

GEORGIA BAR  
**JOURNAL**

From the President:  
The Value of Mentorship

Mentoring Matters

Labor & Employment  
Law Section's  
Mentorship Academy:  
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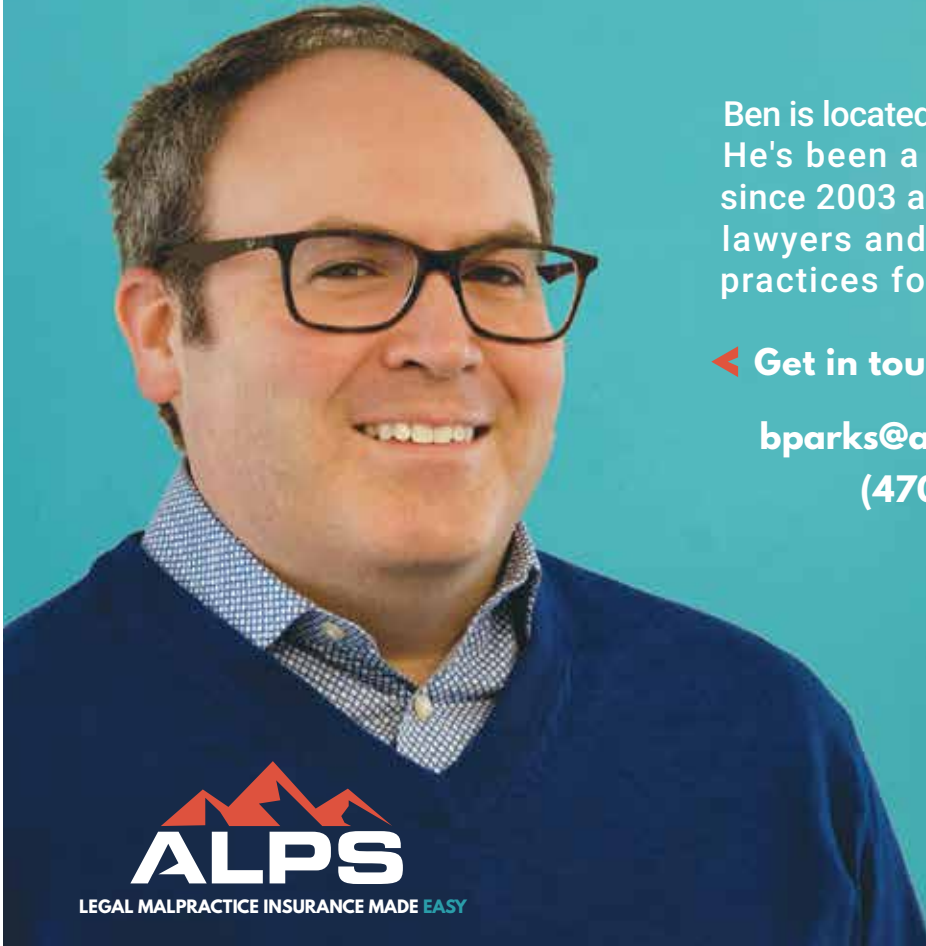
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The *Georgia Bar Journal* welcomes the submission of news about local and voluntary bar association happenings, Bar members, law firms and topics of interest to attorneys in Georgia. Please send news releases and other information to: Jada Pettus, Administrative Assistant, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303; 404-527-8791; jadap@gabar.org.

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# The October Issue

**Hello again! Thank you for picking up** the October issue of the *Georgia Bar Journal*. In this edition, we have a number of articles on timely and essential topics such as mentoring, wellness, diversity, ethics and professionalism.

In “The Value of Mentorship,” President Elizabeth L. Fite, who attended the Labor & Employment Law Section’s Mentorship Academy graduation and was inspired by their stories, encourages other sections to consider creating a mentorship academy, as mentoring is important to the future of the legal profession and helps strengthen practice areas in Georgia’s legal community. In his executive director’s column, Damon Elmore discusses the “Meaning of Mentorship.” General Counsel Paula Frederick explains in “Mentors—Have One, Be One” the circle of life in mentoring relationships—each generation passing the profession’s traditions on to the next. TILPP Director Kellyn O. McGee gives us a glimpse into the mentoring experience through the eyes of the 2019 John T. Marshall Model Mentor Award recipient Cara Mitchell and her nominator Alston Lyle. YLD President Elissa Haynes reflects on her own experiences both as a mentee and a mentor in “From Mentee to Mentor: Encouraging the Next

Generation of Leaders.” To continue the mentoring theme, the Labor and Employment Law Section provides an update on its Mentorship Academy; the 2019-20 class just celebrated its End-of-Year Celebration. (Congratulations!!) With National Mentoring Day on Oct. 27, it’s a great time for our *Journal* readers to reflect on their own mentor/mentee relationships and be inspired to create new, beneficial experiences.

Other highlights in this edition include new Georgia Diversity Program Executive Director Halima White’s article on “Expanding Our Concept of Diversity” and Chief Justice’s Commission on Professionalism Executive Director Karlise Grier’s piece on the 29th Annual Law School Professionalism Orientation Program. In our ethics feature, “The Truth, the Whole Truth, and Nothing But the Truth. Well ... Not Exactly,” Don Samuel and Amanda Clark Palmer explore the sometimes inconsistent and murky legal ethics rules for Georgia’s attorneys. Our legal, “To Respond or Not to Respond,” by Lonnie T. Brown Jr., provides guidance on responding to online critics while maintaining confidentiality.

On behalf of the Editorial Board and communications team, we hope you enjoy the October issue! Happy reading! ●



**MEGAN HODGKISS**

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# The Value of Mentorship



PHOTO BY ZACHARY D. PORTER

## ELIZABETH L. FITE

President  
State Bar of Georgia  
[president@gabar.org](mailto:president@gabar.org)

If you read the August edition of the *Georgia Bar Journal*, you know that I cut my proverbial teeth in the legal field under the guidance of an influential mentor, Allen Roberts, who was a successful sole practitioner in my hometown.

Working for Allen as a high school senior and when I was home on breaks from college, I had the opportunity to get hands-on experience in a wide variety of legal tasks in the office and at the courthouse. Even more valuable was the chance to soak up the wisdom of someone who had practiced law for several decades.

In late July, I attended this year's graduation ceremony for the Mentorship Academy of the State Bar's Labor & Employment Law Section. It was inspiring to hear the success stories from this year's class of mentees and mentors—the fruits of their commitment to the betterment of the labor and employment law profession in our state.

It also made me remember my time with Allen Roberts as a student in Arkansas, as well as the many experienced attorneys and judges I have learned and continued to learn from as a lawyer here in Georgia. Mentorship has always been important to me, and I think it is critically important to the profession.

The value of mentoring is not lost on the State Bar of Georgia or the dozens of other state bars around the country that have implemented formal mentoring programs for young and new lawyers.

Most of us can point to at least one instance where the support and tutelage of a more experienced attorney helped carry us from what we learned in law school to the real-world practice of law.

An ongoing, structured mentoring relationship similar to those facilitated by our State Bar's Transition Into Law Practice Program is, obviously, beneficial beyond measure to the mentee. But the experienced attorney doing the mentoring also benefits from the opportunity to give back to the profession and remain current and active in a time-commitment-heavy yet rewarding program for all involved.

As a unified State Bar, we are at the service of every lawyer in Georgia. We don't represent the interests of any one group over another. The reason our original State Bar bylaws provide for the establishment of practice area sections is "to afford a medium whereby members of the Bar interested in a particular phase of law or practice may further the work of the State Bar in the development of the unity of the law as a science and its practice as an art, and in the interest of the profession and performance of its public obligations."

We depend heavily on the 51 sections that serve both the legal profession and the public by providing section members with practice-specific communications, CLE and other programming and, perhaps most important, opportunities to interact and exchange ideas with fellow practitioners. Therefore, any section that



# OFFICERS' BLOCK

In this issue of the Georgia Bar Journal, we asked our State Bar of Georgia officers, "What is your favorite Bar offering, program or member benefit?"

facilitates a program similar to the Labor & Employment Law Section's Mentorship Academy is exponentially enhancing its value to its members, their clients and the justice system of our state.

It was an emotionally uplifting experience for me to hear Jay Rollins talk about the awesome work of the academy. (See Jay's related article on page 58). This is a shining example of professional service: seasoned, established attorneys sharing their expertise and lessons learned with younger, newer colleagues for the greater good.

U.S. Magistrate Judge Catherine Salinas was a special guest of the academy for its graduation ceremony. Judge Salinas is a strong proponent of mentorship and, along with Georgia State University law student Madison Hayes, has developed two helpful documents for legal mentors: "8 Tips for Being a Good Mentor," which you can find on page 9, and a Mentor Meeting Checklist. Judge Salinas' checklist includes items that mentors should cover during meetings with their mentees:

- Ask about life, interests or hobbies.
- Ask about future job plans.
- If a new assignment:
  - Provide feedback on past assignments.
  - Ensure they understand instructions.
  - Provide a "go by."



**ELIZABETH L. FITE**  
*President*

I have many, but recently I've seen firsthand the benefits of our Sudden Health Crisis/Succession Plan project, which was created by the Senior Lawyers Committee. It's something for us all to consider, especially for those in solo or small firms. For more information, visit [www.gabar.org/healthcrisis](http://www.gabar.org/healthcrisis).



**SARAH B. "SALLY" AKINS**  
*President-Elect*

Member Benefits Committee. This is an untapped resource for many of the lawyers of the State Bar. This committee works hard to provide opportunities for Georgia lawyers to get access to more affordable legal research, insurance and other benefits.



**HON. J. ANTONIO "TONY" DELCAMPO**  
*Treasurer*

The Military Legal Assistance Program (MLAP). Having served as Executive Committee liaison to MLAP, I saw firsthand and appreciated the excellent work that Georgia attorneys do to help service members and veterans by connecting them to lawyers that provide legal assistance for free or reduced rates. This program embodies the giving spirit of our profession.



**IVY N. CADLE**  
*Secretary*

The Lawyer Assistance Program helps with anything. Young lawyer struggling with a senior partner? Can't get along with your family? Getting divorced? Struggling to prioritize your day? Can't find time to exercise? In addition to helping with acute personal issues, the Lawyer Assistance Program can help you, too!



**DAWN M. JONES**  
*Immediate Past President*

Prior to the pandemics I would have cited Law Practice Management programming and related resources like the library. However, over the past 16 months I have found the six prepaid clinical sessions (in addition to the Wellness Committee and Lawyers Assistance Program events) most helpful, hands down!



# BAR BENEFITS

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### DID YOU KNOW?

The Bar Center conference rooms can be reserved at no charge for law-related meetings. Similar amenities are available at the Coastal and South Georgia offices.

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- Don't overestimate experience level.
- Promote mentee with organization or community.
- Find an observation opportunity.
- Provide a resource, contact or connection.
- Ask the mentee what they need (open-ended question).
- Schedule next meeting.

The last item on the Mentor Meeting Checklist particularly resonated with me: schedule the next meeting with your mentee. I speak from experience regarding the ease with which a good idea or intention can fall by the wayside because of other commitments. So if this article encourages you to mentor and show up on a regular basis for your mentee, then I consider it a success.

Obviously, the Labor & Employment Law Section's Mentorship Academy and similar programs would not be successful unless both the necessary commitment of time and effort and the ultimate benefits are shared at both ends of the mentor/mentee relationship. For the eager-to-learn younger lawyer, the rewards are obvious and immeasurable. But serving as a mentor can be a revitalizing opportunity to give back to the profession and receive satisfaction from having helped a younger colleague succeed.

For lawyers in sections that do not offer established mentoring components at this time, or those who do not belong to any sections, the State Bar's Transition Into Law Practice Program (TILPP) is an outstanding resource for newly admitted lawyers. TILPP matches new Bar members with a mentor during their first year of practice for continuing legal education credit. I was fortunate to have been

a member of the inaugural class of TILPP participants and still remember going through the program and how it helped create a connection with another lawyer in my firm.

The aim is to provide every newly admitted Bar member with meaningful access to an experienced lawyer equipped to teach the practical skills, seasoned judgment and sensitivity to ethical and professional values necessary to practice law in a highly competent manner. The program was developed by and is operated under the auspices of the Standards of the Profession Committee of the Commission on Continuing Lawyer Competency.

Key elements of TILPP's mentoring program include regular contact and meetings between the mentor and beginning lawyer; discussions on ethics and professionalism, client relationships, practice management and pro bono responsibilities, among others; an introduction to the local community; and periodic evaluation of the mentor/mentee relationship.

Mentoring is important to the present and future of the legal profession. It's an opportunity at an early stage of one's career to continue learning after law school—drawing from the real-world experiences of a veteran lawyer who is willing to share their institutional knowledge for the good of the profession.

The Labor & Employment Law Section's Mentorship Academy provides a blueprint for any Bar section that wants to incorporate a mentoring program specifically designed for its newer members. I encourage all of our sections and local or voluntary bar associations to consider setting up a similar academy in order to strengthen the future of your practice area in Georgia's legal community. ●

# 8 TIPS FOR BEING A GOOD MENTOR

1

## SHOW INTEREST

Show interest in your mentee. Without delving into areas that are off-limits in the workplace, ask the mentee specific questions about their life. Encourage your mentee to share by discussing your own background and experiences. This will help you to identify common interests and points of connection.



2

## GIVE FEEDBACK

Provide feedback to your mentee, and do it in a timely fashion. The benefit of feedback can be lost if it comes too long after the assignment is turned in. And hey... negative feedback is better than no feedback at all. But make sure that feedback is constructive. The assignment is likely a learning opportunity for the mentee, and you want your feedback to serve as a guidepost for future work rather than a discouraging remark.



3

## SUPPLY EXAMPLES

Provide examples or multiple "go bys" when giving your mentee an assignment. This will demonstrate the quality of work product you expect. It will also help to mitigate any confusion about the assignment and help to ensure that your instructions are not vague.



4

## UNDERSTAND THE MENTEE

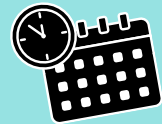
Meet the mentee where they are. Adjust your expectations to the particular person and make sure you are not overestimating their level of work experience. More likely than not, your mentee is trying their best. If your mentee is not excelling at a certain task, try to understand how your mentee approached the task and why your mentee chose that approach. Suggest alternatives that may be helpful.



5

## MEET ON A REGULAR BASIS

Be consistent. Regularly scheduled meetings—either in person or virtually—will help you stay connected and provide the mentee with a safe place to ask questions (without them feeling like they are bugging you). Also, try having an occasional one-on-one meeting away from the office. The informal setting will allow for an easier conversation about topics that the mentee might not want to discuss in the office.



6

## REACH OUT

Continue to reach out. The mentee might be hesitant to disturb you. By being the first to start a conversation, you relieve the mentee of the stress of deciding when to ask a question. And it shows you are interested. (See #1 above).



7

## PROVIDE OBSERVATION OPPORTUNITIES

Provide opportunities for the mentee to observe things that you do. Observation is key in the learning process and it gives you the platform to teach by example.



8

## MAKE CONNECTIONS

Be a source of contacts for the mentee. Ask your mentee what else they need in terms of training, experience, introductions, or work-life balance. Do so in an open-ended way. You might be surprised by their answer. Then use your resources to make it happen.



*Created By Catherine Salinas, US Magistrate Judge, and Madison Hayes, Georgia State University Law Student*

# From Mentee to Mentor: Encouraging the Next Generation of Leaders



**ELISSA B. HAYNES**

YLD President  
State Bar of Georgia  
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**Just like our lives are shaped, in large part,** by those who raised us, the same can be said for our careers and the mentors who supported us along the way. Despite my relatively short tenure practicing law, I have reaped the benefits of being both a mentee and a mentor. I also recognize that I would not be where I am today if it were not for the countless hours my mentors spent teaching me not only how to practice law, but how to be a leader in the legal profession.

I was like many other young lawyers that did not have the benefit of participating in an externship or legal clinic or working as a summer associate at a firm before I started practicing law. Candidly, I started off clueless about how to be a lawyer. I vividly recall the experience and feeling lost and overwhelmed. I would spend my days nervously sitting at my desk—then located in a large plaintiff personal injury firm—wondering what exactly I was supposed to do and how in the world I was supposed to figure it all out.

Of course, there were always other lawyers at the firm around to ask for help. But everyone seemed either too busy or simply disinterested in helping a new, young and eager lawyer. So, for months, I went to work, kept my head down and focused on getting my work done to the best of my then abilities. Before long, it became a monotonous routine and felt remarkably unfulfilling. It was not at all what I expected my life as a practicing lawyer to be and,

honestly, it was a bit discouraging. Leaving law school, I knew I wanted to litigate, but at the time I was not getting the opportunity to do so and felt like I was stuck. Fortunately, all of that changed with my first mentor, Brian Parker.

I will never forget the day that Brian first approached me. Brian was the firm's outside litigation counsel and he routinely came to the office to discuss litigation strategy with the other, more senior lawyers. Usually, when complicated cases required litigation, they would be referred to Brian for handling. On one of Brian's routine visits to the office, I had a pre-suit premises liability case that met Brian's criteria for taking. However, Brian noticed my interest in litigation and, rather than sweeping in and taking control of the file himself, he suggested that I work the case with him and invited me to tag along at the site inspection. In the moment, I never imagined that something so simple—inviting me along to participate in a routine site inspection and to assist him with litigation strategy—would have such a profound impact on me and my career. But that opportunity gave me the introduction to litigation that I had been craving and validated what I wanted to do with my future. And it all came from Brian's selfless decision to take me under his wing and share some of his time.

Four years later, I eventually began my insurance defense career. Despite having some practical experience under my belt,

# OFFICERS' BLOCK

In this issue of the Georgia Bar Journal, we asked our YLD officers, "What is your favorite Bar offering, program or member benefit?"

transitioning from plaintiff's work to defense work was no easy task. But I was fortunate, once again, to work with another lawyer, Robert Luskin, who would go on to become my mentor for the next five years. Robert patiently taught me the ins and outs of defense work, from motion practice and jury trials, to successfully building a book of business—an invaluable skill in the insurance defense industry. Just a few years into my defense practice, Robert also assigned me my first negligent security case and trusted me to work the file as lead counsel from inception, through my first oral argument at the Court of Appeals of Georgia, and all the way up to the Supreme Court of Georgia. Unbeknownst to me at the time, this negligent security case would jumpstart my appellate practice and help generate several business contacts in the convenience store industry.

While the work-related mentorship was obviously important, Robert also encouraged my personal and professional development, even if that development occasionally took me away from the office and resulted in fewer billable hours. As a leader himself in several professional organizations, Robert understood the benefits of professional involvement. In hindsight, I realize that Robert's mentorship afforded me more opportunities than most young lawyers could ever hope for, and I will always be immensely grateful for that.



**ELISSA B. HAYNES** | YLD President

Now, more than ever, my favorite (and, in my opinion, the most important) member benefit the Bar has to offer is the Use Your Six program. The State Bar provides six prepaid (and completely confidential) clinical sessions per year. I encourage each of you to use them.



**RON DANIELS** | YLD President-Elect

As a simple country lawyer, and formerly a solo practitioner, I have a great fondness for the Law Practice Management Program. I believe it is an underutilized resource and has greatly impacted my practice and business.



**BRITTANIE D. BROWNING** | YLD Treasurer

I enjoy all of the networking and CLE offerings from the Bar, particularly those for the YLD; but my favorite benefit is the parking at the State Bar. The building is conveniently located close to Mercedes Benz Stadium which is handy for attending Atlanta United matches or Falcons games.



**KENNETH MITCHELL JR.** | YLD Secretary

I love participating in the section-sponsored CLEs because they provide learning and networking opportunities. I also appreciate the free parking whenever I go to downtown for sporting events.



**BERT HUMMEL** | YLD Immediate Past President

My favorite Bar program is the YLD Leadership Academy because it provides a unique experience of introducing attorneys to the work of the Bar, the judiciary and our legislative process while allowing young attorneys the to opportunity to expand their network across the state and various practice areas. I encourage all young lawyers to apply.



**ASHLEY AKINS** | YLD Newsletter Co-Editor

My favorite Bar program is the Young Lawyers Division! I love attending meetings and getting to know young lawyers from across the state.



**LAKEISHA R. RANDALL** | YLD Newsletter Co-Editor

The Use Your Six Program, or the six prepaid clinical sessions available to each attorney. Lawyer wellness is critical to our profession and this offering is wonderful. Understanding the unique challenges of practicing law, it is important to proactively invest time and resources into our mental health—well lawyers are better lawyers.



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Brian and Robert both embodied the best traits of a mentor: patience, trust, professionalism and a genuine interest in helping young lawyers find their paths in the legal profession. As I progressed through my own career, evolving from junior associate to senior associate and eventually to partner, I became personally invested in making sure younger lawyers had the same valuable mentorship opportunities that I had. Even though it would have been very easy to become one of the “disinterested” or “too busy” lawyers, I was always reminded of the value even a small amount of my time could represent to a younger, less experienced attorney.

After just a decade of practicing law, I hardly consider myself a distinguished or learned practitioner. But it is a completely unfounded perception that a mentor must be gray haired and have decades of experience. Mentors can, and should, span all ages and levels of experience. When searching for a mentor, it is all about finding someone that you trust, respect and believe will support you in getting to the place you want to be, both personally and professionally.

So, as a younger or newer lawyer, how do you take that leap from mentee to mentor and what should you do to make the most of your mentee-mentor relationship? Start by getting involved in a professional organization. Many organizations have leadership opportunities, as well as internal mentorship programs. For me, the YLD and the Georgia Defense Lawyers Association were the perfect fit and allowed me to meet and interact with other similarly situated lawyers throughout the state while also building leadership skills. There are several organizations out there such as the Georgia Trial Lawyers Association, Gate City Bar As-

sociation, Georgia Hispanic Bar Association, Georgia Asian Pacific American Bar Association and the Stonewall Bar Association, to name a few. Find one that best fits your interests. Taking the initiative to get involved with professional organizations is a great way to find a mentor or to give back by serving as one.

Once you have taken that first step of getting involved in the legal community, be proactive about mentorship opportunities. As lawyers, it is incredibly easy to get sucked into our day-to-day routines and focus on our individual workloads. But take a step back and remember what it was like to be brand-new in the field and eager to learn the ropes. And for those of you mentoring (or thinking of mentoring) someone within your company, know that people are loyal to those who helped and invested in them. Take the time to get to know your mentee or mentor, find shared interests, and build a mutually beneficial and rewarding relationship. In a sense, mentoring is just like practicing law—find what works best for you and learn as you go.

Lastly, avoid getting wrapped up in the notion that mentorship will take up too much of your time. Just like Richard Dreyfuss said in the Bill Murray classic, “What About Bob?”, take it in baby steps! And, if you have not seen the movie, consider that a piece of advice as well. Being a mentor or mentee does not have to be a complicated, formal or even overly time-consuming process. You do not need a structured plan or curriculum, and you do not need to wait until you have transitioned from the YLD to what those who have aged out refer to as the “OLD.” Now is the time to start investing in and encouraging our next generation of leaders. ●



**When life  
doesn't  
make sense.**

The SOLACE program is designed to assist any member of the legal community (lawyers, judges, law office and court staff, law students and their families) in Georgia who suffer serious loss due to a sudden catastrophic event, injury or illness. Visit [www.gabar.org](http://www.gabar.org) for more information on SOLACE, or email [solace@gabar.org](mailto:solace@gabar.org).

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# The Meaning of Mentorship



PHOTO BY EVAN BARTLESON PHOTOGRAPHY

## DAMON ELMORE

Executive Director  
State Bar of Georgia  
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It has been said that “mentoring is important to the present and future of the legal profession.” Without question, programs like our Transition Into Law Practice Program and the work of the Labor and Employment Law Section, or the Young Lawyers Division and its Leadership Academy, work to improve the quality of legal services. But what does it mean on a personal level? What does it mean to new and experienced lawyers and judges?

It may come as no surprise that the answer is different depending upon whom you ask. The one clear constant is that (arguably) no other professional relationship or engagement makes a difference. But I remain curious about what it means and what it looks like.

So I asked a few friends. They are women and men who carry out their legal work in different ways. They are judges, in-house counsel and trial attorneys. My “focus group” lives and works in Columbus, Macon and the metro-Atlanta area. Most have been active in the work of the Bar, but some are simply interested in making sure the message of mentorship is communicated.

As part of our discussion, I was interested in knowing:

- Is mentorship important for the legal profession (why/why not)?
- How did you find your first/earliest mentor(s)?
- Is a mentor still relevant at this point in your career?

- Why should someone be a mentor?
- What is one piece of advice for planning a career, rather than simply keeping a job?
- How did your mentor influence you?

Here are some of their thoughts (condensed for brevity). As always, I am interested to know what you think and what ideas you have, too. Please share those with us ([damone@gabar.org](mailto:damone@gabar.org)).

Presiding Judge Stephen Louis A. Dillard was appointed to the Court of Appeals of Georgia in 2010. He was in private practice in Macon prior to his appointment. Many think highly of Judge Dillard for a lot of reasons, including the way he grooms the interns and clerks who come through his office, as well as his support of so many of the initiatives of the Young Lawyers Division. He offered that “mentoring is crucial for the betterment of the legal profession.” As judges and lawyers, he believes “we have a responsibility to train, encourage and inspire students and young lawyers.” Here is why he believes that is so important: “What we do is so much more than a job, and freely sharing our knowledge and experiences will not only benefit those being mentored, but also their future clients and the profession as a whole.” I concur.

Presiding Judge Sara L. Doyle was elected to the Court of Appeals of Georgia in 2008. Prior to taking office, she was an equity partner with the national law firm of Holland & Knight LLP. I have known



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Judge Doyle for some time and have always appreciated her active involvement with many professional/Bar organizations. She shared that “mentorship is extremely important for the legal profession.” She explained the significance a bit more, saying “as law students, we spend three years being taught how to think, but little about the actual practice of law or how to navigate our legal careers. Good mentors help those joining the profession to not only become more effective practitioners, but can streamline a new attorney’s understanding of what he or she wants to accomplish as a legal professional.” My sentiments exactly!

Shiriki Cavitt Jones currently serves as a commercial transactions attorney for Coyote Logistics LLC, a UPS Company. Jones also connects with law students as an adjunct professor at Emory University School of Law, teaching a corporate externship class since 2013. In June, she was elected to the State Bar’s Executive Committee. When asked if mentorship was important to the legal profession, she said “yes!” She then explained that “I believe that it really does take a village of mentors and sponsors to help build a good lawyer/legal career. A mentor is an accountability partner and a part of a mentee’s support system to help guide one through the ins and outs of practice and a great way to maneuver through potential practice minefields. The mentor/mentee relationship offers brand new

exposure and perspective to each other’s ideas, methods, opinions and resolutions.” Could not agree more!

The last member of my immediate focus group was Alex Shalishali. Alex was raised in Columbus and has a focus on litigation as part of his practice. He is active with the Young Lawyers Division and is a committed mentor in that part of the state. I was curious whether he believes mentorship is still relevant at this point in his career and why should someone be a mentor. Here’s what he shared: “Unquestionably. Despite the fact I am going into my 10th year of practice, I still regularly come across practice issues that I have never dealt with but am often able to work through them with guidance from

more experienced colleagues.” And when I asked why someone should be a mentor, he explained: “For me, mentorship has always been about paying it forward. I was fortunate to have a number of great mentors throughout my life who looked out for me in ways in which I could never repay.” Facts!

The point? ... Lawyers need mentors. Whether they take on the role as originally described in “The Odyssey,” or they adapt new concepts from Sheehy and Levinson, we need a group of consistent reference points, who will help us avoid poor ethical choices, support us in the advancement of our careers, comfort us through crisis and help ensure the profession remains noble, honest and just. DEE ●

## Point of Personal Privilege:

Thanks to the judges and lawyers who specifically helped with the work in this article. But thanks, also, to the lawyers and law students who shared their thoughts on recent visits to Covington, Rome, at Emory’s Law School or part of the Gate City Bar Association retreat. I love talking with Georgia lawyers. Thank you all for your thoughts, too. DEE



# To Respond or Not to Respond? Confidentiality and Defending Against Online Critics

With the advent of the internet and the proliferation of online rating and review sites, the likelihood that lawyers will be subject to negative online critiques has increased significantly. When this occurs, the natural impulse is to refute the criticism, directly and comprehensively. ... In the end, not responding at all may prove to be the wisest strategy.

BY LONNIE T. BROWN JR.

**A former client, unhappy with Lawyer X's representation, posts the following message online: "Lawyer X is the worst! He neglected my case, never returned phone messages or texts, and generally provided incompetent representation that caused me to lose at trial. DON'T HIRE LAWYER X, EVER!!"** Lawyer X sees the post and knows that it does not accurately portray his representation of the former client. Should Lawyer X respond or simply ignore the post and move on?

Although dissatisfied clients have always been able to criticize their lawyers in this fashion, the threat of real harm was probably minimal given the limited dissemination of such critiques. However, the advent of the internet and various rating sites (such as Yelp) render this type of professional criticism broadly accessible and far more likely to have a long-lasting detrimental impact upon a lawyer's reputation and practice.

This enhanced likelihood of tangible harm has increased lawyers' interest in responding to online criticism to set the record straight and protect their good names. But is this ethically acceptable? If so, what is the permissible scope of that response? And, more fundamentally, is it worth responding at all?

Generally speaking, lawyers are permitted to respond to online critics. There are, however, significant ethical constraints—largely stemming from a lawyer's duty of confidentiality—that limit the content of and manner in which one may respond. In addition, the substance of a permissible response may be further affected by whether the critic is a client, former client or prospective client.<sup>1</sup>

## **Confidentiality v. Attorney-Client Privilege**

In considering the propriety of responding to online criticism, it is first necessary

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to examine the scope of a lawyer's duty of confidentiality and to distinguish that ethical obligation from the protection afforded by the attorney-client privilege. In Georgia, a lawyer's duty of confidentiality is defined in Rule 1.6 (a) of the Rules of Professional Conduct:

A lawyer shall maintain in confidence all information gained in the professional relationship with a client, including information which the client has requested to be held inviolate or the disclosure of which would be embarrassing or would likely be detrimental to the client, unless the client gives informed consent, except for disclosures that are impliedly authorized in order to carry out the representation, or are required by these rules or other law, or by order of the court.<sup>2</sup>

It is important to recognize the breadth of this obligation. The rule does not simply apply to information that is "communicated in confidence by the client but also to all information gained in the professional relationship, whatever its source."<sup>3</sup> Furthermore, the information need not be embarrassing or detrimental to the client, nor does a client need to expressly ask a lawyer to keep the information confidential. Such circumstances obviously fall within the scope of the duty, but they only represent a subset of what is protected.

Distinguishing the duty of confidentiality from the attorney-client privilege is

also critical. Everything that is protected by the attorney-client privilege is necessarily protected by the duty of confidentiality, but the reverse is not true. The privilege generally protects (against legally compelled disclosure) communications, made in confidence, between a lawyer and client (or their agents) for the purpose of obtaining or providing legal advice or assistance.<sup>4</sup> The duty of confidentiality, on the other hand, protects a much larger body of information, and the protection afforded is a restriction on a lawyer's ability to voluntarily disclose covered information, whether or not there has been a legal effort to compel such disclosure.<sup>5</sup> The distinction is highly relevant in the context of responding to online criticism, especially in considering the possible effect of a client's waiver of the attorney-client privilege on the substance of what a lawyer can permissibly disclose in response. (See Part II, below.) Furthermore, the duty of confidentiality does not apply to clients only; it likewise covers information regarding former and prospective clients to the extent that it falls within Rule 1.6 (a)'s scope. With regard to former clients, Rule 1.9 (c) states that:

A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter

- (1) use information relating to the representation to the disadvantage of the former client except as Rule 1.6 or Rule 3.3 would permit or require with respect to a client, or when the information has become generally known; or
- (2) reveal information relating to the representation except as Rule 1.6 or Rule 3.3 would permit or require with respect to a client.<sup>6</sup>

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## In Georgia, a lawyer's duty of confidentiality is defined in Rule 1.6 (a) of the Rules of Professional Conduct ...

Interestingly, the scope of the duty under Rule 1.9 (c) extends to a lawyer's "use" of confidential information to the disadvantage of a former client, as well to disclosure, unless the information has become "generally known."<sup>7</sup>

Effective May 14 of this year, the Supreme Court of Georgia amended the Rules of Professional Conduct by, among other things, adding Rule 1.18, which deals exclusively with duties owed to prospective clients.<sup>8</sup> The new rule, fashioned largely after ABA Model Rule 1.18,<sup>9</sup> defines a “prospective client” as “[a] person who consults with a lawyer about the possibility of forming a client-lawyer relationship with respect to a matter.”<sup>10</sup> If one qualifies as a prospective client, “[e]ven when no client-lawyer relationship ensues, a lawyer who has learned information from a prospective client shall not use or reveal that information, except as Rule 1.9 would permit with respect to information of a former client.”<sup>11</sup> Hence, a lawyer essentially owes the same duty of confidentiality to a prospective client as would be owed to a former client, except that the protection seems to be limited only to “information learned from the prospective client.”<sup>12</sup>

Given these protections, a lawyer may voluntarily disclose confidential information only if: (1) the lawyer obtains informed consent; (2) the disclosure is impliedly authorized in order to carry out the representation; or (3) there is an exception (under Rule 1.6 (b), Rule 3.3 or other law) that permits (or requires) such disclosure.

### Can Lawyers Respond to Online Criticism by Clients?

Since 2012, there has been a series of state ethics opinions dealing with the issue of the propriety of a lawyer responding to online criticism. The general consensus has been that lawyers may respond, but they may not disclose information protected by the duty of confidentiality, and their response should otherwise be “proportional and restrained.”<sup>13</sup> Early this year, the ABA Standing Committee on Ethics and Professional Responsibility joined the chorus by issuing Formal Opinion 496, which likewise took the position that responses to online criticism should be appropriately measured and must not run afoul of the duty of confidentiality.<sup>14</sup> Hence, the primary question relates to whether such responses involve

circumstances that would permit the disclosure of confidential information.

One could argue that by criticizing the lawyer, a client “impliedly authorizes” the lawyer to respond by disclosing confidential information to the extent the lawyer reasonably believes necessary. This, however, is not what is meant by “impliedly authorized.” As the rule makes clear, the disclosure must be “impliedly authorized in order to carry out the representation.”<sup>15</sup> An online response is in no way related to carrying out the representation. Thus, this aspect of the rule is inapplicable in the context of online criticism.<sup>16</sup>

A more plausible contention is that a lawyer should be permitted to respond under the self-defense exception to the duty of confidentiality. In particular, Rule 1.6 (b) (1) (iii) provides:

A lawyer may reveal information covered by paragraph (a) which the lawyer reasonably believes necessary ... to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer’s representation of the client.<sup>17</sup>

Under this argument, by criticizing the lawyer, the client has created a “controversy” that triggers the ability of the lawyer to respond by disclosing confidential information to the extent the lawyer reasonably believes necessary. Although facially appealing, the large majority of ethics opinions conclude that the self-defense exception does not apply to online criticism. For example, ABA Formal Opinion 496 states that “alone, a negative online review, because of its informal nature, is not a ‘controversy between the lawyer and the client’ within the meaning of [the self-defense exception], and therefore does not allow disclosure of confidential information relating to a client’s matter.”<sup>18</sup> The Opinion also notes that “even if an online posting rose to the level of a controversy between lawyer and client, a public

response is not reasonably necessary or contemplated by Rule 1.6 (b) in order for the lawyer to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client.”<sup>19</sup>

Importantly, a lawyer’s duties in fashioning a response to online criticism may differ depending upon whether the individual critic is a current, former or prospective client. Specifically, if the online critic is an existing client, the lawyer owes the client a fiduciary obligation that warrants extra care. According to one ethics opinion, if the matter has not concluded, “it may be inappropriate under the circumstances for the Attorney to provide any substantive response in the online forum, even one that does not disclose confidential information.”<sup>20</sup>

With regard to former clients, an exception concerning a lawyer’s ability to “use” confidential information to the disadvantage of a former client allows such use when the information has become “generally known.”<sup>21</sup> No such exception exists for “disclosure” of confidential information,<sup>22</sup> nor is it applicable to current clients.<sup>23</sup> Under the exception, a lawyer might attempt to argue that, to the extent information otherwise protected by the duty of confidentiality has been made public, either by the former client’s online posting or by virtue of filings in the public record, the lawyer should be able to “use” this information in responding to online criticism. This argument is unavailing for two reasons.

First, the exception only applies to “use,” not disclosure.<sup>24</sup> The implication is that “use” may occur in some sort of non-public manner. For example, a lawyer might endeavor to purchase a lucrative tract of land based upon confidential information that they gained in the representation of a former client. The lawyer would not be disclosing the information, only “using” or acting upon it. In the online context, the information would necessarily have to be disclosed, and therefore the exception cannot apply.

Second, the ABA Standing Committee has interpreted “generally known” to mean “widely recognized by members of the public in the relevant geographic area” or “widely recognized in the former

client's industry, profession, or trade."<sup>25</sup> As the Standing Committee observed, "[i]nformation that is publicly available is not necessarily generally known."<sup>26</sup> As a result, even if the exception could somehow apply in the online-response scenario, it would require a very substantial showing in order to establish that the information was "generally known."

### **Possibility and Effect of Waiver of Confidentiality Protection**

As discussed, lawyers are permitted to respond to online criticism, but they generally may not disclose confidential information in doing so. What if the client waives the confidentiality protection? Can a lawyer then disclose confidential information? The answer is "yes"; however, a waiver can only be obtained through the client's informed consent.<sup>27</sup> A client does not waive the lawyer's duty of confidentiality simply by making a public disclosure of confidential information.<sup>28</sup> Such disclosure would likely waive the evidentiary protection afforded by the attorney-client privilege, but remember that the privilege governs in a different context—when it applies, the privilege prevents legally-compelled production of protected communications, as well their admission into evidence. As the Standing Committee noted, "A client's express or implied waiver of the attorney-client privilege has the legal effect of foregoing the right to bar disclosure of the client's prior confidential information in a judicial or similar proceeding. Standing alone, however, it does not constitute 'informed consent' to the lawyer's voluntary disclosure of client information outside such a proceeding."<sup>29</sup> Furthermore, in opining on the proper parameters for lawyers blogging or engaging in other public commentary, the Standing Committee has indicated that "Rule 1.6 does not provide an exception for information that is ... contained in a public record."<sup>30</sup> It emphasized that the "duty of confidentiality extends generally to information related to a representation whatever its

source and without regard to the fact that others may be aware of or have access to such knowledge."<sup>31</sup>

Hence, a client's public disclosure of privileged information in negative online criticism or elsewhere typically would not permit the lawyer to voluntarily disclose that information in an online response to the client's criticism, as it remains subject to the duty of confidentiality.

### **Suggestions for Responding to Online Criticism**

Despite the limitations on what a lawyer may include in response to online criticism, there are multiple possibilities for how best to respond depending upon the circumstances. First, a lawyer should give careful thought to whether a response is necessary or wise. The danger of responding in any fashion is that the response could attract greater attention to the negative critique. By simply ignoring the criticism, a lawyer may permit it to go generally unnoticed and eventually disappear.<sup>32</sup>

A lawyer who chooses to respond has several potential options. One possibility is to state that the lawyer is bound by certain ethical obligations to not respond substantively but indicate disagreement with the contents of what has been posted. For example, a Texas ethics opinion recommends the following language:

A lawyer's duty to keep client confidences has few exceptions and in an abundance of caution I do not feel at liberty to respond in a point by point fashion in this forum. Suffice it to say that I do not believe that the post presents a fair and accurate picture of the events.<sup>33</sup>

Similarly, the Standing Committee suggested using an even more cryptic response—"Professional obligations do not permit me to respond as I would wish."<sup>34</sup>

In addition, instead of posting a response online, there is nothing that precludes a lawyer from communicating directly with the client, former client or

prospective client to address the criticism, perhaps requesting a retraction. In a similar vein, if for some reason the lawyer is unable to contact the individual directly, the lawyer could post a message requesting that they take the conversation offline—"Please contact me by telephone so that we can discuss your concerns."<sup>35</sup> If a lawyer opts for this approach, however, the Standing Committee cautions that it will not be effective as a practical matter, "unless the lawyer has the intent and ability to try to satisfy the person's concerns. A lawyer who makes such a post but does nothing to attempt to assuage the person's concerns risks additional negative posts."<sup>36</sup>

Another potential strategy is to ask satisfied former clients to post positive reviews to counteract the criticism. So long as the former client willingly does so and the content of the review is truthful, this tactic appears acceptable. However, if the reviews are false or made by individuals who are simply posing as former clients, this is known as "astroturfing," and is expressly prohibited by Federal Trade Commission regulations concerning endorsements and testimonials in advertising.<sup>37</sup>

One final possibility is a civil action for libel if the information posted by the client is false and defamatory. This type of response should be reserved for truly egregious postings, but if the legal standard is satisfied, it is a permissible way to proceed.<sup>38</sup>

### **Conclusion**

With the advent of the internet and the proliferation of online rating and review sites, the likelihood that lawyers will be subject to negative online critiques has increased significantly. When this occurs, the natural impulse is to refute the criticism, directly and comprehensively. However, as discussed in this article, such an approach would likely violate a lawyer's duty of confidentiality and therefore is not ethically permitted. Although no formal advisory opinion has been issued in Georgia on this subject,<sup>39</sup> the majority of jurisdictions that have issued eth-

ics opinions conclude that lawyers may respond in a proportional and restrained manner but, in doing so, may not disclose information covered by the duty of confidentiality. Lawyers should remain mindful, though, that such a narrow response may accomplish little—on the order of a “no comment” declaration—and ultimately may only serve to draw more attention to the original critical post. As a result, in the end, not responding at all may prove to be the wisest strategy. ●



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Teaching Professor at the University of Georgia School of Law. He specializes in legal ethics and civil procedure, and speaks and publishes widely on topics at the intersection of these two subjects. He is also the author of “Defending the Public’s Enemy: The Life and Legacy of Ramsey Clark” (Stanford Press, 2019). Brown wishes to thank his daughter, Olivia, for her valuable input and thoughtful assistance with this article.

## Endnotes

- This article primarily addresses criticism by these categories of critics; however, it is also possible that nonclients, such as an opposing party or counsel, may post negative critiques. Although the ethical constraints on responding to these types of critics are somewhat different, lawyers must still be mindful of their confidentiality and professionalism obligations. See ABA Formal Op. 496, at 6 (Jan. 13, 2021) (“If a poster is not a client or former client, the lawyer may respond by simply stating that the person posting is not a client or former client, as the lawyer owes no ethical duties to the person posting in that circumstance. However, a lawyer must use caution in responding to posts from nonclients.”).
- GEORGIA RULES OF PROFESSIONAL CONDUCT, R. 1.6 (a) (hereinafter “GEORGIA RULES”).
- Id.*, R. 1.6, cmt. [5] (emphasis added).
- See RESTATEMENT OF THE LAW THIRD, THE LAW GOVERNING LAWYERS (2000), § 68 (“the attorney-client privilege may be invoked . . . with respect to: (1) a communication (2) made between privileged persons (3) in confidence (4) for the purpose of obtaining or providing legal assistance for the client”); *St. Simons Waterfront LLC v. Hunter, MacLean, Exley & Dunn*, 746 S.E.2d 98 (Ga. 2013) (“The privilege generally attaches when legal advice is sought from an attorney, and operates to protect from compelled disclosure any communications, made in confidence, relating to the matter on which the client seeks advice.”).
- See GEORGIA RULES, R. 1.6, cmt. [5] (“The attorney-client privilege applies in judicial and other proceedings in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The rule of client-lawyer confidentiality applies in situations other than those where evidence is sought from the lawyer through compulsion of law.”).
- Id.*, R. 1.9(c).
- For a discussion of the meaning of “generally known,” see ABA Formal Op. 479 (Dec. 15, 2017). See also *infra* notes 21–26 and accompanying text.
- See Order Approving 2020-1 Motion to Amend the Rules and Regulations for the Organization and Government of the State Bar of Georgia, at 8 (May 14, 2021) (hereinafter “Amendment Order”), [https://www.gasupreme.us/wp-content/uploads/2021/05/Order-2020-1\\_issued.pdf](https://www.gasupreme.us/wp-content/uploads/2021/05/Order-2020-1_issued.pdf). “Before May 14, 2021, Georgia dealt with a lawyer’s duty of confidentiality in Comment [4A] to Rule 1.6, which provided that: “Information gained in the professional relationship includes information gained from a person (prospective client) who discusses the possibility of forming a client-lawyer relationship with respect to a matter. Even when no client-lawyer relationship ensues, the restrictions and exceptions of these rules as to use and revelation of the information apply, e.g. Rule 1.9 and 1.10.” GEORGIA RULES, R. 1.6, cmt. [4A]. In addition to adding Rule 1.18, the Supreme Court also approved the deletion of this comment’s content, replacing it with “RESERVED.” See Amendment Order, at 4, [https://www.gasupreme.us/wp-content/uploads/2021/05/Order-2020-1\\_issued.pdf](https://www.gasupreme.us/wp-content/uploads/2021/05/Order-2020-1_issued.pdf).
- One notable difference is that Georgia’s version of Rule 1.18 does not allow for screening as a mechanism for avoiding the imputation of a conflict of interest caused by a lawyer’s communication with a prospective client to other lawyers in a firm. Compare ABA MODEL RULES OF PROF’L CONDUCT, R. 1.18(d) (2) (permitting screening of the tainted lawyer in order to avoid imputation to a firm, thus allowing it to proceed with a representation from which it would otherwise have been disqualified) with GEORGIA RULES, R. 1.18(d) (permitting the avoidance of disqualification only if informed consent is obtained from the both the affected client and the prospective client).
- GEORGIA RULES, R. 1.18(a).
- Id.*, R. 1.18(b).
- Rule 1.9(c), on the other hand, incorporates the full definition of “confidential information” from Rule 1.6(a) and therefore extends the protection accorded to former clients to include all information gained in the professional relationship, whatever its source. See *supra* text accompanying notes 3 and 6. See also GEORGIA RULES, R. 1.18, cmt. [1] (noting that “prospective clients should receive some but not all of the protection afforded clients”).
- See, e.g., Florida Bar Ethics Op. 20-01 (Oct. 9, 2020), <https://www.floridabar.org/etopinions/opinion-20-1/>; Texas Op. 662, <https://www.legalethictexas.com/Ethics-Resources/Opinions/Opinion-662.aspx>; Pa. Bar Ass’n Legal Ethics & Prof’l Responsibility Comm. Formal Op. 2014-200 (July 13, 2014), <http://www.pabar.org/members/catalogs/Ethics%20Opinions/formal/f2014-200.pdf>; L.A. County Bar Ass’n Prof’l Responsibility & Ethics Comm. Op. No. 525 (Dec. 6, 2012), <https://www.lacba.org/docs/default-source/ethics-opinions/archived-ethics-opinions/ethics-opinion-525.pdf>.
- Notably, ABA Formal Opinion 496 also cautions lawyers against disclosing information that “could reasonably lead to the discovery of confidential information by others.” ABA Formal Op. 496, at 7.
- GEORGIA RULES, R. 1.6 (a). See also *id.*, cmt. [6] (“A lawyer is impliedly

- authorized to make disclosures about a client when appropriate in carrying out the representation . . . In litigation, for example, a lawyer may disclose information by admitting a fact that cannot properly be disputed, or in negotiation by making a disclosure that facilitates a satisfactory conclusion.”).
16. See ABA Formal Op. 496, at 2 (observing that “[a] client or former client’s negative online comments do not create ‘implied authorization’ for the lawyer to disclose confidential information in response to the online criticism because that is not required to carry out the representation”).
  17. GEORGIA RULE, R. 1.6(b)(1)(iii) (emphasis added).
  18. ABA Formal Op. 496, at 3. See also *id.* at 4 (observing that the “majority [of state ethics opinions] reach the conclusion that, even if [an] online posting was made by a client, the posting of criticism does not rise to the level of a controversy that would allow a lawyer to disclose confidential information in responding”); N.Y. State Bar Ass’n Comm. on Prof’l Ethics Op. 1032 (2014) (finding that the self-defense exception does not apply in the context of “informal complaints” such as a negative online review); Pa. Bar Ass’n Legal Ethics & Prof’l Responsibility Comm. Formal Op. 2014-200 (July 13, 2014) (observing that “[a]lthough a genuine disagreement might exist between the lawyer and the client, such a disagreement does not constitute a ‘controversy’ in the sense contemplated by the rules to permit disclosures necessary to establish a ‘claim or defense’”). But see Colorado Ethics Op. 136 (2019) (finding that if online criticism rises to the level of a controversy, a lawyer may disclose limited information, but stressing the need for caution in responding); D.C. BAR RULES OF PROF’L CONDUCT, R. 1.6(e)(3) (“A lawyer may use or reveal client confidences or secrets . . . to the extent reasonably necessary to respond to *specific allegations* by the client concerning the lawyer’s representation of the client . . .”) (emphasis added).
  19. ABA Formal Op. 496, at 3. See also GEORGIA RULE, R. 1.6, cmt. [12] (noting that “a disclosure adverse to the client’s interest should be no greater than the lawyer reasonably believes necessary to the purpose”). On the scope of the self-defense exception, the *Restatement of the Law Governing Lawyers* is also instructive. In particular, Section 64 provides that: “A lawyer may use or disclose confidential client information when and to the extent that the lawyer reasonably believes necessary to defend the lawyer or the lawyer’s associate or agent against a charge or threatened charge by any person that the lawyer or such associate or agent acted wrongfully in the course of representing the client.” RESTATEMENT OF THE LAW THIRD, THE LAW GOVERNING LAWYERS (2000), § 64. Comment c to that section goes on to state that a “lawyer may act in self-defense under this Section only to defend against charges that imminently threaten the lawyer or the lawyer’s associate or agent with serious consequences, including criminal charges, claims of legal malpractice, and other civil actions such as suits to recover overpayment of fees, complaints in disciplinary proceedings, and the threat of disqualification.” *Id.* at cmt. c.
  20. Bar Ass’n of San Francisco Legal Ethics Op. 2014-1, at 5 (Jan. 2014).
  21. See GEORGIA RULES, R. 1.9(c)(1) (“A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter . . . use information relating to the representation to the disadvantage of the former client except . . . when the information has become *generally known* . . .”) (emphasis added).
  22. See *id.*, R. 1.9(c)(2) (“A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter . . . reveal information relating to the representation except as Rule 1.6 or Rule 3.3 would permit or require with respect to a client.”).
  23. See *generally* GEORGIA RULES, R. 1.6 (includes no exception allowing for the revelation of confidential information that is “generally known”). See also ABA Formal Op. 480, at 4 (Mar. 6, 2018) (noting that “Rule 1.6 does not provide an exception for information that is ‘generally known’”).
  24. See ABA Formal Op. 479, at 2 (noting that the “terms ‘reveal’ or ‘disclose’ on the one hand and ‘use’ on the other describe different activities or types of conduct even though they may—but need not—occur at the same time”).
  25. *Id.* at 5.
  26. *Id.* at 5 (also noting that “the fact that the information may have been discussed in open court, or may be available in court records, in public libraries, or in other public repositories does not, standing alone, mean that the information is generally known for Model Rule 1.9 (c)(1) purposes”).
  27. “Informed consent” is defined under the Georgia Rules of Professional Conduct 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.” GEORGIA RULES, R. 1.0(l).
  28. It should be noted that, in the context of online criticism, some ethics opinions have at least suggested, by implication, that a client’s disclosure of confidential information in a post may constitute some type of limited waiver that could permit a lawyer to disclose confidential information in response. See, e.g., L.A. County Bar Ass’n Prof’l Responsibility & Ethics Comm. Op. No. 525 (limiting its opinion to situations in which a former client “has not disclosed any confidential information”); Bar Ass’n of San Francisco Legal Ethics Op. 2014-1 (addressing the online review that does not disclose confidential information and suggesting that “waiver of confidentiality” is possible, but without any elaboration on how that might occur). This view, however, is not supported by the plain language of Rule 1.6 and its comments, which seems to indicate that obtaining informed consent is the only mechanism for securing waiver of the confidentiality protection.
  29. ABA Formal Op. 10-456 (July 14, 2010).
  30. ABA Formal Op. 480, at 4.
  31. *Id.* at 3. See also *id.* at 2 (noting that “[e]ven client identity is protected under Model Rule 1.6”).
  32. ABA Formal Op. 496, at 6 (“As a practical matter, no response may cause the post to move down in search result rankings and eventually disappear into the ether. Further exchanges between the lawyer and the original poster could have the opposite effect.”).



33. Texas Op. 662. *Accord* Florida Bar Ethics Op. 20-01 (Oct. 9, 2020) (adopting same approach as Texas).
34. ABA Formal Op. 496, at 6.
35. *Id.*
36. *Id.*
37. See Cynthia Sharp, *How to Ethically Respond to Negative Reviews From Clients*, ABA JOURNAL (June 1, 2020), <https://www.abajournal.com/magazine/article/ethically-responding-to-negative-reviews>. Astroturfing would violate both Rules 7.1 and 8.4 (a) (4) of the Georgia Rules of Professional Conduct. Rule 7.1 provides that: “A lawyer shall not make a false or misleading communication about the lawyer or the lawyer’s services.” Rule 8.4(a) (4) makes it a violation of the rules for a lawyer to “engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation.” The fact that a lawyer gets a third party to engage in “astroturfing” will not insulate him or her from potential discipline, as lawyers are not permitted to violate the rules through the acts of another. See GEORGIA RULES, R. 8.4(a)(1).
38. See, e.g., *Pampattiwar v. Hinson*, 326 Ga. App. 163, 756 S.E.2d 246 (2014) (affirming a \$400,000 verdict in a defamation suit against a client for referring to a lawyer online as a “CROOK lawyer” and an “Extremely Fraudulent Lady,” among other things); Texas Op. 662 (noting that “[n]othing in this opinion is intended to suggest that a lawyer may not seek judicial relief against a former client who commits defamation or other actionable misconduct through an internet publication”).
39. It should be noted, however, that there is at least one reported decision in Georgia that deals, in part, with the issue of online criticism. In *In re Skinner*, 295 Ga. 217, 758 S.E.2d 788 (2014), the Supreme Court authorized a public reprimand for an attorney who responded to the online criticism of a former client by disclosing confidential information in violation of Rule 1.6. Specifically, in relation to the lawyer’s prior representation of the client in a divorce action, the lawyer disclosed the identity of the former client, the identity of the former client’s employer, the amount of the legal fee paid by the former client, the county in which the divorce action had been filed, and the fact that the former client had a boyfriend. The lawyer was also found to have violated Rule 1.4.



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State Bar  
of Georgia

# The Truth, the Whole Truth and Nothing But the Truth—Well ... Not Exactly. Trial Attorney Ethical Problems

We posed 10 dilemmas that confront criminal defense attorneys to a blue-ribbon panel of the smartest prosecutors, judges, criminal defense attorneys, and law professors. We asked them to tell us the correct way to resolve 10 problems, hoping our panel would give us the answers once and for all. Instead, none of them agreed on anything.

BY DON SAMUEL AND AMANDA R. CLARK PALMER



**We learned in law school that legal ethics questions often have no right answers, but often some very bad answers.** The rules that govern our behavior are silent on some of the more difficult (and recurring) problems that confront criminal defense attorneys; different rules also point in opposite directions to solve some problems; and the rules often are inconsistent with intuitive notions of morality.

We are implored to zealously represent our client by Georgia Rules of Professional Conduct (hereinafter “Rule”) 1.3 [1], but be fair to the opposing party, Rule 3.4. We are required to always exhibit candor with the court, see Rule 3.3 (a) (2) and (4); however, omitting to tell the court information that is unfavorable to the client is not only permissible but mandatory (Rule 1.6). Calculating how to balance these different principles is like trying to gauge whether a rock is heavier than a tree is tall.

We are often confronted with situations that require us to make decisions—sometimes quickly—but there is no Mercks Manual to consult, or a checklist like astronauts have in case of a sudden unexpected event. We can look at the Rules, yet one rule commands that we “go east” while another directs us to “go west.” We are itinerant, if not fickle, in our commitment to one goal or another.

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Most of us have learned that there are lawyers in our midst who will provide (with a learned tone of voice) a suggested course of conduct, perhaps a senior member of the firm, or a favorite former professor; but if you have more than one mentor, the odds are that you will get two different suggestions. (One of our favorite “go to” mentors once reported to us that when he delivers an ethics lecture at CLE seminars, the State Bar directs that audience members actually *lose* an hour of ethics credit). If you read Monroe Freedman and Abbe Smith, you reach one conclusion; consult Geoffrey Hazard’s writings, you receive contrary advice; yet a third recommendation comes from The Restatement (Third) of the Law Governing Lawyers; and a fourth from the ABA Criminal Justice Standards.

Many problems require us to decide—according to the Rules—what it means to “know” something. Whether we “know” some fact governs many of our ethical obligations. Do we know the truth about some event, thus limiting our right to introduce evidence or answer a judge’s question in a way that is contrary to that version of the event? Is the truth that we know determined only by what we can see, smell, touch, taste or hear? If we are told something by a reliable source, is that sufficient to know it? What if our unreliable client tells us something—can we ever know what he tells us is true? If a client says she did not rob the bank, is it safe to assume that all evidence pointing to her innocence is truthful? What if she tells us that she *did* rob the bank? Is that “admission against interest” so reliable that we then know that any information inconsistent with that fact is a lie? Even if we leave these epistemological questions aside, at what point is our tentative belief regarding certain facts sufficiently uncertain that it does not forbid a course of conduct that is inconsistent with that belief? See Rule 1.0 (a) and (m). To what extent can we gerrymander the information we have gathered and decide, “I really do not know.”

Uneasy about the right answers to these questions, we decided to ask our colleagues for their reaction to certain recurring ethical problems. Surely, they

would unriddle the problems uniformly and point us to the north star. Almost all of the following questions have been posed to us by a younger lawyer at one time or another and many of these problems—a majority—have arisen in our practice. We wanted to find the answer. Thus, we surveyed law professors, prosecutors, defense lawyers and judges, all of whom are experienced in the criminal justice system and all of whom have been practicing more than a decade. Surely they would know the answers to these vexatious problems.

Alas, we were better off before we launched this investigation. The defense lawyers did not agree with one another. The prosecutors did not agree with one another; same with the law professors. They all disagreed with each other on many of the issues. Some prosecutors agreed with some defense lawyers on some questions, but not others.

One law professor agreed with many of the answers by some of the prosecutors. Another law professor agreed with the opposite opinion voiced by defense lawyers on the same questions. The law professors disagreed with each other (one law professor threw up his hands on one question and wailed, “I just don’t know”—regrettably that answer is not an option for a lawyer confronting the problem).

Federal judges disagreed with each other and with their colleagues on the state court bench. One surprising fact, in light of the disparate survey results, was that all five judges seemed relatively nonchalant about receiving inaccurate information from a criminal defense lawyer, while many of the lawyers believed that the inaccuracy had to be corrected (see questions #9 and #10. The three law professors could not agree on even half of the questions and in one instance provided three diametrically opposed answers (#4).

So if you were hoping to get *the* answers for how to handle these tricky ethical situations you can just stop reading right now. There are not only no right answers, there are also no gurus and no reliable mentors from whom we can seek guidance. We remain bedeviled. But we want to share our bedevilment. For the trial lawyers, one way to be thankful for

this result is to know that, no matter what you decide to do, you can find somebody who will say, “that’s perfectly OK.”

There are 10 questions included in our survey with the results from our 21 respondents for each question. *We guaranteed the respondents that they would remain anonymous, though we would reveal the occupation of each respondent.* Every lawyer and judge who responded is experienced in his or her respective role. There are two judges on the federal bench, and three from the Superior Court. The same is true with the prosecutors: federal and state, and all occupy supervisory positions in their respective offices. The defense lawyers are among the best known criminal defense lawyers in the state, all of whom have been practicing more than 15 years (and, as far as we could determine, they have escaped any Bar sanctions during their careers). The law professors are from Georgia State University School of Law, the University of Georgia College of Law and Atlanta’s John Marshall Law School.

#### **Question 1**

A witness expresses certainty to you that the defendant was not at the scene of the crime at noon on June 1. This alibi witness is very important to your defense of the defendant. You suspect that the witness is mistaken, but she is not knowingly mistaken. Can you put the witness on the stand to provide the alibi, given the fact that her testimony is probably false, but not perjurious (because she is mistaken, not knowingly providing false testimony)? Assume that the reason for the mistake is a simple miscalculation on the part of the witness, and does not in any way reflect any “suggestion” or persuasion from the defendant or anybody else (e.g., the witness is apparently confused about which day she was at the bank that month because she has looked at a check that she cashed and it appears to you that the check was dated incorrectly). Note: this question does not invite an answer, “Don’t call the witness, because the opposing party will prove that the witness was wrong and this will hurt the case”—we recognize this strategic reason for not summoning the witness to court. We

are interested in the ethical response to the problem.

\* \* \* \* \*

Georgia Rule of Professional Conduct 3.3 (a) (4) states that a lawyer may not present false evidence. But the question we posed is nuanced, in that we postulate that the attorney only “suspects” the witness is wrong. Perhaps the defendant previously confessed to the attorney. Or there are 10 eyewitnesses and a surveillance camera establishing the defendant’s role in the offense. Strategically, of course, there are many reasons not to call the witness. But ethically? This presents the “knowledge” issue fairly dramatically. Do we simply justify our decision by declaring, “I know nothing for sure?” Or “It is not my job to judge.” As we explained above, the notion that an attorney “knows” the truth is questionable, unless there is some official test for “knowledge.” See also Comment 8 to Rule 3.3: “The prohibition against offering false evidence only applies if the lawyer *knows* that the evidence is false. A lawyer’s reasonable belief that evidence is false does not preclude its presentation to the trier of fact. A lawyer’s knowledge that evidence is false, however, can be inferred from the circumstances.”

As an aside, it is worth noting that Professor Freedman’s iconic “The three hardest questions” included this question: “Can a defense attorney seek to impeach a witness and challenge the witness’s credibility, veracity, and bias, despite positively knowing that the witness told the truth?” Does a lawyer who does this explicitly encourage the jury to believe a false inference, i.e., the witness is a liar when, in fact, you “know” the witness told the truth?

### Question 2

*Batson* prohibits exercising peremptory strikes on the basis of race. There are hundreds of reported appellate decisions in Georgia, and thousands in the appellate and trial courts around the country in which the court concluded that trial counsel violated this rule. Not only did the court conclude that trial counsel violated the rule, but also found that trial counsel lied to the court when counsel explained

## Question 1 Responses

Answer	Defense Lawyers	Prosecutors	Judges	Professors
Call the witness	6	1	3	2
Do not put up the witness	1	4	2	1

## Question 2 Responses

Report the lawyer	2	2	0	2
Do not report the lawyer	6	3	5	1

the “real” reason the juror was struck (e.g., “because of his job” or “her third cousin once removed was previously arrested for jaywalking” or “he did not look at me when he answered my questions”). Whether trial counsel who told the court *untruthfully* about the reason for exercising the strike was the prosecutor or the defense attorney, should the court report the event to the State Bar to institute disciplinary proceedings based on (1) the lawyer violated the constitutional command of *Batson*; and (2) the trial court found that the lawyer lied to the court when the lawyer offered pretextual (i.e., false) reasons for exercising the strike?

\* \* \* \* \*

The respondents were fairly uniform, with some exceptions, in saying that there was no ethical violation and no basis to report a constitutional violation to the State Bar. Some respondents did suggest that lying to the court about the reason for exercising the strike is reportable to the Bar. Odd that many respondents believe that there is no reportable conduct, yet there are hundreds of *Batson* cases in appellate courts where the court found that the trial lawyer was not truthful in explaining the reason for a strike, and we are aware of not a single referral to the State Bar, to say nothing of a court-imposed sanction (other than re-seating a juror). *Batson* says

that the judge must make a finding of fact regarding the attorney’s actual motive. If the lawyer says “my reason for exercising that strike was to exclude a juror whose cousin was once arrested for jaywalking,” and the trial judge rules, “that is a pretext, you actually struck the juror because of her race and I make that finding based on the number of white jurors who also had cousins who committed crimes that you did not strike, as well as the prima facie case reflecting the overwhelmingly disproportionate number of minority jurors you struck and the illogical reasons you offered for each strike”—is there any way to describe the judge’s conclusion other than as condemnation of the lawyer’s lie? Why is that different than a lawyer who tells the judge, “This document (which turns out to be a forgery) was personally given to me by the doctor who treated my patient,” when, in fact, the document was given to the lawyer by the client who forged the doctor’s signature? Why is one lie an ethical problem, but another lie deserves a pass? And if so many of our respondents agree that the lying lawyer should be punished by the Bar or the court, why has that never happened, despite the hundreds of *Batson* decisions that result in re-seating improperly struck jurors? If we agree that a lawyer has lied to the court, Rule 8.3 states that once a violation is ap-

parent, a lawyer “should” report the violation to the Bar.

**Question 3**

The client is 21 years old. His mother was in his room and looked at his computer and saw child pornography. She immediately closed the computer and brought it to your office. You should:


- Put it in your file cabinet without looking at it.
- Give it back to your client or his mother, explaining that your office is not a storage closet (or a secret hideaway).
- Give it to the police.
- Throw the computer in the Chattahoochee River.

\* \* \* \* \*

Contraband is contraband. It is no different than the client asking you to “hold on to this bag of cocaine for me.” But why does only one respondent question the propriety of handing the laptop (or bag of cocaine) back to the mother, which the majority of respondents urged? Is that not distributing contraband? Is there some belief that if you return it within a short period of time (1 minute, 5 minutes, 1 day), it does not amount to a distribution to the recipient?

Also, what if you don’t positively believe the mother when she says the computer has child porn? Or you think that she may be mistaken in her definition of child porn? Do you look at it before you return it to her? Can you put the laptop in your file cabinet *without* looking at it with the rationalization that you really don’t know what the mother saw and trusting her word for what’s on the computer is not necessary? You are an ostrich, in other words. Just because a prudish mother says, “this computer has icky child stuff on it” are you obligated to return it? Once again, we are pondering what it means to know something.

Fortunately, no respondent suggested heading for the Chattahoochee River. See *United States v. Russell*, 639 F.Supp.2d 226 (D. Conn. 2007)(attorney indicted for obstruction of justice after allegedly destroying a laptop computer that contained child pornography).



## DON'T FORGET!

**The Office of the General Counsel**  
operates an **Ethics Helpline** during regular work hours. Call **404-527-8741/800-682-9806** or visit [www.gabar.org/submitethicsquestion](http://www.gabar.org/submitethicsquestion) and log in to your Member Account to send an email when you need help working through an ethics issue. The helpline attorney can direct you to the applicable rules of professional conduct and provide informal, nonbinding advice about the appropriate course of conduct.



**Question 3 Responses**

Answer	Defense Lawyers	Prosecutors	Judges	Professors
File cabinet	1	0	1	0
Give back to the client/mother	7	2	4	2
Give it to the police	0	3	0	0
Throw it in the Chattahoochee	0	0	0	0
Cannot answer	0	0	0	1

## Question 4 Responses

Answer	Defense Lawyers	Prosecutors	Judges	Professors
File cabinet	2	2	2	1
Give back to the client	4	3	3	1
Give it to the police	2	0	0	1
Throw it in the Chattahoochee	0	0	0	0

We have not posed what may be a considerably more complicated problem: assuming you return the computer to the client or the client's mother (which is what most respondents urged the lawyer to do), what do you tell the mother or the 21-year-old? If the mother says, "I came to you for advice; I didn't come here just to have you push the laptop back at me!" What do you say? Do you tell her to destroy the contraband? Do you tell her that destroying contraband might be a crime under various federal and state laws? (concealing a crime, destroying evidence, or otherwise obstructing justice)? Do you tell them that not destroying the contraband and keeping it is also a crime? Do you tell them, "You are out of luck, goodbye"? Perhaps this question will be on the next survey.

### Question 4

The police executed a search warrant at your client's house, looking specifically for a shirt with bloodstains. They searched high and low and did not find the shirt and then left. The next day, the client brings you the shirt, which was hidden under his mattress at the house. You should:

- Put it in your file cabinet
- Give it back to your client
- Give it to the police
- Throw the shirt in the Chattahoochee River.

\* \* \* \* \*

Unlike the computer, the shirt is not contraband. It is evidence, but it is evidence

that is no different than the defendant's cell phone, which might contain information related to the crime, or his contacts. Or a ledger that he might have kept of his drug sales. Or his receipts and invoices that are foundational (and either incriminating, or exonerating) for a tax case. Must a lawyer decline to take possession of any kind of evidence, no matter its nature?

If the crucial issue here is the existence of the search warrant, why is that determinative? Defense lawyers are not clueless. They know the shirt would be "wanted by the police" even in the absence of a search warrant. Same with the aforementioned invoices, and cell phone.

And as for those respondents who advocate for handing the shirt over to the police ("but don't tell them where you got it"), are the police idiots? Do you think the police will believe that the shirt came into your possession like manna from heaven? And can the prosecution, at trial, introduce evidence that the defendant's lawyer delivered the shirt?

Regarding destruction of evidence, it might be worth noting the opinion in *United States v. Yates*, 574 U.S. 528 (2015), that construed 18 U.S.C. § 1519 (obstruction of justice by concealing or destroying "tangible objects") not to apply to items of physical evidence that are not "records."

We do not agree that it is absolutely necessary to return the shirt to the client. That will likely result in the destruction of evidence. Why would that be the favored approach? Also, what about the defendant's right to test the bloodstain? You are not lying to the police or hiding evidence

(the police have already searched the house and left). See § 119 of the Restatement (Third) of the Law Governing Lawyers; ABA Criminal Justice Standard § 4-4.7.

We vote with the minority: keep it at the office, but maintain the integrity of the evidence and prepare a detailed memorandum explaining the circumstances. (And be prepared to post bail in case a Georgia court disagrees with this approach; but have this article handy so you can point to the 40% of judges surveyed who believe that putting the shirt in your file cabinet is OK).

### Question 5

At your client's federal sentencing, one of the most persuasive items was a letter written by the local sheriff who discussed what an admirable person your client is, what contributions he has made to the local community and the local law enforcement charitable endeavors. The client provided the letter to you a week before sentencing and you included it in the sentencing package submitted to the court prior to sentencing. The judge commented on the significance of this letter in deciding to impose a shorter sentence (12 months) than the judge had initially considered imposing (3 years).

The day after sentencing the client tells you that he led the local sheriff to believe that he was applying for a job as a Little League coach and that the sheriff's letter would be used as a reference for that job. The sheriff had no idea the defendant would use the letter at a sentencing hearing—in fact, the sheriff did not even know the defendant was heading to a sentencing hearing, or that he had been convicted of a crime. You should:

- Let the sentencing judge know what has happened.
- Shake your head and go back to the office and forget about it.

What if the client tells you about this six months after sentence is imposed?

\* \* \* \* \*

Georgia Rules of Professional Conduct 3.3 (a) (4) and (b) require that you promptly advise the court of any misrepresentations that occurred in court. But this col-

lides with the obligation never to reveal a client’s communication about prior misconduct. The ambiguity of this problem is that the letter apparently is “truthful” though it was obtained under false pretenses. The sheriff did not know the purpose for which the letter was requested and did not know the defendant’s criminal background, but equally sure, the sheriff did not lie when he wrote the letter. The fact that he did not know the truth about the defendant’s conviction and impending sentence is no different than the situation with any character witness who is encouraged to write a letter supporting a defendant who has assured the character witness that he—the client—is absolutely innocent and has been framed. Nobody thinks presenting that character witness is a fraud upon the court.

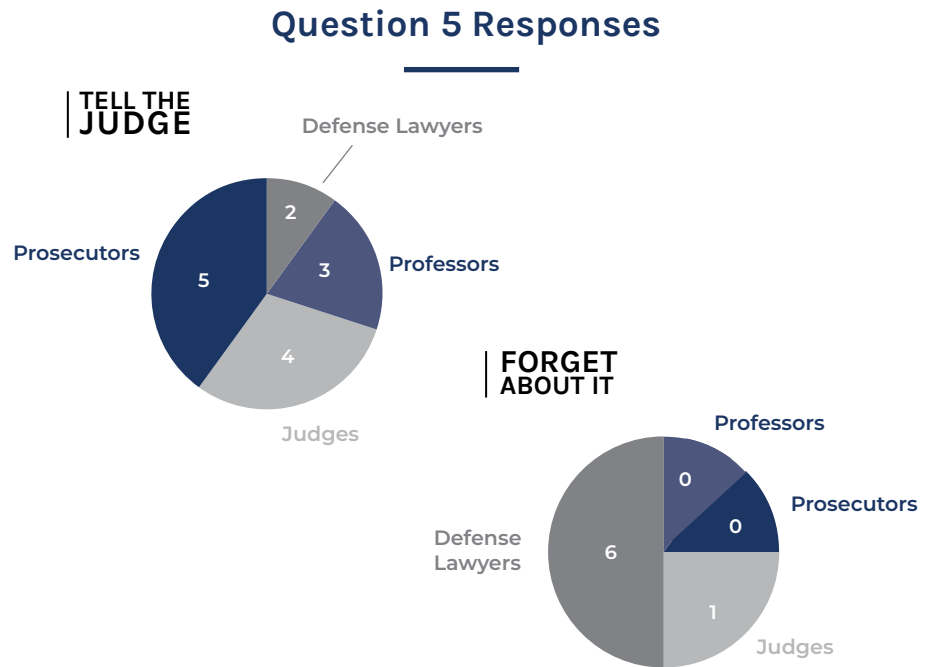
But, on the other hand, if this argument is sound (the sheriff’s opinion is his opinion, regardless of why he was asked to offer it) would those respondents also think it is okay to tender the letter if you learn that it was obtained under false pretenses *before* you filed it in court? In other words, if your argument for not reporting the deception to the court after learning of the deception is that the letter was actually truthful (so there was no deception), why does that exact argument not apply when the letter’s genesis is learned before you file it?

Also worth considering is the recent decision in the Court of Appeals, *In re Ragas*, A21A0237 (June 8, 2021) (counsel’s failure to alert the trial court about the client’s failure to abide by a court order was probably not an ethical violation—the Court did not definitively decide this issue—and was certainly not a basis for holding the attorney in contempt).

No respondent thought that learning the information six months after sentencing required a different analysis. Yet, the Rule describes a difference between learning that perjury occurred when it is timely to correct and learning about perjury when it is too late to correct the testimony.

**Question 6**

You know that the victim’s prior conduct (including a child molestation conviction



### Question 6 Responses

Answer	Defense Lawyers	Prosecutors	Judges	Professors
File the motion	3	0	1	0
No way	4	5	4	3
It depends	1	0	0	0

among other crimes), will not be admissible at trial under any reasonable existing theory or precedent. Nevertheless, you are defending your client in a small community and you file a motion to permit the introduction of such evidence and alert the local newspaper to the filing and the oral argument scheduled to hear that motion. You know the local jury pool will read the newspaper and that the evidence will not be admissible. Should you proceed with this strategy?

\* \* \* \* \*

If your client passed a polygraph, would you put that in a motion and argue that the law should change regarding admissibility of unstipulated polygraphs? Is that not aggressive, but permissible, advocacy—even if an appellate decision was issued the day before barring all polygraph evidence from the court?

What about a prosecutor who knows (there’s that word again), that a confession was obtained from the defendant

after the cop said, “In my experience, you will get a much lighter sentence if you confess.” The prosecutor knows that the confession will inevitably be suppressed by the judge. May the prosecutor file a motion seeking a hearing on the admissibility of the statement and attaching the confession as an exhibit? Can you really be challenged ethically for telling the 100% truth about the victim’s prior conduct in a pleading, even if this truth is unlikely to see the light of day at trial? And why is it relevant that you told a reporter about a publicly filed document?

Perhaps the appropriate response from the defense is that the law should be changed to admit this type of evidence. After all, the current rules permit the prosecution to introduce evidence of just about any sexual malfeasance committed by the defense in any sex assault trial (O.C.G.A. § 24-4-414). As the question postulates, maybe currently there is no reasonable theory of admissibility, yet, there is no prohibition in seeking a ruling that preserves the issue for appellate review so that the appellate court can facilitate the evolution of the “existing theory or precedent.”

### Question 7

Prior to trial, you call the key prosecution witness on the phone and properly identify yourself as the defense attorney. The witness says, “I ain’t talking to you; I’ll see you in court on June 15 and that’s when you’ll hear what I am going to say about your lousy client.” You know that the trial is scheduled for June 8. You say nothing to anybody. The witness does not appear at the trial on June 8. You say nothing. The prosecutor asks for a continuance because he cannot locate the star witness and is concerned that she may be sick, or too scared to come to court or in danger. You should:

- Argue against a continuance because there is no excuse for the prosecution’s failure to have its witnesses present and you are ready to proceed.
- Continue to say nothing.

\* \* \* \* \*

Not telling the truth, when you know it, about a matter that has nothing to do with what your client told you (i.e., there is no attorney-client privilege) seems more problematic to us than most respondents seemed to think. It was surprising that

most everyone, particularly the prosecutors, agreed the defense attorney ought to argue against the continuance, placing blame squarely on the prosecution for failing to have its witnesses present. Is “candor with the court” limited to matters that the lawyer expressly states, and not to what the lawyer knows but fails to reveal? Is a material omission not the same as fraud via a material misrepresentation? If it is permissible for the defense attorney to remain mute while knowing the reason the prosecution witness has not appeared, do our respondents think if the roles were reversed, that it would be permissible for the prosecutor to stand mute if a defense witness failed to show up (because the witness had the wrong date—and the prosecutor knew that)?

### Question 8

Your client tells you shortly before trial that he wants to proceed *pro se* and asks if you will serve as standby counsel. You know that the client is just barely competent and will do a terrible job representing himself. The client asks you to help him prepare for the hearing regarding his request to represent himself so the judge will find him capable of proceeding *pro se*, including writing down the likely questions and the answers (possible sentence range, rules of evidence that may apply, the elements of the offense, etc). You should:

- Help him, even though it is essentially helping him put the noose around his neck.
- Refuse to provide him any assistance so that the judge may reject his request to proceed without counsel.

\* \* \* \* \*

This is a troubling issue and pits the client’s best interest (in *your* mind) against the client’s best interest (in *his* mind). Consider the decision in *McCoy v. Louisiana*, 138 S. Ct. 1500 (2018), authored by Justice Ruth Bader Ginsburg when she said a lawyer must adhere to the client’s request in choosing a strategy in a death penalty trial, despite it clearly being a terrible strategy. We do not agree that there is any good answer to this problem;

## Question 7 Responses

Answer	Defense Lawyers	Prosecutors	Judges	Professors
Argue against the continuance	6	4	4	3
Say nothing	2	0	1	0
Tell the prosecution	0	1	0	0

## Question 8 Responses

Help him	3	4	3	1
Refuse to assist	4	1	2	1
Did not respond	1	0	0	1



we can't even identify the better answer. We believe that the lawyer in this situation is as hapless as McCoy's lawyer who apparently had no choice but to use his client's ridiculous defense: a strategy that certainly would have landed McCoy on death row. So we retreat and reframe the question and simply respond, "Just reason with the client until the client recognizes the importance of having counsel present his defense."

### Question 9

Your client is being sentenced in state court for a relatively minor non-violent theft offense and you have negotiated a deal for probation. He has not asked for First Offender status, but the prosecutor, to your surprise, tells the court that she does not oppose a First Offender sentence, because her documents reveal that he has no prior record. The judge asks you, "Is your client eligible for First Offender status?" The answer, in your opinion, is "no" because your client has a prior conviction for raping a young child. You realize that the prosecutor is unaware, as is the judge, of the defendant's background and not only will he not get a First Offender disposition, but he will also have the plea rejected by the judge when this is revealed. You should:

- Tell the judge he should know better than to ask the defense lawyer questions such as that.
- Tell the judge to please direct such questions to the prosecutor.
- Tell the judge that you agree that the record that the prosecutor has reveals no prior convictions.
- Respond to the judge's question as follows: "I do believe that the Falcons should get a new quarterback." (This was the approach taken by the witness in the case of Barry Bonds when asked whether he gave steroids to Bonds).

\* \* \* \* \*

Very divergent opinions from our respondents. The same "material omission" versus "material misrepresentation" problem. Are they really ethically

## Question 9 Responses

Answer	Defense Lawyers	Prosecutors	Judges	Professors
Refuse to answer	1	2	0	0
Tell the court to ask the prosecutor	1	1	1	1
Say he is ineligible	3	2	0	2
Agree with the prosecutor's record	2	0	3	0
Say "I think the Falcons need a new quarterback"	1	0	1	0

## Question 10 Responses

Answer	Defense Lawyers	Prosecutors	Judges	Professors
Correct the client's name	3	2	1	3
Don't say anything	5	3	4	0

different? All four suggested answers, in fact, unmistakably highlight one fact: "My client has a criminal record." So the Respondents' answers, "You cannot lie, but you can't hurt your client" are silly. You are hurting the client by conveying the message that he has a criminal record *and* you are lying to the court by failing to reveal the truth overtly. Any dishonesty or deceitful conduct violates Rule 8.4 (4).

We found it particularly odd that the judges generally were more prone to urge the lawyer not to reveal the true state of affairs than the prosecutors and defense lawyers, many of whom elevated "candor to the court" over the client's interest.

If you are about to buy an engagement ring at a jewelry store, and the salesman *knows* that the ring is a fake, but was told by the guy on the street who sold it to the store that it was real, if you were to

ask the salesman, "Is this ring for real?" would it be honest for the salesman to respond simply, "The guy I bought it from on the street told me it was real." The Rules recognize in Rule 3.3[3], "There are circumstances where failure to make a disclosure is the equivalent of an affirmative misrepresentation."

Also, not a single respondent mentioned another aspect of the problem. If the lawyer tells the judge, "The client is not eligible for First Offender," isn't the judge going to pursue the issue? Won't the DA pursue the issue? It is likely that the prosecutor will find out that the defendant is not eligible for First Offender, *and* moreover he is not getting the deal he thought he was going to get (i.e., probation). So disclosing that the defendant is not eligible for First Offender may be a small ripple in what will eventually be a potentially catastrophic consequence.



Lawyers who would like to discuss an ethics dilemma with a member of the Office of the General Counsel staff should contact the Ethics Helpline at 404-527-8741 or toll free at 800-682-9806, or log in to [www.gabar.org](http://www.gabar.org) and submit your question by email.



### Question 10

A defendant is arrested and the police officer mistakenly writes down the name wrong, transposing the first and middle name. When the case results in a plea, the name remains on the judgment just as it did on the arrest paperwork and the indictment. The result is that the defendant who is an undocumented alien, will not be deported. Did the defense attorney have a duty at any point in the process to correct the error?

\* \* \* \* \*

The respondent's answers were similar to #9 and once again, the judges were more inclined to let the mistake play out than the defense lawyers.

But this comes close to a crime on the part of the lawyer, because if you don't say anything, you are possibly guilty of obstructing justice. See *United States v. Kloess*, 251 F.3d 941 (11th Cir. 2001) (an attorney was indicted for obstruction of justice by entering a plea of guilty in absentia on behalf of a client he knew was using a false name). Does it matter that the error was not the client's fault? In the *Kloess* case, it was the client who presented a fake ID to the arresting officer and the lawyer who perpetuated that fraud by presenting the plea in absentia under the fake name. In our hypothetical situation the client was not the cause of the name being wrongly recorded. It surprised us that so many respondents, including four out of five judges, were not concerned that the person being sentenced was not, in fact, the person who committed the crime.

### Conclusion

So there you have it: The wisdom (and the variety of correct answers) from the sages of our judiciary, the academy and the experienced members of the trial bar. They can't agree on anything. Perhaps that is why they are lawyers. Or perhaps that is why we all know that life and the practice of law are complicated. Like rabbis who interpret the casuistry of the Torah, or ministers who can't agree

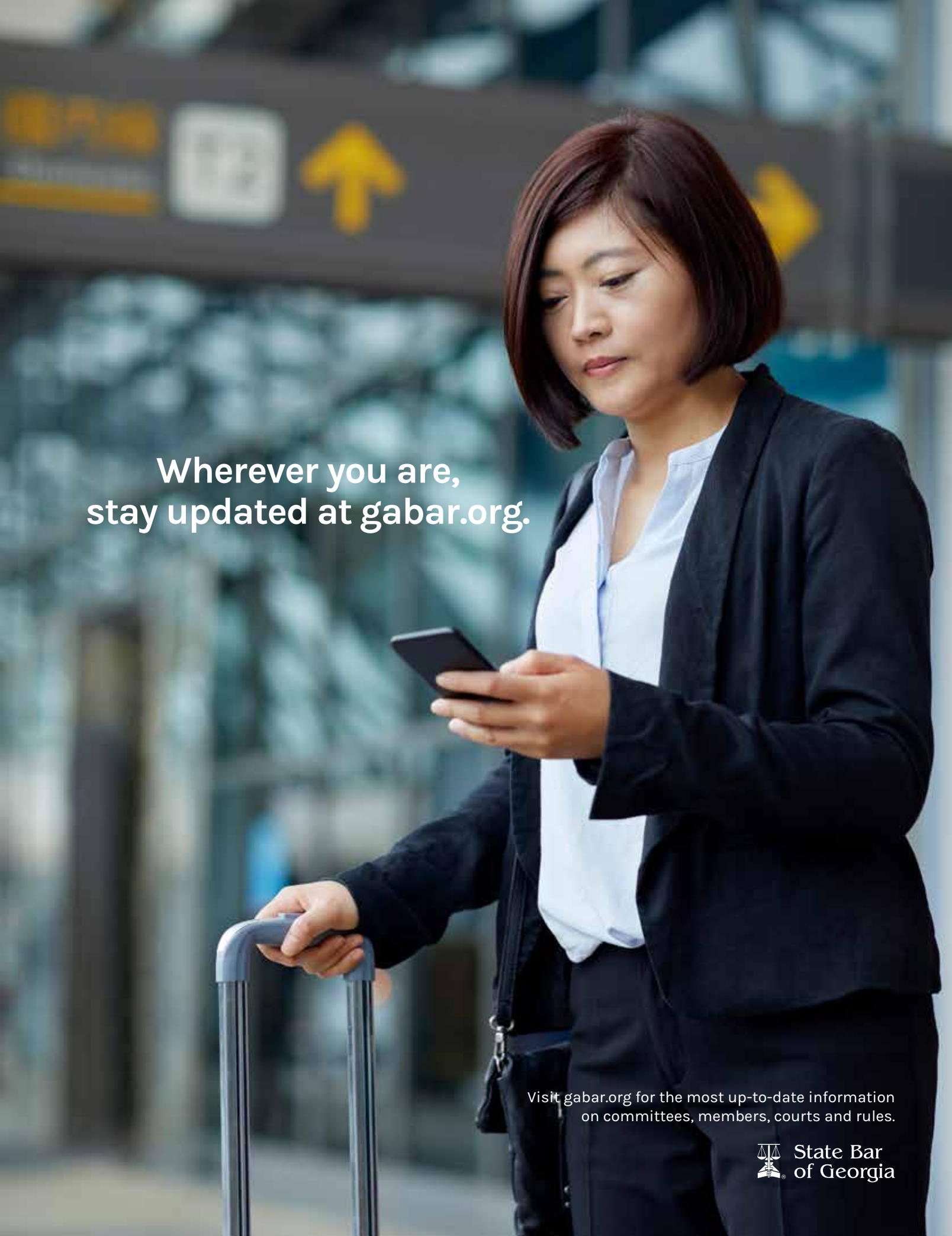
on Biblical commands, we are often left with the task of weighing the competing demands that require us to be zealous advocates, to be truthful, to be candid with the court and to be candid with our adversaries. These heuristics, stitched together in one set of rules leave us without answers. But this much is certain: we are not alone in our uncertainty. ●



**Don Samuel** is a partner at Garland, Samuel & Loeb, where he has practiced since 1982. He has written several books on criminal law, including the "Eleventh Circuit Criminal Handbook," the "Georgia Criminal Law Case Finder" and "The Fourth Amendment for Georgia Lawyers and Judges." He has previously written several articles that have been published in the *Georgia Bar Journal*, including most recently, "Parallel Proceedings," in the February 2020 publication. He is the past-president of the Georgia Association of Criminal Defense Lawyers and currently serves on the COVID-19 Task Force created by the Supreme Court of Georgia in the spring 2020.



**Amanda R. Clark Palmer** is a partner at Garland, Samuel & Loeb, where she represents clients in both civil and criminal matters in state and federal court. She has appeared in federal courts in Georgia, Florida, North Carolina, Tennessee, New York, New Jersey and Kentucky. Clark Palmer is a member of the National Association of Criminal Defense Lawyers, the Georgia Association of Criminal Defense Lawyers, the Atlanta Bar Association, the Lawyers Club of Atlanta, the Lumpkin Inn of Court and the Women's White Collar Defense Association. She is co-editor of *The Defender*, a publication of GACDL. She serves on the Magistrate Judge Selection Panel for the Northern District of Georgia and has been a member of the State Bar of Georgia Board of Governors since 2019.



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 State Bar  
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# Mentoring Matters

Mentorship matters in the practice of law and many TILPP participants have found it to be an important part of their careers.

BY KELLYN O. MCGEE



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**The mentoring component of the** Transition Into Law Practice Program (TILPP) embodies the purpose of the program: to provide professional guidance and counsel to assist newly admitted lawyers in acquiring the practical skills, judgment, and professional values necessary to practice law in a highly competent manner. As participants in the program, mentors and beginning lawyers have a roadmap with the Model Mentoring Plan, which can be modified to suit the lawyers' practice setting.

In 1996, John T. Marshall became chair of the newly appointed Standards of the Profession Committee charged with investigating whether the State Bar should require beginning lawyers to participate in internships or supervised work prior to being admitted to practice. Under Marshall's leadership, the committee determined that internships were not the best option and, instead, recommended a program combining continuing legal education and mentoring. The Supreme Court authorized the program and pilot project after the unanimous approval by the Board of Governors and the Executive

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Council of the Young Lawyers' Division. The report<sup>1</sup> on the pilot project found that beginning lawyers and volunteer mentors found the mentoring component to be beneficial. "Beginning lawyers ... reported that regular contact with mentors in a structured setting accelerated their learning curves and avoided costly misjudgments, thus achieving the goal of this educational program for transition into law practice."<sup>2</sup> Mentors reported "that the project gave structure to an otherwise informal mentoring process and nudged the mentor and beginning lawyer to discuss specific areas of importance. Even in firms with in-place mentoring and associate training programs, mentors reported that the project heightened and formalized their firms' training efforts."<sup>3</sup> Mentors also said that their service "was enjoyable and ... caused them to reflect on being a lawyer, to 'stop and think' about 'why we do what we do.'"<sup>4</sup>

TILPP created the John T. Marshall Model Mentor Award in his honor and presented him with the inaugural award in 2018. The next year, Cara Mitchell received the Model Mentor Award, following Alston Lyle's nomination, which included these comments:

She embraced the role of a mentor and helped guide me through my first year of practice in a way that set me up for success in my future practice. ... What I gleaned from Cara's mentorship is that attorneys should provide a quality work product while making client relationships a priority. ... I have taken many of her lessons with me. To this day, I follow her mentality in drafting documents, and I try to mirror her thoroughness in client consultations. ... I will forever be grateful for her mentorship and the lifelong effect it had on me.

I caught up with Mitchell and Lyle to ask them about their mentoring experience, particularly because mentoring through TILPP can feel artificial. Mitch-

The mentoring component of the Transition Into Law Practice Program embodies the purpose of the program: to provide professional guidance and counsel to assist newly admitted lawyers in acquiring the practical skills, judgment, and professional values necessary to practice law in a highly competent manner.

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ell was a partner at their then-firm in the same practice area when Lyle began as an associate.

***How were you able to ensure that you bonded or that you were doing more than checking the boxes on the mentoring plan?***

**MITCHELL:** For me, checking the boxes was the part I might not have done otherwise—the to-do list provided structure and direction. I was extremely lucky to have had a wonderful mentor early in my career, and in fact throughout my career, who taught me the value of just being present, to brainstorm, to ask questions about what I was working on and to answer my questions. You could say he mentored my mentoring. I tried to "be there" for Alston, too, just to talk through whatever was going on that day, sometimes with the checklist for structure, but often not. She probably remembers me just plopping into a chair in her office, with no real purpose. I'm a bit of an introvert, so it helped that Alston is such a sweet person—so easy to bond with!

---

## “Law school teaches you how to think like a lawyer, but lawyers teach you how to be a lawyer.” —Alston Lyle

**LYLE:** I think this responsibility falls mostly on the mentor initially because most mentees will not want to seem intrusive. Cara frequently invited me to lunch, which is a really simple gesture that allowed us to get to know each other in a more organic way than in a traditional office setting. She would also randomly drop by my office to chat, and those office pop-ins were invaluable. Cara made it a point to take an interest in my life outside of the office, making me feel comfortable quickly, and being new to the firm and area, I really appreciated her effort to get to know me as a person and not just her associate.

### *Do you think mentoring comes naturally or is it a skill that can be developed?*

**MITCHELL:** Both! Someone once told me that leadership is a choice. I think that applies to mentoring, too. Some people are natural mentors, most can learn to be better mentors, but everyone can choose to mentor a younger or less-experienced colleague. The most organic form of mentoring is just taking a moment, in the moment, to ask what questions another person has or what stood out about their day, and to respond thoughtfully.

**LYLE:** I think it involves a bit of both. Though mentoring may come naturally for some, like all talents and skillsets, it becomes better with development, practice and training. What many overlook is the time it takes to mentor. I bet, on average, during my time at the firm (particularly my first year), I asked Cara multiple questions every single day. Instead of showing annoyance or brushing me off, she walked me through legal analysis, helped me understand a structure and let me learn through discussion. That in-

vestment is not cheap in terms of attorney time, but it allowed me to learn in a way that encouraged collaboration. I would encourage mentors to embrace that mentality and hone those skills rather than simply handing out a check list of to-dos.

### *Cara, what advice would you give TILPP volunteer mentors?*

**MITCHELL:** To be purposeful about the process of mentoring, in the sense of making a series of conscious choices: to take time out for mentoring activities, to have some structured and some unstructured time with your mentee, to seek out those in your network who can provide more insight or more experiences in various areas. Another example is not just taking a mentee along for a deposition or meeting, but maybe having them ride with you, and consciously using that time to prepare or to debrief afterward. It's those little choices along the way that add up.

### *Alston, why was mentoring important at the start of your legal career, even through a mandatory program? What advice would you give to new lawyers who are in TILPP?*

**LYLE:** Law school teaches you how to think like a lawyer, but lawyers teach you how to be a lawyer. Having a mentor like Cara from the start of my career was vital because she provided a great example of client interaction, work ethic and law practice in general. As a young lawyer, you have endless questions coupled with a fear of being perceived as unintelligent, which hinders growth. Having a mentor created a safe place for me to ask my many questions without the fear of judgment, creating more confidence in my skillset. My advice to new lawyers would be to

be inquisitive about the practices of the lawyers you admire and ask more “why” questions to understand rationales and processes rather than simply a checklist. I would also encourage new lawyers to take advantage of your mentor's willingness to invest you in. TILPP will only be beneficial if both parties actively participate.

## Conclusion

That they both mentioned Mitchell's randomly dropping by Lyle's office is emblematic of how well this (mandated) mentorship worked. (They did not collaborate on their answers!) And we all agree that mentors creating a safe space is essential to a successful mentoring relationship. Mentorship matters in the practice of law and many TILPP participants have found it to be an important part of their careers. ●



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## Endnotes

1. THE STANDARDS OF THE PROFESSION REPORT AND RECOMMENDATIONS (April 5, 2003) can be found at <<https://www.gabar.org/membership/tilpp/other-bars.cfm>>, along with other information about the implementation of TILPP.
2. EXECUTIVE SUMMARY OF STANDARDS OF THE PROFESSION COMMITTEE REPORT AND RECOMMENDATIONS (April 5, 2003) at 7. <<https://www.gabar.org/membership/tilpp/other-bars.cfm>>.
3. *Id.*
4. *Supra* n 1 at 18 – 19.



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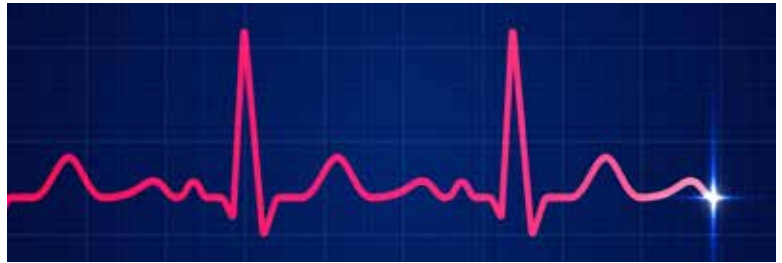
**3** Coach a team or judge a trial for the High School Mock Trial program and receive up to **three** hours of CLE credit. Contact [michaeln@gabar.org](mailto:michaeln@gabar.org) for more information and to volunteer.

**6** Earn up to **six** CLE credits for having your legal article published in the *Georgia Bar Journal*. Contact [jennifer@gabar.org](mailto:jennifer@gabar.org) to learn more.



State Bar  
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The State Bar's Senior Lawyers Committee, in conjunction with the Office of the General Counsel, has created a sudden health crisis portal that provides information regarding sudden health crisis

succession planning in order to assist lawyers in preparing their own plan, and to assist someone who is helping a lawyer who has undergone a "sudden health crisis," especially if that lawyer had no sudden health crisis emergency plan.

For more information about creating a succession plan or what to do if a lawyer you know suffers from a sudden health crisis, visit [www.gabar.org/healthcrisis](http://www.gabar.org/healthcrisis). ●

# Georgia Bar Foundation Awards \$2.5 Million in IOLTA Grants

BY LEN HORTON

**The Georgia Bar Foundation (the Foundation)** held its annual meeting virtually on July 22, during which time they awarded \$2,500,000 to 19 law-related organizations. Given the impact of the pandemic and the low interest rates, the amount of money awarded was surprisingly large.

“The Board was pleased to see that IOLTA revenues remained strong enough last year to enable us to award \$2,500,000 in grants for fiscal year 2021-2022,” said Hon. Derek J. White, newly elected president of the Foundation and judge of the State Court of Chatham County. “We are optimistic that current year revenues will remain strong, enabling us to continue to support our grantees into 2023 and beyond.”

## Grants Awarded

The primary focus of the Georgia Bar Foundation is funding civil legal services for those Georgians who need but cannot afford legal representation. Atlanta Legal Aid and the Georgia Legal Services Program are the major providers of legal aid in Georgia, and both continued to receive

significant support from the Foundation. Atlanta Legal Aid, led by Steve Gottlieb, received \$515,000, and the Georgia Legal Services Program, led by Rick Rufolo, received \$1,200,000. Both programs are nationally recognized for their excellence.

Eight other organizations providing civil legal services to needful Georgians received grants. Atlanta Volunteer Lawyers Foundation received \$120,000 for the operation of its Safe Families Office, which provides attorneys, paralegals and social workers to assist women seeking protective orders, family law assistance, holistic support and related help as they deal with intimate partner violence. AVLFF is led by Executive Director Michael Lucas, who replaced Marty Ellin in January.

Catholic Charities Atlanta received \$15,000 to support its program to represent unaccompanied alien children in removal proceedings.

Georgia Asylum and Immigration Network received \$50,000 to support attorney salaries and rent for its program to assist legally those asylum seekers who cannot return to their home countries.

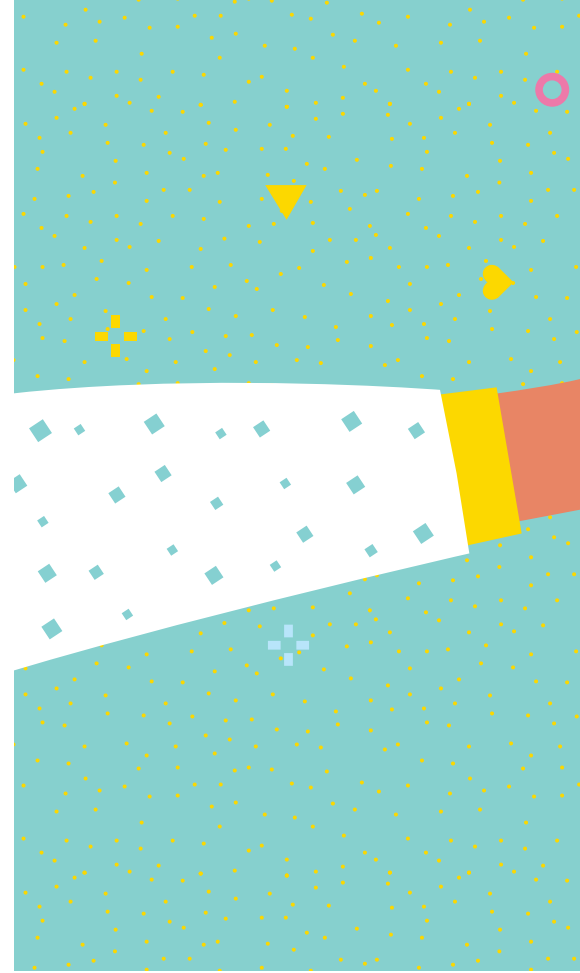
The Georgia Appellate Practice and Educational Resource Center received

\$120,000 to support its legal representation of people on Georgia’s death row. Georgia is one of only two death penalty states not providing legal assistance to people on death row.

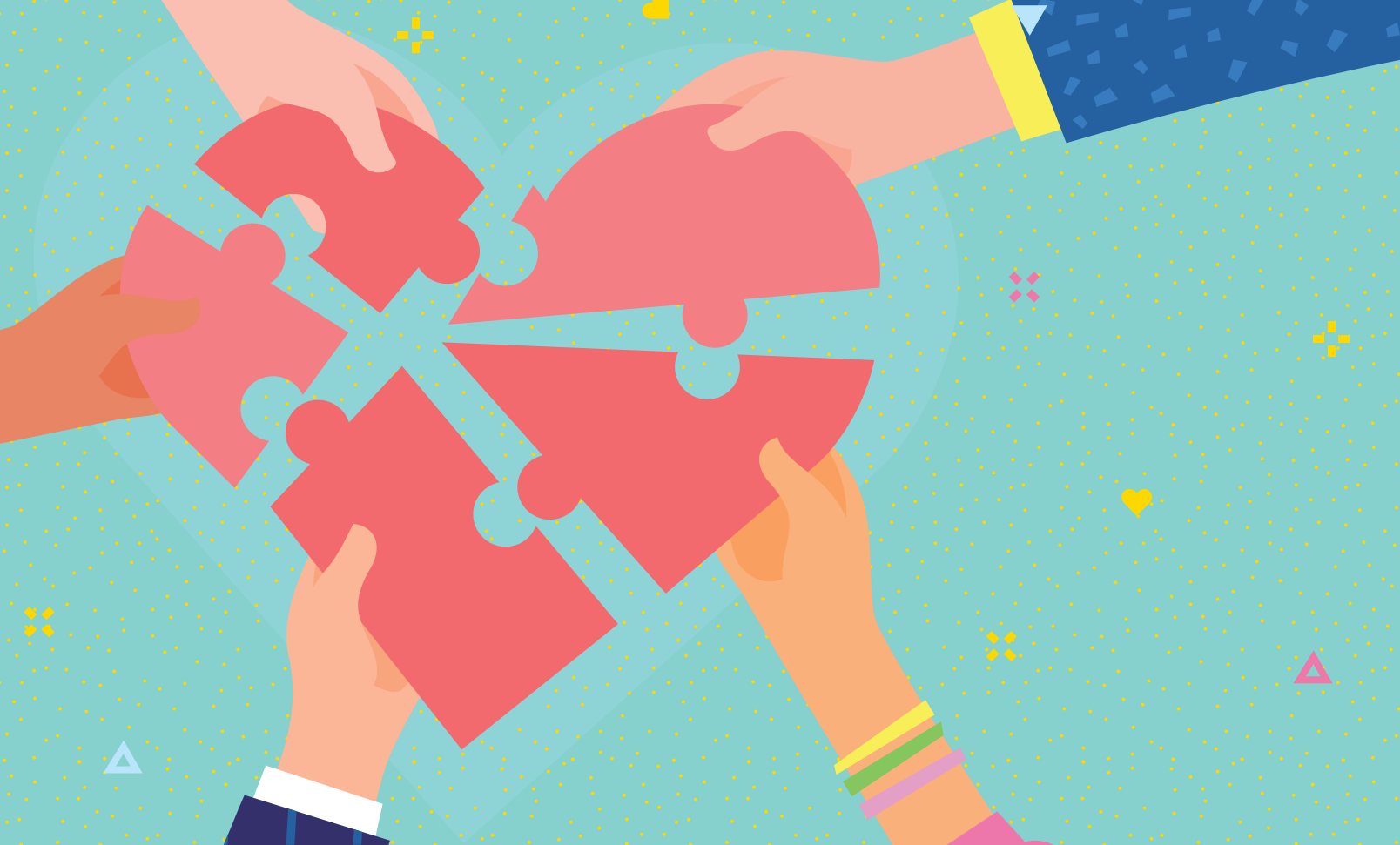
The Georgia Heirs Property Law Center received \$100,000 to support its widely acclaimed program to serve approximately 830 low-to-moderate income individuals needing assistance with title clearing and estate planning. Led by Skipper StipeMaas, the center also provides educational programs for community leaders, nonprofits and pro bono attorneys.

The Middle Georgia Access to Justice Council (MGJ), the brainchild of Judge William P. Adams, received \$15,000. Beginning as a lawyer incubator program modeled after a similar program created by Bucky Askew, MGJ has expanded in several directions. It currently serves as a lawyer referral service, an in-house legal services organization and a family law self-help center in addition to a lawyer incubator program, and is led by Michael Horner.

Southwest Georgia Legal Self-Help Center, led by new Executive Director Gerald Williams, received \$25,000 to







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help it expand into a larger space and to help pay for its annual audit. This organization, which is a law library-based, self-help center providing needful civil litigants information and referrals to attorneys, has received significant prior support from the State Bar of Georgia's Access to Justice Committee and from the Foundation.

Hope Atlanta, the still functioning part of the Georgia Law Center for the Homeless (GLCH), received \$10,000. The funds will help provide birth certificates and other identification documents to the homeless, helping them return to a more stable life. This vital part of the old GLCH was itself provided a home by Travelers Aid of Metropolitan Atlanta, and is led by Executive Director Jeff Smythe.

The Foundation also supported organizations involved with providing criminal legal services. The Georgia Coalition Against Domestic Violence (GCADV) received \$10,000 for its Justice for Incarcerated Survivors Project. This project coordinates pro bono legal assistance to women incarcerated for being involved with domestic violence. Many of the crimes committed by these women were

in retaliation for years of domestic abuse. GCADV's executive director, Jan Christensen, has worked in the domestic violence movement for more than 20 years.

Jefferson County Ships for Youth, which is the Louisville, Georgia, agency of Georgia Family Connection, received a \$10,000 grant primarily to counsel first-time offenders recommended for assistance by the district attorney's office. The goal is to provide life skills geared toward helping them avoid further criminal behavior, increasing the probability that they will become contributing members of the community.

Improving the justice system is always a concern of the Georgia Bar Foundation. The Georgia Appleseed Center for Law and Justice received \$100,000 primarily to recruit and support pro bono attorneys to help children in foster care succeed in school. Previously called the Foster Care Tribunal Project, it is now called the FAIR Project, for fairness, advocacy and individualized representation. Previously led by Sharon Hill, the Georgia Appleseed Center is now led by Michael Waller.

Law-related education is never far from the thinking of the trustees of the

Georgia Bar Foundation. Beginning in 1986, the Foundation has provided a total of more than \$200,000 for the Youth Judicial Program of the State YMCA of Georgia, which is now the Georgia Center for Civic Engagement. At the same time each year the youngsters "take over" the Georgia Legislature and simulate the legislative process as an educational experience second to none. Students also participate in the Youth Judicial Program (YJP) that simulates the judicial system at work. During the July meeting, the Foundation also awarded \$10,000 to underwrite YJP, managed by Dr. Randell Trammell.

The problem of domestic violence continues to receive attention from the Foundation. Since 2000, more than \$135,000 has been provided to the Halcyon Home for Battered Women. This year, Halcyon Home, led by Executive Director Deborah Murray, was awarded \$5,000. The funds provide temporary protective/stalking orders and divorces for these abused women.

The Safe Shelter Center for Domestic Violence Services has also received support from the Foundation. Located in Savannah, this organization provides

# Justice Robert Benham and Outgoing President Timothy Crim Honored

PHOTOS BY LEN HORTON



2021 James Collier Award recipient Justice Robert Benham.



2019-21 Georgia Bar Foundation President Timothy Crim.

During the 2021 Annual Meeting of the Georgia Bar Foundation, 2019-21 President Tim Crim presented the James Collier Award to Justice Robert Benham for his service to the Foundation and for his support of the Interest On Lawyer Trust Account Program. The James Collier Award is the highest award presented by the Foundation.

As his term as president came to an end, Crim was also honored as new Foundation President Derek White thanked Crim for his service over the last two years. In appreciation, the Foundation presented Crim with a glass sculpture and a Ritz-Carlton gift certificate. ●

legal representation to domestic violence victims. Temporary protective orders and divorces are part of what this grant award funds. This 48-bed shelter is Savannah's only organization open 24 hours a day, seven days a week, dedicated to victims of domestic violence. Cheryl Branch serves as the executive director.

SafePath Children's Advocacy Center in Marietta received \$15,000 to support its efforts to assist children through intervention, investigation, prosecution and

treatment. This organization, a favorite of the late Judge Conley Ingram, is managed by Jinger Robins.

Keeping children out of trouble and in school has always been a concern of the Georgia Bar Foundation. The Truancy Intervention Project (TIP) Georgia was awarded \$120,000 to help it achieve its focus: the prevention of school truancy and drop outs. Imagined into existence more than 30 years ago by the mind of Terry Walsh, the Foundation's recently elected

vice president, TIP Georgia has received more than \$1.25 million in IOLTA grants since 1992.

Keeping adults recently released from incarceration out of trouble and helping them become responsible citizens have always been concerns of the Foundation. The State Bar of Georgia's BASICS program has received more than \$1.3 million in IOLTA grants since 1986. The late Ed Menifee, with the assistance of the State Bar's leadership, started the program, which is widely respected for reducing recidivism among those just released from Georgia's correctional system. To assist with teaching the behaviors and values needed for success to individuals recently released from incarceration while helping them adjust to freedom and the demands of good citizenry, BASICS received \$50,000, conditioned upon the program's return to a physical presence in correctional facilities. This program is currently led by Menifee's widow, Michelle, under the supervision of the State Bar of Georgia BASICS Committee.

Even though the pandemic is still a serious problem and even though our economy may force the Foundation to deal with a few rough patches ahead, the Georgia Bar Foundation likely will have the resources to continue its significant support of legal aid and other law-related organizations throughout Georgia. ●

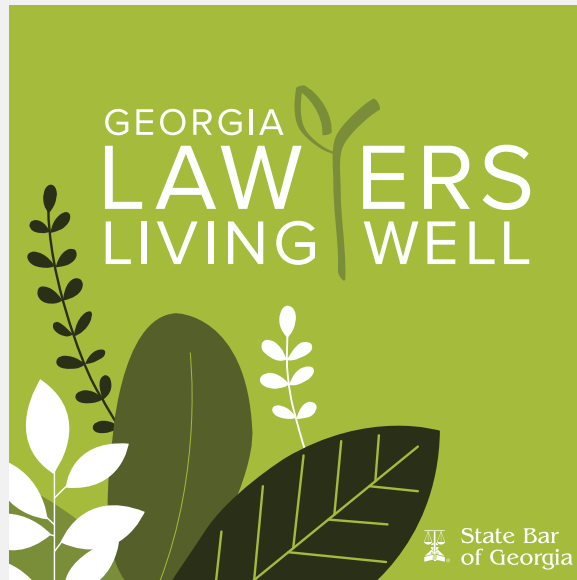
*The Georgia Bar Foundation is a 501(c)(3) foundation, the largest legal charity in Georgia, devoted to supporting legal assistance to those who cannot afford legal representation; to improving the judicial system to foster speedy, efficient and inexpensive resolution of disputes; to assisting in providing legal education to pre-college, educational programs for Georgia's children; and to fostering professionalism in the practice of law.*



**Len Horton**

Executive Director  
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SPOTIFY

# Expanding Our Concept of Diversity

BY HALIMA H. WHITE

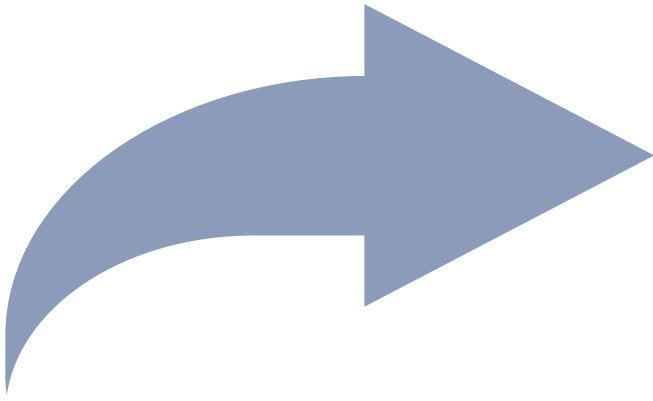
In America, when we think of diversity, many of us initially think of racial or ethnic minorities and women. That is not shocking, given the historical struggle that women and African Americans have undergone to receive certain civil rights—such as voting and property ownership. And even as late as the 1960s, in the South, classified ads were divided by race and gender, i.e., “Help Wanted—Colored Men” or “Help Wanted—White Women.”

But the State Bar of Georgia Diversity Program (GDP) challenges you to think of diversity more broadly to include, for example, differently abled attorneys, as well as LGBTQ attorneys. Such attorneys face similar challenges with respect to equity, inclusion and perception. But their differences are not always visible, and they are not always championed by the diversity, equity and inclusion movement.

GDP’s challenge to you aligns with our mission: to provide support to, and to promote the inclusion of and advocate for the advancement of, all members of the State Bar of Georgia regardless of race, nationality, ethnicity, religion, sex, gender identity, sexual orientation, disability or age.

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# GEORGIA DIVERSITY PROGRAM

Established in 1993 by State Bar Past President Charles T. Lester Jr. and Hon. Marvin Arrington, the mission of the State Bar of Georgia Diversity Program (GDP) is to provide support to, and to promote the inclusion of and advocate for the advancement of, all members of the State Bar of Georgia regardless of race, nationality, ethnicity, religion, sex, gender identity, sexual orientation, disability or age. Programming is supported by GDP member firms. We are grateful to these firms, a list of which can be found at [www.gabar.org/diversity](http://www.gabar.org/diversity), for their continued support and acknowledge that without their dedication, the work of the program would not be possible. ●

GDP is walking the walk. We are committed to adding more steering committee members from different parts of Georgia and to providing more programming throughout the state. We are rolling out CLEs focusing on differently abled lawyers with thriving practices and lawyers who are diverse in many ways. While we are not abandoning our efforts with respect to women and racial and ethnic minorities, we are making a concerted effort to be diverse and inclusive within diversity, equity and inclusion.

Join us. If you would like to help with GDP's mission, reach out to me or any member of our steering committee, [www.gabar.org/gdpcommittee](http://www.gabar.org/gdpcommittee), to learn more. See how you can be involved in our High School Pipeline Program this summer, with our Business Development Symposium, or with our Summer Associate & Judiciary Reception. We welcome the chance to get to know you better and to work with you. ●



**Halima H. White**

Executive Director, Georgia Diversity Program  
*State Bar of Georgia*

[gadiversityprogram@gmail.com](mailto:gadiversityprogram@gmail.com)

## Georgia Diversity Program Welcomes New Executive Director



Halima H. White is the new executive director of the State Bar of Georgia Diversity Program. White has spent her 20-year legal career focused on helping employers comply with Equal Employment Opportunity laws. She is immensely familiar with diversity, equity and inclusion issues affecting all employees, including women, racial and ethnic minorities, employees with disabilities, employees of various religions and employees of different sexual orientations.

In addition to her new duties as executive director of GDP, she continues to practice law as an attorney with The Employment Law Solution: McFadden Davis, LLC. White earned her law degree from Vanderbilt University Law School and spent her undergraduate years at the University of Alabama at Birmingham. When asked about her plan for the future of GDP, she said, "I am going to leverage decades of experience to implement strong programs that arm leaders with knowledge and tools to infuse diversity, equity and inclusion into law firms, corporate legal departments, government agencies and beyond." Welcome, Halima! ●

# Notice of Expiring Terms

Listed below are the State Bar of Georgia officers, Executive Committee members, Board of Governors members and ABA House of Delegates members whose terms will expire in June 2022. These incumbents and those interested in running for a specific office or post should refer to the election schedule (posted below) for important dates.

## State Bar of Georgia 2022 Election Schedule

- 2021**
- AUG** Deadline for submission of election schedule for publication in October issue *Georgia Bar Journal*
- OCT** Official Election Notice, October issue *Georgia Bar Journal*
- DEC 3** Nominating petition package mailed to incumbent Board of Governors members and other members who request a package
- 2022**
- JAN 6-7** Nomination of Officers at Westin Buckhead Atlanta  
(meeting location subject to change)
- JAN 21** Deadline for receipt of nominating petitions for incumbent Board members, including incumbent nonresident (out-of-state) members
- FEB 18** Deadline for receipt of nominating petitions for new Board members, including new nonresident (out-of-state) members
- MAR 4** 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 4** 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 18** Ballots mailed
- APR 22** 11:59 p.m. deadline for ballots to be cast in order to be valid
- APR 29** Election service submits results to the Elections Committee
- MAY 6** Election results reported and made available

## Officers

President-Elect

Treasurer

Secretary

## Executive Committee

William C. "Bill" Gentry, *Marietta*

Martin E. Valbuena, *Dallas*

Nicki Noel Vaughan, *Gainesville*

## Board of Governors Members

Alapaha Circuit, Post 2

*Hon. Clayton Alan Tomlinson, Nashville*

Alcovy Circuit, Post 2

*Austin O. Jones, Loganville*

Atlanta Circuit, Post 2

*Kent Edward Altom, Atlanta*

Atlanta Circuit, Post 4

*Jeffrey Ray Kuester, Atlanta*

Atlanta Circuit, Post 6

*Tracee Ready Benzo, Atlanta*

Atlanta Circuit, Post 8

*Hon. Paige Reese Whitaker, Atlanta*

Atlanta Circuit, Post 10

*Edward Alexander Piasta, Atlanta*

Atlanta Circuit, Post 12

*Joyce Gist Lewis, Atlanta*

Atlanta Circuit, Post 14

*Edward B. Krugman, Atlanta*

Atlanta Circuit, Post 16

*James Daniel Blich IV, Atlanta*

Atlanta Circuit, Post 18

*Foy R. Devine, Atlanta*

Atlanta Circuit, Post 20

*Jennifer Auer Jordan, Sandy Springs*

Atlanta Circuit, Post 22

*Frank B. Strickland, Atlanta*

Atlanta Circuit, Post 24

*Joseph Anthony Roseborough, Atlanta*

Atlanta Circuit, Post 26

*Anthony B. Askew, Highlands, NC*

Atlanta Circuit, Post 28

*J. Henry Walker IV, Atlanta*

Atlanta Circuit, Post 31

*Michael Brian Terry, Atlanta*

Atlanta Circuit, Post 33

*Hon. Susan Eichler Edlein, Atlanta*

Atlanta Circuit, Post 35

*Terrence Lee Croft, Atlanta*

Atlanta Circuit, Post 37

*Harold Eugene Franklin Jr., Atlanta*

Atlanta Circuit, Post 38

*Michael Dickinson Hobbs Jr., Atlanta*

Atlanta Circuit, Post 40

*Carol V. Clark, Atlanta*

Atlantic Circuit, Post 1

*H. Craig Stafford, Hinesville*

Augusta Circuit, Post 1

*Hon. Amanda Nichole Heath, Augusta*

Augusta Circuit, Post 4

*John Ryd Bush Long, Augusta*

Bell Forsyth Circuit

*Hon. Philip C. Smith, Cumming*

Blue Ridge Circuit, Post 1

*Hon. David Lee Cannon Jr., Canton*

Brunswick Circuit, Post 2

*Martha Wilson Williams, Brunswick*

Chattahoochee Circuit, Post 1

*Amy Carol Walters, Columbus*

Chattahoochee Circuit, Post 3

*Alex Musole Shalishali, Columbus*

Cherokee Circuit, Post 1

*Randall H. Davis, Cartersville*

Clayton Circuit, Post 2

*Harold B. Watts, Jonesboro*

Cobb Circuit, Post 1

*Katie Kiihnl Leonard, Marietta*

Cobb Circuit, Post 3

*C. Lee Davis, Atlanta*

Cobb Circuit, Post 5  
*Dawn Renee Levine, Marietta*

Cobb Circuit, Post 7  
*William C. Gentry, Marietta*

Conasauga Circuit, Post  
*Terry Leighton Miller, Dalton*

Coweta Circuit, Post 1  
*Nina Markette Baker, LaGrange*

Dougherty Circuit, Post 1  
*Joseph West Dent, Albany*

Douglas Circuit  
*Kenneth Brown Crawford, Douglasville*

Eastern Circuit, Post 1  
*Paul Wain Painter III, Savannah*

Eastern Circuit, Post 3  
*Jonathan B. Pannell, Savannah*

Enotah Circuit  
*Hon. Joy Renea Parks, Dahlonega*

Flint Circuit, Post 2  
*John Philip Webb, Stockbridge*

Griffin Circuit, Post 1  
*Janice Marie Wallace, Griffin*

Gwinnett Circuit, Post 2  
*Judy C. King, Lawrenceville*

Gwinnett Circuit, Post 4  
*Gerald Davidson Jr., Lawrenceville*

Houston Circuit  
*Carl A. Veline Jr., Warner Robins*

Lookout Mountain Circuit, Post 1  
*Archibald A. Farrar Jr., Summerville*

Lookout Mountain Circuit, Post 3  
*Christopher Sutton Connelly, Summerville*

Macon Circuit, Post 2  
*Thomas W. Herman, Macon*

Member-at-Large, Post 3\*  
*Joshua I. Bosin, Atlanta*

Middle Circuit, Post 1  
*Mitchell McKinley Shook, Vidalia*

Northeastern Circuit, Post 1  
*Mark William Alexander, Gainesville*

Northern Circuit, Post 2  
*Hon. Richard Dale Campbell, Elberton*

Ocmulgee Circuit, Post 1  
*Carl Santos Cansino, Milledgeville*

Ocmulgee Circuit, Post 3  
*Christopher Donald Huskins, Eatonton*

Oconee Circuit, Post 1  
*Hon. Charles Michael Johnson, Eastman*

Ogeechee Circuit, Post 1  
*Daniel Brent Snipes, Statesboro*

Out-of-State, Post 2  
*William J. Monahan, Washington, DC*

Paulding Circuit  
*Martin Enrique Valbuena, Dallas*

Rockdale Circuit  
*Daniel Shelton Digby, Conyers*

Rome Circuit, Post 2  
*J. Anderson Davis, Rome*

South Georgia Circuit, Post 1  
*Lawton Chad Heard Jr., Camilla*

Southern Circuit, Post 1  
*Christopher Frank West, Thomasville*

Southern Circuit, Post 3  
*H. Burke Sherwood, Valdosta*

Stone Mountain Circuit, Post 1  
*Hon. Stacey K. Hydrick, Decatur*

Stone Mountain Circuit, Post 3  
*Hon. Shondeana Crews Morris, Decatur*

Stone Mountain Circuit, Post 5  
*Amy Viera Howell, Atlanta*

Stone Mountain Circuit, Post 7  
*John G. Haubenreich, Atlanta*

Stone Mountain Circuit, Post 9  
*Sherry Boston, Decatur*

Tallapoosa Circuit, Post 2  
*Brad Joseph McFall, Cedartown*

Tifton Circuit  
*Hon. Render Max Heard Jr., Tifton*

Waycross Circuit, Post 1  
*Matthew Jackson Hennesy, Douglas*

Western Circuit, Post 2  
*Edward Donald Tolley, Athens*

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

## **ABA House of Delegates**

Post 1  
*Robert Rothman, Atlanta*

Post 3  
*C. Elisia Frazier, Pooler*

Post 7  
*Gerald Edenfield, Statesboro*

## Kudos



The Drake House announced that Lynn Wilson, partner at Goggans, Stutzman, Hudson, Wilson & Mize, LLP, was appointed board chair for a two-year term. The Drake House is a local non-profit that serves single mothers and their children who are experiencing homelessness.



Joyette Holmes, member at GDCR Attorneys at Law, was appointed to the Georgia Juvenile Justice Board by Gov. Brian P. Kemp. The Georgia Juvenile Justice Board, a combination of professionals, attorneys, law enforcement, public servants and others interested in improving Georgia's juvenile justice system, establishes the general policy to be followed by the Department of Juvenile Justice. The board's objective is to provide leadership in developing programs to successfully rehabilitate juvenile offenders committed to the state's custody and provide guidance to the commissioner.



The National Conference of State Historic Preservation Officers (NCSHPO) announced the election of Ramona Murphy Bartos as board president for a two-year term. NCSHPO is the professional nonprofit organization for the network of state and territorial governmental officials and their staff who carry out the national historic preservation program under the National Historic Preservation Act of 1966.



FordHarrisonLLP announced the selection of Sarah Pierce Wimberly as co-leader of the firm's airline service group. Wimberly will serve as the firm's head of airline litigation/arbitration.



The American Bar Association (ABA) appointed former Administrative Law Judge Savannah Potter-Miller to serve as a member of the ABA Advisory Commission to the ABA Standing Committee of the Law Library of Congress. The Standing Committee of the Law Library of Congress, established in 1932, serves as the ABA's connection to and voice of the legal profession concerning the continued development and effective operation of the Law Library of Congress.

Additionally, Potter-Miller was appointed to the Council of Appellate Lawyers Executive Board, ABA Judicial Division Appellate Judges Conference as a member of the Council of

Appellate Lawyers Educational Planning Committee for the Annual ABA Appellate Judges Education Institute Summit.



Atlanta attorney Avarita L. Hanson was inducted into the National Bar Association's Fred D. Gray Hall of Fame in July. This award honors attorneys who have made significant contributions to the cause of justice and practiced law for 40 or more years. It recognizes attorneys who have by, through and within institutions in their communities, states and this nation extracted and demanded the greater good of all through the practice of law. Hanson has been a member of the State Bar of Texas since 1979 and the State Bar of Georgia since 1983.



The American Bar Association's Judicial Division announced the selection of Rockdale County Chief Magistrate Judge Phinia Aten as chair of the National Conference of Specialized Court Judges (NCSCJ) of the ABA's Judicial Division. Aten is responsible for galvanizing and supporting judges of limited and special jurisdiction from around the country, including international, military, municipal, magistrate, probate, juvenile and family, mental health, accountability, problem-solving and tribal courts. Aten will oversee the year-round judicial education, policymaking, professional development and community engagement opportunities hosted by the group. The NCSCJ aims to promote improved judicial administration, equal justice under the law and public confidence in the judiciary. Founded in 1878, the ABA currently serves over 300,000 members, including 8,348 judicial section members.

## On the Move

### IN ATLANTA



Smith, Gambrell & Russell, LLP, announced the addition of Dr. Judy de León Jarecki-Black as senior counsel. Jarecki-Black focuses her practice on intellectual property, patent law, patent prosecution, biotechnology/life sciences, intellectual property litigation and health care. The firm is located at 1230 Peachtree St. NE, Suite 3100, Atlanta, GA 30309; 404-815-3500; Fax 404-815-3509; www.sgrlaw.com.





AQUINO



CRUTCHFIELD



HERRING



SIMONTON



TOBIS



WEST



WILSON

Swift Currie McGhee & Hiers, LLP, announced the addition of Lucy Aquino, Terrika Crutchfield, Alex Herring, Adam Simonton, Luke Tobis, Spenser West and Danielle Wilson as associates. Aquino's practice focuses on premises liability, construction litigation, automobile and trucking litigation, and insurance coverage. Crutchfield focuses her practice on insurance coverage and commercial litigation. Herring's practice focuses on workers' compensation. Simonton focuses his practice on automobile litigation, catastrophic injury and wrongful death, commercial litigation, construction law, insurance coverage and professional liability. Tobis focuses his

practice on arson and fraud, automobile litigation, commercial litigation, insurance coverage, premises liability and products liability. West's practice focuses on workers' compensation. Wilson focuses her practice on automobile litigation, catastrophic injury and wrongful death, commercial litigation, premises liability, products liability and professional liability. The firm is located at 1355 Peachtree St. NE, Suite 300, Atlanta, GA 30309; 404-874-8800; Fax 404-888-6199; www.swiftcurrie.com.



Morris, Manning & Martin, LLP, announced the addition of Dan Weede as partner. Weede's practice focuses on hospitality, real estate, and real estate development and finance. The firm is located at 1600 Atlanta Financial Center, 3343 Peachtree Road NE, Atlanta, GA 30326; 404-233-7000; Fax 404-365-9532; www.mmmlaw.com.



BE



MCCARTHY

Chamberlain Hrdlicka announced the addition of Belinda Be and Austin McCarthy as associates. Be's practice focuses on tax audits, appeals and litigation. McCarthy focuses his practice on tax and tax controversy and litigation. The firm

is located at 191 Peachtree St. NE, 46th Floor, Atlanta, GA 30303; 404-659-1410; Fax 404-659-1852; chamberlainlaw.com.

# ATTORNEY COACHES NEEDED IN GEORGIA

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

CLE credit is available for coaching a mock trial team!

For more information, contact the mock trial office at (404) 527-8779 or [mocktrial@gabar.org](mailto:mocktrial@gabar.org).

[www.georgiamocktrial.org](http://www.georgiamocktrial.org)

Find volunteer forms and a list of teams statewide in need of coaching assistance under the Volunteer section of the mock trial website .





Harris Lowry Manton LLP announced the promotion of Andrew "Andy" Conn to partner. Conn focuses his practice on commercial motor vehicle, products liability, medical malpractice and premises liability cases. The firm is located at 1418 Dresden Drive NE, Suite 250; Brookhaven, GA 30319; 404-998-4241, Fax 404-961-7651; [www.hlmlawfirm.com](http://www.hlmlawfirm.com).



PEADEN



DEMASI

Baker Donelson announced the addition of Vivien F. Peaden as of counsel and Melody Demasi, Mary Grace Griffith and Sheena K. Khawaja as associates. Peaden's practice focuses on business and corporate, data protection, privacy and cybersecurity data incident response, GDPR and CCPA compliance, data protection, information technology, global business and HIPAA. Demasi focuses her practice on product liability and mass tort, litigation,



GRIFFITH



KHAWAJA

appellate practice, and transportation and logistics. Griffith's practice focuses on health law, litigation—health care, health care policy, health systems/hospitals, health care enforcement actions and investigations, reimbursement, long-term care and alternative dispute resolution. Khawaja focuses her practice on real estate, business and corporate, corporate finance, hospitality, and franchising and distribution. The firm is located at Monarch Plaza, 3414 Peachtree Road NE, Suite 1500, Atlanta, GA 30326; 404-577-6000; Fax 404-221-6501; [bakerdonelson.com](http://bakerdonelson.com).



Littler Mendelson P.C. announced the addition of Bradley E. Strawn as office managing shareholder. Strawn focuses his practice on staffing, independent contractors and contingent workers, discrimination and harassment, whistleblowing and retaliation, unfair competition and trade secrets, wage and hour. The firm is located at 3424 Peachtree Road NE, Suite 1200; Atlanta, GA 30326; 404-233-0330; Fax 404-233-2361; [www.littler.com](http://www.littler.com).



Hedgepeth Heredia announced that Paul Simon was named partner. Simon focuses his practice on family law. The firm is located at 3330 Cumberland Blvd., Suite 450; Atlanta, GA 30339; 404-846-7025; [www.hhfamilylaw.com](http://www.hhfamilylaw.com).



HARTNETT



PERKINS

FordHarrisonLLP announced the addition of Leslie B. Hartnett as senior associate and Leslie M. Perkins as associate. Hartnett focuses her practice on coronavirus taskforce, employment law, health care, litigation, non-compete, and trade secrets

and business litigation. Perkins' practice focuses on class actions, employment law, labor relations, litigation and wage/hour. The firm is located at 271 17th St. NW, Suite 1900, Atlanta, GA 30363; 404-888-3800; Fax 404-888-3863; [www.fordharrison.com](http://www.fordharrison.com).

#### IN GAINESVILLE



Carroll Daniel Construction Company announced the addition of Doug Tabeling as general counsel. Tabeling will oversee and manage the legal, compliance and risk management departments. The firm is located at 330 Main St., Gainesville, GA 30501; 770-536-3241; [www.carrolldaniel.com](http://www.carrolldaniel.com).

#### IN SAVANNAH



SHEPHERD



WALLACE

HunterMacLean announced the addition of Gracie G. Shepherd and Stuart F. Wallace as associates. Shepherd focuses her practice on litigation, business litigation, real estate litigation, product liability and corporate. Wallace's practice

focuses on real estate and commercial real estate. The firm is located at 200 E. Saint Julian St., Savannah, GA 31401; 912-236-0261; Fax 912-236-4936; [www.huntermaclean.com](http://www.huntermaclean.com).

## Announcement Submissions

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. Learn more at [www.gabar.org/newsandpublications](http://www.gabar.org/newsandpublications).

To place an announcement, please contact Jada Pettus at [jadap@gabar.org](mailto:jadap@gabar.org) or 404-527-8736.

## University of Georgia School of Law Justice Robert Benham Scholars Program Receives Permanent Funding



The University of Georgia (UGA) School of Law has established the Justice Robert Benham Scholars Program Fund, an endowed fund that will support those who have overcome significant adversity and who have a demonstrated connection with or intent to return to and serve rural or legally underserved communities. This fund provides permanent funding for the school's scholars program named in the jurist's honor.

Piloted in 2018, the Benham Scholars Program addresses four key areas: recruitment, preparation for law school, academic support and career planning. To date, this program has benefitted 12 law students.

The newly established Justice Robert Benham Scholars Program Fund was created with a \$500,000 pledge by

The Hart Family Foundation, Inc., with assistance from E. David Hart Jr., a 1980 alumnus of the School of Law. Hart serves as the chief executive officer of Mountville Mills, a family-owned global manufacturing business in LaGrange, Georgia.

With this additional funding, the scope of the Benham Scholars Program will now include scholarships, participant support costs, bar exam preparation, professional development attire, participation in the school's "early start" program, materials and supplies as well as costs associated with special guest speakers or events.

Benham, UGA School of Law's second African American graduate, was the first and longest serving African American member of the Supreme Court of Georgia, on which he served as chief justice from 1995-2001. He served on the Court of Appeals of Georgia for five years before being appointed to the state's highest court in 1989. A native of Cartersville, Georgia, he holds an undergraduate degree from Tuskegee University and a Master of Laws from the University of Virginia in addition to his law degree from UGA. Following law school, Benham served in the U.S. Army Reserve, attaining the rank of captain. He has served as president of the Society for Alternative Dispute Resolution, trustee of the Georgia Legal History Foundation, and chairman of the Judicial Council and the Chief Justice's Commission on Professionalism. ●

## BAR BENEFITS

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### CONTACT

Sheila Baldwin, Member  
Benefits Coordinator  
404.526.8618 | [sheilab@gabar.org](mailto:sheilab@gabar.org)

 State Bar  
of Georgia

# Mentors—Have One, Be One!

BY PAULA FREDERICK

“It’s time to officially end this mentorship,” you say to your junior associate. “That’s the third time this week you’ve corrected me about a legal matter!”

“The tables have turned!” your associate responds gleefully. “But don’t feel bad—no one your age realizes the Bar changed Rule 4.4 a couple of years ago. Everyone who gets a misdirected email thinks they have to send it back without reading it.”

“I still think that’s the professional thing to do,” you grumble. “My point is that you have become a good lawyer. You’re teaching me as much as I’m teaching you—you don’t really need me anymore!”

Marcia relied heavily on you in her first few years of practice. Lately your conversations are more of a give-and-take as you debate changes in the law and commiserate over occasional setbacks.

You still serve a valuable role in Marcia’s professional life. She bounces ideas off you and knows you will give her advice honed over 40 years of practice. She’s there for you, too, as a constant reminder that “that’s the way we’ve always done it” isn’t a good reason to continue doing the same thing in the same way.

And perhaps most importantly, when Marcia got a grievance from an unhappy former client, you were there for her.

Lawyers who have mentors receive fewer grievances than those who don’t. A mentor can provide advice about responding to a grievance and keep the respondent lawyer focused on its resolution. Lawyers who practice in isolation

and who don’t retain a lawyer when they get a grievance are more likely to lash out at their former client and the Bar in their response rather than addressing the substance of the complaint.

Recognizing the value of mentorship, the State Bar of Georgia created the Transition Into Law Practice Program. The program requires formal mentorships for new lawyers in the state so that they have the opportunity to work through ethics and professionalism issues as they crop up in real life.

Rules 5.1 and 5.2 govern responsibilities of supervisory and subordinate lawyers. A supervisory lawyer must ensure that supervisees understand their obligations under the rules of professional conduct. A subordinate lawyer is responsible for knowing the rules and complying with them.

A subordinate lawyer who has committed misconduct does not get a “pass” by saying she acted at the direction of a supervisor. Likewise, a supervisory lawyer may be responsible for another lawyer’s violation of the rules if the lawyer orders or ratifies the conduct, or if the lawyer fails to take remedial action when possible.

So each generation passes the traditions of the profession on to the next. It’s the circle of life! ●



**Paula Frederick**

General Counsel  
State Bar of Georgia  
paulaf@gabar.org



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# Attorney Discipline Summaries

June 23, 2021 through August 10, 2021

BY JESSICA OGLESBY

## Disbarments

### Joel S. Wadsworth

2625 Piedmont Road, Suite 56-304  
Atlanta, GA 30324

Admitted to the Bar 1972

On July 7, 2021, the Supreme Court of Georgia disbarred attorney Joel S. Wadsworth (State Bar No. 730000) from the practice of law in Georgia. The disciplinary matter came before the Court on the report and recommendation of the special master recommending that Wadsworth be disbarred for his violations of multiple Georgia Rules of Professional Conduct in conjunction with his representation of various clients in a civil action in which they were plaintiffs. Despite having been properly served with the Formal Complaint, Wadsworth did not answer or otherwise respond, and the special master found him to be in default.

The facts, as deemed admitted by Wadsworth's default, show that in September 2016, Wadsworth began representing several plaintiffs in a Fulton County Superior Court case. Certain defendants filed motions to dismiss and then motions for summary judgment,

but Wadsworth failed to file responses on behalf of his clients for any of these motions, failed to respond to reasonable discovery requests, and stopped performing work on the case. On Sept. 1, 2017, Wadsworth became ineligible to practice law for failure to pay his State Bar of Georgia dues; however, he did not notify his clients he was ineligible to practice and did not withdraw from representing them, remaining counsel of record. On May 24, 2018, the trial court granted certain defendants' motions of summary judgment and scheduled the case for trial. On June 18, 2018, one of the clients filed a pro se request for a continuance and extension of time for the pre-trial order and trial, stating that Wadsworth had not responded to her and failed to provide her with documents and information to prepare for trial. Wadsworth's other clients also filed pro se motions and represented themselves in the case because of his failure to communicate with them.

The special master found that Wadsworth violated Rules 1.2 (a), 1.3, 1.4 (a) (3) and (4), 1.16 (d) and 3.2 of the Georgia Rules of Professional Conduct. The

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

## Warren R. Hinds, P.C.

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recent-discipline.cfm](http://www.gabar.org/forthepublic/recent-discipline.cfm)



State Bar  
of Georgia

maximum punishment for a violation of Rules 1.2 (a) or 1.3 is disbarment, while the maximum punishment for a violation of Rules 1.4 (a) (3) and (4), 1.16 (d) or 3.2 is a public reprimand. The special master found no factors in mitigation of discipline but found in aggravation that Wadsworth had a history of prior discipline (four formal letters of admonition), had a dishonest or selfish motive, had committed multiple offenses and had substantial experience in the practice of law. The special master concluded that disbarment was the appropriate sanction, and the Court agreed with this conclusion.

#### **Matthew Alexander Bryan**

Admitted to the Bar 2007

On Aug. 10, 2021, the Supreme Court of Georgia disbarred attorney Matthew Alexander Bryan (State Bar No. 314060) from the practice of law in Georgia. The reciprocal discipline matter came before the Court on the State Disciplinary Review Board's April 23, 2021, report and recommendation that the Court disbar Bryan from the practice of law in Georgia. The reciprocal proceeding arose from Bryan's disbarment from the practice of law in Montana on June 18, 2019. In that matter, the Montana court determined that Bryan prepared a revocable trust for a Georgia resident in 2011 and was named as successor trustee. After the trust's settlor died in 2013, one of the trust's beneficiaries searched, without success, for Bryan for three years in order to obtain information about the trust. When the beneficiary finally located Bryan in 2016 and requested a disbursement from the trust, Bryan offered nothing but excuses for more than two years as to why the trust funds were not readily available and why he could not review and discuss the trust. After the beneficiary submitted a grievance to Montana's disciplinary authorities, Montana's Office of Disciplinary Counsel also determined that Bryan's website falsely claimed that he was expanding his practice into Wyoming when he was neither admitted to practice, nor

had applied for admission to practice, law in Wyoming. Bryan did not respond to the disciplinary authorities in Montana, and the Montana Court concluded that he violated multiple disciplinary rules and that his misconduct in this matter was egregious and reflected extreme dishonesty and breaches of duty.

Based upon a review of the disciplinary procedures and rules in Montana and records from the Montana disciplinary proceeding, the Review Board concluded that the conduct that led to Bryan's disbarment in Montana would constitute a violation of Georgia's disciplinary rules. It also noted that the records from the Montana disciplinary proceeding showed that the trust had an approximate value of \$398,000 at the time of the settlor's death and that Bryan had never provided an accounting of the funds in the trust. The Review Board concluded that the sanction of disbarment did not exceed the level of discipline allowed in Georgia for similar misconduct. The Court agreed with the Review Board that disbarment was the appropriate sanction.

#### **Timothy Walter Boyd**

9800 Medlock Bridge Road, Suite 9  
Johns Creek, GA 30097

Admitted to the Bar 1992

On Aug. 10, 2021, the Supreme Court of Georgia disbarred attorney Timothy Walter Boyd (State Bar No. 072790) from the practice of law in Georgia. The disciplinary matter came before the Court on the report and recommendation of the special master recommending that the Court disbar Boyd for his violations of the Georgia Rules of Professional Conduct in connection to his handling of one client matter. The Court noted it recently rejected Boyd's third petition for voluntary discipline as to a different disciplinary matter. In this case, Boyd failed to answer the properly-served formal complaint; therefore, the facts set out in the complaint were deemed admitted.

Those facts are that a woman hired Boyd to prepare her last will and testament but passed away in 2017 before the

will was completed. After the woman's death, her parents, who lived in Florida, traveled to Georgia for the funeral. The deceased's father submitted a claim to the deceased's life insurance provider for payment owed for services provided at the deceased's residence following her death. The insurance company paid the claim in early December 2017 by issuing two checks made payable to the estate in the amounts of \$1,000 and \$6,280. While in Georgia, the deceased's parents met with Boyd and retained him to assist the father (hereinafter, "client") in qualifying and serving as the administrator of the deceased's estate. The client provided the insurance company's checks to Boyd and directed him to endorse those checks to the service provider as payments for its services. Although Boyd agreed to the representation, he failed to provide the client with an hourly rate for his legal services and instead advised that his fee would be between \$2,000 and \$5,000 depending upon the work that needed to be completed. The parties agreed that the fee would be paid from the estate, but Boyd never provided an engagement letter detailing the scope and proposed costs of the representation, despite the client's repeated requests for it.

Boyd recommend that the client give him power of attorney to complete the final actions of the deceased's estate because the client resided in Florida. The client agreed, and in January 2018, signed a Limited Power of Attorney form that authorized Boyd to make decisions concerning only the real estate within the estate. Boyd attended a closing of the sale of the deceased's residence in February but failed to provide the client with any closing documents. The client eventually obtained a copy of the closing documents from the real estate agent and discovered an unauthorized debit item on the settlement statement in the amount of \$14,397.50 for "Seller Probate Attorney Fees to Boyd Law Group, LLC." The client had not authorized the debit for attorney fees and Boyd had never advised him of the debt. In the meantime, despite

the client directing him in December 2017 to pay the service provider for its services and making repeated follow-up requests that he do so, Boyd did not pay the service provider until the end of February 2018.

Around the same time, the client asked his deceased daughter's friend to have Boyd give her the checkbook for a bank account Boyd opened at Piedmont Bank with proceeds from the sale of the deceased's residence, along with copies of all checks received for the estate, the life insurance policy and any jewelry appraisals. Boyd met the friend at the bank and added her to the account. Once the friend obtained online access, she confirmed that (1) the proceeds from the mortgage closing were deposited into the accounts; (2) Boyd had written two checks payable to "Cash" in the amount of \$5,750 and \$8,900 from that account; (3) the account indicated that Boyd used a separate check to pay the service provider (rather than endorsing the insurance company checks as instructed by the client); (4) the two checks from the insurance company were never deposited into an estate account; (5) Boyd never opened an estate account; and (6) Boyd was the only authorized signatory listed on the account. After the friend notified the client of her findings, he instructed her to immediately close the bank account and deposit all funds into a new estate account he had established, which she did.

In March 2018, the client sent Boyd correspondence requesting an itemized bill for services and fees related to the residential mortgage closing, documentation of any and all payments received by the estate and supporting documents related to the two "cash" withdrawals from the Piedmont Bank account. The day after the client sent the correspondence, the friend learned that Boyd had deposited the two checks from the insurance company, which were made out to the estate, into a different unauthorized bank account located at Fifth Third Bank—an account on which Boyd was the only signatory and about which he never ad-

vised the client. When confronted about this issue, Boyd provided to the friend a cashier's check in the aggregate amount of \$7,280 (the total of the insurance company's two checks), which she deposited into the estate account. After the client received no response from Boyd to his letter, he sent additional correspondence in April 2018 requesting a full accounting and additional detailed information about the improper and unauthorized fees showing on the settlement statement, the two checks Boyd wrote on the Piedmont Bank account made payable to cash, and the funds improperly deposited into the unauthorized account at Fifth Third Bank. Boyd never responded to the client, provided him an accounting, or refunded any unearned fees.

Based on these facts, the special master found that Boyd violated Rules 1.2, 1.3, 1.4, 1.5, 1.15 (I), 4.1 and 8.4. The maximum punishment for a violation of Rules 1.2, 1.3, 1.15 (I), 4.1 and 8.4 is disbarment, while the maximum punishment for a violation of Rules 1.4 and 1.5 is a public reprimand. The special master found no factors in mitigation of discipline, but noted that the record showed the following factors in aggravation: (1) prior disciplinary history (2011 formal letter of admonition, 2012 and 2014 Investigative Panel—now State Disciplinary Board—reprimands); (2) dishonest or selfish motive; (3) a pattern of misconduct based on this and prior offenses; (4) multiple offenses committed within this case; (5) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the Bar; (6) vulnerability of the victim; and (7) substantial experience in the practice of law. The Court agreed that disbarment was an appropriate sanction for Boyd's actions in this case. ●



**Jessica Oglesby**

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# Legal Tech TIPS

BY MIKE MONAHAN

## 1 Scary Movies [tubitv.com/svengoolie.com](http://tubitv.com/svengoolie.com)

Here's a #Lifestyle tip for October. Check out Tubi and Svengoolie for vintage scary Halloween sci-fi movies. Most movies are free. The apps are available in iOS and Android.

## 2 Khan Academy [www.khanacademy.org/computing/computer-programming](http://www.khanacademy.org/computing/computer-programming)

Does coding intrigue you? There are free online classes to satisfy your curiosity or to propel you forward. Check out [www.khanacademy.org/computing/computer-programming](http://www.khanacademy.org/computing/computer-programming).



## 3 #Zoombie

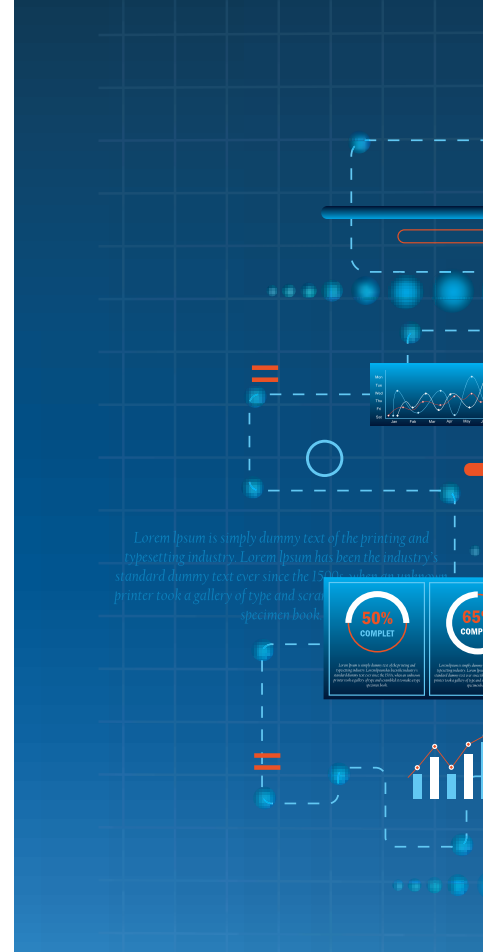
Yes, another Zoom tip—maybe an obvious one, but here it is: Use the spacebar to mute. Rather than scrambling to unmute when you're asked a question, just use the spacebar. You can press and hold the spacebar to quickly mute or unmute your microphone, right from your keyboard.

## 4 Krisp [www.krisp.ai](http://www.krisp.ai)

Well, aren't all dog visits to your Zoom call cute? Just not the visits with the barking puppies, right? Use Krisp to filter out background noise during your online meetings. For Mac and Windows, visit [krisp.ai/](http://krisp.ai/) for free and paid subscriptions.



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## 5 HoneyFI

[www.honeyfi.com](http://www.honeyfi.com)

This is #LawyersLivingWell. HoneyFI (soon to be Firstly) is geared to help couples manage money together. On top of helping you budget and spend mindfully, Honeyfi also helps you get aligned with your partner on money.

## 6 Microsoft Office Word Document Inspector

Looking for a document production hack? Make it a habit or a firm practice to use the Microsoft Office Word Document Inspector before sharing or posting documents. While in your Word document, first save the document, then Click on “File” on the upper left. Scroll down and click “Inspect Document” and you can choose the issues you want to focus on. This will help you avoid security and privacy breaches.

## 7 One Sentence Email Tips

[joshspector.com/one-sentence-email-tips](http://joshspector.com/one-sentence-email-tips)

Email got you down? The philosophy of email can be found here in this writer’s blog: [joshspector.com/one-sentence-email-tips](http://joshspector.com/one-sentence-email-tips). It’s worth a read. #LawyerHack #LawyersLivingWell

## 8 Ulysses

[ulysses.app](http://ulysses.app)

Are you looking for an app to boost your writing experience? We lawyers write all day long. Try out Ulysses from the App Store. Ulysses is designed to give you a focused and cloud-based writing experience that will allow you to focus on the essentials of writing—stopping and starting on multiple devices—without missing a beat and then produce the document in a variety of formats.



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# Mentoring in the Pro Bono Context

The pro bono community in Georgia demonstrates robust and innovative mentoring approaches. If you are interested in volunteering to make a difference for someone with a critical legal problem, you'll have the support you need.

BY MIKE MONAHAN

**Mentoring in the pro bono context** can address a volunteer's perceived or actual weakness or lack of confidence in a particular legal matter or target skills development. Mentoring can also improve communication in the volunteer's relationship with the volunteer lawyer program and increase pro bono case handling efficiency.

Not all public interest pro bono programs are designed to have a staff member assigned to mentor each pro bono attorney. A notable exception is the Georgia Asylum and Immigration Network ([www.GeorgiaAsylum.org](http://www.GeorgiaAsylum.org)), a small but powerful public interest program that serves immigrant survivors of crime and persecution that by design relies on mentoring. Most legal aid-affiliated pro bono programs and stand-alone pro bono organizations have a wider mission and do not have the financial or staff resources to offer individualized mentorship to pro bono attorneys.

Pro bono programs are very aware of the impact some level of mentorship plays in successful recruitment of volunteers. While you might find a public interest pro bono program that does offer one-on-one mentorship to its volunteer lawyers, you'll also find that volunteer lawyer programs have developed unique mentoring approaches.

The role of the pro bono program is to ensure the volunteer lawyer has a rewarding experience that results in the best outcome for the client. Most programs offer professional liability insurance coverage for the pro bono cases referred to a volunteer as the primary support. From there, the program builds upon other considerations such as the legal subject matters and their complexity, the forum (such as magistrate court vs. superior court, appeals court, administrative hearing) and the type of client served by the pro bono pro-

gram that may call for extra cultural and linguistic sensitivity.

Some volunteer lawyers require little subject matter mentoring, but do require support on how to work with a low-income or marginalized client such as a recent non-English speaking immigrant, an infirm senior in a nursing home or a client with a politically unfavorable matter. Often, this support provides client relationship or communication tips that might seem obvious to some but not all lawyers, and includes lessons on finding networking and social services support that can result in a favorable outcome for the client. Some pro bono programs only refer cases to volunteers who have experience in the particular matter being referred, for example family law or wills. This effort decreases the need for subject matter mentoring, leaving the pro bono program with more resources to spend with volunteers on the client





GETTYIMAGES.COM/MARHARYTA MARKO

relationship. This approach assumes a large available pool of potential volunteers but that's frequently not the case in rural areas.

Most pro bono programs refer an array of case types and cast a wide net for volunteer lawyers. Pro bono programs reach out to lawyers fresh out of law school, law firms with large pools of lawyers who typically focus on specialized areas of the law or practice areas, and lawyers who simply want to help on matters with which they have little or no experience. Mentoring in this environment calls for pro bono programs to provide volunteer lawyers with model subject matter practice materials, CLE-accredited trainings and some method for volunteer lawyers to access a knowledgeable pro bono program staff lawyer, or a referral to a lawyer affiliated with the pro bono program who can answer a question or two. A best practice for pro-

grams offering materials and training as mentoring is to ensure that this support is available online to volunteers. See, for example, the online learning management system being built by Georgia Legal Services Program at [learning.glsf.org](http://learning.glsf.org). The Pro Bono Partnership of Atlanta ([www.PBPATL.org](http://www.PBPATL.org)) and Atlanta Legal Aid ([www.LegalAidProBono.org](http://www.LegalAidProBono.org)) also host online support resources for their volunteers.

Georgia Free Legal Answers ([Georgia.FreeLegalAnswers.org](http://Georgia.FreeLegalAnswers.org)) takes another direction. Instead of one-on-one mentoring or providing model documents and CLE training, the ABA-supported site provides, on a quarterly basis, a group mentorship approach in which pro bono attorneys gather online and then move into small breakout rooms led by a legal aid or pro bono program staff member, or an experienced subject matter attorney who helps facilitate the process of answering

online legal questions. There is also group mentoring on how to use the website itself. Group mentoring in the pro bono context can also extend to regular or periodic online large group mentoring by subject matter or skill and CLE-annexed group mentoring.

The pro bono community in Georgia demonstrates robust and innovative mentoring approaches. If you are interested in volunteering to make a difference for someone with a critical legal problem, you'll have the support you need.

If you have any questions about pro bono, contact Mike Monahan at [mikem@gabar.org](mailto:mikem@gabar.org). ●



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# Labor & Employment Law Section's Mentorship Academy: Stronger Than Ever

To date, more than 200 section members have participated in the Labor & Employment Mentorship Academy. ... The academy is now entering its fifth year, and is stronger than ever, despite the challenges posed by the pandemic over the past year and a half.

BY JAY ROLLINS

The 2019-20 Class of the Labor & Employment Law Section Mentorship Academy—finally—held its End of Year Celebration at Petit Violet on July 29. The event was long overdue and celebrated the commitment and perseverance of the stellar group of lawyers that made up the class. The 2019-20 class was exceptional in many ways, most particularly because they maintained a connection and a sense of community through an extended 2-year period necessitated by the pandemic's interruption of scheduled events. In addition to the class participants and the Academy Board, special guests included State Bar President Elizabeth L.



PHOTO PROVIDED BY THE LABOR & EMPLOYMENT LAW SECTION

Labor & Employment Mentorship Academy President Jay Rollins recaps the extended program year and value of the program for the 2019-2020 Academy class.

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Fite and U.S. Magistrate Court Judges Catherine Salinas and John Larkins. Immediate Past President Dawn M. Jones also shared a message with the group.

### How it Began

In 2016, the leaders of the Labor & Employment Law Section of the State Bar, under the leadership of Robert Lewis, recognized the need for a formal mentoring program and launched the Labor & Employment Mentorship Academy (L&E Academy). The program was the first of its kind in Georgia, as well as across the country, and has since exceeded everyone's expectations. The group of individuals assembled to create the academy were: Bert Brannen, Fisher Phillips; Ottrell Edwards, Fulton County State Court; Gary Kessler, Martenson, Hasbrouck & Simon; Robert Lewis, assistant regional director, U.S. Department of Labor's Solicitor's Office; Jay Rollins, Schwartz Rollins; Tamika Sykes, Sykes Law; Tessa Warren, Quinn, Connor, Weaver, Davies & Rouco; and Brent Wilson, Elarbee, Thompson, Sapp & Wilson.

### How it Works

The L&E Academy pairs an experienced attorney with a relatively new employment practitioner so that regardless of the size firm or agency where the new attorney works, they can obtain guidance from someone outside their own organization both as to the practice of labor and employment law and as to forging a career in this area. The academy takes great care in both selecting and pairing the participants, including considering diversity in practice focus and whether the individuals represent employees or employers, unions or management, or are in house or serving within government agencies. The diversity is what makes the L&E Academy unique. Once selected, mentors are carefully matched with mentees, with an eye

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## 2019-20 Labor & Employment Mentorship Academy Class

### Mentees

Justin J. Babineaux | *U.S. Housing & Urban Development*  
Cheryl T. Brannon | *USDA Forest Service*  
Mariette Lynn Clardy-Davis | *M. L. Clardy Law LLC*  
Chinekwu Crystal Enekwa | *Fisher & Phillips LLC*  
Billy S. Fawcett | *Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP*  
Leslie B. Hartnett | *Ford & Harrison LLP*  
Helen Kim Ho | *HKH Law*  
Natalie K. Howard | *The Law Office of Natalie K. Howard LLC*  
Bryan F. Jacoutot | *Taylor English Duma*  
Tanesha Petty | *U.S. Army Office of Soldiers' Counsel*  
Cherri L. Shelton | *Shelton Law Practice LLC*  
Tiffany N. Taylor | *Gordon, Rees, Scully, Mansukhani LLP*  
Evan S. Weiss | *Martenson, Hasbrouck & Simon LLP*  
Shellana Welch | *Law Office of Shellana Welch*

### Mentors

Jennifer Coalson | *Parks Chesin Walbert*  
Carla Chen | *Transportation Security Administration*  
Kelly K. Giustina | *Delta Airlines, Inc.*  
Janet Hill | *Hill & Associates PC*  
Marcus Keegan | *Keegan Law Firm LLC*  
Gary R. Kessler | *Gary R. Kessler PC*  
Cheryl Legare | *Legare Attwood & Wolfe LLC*  
Ellen B. Malow | *Malow Mediation & Arbitration*  
Kathryn McConnell | *Littler Mendelson*  
Kerstin I. Meyers | *National Labor Relations Board*  
Evan M. Rosen | *Jackson Lewis LLC*  
Todd Stanton | *Stanton Law LLC*  
John Stembidge | *Stembidge Law*  
James Larry Stine | *Wimberly, Lawson, Steckel, Schneider & Stine PC*  
Tanya A. Tate | *BAY Mediation & Arbitration*  
Natalie N. Turner | *Ogletree, Deakins, Nash, Smoak & Stewart PC*

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In 2016, the leaders of the Labor & Employment Law Section of the State Bar, under the leadership of Robert Lewis, recognized the need for a formal mentoring program and launched the Labor & Employment Mentorship Academy.



PHOTO PROVIDED BY THE LABOR & EMPLOYMENT LAW SECTION



The Labor & Employment Mentorship Academy reconvened for orientation for its new 2021-22 Academy class.

# 2021-22

LABOR & EMPLOYMENT  
MENTORSHIP ACADEMY BOARD

## President

Jay Rollins  
*Schwartz Rollins LLC*

## Vice Chair

Lisa K. Simpson  
*In House at Rollins, Inc.*

## Members

Jana Anandarangam  
*In House Counsel at PulteGroup, Inc.*

Ilene W. Berman  
*Continuum Legal Group LLP*

Daniel Cole  
*Parks Chesin & Walbert PC*

Raquel Hoover  
*In House with UPS, Inc.*

Cheryl Legare  
*Legare, Attwood & Wolfe LLC*

Matt Simpson  
*Fisher & Phillips LLP*

toward complying with the respective parties' requests for a particular match.

In 2018, the Academy launched "The Courtroom Experience," where mentees, with the help of their mentors, go to the federal courthouse and perform real exercises before federal judges—oral arguments, mediations, discovery disputes, etc. The federal judiciary has been incredibly supportive and quick to volunteer their services.

In addition, the L&E Academy offers opportunities for the class to participate in programs throughout the year, including hosting CLE lunch meetings and social events, and encouraging participants to connect on mentoring Mondays. The program has fostered relationships that will undoubtedly last for the entirety of the participants' careers.

Inspired by the Labor & Employment Law Section, the Health Law Section of the State Bar of Georgia launched its own program in 2018, with the help of L&E Academy's leadership. In addition, program leadership has assisted the L&E Section of the Michigan Bar Association and the Boston Bar Association launch similar programs.

## The Future of the Academy

To date, more than 200 section members have participated in the L&E Academy, but we aren't just celebrating the program's success in the past, we are excited about the growth of the program in the future. The academy is now entering its fifth year, and is stronger than ever, despite the challenges posed by the pandemic over the past year and a half. The 2021-22 incoming academy class held its orientation on Aug. 3, and it is the largest class yet.

If you are interested in learning more about the Labor & Employment Law Mentorship Academy, visit [www.gabar.org/laboremploymentlawsection](http://www.gabar.org/laboremploymentlawsection), where you can view the program description, outline and access the application for future L&E Academy classes. You can also follow the program on Facebook @Labor&EmploymentMentorshipAcademy and Twitter @MentorshipAcad. ●



### Jay Rollins

Partner  
*Schwartz Rollins LLC*

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# Expand your network. Join a State Bar Section.

The State Bar of Georgia's 51 sections provide newsletters, programs and the chance to exchange ideas with other practitioners. Section dues are very affordable, from \$10-35. Join one (or more) today by visiting [www.gabar.org](http://www.gabar.org) > Our Programs > Sections. Questions? Contact Sections Director Mary Jo Sullivan at [maryjos@gabar.org](mailto:maryjos@gabar.org).



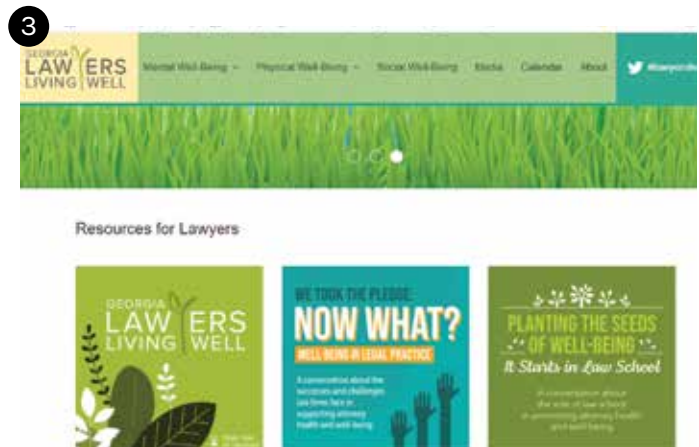
**State Bar  
of Georgia**

# Lawyers Living Well—Helping Bar Members Find A Pathway to Good Health

Lawyers Living Well is a wellness resource for Bar members and their staff. Check it out and learn about the benefits it provides.

BY SHEILA BALDWIN

**The importance of good health**—in terms of physical fitness and mental wellness—is a hot topic and currently listed as a \$4.5 trillion dollar market worldwide according to the Global Wellness Institute (see fig. 1).<sup>1</sup> A 2017 report entitled “The Path to Lawyer Well-Being: Practical Recommendations for Positive Change,” commissioned by the ABA’s National Task Force on Lawyer Well-Being, found that lawyers throughout the nation were experiencing high levels of stress and are unhealthy and unhappy, adversely affecting their professional and personal lives. The State Bar of Georgia established Lawyers Living Well to help by promoting health and wellness among our members and staff. Key efforts toward this goal include identifying factors that influence the physical and emotional well-being of attorneys, developing work/life balance CLE pro-





grams and increasing awareness of Bar wellness initiatives and resources available on the Bar's Lawyers Living Well website, [www.gabar.org/wellness](http://www.gabar.org/wellness) (see fig. 2).

### Lawyer Assistance Program

The State Bar of Georgia's Lawyer Assistance Program is a confidential service outsourced to CorpCare Associates, Inc., to help State Bar members with life's difficulties. Members are entitled to six pre-paid clinical sessions per calendar year. The program provides a broad range of services to members seeking assistance with depression, stress, alcohol/drug abuse, family problems, workplace conflicts, psychological and other issues. In order to help meet the needs of its members and ensure confidentiality, the Bar contracts the services of CorpCare Associates, Inc., a Georgia-headquartered national counseling agency. Contact the LAP at 800-327-9631, or email Lisa Hardy, vice president, CorpCare Associates, Inc., at [lisa@corpcareap.com](mailto:lisa@corpcareap.com).

### Suicide Awareness Campaign

This campaign has a dual purpose, directed toward lawyers and judges who are suffering from anxiety and depression and may be at risk for suicide, as well as all Bar members who need to recognize the severity of the problem. If you have thoughts of suicide or are concerned that a friend may be contemplating suicide, immediate action is critical. Find helpful resources on the Suicide Awareness Campaign webpage linked from

[www.lawyerslivingwell.org](http://www.lawyerslivingwell.org) (see fig. 3). Immediate help is available by calling the confidential LAP Hotline, 800-327-9631.

### SOLACE | Support of Lawyers/ Legal Personnel, All Concern Encouraged

SOLACE is designed to assist those in the legal community who have experienced some significant, life-changing event. The SOLACE program allows the legal community to reach out in meaningful and compassionate ways to their peers who experience death or other catastrophic illness, sickness or injury. If you or someone in the legal community is in need of help, simply email [SOLACE@gabar.org](mailto:SOLACE@gabar.org). Members of the SOLACE Committee review the requests and determine whether the need fits the program's capabilities. The committee then connects the member to peers that can help.

### Lawyers Helping Lawyers

Lawyers Helping Lawyers is a volunteer peer support program created by the Lawyer Assistance Committee of the State Bar to give additional tools to members by connecting them with peers to talk about the difficulties in their lives. Peer support generally involves people sharing similar experiences with an illness or condition by drawing on the unique shared experience of practicing law. Peer support can take many forms—phone calls, text messaging, group meetings, individual meetings over a cup of coffee or a

meal, going for walks together or other activities. Overall peer support complements and enhances other health care services by creating emotional, social and practical assistance. If you are in need of help or would like to volunteer, go to [www.georgialhl.org/](http://www.georgialhl.org/) and fill out the form. Policies and procedures to protect confidentiality are in place under the Lawyers Helping Lawyers Guidelines, so do not hesitate to reach out.

### Additional Resources

The Lawyers Living Well website also provides resources and information for aging lawyers/lawyers in transition, information for staying both mentally and physically fit, and social well-being directed at minimizing stress and maximizing your time and opportunity to relax and find balance in your life. The State Bar of Georgia Law Practice Management Program can also serve as a resource to help manage stressful office-related situations through its various offerings, [www.gabar.org/lpm/](http://www.gabar.org/lpm/). If you need other information about member benefits, contact me at [sheilab@gabar.org](mailto:sheilab@gabar.org) or call 404-526-8618. ●



**Sheila Baldwin**

Member Benefits Coordinator  
State Bar of Georgia

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### Endnote

1. <https://globalwellnessinstitute.org/press-room/statistics-and-facts/>.

# Are You OK?

Wellness Committee Vice Chair Candice D. McKinley shares her personal experience with COVID-19 and how she utilized self-care resources to aid in her recovery.

BY CANDICE D. MCKINLEY



**My body was very hot and I seemed to** not be able to catch my breath. My eyes kept closing and my head was pounding. I needed help. I had contracted COVID-19. In less than a week, five other family members—including my daughter and mother—all tested positive for the virus. We thought we had done everything right, but it only took one of us to spread the virus like wildfire through our family. It was late June 2020; I was terrified. I thought that this might be what takes me out. I was not OK.

My emotions were all over the place. I went through various stages of anger because I may have caused my mother to become ill and worried that she may not be able to recover because of my negligence. Then I went through periods of anxiety. At night, I thought that if I fell asleep, I might not wake up because there was so much mucus in my lungs that I couldn't breathe. Finally, I accepted the fact that I had a potentially deadly virus in my body and it was up to me to succumb to it or fight.

I choose to fight because that is what I have done my whole life. Fight against racism, sexism, educational inequities,

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## “I have come to believe that caring for myself is not self-indulgent. Caring for myself is an act of survival.” —Audre Lorde

workplace harassment—I could go on. As a Black woman in the United States, I am conditioned to adversity. In a strange way, I was the right patient for COVID-19.

After surviving a traumatic health crisis in 2016, I reached out to an organization called the SisterCare Alliance for guidance and help. Through my involvement with this organization, I developed a personal self-care plan with the assistance of a powerful circle of supportive sisters. I treated my self-care plan like studying for the Bar—being completely committed to the process—and it has paid off.

Our Lawyer’s Creed<sup>1</sup> contains three basic tenets: competence, diligence and good judgement. In order to live up to these tenets, we must be well. The Institute for Well-Being in the Law, previously known as the National Task Force on Lawyer Well-Being, detailed in their 2017 report that “well-being is part of lawyers’ ethical duty of competence.”<sup>2</sup> It calls for “healthy, positive choices to assure that lawyers can be their best for their clients, families, organizations, and communities.” The two dimensions of well-being that I focused on during my time of healing were physical<sup>3</sup> and emotional<sup>4</sup> well-being as both were critical to my self-care.

As I finalized this article, I was in isolation, battling COVID-19 for the second time, even after being fully vaccinated. I tried to figure out how, where or who I may have contracted the virus from this time. I immediately had everyone in my family tested, and all came back negative. I now believe I was exposed at work. Griping anxiety flushed over me as I flashed back to 2020. I cried in bed a couple nights as I broke my fever. I knew I had only one option: to focus all my energy on getting well both mentally and physically. To be a two-time COVID-19 survivor is a blessing. I know for sure that I am able to share my story because I was focused on wellness be-

fore contacting COVID-19. I know when I am not OK. I am intentional about my well-being and taking every step I can to minimize my risk of becoming a statistic.

While isolating at home as I recovered from COVID-19, I practiced the following wellness tips to aid in my recovery:

- Mediated, prayed and believed I could heal.
- Doubled down on my natural juices, teas and vitamins to build back my immunity.
- Rested as much as my mind and body demanded.
- Watched shows/movies I have never seen before. Laughter is good medicine.
- Accepted help from family and friends.
- Journalled and reflected.
- Soaked up the sun.
- Moved my body as much as it could handle.

Today, I am battling the long-term effects of COVID-19; however, I am here. I am committed to ensuring that mental health and wellness is normalized in the legal community. Especially for my sisters-in-the-law who work extremely hard to take care of their clients, their children and everyone else. It is time that we collectively heal ourselves and our communities so we can continue to practice at the highest level; whether it’s COVID-19 or any other “virus” in your life—it’s OK not to be OK. It’s not OK to be silent when you need help.

What are you doing to be OK?

### Self-Care Resources

- [www.LawyersLivingWell.org](http://www.LawyersLivingWell.org) | The home of Georgia Lawyers Living Well, dedicated to lawyer wellness.

- SisterCARE Alliance | [www.sistercarealliance.org](http://www.sistercarealliance.org) | An organization that promotes self-care as a form of social justice while connecting like-minded women of color.
- EXHALE | An emotional well-being app designed for Black, Indigenous, Women of Color. Available on iOS and Android.
- Insight Timer | A free meditation app available on iOS and Android. ●

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**Candice D. McKinley** is the principal owner of C. McKinley Law & Associates. The firm focuses on policy/advocacy, civil rights and personal injury cases. McKinley, a graduate of Florida A&M University College of Law, is vice chair of the Wellness Committee, advocate for normalizing well-being, a certified pilates instructor and a civil litigator.

*Content for the Attorney Wellness section of the Georgia Bar Journal is provided by members of the Print and Media Subcommittee of the State Bar of Georgia Wellness Committee.*

### Endnotes

1. Lawyer’s Creed and Aspirational Statement on Professionalism <https://www.gabar.org/aboutthebar/lawrelatedorganizations/cjcp/lawyers-creed.cfm> (accessed on August 27, 2021).
2. <https://lawyerwellbeing.net/the-report/>, (accessed on August 27, 2021).
3. Physical Well-Being: Strive for regular activity, good diet, and nutrition, enough sleep, and recovery. Limit addictive substances. Seek help for physical health when needed. Institute for Well-Being, <https://lawyerwellbeing.net/the-report/>, (accessed on August 24, 2021).
4. Emotional Well-Being: Value emotions. Develop ability to identify and manage our emotions to support mental health, achieve goals, and inform decisions. Seek help for mental health when needed. *Id.*

# When a Timeline is Worth A Thousand Words

The details always matter in legal writing. Consider not only what details to include, but how to present them in a meaningful manner. Timelines, particularly in the age of screen reading, can help your text more clearly make a point.

BY DAVID HRICIK AND KAREN J. SNEDDON



GETTYIMAGES.COM/STILIFX

For legal writing, the details matter. Those details include formatting requirements and punctuation rules. But sometimes the issue is how to present details to the reader. Often lawyers must explain detailed facts and their significance to the issue being addressed. It can be difficult to do that without losing sight of the big picture.

This installment of “Writing Matters” addresses three methods to enhance your writing when faced with that challenge. One is the need for text to clearly tell a story, which is often met by telling the story chronologically, or largely so. The second is that often the details will obscure or overwhelm the key point to be made, and that can be avoided by reinforcing the presentation of the text through a timeline, not to replace the detailed chronology, but to augment it. And the third is to structure a timeline to make the key point clearly. The last two methods are especially important if the reader will likely read the document on a screen, perhaps without the ability to make marginal notes or diagrams.

## A Real Case as Our Example

We will illustrate an effective, detailed story from a real case, but supplement it with a timeline. In *Hawkins v. Masters Farms, Inc.*,<sup>1</sup> the decedent, Mr. Creal, had been killed in December 2000 in an accident with a truck owned by a defendant, a citizen of Kansas. The wrongful death suit against the defendant was filed in federal court and alleged that Mr. Creal had been a citizen of Missouri. The defendant moved to dismiss for lack of subject matter jurisdiction, asserting that because Mr. Creal had been “domiciled” in Kansas at the time of this death he had been a “citizen” of Kansas, there was a lack of diversity, and so lack of subject matter jurisdiction.

The district court had permitted discovery, and in the following passage summarized the facts. Notice the structure of the court’s story. It begins noting

Mr. Creal living in Missouri but meeting a Kansas woman, and then chronologically detailing his growing connections to Kansas. But then the court shifts to his remaining ties to Missouri, again, however detailing them chronologically. As you read this, do not make any notes or diagrams, just try to follow the facts:

James and Elizabeth Creal first met in St. Joseph, Missouri, in November 1999. Mr. Creal had lived in St. Joseph for most of his life, while Mrs. Creal resided in Troy for the majority of her life. When the couple first met, Mr. Creal was living at his mother's home in St. Joseph, where he had been residing since obtaining a divorce from his previous wife.

Beginning in January 2000, Mr. Creal began spending the night at the apartment Mrs. Creal shared with her children on South Park Street in Troy. Initially, Mr. Creal would return to his mother's house every evening after work, shower, gather some clothes and proceed to the apartment to retire for the evening.

When Mrs. Creal and her children moved into an apartment on 1st Street in Troy in March 2000, Mr. Creal brought his clothes, some furniture, pictures, photo albums and other memorabilia to the new apartment. Mr. and Mrs. Creal also purchased a bedroom set for the apartment. When they moved into the apartment, Mr. Creal stopped going to his mother's house in St. Joseph to shower and change after work, and instead came directly back to Troy to spend the night. Mr. and Mrs. Creal were married in July 2000.

In November 2000, Mr. and Mrs. Creal moved into a house on Streeter Creek Road in Troy. Mr. Creal died approximately two weeks later.

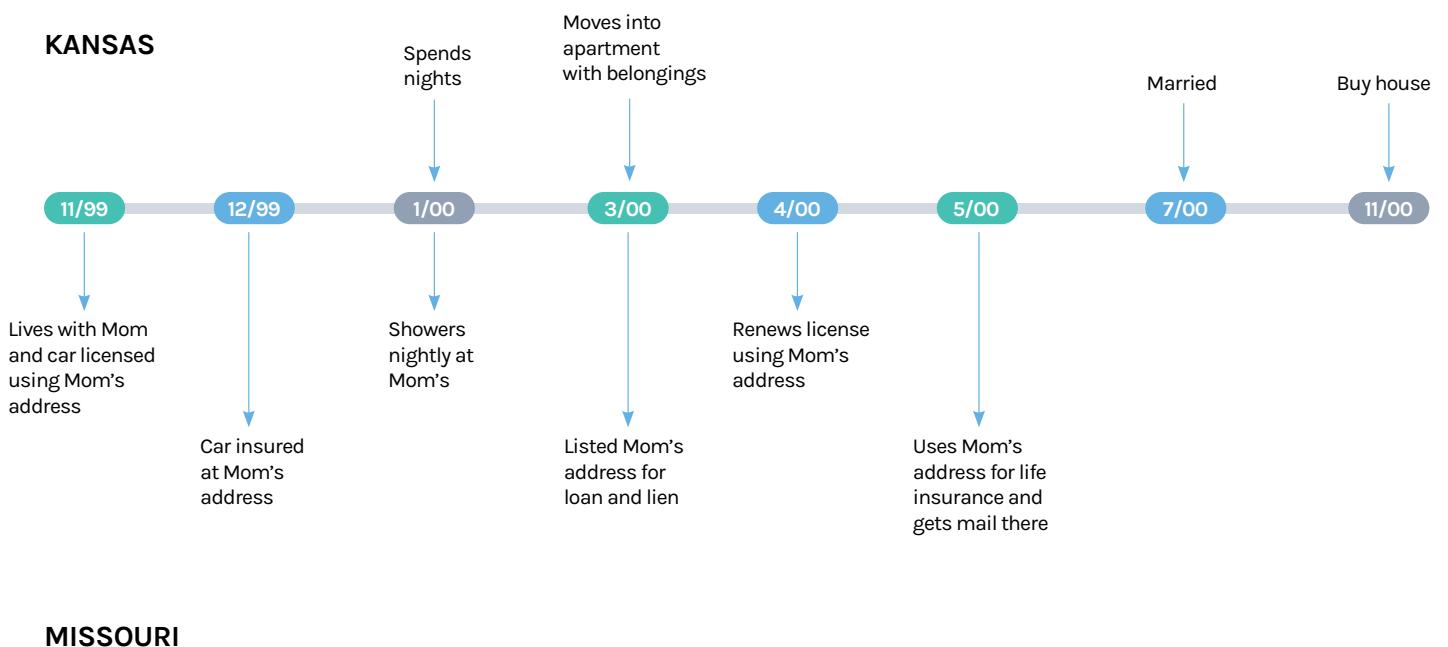
From the time Mr. and Mrs. Creal first met until Mr. Creal's death in December 2000, Mr. Creal retained certain connections with the state of Missouri. In November 1999, he applied for a Missouri title and license for his Chevrolet van using his mother's St. Joseph address. In December

1999, he applied for automobile insurance on the van using the same address. In March 2000, he listed the address when he took out a loan and applied for a new Missouri title on the van to name a new lien holder. In April 2000, he renewed his Missouri driver's license for three more years under the address. In May 2000, he filled out a form for life insurance listing the address. Mr. Creal also received mail and his paycheck stubs at his mother's house, where he stopped by every week to visit.

Just based on the text, where do you believe Mr. Creal was "domiciled" at the time of his death? What facts do you recall? Was there one event that was determinative?

Now consider how a timeline could be used to complement the recitation of the facts above. Timelines can, of course, simply show events in the order they occur. The timeline below does that, but places the facts pointing toward Kansas as his domicile on top of the arrow of time, and those pointing toward Missouri below.

## Timeline Recreation of Facts



GEORGIA BAR

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State Bar  
of Georgia

## Recreate Timeline

Now where do you think Mr. Creal had been domiciled and what was the determinative event? Has your response changed after seeing the timeline? Was it easier to reach your conclusions after seeing this timeline?

## Takeaways

The details always matter in legal writing. Consider not only what details to include, but how to present them in a meaningful manner. Timelines, particularly in the age of screen reading, can help your text more clearly make a point. For your next legal writing project, consider whether a timeline can advance its purpose to emphasizing the details that matter. ●



**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.



**Karen J. Sneddon** is interim dean and professor of law at Mercer University School of Law.

## Endnote

1. CIV.A. 02-2595-GTV, 2003 WL 2155767, at \*1-2 (D. Kan. July 7, 2003) (details omitted for purposes of this illustration).

The State Bar of Georgia announces its annual

# FICTION WRITING *Competition*

Deadline: Jan. 14, 2022

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 more information, contact Jennifer Mason, Director of Communications, 404-527-8761 or [jenniferm@gabar.org](mailto:jenniferm@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: Jennifer Mason, Director of Communications, by email to [jenniferm@gabar.org](mailto:jenniferm@gabar.org). If you do not receive confirmation that your entry has been received, please call 404-527-8761.
- 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.



# 2021 Law School Orientations on Professionalism

The Commission thanks all of the lawyers and judges, including the 138 lawyers and judges who served as group leaders for helping to make the 2021 Law School Orientations on Professionalism a great success!

BY KARLISE Y. GRIER

Each year, the State Bar of Georgia Committee on Professionalism and the Chief Justice's Commission on Professionalism conduct a professionalism orientation at every law school in Georgia. This year, 2021, marked the 29th year of the program. The orientations are designed to provide incoming 1Ls with their first introduction to professionalism. As part of the orientations, schools also invited distinguished lawyers or judges to provide professionalism remarks during a plenary session and to administer a professionalism or honor code oath to the students.

Assistant U.S. Attorney for the Northern District of Georgia Michael Herskowitz, who chairs the State Bar subcommittee that organizes the orientations, explained why he volunteers, "Professionalism in the legal field should be embodied from the first day of law school—onwards. That is why I am proud to serve in a leadership role on the Professionalism Committee and work with new law students through-

out the state of Georgia to illustrate the importance of professionalism and integrity in the practice of law," he observed.

Although Chief Justice David E. Nahmias' schedule did not permit him to serve as a 2021 group leader, in a letter to the students he shared: "Over the years, I have enjoyed serving as a group leader at several Professionalism Orientations. I truly believe that judges and lawyers need to emphasize the importance of professionalism to law students from the very start of your legal careers to help you avoid disciplinary issues, but even more to teach that you are part of a professional community. You are now a member of your law school community, and you will eventually be a member of the Bar. You will often interact with one another in stressful, chaotic environments that are designed to be adversarial. But you should never put aside the moral compass that you brought with you to law school or forget that we are all colleagues in a noble profession."







PHOTO BY THE UNIVERSITY OF GEORGIA COMMUNICATIONS DEPT.

Justice Verda M. Colvin addresses students at the University of Georgia School of Law.

State Bar of Georgia President Elizabeth L. Fite, shared in a letter she wrote to the students:

“Beginning with your first moments as a law student, it is important that you establish solid professional and social relationships with your classmates because this is one of the foundational elements of professionalism. While you may not realize it yet, the relationships that you establish with your peers will benefit you throughout your entire professional life. The persons who now share your classroom space will be your professional colleagues once you formally enter the practice of law. Whether you decide to practice law in Georgia or not, the reputation that you build among your classmates will follow you into your professional pursuits.”

Three of the justices of the Supreme Court of Georgia administered professionalism oaths to the students. Justice Shawn Ellen LaGrua returned to her alma mater, Georgia State University College of Law, to give brief remarks and administer the professionalism oath. During her remarks, Justice LaGrua highlighted the importance of developing professional friendships with other lawyers. She also talked to students about the significance of developing their professional identity at the start of their law school careers. Students at the University of Georgia School of Law also had an opportunity to hear from one of their alumna, Justice Verda M. Colvin. Justice Colvin told students: “From today, your first day of law



PHOTO BY GEORGIA STATE UNIVERSITY COMMUNICATIONS DEPT.

State Bar of Georgia Committee on Professionalism chair and repeat volunteer Josh Bosin (podium) addresses a group of Georgia State College of Law students.



PHOTO PROVIDED BY THE SUPREME COURT OF GEORGIA

Justice Carla Wong McMillian virtually administered the professionalism oath to Emory University School of Law students.



Justice Shawn Ellen LaGrua served as a keynote speaker for law students at Georgia State University College of Law.



Chief Justice's Commission on Professionalism member and first-time volunteer Francys Johnson spends time with students at the University of Georgia School of Law.

school and for the rest of your life after obtaining your license to practice law, you represent the legal profession for the good and hopefully never for the bad." She also told students no matter your background, demographic, philosophical, political or religious beliefs, you are citizens that have a special responsibility for the quality of justice. "The quality of justice will rest in your hands as our future legal minds and scholars," she said. Justice Carla Wong McMillian, although not an alumna, administered the professionalism oath at the Emory University School of Law. During her remarks to the students, Justice McMillian summarized professionalism as encompassing the 4 C's: competence, character, civility and commitment to the public good.

The heart of the professionalism orientation is the breakout session, during which Georgia lawyers and judges serve

as group leaders and guide students through a discussion of several hypothetical problems. The hypothetical problems are designed to highlight professionalism challenges the students might face in law school or in legal practice. During the 2021 professionalism orientations, all but one of the law schools used hypothetical problems developed by a team of lawyers, judges, law school professors and administrators, and law students, who volunteered with the law school orientations subcommittee of the State Bar's Committee on Professionalism. The volunteer lawyers and judges who served as group leaders attended a training to discuss the hypothetical problems and the relevant professionalism concepts before facilitating the discussion with the students.

While the professionalism orientations have traditionally been conducted in

person, this year both Emory University and Atlanta's John Marshall Law School held their professionalism orientations virtually for a second year. It is always exciting to see volunteers who return each year, such as Joshua I. Bosin, chair of the State Bar of Georgia Committee on Professionalism, and volunteers who participate for the first time, such as Chief Justice's Commission on Professionalism member Francys Johnson. The Commission thanks all of the lawyers and judges, including the 138 lawyers and judges who served as group leaders for helping to make the 2021 Law School Orientations on Professionalism a great success! ●



**Karlise Y. Grier**

Executive Director  
Chief Justice's Commission  
on Professionalism

kygrier@cjcpga.org

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# 2021 Law School Orientation on Professionalism Group Leader Volunteers

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David Addleton	Ramona Condell	Francys Johnson	Bob Norman
Kimberly Aiken	Lawrence Cooper	Eric Johnson	Benjamin Pearlman
Denise Allen	Michael Cross	Carole Jones	Jonathan Pierce
Crighton Allen	Willie Davis	Beth Jones	Polly Price
Amber Arnette	Theodore Davis	Kendall Kerew	Megan Pulsts
Robert Arrington	J. Anderson Davis	Erin King	Kristen Quinton
Bryan Babcock	Luke Donohue	Deborah Krotenberg	Maurice Riden
Spenser Berrios	Ashley Drake	David Krugler	Mark Rogers
Jamal Bethune	Jim Elliott	Kevin Kwashnak	Jennifer Romig
Phill Bettis	David Emadi	Shawn LaGrua	Sana Rupani
William Black	Gary Freed	Eric Lang	Claudia Saari
Mara Block	Frank Gaddy	John Larkins	Jessica Seares
Joshua Bosin	Tiana Garner	Aimee LaTourette	Robert Smalley
Stephen Boswell	Megan Glimmerveen	Brittany Lavalley	Robert Smith
Charles Bowen	Mindy Goldstein	Robert Lavender	Matthew Stoddard
Eric Brewton	Karlise Grier	Thomas Lavender	Meg Strickler
Suzette Broderick	Tom Griner	Katherine Lumsden	Donald Suessmith
Dean Bucci	James Hays	Alexander Lurey	Henry Tharpe
Brian Burgoon	Beau Hays	Corey Martin	John Thielman
James Butler	Adam L. Hebbard	Nicole Massiah	Torin Togut
Scott Cahalan	Michael Herskowitz	Kevin Maxim	Zack Tumlin
James Carlson	Corey Hirokawa	David McCain	Priscilla Upshaw
Vanessa Carroll	Elizabeth Hodges	Ruth McMullin	Randee Waldman
J. Wickliffe Cauthorn	Stephen Hodges	Michael Melonakos	Thomas Walker
Christopher Chan	David Hoort	Eleanor Mixon Attwood	Kathleen Wasch
David Cheng	Jennifer Hubbard	Leighton Moore	Julayaun Waters
Antoinette Clarington	Shukura Ingram	Ron Mullins	Maria Waters
Lara Ortega Clark	Deborah Jackson	Trish Murphy	Stephen Weyer
Valerie Cochran	Philip Jackson	Bill NeSmith	
Darryl Cohen	LeRoya Jennings	Titus Nichols	

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## 2021 Law School Orientation on Professionalism Keynote Speakers

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**Atlanta's John Marshall Law School**  
Judge Eric Richardson

**Emory University School of Law**  
Nora Benavidez  
Justice Carla Wong McMillian  
(Administration of Professionalism Oath)

**Georgia State University  
College of Law**  
Justice Shawn Ellen LaGrua

**Mercer University School of Law**  
Judge Sarah S. Harris

**University of Georgia School of Law**  
Justice Verda M. Colvin

**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.

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**CHRISTOPHER RYAN ABREGO**

Atlanta, Georgia  
University of Georgia  
School of Law (2004)  
Admitted 2005  
Died August 2021

**FREDERICK W. AJAX JR.**

Atlanta, Georgia  
Emory University School  
of Law (1969)  
Admitted 1969  
Died July 2021

**ALIAYAH JASMINE BAAITH**

Marietta, Georgia  
Mercer University Walter  
F. George School of Law  
(2018)  
Admitted 2018  
Died July 2021

**ERNEST R. BENNETT**

Lilburn, Georgia  
Atlanta's John Marshall  
Law School (1956)  
Admitted 1959  
Died February 2021

**DONALD B. BROOKS**

Alpharetta, Georgia  
Duke University School  
of Law (1968)  
Admitted 1969  
Died February 2021

**JOHN CLYDE CAMPBELL**

Monroe, Georgia  
Mercer University Walter  
F. George School of Law  
(1973)  
Admitted 1974  
Died January 2021

**EDWARD W. CLARY**

Easley, South Carolina  
Woodrow Wilson College  
of Law (1977)  
Admitted 1977  
Died July 2021

**J. WAYNE CROWLEY**

Macon, Georgia  
Mercer University Walter  
F. George School of Law  
(1972)  
Admitted 1972  
Died March 2021

**MELVIN LEON DANSBY**

Atlanta, Georgia  
Atlanta's John Marshall  
Law School (1985)  
Admitted 1992  
Died July 2021

**CHARLES R. DESIDERIO**

Royston, Georgia  
Woodrow Wilson College  
of Law (1964)  
Admitted 1970  
Died August 2021

**DAVID LEE DIXON**

San Francisco, California  
University of Florida  
Fredric G. Levin College  
of Law (1999)  
Admitted 1999  
Died March 2021

**GEORGE MARTIN GEESLIN**

Atlanta, Georgia  
Emory University School  
of Law (1981)  
Admitted 1981  
Died July 2021

**ROBERT ITKIN**

Conyers, Georgia  
Atlanta's John Marshall  
Law School (1995)  
Admitted 1995  
Died May 2021

**ROBERT T. JACKSON JR.**

Tyrone, Georgia  
University of Detroit  
Mercy School of Law  
(1972)  
Admitted 1994  
Died January 2021

**ERIC G. JACOBSEN**

Rockland, Maine  
Woodrow Wilson College  
of Law (1977)  
Admitted 1978  
Died July 2021

**TONY CURTIS JONES**

Albany, Georgia  
University of Georgia  
School of Law (1984)  
Admitted 1984  
Died June 2021

**KEVIN S. KING**

Atlanta, Georgia  
University of Georgia  
School of Law (1972)  
Admitted 1972  
Died August 2021

**JAMES WOODROW LEWIS**

Mableton, Georgia  
Birmingham School  
of Law (1962)  
Admitted 1972  
Died August 2021

**RICHARD THOMAS LINNEMANN**

Alexandria, Virginia  
Potomac School of Law  
(1980)  
Admitted 1980  
Died July 2021

**SAMUEL F. MAGUIRE**

Augusta, Georgia  
University of Georgia  
School of Law (1963)  
Admitted 1962  
Died July 2021

**JOHN T. MARSHALL**

Atlanta, Georgia  
Yale Law School (1962)  
Admitted 1962  
Died July 2021

**W. EARL MCCALL**

Albany, Georgia  
University of Georgia  
School of Law (1982)  
Admitted 1982  
Died November 2020

**MICHAEL D. MCCHESEY**

Jasper, Georgia  
Atlanta Law School (1975)  
Admitted 1977  
Died August 2021

**GEORGE W. MCGRUFF**

Roswell, Georgia  
University of Georgia  
School of Law (1975)  
Admitted 1975  
Died July 2021

**DONALD LYNN MOBLEY**

Lithonia, Georgia  
Atlanta's John Marshall  
Law School (1989)  
Admitted 1989  
Died January 2021

**IRENE MARY MORGAN**

Atlanta, Georgia  
Georgia State University  
College of Law (1999)  
Admitted 1999  
Died May 2021

**HARVEY W. MOSKOWITZ**

Atlanta, Georgia  
Atlanta Law School (1973)  
Admitted 1974  
Died July 2021

**RICHARD E. NETTUM**

Americus, Georgia  
Mercer University Walter  
F. George School of Law  
(1975)  
Admitted 1975  
Died May 2021

**BOBBY G. NEW**

Marietta, Georgia  
Woodrow Wilson College  
of Law (1973)  
Admitted 1979  
Died February 2021

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## OBITUARIES

**EDISON J. NUNEZ JR.**  
Schenectady, New York  
Atlanta's John Marshall  
Law School (1958)  
Admitted 1958  
Died July 2021

**KATHARINE FOX  
O'CONNOR**  
Dublin, Georgia  
University of Georgia  
School of Law (1990)  
Admitted 1991  
Died June 2021

**SHERROD G. PATTERSON**  
Atlanta, Georgia  
Mercer University Walter  
F. George School of Law  
(1982)  
Admitted 1982  
Died August 2021

**DONALD MONROE PHILLIPS**  
Lanett, Alabama  
University of Alabama  
School of Law (1975)  
Admitted 1977  
Died April 2021

**TYLER LEE RANDOLPH**  
Richmond Hill, Georgia  
University of Virginia  
School of Law (1995)  
Admitted 2004  
Died August 2021

**DAVID ALLAN ROBY JR.**  
Washington, D.C.  
University of Georgia  
School of Law  
(1993)  
Admitted 1993  
Died June 2021

**PHILIP JAMES ROSS**  
Vienna, Virginia  
Emory University School  
of Law (1975)  
Admitted 1975  
Died February 2021

**JEROME M. ROTHSCHILD**  
Columbus, Georgia  
University of Virginia  
School of Law (1966)  
Admitted 1968  
Died August 2021

**ROBERT WILLIAM SPEARS**  
Grand Junction, Colorado  
Emory University School  
of Law (1952)  
Admitted 1951  
Died August 2021

**JAMES EDWARD STARNES**  
Newport Beach, California  
Duke University School of  
Law (1977)  
Admitted 1992  
Died April 2021

**WILLIAM I. SYKES JR.**  
Gainesville, Georgia  
Woodrow Wilson College  
of Law (1973)  
Admitted 1974  
Died July 2021

**FRANK S. TWITTY JR.**  
Camilla, Georgia  
University of Georgia  
School of Law  
(1958)  
Admitted 1958  
Died August 2021

**JOHN TREADWELL WASDIN**  
Carrollton, Georgia  
University of Georgia  
School of Law (1960)  
Admitted 1960  
Died August 2021



### **John T. Marshall of Atlanta passed away in July.**

Born in Macon on Nov. 1, 1934, Marshall spent his early years in Jacksonville, Florida, until he moved to Cordele. Marshall attended Vanderbilt University on an ROTC Scholarship. He was an Honor Marine Graduate, a member of ODK, a National Leadership Honor Society and was president of the Sigma Chi Fraternity, graduating *cum laude* in 1956, before serving his country in the U.S. Marine Corps (1956-58) where he attained the rank of captain.

After his military service, Marshall enrolled at Yale Law School, graduating in 1962. He joined the law firm of Powell, Goldstein, Frazier and Murphy in Atlanta as their first summer associate. Throughout his career, Marshall credited his mentors at the firm for the professional values and skills they taught him. Marshall became a partner in the firm in 1967, where he remained for 47 years.

Marshall served as president of the Atlanta Bar Association, a fellow of the American College of Trial Lawyers and a member of the American Academy of Appellate Lawyers.

In 1996, the Supreme Court of Georgia appointed Marshall as chair of the State Bar of Georgia's Standards of the Profession Committee. This committee, authorized by the Supreme Court of Georgia, created the first year long, supervised mentoring program in the country for beginning lawyers, the Transition Into Law Practice Program (TILPP). In 2010, it received the American Bar Association's Gambrell Professionalism Award for Outstanding Achievement. Now in its 16th year, this program has been instituted around the country.

Marshall received several awards during his career, including the Harrison Tweed Special Merit Award, the Anti-Defamation League Lifetime Achievement Award, the American Inns of Court Professionalism Award, the State Bar of Georgia's Distinguished Service Award, the General Practice & Trial Law Section's Tradition of Excellence Award, the Eleventh Circuit's Professionalism Award and Georgia State University School of Law's Ben Johnson Award for Public Service. He was also the inaugural recipient of TILPP's John T. Marshall Model Mentor Award. ●



**Philip (Phil) James Ross, 70, of Vienna, Virginia,** died in February. Ross was born in St. Louis, Missouri, on July 15, 1950. He graduated from American University in Washington, D.C., in 1972. It was at American that he met his wife, Jean.

They attended Emory University together where

Ross graduated in 1975 with a Juris Doctorate degree and began his legal career. His first legal job entailed searching through dusty title volumes in various Georgia county courthouses.

Relocating to the Washington, D.C., area in 1977, Ross began his career at the Environmental Protection Agency in the Office of Legislation. In 1984, he transferred to the EPA General Counsel's Office and focused his work on pesticides, often crafting labeling language to protect consumers. During his 40-year career he received numerous awards and commendations for his regulatory skill. ●



**Hon. Frank S. Twitty Jr. of Camilla** passed away in August. A native of Camilla, Georgia, Twitty graduated from Mitchell County High School in 1953, the University of Georgia in 1957 and received his Juris Doctorate from UGA in 1959. He practiced law at Twitty and Twitty in

partnership with his father until his father's death in 1981. Twitty continued practicing law full time until his retirement in 1998.

During the course of his legal career, Twitty served as judge of the State Court of Mitchell County for 22 years and was court solicitor for 10 years prior to becoming judge. He served as the attorney for Mitchell County for 17 years, the attorney for the city of Camilla for 38 years, and attorney for the city and county development authorities. He was also attorney for the Mitchell County Hospital Authority, GFA Peanut Association, P&C Bank and the Bank of Camilla, where he served as a board member.

Twitty was past president of the Mitchell County and South Georgia Judicial Circuit Bar Associations and was a member of the Investigative Panel for the Disciplinary Board of the State Bar of Georgia. ●



## 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.



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**OCTOBER**

- 13 Criminal Practice**  
Atlanta | 6 CLE  
Register at [www.gabar.org/criminal-practice](http://www.gabar.org/criminal-practice)
- 15 Construction Law for the General Practitioner**  
Atlanta | 6 CLE  
Register at [www.gabar.org/construction-law-gp](http://www.gabar.org/construction-law-gp)
- 27 The Lawyer's Compass**  
Atlanta | 6 CLE  
Register at [www.gabar.org/lawyers-compass](http://www.gabar.org/lawyers-compass)
- 29 Zoning Law**  
Atlanta | 6 CLE

**NOVEMBER**

- 3 Punitive Damages**  
Atlanta | 6 CLE  
Register at [www.gabar.org/punitive-damages](http://www.gabar.org/punitive-damages)
- 5 Title Standards**  
Atlanta | 6 CLE  
Register at [www.gabar.org/titlestandards](http://www.gabar.org/titlestandards)
- 10 VA Accreditation**  
Atlanta | 6 CLE

- 11 Commercial Real Estate**  
Atlanta | 6 CLE
- 12 Secrets to a Successful Plaintiff's Personal Injury Practice**  
Atlanta | 6 CLE
- 16 Handling Big Cases**  
Atlanta | 6 CLE
- 30 Jury Trials in Divorce**  
Atlanta | 6 CLE

**DECEMBER**

- 8 Labor & Employment Law**  
Atlanta | 6 CLE
- 15 Premises Liability**  
Atlanta | 6 CLE
- 17 Professionalism, Ethics & Malpractice**  
Atlanta | 3 CLE

*Courses are being offered in both limited in-person and online formats. By registering for limited in-person attendance you agree to comply with State Bar of Georgia safety measures, which include social distancing and wearing a mask that covers your nose and mouth.*

*\*Please note: Not all programs listed are open for registration at this time.*



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**Statement of Ownership, Management, and Circulation**

1. Publication Title: Georgia Bar Journal

2. Publication Number: 0 2 1 7 5 6 0

3. Filing Date: 9/28/20

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6. Annual Subscription Price: \$36

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

Contact Person: Jennifer Masan, Telephone (include area code): 404-527-5751

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

9. Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor (Do not leave blank): Publisher (Name and complete mailing address): State Bar of Georgia, 104 Marietta St. NW, Suite 100, Fulton Co., GA 30303-2743; Editor (Name and complete mailing address): Megan Hodgkiss, Hodgkiss Consulting LLC, 1301 Hanward Road NE, Atlanta, Fulton Co., GA 30306; Managing Editor (Name and complete mailing address): Jennifer Masan, Director of Communications, State Bar of Georgia, 104 Marietta St. NW, Suite 100, Atlanta, Fulton Co., GA 30303-2743

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PS Form 3526, July 2014 (Page 1 of 4) (see instructions page 4) PSN: 7530-01-000-9931 PRIVACY NOTICE: See our privacy policy on www.usps.com

13. Publication Title: Georgia Bar Journal

14. Issue Date for Circulation Data Below: August 2021

15. Extent and Nature of Circulation

		Average No. Copies Each Issue During Preceding 12 Months	No. Copies of Single Issue Published Nearest to Filing Date
a. Total Number of Copies (Net press run)		31,581	31,075
b. Paid Circulation (By Mail and Outside the Mail)	(1) Mailed Outside-County Paid Subscriptions Stated on PS Form 3541 (include paid distribution above nominal rate, advertiser's proof copies, and exchange copies)	30,462	29,997
	(2) Mailed In-County Paid Subscriptions Stated on PS Form 3541 (include paid distribution above nominal rate, advertiser's proof copies, and exchange copies)	0	0
	(3) Paid Distribution Outside the Mails Including Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Paid Distribution Outside USPS®	0	0
	(4) Paid Distribution by Other Classes of Mail Through the USPS (e.g., First-Class Mail®)	0	0
c. Total Paid Circulation (Sum of 15b (1), (2), (3), and (4))		30,462	29,997
d. Free or Nominal Rate Distribution (By Mail and Outside the Mail)	(1) Free or Nominal Rate Outside-County Copies included on PS Form 3541	0	0
	(2) Free or Nominal Rate In-County Copies included on PS Form 3541	0	0
	(3) Free or Nominal Rate Copies Mailed at Other Classes Through the USPS (e.g., First-Class Mail)	254	271
	(4) Free or Nominal Rate Distribution Outside the Mail (Carriers or other means)	115	129
e. Total Free or Nominal Rate Distribution (Sum of 15d (1), (2), (3) and (4))		369	400
f. Total Distribution (Sum of 15c and 15e)		30,831	30,397
g. Copies not Distributed (See Instructions to Publishers #4 (page #3))		641	601
h. Total (Sum of 15f and 15g)		31,472	30,998
i. Percent Paid (15c divided by 15f times 100)		98.8	98.7

16. Electronic Copy Circulation

		Average No. Copies Each Issue During Preceding 12 Months	No. Copies of Single Issue Published Nearest to Filing Date
a. Paid Electronic Copies			
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c. Total Print Distribution (Line 15f) + Paid Electronic Copies (Line 16a)			
d. Percent Paid (Both Print & Electronic Copies) (16b divided by 16c x 100)			

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17. Publication of Statement of Ownership:  If the publication is a general publication, publication of this statement is required. Will be printed in the **October 2021** issue of this publication.  Publication not required.

18. Signature and Title of Editor, Publisher, Business Manager, or Owner: Jennifer R. Masan, Date: 9/28/21

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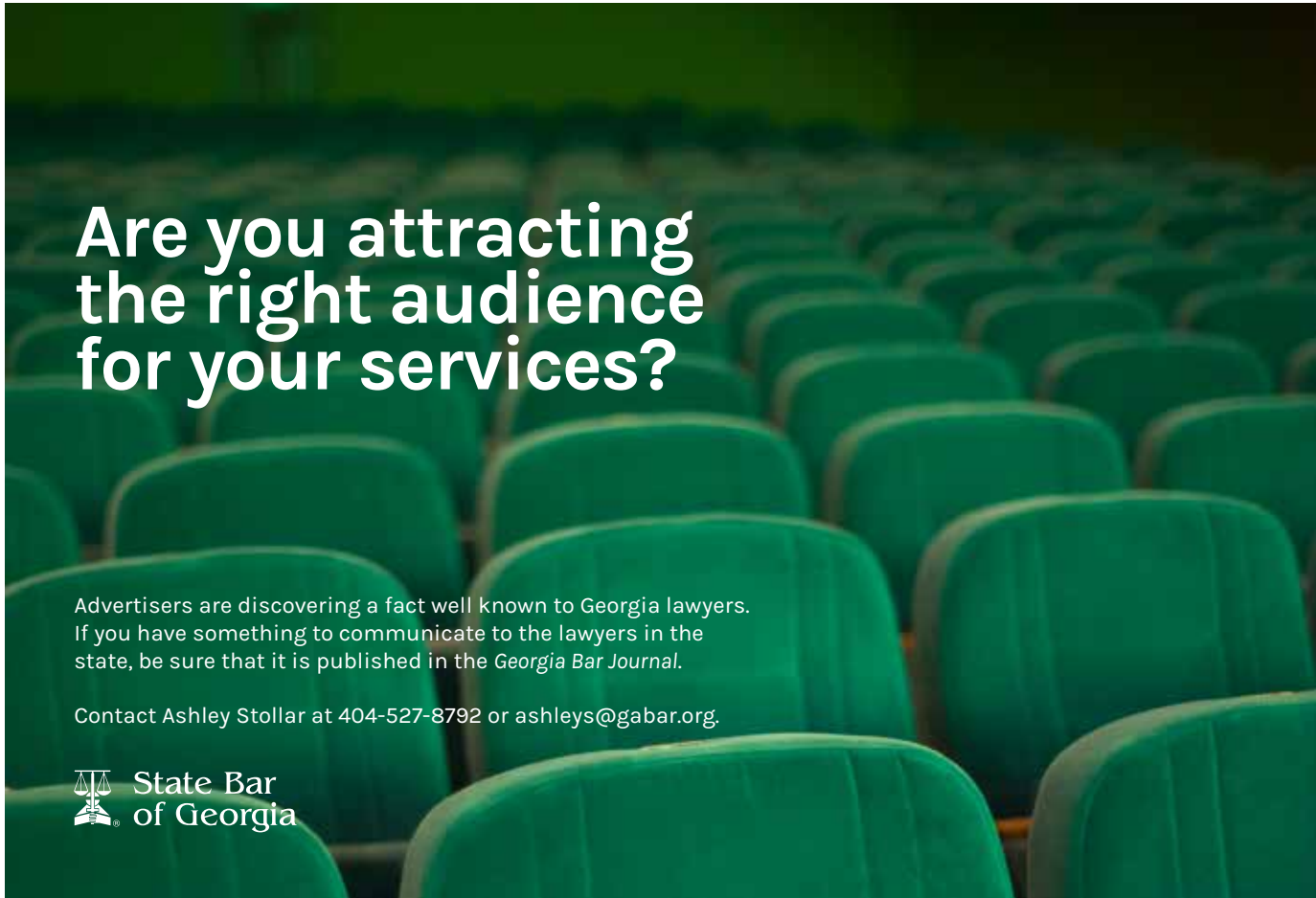
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