

February 2018

Volume 23, Number 5

GEORGIA BAR
JOURNAL

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

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The February Issue

The December 2017 issue of the *Georgia Bar Journal* outlined myriad ways that lawyers can serve their communities. It would seem that our members are already well-versed in service, as this issue is full of real-life examples, in South Georgia and North Georgia, in Savannah and in Atlanta. When you read YLD President Nicole Leet's "Reflections on Service and Professionalism," you will see that not only do our members take the call of service seriously, at every level, but also they marry it with the professionalism expected of lawyers.

If you are in need of more inspiration, you can read about three very impressive women: Laurice Lambert, Pro Bono Star; Karlise Yvette Grier, the incoming director of the Chief Justice's Commission on Professionalism; and Marian Cover Dockery, the outgoing executive director of the State Bar of Georgia Diversity Program (GDP). Lambert's personal pro bono work has made it easier for other like-minded attorneys to do the same. Chief Justice P. Harris Hines recognized Grier's experience in both private practice and public service as providing the perfect backdrop for her new role on the commission. Dockery's legacy after 14 years at the GDP is undeniable. These women have provided strong leadership in areas of great need, and their accomplishments are too numerous to count.

The *Journal's* usual columns offer a wealth of information. Member Benefits has some fascinating information about Fastcase features, which will create hyperlinks in your documents or suggest keywords to narrow your searches. General Counsel Paula Frederick discusses the recently promulgated

ABA Formal Opinion 479: the "generally known" exception to former-client confidentiality, which covers what information—and in what context—an attorney can and cannot reveal about a former client. "Writing Matters" encourages readers to reflect on their writing style in an effort to continually improve a skill that most lawyers use multiple times a day.

The Law Practice Management Program (LPM) is launching monthly content themes for 2018. This month's focus is on financial management and trust accounting, and LPM will offer insight into other considerations for your law practice each month, including legal research, hiring and lawyer wellness. Of course, these monthly highlights are in addition to the wealth of LPM resources available to members of the Bar online, by mail or by simply picking up the phone and calling their experienced staff. Our From The Executive Director column showcases all that the LPM program has to offer.

This month's legal article, "Self-Settled Asset Protection Trusts in Georgia," provides a balanced analysis of the pros and cons of this form of trust, which allows an individual to place assets in a trust that are both available to the individual, but protected from creditors. History buffs will enjoy reading about the Banks County courthouse, and about a trip taken by Georgia lawyers to commemorate the 100th anniversary of America's entry into the first world war.

This issue of the *Georgia Bar Journal* is full to the brim of helpful, informative and inspiring material, and we hope you enjoy every word. ●

BRIDGETTE E. ECKERSON
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**BRIAN D. "BUCK"
ROGERS**

President
State Bar of Georgia
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A Midyear Progress Report

We are now past the halfway point of the 2017-18 State Bar year, and I am pleased to report that we have made or are making significant progress on several projects toward meeting the needs of a growing membership, as well as serving the public and the justice system.

The Bar's officers, Executive Committee members and Board of Governors representatives are focused on fulfilling the objectives of the three-year strategic plan adopted in January 2016 as our blueprint for the present and the future. Here are some of the highlights I shared at last month's Midyear Meeting.

2018 Public Service Announcements

One of the two priority areas we emphasized upon taking office was that of doing all we can do to improve the image of the profession of law. Last year, our public service announcement campaign, with the tagline "Who Needs Lawyers? We do.", was a big success and well received by our members and the public. On Jan. 15, we launched the second se-

ries of PSAs, which present the true stories of everyday Georgians whose lives have been made better by the work of their lawyer.

The new PSAs were produced by the ba.agency working closely with the Dalton Agency, our Communications Department and Communications/Cornerstones of Freedom Committee. They were scheduled for a two-week run in Georgia's major TV markets last month and will return for another two-week run starting March 5. They will also be broadcast statewide on Georgia Association of Broadcasters TV affiliates for nine weeks in March, April and May. The ads were also heard for two weeks in January on Georgia radio stations and will return for an additional two-week run starting Feb. 19. They began their run on social media as Facebook videos Jan. 15 and will continue through June 30.

The first PSA, "Marcos," is the story of a young man who in his home country was subjected to harsh violence and personal intimidation by gangs in his small village, starting at the age of 7. He was beaten up, his home was burned, he was

shown gruesome torture and he lived in a state of fear. Even the police and school-teachers yielded to the local gangs.

When he was 12, he saved as much money as he could from working in the coffee fields and he left to try to get to the United States. He spent weeks of walking and riding on a bus, finally swimming across a river into America where he was immediately captured and put into an orphanage.

Lawyers were alerted to his Unaccompanied Child status, helped him find relatives who lived in Georgia and worked hard to prove that he should not be returned, recognizing the lack of police and protection for him in that village. Ninety-eight percent of people seeking asylum in Georgia are turned down, but due to the tireless work of his lawyer, he was able to stay in the United States and has grown into a middle schooler who loves soccer and American food.

The second PSA, "Jasmine," features the story of a college student. She met a young man who was charming and sweet, and he became her boyfriend and eventually the father of her child. Gradually he became more and more physically and psychologically abusive, and it escalated when she was pregnant. The abuse escalated further after the birth of their child and included threats of killing her.

She and her mom looked on the Internet and found lawyers who specialized in domestic violence cases. She was scared, but as soon as she met with the lawyer, she felt hope. With her lawyer by her side, she managed to find enough courage and strength to fight back. She regained both her self-respect and safety for herself and her daughter. She changed from being a person with extreme low self-esteem to a productive college student and successful mother. Her child is excelling in school and involved in dance, gym and basketball.

For Nicolas, the subject of the third PSA, going into the service was exciting and always a dream. Patriotic, bright and brave, he came from a military family and enjoyed the learning and discipline involved with the culture of serving our

OFFICERS' BLOCK

For this issue of the Georgia Bar Journal, we asked our State Bar of Georgia officers, "What is the best advice you ever received from one of your legal mentors?"



BRIAN D. "BUCK" ROGERS

President

Michael Warshauer walked into my office and asked about a case we were working on together. After some discussion, he said, "Well, our client is hurt, she needs help, and we need to work harder." I responded, "It's not that simple." "Sure it is," he replied. "Get to work and don't argue about it."



KENNETH B. "KEN" HODGES III

President-Elect

Judge Ed Johnson told me, "If everything in your life is not exactly the way you want and you are not happy—change it! You only live once." It goes hand in hand with the motto of J.W. Fanning, "May you stay alive as long as you live."



DARRELL L. SUTTON

Treasurer

Courtesy of State Bar Past President Robert Ingram, "Never let your highs get too high nor your lows too low." In other words, maintain perspective. Things are never as great as they seem when they are good nor as awful as they seem when they are bad.



DAWN M. JONES

Secretary

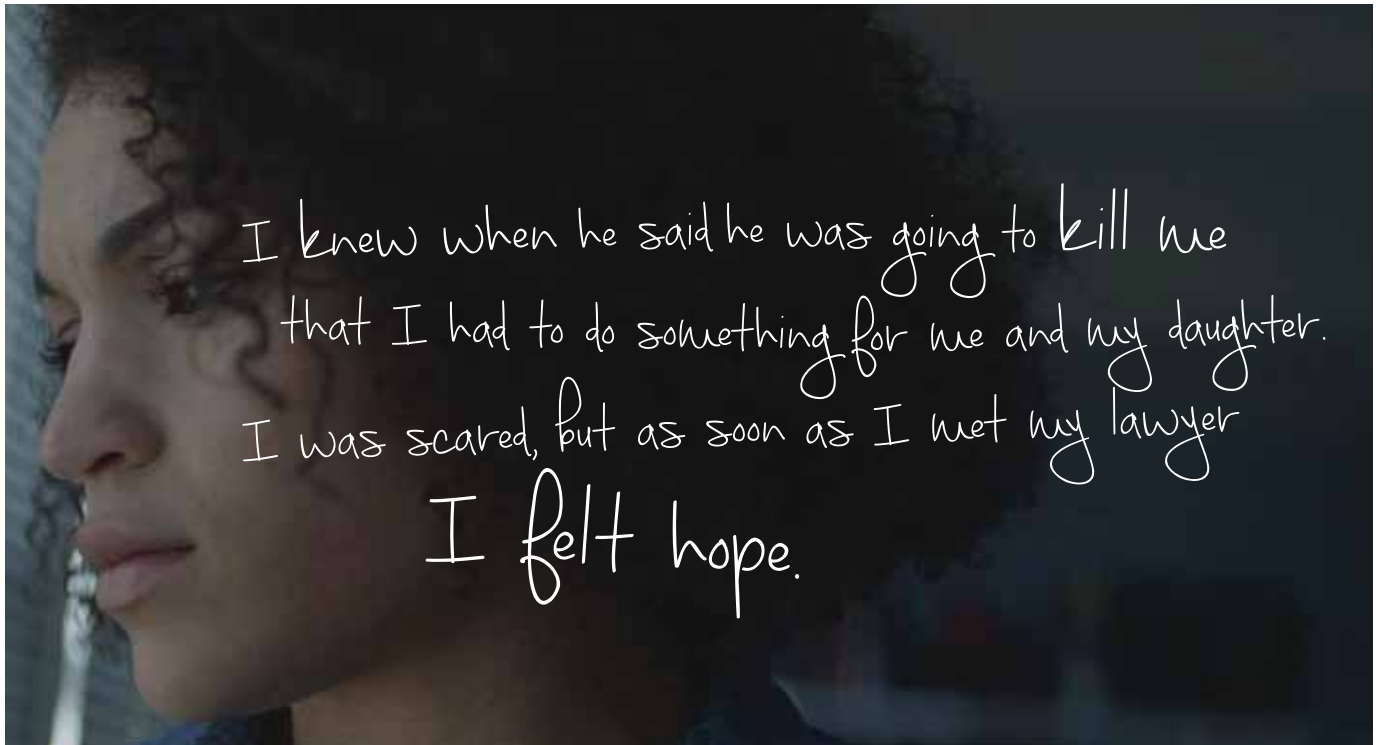
Be your own best advocate. Do not expect anyone to toot your horn for you if you are not comfortable tooting it yourself. That does not mean you are haughty or self-aggrandizing; it means you are sufficiently confident in your abilities, skills and contributions to articulate and share them when appropriate.



PATRICK T. O'CONNOR

Immediate Past President

My uncle, Judge James B. O'Connor, told me at the outset of my practice to be more concerned about my clients than about my fees. Some of the best advice I ever got.



I knew when he said he was going to kill me that I had to do something for me and my daughter. I was scared, but as soon as I met my lawyer I felt hope.

Who needs lawyers? We do.

Jasmine* — Georgia

From Victim of Abuse to Triumphant in College and Motherhood.

*Her identity has been changed for her protection. Her story is true.

 State Bar
of Georgia
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country. 9/11 was the motivation to join. After many harrowing and horrible experiences, especially in Iraq, his solid base became shaken. His best friend was killed in front of him in battle. His strong constitution felt like it had a crack in it; his powerful confidence broken. Nic fell into a deep, deep depression. When he returned to the United States after his tour in Iraq, he could not face simple everyday life and make sense of it.

When he did not show up for service, the military saw this as a lack of respect and declared he did not deserve being called a veteran. They considered him AWOL. His service was erased, which pushed Nic further into a downward spiral.

A lawyer came to his rescue and convinced the military commanders that Nic didn't need to be ostracized, but instead needed medical help for his breakdown and inability to recover from what he had been through. His lawyer gave him the

respect he felt that Nic had earned for his years on the battlefields. He found help for Nic. His efforts helped change military regulations and helped many others with PTSD as well.

You can access all three of the PSAs at www.gabar.org.

Improved Website, Member Directory

In April, we will launch a new and improved version of the Bar's website. We have to wait until the March 31 CLE deadline has passed but also launch before the dues season starts up in May, to make sure we don't disrupt website services during these high-traffic times.

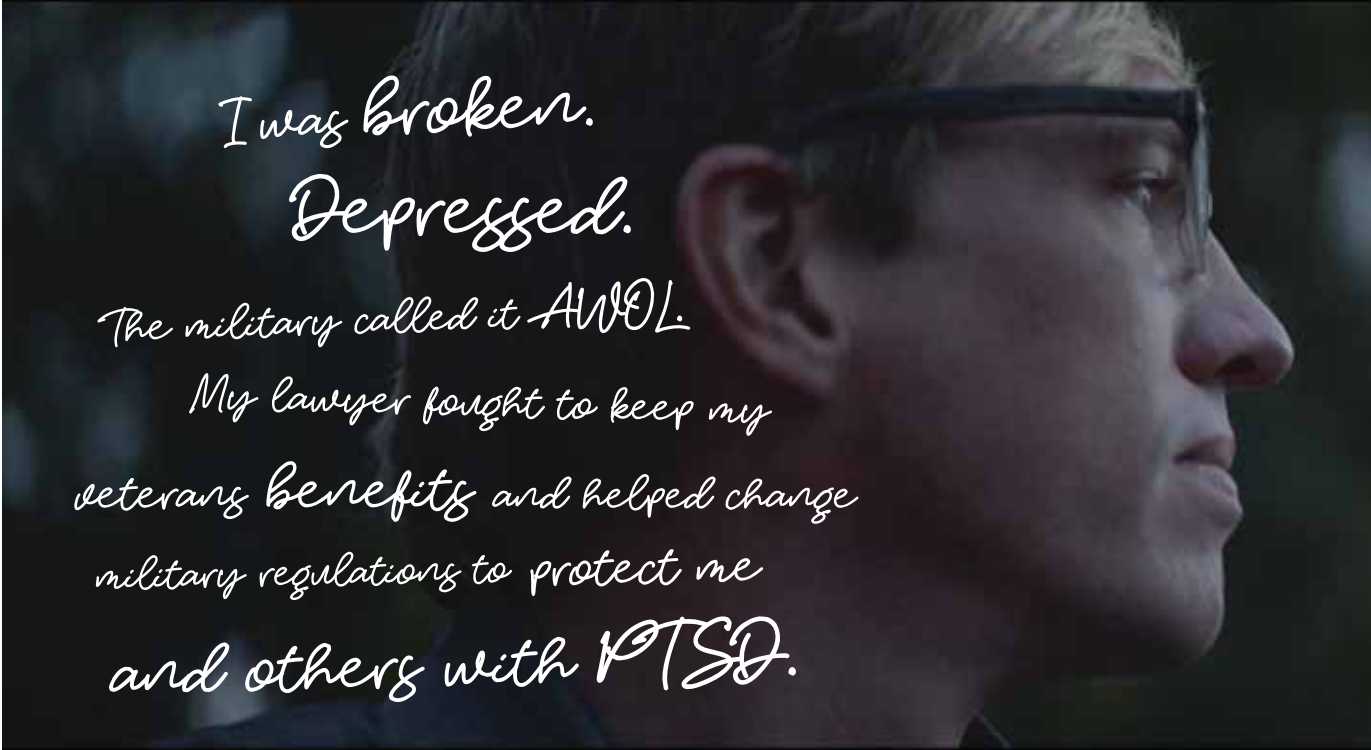
The new gabar.org will have an updated design, along with new functionality. The ICLE website is being incorporated into the Bar's website, and the new design ties Bar data and ICLE data

together and will present easy-to-read individual summaries of hours needed, along with new filters for finding seminars and institutes that fit exactly what you're looking for.

Regarding the enhanced member directory being developed by CloudLawyers (formerly known as ZeekBeek), the contract was signed in December. The Bar staff is now working directly with CloudLawyers on programming and functionality. The enhanced member directory will be unveiled with the new website in April.

ICLE Property in Athens

As you know, the Institute of Continuing Legal Education completed its transfer of assets into our State Bar of Georgia Foundation last year. ICLE has also moved its operations to the Bar Center to consolidate services and have ICLE staff



*I was broken.
Depressed.
The military called it AWOL.
My lawyer fought to keep my
veterans benefits and helped change
military regulations to protect me
and others with PTSD.*

Who needs lawyers? We do.

Nicolas — Gainesville, Georgia
Veteran with Restored Respect.

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of Georgia
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and services in the location where most ICLE seminars take place—our third floor conference center.

Over the last few months, we have worked together with the UGA Law School Alumni Association, which co-owns the Athens property with the State Bar of Georgia Foundation, to market the Athens property for sale. I am pleased to report that the property has sold for \$1.1 million, which was just slightly under the appraised value. The proceeds from the sale will be divided equally between the UGA Law School Alumni Association and the State Bar of Georgia Foundation.

Past President Bob Kauffman represented the Bar's interest in the transaction, and Board of Governors member Andy Davis was also helpful in negotiating the terms of sale in his capacity as president of the UGA Law School Alumni Association.

2018 Legislative Session

Last but certainly not least, the 2018 session of the Georgia General Assembly is underway. Continuing to improve the Bar's relationship with our state legislators is the other top priority area for this year. The strength of our profession depends on these relationships.

I encourage you all to keep an eye on legislation that may affect your area of practice. If a bill may have some unforeseen consequences or language that could be improved, let our legislative team know and they can put you in touch with the bill's sponsor.

The attorney members of the Legislature are some of the most utilized and overworked members during the session because of their working knowledge of the code and their ability to understand and explain complex legislation. Let's make this legislative session about supporting our lawyer-legislators and foster-

ing goodwill among those who write and pass our state laws.

Outside of the State Bar legislative package, which can be viewed at www.gabar.org, we expect to see Gov. Nathan Deal's final round of criminal justice reform legislation and legislation to address the needs of rural Georgians (health care, increased broadband Internet access). Mass transit is also expected to be a hot topic of discussion this session.

I encourage you to visit the Bar's website to read weekly updates from under the Gold Dome, track the Bar's initiatives and specific legislation and contact your legislators. We are all stakeholders in this process, and we all have a responsibility to communicate with our representatives and senators on all legislation important to the legal profession and our courts. ●



NICOLE C. LEET

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Reflections on Service and Professionalism

There are multiple definitions of a “professional,” but we would generally agree that it denotes someone who has a particular profession as a permanent career. Another use of the word identifies one who conforms “to the technical or ethical standards of a profession,”¹ and exhibits a “courteous, conscientious and generally businesslike manner in the workplace.”

All definitions certainly apply to an attorney, a legal professional. Yet those definitions do not capture one specific characteristic that I believe elevates a person’s career choice from a mere job or vocation to a profession—and that is a sharing of one’s professional knowledge with others. Think about it, medical professionals give back in the form of free clinics and treatment across the world. Lawyers, as professionals, also give back, with what we call “pro bono” service.

As you know, during the first six months of this Bar year the Young Lawyers Division (YLD) has been promoting our Signature Service Project for the year, the Pro Bono Challenge. Through the challenge, the YLD has asked young lawyers to make a pledge to do 50 hours of pro bono service in the Bar year. With

the help of the State Bar’s Access to Justice Committee, the pledge was designed to both help record the hours of pro bono service young lawyers were already performing and provide a host of opportunities for those interested in pro bono service, but may not have known where to start. The challenge also strove to highlight pro bono opportunities across the state, many of which did not require taking on a full case or representation, or going to court.

The response has been fantastic. We do not have a final tally of the pledges at the time of this writing, but more than 6,000 hours of pro bono service have been pledged so far. Those who took the challenge and supporters will be recognized at the Signature Service Celebration on Feb. 21.

In addition to young lawyers taking the Pro Bono Challenge, attorneys throughout the Bar have stepped up and participated in the Access to Justice Committee’s “Due Justice. Do 50.” campaign to commit to pro bono work.

The campaigns have been successful not only in having people make the pledge to do the recommended 50 hours of pro bono service a year, but in rais-

ing awareness of pro bono opportunities. Many of us are doing “pro bono” without even realizing it. Serving on the board of a nonprofit and offering legal counsel as part of that service, without compensation, is pro bono service. Answering legal questions at a clinic or via the georgia.freelegalanswers.org website is pro bono service. Helping others through church or community groups find and complete legal forms, designate beneficiaries in wills or insurance plans, or negotiate tax appeals is actually pro bono service.

We have heard from YLD District Representatives that the Pro Bono Challenge has caused them to recognize that brief initial consultations that they were providing—often to offer advice on where to go to fill out a form or get further assistance where legal assistance was not required—constituted pro bono service to their community. Southern District YLD Representative Steven Pruitt has made himself a clearinghouse for calls for assistance. Pruitt has his office staff route calls from community members seeking advice to him. He has found that often these calls are simply to air grievances to a lawyer, but he can provide concrete basic advice such as bringing claims in magistrate court, which is typically more friendly to pro se parties.

All of this work, that most attorneys do naturally, elevates what could be just a job to a profession. In the process, it enhances the public image of the profession. As Randy Evans and Shari Klevens of Dentons US wrote a few months ago in the *Daily Report*, “In recent years, the practice of law has fallen down the list of respected and trusted professions. Some of this decline is due to public perception via television shows or movies showing a ‘slick’ attorney, but some of it is self-inflicted. The reputation of attorneys is important not only to restore the esteem of the profession but also because attorneys can be unpopular parties to litigation.”

We must constantly remind the public and ourselves that, as Evans and Klevens point out, “(t)he practice of law remains a profession involving real people with real problems. Every represen-

OFFICERS’ BLOCK

For this issue of the Georgia Bar Journal, we asked our YLD officers, “What is the best advice you ever received from one of your legal mentors?”



NICOLE C. LEET | *YLD President*

Know which battles to fight to avoid wasting time and energy on each and every conflict that may pop up in a case.



RIZZA O’CONNOR | *YLD President-Elect*

Winning is a team effort. Your support staff plays an essential role to the success of your practice or office. Create a positive work environment where you appreciate their endeavors. You will benefit greatly from treating your staff with respect and courtesy.



WILLIAM T. “WILL” DAVIS | *YLD Treasurer*

Cheryl Griffin taught me how to separate my personal life from my work life. As a young lawyer, I struggled with my client’s personal issues long after I left the office, and Cheryl taught me that it was ok to leave those issues at work for the next day.



BERT HUMMEL | *YLD Secretary*

A mentor once told me that in order to be a successful attorney you need to know your audience, you need to know your strengths and weaknesses in everything that you do, and you need to learn how to get your message across as succinctly as possible.



JENNIFER C. MOCK | *YLD Immediate Past President*

When involved in a case, just because you can fight does not mean you should fight. Pick your battles and be tactical with the fights you pursue.



SHAMIRACLE J. RANKIN | *YLD Newsletter Co-Editor*

As a newly minted attorney, Jamala McFadden reminded me to never compare myself to other attorneys. Instead, she advised that I should perform at my highest level of excellence and always seek growth opportunities. Her advice was priceless!



HEATHER RIGGS | *YLD Newsletter Co-Editor*

Collaborate! I take a collaborative approach to everything I do—leadership, business and service. Keeping an open mind and welcoming many perspectives is a great way to get things done. Mentorship is its own form of collaboration, after all. Thanks to that advice, I’m constantly learning from others.



Due Justice.

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Do it for
a Lifetime.

“Pro bono service offers many benefits. Helping someone in need provides me with a sense of personal accomplishment. As a relatively young lawyer, it also forces me to step outside my comfort zone to hone new skills and gain new perspectives and knowledge. It makes me a better person—and a better lawyer. Pro bono service is a commitment I intend to keep throughout my career.”

— Jason Cooper, Esq., Volunteer,
State Bar of Georgia Access to Justice Initiative

tation involves a unique personal component depending on which attorneys are working on the matter and which clients are being served. . . . The truth is that the acts of individual attorneys can impact the reputation of the profession as a whole. It is why professionalism has become more than just a continuing legal education requirement.”²

The spirit of professionalism was recognized by former Chief Justice Hugh Thompson at the State Bar’s Midyear Meeting. Justice Thompson received the Distinguished Service Award from the State Bar for his career of service to both the profession and the public and epitomizing what it means to be a “professional.” In his remarks, Justice Thompson noted that “so many in the Georgia Bar believe in doing not only what is right for the Bar and the profession, but the people” too. This acknowledgement—that working in the legal field involves so much more than just going to work and serving a client—makes Justice Thompson an excellent example of professionalism.

I am always grateful to be a part of this profession, and our State Bar particularly, but the outpouring of support and daily demonstrations of service and professionalism I have experienced with the YLD Signature Service Project have been both inspiring and reaffirming.

Thanks to all of you for striving to exemplify what it means to be a professional through your commitment to pro bono service. I am looking forward to seeing this surge in momentum continue. ●

Endnotes

1. Merriam-Webster Dictionary “professional”.
2. J. Randolph Evans and Shari L. Klevens, Dentons US, “The Necessity of Professionalism,” *Daily Report*, Aug. 28, 2017.

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Ms. Taylor tried to work despite her disabilities, but her disorders and anxiety kept her from working enough hours or keeping a regular job to support herself. Ms. Taylor has physical and mental disabilities, including crippling obsessive compulsive disorder. She applied for food stamps and started receiving them, but her food stamps were terminated under the new rules requiring able-bodied adults to work or lose food stamps. A GLSP lawyer assisted Ms. Taylor with her appeal. At the hearing, the judge found that Ms. Taylor was exempt from the work requirement and ordered that she be issued back benefits.

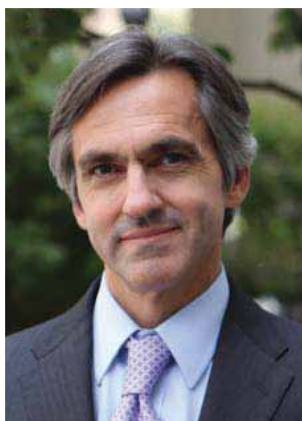


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JEFF DAVIS

Executive Director
State Bar of Georgia
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“What is it like to practice law?” asked attorney Harrison Barnes, founder and CEO of The Employment Research Institute, in a recent article for LawCrossing.com. “You would think that the practice of law would be like the law school environment, only better because this time you get paid. It is true that there will be similar work requirements expected of you in practicing law as were expected of you in law school, since extensive research assignments and long hours of drafting legal documents cannot be left behind at graduation. And yet, unlike law school, you are much more on your own to sink or swim.”

In other words, practicing law is hard. We all know that. In addition to the constant need to stay at the top of your game in order to maintain the expertise in your practice area and use it effectively to serve your clients, there is the daily grind of taking care of the administrative side of the business of practicing law. Both are essential components for swimming, rather than sinking, in the legal profession.

“A lot of the practice of law is learned by practicing law,” Barnes writes. “You learn slowly at first, taking hours or even days to prepare documents that later will take only a fraction of the time previously expended. With time, confidence replaces doubt and efficiency replaces fumbling.”

On the administrative side of a law practice, Barnes noted, “If you are extremely fortunate you will acquire, or be assigned, a legal secretary. A good legal secretary is invaluable when it comes to

the practical ins and outs of law practice; knowledgeable support staff can accelerate the learning curve in a dramatic fashion.”

For the many lawyers who are not among those “extremely fortunate” to have a legal secretary—especially for those in solo practices or small firms—the business side of practicing law can be as demanding, perhaps more so, than doing the legal work itself.

It should not be a surprise, then, that the Law Practice Management (LPM) program is one of the State Bar of Georgia’s most frequently utilized member services. LPM is designed to help all Georgia lawyers and their employees with every piece of the office management puzzle.

The LPM staff has the resources and training to give Bar members advice on technology, firm finances, organization or library materials. You should feel free to browse the online forms and articles collections, check out a book or video/CD from our library or learn more about our onsite management consultations and training sessions.

If you’re not sure where to start, contact Natalie Kelly, director, at 404-527-8770 or nataliek@gabar.org. Natalie has worked with the LPM program for 23 years. She and her staff are ready to assist with any and all practice management issues. The LPM program is constantly revamping its programs and adding resources to keep up with changes in the profession. Nothing, of course, has changed more over the past quarter-century than technology.

During the 2016-17 fiscal year, LPM served a total of 5,332 Bar members. That number is actually down from 6,572 in 2015-16 and 7,354 in 2014-15. The reason is that more and more LPM resources are now available online, reducing the necessity of direct member-to-staff interaction to some extent. A majority of member inquiries and requests for LPM assistance comes from solo practitioners and firms of fewer than 10 lawyers. These member contacts involve a wide range of practice management services, all of which are currently available to you.

Resource Library

LPM maintains a library of more than 1,500 books, videotapes, audiotapes and CD-ROMS on a variety of topics related to law office management and technology. These items can be checked out for a period of up to two weeks. Materials are shipped immediately upon receipt of a request; there is no fee except the requesting law firm is responsible for all postage costs. Members, their staff and law students may access the Law Practice Management resource library online through the Bar's website, or contact Kim Henry at 404-527-8772 or kimh@gabar.org or Pam Myers at 404-526-8621 or pamm@gabar.org for assistance.

Sample LPM Forms

You can download a wide variety of case management forms; client agreements, interview forms and surveys; file and work management forms; firm financial and employment agreements; and other management forms as PDF files from the Bar's website. Call the LPM office at 404-527-8772 if you have any questions about downloading these forms and requesting other practice management specific forms.

Solo & Small Firm Institute

Each year, LPM hosts an educational conference and technology showcase for solo and small firm practices. A total of 215 attendees took part in last year's institute and were enlightened on a variety of topics, including "Hot Practice Tips, Apps, Sites and Gadgets"; "How to Manage Your Email In-

box"; "Efficiency, Technology and Ethics—Practice Management, Document Assembly and Robots," and a presentation on Fastcase. The 2018 Solo & Small Firm Institute will be held Sept. 28-29 at the Bar Center.

Solo and Small Firm Resources

This resource is devoted to members who practice in solo and small firms and includes a discussion board where members can discuss daily issues and concerns of running solo and small firms, office start-up information and more. You must be a Bar member and logged in to access this resource.

Georgia Practice Advisor Blog

LPM Director Natalie Kelly and State Bar Assistant General Counsel Bill Cobb collaborate to provide Bar members with useful content on office management, ethics and technology advice. Check it out at www.gapracticeadvisor.com.

Law Office Start Up Resources

If you are planning to open a law office in Georgia, the Guide to Starting Your Georgia Law Practice is LPM's famous "Office Start Up Kit," and it answers almost all of the questions about opening a practice in Georgia. The guide includes thoughts on hanging out a shingle, entity selection, marketing, office automation, trust accounting, social media and more. Call Kim Henry at 404-527-8772 to get your copy, or to set up an office visit for additional business planning and advice on best practices for starting your practice.

Consultations

While LPM offers a telephone helpline, book and video/CD checkouts, and many sample forms and checklists, sometimes a law firm can benefit from an in-depth evaluation of existing procedures based on a personal visit by an LPM consultant. Onsite consultations are generally limited to one day (approximately eight hours) and are reasonably priced, based on the size of your firm. Contact LPM if you would like to schedule a consultation at your law office.

Software Library

It can be very difficult to purchase legal software without seeing in advance how the program operates. Because software is a big investment, LPM provides a legal software library at the Bar Center to help you with technology planning and purchasing decisions on software for case management, finances, online research, litigation support, specialty practice aids, utilities and more. A few programs are demonstration copies only, but most are full working copies provided by the vendors.

Fastcase

The LPM staff also provides assistance with Fastcase, our complimentary online legal research service for members. Contact Member Benefits Coordinator Sheila Baldwin at 404-526-8618 or sheilab@gabar.org for help with any Fastcase issue.

Member Benefits

Member Benefits, Inc., is the Bar's recommended broker for members' health, dental and vision plans. Contact Sheila Baldwin at 404-526-8618 or sheilab@gabar.org for help with any member benefits issue.

LPM Staff

When it comes to helping lawyers with their practice management needs, Natalie Kelly and her staff are all over the place—figuratively, by providing an all-encompassing range of services, and literally, traveling frequently for onsite consultations with law firms across the state, speaking engagements with local and specialty bars and the training sessions they conduct at the local, state and national level.

LPM Committee

The LPM program is ably overseen by the State Bar's Law Practice Management Committee, chaired by Kathleen M. Womack of Atlanta. We are all proud of the exceptional service that Natalie Kelly and her staff provide to our members. When you have a management question or issue in your law practice, please do not hesitate to call for assistance. ●





Self-Settled Asset Protection Trusts in Georgia

Self-settled asset protection trusts (SSAPTs) allow an individual to place assets in trust so the assets are both available to the individual and protected from the individual's creditors. This article addresses a number of issues involving SSAPTs in Georgia, including the anticipated effect SSAPT legislation would have on the amount of trust assets administered in Georgia.

BY T. KYLE KING AND BLAKE N. MELTON

Self-settled asset protection trusts (SSAPTs) allow an individual to place assets in trust so the assets are both available to the individual and protected from the individual's creditors. For example, a settlor who is worth \$10 million might transfer \$3 million to an SSAPT of which the settlor, along with his or her descendants, is a discretionary beneficiary. If the settlor encountered financial trouble, the settlor's creditors could not proceed against the trust assets; however, the trust could continue to make distributions to the settlor (or more likely pay bills and other expenses on behalf of the settlor). Stated colloquially, the settlor would have taken \$3 million "off the table."

The first express SSAPT statute was enacted in Alaska in 1997.¹ As of December 2016, 18 states have enacted such legislation, including other southern states like Mississippi, Tennessee and Virginia.² SSAPT leg-

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islation has been introduced annually in the Georgia General Assembly for several consecutive sessions.³

These events suggest that Georgia attorneys should develop an informed opinion on the merits of SSAPTs in Georgia. This article will summarize the competing arguments in an objective manner, neither supporting nor opposing the establishment of SSAPTs in Georgia, with the goal of facilitating informed debate. The only position taken will be that, of all possible outcomes, the worst would be for Georgia to adopt or reject SSAPTs on the basis of misinformation and misconceptions.

SSAPT Anti-Abuse Provisions

All SSAPT legislation contains anti-abuse provisions, simply because, without such provisions, SSAPTs would offend most individuals' sense of fairness. Two primary anti-abuse provisions (which also apply to spendthrift trusts, discussed *infra*) are the Uniform Voidable Transactions Act (UVTA) and legislation protecting what are known as "exception creditors."

UVTA applies to transfers to SSAPTs—as to all asset transfers—regardless of whether exception creditors are involved. While a full discussion of UVTA exceeds the scope of this article, UVTA voids transfers that are made with actual intent to hinder, delay, or defraud past or future creditors; that are made without receiving equivalent value and render the debtor insolvent; or that leave the debtor with unreasonably limited assets in relation to the transaction.⁴ At its most basic level, UVTA would prevent an individual from making a valid transfer to an SSAPT as the creditors were gathering at the proverbial courthouse steps.

Spendthrift trusts and SSAPTs are also subject to the claims of exception creditors, who may make effective claims against trust property, regardless of the propriety of the transfer to the trust. In Georgia, exception creditors for spendthrift trusts include those asserting claims against the beneficiary for alimony or child support, taxes or other governmental claims, judgments for torts, restitution from criminal convictions and for neces-

sities⁵—in other words, creditors who, on the basis of public policy, should not be thwarted by the existence of the trust. Georgia is an outlier in including tort and criminal restitution creditors as exception creditors, but is otherwise consistent with the majority of states.

If SSAPTs are introduced into Georgia law, careful consideration should be given to any disparities among exception creditors for spendthrift trusts and SSAPTs. Some previous SSAPT proposals in Georgia included fewer exception creditors than currently exist for spendthrift trusts, which would create an environment where a trust established by a parent for a child would enjoy less creditor protection than a trust established by that parent for the parent's own benefit. In order to avoid incongruous outcomes, the composition of the class of statutory exception creditors able to reach the assets of spendthrift trusts should be considered when defining the class of exception creditors capable of reaching SSAPT assets.⁶

Additional anti-abuse provisions, which generally are inapplicable to spendthrift trusts, include special statutes of limitation, requiring notice to creditors upon the creation or funding of an SSAPT and requiring an affidavit of solvency from the settlor prior to creating or funding an SSAPT. There is a great deal of variation among the states as to whether and to what extent such anti-abuse provisions are incorporated into their SSAPT statutes.

Assessments of these anti-abuse provisions vary widely. Proponents assert their adequacy, albeit often in a fairly abstract and theoretical fashion. For example, they note the robust and far-reaching nature of UVTA. Opponents most often counter more practically: even if the anti-abuse provisions are ultimately effective, there is a substantial difference between collecting a debt upon delivery of goods or completion of work and collecting that debt after protracted litigation, with all its attendant delays, expenses and uncertainties.

In other words, opponents believe that even if the creditor ultimately prevails in court, the creditor actually lost as soon as the SSAPT required litigation that otherwise would have been unnecessary. Opponents concede that plenty

of nefarious, creditor-avoiding conduct occurs currently without any encouragement from SSAPTs. However, they worry the existence of SSAPTs would cause such conduct to increase significantly.

Additionally, but less frequently, opponents will question the adequacy of UVTA on a technical level. Consider, for instance, an individual who transfers more than 90 percent of his or her assets to an SSAPT. Opponents worry that—while we all may know a fraudulent transfer when we see one—proving the transfer was fraudulent will generally still necessitate litigation, because the applicable legal standards are fact-intensive: the transfer was made with actual intent to hinder, delay or defraud; the remaining 10 percent of assets are unreasonably small in relation to the transaction; or the debtor reasonably should have believed he or she would incur debts beyond the debtor's ability to pay.⁷

Existing Law in Georgia

Under existing Georgia law, where the settlor is not a beneficiary of a trust, the inclusion of a few key phrases in the trust instrument will protect the assets held in trust from creditors. Such trusts are generally referred to as "spendthrift trusts," and virtually all modern trusts in Georgia are spendthrift trusts. For example, a spendthrift trust allows a parent to place assets in trust for the benefit of his or her child, thereby shielding those assets from the creditors of the beneficiary child. This "non-tax" benefit of trusts is widely touted by advisors and embraced by settlors, and is one of the motivating forces behind the recent nationwide trend toward trusts that last for a beneficiary's lifetime.

Additionally, many Georgia residents currently have SSAPTs administered in, and under the laws of, other states, such as Delaware or Tennessee.⁸ Regarding these SSAPTs, there are two fundamental issues: whether such arrangements are effective in the other jurisdiction, and, if so, whether Georgia courts will respect the legal precepts of the other jurisdiction.

Whether SSAPTs generally are especially effective remains an open question, because to date SSAPTs do not enjoy a

very good record in reported cases. Proponents deal with these failures by noting the reported cases generally involve egregious actions by the debtor, suggesting it is reasonable to expect these sorts of cases will appear before appellate courts, and cautioning against reading bad-fact cases uncritically as applying to more appropriately and responsibly structured SSAPTs. Advocates also note that the reported cases do not indicate how many claims have been settled at a lower amount because of the existence of an SSAPT.

Opponents agree it is unsurprising the reported cases are largely bad-fact cases, but believe this is because the vast majority of real-world SSAPT scenarios will involve debtor misconduct. Additionally, they worry an SSAPT will become a sort of inverse nuisance lawsuit, designed not necessarily to be effective, but rather to generate costs and delays that encourage settlement at a lower figure—despite there being no legitimate basis for a payment of fewer than 100 cents on the dollar.

The already uncertain efficacy of SSAPTs is thrown into considerable further doubt when the grantor is a Georgia resident, because Georgia courts will not enforce the laws of another state if those laws are against the strong public policy of Georgia.⁹ Given the overall creditor-friendliness of Georgia law and Georgia's recent adoption of UVTA,¹⁰ it is possible that a Georgia court would find an SSAPT presently inconsistent with the strong public policy of Georgia.¹¹ If SSAPT legislation were to be adopted in Georgia, any such enactment necessarily must address the applicability of UVTA.¹²

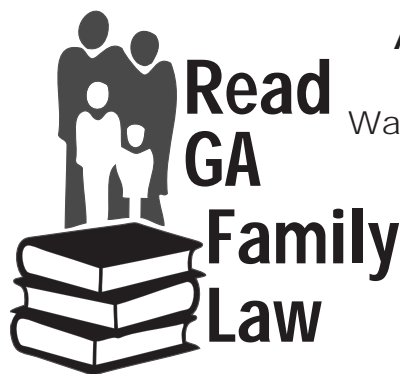
The risk to SSAPTs posed by Georgia's public policy is especially pronounced for real property. While such property can be placed into an entity and interests in that entity transferred to an out-of-state SSAPT, the real property remains in Georgia and subject to the jurisdiction of Georgia courts. With respect to Georgia dirt, the validity of an out-of-state SSAPT will be determined using Georgia law.¹³ Public policy considerations likewise have the potential to limit a settlor's

ability to draft around certain statutory default rules.¹⁴

With other types of property, such as publicly traded securities, it is much easier to place the property interest beyond the reach of Georgia courts. However, if the settlor is a Georgia resident, Georgia courts will continue to have in personam jurisdiction over the settlor, as well as any other assets owned by the settlor in Georgia. Beyond such fairly mundane remedies as garnishment of distributions from the SSAPT, it is possible that, in certain circumstances, a Georgia court could take more drastic measures—such as holding the settlor in contempt until the SSAPT assets were distributed to satisfy the creditors.¹⁵

Additional Arguments For and Against SSAPTs

Proponents often point to the progression of the law regarding spendthrift trusts, which were initially disfavored but gained widespread acceptance over time. Advocates analogize the current debate over



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SSAPTs to that over spendthrift trusts during their infancy, predicting SSAPTs eventually will achieve the acceptance currently enjoyed by spendthrift trusts.

This comparison to spendthrift trusts often is couched in the following manner: if a wealthy parent can establish a creditor-protected trust for a child, why shouldn't an accomplished adult be able to establish his or her own creditor-protected trust? In other words, why should creditor-protected trusts be reserved for those fortunate enough to have wealthy parents or grandparents?

Opponents distinguish between these scenarios based on responsibility for debt. Parents should be allowed to create creditor-protected trusts for their children because the assets belong to the parents, who generally are not legally responsible for their descendants' debts. Conversely, an individual is legally responsible for his or her own debts, and, therefore, should not be permitted to shield assets from his or her creditors while simultaneously retaining the beneficial enjoyment of those assets.

Proponents counter with the many instances in which an individual is able to achieve creditor protection while still benefiting from the protected assets, including entities (e.g., partnerships and LLCs), qualified plans (e.g., 401(k)s and IRAs) and life insurance.

Opponents differentiate these situations based on social utility: limited liability for entities encourages enterprise, qualified plans encourage individuals to save for retirement (and replace pensions, which would not have been subject to creditors), and life insurance is intended, in most instances, to replace income for a surviving spouse and children. Opponents believe SSAPTs lack a similarly direct connection to socially desirable activity.

Proponents also invoke the widely-accepted tenet of the freedom to contract. They argue, for example, that if a developer forms an SSAPT well prior to taking out a loan and makes full and adequate disclosures to the lender, the lender is a sophisticated party capable of protecting its own interests, and the law should not intrude upon this private contract.

Opponents—while occasionally conceding the point in that particular instance—consider such scenarios anything but typical, and contend it will be far more common for debtors to have engaged in some form of unethical behavior when forming an SSAPT. They likewise argue that the average creditor is not a sophisticated financial institution with a team of experienced professionals dedicated to analyzing risk, pointing to smaller and less sophisticated suppliers of goods and services as more representative creditors.

More pragmatically, proponents note Georgia trust companies have Delaware divisions to facilitate the formation of Delaware SSAPTs by Georgia residents, while Tennessee trust companies have business development officers traveling throughout Georgia touting the availability of Tennessee SSAPTs. For good or ill, SSAPTs already are a reality in Georgia. Rather than deny that fact, proponents believe Georgia should address SSAPTs legislatively. Opponents view this erosion of logistical barriers to the establishment of foreign SSAPTs as all the more reason to preserve the psychological barrier provided by present public policy, which has kept the number of Georgia SSAPTs lower than it would be if SSAPT legislation were enacted. Furthermore, SSAPTs may be addressed without being accepted; the General Assembly could proclaim that SSAPTs contravene strong public policy and are ineffective in Georgia.

Less frequently, proponents point out the potential utility of SSAPTs in estate planning transactions not primarily motivated by asset protection. For instance, wealthy individuals often consider making large lifetime gifts for the benefit of their descendants, because it is highly tax-advantageous to make transfers during life rather than at death (for reasons that are beyond the scope of this article).

Unsurprisingly, such wealthy individuals often fear a large gift would put them in jeopardy of running out of assets and for this reason are often ultimately unwilling to make the gift, even if conservative financial projections indicate the remaining assets would be sufficient. Under existing Georgia law, the obvious solution is unavailable: the wealthy indi-

vidual cannot make the gift via a trust and retain a right to receive distributions, because to do so would obviate the tax benefits the transfer is intended to achieve. Although the retention of the right to receive distributions from the trust can be approximated indirectly under current Georgia law, the available solutions often are unsatisfactory and always carry substantial risks. For example, including the spouse as a beneficiary of a trust is a common way of creating indirect access to the trust assets, yet is only effective so long as the spouse does not die first and there is not a divorce.

If, however, effective SSAPT legislation were enacted in Georgia, it would become possible to retain an interest in such a trust without sacrificing the tax benefits. In such situations, individuals might employ SSAPTs for reasons not related directly to asset protection. The primary purpose would not be to shield assets from creditors, but to capture tax benefits while also preserving access to the assets in the event of unforeseen adverse future events akin to the 2008 crash.

Opponents counter that—even assuming it is desirable to facilitate this sort of planning—the portion of the population who might use SSAPTs in this manner is exceedingly small, being comprised solely of individuals with net worth measured in the millions of dollars. Therefore, for those opposed to SSAPTs, the social utility generated by this off-label use of SSAPTs would not offset the potential for abuse. In addition, from a tax perspective the efficacy of the strategy depends on the SSAPT being effective against the grantor's creditors, which (as outlined, *supra*) is far from certain.

Proponents counter that Georgia has numerous trust laws primarily employed by the wealthy, merely by virtue of the fact that a significant number of the individuals who undertake the effort and expense of establishing and administering trusts have high net worth. Hence, the simple reality that a particular statutory provision will apply primarily to, or be utilized disproportionately by, individuals with substantial financial resources does not make that provision inherently undesirable—or even particularly exceptional.

When trusts are established in Georgia, jobs are created for those forming, managing and administering such trusts (including attorneys, accountants, corporate fiduciaries and money managers), generating salaries that will make their way into the state's economy. Moreover, taxes on the income from those assets directly feed government coffers.

Impact of SSAPT Legislation on Trust Assets in Georgia

The impact of SSAPT legislation on the amount of trust business in Georgia is another point of contention, which has been reserved until now because it requires both an understanding of many of the foregoing issues as well as a substantial separate explanation. What follows supposes, as a threshold proposition, that having trust assets managed in Georgia generally benefits the residents of the state as a form of economic development. When trusts are established in Georgia, jobs are created for those forming, managing and administering such trusts (including attorneys, accountants, corporate fiduciaries and money managers), generating salaries that will make their way into the state's economy. Moreover, taxes on the income from those assets directly feed government coffers.

Assuming these benefits exist to some meaningful degree, the central question is whether the enactment of SSAPT legislation comparable to that adopted in other jurisdictions would cause an appreciable number of individuals to form SSAPTs in Georgia, rather than in other states. Among the critical considerations to be weighed when selecting the jurisdiction in which to create a trust is the applicable income tax; Georgia has a 6 percent state income tax, while many present SSAPT-friendly jurisdictions impose no income tax on trust assets.¹⁶

Accordingly, there is substantial incentive for Georgia residents to form trusts of all kinds in other states when circumstances allow the out-of-state trust to escape our state's income tax.

Whether an out-of-state trust established by a Georgia resident is subject to taxation by Georgia depends upon a myriad of factors. Examples of instances in which out-of-state trusts would be subject to Georgia's income tax include trusts that hold an interest in a business operating in Georgia, regularly distribute all income to Georgia beneficiaries, or are grantor trusts (a specific type of trust where the income is taxable to the grantor/settlor).

For trusts generally, there will be a significant number of instances in which such circumstances do not exist, and out-of-state trusts established by Georgia residents will not be subject to taxation by Georgia. For SSAPTs, however, the instances where Georgia taxation can be avoided will likely be fewer, since most SSAPTs will be taxed to the settlor in the absence of such additional measures as making discretionary distributions to the settlor subject to the consent of a fellow beneficiary or other adverse party. For this reason, there may be fewer incentives to establish SSAPTs in other states than there are for other types of trusts.

Based on this distinction, proponents argue that there is valid reason to believe a Georgia SSAPT statute would do more for trust business within the state

than other salutary changes to Georgia's trust laws. Additionally, the fact that some Georgians may choose to establish trusts in other states for tax reasons does not justify forgoing improvements to Georgia law for those individuals who choose to remain. The general validity of this proposition is borne out by sustained efforts to improve Georgia trust law in recent years,¹⁷ none of which were denigrated by pointing out the existing incentives to establish trusts in other states.

Opponents agree Georgia should have a robust and well-drafted trust code, but argue Georgia should approach trust law fundamentally differently from many SSAPT states. In several such states, SSAPT statutes are part of an overt effort to attract trust business as a form of economic development. The competition among such states for trust assets is epitomized by widely available ranking charts for various areas of trust law, such as SSAPTs, dynasty trusts and decanting statutes.¹⁸

In states actively competing for trust assets, the linchpin of such efforts is almost always the elimination of any income tax on trust assets. Accordingly, as long as Georgia retains its 6 percent income tax, it will never be a jurisdiction that can validly approach trust law as a form of economic development. For this reason, opponents of SSAPTs argue Georgia should not blindly adopt

the trust laws of economic-development states. Rather, the laws of such states can be highly useful references, but only if evaluated in the context of the contrasting income-tax and trust-business climates separating those states from our own.

Put more practically, the cost/benefit analysis for SSAPT legislation in Georgia is different from that in the economic-development states. In such states, the positive side of the ledger includes not only benefits for residents seeking to establish in-state trusts, but also the general economic benefits derived from attracting trust assets to that state.

Conversely, a similar calculus in Georgia will not include the benefits of attracting trust assets to the state, but will merely reduce the amount of trust assets leaving Georgia. Opponents note, though, that the amount of those assets retained within the state will likely not be on a scale remotely comparable to that of the trust assets migrating into economic-development states. Additionally, opponents point out it is possible that an SSAPT statute in Georgia would, by making clear out-of-state SSAPTs would be respected in Georgia, actually encourage more residents to form out-of-state SSAPTs.

Common SSAPT Scenarios

Having surveyed various pros and cons, not only individually but also largely abstractly, let us now turn to a number of concrete scenarios for illustrative purposes, beginning with what is likely to be considered the most desirable (or at least acceptable) use of an SSAPT and proceeding to successively more questionable circumstances.

At the pinnacle of palatability are those individuals who have liability concerns stemming from what broadly could be classified as public service projects. An example would be an individual engaged in efforts to help connect disadvantaged children with the outdoors and promote physical health through mountain biking. Such an individual might fear that no combination of education, safety gear, precautionary procedures and waivers will

insulate him or her fully from liability. Whatever organizational structure supports the initiative, it is improbable that sufficient directors-and-officers liability insurance will be available at an affordable price, if at all. Accordingly, such an individual might consider placing a portion of his or her net worth into an SSAPT—such as the funds designated to pay for the education of his or her children.

The next rung below such philanthropic individuals is occupied by those who are engaged in for-profit activity (which is socially beneficial in an indirect way) and for whom exist nothing other than vague worries about future claims. The classic example is a medical professional who carries a commercially reasonable amount of malpractice coverage, but who wishes to secure additional protection by placing, for instance, \$3 million of his or her \$10 million net worth into an SSAPT.

A notch down from these circumstances are similarly situated persons whose creditor concerns are much more immediate and definite. Imagine a developer is preparing to undertake a large-scale construction project that will involve not only significant secured debt to financial institutions, but also substantial unsecured debt to far less sophisticated suppliers and subcontractors. On the one hand, the formation of an SSAPT by the developer does not seem especially egregious, provided an adequate amount of assets remain outside the SSAPT and the developer's actions do not appear to jeopardize the ability to pay his or her debts. On the other hand, the anticipated existence of more clearly identifiable near-term creditors likely erodes the equities favoring an SSAPT—even if only slightly—in comparison to the medical professional with only vague worries about malpractice lawsuits.

Appearing next in the hierarchy are those individuals with no specific reason to worry about creditors who want general, just-in-case protection. The protection they seek is not connected to any sort of affirmative, socially worthwhile activity—which generally means their fear is of tort creditors. In the upper segment of this tier are cases where the tort

creditor is the opportunistic parent of a child who fell off a modern, safe play set at the settlor's house; in the lower segment are instances where the tort creditor is a child who was injured when the settlor was driving while texting or intoxicated.

A notch above the bottom are individuals who use SSAPTs in place of prenuptial agreements. Such individuals reside here because the likely motivation to use an SSAPT—rather than a traditional prenuptial agreement—is to avoid discussing the issue with, and thereby disclosing the SSAPT to, the other spouse-to-be. The only reason these individuals are not at the very bottom is that, as a basic proposition, individuals must bear significant responsibility for their marital choices, so the duped spouse cannot be considered wholly innocent.

At the very bottom are the doctors who carry inadequate malpractice insurance and place the majority of their assets in an SSAPT, the contractors who knowingly retain far too few assets to satisfy the debts they intend to incur and other similar miscreants attempting to have their cake and eat it too. Discussion of these individuals is unlikely to prove enlightening, since very few people are apt to defend this sort of conduct.

The area of exception creditors likewise may benefit from some clarifying scenarios. Understandably, most individuals will have significantly greater sympathy for tort creditors than for contract creditors. A contract creditor, such as a financial institution or other for-profit entity, can choose with whom and upon what terms to do business, and thus may be deemed to bear a degree of responsibility if thwarted by an SSAPT. Injured plaintiffs, by contrast, cannot choose the tort defendants by whom they are harmed. Nevertheless, it should be noted that, if tort creditors are exception creditors, SSAPTs might not protect individuals seeking to better their communities in ways that might subject them to tort claims.

Finally, with regard to creditor complicity, it appears at first blush that contract creditors like lenders could largely avoid SSAPTs altogether through careful screening procedures and standard loan covenants providing that the creation

or funding of an SSAPT during the loan term constitutes an event of default. From opponents' point of view, however, the danger is that a handful of financial institutions will fail to hold the line—believing that taking a softer approach to SSAPTs will create a competitive advantage—and these breaks in formation will become more numerous until eventually SSAPTs are as common as spendthrift trusts.

Conclusion

Where interested parties stand on SSAPTs depends upon the value they place on valid uses versus the costs they assign to abuses—for everyone can rest assured there will be abuses. The certainty of abuse raises a couple of implicit, but important, points. First, assertions that SSAPTs will not be abused, at least to some degree, are either disingenuous or naïve. Second, the mere fact that individuals will attempt to abuse SSAPTs is not, standing alone, a sufficient ground upon which to oppose them, because the reality is that if Georgia only passed laws without the potential for abuse, Georgia attorneys could all walk around with the entire Georgia Code tucked comfortably underneath one arm.

A fair and honest appraisal of the virtues and vices of SSAPTs leads necessarily to the conclusions that proponents must admit that there will be attempted abuses, opponents must concede there are legitimate uses, and both must move beyond their initial predispositions to weigh the drawbacks of the probable abuses against the benefits of the worthwhile uses. Only after Georgia attorneys have done so will they have arrived at an informed and thoughtful opinion, and it is the authors' hope that this article will provide a starting point for a measured and reflective discussion about this issue of importance for Georgia. ●



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Endnotes

1. Alaska Stat. §§ 13.36.310 (2006), 34.40.110 (2013).
2. See ACTEC, Tenth Annual ACTEC Comparison of the Domestic Asset Protection Trust Statutes (David G. Shaftel, ed., 2016).
3. See, e.g., H.B. 441 (2017 Session).
4. O.C.G.A. § 18-2-70, *et seq.* (2015).
5. O.C.G.A. § 53-12-80(d) (2016).
6. See, e.g., Allison v. Domain, 158 Ga. App. 542, 544, 281 S.E.2d 299, 301

(1981) ("All statutes are presumed to be enacted by the legislature with full knowledge of the existing condition of the law and with reference to it. They are therefore to be construed in connection and in harmony with the existing law, and as a part of a general and uniform system of jurisprudence, and their meaning and effect is to be determined in connection, not only with the common law and the constitution, but also with reference to other statutes and the decisions of the courts.").

7. O.C.G.A. § 18-2-74 (2015).
8. This article will refer to specific states to make points more concretely, and will use Delaware because of its long-standing status as a leading trust jurisdiction and Tennessee because of its geographic proximity.
9. Commercial Credit Plan v. Parker, 152 Ga. App. 409, 414, 263 S.E.2d 220, 223-224 (1979).
10. Some commentators believe that the enactment of UVTA presents a substantial roadblock to enacting effective SSAPT legislation in Georgia.
11. See, e.g., In re Huber, 201 B.R. 685 (Bankr. W.D. Wash. May 17, 2013).
12. See, e.g., O.C.G.A. §§ 18-2-71(2), 18-2-71(3), 18-2-71(16), 18-2-74(a)(1), 18-2-75(a), 18-2-78, 18-2-82, 18-2-83, 53-12-3 (2015), 53-12-7(a)(2) (2011) and 53-12-22(a) (2010).
13. O.C.G.A. § 53-12-4(a) (2010).
14. See, e.g., O.C.G.A. §§ 53-12-7(a), 53-12-7(b) (2011).
15. Consider, for example, former options trader Stephen J. Lawrence, who was jailed for contempt for several years for failing to turn over assets held in an offshore trust.
16. Of the states that had SSAPT statutes as of December 2016, only three imposed an income tax on assets held in a trust administered within the state for the benefit of nonresidents: Mississippi (Miss. Code Ann. § 27-7-5(1) (2016)), Utah (Utah Code Ann. § 59-10-209.1 (2008)) and Virginia (Va. Code Ann. § 58.1-361 (1984)).
17. See, e.g., O.C.G.A. § 53-12-1, *et seq.* (2011).
18. This article certainly does not seek to opine on whether this is a valid approach for other states or on the appropriate criteria upon which to rank such states. The point is simply to convey a sense of the overall environment to the uninitiated.

Poppy Fields Remembered: Georgia Lawyers Visit Europe to Commemorate the 100th Anniversary of the Great War

In Flanders fields the poppies blow
Between the crosses, row on row . . .

BY NORMAN E. ZOLLER



Trekking wood-lined trenches and poppy fields in Belgium and France last October, lawyers from Georgia, their spouses and guests commemorated the 100th anniversary of America's entry into the first world war. It was a compelling and emotional experience.

During a joint meeting in the winter of 2015, members of the State Bar's Military/Veterans Law Section and the Military Legal Assistance Program Committee discussed the Bar's successful visit in 2014 to Normandy to observe the 70th anniversary of the D-Day landings. They wondered what might be done to further honor service members and veterans. After considering several destinations, section members ultimately decided to pay tribute to the soldiers and sailors who fought in World War I after America's declaration to enter that war on April 6, 1917, a century ago.¹

The respected Road Scholar tour management company of Boston, Mass., was selected to coordinate and guide the trip. The 10-day trip began with six days aboard the MS Victor Hugo, travelling the canals and small rivers in Belgium and

Poppy fields.

GETTYIMAGES.COM/NAILIASCHWARZ

northern France, followed by a two-day stay in Rheims and two days in Paris. The places principally visited were battle sites and cemeteries, as well as several commemorative events in those two nations.

Reflecting on the trip, Drew Early of Shewmaker and Shewmaker in Atlanta recalled, "After reviewing the World War I battlefields and cemeteries, you are first struck by the somber nature of these areas. Then, your mind has to begin the process of comprehending the magnitude of the deaths and injuries—literally inconceivable by contemporary standards."

Accompanying the Bar group were noted British World War I historian, Andrew Duff (lieutenant colonel, retired) and tour leader Dr. Nettah Yoeli-Rimmer from Brussels.

In Europe, there are five large American cemeteries: one at Normandy and four others elsewhere in France and Belgium. Several travelers in this group had visited the Normandy American Cemetery with the State Bar in 2014. During this recent trip, Bar members visited the other four major cemeteries, and at each they laid wreaths and held a brief service to honor the fallen.

Recalling what she had seen, Sylvia Eaves, of the law firm, Roach Caudill & Gunn in Canton, commented, "We visited so many battlefields—so many cemeteries—that silently spoke to the horrors, the pain, the bravery and the sacrifice of World War I soldiers and civilians. Yet, as we came out of the chapel of the Aisne-Marne American Cemetery and Memorial, having completed our last wreath-laying, I looked out over the perfect rows of crosses and Stars of David bathed in the late afternoon sun and felt a deep sense of gratitude."

In addition to the Aisne-Marne American Cemetery and the nearby Chateau-Thierry Monument, the other sites where the travelers commemorated the fallen were the Meuse-Argonne American Cemetery, the Somme American Cemetery and the Flanders Field American Cemetery.²

Melissa Varnedoe of Guyton, recalls, "Our guide suggested that when we were at a cemetery we should go to a soldier's grave and speak with him for a moment. I stood in front of several headstones and



PHOTO BY NORMAN E. ZOLLER

Lijssenthoek Cemetery, Poperinge, Belgium.

In Flanders Fields John McCrae (May 1915)

In Flanders fields the poppies blow
Between the crosses, row on row,
That mark our place; and in the sky
The larks, still bravely singing, fly
Scarce heard amid the guns below.

We are the Dead. Short days ago
We lived, felt dawn, saw sunset glow,
Loved and were loved, and now we lie,
In Flanders fields.

Take up our quarrel with the foe:
To you from failing hands we throw
The torch; be yours to hold it high.
If ye break faith with us who die
We shall not sleep, though poppies grow
In Flanders fields.

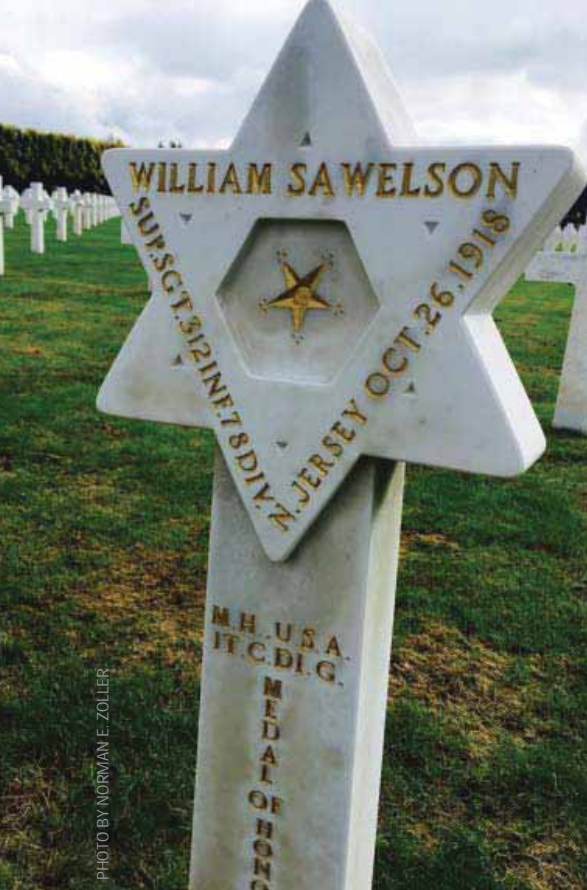


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Medal of Honor recipient, Meuse-Argonne Cemetery, Romagne, France.

(Left to right) Presentation of Appreciation Plaque to Andrew Duff by Drew Early.

spoke the name of the soldier and thanked him for laying down his life. Standing there I would imagine what their life was like based on their name, age and where they were from." By doing that, she said, "It made the unfathomable loss of millions of lives tangible to me and forever deepened my respect for what truly is the greatest cost of war."

For Early, himself a West Point graduate and a retired lieutenant colonel, one element rang particularly true for him at the U.S. military cemeteries.

"There and then, you are struck by what is quintessentially represented by our nation. You see the graves of young (and not-so-young) men and women, all of whom came to Europe in service and in their own effort to assist others.

"All creeds, races, states and territories are found on those gravestones, beginning as young as 14 years of age (of a young Hispanic soldier from New Mexico, a terrain and climate certainly different from where he fell). I had to pause at the gravesite of an Army nurse from Nebraska, now interred at the Meuse Argonne—so far from the open plains of farmland that she knew.

"And then to see the grave marker of a Medal of Honor winner (who fell just 16 days before the Armistice was signed

on Nov. 11, 1918) which is visibly distinguishable from other markers, bearing the Star of David to show his religion."

Then Early emphasized, "Yes, those sites represent a lot about what is different about our country. Even with our flaws, our turmoil, our own societal inadequacies, it's touching to see the contribution made by Americans to further freedom. And we didn't really seek anything in return—that's part of the marvelousness of the great experiment of our nation."

With a similar observation, Eaves concluded, "Yes, we had seen the tremendous losses, but we had also seen the beautiful rolling farm lands, the neat houses and gardens, and the prosperous cities and towns of Belgium and France—all free and at peace. The meaning of it all for me was simply stated on a Tennessean's tombstone: 'Gave his life for humanity.'"

"What struck me most viscerally was a cemetery for German war dead," observed Michael Hall, of Hall, Williamson & Hart in Albany. "A small plot of land perhaps the size of two building lots in an average American city. Here 30,000 dead German soldiers were buried in a common grave.

"In truth, the battlefields themselves did not at first affect me particularly. The earth has largely healed itself and it takes a bit

of imagination to realize that the uneven ground has had 100 years to erase the scars of war. What still shows is a pale semblance of what this ground must have looked like in 1918. The underground fortifications and caves were well lighted and relatively dry. Once again, it takes a bit of imagination to visualize what they must have been like by candlelight and sopping wet.

"At first I thought our guide was overdoing it by taking us to cemetery after cemetery. In retrospect, the good colonel (Duff) was making us understand the real meaning of a world war. It was a lesson well worth learning," Hall concluded.

World War I took a heavy toll on those who fought and on those civilians who lived where battles took place. The total number of military and civilian casualties was more than 41 million: more than 18 million deaths and 23 million wounded.³

The total number of deaths included about 11 million military personnel and about 7 million civilians. The Allies lost about 6 million military personnel, while the Axis Powers lost about 4 million. United States' deaths in battle totaled 116,000, and 63,000 from other causes.⁴

In one lecture he gave at the Argonne Forest near the Meuse River, Lt. Col. Duff recalled the story of Sgt. Alvin York of



Arras Memorial at Faubourg d'Amiens British Cemetery.



Medal of Honor recipient, Somme Cemetery, Bony, France.

Tennessee, a Medal of Honor recipient, who on Oct. 18, 1918, is credited with killing 25 enemy soldiers and single-handedly capturing 132 soldiers.

As York wrote in his diary:

[T]hose machine guns were spitting fire and cutting down the undergrowth all around me something awful. . . . I didn't have time to dodge behind a tree or dive into the brush, I didn't even have time to kneel or lie down. . . . As soon as the machine guns opened fire on me, I began to exchange shots with them. In order to sight me or to swing their machine guns on me, the Germans had to show their heads above the trench, and every time I saw a head I just touched it off. All the time I kept yelling at them to come down. I didn't want to kill any more than I had to. But it was they or I. And I was giving them the best I had.⁵

En route to Paris, the travelers also had time to visit museums, monuments and notable destinations, including the historic Rheims Cathedral and the Mercier storage caves in the champagne region of France. Once in Paris, favorite destinations

included the Eiffel Tower, the Louvre, Napoleon's Tomb and Musée d'Orsay.

As part of this visit, Continuing Legal Education (CLE) programs were conducted, with three hours aboard ship and three hours in Paris. The instructors included Early and Norman E. Zoller, director, MLAP; and three Georgia-admitted lawyers living in France and Switzerland: Bill Glover from Lavardin, France; Barton Legum from Paris; and Jonathan Truelove from Geneva.

CLE topics included: A Primer of the French Legal System, The European Continental and Civil Law Structure, International Arbitration, Update on VA Law, and Reflections about the History and Ethical Legacies of The Great War. Another Paris-based attorney, Yves Claisse, together with Truelove, spoke about recent changes in terrorism laws, especially in France, and their application.

For many reasons and on many levels, it was a remarkable voyage, and all our travelers returned home safely. ●



Norman E. Zoller has devoted the majority of his legal career to public service. Previously, he

managed the Hamilton County, Ohio, courts for nearly a decade. He served as the first clerk of court for the U.S. Court of Appeals for the 11th Circuit from 1981 to 1983, when he was named circuit executive, a post he held until his retirement in 2008. An Army veteran, Zoller served almost seven years on active duty as a field artillery officer, including two tours of duty in Vietnam, first with Special Forces in 1964-65 and then with the 82nd Airborne Division in 1968-69. He also served 15 years in the National Guard and Army Reserves as a judge advocate officer. He has coordinated the State Bar's Military Legal Assistance Program since its inception in 2009.

Endnotes

1. S.J. Res., Joint Resolution, 65th Congress, 1st Sess. April 6, 1917.
2. In Flanders Fields, John McCrae (1915)
3. "Military Casualties – World War I – Estimated," Statistics Branch, GS War Department (1924).
4. *Id.*
5. Sergeant Alvin York Foundation, Sergeant Alvin C. York's Diary, Oct. 8, 1918.

The State Bar of Georgia Diversity Program Celebrates 25 Years

Marian Cover Dockery reviews the historical work of the Georgia Diversity Program, provides an update of the 2017 Fall CLE and Luncheon and says farewell in her final article as the executive director of the program.

BY MARIAN COVER DOCKERY



Few programs have survived and thrived for a quarter of a century where the financing was meager and those instrumental in running the program were working purely on a volunteer basis. But the State Bar of Georgia Diversity Program (GDP), a creation of Hon. Marvin Arrington and Charles Lester Jr., had a vision that became a reality that has survived and thrived through the commitment of law firms, corporations and attorneys working for those entities. Through the hard work and commitment of GDP Committee members, the financial support of the sponsors and the support of the State Bar of Georgia, the vision of Arrington and Lester may thrive another quarter of a century. Diversity is not a popular topic, but when law firms and law offices realized the positive financial impact of diversifying their staffs and outside counsel to their bottom lines, the message that diversity is essential to their long-term success became more meaningful.

The GDP's mission is to not only educate the members of the State Bar of Georgia of strategies to diversify their legal staffs and outside counsel, but to provide access to professional opportunities to diverse attorneys of the State Bar through its annual business development symposiums. The GDP has also fueled the pipeline to help recruit the next generation of lawyers through its High School Pipeline Program. We are proud to report that a good number of participating students have become lawyers. Students weren't the only ones positively affected by the program, as many of its volunteers

Anna-Lisa Corrales, general counsel and secretary of Jaguar Land Rover North America, LLC, delivers the keynote address.

PHOTO BY DON MORGAN, DON MORGAN PHOTOGRAPHY & VIDEO

and instructors also attended law school and are practicing law.

GDP keeps the diversity conversation on the front burner through its annual CLE programs and luncheons. With input from diversity strategists and experts, local general counsels, law firm partners, members of the judiciary and federal government entities, we are able to present solutions to fulfilling diversity goals. Keynote speakers from corporations and the private sector address these issues and discuss how diversity is achieved in their workplaces.

Fall CLE and Luncheon

The 2017 Fall CLE and Luncheon, held in September, is traditionally preceded by a welcome reception hosted by the GDP. This year's reception was hosted by Troutman Sanders and featured Fulton County Superior Court Judge Kimberly M. Esmond Adams as the guest speaker.

The morning session of the Fall CLE began with Melanie Miller, senior diversity and inclusion strategist from Atlanta. Following her presentation, breakout groups led by Rick Goerss, ret. chief privacy officer, Equifax; Martine Cumberland, partner, Swift, Currie, McGhee & Hiers; Mike Patel, associate, Jones Day; and Jennifer Bassett, associate, Arnall Golden Gregory, explored differing topics Miller assigned, reporting their findings back to the entire audience.

The afternoon opened with "A Conversation with Glenda Hatchett," featuring an interview between Hatchett, founder of The Hatchett Firm and current star of her new television court series "The Verdict with Judge Hatchett," and Valerie Jackson, former first lady of Atlanta and host of WABE's "Valerie Jackson in Conversation." Jackson and the former chief judge of the Fulton



PHOTO BY DON MORGAN, DON MORGAN PHOTOGRAPHY & VIDEO

(Left to right) Judge Glenda Hatchett and Valerie Jackson, former first lady of Atlanta and public radio show host, share a light moment during "A Conversation with Glenda Hatchett."

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(Left to right) Jeff Davis, executive director, State Bar of Georgia; Brain D. "Buck" Rogers, president, State Bar of Georgia; Sharon Bryant, COO, State Bar of Georgia; and Clyde E. Mize Jr., chair, Georgia Diversity Program, partner, Morris, Manning & Martin, LLP.



Marian Cover Dockery and son Todd at the Georgia Diversity Program luncheon.

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County Juvenile Court, author and two-time Emmy nominee covered a number of topics, including the judge's career trajectory and her firm's recent high-profile cases.

State Bar President Brian D. "Buck" Rogers provided the luncheon welcome before Anna-Lisa Corrales, general counsel and secretary, Jaguar Land-Rover North America, LLC, gave the keynote address.

The program concluded with a tribute video honoring outgoing Executive Director Marian Cover Dockery. Compiled by Clyde Mize Jr., chair; Kathleen O. Currey, vice chair; and Charles Huddleston, past chair; long-time GDP members Rick Goerss, Jim Johnson and Harold E. Franklin Jr.; Philippa Ellis, co-chair, The Leadership Institute for Women of Color Attorneys (LIWOCA); and Hon. Kimberly Esmond Adams, the video applauded Dockery's 14 years as executive director and her contributions as LIWOCA founder and chair.

Farewell

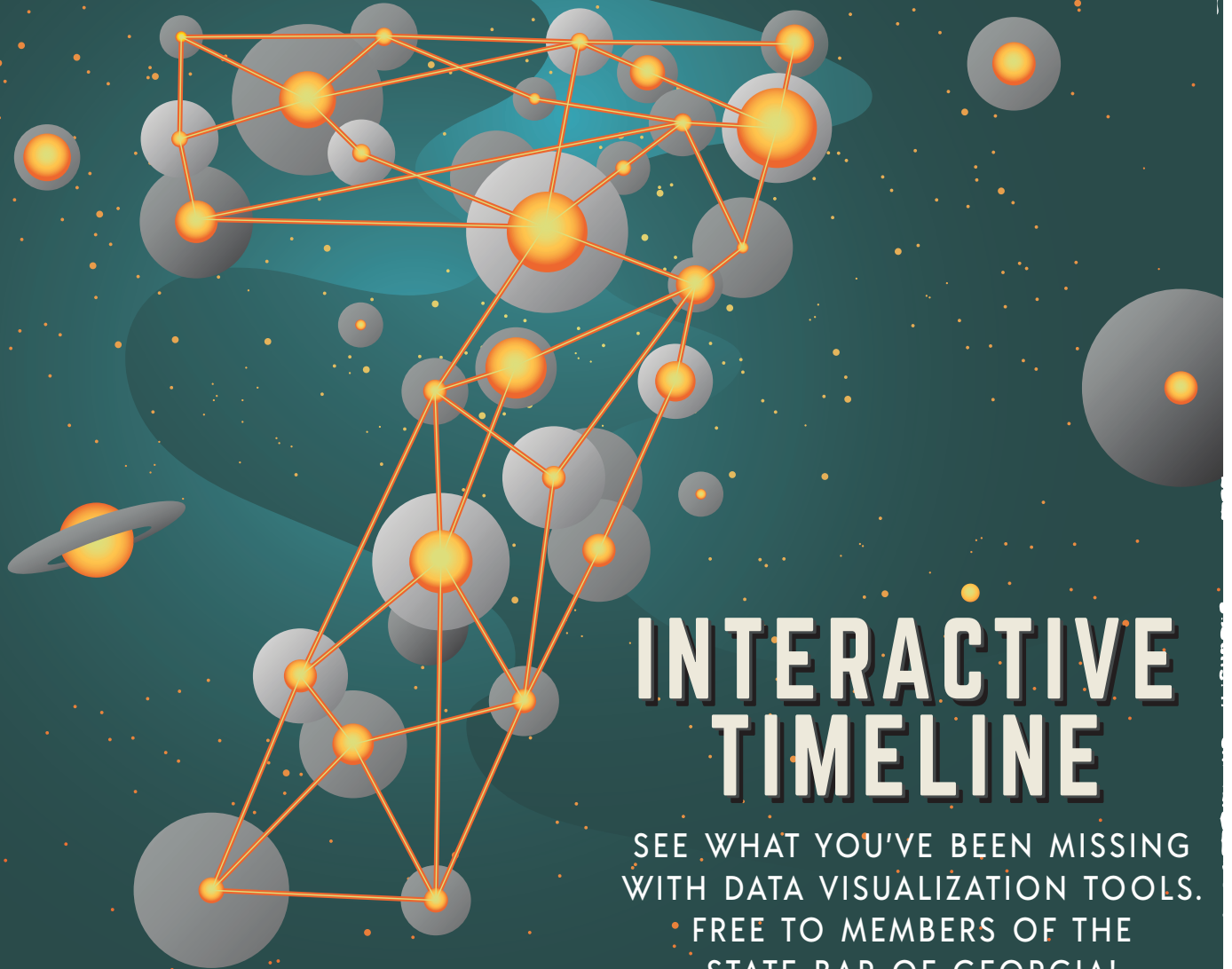
After 14 years, I have passed the diversity baton to Rebecca Christian Smith, who assumed responsibility as the new executive director Jan. 1. There have been many supporters of the GDP and with-

out their support, our continued success would not have been possible. I wish to thank State Bar Chief Operating Officer Sharon Bryant and her team at the State Bar for their administrative support that ensured the success of our annual CLEs and the publication of our communications regarding GDP events. Special thanks to our executive sponsor, Constangy, Brooks & Smith and managing attorney Neil Wasser; GDP officers Mize, Currey and Huddleston, whose enthusiasm and steady support have made my job more enjoyable and fun; and all GDP committee members who have over the years continued to provide their support of GDP's goals and ideas for our diversity initiatives. I especially wish to thank all of the GDP sponsors, law firms and corporations whose financial contributions enabled this organization to fulfill its goals. As I move on to Washington, D.C., to pursue other career goals and personal aspirations, I wish Rebecca Christian Smith the best of luck and success in her new role. A fond farewell to everyone! ●



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The Banks County Courthouse at Homer: The Grand Old Courthouses of Georgia

BY WILBER W. CALDWELL

In 1858, Banks County was created from Franklin and Habersham Counties. At that time, the initial survey for The Georgia Air Line, Atlanta's grand scheme for a railroad across the Piedmont via Charlotte to Richmond, sketched a line parallel the Chattahoochee River to Gainesville and then to Anderson, S.C., via Carnesville and Hartwell, passing through or near the present site of the Banks County seat at Homer. Surely this was a factor in locating the new county's seat of justice.



PHOTO BY WILBER W. CALDWELL

The Banks County Courthouse at Homer, built in 1859.

The town of Homer was laid out in 1859. In that same year, county officials published the specifications for this courthouse, which is today one of the best standing examples of the brick vernacular courthouse form in Georgia. A thoroughly detailed description of the proposed building, the document includes remarkably complete specifications regarding dimensions, materials and design. These specifications provide insight into the development of vernacular public architecture in America.

Most scholars correctly ascribe the progress of vernacular forms to an evolution in the designs of local builders who fashioned their buildings using time-honored techniques and traditional designs, often influenced by early pattern books and builder's guides. These designs are most often viewed as the products of a surprisingly consistent architectural stew which was stirred by hometown carpenters and masons in a stock pot filled with local materials, undisciplined ideas and other random stylistic ingredients. Accurate as this image may be, the 1859 specifications for this courthouse at Homer represented another force in the American vernacular. The document is typical of written specifications found in many other places in Georgia in the age before professional architects began to spin their web of fantasy and symbolism in the South. Although local builders, using their familiar "design as you go" methods were influential, the true essence of public buildings was often on paper in the form of this type of specification well before the builders began. In short, these specifications constitute a plan as detailed as a professional architectural drawing of the era might have provided. For example, the 1859 Banks County Courthouse specifications don't simply call for columns supporting a portico, they specify four columns supported by "pedestals two and one-half feet square," and they go on to define the spacing as well as detail the precise taper of the columns. In this case, the vernacular was not only a product of the experience, taste and whim of an

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individual builder, it represented the collective will of the people, or at least of the early officials, of the new county. They had a vision of what a courthouse should look like, and they committed that vision to paper in much the same way an architect would have done.

This courthouse, built in part with slave labor, would serve for well more than 100 years. It stands today in the still tiny hamlet to remind us of what happened in places bypassed by rail. Sadly for Homer, Atlanta's original plans for The Georgia Air Line stalled in the late 1850s, only to re-emerge after the war as The Atlanta and Richmond Air Line. In 1870, the route was re-surveyed and, like The Northeastern Railroad a few years later, the new line would only skirt the edge of Banks County, and no rails would come near Homer. North of Gainesville, The Atlanta and Richmond Air Line ran the high ground just to the east of the Chattahoochee River passing through the sparsely populated foot hills on its way to the South Carolina border, and creating towns at the future junctions of Lula, Cornelia and Toccoa. The

entire population of Banks County was less than 5,000 when The Air Line was completed to Charlotte. Although we have no record of the exact population of Homer at that time, six years later Sholes' 1879 *Gazetteer of Georgia* approximated the town's size at about 175 persons and related that mail arrived "tri-weekly by horseback." By 1900, the county had doubled in size and was producing a little cotton and a lot of corn, but Homer was still a town of only 221. ●

Excerpted by **Wilber W. Caldwell**, "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, three 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.



A Conversation with BJay Pak

In this installment of the Georgia Lawyer Spotlight, Editorial Board Member Jacob E. Daly interviews BJay Pak, the newly appointed U.S. Attorney for the Northern District of Georgia.

BY JACOB E. DALY

For those who don't know you, give us a brief outline of who you are and how you got to where you are today.

I was born in Seoul, South Korea, but moved to the United States at age 9. I grew up in the Orlando, Fla., area predominately. While I was in law school, my family moved to metro-Atlanta, so that's how I ended up in Georgia. I summered at Alston & Bird in 1997, and after my clerkship I joined the firm. After 9/11, I decided to devote myself to public service and was lucky enough to join the U.S. Attorney's Office as an assistant U.S. attorney (AUSA). After about six years of prosecuting cases, I moved back to the private sector as a partner at two national law firms. About two and a half

years ago, I joined a couple of friends of mine to form a litigation boutique named Chalmers Pak Burch & Adams LLC. After the presidential election, I applied for my current post. I was nominated by President Trump on July 27, 2017, and I was confirmed by the Senate on Sept. 28, 2017. I started this job on Oct. 10, 2017.

Why did you want this job?

Being the U.S. attorney is one of the best jobs you can have as a trial lawyer and as a prosecutor. There is great pleasure in wearing the white hat, and the Department of Justice is the most powerful law firm in the United States. Having served as an AUSA, I personally know the top quality work that we do at the Depart-

ment of Justice and that this position allows you to have a great impact on the community, and advocate for the crime victims. Seeking justice is a mission and also a goal for me personally, and it's a great way to serve the public.

With respect to the criminal division, what are your short-term and long-term priorities?

The president has outlined a couple of priorities with respect to the Department of Justice through executive orders. First, he wants us to "back the blue," meaning that we should stand together with our law enforcement partners and support them. Coming from a family of law enforcement personnel, that comes natural to me. The second is to fight transnation-

al criminal organizations, such as MS-13. In our district, we decimated MS-13's activity about 10 years ago through aggressive prosecutions of its members. That doesn't mean that we don't have other gang issues and transnational criminal organizations operating in the district. We have them, and we are focusing on eliminating them and bringing them to justice. The third is to reduce violent crimes. Moreover, the president has declared an emergency with respect to the opioid crisis. The U.S. attorneys actually have a tremendous amount of discretion as to what areas we want to enforce. Of course, fighting violent crime has been the No. 1 priority of the attorney general, so it's also the No. 1 priority of our office as well. We are law enforcement, and we are supposed to protect the public from harm, so we investigate and prosecute violent crimes; not just drug trafficking, or armed robberies and bank robberies, but also child porn cases, child enticement cases, sex exploitation and human trafficking cases. For me, personally, I focus a lot on corporate and health care fraud. I think that protecting the taxpayers' money is very important. The previous administration shifted some resources from prosecutions to prevention and smart on crime initiatives, so I'm looking to re-shift some of those resources back to enforcing the laws that we have and to targeting and investigating those committing large complex fraud.

What kinds of challenges do you see in tackling these priorities that you've outlined?

With respect to violent crime, I think our relationship with state and local officials is key because, as the attorney general says, 80 percent of law enforcement is state and local, not federal. So we can't fulfill our mission without the cooperation of our state and local partners. The challenge, of course, is to make sure that we maintain and build or improve upon the relationship that we've had. Unfortunately, in recent years, I think our office had a little

bit of a strained relationship with some of the state and local partners. I think the opinion of those individuals and agencies is that we focused our resources solely on the Atlanta area, and so one of my missions is to "expand the district," meaning that I'm going to devote resources and build relationships with the communities in all corners of our district by devoting resources to our division offices.

What is your office doing on the civil side?

On the civil side, we have kind of four main areas that we handle for the United States. The first is what you would traditionally view as defensive litigation—we represent all the federal agencies when claims are made against them. The second is financial litigation, or debt collection, on behalf of the United States. The third is civil rights enforcement, such as violations and investigations related to religious liberty violations, public accommodation laws, and police brutality and excessive force cases. Last is the civil affirmative side, which involves the federal government suing entities and individuals who cheat the government through the submission of fraudulent claims or other misrepresentations made to it for payment.

Describe the relationship between your office and the Department of Justice.

There is a lot of confusion about the relationship between the U.S. Attorney's Offices and the Department of Justice. Generally speaking, although we are a component of the Department of Justice, we are not managed by the Department of Justice. We coordinate policy and prosecutorial prerogatives and priorities with the Department of Justice, but we are autonomous and the U.S. attorney technically can only be fired by the president. Practically speaking, however, we work with the attorney general and at the direction of the attorney general and the deputy attorney general in executing the president's enforcement priorities.

When President Trump nominated you, he said that you share his vision for "making America safe again." What does this mean to you?

The previous administration's priorities were focused more on "smart on crime" initiatives and community outreach activities, and less on enforcement. Whenever and wherever there is a decline in enforcement and oversight, you generally see an increase in crime, so fighting that is very important to us. For example, drug trafficking and use has been going up. That lack of enforcement and oversight, combined with a liberalization of people's attitudes toward drugs has spurred a new threat to our society in terms of opioids and synthetic opioid usage. So we are focusing on enforcement against organizations that traffic in these dangerous synthetic opioids and other drugs.

Having gone through the senatorial confirmation process, give us a behind the scenes look at what that process is like and what your experience was.

After the nomination, the first thing you have to do is fill out a Senate Judiciary Questionnaire, which is pretty extensive. You have to provide, not just the dates and the locations, but also a copy of every law-related speech, quote and interview that you've ever given. Since I used to be an elected official and a practicing lawyer, this was a lengthy process for me because I used to give interviews and various speeches all the time related to the law. Since no one plans for a future Senate confirmation (at least I did not), collecting that information was very time-consuming. On top of that, they conduct a thorough background check; not just searching through the publicly available databases and social media, but they do a really deep dive. The FBI had asked for approximately 40 references, but I know they interviewed more than 200 people during my background investigation. I hope that doesn't discourage good folks from offering themselves up

“I would consider myself a success if I recruit smart, hard-working people with good judgment to carry on the mission of the office. I would also like to be remembered as someone who worked hard to uphold his oath of office: To defend the laws and the Constitution of the United States.”

for public service, because we need good smart folks to go into government. Our government is only as good as the people who are in it.

I know you consider the FBI to be your client in prosecutions, so do Washington politics adversely affect your relationship with the local FBI office?

Despite what is being reported in the mainstream media, our relationship with the Department of Justice and the FBI is fabulous. There's really no disagreement about our priorities and respective missions. Everybody is very focused on enforcing the law and making sure that we are protecting the public. Director Chris Wray, who happens to be a State Bar of Georgia member, was an AUSA in our office before he served as the assistant attorney general of the Criminal Division during President George W. Bush's administration. So our office has a somewhat closer relationship with the leadership of the FBI. To be effective, it's very important that AUSAs deal with the law enforcement agencies with respect. I sometimes warn young AUSAs that just because you have a law degree doesn't mean that you know more about the Fourth Amendment than a 20-year FBI agent. I always respect the agent's input at every stage of the case—even during jury

selection and trial—because they are professional witnesses and are trained to pay attention to details. In almost all respects, our office has enjoyed a very good relationship with the FBI, both nationally and locally, and I foresee that relationship continuing.

What is your view of the proper exercise and limits of prosecutorial discretion?

For me, there are a couple guiding questions when it comes to prosecutions. One, do the facts justify it? Two, are we within the language of the law; in other words, are we stretching the law to fit the facts? We must let the facts applied to the language of the law drive us to the logical conclusion. Moreover, we should ask in every decision in a case, are we are doing justice? Supreme Court of Georgia Justice David Nahmias gave a speech when he was the U.S. attorney here that influenced how I view prosecutions. He said that we are called the Department of *Justice*, not the Department of *Conviction* or *Prosecutions*. We should be making decisions based on seeking justice, and not merely seeking a conviction. Moreover, we have to be mindful of the fact that we could dramatically change someone's life and their family's lives by merely putting their name on a piece of paper and accusing them of a crime. That is power,

so we have to carefully weigh every decision we make.

Do you think it's appropriate not to enforce a certain law in all circumstances as opposed to on a case-by-case basis?

No. It should be a rare occasion when we decide not to enforce the law that was passed by Congress.

When your time here is done, how will you define whether your tenure was successful?

I would consider myself a success if I recruit smart, hard-working people with good judgment to carry on the mission of the office. I would also like to be remembered as someone who worked hard to uphold his oath of office: To defend the laws and the Constitution of the United States. ●



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

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



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KUDOS



Butler Wooten & Peak LLP announced that Brandon L. Peak, partner, was appointed to Mercer University's Walter F. George School of Law Board of Visitors. The Board serves as an advisory group to Mercer Law Dean Cathy Cox.



Austin Hatcher Foundation for Pediatric Cancer announced attorney Dale Hetzler was named the foundation's executive director. Hetzler has served on the Austin Hatcher Foundation's Board of Directors since 2013. Previously, he was senior vice president and chief legal officer for Erlanger Health System in Chattanooga.



Thompson, Meier & King, PC, announced that attorney Patricia A. King was honored at the Georgia Conference on Children & Families (GCCF) as the Georgia Juvenile Court Attorney of the Year. GCCF is the largest annual interdisciplinary event in Georgia designed to bring together communities across the state serving children and families.



Jana J. Edmondson-Cooper, a bilingual prosecutor with the U.S. Department of Labor and current member of the State Bar of Georgia Young Lawyers Division Board of Directors, was the recipient of the American Bar Association's (ABA) 2017 Wm. Reece Smith Jr. National Outstanding Young Lawyer Award (NOYLA). The Wm. Reece Smith Jr. NOYLA recognizes an ABA young lawyer in good standing who exhibits: professional excellence; service to the profession and the bar; service to the community; and/or a reputation for the advancement of legal ethics and professional responsibility.



Kilpatrick Townsend & Stockton LLP announced that Rupert Barkoff was recognized by the Franchise Council of Australia (FCA) with its Outstanding Contribution to Franchising Award. The FCA is the peak body for the \$146 billion franchise sector in Australia, representing franchisees, franchisors and service providers to the sector. It was formed in 1983 as a not-for-profit trade association, with the following objectives: to establish standards of international best practice in business format franchising for Australian franchise systems; to provide information and education about franchising to existing and potential franchisees and franchisors; and to educate state and federal governments on issues relevant to the sector.



Jason Fowler, a partner in the Washington, D.C., office of Covington & Burling LLP, has co-authored a book titled "Demonstratives: Definitive Treatise on Visual Persuasion." The book provides the thought behind persuasive and effective demonstratives, practical and best uses of demonstratives throughout a case, and a visual encyclopedia of terms and examples. "Demonstratives" was published by the American Bar Association in November and co-authored with Dan Bender and Pierre Kressmann from Digital Evidence Group.



Moore & Reese, LLC, announced that partner Mindy Waitsman was elected president of the Community Associations Institute (CAI)—Georgia Chapter, Board of Directors for 2018. The Georgia Chapter of CAI is dedicated to enhancing the quality of community association living, through education, legislative advocacy and professional development.



Scroggin and Company, P.C., announced that partner John J. Scroggin was inducted into the National Association of Estate Planners & Councils Estate Planning (NAEPC) Hall of Fame, becoming the 105th inductee. The NAEPC promotes excellence in estate planning by serving estate planning councils and their credentialed members, delivering exceptional resources and unsurpassed education and recognizing those members within who hold the Accredited Estate Planner® designation and Estate Planning Law Specialist certification.



NowackHoward, LLC, announced that Julie McGhee Howard was elected president of the Community Associations Institute's (CAI) College of Community Association Lawyers (CCAL). Established in 1993 by the CAI Board of Trustees, CCAL provides a forum for the exchange of information among experienced legal professionals working in the community association field. Its goals include promoting high standards of professional and ethical responsibility, improving and advancing community association law practice and facilitating the development of educational materials and programming pertaining to legal issues.



The Office of the Fulton County Solicitor General announced that Kenya Johnson, chief deputy solicitor general, was elected as the southeast regional director for the National Black Prosecutors Association. In this capacity, Johnson is charged with overseeing five states with program development and membership enhancement.



Long & Holder, LLP, announced that Tom Holder was elected president-elect of the Workers' Injury Law & Advocacy Group® (WILG). WILG is the national nonprofit membership organization dedicated to representing the interests of millions of workers and their families who, each year, suffer the consequences of workplace injuries and illnesses. The group acts principally to assist attorneys and nonprofit groups in advocating the rights of injured workers through education, communication, research and information gathering.



Jill U. Edmondson, manager, corporate compliance and ethics at The Home Depot, was named to the Alumni Association Board of Directors for the Walter F. George School of Law at Mercer University for a three-year term. Mercer has more than 77,000 alumni who live throughout the United States and in more than 70 countries around the world.



Georgia State University announced that Interim Dean Wendy Fritzen Hensel was named dean of the College of Law. In addition to her teaching and research duties, she was associate dean for research and faculty development from spring 2012 through summer 2017. Prior to her academic career, she was an associate at Alston & Bird LLP, clerked for Hon. Orinda Evans in the U.S. District Court for the Northern District of Georgia and worked as an intern with the administrative unit at the U.S. Supreme Court.

On the Move

IN ATLANTA



Miller & Martin PLLC added Shelby Grubbs as a managing member. Grubbs will lead the firm's international commercial dispute resolution practice. His practice focuses in the area of civil litigation and dispute resolution. Grubbs most recently served as executive director of the Atlanta Center for International Arbitration and Mediation at Georgia State University College of Law. The firm is located at Regions Plaza, Suite 2100, 1180 W. Peachtree St. NW, Atlanta, GA 30309; 404-962-6100; Fax 404-962-6300; www.millermartin.com.



CLAY



J. CIANFLONE



S. CIANFLONE



EASLEY



MATTLER



MORELLI



VUCHINICH



WILKINSON

Hall Booth Smith, P.C., announced the addition of former state Sen. Charles C. "Chuck" Clay as of counsel, and Joseph M. Cianflone, Sandra M. Cianflone, J. D. Easley, Caitlin D. Mattler, D. Reid Morelli, Jason Vuchinich and Kathleen Wilkinson as associates. Clay focuses on civil litigation and class action defense, and has a strong government relations and lobbying practice for local, state and national issues. J. Cianflone focuses his practice on general liability, products liability, professional negligence/medical malpractice, insurance coverage and appellate practice. S. Cianflone focuses her practice on medical malpractice defending hospitals, physicians, nurses and institutional employees in catastrophic/complex medical injury cases. Easley focuses his practice on medical malpractice, professional negligence, general liability and aging services defense. Mattler focuses her practice

on transportation, general liability, product liability, medical device litigation and insurance coverage cases. Morelli focuses his practice on general liability, general litigation, insurance coverage, intellectual property and entertainment. Vuchinich focuses his practice on construction, general liability, insurance coverage, products liability and transportation matters. Wilkinson focuses on general liability, government affairs, professional negligence, medical malpractice, retail and hospitality, and workers' compensation practice. The firm is located at 191 Peachtree St. NE, Suite 2900, Atlanta, GA 30303; 404-954-5000; Fax 404-954-5020; www.hallboothsmith.com.



Cohen & Caproni, LLC, announced that Morgan R. Luddeke joined the firm as partner. Luddeke's practice focuses on estate planning, estate administration, tax matters, corporate and business transactions, including mergers and acquisitions, and long-term business succession planning.

The firm is located at 750 Hammond Drive, Building 7, Suite 200, Atlanta, GA 30328; 404-252-8080; Fax 404-252-9324; www.cohenandcaproni.com.



CLARK



MYERS

Eversheds Sutherland (US) LLP announced the election of Brenna M. Clark, Trent Myers, Stacy D. Fredrich and Cindy A. Upchurch as partners. Clark focuses her practice on a range of employee benefits and compensation matters. Myers counsels lenders, developers, investors and businesses on a variety of commercial real estate transactions. Fredrich counsels clients on a wide variety of intellectual property issues. Upchurch assists electric cooperative clients and other energy clients with

a wide array of financing transactions. The firm is located at 999 Peachtree St. NE, Suite 2300, Atlanta, GA 30309; 404-853-8000; Fax 404-853-8806; www.eversheds-sutherland.com.



FREDRICH



UPCHURCH



BUNDSCHUH



WEATHINGTON

Weinberg Wheeler Hudgins Gunn & Dial announced the addition of Ross Bundschuh and Carter Weathington as associates. Bundschuh's practice includes civil litigation with an emphasis on construction litigation, alterna-

tive dispute resolution and catastrophic injury. Weathington's practice focuses on civil litigation with an emphasis on medical malpractice, premises liability and product liability. The firm is located at 3344 Peachtree Road NE, Suite 2400, Atlanta, GA 30326; 404-876-2700; Fax 404-875-9433; www.wwhgd.com.



GREEN



BROWN

Weathington McGrew, PC, announced that Henry D. Green Jr. joined the firm as of counsel and Spencer H. Brown and Samuel O. Weaver joined as associates. Green focuses his litigation practice in the areas of medical malpractice

defense, general civil defense, personal injury defense, and property and casualty work. Both Brown and Weaver focus their practices on medical malpractice defense and general liability defense. The firm is located at 191 Peachtree St. NE, Suite 3900, Atlanta, GA 30309; 404-524-1600; Fax 404-524-1610; www.weathingtonmcgrew.com.



WEAVER



Hedgepeth, Heredia & Rieder announced that Michaela Mericle joined the firm as an associate. Her practice focuses on family law. The firm is located at 3330 Cumberland Blvd., Suite 450, Atlanta, GA 30339; 404-846-7025; Fax 404-846-7027; www.hhrfamilylaw.com.



ADER



BAIR

Davis, Matthews & Quigley, P.C., announced that Kimberly G. Ader joined the firm as a shareholder and Emily "Sandy" Bair joined as of counsel. Ader represents clients in divorce, separation, custody, legitimation, paternity, child support, contempt and modification actions, and negotiation of prenuptial and postnuptial agreements. Bair 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 678-904-3169; www.dmqlaw.com.



Drew Eckl & Farnham announced that Charles G. "Chuck" Hoey joined the firm as of counsel. Hoey has litigated workers' compensation, general liability, coverage, subrogation and other insurance claims for nearly 30 years. His experience consists of workers' compensation claims, including retail, trucking, distribution centers, factories, home health care, loggers and construction. The firm is located at 303 Peachtree St. NE, Suite 3500, Atlanta, GA 30308; 404-885-1400; Fax 404-876-0992; www.deflaw.com.



JONES



MCCONNELL

Little Mendelson announced that Russell Jones and Kathryn McConnell joined the firm as shareholders. Jones focuses on providing training on issues with equal opportunity laws, wage and hour issues, and union avoidance, among others. He also helps employers comply with state and federal laws with background checks, workplace privacy, social media policies and whistleblowing claims. McConnell counsels, trains and defends multinational and domestic companies on employment and traditional labor law matters, including use, implementation and enforcement of restrictive covenants, discrimination, harassment and retaliation in the workplace, wrongful termination, wage and hour compliance, unfair labor practice charges and union avoidance. The firm is located at 3344 Peachtree Road NE, Suite 1500, Atlanta, GA 30326; 404-233-0330; Fax 404-233-2361; www.littler.com.



Levine Smith Snider & Wilson, LLC, announced that J. Winston Kim joined the firm as an associate. Kim focuses on family law and handles a full range of domestic relations matters including divorce, custody and legitimation, prenuptial and postnuptial agreements, modifications and contempt. He has extensive experience representing clients in complex, high-asset divorces. The firm is located at One Securities Centre, 3490 Piedmont Road NE, Suite 1150, Atlanta, GA 30305; 404-237-5700; Fax 404-237-5757; www.lsswlaw.com.



BROCK



BURNETT

Smith, Gambrell & Russell, LLP, announced that J. Alexander Brock, R. Danielle Burnett and Nicholas P. Flint joined the firm as associates. Brock joined the firm's zoning, planning and land use practice where his work includes re-zon-



FLINT

ings, variances, special or conditional use permits, special exceptions, subdivision approvals and all other permitting. Burnett advises her clients on their diverse needs in the areas of commercial litigation, land use and employment law. Flint represents domestic and international clients on a variety of corporate and transactional matters,

including mergers and acquisitions, private equity and venture financing, corporate governance and securities law. The firm is located at 1230 Peachtree St. NE, Suite 3100, Atlanta, GA 30309; 404-815-3500; Fax 404-815-3509; www.sgrlaw.com.



DENNIS



ZHAN

Freed Howard LLC announced the addition of Desmond Dennis and Xin Mina Zhan as associates. Dennis works with the business dispute resolution and labor and employment groups. Zhan focuses on business litigation, gen-

eral corporate law, labor and employment, and commercial real estate disputes. The firm is located at 101 Marietta St., Suite 3600, Atlanta, GA 30303; 470-839-9300; Fax 470-839-9301; www.freedhoward.com.



GINSBURG

Litchfield Cavo LLP announced that Steven D. Ginsburg joined the firm as a partner. Ginsburg practices with corporate, commercial, construction and real property litigation, cyber security and data protection, and regulatory requirements. He represents clients in class action, banking,

construction, and title insurance claims and litigation, RICO actions, fraud and price-fixing claims in the financial services, health care and insurance industries, foreclosures and in vehicle wholesaling and financial practices. The firm is located at 1300 Parkwood Circle SE, Suite 170, Atlanta, GA 30339; 770-628-7111; Fax 770-628-7101; www.litchfieldcavo.com.



GHOLAMHOSSEINI

Bey & Associates, LLC, announced that Ashley Gholamhosseini joined as an associate in the firm's litigation department. Her practice focuses on a wide variety of personal injury matters and state law tort claims. The firm is located at 191 Peachtree St. NE #3230, Atlanta, GA 30303;

877-762-4997; www.beyandassociates.com.

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Baker Donelson announced that Chip Presten joined the firm's corporate finance and securities group as a shareholder. Presten represents clients in various aspects of corporate, mergers and acquisitions, and securities matters. His practice includes the acquisition and divestiture of public and private companies; offerings of debt and equity securities; advising on fiduciary obligations and duties of directors and officers; and the preparation of annual and quarterly reports, proxy statements and shareholder meeting materials. The firm is located at 3414 Peachtree Road NE, Suite 1600, Atlanta, GA 30326; 404-577-6000; Fax 404-221-6501; www.bakerdonelson.com.



BAKER



KIRSCHENBAUM

MendenFreiman LLP announced that A. Diane Baker and Roger A. Kirschenbaum joined the firm as partners. Baker and Kirschenbaum both focus their practice in the areas of estate planning, trust and estate administration, and business. The firm is located at 5565 Glenridge Connector NE, Suite 850, Atlanta, GA 30342; 770-379-1450; Fax 770-379-1455; www.mendenfreiman.com.



WIGGAM



GEER

The Wiggam Law Firm, LLC, and Law Office of Will B. Geer, LLC, announced the formation of Wiggam & Geer, LLC, led by partners Jason Wiggam and Will B. Geer. Wiggam focuses his practice on tax and representing individuals, businesses, officers, directors, shareholders and partners in matters before the Internal Revenue Service, the Georgia Department of Revenue and other state taxing authorities. Geer helps clients navigate bankruptcy court, including individuals and businesses seeking relief from financial problems and creditors looking to protect their rights in bankruptcy court. He files Chapter 7 and 13 cases for debtors throughout Georgia and has extensive experience and a particular interest in helping businesses reorganize debts through Chapter 11 and litigating adversary proceedings in bankruptcy court. The firm is located at 50 Hurt Plaza, Suite 1245, Atlanta, GA 30303; 404-233-9800; www.wiggamgeer.com.



Galloway, Johnson, Tompkins, Burr & Smith announced that Tony C. Jones was named a director of the firm. Jones represents businesses and individuals in a wide array of commercial, tort and insurance litigation matters. The firm is located at 990 Hammond Drive NE, Suite 575, Atlanta, GA 30328; 678-951-1500; Fax 678-951-1510; www.gallowaylawfirm.com.



CHOLLET



REED



BEDARD



GLASGOW



LOO



GIBSON



SHAW



CHANIN



HSU

Kilpatrick Townsend & Stockton LLP announced the addition of Nichole Chollet, Alisha Gibson, David Reed and Robert Shaw as partners, Vita Zeltser as counsel and Stephanie Bedard, Erica Chanin, Melissa Glasgow, David Hsu and Hannah M. Loo as associates to the firm. Chollet joined the trademark and copyright team and focuses her practice on intellectual property litigation, including cases involving trademarks, trade dress and unfair competition. Gibson joined the firm's mergers and acquisitions and securities team and focuses her practice on corporate law. Reed joined the firm's patent litigation team and focuses his practice on intellectual property litigation and counseling, with a particular emphasis on patent post-grant proceedings and appeals in the Federal Circuit. Shaw joined the firm's mergers and acquisitions and securities team and concentrates his practice on a broad array of credit transactions, representing agents, lenders, financial institutions, private equity groups, public and private companies, tribal governments and affiliated tribal entities and other business organizations in all aspects of secured and unsecured financing. Zeltser joined the global sourcing and technology team in the firm's corporate, finance and real estate department. She focuses her practice on information technology and data security and privacy, with a special focus on the insurance industry, as well as global sourcing transactions, outsourcing agreements and technology licensing. Bedard focuses her practice on complex commercial litigation. Chanin focuses her practice on trademark and copyright law. Glasgow focuses her practice on patent counseling and prosecution, primarily in the medical and mechanical device fields. Hsu focuses his practice on patent preparation, prosecution and related counseling in the areas of electronics, software and telecommunications. Loo focuses her practice on business and finance, securities, and mergers and acquisitions. The firm is located at 1100 Peachtree St. NE, Suite 2800, Atlanta, GA 30309; 404-815-6500; Fax 404-815-6555; www.kilpatricktownsend.com.

Newly formed Edwards Maxson Mago & Macaulay, LLP, or EM3 Law, announced the opening of an Atlanta office. The firm's practice areas include banking and finance, corporate, intellectual property, life settlements, litigation, mergers and acquisitions, real estate, securities and technology transactions. The office is located at 1075 Peachtree St. NE, Suite 3650, Atlanta, GA 30309; 404-965-3557; www.em3law.com.



BARRY



BULSON



PEURACH



ZISHOLTZ

Morris, Manning & Martin, LLP, announced the addition of Justin Barry, Marc Bulson, Matt Peurach and Mark Zisholtz as partners. Barry focuses his practice on commercial real estate development and finance, and commercial lending. Bulson focuses his practice on real estate development and finance. Peurach focuses his practice on corporate, funds and alternative investments, real estate capital markets and tax. Zisholtz

focuses his practice on employment, contracts, litigation and corporate. 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.



Webb, Zschunke, Neary & Dikeman, LLP, announced that Andrei V. Ionescu was named partner. Ionescu's practice focuses in the areas of personal injury, premises liability, transportation and trucking liability, insurance disputes and general civil litigation. The firm is located at 3490 Piedmont Road NE, Suite 1210, Atlanta, GA 30305; 404-264-1080; Fax 404-264-4520; www.wznd.net.



Taylor English Duma LLP announced the addition of John C. "Jack" Sawyer as a partner in the firm's tax practice group. Sawyer's practice focuses on wealth planning, asset protection planning, fiduciary and tax litigation, conservation easements and exempt organizations. The firm is located at 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339; 770-434-6868; Fax 770-434-7376; www.taylorench.com.



Nelson Mullins Riley & Scarborough LLP announced that Kelly L. Whitehart joined as a partner. Whitehart focuses her practice on litigation, in particular in the areas of intellectual property, technology and entertainment. She handles litigation matters for clients across a wide range of industries, including technology, software, telecommunication, energy, e-commerce and cloud computing. The firm is located at 201 17th St. NW, Suite 1700, Atlanta, GA 30363; 404-322-6000; Fax 404-322-6050; www.nelsonmullins.com.



Bloom Sugarman, LLP, announced that Andrea J. Pearson joined the firm as an associate. Pearson's practice focuses on handling complex litigation matters, particularly those involving real estate disputes. Her experience includes complex civil litigation, international arbitration, investigations, and securities and financial services litigation. The firm is located at 977 Ponce de Leon Ave. NE, Atlanta, GA 30306; 404-577-7710; Fax 404-577-7715; www.bloomsugarman.com.



Johnson, Marcou & Isaacs, LLC, announced the promotion of Nichole Engle to partner. Engle's expertise includes patents, trademarks, copyrights and due diligence. She assists clients with domestic and international trademark prosecution matters, trademark portfolio management, intellectual property licensing, domestic and international patent prosecution, and due diligence with a focus in mechanical, computer software and architecture, mobile communications and financial services. Contact the firm at 404-665-3099; Fax 240-359-4879; www.jmi-iplaw.com.

IN AUGUSTA



Fulcher Hagler LLP announced that Steve Sanders was elected partner. His practice focuses on estate planning, estate administration and probate matters, small business organizations, nonprofit corporations, contracts and property transactions. The firm is located at One 10th St., Suite 700, Augusta, GA 30901; 706-724-0171; www.fulcherlaw.com.



Durham Law Firm, P.C., announced that Melissa C. Bray was promoted to partner. Bray focuses her practice on criminal defense and personal injury matters—auto collisions, medical malpractice, nursing home negligence, wrongful death and tractor-trailer trucking accidents. The firm is located at 2350 Washington Road, Augusta, GA 30904; 706-738-7111; Fax 706-738-8010; www.durhamlawfirm.net.

IN COLUMBUS



Hall Booth Smith, P.C., announced that Blake A. McLemore joined the firm as an associate. McLemore specializes in professional negligence and medical malpractice, insurance coverage, corporate and partnership, transactional and business litigation matters. The firm is located at 233 12th St., Suite 500, Columbus, GA 31901; 706-494-3818; Fax 706-494-3828; www.hallboothsmith.com.

IN MACON



James-Bates-Brannan-Groover-LLP announced the addition of Marlina Anne Rogers as an associate to the firm's general litigation practice group. Rogers focuses her practice on general civil litigation, employment law, premises liability, eminent domain, business law, insurance litigation and appellate litigation. The firm is located at 231 Riverside Drive, Macon, GA 31201; 478-742-4280; Fax 478-742-8720; www.jamesbatesllp.com.

IN SAVANNAH

Oliver Maner announced that J. Ryan Beasley and Kathryn T. Gathy joined the firm as associates. Beasley serves in the firm's business, estate planning and tax department, and specifically focuses his expertise in the areas of estate planning, probate and corporate law. Gathy serves in the firm's litigation department and specifically focuses her expertise in the areas of serious personal injury and medical malpractice defense. The firm is located at 218 W. State St., Savannah, GA 31401; 912-236-3311; Fax 912-236-8725; www.olivermaner.com.



BEASLEY



GATHY

IN THOMASVILLE



Conroy Simberg announced the opening of an office in Thomasville, managed by partner Joshua C. Canton. Canton oversees business development and client relations. The firm's major practice groups include general liability and casualty, workers' compensation, claims defense, commercial litigation and appellate law. The firm is located at 126 N. Broad St., Thomasville, GA 31792; 229-236-6126; Fax 229-226-5744; www.conroysimberg.com.

IN WOODSTOCK



The Law Firm of Caryn S. Fennell announced the addition of Lacey Briasco as an attorney. She specializes in complex custody and divorce cases, and generalizes in probate guardianships, conservatorships and estate matters. The firm is located at 2230 Towne Lake Parkway, Building 600, Suite 140, Woodstock, GA 30189; 770-479-0248; www.fennellatlaw.com.

IN CHATTANOOGA, TENN.



Miller & Martin PLLC announced that Meghan R. Gordon joined the firm as an associate. Gordon focuses her practice in the areas of commercial real estate and business law. She counsels institutional lenders, developers, investors and businesses in a variety of transactional matters, including leasing, financing, acquisition and disposition of commercial properties. The firm is located at Volunteer Building, Suite 1200, 832 Georgia Ave., Chattanooga, TN 37402; 423-756-6600; Fax 423-785-8480; www.millermartin.com.



Patrick, Beard, Schulman & Jacoway, P.C., announced that John H. Templeton was elected to firm membership. Templeton concentrates his practice on corporate and business law as well as general civil litigation. The firm is located at 537 Market St., Suite 202, Chattanooga, TN 37402; 423-266-7327; 423-267-5032; www.pbsjlaw.com.

IN LOS ANGELES, CALIF.

Smith, Gambrell & Russell, LLP, announced that the firm opened an office in Los Angeles through its combination with California business law firm Rodi Pollock Pettker Christian & Pramov. The office is located at 444 S. Flower St., Suite 1700, Los Angeles, CA 90071; 213-358-7200; Fax 213-358-7300; www.sgrlaw.com.

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IN NEW YORK, N.Y.



Eversheds Sutherland (US) LLP announced the election of Andrew Appleby as counsel. Appleby represents clients in all stages of tax controversy—from audit through appellate litigation—and advises clients regarding multistate tax planning and complex transactions. He has experience in all areas of multistate taxation, including income, franchise, sales and use taxes. Appleby has experience and industry insight regarding insurance taxation, including premium tax, income tax, surcharges, surplus lines tax and direct placement tax. The firm is located at The Grace Building, 40th Floor, 1114 Ave. of the Americas, New York, NY 10036; 212-389-5000; Fax 212-389-5099; www.eversheds-sutherland.com.

IN WASHINGTON, D.C.



BARMEYER



KEARNS

Eversheds Sutherland (US) LLP announced the election of Wilson G. Barmeyer and Charles C. Kearns as partners. Barmeyer defends class action lawsuits, complex business litigation matters, and governmental regulatory examinations and audits, with a focus on litigation and regulatory matters involving financial services, insurance and broker-dealers. Kearns

advises clients on all aspects of state and local tax policy, planning and controversy. The firm is located at 700 Sixth St. NW, Suite 700, Washington, DC 20001; 202-383-0100; Fax 202-637-3593; www.eversheds-sutherland.com.

Harris Lowry Manton LLP Hosts 4th Annual First Responder Appreciation Celebration in Savannah



PHOTO PROVIDED BY HARRIS LOWRY MANTON LLP

Attorneys and staff from Harris Lowry Manton LLP's Atlanta and Savannah offices hosted the firm's 4th annual First Responders Appreciation Celebration in Savannah, offering the opportunity to thank local police officers, firefighters, EMS workers and other first responders for their service to the community.

The law firm of Harris Lowry Manton LLP hosted its 4th annual First Responders Appreciation Celebration in September in Savannah. The event attracted more than 100 first responders from across the area to enjoy a picnic-style lunch catered by Chef Kirk Blaine, live music by Junkyard Angel and more.

"First responders help protect all of us when we need that help the most," said Steve Lowry, a partner at Harris Lowry Manton LLP. "They are the lifeblood of our communities and the people we rely on when we are hurt, sick or in need. They make our lives and our neighborhoods safer and more secure. That is why Harris Lowry Manton LLP is proud to continue the tradition of honoring these brave men and women."

This free event, which took place in Savannah's Daffin Park, united attorneys and staff from the law firm's offices in Atlanta and Savannah. Local police officers, firefighters, EMS workers and other first responders came out to enjoy a picnic-style lunch and plenty of goodwill from the team at Harris Lowry Manton LLP.

"First responders often put their own lives on the line to help others," said Jeff Harris, partner at Harris Lowry Manton LLP. "We think it's important to recognize their efforts and to let our first responders know how much we respect and admire what they do. This event is our way of saying 'thank you' for all the sacrifices our local heroes make for all of us, each and every day." ●

But Everybody Knows That!

BY PAULA FREDERICK

"Why did you respond to Morgan's online review?" you ask your partner. "I thought we agreed it was best to ignore it!"

"I just couldn't help myself," your partner admits. "The more I thought about it the madder I got! It's always the clients you have done the most for who appreciate it the least!"

"Morgan is a real ingrate," you agree. "But I think you crossed the line by mentioning his prior conviction. You've still got to keep his secrets."

"I re-read Rule 1.6, and I just don't think this is covered! We didn't even represent him back then, and there's an exception to the confidentiality rule when a client attacks you like this," your partner protests. "Besides, Morgan's criminal history is no secret. It's a matter of public record; half of Georgia knows about it!"

"Well the other half shouldn't hear about it from you," you mutter.

Can information be considered confidential if it has been the subject of a public hearing, or if it is a matter of public record? Yes.

A recent Formal Opinion from the American Bar Association provides guidance on how to determine whether information is "generally known."¹ Although the opinion interprets the language in the context of using confidential information from a former client under Rule 1.9, the reasoning is helpful for deciding whether information is covered under the confidentiality rule.

The opinion clarifies that information is not 'generally known' merely because it is publicly available, has been discussed in open court or is part of a public record. Most people do not bother to access such information, so the lawyer should not reveal it to the public.

Information is generally known when it is "widely recognized by members of the public in the relevant geographic area," or when "it is widely recognized in the former client's industry, profession or trade." Information can become widely recognized if it is published in the media, discussed within an industry or announced by means that result in a sizeable percentage of the public or of the industry knowing the information.

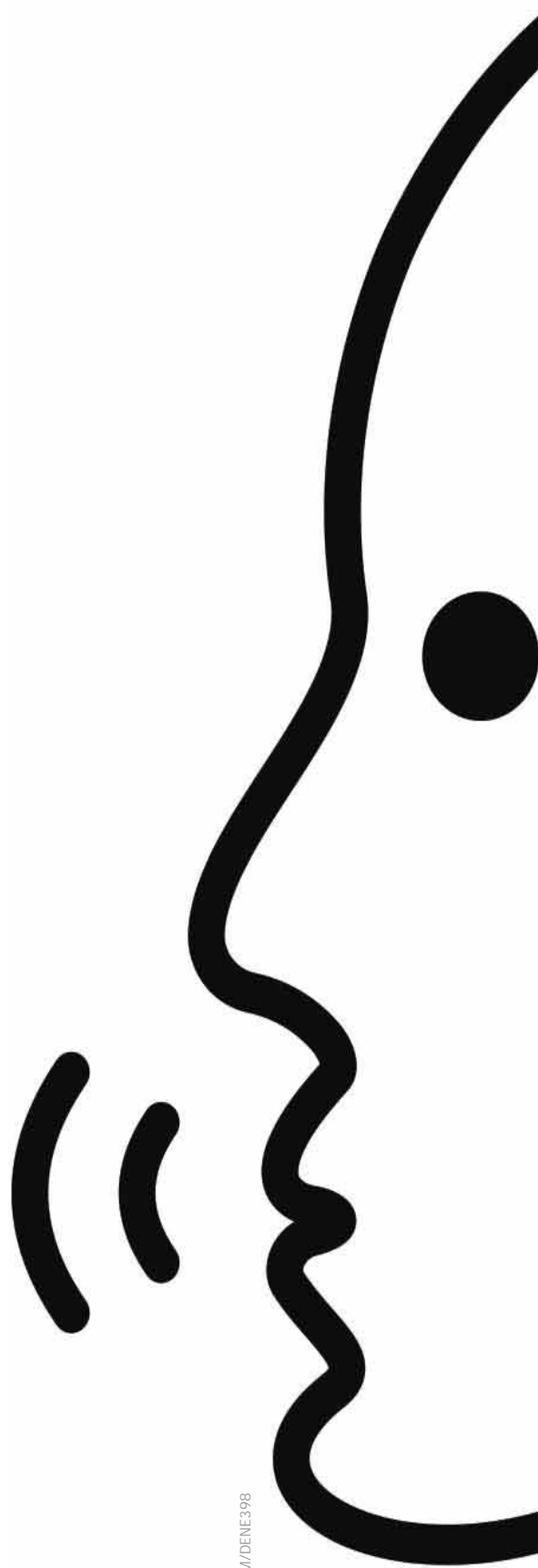
Even so, in the context of responding to a former client's negative criticism, the best practice is not to reveal any information about the client or the representation. ●



Paula Frederick
General Counsel
State Bar of Georgia
paulaf@gabar.org

Endnote

1. ABA Formal Opinion 479, The "Generally Known" Exception to Former-Client Confidentiality, issued December 15, 2017.



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Attorney Discipline Summaries

Oct. 17, 2017, through Dec. 11, 2017

BY JESSICA OGLESBY

DISBARMENT

Nolen Arthur Hamer

101 Meadow Drive, Suite A
Cumming, GA 30040

On Dec. 11, 2017, the Supreme Court of Georgia disbarred attorney Nolen Arthur Hamer (State Bar No. 320360) after the State Bar filed formal complaints and the special master recommended disbarment. The Court had earlier rejected his petition for voluntary discipline, in which he sought a Review Panel reprimand as the sanction for his misconduct.

In State Disciplinary Board (SDB) Docket No. 6813, Hamer admitted that a client retained him to file a divorce action on her behalf, which he did, but that he thereafter took virtually no action to advance the case for several months despite inquiries from the client and opposing counsel; that he did not act as diligently as he should have in arranging mediation of the case; that following mediation, he failed to draft the final order after stating he would so. He did not act to schedule a final hearing, and throughout the representation he delegated most of the communication with the client to his non-lawyer assistant. Hamer failed to serve on opposing counsel a request for hearing obtained by his client, and as a result, opposing counsel did not appear at the scheduled hearing; at the hearing, Hamer and the client had an oral dispute in the presence of the judge; Hamer erroneously included a statement in his written notice of intent

to withdraw as the client's counsel that a specific motion had been filed when it had not been filed; and the client obtained her final divorce decree with other counsel.

The special master found that Hamer's conduct in SDB Docket No. 6813 violated Rules 1.2, 1.3, 1.4 and 1.16 (d) of the Georgia Rules of Professional Conduct.

In SDB Docket No. 6814, Hamer admitted that another client retained him to file an uncontested divorce. He did not have a trust account and deposited the client's cash payments in his firm's operating account and delegated most of the communication with the client to his non-lawyer assistant. The client made several inquiries about the court date for her case, and the evening before the scheduled court date, Hamer's non-lawyer assistant sent a text to the client stating that the court date had been moved. The next day, the client met with Hamer, who told her that her husband's refusal to sign a settlement agreement meant that the case was contested, would take longer and would cost more, but that he would work to bring the case to conclusion. About a week later, Hamer received an email from the court stating that the case had been placed on an uncontested calendar and neither he nor his assistant tried to contact the client to notify her of the Jan. 6, 2015, setting; on Jan. 6, 2015, Hamer's non-lawyer assistant tried unsuccessfully to contact the client and then sent her a text. The client stated she tried unsuccessful-

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

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fully to call Hamer's office in response to the text on Jan. 6. The client informed Hamer that she had been traveling out of the country from Dec. 24, 2014, until Jan. 9, 2015, and had previously informed him of her travel plans at their Dec. 17,



For the most up-to-date information on lawyer discipline, visit

www.gabar.org/forthepublic/recent-discipline.cfm



State Bar
of Georgia

2014, meeting. Hamer tried unsuccessfully to persuade the judge to reopen the case, which was dismissed for want of prosecution; he offered to file a new case for the client if she would pay the court filing fee, but she refused and demanded a refund, which Hamer declined to provide. The special master found Hamer's conduct violated Rules 1.3, 1.4, 1.15 (II) (a), 1.16 (d), 3.2 and 5.3 (b).

In SDB Docket No. 6815, Hamer admitted that a third client retained him to represent her in a legitimation and custody action and paid half of his fee upfront. After successfully defending the

client in an emergency hearing, he thereafter delegated communication with her to his non-lawyer assistant and over the next few months, both he and his assistant failed to adequately respond to the client's requests to speak or meet, failed to maintain reasonable communication with the client and failed to adequately and accurately inform the client about the status of her case. Hamer failed to serve written discovery in the case, failed to adequately communicate with the client regarding written discovery served by opposing counsel and failed to serve responses on his client's behalf. He filed a motion to withdraw from representation, but failed to give the client prior notice of his intent to withdraw or serve her with a copy of the motion to withdraw; the client learned of the withdrawal after entry of an order permitting withdrawal. The client requested a partial refund of the fee, which Hamer declined to provide. The special master found that Hamer violated Rules 1.2, 1.3, 1.4., 1.5 (a), 1.16 (d), 3.2 and 8.4 (a) (4).

In aggravation of discipline, the special master noted that Hamer's conduct demonstrates a pattern of misconduct consisting of multiple offenses, that he obstructed the disciplinary proceeding in bad faith and that he has substantial experience in the practice of law. Hamer did not respond to the special master's report after it was filed in the Supreme Court.

April Dabney-Froe

P.O. Box 204070
Atlanta, GA 30325

On Dec. 11, 2017, the Supreme Court of Georgia accepted the petition for voluntary surrender of license of attorney April Dabney-Froe (State Bar No. 202987). Dabney-Froe admitted that on multiple occasions she failed promptly to give clients an accounting of settlement proceeds, disburse settlement funds and/or pay medical bills in her clients' cases. She acknowledged that by these failures she violated Georgia Rule of Professional Conduct 1.15 (I) on more than one occasion, but asserts that she has now properly accounted to each client who filed a grievance for the total amount due from his or her respective settlement. Dabney-

Froe acknowledged that the maximum penalty for a single violation of Rule 1.15 (I) is disbarment.

SUSPENSIONS

John F. Meyers

4414 Jett Road NW
Atlanta, GA 30327

On Dec. 11, 2017, the Supreme Court of Georgia imposed a two-year suspension on John F. Meyers (State Bar No. 503692). Meyers was at all relevant times an equity partner at a large law firm. He had billing responsibilities for many clients, including the large corporate client at issue in this case and its subsidiaries, for which Meyers' law firm performed legal services. The contact person for the corporate account was in-house counsel for one of the corporation's wholly-owned subsidiaries. At some point, in-house counsel told Meyers that his employer permitted its in-house attorneys to perform outside legal work as long as it was not on company time and did not raise any conflicts of interest with company matters, and in-house counsel indicated a desire for Meyers' law firm to do some of the work for his own outside clients. As a result, beginning in 2011, attorneys at Meyers' firm did legal work for the benefit of the in-house counsel's personal clients and for his private practice.

When difficulties arose in collecting the fees for those services from the in-house counsel's personal clients, the amounts due were rolled into the bills sent to the corporate client, with the descriptions of the work edited to eliminate information that would make clear that the work was not performed directly for the corporate client. The corporate client discovered the practice and fired in-house counsel in August 2012. The client then initiated an inquiry with Meyers' firm, which reimbursed the client for the amounts paid, wrote off the other invoices and confronted Meyers.

From the start, Meyers admitted that he submitted the altered bills, but asserted that he did so at the behest of in-house counsel, who Meyers contended advised him that the procedure was acceptable

because much of the work performed ultimately would be beneficial to the corporate client and because in-house counsel would reimburse the corporate client for any work that was not beneficial to it. When confronted, Meyers immediately offered to reimburse the firm or the client, and he did ultimately repay the law firm. Meyers, who resigned within a few weeks of being confronted, now acknowledges that the alterations to the bills could have helped conceal from the corporate client the fact that the legal work was performed on behalf of the in-house counsel and his clients, but nevertheless steadfastly denies any knowing participation in a scheme to defraud the client. Instead, Meyers claims that he was duped and misled by in-house counsel, whom he reasonably trusted. Based on this conduct, the State Bar charged Meyers with violating Rules 1.4, 1.5 (a), 7.1 (a) (1), 8.1 (a), and 8.4 (a) (4) of the Georgia Rules of Professional Conduct. See Bar Rule 4-102 (d). The maximum penalty for a violation of Rules 1.4 or 1.5 (a) is a public reprimand, while the maximum penalty for a violation of Rules 7.1 (a) (1), 8.1 (a), or 8.4 (a) (4) is disbarment.

The matter was heard by a special master who issued a report and recommendation of disbarment as the appropriate remedy. Meyers filed exceptions

to the special master's report and recommendation and the case proceeded to the Review Panel. The Review Panel found that Meyers' disciplinary history and the good character witnesses he presented were mitigating factors, as were his reimbursement of his firm for both the fees that the firm had refunded to the corporate client and the fees that had been billed but not paid. In aggravation, Meyers did not challenge the special master's findings that the case involved multiple offenses and that he had substantial experience in the practice of law. But the Review Panel rejected the special master's findings in aggravation that Meyers was uncooperative by not acknowledging the wrongful nature of his conduct, and that by refusing to concede that he intentionally defrauded his client he submitted false statements to a tribunal.

The Review Panel held that although Meyers' conduct in this matter was unacceptable and in violation of the Rules of Professional Conduct, the cases resulting in disbarment for misleading and fraudulent fee statements typically include more aggravating factors not present in this case. And, after taking into consideration the facts that Meyers had made full restitution to his firm, that the client was reimbursed for any loss and that Meyers has never been the subject of a

disciplinary complaint in his extensive 30-year-plus legal career, the Review Panel unanimously concluded that a two-year suspension from the practice of law was a more appropriate discipline. The Supreme Court agreed, and specifically agreed that a lawyer's decision to put up a defense in a disciplinary proceeding—whether by disputing evidence against him or refusing to concede whatever inferences the State Bar argues may be drawn therefrom—is not always an aggravating factor that counsels imposition of harsher discipline.

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, 2017, five lawyers have been suspended for violating this Rule and three have been reinstated. ●



Jessica Oglesby

Clerk, State Disciplinary Board
State Bar of Georgia

jessicaoglesby@gabar.org

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Legal Tech TIPS

BY NATALIE R. KELLY
AND MIKE MONAHAN



1 Resolved or Not? Use Lazy Jar lazyjar.com

Lazy Jar asks you to put a “security deposit”—\$30—on the line as you track weekly fitness goals over six months. Each time you fail, Lazy Jar takes some money out of the deposit, with 80 percent going to a children’s cancer research charity and 20 percent going to the developers. After six months, you get your \$30 deposit back if you have met your goals along the way. #lawyerslivingwell

2 Home Assistants www.amazon.com/echo store.google.com/home

Amazon Echo and Google Home are the two most popular virtual assistants. These virtual assistants can help you organize and tame life’s daily activities—everything from music selection to shopping to control of home lighting and “smart” appliances and electronics. Google Home already has several hundred capabilities or “skills.” If you have a member of your household with limited mobility, these home assistants can help them with many tasks.

3 Enable “car mode” and keep your eyes on the road.

Android phones and iPhones with iOS11 can detect when you’re driving and automatically respond accordingly to incom-

ing text messages, leaving you free to focus on the road. To integrate with the car, a driver plugs an Android phone in to the car’s USB port and pairs it through Bluetooth. There are several Android apps available in GooglePlay for “car mode,” including DriveMode and Android Auto. iOS 11 phones detect when iPhone owners are driving and silence notifications and turn the phone’s screen dark, making it more difficult to unlock the device. Users can set up automatic iMessage replies to send to their contacts when they’re driving and choose to receive notifications for messages that could be urgent.

4 Use Cash Back Services Ebates, FatWallet, BeFrugal

Cash-back services like Ebates, FatWallet or BeFrugal can save you dollars when you shop. If you’re in a store, you can use cashback services like Dosh or Yelp Cashback. Typically, when you use these products, you have a waiting period to get the cash back from your purchases, but the wait is worth it. You can normally stack coupons, rebates and your cash back credit card benefits using these services for a bigger bang for the cashback.

5 Strengthen Your Team. Use Slack. www.slack.com

To begin with Slack, you create a “Team.” That team can be your law firm or com-



pany, public defenders around the country, a Bar committee, a group of friends or whatever you want. Slack conversations are organized in “Channels.” You can create specific channels, name them by department, activity or location, and make any of the channels public or private. Slack helps you:

- Message or call any person or group within your team.
- Share and edit documents and collaborate.
- Integrate into your workflow tools and services you already use including Google Drive, Salesforce, Dropbox, Asana, Twitter and more.
- Search a central knowledge base that automatically indexes and archives your team’s past conversations and files.

6 Use Word’s Macro Record to Maximize Your Productivity

You can use Word Macros for forms or paragraphs you commonly use or routine steps. A macro is a shortcut to a task you do repeatedly. Here are the basic Word steps in creating and recording a macro:

- Click on the record macro button (under the View tab).
- Type or carry out a task that you frequently do (like writing out a boilerplate legal standard).
- Stop the recording and save it to a “trigger” (such as a button or key-stroke).

You can now place the macro on your Word toolbar, or trigger it using the keyboard stroke that you set up. Go to YouTube for more in-depth tutorials on Word Macros.

7 Streamline Your Online Research Using BestLaw

www.bestlaw.io

Download the Google Chrome or Mozilla Firefox plug-in for BestLaw or BestLawPro. When you’re browsing Westlaw or Lexis, it automatically adds features to make research faster and easier.

8 Come On, Get Happy! Use Happify

www.happify.com

How you feel matters. Whether you’re feeling stressed, anxious, depressed or you’re dealing with constant negative thoughts, Happify brings you effective tools and programs to take control of your emotional well-being. #lawyerslivingwell

9 Try a Time Management App

www.rescuetime.com
savemytime.co/en

Time management apps can help you organize your day, spot areas for improvement in efficiency and also allow you to find time for yourself. Check out examples like RescueTime and SaveMyTime.

10 OneNote is Much More Than One Note

www.onenote.com

Microsoft OneNote is a free-form information gathering and multi-user collaboration tool. It gathers users’ notes (handwritten or typed), drawings, screen clippings and audio commentaries. Notes can be shared with other OneNote users over the Internet or a network.



Testimonial



Wingo F. Smith
*Staff Attorney, Downtown Office,
Atlanta Legal Aid Society*

OneNote

www.onenote.com

Because of the strong search engine, OneNote makes finding past research a quick process. It also allows you to share research quickly and easily from your desktop or on your phone. In combination with a service like Lexis Advance—which lets you copy the text and cite all at once—it is an extremely efficient way for keeping track of prior research.

In OneNote, I create trial notebooks for clients that have exhibits lists, outlines for direct and cross-examination, proof charts and snippets of case law for motion arguments. The best part is that I can take it everywhere I take an iPad. For example, I often take an iPad to in-home interviews with clients in order to populate damages tables that I’ve made on OneNote at my desktop.



Law Practice Management Program Launches Monthly Content Themes for 2018

Join the Law Practice Management Program as they take a deeper look into the program's products and services that are tailored to aid with the business side of law practice.

BY NATALIE R. KELLY



The time for making resolutions is barely in the rearview mirror and you have likely either already celebrated reaching a milestone in your progress, wondered how to get back on track or whether to give up entirely until the next opportunity for global goal-setting comes back around. The Law Practice Management Program (LPM) has charted out its yearly course and is tracking its progress by developing practice management content and related programs around monthly themes for the entire year. We want Bar members to join us in taking a deep dive into the products and services offered by the program to aid with the business side of law practice every month.

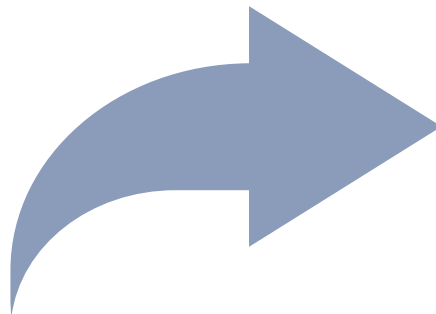
January 2018 was Law Practice Management Program month, and LPM staff focused on educating Bar members about all of the available services of the department. Highlights of the month included hosting a law school intern to share the secret sauce of LPM and providing ongoing tips and information about the program and its services. LPM also worked with other Bar departments and programs to plan activities for the rest of 2018 and beyond. Results of this initial monthly focus will be evident throughout the year as Bar members take the knowledge provided and implement it in their own practices.

February is Financial Management and Trust Accounting Month. LPM will be providing additional training on financial management and trust accounting for law firms. Webinars and online training sessions will be available throughout the month, and we are bringing back Lunchbox Basics. Dates and times for these opportunities will be posted as they become available. Use this checklist to help you focus on financial management and trust accounting issues.

The full 2018 Law Practice Management Program content calendar will follow the schedule below:

- *January* | Law Practice Management Program
- *February* | Financial Management and Trust Accounting
- *March* | Legal Technology and Practice Management Software
- *April* | Fastcase and Bar Benefits
- *May* | Website and Online Marketing
- *June* | Paperless Office
- *July* | Time Management and Productivity
- *August* | Marketing and Personal Branding
- *September* | Solo and Small Firm Practice
- *October* | Law Firm Strategic Planning and Data Security
- *November* | Lawyer Wellness and Work/Life Balance
- *December* | Managing and Staffing Your Law Practice

If you miss the flavor of the month, don't worry. Each month's content will be archived for easy access throughout the year. Contact the staff of the Law Practice Management Program for more information and advice on the practice management topics discussed here. ●



FINANCIAL MANAGEMENT CHECKLIST

- ✓ Have you developed a budget for your firm?
- ✓ Are your books up-to-date?
- ✓ Do you have an accountant or bookkeeper?
- ✓ Have you met with your accountant or bookkeeper to go over your chart of accounts and reporting needs for the coming tax year(s)?
- ✓ Have you paid all of your required quarterly and annual taxes for the year?
- ✓ Is your payroll processed on time and with the appropriate withholdings?
- ✓ Does your payroll service send you regular reports on your account?
- ✓ Are you and your associates bringing in the amount of revenue you budgeted for over the past year?
- ✓ Have you written off uncollectible accounts for the year?
- ✓ Have you reached your billable hours goals for the year?
- ✓ Have all shareholders in the firm received current profit and loss statements?
- ✓ Is time-tracking required of all employees?
- ✓ Do you track time for all matters regardless whether you are charging by the hour or charging a flat fee?
- ✓ Do you track and bill for all expenses incurred on behalf of your clients?
- ✓ Are you billing monthly or as soon as you complete a matter or major parts of a matter?
- ✓ Do you have a merchant account that allows clients to pay your fees via a credit or debit card?
- ✓ Have you been charging interest on past due account balances?
- ✓ Are your operating and trust accounts balanced and reconciled through last month?
- ✓ Do you share firm financial information with staff to enhance productivity?
- ✓ Do you review your accounts receivable monthly and have staff follow-up with non-paying clients?



Natalie Kelly

Director, Law Practice Management Program
State Bar of Georgia

nataliek@gabar.org

South Georgia Updates: Old and New

The past provides a new venue for law-related activities; a judge's war medals find a home; and a lawyer-author from Columbus visits the South Georgia Office.

BY BONNE D. CELLA



The South Georgia office of the State Bar and the surrounding local circuit bars have experienced a wealth of activity over the past several months. From the creation of new organizations to hosting law-related activities in historical homes, the past and present are working together to celebrate and enhance the contributions of the legal profession in our area.

Tifton Circuit

The Georgia Association for Women Lawyers (GAWL) has a new chapter. The first meeting of GAWL for the Tifton Judicial Circuit, hosted by Hall Booth Smith, P.C., took place at the Historic Myon Hotel in November. Officers elected to serve are Virginia Hall, president; Jennifer Herzog, vice president; and Cameron Roberts, secretary/treasurer. The

Judge Raleigh Eve (*left to right*) World War II, World War I and the Spanish American War; Spanish American War medals.

PHOTO BY BONNE D. CELLA

group discussed the mission of GAWL (to enhance the welfare and development of women lawyers and to support their interests), what that mission meant to them and how they could support their fellow female members of the bar. They brainstormed on ideas of how to partner with other local women's organizations for the betterment of the community. Meetings will be held the third Thursday of each month at 5:30 p.m. and other female attorneys in the area are welcome to join them. (Locations TBA.)

The Tifton Judicial Circuit Bar recently enjoyed a social at the new restaurant Fresco Italiano. The restaurant is located across the street from the South Georgia Office of the State Bar and is part of a huge renovation project that is transforming two tobacco warehouses (known as Twin Brick) into upscale loft apartments with two restaurants. The Myon Hotel renovation and the Twin Brick transformation along with many other award-winning projects in Tifton are the work of 88-year-old business owner, developer and investor in the city of Tifton, Harold Harper. (Atlanta attorney Hilary S. Morris is his granddaughter.) Harper received the 2016 Renaissance Award from the Georgia Municipal Association, given to an individual or organization that makes a significant contribution to the revitalization of a Georgia city.

Historical Contributions

Along the lines of preserving history—an early superior court judge, Raleigh Eve of Tifton, enlisted in 1889 to serve in the Spanish-American War. Upon his return, he studied law and was one of the first to take the newly required bar exam in 1901. Eve practiced law in Tifton until 1907, when he became judge of the Tifton City Court and served in that position for 10 years. He was then elected judge of



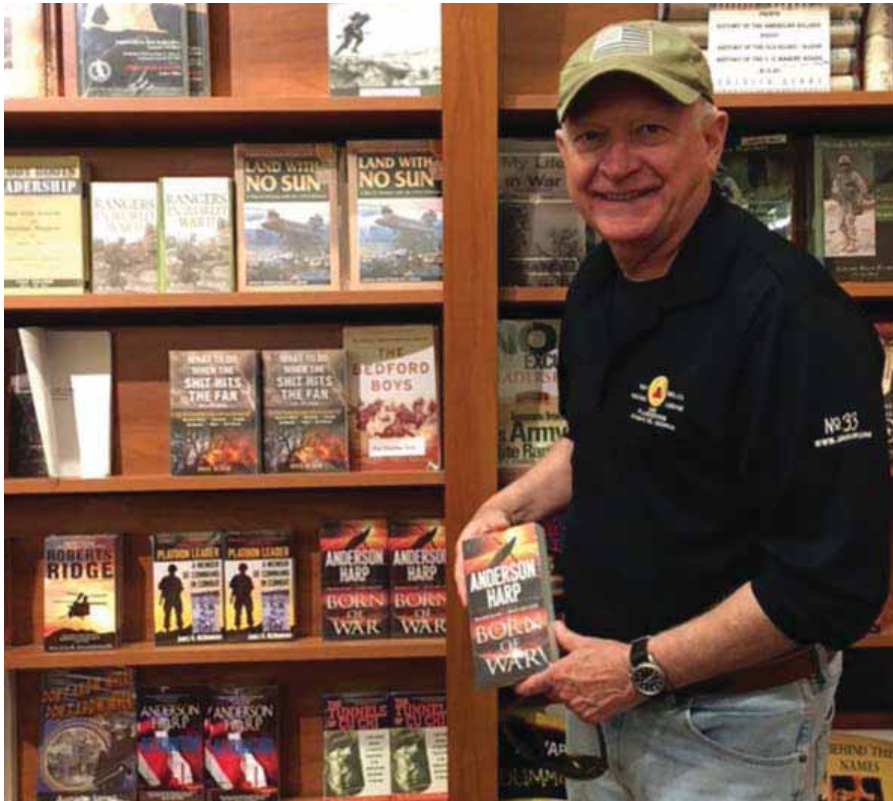
PHOTO BY BONNE D. CELLA

The new GAWL chapter for the Tifton Judicial Circuit. (Left to right) Katie Dove, Lori Turner, Jodie Snow, Hon. Melanie Cross, Jennifer D. Herzog, Tamara Branch, Virginia Hall, Lisa Gibbs and Cameron Roberts.



PHOTO PROVIDED BY CORDELE CIRCUIT BAR ASSOCIATION

2017 Fall Meeting of the Cordele Circuit Bar Association (CCBA). (Left to right) U.S. District Judge W. Louis Sands; Douglas Dean, president; U.S. District Judge Leslie J. Abrams; Lauren Fletcher, vice president; and Benjamin Wright, treasurer.



Lawyer-author J. Anderson "Andy" Harp of Columbus.

the Tift County Superior Court, serving from 1916 until after 1948. Eve was commissioned as captain of the Georgia state troops in World War I, and in World War II was a major in the 25th Georgia Defense Corps.

Eve's war medals from the Spanish-American War along with pictures of him in his various uniforms were held in safe-keeping at the State Bar's South Georgia Office. Eve did not have children, but a relative who inherited his war memorabilia came through Tifton and upon seeing the office, decided it was a good place to leave the items because it was across the street from the courthouse where Eve spent so much of his life. With the December 2017 opening of Tifton's Veterans Museum, they now have a permanent home and Eve's impressive military records are available for all to see.

Cordele Circuit

The Cordele Circuit Bar Association (CCBA) is proud of a strong end to an eventful year. Most notably, their 2017

fall meeting in November featured U.S. District Court Judges W. Louis Sands and Leslie J. Abrams as guest speakers. The bar discussed the importance of retaining attorneys in rural areas and elected new officers. The annual Christmas Party was held at the 1907 Neoclassical Revival home of William H. "Bert" Gregory in Vienna—once the home of Walter F. George. Fittingly, Cathy Cox, dean of Mercer University Walter F. George School of Law, was the guest speaker. Members enjoyed a bluegrass band, great food and spirits, all provided by their host, as his gift to bar members. Gregory encouraged everyone present to give their time to people in need of legal services in the coming year.

Colonel, Attorney and Author

Speaking of the Cordele Circuit, that is where civil trial attorney J. Anderson "Andy" Harp of Columbus began his law career—in the district attorney's office. Harp was recently in the South Georgia Office taking depositions and this

writer had the opportunity to learn more about his interesting life. Harp attended American University in Washington, D.C., on an athletic scholarship (track), graduating in 1973, after which he joined the Marines. He graduated from Mercer University Walter F. George School of Law in 1980, but kept up his military service, accruing almost 30 years in the U.S. Marine Corps Reserve, reaching the rank of colonel. Harp served in the Persian Gulf, Central America, Europe and Korea, and at the Pentagon. He was mobilized for Operation Enduring Freedom (the U.S. invasion of Afghanistan) where he served as the Officer in Charge of the Marine Corps Crisis Action Team. At home, Harp found his niche in law as a trial attorney representing injured railroad workers in cases mainly in Georgia and Alabama, in addition to representing other plaintiffs in more than eight states.

Harp has a lifelong appreciation for history and a compelling story from listening to his father's experiences in World War II. His own experiences in the military and his law career offer him plenty of material to use as a successful author. His first novel, "A Northern Thunder" received praise from both Marines and national book reviewers. When Harp's protagonist, Will Parker, a top lethal operative for the United States travels through familiar places in Georgia, the read is even more gripping and genuine. Harp, understanding the amount of dead time that comes with military service, gifted copies of his first novel to graduates of Fort Benning at the National Infantry Museum in Columbus. The gesture went over so well that those who graduate in 2018 will also receive a copy. ●



Bonne D. Cella

Office Manager, South Georgia Office
State Bar of Georgia

bonnec@gabar.org

Local Bar Associations: Fill Up Your Cart

The Pro Bono Resource Center's mission is to help local bar associations, individual private attorneys and local communities develop civil pro bono approaches that help lawyers meet their professional goals and that help the public access the courthouse.

BY MIKE MONAHAN

Local or specialty bar association officers, we can help make your work a little easier. If you are looking for speakers for your meetings, public service content for your website or help with data on legal needs in your community, the Pro Bono Resource Center at the State Bar can help.

The Pro Bono Resource Center's mission is to help local bar associations, individual private attorneys and local communities develop civil pro bono approaches that help lawyers meet their professional goals and that help the public access the courthouse. We are happy to travel to any part of Georgia to help you help your members.

If you are searching for ideas for your meetings, we can certainly assist you. We have a packaged CLE carrying one hour of general and one hour of professionalism credit. We call it the "Road Show" CLE and it covers in an entertaining and fast moving format our Georgia pro bono public rule, our new "Due Justice. Do 50." campaign, resources for lawyers and how the whole system operates. Our presenters are lawyers—just like you—who do pro bono and want you to see the value of doing pro bono with an organized, structured pro bono program. They'll tell you why that's so important. All of our services, including the CLE, are free, but

we (or your association's treasurer) do have to collect the minimum mandatory \$5 CLE fee.

In addition to the road show CLE, we can also stage CLE programming around other access to justice topics like unbundled services, court and bar help centers, or volunteer management.

We are always happy to tailor a presentation on pro bono or access to justice based on the needs of your meeting, whether it's a typical lunch meeting or a full morning of CLE programming. We can provide you with access to justice topics, provide a speech or samples for you to adapt, develop PowerPoints or other visual materials for a meeting and suggest potential speakers. Just give us a call and we can work to meet your needs.

Your voluntary bar association website or social media presence may lack pro bono or access to justice content. We can provide content for you to add to your web and social media campaigns that highlight our profession's mission to serve the public. We have "widgets" available from www.GeorgiaLegalAid.org and www.GeorgiaAdvocates.org that you can add to your website. These widgets provide legal information and legal aid directories for the public or volunteer lawyer support information such as local volunteer lawyer legal clinics and trainings.

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PRO BONO STAR STORY



LAURICE LAMBERT



Laurice Lambert
*Associate
Baker Hostetler LLP*

Laurice Lambert is an example of a service-oriented lawyer. She gives of her time directly to clients and encourages others to do the same. In 2013, she and colleague Jennifer Whitton agreed to represent a child in need of special education services. Lambert attended individualized education plan meetings to advocate for the child, leading to much needed supportive services at school.

Lambert currently serves on the executive committee of the Atlanta Legal Aid Society (ALAS) Board of Directors. As a way to encourage other young lawyers' involvement in pro bono service starting in 2013, she worked with ALAS leadership to create a Service Council. The Service Council attracts, retains and motivates energetic, committed service-oriented attorneys and professionals to volunteer and raises awareness in the legal community of ALAS pro bono and service opportunities. Lambert served as the president of the ALAS Service Council through 2017.

Lambert serves as the pro bono chair for the Advisory Council of HeLP, a medical-legal partnership between ALAS, Children's Healthcare of Atlanta and Georgia State University College of Law. She spearheaded an effort to increase awareness about HeLP to medical residents and fellows in the Atlanta community via educational trainings. Working with HeLP, Lambert created the Education Advocacy for Students with Special Needs Program, a pro bono referral program for individuals who need help advocating for their children with special needs.

She also coordinated a summer associate pro bono project with her firm, Baker Hostetler. The summer associates were trained on estate planning in connection with the ALAS Health Law Unit's Wills Project (the Health Law Unit provides services to individuals that are terminally ill), providing services to 10 clients.

The Pro Bono Resource Center can also provide you with video, graphics and social media memes from our "Due Justice. Do 50." pro bono campaign for Facebook, Twitter and Instagram. Contact us for more info about the web assets, follow us on Twitter at www.Twitter.com/ProBono_GA or visit www.DueJusticeDo50.org.

Don't forget the community-minded members of your voluntary bar. Take the opportunity at one or more meetings to recognize your members who are volunteer lawyers. We can assist you with developing pro bono awards and recognition events to help improve your community's perception of our profession. This is an important function of a bar association and merits at least an annual effort.

The Pro Bono Resource Center is also committed to helping your local bar develop a pro bono service committee. We need improved two-way communication between voluntary bar associations and legal aid programs, especially in small cities and rural areas of Georgia. Your members benefit through better screening of pro bono cases by local legal aid or pro bono programs. Local bar pro bono committees can also provide necessary and valuable feedback to legal aid and pro bono programs about the kinds of cases your members are looking to handle on a pro bono basis, about the quality of the services and your efforts to design pro bono programs that meet the legal needs of low-income Georgians. The Pro Bono Resource Center is available to help you implement a pro bono committee by connecting you with your local legal aid program and facilitating meetings and other efforts to establish a committee.

You can develop solid programming for your association's members and the people in your community through pro bono. Contact me at probono@gabar.org and let's get started. ●



Mike Monahan
Director, Pro Bono Resource Center
State Bar of Georgia
mikem@gabar.org

Smarter, Faster Research in Fastcase 7

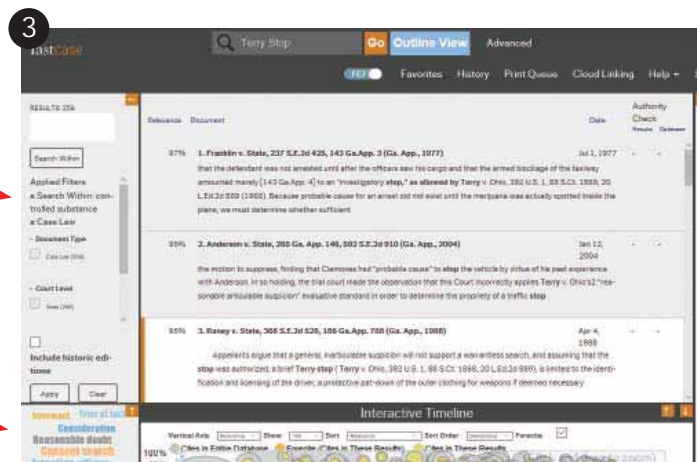
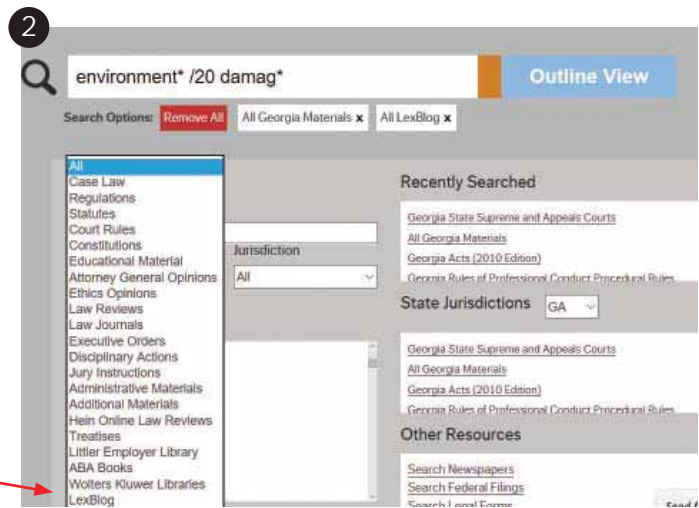
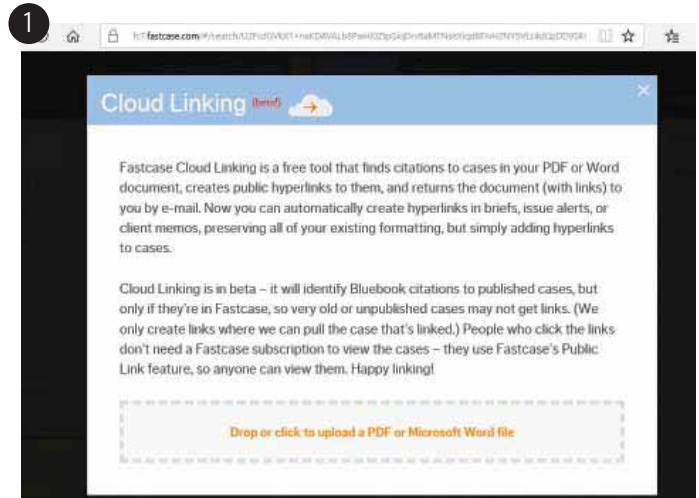
Fastcase training classes are offered three times a month at the State Bar of Georgia in Atlanta for Bar members and their staff. Training is available at other locations and in various formats and will be listed on the calendar at www.gabar.org. Please call 404-526-8618 to request onsite classes for local and specialty bar associations.

BY SHEILA BALDWIN

Fastcase is known for having a smarter and faster legal research software platform. I wrote an article in the October 2015 issue of the *Georgia Bar Journal* that discussed the latest additions at that time, specifically ones that were helpful in the area of legal writing. (Not to stray from my topic, but archived *Bar Journal* articles are located on the State Bar website under the News and Publications tab.) The features I highlighted in that article were Foresite, Copy Document Text, Bookmarks and Static Link. In this article, I will discuss additional features that are available in Fastcase 7.

Fastcase Cloud Linking

Cloud Linking is a free tool that finds citations to cases in your PDF or Word document, creates public hyperlinks to them and returns the document (with links) to you as a download. You can automatically create hyperlinks in briefs, issue alerts or client memos, preserving





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contact Sheila Baldwin at 404-526-8618

all of your existing formatting, all while adding hyperlinks to cases. To see how this time saving tool works, click on the words "Cloud Linking" on the navigation toolbar at the upper right within Fastcase 7 to upload your brief in the box (see fig. 1).

Cloud Linking is in beta; it will identify Bluebook citations to published cases, but only if they're in Fastcase, so very old or unpublished cases may not get links. In Georgia, we have the complete database of case law so this should not be a problem. Cloud Linking generally doesn't take a lot of time, but large files can take a few minutes. In testing the Cloud Linking feature, I ran a 30-page brief, which took exactly 26.77 seconds to complete. This will vary based on your system abilities. Once your brief is processed, you can find the document in your download folder with the same file name preceded by the word "Linked." Each citation will show up with a thin blue line that will open to the case or document.

Lex Blog

In October 2016, Fastcase launched a new library of expert legal commentary, including curated posts from LexBlog's network of expert bloggers, providing first-response legal analysis and insights across state, national and international legal matters. The alliance combines the power of more than 15,000 expert legal bloggers in the LexBlog network, who produce almost as many blog posts and legal articles as *The New York Times*. The service is a free addition for our Bar members.

If you want to see what the LexBlog experts have to say about your legal issue, enter the search terms and select advance search. Using the query (environment*/20 damag*) and searching in the advanced mode, a variety of options including Types of Material, Jurisdictions and Court Level exist. LexBlog is found under the Type box. Simply go to the bottom of that list and select LexBlog (see fig. 2). I found 47 results by various bloggers who opined on my question of law. Because I searched within LexBlog, the results will now be available in my list of recently searched databases.

Tag Cloud

Fastcase was inspired by social media to create a tag cloud, a visual representation of text data, typically used to depict keyword metadata (tags) on websites. Developers created an algorithm that finds words that are common to most or many of the documents in your search results, adds hyperlinks and groups them in a "cloud" to help you think of new terms or concepts, and filter to more relevant results.

Say you've run a search for "Terry Stop," but the number of returned results is too large and you would like to focus the search to more precisely meet your fact situation. The tag cloud that automatically loads on the bottom left side of your screen is a perfect solution. When I searched "Terry Stop" in Georgia Supreme and Appeals courts I found 868 results. The cloud tag suggested a number of terms to narrow my results and I chose the word "controlled substance," which reduced the list of cases to 256 and produced a new set of related tag words (see fig. 3). For legal research, this can be invaluable for focusing your search.

The geniuses at Fastcase seem to have limitless ideas when it comes to improving content, algorithms and filters. The excellent customer support via phone, email and my favorite, "live chat," means you have help in harnessing the power of legal technology and quickly finding the valuable information you need to complete your work. Try using Cloud Linking, Lex Blog and Tag Cloud with Fastcase 7. It will make a difference in the way you research. As always, you can reach me at sheilab@gabar.org or 404-526-8618 with any questions. ●



Sheila Baldwin

Member Benefits Coordinator
State Bar of Georgia

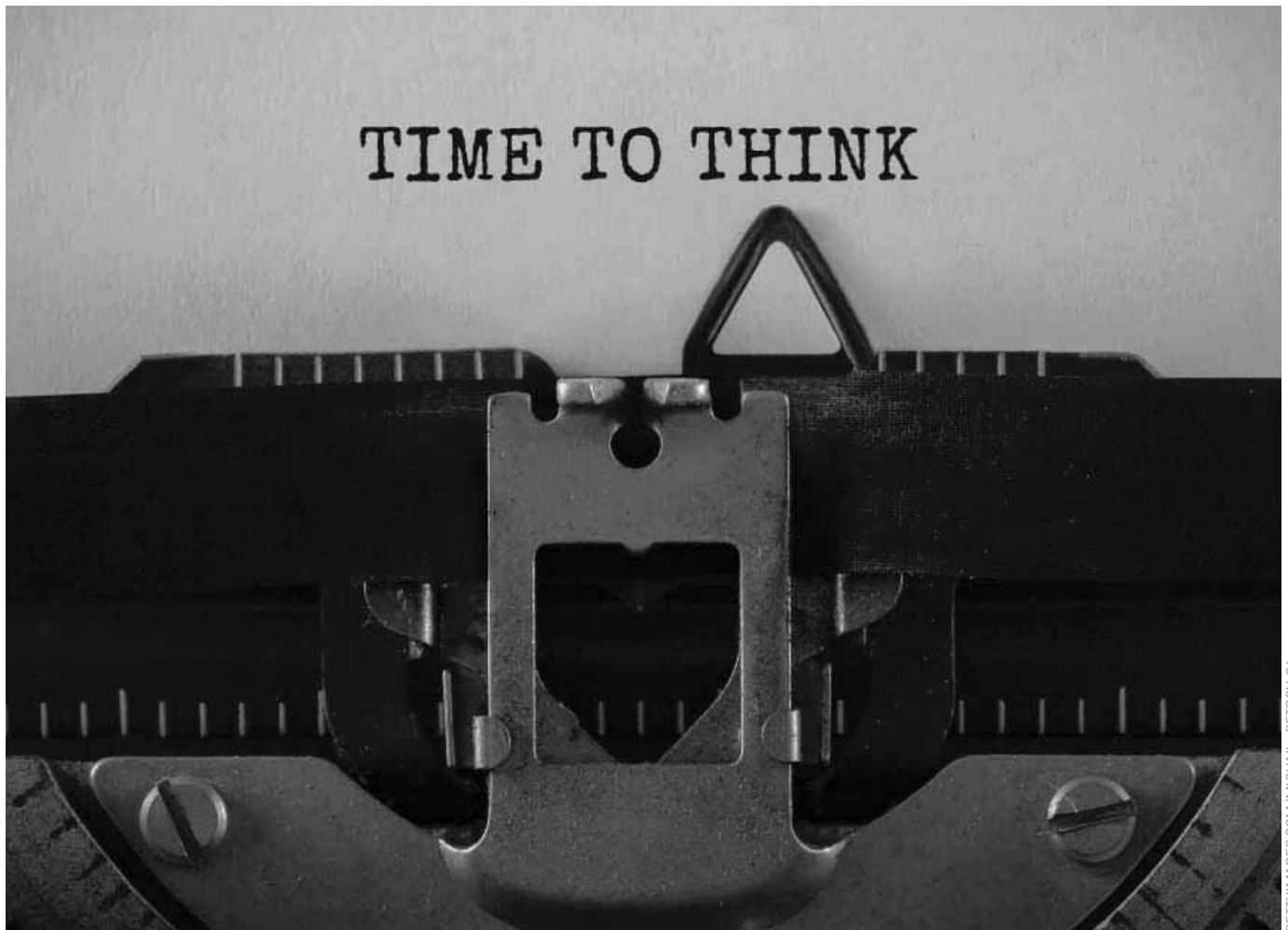
sheilab@gabar.org

Reflecting on Writing

Learn how self-reflection can help you spot bad writing habits and get out of a writing rut. Reflecting on your own writing will facilitate its continued improvement.

BY KAREN J. SNEDDON AND DAVID HRICK

Over the course of a week, lawyers write dozens if not hundreds of written communications, ranging from informal emails, to letters, to briefs. The fact that we write so often, and typically write the same types of documents repeatedly, has its benefits: it allows writing to become a seamless, fluid process and for us to feel comfortable when drafting the familiar types of documents. But it also allows us to pick up bad habits or get stuck in a writing rut. This installment of “Writing Matters” shares how self-reflection can help you spot those bad habits and get out of a writing rut!



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For any writing project, a writer has many options and so choices to make. Self-reflection ensures we continue to think critically about those options to continue to improve as legal writers.

Self-reflection is critical to initially developing any skill, including writing. Recognizing which choices were successful and which were not should inform which choices are made in the future. Baseball players who always swing at a fading curve ball will not last long. Self-reflection helps develop judgment and expertise. And the benefits of self-reflection are not limited to novice writers. Even expert writers can benefit from self-reflection. For any writing project, a writer has many options and so choices to make. Self-reflection ensures we continue to think critically about those options to continue to improve as legal writers.

To provide some structured guidance, we've developed two series of questions. The first are general questions to help you learn how you identify as a legal writer and your typical approach to legal writing. The second will require you to examine and reflect on the approach and choices you made for a recently completed document. For each question, your answer should be as specific as possible.

General Questions

The following seven general questions should help you gain perspective on your identity as a legal writer and your typical approach to writing.

1 If you were to pick one word (other than the word “professional”) to describe your legal writing, what would the word be?

Examples include dynamic, credible, assertive, cautious and curated.

2 List three of your strengths as a legal writer.

Everyone has strengths as a writer. Consider what steps you take to create a text, what choices are consistently successful and what other people say about your writing.

3 List three of your weaknesses as a legal writer.

We all have weaknesses—even you. Consider what frustrations you experience when you approach a project or when you evaluate or reflect on something you have written.

4 How has your approach to legal writing changed in the last five years?

We all change our approaches to writing. For instance, you may have changed your approach by writing the initial draft using a computer instead of writing it by hand. You may have changed your approach to

proofreading, such as by letting it sit overnight before the final review.

5 Describe one thing about your writing that you would like to change.

This change may relate to a particular aspect of the writing process or relate to a characteristic of the resulting written product.

6 What word or phrase is included in almost all of your writings?

All writers develop an affinity for particular words and constructions. This can lead to over-reliance. For instance, you may find that you use “additionally” repeatedly in a document.

7 On a scale of 1 to 5 (with 5 being the highest), rate your comfort level with (a) the semi-colon and (b) the colon.

You can produce a great document without using a semi-colon or a colon. This question isn't to force you to use them. This question is a proxy for your willingness to try differing sentence constructions. Rating your comfort level with these two forms of punctuation can help remind you to vary your punctuation. Punctuation includes more than the comma and the period!

Questions about a Recently Written Document

In addition to answering those general questions, focus on a particular document you completed within the last two weeks. Then, answer these seven questions.

1 How does the document you selected represent your typical written product?

To what extent is the document “unusual”? As noted above, we write a variety of documents over the course of a week. We frequently create similar types of documents, such as trust agreements or trial briefs. If the document is one of your “typical” documents, try to evaluate the document using a fresh perspective. If you were to share the document with a first year associate, what would be surprising about the document? If the document is not a typical document for you (i.e., “unusual”), what was surprising to you about the format or content of the document?

2 What challenges did you face in creating the document?

These challenges may include time and genre constraints, professional responsibility and familiarity with the material.

3 Did you use any technique or approach you used to create the document that varied from your standard techniques or typical approaches?

Even with a typical document, we try different techniques and approaches. Learning what works and what doesn't is key to self-reflection.

4 On a scale of 1 to 5 (with 5 being the highest), rate the visual appeal of the document.

When evaluating the visual appeal, consider the size of the margins, the paragraph length, use of paragraph breaks, line spacing, indents, font and typeface. The visual appeal of the document can promote or hinder reader engagement with the text.

5 What changes did you make to the document during the revising and editing process?

Revising and editing are key to the writing process. But we can sometimes over-revise and over-edit a document. Did you go too far, not far enough or managed just about the right amount?

6 Count the number of words used in the longest and shortest sentences.

We tend to write sentences of similar lengths. Similar length sentences can lead to monotony. Aim to create sentences of varied length.

7 If you had more time to work on the document, what would you do?

What would you do if you had two more hours to work on the document? Time is not an unlimited resource. Allocating our time is important. Considering what you would do with a specific amount of additional time can help prioritize what aspects of the document would be altered or changed. This insight can then help you budget time in the future.

Takeaway

The quote “an unexamined life is not worth living” is often attributed to Socrates. Although this may overstate the value of self-reflection, its value is indisputable. Reflecting on your own writing will facilitate its continued improvement. ●



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



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

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

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Chief Justice's Commission on Professionalism Welcomes a New Director

Karlise Yvette Grier was selected as the fourth executive director of the Chief Justice's Commission on Professionalism in September.

BY TONYA C. BOGA

Karlise Yvette Grier has recently become the fourth executive director of the Chief Justice's Commission on Professionalism. The commission, the first body of its kind in the nation, was created in 1989 by the Supreme Court of Georgia with its primary charge being to enhance professionalism among Georgia's lawyers.

Grier was born and raised in Atlanta. She graduated from Frederick Douglass High School, Dartmouth College (with a B.A. in Computer Science) and Emory University School of Law. Grier began her legal career in commercial litigation at Kilpatrick & Cody, now known as Kilpatrick Townsend. Prior to joining the commission, she practiced for more than 17 years in her firm, Grier Law Office, P.C. Grier was appointed as a part-time Magistrate Court judge in Fulton County and served as a judicial officer in the Fulton County Superior Court Family Division. She has also served as a judge pro hac vice in the former City Court of Atlanta (Traffic Court).

One thing that most interested Grier about her current position is that it allows her to combine her knowledge of private practice with her passion for public ser-

vice. Grier engaged in public interest work as a contract attorney, including serving as a staff attorney for the Judicial Council of Georgia/Administrative Office of the Courts Access, Fairness, Public Trust and Confidence Committee. Her contract work also encompassed her passion for helping children in Georgia's foster care system. As one of the founding fellows of the Supreme Court of Georgia Committee on Justice for Children's Cold Case Project, Grier reviewed cases of children who were in foster care for an extended period of time and who appeared to be aging out of foster care without attaining permanency. The goal of the Cold Case Project remains finding a permanent home for each and every child in Georgia's foster care system.

Grier also worked as a contract attorney for the Fulton County Family Law Information Center (Fulton FLIC). Fulton FLIC was developed, in part, to assist people who represent themselves in domestic legal matters. Fulton FLIC currently works in partnership with the Atlanta Legal Aid Society. The experience of working at Fulton FLIC gave Grier a broader knowledge of access to justice is-

ssues than she would have otherwise encountered in her private practice.

Although Grier has worked in many legal contexts, she has always found time for volunteer service. In 2001, Grier served as the president of the Georgia Association of Black Women Attorneys (GABWA). During her term as president, she was one of the founders and served as the first volunteer director of the Fulton County Juvenile Court Sister-to-Sister Mentoring Program, which serves at-risk girls in the Fulton County Juvenile Court system. The Sister-to-Sister Mentoring Program currently continues as a project of GABWA and the Fulton County Juvenile Court.

Grier also worked as a volunteer and board member of a civil pro bono project that assisted incarcerated mothers with family law issues. As part of her pro bono service, she visited women in Georgia prisons to talk about their legal rights and parental responsibilities. She also helped train other attorneys to assist this underserved population.

Grier's State Bar of Georgia involvement includes service as a special master



PHOTO PROVIDED BY KARLISE YVETTE GRIER

Chief Justice's Commission on Professionalism Executive Director Karlise Yvette Grier

in disciplinary matters and as a member of the State Bar of Georgia's Board of Governors. In previous years, Grier has served on numerous State Bar committees including the Finance Committee, the Advisory Committee on Legislation, the Access to Justice Committee, and the Children and the Courts Committee. She currently co-chairs the SOLACE Committee. She was the founding vice chair of the Child Protection and Advocacy Section of the State Bar of Georgia.

Within Fulton County, Grier has served on the Fulton County Child Attorney's Office Advisory Board, the Fulton County Superior Court Family Division Task Force and the Fulton County Juvenile Court Judicial Nominating Commission.

In 2012, Grier was a Georgia delegate for President Barack Obama at the Democratic National Convention. Currently, Grier is the president of the League of Women Voters of Atlanta-Fulton County. She is a member of Ben Hill United Methodist Church where she serves as an usher and a Vacation Bible School teacher.

In announcing the appointment, Commission Chair Chief Justice P. Harris Hines said, "The commission will be well served by Karlise Grier. She brings a wealth of legal experience to the position which will advance the mission of the work." ●



Tonya C. Boga, practitioner, mediator and consultant in Marietta, has litigated and mediated a wide range of court cases while

representing a diverse client base. Boga is a founding member of the State Bar's Child Protection and Advocacy Section and a current member of the Law Practice Management Committee and Children and the Courts Committee. She is a former director of the Office of the Child Advocate for the Protection of Children/Georgia Child Advocate.

Know Your Bar



Lawyers Helping Lawyers

A new confidential peer-to-peer program that will provide colleagues with a fellow Bar member to help.

Georgia Lawyers Helping Lawyers (LHL) is a new confidential peer-to-peer program that will provide colleagues who are suffering from stress, depression, addiction or other personal issues in their lives, with a fellow Bar member to be there, listen and help.

The program is seeking not only peer volunteers who have experienced particular mental health or substance use issues, but also those who have experience helping others or just have an interest in extending a helping hand. LHL gives the State Bar an additional tool to help our members who are going through rough times.

Volunteers' names and contact information will not be available on the website. Instead, they are identified by a peer number. The committee has taken great lengths to ensure confidentiality of participants in the program, which will be administered by CorpCare Associates, Inc.

All volunteers will receive training from an expert prior to being assigned to anyone. During training, volunteers will learn how to distinguish between being a

counselor, which they are not, and being support for other members, which they are; they will learn how to be an effective peer and acquire new communication skills; and they will know what is expected in terms of frequency of contact, location, etc.

Volunteers will also be told what to do if there is a need for support in excess of what the volunteer peer can provide. If you want to be a peer but aren't sure what you're signing up for, training will answer those questions for you. The training, conducted by CorpCare, consists of a 2.5-hour program, which will provide 2 hours of CLE credit, including 1 Ethics hour and 1 Professionalism hour.

Please consider volunteering and help us spread the word about this important new program. We are hopeful that it will be a huge success and other states can implement it in their bars as well. If you have any questions, please contact LAP Committee Chair Jeff Kuester at jkuester@taylorenglish.com or Committee Member Lynn Garson at lgarson@bakerlaw.com.

Visit www.GeorgialHL.org for more information.

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

THOMAS F. ALLGOOD JR.
Augusta, Ga.
Emory University School of Law (1978)
Admitted 1979
Died December 2017

KENNETH FURMAN ANTLEY
Atlanta, Ga.
Duke University School of Law (1978)
Admitted 1978
Died November 2017

L. DENNIS BALLOU
Atlanta, Ga.
University of Georgia School of Law (1977)
Admitted 1977
Died October 2017

JOHN WILLIAM BRENT
Dunwoody, Ga.
University of North Carolina School of Law (1966)
Admitted 1967
Died December 2017

CHARLES COLEMAN BROOKS
Savannah, Ga.
Atlanta's John Marshall Law School (1973)
Admitted 1973
Died November 2017

RICHARD A. BROWN JR.
Saint Simons Island, Ga.
University of Georgia School of Law (1972)
Admitted 1972
Died October 2017

RICHARD R. CHEATHAM
Atlanta, Ga.
Harvard Law School (1968)
Admitted 1969
Died November 2017

MICHAEL C. CLARK
Norcross, Ga.
University of Georgia School of Law (1980)
Admitted 1980
Died November 2017

PETER JOHN DAUGHTERY
Columbus, Ga.
University of Georgia School of Law (1989)
Admitted 1989
Died October 2017

KENNETH D. DEATON
Columbus, Ga.
Mercer University Walter F. George School of Law
Admitted 1952
Died November 2017

WILLIAM A. DINGES
Atlanta, Ga.
Mercer University Walter F. George School of Law (1976)
Admitted 1976
Died November 2017

M. KATHERINE DURANT
Tucker, Ga.
Mercer University Walter F. George School of Law (1987)
Admitted 1987
Died November 2017

AMY S. FORD
Fort Myers, Fla.
Whittier Law School (1986)
Admitted 1996
Died July 2017

ABRAHAM GOLDFARB
Johns Island, S.C.
Rutgers Law School (1960)
Admitted 1974
Died November 2017

JOHN ROBERT HAMEL
Tampa, Fla.
Northern Illinois University College of Law (1985)
Admitted 1987
Died June 2017

JOSEPH WILLIAM HART
Winston-Salem, N.C.
Emory University School of Law (1989)
Admitted 1993
Died December 2016

MELANIE HIGGINS
Statesboro, Ga.
Emory University School of Law (1981)
Admitted 1982
Died November 2017

VAN JOHN KOTTIS
Atlanta, Ga.
Atlanta Law School (1991)
Admitted 1992
Died December 2017

DAVID M. LANGFORD
Atlanta, Ga.
Mercer University Walter F. George School of Law (1979)
Admitted 1979
Died March 2017

STEPHEN F. MACKIE
Atlanta, Ga.
Emory University School of Law (1985)
Admitted 1986
Died December 2017

EDWIN MARGER
Jasper, Ga.
University of Miami School of Law (1953)
Admitted 1971
Died November 2017

JON PRUTZMAN PENSYL
Fort Valley, Ga.
Mercer University Walter F. George School of Law (1980)
Admitted 1982
Died April 2017

NEWTON HANSEL PURVIS
Decatur, Ga.
Emory University School of Law (1964)
Admitted 1963
Died October 2016

ALEX RUE
Atlanta, Ga.
Indiana University Robert H. McKinney School of Law (1976)
Admitted 1977
Died November 2017

JANICE I. WHORTON
Saint Simons Island, Ga.
Atlanta's John Marshall Law School (1980)
Admitted 1985
Died June 2017

RICHARD W. WOLFE
Fort Lauderdale, Fla.
Woodrow Wilson College of Law (1979)
Admitted 1979
Died November 2017

OBITUARIES



Richard Albert "Rick" Brown Jr. died in October in Jacksonville, Fla. Brown was born on July 4, 1947, in Washington, D.C., to Richard Albert Brown Sr. and Marianne Burns Brown. He graduated from St. Pius High School in Atlanta and attended college at Loyola University in New Orleans

where he met his future wife, Janet Amelia Smart. He graduated with a bachelor's degree in Economics in 1969 and received his J.D. from the University of Georgia in 1972, where he was a member of the *Georgia Law Review* and graduated 12th in his class. After law school, he served on active duty in the U.S. Army Infantry at Fort Benning, where he graduated from Officer Candidate School.

In 1977, Brown became a founding partner in Dickey, Whelchel, Brown & Readdick. This firm—now known as Brown, Readdick, Bumgartner, Carter, Strickland & Watkins—still carries his name. He served as trial counsel to some of the world's leading companies, as well as individuals and small businesses, litigating complex and high-stakes cases across Georgia and Florida.

Among his many accomplishments include his service as president of the Brunswick Glynn County Bar Association and member of the Southern District Advisory Board. Brown was also a member of the Georgia Defense Lawyers association, American Association for Justice, Trucking Industry Defense Association, American Board of Trial Advocates and the Roscoe Pound Institute.

Brown retired from the active practice of litigation in December of 2014, but remained of counsel to the firm. He was a certified mediator and served as a senior correspondent for BikeBound.com, becoming a well-respected member of the motorcycle community. ●



Peter J. Daughtery of Columbus, 2001-02 president of the State Bar of Georgia Young Lawyers Division, died Oct. 29, 2017, at St. Francis Hospital. He was 53.

Daughtery grew up in Tennille, Cuthbert, Savannah and Thomasville. He earned his undergraduate and law degrees from the University of Georgia. He was admitted to the State Bar of Georgia in 1989. As a student, he chaired the Moot Court Board at the University of Georgia School of Law and later served as president of the law school's Young Alumni Organization.

A partner with Daughtery, Crawford & Brown LLP, he previously served on the Executive Committee and Board of Governors of the State Bar of Georgia and was a past president of the Columbus Bar Association. A plaintiff's attorney who recovered hundreds of millions of dollars for his clients, he was also known for his pro bono legal work for children in the areas of special needs education and truancy. He received the National Child Advocacy Award in 1996.

His volunteer work includes service as vice chairman of the Board of Trustees of Andrew College in Cuthbert and on the boards of the Boys and Girls Club, Uptown Columbus and MidTown Columbus. He was a past president of Open Door Community House in Columbus and a former trustee of Magnolia Manor and the Lawyers Foundation of Georgia.

Survivors include his wife, Julie Wray Daughtery; a daughter, Meg Daughtery; his parents, the Rev. V.L. and Catherine Daughtery of Valdosta; a brother, Vergil Daughtery III and his wife Beth of Waynesville, N.C.; a sister, Joy Dickinson of Thomasville; nieces and a nephew.

The funeral was Oct. 31 at St. Paul's United Methodist Church in Columbus with Dr. Shane Green officiating. Memorial contributions may be made to Midtown Inc., Anne Elizabeth Shepherd Home in Columbus, Andrew College or Open Door Community House.

McMullen Funeral Home in Columbus was in charge of arrangements. ●

Memorial Gifts

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

GA 30303, stating in whose memory they are made. The Foundation will notify the family of the deceased of the gift and the name of the donor. Contributions are tax deductible. Unless otherwise directed by the donor, In Memoriam Contributions will be used for Fellows programs of the Georgia Bar Foundation.

FEBRUARY

- 8 ICLE: **Advanced Debt Collection**
Atlanta, Ga. | 6 CLE
- 8 ICLE: **Residential Real Estate—Rebroadcast**
Atlanta, Ga., and Statewide Satellite | 6 CLE
- 9 ICLE: **Eminent Domain Law**
Atlanta, Ga. | 7.5 CLE
- 14 ICLE: **Basic Securities Law**
Atlanta, Ga. | 6 CLE
- 15 ICLE: **Persuading People on the Page
and Screen**
Atlanta, Ga. | 6 CLE
- 16 ICLE: **Attorney First Aid Kit**
Atlanta, Ga. | 6 CLE
- 21 ICLE: **26th Annual Product Liability Seminar**
Atlanta, Ga. | 6 CLE
- 22-23 ICLE: **11th Annual Arbitration Institute**
Atlanta, Ga. | 6 CLE
- 22-24 ICLE: **28th Annual Tropical Seminar**
Cartagena, Colombia | 12 CLE
- 23 ICLE: **27th Annual Georgia Bar Media
& Judiciary Conference**
Atlanta, Ga. | 7 CLE
- 23 ICLE: **18th Annual Georgia Symposium
on Ethics and Professionalism**
Athens, Ga. | 5 CLE
- 23 ICLE: **Plaintiff’s Personal Injury**
Atlanta, Ga., and Statewide Satellite | 6 CLE
- 26 ICLE: **Beginning Lawyers Program**
Atlanta, Ga., and Statewide Satellite | 6 CLE
- 28 ICLE: **Advanced Topics in Franchising
and Distribution**
Atlanta, Ga. | 3 CLE

MARCH

- 1 ICLE: **Fundamentals of Health Care Law**
Atlanta, Ga. | 7 CLE
- 1 ICLE: **Plaintiff’s Personal Injury—
Rebroadcast**
Atlanta, Ga., and Statewide Satellite | 6 CLE
- 2 ICLE: **Truck Wreck Cases**
Atlanta, Ga., via satellite in Savannah
and Tifton, Ga. | 6 CLE
- 2 ICLE: **Professionalism and Ethics Update**
Atlanta, Ga., and Statewide Satellite | 3 CLE
- 7 ICLE: **Georgia’s False Claim Act/
Whistleblower**
Atlanta, Ga. | TBD CLE
- 7 ICLE: **You Define the Moment
or the Moment Will Define You**
Atlanta, Ga. | 3 CLE
- 8 ICLE: **15th Annual Nonprofit Law Seminar**
Atlanta, Ga. | 6 CLE
- 8 ICLE: **Narcissism and the Law**
Atlanta, Ga. | 6 CLE
- 8 ICLE: **Professionalism and Ethics Update—
Rebroadcast**
Atlanta, Ga., and Statewide Satellite | 3 CLE
- 9 ICLE: **Milich on Evidence**
Atlanta, Ga. | 6 CLE
- 9 ICLE: **Trial and Error**
Atlanta, Ga., and Statewide Satellite | 6 CLE
- 14 ICLE: **Litigation—Soup to Nuts**
Atlanta, Ga. | 6 CLE
- 15 ICLE: **Trial and Error—Rebroadcast**
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| 15 | ICLE: Family Law Issues for the Modern Family
Atlanta, Ga. 6 CLE | 28 | ICLE: 9th Annual Employee Benefits Law Section Seminar
Atlanta, Ga. 6 CLE |
| 16 | ICLE: Winning Settlement Strategies
Atlanta, Ga. 6 CLE | 28 | ICLE: e-Discovery
Atlanta, Ga., via satellite in Savannah and Tifton, Ga. 3 CLE |
| 16 | ICLE: Agriculture Law
Macon, Ga. 6 CLE | 29 | ICLE: Not Your Typical CLE
Atlanta, Ga., via satellite in Savannah and Tifton, Ga. 6 CLE |
| 20 | ICLE: March Group Mentoring
Atlanta, Ga., via satellite in Savannah and Tifton, Ga. No CLE | 29 | ICLE: Toxic Torts/Mass Torts
Atlanta, Ga. 6 CLE |
| 20 | ICLE: Business Litigation CLE
Atlanta, Ga. 6 CLE | 30 | ICLE: Trial Evidence—Artistry and Advocacy
Atlanta, Ga. 6 CLE |
| 21 | ICLE: Post Judgement Collection
Atlanta, Ga. 6 CLE | 30 | ICLE: Entertainment Law Institute
Atlanta, Ga. 6 CLE |
| 21 | ICLE: 25th Annual John Mayoue Family Law Convocation on Professionalism
Atlanta, Ga., via satellite in Savannah and Tifton, Ga. 3 CLE | | |
| 22 | ICLE: Professional and Ethical Dilemmas in Litigation
Atlanta, Ga., via satellite in Savannah and Tifton, Ga. 6 CLE | | |
| 23 | ICLE: Mediation Advocacy
Atlanta, Ga., via satellite in Savannah and Tifton, Ga. 6 CLE | | |
| 23 | ICLE: Basic Fiduciary Practice 101
Atlanta, Ga. 6 CLE | | |
| 23 | ICLE: Gwinnett General Practice
Lawrenceville, Ga. 6 CLE | | |
| 27 | ICLE: Beginning Lawyers Program—Rebroadcast
Atlanta, Ga., and Statewide Satellite 6 CLE | | |

Supreme Court of Georgia Approves Amendments to the Rules and Regulations for the Organization and Government of the State Bar of Georgia

The Supreme Court of Georgia, having considered the 2017-3 Motion to Amend the Rules and Regulations for the Organization and Government of the State Bar of Georgia, has ordered that Part IV – Georgia Rules of Professional Conduct, be amended. The Order significantly revises the procedural rules for disciplinary cases. The exact text of the Order and the rules as revised can be found at: https://www.gasupreme.us/wp-content/uploads/2018/01/ORDER_2017_3_FINAL_APPX_Final.pdf.

PLEASE NOTE: The amendments will be effective as of **July 1, 2018**, or as indicated in the Supreme Court Order. As the amendments become effective on July 1, 2018, the State Bar of Georgia's website will be updated at www.gabar.org/barrules/handbook.cfm.

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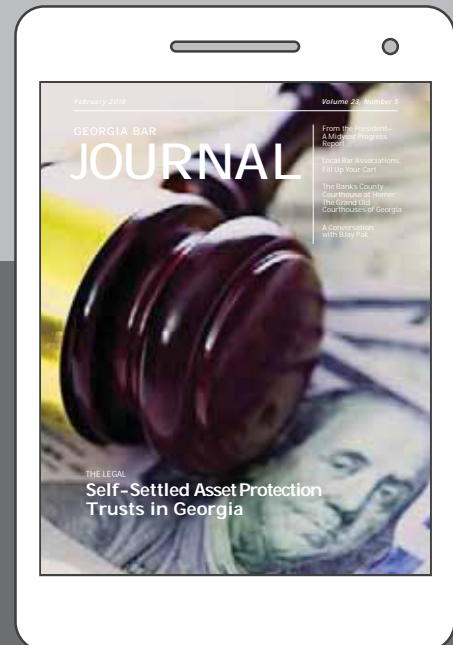
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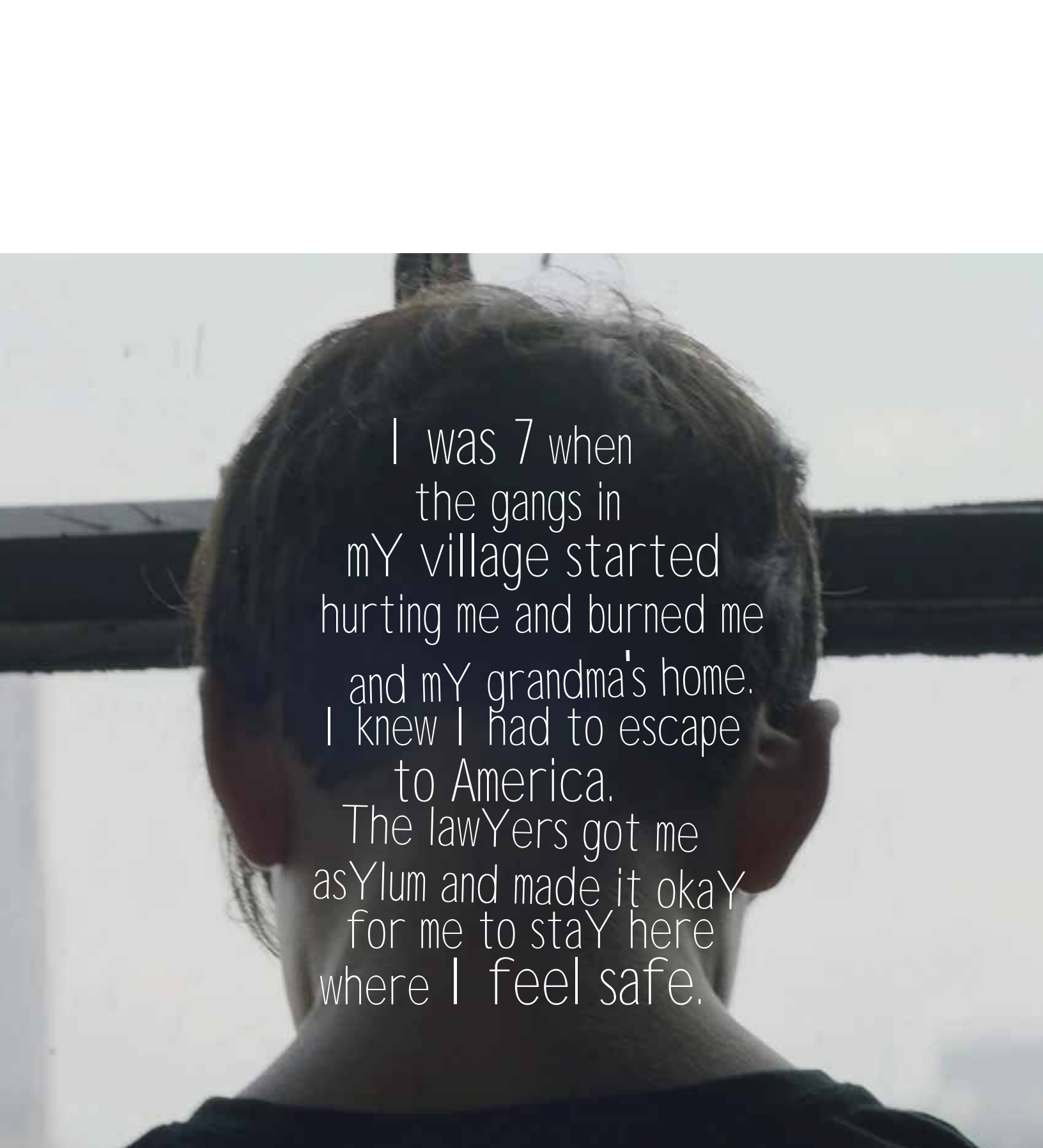
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