



Georgia Bar Journal

February 2015 ■ Volume 20 ■ Number 5



**A Special Thank You to
Georgia's Lawyer-Legislators**

LEGEND

-  Primary Detour Route
-  Secondary Detour Route
-  Local Parking Access Only
-  Road Closed for Construction

2-WAY TRAFFIC
ON CENTENNIAL
OLYMPIC PARK
DRIVE

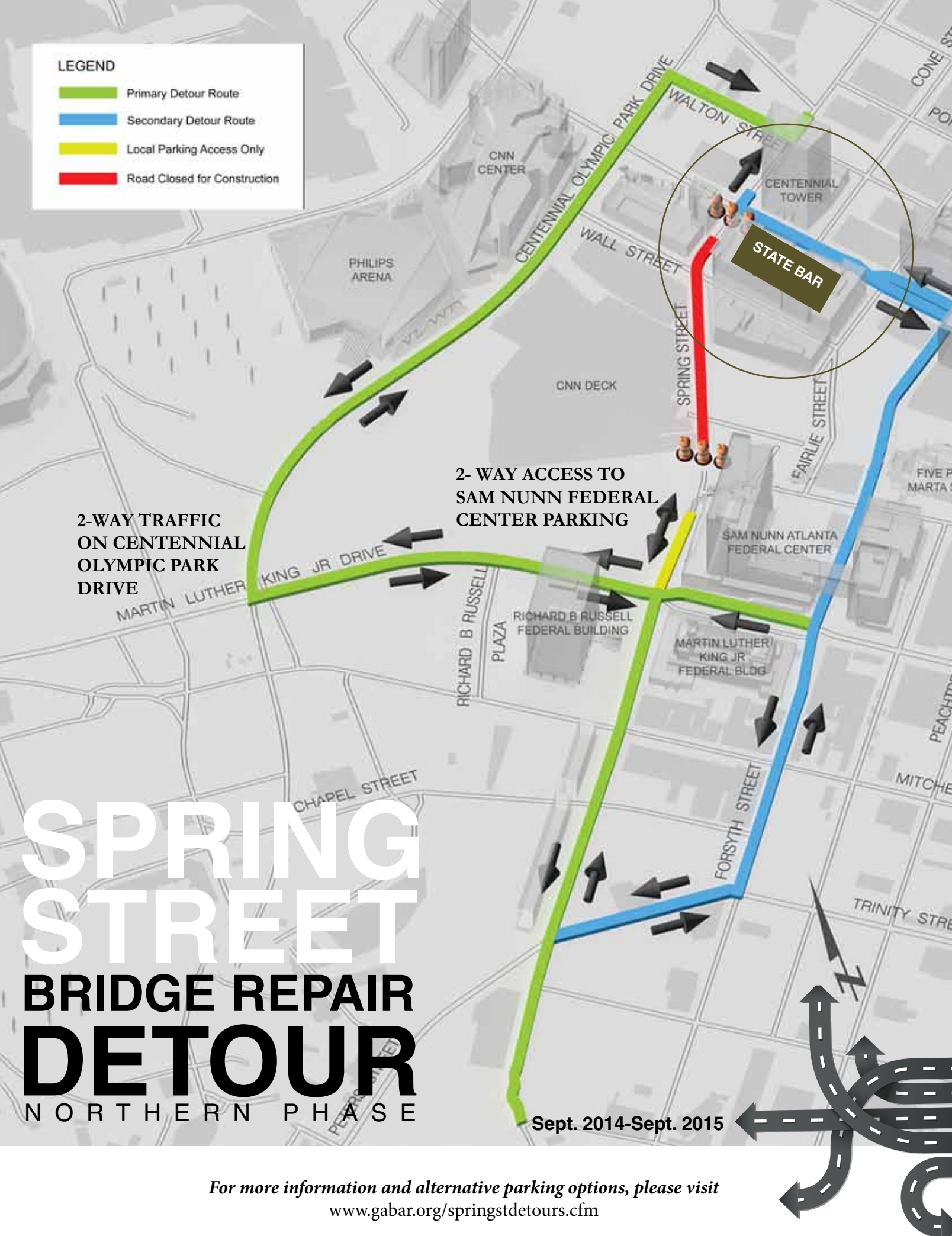
2- WAY ACCESS TO
SAM NUNN FEDERAL
CENTER PARKING

SPRING STREET BRIDGE REPAIR DETOUR

NORTHERN PHASE

Sept. 2014-Sept. 2015

For more information and alternative parking options, please visit
www.gabar.org/springstdetours.cfm



ABA TECHSHOW[®] 2 0 1 5

CONFERENCE AND EXPO • APRIL 16-18, 2015

Members receive up to a \$355 Discount

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

Register for ABA TECHSHOW under the Event promoter rate and enter your Association's unique code **TECHSHOWEP15**.

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



BRINGING **LAWYERS & TECHNOLOGY** TOGETHER

HILTON CHICAGO | WWW.TECHSHOW.COM | @ABATECHSHOW | #ABATECHSHOW | CHICAGO, IL

Quick Dial

Attorney Discipline	800-334-6865 ext. 720 404-527-8720
Consumer Assistance Program	404-527-8759
Conference Room Reservations	404-419-0155
Fee Arbitration	404-527-8750
CLE Transcripts	404-527-8710
Diversity Program	404-527-8754
ETHICS Helpline	800-682-9806 404-527-8741
Georgia Bar Foundation/IOLTA	404-588-2240
Georgia Bar Journal	404-527-8791
Governmental Affairs	404-526-8608
Lawyer Assistance Program	800-327-9631
Law Practice Management	404-527-8773
Law-Related Education	404-527-8785
Membership Records	404-527-8777
Meetings Information	404-527-8790
Pro Bono Project	404-527-8763
Professionalism	404-225-5040
Sections	404-527-8774
Transition Into Law Practice	404-527-8704
Unlicensed Practice of Law	404-527-8743
Young Lawyers Division	404-527-8778

Manuscript Submissions

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

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

Disabilities

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

Headquarters

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

Coastal Georgia Office

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

South Georgia Office

244 E. Second St. (31794) P.O. Box 1390
Tifton, GA 31793-1390

800-330-0446, 229-387-0446, FAX 229-382-7435

Publisher's Statement

The *Georgia Bar Journal* (ISSN-1085-1437) is published six times per year (February, April, June, August, October, December) with a special issue in November by the State Bar of Georgia, 104 Marietta St. NW, Suite 100, Atlanta, Georgia 30303. Copyright State Bar of Georgia 2015. One copy of each issue is furnished to members as part of their State Bar dues. Subscriptions: \$36 to non-members. Single copies: \$6. Periodicals postage paid in Atlanta, Georgia and additional mailing offices. Opinions and conclusions expressed in articles herein are those of the authors and not necessarily those of the Editorial Board, Communications Committee, Officers or Board of Governors of the State Bar of Georgia. Advertising rate card will be furnished upon request. Publishing of an advertisement does not imply endorsement of any product or service offered. POSTMASTER: Send address changes to same address.

Editorial Board

Editor-in-Chief

Bridgette E. Eckerson

Members

Julia Anderson	Jacob Edward Daly
Donald P. Boyle Jr.	Lynn Gavin
Jacqueline F. Bunn	Chad Henderson
John Clay Bush	Michelle J. Hirsch
Clayton Owen Carmack	Michael Eric Hooper
David Gan-wing Cheng	Hollie G. Manheimer
James William Cobb	Addison Johnson Schreck
Timothy Jerome Colletti	Pamela Y. White-Colbert

Editors Emeritus

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

Officers of the State Bar of Georgia

Pratrise M. Perkins-Hooker	President
Robert J. Kauffman	President-Elect
Charles L. Ruffin	Immediate Past President
Rita A. Sheffey	Treasurer
Patrick T. O'Connor	Secretary
Sharri Edenfield	YLD President
John R. B. Long	YLD President-Elect
Darrell L. Sutton	YLD Immediate Past President

Communications Committee

Peter C. Canfield	Co-Chair
Sonjui L. Kumar	Co-Chair

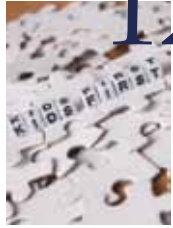
Communications Staff

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

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

Georgia Bar Journal

February 2015 ■ Volume 20 ■ Number 5



12

GBJ Legal

12

A Re-examination of the Protection of Children's Best Interests in Public Custody Proceedings

by John C. Mayoue and Renée Neary

Departments

4 From the President

8 From the YLD President

30 Bench & Bar

38 Office of the General Counsel

40 Lawyer Discipline

44 Law Practice Management

48 Section News

50 Member Benefits

52 Writing Matters

56 Professionalism Page

62 In Memoriam

66 CLE Calendar

71 Classified Resources

72 Advertisers Index

26



GBJ Features

22

22nd Annual State Bar Diversity CLE and Luncheon: Identifying and Overcoming Unconscious Bias

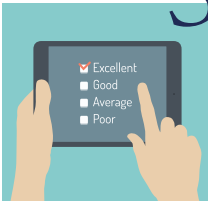
by Marian Cover Dockery

26

Baldwin County Courthouse at Milledgeville: The Grand Old Courthouses of Georgia

by Wilber W. Caldwell

38



48



52



Cover Photo: State Bar President Patrise M. Perkins-Hooker pictured with lawyer-legislators in the Georgia General Assembly

(Front row, left to right) Speaker of the House of Representatives David Ralston, State Bar of Georgia President Patrise M. Perkins-Hooker. **(Second row)** Rep. Wendell Willard, Chair, House Judiciary-Civil; Rep. Rich Golick, Chair, House Judiciary Non-Civil; Rep. Larry O'Neal, House Majority Leader; Rep. Stacey Abrams, House Minority Leader. **(Third row)** Rep. Ronnie Mabry; Rep. Beth Beskin; Rep. Bert Reeves; Rep. Dusty Hightower; Rep. Dar'shun Kendrick; Rep. Christian Coomer, Administration Floor Leader. **(Fourth row)** Rep. BJ Pak, Vice Chair, House Judiciary Non-Civil; Rep. Mary Margaret Oliver; Rep. Mike Jacobs, Chair, MARTOC; Rep. Trey Kelley; Rep. Bob Trammell. **(Fifth row)** Rep. Regina Quick; Rep. Stacey Evans; Rep. Chuck Efrstration; Rep. Brian Strickland; Rep. Matt Ramsey, Majority Whip. **(Sixth row)** Rep. Jay Powell, Chair, Ways and Means; Rep. LaDawn Jones; Rep. Stephen Allison; Rep. Barry Fleming, Vice Chair, Judiciary-Civil. **(Seventh row)** Rep. Johnnie Caldwell; Rep. Scott Holcomb; Rep. Alex Atwood, Chair, Subcommittee on Public Safety and Judiciary, Appropriations. **(Eighth row)** Sen. Ronald Ramsey; Sen. Elena Parent. **(Ninth row)** Sen. Jesse Stone, Chair, Judiciary Non-Civil; Sen. Harold Jones; Sen. Curt Thompson, Chair, Special Judiciary; Sen. Charlie Bethel, Chair, Insurance and Labor. **(Tenth row)** Sen. John Kennedy, Administration Floor Leader; Sen. Bill Cowsert, Majority Leader; Sen. William Ligon, Majority Caucus Chair; Sen. Josh McKoon, Chair, Judiciary-Civil. Not Pictured: Sen. Judson Hill, Chair, Finance; Rep. Pam Stephenson; Sen. Lindsey Tippins, Chair, Education and Youth; Rep. Andy Welch, Vice Chair, Code Revision; Rep. Tom Weldon, Chair, Juvenile Justice.



by Patrise M. Perkins-Hooker

Historic Celebrations of Civil Rights and Liberties

I find it ironic that during my term of office from 2014-15, we celebrate the 800th anniversary of the creation of the Magna Carta, the 50th anniversary of the adoption of the Civil Rights Act of 1964, the 50th anniversary of the March on Selma, Ala., and the 50th anniversary of the passage of the Voting Rights Act of 1965, and yet we still have situations like Michael Brown in Ferguson, Mo.; Trayvon Martin in Miami Gardens, Fla.; Tanisha McBride in Detroit, Mich.; Tamir Rice in Cleveland, Ohio; and Eric Garner in New York City, N.Y.

It seems as if everyone does not understand or apply equally to all citizens the principles of justice and freedom initially espoused in the Magna Carta and later incorporated into the Constitution of the United States of America in 1789.

The Magna Carta was issued by King John of England on June 15, 1215. This document laid the foundation for several legal principles which we hold dear today. The principles of personal liberties and protections against the authority of governments – which act arbitrarily or capriciously to protect those in power and with money – are woven throughout this mammoth document. In fact, the sheer size of the document alone is how it earned its title of Magna Carta, or the “Great Charter.” This document has been deemed the greatest constitutional document in the history of the world, and it served

“We must ensure that we are preserving in practice, the rights granted to all people in society in each of the declarations whose anniversaries we celebrate this year. Otherwise, the celebrations will be in vain.”

as the basis for our American Constitution. Amongst other provisions, the Magna Carta provided protection from illegal imprisonment without due process of law (Clause 39), created the right of habeas corpus and

provided for swift access to justice (Clause 40). All of these rights probably have a familiar ring.

In 1776, the founders of our country set out to create a system in which men would be entitled to certain inalienable rights, based upon the concepts of the freedoms established in England through the Magna Carta. Eventually, these same rights were granted to women and people of color. The Magna Carta has been studied by legal scholars in the United States as a way to understand the underlying premises of the creators of the Constitution. It is fitting that we celebrate the document that is sometimes referred to as the "Great Charter of the Liberties." The State Bar will be celebrating the 800th anniversary by having a copy of the Magna Carta on display at the Bar Center March 18-31. A day-long symposium on the Magna Carta will be held on March 30. I encourage each of you to come, celebrate and find out more information about this ancient document.

The Magna Carta Anniversary Committee was created by Immediate Past President Charles L. Ruffin. I have continued the committee and supported its work during my term. The committee is chaired by Past President Ken Shigley and is comprised of several esteemed scholars from law schools throughout the state and by attorneys interested in this celebration. I am proud to be a member of the group and am pleased about the committee's fine work. It is due, in part, to my involvement with this process that I developed a heightened awareness of the injustices that continue to exist in our society more than 800 years later.

In 1964, President Lyndon B. Johnson signed the Civil Rights Act of 1964 into law. This act was designed to provide the federal government with the power to enforce the provisions of the 15th Amendment. This act was needed to address the fact that

Update on iCivics

by Patrise M. Perkins-Hooker

Earlier in my presidency, I introduced an exciting initiative called iCivics. The program is an outreach effort involving the State Bar and YLD members who have teamed up to reinforce Georgia middle and high school students' understanding of their rights and responsibilities as citizens of the United States.

As a part of the 2014-15 State Bar agenda, I urged Bar members to volunteer to assist with organizing and implementing the iCivics instruction that will be used in Georgia's schools. This program is already making a positive impact on Georgia's youth, teachers and volunteer lawyers. The YLD Law-Related Education Committee members were moved to action when I asked them to help provide classroom assistance to high school teachers and aid them with online support materials in order to reinforce the importance of civic engagement to young people throughout Georgia.

Getting involved is exactly what is happening around the state to promote this very important interactive computer-based instruction program. The process has been amazing!

As of November 2014, more than 150 volunteer lawyers have contacted the YLD committee to offer their time as classroom resource lawyers. These school systems include: Atlanta Public Schools, Harris County Schools, Liberty County Schools, Muscogee County Schools, Savannah-Chatham County Schools and Wilkinson County Schools. We will also place volunteers in Tift County Schools in the fall of 2015.

The number of teachers trained by school districts during the summer and fall of 2014 are as follows: 22 teachers in the Atlanta Public Schools, 23 teachers received instruction in Muscogee County, one teacher from Harris County and 19 teachers in Savannah-Chatham County.

In an effort to increase teacher awareness and utilization of iCivics in their classrooms, YLD local coordinators and Program Consultant Jane Brailsford staffed a booth at the Conference of Social Studies Council in Athens in October to distribute information about the program. We were also able to reiterate the Bar's commitment to providing lawyers in classrooms to assist with implementing the iCivics initiative. An overwhelming 97 teachers signed up to participate in the program. Each will be paired with available volunteer attorneys to invigorate students' civic learning through interactive and engaging resources.

With more than 30 school systems throughout the state of Georgia expressing an interest in participating in the iCivics program, planning is underway to include more schools in the program for next year. The program is off to a great start, and we look forward to hearing from the volunteers about their experiences in the classroom.

If you know of any additional schools that may be interested in learning more about the program, please contact iCivics Co-Chair Shiriki Cavitt at shiriki8@gmail.com. We look forward to expanding the iCivics volunteer campaign throughout Georgia! Won't you join us? There is still time for you to volunteer your services.

most southern states had systematically and under the "color of the law," eroded the political and social gains that former slaves and their descendants had acquired after the formal end of slavery in the United States of America.

Descendants of slaves were denied equal access to public facilities, accommodations and transportation systems. Demonstrations from members of our society in strong opposition to the unfair and unequal treatment of African-

Americans brought to light the inherent injustice of a system that treated members of the same society differently. Unfortunately, we are seeing a repeat of some of the same civil protests that are being sparked throughout the country by citizens who are angry about their denial of equal treatment by local law enforcement authorities and judicial systems.

In August of 1965, President Lyndon B. Johnson signed into law the Voting Rights Act of 1965, which was designed to once again establish federal oversight and interventions into the way by which certain southern states were trying to circumvent the ability of people of color to vote. Amongst other things, the legislation outlawed literacy tests, poll taxes and other state or local imposed restrictions that limited or denied the right to vote to a certain category of citizens. It also provided for the appointment of federal examiners (with the power to register qualified citizens to vote) in those jurisdictions that were "covered" according to a formula provided in the statute. History has recorded that none of the protections provided under either the Civil Rights Act of 1964 or the Voting Rights Act of 1965 would have been granted by Congress or the president of the United States without the peaceful demonstration marches and efforts to register previously disenfranchised citizens, which resulted in massive displays of violence against the demonstra-


tors and the murders of numerous voting-rights activists.

One of these peaceful demonstrations occurred on Sunday, March 7, 1965, almost 50 years ago in Selma, Ala., when a group of disenfranchised citizens attempted to walk to Montgomery to protest the abuses of the state of Alabama in denying equal treatment of its citizens. The resulting violence was televised nationally. The conscience of America was shocked by the way in which the police powers of many southern states could be manipulated and controlled to such a degree as to viciously and violently turn against its own citizens. After witnessing violence and seeing children being hosed down in the street in Birmingham by Chief of Police Bull Connor, Americans were finally fed up and demanded action from their elected representatives.

As we celebrate these milestones in history, we are being reminded as a society about how fragile the balance is between enforcing the law and protecting the rights of citizens. Under the Magna Carta, the rights of citizens were prominent, and yet today the same system of justice designed to protect and preserve the basic liberties described in the Magna Carta is under siege. The problem is that our forefathers did not consider the impact of the institution of slavery on the values and behaviors of people in the justice system. The emotional

and systemic psychological damage done to both groups of people who benefitted from and those who were subjected to enslavement is being revealed today by racism in our criminal and civil justice systems.

As caretakers, leaders and members of the legal system, we should acknowledge the problems with built-in biases of a legal system based upon the influence of people who serve on juries, others who serve as police officers or persons who are officers of the court. These citizens' perspectives are formed by their experiences and acculturation in a system where racism and social, class and racial prejudices exist. If we fail to make adjustments to the system, to address the actual impact of racial and discriminatory biases, then the types of civil liberties envisioned 800 years ago in the Magna Carta will never truly belong to all people.

As members of the justice system, we must review and analyze the systemic failures and the basis for the same. We must ensure that we are preserving in practice, the rights granted to all people in society in each of the declarations whose anniversaries we celebrate this year. Otherwise, the celebrations will be in vain. 

Patrise M. Perkins-Hooker is the president of the State Bar of Georgia and can be reached at president@gabar.org.



The *Georgia Bar Journal* is available online at www.gabar.org. You can now:

- Search the *Georgia Bar Journal* in its entirety by keywords.
- Access all the information of the printed edition, but electronically.
- Add "sticky notes" and "favorite" tabs to the copy you access.
- Share the entire *Journal* or specific pages of the *Journal* with your colleagues by sending an email or posting it on social networking sites.
- Link directly to advertisers within each issue.

Try it now! www.gabar.org/newsandpublications/georgiabarjournal/

Thank you!

ON THE COVER: Lawyer-Legislators in the Georgia General Assembly

House of Representatives

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

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

Senate

Sen. Charlie Bethel (R-Dalton)
Sen. Bill Cowser (R-Athens)
Sen. Judson Hill (R-Marietta)
Sen. Harold Jones (D-Augusta)
Sen. John Kennedy (R-Macon)
Sen. William Ligon (R-Brunswick)
Sen. Josh McKoon (R-Columbus)
Sen. Elena Parent (D-Atlanta)
Sen. Ronald Ramsey (D-Decatur)
Sen. Jesse Stone (R-Waynesboro)
Sen. Curt Thompson (D-Tucker)
Sen. Lindsey Tippins (R-Marietta)

Please join me in thanking our **Lawyer-Legislators**, who take time from their law practices and other responsibilities to serve in the General Assembly.

- Patrise M. Perkins-Hooker

MAGNA CARTA AT 800 AND THE RULE OF LAW

The State Bar of Georgia has joined the American Bar Association and the Library of Congress and its Law Library to present a special traveling exhibit commemorating the 800th anniversary of the sealing of the Magna Carta.

Please see the back cover for more information regarding the dates and times of the Magna Carta exhibit as well as an upcoming CLE symposium on the meaning of the Magna Carta and its relevance to Georgia.

MARCH 18-31, 2015
STATE BAR OF GEORGIA | Bar Center

 State Bar
of Georgia

 MAGNA
CARTA





by Sharri Edenfield

YLD Leadership Academy: A Decade of Success

On the second Friday in January, members of the 2015 Young Lawyers Division Leadership Academy of the State Bar of Georgia gathered at the Bar Center for the first of six monthly programs and began the 10th annual installment of the YLD Leadership Academy.

For those of us who participated in the first Leadership Academy class in 2006, and have been active in the continuing success of the program, this is certainly a milestone worthy of celebrating. Over the past nine years, a total of 443 young lawyers have become Leadership Academy alumni, having taken advantage of the opportunity to develop their leadership skills and learn more about the profession, the communities they serve and our state.

The Leadership Academy alumni include solo practitioners, judicial law clerks, partners in large and small law firms, assistant district attorneys, public defend-

ers, nonprofit lawyers, alternative dispute resolution specialists, in-house counsel for Fortune 500 companies and no less than eight future presidents of the YLD.

Alumni have also gone on to serve as judges on both the federal and state level, have been elected to the Georgia General Assembly and to the State Bar's Board of Governors and have earned recognition on

such prestigious lists as "On the Rise—10 to Watch" in the *Daily Report*, "Rising Stars" in *Atlanta* magazine and "40 Under 40" in *Georgia Trend*.

Establishing the Georgia YLD's Leadership Academy was the brainchild of 2004-05 YLD President Laurel Payne Landon, who brought the idea home with her from an American Bar Association meeting in San Antonio, Texas, after hearing presentations from two other states' YLD representatives on their leadership programs.

"I thought that leadership training was something Georgia's young lawyers could use both in Bar service and their careers in general," Landon recalled. "I formed a small committee, and we went to work on creating our program." She said the Leadership Academy could not have gotten off the ground without the strong support of the State Bar

"I'm excited about the future of the Leadership Academy, and I look forward to welcoming many more alumni in the years to come."

president and executive director at the time, the late Rob Reinhardt and Cliff Brashier, along with other members of the State Bar leadership.

Recently confirmed U.S. District Court Judge Leigh Martin May of the Northern District of Georgia served alongside Landon as co-chair of the Leadership Academy's founding committee, which also included Tonya Boga and 2005-06 YLD President Damon Elmore.

I was practicing law in Atlanta at the time, and other than attending a few Community Service Committee meetings and happy hours, I had not been actively involved in the YLD. My father, Gerald Edenfield, who was serving as the State Bar's secretary that year, knew of my interest in getting more involved with the YLD, so he recommended me to Laurel for the program and I am so glad that he did. I credit my participation in the inaugural Leadership Academy class for getting me involved in the YLD, which led to me serving in a variety of leadership positions, including my present position as YLD president.

YLD Past Presidents Laurel Landon, Damon Elmore, Jonathan Pope, Elena Kaplan, Amy Howell and Stephanie Kirijan Cooper were members of our first class, which included 31 young lawyers, who, under the original format of the Leadership Academy, were mentored by 14 experienced members of the State Bar. I was fortunate to have been matched with 2008-09 President Jeff Bramlett.

As is still the case, we started the Leadership Academy in January and held monthly meetings for six months. In the early days, we would meet at the Bar Center on Friday afternoons for our programs, and then we would go to dinner as a group. There was no cost to participate and no CLE credit offered, but we were told to bring \$20 for dinner.

After that first year, Damon Elmore appointed Tonya Boga and me as co-chairs of the Leadership Academy. We soon realized that it was difficult for the mentors from the "big Bar" to attend each month's meeting and because the Transition into Law Practice Program already had a mentoring component, we dropped that part of the Leadership Academy structure after the second year.

In 2007, I moved back to my hometown of Statesboro to practice law. I suggested that we hold one meeting each year at a location outside Atlanta. The Leadership Academy now holds three meetings each year in the Atlanta area and three outside of Atlanta, sometimes even taking the meeting out of state. This year's schedule includes sessions in Macon, Savannah and New Orleans.

In the beginning, we didn't really receive applications for the Leadership Academy. Participants were recruited, not accepted. In 2007, my first year as co-chair, my sister and several other young lawyer friends were surprised when notified of their selections to participate, despite the fact they had not even applied.

It wasn't long before that changed, however, thanks largely to enhanced programming, greater communication to members and, especially, the addition of



YLD 2015
SIGNATURE FUNDRAISER
STARS AND STRIPES

Benefitting the Augusta Warrior Project

02.28.15 @ Terminal West

LOCATION

Terminal West

887 West Marietta Street NW | Atlanta, Georgia 30318

Parking included in ticket purchase.

WHEN

Saturday, 02.28.15, 8-11 p.m.

LIVE ENTERTAINMENT

Bogey & The Viceroy

TICKETS AVAILABLE NOW

\$100 General Admission

Includes Open Bar, Live Music, DJ and Dancing, Silent Auction, Heavy Appetizers and Dessert Bar and more!

\$200 VIP Admission

VIP guests enjoy everything in general admission, plus a private pre-party before the event with a premium open bar and celebrity guest bartender, an exclusive networking area and viewing balcony during the party, goody bags, heavy appetizers and more!

DRESS CODE

Black tie optional

SPONSORSHIP INFORMATION

Sponsorships are available at all levels.

ADDITIONAL INFORMATION

21 & up event - age verification required at door.
Discounts available for active and retired service members, public interest attorneys and law students.

PURCHASE TICKETS AT WWW.GEORGIAULD.ORG

continuing legal education credit for participants, which was made possible in large part to the support of the former State Bar Executive Director Cliff Brashier, then-Immediate Past President/Chair of ICLE Board of Directors Gerald Edenfield, then-State Bar President Jeff Bramlett and ICLE Executive Director Steve Harper.

John Jackson and I were co-chairs in 2008, and we added several new sessions to our programming, including an annual day trip to the State Capitol while the General Assembly was in session. I would like to thank Rep. Wendell Willard, chairman of the House Judiciary Committee, for his support of this Leadership Academy event and the hospitality of his legislative staff when we visit the Capitol each year. Additionally, a trip to the U.S. District Court for the Northern District of Georgia was added through the gracious hospitality of the Northern District bench as well as the Clerk of the Court Jim Hatten and his Chief Deputy Clerk Robert Minor.

We also added an event to be held in conjunction with the Annual Meeting of the State Bar to the Leadership Academy agenda. Then-Chief Justice Carol Hunstein of the Supreme Court of Georgia was our first speaker. She was followed the next year by then-Attorney General Thurbert Baker, and that event became the annual graduation ceremony.

Also that year, due to the support of then-YLD President Elena Kaplan, the Leadership Academy earned prominent national recognition when we were awarded first place in the nation in the Minority Project Category of the YLD Awards of Achievement Program sponsored by the ABA.

In 2009, Carl Varnedoe joined John and me as a co-chair, and the program started to hit its stride. Mary McAfee had become director of the YLD, and she was instrumental in enlisting the support of Communications Director Sarah Coole and her staff in producing

the Leadership Academy brochure and yearbook and publicizing the program across the state. Up to that point, my legal assistant and I had put the brochures and yearbooks together in my office. The communications staff, under Sarah's leadership, created beautiful materials that I was proud to distribute around the country, which I did as I was receiving calls from YLD presidents nationwide who had heard about our program and wanted to emulate it. Even voluntary and specialty bar associations here in Georgia wanted more information about the program so that they could create their own version. The communications staff also assisted in elevating the profile and prestige of the program through sending out press releases about the program and its participants.

The following year, we added a community service project to our meeting in Savannah. Thanks to outstanding help from the Bar's Coastal Georgia office staff, we were connected to the West Broad Street YMCA, one of five "Heritage Ys" left in the country, which provides vital services to needy citizens in Savannah. We helped not only the West Broad Street Y with various tasks at the facility, but we also assisted Safe Haven, a regional domestic violence shelter in Bulloch County, by collecting badly needed items for the shelter's residents. Community service is now an annual component of the program as we practice our duty as lawyers to help others. In recent years, participants have also held pro bono wills clinics around the state.

In 2011, my last year as a co-chair, along with Carl, Tippi Burch and Sarah White, we added an annual breakfast gathering with Georgia's lawyer-legislators to our day at the Capitol. The legislative lunch with all Georgia legislators is now a permanent part of the programming. We were also thrilled that year to add an informative program with the U.S.

District Court for the Southern District of Georgia at the Savannah Division's courthouse, where participants were able to be sworn in as members of that court's bar, thanks to the gracious hospitality of Chief Judge Lisa Godbey Wood, Judge B. Avant Edenfield, Judge William Moore and Bankruptcy Court Judge Susan Barrett. The Leadership Academy was honored to be guests of the Court again in Savannah in 2013, where they also enjoyed meeting U.S. Supreme Court Justice Clarence Thomas and Eleventh Circuit then-Chief Judge Joel Dubina. In 2014, participants were guests of the Court's Augusta Division and they will be returning this spring to visit with the Court in Savannah.

Without a doubt, the strength of the Leadership Academy's programming and the resulting approval of CLE credit has had the most to do with the program's growth. This provides a tangible benefit for our members so that we can charge a reasonable fee to offset expenses for the program. Additionally, young lawyers are now able to justify to their employers their commitment of time and resources.

These days, we have approximately 50 to 55 Leadership Academy participants each year. We settled on that number as a maximum because that is about how many people will fit on a bus when there is a need to travel. It also helps in maintaining a manageable number so that everyone has a chance to get to know each other.

The Leadership Academy is open to YLD members who have been involved in community or professional leadership, who want to become more involved in the YLD and the State Bar and who would like to network with state and national leaders and benefit from their perspectives on effective lawyering and leadership.

On the average, we receive about three applications per available slot. If you have previously applied and were not selected, you

are encouraged to apply again. Full and partial scholarships are also offered to participants on the basis of need.

Participants who attend all six monthly sessions receive 12 CLE credit hours, including one professionalism, one ethics and three trial credit hours. Participants must attend at least four sessions in order to graduate and be considered alumni of the program.

Without a doubt, I am serving as your YLD president this year because of having been selected nine years ago for the Leadership Academy. All of the close friendships I have with other YLD leaders are a direct result of getting to know them through the Leadership Academy. As I wrote in the program's brochure, "The benefits of having a friend and legal resource in practically every corner of the state and in any practice area cannot be overestimated."


The next step for the YLD is advanced leadership development. Last summer, I asked 25 former YLD leaders, both elected and appointed, to serve on an Alumni Leadership Council (ALC) to help plan programming for the year. ALC member Joe Dent presided over a well-attended professional development CLE on networking and social media

during our Summer Meeting in Florida; ALC members Damon Elmore, Stephanie Kirijan Cooper and Josh Bell, along with Past Presidents Bill Barwick and Lester Tate, led a workshop on the commitments/obligations of serving in elected leadership positions for the YLD and State Bar during our Fall Meeting; and most recently during the Midyear Meeting, ALC members Damon Elmore, Michael Geoffroy and Mawuli Davis worked with YLD members Kelly Campanella, Adriana Capifali, Titus Nichols, Heather Riggs and other Bar leaders to put on our very first "Next Step Institute," covering topics ranging from starting your own practice, tips for best media practices and how to maintain a practice while serving in the state legislature. The program was so well-attended and received that we are now in the process of planning future programs.

With the 10th class of the YLD Leadership Academy now in place and its work underway, our originator, Laurel Landon, said, "I am beyond thrilled at how the program has grown and prospered, and it has certainly exceeded my expectations."

Speaking as an alumna of that first class and as a longtime co-

chair of the Leadership Academy Committee, I wholeheartedly agree. Not only have the participants benefited from what we have learned and put into practice, but so has the legal profession and justice system of Georgia.

I would like to thank all of the Bar leaders mentioned in this article, as well as the countless others that I couldn't include because of space limitations, for all of the support that the Leadership Academy and I have received over the years. This brief history of the program cannot convey the large number of people who have advocated for the success of the program, when it would be far easier to have stayed uninvolved and quiet. Though the YLD is the "Service Arm of the Bar," we would be unable to accomplish our goals were it not for the enthusiastic assistance of so many. Be on the lookout for information about applications for the class of 2016. I'm excited about the future of the Leadership Academy, and I look forward to welcoming many more alumni in the years to come. 

Sharri Edenfield is the president of the Young Lawyers Division of the State Bar of Georgia and can be reached at sharri@ecbcpc.com.



*Do You Work with a Partner
You Like and Trust?*

As a partner, we deliver:

- Superior financial stability
- Accessibility
- Quality educational programs
- Industry veterans to assist you with underwriting support needs
- A commitment to attorney closings

Investors Title
INNOVATIVE BY INSTINCT



800.732.8005 | fax 803.252.3504 | invtitle.com

A Re-examination of the Protection of Children's Best Interests in Public Custody Proceedings

by John C. Mayoue and Renée Neary

Society's appetite for scandal is arguably no greater today than in the 1830's, when people clamored for gossip from the penny press. Today, scandal is oftentimes channeled through electronic transmission. The Internet has become a powerful, yet indiscriminate, tool capable of irreparably harming many persons, including those who are not the intended recipients. In the context of child custody disputes, which are not exempt from the general presumption of open access to courts, the Internet and most particularly, the proliferation of social media, place children at increased risk of substantial harm through the "reporting" of these often acrimonious disputes. This article examines the history of open access to the courts, as well as statutory and common law limitations to this presumptive right, and urges re-examination of these premises in the best interests of children who are the subject of public custody proceedings.



Constitutional and Common Law Dictate a Presumption of Openness

American jurisprudence firmly recognizes the public's right to attend civil proceedings. Our Constitution's First Amendment implicitly affirms both the media's and the general public's presumptive right to attend trials.¹ Attendant is the right to *listen*, long viewed as a corollary to the First Amendment's freedom of speech,

or the right to “receive information and ideas.”² Indeed, the First Amendment “goes beyond protection of the press and the self-expression of individuals to prohibit government from limiting the stock of information from which members of the public may draw.”³

The U.S. Supreme Court’s watershed decision in *Richmond Newspapers, Inc. v. Virginia*⁴ succinctly set forth the public policy reasons underlying the presumption of openness in court proceedings. In *Richmond Newspapers*, the Court determined that open access operates both as an assurance of the Court’s integrity and as a check on judicial abuse of power by “satisfy[ing] the appearance of justice.”⁵ The Court noted that American courts “had long been presumptively open,” thus giving assurance that “the proceedings were conducted fairly to all concerned,” and “discourag[ing] . . . decisions based on secret bias or partiality.”⁶ Open courtrooms also hold parties and witnesses accountable in the quality of their testimony, insofar as transparency discourages perjury and other testimonial misconduct.⁷ Additional compelling reasons for openness include a “significant community therapeutic value” as well as the public’s right to be educated in the functioning of its government.⁸ Although the Court in *Richmond Newspapers* addressed open access in the context of criminal proceedings, a footnote to a concurring opinion also acknowledged, from a historical standpoint, the presumption of openness in civil cases.⁹ Lower federal courts have consistently upheld the public’s presumptive right to attend, and the media’s right to report on, civil trials,¹⁰ as well as a corresponding presumptive entitlement to court records.¹¹

Justice Brennan’s concurrence in *Richmond Newspapers* made clear, however, that “because the stretch of this protection is theoretically endless, it must be invoked with discrimination and temperance.”¹² Noting that “[there] are few restrictions on action which could not be clothed by ingenious argument in the garb of decreased data flow, . . . [a]n assertion of the prerogative to gather information must accordingly be assayed by considering the information sought and the opposing interests invaded.”¹³ Four years after *Richmond Newspapers*, the Supreme Court found that “[t]he presumption of openness may be overcome only by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest.”¹⁴

The laws of the state of Georgia are in accord.¹⁵ As recently as August of 2013, the Georgia Judicial Qualifications Commission confirmed the presumption of openness in the courtroom: “Absent specific legal authority, public access to court proceedings should be unfettered and unobstructed. Georgia’s courtrooms shall be open to the public unless otherwise provided by law.”¹⁶ Child custody proceedings are open to the public.

Limitations on the Right to Access

Georgia has long recognized certain exceptions to the open access presumption in other family law matters, however. For example, hearings on adoption petitions

PROLIABILITY LAWYERS PROGRAM

Administered by Mercer Consumer, a service of Mercer Health & Benefits Administration LLC, with more than 40 years’ experience in providing law firms with the protection they need and deserve.

PROTECT
what you’ve worked hard to build!

HIGHLIGHTS:

50 State Solutions

Exceptional Customer Service

Dedicated Account Managers and Agents

Easy to purchase — Apply and obtain coverage online at www.proliability.com/lawyers

To obtain your Professional Liability Insurance quote:

VISIT 

www.proliability.com/lawyers

CALL 

(866) 486-1946

AR Ins. Lic. #303439 | CA Ins. Lic. #0G39709

In CA d/b/a Mercer Health & Benefits Insurance Services LLC

70027, 70028, 70029, 70030, 70031, 70032

Copyright 2015 Mercer LLC. All rights reserved.



You Try Cases – We Appeal Them

State and Federal Criminal Appellate and Post-Conviction Representation

Over thirty years combined experience in Successful State and Federal:

- Motions for New Trial
- Appeals
- Habeas Corpus
- Parole Petitions
- Responsible and Respectful Ineffective Assistance of Counsel Claims

~ ~ ~

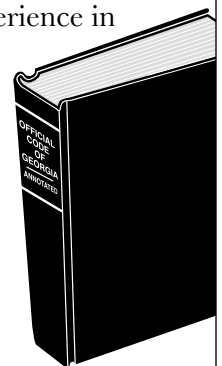
When It’s Time for a Change, Contact

LAW FIRM OF
SHEIN & BRANDENBURG

2392 N. Decatur Road, Decatur, Georgia 30033

404-633-3797

www.federalcriminallawcenter.com



are always held in chambers,¹⁷ and adoption records are not open to the public.¹⁸ Such records are not subject to future unsealing except under exceptional circumstances. Furthermore, paternity actions in which either the putative father or biological mother seek proof of paternity may be closed upon either party's motion.¹⁹

Juvenile proceedings in Georgia also have been historically closed. Notwithstanding our public policy reasons for presumptive closure in juvenile proceedings, however, courts have long recognized that certain offenses are so serious that a child, depending upon his or her age and consciousness of guilt, must be subject to adult consequences.²⁰ The magnitude of certain crimes gives rise to the public's need for accountability and in some circumstances, the victim's need as well. In these situations, the same policy rationales supporting an open courtroom in criminal cases justify an exception to the presumption that juvenile proceedings be closed.

In Georgia, exceptions to presumptive closure in juvenile proceedings include allegations of certain crimes that would be a felony if committed by an adult, delinquency hearings in which the juvenile has previously been adjudicated delinquent (subject to certain exceptions), child support, legitimation, any dispositional hearing involving such proceedings and, subject to certain further exceptions, deprivation proceedings.²¹ The best interest standard also permits the court to "refuse to admit a person to a hearing in any proceeding upon making a finding . . . that the person's presence at the hearing would . . . [b]e detrimental to the best interests of a child who is a party to the proceeding."²² In juvenile legitimation actions in which paternity is not an issue or when a child is born outside of marriage, those proceedings are explicitly open to the general public as an exception to the general presumption that juvenile court proceed-

ings are closed.²³ Also, although rarely invoked and not directed specifically for the benefit of children, Georgia civil practice permits a presiding judge to clear the courtroom of "all or any portion of the audience" if the evidence presented is "vulgar and obscene or relates to improper sexual acts and tends to debauch the morals of the young."²⁴

Conversely, there also has been a trend in juvenile law to open courtrooms in proceedings in which the juvenile is not the alleged offender, but rather the victim. The juvenile court also exercises its jurisdiction over children who have been failed by a parent, a caretaker or the state itself. Those hearings historically have also been presumptively closed; however, proponents for open access in recent years have argued that veiled proceedings—with no oversight by the public to act as a check to judicial abuse and/or systemic neglect by the foster care system or other state agencies—are a threat to the very children whom the closed system tries to protect. There has been almost unanimous support in academic circles, including in Georgia,²⁵ for greater transparency in juvenile courts as public awareness of both child abuse/neglect and juvenile crime has increased, with a resultant demand for accountability.²⁶ Open access advocates tend to emphasize the importance of public discourse and to discount the child's right to privacy.²⁷ Even the most ardent supporters of open access in juvenile proceedings concede, however, that sometimes the public's intent lies less with education and reform than it does with the "name and blame game" of identifying the victims, perpetrators and details of an event that appeals to the public's appetite for scandal.²⁸ The minority view rests primarily upon concerns that open proceedings in most situations do nothing to improve public understanding of abuses but rather serve only to re-victimize the subject children.²⁹

Georgia child custody proceedings are open to the public and conducted like other civil trials. The courts provide limited protection in cases involving guardians ad litem (GAL) by requiring that the GAL report only be released to the court, the parties and counsel, and that it not be filed in the public record.³⁰ In considering whether it will permit broadcasting of all or a portion of a proceeding, the trial courts are to consider "[a]ny special circumstances of the parties, victims, witnesses, or other participants such as the need to protect children or factors involving the safety of participants in the judicial proceeding."³¹ On rare occasions, the trial court may invoke Uniform Superior Court Rule 21.1 to limit other portions of the record.³²

Children's Protection in Georgia Custody Cases

Custody trials tend to involve multiple lay and expert witnesses as well as extensive documentary exhibits. Prior to a final trial, the court may hold a temporary hearing on custody where testimony in the form of lay and expert affidavits sent 24 hours in advance of the hearing may be considered.³³ The court may also appoint a guardian ad litem, psychological evaluator or custodial evaluator to investigate, test and render a report to the court. The guardian ad litem is given access to the children's records, including those from schools, governmental agencies and health providers. Upon voluntary release, the guardian may also review the mental health records of the parents and may further seek court ordered fitness and custodial evaluations of them.³⁴

Although the GAL report, custodial and mental health examinations and reports are not filed as part of the public record, their findings and conclusions about the parents and children are subject to examination in open court.³⁵ It is axiomatic that such public discourse wholly obviates the intended confidentiality. It also provides

a fertile source for Internet and social dissemination.

At temporary hearings a litigant is limited to one non-party witness but is free to submit numerous affidavits provided that they are served "at least twenty-four hours prior to the hearing."³⁶ There are no discrete limits on the number, nature, scope or source of custodial affidavits. Pretermitted the question of evidentiary value, custodial affidavits oftentimes contain scurrilous assessments of the children's parents and caregivers. Their observations and conclusions are only subject to cross-examination if the affiant appears in court. The affidavits are openly discussed at public temporary hearings and sometimes filed as part of the court record.

Limitations in Other Jurisdictions

The majority approach in other jurisdictions draws no distinction

between the public's right to attend custody trials and any other type of civil proceeding, with two notable exceptions. Delaware requires that all custody hearings and trials be conducted in private and gives the court discretion to seal the record.³⁷ West Virginia's Rule 6(b) explicitly provides, "Family court proceedings are not open to the public."³⁸ Several other jurisdictions, however, acknowledge the sensitive nature of child custody proceedings and have statutorily provided a permissive, rather than presumptive, right to close the courtroom and otherwise to protect sensitive records. Louisiana's Civil Code explicitly provides that "a custody hearing may be closed to the public."³⁹ California similarly permits the trial court in its discretion to "direct the trial of any issue of fact joined in a proceeding under this code [including child custody] to be private, and may exclude all persons except the officers of the

court, the parties, their witnesses, and counsel."⁴⁰

New York permits closure but places the burden of demonstrating evidence of actual potential harm on the party seeking it.⁴¹ Several New York cases have explicitly recognized the necessity of such protection. The trial court in *Lisa C. R. v. William R.* observed that:

[w]hile adult parties in today's media-conscious world may be found to have no valid objection to having their dirty linen aired, the same cannot be said of the children who are the innocent victims of both their parents and the media [E]ven when custody is not involved in the trial, there are long-lasting scars caused by public humiliation of one or both parents. The court often tries to protect the children in pendente lite orders by precluding the parents from "bad mouthing" each other. The media have no such

The best thing for your resume since spellcheck.

An **online LL.M. concentration in Taxation or Business Transactions** from The University of Alabama School of Law allows you to earn an advanced degree while working full-time. Enrolling in this program demonstrates that you understand the value of live classes made available in a collaborative, online environment and accessible from anywhere in the world. Earning this degree proves that you received skills-based training from respected professors and practitioners throughout the country, and that you are prepared to be a leader in your field. Visit AlabamaLLM.ua.edu/ga to learn more.

Online LL.M. degree programs
Tax and Business Law Concentrations



AlabamaLLM.ua.edu/ga

concerns. The issue of child protection in public divorce battles is one the Legislature should address”⁴²

In reversing the trial court’s denial of a guardian ad litem’s motion for closure of a custody proceeding, the New York Appellate Division in *P.B. v. C.C.* observed that “we deal here not with the children’s ‘privacy,’ but with protection and preservation of their health and welfare.”⁴³

Scholarly treatment of the access issue in child custody cases is scant, but in years prior to the exponential growth of Internet news and social media, tended to dovetail with the call for increased openness in juvenile proceedings.⁴⁴ Even so, these articles acknowledge that closure might be warranted depending upon the child and the nature of the case.⁴⁵ Family court judicial councils, which more often than not advocate for open courtrooms in order to increase public awareness of the juvenile justice system, nonetheless distinguish cases involving parental or foster care abuse from custody and divorce proceedings where children are involved.⁴⁶ In the latter situation, a distinction is drawn between a child custody dispute and the divorce that typically underlies it. As Judge Leonard P. Edwards, former president of the National Council of Juvenile and Family Court Judges, has advocated, “Marital dissolution proceedings would be presumptively open to the public, but not a child custody case arising from a marital dissolution or other domestic relations legal action.”⁴⁷ Although divorcing parents generally have no expectation of privacy in their trial, some cite the essential unfairness of lumping children, who are not parties in the divorce proceeding, into the same category when custody is at issue.⁴⁸

The Need for Alternative, Additional Protections

Respecting the rights of children and shielding them from public dissemination of the intimate and

oftentimes salacious details of family matters in custody proceedings is a matter of substantial concern. The “reporting” of custody matters, by virtue of Internet distribution and access, tends to be instantaneous and its reach widespread. The palpable damage caused to children by Internet and social media accounts of custody disputes should invite dialogue regarding measures that balance the public’s right to know with increased focus on the harm inflicted upon innocent children by such dissemination. Alternative protections that merit consideration include:

Permissive courtroom closure. Much the same as paternity determinations or similar to juvenile court proceedings, a court would be permitted to close a custody proceeding, in whole or in part, on its own motion, or on motion by children’s custodians or guardians ad litem, upon findings of fact that closure is in the best interests of the child. Determining factors would include the age of the child, the nature of the allegations and whether closure is necessary to protect the child. The court would, under this alternative, further have the discretion either to bar the public from attendance at a custody proceeding if it determines that it would be detrimental to a child’s best interests, or at a minimum, to order the public not to release identifying information concerning the child or custodians in a hearing that is otherwise open to the public.⁴⁹

Seal the record. Sealing not just the GAL report and the custodial evaluation, but also the record of the child custody proceedings in whole or in part, similar to Georgia adoption proceedings.

Prohibit media coverage. Amend Georgia Uniform Superior Court Rule 22 (Electronic and Photographic Coverage of Judicial Proceedings) to prohibit

media coverage of custody disputes except upon an order by the presiding or assigned judge.⁵⁰ In Mississippi, for example, child custody proceedings are a specific exception to the rule permitting media coverage of trials absent an order from the presiding judge.⁵¹ The state of Missouri specifically prohibits all media coverage of said proceedings, including broadcasting, televising, recording and photographing.⁵² These standards prohibiting media coverage, of course, would rely upon considerations similar to those found in Uniform Superior Court Rule 21. Amending Rule 22 to include language similar to Missouri’s in child custody hearings would do much to obviate the potential for harm to a child arising from press exposure to the details of the custody battle. Although Georgia’s Rule 22 has no such correlative, the standards in granting the media’s coverage would at a minimum include the judge’s obligation to take into account “[a]ny special circumstances of the parties, victims, witnesses or other participants such as the need to protect children or factors involving the safety of participants in the judicial proceeding,” as required by O.C.G.A. § 15-1-10.1.⁵³

Custodial standing orders. Upon notification that custody will be a contested issue, the court would issue a specific standing order. Said order would include prohibiting families, or at least the parents or caregivers, from using social media to disparage any other parent, child or family member, and from posting custodial evidence or details of the custody litigation online.⁵⁴ Courts with Automatic Domestic Standing Orders would revise the section pertaining to non-harassment of the adverse party or the child(ren) to specifically include communications through online social media sites. Requiring adverse

Congratulations

to the winners of the 2014
13th annual Keenan's Kids Foundation

Law Student Closing Argument Competition



Founded in 1993, the Keenan's Kids Foundation works to help raise awareness on child safety issues and to prepare a future generation of attorneys for child advocacy litigation.

Now celebrating its 21st year in 2014, the foundation sponsors this annual law student competition as a way to help introduce students to areas of the law protecting children's rights. This year's event took place on Nov. 8, with 20 participants from all Georgia law schools.

Saturday, November 8th, the winners who were present at the reception (from R to L): First Place winner Crystal Kelsner (Georgia State, 3L); Second Place winner Lauren Stadalius (Emory, 3L); Third Place winner Tia Marie Bailiff (Savannah Law, 3L); Fourth Place winner Pamela Peynado (Georgia State, 3L).

The Keenan's Kids Foundation

148 Nassau St., NW • Atlanta, GA 30303 • Phone: 404-223-5437 • Fax: 404-524-1662
Email: office@keenanskidsfoundation.com • Website: www.keenanskidsfoundation.com

parties not to discuss details of a custody proceeding with or in front of the child(ren), and to specifically prohibit them from disparaging each other in front of the child(ren), would appear to be well within the purview of a Superior Court judge.⁵⁵

Abolish or amend the custodial affidavit practice. Uniform Superior Court Rule 24.5(A) could be abolished in its entirety or amended to require (a) sufficient advance notice of the allegations contained in affidavits, perhaps requiring service seven days prior to the hearing in which the affidavits would be used; (b) prohibiting the filing of such affidavits; (c) requiring that said affidavits be reviewed in camera only, and not be made a part of the public record; and (d) limiting public consideration of said affidavits in courtroom proceedings.

Prohibit dissemination of the GAL report to the parties. The court could restrict the parties' access to the GAL report by releasing it to counsel, only, under terms and conditions which would prevent dissemination. Pro se parties would similarly have the right to review the report as directed by the court, but would not be provided with a copy. These restrictions would permit vigorous scrutiny of the report while providing needed safeguards from dissemination.


Conclusion

The public's right to know and society's desire to protect its children's best interests present two competing values that are difficult to reconcile. Open access to the workings of our public institutions is a cornerstone of our government. However, few would argue that the public right to courtroom access is unfettered, especially in the face of a legitimate threat to a child's well-being. In child protection proceedings involving deprivation and abuse, laws providing

for open courtrooms rest largely on policy considerations that are designed to hold parties and the system accountable. The protection of troubled and abused children is obviously of great public concern.

The best interests of children in civil custody disputes are not well served by unlimited public access to and dissemination of both malicious and unproven allegations regarding the character of the child's parents, their mental health records or transgressions as a parent or certainly, sensitive information regarding their children. The transmission of such information through social media is calculated to reach an audience that includes the child, the child's peers, teachers, relatives and other support systems. The potential harm to children is clear and serves no public interest. Public policy considerations that undergird the right to attend court proceedings, including free discussion of governmental affairs, educating the public on the judicial process, preventing its abuse, acting as a check on the integrity of the fact-finding process and holding the parties accountable, must be tempered in a custody proceeding. Media coverage of certain aspects of custody disputes, more often than not, simply makes available for public consumption the intensely private details of a painful child-related problem.

Although custody proceedings may well be best served by being presumptively open to the public, the courts should be granted and judiciously exercise broad discretion to limit access to custodial affidavits, guardian, psychologist and custodial evaluations, as well as certain documents and testimony that the court finds harmful to the child's best interests, if disseminated. Under those circumstances, the court on its own motion or the motion of the parties or guardians should then determine whether the best interests of the child would likely be compromised absent necessary protective orders, whether it be closure for certain portions of

testimony or the sealing of documents or other types of protective orders and directives. After an evidentiary hearing, such an order would find specific harm to the children at issue that outweighs public interest in the same manner as Uniform Superior Court Rule 21.2 for limitation of access to court files. It would be narrowly tailored to protect the affected children and be subject to appellate review. As a result, the best interests of the child will find much needed protection in public custody disputes. 



John C. Mayoue is a past chair of the Family Law Section of the State Bar of Georgia and a fellow of the American

Academy of Matrimonial Lawyers. He is the author of five books and numerous articles on family law and an associated faculty member with the Center for the Study of Religion and Law at Emory University. He is an attorney with Mayoue Gray Eittrheim, P.C.



Renée Neary received her bachelor's degree in English from The University of Virginia, with distinction and departmental high

honors, in 1983. She graduated from the University of North Carolina School of Law in 1988 and served as Research Editor on the *North Carolina Law Review*. She clerked for Hon. Albert J. Henderson, U.S. Court of Appeals for the 11th Circuit. She is an attorney with Mayoue Gray Eittrheim, P.C.

Endnotes

1. "Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble . . ." U.S. CONST. amend. I.
2. *Stanley v. Georgia*, 394 U.S. 557, 564 (1969).

3. *First Nat'l Bank v. Bellotti*, 435 U.S. 765, 783 (1978).
4. 448 U.S. 555 (1980). Chief Justice Burger wrote for the three-Justice plurality. Four other Justices concurred in the judgment. Over 30 years after its decision, *Richmond Newspapers* continues to be cited for the principle of open access to the courts. *See, e.g., Causey v. Sam's E., Inc.*, No. 5:12-CV-250(MTT), 2013 U.S. Dist. LEXIS 142225, at *1-2 (M.D. Ga. Oct. 2, 2013).
5. *Richmond Newspapers*, 448 U.S. at 572 (plurality opinion) (quoting *Offutt v. United States*, 348 U.S. 11, 14 (1954)).
6. *Id.* at 569.
7. *Id.*
8. *Id.* at 569-70 & n.7.
9. *Id.* at 598 n.23 (Brennan, J., concurring in the judgment).
10. *See, e.g., Wilson v. American Motors Corp.*, 759 F.2d 1568, 1571 (11th Cir. 1985) (per curiam).
11. *See, e.g., United States v. Rosenthal*, 763 F.2d 1291, 1292-93 (11th Cir. 1985).
12. *Richmond Newspapers*, 448 U.S. at 588 (Brennan, J., concurring in the judgment).
13. *Id.* (quoting *Zemel v. Rusk*, 381 U.S. 1, 16-17 (1965)).
14. *Press-Enter. Co. v. Superior Court*, 464 U.S. 501, 510 (1984).
15. *See* GA. UNIF. SUPER. CT. R. 21, 22. Rule 21 provides: "All court records are public and are to be available for public inspection unless public access is [otherwise] limited by law." Rule 22 governs electronic and photographic news coverage of judicial proceedings.
16. Op. Ga. Jud. Qual. Comm'n 239 (2013), available at www.gajqc.com/opinions.cfm.
17. O.C.G.A. § 19-8-18(a)(1).
18. O.C.G.A. § 19-8-23(e).
19. O.C.G.A. § 19-7-53.
20. American laws regarding juvenile offenses have their roots in the English common law doctrine *malitia supplet aetatem* ("malice supplies the age"). 4 WILLIAM BLACKSTONE, COMMENTARIES, ch. 2.
21. O.C.G.A. § 15-11-700(b). Closure in deprivation proceedings is also mandated upon the juvenile court's determination that it is in the "best interests of the child." Factors include the child's age, the nature of the allegations, the impact of open proceedings upon public policy goals of reuniting and/or rehabilitating the family unit, and whether closure is required to protect the privacy of the child, his caretaker or the victim of domestic violence. *Id.* § 15-11-700(c)(2).
22. O.C.G.A. § 15-11-700(f)(1).
23. O.C.G.A. § 15-11-700(b)(4).
24. O.C.G.A. § 9-10-3.
25. *See, e.g., Sarah Gerwig-Moore & Leigh S. Schrope, Hush, Little Baby, Don't Say A Word: How Seeking the "Best Interests of the Child" Fostered a Lack of Accountability in Georgia's Juvenile Courts*, 58 MERCER L. REV. 531 (2007).
26. Kathleen S. Bean, *Changing the Rules: Public Access to Dependency Court*, 79 DENV. U. L. REV. 1 (2001) (open access to dependency proceedings will bring court reform); Heidi S. Schellhas, *Open Child Protection Proceedings in Minnesota*, 26 WM. MITCHELL L. REV. 631 (2000); Kelly Crecco, Note, *Striking a Balance: Freedom of the Press Versus Children's Privacy Interests in Juvenile Dependency Hearings*, 11 FIRST AMEND. L. REV. 490 (2013) (press entitled to access in dependency hearings in order to educate public and drive reform); William McHenry Horne, Note, *The Movement to Open Juvenile Courts: Realizing the Significance of Public Discourse in First Amendment Analysis*, 39 IND. L. REV. 659 (2006) (arguing that open access to juvenile proceedings protects children by promoting public discourse).
27. *See, e.g., Sara VanMeter, Comment, Public Access to Juvenile Dependency Proceedings in Washington State: An Important Piece of the Permanency Puzzle*, 27 SEATTLE U. L. REV. 859, 896 (2004) ("concerns about families' rights to privacy and the desire to protect children from the potential trauma and embarrassment resulting from public scrutiny . . . have proved unfounded.").
28. *See, e.g., Jennifer L. Rosato, Secrecy and the Juvenile Justice System: The Future of Access to the Family Court: Beyond Naming and Blaming*, 9 J.L. & POL'Y 149, 155 (2000) (noting that "[t]hese kinds of cases teach the public as much about family law as the O.J. Simpson case taught us about criminal law – not very much.").
29. *See, e.g., William Wesley Patton, Revictimizing Child Abuse Victims: An Empirical Rebuttal to the Open Juvenile Dependency Court Reform Movement*, 38 SUFFOLK U. L. REV. 303 (2005); William Wesley Patton, *Pandora's Box: Opening Child Protection Cases to the Press and Public*, 27 W. ST. U. L. REV. 181 (2000); Jennifer Flint, Comment, *Who Should Hold the Key? An Analysis of Access and Confidentiality in Juvenile Dependency Courts*, 28 J. JUV. L. 45, 57 & n.101 (2007) (benefits of open access are outweighed by likelihood of emotional harm to the child).
30. GA. UNIF. SUPER. CT. R. 24.9(6).
31. O.C.G.A. § 15-1-10.1(b)(8).
32. Upon motion by any party to any civil or criminal action, or upon the court's own motion, after hearing, the court may limit access to court files respecting that action. The order of limitation shall specify the part of the file to which access is limited, the nature and duration of the limitation, and the reason for limitation. GA. UNIF. SUPER. CT. R. 21.1.
33. GA. UNIF. SUPER. CT. R. 24.5(A).
34. GA. UNIF. SUPER. CT. R. 24.9(4).
35. GA. UNIF. SUPER. CT. R. 24.9(7).
36. GA. UNIF. SUPER. CT. R. 24.5(A).
37. 13 DEL. CODE ANN. § 726(a), (b) (2014).
38. W. VA. FAM. CT. R. 6(b).
39. LA. CIV. CODE ANN. Art. 135 (2013).
40. CAL. FAM. CODE § 214 (2014). The court's exclusion of the public in custody proceedings under this code section has been upheld. *See Whitney v. Whitney*, 330 P.2d 947, 951 (Cal. Ct. App. 1958) ("It was done for the good of the child, a purpose that would not be best subserved by further discussion.")
41. *See, e.g., Anonymous v. Anonymous*, 705 N.Y.S.2d 339, 340 (App. Div. 2000); *P.B. v. C.C.*, 647 N.Y.S.2d 732, 733-34 (App. Div. 1996); *Anonymous v. Anonymous*, 550 N.Y.S.2d 704, 705 (App. Div. 1990); *see also S.B. v. U.B.*, 953 N.Y.S.2d 831, 833 (Sup. Ct. 2012); *CLB v. PHC*, 36 Media L. Rep. (BNA) 1990 (N.Y. Sup. Ct. 2008).
42. *Lisa C.-R. v. William R.*, 635 N.Y.S.2d 449, 452-53 (Sup. Ct. 1995). The Georgia Court of Appeals recently affirmed a trial court's order in a custody case restricting the parents from making derogatory comments

SUICIDE AWARENESS CAMPAIGN
How To Save A Life

NEED
HELP?

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

800-327-9631

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

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

The DVD includes three video lengths: 24 minutes, 11 minutes and six minutes. For more information or to obtain your copy of the DVD, call 404-527-8736.



State Bar
of Georgia

- about each other on social networking websites. See Lacy v. Lacy, 320 Ga. App. 739, 752, 740 S.E.2d 695, 706-07 (2013).
43. P.B. v. C.C., 647 N.Y.S.2d at 735.
 44. See, e.g., Mary McDevitt Gofen, Comment, *The Right of Access to Child Custody and Dependency Cases*, 62 U. CHI. L. REV. 857 (1995).
 45. See *id.* at 879.
 46. See Leonard P. Edwards, *Confidentiality and the Juvenile Family Courts*, 55 JUV. & FAM. CT. J. (Winter 2004), at 1.
 47. *Id.* at 1, 6 (citation omitted).
 48. See W. Thomas McGough, Jr., *Public Access to Divorce Proceedings: A Media Lawyer's Perspective*, 17 J. AM. ACAD. MATRIM. LAWS. 29, 35-36 (2001) (acknowledging that "[c]hildren caught up in divorce proceedings are obviously, and properly, deserving of special protections").
 49. In 2009, a federal district court judge in Georgia banned spectators from sending live updates from a criminal trial via Twitter, finding the activity akin to "broadcasting of judicial proceedings from the courtroom,"

- which is specifically prohibited under Rule 53 of the Federal Criminal Rules of Civil Procedure. See *United States v. Shelnett*, No. 4:09-CR-14 (CDL), 2009 U.S. Dist. LEXIS 101427 (M.D. Ga. Nov. 2, 2009).
50. The Council of Superior Court Judges may recommend to the Supreme Court of Georgia, after notice to the State Bar of Georgia and the Uniform Rules Committee chairpersons for the other classes of courts, amendments to the Georgia Uniform Superior Court Rules. See GA. UNIF. SUPER. CT. R. 1.6.
 51. See MISS. R. FOR ELEC. & PHOTO. COVERAGE OF JUD. PROCEEDINGS 3(c).
 52. See MO. CT. OP. R. 16.02(c).
 53. O.C.G.A. § 15-1-10.1(b)(8).
 54. Judge Brent Chesney, a county court judge in Corpus Christi, Texas, banned certain social media usage in the family law courtroom. "Since those standing orders were in place, I haven't had a lot of those problems. Those [Twitter messages] ... can really come back to hurt someone in a court proceeding." Morgan Frances, *Twitter Regrets:*

- Judge Bans Social Media Posts*, KZTV ACTION 10 NEWS (Nov. 19, 2013, 5:11 PM), <http://www.kztv10.com/news/twitter-regrets-judge-bans-social-media-posts/>. Note, however, that prohibitions against a non-litigant family member may be subject to First Amendment scrutiny. A 2009 restraining order against a Rhode Island woman banning her from commenting on her brother's child custody case was challenged by the ACLU as an infringement on her right to free speech. See *Martin v. Langlois*, DIGITAL MEDIA LAW PROJECT (July 30, 2009), <http://www.dmlp.org/threats/martin-v-langlois>.
55. See *Malool v. Malool*, 231 Ga. 811, 812, 204 S.E.2d 162, 163 (1974), in which the Court, although overturning the trial court's sweeping order prohibiting the parents from saying *anything* about each other in front of the children, indicated that it would have ruled differently if the trial court had merely "required the parties to refrain from making derogatory remarks about the other before the children."

Consumer Pamphlet Series



The State Bar of Georgia's Consumer Pamphlet Series is available at cost to Bar members, non-Bar members and organizations. Pamphlets are priced cost plus tax and shipping. Questions? Call 404-527-8736.

The following pamphlets are available:

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

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

22nd Annual State Bar Diversity CLE and Luncheon: Identifying and Overcoming Unconscious Bias

by Marian Cover Dockery

Unconscious bias is an attitude, a reaction, a means of discriminating because of an immutable trait such as race, gender or color.

A senior vice president of human resources at an Atlanta Fortune 500 company said that her best teams were her most diverse teams and those teams always came up with the best ideas and made the best decisions. Today's law firms cannot afford to hire homogenous workforces as the corporate in-house counsel representing prospective clients will be diverse—both minorities and women who will expect the law firm partners making the pitch to also be diverse.

The unconscious bias that still exists in firms precludes diverse attorneys from being sponsored by partners, as well as receiving training and exposure to ensure their advancement to partner. Also, identifying bias and eliminating it from the appraisal process, the promotion process and the training process are key to leveling the playing field for diverse attorneys who aspire making partner.

Featured Speaker

David Cade, partner at the Washington, D.C., office of Polsinelli, opened the conference. Cade's former career at the Office of the General Counsel of the U.S. Department of Health and Human Services as both deputy and acting general counsel included broad experience in the area of diversity. He pointed out that what gets measured gets done. If law firms look at their retention rates of diverse attorneys, their promotion percentage of diverse attorneys, their diversity promotion activ-



Photos by Don Morgan Photography

Hon. Glenda Hatchett addresses the CLE attendees during the annual luncheon.

ities and the participation of diverse attorneys in leadership positions, those numbers will confirm the progress a law firm has achieved in this area. Unconscious bias has been a barrier to law firms effectively diversifying their workforces. Partners must model behavior that is supportive of others; and never tolerate racist or sexist behavior by speaking up when other members of the firm make inappropriate comments.

Law Partner Panel

The second session's moderator was Karen Hester, executive director of the Center for Legal Inclusiveness. Panelists were R. Lawrence Ashe, senior counsel, Parker, Hudson, Rainer & Dobbs and former founding partner, Ashe Rafuse & Hill; Thomas G. Sampson, managing partner of Thomas Kennedy Sampson and Tompkins LLP, Georgia's oldest minority-owned law firm; Dionysia Johnson-Massie, shareholder at Littler Mendelson; and Donna K. Lewis, partner at Nelson Mullins Riley & Scarborough. The panelists gave a historical perspective of how unconscious bias impacted hiring at law firms, memberships at the Lawyer's Club where women and African-Americans were denied admission through a "black ball system" and how the bench was wholly segregated. Even former Mayor Maynard Jackson was not offered any positions after he finished his stint as mayor of Atlanta until a major firm was convinced to hire him. Today less than 2 percent of African-American men and less than 5 percent of women are partners/shareholders at top firms. Proposed solutions to the implicit biases that result in discrimination against women and minorities in firms included changing the law firm model which is a much bigger challenge for the profession. The panelists also suggested that partners should communicate with diverse associates and discover their common interests in order to break down barriers; sponsor diverse attorneys to ensure their accomplishments are visible to the decision makers; and leverage their power to ensure diverse attorneys are getting challenging assignments and assistance when necessary. These are just a few strategies that can contribute to eliminating biases in law firms.

Judicial Panel

Hon. M. Yvette Miller of the Court of Appeals of Georgia moderated the third roundtable dis-



Panelists and moderator of the law partner panel with Georgia Diversity Program Executive Director Marian Cover Dockery. (Left to right) R. Lawrence Ashe Jr.; Dionysia Johnson-Massie; Thomas G. Sampson; Marian Cover Dockery; Charles Huddleston, diversity program chair; Karen Hester, moderator; and Donna Lewis.



Members of the judges roundtable. (Left to right) Hon. Henry Newkirk, Hon. Dax López, Hon. Justin S. Anand, Hon. Carla Wong McMillian and Hon. M. Yvette Miller, moderator.

cussion. Panelists included Hon. Justin S. Anand, U.S. magistrate judge for the Northern District of Georgia; Hon. Carla Wong McMillian, Court of Appeals of Georgia; Hon. Henry Newkirk, Superior Court of Fulton County;

and Hon. Dax López, State Court of DeKalb County.

The judges discussed some startling statistics. Specifically one out of every three African-American males and one out of every six Hispanic males can be expected



Let CAP Lend a Helping Hand!

What is the Consumer Assistance Program?

The State Bar's Consumer Assistance Program (CAP) helps people with questions or problems with Georgia lawyers. When someone contacts the State Bar with a problem or complaint, a member of the Consumer Assistance Program staff responds to the inquiry and attempts to identify the problem. Most problems can be resolved by providing information or referrals, calling the lawyer, or suggesting various ways of dealing with the dispute. A grievance form is sent out when serious unethical conduct may be involved.

Does CAP assist attorneys as well as consumers?

Yes. CAP helps lawyers by providing courtesy calls, faxes or letters when dissatisfied clients contact the program.

Most problems with clients can be prevented by returning calls promptly, keeping clients informed about the status of their cases, explaining billing practices, meeting deadlines, and managing a caseload efficiently.

What doesn't CAP do?

CAP deals with problems that can be solved without resorting to the disciplinary procedures of the State Bar, that is, filing a grievance. CAP does not get involved when someone alleges serious unethical conduct. CAP cannot give legal advice, but can provide referrals that meet the consumer's need utilizing its extensive lists of government agencies, referral services and nonprofit organizations.

Are CAP calls confidential?

Everything CAP deals with is confidential, except:

1. Where the information clearly shows that the lawyer has misappropriated funds, engaged in criminal conduct, or intends to engage in criminal conduct in the future;
2. Where the caller files a grievance and the lawyer involved wants CAP to share some information with the Office of the General Counsel; or
3. A court compels the production of the information.

The purpose of the confidentiality rule is to encourage open communication and resolve conflicts informally.

**Call the State Bar's Consumer Assistance Program
at 404-527-8759 or 800-334-6865 or visit www.gabar.org/cap.**



(Left to right) Charles Huddleston, Hon. Glenda Hatchett and Marian Cover Dockery following the keynote luncheon address.



Featured speaker David Cade speaks to the attendees on "Acknowledging and Overcoming Unconscious Bias."

to go to prison, whereas one out of every 17 Caucasian males will go to prison in their lifetime. However, statistics pre-dating 1970 disclose that more whites than minorities were imprisoned for committing crimes. There is no doubt that whites are committing crimes too, but because of implicit biases, more minorities are now imprisoned. An example of this is racial profiling, where a disproportionate number of minorities are pulled over while driving.


The good news is that there are changes forthcoming in the way we police. Sentencing guidelines for first time offenders emphasizes reform and not incarceration of these defendants. And crack, the drug used by more African-Americans, carries a much longer sentence than cocaine, the drug used more often by Caucasians. Addressing this disparity is major as it would reduce the number of African-Americans who are incarcerated.

Annual Luncheon

State Bar President Patrise M. Perkins-Hooker, the first African-American president of the Bar, welcomed the luncheon attendees and introduced Jeff Davis, the executive director of the State Bar

of Georgia, prior to Hon. Glenda Hatchett's keynote address.

Hatchett, best known for her nationally syndicated television show "Judge Hatchett," began her legal career in Atlanta as in-house counsel with Delta Airlines. From there, Hatchett was appointed chief judge of the Fulton County Juvenile Court in 1990 and served until 1999, at which time she began work on "Judge Hatchett." She has since returned to Atlanta and created The Hatchett Firm, a national network of attorneys and crisis management experts.

Hatchett shared her personal experiences with attendees where she was the victim of bias as a young attorney as well as her own personal biases as a young college student. Her thought-provoking speech made it clear the importance of identifying our biases and working to eliminate them before we can take deliberate steps to eliminate the unconscious bias that plagues the legal profession. 



Marian Cover Dockery is an attorney with a background in employment discrimination and the

executive director of the State Bar of Georgia Diversity Program. For more information on the Diversity Program, go to www.gabar.org.

Tax Court Accepts Kaye Valuation

Affirmed by
US Court of Appeals

Mitchell Kaye, CFA, ASA
(770) 998-4642

Business Valuations

Divorces • Estates • Gifts

ESOPs • FLPs

Intangible Assets • Disputes

Court Testimony and IRS Experience

serving appraisal clients since 1981

www.MitchellKaye.com

Baldwin County Courthouse at Milledgeville

The Grand Old Courthouses of Georgia

by Wilber W. Caldwell

Laid out in 1803 to replace Louisville as the seat of government, Milledgeville is one of five Georgia towns created according to plans commissioned by the state. The others are Augusta, whose old colonial town plan was modified and expanded in 1783 on 1,000 acres “confiscated from the royalists”; Louisville, laid out in 1796 as the new capital; Macon, surveyed in 1823, and Columbus, founded in 1828. Not coincidentally each of these towns was located at the head of navigation on one of Georgia’s five main rivers, and not surprisingly the early relative success of each town was directly related to the navigability of the stream upon which it was built. Augusta and Columbus flourished by the robust waters of the Savannah and the Chattahoochee. Macon held her own on the less reliable Ocmulgee while Milledgeville’s fortunes remained tenuous beside the shallow and capricious Oconee. Louisville stagnated in the swamps along the Ogeechee.

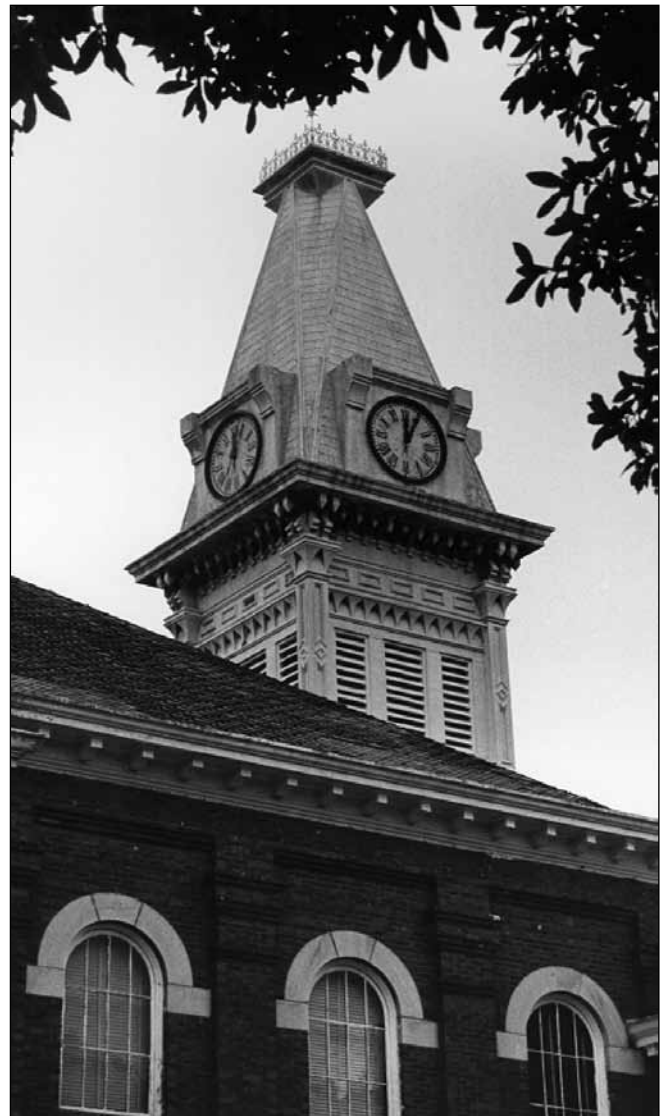


Photo by Wilber W. Caldwell

The Baldwin County Courthouse at Milledgeville, built in 1886, Peter E. Dennis, architect.

The original choice of Louisville as the state capital was a mistake on almost every level. The river was impossible for navigation, the town site was a malarial swamp, and by 1800, it was clear that the population center of the state had shifted far to the west of Jefferson County and was moving farther westward at a healthy clip. The Creek Indian Cession of 1802-05 provided the state with virtually all of the land between the Oconee and the Ocmulgee Rivers. Baldwin County and Milledgeville were born of this acquisition and the resulting land lottery, and in 1804 Milledgeville was declared the permanent capital of the state of Georgia. The English influence is undeniable here. Savannah was the cultural and economic capital of Georgia in 1800, and despite the anti-English sentiment of the period, Savannah's ties to England via the cotton trade were strong. The new town plan for Milledgeville mirrored Savannah, featuring four enormous squares.

Although Milledgeville was the capital of Georgia, its grasp of things commercial seemed lacking, and its grasp of things political was at best tenuous. In spite of the town's importance as the seat of state government, the Central of Georgia was slow to connect Milledgeville with the main line. All through the 1840s, economic hard times persisted, and Milledgeville's hold on the political reins of Georgia seemed unsure. Finally in 1851, the Milledgeville and Gordon Railroad completed a spur from the Central's mainline to Milledgeville, and a trickle of commercial progress began to flow into the old capital. However, any meaningful economic progress was soon cut short by the Civil War.

Milledgeville refutes the myth of Sherman's brutality. Thirty thousand federal troops passed through the town, but only four private residences were burned, and most because they were being "too vigorously protected" by their owners. This lack of destruction is

remarkable in light of the fact that some resistance was offered, mostly by convicts released from the state penitentiary and by young students at the military academy. After what amounted to a non-battle, the town was surrendered with the usual request for the protection of private property. The depot and some warehouses were destroyed, but for the most part the taking of Milledgeville was an orderly affair. We cannot know whether Sherman would have burned the Baldwin County Courthouse or not, for the building had burned to the ground three years before the general's arrival. Baldwin County's first courthouse had been completed in 1814. In 1838, a more spacious building was begun, but the simple brick building was not fully completed until around 1847. Apparently the object of arson, it burned in 1861.

After the fighting ended, Milledgeville sought to pick up the pieces. The Masonic Hall was leased for a courthouse in 1866,

JUDGING PANEL VOLUNTEERS NEEDED FOR 2015 STATE FINALS TOURNAMENT

Saturday, March 14

**Gwinnett Justice and Administration Center,
Lawrenceville**

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

**Volunteer forms at www.georgiamocktrial.org under the
"Volunteer for the Program" page.**

Contact the Mock Trial Office with questions:
404-527-8779 or toll free 800-334-6865 ext. 779
Email: mocktrial@gabar.org

 State Bar
of Georgia

**GEORGIA**
MOCK TRIAL
COMPETITION

YOUNG LAWYERS DIVISION
STATE BAR OF GEORGIA

the Central of Georgia Railroad through Milledgeville began running again in 1865, and even in the teeth of the economic disaster that followed the war, a new railroad was under construction. Completed to Milledgeville in 1867 and to Augusta in 1870, the Macon and Augusta Railroad created a direct connection linking Macon with Augusta via Milledgeville, Sparta and Warrenton, joining The Georgia Railroad at Camak. Thus, Milledgeville became one of the first postbellum junction cities. But in that same year, the bottom dropped out. The end of Andrew Johnson's Presidential Reconstruction and the beginning of Radical Reconstruction, enforced by a federal military presence, quickly put an end to Milledgeville's already tenuous hold on the state capital.

In the 1867 election to select delegates to the Constitutional Convention, in all of Baldwin County, only 660 white men were registered and only seven voted. Here were ignited the coals of anger and hatred, which were to power the engines of stagnation and narrow-mindedness for decades to come. To add insult to injury after the removal of the state capital to Atlanta in 1868, Milledgeville's Oglethorpe University was also moved to Atlanta in 1870, and the next decade saw not only a ruinous economic depression but also a devastating tornado and two fires that destroyed "fully half of the downtown business district including the new Milledgeville hotel. . . ."


All of these setbacks massed together to delay the construction of a new Baldwin County Courthouse. There seemed to be no hurry in 1868, for with the old capitol building now empty, there was plenty of room for courthouse functions. From 1880 to 1887 the county leased the Milledgeville Opera building for use as a temporary courthouse. By 1886 things had turned around enough for Baldwin County to consider a new courthouse, but the building completed

in the next year reflected only a glimpse of "New South" exuberance. Like so many courthouses built in the postbellum period in towns beside antebellum rails, at heart, it reflected the earlier style.

Extensive additions to the building in 1937 and 1965 today obscure much of the original structure. An imposing neoclassical portico and adjoining wings cover all but the old brick arch of the front entrance and a Federal Style central second-story window. Large wings were added at each corner with cornices that relate to the portico. Sadly the old building is, in large part, encased in the expansion. Only from the sides, where the windows of the original courtroom are left unobstructed to gather the sunlight, can one retrieve a feel for the original 1886 structure. Apart from the remarkable clock tower, the 1886 Baldwin County Courthouse was a reflection of the old square two-story vernacular style. Suggesting the Classical outline of the Federal mode, it echoes the simple design that typified antebellum courthouses built in an era when most of the state could lay claim to fellowship with an unsophisticated American frontier. But here, in 1886, we find richer detail: the regular brick pilasters and the stunningly tall arches of the courtroom windows beneath the traditional pyramidal roof supported by a studded cornice. With its flamboyant wooden decoration, its unique tower and its graceful arched courtroom windows, the 1886 Baldwin County Courthouse bridges the gap between the simple builder-designed architecture of that early period and the wild fantasies to come.

Most agree that the architect of the 1886 Baldwin County Courthouse was Peter E. Dennis of Macon, but unclear reference is also made to the McDonald Brothers of Louisville, Ky., who were somehow involved in the planning or the development of the specifications of the courthouse. According to Russell Claxton writing in

Architecture/Georgia magazine, the Baldwin County Courthouse was P. E. Dennis' first professional commission in a career which would also include the design of the 1907 Turner County Courthouse at Ashburn created in cooperation with fellow Macon architect, Alexander Blair.

This is not the grand, monumental architecture of state and national institutions. Here is an architecture of human scale, domestic, simple, proud and rural, which looks to itself, more than anywhere else, for its forms. It is a very conservative, almost primitive art, which is so inwardly turned. But after all, this was the art of a very inwardly turned people—a people who were confronted with visions of a new world while desperately clinging to distorted images of the old. 

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



Join the State Bar on
facebook!

[www.facebook.com/
statebarofgeorgia](http://www.facebook.com/statebarofgeorgia)

MB | MemberBenefits

PRIVATE HEALTH INSURANCE EXCHANGE

ADMINISTERED BY: MEMBER BENEFITS

RECOMMENDED
BROKER OF THE:



State Bar
of Georgia



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

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

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

providers that compete for business within the exchange.


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



SHOP THE ONLINE MARKETPLACE:


www.gabar.memberbenefits.com


OR CALL US 1-800-282-8626


Kudos


>  **Pope McGlamry** announced **Paul Kilpatrick**, managing partner, is celebrating his **50th anniversary** practicing law. Kilpatrick helped form Pope McGlamry in 1984 and has handled hundreds of cases in various areas of litigation throughout the years. During Kilpatrick's decades of practice he has spent 15 years focusing on family law and another 35 in the area of plaintiff and business litigation.


>   The inaugural **W. Homer Drake, Jr., Georgia Bankruptcy American Inn of Court** selected **Melissa Davey** and **Valerie Richmond, Stites & Harbison, PLLC**, as **barristers** for the fiscal year 2014-15. Barristers are lawyers with 6-14 years of insolvency experience that demonstrate excellent character and the desire to improve and refine their skills.


>  **Emory University School of Law** recognized **John Witte Jr.** with a named **professorship**. Witte, acclaimed teacher, prolific scholar and director of Emory's Center for the Study of Law and Religion, was named **Robert W. Woodruff Professor of Law at Emory**, the highest designation the university can bestow on a faculty member.


>  The **Pennsylvania Association for Justice** awarded **Don Keenan** of the Keenan Law Firm, with the **Community Service Award** for Keenan's efforts as an advocate in the courtroom for children at risk and for promoting child safety through his **Keenan's Kids Foundation**. The foundation raises public awareness about child safety hazards and works to improve the lives of at-risk youth through clothing drives, feeding the homeless, children's events and fundraisers.


>  The **Anti-Defamation League (ADL)** announced **Bennet Alsher**, partner at FordHarrison LLP, was elected to the **National Commission**. The Anti-Defamation League was founded in 1913 to stop the defamation of the Jewish people and to secure justice and fair treatment to all. Now the civil rights/human relations agency, ADL fights anti-Semitism and all forms of bigotry, defends democratic ideals and protects civil rights for all.


>  **Hon. William C. O'Kelley**, senior U.S. district judge of the Northern District of Georgia, was awarded the **2014 Emory Medal**, the university's highest alumni honor, by the Emory Alumni Association in October. Medalists are honored for distinguished service to the university, extraordinary public service or high achievement in their field, the professions or the arts.

>  The **Georgia Asylum and Immigration Network** appointed **Elie Wolfe**, Nelson Mullins Riley & Scarborough LLP, to its **board of directors**. The network provides pro bono legal representation to asylum seekers and immigrant victims of human trafficking, domestic violence, sexual assault and other crimes through direct representation and pro bono referrals.


>  **Davis, Matthews & Quigley, P.C.**, announced associate **John A. Sugg** co-authored the article, "**Hypothetical Transaction? But She's Not Selling**" in the most recent *National Litigation Consultants' Review*. Sugg represents small businesses, large international companies and individuals, including high net worth clients.

>  The **American College of Bankruptcy** selected **Jason Watson**, Alston & Bird partner, as a **fellow**. The American College of Bankruptcy is an honorary professional and educational association of bankruptcy and insolvency professionals. Fellows of the college include commercial and consumer bankruptcy attorneys, insolvency accountants, turnaround specialists, law professors, judges and government officials.

>  **Edward M. "Bubba" Hughes** of Callaway Braun Riddle & Hughes received the **2014 DRI Outstanding State Representative Award**, presented during the DRI Annual Meeting in San Francisco in October. DRI is the leading national organization of defense attorneys and in-house counsel. A past president of the Georgia Defense Lawyers Association (GDLA), Hughes began his service as the GDLA state representative to DRI in October 2011.

>  The **Atlanta Legal Aid Society** honored **J.D. Humphries III**, Stites & Harbison, PLLC, with the **Randall L. Hughes Lifetime Commitment to Legal Services Award**. This award honors an individual who has spent one's career working with Atlanta Legal Aid Society and has made a tangible difference in multiple capacities.

>  The **American Bar Association** announced that Barnes & Thornburg partner **Stephen Weizenecker** was elected to serve on the **governing committee of the forum on entertainment and sports industries**. The purpose of the forum is to provide networking and continuing education opportunities to legal professionals working in the entertainment, arts and sports industries.

>  **Alston & Bird** announced that partner **Patrick Flinn** was named a **recipient of the 2014 Georgia State University Intellectual Property Community Service Award**. Georgia State University, the State Bar of Georgia IP Section and the Atlanta Bar IP Section sponsor the award, which is given to individuals who demonstrate a longstanding commitment to service benefiting a broad range of people, organizations and interests in the community.

>    **Kilpatrick Townsend & Stockton** announced partner **Ted Davis** was selected by the **International Trademark Association (INTA)** as a **recipient of the 2014 Volunteer Service Award for the Advancement of Trademark Law**. The award recognizes individuals who provide exemplary volunteer service to INTA and whose efforts during the year have led to the advancement of substantive trademark law and practice. INTA is a global association of trademark owners and professionals with members from 6,400 organizations from 190 countries.

Partner **Susan Cahoon** was honored with a **scholarship** in her name at **Emory College of Arts and Sciences**. The Susan A. Cahoon Scholarship endowment will provide support for students attending Emory College.

Associate **Virginia Taylor** was selected by the **INTA** as a **recipient** of the prestigious **2014**

President's Award in recognition of her outstanding contributions and lasting impact to the international trademark community.

>   The **State Bar of Georgia's Young Lawyers Division** presented Burroughs/Elijah partner **Brandon Elijah** with the **Outstanding Service to the Public Award** for his work as co-founder

of the state's first responders wills clinic program at the State Bar's Annual Meeting in June 2014. As a result of his work with the wills clinic, Elijah was selected to serve as co-chair for the 2014-15 First Responders Wills Clinic.

Partner **Daniel Burroughs** was recognized by **The Business Network International (BNI)** as **member of the year** of the Augusta Referral Powerhouse chapter where he served as president. With more than 170,000 members worldwide, BNI is the largest business networking organization in the world.

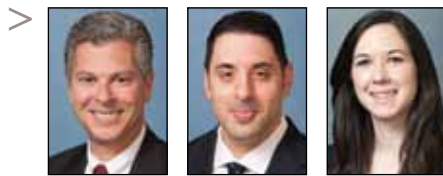
On the Move

In Atlanta

>   **McGuire Woods LLP** announced that **Peter N. Farley** and **Josiah Bancroft** joined the firm as **partners**. Farley represents clients in a wide range of labor and employment, ERISA and general business litigation matters. Bancroft assists clients in planning, structuring, negotiating and consummating a wide range of acquisition, development, financing and leasing transactions. The firm is located at 1230 Peachtree St. NE, Suite 2100, Atlanta, GA 30309; 404-443-5500; Fax 404-443-5599; www.mcguirewoods.com.

>  **Miller & Martin PLLC** announced the addition of **Joseph P. L. Snyder** as a **partner**. Snyder's practice focuses on commercial real estate development, investment and leasing. The firm is located at 1180 W. Peachtree St. NW, Suite 2100, Atlanta, GA 30309; 404-962-6100; Fax 404-962-6300; www.millermartin.com.

> The law firm of **Belli Weil Grozbean & Davis LLC** relocated its offices. The firm is now located at 5445 Peachtree Dunwoody Road, Atlanta, GA 30342; 770-993-3300; Fax 770-552-0100; www.bwgd.com.



Stone

Kalfus

Flake

Smith Moore Leatherwood LLP announced the addition of **Matthew P. Stone, Shawn N. Kalfus** and

Kori E. Flake as **associates**. Stone has more than 20 years' experience in the transportation industry, focusing on resolving motor vehicle liability claims against companies, drivers and insurers in the trucking and transportation industry. Kalfus focuses his practice on the defense of wrongful death and catastrophic injury cases. Flake also works to support the transportation practice group. The firm is located at 1180 W. Peachtree St. NW, Suite 2300, Atlanta, GA 30309; 404-962-1000; Fax 404-962-1200; www.smithmoorelaw.com.



Berger

Callaway

Collins

Terry



Valponi

Nelson Mullins Riley & Scarborough LLP announced the addition of **Ross Berger, Edgar Callaway, Jay Collins, Dené Terry** and **Dominic Valponi** as **associates**. Berger, Collins, Terry and Valponi focus their practice on the areas of corporate law, mergers and acquisitions, private equity and venture capital. Callaway focuses his practice on education law and public policy. The firm is located at 201 17th St. NW, Suite 1700, Atlanta, GA 30363; 404-322-6000; Fax 404-322-6050; www.nelsonmullins.com.

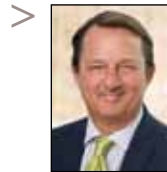


Culhane Meadows announced the addition of **Tom Tallmadge** as a **partner**. Tallmadge's practice focuses on complex commercial contract matters in the technology field and general intellectual property matters. The firm is located at 3340 Peachtree Road, Suite 1800, Atlanta, GA 30326; 770-330-5679; www.culhanemeadows.com.



Hunton & Williams LLP announced the addition of **Chris Underwood** as an **associate**. As a member of the capital finance and real estate team, Underwood focuses on business finance and lending services for commercial banks, financial services companies, institutional lenders and invest-

ment funds, among other lenders. The firm is located at 600 Peachtree St. NE, Bank of America Plaza, Suite 4100, Atlanta, GA 30308; 404-888-4000, Fax 404-888-4190; www.hunton.com.



Burr & Forman LLP announced the addition of **Jon M. Gumbel** as **partner** and **member** of the labor and employment practice group. Gumbel defends employers in regards to state and federal employment, administrative and litigation matters, as well as advising management on all aspects of employment law issues. The firm is located at 171 17th St. NW, Suite 1100, Atlanta, GA 30363; 404-815-3000; Fax 404-817-3244; www.burr.com.

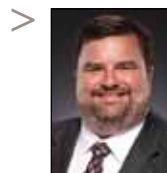


Livingstone

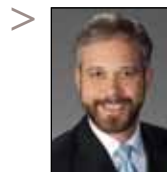
Hamilton

Chamberlain, Hrdlicka, White, Williams & Aughtry announced the addition of **Erica C. Livingstone** as **senior counsel** and **Sara E. Hamilton** as an **associate**.


Livingstone joins the firm's intellectual property practice while Hamilton joins the labor and employment practice. The firm is located at 191 Peachtree St. NE, 34th Floor, Atlanta, GA 30303; 404-659-1410; Fax 404-659-1852; www.chamberlainlaw.com.





Bovis, Kyle, Burch & Medlin, LLC, announced the addition of **Kim M. Jackson** as a **partner**. Jackson's practice focuses on defending attorneys and other professionals in malpractice claims, handling coverage and bad faith disputes and defending catastrophic injury cases, typically focusing on premises liability. The firm is located at 200 Ashford Center North, Suite 500, Atlanta, GA 30338; 770-391-9100; Fax 770-668-0878; www.boviskyle.com.



Axiall Corporation announced the addition of **Tony Ventry** as **senior counsel** of labor and employment. Ventry focuses on providing guidance to company management on federal, state and local employment laws; working extensively with the human resources team regarding strategy; and representing the company before government administrative boards and at court in civil lawsuits. The firm is located at 1000 Abernathy Road NE, Suite 1200, Atlanta, GA 30328; 770-395-4500; Fax 770-395-4529; www.axiall.com.

>  **Walmart Stores, Inc.**, announced that **Vasco McRae** is the new **regional compliance manager** for the metro-Atlanta area. McRae is responsible for the mitigation of compliance risks by monitoring governmental regulatory activity and conducting audits to ensure compliance with Walmart and Sam's Club policies. His office is located at 400 Interstate North Parkway, Suite 950, Atlanta, GA 30339; 479-268-8023.


>  **Carlock, Copeland & Stair** announced partner **Shannon M. Sprinkle** was selected to serve as the firm's **general counsel**. Sprinkle is responsible for the overall management of legal concerns and services for the firm, specifically for management of the firm's professional liability processes and risk management, and advises the firm on a wide variety of issues. The office is located at 191 Peachtree St. NE, Suite 3600, Atlanta, GA 30303; 404-522-8220; Fax 404-523-2345; www.carlockcopeland.com.

>  **Warner, Bates, McGough, McGinnis & Portnoy** announced the addition of **Janet A. Hardman** to the firm as an **associate**. Hardman works primarily in family law and assists in both civil and criminal cases. The firm is located at 3350 Riverwood Parkway, Suite 2300, Atlanta, GA 30339; 770-951-2700; Fax 770-951-2200; www.wbmfamilylaw.com.



 **Alston & Bird** announced the addition of **Andrew R. Allen, Meaghan G. Boyd, Kevin A. Gooch, Kyle G. Healy, Kamran Jivani, Matthew D. Kent, Sage M. Sigler, Sean A. Simmons** and **Andrew J. Tuck** as **partners**. Allen joined the real estate and finance investment group, advising large institutional and pension fund investors, developers and publicly traded real estate investment


trusts in the acquisition, financing, development, leasing and disposition of commercial real estate. Boyd joined the environment, land use and natural resources group, representing clients in complex environmental and toxic tort litigation. Gooch joined the finance group and represents financial institutions and corporate borrowers in a variety of corporate finance transactions, including syndicated credit facilities, acquisition financings, notes offerings and asset-based financings and restructurings. Healy joined the corporate transactions and securities group, representing public and private companies in securities transactions, mergers and acquisitions, and other corporate transactions. Jivani joined the intellectual property litigation group, litigating patents in a wide array of technologies. Kent joined the litigation and trial practice group, specializing in antitrust litigation. Sigler joined the bankruptcy, workouts and reorganization group, representing debtors in complex Chapter 11 cases and advises clients in all aspects of bankruptcy proceedings. Simmons joined the products liability group, focusing on complex litigation matters, primarily class actions and products liability, and subcontractors in all aspects of construction projects and disputes. Tuck joined the litigation and trial practice group, focusing on complex litigation, including appeals, class actions and antitrust matters. The firm is located at One Atlantic Center, 1201 W. Peachtree St., Atlanta, GA 30309; 404-881-7000; Fax 404-881-7777; www.alston.com.

>  The **Hilbert Law Firm, LLC**, announced **Susan Green Miller** joined the firm's residential closing department as **of counsel**. Miller focuses her practice on the areas of residential and commercial real estate, concentrating heavily in both high end residential transactions as well as investor transactions. The firm is located at 400 Perimeter Center Terrace NE, Suite 900, Atlanta, GA 30346; 770-551-9310; Fax 770-551-9311; www.hilbertlaw.com.

>  **Fisher & Phillips LLP** announced the addition of **Michael P. Elkon** and **Matthew R. Simpson** as **partners**. Elkon helps companies navigate legal hurdles with respect to recruiting talent. Simpson represents companies in all areas of labor and employment litigation, with a particular emphasis on individual and collective wage-hour actions. The firm is located at 1075 Peachtree St. NE, Suite 3500, Atlanta, GA 30309; 404-231-1400; Fax 404-240-4249; www.laborlawyers.com.

>  **Davis, Matthews & Quigley, P.C.**, announced **Lauren J. Miller** joined the firm as an **associate**. Miller represents clients in a variety of family law matters including divorce, child custody, child support, alimony and equitable division of property. The firm is located at 3400 Peachtree Road NE, Suite 1400, Atlanta, GA 30326; 404-261-3900; Fax 404-261-0159; www.dmqmlaw.com.


>    **Jones Day** announced the addition of **Michael J. Bruner, Ph.D.**, and **Jack M. Williams** as **partners**, and former U.S. Supreme Court clerk **Andrew Pinson** as an **associate**. Bruner focuses on chemical, pharmaceutical and biotechnology innovations. Williams focuses on companies in products liability cases and in types of business and commercial litigation including tobacco, asbestos and pharmaceuticals. Pinson practices in the firm's issues and appeals section. The firm is located at 1420 Peachtree St. NE, Suite 800, Atlanta, GA 30309; 404-521-3939; Fax 404-581-8330; www.jonesday.com.


>  **Childers, Schlueter and Smith, LLC**, announced the addition of **Patrick J. Wheale** as an **associate**. Wheale focuses his practice on personal injury and defective and dangerous pharmaceutical products and medical devices. The firm is located at 1932 N. Druid Hills Road NE, Suite 100, Atlanta, GA 30319; 404-419-9500; Fax 404-419-9501; www.cssfirm.com.


>    **Morris, Manning & Martin, LLP**, announced the addition of **partners Jessica Hill, Clyde Mize** and **Tony Roehl**. Hill focuses on developers and property owners in land use and zoning issues in Georgia. Mize practices in the areas of residential and commercial real estate, finance and government guaranteed lending while Roehl's principal areas of concentration are regulation and transactional matters involving entities within the insurance industry. 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.



Kilpatrick Townsend & Stockton announced the addition of four new **associates: Nick Brown, Rho Debrow Cornett, Zach Eyster** and **Sara Fon**. Brown joins the firm's bankruptcy and financial restructuring team in the litigation department. Cornett and Eyster join the firm's trademark and copyright team in the intellectual property department while Fon joins the firm's mergers and acquisitions and securities team in the corporate, finance and real estate department. The firm is located at 1100 Peachtree St. NE, Suite 2800, Atlanta, GA 30309; 404-815-6500; Fax 404-815-6555; www.kilpatricktownsend.com.

>  **Polsinelli** announced the appointment of **Nancy E. Rafuse** as **chair** of their labor and employment practice. Rafuse's new management role is in conjunction with multiple management changes across the country to expand the level of leadership geographically at the practice group, office managing partner and department levels. The firm is located at 1355 Peachtree St. NE, Suite 500, Atlanta, GA 30309; 404-253-6000; www.polsinelli.com.

>  **James-Bates-Brannan-Groover-LLP** announced the addition of **Matthew Couvillion** as an **associate** in the Atlanta office. Couvillion focuses on providing comprehensive tax and corporate law advice to businesses and tax exempt organizations in the tax and wealth planning group. The firm is located at 3399 Peachtree Road NE, Suite 1700, Atlanta, GA 30326; 404-997-6020; Fax 404-997-6021; www.jamesbatesllp.com.

>  **Barnes & Thornburg** announced **Lawrence Humphrey** joined the firm's corporate department as a **partner**. Humphrey is a transactional attorney with a focus on general commercial and operational contracts. The firm is located at 3475 Piedmont Road NE, Suite 1700, Atlanta, GA 30305; 404-846-1693; Fax 404-264-4033; www.btllaw.com.

>



Beard



Murray

Parks IP Law announced the firm changed its name to **Parks Wood LLC**, and that **Collen Beard** and **Mickki Murray** were elevated to **partner**. Beard leads the firm's internal operations, in addition to her patent practice. Murray manages a patent prosecution practice team. The Atlanta office is located at 730 Peachtree St. NE, Suite 600, Atlanta, GA 30308; 678-365-4444; Fax 678-365-4450; www.parks-wood.com.

>



Hon. Glenda A. Hatchett, of the popular television show "Judge Hatchett," announced the opening of **The Hatchett Firm**. The firm specializes in catastrophic accidents, wrongful deaths, medical malpractice, reputational/marketing risks and product liability. The firm is located at 191 Peachtree St., Suite 2600, Atlanta, GA 30303; 404-467-6000; www.thehatchettfirm.com.

In Augusta

>



Cherry Bekaert LLP announced the addition of **Christopher L. Lewis** as a **partner**. Lewis helps clients throughout all phases of tax planning and compliance. The firm is located at 1029 Greene St., Augusta, GA 30901, 706-724-3557; Fax 706-724-1667; www.cbh.com.

In Brunswick

> **Hall Booth Smith, P.C.**, announced **Jim Durham** joined the firm as a **partner** and **Audra Rizzi** joined the firm as **of counsel**. Durham has more than 30 years of trial experience involved in multiple areas of civil litigation, including commercial litigation, products liability and medical malpractice defense. Rizzi's practice focuses on health care law, commercial civil litigation and complex domestic disputes. The firm is located at 3528 Darien Highway, Suite 300, Brunswick, GA 31525; 912-554-0093; Fax 912-554-1973; www.hallboothsmith.com.

In Columbus

>



Page, Scrantom, Sprouse, Tucker & Ford, P.C., has announced the addition of **Tyler C. Cashbaugh** as an **associate**. Cashbaugh represents individuals and corporations in the areas of litigation and labor and employment law. The firm is located at 1111 Bay Ave., Third Floor, Columbus, GA 31901; 706-324-0251; Fax 706-243-0417; www.columbusgalaw.com.

>



Butler Wooten Cheeley & Peak LLP announced the addition of **David T. Rohwedder** as an **associate**. Rohwedder's practice areas include personal injury, car and trucking cases, wrongful death, auto defects and business torts. The firm is located at 105 13th St., Columbus, GA 31901; 800-242-2962; Fax 706-323-2962; www.butlerwooten.com.

Mustakeem Receives Non-Exploding Gift

by Len Horton

At a special breakfast event at Astor Court inside the St. Regis hotel on Dec. 16, Georgia Bar Foundation President Jimmy Franklin presented Aasia Mustakeem with her President's Award for her work during her two-year presidency of the Georgia Bar Foundation. The two years of her presidency ended July 2013.

Overdue by a year and a half, the award was finally presented to her during President Franklin's second term. Mustakeem's blown-glass sculpture had been so challenging to make that the previous effort blew up during its creation the night before the annual grants meeting in 2013. Consequently, the award could not be presented to her at the meeting the following day.

Refusing to let an exploding sculpture keep him from producing another creative masterpiece, Tom Lillie of Lillie Glass redid the piece with Lillie Glass determination. The resulting work of art, which is signed by the artist, is a tribute to Mustakeem's presidency. The commercial buildings cut out of the sides of the bowl combined with the hands of the unfortunate reaching upward for assistance symbolize Mustakeem's presidency. She knows how to meet the demands of her commercial



Georgia Bar Foundation President Jimmy Franklin and President Emeritus Aasia Mustakeem.

real estate practice while also giving of herself to those less fortunate.

"Given the challenges she overcame during her presidency, the difficulty of actually making the sculpture symbolizes the hurdles she cleared in guiding the Georgia Bar Foundation during difficult economic times," said Franklin.

Vote Electronically in 2015 and Opt Out of Paper Ballots

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

Contact the State Bar's Membership Department at membership@gabar.org by Wednesday, Feb. 25, to opt in to electronic voting. If you have previously opted in to electronic voting, there is no need to do it again. (If you don't opt in, you will continue to receive a paper ballot.)

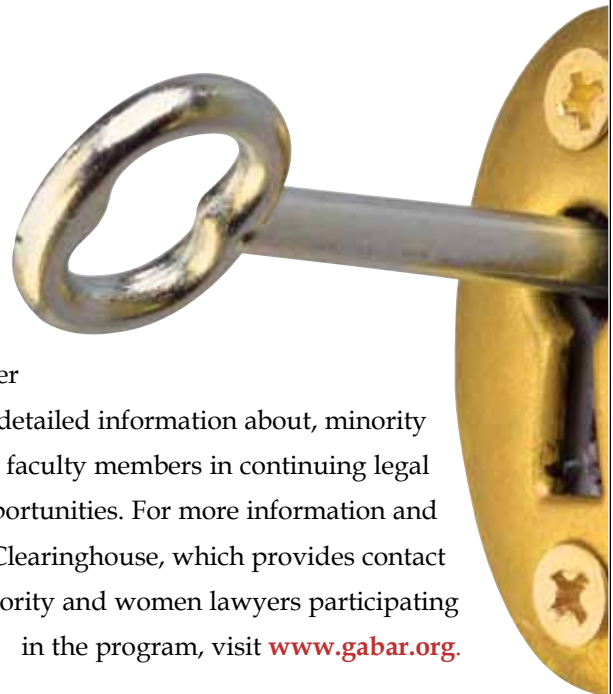
When the voting site opens this spring, all active members who have opted to vote electronically will receive an email which explains how to log in and vote. Easy step-by-step instructions will help you complete your ballot online.

Unlock *your* Potential

*Sign up for the Committee to Promote Inclusion
in the Profession's Speaker Clearinghouse*

About the Clearinghouse

The Committee to Promote Inclusion in the Profession is committed to promoting equal participation of minorities and women in the legal profession. The Speaker Clearinghouse is designed specifically for, and contains detailed information about, minority and women lawyers who would like to be considered as faculty members in continuing legal education programs and provided with other speaking opportunities. For more information and to sign up, visit www.gabar.org. To search the Speaker Clearinghouse, which provides contact information and information on the legal experience of minority and women lawyers participating in the program, visit www.gabar.org.



In Macon

>



Lee



Ennis

James-Bates-Brannan-Groover-LLP announced the additions of **Dianna Lee** and **L.D. "Trey" Ennis III** in the Macon office. Lee focuses on litigation, health care, real estate, corporate and finance/banking while Ennis focuses on litigation, sports law, general corporate matters and real estate. The firm is located at 231 Riverside Drive, Macon, GA 31201; 478-742-4280; Fax 478-742-8720; www.jamesbatesllp.com.

In Charleston, S.C.

>



Lewis, Babcock & Griffin LLP announced that it opened an office in the Charleston area and that **Badge Humphries** joined as **partner**. Humphries has an extensive background in complex federal and state class actions, securities fraud litigation and shareholder rights. The office is located at 2113 Middle St., Suite 207, Charleston, SC, 29482; 843-883-7444; Fax 843-883-7461; www.lbglegal.com.

In Charlotte, N.C.

>



McDermott Law, PLLC, announced attorney **Jon Cook** joined the firm as an **associate**. Cook's experience includes advising local, national and international clients in matters including buying, selling and leasing com-

mercial real estate. The firm is located at 855 Sam Newell Road, Suite 208, Matthews, NC 28105; 770-315-6592; www.mcdermottlawpllc.com.

In Jacksonville, Fla.

>



Nelson Mullins Riley & Scarborough LLP announced that **Matt McLaughlin** joined the Jacksonville office as a **partner**. McLaughlin represents plaintiffs and defendants in contract, business tort, construction, franchise and employment disputes. The firm is located at 50 N. Laura St., Suite 2850, Jacksonville, FL 32202; 904-665-3600; Fax 904-665-3699; www.nelsonmullins.com.

In Memphis, Tenn.

>



Wyatt, Tarrant & Combs, LLP, announced the addition of **Matthew M. Lubozynski** as a **member** of the firm's intellectual property protection and litigation service team. Lubozynski concentrates his practice in the area of intel-

lectual property, patent and general litigation matters. The firm is located at 1715 Aaron Brenner Drive, Suite 800, Memphis, TN 38120; 901-537-1000; Fax 901-537-1010; www.wyattfirm.com.

In Washington, D.C.

>

Parks IP Law announced the firm changed its name to **Parks Wood LLC**, and opened an office in Washington, D.C., located at 1250 Connecticut Ave. NW, Suite 200, Washington, DC, 20036; 202-261-3587; www.parks-wood.com.

WANT TO
SEE YOUR
NAME IN
PRINT?

How to Place an Announcement in the Bench & Bar column

If you are a member of the State Bar of Georgia and you have moved, been promoted, hired an associate, taken on a partner or received a promotion or award, we would like to hear from you. Talks, speeches (unless they are of national stature), CLE presentations and political announcements are not accepted. In addition, the *Georgia Bar Journal* will not print notices of honors determined by other publications (e.g., Super Lawyers, Best Lawyers, Chambers USA, Who's Who, etc.). Notices are printed at no cost, must be submitted in writing and are subject to editing. Items are printed as space is available. News releases regarding lawyers who are not members in good standing of the State Bar of Georgia will not be printed. For more information, please contact Lauren Foster, 404-527-8736 or laurenf@gabar.org.

They Like Me! They Really Like Me!

by Paula Frederick

Take a look at this closing letter from Joe Doaks,” your partner demands as he enters your office. “Down here at the bottom”:

Thank you for entrusting the Law Firm of Joe Doaks and Associates with your legal matter. If you are happy with the service that we have provided, please go to www.rateyourlawyer.com and leave a positive review about your experience.

“Can he do that?” your partner wonders. “Seems like it’s soliciting, or misleading or something unethical.”

“I guess he’s soliciting in the sense that he wants positive feedback, but that’s not the kind of soliciting prohibited by the Bar Rules. He’s not trying to attract clients; it goes to clients at the end of the case,” you point out. “And I don’t think it’s misleading. He is absolutely clear about what he wants.”

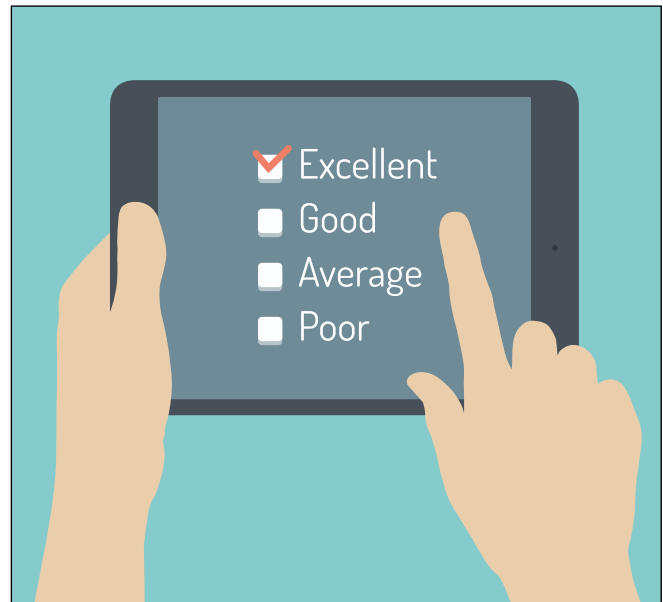
“It just seems so self-serving. Maybe it violates the rules on personal conflicts . . .” your partner says doubtfully.

“You know, it could backfire,” you speculate. “Joe has absolutely no control over what folks actually say in their review! Admit it—you just don’t like the idea of lawyers being rated on those online sites.”

“Just like the neighborhood pizza joint,” your partner grumbles.

Actually, there is no problem with asking a current or former client to give you a positive online review, as long as you abide by the Rules of Professional Conduct in doing so. That means a lawyer may not pay for a positive referral or attempt to influence the reviewer to lie.


It all goes back to the rules on advertising and soliciting. Rule 7.1 requires that communications regarding a lawyer’s services must be true and not misleading. Subpart (c) makes the lawyer responsible for ensuring that all communications concerning his services comply with the Rules of Professional Conduct. Rule



7.3(c) provides that a lawyer may not give “anything of value” to a person in exchange for a recommendation resulting in the lawyer’s employment.

But to ask a current or former client—a person with whom the lawyer already has a professional relationship—to post a truthful review of the lawyer’s services does not violate either rule.

These days every potential client is likely to search for online reviews of a lawyer before deciding who to hire. Ensuring that your happy clients have let the cyberworld know about your quality of service is just good business sense.

Stay tuned! In April, I’ll address the lawyer’s dilemma when hit with an untruthful review! 



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



How does your firm face risk?

Claims against attorneys are reaching new heights.

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

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

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

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

LawyerCare



PROASSURANCE
Treated Fairly

Professional Liability Coverage
for Georgia Lawyers and Firms



Attorney Discipline Summaries

(Oct. 18, 2014 through Dec. 18, 2014)

by Connie P. Henry

Disbarments/Voluntary Surrenders

Henry T. Swann III

Brunswick, Ga.

Admitted to Bar 1975

On Nov. 3, 2014, the Supreme Court of Georgia disbarred attorney Henry T. Swann III (State Bar No. 693888). Swann was disbarred in Florida for misconduct that spanned several years and involved 26 violations of the Florida Bar Rules.

Joseph Kizito

Suwanee, Ga.

Admitted to Bar 2003

On Nov. 3, 2014, the Supreme Court of Georgia disbarred attorney Joseph Kizito (State Bar No. 424804). The following facts are deemed admitted by default: In 2008 a client paid Kizito \$1,500 in attorney fees and \$2,705 for filing fees. He also provided documents to Kizito to handle an immigration matter for the client. Kizito did not file any pleadings. In July 2009, Kizito told the client that he should wait until 2010 to file the matter, and that he would hold the filing fees in his trust account. Kizito did not hold the filing fees in his trust account nor did he keep complete records of the client's filing fees. In December 2009, the client's wife contacted Kizito, who told her he no longer would represent her husband. He said he would refund a portion of the fees. Kizito sent the client \$1,000 in August 2011, as a partial refund of attorney fees. He withdrew the \$1,000 from his trust account, along with \$58 to wire the money. He did not return any other funds, including the filing fee, nor did he return the client's documents.

Stephen L. Minsk

Atlanta, Ga.

Admitted to Bar 1985

On Nov. 3, 2014, the Supreme Court of Georgia disbarred attorney Stephen L. Minsk (State Bar No. 511366). The following facts are deemed admitted by default: In 2012 Minsk filed a Chapter 7 bankruptcy petition on behalf of his debtor client. Minsk filed the petition and the associated statement of financial affairs without the authority or consent of his client or of the individual principal, whose name Minsk forged on the petition. Minsk knowingly made false statements to his client, to the bankruptcy court and to third parties. The bankruptcy court entered an order imposing sanctions which included a \$40,000 judgment in favor of his client, which Minsk proposed paying off in \$1,000 monthly increments. The bankruptcy court later held him in contempt for failing to make payments after his checks were returned for insufficient funds.

In aggravation of discipline the Supreme Court found that Minsk acknowledged service of the Notice of Investigation but did not respond. Although Minsk had received no prior discipline, the Investigative Panel had found probable cause in another matter seeking his disbarment in that case, as well.

Donald L. Jones

Atlanta, Ga.

Admitted to Bar 1977

On Nov. 3, 2014, the Supreme Court of Georgia disbarred attorney Donald L. Jones (State Bar No. 399850). The following facts are deemed admitted by default: Jones was retained in four separate matters to

represent clients in personal injury cases. After settling the cases for amounts ranging from \$20,000 to \$299,000, Jones failed to remit all the settlement monies and failed to account for the monies. Instead, he abandoned his practice, withdrew the funds from his trust account and absconded with the clients' funds. Jones failed to respond to the Notices of Investigation.

Suspensions

William Charles Lea

Atlanta, Ga.

Admitted to Bar 2001

On Oct. 20, 2014, the Supreme Court suspended attorney William Charles Lea (State Bar No. 442006) for three years with conditions for reinstatement. The following facts are deemed admitted by default: Lea was retained in October 2010, to give a client an opinion on the merits of a possible habeas corpus proceeding. After Lea determined that it would be meritorious, the client's family paid Lea \$7,000 as fees (plus \$150 in filing costs), but he never filed the petition. Since March 2011, he has not corresponded with his client or returned phone calls from the client's family. In October 2011, the client discharged Lea and hired new counsel. Lea has not returned any of the fees.

In another matter Lea was retained in July 2010 to represent a client in a criminal case and was paid \$10,000. Lea met with the client for about an hour and promised to return in a week. Lea did not keep that promise and the client terminated the representation, requesting a refund of the fees. Although Lea promised to return the fees, he has only refunded \$1,000.

In mitigation of discipline the special master found that Lea has no prior discipline and appears to be genuinely remorseful. In aggravation the special master found that Lea had a selfish motive, this case involves multiple offenses and multiple clients, and demonstrates a pattern

of misconduct, Lea obstructed the disciplinary process and Lea's victims were vulnerable.

Reinstatement is contingent upon restitution in the amounts of \$4,650 in the first matter and \$9,000 in the second. Justice Benham dissented.

Public Reprimand

Jerry Wayne Moncus

Dalton, Ga.

Admitted to Bar 1992

On Nov. 3, 2014, the Supreme Court accepted the petition for voluntary discipline of attorney Jerry Wayne Moncus (State Bar No. 515690) and ordered that he receive a Public Reprimand for his failure to communicate adequately with a client he was representing in civil litigation. Moncus filed a complaint on the client's behalf in October 2008. At the time, Moncus was a sole practitioner with only one full time employee involved in communicating with clients. Early in the discovery phase, the defendant produced documents that had a significant adverse effect on his case. Nevertheless, the client elected to proceed with the case. Moncus had difficulty getting the client to respond to discovery, writing several letters to which he received no response; the client asserted that he did not receive the letters. When the defendant filed a motion for summary judgment, Moncus informed the client by letter. The client responded to Moncus's letter but did not authorize him to respond to the motion. The trial court granted the motion in 2010. In January 2011, the defendant filed an abusive litigation action against the client. Moncus represented the client without charge in that action. A jury returned a verdict against the client for \$6,300 in general damages and \$3,700 in punitive damages, which was less than the plaintiff's cost of defense in the original action.

Moncus admitted that he could have done more to communicate with the client about the length and processes of litigation; to convey the negative effects of fail-

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



Warren R. Hinds, P.C.
"an Attorney's Attorney"

- Bar Complaints
- Malpractice Defense
- Ethics Consultation

1303 Macy Drive
Roswell, GA 30076
Call (770) 993-1414
www.warrenhindslaw.com

ing to respond to discovery; to convince the client to defend the summary judgment motion; and to convey the seriousness of the consequences of not responding. He admitted that he should have made a greater effort to contact the client. Moncus stated that it would have been better to withdraw as the client's counsel.

Moncus offered as mitigating factors that he had no dishonest or selfish motive; that he made a timely good faith effort to rectify the consequences of the misconduct; that he displayed a cooperative attitude towards the disciplinary process and made full and free disclosure to the disciplinary authorities; that he has a good reputation in the legal community; that he has always been involved in indigent criminal defense work; that he has a reputation for honest and diligent representation of his clients; and that he is open with his clients and does not exaggerate the client's ability to obtain the desired results. He regrets his actions and

has taken steps to avoid similar failures in the future.

As aggravating factors, Moncus received a Formal Letter of Admonition in 2011 and a Public Reprimand in 2013.

Review Panel Reprimands

Kenneth H. Schatten

Atlanta, Ga.

Admitted to Bar 1985

On Oct. 20, 2014, the Supreme Court accepted the petition for voluntary discipline of attorney Kenneth H. Schatten (State Bar No. 628813) and ordered that he receive a Review Panel Reprimand. Schatten represented a client in a number of matters where she was the victim of domestic abuse. The client did not pay Schatten until January 2010, when her father paid for the representation through that date. At that time, the client and her father also signed a contract of employment and paid Schatten a retainer to represent the client in a divorce action filed by her in Fulton County and a family violence petition filed by her husband against her in Cherokee County. Later that same month, the client decided to seek reconciliation with her husband and dismissed Schatten. Although the clients had a remaining balance of \$2,727.50, Schatten was unable to refund the money. The clients initiated a fee dispute and in May 2011, the arbitration panel entered an award of \$4,727.50 in favor of the clients, but Schatten remained unable to pay. The Superior Court of Fulton County entered judgment against Schatten in February 2013.

In April 2013, Schatten negotiated a Payment Plan Agreement and when Schatten completed payment under that plan in October 2013, the clients entered a satisfaction of their judgment against him. In the meantime, the Investigative Panel initiated a grievance against Schatten based on a referral from the Committee on the Arbitration of Attorney Fee Disputes. As a result of Schatten's failure to respond to the grievance in a timely manner, Schatten served an interim suspension from January 2012 through August 2012.

Although Schatten has two prior investigative panel reprimands, the Court found various mitigating factors. Schatten had been suffering from severe depression. He began intensive counseling in February 2012. He has resumed the practice of law, but continues counseling on a weekly basis. Further, Schatten worked out a payment plan to reimburse his client and fully paid the judgment awarded in the fee arbitration process. Although Schatten initially failed to participate in the disciplinary process, he subsequently cooperated and has expressed genuine remorse. Schatten also demonstrated his good character and reputation in the legal community.

Perry Dean Ellis

Atlanta, Ga.

Admitted to Bar 1990

On Oct. 20, 2014, the Supreme Court accepted the petition for voluntary discipline of attorney Perry Dean Ellis (State Bar No. 245836) and ordered that he receive a Review Panel Reprimand. Ellis's firm was retained to represent a client who was seeking workers'

compensation benefits. An associate attorney met with the client, obtained the client's signature on a representation agreement and handled the representation. Ellis knew that the associate was handling the client's case, but did not meet with the client.

The associate determined that an evaluation by a reputable independent orthopedic hand specialist who was not on the employer's list of physicians might enhance chances to recover more compensation. The orthopedic practice where the client was to be evaluated required advance payment. Ellis's firm had a practice of assisting clients in setting appointments for doctors who were not on the employers' list of physicians and of explaining that if the doctor required payment at the time of service, the firm could assist in obtaining financing through one or more lending companies. If the client agreed to obtain the loan, the firm would provide the loan agreement to the client for the client's signature. It was the firm's custom to have the client sign the agreement, but if the client gave authorization to the firm to sign the client's name, the firm would do so.

The associate asked her paralegal to explain the financing option to the client and to ask for the client's authorization to sign the loan agreement due to the urgency to obtain the physician's fee prior to the appointment. The paralegal passed the responsibility to another staff member. The staff member was not familiar with the firm's procedures and without contacting the client, completed the appli-

For the most up-to-date information on lawyer discipline, visit the Bar's website at www.gabar.org/forthepublic/recent-discipline.

cation for a \$1,000 loan, signed the client's and Ellis's name on the application, and forwarded it to Global Financial Credit (GFC). Ellis's firm received the funds and forwarded them to the physician.

After receiving the physician's report, the associate negotiated a settlement with the client's employer for \$2,500, but the client rejected the offer. The associate thereafter gave notice to the client and the State Board of Workers' Compensation that the firm was withdrawing from representation. The client later settled directly with counsel for his employer for the amount negotiated by Ellis's associate. After GFC sought to collect its loan from the client, the client filed a grievance, alleging that he had not signed nor authorized his signature on the loan agreement. Ellis paid the amount due on the loan.

Ellis offered in mitigation that he is remorseful, that he fully cooperated with the State Bar, that he has a good reputation in the legal community and in his community, that he paid the loan amount, that he has no prior discipline, that he had no selfish or dishonest motive, and that he has taken steps to avoid similar circumstances in the future.

Mary Jo Workman

Decatur, Ga.

Admitted to Bar 1979

On Nov. 17, 2014, the Supreme Court accepted the petition for voluntary discipline of attorney Mary Jo Workman (State Bar No. 776625) and ordered that she receive a Review Panel reprimand. In 2011, four clients retained Workman to represent them in separate legal matters, paying her retainers ranging from \$350 to \$3,000. Workman did not adequately communicate with these clients, causing at least three of them to hire new counsel to handle their matters. Workman claims that none of these clients' legal rights was harmed by her actions, that she apologized to each client and that she has begun reimbursing the fees to each client in small monthly payments. One cli-

ent, however, has obtained a judgment against her and has refused to accept her monthly payments.

In aggravation of discipline, Workman received an Investigative Panel Reprimand in 2003. In mitigation, she asserts that the failure to communicate with these clients was caused in part by a combination of physical ailments that began in late 2010 and pre-existing emotional issues. Workman claims to have received medical treatment to address her physical ailments and is managing her emotional issues with the help of a therapist. Workman admits that the combination of ailments not only interfered with her ability to serve her clients, but depleted her financial resources. She also asserts that she did not have a dishonest or selfish motive, that she is remorseful and has apologized to her clients, that she has made a timely and good faith effort to make restitution, that she has made full and free disclosure of her physical and emotional conditions to the State Bar and Supreme Court, that she has had a productive 35-year career as a lawyer and that she is a person of character and integrity.

Workman agrees to accept a Review Panel reprimand and the following conditions: (1) that she execute a promissory note in favor of each of the four clients for the full amount they paid to her and that she repay those notes pursuant to a payment plan; (2) that she consult with the Law Practice Management Section of the Bar

within 60 days after the Court's Order and follow its recommendations concerning her law practice; and (3) that for a period of one year, her treating psychiatrist or therapist will provide quarterly reports to the Bar.

Reinstatement Granted


Marshall C. Watson

Ft. Lauderdale, Fla.

Admitted to Bar 1984

On Nov. 21, 2014, the Supreme Court of Georgia determined that attorney Marshall C. Watson (State Bar No. 741737) had complied with all of the conditions for reinstatement following his suspension, and reinstated him to the practice of law in Georgia effective Nov. 21, 2014.

Interim Suspensions

Under State Bar Disciplinary Rule 4-204.3(d), a lawyer who receives a Notice of Investigation and fails to file an adequate response with the Investigative Panel may be suspended from the practice of law until an adequate response is filed. Since Oct. 17, 2014, two lawyers have been suspended for violating this Rule and one has been reinstated. 



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

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

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

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

Selecting Practice Management Software in 2015

by Natalie Robinson Kelly

There always seems to be confusion surrounding what product should be used to keep track of client matters or files in a law office, and whether or not specific solutions exist to manage more than one particular function at a time when processing client work. Following is a discussion of available practice management software along with some popular options for firms based on functional needs and firm size.

While practice management software capabilities have not basically changed, the past several year's move toward more mobility and integration of applications have expanded how practice managers handle information. To select an appropriate system, one needs to first determine which functions the program will address. Here is the basic list of functions available in most practice management software:

- Matter/Case/File management
- Calendar notification and tickling
- Task and workflow management
- Document management and assembly
- Contact management
- Telephone call management
- Email tracking and management



Taking a cursory look at these functions, it seems that any number of general programs might give you most of these capabilities. However, legal practice management programs operate for the sole purpose of organizing legal case files and tracking work for the overall practice. This makes these programs differ from what one would get from attempting to track matters in systems like Outlook, Gmail or other general

calendaring or email programs not necessarily designed to naturally keep up with information from a matter-centric viewpoint.

After determining which functions are key for a program, one must then decide whether or not a cloud solution is suitable. Generally, practice management systems are either cloud-based or traditional. Cloud-based programs are accessed exclusively over the Internet, and the traditional systems may come in the form of a disc or download that resides on your local computer system, e.g., local desktop, local office network or personal laptop. Cloud practice management is a reality for lawyers, particularly solo and small firm. The advantages of having practice management capability online is that there is more ready accessibility to client information, and the addition of extranet capability can make for a more rewarding client experience.

While cloud practice managers do not have exactly all of the functionality of their software-based counterpart programs, they are robust enough to manage most client matters adequately from intake to final billing. The monthly fee model used to pay for these systems also provides a simple way to learn how these programs operate without a huge financial investment. The key to making sure these programs work well is maintaining ultimate control of your data by having most, if not all, copied into a local backup space or medium. As with cloud storage, cloud practice management vendors should be monitored to ensure their systems are adequate in terms of security and proper treatment of legal information. In fact, today's solutions are now being offered in formats that can be migrated to or "hosted" locally as the traditional programs exist. This "hybrid" type option is also expanded by having programs that work as "add-in" or "add-on" applications for systems like Microsoft Outlook. An example of this is Credenza.

Local and Voluntary Bar Awards



**Attention all Local and Voluntary
Bars in Georgia, it's time to
begin preparing your entries to
be recognized for all your hard
work! The deadline for entry this
year is May 8, 2015.**

Visit www.gabar.org for categories and entry forms. Or contact Stephanie Wilson at stephaniew@gabar.org or 404-527-8792.

Some of the top web-based practice managers include:

AdvoLogix

www.advologix.com

Free demo available; prices start from \$60/monthly/user between 5-49 users; call for 50+ users; Enterprise packages start from \$5,500

- Free mobile app
- Mobile access/anywhere accessibility
- Workflow in the cloud
- Collaborate integrates with more than 2,300 applications (e.g. document management, telephony, Gmail and Outlook, Accounting and more) within the Salesform.com platform, 44 percent of which are free

CaseManagerPro

www.lucidiq.com

Free demo available; prices vary depending on customization and implementation of software

- CaseManager SaaS – 24/7 local and remote access; Requires Windows 7 Pro or better; Internet Explorer 8.0, 2 GB Ram; 5 GB available hard drive
- CaseManagerPro Local Installation – Windows Server 2008; Internet Explorer 8.0 or better
- Microsoft SQL 2008 R2
- Additional development, technical, consulting and training services are offered at an hourly rate
- Client data protection on three different servers
- Keep audit trails/transaction logs

Clio

www.goclio.com

7-day free trial sign-up; \$65/month/user; billed annually or \$72 month-to-month/user

- Mobile access/anywhere accessibility – iPhone, iPad, Android and BlackBerry
- Available on any operating system
- Automatic product updates, access to unlimited document storage, technical support and online training is included at no additional cost
- Xero integration

Cosmolex

www.cosmolex.com

30-day free trial sign-up; free demo available; \$43/month/user billed annually or \$50 month-to-month subscription

- Mobile access/anywhere accessibility
- Technical support and online training is included at no additional cost
- Automatic product updates
- Supported on all major web browsers and devices including Windows, Mac, tablets and smartphones
- Live unlimited technical support
- 4-hour interval backup
- Google integration
- Unlimited data storage

Credenza

www.credenzasoft.com

Basic version – free; account sign-up one user; CredenzaPro – between 1-100+ at \$24.95/month/user with ability to share with other users

- Automatic product updates
- Ability to store up to 10 GB of data/licensed user
- Supports Outlook 2003, 2007, 2010 (32-bit), 2013 (32-bit) on Windows XP, Windows Vista, Windows 7 & 8
- Smartphone compatible
- Free unlimited email technical support
- Free online training tutorials

HoudiniEsq

www.houdiniesq.com

On-premise licenses: solo practice – free; Practice – between 2-50 seats at \$192/year/user or \$1,280/10 seats; Elite – between 50-2,500 at \$192/year/user or \$7,992/50 seats; Cloud Licenses: SaaS Practice – between 2-2500 at \$64/month/user

- Mobile access/anywhere accessibility on any web browser
- Free technical support
- Android, Apple, OSX, Windows, Linux operating systems
- Google Docs and Evernote, Outlook, Quickbooks, etc., supported, share documents with staff or clients

- Automatic product updates, upgrades and plug-ins are included free
- Free registered mail tracking associated with matter
- Free online training webinar tutorials
- Free technical support

LexisNexis Firm Manager

www.firmmanager.com

30-day free trial sign-up; monthly pricing – \$44.99/month/user; additional user/\$29.99/month/user; annual pricing – 1-day free trial with 20 percent discount off aggregate monthly price for one user, \$400/year/user; additional user /\$270/year/user

- Supported by web browsers like: Internet Explorer, Mozilla Firefox, Apple Safari, Google Chrome
- Anywhere accessibility from any web-enabled computer or smartphone
- Standard technical support at no additional charge available 24/7 access
- Automatic product upgrades includes at no cost, unlimited online storage
- “In-app” editing features without having to download document
- Automatic product updates

MyCase

www.mycaseinc.com

30-day free trial sign-up; attorneys \$39/month/user; paralegals/staff \$29/month/user

- Supported by Internet Explorer 9 and above, Google Chrome, Mozilla Firefox, Safari
- Mobile access/anywhere accessibility with iPhone, iPad, Android, PC or Mac
- Unlimited data storage
- Unlimited client accounts
- 24/7 access to help resources, free phone and online training programs
- Online client portal for clients to view their case, pay bills online and communicate with you from your website
- Automatic product updates

Rocketmatter www.rocketmatter.com

30-day free trial sign-up; monthly – \$65/user; quarterly – \$58.50/user; annual – \$55.25/user; two-year-\$52/user

- Mobile access/anywhere accessibility with iPhone, iPad, Android, PC or Mac
- Automatic product updates
- Secure document sharing portal for clients and staff
- Integrates with Google Calendar, Evernote, Dropbox, LawPay, Box and Intuit QuickBooks
- Free interactive online training
- One-on-one training available

On the traditional practice management software side, the core functionality of programs has not generally changed, but the ability to “link” these products with other programs for billing and accounting systems, and for access on mobile devices and smart phones has made the application development for traditional practice managers more open to end users. Most programs utilize a link through Microsoft Outlook as a standard business email program for calendars and contacts to mobile and

smart devices. Also, many vendors have developed apps that deliver information from the main systems to users’ tablets and smart devices. Because of the variety in these areas, it is imperative that one outlines very clearly what is needed in terms of system integrations and access. Many of the traditional practice manager products listed below now have cloud or hybrid cloud versions.

For small to medium-sized law offices, these are some of the top-selling programs:


- Abacus Law – www.abacuslaw.com;
- Amicus Attorney – www.amicusattorney.com;
- PracticeMaster – www.practicemaster.com; and
- Time Matters – www.timematters.com.

Some of the top options for mid-sized and larger firms are:

- PerfectPractice – www.perfectpractice.com;
- ProLaw – www.prolaw.com;
- TrialWorks – www.trialworks.com;

- Aderant – www.aderant.com;
- Elite – www.elite.com; and
- Legal Files – www.legalfiles.com.

There are also several other systems, more than 120 to be exact, that classify themselves as practice management software programs. And there are also some practice area-specific case managers, like Needles, www.needles.com, mainly for personal injury firms; Immigration Professional, www.immigrantpro.com, for immigration practices; or BestCase, www.bestcase.com, for bankruptcy firms. With this number of products, one simply must do some homework before shopping!

For help with selecting and using practice management software in your practice, please contact the State Bar’s Law Practice Management Program for assistance at 404-527-8772. 



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

Hardest Working Site on the Web.
www.gabar.org

Sections Co-Sponsor SCOTUS Swearing-In

by Derrick W. Stanley

On Monday, Jan. 26, a group of 43 attorneys who are licensed to practice in Georgia were admitted to the Supreme Court of the United States. The Constitutional Law Section, chaired by Charles L. Ruffin, and the Appellate Practice Section, chaired by Bryan Tyson, co-sponsored this swearing-in ceremony in Washington, D.C.

The morning started with a 7:15 a.m. gathering in the lobby of the host hotel, the Liaison Capitol Hill DC. After checking in, the eager attorneys and guests boarded buses headed toward the Supreme Court. The drizzling rain was not a deterrent as the group disembarked for a short walk to the front of the Court. After an organized procession through security, the Georgia attorneys were inside, waiting to be escorted to the East Conference Room, just outside of the Courtroom.

While in the conference room, Ruffin, immediate past president of the State Bar and current chair of the Constitutional Law Section, took time to speak with the participants during this exciting occasion while the Clerk of the Court came into the room to provide a run-down of the event, as there were several groups participating in the ceremony. In addition to our members, there was a large group from the Judge Advocates General Office and the Vermont Law School. Coincidentally, Kimberly Ann Sturm, past chair of the Environmental Law Section, was being sworn in with that group.




U.S. Supreme Court building.

After all the groups were seated, each movant read a list of applicants to Chief Justice John Roberts Jr. and affirmed that each possessed the necessary qualifications

to be sworn in to the Court. The clerk then read the oath of admission and the session was adjourned. The justices in attendance were: Chief Justice John Roberts Jr., Associate Justice Ruth Bader Ginsburg, Associate Justice Antonin Scalia and Associate Justice Clarence Thomas.

The Georgia contingent then returned to the conference room. Shortly thereafter, Justice Thomas came and addressed the group. He took questions from the audience and was very open and candid in his responses. He next greeted each person in the room individually and spent time talking to them and posing for a picture. His generosity of time was the icing on the cake for the participants. After each person had the opportunity to visit with the justice, the group exited the building by way of the gift shop, enabling each an opportunity to seal their day with a memento from the Court.

Some participants then returned home, while others braved the snow and ice to see the sights of Washington. All-in-all, this event became a major highlight in the life and careers of 43 Georgia lawyers. 



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



Photo by Derrick W. Stanley

Section leaders getting sworn in to the Supreme Court pose with Charles L. Ruffin, who served as movant for the group. (Left to right) Georgia Kay Lord, past chair of the Labor and Employment Law section; Cynthia Cooley Smith, past chair of the Appellate Practice Section; Andrew Crain, past chair of the Intellectual Property Law Section; William John Camp, past chair of the Military/Veterans Law Section; Charles L. Ruffin; and Darren Summerville, chair-elect of the Appellate Practice Section.



Photo provided by the Supreme Court of the United States

Members of the State Bar of Georgia in the East Conference Room of the Supreme Court of the United States prior to the swearing-in ceremony.

Congratulations to the following State Bar of Georgia members recently sworn-in to the U.S. Supreme Court.

- | | | |
|----------------------------|-------------------------|--------------------------|
| Markus F. Boenig | Nancy Colleen Greenwood | Mason Rountree |
| William J. Camp | Carolyn Hall | Christina Smith |
| Joshua Campbell | David Hungeling | C. Deen Strickland |
| Carrie Lynn Christie | Amy Ihrig | Daniel Studstill |
| Hon. Michael C. Clark | David V. Johnson | Haynesworth M. Studstill |
| Jennifer Cooper | Jennifer M. Kerby | Justin D. Studstill |
| Norman Andrew Crain | Brandee Kowalzyk | Julia Sullivan |
| Sarah E. Crossman-Sullivan | Georgia K. Lord | Richard W. Summers |
| Jeffrey R. Davis | Carl B. McGehee Jr. | James Summerville |
| David S. DeLugas | Jennifer L. McGehee | Michael Wayne Tarleton |
| Paul Dietrick | Robert Mulholland | John E. Taylor |
| Sean Michael Ditzel | Tracy Myers | Nancy Weiss |
| John David Doverspike Sr. | Mark Stephen Robinson | Maricia D. Bennekin |
| Joy Cheryl Green-Armstrong | Shana M. Rooks | Woodham |
| | Ana Rountree | Tingkang Xia |

Fastcase Helps You Go Paperless

Save NOT Print

by Sheila Baldwin

Going “paperless” in a law office environment makes sense and Fastcase has advanced options for printing and saving documents to help. The legal profession involves much reading, writing and research which lends itself to heavy paper usage. Some people are more comfortable with the physical presence of paper and feel uncomfortable letting it go in favor of electronic data. We stack paper on our desktop or file it away in folders so we can put our hands on information quickly, we reason.

Unfortunately, paper brings with it a number of disadvantages: the expense of paper, ink and file storage; delays associated with finding and filing documents; and various problems with misfiling, versioning and poor organization. Saving documents electronically in a PDF format adds security ensuring no one can alter, copy or print without permission.

Since Fastcase is cloud-based, all the information within its databases begins in an electronic format and is retrievable from any computer or device when you log in to your account. This allows documents to be saved without scanning in an organized fashion and shared easily. As you research, you will find potential cases, statutes, court rules or other data that you want to reference later, or maybe decide to discard after further consideration. There are several techniques you can employ to keep these items organized. Also keep in mind that the idea is to avoid printing, so remember to use the save option rather than print.

Bookmarking

Make a bookmark of your initial research which might include a list of cases or statutes that have been narrowed down for later exploration. Using Control + D on your keyboard will save your results in your browser bookmarks or favorites for easy retrieval (see fig. 1.)

Printing/Saving from the Results Page

This one is simple, just click on the Print Results option on the navigation tool bar and save instead of print your file.

Printing/Saving a Single Case

Fastcase gives you the ability to save and print clean, professional-looking documents in single- or dual-column format. Click the Print/Save link on your toolbar when in the document view screen. Make your formatting selections which include highlighting search terms and single or dual column. Choose a file format: Microsoft Word 2007 and later (DOCX), Microsoft Word (DOC), Adobe Acrobat (PDF) or Microsoft Word (RTF) (rich text file) and use your customary file folder naming system to store them on your computer.

Adding to Print Queue

The print queue feature allows one to put documents into a queue without printing immediately. To add a case to your Print Queue from the results page, click on the printer icon to the left of the case. Notice that the plus sign on the printer changes to a minus sign. You can add up to a total of 50 documents to your queue.

Print/Save from the Queue

To print, select “View Print Queue” from the “Print” dropdown menu. You will have an opportunity to review the cases in your print queue. To remove a case from the queue, click the printer icon and the document will drop off the list. Make your formatting selections just as you would with a single case. Click the Print/Save link. Your browser will begin to download the

file onto your computer (see fig. 2) then just save in your client file.


Batch Retrieval and Printing/Saving Options

Batch printing allows you to download and print/save up to 500 documents in a separate .zip file which can be saved to a client file to be opened and viewed as individual files. The other option is to save or print in a combined format with up to 50 documents in a single file. This is advantageous in that you can do a key word search through the entire set of cases by using control + F on your keyboard. It may also be easier in that you don't have to unzip the file (see fig. 3).

Printing/Saving Statutes

Printing and saving statutes is a bit different than some of the other content within Fastcase. Choose the Outline View and select your documents by "dropping" them into the print queue as described earlier. Use the one column option. If you choose the combined print option, keep in mind that it will only hold 50 documents at a time. This will probably require breaking them up into several files.

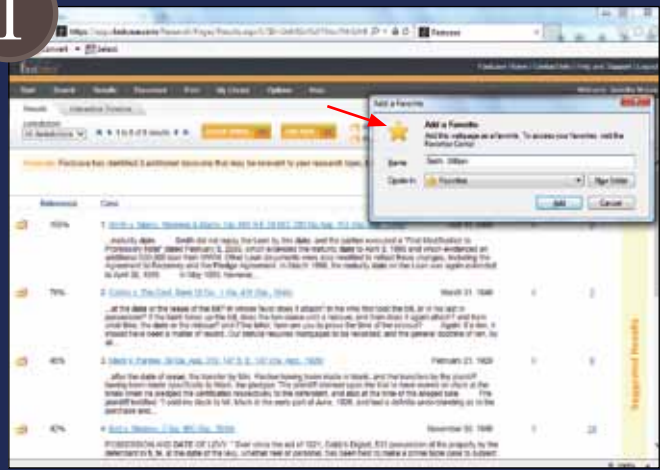
For further help on how to move to a paperless office, log in to the Law Practice Management resource library on the State Bar of Georgia website to view some books that may be helpful or contact our department for particular advice on this topic.

Fastcase continues to find ways to improve their service which in turn adds value to this important State Bar of Georgia member benefit. Please call or contact me at sheilab@gabar.org or 404-526-8618 with any questions or for help with your research. 

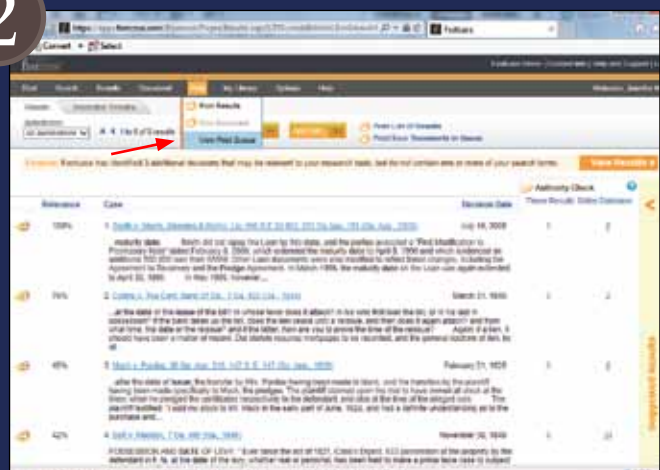


Sheila Baldwin is the member benefits coordinator of the State Bar of Georgia and can be reached at sheilab@gabar.org.

1



2



3



Fastcase training classes are offered three times a month at the State Bar of Georgia in Atlanta for Bar members and their staff.

Training is available at other locations and in various formats and will be listed on the calendar at www.gabar.org. Please call 404-526-8618 to request onsite classes for local and specialty bar associations.

Writing Matters: Judges Use Humor, but Should You?

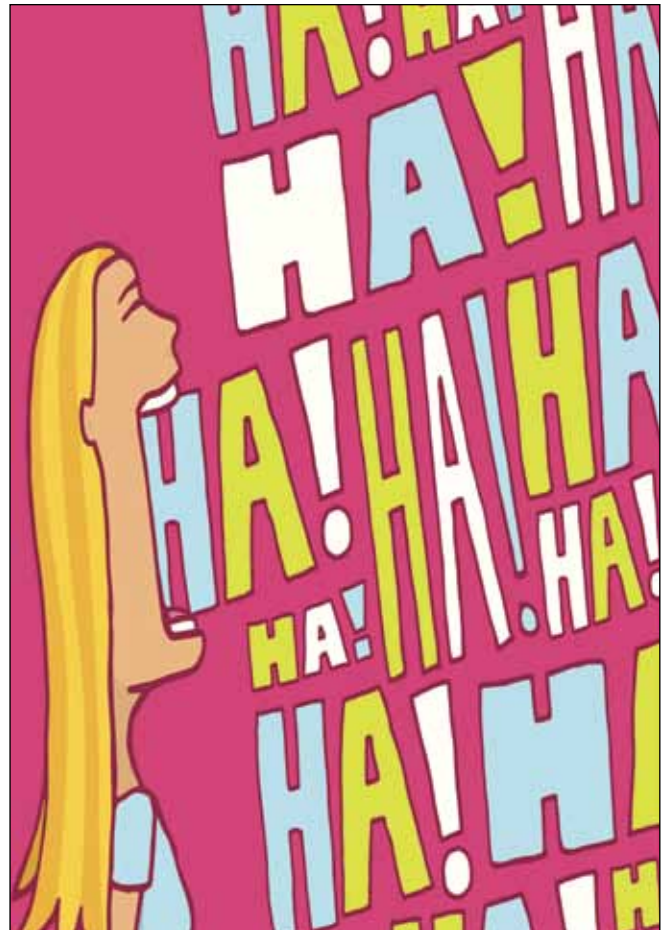
by Karen J. Sneddon and David Hricik

We thought we'd do two things in this column. First, we want to lighten up the dark days of winter with some judicial humor, and second, we want to discuss the conventional wisdom on whether it is ever proper, or effective, to use humor in persuasive writing. Hopefully this installment of "Writing Matters" will both make you laugh and become a little bit more deliberate as a writer.

Judicial Humor

There are some classic opinions that most attorneys know—such as the one where the judge dismissed Mr. Mayo's suit against Satan for lack of personal jurisdiction,¹ or the one where the judge told the plaintiff to run a string of paper clips down his pant legs to ground, so as to prevent the government from using signals to interfere with his brain.² The excerpts we share here are a little more obscure. If you want more, there's a law review article analyzing humor. Be warned: it's not funny.³ With apologies to William Shakespeare, we think the opinions show that some judges are born funny, some achieve humor and still others have humor thrust upon them.

Discovery disputes have often led judges to use humor, probably out of exasperation. In one case, the parties could not agree on where to hold a deposition.



The judge provided a decision-making mechanism:

[T]he Court will fashion a new form of alternative dispute resolution, to wit: at 4 p.m. on Friday, June 30, 2006, counsel shall convene at a neutral site agreeable to both parties. If counsel cannot agree on a neutral site, they shall meet on the front steps of

the [Courthouse]. Each lawyer shall be entitled to be accompanied by one paralegal who shall act as an attendant and witness. At that time and location, counsel shall engage in one (1) game of 'rock, paper, scissors.' The winner of this engagement shall be entitled to select the location for the 30(b)(6) deposition to be held somewhere in Hillsborough County during the period July 11-12, 2006.⁴


Humor was clearly thrust upon Fifth Circuit Judge Gee and one of our own Georgia federal judges and then the 11th Circuit. Judge Gee was the author of an opinion with odd facts. A company had made a video for a public television station containing Mardi Gras-style footage to help raise funds for a nonprofit entity that helped children. After the show was aired, another entity asked the company that had made the film for some generic Mardi Gras

style clips. The company forwarded the video footage it had filmed, not bothering to ask what it was to be used for. It turned out that it was for an adult film, "Candy the Stripper." The nonprofit was not pleased to discover the clip appeared in the adult film and brought a copyright suit. Judge Gee could not resist commenting:

Thus, this most delightful of case names: *Easter Seal Society for Crippled Children v. Playboy Enterprises*; seriously riveled, in our judgment, only by *United States v. 11 1/4 Dozen Packages of Articles Labeled in Part Mrs. Moffat's Shoo Fly Powders for Drunkenness*, 40 F. Supp. 208 (W.D.N.Y.1941) (condemnation proceeding under Food, Drug and Cosmetic Act), and *United States ex rel. Mayo v. Satan and his Staff*, 54 F.R.D. 282 (W.D.Pa.1971) (leave to proceed in forma pauperis denied in view of questions of personal jurisdiction over defendants).⁵

The U.S. Court of Appeals for the 11th Circuit faced serious tax and First Amendment issues in its case: could the city of Savannah impose a business tax on the speaking engagements for a talking cat and, if so, did those taxes infringe his First Amendment Rights? Blackie was not your typical talking cat. According to the court, Blackie became (wait for it) "catatonic" when people who had gathered to hear him speak did not first pay money to hear him say, among other things, "I love you." The court found the business tax applied and rejected the First Amendment challenge, reasoning in part:

This Court will not hear a claim that Blackie's right to free speech has been infringed. First, although Blackie arguably possesses a very unusual ability, he cannot be considered a "person" and is therefore not protected by the Bill of Rights. Second, even if Blackie had such a right, we see



ETHICS DILEMMA?

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, 800-682-9806 or log in to www.gabar.org and submit your question by email.

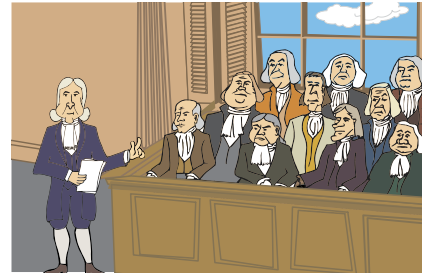
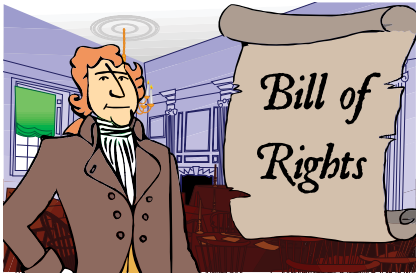


Share Ideas!

Join a Section Online.

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

Trial By Jury: What's the Big Deal?



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

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

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

You may view "Trial By Jury: What's the Big Deal?" at www.gabar.org/forthepublic/forteachersstudents/lre/teacherresources. For a free DVD copy, email laurenf@gabar.org or call 404-527-8736. For more information on the LRE Program, contact Deborah Craytor at deborahcc@gabar.org or 404-527-8785.



no need for appellants to assert his right *jus tertii*. Blackie can clearly speak for himself.⁶

Funny opinions are often driven by funny facts. Despite the temptation that exists, commentators have uniformly advised judges to avoid using humor of “any kind in a judicial opinion.”⁷

Should lawyers use humor when, after all, they are writing to persuade judge who, it seems, are warned themselves not to be funny? We turn there next.

Lawyers as Comedians?

Conventional wisdom almost uniformly counsels against using humor in persuasive writing. In our more than 30 years of collective practice, neither of us has (intentionally at least) used humor. David was once sorely tempted. Faced with a legal argument that was below frivolous, he wondered if a judge had ever characterized an argument as “b--- s---.” No one had. But, he found a decision from the Eighth Circuit where the judge quoted a criminal defendant who had said, “This is b--- s---.” So, the lead sentence of the brief was, “As the Eighth Circuit wrote, “this is b--- s---,” and the citation explained that he was quoting Defendant Smith.

He regrets deleting the sentence.


But doing so was probably the right choice. Humor has very little place in legal writing. In fact, the most charitable thing we could find about the use of humor in legal writing was that using it was “difficult.”⁸ Most academics who have considered the value of humor in persuasive writing have been much harsher. One wrote: “sarcasm, slang, and humor are generally disfavored in persuasive legal writing. Law is generally thought (by lawyers and judges) to be a solemn, formal, and dignified language, which is demeaned by overt rhetorical tricks, humor, and colloquial expressions.”⁹

Others agree, and in terms that make it clear that our job should

not be funny—not in any context, nor for one minute. Law, we are told “is too serious of a business for humor.”¹⁰

We agree that law is not the right choice for stand-up comedians, but do think humor can have a powerful effect in the right place and in small amounts. The obvious problem is that lawsuits are—usually—about serious matters between litigants who care passionately about what they perceive to be rights and wrongs. As a consequence, even the best humor can appear denigrating and disrespectful.

And, of course, many lawyers are not that funny. But they don’t know it.

Even so, a carefully turned phrase or the isolated humorous quip can be effective. Nevertheless, even when a punch line feels right, “the legal writer should carefully weigh the advantages and disadvantages of employing humor, and use it in legal documents only with considerable discretion.”¹¹ 



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



David Hricik is a professor 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.

Endnotes

1. United States ex rel. Mayo v. Satan and his Staff, 54 F.R.D. 282 (W.D.Pa.1971).
2. In Searight v. New Jersey, 412 F. Supp. 413 (D.N.J. 1976), the plaintiff believed the State of New Jersey had injected him with a radium electric beam that allowed the State to “talk” to him inside his

brain. The judge helpfully advised: Searight could have blocked the broadcast to the antenna in his brain simply by grounding it. See, for example, Ghirardi, “Modern Radio Servicing,” First Edition, p. 572, ff. (Radio & Technical Publishing Co., New York, 1935). Just as delivery trucks for oil and gasoline are “grounded” against the accumulation of charges of static electricity, so on the same principle Searight might have pinned to the back of a trouser leg a short chain of paper clips so that the end would touch the ground and prevent anyone from talking to him inside his brain.

3. Lucas K. Hori, *Bons Mots, Buffoonery, and the Bench: The Role of Humor in Judicial Opinions*, 60 UCLA L. REV. DISC. 16. Several websites collect humorous judicial opinions. Among the best are these:

- <http://tinyurl.com/q7nbkuh> (a robust collection at the University of Washington library, categorized by type!); and
- <http://tinyurl.com/osv36ll> (a “top ten” list).

See also Thomas E. Baker *A Compendium of Clever and Amusing Law Review Writings*, 51 DRAKE L. REV. 105 (2002).

4. *Avista Management v. Wausau Underwriters Ins.*, 2006 WL 1562246 (M.D. Fla. 2006).
5. *Easter Seal Soc’y for Crippled Children v. Playboy Enter.*, 815 F.2d 323 (5th Cir. 1987).
6. *Miles v. City Council of Augusta, Georgia*, 710 F.2d 1542 (11th Cir. 1983).
7. Gerald Lebovits, *Judicial Jestings: Judicious?*, N.Y. ST. B.J., Sept. 2003, at 64.
8. Lisa A. Mazzie, *Logos, Ethos and Pathos in Persuasive Writing*, (available at <http://law.marquette.edu/facultyblog/2014/01/27/logos-ethos-and-pathos-in-persuasive-writing/>).
9. Kathryn M. Stanchi, *Feminist Legal Writing*, 39 SAN DIEGO L. REV. 387, 395 (2002).
10. Michael D. Murray & Christy H. DeSanctis, *LEGAL WRITING AND ANALYSIS* 266 (2009).
11. Mark K. Osbeck, *What Is “Good Legal Writing” and Why Does It Matter?*, 4 DREXEL L. REV. 417, 447 (2012).

2014 Convocation on Professionalism:

How the Bar Can Help Lawyers Transition Out of Practice with Dignity

by Avarita L. Hanson

The Chief Justice's Commission on Professionalism (the Commission) presented its 2014 Convocation on Professionalism at the historic Carter Presidential Center in Atlanta on Nov. 12. The topic of the day was "Aging in the Law: It's More Than a Senior Moment!" Symbolically, as lawyers reach the autumn of their lives and careers, they are afforded an opportunity to look inward and contemplate what's ahead. This convocation provided attendees with that opportunity to look inward and anticipate their future with regards to the law and their practice.

The issues of aging lawyers are a hot topic in the law, ethics and professionalism. The American population is absorbing more than 10,000 retiring Baby Boomers (born 1946 to 1964) each day. The impact on the legal profession is huge because it is largely self-regulating and the geographic distribution of aging lawyers may affect access to justice. State Bar of Georgia members include lawyers who have entered the practice of law at different ages and are at different stages in their practices when signs of cognitive impairment may surface. The profession and the State Bar must address



Photos by Don Morgan Photography

(Left to right) Moderator Rita Sheffey and panelist Nan E. Hannah participated in the convocation's opening session.

those issues by assisting lawyers in moving to another level or second season of practice, or transitioning out of practice altogether.

As 2011-14 chair of the ABA's Consortium of Professionalism Initiatives, I advocated at the national level for the ABA Center for Professional Responsibility (the Center) to make aging lawyer issues its top priority in 2013-14. The Center worked with the National Organization of Bar Counsel, Association of Professional Responsibility Lawyers and the Conference of Lawyer Assistance Programs, as these organizations updated their 2007 joint report in 2014.¹ It is through that report

that we discovered the fine work of numerous bar associations that are addressing the needs and concerns of aging lawyers. For example, the North Carolina Bar Association, a voluntary bar, is assisting lawyers transitioning out of practice with dignity, not discipline.² The State Bar of Texas, a mandatory bar, is comprehensively addressing aging lawyer issues.³

With regard to the impact of aging lawyers on access to justice, Chief Justice Thompson said:

Since the beginning of my tenure as the chief justice of the Supreme Court of Georgia, I have been focusing attention on the issues of access to justice. Georgia is challenged by the unequal distribution of lawyers in the five metro-Atlanta counties versus the other 154 Georgia counties. As we look at lawyers aging out of practice, it is important to look at where they practice and how legal representation can be provided to Georgians throughout the state.

With the assistance of the Commission's Task Force, the convocation was presented in collaboration with Emory University, the Institute of Continuing Legal Education in Georgia and the Institute of Continuing Judicial Education in Georgia and was designed to: 1) educate the bench, bar, family members and staff on the many issues of aging lawyers; 2) encourage collaboration to provide outreach, support, intervention services and bar resources; and 3) provide options to protect clients and the public, in addition to the disciplinary process, for addressing lawyers who need to leave active practice. The intent was to facilitate the creation of a comprehensive action plan for the more than 40,000 members of the State Bar of Georgia to gracefully and competently transition out of law practice.

The convocation's opening session looked at the challenges and



(Left to right) Hon. Stephanie B. Manis, Curtis L. Mack, Nicole G. Iannarone, A. Paul Cadenhead, Hon. Brenda S. Hill Cole and Steven Hobbs.



(Left to right) John T. Marshall, Harriet Shaffer and Charles M. Shaffer Jr. participate in the lunch program.

2014 Convocation Task Force Members

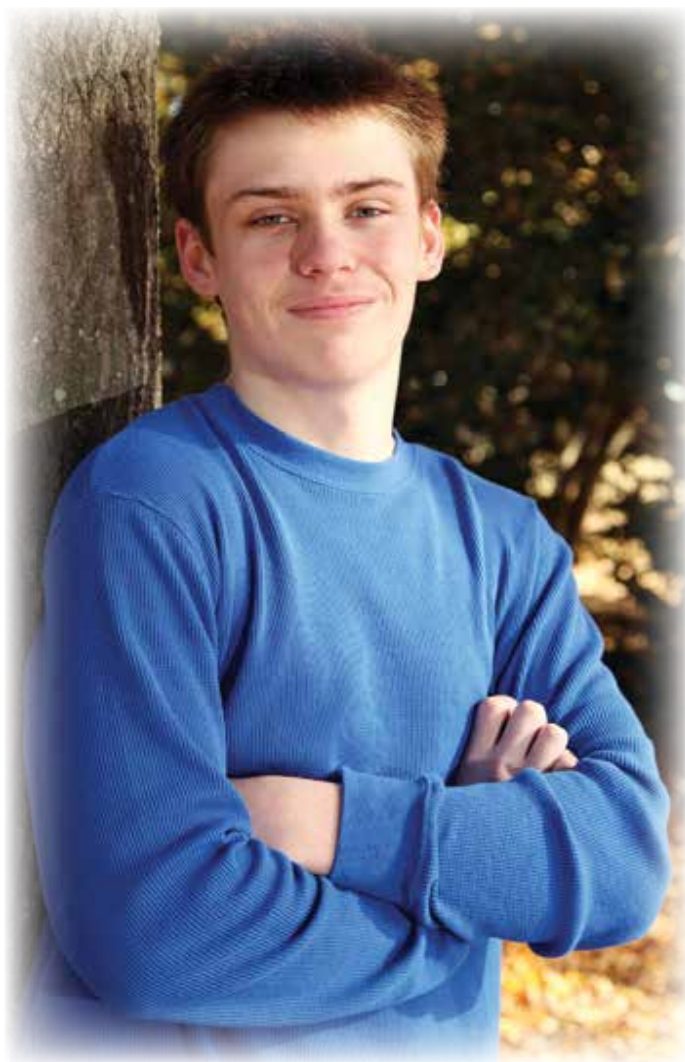
Avarita L. Hanson, co-chair
 Nicole G. Iannarone, co-chair
 Jeffrey R. Davis
 Gerald M. Edenfield
 Sharri Edenfield
 Jenny E. Jensen
 John T. Marshall

Jacquelyn Mitchell
 Jenny Mittelman
 Monica L. Parker, M.D.
 Rita A. Sheffey
 Darrell L. Sutton
 Hon. Pinkie Toomer

You Can Change a Life!

Give Today at www.glsp.org

(Click on Donate Now)



Under Georgia Law, every child has the right to attend school. Unless children are homeless or have homeless parents, they must attend the school in the neighborhood where they live and be immediately enrolled in the school where they are located.

Tommy is a middle school student whose mother signed a guardianship agreement to permit her mother, Ms. Davis, to care for Tommy. Tommy is autistic and needs daily special care. Tommy's mother works 12-hour shifts, which does not permit her to take Tommy to school. The guardianship agreement had not been finalized when Ms. Davis took Tommy to school, because Tommy's father was not present to sign a consent form and had to be notified by publication of the guardianship.

Ms. Davis attempted to enroll Tommy in the middle school in her neighborhood, but the school refused to accept the paperwork she provided as proof that Tommy lived with her. Georgia law supports family members who are taking care of children who are not their own by requiring schools to enroll children living in the school district even if guardianship has not been established. Tommy mentioned to a school counselor that he sometimes visited his siblings in a neighboring county. Tommy's comments led the school counselor to bring up questions with school officials about Tommy's living arrangements, which resulted in school officials blocking Tommy's school enrollment.

Ms. Davis contacted GLSP for legal assistance. A GLSP lawyer obtained signed affidavits from Ms. Davis and her daughter, showing that Tommy was living with his grandmother with his mother's consent. The GLSP attorney forwarded the affidavits to the school superintendent along with a letter stating that legal action could be taken if Tommy was not enrolled in school immediately.

The attorney followed up with the school district and received assurance that Tommy would be allowed to attend school. When Ms. Davis tried to take Tommy to school the next morning however, she was turned away again. The GLSP attorney went to the school with Tommy and his grandmother the next morning and made sure Tommy was admitted and that everything went smoothly. The attorney followed up again three months later to make sure Tommy was still in school and doing well.



State Bar of Georgia



Georgia Legal Services Program

Thank you for your generosity and support.



Panelist Dr. Allan Levey prepares to speak on the issues of cognitive competence.



Dr. James J. Lah speaks to Convocation participants on the causes and prevention of cognitive decline.

opportunities in transitioning out of law practice with grace and dignity. Panelists provided an overview of the challenges and opportunities for the Bar to address issues of aging lawyers, including access to justice and upward mentoring. The panel was moderated by Rita A. Sheffey, treasurer, State Bar of Georgia, and included: Nan E. Hannah, past chair, North Carolina Bar Association, Transitioning Lawyers Commission; Terry Tottenham, chair, Aging Lawyers Issues Task Force, State Bar of Texas, Fulbright & Jaworski LLP; Gerald M. Edenfield, State Bar past president, Edenfield, Cox, Bruce & Classens P.C.; and Sharri Edenfield, YLD president, Edenfield, Cox, Bruce & Classens P.C.

Tottenham and Hannah brought a wealth of information from bar associations—mandatory and voluntary—which have approached these issues in different ways and have set programs in place for their members. Attendees were also able to hear the thoughts and views of Gerald and Sharri Edenfield, a father and daughter team who practice together in rural Georgia and are both leaders in the State Bar.

The midmorning session provided expert information and covered the issues of cognitive competence. For lawyers, aging is not just a concern of remaining relevant; being competent to practice law is required. Three medical experts from Emory University School of Medicine were recruited to answer the questions: What is cognitive decline and how is it identified? How can cognitive decline be professionally and self-assessed? Monica L. Parker, M.D., assistant professor of medicine, not only moderated this panel but as a physician dealing exclusively with elderly patients, added important information to address the assessment of cognitive competence. Two nationally acclaimed medical experts gave presentations on the causes and prevention of cognitive decline and its assessment: Allan Levey, M.D., Ph.D., professor and chair of the Department of Neurology and director of Emory's Alzheimer's Disease Research Center; and James J. Lah, M.D., Ph.D., associate professor of neurology, director of Emory's Cognitive Neurology Program and vice chair of Neurology and Clinical Core

Leader of the NIH-funded Emory Alzheimer Research Center.

State Bar President Patrise M. Perkins-Hooker addressed the attendees at the beginning of the lunch program, commenting on the importance of the topic to the members of the Bar and the public. The program "A Conversation Between Friends: To Be or Not to Be an Active Senior Lawyer," included senior attorneys who gave personal accounts of how and when a lawyer decides to remain actively practicing or transition out of practice. Moderated by Hon. Brenda Hill Cole, retired senior judge, State Court of Fulton County, mediator, JAMS, the program began with a conversation between John T. Marshall, retired, Bryan Cave LLP, and friends Charles Shaffer Jr., retired, King & Spalding, and wife, Harriet. Shaffer shared his experiences of being diagnosed with mild cognitive impairment and his transition out of law practice. A panel of senior lawyers engaged in a variety of legal endeavors, followed and included: A. Paul Cadenhead, retired, Fellow LaBriola LLP; Hon. Stephanie B. Manis, senior judge,

Fulton County Superior Court; and Curtis L. Mack, retired, McGuire Woods.

The first afternoon session looked at transitioning out of practice: planning, practice alternatives, intervention and support. The panelists looked at options for succession planning, second seasons of practice, business planning, intervention and support for lawyers, judges, staff and family members. Moderated by Michael L. Monahan, director, State Bar of Georgia Pro Bono Project, the panel included: Nan E. Hannah; Jenny E. Jensen, The Jensen Firm; Darrell L. Sutton, YLD immediate past president, Sutton Law Group, LLC; and Terry Tottenham.


While lawyers of all ages may err in representing clients, aging lawyers may make errors due to a variety of reasons, including cognitive incompetence. The next session reviewed hypothetical disciplinary situations involving aging attorneys and judges, as well as options for discipline, diversion and intervention. Moderated by Paula Frederick, general counsel, State Bar of Georgia, the panel used several scenarios to discuss the merits and options for discipline. Panelists included: Jeffrey R. Davis, executive director, State Bar of Georgia; Nicole G. Iannarone, clinical professor, Georgia State University College of Law; Johannes S. Kingma, Carlock & Copeland, LLP; and Jenny Mittelman, deputy general counsel, State Bar of Georgia.

The convocation concluded with an interactive session moderated by Steven Hobbs, University of Alabama School of Law, and Nicole Iannarone, that engaged the audience in providing input for the Bar to develop an action plan to assist aging lawyers in continuing to practice or transition out of practice and for all lawyers in planning for succession or winding down a practice if necessary. Using audience response technology, this question and answer session garnered useful feedback from participants regarding future directions for the bench, bar and others to address issues of aging lawyers.

The responses to the convocation aptly summarize its positive initial impact. All agreed that there was an excellent array of speakers throughout the day. Others said that the program was: "Exceptionally well done! Bravo! A much needed and well-executed program." "This was an excellent and very timely seminar." "Brings a sensitive topic out of the closet."

As for the future, clearly there is work to be done. The Commission will reconvene its Task Force and forge relationships with the State Bar and other entities to find the resources and facilitate programs to support lawyers and judges who wish to find a second season of practice and transition out of practice with dignity. If you are interested in assisting with this effort, please contact the

Commission at professionalism@cjcpga.org or 404-225-5040.

In his 1998 book "The Virtues of Aging," President Jimmy Carter wrote: "The simple things—our own happiness, peace, joy, satisfaction, and the exploration of love in all its forms—are the key to the virtues of life, at any age. You are old when regrets take the place of dreams." So let's keep our dreams alive and, as I always say, ultimately, what counts is not what we do for a living; it's what we do for the living. 



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

Endnotes

1. NOBC-APRL-CoLAP Second Joint Committee on Aging Lawyers, *Final Report* (April 2014).
2. Nan Hannah, *Transitioning Lawyers Commission: A Year in Review* (July 26, 2013): <http://www.ncbar.org/about/communications/news/2013-news-articles/tlc-a-year-in-review>.
3. State Bar of Texas, *State Bar Board Report*, Task Force on Aging Lawyers Issues, *TEXAS BAR JOURNAL* 464 (June 2014): http://www.texasbar.com/AM/Template.cfm?Section=Past_Issues&Template=/CM/ContentDisplay.cfm&ContentID=26106.

THANK YOU

Sponsors and Partners

CO-SPONSORS

Emory University
ICLE—Steve Harper, Doug Ashworth, Tangel King and Brian Davis
ICJE—Richard Reaves
Task Force on Aging in the Law
State Bar Committee on Professionalism

PARTNERS

The Carter Center
Don Morgan Photography
State Bar Communications Department
Proof of the Pudding
The Commerce Club
American Bar Association Center for Professional Responsibility

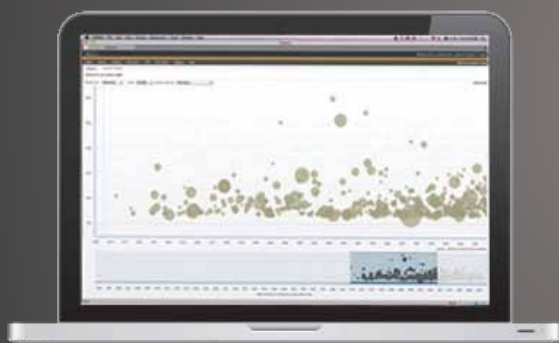
We would also like to thank Chief Justice Thompson and the Commission members for their input, attendance and support, as well as Belinda Saulsberry for serving as the coordinator.

Turn to smarter tools for legal research.



results to
t results

ive map of
the most
g lists of
d well),
ng the
t the
the
ne
t.



fastcase®

Smarter by association.

Log in at www.gabar.org

LTN
#1
2010 Customer
Satisfaction
Survey

Available on the iPhone
App Store



Free to members of the State Bar of Georgia.

Members of the State Bar of Georgia now have access to Fastcase for free.

Unlimited search using Fastcase's smarter legal research tools, unlimited printing, and unlimited reference support, all free to active members of the State Bar of Georgia.

Log in at www.gabar.org and click the Fastcase logo. And don't forget that Fastcase's free apps for iPhone, Android and iPad connect to your bar account automatically by Mobile Sync. All free as a benefit of membership in the State Bar of Georgia.

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.

Orin Luvoid Alexis

Thunderbolt, Ga.
Howard University School of Law
(1971)
Admitted 1973
Died December 2014

Gerald W. Bassett

Savannah, Ga.
Washington University School
of Law (1987)
Admitted 2000
Died November 2014

L. Travis Brannon Jr.

Atlanta, Ga.
Emory University School of Law
(1952)
Admitted 1952
Died December 2014

Richard J. Buttimer

Milledgeville, Ga.
University of Georgia School
of Law (1966)
Admitted 1966
Died December 2014

Johnnie L. Caldwell Sr.

Thomaston, Ga.
Woodrow Wilson College of Law
(1952)
Admitted 1952
Died December 2014

Joseph Phillip Carver

Atlanta, Ga.
Duke University School of Law
(1982)
Admitted 1987
Died December 2014

George B. Culpepper III

Macon, Ga.
Mercer University Walter F.
George School of Law
Admitted 1946
Died November 2014

Guy Edward Davis Jr.

Atlanta, Ga.
Emory University School of Law
(1972)
Admitted 1973
Died December 2014

Esther R. DeCambra

Savannah, Ga.
Vanderbilt University Law School
(2000)
Admitted 2000
Died March 2014

W. Lyman Dillon

Ponte Vedra Beach, Fla.
Duke University School of Law
(1967)
Admitted 1971
Died November 2014

Robert E. Firester

Marietta, Ga.
Maurice A. Deane School of Law
(1991)
Admitted 1993
Died October 2014

Larry P. Jones

Newnan, Ga.
Emory University School of Law
(1963)
Admitted 1964
Died December 2014

William L. Kinzer

Woodstock, Ga.
Temple University Beasley School
of Law (1956)
Admitted 1962
Died December 2014

Andrew Duncan Lee

Brunswick, Ga.
University of Georgia School
of Law (2003)
Admitted 2006
Died November 2014

Harold L. Marquis

Atlanta, Ga.
University of Iowa College of Law
(1960)
Admitted 1972
Died December 2014

Wesley M. Mathews Jr.
Atlanta, Ga.
The Catholic University of
America (1952)
Admitted 1953
Died November 2014

Kirk M. McAlpin
Atlanta, Ga.
University of Georgia School
of Law (1949)
Admitted 1949
Died November 2014

Charles Ruckel Perry
Cumming, Ga.
Duke University School of Law
(1980)
Admitted 1980
Died November 2014

Ashley Taylor Price
Atlanta, Ga.
Mississippi College School of Law
(1996)
Admitted 2000
Died August 2014

Carl E. Sanders
Atlanta, Ga.
University of Georgia School
of Law (1948)
Admitted 1947
Died November 2014

Joe B. Sartain Jr.
Gainesville, Ga.
Georgia State University College
of Law (1958)
Admitted 1957
Died November 2014

Kathryn R. Murray Sarzen
Atlanta, Ga.
Mercer University Walter F.
George School of Law (1986)
Admitted 1986
Died November 2014

Quintus W. Sibley
Highlands, N.C.
University of Georgia School
of Law (1981)
Admitted 1981
Died November 2014

Kirk McAlpin: Attorney, Visionary and Mentor

by R. William "Bill" Ide



Kirk McAlpin loved the law and the law loved him. His passion, high energy, wit, strong intellect, creativity and iron dedication to justice provided great successes for his clients which ranged from Fortune 100 companies to the indigent and unpopular. He applied those same attributes to the legal profession, serving as president of the Younger Lawyers Section of the State Bar of Georgia and the American Bar Association; as a long standing member of the American Bar Association House of Delegates; and ultimately as president of the State Bar of Georgia. He absolutely loved being with lawyers and judges who found his humor and positive attitude to be infectious. That served his clients exceedingly well, but also the profession. His vision and creativity produced concepts others might not yet see, but Kirk was rarely to be denied. Creation of a well-funded American Bar Association Young Lawyers resulted from a study Kirk convinced the ABA to undertake. Kirk was involved with the creation of Georgia's unified bar and lead the creation of its General Practice Section.

Kirk was an outstanding litigator from the 1950s as a practitioner in Savannah, through the '60s, '70s and '80s in Atlanta, and then as a solo practitioner in Savannah and Atlanta. By the early '60s, Kirk had left the Bouhan firm in Savannah to join King & Spalding in Atlanta. He lead its litigation practice for many years while mentoring many in his practice and in Bar work. He attracted followers who felt working with Kirk was about something fun, exciting and meaningful. His courageous commitment to fairness was striking. For example, an Atlanta Legal Aid lawyer was sued individually in a counterclaim as a pressuring tactic. Kirk organized a defense team of 20 leading Atlanta lawyers who all signed the pleadings and the claim was dropped. When a young lawyer came to Kirk for advice in defending against a default judgment, the hallmark McAlpin question was raised, "What is the fair outcome under the facts?" Ultimately the case was won in the Supreme Court of Georgia under the estoppel doctrine. One of Kirk's hallmark advices to young lawyers was "You always have to be willing to walk away from clients or employers who would have you do the wrong thing."

Kirk's spirit of fierce independence for the greater good was demonstrated by his leaving high school, lying about his age and serving in the Army during World War II, rising to the rank of master sergeant. That determination never ceased including his final years when he would provide counsel to others on resolving legal matters. We take so much for granted about our justice system, where in truth there are forces every day seeking to abuse the system for personal gain. Kirk McAlpin was one of those wonderful lawyers who dedicated their careers to putting the greater good first and his legacy serves us well.

I, like so many lawyers, became a better lawyer having been mentored by our dear friend Kirk McAlpin.

GET PUBLISHED



EARN CLE CREDIT

The Editorial Board of the Georgia Bar Journal is in regular need of scholarly legal articles to print in the Journal.

Earn CLE credit, see your name in print and help the legal community by submitting an article today!*

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

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

John Edward Waters

Lawrenceville, Ga.
Woodrow Wilson College of Law
(1982)
Admitted 1994
Died December 2014

David Kiser Whatley

Sky Valley, Ga.
University of Georgia School
of Law (1974)
Admitted 1974
Died November 2014

Hoyt H. Whelchel Jr.

Moultrie, Ga.
University of Georgia School
of Law (1950)
Admitted 1950
Died December 2014

Watson Lawrence White

Marietta, Ga.
University of Georgia School
of Law (1950)
Admitted 1950
Died December 2014



George B. Culpepper III, retired superior court judge, died November 2014. Culpepper was born on Dec. 26, 1920, in Fort

Valley, Ga., to George B. Culpepper Jr. and Mary Adams Culpepper. He attended Fort Valley High School and Mars Hill College before attending Mercer University School of Law, graduating in 1943. While at Mercer, Culpepper met his future wife, the former Alice Wright. He also served as president of the student body and was a member of Kappa Alpha Fraternity.

On the same day that Culpepper completed law school, he enlisted in the U.S. Navy. He later attended Officer Candidate School at Columbia University and served as a Navy lieutenant during World War II where he served primarily in the South Pacific. Culpepper remained in the U.S. Navy Reserve following the war and retired as a lieutenant commander.

Following the war, Culpepper joined his father in the practice of

law in Fort Valley. He practiced 20 years before being appointed to the office of judge of Superior Court, Macon Judicial Circuit, in 1967. He served as an active superior court judge until becoming senior judge on Jan. 1, 1983.

Culpepper was a lifelong member of Fort Valley United Methodist Church, where he taught Sunday School, sang in the choir and served on almost every committee and board over the years. He was a former member of the Exchange Club of Macon, and the Fort Valley and Golden K Kiwanis Clubs. He is survived by his wife, Alice Wright Culpepper; four children: Bryant Culpepper and his wife, Donna, of Fort Valley; Lewis C. Culpepper and his wife, Maelu, of Albany; Rev. Wright Culpepper and his wife, Ann, of St. Simons; and Michele Meyer and her husband, Reid, of Newnan; 12 grandchildren and eight great-grandchildren.



Carl E. Sanders, former governor of Georgia and chairman emeritus of Troutman Sanders LLP, died November 2014. He


served from 1963 until 1967 as Georgia's 74th governor. Born in Augusta on May 15, 1925, Sanders excelled in athletics at the Academy of Richmond County, where he later was named to the school's Hall of Fame. After graduation, he attended the University of Georgia on a football scholarship. World War II interrupted his studies, and he enlisted in the Army Air Corps in 1943. At age 19 he was commissioned to pilot B-17 heavy bombers. After the war, he completed his degree and entered the University of Georgia School of Law. In 1947, he received his LL.B. degree, was admitted to the bar and married Betty Bird Foy from Statesboro. They settled in Augusta, where their children were born.

Sanders' political career began in 1954 when he was elected to the Georgia House of Representatives,

and two years later he advanced to the State Senate, where he was elected President Pro Tempore. In 1962, Sanders ran for governor, and in a hard-fought campaign, defeated former governor Marvin Griffin. Sanders' victory over Griffin marked a turning point in Georgia's political history. Following the demise of the county unit system, Sanders was the first Georgia governor chosen by popular vote, the first from an urban area to be elected since 1916, and, at age 37, the youngest governor in the country.

Sanders made education the first priority of his administration and directed nearly 60 cents of every tax dollar into education. His administration added 10,000 new teachers, established a Master Plan for Education and set minimum standards for public schools. In addition, he began the Governor's Honors program for exceptional students, developed an extensive educational television network, encouraged school consolidation and greatly expanded vocational training.

Sanders was a member of the Augusta National Golf Club, Peachtree Golf Club and Piedmont Driving Club, was inducted into the Georgia Aviation Hall of Fame in 1997 and served on the Atlanta Committee for the Olympics. He was extremely active in the YMCA, and served many years as member of the board of directors of the YMCA of Metropolitan Atlanta. Sanders was also a long time member of Second Ponce de Leon Baptist Church.

Sanders is survived by his wife of 67 years; daughter, Betty Botts; son, Carl Jr.; and five grandchildren. 

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

February-April

FEB 11 ICLE
Business, Law and Ethics
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

FEB 11 ICLE
Special Needs Trusts
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

FEB 12 ICLE
Advanced Debt Collection
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

FEB 12 ICLE
Landlord and Tenant
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

FEB 12-14 ICLE
Tropical Seminar
 Cancun, Mexico
 See www.iclega.org for location
 12 CLE

FEB 12 ICLE
Residential Real Estate
 Statewide Rebroadcast
 See www.iclega.org for location
 6 CLE

FEB 13 ICLE
Basic Securities Law
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

FEB 13 ICLE
Solo Small Firm Boot Camp
 Atlanta, Savannah and Tifton, Ga.
 See www.iclega.org for location
 6 CLE

FEB 13 ICLE
Georgia Insurance Claims Law
 Savannah, Ga.
 See www.iclega.org for location
 6 CLE

FEB 18 ICLE
Lawyer Assistance Program Seminar
 Atlanta, Savannah and Tifton, Ga.
 See www.iclega.org for location
 6 CLE

FEB 19 ICLE
General Practice for New Lawyers
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

FEB 19-20 ICLE
Social Security Institute
 Atlanta, Ga.
 See www.iclega.org for location
 10.5 CLE

FEB 20 ICLE
Georgia Appellate Practice
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

FEB 20 ICLE
Elder Law
 Statewide Broadcast
 See www.iclega.org for location
 6 CLE

FEB 20-21 American & Immigration Lawyers Association (Georgia-Alabama Chapter)
3rd Annual Immigration Law Conference – A Brave New World
 Atlanta, Ga.
 See www.ga-al.com to register
 14 CLE/1 ethics/1 professionalism

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



- | | | | |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| FEB 23 | ICLE
<i>Beginning Lawyer Program</i>
Atlanta, Savannah and Tifton, Ga.
See www.iclega.org for location
6 CLE | FEB 27 | ICLE
<i>Plaintiff's Personal Injury</i>
Statewide Broadcast
See www.iclega.org for location
6 CLE |
| FEB 25 | ICLE
<i>Product Liability Seminar</i>
Atlanta, Ga.
See www.iclega.org for location
6 CLE | FEB 27 | ICLE
<i>22nd Annual Criminal Practice Seminar</i>
Kennesaw, Ga.
See www.iclega.org for location
6 CLE |
| FEB 25 | ICLE
<i>Advanced Topics in Franchising and Distribution</i>
Atlanta, Ga.
See www.iclega.org for location
3 CLE | MAR 4 | ICLE
<i>Nuts & Bolts of Local Government Law</i>
Atlanta, Ga.
See www.iclega.org for location
6 CLE |
| FEB 26 | ICLE
<i>Negotiated Corporate Acquisitions</i>
Atlanta, Ga.
See www.iclega.org for location
6 CLE | MAR 4 | ICLE
<i>Persuasive Presentation and Storytelling Skills</i>
Atlanta, Ga.
See www.iclega.org for location
6 CLE |
| FEB 26 | ICLE
<i>Eminent Domain Law</i>
Atlanta, Ga.
See www.iclega.org for location
6 CLE | MAR 5 | ICLE
<i>Handling Fall Cases Professionally</i>
Atlanta, Ga.
See www.iclega.org for location
6 CLE |
| FEB 26 | ICLE
<i>Elder Law</i>
Statewide Rebroadcast
See www.iclega.org for location
6 CLE | MAR 5 | ICLE
<i>Plaintiff's Personal Injury</i>
Statewide Rebroadcast
See www.iclega.org for location
6 CLE |
| FEB 27 | ICLE
<i>Georgia Insurance Claims Law</i>
Atlanta, Ga.
See www.iclega.org for location
6 CLE | MAR 6 | ICLE
<i>Catastrophic Commercial Vehicle Cases</i>
Atlanta, Ga.
See www.iclega.org for location
6 CLE |
| FEB 27 | ICLE
<i>Bar Media and Judiciary Conference</i>
Atlanta, Ga.
See www.iclega.org for location
6 CLE | MAR 6 | ICLE
<i>Professionalism and Ethics Update</i>
Statewide Broadcast
See www.iclega.org for location
2 CLE |

February-April

MAR 10 ICLE
March Group Mentoring
 Atlanta, Savannah and Tifton, Ga.
 See www.iclega.org for location
 No CLE

MAR 11 ICLE
Leadership Literacy/Negotiation
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

MAR 12 ICLE
Nonprofit Law Seminar
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

MAR 12 ICLE
Proving Damages
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

MAR 12 ICLE
Professionalism and Ethics Update
 Statewide Rebroadcast
 See www.iclega.org for location
 2 CLE

MAR 12-14 ICLE
*14th Annual General Practice
 & Trial Institute*
 St. Simons Island, Ga.
 See www.iclega.org for location
 12 CLE

MAR 13 ICLE
Milich on Evidence
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

MAR 13 ICLE
Fundamentals of Health Care
 Atlanta, Ga.
 See www.iclega.org for location
 7 CLE

MAR 13 ICLE
Trial and Error
 Statewide Broadcast
 See www.iclega.org for location
 6 CLE

MAR 18 ICLE
Not Your Typical Malpractice Seminar
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

MAR 18 ICLE
Georgia's False Claim Act/Whistleblower
 Atlanta, Ga.
 See www.iclega.org for location
 6.5 CLE

MAR 19 ICLE
4th Annual Same Sex Legal Issues
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

MAR 19 ICLE
*Workers' Comp for the General
 Practitioner*
 Atlanta, Ga.
 See www.iclega.org for location
 6 CLE

MAR 19 ICLE
Trial and Error
 Statewide Rebroadcast
 See www.iclega.org for location
 6 CLE

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



- | | | | |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| MAR 20 | ICLE
<i>Employee Benefits Law Section Seminar</i>
Atlanta, Ga.
See www.iclega.org for location
6 CLE | MAR 26 | ICLE
<i>Trials of the Century</i>
Atlanta, Ga.
See www.iclega.org for location
6 CLE |
| MAR 20 | ICLE
<i>Winning Settlement Strategies</i>
Atlanta, Ga.
See www.iclega.org for location
6 CLE | MAR 26 | ICLE
<i>Professional and Ethical Dilemmas in Litigation</i>
Atlanta, Savannah and Tifton, Ga.
See www.iclega.org for location
6 CLE |
| MAR 20 | ICLE
<i>Jury Trial</i>
Statewide Rebroadcast
See www.iclega.org for location
6 CLE | MAR 27 | ICLE
<i>Mediation Advocacy</i>
Atlanta, Ga.
See www.iclega.org for location
6 CLE |
| MAR 21 | ICLE
<i>Georgia Law Update</i>
Columbus, Ga.
See www.iclega.org for location
6 CLE | MAR 27 | ICLE
<i>Basic Fiduciary Practice</i>
Atlanta, Ga.
See www.iclega.org for location
6 CLE |
| MAR 24 | ICLE
<i>Beginning Lawyers Program</i>
Statewide Rebroadcast
See www.iclega.org for location
6 CLE | MAR 27 | ICLE
<i>Recent Developments in Georgia Law</i>
Statewide Rebroadcast
See www.iclega.org for location
6 CLE |
| MAR 25 | ICLE
<i>Georgia Law of Torts</i>
Atlanta, Ga.
See www.iclega.org for location
6 CLE | MAR 27 | ICLE
<i>Walton County Bar Association Seminar</i>
Monroe, Ga.
See www.iclega.org for location
6 CLE |
| MAR 25 | ICLE
<i>Family and Trial Law Convocation on Professionalism</i>
Atlanta, Ga.
See www.iclega.org for location
3 CLE | MAR 30 | ICLE
<i>Magna Carta Symposium</i>
Atlanta, Ga.
See www.iclega.org for location
6 CLE |

February-April

- MAR 30** ICLE
Internet Legal Research
Statewide Rebroadcast
See www.iclega.org for location
6 CLE
- MAR 31** ICLE
Advanced Cross Examination
Atlanta, Ga.
See www.iclega.org for location
6 CLE
- MAR 31** ICLE
Post Judgment Collection
Atlanta, Ga.
See www.iclega.org for location
6 CLE
- MAR 31** ICLE
Trial Advocacy
Statewide Rebroadcast
See www.iclega.org for location
6 CLE
- MAR 31** ICLE
Proving Damages
Atlanta, Ga.
See www.iclega.org for location
6 CLE
- APR 10** ICLE
Child Welfare Attorney Training
Atlanta, Savannah and Tifton, Ga.
See www.iclega.org for location
7 CLE

- APR 23** ICLE
Building Professional Presence
Atlanta, Ga.
See www.iclega.org for location
6 CLE
- APR 23** ICLE
New Tax Laws
Atlanta, Savannah and Tifton, Ga.
See www.iclega.org for location
6 CLE
- APR 24** ICLE
Construction Law for the General Practitioner
Atlanta, Ga.
See www.iclega.org for location
6 CLE
- APR 24** ICLE
Solo Small Firm Spring Seminar
Atlanta, Ga.
See www.iclega.org for location
6 CLE
- APR 24** ICLE
Sports Law Seminar
Atlanta, Ga.
See www.iclega.org for location
3 CLE

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



Property/Rentals/Office Space

SANDY SPRINGS COMMERCE BUILDING, 333 Sandy Springs Cir. NE, Atlanta, GA 30328. Contact Ron Winston—(w) 404-256-3871; (email) rnwlaw@gmail.com; Full service, high-quality tenants (including many small law practices), great location, well-maintained. Misc. small office suites available; Rental and term negotiable.

OFFICE SPACE—Class A office space for one or two attorneys, window offices with two other lawyers in Park Central building, 2970 Clairmont Road, near I-85. Includes conference room, phone/internet, copy/fax/scan, secretarial space, \$1,000 to \$1,300 per month. Call Salu Kunnatha at 404-633-4200 or email: skk@kunnathalaw.com.

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

ANTIQUÉ OFFICE FURNITURE (the ultimate recycle!) Did you make partner, need to redecorate or just want some fine old oak office furniture? This may be just what you are looking for. I have closed my law office, and am selling the English and Scottish office furniture I have enjoyed for forty years. Includes the following: Scottish partners desk, large quarter sawn oak English bookcase, double gate leg table, English fire bucket lamp, and more. Please see all of it at elegantofficefurniture.net.

Practice Assistance

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

New York & New Jersey Transactions and Litigation. Georgia bar member practicing in Manhattan and New Jersey can help you with your corporate

transactions and litigation in state and federal courts. Contact E. David Smith, Esq., 570 Lexington Ave., 23rd Floor, New York, NY 10022; 212-661-7010; edsmith@edslaw.net.

Position Wanted

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

PI & Criminal—Trial and Pre-Litigation Attorneys (Jacksonville, FL) Law Firm of Military Veterans is seeking veterans for their growing law firm. In addition to criminal defense attorney, seeking PI Jr. associates (0-3 years' experience and recent grads), and an experienced PI trial attorney with actual first or second chair experience through verdict. Please include detailed information regarding ex. Salary commensurate with experience. Please send cover letter and resume with references to ron@youhurtwefight.com.

Florida workers' compensation insurance defense firm with Atlanta office seeking associate with 1-3 years experience to join our GA practice. Excellent opportunity for a motivated self-starter; must be able to handle your own caseload. Excellent benefit package. Please submit resume, cover letter and salary requirements to scarroll@hrmcw.com.

Finance/Banking/Regulatory Compliance—Location: Louisville, KY—SEMINAR SPEAKER—Major financial services consulting and educational company has opportunity for an individual with banking and/or financial regulatory background and experience for its Education Division. Candidate should have a degree with 5-10 years banking or regulatory experience and should have demonstrated interpersonal, presentation and communication skills, as well as a strong knowledge of bank statutory and regulatory requirements. Will provide presentations on compliance and regulatory topics throughout the country. Position requires extensive travel, as well as the ability to maintain superior rapport with attendees. Compensation commensurate with experience and credentials. Company has excellent benefits, including 401K plan. Submit resume to: Human Resource Manager, Professional

Bank Services, Inc., 6200 Dutchman’s Lane, Suite 305, Louisville, Kentucky 40205; Email to: hr@probank.com. An Equal Opportunity Company M/F/H.

Training Opportunities

Kennesaw State University & Center for Conflict Management Upcoming Trainings and Events:

■ **Domestic Relations Training – March 9-13, 2015**

The 42-hour training covers all aspects of the divorce process. Topics covered are child support, parenting, financial issues within the family and the complexities of diverse cultures. Domestic mediation is the most often used and referred to in the court system.

■ **Domestic Relations Mediation Practicum – March 27-28, 2015**

This two-day course substitutes for the one observation and two co-mediations necessary to become a registered Domestic Relations mediator with the Georgia Office of Dispute Resolution. The course will include mediation observation and coached role plays with Dr. Susan Raines and a panel of expert mediators.

■ **Specialized Issues in Domestic Violence Mediation Training – April 20-21, 2015**

This workshop for experienced domestic relations mediators will provide you with additional techniques for managing special issues in domestic violence.

■ **General/Civil Mediation Training – April 27-30, 2015**

This basic 28-hour mediation training focuses on an understanding of the mediation process, communication skills, problem-solving skills, agreement writing and mediation ethics. Mediation skills are taught in a highly interactive format through short lecture, group discussion, focused exercises and coached role-play.

For all trainings and registration details go to:

<http://ccm.hss.kennesaw.edu/training/>

■ **5th Annual International Conference – April 17-18, 2015**

<http://ccm.hss.kennesaw.edu/events-programs/2015/2015-04-17/>

■ **Summer Institute on Conflict Management in Higher Education – June 8-12, 2015**

Chateau Elan Winery and Resort
(Formerly the Consortium on Negotiation and Conflict Resolution at Jekell Island)
<http://ccm.hss.kennesaw.edu/events-programs/>

ADVERTISE

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

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

Advertisers Index

Investors Title Insurance Company.....	11
Keenan’s Kids Foundation	17
Law Firm of Shein & Brandenburg.....	13
Member Benefits, Inc.	29
Mercer Health and Benefits Administration	13
Mitchell Kaye Valuation.....	25
Norwich Document Laboratory	43
ProAssurance LawyerCare.....	39
The University of Alabama School of Law.....	15
Warren R. Hinds, P.C.....	41

FROM Banished TO Unified



A History of the Legal Profession in Georgia

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

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

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

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

To order, visit www.gabar.org or contact Lauren Foster at 404-527-8736 or laurenf@gabar.org.

MAGNA CARTA AT 800 AND THE RULE OF LAW

This year marks the 800th anniversary of the Magna Carta, one of the most famous legal documents in the world. To mark this important occasion, the State Bar of Georgia is hosting an exhibit.

MAGNA CARTA EXHIBIT

March 18-31, 2015 | State Bar of Georgia | Bar Center

If you would like to visit the Magna Carta exhibit, you may do so during regular Bar Center hours on March 18-31 from 8 a.m. to 5 p.m., Monday through Friday. If you have a large group, please call Faye First at 404-419-0155 for reservations.

MAGNA CARTA SYMPOSIUM | Summoning the end of the exhibit, on Monday, March 30, 2015, a CLE symposium on the meaning of Magna Carta and its relevance to Georgia will take place from 8:15 a.m. until 3 p.m. at the State Bar of Georgia Conference Center, located at 104 Marietta St. NW, Atlanta, Ga.

Speakers at this CLE symposium include many of Georgia's finest history and law professors. The celebration will be highlighted by a keynote address from Nathan Dorn, the Law Library Rare Book Curator at the Library of Congress in Washington, D.C.

Attendees also will have the rare opportunity to examine and enjoy the American Bar Association's exhibit on the meaning and mythology of the Magna Carta and its continuing impact on the legal system of the United States. The seminar brochure with the full agenda and the seminar registration form is available at www.iclega.org. The symposium offers 5 CLE hours, including one professional credit.



State Bar
of Georgia

MAGNA
CARTA

