where he was a member and notes editor of the *Texas Law Review*, and was admitted to the State Bar of Georgia in 1981. He spent his entire career as a Georgia lawyer with the Atlanta firm of Bondurant Mixson & Elmore LLP. For 35 years, he represented clients ranging from officers and directors of international corporations to prison inmates and homeless persons. He once told the *Georgia Bar Journal* that he aimed to maintain a healthy balance between representing plaintiffs and defendants in business disputes "because it gives me better perspective in analyzing how problems can be solved and cases can be tried."

Although he developed an expertise for resolving class actions and complex business disputes, he never lost sight of his true purpose as a lawyer: "I'm a trial lawyer at heart," he said. "Trials are rarely the best solution for clients embroiled in a business dispute, but there is nothing more fun for a trial lawyer than trying a case to a jury. The fascinating human interaction with clients, witnesses, jurors and judges in the crucible of jury trial—it just doesn't get any better than that." His trial skills and professionalism led to his induction into The American College of Trial Lawyers in 2012.

Bramlett was particularly proud of his pro bono work with Children's Rights Inc. on behalf of a class of children in public custody as a result of parental abuse or deprivation. In 2005, the state of Georgia entered into a major consent decree, promising improvements in the care and treatment of those children while they remained in police custody. Bramlett worked to hold the government to those promises because, he said, "When those tough (funding) choices have to be made, too often the voiceless and the vulnerable end up with the short end of the stick."

Prior to his election as a State Bar officer, Bramlett chaired the Section on Individual Rights and Responsibilities, served as a trustee and past chair of the Clients' Security Fund and served on or chaired numerous Bar committees, including the Advisory Committee on Legislation and the Business Courts Committee. He was elected to the Board of Governors in 1994 and co-chaired a special committee whose work product resulted in changes to the Model Rules of Professional Conduct and, in 2001, reapportionment and diversity measures for Board of Governors membership.

Bramlett further served the legal profession as a past president of the Atlanta Bar Association, and a past delegate of the American Bar Association's House of Delegates. He was also a past president of the American Civil Liberties Union (ACLU) of Georgia, past chair of Georgia's American Constitution Society, a former national board member of the ACLU, board member of Georgia Appleseed and Master Benchers, Lamar Inn of Court.

He earned the Elbert P. Tuttle Jurisprudence Award from the Anti-Defamation League, the Charles E. Watkins Award for distinguished and sustained service to the Bar from the Atlanta Bar Association and the Harold C. Clarke Professionalism Award from the Atlanta Bar Association, among numerous other professional honors and designations.

During his term as Bar president, one of Bramlett's greatest accomplishments was the design and implementation of a program to recruit and train Georgia lawyers to provide pro bono and reduced-fee legal services for military members, reservists and their families. "Our veterans and service members are experiencing significant unmet needs for legal services," he said at the time. "This is an opportunity for Georgia lawyers to express tangible thanks to folks who have earned our gratitude and respect for their public service and sacrifice."

In the past seven years, the Military Legal Assistance Program has connected approximately 1,700 service members and veterans with some 700 State Bar members who have volunteered for the program. The initiative provides outreach to the state's military bases and has set up Veterans Clinics at several of Georgia's law schools and VA Legal Clinics around the state, while also providing mentors for Veterans Courts in nine judicial districts and conducting numerous CLE programs.

Upon his passing, Bramlett's colleagues at Bondurant Mixson & Elmore issued a statement in his memory, reading in part: "There was never a wrong that Jeff did not want to right. He was truly the lawyer's lawyer—often hired by other lawyers and law firms to handle their most pressing needs. But what Jeff was most proud of, and what we want others to remember about Jeff, was his empathy for the downtrodden and his representation of those most in need of not just competent representation but the very best.

"We commemorate Jeff's many years of service—to the Atlanta Bar, the ACLU, the American Constitution Society and, most importantly for Jeff, the State Bar of Georgia. The lawyers and citizens of our state have lost a great leader."

A native of Detroit, Mich., Bramlett lived in seven different states before graduating from high school in Houston, Texas. He earned his undergraduate degree from the University of Maryland and, prior to entering law school at the University of Texas, served as a U.S. House of Representatives intern for Texas Congressman Bob Eckhardt. He later clerked for 5th Circuit U.S. Court of Appeals Judge Jerre S. Williams, who had been Bramlett's constitutional law professor.

Bramlett is survived by his wife, the former Nancy Frakes Price; three daughters, Cynthia Czabala and her husband Tom, Melissa Price Nichols and her husband Donal, and Susanna Bramlett; a son, Robert Bramlett and his wife Megan; and four grandchildren.

A memorial service was held Aug. 12 at First Presbyterian Church of Atlanta. Memorial donations may be made to the State Bar of Georgia Foundation, Military Legal Assistance Program or the Georgia Legal Services Program. ●

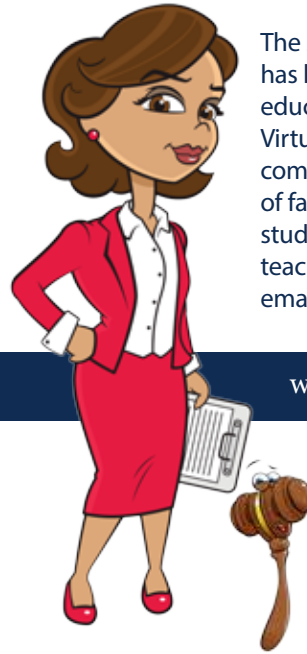


John C. Mayoue, 62, passed away in August 2016. Mayoue was born March 27, 1954, and was a long-time resident of Cobb County. He came from rural roots and attended Transylvania University, from which he graduated with a double major in English and History. He graduated from Emory Law in 1979.

Mayoue was the founding partner of Mayoue Gray Eittrheim, P.C. During his career he routinely was named a Top 10 attorney in the state, was listed in *Best Lawyers in America* since 1993 and in 2012 he was listed as *Best Lawyers in America* Lawyer of the Year. For the past 23 years he proudly chaired the State Bar of Georgia's Family Law Section Convocation on Professionalism.

Mayoue was the author of five books on family law as well as numerous nationally published articles on diverse topics in family law. He was a passionate supporter of numerous charitable causes, including Camp Sunshine, a camp for children with cancer; the International Community School for refugee children; Compassion International; World Vision; the Willard F. DeWitt scholarship at Emory, designed to benefit and attract law students with disabilities; and most recently he was named inaugural chair for Usher's New Look League of Men, an initiative partnering prominent businessmen to mentor and provide positive examples to our next generation of young men. He was president of the Emory Law Alumni Association. He was a proud member of Our Lady of Lourdes, Atlanta's oldest African-American Catholic church, for more than 25 years. ●

THE VIRTUAL MUSEUM OF LAW



The State Bar of Georgia has launched a new online educational resource, the Virtual Museum of Law, complete with animated videos of famous cases, quizzes for students and lesson plans for teachers. For more information, email LRE@gabar.org.

www.thelawmuseum.org



Memorial Gifts

Memorial Gifts are a meaningful way to honor a loved one. The Georgia Bar Foundation furnishes the Georgia Bar Journal with memorials to honor deceased members of the State Bar of Georgia. Memorial Contributions may be sent to the Georgia Bar Foundation, 104 Marietta St. NW, Suite 610, Atlanta, GA 30303,

stating in whose memory they are made. The Foundation will notify the family of the deceased of the gift and the name of the donor. Contributions are tax deductible. Unless otherwise directed by the donor, In Memoriam Contributions will be used for Fellows programs of the Georgia Bar Foundation.

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. For ICLE seminar locations, please visit www.iclega.org.

OCTOBER

- 11** ICLE: **DUI Update**
Webinar | 1 CLE
- 13** ICLE: **VA Accreditation**
Via Web Streaming and Atlanta, Athens,
Savannah and Tifton, Ga. | 6.5 CLE
- 13-15** ICLE: **35th Annual Insurance Law Institute**
St. Simons Island, Ga. | 12 CLE
- 14** ICLE: **Georgia Auto Insurance Claims Law**
Atlanta, Ga. | 6 CLE
- 14** ICLE: **12th Annual Family Law Seminar**
Augusta, Ga. | 6 CLE
- 20** ICLE: **Succeeding in Family Law Hearings
& Trials**
Via Web Streaming and Atlanta, Athens,
Savannah and Tifton, Ga. | 6 CLE
- 20** ICLE: **23rd Annual U.S. Supreme Court
Update**
Atlanta, Ga. | 6 CLE
- 20-22** ICLE: **Workers' Compensation Law Institute**
St. Simons Island, Ga. | 12 CLE
- 21** ICLE: **32nd Annual Technology
Law Institute**
Via Web Streaming and Atlanta, Athens,
Savannah and Tifton, Ga. | 6 CLE
- 21** ICLE: **Expert Testimony in Georgia**
Via Web Streaming and Atlanta, Athens,
Savannah and Tifton, Ga. | 6 CLE
- 21** ICLE: **23rd Annual Securities Litigation**
Atlanta, Ga. | 6 CLE
- 21** ICLE: **Basic Fiduciary Practice**
Macon, Ga. | 6 CLE

- 25** ICLE: **Dependency and Representing
Youth**
Webinar | 1 CLE
- 27-28** ICLE: **11th Circuit Appellate Practice
Institute**
Atlanta, Ga. | 12 CLE
- 27** ICLE: **Nuts & Bolts of E-Discovery**
Via Web Streaming and Atlanta, Athens,
Savannah and Tifton, Ga. | 6 CLE
- 27-28** ICLE: **35th Annual Business Law
Institute**
Atlanta, Ga. | 12 CLE
- 28** ICLE: **Trial Advocacy**
Statewide Satellite Broadcast | 6 CLE

NOVEMBER

- TBD** ICLE: **17th Annual Georgia Symposium on
Ethics and Professionalism**
Macon, Ga. | 6 CLE
- TBD** ICLE: **Georgia's Hottest Evidentiary Issues**
Webinar | 1 CLE
- 1** ICLE: **The New Military Retirement System**
Webinar | 1 CLE
- 2** ICLE: **Commercial Real Estate**
Via Web Streaming and Atlanta, Athens,
Savannah and Tifton, Ga. | 6 CLE
- 3** ICLE: **Animal Law Seminar**
Via Web Streaming and Atlanta, Ga. | 6 CLE
- 3** ICLE: **Business Immigration Law**
Atlanta, Ga. | 6 CLE

- 3** ICLE: **Trial Advocacy**
Statewide Satellite Rebroadcast | 6 CLE
- 3-5** ICLE: **32nd Medical Malpractice Liability**
Amelia Island, Fla. | 12 CLE
- 4** ICLE: **Real Property Law Foreclosure**
Statewide Satellite Broadcast | 6 CLE
- 4** ICLE: **Adoption Law and Practice in Georgia**
Via Web Streaming and Atlanta, Ga. | 6 CLE
- 7-18** ICLE: **Advanced Urgent Legal Matters at Sea**
Ft. Lauderdale, Fla. | 12 CLE
- 8** ICLE: **Judicial Conduct**
Webinar | 1 CLE
- 11** ICLE: **Recent Developments in Georgia Law**
Satellite Statewide Broadcast | 6 CLE
- 17** ICLE: **Litigation Under 42 Section 1983**
Via Web Streaming and Atlanta, Ga. | 6 CLE
- 17** ICLE: **Mentor Orientation Program**
Atlanta, Athens, Savannah and Tifton, Ga. | 3 CLE
- 17** ICLE: **Recent Developments in Georgia Law**
Satellite Statewide Rebroadcast | 6 CLE
- 18** ICLE: **The Lawyer's Compass**
Atlanta, Ga. | 6 CLE
- 18** ICLE: **Child Welfare Attorney Training**
Via Web Streaming and Atlanta, Athens, Savannah and Tifton, Ga. | 7 CLE

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Formal Advisory Opinion Board Issues Formal Advisory Opinion No. 16-1

The second publication of this opinion appeared in the June 2016 issue of the *Georgia Bar Journal*, which was mailed to the members of the State Bar of Georgia on or about June 7, 2016. The opinion was filed with the Supreme Court of Georgia on July 1, 2016. No request for discretionary review was made within the 20-day review period; and on July 25, 2016, the Supreme Court of Georgia issued an order declining to review the opinion on its own motion. Pursuant to Bar Rule 4-403(e), Formal Advisory Opinion No. 16-1 is an opinion of the Formal Advisory Opinion Board. In accordance with Rule 4-403(e), FAO No. 16-1 is binding only on the State Bar of Georgia and the person who requested the opinion, and not on the Supreme Court of Georgia, which shall treat the opinion as persuasive authority only. Following is the full text of the opinion.

**STATE BAR OF GEORGIA
ISSUED BY THE FORMAL ADVISORY OPINION BOARD
PURSUANT TO RULE 4-403 ON JULY 25, 2016
FORMAL ADVISORY OPINION NO. 16-1 (Redrafted Ver-
sion of FAO No. 03-2)**

Question Presented:

Does the obligation of confidentiality described in Rule 1.6, Confidentiality of Information, apply as between two jointly represented clients?

Summary Answer:

The obligation of confidentiality described in Rule 1.6, Confidentiality of Information, applies as between two jointly represented clients. An attorney must honor one client's request that information be kept confidential from the other jointly represented client. Honoring the client's request will, in almost all circumstances, require the attorney to withdraw from the joint representation.

Opinion:

Unlike the attorney-client privilege, jointly represented clients do not lose the protection of confidentiality described in Rule 1.6, Confidentiality of Information, as to each other by entering into the joint representation. See, e.g., D.C. Bar Legal Ethics Committee, Opinion No. 296 (2000) and Committee on Professional Ethics, New York State Bar Association, Opinion No. 555 (1984). Nor do jointly represented clients impliedly consent to a sharing of confidences with each other.

When one client in a joint representation requests that some information relevant to the representation be kept confidential from the other client, the attorney must honor the request and then determine if continuing with the representation while honoring the request will: a) be inconsistent with the lawyer's obligations to keep the other client informed under Rule 1.4, Communication; b) materially and adversely affect the representation of the other client under Rule 1.7, Conflict of Interest: General Rule; or c) both.

The lawyer has discretion to continue with the joint representation while not revealing the confidential information to the other client only to the extent that he or she can do so consistent with these rules. If maintaining the confidence will constitute a violation of Rule 1.4 or Rule 1.7, as it almost certainly will, the lawyer should maintain the confidence and discontinue the joint representation.¹

Consent to conflicting representations, of course, is permitted under Rule 1.7. Consent to continued joint representation in these circumstances, however, ordinarily would not be available either because it would be impossible to obtain the required informed consent without disclosing the confidential information in question² or because consent is not permitted under Rule 1.7 in that the continued joint representation would "involve circumstances rendering it reasonably unlikely that the lawyer will be able to provide adequate representation to one or more of the affected clients." Rule 1.7 (c) (3).

The potential problems that confidentiality can create between jointly represented clients make it especially important that clients understand the requirements of a joint representation prior to entering into one. When an attorney is considering a joint representation, informed consent of the clients, confirmed in writing, is required prior to the representation "if there is a significant risk that the lawyer's . . . duties to [either of the jointly represented clients] . . . will materially and adversely affect the representation of [the other] client." Rule 1.7. Whether or not informed consent is required, however, a prudent attorney will always discuss with clients wishing to be jointly represented the need for sharing confidences between them, obtain their consent to such sharing, and inform them of the consequences of either client's nevertheless insisting on confidentiality as to the other client and, in effect, revoking the consent.³ If it appears to the attorney that either client is uncomfortable with the required sharing of confidential information that joint representation requires, the attorney should reconsider whether joint representation is appropriate in the circumstances. If a putative jointly represented client indicates a need for confidentiality from another putative jointly represented client, then it is very likely that joint representation is inappropriate and the putative clients need individual representation by separate attorneys.

The above guidelines, derived from the requirements of the Georgia Rules of Professional Conduct and consistent with the primary advisory opinions from other jurisdictions, are general

in nature. There is no doubt that their application in some specific contexts will create additional specific concerns seemingly unaddressed in the general ethical requirements. We are, however, without authority to depart from the Rules of Professional Conduct that are intended to be generally applicable to the profession. For example, there is no doubt that the application of these requirements to the joint representation of spouses in estate planning will sometimes place attorneys in the awkward position of having to withdraw from a joint representation of spouses because of a request by one spouse to keep relevant information confidential from the other and, by withdrawing, not only ending trusted lawyer-client relationships but also essentially notifying the other client that an issue of confidentiality has arisen. See, e.g., Florida State Bar Opinion 95-4 (1997) (“The attorney may not reveal confidential information to the wife when the husband tells the attorney that he wishes to provide for a beneficiary that is unknown to the wife. The attorney must withdraw from the representation of both husband and wife because of the conflict presented when the attorney must maintain the husband’s separate confidences regarding the joint representation.”) A large number of highly varied recommendations have been made about how to deal with these specific concerns in this specific practice setting. See, e.g., Pearce, *Family Values and Legal Ethics: Competing Approaches to Conflicts in Representing Spouses*, 62 Fordham L. Rev. 1253 (1994); and, Collett, *And The Two Shall Become As One . . . Until The Lawyers Are Done*, 7 Notre Dame J. L. Ethics & Public Policy 101 (1993) for discussion of these recommendations. Which recommendations are followed, we believe, is best left to the practical wisdom of the good lawyers practicing in this field so long as the general ethical requirements of the Rules of Professional Conduct as described in this Opinion are met.

The second publication of this opinion appeared in the June 2016 issue of the Georgia Bar Journal, which was mailed to the members of the State Bar of Georgia on or about June 7, 2016. The opinion was

filed with the Supreme Court of Georgia on July 1, 2016. No review was requested within the 20-day review period. On July 25, 2016, the Supreme Court of Georgia issued an order declining to review the opinion on its own motion. In accordance with Rule 4-403(d), this opinion is binding only on the State Bar of Georgia and the person who requested the opinion, and not on the Supreme Court of Georgia, which shall treat the opinion as persuasive authority only.

Endnotes

1. See ABA MODEL RULES OF PROF'L CONDUCT, R. 1.7, cmt. 31 (“As to the duty of confidentiality, continued common representation will almost certainly be inadequate if one client asks the lawyer not to disclose to the other client information relevant to the common representation.”)
2. See GEORGIA RULES OF PROF'L CONDUCT, R. 1.0(h) (defining “informed consent” as “the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct”); see also *id.*, cmt. 6 (“The lawyer must make reasonable efforts to ensure that the client or other person possesses information reasonably adequate to make an informed decision. Ordinarily, this will require communication that includes a disclosure of the facts and circumstances giving rise to the situation, any explanation reasonably necessary to inform the client or other person of the material advantages and disadvantages of the proposed course of conduct and a discussion of the client’s or other person’s options and alternatives.”)
3. See ABA MODEL RULES OF PROF'L CONDUCT, R. 1.7, cmt. 31 (advising that “[a] lawyer should, at the outset of the common representation and as part of the process of obtaining each client’s informed consent, advise each client that information will be shared and that the lawyer will have to withdraw if one client decides that some matter material to the representation should be kept from the other).

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Formal Advisory Opinion Board Withdraws Formal Advisory Opinion No. 03-2

Members of the State Bar of Georgia are hereby NOTIFIED that on July 26, 2016, the Formal Advisory Opinion Board withdrew Formal Advisory Opinion No. 03-2. Formal Advisory Opinion No. 03-2 was issued on September 11, 2003, as an opinion of the Formal Advisory Opinion Board. Upon review of Formal Advisory Opinion No. 03-2, in light of the November 3, 2011 amendments to the Georgia Rules of Professional Conduct, the Formal Advisory Opinion Board determined that the substance and/or conclusion reached in the opinion changed, and that Formal Advisory Opinion No. 03-2 no longer provided accurate guidance to members of the State Bar of Georgia. The Board redrafted Formal Advisory Opinion No. 03-2. Formal Advisory Opinion No. 16-1 is the redrafted version of Formal Advisory Opinion No. 03-2. Following the issuance of Formal Advisory Opinion No. 16-1 on July 25, 2016, the Formal Advisory Opinion Board withdrew Formal Advisory Opinion No. 03-2.

Proposed Amendments to the Uniform Rules for Superior Court

At its business meeting on July 27, 2016, the Council of Superior Court Judges approved proposed amendments to Uniform Superior Court Rules 7 and 31. A copy of the proposed amendments may be found at the Council's website at <http://georgiasuperiorcourts.org>.

Should you have any comments on the proposed changes, please submit them in writing to the Council of Superior Court Judges at 18 Capitol Square, Suite 104, Atlanta, Georgia 30334 or fax them to 404-651-8626. To be considered, comments must be received by Monday, January 2, 2017.

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Does CAP assist attorneys as well as consumers?

Yes. CAP helps lawyers by providing courtesy calls, faxes or letters when dissatisfied clients contact the program. Most problems with clients can be prevented by returning calls promptly, keeping clients informed about the status of their cases, explaining billing practices, meeting deadlines, and managing a caseload efficiently.

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- Where the caller files a grievance and the lawyer involved wants CAP to share some information with the Office of the General Counsel; or
- A court compels the production of the information.

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PRACTICE ASSISTANCE

Trust and Estate Administration, Consulting, Legacy Planning—Trust Officer with 16 years of personal trustee experience and an additional 21 years in the area of financial services can provide the following services: individual trustee, power of attorney, executor/administrator, health care agent and escrow services. Contact Randy Bell, randyb5888@gmail.com or 404-323-3595.

ATTORNEY COACHES ARE NEEDED FOR HIGH SCHOOL TEAMS THROUGHOUT GEORGIA

Serve as a mentor to a team in your area and make a positive impact in your community.

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JUDGING PANEL VOLUNTEERS NEEDED FOR:

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2017 DISTRICTS (Eight locations statewide—Feb. 18)

2017 STATE FINALS (Lawrenceville—March 4)

A few hours on a Saturday makes all the difference!

Information on volunteering is available on the Volunteer for the Program page at www.georgiamocktrial.org.

For more information about the program, contact HSMT State Coordinator, Michael Nixon, at 404-527-8779, 800-334-6865 ext. 779 or email: mocktrial@gabar.org.

Check us out on Facebook @GeorgiaMockTrial and on Twitter @GA_MockTrial!



POSITION WANTED

PI Junior Associate Attorney (Jacksonville, FL) Law firm of military veterans is seeking veterans for their growing law firm. PI Jr. associate attorneys (0-3 years' experience and recent grads). Salary commensurate with experience. Please send cover letter and resume with references to Ron@youhurtwefight.com.

Personal Injury Attorney—Successful, growing, in-town plaintiff's personal injury firm seeking associate. Excellent financial opportunity for right person. Good benefits. Successful candidate will have good speaking, writing and negotiation skills. Litigation experience a plus. All replies confidential. Please send resume to: spshns@me.com.

Law Practices Wanted. Successful general practice firm based in Atlanta is looking to expand by purchasing another legal practice. We are able to service your existing clients and will consider hiring your employees for a smooth transition. We will also consider a cooperative relationship with the seller. The interest of your clients will be protected. All inquiries will remain confidential. For more information, email us at hsnlaw@gmail.com.

Indigent Defense Attorney Services—RFQ Number: 17-003; Close Date: 10/14/2016; 5 p.m.; Pre-Submittal Conference N/A; Deadline for questions: 9/30/2016; 5 p.m.; Bid packages are available on the City of Sandy Springs website, purchasing page: <http://www.sandyspringsga.org/business/doing-business-with-the-city/cityprocurements>, and also may be downloaded from the DOAS website (www.doas.georgia.gov).

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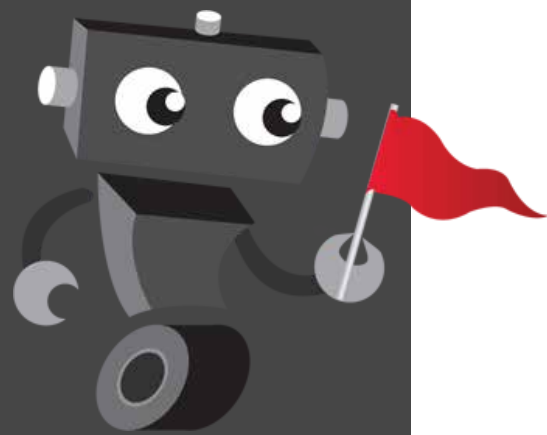
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THE STATE BAR OF GEORGIA ANNOUNCES ITS ANNUAL

FICTION WRITING COMPETITION

DEADLINE: JANUARY 13, 2017

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

1. The competition is open to any member in good standing of the State Bar of Georgia, except current members of the Editorial Board. Authors may collaborate, but only one submission from each member will be considered.
2. Subject to the following criteria, the article may be on any fictional topic and may be in any form (humorous, anecdotal, mystery, science fiction, etc.). Among the criteria the Board will consider in judging the articles submitted are: quality of writing; creativity; degree of interest to lawyers and relevance to their life and work; extent to which the article comports with the established reputation of the *Journal*; and adherence to specified limitations on length and other competition requirements. The Board will not consider any article that, in the sole judgment of the Board, contains matter that is libelous or that violates accepted community standards of good taste and decency.
3. All articles submitted to the competition become the property of the State Bar of Georgia and, by submitting the article, the author warrants that all persons and events contained in the article are fictitious, that any similarity to actual persons or events is purely coincidental and that the article has not been previously published.
4. Articles should not be more than 7,500 words in length and should be submitted electronically.
5. Articles will be judged without knowledge of the author's identity. The author's name and State Bar ID number should be placed on a separate cover sheet with the name of the story.
6. All submissions must be received at State Bar headquarters in proper form prior to the close of business on a date specified by the Board. Submissions received after that date and time will not be considered. Please direct all submissions to: Sarah I. Coole, Director of Communications, by email to sarahc@gabar.org. If you do not receive confirmation that your entry has been received, please call 404-527-8791.
7. Depending on the number of submissions, the Board may elect to solicit outside assistance in reviewing the articles. The final decision, however, will be made by majority vote of the Board. Contestants will be advised of the results of the competition by letter. Honorable mentions may be announced.
8. The winning article, if any, will be published. The Board reserves the right to edit articles and to select no winner and to publish no article from among those submitted if the submissions are deemed by the Board not to be of notable quality.