

August 2017

Volume 23, Number 1

GEORGIA BAR

# JOURNAL

From the President—  
Closing the Justice Gap

Navigating Lateral  
Moves Between Law  
Firms

2017 State Bar Annual  
Meeting Coverage

A Conversation with  
Larry D. Thompson

55TH  
STATE BAR  
PRESIDENT

**BRIAN D.  
“BUCK”  
ROGERS**





Visit [www.gabar.org](http://www.gabar.org) for the most up-to-date information on committees, members, courts and rules.



State Bar  
of Georgia



Have your  
PROFESSIONAL  
LIABILITY RATES  
SKYROCKETED?



RECOMMENDED BROKER OF THE:



State Bar  
of Georgia

**NEW!** Lawyers' Professional  
Liability Insurance Program  
for State Bar of Georgia Members!

If you've noticed the cost of your Lawyers' Professional Liability is on the rise, we may be able to help!

PROGRAM DETAILS:

Special rates  
for Georgia  
Law Firms

Multi-carrier Solution  
to accommodate all  
size and firm types

Risk Management  
Expertise &  
Resources

Get a quote for Lawyers' Professional Liability Insurance at  
[www.memberbenefits.com/gabar](http://www.memberbenefits.com/gabar) or call **281-374-4501**.

**HEADQUARTERS**

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

**COASTAL GEORGIA OFFICE**

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

**SOUTH GEORGIA OFFICE**

244 E. Second St. (31794)  
P.O. Box 1390  
Tifton, GA 31793-1390  
800-330-0446 | 229-387-0446  
Fax 229-382-7435

**INSTITUTE OF CONTINUING LEGAL EDUCATION**

104 Marietta St. NW, Suite 100  
Atlanta, GA 30303  
678-529-6688  
Fax 404-527-8717  
www.iclega.org

**EDITORIAL BOARD**

*EDITOR-IN-CHIEF*  
Bridgette E. Eckerson

*MEMBERS*  
Donald P. Boyle Jr.  
J. Kyle Brooks  
Rickie Lee Brown Jr.  
Jacqueline F. Bunn  
John Clay Bush  
Timothy J. Colletti  
Jacob E. Daly  
Jake Evans  
Lynn Gavin  
Chad Henderson  
Michelle J. Hirsch  
Eric Hooper  
Amber L. Nickell  
Kevin Patrick  
Kristin M.S. Poland  
Pamela Y. White-Colbert  
Mark W. Wortham

**EDITORS EMERITUS**

Timothy J. Colletti (2015-17)  
Bridgette E. Eckerson (2012-15)  
Robert R. Stubbs (2010-12)  
Donald P. Boyle Jr. (2007-10)  
Marcus D. Liner (2004-07)  
Rebecca Ann Hoelting (2002-04)  
Marisa Anne Pagnattaro (2001-02)  
D. Scott Murray (2000-01)  
William Wall Sapp (1999-00)  
Theodore H. Davis Jr. (1997-99)  
L. Brett Lockwood (1995-97)  
Stephanie B. Manis (1993-95)  
William L. Bost Jr. (1991-93)  
Charles R. Adams III (1989-91)  
L. Dale Owens (1987-89)  
Donna G. Barwick (1986-87)  
James C. Gauden Jr. (1985-86)  
Jerry B. Blackstock (1984-85)  
Steven M. Collins (1982-84)  
Walter M. Grant (1979-82)  
Stephen E. Raville (1977-79)

**OFFICERS OF THE STATE BAR OF GEORGIA**

*PRESIDENT*  
Brian D. "Buck" Rogers  
*PRESIDENT-ELECT*  
Kenneth B. "Ken" Hodges III  
*TREASURER*  
Darrell L. Sutton  
*SECRETARY*  
Dawn M. Jones  
*IMMEDIATE PAST PRESIDENT*  
Patrick T. O'Connor  
*YLD PRESIDENT*  
Nicole C. Leet  
*YLD PRESIDENT-ELECT*  
Rizza P. O'Connor  
*YLD IMMEDIATE PAST PRESIDENT*  
Jennifer C. Mock

**COMMUNICATIONS COMMITTEE**

*CO-CHAIR*  
Peter C. Canfield  
*CO-CHAIR*  
Sonjui L. Kumar

**COMMUNICATIONS DEPARTMENT**

*DIRECTOR*  
Sarah I. Coole  
*ASSISTANT DIRECTOR*  
Jennifer R. Mason  
*COMMUNICATIONS COORDINATOR*  
Stephanie J. Wilson  
*ADMINISTRATIVE ASSISTANT*  
M. Lane Sosebee

**QUICK DIAL**

*ATTORNEY DISCIPLINE*  
800-334-6865 ext. 720  
404-527-8720  
*CONSUMER ASSISTANCE PROGRAM*  
404-527-8759  
*CONFERENCE ROOM RESERVATIONS*  
404-419-0155  
*FEE ARBITRATION*  
404-527-8750  
*CLE TRANSCRIPTS*  
404-527-8710  
*DIVERSITY PROGRAM*  
404-527-8754  
*ETHICS HELPLINE*  
800-682-9806  
404-527-8741  
*GEORGIA BAR FOUNDATION/IOLTA*  
404-588-2240  
*GEORGIA BAR JOURNAL*  
404-527-8791  
*GOVERNMENTAL AFFAIRS*  
404-526-8608  
*ICLE*  
678-529-6688  
*LAWYER ASSISTANCE PROGRAM*  
800-327-9631  
*LAW PRACTICE MANAGEMENT*  
404-527-8773  
*LAW-RELATED EDUCATION*  
404-527-8785  
*MEMBERSHIP*  
404-527-8777  
*MEETINGS INFORMATION*  
404-527-8790  
*PRO BONO RESOURCE CENTER*  
404-527-8763  
*PROFESSIONALISM*  
404-225-5040  
*SECTIONS*  
404-527-8774  
*TRANSITION INTO LAW PRACTICE*  
404-527-8704  
*UNLICENSED PRACTICE OF LAW*  
404-527-8743  
*YOUNG LAWYERS DIVISION*  
404-527-8778

**MANUSCRIPT SUBMISSION**

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

The *Georgia Bar Journal* welcomes the submission of news about local and 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.

**DISABILITIES**

If you have a disability which requires printed materials in alternate formats, please call 404-526-8627 for assistance.

**PUBLISHER'S STATEMENT**

The *Georgia Bar Journal* (ISSN-1085-1437) is published six times per year (February, April, June, August, October, December) with a special issue in November by the State Bar of Georgia, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303. Copyright State Bar of Georgia 2017. One copy of each issue is furnished to members as part of their State Bar dues. Subscriptions: \$36 to non-members. Single copies: \$6. Periodicals postage paid in Atlanta, Ga., and additional mailing offices. Advertising rate card will be furnished upon request. Publishing of an advertisement does not imply endorsement of any product or service offered. POSTMASTER: Send address changes to same address.



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

GEORGIA BAR  
**JOURNAL**  
August 2017 | Volume 23 | Number 1

**GBJ** | *The Features*

---

**22** The 2017 Annual Meeting  
Lands on Georgia's Coast

JENNIFER R. MASON

**32** 2017-18 State Bar of Georgia  
Officers, Executive Committee  
and Board of Governors Meetings

**34** O'Connor's Final Remarks  
to the Board of Governors

PATRICK T. O'CONNOR

**38** Rogers' Remarks to the  
Board of Governors

BRIAN D. "BUCK" ROGERS

**42** New President Continues  
the Family Tradition

LINTON JOHNSON

**46** Georgia Bar Foundation Update

LEN HORTON

PHOTO BY ISTOCK.COM/DNY59



**The  
Legal**

**NAVIGATING LATERAL  
MOVES BETWEEN LAW  
FIRMS / 14**

Jonathan E. Hawkins

**GBJ | In Every Issue**

- 5 Editor's Letter
- 6 From the President
- 10 From the YLD President
- 12 From the Executive Director
- 19 Know Your Bar
- 54 Bench & Bar
- 61 Attorney Discipline
- 64 Legal Tech Tips
- 80 In Memoriam
- 82 Book Review
- 85 CLE Calendar
- 87 Notices
- 88 Classified Resources
- 88 Advertisers Index

**50 Georgia Lawyer Spotlight**

A Conversation with  
Larry D. Thompson

*Jacob E. Daly*

**60 Office of the General Counsel  
Into the Breach**

*Paula Frederick*

**66 Law Practice Management**

Another Solo and Small Firm  
Institute Is In the Books

*Natalie R. Kelly*

**68 Pro Bono**

You Can Help Us Beat the Odds

*Michael Monahan*

**69 Pro Bono Star Story**

Ronald Edward "Ron" Daniels

*Rachael Schell*

**72 Section News**

Labor & Employment Law  
Section's Mentoring Program  
Sets a New Standard

*D. Albert "Bert" Brannen*

**74 Member Benefits**

Fastcase 7: Content Rich  
and User Friendly

*Sheila Baldwin*

**76 Writing Matters**

Fact Statements Part I:  
More than "Just the Facts"

*Megan E. Boyd*

**78 Professionalism Page**

Farewell: I Believe It's  
Time for Another Adventure

*Avarita L. Hanson*

# The August Issue

The *Georgia Bar Journal* is celebrating the first anniversary of its redesign, and the feedback over this past year couldn't be better! The response has been overwhelmingly positive, with particular emphasis on the new design elements, flow of the content and readability. We are very pleased with the reception the redesign has received among State Bar members. Many thanks to our readers for your contributions to the *Journal's* success.

Please join me in welcoming Brian D. "Buck" Rogers as the 55th president of the State Bar. Buck is well-known throughout the state for his commitment to his practice as a personal injury plaintiffs' attorney, and he is equally well-known for his commitment to the State Bar. In his president's column, he addresses the "justice gap" and has highlighted ways for State Bar members to narrow that gap and join the cause. We extend our gratitude to outgoing President Patrick T. "Pat" O'Connor for his adroit and skilled leadership during a challenging time of growth for the Bar.

To highlight these times of change, for those of you who are, or who would like to be, featured in the "On the Move" section, you should read this issue's legal article: "Navigating Lateral Moves Between Law Firms" by Jonathan E. Hawkins. In today's world, lawyers are likely to move between law firms more than once. This article will help you focus on your ethical obligations to your clients and to your colleagues alike.

We have not one, but two, interviews for you. In the Georgia Lawyer Spotlight column, *Journal* Editorial Board member Jake Daly writes about his interview with attorney Larry D. Thompson. Thompson has had many roles in his career, as an in-house attorney, deputy attorney general for the Department of Justice, private practitioner and professor at the University of Georgia School of Law. His long and varied career is intriguing, to say the least. In the Pro Bono Star Story, you can read about the dedication of Ron Daniels to serving his community in the best way he knows how: in the courtroom. YLD President Nicole Leet, in her From the YLD President column, challenges YLD members to pledge 50 pro bono hours this year. You'd be surprised at the creative ways you can accomplish this goal.

Lastly, in with the new fiscal year and, in with the . . . old? It is my pleasure and privilege to once again serve as editor-in-chief of the *Georgia Bar Journal*. Our Communications Department is not resting on their laurels following the *Journal's* redesign, but continue to improve content, layout and overall appeal of the *Journal*. Our Editorial Board members will continue to look for ways that the *Journal* can best serve the State Bar, finding quality articles that reflect the diverse practices and perspectives of our members, and brainstorming content in new and different areas of interest. Please consider contributing an article yourself. ●

**BRIDGETTE E. ECKERSON**  
Editor-in-Chief, *Georgia Bar Journal*  
journal@gabar.org



## ON THE COVER

Pictured on the cover is 2017-18 President Brian D. "Buck" Rogers and his family. (Back row, left to right) Alex, Noah, Buck and Max. (Front row, left to right) Makenzie, wife Mandy and Peyton; and family dog Boscoe.

COVER PHOTO BY CHRIS MONCUS PHOTOGRAPHY

## VISIT

[gabar.org](http://gabar.org)

## VIEW ONLINE

[www.gabar.org/newsandpublications/georgiabarjournal/](http://www.gabar.org/newsandpublications/georgiabarjournal/)

## FOLLOW

**Twitter**  
[@StateBarofGA](https://twitter.com/StateBarofGA)  
[@GeorgiaYLD](https://twitter.com/GeorgiaYLD)

**Facebook**  
[statebarofgeorgia](https://www.facebook.com/statebarofgeorgia/)  
[GeorgiaYLD](https://www.facebook.com/GeorgiaYLD/)

**Youtube**  
[/StateBarofGeorgia](https://www.youtube.com/StateBarofGeorgia)

**Flickr**  
[statebarofgeorgia](https://www.flickr.com/photos/statebarofgeorgia/)  
[yld](https://www.flickr.com/photos/yld/)

**Instagram**  
[@statebarofga](https://www.instagram.com/statebarofga)

**LinkedIn**  
[/state-bar-of-georgia](https://www.linkedin.com/company/state-bar-of-georgia/)

# Closing the Justice Gap



**BRIAN D. "BUCK"  
ROGERS**

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

**Last year, the American Bar Association's Commission on the Future of Legal Services published its 2016 Report on the Future of Legal Services in the United States.** Our own Paula J. Frederick, general counsel of the State Bar of Georgia, served on the commission. Current ABA President Linda A. Klein of Atlanta, a past president of the State Bar of Georgia, served as 2015-16 ABA Board of Governors liaison to the commission.

Among its major findings, the report stated, "Despite sustained efforts to expand the public's access to legal services, significant unmet needs persist." Some 80 percent of Americans living below the poverty level, and even a majority of those individuals reported in the moderate-income range, are not able to afford the legal services they need.

The existing safety nets—the Legal Services Corp. (LSC) and other legal aid providers—do not receive sufficient funding "and will continue to be inadequate in the future," according to the report. The LSC is facing a 22 percent cut in its federal funding (from \$385 million to \$300 million) for fiscal year 2018 under the budget proposed by the U.S. House of Representatives Appropriations Committee.

The ABA is asking Congress to fully fund LSC's request for \$527.8 million in next year's budget so that more people with civil legal problems can seek justice through its services. As ABA President Klein said, "People with civil legal prob-

lems include survivors of domestic violence or sexual abuse, veterans trying to secure benefits, people looking to improve housing conditions and health care, and victims of natural disasters. Federal funds are critical in bridging the gap that volunteer lawyers and private and state funding cannot meet."

The present level of pro bono services is also insufficient to providing the poor with the services to address their unmet legal needs. The commission found numerous other challenges, factors and obstacles adversely affecting access to justice, including these:

- Many lawyers, especially recent law graduates, are unemployed or underemployed, despite the significant unmet need for legal services.
- The traditional law practice business model constrains innovations that would provide greater access to, and enhance the delivery of, legal services.
- The legal profession's resistance to change hinders additional innovations.
- Advancements in technology and other innovations continue to change how legal services can be accessed and delivered.
- The legal profession does not yet reflect the diversity of the public, especially in positions of leadership and power.



- The complexity of the justice system and the public's lack of understanding about how it functions undermine the public's trust and confidence.
- The criminal justice system is overwhelmed by mass incarceration and over-criminalization, coupled with inadequate resources.
- Federal and state governments have not funded or supported the court system adequately, putting the rule of law at risk.

To address these and other issues affecting access to justice and the delivery of legal services, the commission made the following 12 recommendations:

1. The legal profession should support the goal of providing some form of effective assistance for essential legal needs to all persons otherwise unable to afford a lawyer.
2. Courts should consider regulatory innovations in the area of legal services delivery.
3. All members of the legal profession should keep abreast of relevant technologies.
4. Individuals should have regular legal checkups, and the ABA should create guidelines for lawyers, bar associations and others who develop and administer such checkups.
5. Courts should be accessible, user-centric and welcoming to all litigants, while ensuring fairness, impartiality and due process.
6. The ABA should establish a Center for Innovation.
7. The legal profession should partner with other disciplines and the public for insights about innovating the delivery of legal services.
8. The legal profession should adopt methods, policies, standards and practices to best advance diversity and inclusion.
9. The criminal justice system should be reformed.

# OFFICERS' BLOCK

The State Bar of Georgia's eight officers are elected to a one-year term by the membership and serve as members of the Executive Committee. Three of the officer positions are held by the president, president-elect and immediate past president of the YLD, shown on page 11.



**BRIAN D. "BUCK" ROGERS**

*President*

A partner with Fried Rogers Goldberg LLC in Atlanta, Rogers works primarily as a civil attorney representing victims of catastrophic claim, and holds a Class "A" Commercial Driver's license. He is a P.O.S.T. (Peace Officer's Safety Training) Certified Guest Lecturer on Commercial Motor Vehicle Collisions and Law.



**KENNETH B. "KEN" HODGES III**

*President-Elect*

Hodges, of Ken Hodges Law, focuses his law practice on criminal defense and civil litigation, including but not limited to personal injury, wrongful death, commercial litigation and civil rights cases. Ken Hodges Law has offices in Atlanta and Albany.



**DARRELL L. SUTTON**

*Treasurer*

Sutton, of the Sutton Law Group LLC in Marietta, practices insurance defense litigation, primarily representing employers, insurers, self-insured companies and servicing agents in workers' compensation claims throughout Georgia.



**DAWN M. JONES**

*Secretary*

Jones, of The Firm of Dawn M. Jones, LLC, is a former ICU nurse representing clients and their families for injuries resulting from medical negligence, nursing home neglect/abuse, collisions, wrongful death and other tort-related matters. She also serves as a litigation and expert witness consultant to fellow plaintiffs' attorneys, and has served as a court-appointed receiver.



**PATRICK T. O'CONNOR**

*Immediate Past President*

O'Connor is the managing partner of Oliver Maner LLP, located in Savannah, and has been practicing there since 1990. He concentrates his law practice on business litigation, the defense of civil rights claims, and the defense of legal malpractice and other professional negligence claims.

- 
10. Resources should be vastly expanded to support long-standing efforts that have proven successful in addressing the public's unmet needs for legal services.
  11. Outcomes derived from any established or new models for the delivery of legal services must be measured to evaluate effectiveness in fulfilling regulatory objectives.
  12. The ABA and other bar associations should make the examination of the future of legal services part of their ongoing strategic long-range planning.

Access to justice is one of the five major areas of the State Bar of Georgia's strategic plan. Our positioning statement reads: "We believe that there is a lack of access to justice for many people and that we, as a profession, have an obligation to provide and promote access. Therefore, we will analyze options the Bar can utilize to provide funding and delivery of services to achieve access by:

- Enhancing the use of technology to expand and serve areas where there are fewer lawyers.
- Effectively using our grassroots and legislative programs to explore private and public funding options.
- Encouraging members to provide pro bono services.
- Finding ways to get lawyers to contribute more money to legal services."

---

The justice gap that exists in our state and throughout the country is real, and the only way to close it is for lawyers and legal organizations to continue to emphasize and support the efforts to provide legal services for those unable to afford representation.

I am pleased to report we are making progress in all of those areas, and access to justice will continue to be a top priority during this Bar year. Under the leadership of Hon. Jill Pryor (chairperson) and Angela M. Hinton (vice chairperson), our Access to Justice Committee is working hard to promote and facilitate the participation of Georgia's lawyers in the delivery of pro bono services and support the legal aid organizations equipped to provide free legal services to those who cannot afford legal representation, such as the Georgia Legal Services Program ([www.glsp.org](http://www.glsp.org)) and the Atlanta Legal Aid Society ([www.atlantalegalaid.org](http://www.atlantalegalaid.org)).

I am grateful for Young Lawyers Division President Nicole Leet's challenge to all young lawyers to participate in the "Due Justice. Do 50." pro bono initiative (see her article on page 10). I encourage all of our members to provide at least 50 hours of pro bono services each year and contribute financially to legal aid and pro bono programs to help resolve this critical situation. You can learn more at [www.DueJusticeDo50.org](http://www.DueJusticeDo50.org).

The State Bar, our Commission on Continuing Lawyer Competency, the Institute for Continuing Legal Education and our Pro Bono Resource Center offer \$150 CLE vouchers to Georgia attorneys who are connected to structured civil pro bono programs. The vouchers cover CLE programs hosted by ICLE in Georgia, helping Bar members meet their CLE requirements and give a boost to pro bono. To be eligible for a CLE voucher, the attorney must handle at least three pro bono cases in a calendar year for a recognized civil pro bono program. Information on signing up can be found on the Bar's website. (Search "CLE voucher" at [www.gabar.org](http://www.gabar.org).)

Our Pro Bono Resource Center manages a statewide volunteer lawyer support website, [www.GeorgiaAdvocates.org](http://www.GeorgiaAdvocates.org), to help Bar members manage their pro bono service. By joining the free site, you can access the statewide calendar of events, online training, resource and practice library, and more.

The State Bar's highly successful Military Legal Assistance Program assists service members and veterans by connecting

them to Georgia lawyers who are willing to provide free or reduced-fee legal services. Service members and veterans often have legal needs in their personal lives and specific to their military service. You are encouraged to help Georgia's service members and veterans with their unmet legal needs. To join the effort, contact Norman Zoller at [normanz@gabar.org](mailto:normanz@gabar.org).

Another means of supporting legal services is through a financial gift to the Georgia Bar Foundation. A 501(c)(3) organization, the foundation was designated by the Supreme Court of Georgia in 1983 to receive IOLTA funds to support legal services for the poor, to improve the administration of justice, to promote professionalism in law practice in order best to serve the public, to aid children involved in the justice system and to advance the legal system through historical study. You are encouraged to become a fellow or otherwise support the Georgia Bar Foundation. Contact Len Horton at [hortonl@bellsouth.net](mailto:hortonl@bellsouth.net) for information on doing so.

We are also encouraging Georgia lawyers to participate in the ABA's Free Legal Answers program, an online service aimed—on a state-by-state basis—at increasing access to advice and information about non-criminal legal matters to those who cannot afford it. Eligible users are adults who must meet certain financial guidelines. After eligibility is established, users will post a request for legal advice or information and provide facts that will help the attorney answer the question. There is no fee for use of the system or for the advice and information provided by the participating attorneys. You can learn more or sign up to volunteer at [www.georgia.freelegalanswers.org](http://www.georgia.freelegalanswers.org).

The justice gap that exists in our state and throughout the country is real, and the only way to close it is for lawyers and legal organizations to continue to emphasize and support the efforts to provide legal services for those unable to afford representation. As you can tell, the opportunities for Georgia lawyers to make a difference are plentiful and can be a rewarding experience. If you haven't already done so, please join the cause this year. ●



Do Confidence Building.

Due Justice.

Do Pro Bono.

[duejusticedo50.org](http://duejusticedo50.org)

"I started doing pro bono work because I wanted to help others. I was surprised to discover how much that work would help me gain confidence. Pro bono casework led to opportunities as a young lawyer I wouldn't have had otherwise. It helped me develop my consultation style, learn client management, and hone my trial skills. Taking on pro bono cases was one of the best decisions I ever made."

— Shalamar Parham, Attorney, Parham Law Firm, LLC, Volunteer with Georgia Legal Services Program, Clayton County Pro Bono Project and Cobb Justice Foundation

The cause of justice requires an army of volunteers. Answer the call. Do Pro Bono. **Because You Can.**

 State Bar of Georgia

#volunteerstatebarga  
[duejusticedo50.org](http://duejusticedo50.org)



\*Rule 6.1 Voluntary Pro Bono Public Service: A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year... In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means. No reporting rules or requirements may be imposed without specific permission of the Supreme Court granted through amendments to these Rules. There is no disciplinary penalty for a violation of this Rule.

# Take the 50-Hour Pro Bono Challenge



NICOLE C. LEET

YLD President  
State Bar of Georgia  
[nleet@grsmb.com](mailto:nleet@grsmb.com)

**Very few state bars have as vibrant** and active a Young Lawyers Division as the State Bar of Georgia. I am honored to serve as the 71st president of the Georgia YLD and help continue the work of this wonderful organization.

The YLD's motto is "working for the profession and the public," and the YLD has long been known as the "service arm" of the State Bar. Throughout the 2017-18 Bar year, I hope to highlight the YLD's commitment to service, with an emphasis on pro bono service.

The YLD has a history of providing public service in every corner of the state. In 1971, the YLD was the driving force behind the creation of the Georgia Legal Services Program (GLSP), which provides access to justice and opportunities out of poverty for Georgians with low incomes. Today, GLSP has 12 offices statewide. In 2009, the YLD developed the Public Interest Internship Program (PIIP), which offers summer employment opportunities in public interest, government and nonprofit organizations across the state. PIIP provides invaluable legal training and experience for participants while serving the indigent and underprivileged throughout Georgia.

Access to justice issues are not new, but they have been growing along with the country's population and development. It is estimated that fewer than one in five low-income persons in the United States obtain the legal assistance they need.<sup>1</sup> While access to justice issues are not solely a "legal profession" problem, lawyers and organizations like the YLD are uniquely equipped to assist in bridging the gap.

Young lawyers have the passion and drive to take on pro bono cases. Yet this passion and drive can be thwarted by both the realities of the learning curve in the first years of practice and staying afloat with the lawyer's "real work." Volunteering and taking on pro bono cases can seem intimidating—especially if the only pro bono opportunities known involve a drastically different practice area. Young lawyers can be overwhelmed trying to become proficient in one practice area and building that practice. Thus, they do not believe they can take on and serve a pro bono client effectively if they have to learn an area of law that is completely new to them.

This year, the YLD will be highlighting numerous opportunities for young lawyers to provide their professional knowledge, skills and advice for free or at a reduced cost. We have a brand new committee this year, the Pro Bono Committee, which will work to identify such opportunities and broadcast them statewide. There are opportunities in every practice area and in every part of the state. Increased awareness of the need and existing opportunities will hopefully remove one barrier for younger lawyers to volunteer pro bono service. Young lawyers can use the skills they have as lawyers and in their own practice area to serve those who need that specific knowledge and those skills.

The pledge is easy to make and can be done by filling out a pledge card at a YLD event or by going to our website, [www.georgiayld.org](http://www.georgiayld.org). The pledge will also be easy to keep. The YLD is partnering with the State Bar of Georgia's Access to Justice

Committee's "Due Justice. Do 50." campaign to provide support to the young lawyers taking the pledge. Between the YLD and the "Due Justice. Do 50." project, young lawyers will be provided with numerous opportunities to provide pro bono service in the areas of the state where they practice.

This challenge is made to all members of the YLD. You are automatically a member of the YLD if you are under the age of 36 or are in your first five years of practice. The YLD consists of approximately 10,000 lawyers statewide.

The YLD's Signature Service Project—the 50-hour pledge challenge—is officially kicking off at the YLD's Summer Meeting in Austin, Texas. The challenge will continue through January 2018, when it will be capped off with a celebration for those who accepted the challenge and made the pledge.

I urge you to take the pledge and commit to 50 hours of pro bono service. I hope that you will see an opportunity where you can use your skills and knowledge to assist someone with a legal need. Legal issues can be an incredible burden and it may take something as simple as advice, a letter or a phone call to provide someone with support and peace of mind.

The YLD will have pledge cards and signups available at all of our events during this challenge. I encourage you to get involved with the YLD or a local YLD affiliate. The YLD provides opportunities to network with other lawyers from all over the state of Georgia. There are YLD committees focused on public service to the profession and the community, as well as practice-area specific committees and committees dedicated to professionalism and inclusion in the profession. YLD events focus on service and professional development, as well as social events to foster collegiality.

Be sure to follow the YLD on Facebook, Instagram and Twitter to keep up with events throughout the year. I look forward to seeing you at an event and receiving your pledge to complete 50 hours of pro bono work. ●

## Endnote

1. *Institute for Survey Research and American Bar Association, 1994; Legal Services Corporation, 2005 National Center for State Courts, 2006; American Bar Association, 2010.*

# OFFICERS' BLOCK

*The Young Lawyers Division officers consist of a president, president-elect, treasurer, secretary, immediate past president and two newsletter editors, who are responsible for carrying out the purposes of the Young Lawyers Division.*



**NICOLE C. LEET** | YLD President

Leet is a partner with Gray, Rust, St. Amand, Moffett & Brieske, LLP, in Atlanta. She specializes in civil tort litigation, primarily in the areas of product, construction and premises liability.



**RIZZA O'CONNOR** | YLD President-Elect

O'Connor is the chief magistrate judge of Toombs County. She presides over small civil claims, dispossessories, criminal warrant application hearings and the issuance of arrest and search warrants.



**WILLIAM T. "WILL" DAVIS** | YLD Treasurer

Davis, of Holland Roddenbery LLC in Atlanta, practices primarily in all areas of family law including divorce, custody, child support, adoption and LGBT family law issues.



**BERT HUMMEL** | YLD Secretary

Hummel is a senior associate with Lewis Brisbois Bisgaard & Smith in Atlanta. He has extensive litigation experience and practices insurance defense primarily in the areas of general liability, premises liability and workers' compensation.



**JENNIFER C. MOCK** | YLD Immediate Past President

Mock practices law with The Mock Law Firm, LLC, in Statesboro. She maintains a general practice while focusing on commercial and residential real estate law as well as juvenile law.



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

Rankin, of the Law Office of James C. McLaughlin in Atlanta, focuses her practice on tort and insurance law in a staff legal office of Liberty Mutual Insurance.



**HEATHER RIGGS** | YLD Newsletter Co-Editor

Riggs, owner of MindMeld Marketing in Atlanta, provides website content, blogging and social media management to fellow lawyers and law firms.

# Presidents Come and Go; Strategic Plans Remain



JEFF DAVIS

Executive Director  
State Bar of Georgia  
[jeffd@gabar.org](mailto:jeffd@gabar.org)

The four presidents of the State Bar of Georgia with whom I have served since becoming executive director all have one thing in common. They have each been committed to a leadership approach that not only meets the Bar's current-year needs but also establishes a direction carrying out our mission in future years.

The first, Patrise Perkins-Hooker, suggested we implement a strategic plan. The plan was completed under her successor as president, Bob Kauffman. We began implementation of the plan during Bob's year and continued it into last year, under Pat O'Connor.

Although Pat refers to his just-completed term as the "year of the curveball" due to several unexpected developments, i.e., the Bar's taking on administrative responsibilities for the Institute of Continuing Legal Education issue and legislative actions affecting the selection process for the Judicial Qualifications Commission, we stayed on task by relying on the strategic plan to guide us.

When our new president, Buck Rogers, took office in June, he stated that his primary goal for this year is to maintain a steady course with the strategic plan as our blueprint for the present and the future. (*The strategic plan can be found on the Bar's website at [www.gabar.org](http://www.gabar.org) > About the Bar.*)

Developing and adhering to a multi-year strategic plan like ours here in Georgia is a trend that has become more prevalent in the work of nonprofit associations, including state bars, following the lead of for-profit businesses. Proponents of advance strategic planning contend that groups whose leadership changes every

year, a new president must contemplate his or her term as the middle of a three-year sequence, including the preceding and succeeding presidents' years.

"I think the new president has to look at (his or her) term in the context of the preceding president and the next president," says Massachusetts-based association management consultant Harrison Coerver. "Anything of consequence is unlikely to happen in a 12-month span. It's like running a relay race."

Thanks to the emphasis on strategic planning by the State Bar presidents I have worked under, I have been able to avoid the pitfalls of some of my colleagues around the country, who have had to resolve conflicts between the personal initiatives of the president and the Bar's overall goals.

While a certain degree of flexibility is needed to deal with unanticipated developments, a consistent focus on the Bar's primary mission is required to avoid becoming a disjointed monstrosity like the foundation created by fictional ex-President Selina Meyer on the HBO comedy "Veep": The Meyer Fund for Adult Literacy, AIDS, the Advancement of Global Democracy, Military Family Assistance & Childhood Obesity.

Unlike this fictional ex-president, the goal of our leadership is to remain focused on the Bar's stated mission. My specific role as executive director is to provide support to our leaders to ensure we follow the roadmap of the strategic plan as we fulfill the promise of our vision statement: "Lawyers serving the public and the justice system."

Writing for the American Bar Association's *Bar Leader* newsletter, Robert J.

Derocher asks, “So, should a new president bring new initiatives? Or should he or she stay the strategic course?” While either approach can work, Derocher adds that a careful balance of flexibility and planning is required, “not only for the new bar president, but also for the bar’s executive director and staff, who will be working closely with the bar leader.”

He quotes Coerver as decrying the “zig-zag effect” that plagues membership organizations with annual changes of leadership—“with one president ‘zigging’ in one direction and the next president ‘zagging’ in another direction, sometimes with no real connection between initiatives.”

No matter how well intentioned and exciting a new president’s signature initiative might be, unless it is part of the organization’s long-term, mission-oriented strategy, it has the potential to absorb time and financial resources for 12 months and then fade away long before the president’s lofty goals for the program ever come to fruition. Five to 10 years later, Coerver asks, “What do you have to show for it? A lot of these initiatives are valid. They’re not wrong, but how do they contribute to (the bar’s) long-term mission or vision?”

Having a written strategic plan is a great help not only to the executive director and the Bar staff, but also to the Bar president and other leaders. Every month, the Executive Committee reviews the strategic plan to ensure continued progress on completing tasks and doing what the plan calls for us to do. On a quarterly basis, the Board of Governors reviews each priority strategy and is provided with an update on objectives and action items. At the Annual Meeting, a report is provided and we determine what adjustments need to be made to our targets and priorities. This year, Buck Rogers has called for specific deadline dates to be attached to each task and objective, providing greater clarity and accountability for carrying out the plan.

During the first two years of implementing the objectives of the strategic plan, we have accomplished the following:

- The Disciplinary Rules Committee recommended changes in the Rules to streamline the process and address transparency issues. These changes

were approved by the Board of Governors and await final approval by the Supreme Court of Georgia.

- We sent a delegation of Bar officers to Washington, D.C., recently to meet with members of Congress and advocate for increased federal funding for civil legal services. We also continue to support appropriate state funding for these services.
- We created a video to encourage Bar members to take advantage of pro bono opportunities as part of incorporating the importance of access to justice as a regular component of our continuing legal education programming.
- The State Bar is working with the Administrative Office of the Courts, which received a grant from the National Center for State Courts, to help coordinate the efforts of numerous stakeholders who have an interest in promoting initiatives to improve access to justice around the state.
- We have increased our efforts to enhance Bar members’ professional and personal lives through our Wellness Program, Lawyers Living Well, by creating the LawyersLivingWell.com website, which promotes physical, mental and social wellness and a healthier work/life balance for the entire legal community.
- For the past year, my columns in the *Georgia Bar Journal* have focused on member benefits to remind members of the services and resources that can enhance their law practices. Our enhanced membership directory will be rolled out soon, offering an expanded professional profile for all members.
- We provide public information and links on our online membership directory to inform our members and the public about disciplinary action taken against specific lawyers.
- Now that ICLE is a Bar program, we are focusing on increasing CLE programs geared toward Bar section members to focus on certain practice

areas, as a means of increasing the awareness, visibility and value of our sections.

- We developed and aired three well-received public service announcements last year aimed at improving the public perception of lawyers.

For the State Bar of Georgia, it also helps that all Bar presidents first serve a full year in training as an active, involved president-elect. With few exceptions, they are first elected into the officer structure as secretary, learning to carry out the administrative functions of Bar leadership. That is usually followed by a year as treasurer, which helps them grasp the financial workings of an annual budget of the State Bar of Georgia general operations, the Bar Center and ICLE, now totaling more than \$23 million.

Each president also stays on the Executive Committee one additional year as immediate past president, which further ensures continuity in priorities and programming. Most presidents have also served on the Board of Governors and Executive Committee for a number of years prior to their election as officers.

Utilizing a strategic plan as a guiding document for an organization like ours does not mean there is no room for an incoming president to have personal goals or that he or she cannot develop and advocate projects and ideas of relevance to current issues. Derocher writes, “It’s just that they will likely stick pretty close to the plan, and perhaps look for ways to tie in these more personal projects.”

According to Derocher, the ABA encourages bars to develop three- to five-year strategic plans and to keep an eye on the future so the plan is continually refreshed, rather than short-term plans built around presidential initiatives. He quotes bar executive Chuck Tuner as saying, “There has to be a shared interest and shared enthusiasm. But you also can’t continue to pile up initiatives. There needs to be some sort of organizational structure. You want to value and respect a leader’s tradition and goals, but at the same time, you want a leader to value and respect the tradition and goals of the association. It’s definitely a balance.” ●

# Navigating Lateral Moves Between Law Firms

Switching law firms is not always a straightforward process. This article addresses the various duties the attorney owes to both firms and clients.

BY JONATHAN E. HAWKINS

**It is increasingly rare that an attorney will work at only one law firm during their career.** We have come to expect at least one move, sometimes more. But switching law firms is not always a straightforward process. The attorney owes various duties not only to both firms but also to the clients, and navigating these duties requires careful balancing of all the interests involved.

## Duties to Law Firm and Partners

All attorneys owe duties to their current firm. These duties are derived from partnership and fiduciary law, the Georgia Rules of Professional Conduct and written agreements.<sup>1</sup> Partners typically owe higher-level duties than do associates and other attorney employees (e.g., of counsel, contract attorneys, and in some instances, non-equity partners).<sup>2</sup>

Associates and other employee attorneys owe their law firm employers a duty of good faith, loyalty, faithful service and regard for the law firm's interest.<sup>3</sup> Because partners are in a fiduciary relationship with each other, they must act with the "utmost good faith" and "finest loyalty" to one another.<sup>4</sup> To the extent the circumstanc-



PHOTO BY ISTOCK.COM/DNY59



---

es render it just and reasonable, a partner must provide true and full information on all things affecting the partnership.<sup>5</sup> Indeed, the partners' fiduciary relationship "imposes a greater duty on the parties to reveal what should be revealed and a lessened duty to discover independently what could have been discovered through the exercise of ordinary care."<sup>6</sup> In other words, the duty of utmost good faith and loyalty includes a duty to disclose information material to the law firm.<sup>7</sup>

### Duties to Clients

Attorneys and their law firms owe their clients the duties of utmost good faith and loyalty and must act solely for the clients' benefit.<sup>8</sup> They must not pursue any interest adverse to a client's interests, and must apply their best skill, zeal and diligence in representing the client.<sup>9</sup> The Rules of Professional Conduct delineate additional duties owed to clients. Among those are the duties of communication, confidentiality and competence.

### Communication

An attorney has a duty to keep a client informed.<sup>10</sup> If a lawyer's departure from a firm may affect a client's legal matter, the client must be informed of the departure.<sup>11</sup> The facts or circumstances of an attorney's departure from a law firm must not be misrepresented to the clients by either the departing attorney or the law firm.<sup>12</sup>

### Confidentiality

Unless a client gives informed consent, a lawyer must maintain in confidence all information gained in the course of the professional relationship with a client, except for disclosures that are impliedly authorized in order to carry out the representation.<sup>13</sup> The duty of confidentiality "applies not merely to matters communicated in confidence by the client but also to all information gained in the professional relationship, whatever its source."<sup>14</sup>

### Competence

A lawyer is required to provide competent representation to a client.<sup>15</sup> Competence requires the legal knowledge, skill,

thoroughness and preparation reasonably necessary for the representation.<sup>16</sup> A lawyer must not handle a matter which the lawyer knows or should know to be beyond the lawyer's level of competence.<sup>17</sup>

### Application of Various Duties to Lateral Moves

When contemplating a lateral move, how can attorneys ensure compliance with the multitude of duties discussed above? Among other things, attorneys making a lateral move must undertake a conflict of interest analysis and provide notice to their current law firm. Departing attorneys and law firms need to provide notice to clients and safeguard clients' property and interests throughout the process.

### Conflicts Analysis

Lawyers moving between firms must ensure that there are no conflicts that would prevent them from practicing in the new firm. But how can a proper conflicts analysis be conducted without violating the duty to keep client information confidential?

The American Bar Association Committee on Ethics and Professional Responsibility has recognized that, in the lateral movement context, conflicts analysis cannot be completed without disclosure of certain client information.<sup>18</sup> Accordingly, the ABA would allow disclosure of client information otherwise protected by Rule 1.6 for conflicts purposes.<sup>19</sup> There are, however, limitations in scope and timing.

A lawyer contemplating a lateral move should not disclose conflicts information until the lawyer and prospective firm have moved past initial conversations and are "engaged in substantive discussions regarding a possible new association."<sup>20</sup> The timing of such disclosures will likely differ depending on the circumstance. For example, the timing of determining potential conflicts may be different for young associates than it is for partners. Partners typically will need to disclose conflicts information before an offer is made, whereas associates are often given offers before being asked for conflicts information. Law firms considering a merger may need to determine potential conflicts earlier still.<sup>21</sup>

The disclosure of information "should be no greater than reasonably necessary to accomplish the purpose of detecting and resolving conflicts and must not compromise the attorney-client privilege or otherwise prejudice a client or former client."<sup>22</sup> To the extent the attorney-client privilege would be violated or a client or former client would otherwise be prejudiced, alternative measures must be considered.<sup>23</sup> For example, the moving lawyer, if possible or allowed, may seek prior client consent or be screened.<sup>24</sup>

In some situations, a lawyer considering a lateral move would be required to consult with a client and obtain the client's consent before exploring a lateral move.<sup>25</sup> For example, an attorney with an active and material role in representing a client in litigation would need to discuss with the client and obtain client consent *before* substantive discussions of possible employment with an opposing law firm.<sup>26</sup> If there are no practical alternatives, the moving lawyer may need to forgo the lateral move.<sup>27</sup>

Lawyers and law firms who receive conflicts information have a duty not to disclose that information.<sup>28</sup> The conflicts information should not be disseminated to anyone other than those involved in the conflicts analysis.<sup>29</sup> In addition, the receiving lawyer and law firm may not use the conflicts information for any purpose other than detecting and resolving possible conflicts of interest.<sup>30</sup>

### Disclosures to New Firm

As part of its due diligence, a destination firm will want certain information about the lateral candidate to assess the fit, the risks and benefits of the hire, and compensation. But lawyers contemplating a lateral move must be careful not to disclose confidential information pertaining to the finances, rates, compensation structure, practice and operations of their current law firm.<sup>31</sup> Likewise, the destination firm should not ask for or receive this information. Such disclosures could constitute a breach of the duties of loyalty and confidentiality that the moving attorney has to his current firm, opening up the attorney and the destination firm to liability. Certain limited items of con-

---

fiducial firm information may, however, be disclosed by an attorney to another firm when exploring a lateral move.<sup>32</sup> One commentator has proposed that the information that may be disclosed to another firm should be

the minimum necessary to allow the parties to assess, with generality rather than specificity: (a) The general nature of the partner's practice; (b) The firm's interest in accommodating that practice; (c) The financial and personnel resources that would be needed to support the practice; . . . and (e) An appropriate range of compensation.<sup>33</sup>

#### **Notice to Firm**

Attorneys generally do not breach a fiduciary duty to their law firm merely by making plans to leave the firm before announcing the withdrawal.<sup>34</sup> Attorneys may make pre-departure logistical arrangements such as obtaining bank financing, leasing office space, buying new business cards and the like.<sup>35</sup> Absent an agreement, attorneys are not entitled to solicit clients for a rival law firm before ending their employment at their current firm, nor can they properly do other similar acts in direct competition with the law firm.<sup>36</sup>

Over their careers, lawyers often explore other options, but never actually decide to move to another firm. A partner generally has no duty to disclose to other partners that the partner is merely considering leaving the firm.<sup>37</sup> But once the

possibility of leaving becomes a certainty, a partner has an affirmative duty to notify the firm.<sup>38</sup>

Typically, partnership agreements contain explicit notice requirements for departing partners. At a minimum, a departing attorney should seek to comply with a notice provision in a partnership or employment agreement.<sup>39</sup> However, other factors may be relevant when determining what is reasonable notice, including past practices surrounding withdrawals from the firm, non-waivable client conflicts and the possibility of retribution from the firm that may cause harm to clients.<sup>40</sup>

A partner seriously considering withdrawal from a law firm should inform the other partners if the firm is about to make a material decision in reliance on the partner's continued membership in the firm.<sup>41</sup> For example, if a law firm is about to renew a lease, add additional space, purchase equipment, or hire or fire employees, the withdrawing partner should give notice to the law firm that the partner may be leaving.<sup>42</sup>

If asked, a partner should tell the truth about any definitive decision to withdraw.<sup>43</sup> Common law and the Rules of Professional Conduct probably require it. Pursuant to Rule 8.4, a lawyer must not "engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation. . . ."<sup>44</sup> Thus, there is an implied ethical duty to be candid and fair with a lawyer's partners and/or employer.<sup>45</sup> Failing to do so could also be deemed a breach of fiduciary duty.<sup>46</sup>

#### **Pre-Departure Notice to Clients**

A lawyer has a duty to communicate with a client and keep that client informed.<sup>47</sup> To the extent a lawyer's departure from a firm affects a client's legal matter, the attorney must inform the client of his departure.<sup>48</sup> The duty of disclosure only applies to clients on whose active matters the departing attorney is responsible or plays a principal role.<sup>49</sup> Notice is typically not required where a departing lawyer's connection with a client is so limited that the client will not be affected by the departure.<sup>50</sup>

As to the precise timing, manner and method of the disclosure to the client, the ultimate consideration is the client's best

---

Taking into consideration their ethical duties to clients, lawyers and law firms should consider agreeing upon a form, joint notice to provide clients upon an attorney's withdrawal, and should consider drafting it into their partnership or employment agreements.

interest, and this is determined on a case-by-case basis.<sup>51</sup> Under any scenario, the departing attorney should not withhold such notice too long.<sup>52</sup> Fiduciary or contractual duties may require the departing attorney to advise the firm of the attorney's intention to leave the firm and the attorney's intention to notify clients of his or her impending departure, prior to informing the clients of the situation.<sup>53</sup>

But there may be circumstances in which the client needs advance notification of the departure to make a determination about future representation.<sup>54</sup> Some sophisticated clients may want to give advanced approval to any possible new law firm. "Indeed, when a lawyer's withdrawal from a firm may affect the interests of a client, the lawyer may reasonably feel under some compulsion to keep the client informed."<sup>55</sup> Thus, for such relationships, the lawyer may so inform the client.<sup>56</sup>

Client notice can be provided by the departing lawyer, the law firm or both jointly.<sup>57</sup> Where practical, however, a joint, written notice of the departure from the

departing lawyer and the law firm to the affected clients is the preferred course of action to protect the client's best interests.<sup>58</sup>

If a departing attorney actively represented or had significant contact with a client on the client's legal matters, the attorney may communicate independently with the client, either in writing or orally, to advise the client of the departure.<sup>59</sup> But in the communication, a departing attorney must not engage in professional conduct that involves "dishonesty, fraud, deceit, or willful misrepresentation" with respect to the attorney's dealings with the firm.<sup>60</sup>

An appropriate communication may advise the client of the fact of the attorney's departure, the attorney's new location, the attorney's willingness to provide legal services to the client and the client's right to select which attorney to handle the client's future legal representation.<sup>61</sup> The departing attorney may also inform the client whether the attorney will be able to continue the representation at the new law firm.<sup>62</sup> The facts or circumstances surrounding an attorney's departure

from a law firm must never be misrepresented to clients.<sup>63</sup>

Taking into consideration their ethical duties to clients, lawyers and law firms should consider agreeing upon a formal, joint notice to provide to clients upon an attorney's withdrawal, and should consider drafting it into their partnership or employment agreements. Although no partners entering into a partnership know if they will ultimately leave the partnership, in today's environment of lawyer mobility, partners should consider addressing this issue on the front end. If this issue is not contractually agreed upon, then a departure that is not amicable could make joint notice impractical, if not nearly impossible. Of course, any contractually agreed-upon pre-departure notice to clients should comply with the Rules of Professional Conduct.

#### **Protecting the Client's Interests**

Both the departing lawyer and the departed law firm have a duty to ensure that a client's matter is properly handled.<sup>64</sup> The de-



Fastest smartest malpractice insurance. Period.

800.906.9654  
GilsbarPRO.com

# Know Your Bar



## LAP: Lawyer Assistance Program

LAP is a confidential service outsourced to CorpCare Associates, Inc., to help State Bar members with life's difficulties.

The Lawyer Assistance Program (LAP) is a confidential service provided by the State Bar to help its members with life's difficulties. In order to help meet the needs of its members and ensure confidentiality, the Bar contracts the services of CorpCare Associates, Inc., Employee Assistance Program, a Georgia-headquartered national counseling agency.

LAP provides a broad range of services to members seeking assistance with depression, stress, alcohol/drug abuse, family problems, workplace conflicts, psychological and other issues. You can contact LAP by calling 800-327-9631, or by emailing Lisa Hardy, vice president, CorpCare Associates, Inc., at [lisa@corpcareeap.com](mailto:lisa@corpcareeap.com).

The following services are accessible through the confidential LAP Hotline:

1. **Telephone Hotline:** Staffed by trained counselors 24 hours a day, 7 days a week. If you are a lawyer or judge and have a personal problem that is causing you significant concern, the Lawyer Assistance Program can help. Please feel free to call LAP's confidential hotline at 800-327-9631.
2. **Personal Counseling:** Up to six prepaid in-person sessions per presenting issue per 12-month period.
3. **Work/Life Program for assistance with such issues as childcare, elder care and finances.** Callers receive advice, referrals and materials customized to take into account their individual concerns, and financial and geographic needs.

parting lawyer and law firm must act with reasonable diligence and promptness—for any legal matter entrusted to them—and must continue handling a matter while an affected client chooses between the departing lawyer and the law firm.<sup>65</sup> During the transition, the departing lawyer and law firm both owe a duty of cooperation to each other to protect the clients' interests.<sup>66</sup> A departing lawyer or the destination law firm must be competent to handle a matter that leaves with the lawyer. Conversely, if a matter stays with the law firm, then the law firm must ensure that it has the ability to represent the client competently in the absence of the departing lawyer.

Lawyers and law firms also have a duty to safeguard a client's property and funds that are in their possession.<sup>67</sup> Upon the termination of representation, a lawyer or law firm must promptly withdraw from representation and take all reasonably practicable steps to surrender papers and property to which a client is entitled.<sup>68</sup> Even if unfairly fired by the client, a discharged lawyer "must take all reasonable steps to mitigate the consequences to the client."<sup>69</sup>

Absent "good cause," a client is "presumptively entitled" to client file documents.<sup>70</sup> The law requires that "[c]lient files and client property must be retained or transferred in accordance with the client's direction."<sup>71</sup> Accordingly, even where a departing attorney and the law firm have unresolved disputes, withholding or taking client files is improper and may be to the detriment of clients, so it must be avoided. In addition, any remaining retainer funds should be returned to the client or transferred per the client's direction.

Without permission from the client, a departing lawyer may not remove client files.<sup>72</sup> Once a departing lawyer obtains authorization from the client, the lawyer may take those files of the client reasonably related to the client's representation.<sup>73</sup> Best practices dictate that client authorization should be in writing.<sup>74</sup>

A departing lawyer should not remove client files without giving notice to the law firm, so that it may have an opportunity to copy the file.<sup>75</sup> The law firm has a legitimate interest in such files, because they would be essential in defending a fu-

ture malpractice action.<sup>76</sup> Likewise, if the client requests that the law firm continue the representation, the departing lawyer should be given an opportunity to copy the file.<sup>77</sup>

### Post-Departure Solicitation of Clients

After leaving a law firm, the departed attorney may contact clients with whom the attorney personally worked while at the law firm or with whom the attorney had a close personal relationship.<sup>78</sup> Such contact does not have to comply with the provisions governing advertisements found in Rules 7.2 and 7.3.<sup>79</sup> However, any communications with former clients must not be false, fraudulent, deceptive or misleading.<sup>80</sup> For those clients with whom the departed attorney did not work or had little or no contact, all communications must comply with the provisions governing solicitation and advertisements.<sup>81</sup>

### Soliciting Staff/Associates

Whether a departing lawyer may solicit law firm staff or associates depends largely on when the solicitation occurs. Prior to providing notice of withdrawal to the firm, a partner may not recruit staff or associates of the law firm, but the partner may recruit other partners.<sup>82</sup> After notice has been given to the firm, but prior to actual withdrawal, a partner may not recruit firm staff “except to the extent reasonably necessary to provide services to clients likely to remain with the lawyer, and then only if the firm is notified in advance of the identity of individuals to be recruited.”<sup>83</sup> Finally, after withdrawal, “a former partner of the firm is free to recruit staff of the firm.”<sup>84</sup>

### Agreements to Split Matters and Fees

When attorneys leave their law firms, clients and matters are often split up between the attorney and the departed firm. Agreements regarding the splitting of matters and fees between attorneys are not *per se* unenforceable.<sup>85</sup> It is well established, however, that a client is not the property of an attorney.<sup>86</sup> Indeed, a client has the right to fire a lawyer for any reason or for no reason.<sup>87</sup> Accordingly, an “attorney may not lawfully enter into an agreement with his firm which provides

that upon termination of his association therewith he shall receive certain files without client consent.”<sup>88</sup> The departing attorney and law firm must get client approval when dividing up matters.

In most situations, Rule of Professional Conduct 1.5(e) governs the splitting of fees. This rule requires among other things, proportional division of fees and client notice and consent.<sup>89</sup> However, Rule 1.5(e) “does not prohibit or regulate division of fees to be received in the future for work done when lawyers were previously associated in a law firm.”<sup>90</sup> Thus, law firms and departing lawyers do not need client approval for division of fees and do not necessarily need to split the fee proportionally.<sup>91</sup> But note, an agreement that creates an oppressive financial disincentive by mandating a large payment to the former law firm is impermissible if it would preclude or dissuade a departing attorney from accepting representation of firm clients.<sup>92</sup>

With respect to matters a departing lawyer anticipates will follow him, the lawyer has a duty to the law firm not to defer work on those matters that can and should be done currently so that he may further his own interest in generating fees at his new law firm.<sup>93</sup>

### Conclusion

Switching law firms is not always an easy affair. When in doubt, the duties owed to clients trump those owed to firms. But this does not mean that as long as a lawyer does not breach any duties owed to clients, the lawyer is in the clear. Lawyers contemplating lateral moves must also take care not to breach duties they owe to their law firms. ●



**Jonathan E. Hawkins** is a partner in the Atlanta firm of Krevolin & Horst, LLC. He represents clients in numerous business sectors in high-stakes complex commercial litigation and serves as outside general, business and ethics counsel to lawyers and law firms. He also publishes a blog discussing the business and law of lawyering at [www.alawyershandbook.com](http://www.alawyershandbook.com).

### Endnotes

1. See MODEL RULES OF PROF'L CONDUCT, *preamble*, (AM. BAR ASS'N 2016).
2. The law applying to partnerships may not be the same as that applying to other law firm entity forms.
3. *Tom's Amusement Co. v. Total Vending Servs.*, 243 Ga. App. 294, 295, 533 S.E.2d 413, 416 (2000); *Springer v. City of Atlanta*, 2006 WL 2246188, \*3 (N.D. Ga. Aug. 4, 2006); *cf. Fine v. Communication Trends, Inc.*, 305 Ga. App. 298, 309, 699 S.E.2d 623, 634 (2010); *Lane Co. v. Taylor*, 174 Ga. App. 356, 362, 330 S.E.2d 112, 118 (1985); *Smith v. Merck*, 206 Ga. 361, 368, 57 S.E.2d 326, 332 (1950).
4. *AF-McQuay, Inc. v. Willis*, 308 Ga. App. 203, 211, 707 S.E.2d 508, 516 (2011); *Jordan v. Moses*, 291 Ga. 39, 43, 727 S.E.2d 460, 464 (2012); O.C.G.A. § 23-2-58 (2010).
5. O.C.G.A. § 14-8-20 (2010).
6. *Howard v. Barron*, 272 Ga. App. 360, 363, 612 S.E.2d 569, 572-73 (2005); *see also Cochran Mill Associates v. Stephens*, 286 Ga. App. 241, 245, 648 S.E.2d 764, 768 (2007) (“In such situations, ‘silence when one should speak, or failure to disclose what ought to be disclosed, is as much a fraud in law as is an actual false representation.’”).
7. *See, e.g., Malpiede v. Townson*, 780 A.2d 1075, 1086 (Del. 2001) (“[F]iduciary duty of disclosure . . . is not an independent duty but the application in a specific context of the board’s fiduciary duties of care, good faith, and loyalty.”); *HMG/ Courtland Properties, Inc. v. Gray*, 749 A.2d 94, 121 (Del. Ch. 1999) (“[C]oncealment of the facts . . . implicates his duty of loyalty . . .”).
8. *David C. Joel, Attorney at Law, P.C. v. Chastain*, 254 Ga. App. 592, 596, 562 S.E.2d 746, 750 (2002).
9. *Id.* at 596, 562 S.E.2d at 750.
10. Ga. Formal Advisory Op. 97-3; Ga. Rules Prof'l Conduct R. 1.4.
11. Ga. Formal Advisory Op. 97-3.
12. *Id.*
13. Ga. Rules of Prof'l Conduct R. 1.6(a).
14. Ga. Rules of Prof'l Conduct R. 1.6 cmt. 5.
15. Ga. Rules of Prof'l Conduct R. 1.1.
16. *Id.*
17. *Id.*
18. ABA Comm'n. On Ethics & Prof'l Responsibility, Formal Op. 09-455 (2009).
19. *Id.*
20. *Id.*
21. *Roberts & Schaefer Co. v. San-Con*, 898 F. Supp. 356, 363 (S.D.W. Va. 1995).
22. ABA Formal Op. 09-455.

23. *Id.*
24. *Id.*
25. ABA Comm'n. On Ethics & Prof'l Responsibility, Formal Op. 96-400 (1996).
26. *Id.*
27. ABA Formal Op. 09-455.
28. *Id.*
29. *Id.*
30. *Id.*
31. See Robert W. Hillman, *Loyalty in the Firm: A Statement of General Principles on the Duties of Partners Withdrawing From Law Firms*, 55 WASH. & LEE L. REV. 997, 1019 (1998).
32. *Id.* at 1022.
33. *Id.*
34. *Id.* at 1008; Fine, 305 Ga. App. at 309, 699 S.E.2d at 634; Hanson Staple Co. v. Eckelberry, 297 Ga. App. 356, 358, 677 S.E.2d 321, 323 (2009); Physician Specialists in Anesthesia, P.C. v. Wildmon, 238 Ga. App. 730, 734, 521 S.E.2d 358, 361 (1999).
35. Meehan v. Shaughnessy, 404 Mass. 419, 435, 535 N.E.2d 1255, 1264 (1989); Graubard Mollen Dannett & Horowitz v. Moskovitz, 629 N.Y.S.2d 1009, 1013, 653 N.E.2d 1179, 1183 (1995).
36. Hanson Staple Co., 297 Ga. App. at 359, 677 S.E.2d at 323; see generally Helms & Greene, LLC v. Willis, 333 Ga. App. 396, 773 S.E.2d 491 (2015); Tolson Firm, LLC v. Sistrunk, 338 Ga. App. 25, 27-28, 789 S.E.2d 265, 268-69 (2016).
37. Hillman, *supra* note 31, at 1002.
38. PENN. BAR ASS'N. & PHILA. BAR ASS'N. Joint Formal Op. 2007-300 (2007).
39. See Fine, 305 Ga. App. at 309-10, 699 S.E.2d at 634; Capricorn Sys., Inc. v. Pednekar, 248 Ga. App. 424, 425, 546 S.E.2d 554, 556 (2001).
40. Hillman, *supra* note 31, at 1004.
41. *Id.* at 1006-07; PENN. BAR ASS'N. & PHILA. BAR ASS'N. Joint Formal Op. 2007-300.
42. See O.C.G.A. § 14-8-20 (2010).
43. Hillman, *supra* note 31, at 1007.
44. Ga. Rules of Prof'l Conduct R. 8.4(a) (4).
45. In re Murdock, 328 Or. 18, 25, 968 P.2d 1270, 1274 (1998); OR. BAR. ASS'N. Formal Op. 2005-70 (2005); COLO. BAR ASS'N. Formal Op. 116 (2007) ("The duty of candor, as well as Rule 8.4(c), may be breached by a lawyer who misrepresents the lawyer's status or intentions to others at the firm. . . .").
46. O.C.G.A. § 14-8-20 (2010); In re Cupples, 952 S.W.2d 226, 237 (Mo. 1997); Graubard Mollen, 629 N.Y.S.2d at 1014, 653 N.E.2d at 1184; Meehan, 404 Mass. at 436, 535 N.E.2d at 1264.
47. Ga. Rules of Prof'l Conduct R. 1.4; Ga. Formal Advisory Op. 97-3.
48. Ga. Formal Advisory Op. 97-3.
49. ABA Comm'n. On Ethics & Prof'l Responsibility, Formal Op. 99-414 (1999).
50. See, e.g., Ky. Bar Assoc. Ethics. Op. E-424 (2005).
51. Ga. Formal Advisory Op. 97-3.
52. ABA Formal Op. 99-414 (timely notice to the client is required).
53. Ga. Formal Advisory Op. 97-3.
54. *Id.*
55. Hillman, at 1013.
56. *Id.*
57. ABA Formal Op. 99-414.
58. Ga. Formal Advisory Op. 97-3; ABA Formal Op. 99-414.
59. Ga. Formal Advisory Op. 97-3.
60. *Id.*
61. *Id.*
62. ABA Formal Op. 99-414.
63. Ga. Rules of Prof'l Conduct R. 7.1; Ga. Formal Advisory Op. 97-3.
64. COLO. BAR ASS'N. Formal Op. 116.
65. *Id.*
66. PENN. BAR ASS'N. & PHILA. BAR ASS'N. Joint Formal Op. 2007-300.
67. Ga. Rules of Prof'l Conduct R. 1.15(I); 1.15(II).
68. Ga. Rules of Prof'l Conduct R. 1.16(a) & (d).
69. Ga. Rules of Prof'l Conduct R. 1.16 cmt. 9.
70. Swift, Currie, McGhee & Hiers v. Henry, 276 Ga. 571, 573, 581 S.E.2d 37, 39 (2003); Putnam County v. Adams, 282 Ga. App. 226, 227-28, 638 S.E.2d 404, 406 (2006).
71. ABA Formal Op. 99-414; see also, e.g., In re Henry, 285 Ga. 871, 872, 684 S.E.2d 624, 625 (2009) (disbarring attorney for, among other things, failure to surrender client file to new counsel and/or client); In re Beall, 276 Ga. 214, 214, 576 S.E.2d 882, 883 (2003) (holding failure to surrender property and files to client upon termination of representation was violation of ethical rules); KY. BAR ASS'N. Ethics Op. E-424 ("As a general rule, client files and property must be handled in accordance with the client's wishes. . . .").
72. See, e.g., Maryland Attorney Grievance Comm'n v. Potter, 844 A.2d 367 (Md. 2004) (holding unauthorized removal of client files violates ethical rules).
73. Hillman, *supra* note 31, at 1025.
74. KY. BAR ASS'N. Ethics Op. E-424.
75. *Id.*; see also Hillman, *supra* note 31 at 1025 ("Client files should not be taken from the firm by a departing lawyer without prior notice to the firm, which should be afforded an opportunity to copy, at its expense, the contents of any files to be removed.").
76. Hillman, *supra* note 31, at 1025
77. See COLO. BAR ASS'N. Formal Op. 116.
78. Ga. Rule Prof'l Conduct R. 7.3; Ga. Formal Advisory Op. 97-3; ABA Formal Op. 99-414.
79. Ga. Formal Advisory Op. 97-3.
80. Ga. Formal Advisory Op. 97-3; see also Ga. Rule Prof'l Conduct R. 7.1.
81. Ga. Rule Prof'l Conduct R. 7.2 & 7.3; see also ABA Formal Op. 99-414.
82. Hillman, *supra* note 31, at 1029; see also Bacon v. Volvo Serv. Ctr., Inc., 266 Ga. App. 543, 546, 597 S.E.2d 440, 444 (2004); Gibbs v. Breed, Abbott & Morgan, 271 A.D.2d 180, 187 (N.Y.S. 2000).
83. Hillman, *supra* note 31, at 1029.
84. *Id.*; see also, e.g., Jacob v. Norris, McLaughlin & Marcus, 607 A.2d 142, 153 (N.J. 1992) (holding provision requiring forfeiture of termination compensation if partner solicits professional or paraprofessional employees of law firm violated Rule 5.6 as an improper restriction of right to practice law); Gibbs, 271 A.D.2d at 187.
85. See generally Sakas v. Jessee, 202 Ga. App. 838, 415 S.E.2d 670 (1992).
86. See Ga. Formal Advisory Op. 97-3.
87. See Ga. Formal Advisory Op. 91-2; see also Ga. Rule Prof'l Conduct R. 1.16 cmt. 4; Matter of Collins, 246 Ga. 325, 325, 271 S.E.2d 473, 473 (1980) ("A client has a clear right to discharge his attorney at any time, and upon dismissal the attorney is bound to withdraw from employment.").
88. Vincent R. Johnson, *Solicitation of Law Firm Clients by Departing Partners and Associates: Tort, Fiduciary, and Disciplinary Liability*, 50 U. PITT. L. REV. 1, 116 (1988).
89. See Ga. Rule Prof'l Conduct R. 1.5(e).
90. See Ga. Rule Prof'l Conduct R. 1.5 cmt. 8.
91. See, e.g., Baron v. Mullinax, Wells, Mauzy & Baab, Inc., 623 S.W.2d 457, 462 (Tex. Civ. App. 1981) ("Since this agreement was between a law firm and an associate of the firm during the overall process of his separation from that firm, there is no requirement that the clients either be informed or give their consent."); Norton Frickey, P.C. v. James B. Turner, P.C., 94 P.3d 1266, 1268 (Colo. App. 2004); Walker v. Gribble, 689 N.W.2d 104, 115 (Iowa 2004).
92. See, e.g., FLA. BAR ASS'N. Ethics Op. 93-4 (1995); Leonard & Butler, P.C. v. Harris, 279 N.J. Super. 659, 668-71, 653 A.2d 1193, 1198-99 (1995).
93. See PENN. BAR ASS'N. & PHILA. BAR ASS'N. Joint Formal Op. 2007-300.



State Bar  
of Georgia

# VISIT GABAR.ORG

*For up-to-date information on committees,  
members, courts and rules.*



# The 2017 Annual Meeting Lands on Georgia's Coast

BY JENNIFER R. MASON



**Jekyll Island, Ga., once the preferred destination for families with names like Rockefeller, Morgan, Vanderbilt and Pulitzer, has been reimagined into a charming coastal venue that more than held its own as the host for the 2017 Annual Meeting. The newly renovated Jekyll Island Convention Center, the only ocean-front convention center on the east coast south of New Jersey, served as the epicenter of this year's meeting. Because of the uniqueness of the island, this meeting set up was different than those in previous years, but the end result was one that had people talking. Georgia's coast handled it with grace and class.**

## Opening Night Festival

The Opening Night Festival, aptly named Critters and Cocktails, featured a unique opportunity for members, their families and guests to interact with some of the Georgia Sea Turtle Center's live education ambassadors while mingling with their staff and biologists. Sea turtles, snakes of all sizes, a baby gator and even an owl roamed through the halls of the Jekyll Island Convention Center, with their handlers of course, eager for photo ops and an opportunity to share their stories.

---

Jekyll Island Convention Center

PHOTO PROVIDED BY JEKYLL ISLAND CONVENTION CENTER



Some of the braver souls even ventured to touch these amazing creatures. Along with the critters, the evening featured food and drinks, music and entertainment from the Landsharks, and a number of special displays and activities for the young and young at heart.

### Weekend Business and Activities

The main focus of the weekend was the business of the Bar. Section and committee meetings reviewed successes of the past and plans for the future while allowing members to meet their professional obligations. CLE seminars on Thursday and Friday enabled members to fulfill their educational requirements on topics such as effective communication; hot topics and current trends in labor and employment law; the evolution of criminal law and the role of our judiciary, prosecutors, the courts and the Legislature in improving the criminal justice system; and the popular annual presentation of the war stories series.

After a day spent in business mode, the evening events allowed for a more relaxed way to meet, greet and network. Beginning with the Opening Night Festival on Thursday and closing with the Presidential Inaugural Gala Saturday evening, attendees could choose to attend any number of social events depending on their affiliation and interest. Receptions hosted by law school alumni groups, sections and other organizations were an excellent place for members and their guests to catch up with friends while recognizing the work done over the past year in an intimate setting. More formal events included the YLD Dinner and Swearing-In Ceremony on Friday and the Presidential Inaugural Gala on Saturday.

### Board Meeting Highlights

The June 9 plenary session began with special recognition by President Patrick T. O'Connor of Senior Judge Clarence Blount for his work as a Bar member for 67 years, and special recognition of Avarita L. Hanson, the retiring executive director of the Chief Justice's Commission on Professionalism. Both Blount and Hanson



PHOTO BY JENNIFER R. MASON

(Left to right) Judson, Daniel, Rizza and Evie O'Connor meet a sea turtle from the Georgia Sea Turtle Center during Critters and Cocktails.



PHOTO BY SARAH I. COOLE

Incoming Board of Governors Member Christopher P. Twyman (Rome Circuit, Post 1) enjoys the Opening Night Festival with wife, Tashia, and children, Myles and Christa.



YLD Past President Ross Adams' family attends the YLD Dinner. (Left to right) 2017-18 YLD Treasurer Bert Hummel, Robin Adams, Alex Adams, YLD Past President Joe Dent, Paige Adams, YLD Past President Amy Howell, 2016-17 YLD President Jennifer C. Mock and Bruce Ailion.

received resolutions honoring their work and service. Following the presentation of the resolutions, President O'Connor invited Justice David Nahmias and Nicki Vaughan, chair, Child Protection & Advocacy Section, to the podium to announce the creation of two new awards by the Committee on Justice for Children of the Supreme Court of Georgia, the Child Protection & Advocacy Section and the Office of the Child Advocate of Georgia. The Judge Willie Lovett Award for Advancing the Field of Juvenile Law was presented posthumously to Hon. Willie J. Lovett Jr. (1963-2017) and accepted by Lovett's wife, Seletha Butler. The Chief Justice Harris Hines Award for Outstanding Advocacy for Children in Dependency Proceedings was presented to Temika Williams-Murry, DeKalb County Child Advocacy Center (attorney) and Joan Chambers, Newton County DFCS (case manager).

President O'Connor then presented a check to GLSP Executive Director Phyllis Holmen in the amount of \$567,890, representing voluntary contributions made by Bar members to GLSP's 2016 State Bar Campaign.

Following the presentation of the annual awards, the State of the Supreme

Court address was delivered by Chief Justice P. Harris Hines; followed by the State of the Court of Appeals address by Chief Judge Sara L. Doyle; the State of the Federal Judiciary address by Hon. Lisa Godbey Wood, chief judge, U.S. District Court, Southern District of Georgia; and the State of the Georgia Law Department by Attorney General Chris Carr. At the conclusion of his address, Carr presented awards to the winners of the 2017 Legal Food Frenzy with the assistance of President O'Connor and YLD President Jennifer C. Mock: *Sole Proprietor*, Attorney Justin Oliverio, LLC; *Small Firm*, Durham Law Firm, PC; *Medium Firm*, Welchel, Dunlap, Garrard & Walker, LLP, and Hull Barrett, PC; *Legal Organization*, Georgia Institute of Technology Office of Legal Affairs and Miles Mediation & Arbitration Services; *Large Firm*, Moore, Ingram, Johnson & Steel, LLP, and King & Spalding; *Corporate Legal Organization*, Serta Simmons Bedding, LLC; *Attorney General's Cup-Law School Division*, Mercer University Walter F. George School of Law; *Bar President's Award*, Coleman Talley LLP; and *Attorney General's Cup*, Jenkins & Roberts LLC.



2016-17 President Patrick T. O'Connor presents the Chief Justice Thomas O. Marshall Professionalism Award to Hon. Alvin T. Wong.

Following the presentation of the Legal Food Frenzy Awards, the State of the Georgia House Judiciary was given by Rep. Wendell Willard (chair), the State of the Georgia Senate Judiciary Committee by Sen. Jesse Stone (chair) and the State of the Georgia Senate Special Judiciary Committee by Sen. Curt Thompson (chair). The memorials report was presented by President O'Connor.

Outgoing YLD President Jennifer C. Mock reported on the activities of the Young Lawyers Division. She announced that the annual Signature Fundraiser raised a substantial amount of money, with net proceeds benefitting Georgia CASA. She reported that a record-breaking 1.34 million pounds of food was collected at this year's Legal Food Frenzy to benefit Georgia's nine regional food banks. She noted that she had the opportunity to work with great committee chairs that accomplished much this year. She recognized Morgan Clemons and Baylie Frye for their work last August on the "Women in the Profession: 100 Years of Georgia Women Lawyers" celebration. She asked the Board of Governors members to please continue to invest in the YLD and the young lawyers

to help develop the Bar's future leaders. Lastly, she thanked everyone for their help and support this Bar year.

Reports were given on the Investigative Panel by Sherry Boston, the Review Panel by Tony Askew, the Formal Advisory Opinion Board by Jeff Schneider and the Clients' Security Fund by Randy David.

During the plenary session, President O'Connor delivered his outgoing remarks as required by the bylaws of the State Bar. A copy of these remarks can be found on page 34 of the *Journal*.

Brian D. "Buck" Rogers presided over the 269th Board of Governors meeting on Saturday, June 10.

Highlights of the meeting included:

- The board approved the following presidential appointments:  
**Investigative Panel:**  
District 4: William Gilmore Gainor, Conyers (2018)  
District 5: William Hickerson Thomas Jr., Atlanta (2020)  
District 6: Elizabeth Pool O'Neal, Jackson (2020)  
District 7: Lawrence Alan Stagg, Ringgold (2020)  
**Review Panel:**  
Northern District: Halsey George Knapp Jr., Atlanta (2020)  
Middle District: Jeffrey O'Neal Monroe, Macon (2020)  
Southern District: Amy Lynn Pickett, Augusta (2020)  
**Formal Advisory Opinion Board:**  
Georgia Trial Lawyers Association: C. Andrew Childers, Atlanta (2019)  
Georgia Defense Lawyers Association: Jacob Daly, Atlanta (2019)  
Young Lawyers Division: Jennifer C. Mock, Statesboro (2019)  
John Marshall: Jeffrey Alan Van Detta, Atlanta (2019)  
Mercer University: Patrick E. Longan, Macon (2019)  
University of Georgia: Lonnie Theodore Brown Jr., Athens (2019)  
Investigative Panel: William Hickerson Thomas Jr., Atlanta (2018)  
Review Panel: Charles B. Marsh, Atlanta (2018)  
At-Large: Edward B. Krugman,

Atlanta (2019), David Neal Lefkowitz, Athens (2019)

- The board approved the following presidential appointments to the ICLE Board:  
Jennifer C. Mock, Statesboro (2020)  
Patrick T. O'Connor, Savannah (2020)  
Kenneth L. Shigley, Atlanta (2020)
- The board approved President Rogers' 2017-18 appointments to standing, special, program and board committees.
- Treasurer Darrell L. Sutton reported on the Bar's finances and investments and the board, by unanimous voice vote, approved the 2017-18 State Bar budget.
- As required by Article V, Section 8 of the bylaws, the board:
  - authorized the president to secure a blanket fidelity bond to cover all officers, employees and other persons handling State Bar funds.
- As required by Article V, Section 6 of the bylaws, the board:
  - directed the State Bar and related entities open appropriate accounts with such banks in Georgia, but excluding any bank that

does not participate in the IOLTA Program, and other such depositories as may be recommended by the Finance Committee and designated by the Executive Committee of the Board of Governors of the State Bar of Georgia, and that the persons whose titles are listed below are authorized to sign an agreement to be provided by such banks and customary signature cards, and that the said banks are hereby authorized to pay or otherwise honor any check drafts or other orders issued from time to time for debit to said accounts when signed by two of the following: the treasurer, the secretary, the president, the immediate past president, the president-elect, the executive director, the office manager and the general counsel, provided either the president, the secretary or the treasurer shall sign all checks or vouchers and that said accounts can be reconciled from time to time by said persons or their



2016-17 President Patrick T. O'Connor presents the Employee of the Year Award to Faye Morgan, State Bar of Georgia receptionist, on Saturday, June 10.



PHOTO BY SARAH I. COOLE

1



PHOTO BY JENNIFER R. MASON

2



PHOTO BY SARAH I. COOLE

4



PHOTO BY JENNIFER R. MASON

5



PHOTO BY JENNIFER R. MASON

9



PHOTO BY JENNIFER R. MASON

PHOTO BY SARAH I. COOLE

7



PHOTO BY STEPHANIE J. WILSON

10



PHOTO BY BETTY SIMMS

# Photos from the ANNUAL MEETING



PHOTO BY SARAH I. COOLE

3

1. Senior Judge Clarence Blount is honored during the plenary session. (Left to right) 2016-17 President Patrick T. O'Connor, Supreme Court of Georgia Justice Michael Boggs, Blount, C. Deen Strickland and Mack Petty, chief baliff, Ware County.
2. Stafford Varnedoe enjoyed the kids activities at the Opening Night Festival.
3. State Bar of Georgia's 2017-18 Executive Committee: (back row, left to right) YLD Immediate Past President Jennifer C. Mock, Executive Committee Member Elizabeth L. Fite, Immediate Past President Patrick T. O'Connor, Executive Committee Member Frank B. Strickland, YLD President Nicole C. Leet, YLD President-Elect Rizza O'Connor, Executive Committee Member Phyllis J. Holmen and Executive Committee Member David S. Lipscomb; (front row, left to right) Executive Committee Member Damon E. Elmore, Treasurer Darrell L. Sutton, President-Elect Kenneth B. Hodges III, President Brian D. "Buck" Rogers; Secretary Dawn M. Jones and Executive Committee Member Nicki N. Vaughan.



PHOTO BY DERRICK W. STANLEY

6

4. Attorney General Chris Carr gives the State of the Georgia Law Department address.
5. 2016-17 President Patrick T. O'Connor relaxes with wife Carol.
6. Frank Strickland received the Spirit of Justice Award from the Judicial Section. (Left to right) Justice Harold Melton, Anne Lewis, Chair Hon. Shawn Ellen LaGrua, Strickland, Hon. Latisha Dear-Jackson and Hon. Dax Lopez.



8

7. Supreme Court of Georgia Justice Keith Blackwell swears in the 2017-18 Young Lawyers Division officers. (Left to right) Immediate Past President Jennifer C. Mock, Newsletter Co-Editor Heather Riggs, Secretary Bert Hummel, Treasurer Will Davis, President-Elect Hon. Rizza O'Connor and President Nicole Leet. (Not pictured, Newsletter Co-Editor ShaMiracle Rankin.)
8. Outgoing President Patrick T. O'Connor passes the gavel to Incoming President Brian D. "Buck" Rogers.



11

9. (Left to right) Ada, Jared and Kate Mock.
10. The 80ators.
11. (Left to right) General Practice & Trial Law Section Chair Kristine Orr Brown, presents the 2017 Tradition of Excellence Awards to Thomas G. Sampson, Hon. Alvin T. Wong, Philip C. Henry and Laura E. Austin.



PHOTO BY SARAH I. COOLE

12

12. One of the animal ambassadors at the Critters and Cocktails event: a Barred Owl from Driftwood Education Center on St. Simons.



The inaugural Chief Justice Harris Hines Award for Outstanding Advocacy for Children in Dependency Proceedings was presented to Temika Williams-Murry, DeKalb County Child Advocacy Center, and Joan Chambers, Newton County DFCS. (Left to right) Justice David Nahmias, Williams-Murry, Chambers, Chief Justice P. Harris Hines and 2016-17 President Patrick T. O'Connor.



Members of GABWA. (Front row, left to right) Temika Williams-Murry, Jacqueline Bunn, Tori Silas, Avarita L. Hanson, Janet Scott, Dawn Jones and Hon. JaDawnya Butler; (back row, left to right) Sheryl Barnes, Tracee Benzo, Aimee Pickett, Shawntel Hebert, Michelle West, Je'Nita N. Lane, Laverne Lewis Gaskins, Amy Howell, Joyce Gist Lewis, Sherry Boston, Paula Frederick, Javoyne Hicks, Jana J. Edmondson-Cooper, Allegra Lawrence Hardy, Hon. Kiesha R. Storey, Gary Freed, Antonia N. Okonkwo, Hon. Barbara Harris, Elizabeth Broadway Brown and Hon. Shondeana Crews Morris.

designees. The authority herein given is to remain irrevocable so far as said banks are concerned until they are notified in writing of such revocation of authority and in writing, acknowledge receipt thereof.

- designated Mauldin & Jenkins as the independent auditing firm to audit the financial records of the State Bar for the fiscal year 2016-17.
- Following a report by Donna G. Barwick, the board, by unanimous voice vote, approved proposed amend-

ments to the State Bar of Georgia Investment Policy.

- The Board of Governors, by unanimous voice vote, elected Jeff Davis as executive director for the 2017-18 Bar year.
- Following a report by President Rogers, the Board of Governors, by unanimous voice vote, approved the JQC Nominating Committee's proposed list of nominees.
- The board approved the proposed 2017-18 election schedule.
- Executive Committee elections were held with the following results: Damon E. Elmore, Elizabeth L. Fite, David S. Lipscomb and Frank B. Strickland.
- The board approved the appointments of Albert Reichert Jr. and Tennell Lockett to the Georgia Legal Services Board of Trustees for two-year terms.
- The board approved the appointments of Raymond Kyle Williams and Claudia Saari to the Chief Justice's Commission on Professionalism for three-year terms.
- President Buck Rogers reported that we will have a term sheet and a contract in the near future with Zeek-beek/CloudLaw for an enhanced membership directory.
- Following a report by Bill NeSmith, the board approved the creation of a Bike Law Section by unanimous voice vote.
- Following a report by Bill NeSmith, the board, by unanimous voice vote, rescinded its prior vote approving a proposed amendment to Rule 1-205. Bar of Judicial Circuit. The rule will go back to the Executive Committee for vetting before it is brought back to the board for action in the fall.
- Following a report by Bill NeSmith, the board, by unanimous voice vote, approved proposed rules amendments to Part X—Clients' Security Fund.
- Following a report by Bill NeSmith, the board, by unanimous voice vote, supported proposed changes to Uniform Juvenile Court Rule 1.5. New Judge Orientation Training.
- Following a report by Bill NeSmith, the board, by majority voice vote, supported proposed changes to Uniform

Superior Court Rule 22, Recording and Coverage of Judicial Procedures, as approved by the Judicial Procedure & Administration/Uniform Rules Committee and the Executive Committee.

- Following a report by Bill NeSmith, the board, by unanimous voice vote, approved making the Attorney Wellness Task Force into a Standing Committee on Attorney Wellness.
- President Rogers addressed the Board of Governors and presented an overview of his proposed program of activities for the 2017-18 Bar year (see page 38).
- YLD President Nicole Leet presented an overview of her proposed program of activities for the 2017-2018 Bar year. She thanked the Executive Committee and the Board of Governors for being leaders in the profession and for their continued support of the YLD. She announced that all of the YLD meetings have been planned as follows: 1) Summer Meeting—Austin, Texas; 2) Fall Meeting—Brasstown Valley Resort; and 3) Spring Meeting—Nashville, Tenn. She reported that she has created a continuity of themes and purpose moving the YLD forward this year. She pointed out that it is only the second time in the history of the YLD wherein the president, president-elect and the immediate past president are all females. She reported that her signature project this year will be a challenge to all YLD members to pledge 50 hours of pro bono service. She is partnering this effort with the Bar's Access to Justice Committee and its "Due Justice. Do 50." campaign. Her goal is to make it as easy as possible for YLD members to accomplish this goal, thereby reducing the access to justice gap and enhancing the legal profession.
- Lawyers for Equal Justice Executive Director Stephanie Everett reported on the activities of the Lawyers for Equal Justice Program.
- Georgia Bar Foundation Executive Director Len Horton reported on the activities of the Georgia Bar Foundation and the IOLTA Program.
- The board received copies of the minutes of Executive Committee

PHOTO BY SARAH H. COOLE



Maggie Puccini receives the Best Website Award on behalf of the Savannah Bar Association from 2016-17 President Patrick T. O'Connor.

meetings held on Feb. 17-18, April 14 and April 21.

- The board received written reports from the following: the Office of the General Counsel, the Insurance Committee, the Consumer Assistance Program, the Committee to Promote Inclusion in the Profession, the Fee Arbitration Program, the Law-Related Education Program, the Law Practice Management Program, the Military Legal Assistance Program, the Transition Into Law Practice Program, the Unlicensed Practice of Law Program and the Georgia Legal Services Program.
- The board received a copy of the 2016-17 Media Report.
- The board received written reports from the following sections: Animal Law, Appellate Practice, Aviation Law, Child Protection & Advocacy, Corporate Counsel Law, Creditors' Rights, Dispute Resolution, Employee Benefits Law, Family Law, Fiduciary Law, General Practice & Trial Law, Health Law, Intellectual Property Law, International Law, Local Government Law, Military/Veterans Law, Taxation Law and Workers' Compensation Law.

## Annual Awards

During the plenary session, outgoing President O'Connor recognized specific Bar members and organizations for the work they have done over the past year.

### Chief Justice Thomas O. Marshall Professionalism Awards

The 16th annual Chief Justice Thomas O. Marshall Professionalism Awards, presented by the Bench and Bar Committee of the State Bar of Georgia, honors one lawyer and one judge who have and continue to demonstrate the highest professional conduct and paramount reputation for professionalism. This year's recipients were Hon. Alvin T. Wong, DeKalb County State Court, Decatur, and Jeffrey O. Bramlett (1953-2016). Bramlett's award will be presented to his family at the 2018 State Bar of Georgia Midyear Meeting.

### Local and Voluntary Bar Awards

The Thomas R. Burnside Jr. Excellence in Bar Leadership Award, presented annually, honors an individual for a lifetime of commitment to the legal profession and the justice system in Georgia, through dedicated service to a voluntary bar, practice bar, specialty bar or area of practice section. This year's recipient was Avarita

L. Hanson, as nominated by the Georgia Association of Black Women Attorneys.

The Award of Merit is given to voluntary bar associations for their dedication to improving relations among local lawyers and devoting endless hours to serving their communities.

- Under 50 members: Paulding County Bar Association
- 51 to 100 members: Walton County Bar Association
- 101 to 250 members: Blue Ridge Bar Association
- 251 to 500 members: Georgia Association of Black Women Attorneys
- 501 or more members: Atlanta Bar Association

The Law Day Award of Achievement is presented to voluntary bar associations that best plan Law Day activities in their respective communities to commemorate this occasion.

- 101 to 250 members: Glynn County Bar Association
- 251 to 500 members: Gwinnett County Bar Association
- 501 or more members: Cobb County Bar Association

The Best New Entry Award is presented to recognize the excellent efforts of those local and voluntary bar associations that have entered the Award of Merit or Law Day Award competitions for the first time in four years. This year's recipient was the Paulding County Bar Association.

The Best Newsletter Award is presented to voluntary bars that provide the best information source to their membership.

- 251 to 500 members: Gate City Bar Association
- 501 or more members: Georgia Defense Lawyers Association

The Best Website Award is given to voluntary bar associations with websites that exemplify excellent in usefulness, ease of use, content and design in meeting the needs of the of the website's targeted audience.

- Under 50 members: Troup County Bar Association
- 101 to 250 members: Blue Ridge Bar Association
- 251 to 500 members: Gwinnett County Bar Association
- 501 or more members: Savannah Bar Association

The President's Cup is presented annually to the voluntary bar association with the best overall program. This year's recipient was the Georgia Association of Black Women Attorneys.

#### Section Awards

Section Awards are presented to outstanding sections for their dedication and service to their areas of practice, and for devoting endless hours of volunteer effort to the profession:

- *Section of the Year*  
Labor & Employment Law—Daniel C. Kniffen, chair
- *Awards of Achievement*  
Military/Veterans Law—Cary King, chair  
Family Law—Marvin L. Solomiany, chair  
Intellectual Property Law—Brent Bellows, chair

#### Tradition of Excellence Awards

The Tradition of Excellence Awards are presented annually at the General Practice & Trial Law Section Breakfast to select Bar members in recognition of their commitment to service to the public, the Bar and to civic organizations. The 2017 recipi-

## THANK YOU ANNUAL MEETING SPONSORS

### CORPORATE SPONSORS

5 Gavel  
Member Benefits, Inc.

2 Gavel  
AXA

### SECTION SPONSORS

Gold  
Criminal Law  
Product Liability Law

Silver  
Real Property Law

Copper  
Constitutional Law  
Fiduciary Law  
Health Law  
Intellectual Property Law

Other  
Animal Law  
Appellate Practice  
Child Protection & Advocacy  
Creditors' Rights  
Employee Benefits Law

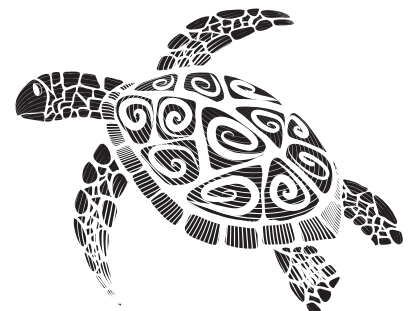
Family Law  
General Practice & Trial Law  
Military/Veterans Law

### CONFERENCE BAG SPONSOR

Driven Technologies

### BOTTLES OF BUG SPRAY

State Bank & Trust







Mandy Rogers holds the Bible while Brian D. “Buck” Rogers is sworn in as the 55th president of the State Bar of Georgia by Court of Appeals of Georgia Presiding Judge Stephen Louis A. Dillard.

ents were: Thomas G. Sampson, Atlanta (defense); Laura E. Austin, Woodstock (general practice); Hon. Alvin T. Wong, Decatur (judicial) and Philip C. Henry, Atlanta (plaintiff).

#### Young Lawyers Division Awards

Young Lawyers Division Awards are presented during the YLD Dinner and Swearing-In Ceremony.

The Distinguished Judicial Service Award was presented to Justice Keith R. Blackwell.

The Ross Adams Award was presented to Amy V. Howell.

The Award of Achievement for Service to the Bar was presented to Cary R. Burke, Edwin M. Cook, James C. Evans and Megan M. Pearson.

The Award of Achievement for Service to the Public was presented to Audrey B. Bergeson, Amanda N. Moyer, Robert E. Noble III and Justin L. Oliverio.

The Award of Achievement for Service to the Profession was presented to Morgan I. Clemons, Baylie M. Fry and Matthew T. Jones.

The Award of Achievement for Service to the YLD was presented to Sean M. Ditzel, Kathleen S. Dod and Elizabeth P. O’Neal.

The YLD Ethics & Professionalism Award was presented to Ashley L. Deadwyler-Heuman.

The Outstanding YLD Affiliate Award was presented to the Houston County YLD.

#### Passing of the Gavel

Saturday evening began with the annual reception honoring the justices and judges of the Supreme Court and Court of Appeals of Georgia, followed by the business portion of the evening. Prior to the swearing-in ceremony, President O’Connor presented the Employee of the Year Award, which honors a staff member of the State Bar of Georgia who distinguishes himself or herself by being dedicated to carrying out the ideals of the Bar, to Faye Morgan, receptionist, and she is commended for her exemplary work, conscientious manner and positive attitude.

Following the award presentation, Court of Appeals of Georgia Presiding Judge Stephen Louis A. Dillard swore in Brian D. “Buck” Rogers as the 55th president of the State Bar. With his hand on the Bible, Rogers repeated the following:

*I, Brian D. “Buck” Rogers, do solemnly swear that I will execute the office of president of the State Bar of Georgia, and perform all the duties incumbent upon me, faithfully, to the best of my ability and understanding, and agreeable to the policies, bylaws, and rules and regulations of the State Bar of Georgia and constitution of the United States, so help me God.*

The evening continued with dinner, drinks and dancing found in special themed entertainment rooms, including the craft beer room featuring local brews and a shrimp and grits bar, and the ’80s dance club featuring The 80ators. ●



**Jennifer R. Mason**

Assistant Director of Communications  
State Bar of Georgia

[jenniferm@gabar.org](mailto:jenniferm@gabar.org)

# 2017-18 State Bar Officers, Executive Committee and Board of Governors Members

## Officers

### President

Brian D. "Buck" Rogers  
*Atlanta*

### President-Elect

Kenneth B. "Ken" Hodges III  
*Atlanta*

### Treasurer

Darrell L. Sutton  
*Marietta*

### Secretary

Dawn M. Jones  
*Atlanta*

### Immediate Past

#### President

Patrick T. O'Connor  
*Savannah*

### YLD President

Nicole C. Leet  
*Atlanta*

### YLD President-Elect

Rizza O'Connor  
*Lyns*

### YLD Immediate Past President

Jennifer C. Mock  
*Statesboro*

## Executive Committee

Damon E. Elmore  
*Atlanta*

Elizabeth L. Fite  
*Atlanta*

Phyllis J. Holmen  
*Atlanta*

David S. Lipscomb  
*Lawrenceville*

Frank B. Strickland  
*Atlanta*

Nicki Noel Vaughan  
*Gainesville*

## New Board of Governors Members

Alapaha Circuit, Post 1  
*Larry Michael Johnson, Nashville*

Atlanta Circuit, Post 16  
*James Daniel Blich IV, Atlanta*

Coweta Circuit, Post 2  
*Jason W. Swindle, Carrollton*

Cherokee Circuit, Post 2  
*John Thomas Mroczo, Cartersville*

Clayton Circuit, Post 1  
*H. Emily George, Forest Park*

Dougherty Circuit, Post 2  
*William F. Underwood III, Albany*

Macon Circuit, Post 3  
*Ivy Neal Cadle, Macon*

Member-at-Large, Post 1  
*Gregory W. Edwards, Albany*

Middle Circuit, Post 2  
*Thomas Alexander Peterson IV, Vidalia*

Out-of-State, Post 1  
*Stephanie Kirijan Cooper, Birmingham, Ala.*

Rome Circuit, Post 1  
*Christopher Paul Twyman, Rome*

Southern Circuit, Post 2  
*Robert Allen Plumb Jr., Valdosta*

## Board of Governors Members

Alapaha Circuit, Post 1  
*Larry Michael Johnson, Nashville*

Alapaha Circuit, Post 2  
*Hon. Clayton Alan Tomlinson, Homerville*

Alcovy Circuit, Post 1  
*William Gregory Pope, Covington*

Alcovy Circuit, Post 2  
*Michael R. Jones Sr., Loganville*

Appalachian Circuit  
*Will H. Pickett Jr., Jasper*

Atlanta Circuit, Post 1  
*Hon. Diane E. Bessen, Atlanta*

Atlanta Circuit, Post 2  
*Kent Edward Altom, Alpharetta*

Atlanta Circuit, Post 3  
*Kathleen M. Womack, Atlanta*

Atlanta Circuit, Post 4  
*Jeffrey R. Kuester, Atlanta*

Atlanta Circuit, Post 5  
*Catherine Koura, Atlanta*

Atlanta Circuit, Post 6  
*Dwight L. Thomas, Atlanta*

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

Atlanta Circuit, Post 8  
*Paige Reese Whitaker, Atlanta*

Atlanta Circuit, Post 9  
*Damon E. Elmore, Atlanta*

Atlanta Circuit, Post 10  
*Scott Delius, Atlanta*

Atlanta Circuit, Post 11  
*Hon. Jill Pryor, Atlanta*

Atlanta Circuit, Post 12  
*Elena Kaplan, Atlanta*

Atlanta Circuit, Post 13  
*R. Gary Spencer, Atlanta*

Atlanta Circuit, Post 14  
*Edward B. Krugman, Atlanta*

Atlanta Circuit, Post 15  
*Letitia A. McDonald, Atlanta*

Atlanta Circuit, Post 16  
*James D. Blich, Atlanta*

Atlanta Circuit, Post 17  
*Hon. JaDawnya C. Butler, Atlanta*

Atlanta Circuit, Post 18  
*Foy R. Devine, Atlanta*

Atlanta Circuit, Post 19  
*Elizabeth L. Fite, Atlanta*

Atlanta Circuit, Post 20  
*Jennifer Auer Jordan, Atlanta*

Atlanta Circuit, Post 21  
*Patricia Gorham, Atlanta*

Atlanta Circuit, Post 22  
*Frank B. Strickland, Atlanta*

Atlanta Circuit, Post 23  
*Donna G. Barwick, Atlanta*

Atlanta Circuit, Post 24  
*Joseph Anthony Roseborough, Atlanta*

Atlanta Circuit, Post 25  
*Phyllis J. Holmen, Atlanta*

Atlanta Circuit, Post 26  
*Anthony B. Askew, Atlanta*

Atlanta Circuit, Post 27  
*Nancy J. Whaley, Atlanta*

Atlanta Circuit, Post 28  
*J. Henry Walker IV, Atlanta*

Atlanta Circuit, Post 29  
*Tina Shadix Roddenbery, Atlanta*

Atlanta Circuit, Post 30  
*Karlise Yvette Grier, Atlanta*

Atlanta Circuit, Post 31  
*Michael B. Terry, Atlanta*

Atlanta Circuit, Post 32  
*Seth D. Kirschenbaum, Atlanta*

Atlanta Circuit, Post 33  
*Hon. Susan E. Edlein, Atlanta*

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

Atlanta Circuit, Post 35  
*Terrence Lee Croft, Atlanta*

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

Atlanta Circuit, Post 37  
*Samuel M. Matchett, Atlanta*

Atlanta Circuit, Post 38  
*Michael D. Hobbs Jr., Atlanta*

Atlanta Circuit, Post 39  
*Anita Wallace Thomas, Atlanta*

Atlanta Circuit, Post 40  
*Carol V. Clark, Atlanta*

Atlantic Circuit, Post 1  
*H. Craig Stafford, Hinesville*

Atlantic Circuit, Post 2  
*Carl Robert Varnedoe, Hinesville*

Augusta Circuit, Post 1  
*Sam G. Nicholson, Augusta*

Augusta Circuit, Post 2  
*William James Keogh III, Augusta*

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

Augusta Circuit, Post 4  
*William R. McCracken, Augusta*

Bell Forsyth Circuit  
*Hon. Philip C. Smith, Cumming*

Blue Ridge Circuit, Post 1  
*Hon. David Lee Cannon Jr., Canton*

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

Brunswick Circuit, Post 1 <i>J. Alvin Leaphart, Jesup</i>	Douglas Circuit <i>Ryan R. Leonard, Douglasville</i>	Member-at-Large, Post 3 <i>Tracee R. Benzo, Atlanta</i>	South Georgia Circuit, Post 2 <i>Hon. Joshua C. Bell, Whigham</i>
Brunswick Circuit, Post 2 <i>Jeffrey S. Ward, Brunswick</i>	Dublin Circuit <i>Joseph Carl Sumner Jr., Dublin</i>	Middle Circuit, Post 1 <i>John Kendall Gross, Metter</i>	Southern Circuit, Post 1 <i>Christopher F. West, Thomasville</i>
Chattahoochee Circuit, Post 1 <i>Amy C. Walters, Columbus</i>	Eastern Circuit, Post 1 <i>Sarah Brown Akins, Savannah</i>	Middle Circuit, Post 2 <i>Thomas Alexander Peterson IV, Vidalia</i>	Southern Circuit, Post 2 <i>Robert Allen Plumb Jr., Valdosta</i>
Chattahoochee Circuit, Post 2 <i>Hon. William C. Rumer, Columbus</i>	Eastern Circuit, Post 2 <i>Lester B. Johnson III, Savannah</i>	Mountain Circuit <i>Hon. James T. Irvin, Toccoa</i>	Southern Circuit, Post 3 <i>H. Burke Sherwood, Valdosta</i>
Chattahoochee Circuit, Post 3 <i>Thomas F. Gristina, Columbus</i>	Eastern Circuit, Post 3 <i>Jonathan B. Pannell, Savannah</i>	Northeastern Circuit, Post 1 <i>Mark W. Alexander, Gainesville</i>	Southwestern Circuit <i>Hon. R. Rucker Smith, Americus</i>
Chattahoochee Circuit, Post 4 <i>Donna S. Hix, Columbus</i>	Eastern Circuit, Post 4 <i>John Bell Manly, Savannah</i>	Northeastern Circuit, Post 2 <i>Nicki N. Vaughan, Gainesville</i>	Stone Mountain Circuit, Post 1 <i>Hon. Stacey K. Hydrick, Decatur</i>
Cherokee Circuit, Post 1 <i>Randall H. Davis, Cartersville</i>	Enotah Circuit <i>Hon. Joy Renea Parks, Cleveland</i>	Northern Circuit, Post 1 <i>Walter James Gordon Sr., Hartwell</i>	Stone Mountain Circuit, Post 2 <i>William Dixon James, Decatur</i>
Cherokee Circuit, Post 2 <i>John Thomas Mroczko, Cartersville</i>	Flint Circuit, Post 1 <i>Gregory A. Futch, McDonough</i>	Northern Circuit, Post 2 <i>Hon. Richard Dale Campbell, Elberton</i>	Stone Mountain Circuit, Post 3 <i>Hon. J. Antonio DelCampo, Atlanta</i>
Clayton Circuit, Post 1 <i>H. Emily George, Forest Park</i>	Flint Circuit, Post 2 <i>John P. Webb, Stockbridge</i>	Ocmulgee Circuit, Post 1 <i>Carl S. Cansino, Milledgeville</i>	Stone Mountain Circuit, Post 4 <i>Gary Stuart Freed, Atlanta</i>
Clayton Circuit, Post 2 <i>Harold B. Watts, Jonesboro</i>	Griffin Circuit, Post 1 <i>Janice M. Wallace, Griffin</i>	Ocmulgee Circuit, Post 2 <i>Wilson B. Mitcham Jr., Gray</i>	Stone Mountain Circuit, Post 5 <i>Amy V. Howell, Atlanta</i>
Clayton Circuit, Post 3 <i>Hon. Martin L. Cowen III, Jonesboro</i>	Griffin Circuit, Post 2 <i>Roy B. Huff Jr., Peachtree City</i>	Ocmulgee Circuit, Post 3 <i>Christopher Donald Huskins, Eatonton</i>	Stone Mountain Circuit, Post 6 <i>Claudia S. Saari, Decatur</i>
Cobb Circuit, Post 1 <i>Dennis C. O'Brien, Marietta</i>	Gwinnett Circuit, Post 1 <i>David S. Lipscomb, Lawrenceville</i>	Oconee Circuit, Post 1 <i>Ashley W. McLaughlin, Eastman</i>	Stone Mountain Circuit, Post 7 <i>John G. Haubenreich, Atlanta</i>
Cobb Circuit, Post 2 <i>Ronald Arthur Lowry, Marietta</i>	Gwinnett Circuit, Post 2 <i>Judy C. King, Lawrenceville</i>	Oconee Circuit, Post 2 <i>Stephanie Diane Burton, Eastman</i>	Stone Mountain Circuit, Post 8 <i>R. Javoyne Hicks, Stone Mountain</i>
Cobb Circuit, Post 3 <i>Hon. David P. Darden, Marietta</i>	Gwinnett Circuit, Post 3 <i>Hon. Robert V. Rodatus, Lawrenceville</i>	Ogeechee Circuit, Post 1 <i>Daniel Brent Snipes, Statesboro</i>	Stone Mountain Circuit, Post 9 <i>Sherry Boston, Decatur</i>
Cobb Circuit, Post 4 <i>Patrick H. Head, Marietta</i>	Gwinnett Circuit, Post 4 <i>Gerald Davidson Jr., Lawrenceville</i>	Ogeechee Circuit, Post 2 <i>Susan Warren Cox, Statesboro</i>	Stone Mountain Circuit, Post 10 <i>Hon. Dax Eric Lopez, Decatur</i>
Cobb Circuit, Post 5 <i>Dawn R. Levine, Marietta</i>	Houston Circuit <i>Carl A. Veline Jr., Warner Robins</i>	Out-of-State, Post 1 <i>Stephanie Kirijan Cooper, Birmingham, Ala.</i>	Tallapoosa Circuit, Post 1 <i>Michael Douglas McRae, Cedartown</i>
Cobb Circuit, Post 6 <i>Laura J. Murphree, Marietta</i>	Lookout Mountain Circuit, Post 1 <i>Archibald A. Farrar Jr., Summerville</i>	Out-of-State, Post 2 <i>William J. Monahan, Washington, D.C.</i>	Tallapoosa Circuit, Post 2 <i>Brad Joseph McFall, Cedartown</i>
Cobb Circuit, Post 7 <i>William C. Gentry, Marietta</i>	Lookout Mountain Circuit, Post 2 <i>Douglas R. Woodruff, Ringgold</i>	Pataula Circuit <i>Edward R. Collier, Dawson</i>	Tifton Circuit <i>Hon. Render M. Heard Jr., Tifton</i>
Conasauga Circuit, Post 1 <i>Terry L. Miller, Dalton</i>	Lookout Mountain Circuit, Post 3 <i>Lawrence Alan Stagg, Ringgold</i>	Paulding Circuit <i>Martin Enrique Valbuena, Dallas</i>	Toombs Circuit <i>Dennis C. Sanders, Thomson</i>
Conasauga Circuit, Post 2 <i>Robert Harris Smalley III, Dalton</i>	Macon Circuit, Post 1 <i>John Flanders Kennedy, Macon</i>	Piedmont Circuit <i>Barry E. King, Jefferson</i>	Towaliga Circuit <i>Curtis Stephen Jenkins, Forsyth</i>
Cordele Circuit <i>James W. Hurt, Cordele</i>	Macon Circuit, Post 2 <i>Thomas W. Herman, Macon</i>	Rockdale Circuit <i>William G. Gainer, Conyers</i>	Waycross Circuit, Post 1 <i>Douglass Kirk Farrar, Douglas</i>
Coweta Circuit, Post 1 <i>Gerald P. Word, Atlanta</i>	Macon Circuit, Post 3 <i>Ivy Neal Cadle, Macon</i>	Rome Circuit, Post 1 <i>Christopher P. Tuymen, Rome</i>	Waycross Circuit, Post 2 <i>C. Deen Strickland, Waycross</i>
Coweta Circuit, Post 2 <i>Jason W. Swindle, Carrollton</i>	Member-at-Large, Post 1 <i>Gregory W. Edwards, Albany</i>	Rome Circuit, Post 2 <i>J. Anderson Davis, Rome</i>	Western Circuit, Post 1 <i>Hon. Lawton E. Stephens, Athens</i>
Dougherty Circuit, Post 1 <i>Joseph W. Dent, Albany</i>	Member-at-Large, Post 2 <i>Hon. Shondeana G. Morris, Decatur</i>	South Georgia Circuit, Post 1 <i>Lawton C. Heard Jr., Camilla</i>	Western Circuit, Post 2 <i>Edward Donald Tolley, Athens</i>
Dougherty Circuit, Post 2 <i>William F. Underwood III, Albany</i>			

# O'Connor's Final Remarks to the Board of Governors

The bylaws of the State Bar of Georgia specify the duties of the president. One of the responsibilities is to “deliver a report at the Annual Meeting of the members of the activities of the State Bar during his or her term of office and furnish a copy of the report to the Supreme Court of Georgia.” Following is the report from 2016–17 President Patrick T. O’Connor on his year, delivered June 9 at the State Bar’s Annual Meeting.

BY PATRICK T. O’CONNOR



PHOTO BY SARAH L. COOLE

**Members of the Judiciary, fellow Bar officers, members of the Executive Committee and Board of Governors, Bar members, staff, guests and friends.**

I am starting my final speech to you as president on a personal note, but after a short prologue my talk will transition from use of the pronoun “I” to the use of “we.” That is because the successes we have enjoyed this year have been the result of a team effort.

In 1913, a 6-foot 2-inch, 175-pound amateur golfer named Francis Ouimet of Brookline, Mass.—despite the urgings of his father to “do something useful” with his life—won the U.S. Open golf tournament at the age of 20.

Ouimet was an amateur. He was a complete unknown. It was the first time he had ever played in the U.S. Open, or any major tournament for that matter. His caddie was a 10-year-old kid named Eddie Lowery. No one expected Francis Ouimet to win the U.S. Open. But he did.

Here is a picture of me at the University of Georgia School of Law on the first

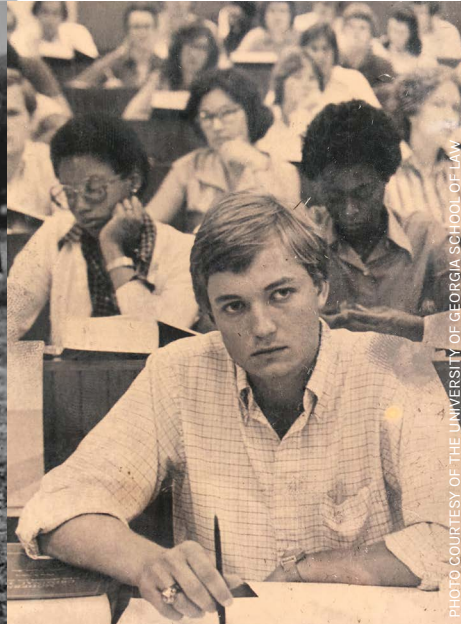
---

2016-17 President Patrick T. O’Connor presents his final remarks to the Board of Governors during the plenary session of the Annual Meeting.

PHOTO COURTESY OF THE BOSTON GLOBE



(Left to right) Caddie Eddie Lowery and 1913 U.S. Open Champion Francis Ouimet.



2016-17 President Patrick T. O'Connor's first day of law school at the University of Georgia.



2016-17 President Patrick T. O'Connor and his family. (Left to right) Maggie, Daniel, Tyler, Mary Grace, Tate, Pat, Carol, Kelly, Grace, Liam and Thomas O'Connor.

day of my law school career. I was 6 feet 2 inches and about 175 pounds. I was 22. I am the Francis Ouimet of the State Bar of Georgia. No one ever expected that I would be here today speaking to you as State Bar president, but God blessed me, as He did Ouimet.

The picture also shows the first and only day I ever sat on the front row of a law school class. After the first day, when I was caught in this photograph, I moved to the back row where I sat with my classmates and friends Lawton Stephens and Gary McCorvey for the duration of my law school career. No one would have predicted that two of us would become judges and one the president of the State Bar of Georgia.

Our classmates, Sen. Jesse Stone and Judge Beverly Martin of the Eleventh Circuit, wisely sat in the middle of the class, as I recall, as did William Jenkins and Bryndis Roberts—who are with us here today to receive an award.

As mentioned, I am not going to focus on me this morning—but I do want to show one more picture—one that reflects my greatest accomplishments in life—accomplishments having to do with family. Here is the cover of our August 2016 *Georgia Bar Journal*. I got more compliments on this *Bar Journal* cover than

anything else that happened throughout the entire year.

And so, let me start by acknowledging and thanking the ones who make up the most important part of my life—my family—for supporting and tolerating me throughout this unique and uplifting experience. My wife, Carol, and my oldest son, Tyler, are here this morning.

The Bar faced some challenges during the past year, but I believe we have experienced a very good year in our history. As Bob Kauffman predicted last year the only thing that we could count on happening was that we would experience the unexpected.

You may recall that early in the year the Bar was faced with helping pick up the pieces from a bar examination scoring error. Despite the State Bar not having any control over the administration or grading of the bar examination, through our programs we stepped up to help the 90 examination takers who had been notified incorrectly that they had failing scores.

The Board of Bar Examiners, through its chairman, John Sammon, took immediate steps to correct the scoring problem and he personally reached out to each and every one of the examination takers. I personally wrote to each one as well. What had happened could not be un-

done, but we helped make the best of an unfortunate situation.

Next came a totally unexpected and monumental shift in continuing legal education in Georgia when the more than 40-year relationship between the University of Georgia and our ICLE came to an end.

The State Bar of Georgia again stepped up and successfully absorbed an institution which has a budget half as large as that of the entire State Bar and which sponsors more than 200 events per year.

This transition could not possibly have occurred without the leadership of our Past President Bob Kauffman, who served as chair of the ICLE Board throughout the process, and our Executive Director Jeff Davis. We also must credit the leadership and cooperation of Dean Bo Rutledge of the University of Georgia School of Law and the leadership and cooperation of all of Georgia's law schools—Mercer, Emory, Georgia State, John Marshall and Georgia.

I also must thank Doug Ashworth and Tangela King for their good work leading ICLE as interim directors. The transition has experienced some bumps along the way but—I believe—will result in a more efficient ICLE and one that will continue to be a bargain for Georgia law-

---

## To every lawyer and judge in the room—thank you for helping make this the greatest profession there is and for giving me the opportunity to serve.

yers in the future. In fact, the new ICLE Board is studying ways to *reduce* the cost of continuing legal education for Georgia lawyers going forward.

Over the past two years, we faced challenges with legislative issues concerning the Judicial Qualifications Commission and we not only survived the process, we will now have a much improved JQC.

Last year, this board resisted the siren urge to fight a proposed Constitutional Amendment designed to restructure the JQC. Had we chosen a different path, we would likely have depleted the Bar's financial reserves, and in the opinion of most we would not have changed the outcome of the vote. In addition, we would have burned, instead of built, bridges with legislative leaders many of whom are lawyers and members of this very Bar.

Once the Constitutional Amendment passed, we went to work with leaders of the House and Senate as well as a committee of the Supreme Court to ensure that the JQC legislation corrected some of the past problems of the JQC and retained the important involvement of the State Bar in the operation of the JQC and the selection of its members. I want to especially thank Christine Butcher Hayes and Rusty Sewell for their efforts on our behalf. Jeff Davis again was critical to our efforts in this process, as were Justice David Nahmias and the Supreme Court. Finally, I want to thank state senator and Board of Governors Member John Kennedy for his voice and efforts on our behalf in the Legislature.

At the end of the day we will have a JQC that is significantly improved. Now, there

will be an investigative panel and a review panel instead of a consolidated JQC, which conducted both investigations and reviews. Second, secret trials are gone. The JQC is now more transparent.

The State Bar will remain integrally involved in the JQC. Four members of this Bar will sit on the JQC and this Bar will provide nominees for those four seats to the appointing authorities. I am convinced that most of the appointees will come from the State Bar's list of nominees.

The vetting process by which we will identify nominees has been improved as well. Instead of the prior practice of having the State Bar president simply nominate someone, we now have a standing committee, which has and will continue to seek nominees from all around the state, which will vet the potential nominees, and which will recommend a list of nominees to this board. It will then be this Board of Governors that will approve the final list of nominees which will go to the appointing authorities. This is a vastly improved system over what we previously had.

As we worked on the legislative challenges, the JQC made other advances of its own. Under the leadership and hard work of one of our appointees, Chairman Ed Tolley, and the other commissioners, the JQC was able to avoid a monumental backlog of cases. Ed and the other commissioners—including Board of Governors nominee Lester Johnson—took on all of the tasks without a director or full staffing. They did the background work and carried out the investigations voluntarily without paid staff. They did a yeoman's job

above and beyond their appointed responsibilities. They had a steady, heavy caseload to carry and didn't allow a backlog to develop. With our Past President Ben East-erlin now on board as director, the JQC has maintained the caseload so that cases are not languishing and are progressing as they should be.

Another byproduct of our measured and diplomatic approach involving the JQC issues is that we maintained and improved our relationship with legislative leaders. You may recall that one of our goals at the outset last year was to improve our relationships with legislative leaders and I believe we've done that.

This year we have recruited 20 new fellows of the Georgia Bar Foundation. The Georgia Bar Foundation supports local law-related organizations throughout the state, and I urge any member of the Board of Governors who is not now a fellow to become a fellow.

On a related note, Bar leaders worked closely this year with our own Linda Klein, the American Bar Association president, and traveled to Washington, D.C., where we met with members of Congress to ensure continued funding for the Legal Services Corporation. The battle is not over, and I strongly urge this Board to continue its support of legal services for the poor.

In keeping with our strategic plan, we continued the process of revamping, improving and streamlining our system of lawyer discipline in Georgia. At our Spring Board of Governors Meeting, this board voted overwhelmingly to approve recommending to the Supreme Court of Geor-

---

gia proposed revisions to the disciplinary rules intended to do just that.

The essential purpose of a unified Bar is to promote and carry out self-discipline. We should always remember that the first president of the State Bar of Georgia, Hugh M. Dorsey Jr., said “the capstone of the State Bar is the power of self-discipline which has been sought so long and is needed so badly. For the first time, all of us can and will be held to answer to the public for the conduct and character of our profession and here we must not, and cannot fail.” That has been our primary purpose since the unified Bar was created in 1964, and we must never forget that it is our purpose now and in the future.

In keeping with the goal of promoting the good things that lawyers do, our Communications/Cornerstones of Freedom Committee, led by Peter Canfield and Sonjui Kumar, as well as our Communications Director Sarah Coole, provided a window into the lives of people who have been helped by our system of justice and the lawyers of Georgia through our public service announcement campaign.

I have watched the three PSAs that we put forth this year dozens of times. At virtually every Bar association meeting where I spoke around the state this year we presented the PSAs. They were warmly and enthusiastically received in every corner of the state. And they never cease to give me a strong sense of pride, even chill bumps, every time I see them.

We will continue to promote the practice of law and our system of justice and we hope that many of you will help us in this effort by providing additional examples of the impact that lawyers have on lives for the next round of PSAs.

We have continued to promote diversity among our ranks. Tomorrow this board will vote on a list of proposed nominees to the JQC. The board will receive seven names. Of those seven, there will be three persons of color, two will be women, and every region of the state will be represented.

In my appointments this year I have tried to be equally aware of the need for diversity in the leadership of our Bar. I am pleased to welcome Dawn Jones as our newest officer, and I hope that many more women and members of various

ethnic and other minority groups will continue to seek and attain leadership roles in the State Bar. Equal and diverse representation makes us stronger.

We are on the verge of having a good answer for the question most posed to our State Bar office by members of the public who call—“how do I find a lawyer?” We are currently working on implementation of a statewide system known as Zeekbeek—which will assist us in connecting those who need lawyers with lawyers throughout every one of the 159 counties in this state. I want to thank Deputy General Counsel Bill NeSmith for his work negotiating the contract and advising along the way.

As announced at the Annual Meeting last year, we also renewed our focus on the SOLACE program and on issues involving senior lawyers. Our SOLACE program has been reinvigorated under the leadership of Board Member Karlise Grier and we now have a much-needed Senior Lawyers Committee chaired by Bill Gentry with the able assistance of incoming Treasurer Darrell Sutton.

Membership in our Bar continues to be a bargain—we have the second lowest dues of any mandatory Bar in America. Only Nebraska is lower and all the Bar in Nebraska does is administer discipline. Our dues this year were \$248.

Here are dues from some other states—Florida \$265, North Carolina \$300, Alabama \$325, Louisiana \$435, Alaska \$650. And because we have the best Bar in the country, we obviously get the most bang for the buck.

As most of you have heard me mention at some point, my childhood and youth were spent in Southeast Georgia—Dublin, Jesup and Statesboro where I grew up, before I sojourned to college on the plains of Alabama about 30 miles west of Columbus, Ga. But I returned to my home state where I have practiced law since 1981 in Savannah.

I cannot let this opportunity pass without thanking my friends and colleagues in Savannah, particularly the lawyers and staff at Oliver Maner LLP, and the Savannah Bar Association for the support and encouragement provided throughout my career and especially this year.

When James Edward Oglethorpe founded the colony of Georgia in 1733, rum, Catholics and lawyers were banned entirely. Some may find it ironic that during this year the theme of our public service announcements has been “Who needs lawyers? We do.” Oglethorpe could have learned something from us.

I don’t mind telling you that I like rum, my ancestors were Catholic, and as you all know I am a lawyer. So, in 1733 I would have had no place in Savannah. Since 1981 it has been a wonderful home to me and my family, and it is there that I was influenced by great lawyers like Harvey Weitz, James B. Blackburn, and my friend Paul Painter, who we lost to cancer just two weeks ago.

The gavel will now pass to our new president, Buck Rogers. Buck, I will turn the leadership role over to you tomorrow with no hesitation and with great confidence in your ability to lead and in the bright future that stands before our State Bar with leaders like you, and our other officers Ken Hodges, Darrell Sutton and Dawn Jones.

To the State Bar staff starting with Executive Director Jeff Davis, Chief Operating Officer Sharon Bryant, Chief Financial Officer Steve Laine, General Counsel Paula Frederick, Sarah Coole, DeeDee Worley, Pauline Childress, Bonne Cella, Michelle West, Bill NeSmith, Michelle Garner, Natalie Kelly, Christine Butcher Hayes, Jennifer Mason, Derrick Stanley, Linton Johnson, Norman Zoller, Len Horton, Mike Monahan, Kindall Harville, Kendra King and every other member of our staff (I wish I had time to name everyone)—thank you. You could run the State Bar without a president, but believe me it is an honor for one of us to be called on to serve in that role.

To every lawyer and judge in the room—thank you for helping make this the greatest profession there is and for giving me the opportunity to serve. ●



**Patrick T. O'Connor**

Immediate Past President  
State Bar of Georgia

pto@olivermaner.com

# Rogers' Remarks to the Board of Governors

The following is the text version of Brian D. "Buck" Rogers' remarks to the Board of Governors on June 10 during the 2017 Annual Meeting on Jekyll Island.

BY BRIAN D. "BUCK" ROGERS



2017-18 President Brian D. "Buck" Rogers addresses Board of Governors members and guests on Saturday, June 10.

**Thank you, Pat, not only for that introduction but especially for your outstanding leadership and service to the legal profession and the justice system during the past year.**

You had to take the reins of the State Bar one year earlier than expected and had to deal with a number of unexpected developments, but you rose to the challenge each and every time. Thanks largely to your steady and thoughtful leadership, we are able to celebrate the completion of a very successful year for the State Bar of Georgia.

This evening, I will take the oath of office as the 55th president of the State Bar of Georgia. This is not only a tremendous honor; it is an awesome responsibility that I take very seriously.

I will be leaning heavily on Pat and other past presidents, our Executive Committee, our outstanding State Bar staff headed by Jeff Davis, our committee chairs and all of you, the members of our governing body who serve the legal profession and represent your fellow Bar members from every judicial circuit in Georgia.

The State Bar does not represent just one segment of Georgia's legal community. It represents them all, and we need the viewpoints of all our diverse com-

PHOTO BY SARAH I. COOLE



munities and practice areas to be heard. I look forward to working with each of you to ensure the actions we take as the year goes on are in the best interest of our membership and the public at large.

People who are elected to leadership positions in organizations like the State Bar of Georgia are often motivated by what lasting impact their term in office will have on the future of that organization. In the Bar's case, you serve as president for one year.

If as president you spend a great deal of your year working on a legacy project, so to speak—or ensuring you leave a personal stamp on the Bar—then that can leave very little time for you to focus on the responsibilities you have to ensure the Bar is doing what it needs to effectively serve the legal profession, the justice system and the general public on a daily basis.

This might sound strange, but as I enter this year as Bar president, I actually hope I have no personal impact on the Bar. In other words, if no one remembers who I was or what I did as president 10 years from now, then I will have done a good job.

Chris Hadfield, the first Canadian astronaut to walk in space, once wrote, "Ultimately, leadership is not about glorious crowning acts. It's about keeping your team focused on a goal and motivated to do their best to achieve it, especially when the stakes are high and the consequences really matter. It is about laying the groundwork for others' success, and then standing back and letting them shine."

Sometimes the grand initiatives that are intended as a president's legacy program get off to a great start during that president's year, but two or three years later, because the enthusiasm for that project waned among subsequent presidents, it is not only gone, but forgotten.

Meanwhile, the daily challenges that inevitably arise for leaders of an organization of nearly 50,000 lawyers must be addressed. If as president you screw up on one of those, that will become your personal stamp on the Bar and you will be remembered for all the wrong reasons. For the legal profession and the justice system these days, the stakes are high, and the consequences really matter.

I am fortunate that some of my immediate predecessors have shared this belief in maintaining a steady course for the State Bar and have taken a multi-year approach to focusing on our present needs and future priorities. Thanks to their leadership, we have a blueprint to guide us into this new Bar year.

You, the Board of Governors, voted in January 2016 to approve the first strategic plan for the unified State Bar of Georgia since our establishment 53 years ago. (*The strategic plan can be found on the Bar's website at [www.gabar.org](http://www.gabar.org) > About the Bar.*)

Responding to the many changes the legal profession has seen over the past half-century, our strategic plan for 2016 through 2018 is appropriately focusing on regulation of practice, access to justice, lawyer wellness, integration of new delivery methods and the importance of the Bar's role to our members and the public.

This morning, I want to tell you that my primary goal for this Bar year is to maintain a steady course with the strategic plan as our blueprint for the present and the future.

But we must do so with an emphasis on tracking the progress toward the completion of the tasks the plan contains and the fulfillment of the plan's objectives for each priority. We need to set deadlines—specific dates on the calendar—to work toward and re-evaluate as we gauge success along the way.

The English writer Douglas Adams once said, "I love deadlines. I like the whooshing sound they make as they fly by."

Hopefully, we'll never hear that whooshing sound after we establish deadlines for the tasks in our strategic plan. The work to strengthen our profession and maintain access to justice for all is too important. We have a good plan in place. We need deadlines to ensure it is put effectively into action. The stakes are high, and the consequences really matter.

I am pleased to report that Ken Hodges, our president-elect who will succeed me a year from now, and I have agreed to jointly conduct a two-year review of all Bar programs to ensure they are consistent with what the Bar needs to be focused on.

## Tax Court Accepts Kaye Valuation

Affirmed by  
US Court of Appeals

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

## Business Valuations

Divorces • Estates • Gifts

ESOPs • FLPs

Intangible Assets • Disputes

Court Testimony and IRS Experience

*serving appraisal clients since 1981*

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

One year is not enough time to get this done, and taking this on as a continuation project will help ensure that the services provided by the Bar are appropriate and relevant to meeting the needs of our members and the public—and set in motion a process to eliminate those that are not.

Within the framework of our strategic plan, I do plan to give top priority to two major areas of emphasis for this year: (1) continuing the Bar's seemingly never-ending work to improve relations with the General Assembly; and (2) doing all we can to improve the image of the profession of law.

Being able to advocate effectively at the State Capitol is imperative for the future of the legal profession and continued access to justice for all in this state. This is truly a team effort—from our lobbyists in the trenches under the Gold Dome, who relate information and developments to the Bar leadership when action on an issue is needed, to the Advisory Committee on Legislation, which

---

considers and recommends Bar positions, to you, the Board of Governors, who ultimately decide whether legislation is germane to the Bar's purposes by a majority vote and whether the Bar should support or oppose legislation by a two-thirds supermajority vote.

All of our members hold a stake in this process and have a role to fulfill by developing strong relationships with their representatives and senators for effective interaction in communicating the Bar's positions on legislation.

When you talk to your colleagues back home, I ask you to make a point to encourage them to take advantage of the opportunities the Bar offers our members to get involved in the legislative program. As Jeff Davis outlined in the June 2017 *Georgia Bar Journal*, these include:

- Participating in the optional \$100 contribution to the Legislative & Public Education Fund on your annual Bar dues statement (which is the simplest way);
- Attending local legislative events or Grassroots Lobby Days at the Capitol to meet with and engage legislators;
- Testifying before House or Senate committees on issues in their area of expertise; and
- (Best of all) Running for a House or Senate seat in the next election. The

number of lawyers in the General Assembly is at an all-time low, and this is not good for the public or the justice system.

The State Bar must also continue fighting the good fight when it comes to improving the image of the legal profession in the public's eye.

Actress Jacqueline Bisset once said, "I'd like to get my public image nearer to my reality. People have a lot of misconceptions."

Lawyers can certainly relate to that. People do have a lot of misconceptions about what we do, and it seems to be a never-ending battle.

But it is crucial that we continue to make the public aware of the importance of an independent justice system, a mandatory Bar with an effective regulatory and disciplinary process and the indispensable role of the legal profession in our society.

Under Pat O'Connor's leadership last year, our Communications/Cornerstones of Freedom Committee developed a series of public service announcements, which presented the true stories of everyday Georgians whose lives had been made better by the work of their lawyer. The campaign's tagline is "Who needs lawyers? We do."

The ads were superbly done and, despite a limited budget for broadcast, were very well received. We need to continue to facilitate the telling of these stories and seek additional ways of improving the public image of our profession. It may very well be a never-ending battle, but it's one we must keep fighting.

In closing, I want to thank each of you for the honor I will have to serve as your State Bar president this coming year. I look forward to working with you, and I ask for your support and your candid feedback as we embark on this opportunity to serve our profession and our fellow Georgians. ●

---

But it is crucial that we continue to make the public aware of the importance of an independent justice system, a mandatory Bar with an effective regulatory and disciplinary process and the indispensable role of the legal profession in our society.



**Brian D. "Buck" Rogers**

President  
State Bar of Georgia

president@gabar.org

STATE BAR OF GEORGIA

# Member Benefits

## LAW PRACTICE MANAGEMENT PROGRAM

The State Bar of Georgia provides all of its members with business management assistance; technical and general consultations; software advice and training; sample forms; start up resources and solo small firm discussion board and video resources.

we're here for you.



Learn more at [www.gabar.org](http://www.gabar.org) or contact Natalie Kelly at 404-527-8770



# New President Continues the Family Tradition

BY LINTON JOHNSON

When the 55th president of the State Bar of Georgia decided to join the legal profession, it was neither a difficult nor surprising choice. In his family, the practice of law is somewhat of a family tradition.

Brian D. “Buck” Rogers is the son of C.B. Rogers, who co-founded the Rogers & Hardin law firm in Atlanta more than 40 years ago. His grandfather was also a lawyer, as are his brother-in-law and a cousin.

“I was also fortunate enough to have been surrounded by some great lawyers who were friends and colleagues of my father, such as Emmett Bondurant, Richard Sinkfield, Miles Alexander and others,” Rogers said prior to his installation as State Bar president in June during the Annual Meeting at Jekyll Island. “Throughout my career, I have had some great mentors in the legal profession.”

Atlanta born and raised, Rogers graduated from the Westminster Schools. He chose the University of Georgia for his undergraduate studies in part because “my college counselor failed to submit my essay to Rhodes in time. UGA was my fallback.” After a shaky start, Rogers said, “I had an excellent college experience. At the end of my first full year, my grade point average was barely high enough to be able to come back. But then I got serious about academ-

PHOTO BY CHRIS MONCUS PHOTOGRAPHY



2017-18 President Brian D. “Buck” Rogers and his family. (Back row, left to right) Noah, Buck, wife Mandy and Max; (front row, left to right) Peyton and Makenzie. (Alex Rogers not pictured.)

ics. I started taking overloaded schedules year-round and was consistently making better grades.”

That helped him get into law school at Vanderbilt University. One of the reasons he made the move to Nashville was to stay around Southeastern Conference football, “but I needed to get out of Athens and, specifically, away from my fraternity brothers in order to stay serious about grades.”

At Vanderbilt, Rogers benefited from studying the law among a diverse contingent of classmates, “kids from all over the country who were very smart.” He became part of a few close friends who had formed a study group for their first exam cycle.

“I was always the lone dissenter in the group,” Rogers said. “I would often be able to convince them that I was right. But then we would take the exams, and all of them would get higher grades.”

Thus, Rogers said he discovered, “I wasn’t a great student of the law, but I was good at convincing people I was right. So I was well suited to do trial work.”

Rogers was admitted to the State Bar of Georgia in 1994 and soon found “there was a flood of well-qualified applicants for fewer positions in the legal market. None of the firms offering summer clerkships were in a position to offer me a job that I was inclined to accept.”

Soon, though, he was offered employment by R. Clay Porter (who now practices in Minnesota) and Robert E. Corry Jr. at the Atlanta firm of Dennis, Corry, Porter & Smith (now Dennis, Corry, Smith & Dixon LLP).

“Bob Corry was my mentor in a true sense of the word. He was not just a boss. And it was a time when mentoring had become nearly extinct,” Rogers recalled. “The firm defended trucking collision cases, and I did that for three years. I had tried to bring in new clients, but they were looking for more experience than I had. Bob had a handle on the market and had all the clients that could be had.”

Rogers had reached his first career crossroads. “I realized I was making the most money I could be paid in a defense world without making some changes,” he said. A talk with Corry had confirmed that.

“My hourly rate was not going up. All I could do was increase my hours,” Rogers



2017-18 President Brian D. “Buck” Rogers addresses members of the Bar and guests during the Presidential Inaugural Gala on Saturday, June 10, at the 2017 Annual Meeting.

said. “I was not willing to do that, so I decided I needed to make a change, packed up and headed out,”—to the plaintiff’s side of the trial bar.

His first decade as a plaintiff’s attorney included work with Finch McCranie and a firm then known as Warshauer, Thomas, Thornton & Rogers, alternating with a couple of stints in solo practice. In 2006, he and Michael L. Goldberg formed Rogers & Goldberg. Two years later, they joined forces with Joseph A. Fried and have been partners in Fried Rogers Goldberg LLC for the past nine years.

Rogers’ civil practice for plaintiffs in catastrophic claims is focused on trucking, motor vehicle, dram shop cases and DUI civil prosecutions, as well as hazing and premises cases involving negligent security. He is a graduate of the National College of Advocacy, the Ultimate Trial College in Washington, D.C., and the Trial Lawyers College. He is a master in the Lamar Inn of Court and was a barrister in the Bleckley Inn of Court and Joseph Henry Lumpkin Inn of Court.

---

Rogers also has prior experience as a Magistrate Court judge in Fulton County, and he serves on the faculty of the Trial Skills Clinic at the University of Georgia.

To learn all he can about his particular area of law practice, Rogers goes beyond his courtroom experience and continuing legal education. He is a P.O.S.T. (Peace Officer Standards and Training) Certified Guest Lecturer on Commercial Motor Vehicle Collisions and Law. He worked on the Georgia Fire Fighter Task Force and the Georgia Department of Transportation's Secondary Collision Avoidance initiative. He trains Georgia State Patrol trooper cadets regarding cross-examination at the Georgia Public Safety Training Center in Forsyth, as well as teaching Traffic Enforcement Networks about dram shop evidence and investigations.

Additionally, he has served on the Board of Directors for Road Safe America (trucking safety advocacy group), State Council of Mothers against Drunk Driving (MADD), for which he is the chair of Leadership, and the Shepherd Spinal and Brain Injury Center, where he is a trustee and serves on both the Auxiliary and Advisory Boards.

Most unique of all for an active trial lawyer, he holds a Class A commercial driver's license and has his own trucking company, Buck Rogers Trucking LLC.

"In a way, it's to know thy enemy, or to walk a mile in another's shoes," Rogers explained. "As trial lawyers, we encourage others to stand in judgment of other people's conduct. I had heard 'you don't understand' enough times that I thought maybe they were right, and I should learn what they say I don't understand.

"So I enrolled in a truck driving school and sweated it out with those guys for 10 weeks. I learned how to drive a big rig and now have a greater understanding of it."

According to Rogers, there is another benefit for a lawyer who sues trucking companies to own a trucking company.

"Every plaintiff's lawyer has a case where there's not enough insurance coverage, and you warn you may have to come in and seize assets," he said. "There is often no equity in these trucking companies. Their terminals are leased, and the equipment and trucks are on payment plans. I wanted to be able to have an answer for that."

Rogers cited a recent case he has worked on, in which the defense counsel asked, "What are you going to do, come down and drive off in a power unit?" He replied, "Yes, my plan is to fly out there, get in one of their trucks and drive it back to Georgia."

"I don't intend to operate Buck Rogers Trucking LLC as an actual trucking company," Rogers added. "I set it up for the purpose of calling the bluff of a defendant, such as 'what are you going to do. . . ?' I have operating authority and insurance. I may be the only lawyer in the country who has a commercial driver's license and owns a trucking company, who can go in and drive a truck off the defendant's lot—assuming, of course, we have agreed about that."

For the past 12 years, Rogers has been deeply involved in statewide professional service within the legal community. He was serving as a board member of the Georgia Trial Lawyers Association's political action committee, the Civil Justice PAC, in 2005 when the Georgia General Assembly passed legislation imposing a cap on non-economic damages in medical malpractice lawsuits (SB 3, which was later declared unconstitutional by the Supreme Court of Georgia).

"... the State Bar of Georgia doesn't represent the interests of just one practice area or geographic region. As a unified Bar, we must represent and respect them all. We need that diversity of opinions and positions represented as we work for the betterment of the entire profession."

“GTLA was in a transitional phase, and there was talk of getting rid of the PAC,” Rogers recalled the atmosphere in the wake of SB 3’s passage. “I was asked by the PAC’s board to take over as chair. We rebooted the PAC to fit the realities of a changed political landscape. We became focused on the 7th Amendment guarantee of a trial by jury and found many conservatives who appreciated the access to justice argument. We were a single-issue group, and the issue was access to our courts.”

Rogers said the PAC survived attacks from outside and within the trial bar, “and people took note of that.” Having helped to navigate through a period of difficulty led to Rogers’ being nominated for GTLA’s leadership track. He served as the association’s president in 2013.

Meanwhile, Rogers was already involved in the State Bar leadership. J. Henry Walker IV, who served as president of the State Bar’s Younger Lawyers Section (now Young Lawyers Division) and a current member of the Board of Governors, got Rogers interested in State Bar activities when he mentored Rogers one summer at the firm now known as Kilpatrick Townsend.

Rogers became a member of multiple State Bar committees and in 2008 was elected to an Atlanta Circuit seat on the Board of Governors. He won a seat on the Executive Committee in 2012 and became an officer when he was elected as secretary in 2015.

As president, Rogers said his primary goal for the year is to maintain a steady course with the Bar’s strategic plan.

“I want us to set deadlines to work toward and re-evaluate as we move along,” he said. “President-Elect Ken Hodges and I are jointly conducting a two-year review of all Bar programs to ensure they are consistent with what the Bar needs to be focused on. One year is not enough time to do that. We will also work to improve relations with the General Assembly and improve the image of the profession of law.” (For more on Rogers’ program for the 2017-18 Bar year, see page 38.)

His law firm is located on bustling Lenox Road in Buckhead, but when Rog-



PHOTO BY SARAH I. COOLE

(Left to right) Immediate Past President Patrick T. O’Connor introduces 2017-18 President Brian D. “Buck” Rogers during the Presidential Inaugural Gala.

ers does not have to be in Atlanta for court or depositions, he is able to work from home on his farm in Covington, where he lives with his wife Mandy, daughters Makenzie and Peyton and son Noah. He also has two college-age sons, twins Max, a student at the University of Georgia, and Alex, a student at the University of San Francisco.

“Covington is a place where I get to recharge my batteries, get out of Atlanta traffic and ride around on my tractor for a couple of hours,” Rogers said. “We enjoy time with family and friends, and on the farm we grow vegetables and have fruit trees. I aspire to have horses one day.”

For now, though, Rogers will be busy carrying out the duties of the State Bar’s highest office and helping continue his family’s legacy in the legal profession—along with his brother-in-law Halsey G. Knapp Jr., a partner with Krevolin Horst LLC, and his cousin, Allen E. Lockerman IV, a partner with Hawkins Parnell Thackston & Young LLP, who is named for their late grandfather, who was also an attorney.

“Not surprisingly, most of my friends are lawyers,” Rogers said. “Over the past few years, I have spent more time with my colleagues on the Board of Governors and Executive Committee than, for example, with buddies from high school or college, or other friends and family outside the profession. During some difficult times in my life, I have been helped by their collegiality and friendship. We don’t agree on every issue before us. Some of us don’t agree on any issue before us.

“But that’s OK because the State Bar of Georgia doesn’t represent the interests of just one practice area or geographic region. As a unified Bar, we must represent and respect them all. We need that diversity of opinions and positions represented as we work for the betterment of the entire profession.” ●



**Linton Johnson**

Media Consultant  
State Bar of Georgia

linton.johnson@  
verdictservices.com

# Georgia Bar Foundation Update

Executive Director Len Horton provides an update on the work of the Georgia Bar Foundation.

BY LEN HORTON

## Georgia Bar Foundation Awards \$1,251,875 in IOLTA Grants and \$58,400 in Fellows Grants

With the resurgence of IOLTA revenues over the last two years, the Georgia Bar Foundation awarded \$1,251,875 in IOLTA grants at its meeting in July. The awards were split among 11 applicants out of the total of 18 different applications received. The primary focus of the Georgia Bar Foundation is the support of civil indigent services as reflected in the \$320,000 award to Atlanta Legal Aid and

\$680,000 award to Georgia Legal Services. Both awards were for support of lawyer salaries.

Assisting battered women and their children has long been a major concern of the foundation. The Atlanta Volunteer Lawyers Foundation received \$75,000 for a lawyer to represent victims of intimate partner violence in cases where protective orders have already been obtained. The lawyer will be focusing on divorce, custody and support issues, which often are so expensive that civil indigent legal



PHOTO BY ISTOCK.COM/PORNSAWANSANGMANEE



services providers cannot afford to provide representation. The Halcyon Home for Battered Women in Thomasville received \$10,000, Safe Shelter Center for Domestic Violence Services in Savannah received \$20,000, and the Southwest Georgia Victim's Assistance Alliance in Americus received \$41,875, all to provide legal assistance to women who have been victimized by violent partners. In addition to legal representation, the Americus organization is also using part of the funds to establish a circuit wide Family Law Information Center to promote nurturing, healthy and safe communities.

Augusta's Child Enrichment received \$5,000 to train volunteers for its Court Appointed Special Advocate program. The focus is on advocating for children who have been removed from their homes due to severe abuse or neglect.

Georgia Appleseed, under the leadership of Sharon Hill, received \$25,000 to help cover expenses of managing the Juvenile Code Assessment Project. The goal is to assist the Legislature in enhancing legislated solutions to juvenile problems.

The Georgia Asylum & Immigration Network received \$15,000 to support a paralegal for its Victims of Violence program providing legal assistance to immigrant victims of crime. The focus is on stopping human trafficking, domestic violence and sexual assault.

The Georgia Justice Project, led by Doug Ammar, received \$20,000 to develop presentations and materials reflecting recent changes to Georgia's criminal code. The purpose is to educate key stakeholders on how to implement those changes.

Terry Walsh's Truancy Intervention Project (TIP) received \$40,000 to support and sustain affiliated TIP programs in various Georgia jurisdictions where programs were created previously by earlier funding and encouragement from the foundation. This grant signals the resumption of significant foundation support that had been lost when IOLTA revenues plummeted during the Great Recession. As interest rates on IOLTA accounts increase, IOLTA revenues are growing again, and, with that, comes the increasing ability of the foundation to



PHOTO BY LEN HORTON

(Left to right) William D. Harvard receives the James M. Collier Award from outgoing Georgia Bar Foundation President Hon. Robert W. Chasteen Jr.



## Kitty Cohen Elected Georgia Bar Foundation President

Katherine Meyers "Kitty" Cohen was elected president of the Georgia Bar Foundation at its annual meeting. Cohen has served the foundation as a pro bono volunteer since 1986.

"She is the most active volunteer in the history of the Georgia Bar Foundation," said outgoing President Robert W. Chasteen Jr. "It is only fitting that she becomes president after her long and distinguished history as a pro bono volunteer in addition to her work as secretary, treasurer and vice president."

Cohen, former partner and current of counsel with Eversheds Sutherland, has worked for Eversheds Sutherland LLP since 1985. Her areas of expertise include tax issues affecting health care providers and other exempt organizations in her tax practice. She oversees Medicare and Medicaid reimbursement and fraud and abuse issues faced by numerous nonprofit health care clients. ●

---

“Bill Harvard is joining an impressive group of people who have done extraordinary things for the Georgia Bar Foundation,” said Chasteen. “Bill’s contributions have made and continue to make the foundation more effective as a major force in helping solve law-related problems throughout the state.”

—Hon. Robert W. Chasteen Jr.

support this nationally recognized program to keep kids in school.

After the IOLTA grants decisions were made, the board took up deciding what grants to award to the 25 organizations that applied for fellows grants. The maximum accepted application was limited to \$10,000. Funding for all six organizations that received fellows grants came from money that was voluntarily contributed to the foundation by individual attorneys who were invited to become fellows of the Georgia Bar Foundation and who accepted those invitations. Membership is offered only to those Georgia lawyers who have become outstanding leaders in their communities and in the legal profession.

Five of the six grants awarded were made in the area of helping children who are victims of abuse. The Lily Pad Sane Center received \$10,000 to help purchase new forensic interview recording equipment and an alternative light source that uses UV light used by a sexual assault nurse examiner (SANE) to spotlight bruises and contusions caused by violence.

SafePath Children’s Advocacy Center in Marietta received \$10,000 to bring an expert trainer to Cobb County to train staff in all aspects of dealing with child abuse.

The Southwestern Judicial Circuit Family Violence Council received \$10,000

to fund two \$5,000 fellowships for law school students to provide 10 hours of legal research and one day of in-person work for each of 12 weeks. Each student will have received \$20.83 per hour of service to the council.

A \$10,000 grant was awarded to The Mediation Center of Savannah to expand its Family Law Resource Center (FLRC). FLRC seeks to provide access to justice for pro se litigants who cannot afford legal representation.

The Sexual Assault Center of Northwest Georgia in Rome, recommended by Rome attorney Robert Brinson, received \$10,000 to support legal services to sexual victims. The work will be done by two attorneys who have agreed to work at reduced pay rates. They will be providing TPOs, and doing divorce and custody work.

The Youth Judicial Program of the State YMCA of Georgia received \$8,400 for its program that acquaints 9th-12th graders with the appellate level of Georgia’s judicial system, continuing the foundation’s long history of support.

#### **William D. Harvard Wins James M. Collier Award**

The highest award given by the Georgia Bar Foundation, which is given in appre-

ciation for extraordinary service to assist the foundation in its efforts to aid needful Georgians, is the James M. Collier award. Foundation Trustee William D. Harvard is the latest recipient.

“Bill Harvard has been our president and has been a non-stop contributor to the foundation, improving the work we do and providing his wisdom and many ideas about how best to solve our most challenging problems,” said Hon. Robert W. Chasteen Jr., 2015-17 president of the Georgia Bar Foundation. “It’s about time we recognized his extraordinary contributions.”

The list of James M. Collier award winners is, in effect, a listing of Who’s Who of Georgia’s legal profession. The award is named for James Collier, who convinced his bank, the Bank of Dawson, to contribute to the foundation by paying a higher than usual rate on IOLTA accounts and to pay an extraordinarily high rate of return on investments of the Georgia Bar Foundation. Collier set a standard that perhaps will never be eclipsed in getting support for the foundation and for the work it does.

Other winners include former chief justices of the Supreme Court of Georgia Harold Clarke and Carol Hunstein, along with previous Bar leaders Charlie Lester, Robert Brinson, James Elliott, Cubbedge



PHOTO BY LISA SMITH

Members of the Georgia Bar Foundation Board of Trustees decided to wear a red bow tie or ribbon in tribute to outgoing President Robert Chasteen. He likes to wear bow ties, he said, "because it reduces the likelihood that people will notice my gray hair." (Front row, left to right) Joe Brannen, Nicole Leet, Tim Crim, Bill Harvard and Kitty Cohen; (back row, left to right) Terry Walsh, Jason Carter,

Elizabeth Finn Johnson, Ken Hodges, Hon. Robert Chasteen Jr., Len Horton and Mike Nations.

(Not pictured but wearing red bow ties and leaving the meeting early were Judge Conley Ingram and Hollie Manheimer. Attending the meeting via conference call while wearing red bow ties were Aasia Mustakeem and Jimmy Franklin.)

Snow, Doug Stewart and Jimmy Franklin. Loyd Smith, a prominent banker with C&S Bank, and a non-lawyer, received the award in 2008 for his extensive work in helping to implement and further IOLTA in Georgia. He was the first banker to win the award.

In 2012 and in 2014, foundation Trustees Katherine Meyers "Kitty" Cohen and Mike Nations received the award for their contributions to the Georgia Bar Foundation. Cohen has set the standard for pro bono work for the foundation, participating in solving virtually every problem faced by the foundation since 1986. Nations was the brains behind the rewrite of the IOLTA rule that, with revisions suggested by the State Bar Board of Governors with significant input from Rita Sheffey, was edited by the Supreme Court of Georgia to become our new IOLTA rule.

Until 2009, no grantee of the Georgia Bar Foundation had ever won the award. Steve Gottlieb, executive director of Atlanta Legal Aid, was recognized for his as-

sistance to the foundation in solving several challenging problems. It is one thing for a grantee to be grateful for a grant award and another to have that grantee find ways to give back to the foundation. Gottlieb found a way to give back and has set the standard for future grantees to find creative ways to assist the foundation in its work.

Cubbedge Snow, Doug Stewart and Bob Brinson all received the award for their work in helping IOLTA get off the ground in the late 1980s. Without their leadership, IOLTA would have taken much longer to raise revenues that are making a difference to thousands of Georgians. Since IOLTA began in Georgia in 1983, cumulative IOLTA revenues total more than \$100,000,000, a gigantic milestone not envisioned when IOLTA was created back in 1983.

Perhaps the most interesting work recognized by the James Collier award was in 2011 when it was awarded to Sen. Johnny Isakson. He saved unlimited FDIC insurance on IOLTA account bal-

ances at a time when millions of Americans were doubting the safety of our entire banking system. At the same time, Jimmy Franklin also received the James Collier award for assisting Sen. Isakson in saving unlimited FDIC insurance on IOLTA accounts. By extending unlimited FDIC insurance on IOLTA accounts, these two Georgians showed leadership not only in Georgia but throughout the nation, helping not just lawyers but their clients.

"Bill Harvard is joining an impressive group of people who have done extraordinary things for the Georgia Bar Foundation," said Chasteen. "Bill's contributions have made and continue to make the foundation more effective as a major force in helping solve law-related problems throughout the state." ●



**Len Horton**

Executive Director  
Georgia Bar Foundation

hortonl@bellsouth.com



PHOTO BY SARAH I. COOLE

## A Conversation with Larry D. Thompson

In this installment of the Georgia Lawyer Spotlight, Editorial Board Member Jacob E. Daly interviews Larry D. Thompson.

BY JACOB E. DALY

*For those who might not be familiar with your career, give us a snapshot of what you've done.*

I've practiced law for 43 years. I like to say that my career has been divided into three, maybe three and a half, buckets. The first has been private sector, law firm experience where by and large I've done white collar defense work, government investi-

gations for corporations and individuals. The second bucket would be as a lawyer in the United States Department of Justice. I've been in the DOJ twice in my career and also served as an independent counsel. The third bucket has been serving as the general counsel of a large public company. My half bucket has been as a law professor at the University of Georgia School of Law.

*Is it true that when you went to college and then to graduate school that your intent was to become a social worker?*

That's correct.

*What happened?*

Being a child of the 1960s and being interested in changing the world via social action, I was very much interested in social work. One day after a history class at Culver Stockton College, the professor called me up to the front of the class and said he understood that I had applied to social work school and that while there was nothing wrong with that, he wanted to know if I had considered going to law school. I had never considered going to law school, and that's when I thought about it.

That was a very important moment in my life. It was the first time I ever thought about being a lawyer. Then I thought about law after that and said, in an interesting sense, you can do all the kinds of things you can do as a social worker as a lawyer and perhaps even have more impact because social work would be more individual-oriented whereas law can be applied to a number of people.

*When you started your legal career you took an in-house job at Monsanto, which is unusual today for a first job.*

It was unusual then too. We had a general counsel who was looking to bring young lawyers into the Monsanto law department, and he hired me and then later on brought another young lawyer in from Yale University. That young lawyer was Clarence Thomas.

---

***How did you end up in Georgia?***

I interviewed with a large firm in St. Louis, but I decided to go to Monsanto because it paid almost \$5,000 a year more than the large St. Louis firms were paying in 1974. It was \$19,000 to start at Monsanto and about \$14,500 to start at the big St. Louis firms. I got there, and I didn't really adjust to the fact there were few opportunities to get litigation experience. However, there were several positives. You were introduced to the client a lot earlier than you were in a law firm, but I wasn't going to court and obviously didn't see any prospect of going to court, so I talked to the people at the firm where I had interviewed before, and they said I could come back and practice with them.

Justice Thomas and I used to have lunch about once a week at a little Chinese restaurant, and I told him about this and also about King & Spalding. Monsanto had retained King & Spalding to do some work, and when I told them that I would be leaving Monsanto, they asked if I would come to work with them. I really didn't take it that seriously until Justice Thomas said I really needed to go with King & Spalding because Atlanta was an up and coming city. I thought about it and decided to move my family to Atlanta.

***Since you were the Deputy Attorney General on Sept. 11, 2001, tell us what that day was like for you.***

It was horrific. That time period in my life and in my career was the scariest, the most important, and in some sense, the most satisfying. We were attacked, and we had nothing in the books—from the DOJ standpoint—to tell us what to do when more than 3,000 of your fellow citizens are murdered and slaughtered. The events of that week are seared in my mind forever and will never be forgotten.

It was scary, you had to make quick decisions, you didn't know whether you were doing the right thing, and overnight we changed our mission in terms of protecting the American people. Previously, we did investigation and prosecution after the fact, but what good is that when you have 19 men who were willing to give their lives to slaughter us, so we

---

“One of the essential responsibilities of the government is to protect us. I was deputy attorney general for more than three years, and every day I got a top-secret security briefing and every day there was some briefing on how people around the world were trying to kill Americans. . . . I think it should be a top priority of our intelligence services, it should be a top priority of the DOJ, including the FBI, and I think an important part of this is intelligence.”

—Larry D. Thompson

had to change our mission as it related to terrorism from after-the-fact investigation and prosecution to prevention. When you are talking about prevention, you are naturally coming up against notions of civil liberty. I know that Attorney General Ashcroft and I were very much concerned about not changing the essential character of our justice system, but we also had to protect the public. From an individual standpoint, I decided I was going to err on the side of protecting people and not allowing something horrific like that to happen again.

***I understand that Mr. Ashcroft was not in Washington that day and that you, being the top DOJ official who was physically present in Washington, received a phone call from Condoleezza Rice and Richard Clark and then took a secret ride. Tell us about that experience.***

It was more than a ride. I think I was “arrested.” I've never been arrested of-

ficially before in my life, but if you ever are arrested, I think that is what it would be like. Condi Rice told me to stay in my office, and then about six U.S. Marshals showed up within five or 10 minutes and took me to their vehicle. They didn't ask if I wanted to join them. They just took me. Then we got into the vehicle and drove to the undisclosed location.

**How do you think the government should balance national security needs with civil liberties?**

I think about this constantly as a private citizen, and I think the government should be aggressive. One of the essential responsibilities of the government is to protect us. I was deputy attorney general for more than three years, and every day I got a top-secret security briefing and every day there was some briefing on how people around the world were trying to kill Americans. I'm absolutely certain that hasn't changed. I think it should be a top priority of our

intelligence services, it should be a top priority of the DOJ, including the FBI, and I think an important part of this is intelligence. Now that gets to be tricky in our country where we have certain rights. The government can't listen into our telephone conversations, without proper authority, and you have to have probable cause to detain us. I'm not saying we should do away with those kinds of things, but I think we should be as aggressive as possible to protect Americans. I want my government to do everything it can to protect me, especially in public transportation. I'm not being flippant when I say that as an individual, my Fourth Amendment rights would not do me any good if I'm blown up.

*A controversial issue during your tenure at the DOJ was the so-called Thompson Memo regarding guidelines for prosecutors to charge corporations with a crime and how it affected the attorney-client privilege. What would the Larry Thompson who served as*

*general counsel of PepsiCo and as a white collar criminal defense attorney in private practice say to the Larry Thompson who wrote that memo?*

That's a very good question, but let me clarify one thing about the memo. What the department was trying to do was to give guidance to business organizations as to what they needed to do to stay out of the criminal arena, so there were a lot of factors that we laid out in the memo. We did not require a waiver of the attorney-client privilege. What we said was if the only way you can cooperate is by waiving the attorney-client privilege, you should do it.

To your good question—what would I do? As a general counsel of a public company, if I had a major investigation and the only way I could get out of the investigation for the benefit of my board and my shareholders was to waive the attorney-client privilege, I would waive it in two seconds. And my board,

## ATTORNEY COACHES ARE NEEDED FOR HIGH SCHOOL TEAMS THROUGHOUT GEORGIA

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

*CLE credit is available for coaching a mock trial team!*

*For more information on coaching a team, contact the mock trial office before Sept. 29 at 404-527-8779 or [mocktrial@gabar.org](mailto:mocktrial@gabar.org) | [www.georgiamocktrial.org](http://www.georgiamocktrial.org)*

**Volunteer forms and a list of teams statewide who are in need of coaching assistance may be found under the Volunteer section of the mock trial website.**



if I didn't waive it, would likely fire me. Even though I was roundly criticized for that memo, I'm proud of the fact that today's DOJ policies require all business organizations to disclose facts if they want cooperation credit. Now you will have some attorneys say their clients conducted an internal investigation with lawyers and all the facts that they learned are tainted with attorney-client privilege, and so they can't disclose them. The DOJ will not let you do that today. You have to disclose facts, and it's your job to figure out how to disclose facts without waiving the privilege. If I was a general counsel of a major company, and the only way to get the company out of trouble was to waive the privilege, I'd do it in a heartbeat and my board would demand that I do it in a heartbeat.

***Are you still politically involved?***

Yes. I'm not involved in any particular campaign right now, but I am politically

involved. I have known Karen Handel for a long time, so I'm happy that she prevailed.

***Judge Griffin Bell encouraged you to be involved in politics during your first stint at King & Spalding, which is interesting since he was a lifelong Democrat and you were a young Republican in a state with so few Republicans. How did that work out?***

Yes, talk about a minority crowd back then, being Republican in Georgia in the late 1970s. I became involved with people like Paul Coverdell and Newt Gingrich, who was a young professor from West Georgia College and had just won a congressional seat. And then I supported Ronald Reagan. Think about it, I was at King & Spalding, which was the firm of Jimmy Carter, and I was supporting Ronald Reagan and Mack Mattingly, who ran against Herman Talmadge. Well, I'm not stupid—because King & Spalding was Herman Talmadge's counsel. I had met Mack, and I was really impressed with him. I went to Judge Bell

and said, "Mack wants me to work with him and I'm going to continue to do the work I'm assigned, but do you mind?" And he said, "We want people on both sides of the aisle." No one thought that Mack would beat Talmadge, but he did and so all of a sudden I'm the only person in this big firm—an associate—that has always prided itself on having contact with political figures who knew our new senator. ●



**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.



# Stress, life challenges or substance abuse?

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

**LAP Confidential Hotline | 800-327-9631**

ILLUSTRATION BY ISTOCK.COM/COMERHUI1979

## Kudos



Samuel Thomas, partner, Farigone & Thomas, LLC, was appointed vice chair of the ABA Family Law Section Alimony Committee for 2017-18. Responsibilities include organizing CLE material on alimony, organizing speakers on the topic from across the country and increasing outreach for the section to members nationwide.



Gov. Nathan Deal appointed Joy Lampley-Fortson to serve as the executive director and administrator of the Georgia Commission on Equal Opportunity. This state agency has two divisions: the Equal Employment Division and the Fair Housing Division. The mission of the agency is to partner with the federal government and other state agencies to work toward eradicating discrimination across the state of Georgia by enforcing the Georgia Fair Employment Practices Act and the Georgia Fair Housing Act.

Leadership Georgia announced that Lampley-Fortson is the 2017 chair of the Leadership Georgia Board of Trustees. Leadership Georgia is one of the nation's oldest and most successful leadership training programs for young business, civic and community leaders who have the desire and potential to work together to create a better Georgia. The organization's primary purpose is to identify, train and inspire a network of emerging young leaders who have the ability to impact every corner of the state.



SCHWARTZ



REUTER

Smith, Gambrell & Russell, LLP, announced the firm's legal team of Jay Schwartz, partner, and Nicholas Rueter and Emily McConnell, both associates, served as legal counsel to Ironwood Capital Partners, LLC, in the sale of its subsidiary Timbervest, LLC, to Domain Timber Advisors, LLC. The transaction closed in May 2017.



MCCONNELL

Timbervest, LLC, includes the infrastructure and human resources responsible for a timberland portfolio that spans across the United States, as well as environmental restoration projects comprised of mitigation and conservation banks. The acquisition by Domain Timber Advisors, LLC, creates additional investment opportunities for investors and increased potential for customized timberland solutions available to clients.



AKINS



MCKINLEY

Georgia Defense Lawyers Association (GDLA) announced the installment of Sarah B. "Sally" Akins, Ellis, Painter, Ratterree & Adams, as president during its 50th Annual Meeting in June. Other officers elected include President-Elect Hall F. McKinley III, Drew Eckl & Farnham; Treasurer David N. Nelson, Chambless, Higdon, Richardson, Katz & Griggs; and Secretary Jeffrey S. Ward, Drew Eckl & Farnham. Past President Morton G. "Salty" Forbes, Forbes Foster & Pool, received the inaugural GDLA Distinguished Service Award; and Martin A. "Marty" Levinson, Hawkins Parnell Thackston & Young, and Garret W. Meader, Drew Eckl & Farnham, received



NELSON



WARD



FORBES



LEVINSON



MEADER

the President's Award for their leadership of the GDLA Amicus Curiae Committee. GDLA is celebrating its golden anniversary of advancing the civil defense bar. It provides training, facilitates communication and offers networking to more than 900 members.



NICHOLS

Bell & Brigham announced that Titus T. Nichols, associate, was promoted to the rank of captain in the U.S. Army. Nichols currently serves as a judge advocate general for the Georgia Army National Guard. His unit and position is Trial Defense Counsel for the 1078th Trial Defense Company (TDS). TDS represents soldiers in military disciplinary matters such as rank reduction or discharge from the National Guard. TDS also has the ability to advise their clients of their legal rights and help draft rebuttals for soldiers faced with administrative and punitive adverse actions. The U.S. Army Trial Defense Service was created in order to ensure due process for soldiers with a need for legal representation in trials involving military criminal offenses, during criminal investigations, before judicial punishment and other various adverse administrative actions.





Barry S. Marks, founding shareholder of Marks & Associates, PC, received the Edward A. Groobert Award for Legal Excellence in May at the Equipment Leasing and Finance Association Legal Forum (ELFA) in Florida. The award was presented in recognition of his contributions to ELFA and the equipment leasing and finance industry. Marks has concentrated his legal practice in the areas of equipment leasing and finance and commercial lending and has been an active member of ELFA for more than 30 years. The Edward A. Groobert Award for Legal Excellence is named for ELFA's long-time Secretary and General Counsel Edward A. Groobert, who was active in the legal affairs of the association from the mid-1960s until his retirement in 2010.



Eversheds Sutherland LLP announced that Emerson W. Girardeau III, associate, was selected to take part in the 2018 LEAD Atlanta program for young professionals. This competitive program offers an intensive eight-month training that focuses on personal and professional development.

Through broad exposure to the community, LEAD Atlanta aims to equip young leaders early in their careers with the skills and knowledge needed to be effective leaders committed to the common good. Established in 2004 as an initiative of Leadership Atlanta, the program is distinguished by its unique integration of personal, professional and community education.



Bloom Sugarman, LLP, announced that Stephen M. Parham, partner, was appointed to the Planning Commission for the city of Johns Creek. The Planning Commission of Johns Creek reviews zoning cases and serves as a recommending body to the mayor and city council for the purpose of upholding and implementing the vision and objectives as outlined in the comprehensive plan and accompanying regulatory ordinances such as zoning and subdivisions.



Brian D. Burgoon, Burgoon Law Firm, was elected president-elect of the University of Florida National Alumni Association. The alumni association oversees and assists with alumni engagement, strategic partnerships and philanthropic activity for the University of Florida's global alumni base and works with the university administration to support UF's teaching, research and service missions. Burgoon was also elected by the Florida Bar Board of Governors to serve on the Florida Bar Executive Committee, which acts on behalf of the bar in time sensitive situations and helps set policy.



HUTCHINS



JETT

The Georgia Association of Tax Officials (GATO) named Weissman PC Partners Brad Hutchins and Allie Jett GATO's first general counsel. The general counsel role was created to provide legal guidance on the impacts of legislation and court decisions, property tax matters and other legal issues important to GATO and its membership. It also serves as a strategic legal adviser to the leadership team. Hutchins and Jett bring more than three decades of experience representing clients with tax liens and tax deeds, representing county tax commissioners and handling suits in property tax related cases. In addition, they each maintain a real estate litigation practice.

Leadership Atlanta announced the following members of its Class of 2018: Thua Barlay, Barlay Law Group LLC; Keith J. Barnett, Troutman Sanders LLP; Jeremy Todd Berry, Dentons U.S. LLP; Scott Christopher Casey, UPS; James Connelly, Womble Carlyle Sandridge & Rice LLP; Walter West Davis, Jones Day; David N. Dreyer, Chamberlain Hrdlicka White Williams & Aughtry; Michael Arthur "Art" Gambill Jr., McGuire Woods LLP; Julia Ann Houston, Equifax, Inc.; Alison Bell Jones, Alston & Bird LLP; Kevin Manget Lyman, Invesco; Christopher Sean Tomlinson, Georgia Road & Tollway Authority; and Scott Andrew Wandstrat, Arnall Golden Gregory LLP. Leadership Atlanta is the oldest continuously running training program of its type in the country.



Buckley Beal, LLP, announced the start of its new mediation practice, which will be led by Nicholas P. Smith, partner. Smith has a diverse 15-year track record of experience, including litigating business, employment, insurance and personal injury matters, as well as business, operations and financial management experience. He is a registered neutral with the Georgia Office of Dispute Resolution.



Steven Ginsburg of Duane Morris, LLP, moderated the ABA Section of Litigation's April roundtable "Data Privacy and Protection: What Litigators Need to Know when Gathering, Handling and Producing Sensitive Data," which was sponsored by the Employment & Labor Relations, Consumer Litigation, Data Privacy and Security, and Minority Trial Lawyers Committees. The panel discussed the risks associated with data production during discovery and best practices for litigators handling sensitive data maintained in client data warehouses, companies that use "Bring Your Own Device" setups, as well as sensitive data often included on employees' personal devices.



Bouhan Falligant LLP announced that Frank W. “Sonny” Seiler was recognized with a resolution of commendation by the Judicial Council of Georgia. Seiler was recognized by the council for practicing law in Savannah for nearly 60 years; serving his profession with distinction as president of the State Bar of Georgia and as a member of its Board of Governors; and for advancing the administration of justice during his service on the Judicial Council.



Nelson Mullins Riley & Scarborough, LLP, announced that partner Brandee J. Kowalzyk, member of the Fond du Lac Band of the Minnesota Chippewa Tribe, was appointed to serve as a judge on the Band’s Court of Appeals. As an appellate court judge, she will hear and decide appeals from the tribe’s trial court, which presides over traffic violations, general civil matters, small claims, probate, contract disputes and violations of conservation codes, among other matters. The Fond du Lac Band is one of six Chippewa Indian Bands in the state of Minnesota and includes more than 4,200 members.



JAMS announced R. Wayne Thorpe was elected chair of its board of directors in May. Based in Atlanta, Thorpe has served as mediator, arbitrator, facilitator, special master and case evaluator in about 2,000 cases in at least 20 states, including many high stakes and complex cases, class actions, multi-district litigations and other large scale multi-party cases. A full-time neutral since 1998, he has served as sole arbitrator, panel chair or party-appointed arbitrator in more than 500 arbitrations.

## On the Move IN ATLANTA



Davis, Pickren, Seydel & Sneed, LLP, announced that Michelle W. Koufman joined the firm as a partner. Koufman will lead the firm’s new trusts estates practice group, assisting clients in matters related to estate planning, estate, trust and probate administration, special needs and Medicaid trust planning, guardianships/conservatorships, family business succession planning, charitable giving and taxation. The firm is located at 285 Peachtree Center Ave., Suite 2300, Atlanta, GA 30303; 404-588-0505; Fax 404-582-8823/404-588-0137; [www.dpslegal.com](http://www.dpslegal.com).



OSTERBROCK



TAYLOR

Baker Donelson elected William M. Osterbrock and Jodi D. Taylor as shareholders. Osterbrock is a member of the corporate finance and securities group, and a secondary member of the firm’s real estate group. He also co-leads the firm’s land conservation and real estate syndications practice. Taylor is a member of the firm’s labor and employment group. She serves as outside human resources counsel to several clients, regularly defends them against charges of employment discrimination, FLSA and other wage and hour issues, negligent hiring and ERISA denial of benefits lawsuits, and manages government and internal investigations. The firm is located at 3414 Peachtree Road NE, Suite 1600, Atlanta, GA 30326; 404-577-6000; Fax 404-221-6501; [www.bakerdonelson.com](http://www.bakerdonelson.com).



The partners of UK-based Bond Dickinson LLP and U.S.-based Womble, Carlyle, Sandridge & Rice, LLP, voted to combine as equal members in a new entity under the name Womble Bond Dickinson. Four members of each firm will be appointed to the board, co-chaired by Betty Temple, chair and CEO of Womble Carlyle. The new entity will be a company limited by guarantee of which Womble Bond Dickinson (UK) LLP and Womble Bond Dickinson (U.S.) LLP will be the members with each firm continuing to operate as a separate and autonomous partnership with its own independent management. The firm is located at 271 17th St. NW, Suite 2400, Atlanta, GA 30363; 404-872-7000; Fax 404-888-7490; [www.womblebonddickinson.com](http://www.womblebonddickinson.com).



Lefkoff Law, LLC, announced the formation of its Atlanta office. Steven Lefkoff was previously with the general practice litigation firm Jacobs & King. Lefkoff focuses on the representation of clients in the automotive industry—dealers, finance companies, auctions and repair facilities. The firm is located at 5605 Glenridge Drive, Suite 895, Atlanta, GA 30342; 404-482-2228; [www.lefkofflaw.com](http://www.lefkofflaw.com).



Buckley King announced that Robert F. Dallas joined the firm’s Atlanta office, where his practice centers on commercial litigation, complex bankruptcy matters and employment law, as well as transportation law, including regulation and government affairs. Dallas brings more than 20 years of experience as a planning commissioner and currently serves as a DeKalb County appointee of the Metropolitan Atlanta Rapid Transit Authority in addition to chairing the Dunwoody Chamber of Commerce Governmental Affairs Committee. The firm is located at Six Concourse Parkway, Suite 1700, Atlanta, GA 30328; 404-909-8400; [www.buckleyking.com](http://www.buckleyking.com).



DIAL



TOMAN

Weinberg Wheeler Hudgins Gunn & Dial announced promotions of Jad Dial and Gary Toman to partner, and George Green, Joseph Minnock and Emily Quan to member. Dial's practice focuses on premises liability, transportation and legal malpractice. Toman represents corporations and professionals in complex litigation matters, business disputes, consumer class actions and catastrophic injury cases. Green's practice focuses on commercial litigation, construction



GREEN



MINOCK

litigation, pipeline litigation, premises liability and product liability. Minnock's practice centers on civil litigation with an emphasis in construction litigation and class action litigation. Quan focuses her practice on catastrophic injury, medical malpractice, transportation, product liability and premises 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.



QUAN



STEWART



GATES

Drew Eckl & Farnham, LLP, welcomed Julie Stewart as of counsel and Christopher Gates and Kaitlyn Hayden as associates. Stewart focuses on workers' compensation. Gates and Hayden both focus their practices on workers' compensation defense. Hayden is also a registered neutral in Georgia, and is certified to mediate general civil claims. The firm is located at 303 Peachtree St. NE, Suite 3500, Atlanta, GA 30308; 404-885-6408; Fax 404-876-0992; www.deflaw.com.



HAYDEN



Marks & Associates, PC, announced the opening of its downtown Atlanta office. In addition, the firm also added Ian J. Platt as a shareholder. Platt, formerly in-house counsel with a major U.S. finance company, brings more than 20 years of experience in inventory financing, asset based lending, and other commercial and corporate matters, as well as adding his expertise to the firm's equipment leasing and finance practice. The firm is located at 101 Marietta St. NW, Suite 3600, Atlanta, GA 30303; 770-998-5949; www.leaseawyer.com.



Dentons announced that Sharon Gay was named managing partner of the firm's Atlanta office. She focuses her practice on state and local government law, particularly in the areas of land use and zoning, tax allocation district financing and other economic development incentives, triggering the revitalization of many of Atlanta's neighborhoods. The firm is located at 303 Peachtree St. NE, Suite 5300, Atlanta, GA 30308; 404-527-4000; Fax 404-527-4198; www.dentons.com.



MCGINNIS



HARLOW

Nelson Mullins Riley and Scarborough, LLP, announced the addition of Erin Reeves McGinnis as of counsel and Heather J. Harlow as an associate. McGinnis focuses her practice on securities transactions, including public and private offerings of securities, 1933 Act filings, 1934 Act reporting, corporate governance, U.S. Securities and Exchange Commission compliance, Financial Industry Regulatory Authority compliance and general corporate matters, with a specific emphasis on public non-traded real estate investment trusts. Harlow practices with the corporate litigation team. She has litigation and trial experience, particularly in the areas of business litigation, labor and employment, and municipal liability. The firm is located at 201 17th St. NW, Suite 1700, Atlanta, GA 30363; 404-322-6208; Fax 404-322-6050; www.nelsonmullins.com.



TAYLOR



CASTLEBERRY



O'NEAL

Hall Booth Smith, PC, welcomed Rayford H. Taylor as of counsel, and Abigail Castleberry and Jacob O'Neal as associates. Taylor has represented businesses and insurance companies in workers compensation matters in Florida since 1990 and in Georgia since 2002. He has handled more than 200 appeals before the Florida Supreme Court, the Supreme Court of Georgia and all five appellate district courts in Florida. Castleberry practices with the transportation group. O'Neal practices with the government liability and employment groups. He brings more than four years of practice experience concentrated primarily on local government representation and defense work. He has extensive experience in defense of Title VII/ 42 USC §1983 actions, experience advising local government compliance with National Voting Rights Act and voter registration policies, ordinance drafting, legislation and appellate practice before the 11th Circuit Court of Appeals. The firm is located at 191 Peachtree St. NE, Suite 2900, Atlanta, GA 30303; 404-954-5000; Fax 404-954-5020; www.hallboothsmith.com.



WILSON



CRUMLY

Taylor English Duma, LLP, announced the addition of Christopher T. Wilson as partner, Jonathan D. Crumly Sr. as counsel and Tae-Seung Lee as an associate. Wilson brings extensive experience with mergers and acquisitions

and capital investments. He counsels clients in matters related to real estate financing, acquisition financing, asset-based financing, leveraged finance transactions, and factoring, leasing and loan facilities for letters of credit. Crumly joined the construction practice, where

he has more than 20 years of experience handling construction disputes as well as negotiating and drafting design and construction contracts for developers, contractors and design professionals. He has defended and prosecuted all types of construction-related claims, including delay, interference and acceleration claims, extended overhead claims, and claims of defective construction and defective design. Lee joined the corporate and business practice. The firm is located at 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339; 770-434-6868; Fax 770-434-7376; www.taylorenglish.com.



Smith, Gambrell & Russell, LLP, announced that Partner Kiyooki "Kiyoo" Kojima joined the firm's corporate and international practices. He will be a part of the firm's Japan Practice Group, which represents a number of United States, Japanese and Japan-related enterprises with operations in the United States, Japan and throughout the world. He advises clients in corporate formation, governance and compliance matters; mergers and acquisitions; secured transactions; joint ventures; leasing and licensing matters; distribution, franchise and finance arrangements; and a wide-range of commercial transactions. Kojima also counsels clients in virtually all areas of labor and employment law. He routinely represents employers before government agencies such as the Equal Employment Opportunity Commission, the Department of Labor and the National Labor Relations Board. The firm is located at 1230 Peachtree St. NE, Suite 3100, Atlanta, GA 30309; 404-815-3500; Fax 404-815-3509; www.sgrlaw.com.



Eversheds Sutherland LLP announced that David S. Phillips joined the firm's corporate practice group as a partner in the Atlanta office. Phillips advises clients on a broad range of corporate governance matters and complex business transactions, including mergers and acquisitions, strategic investments, capital formation, divestitures, debt and equity restructurings, and securities offerings. The firm is located at 999 Peachtree St. NE, Suite 2300, Atlanta, GA 30309; 404-853-8000; www.us.eversheds-sutherland.com.



Barnes & Thornburg, LLP, added Richard Kaye as a partner in the corporate department, where he works on domestic and international transactions. Kaye focuses on commercial and corporate law and represents multinational corporations, governmental entities and emerging growth companies. He advises clients on domestic and cross-border mergers and acquisitions transactions, real estate, franchising construction, foreign investment, joint venture and partnering agreements, commercial contracts, and commercial and trade transactions, among other complex matters. The firm is located at 3475 Piedmont Road NE, Suite 1700, Atlanta, GA 30305-3327; 404-846-1693; Fax 404-264-4033; www.btllaw.com.



Finnegan Henderson Farabow Garrett & Dunner, LLP, announced the return of Shawn Chang to its Atlanta office. Chang will rejoin the firm's electrical group, focusing his practice on trial litigation and patent prosecution across a diverse array of technologies, including communications systems, wireless technologies, data and signal processing, optical systems, network authentication protocols, semiconductor devices and mobile devices. Chang returns after serving as clerk for Hon. William S. Duffey Jr., U.S. District Court, Northern District of Georgia. The firm is located at 271 17th St. NW, Suite 1400, Atlanta, GA 30363; 404-653-6400; Fax 404-653-6444; www.finnegan.com.



DYER



KENT

Lee & Hayes, PLLC, announced that William "Bill" Dyer III and Chris Kent joined as patent attorneys and partners, while Andrew Strickland joined as a patent attorney. Dyer is chair of the firm's litigation practice group and



STRICKLAND

brings with him more than 20 years of intellectual property experience as lead counsel in patent, trademark and trade secret cases. Beyond his litigation expertise, he leads large-scale IP due diligence studies, clearance studies and freedom-to-operate studies, and has negotiated the sale and licensing of significant IP assets. Kent's practice focuses on patent prosecution and counseling. He has managed United States and foreign patent portfolios, prepared and prosecuted patent applications, rendered opinions and counseled clients in diverse technical fields. Strickland has litigated patent disputes for a wide variety of clients in industries such as gaming, financial services, e-commerce, transportation, textile and telecommunication. The firm is located at 1175 Peachtree St. NE, 100 Colony Square, Suite 2000, Atlanta, GA 30361; 404-815-1900; Fax 509-323-8979; www.leehayes.com.



Locke Lord LLP announced the addition of David Green as senior counsel in their regulatory and transactional insurance practice group. He concentrates his practice in all aspects of corporate and insurance law, ethics and compliance, and risk management. He advises clients on legal implications of major decisions, strategies and transactions, particularly commercial transactions, regulatory affairs, corporate governance, product development and litigation management. The firm is located at Terminus 200, Suite 1200, 3333 Piedmont Road NE, Atlanta, GA 30305; 404-870-4600; Fax 404-872-5547; [www.lockelord.com](http://www.lockelord.com).

#### IN MACON



Lisenby & Associates announced the addition of John Philip Fox as of counsel. Fox's practice specializes in litigation. The firm is located at 777 Walnut St., Macon, GA 31201; 478-254-5752; Fax 478-621-7378; [www.lisenbylaw.com](http://www.lisenbylaw.com).

Baker Donelson announced the addition of Michael Horner as of counsel in the firm's business litigation group. Horner has extensive litigation experience which includes business disputes in the manufacturing, construction, financial services and insurance sectors, as well as disputes involving personal injury, products liability and medical malpractice. The firm is located at Gateway Plaza, 300 Mulberry St., Suite 201, Macon, GA 31201; 478-750-0777; Fax 478-750-1777; [www.bakerdonelson.com](http://www.bakerdonelson.com).

#### IN MOULTRIE



Conley Griggs Partin announced the opening of its South Georgia office and the addition of attorney Robb Howell. Howell has more than 20 years of a proven track record in plaintiff's catastrophic personal injury, medical malpractice and business torts litigation. He will manage the firm's office in Moultrie. The firm is located at 800 First St. SE, Moultrie, GA 31768; 229-444-6100; [www.conleygriggs.com](http://www.conleygriggs.com).

#### IN NORCROSS



ROSS



THRASHER

Thompson O'Brien Kemp & Nasuti, PC, announced that Jeremy B. Ross and Delia C. "Corrie" Thrasher were promoted to partner. Ross practices in the areas of banking, contracts, corporate and creditors' rights law.

Thrasher concentrates her practice on business transactions and commercial real estate. The firm is located at 40 Technology Parkway S, Suite 300, Norcross, GA 30092; 770-925-0111; Fax 770-925-8597; [www.token.com](http://www.token.com).

#### IN SAVANNAH



FITZPATRICK



LEE

Savage, Turner, Pinckney & Savage announced that attorneys Jeffrey J. Fitzpatrick Jr. and Carolyn Louise Lee joined the firm as associates. Both Fitzpatrick and Lee focus on general civil trial practice, including severe personal injury,

wrongful death, product liability, business tort litigation and construction litigation. The firm is located at 102 E. Liberty St., Eighth Floor, Savannah, GA 31404; 912-231-1140; Fax 912-232-4212; [www.savagelawfirm.net](http://www.savagelawfirm.net).



Bouhan Falligant LLP announced that John Northup became an attorney with the firm. Northup's practice focuses on commercial real estate, banking, corporate and litigation. He has extensive experience handling a wide range of matters for commercial banks and non-depository lenders, and also represents real estate developers in all aspects of their practice. The firm is located at One W. Park Ave., Savannah, GA 31401; 912-232-7000; Fax 912-233-0811; [www.bouhan.com](http://www.bouhan.com).

#### IN ST. PETERSBERG, FLA.



Gaunce Law announced the addition of Andy Gaunce as a partner. Gaunce practices with a focus on advising small business in the Tampa Bay area regarding general corporate issues, mergers and acquisitions, and matters involving start-up and emerging companies. The firm is located at 2719 1st Ave. N, St. Petersburg, FL; 727-614-0550; [www.gauncelaw.com](http://www.gauncelaw.com).

#### IN TALLAHASSEE, FLA.



Guilday, Simpson, West, Hatch, Lowe & Roane, PA, announced that Jennifer A. Sullivan was elected as an equity shareholder. Sullivan focuses on defending complex liability claims, including catastrophic injury/death, construction defect and professional liability. The firm is located at 1983 Centre Pointe Blvd., Suite 200, Tallahassee, FL 32308; 850-224-7091; [www.guildaylaw.com](http://www.guildaylaw.com).

#### CORRECTION

In the June 2017 issue of the *Georgia Bar Journal*, we incorrectly printed that Joshua Yellin joined HunterMaclean as an associate in the Brunswick office. Yellin joined the firm as an associate in the Savannah office. The firm is located at 200 E. St. Julian St., Savannah, GA 31412; 912-236-0261; Fax 912-236-4936; [www.huntermaclean.com](http://www.huntermaclean.com). We apologize for this error.

# Into the Breach

BY PAULA FREDERICK

“Thank God we bought that cyber insurance policy,” you say. “I don’t know what we would have done without your help these last few days.”

“You were lucky,” replies your new best friend, the cyber-breach expert. “You had everything backed up, so you have not had any business interruptions. I’ve seen law firms that had to close down for days in order to recreate client files after an incident like this.”

“You’re sure all they got was client intake information?” you confirm. “No actual client files or details about cases?”

“Yes, we have confirmed that the breach was confined to the one server with your intake info. Now that we know the extent of what was compromised, the next step is to craft your notification letter to the folks who had information in the affected files.”

“But there were 12 years’ worth of completed intake forms in that database! Lots of those people never even became clients! Do we really have to tell them?” you ask.

Do you?

Yes, a lawyer must notify clients of a data breach that has compromised client information.

Even where it is unclear whether the information stolen falls within the lawyer’s duty of confidentiality, Rule 1.4 requires a lawyer to keep clients reasonably informed about the status of their legal matters. Clients need to know that their confidential information could be at risk.

The breach also creates a conflict between the interests of the client and the lawyer, so that the lawyer may need to obtain the client’s informed consent to continue the representation pursuant to Rule 1.7(b).

Obviously the decision whether to notify clients of a breach needs to be made after the lawyer has assessed the extent of the dam-

age and gained an understanding of exactly what information has been compromised. Where the obligation seems unclear, there are many reasons to err on the side of providing notice that go beyond the requirements of the Rules of Professional Conduct:

- First, the law may require it. Many jurisdictions have enacted customer notification laws that apply to lawyers and that require notice to clients affected by a breach. The law may impose time limits for sending the notice and may also require the firm to notify federal or state authorities.
- Second, a law firm may incur liability if a client suffers harm from a cyberthief’s use of stolen information. Notifying clients gives them the opportunity to protect themselves through credit monitoring or identity theft protection.
- Third, firms often resist notifying clients of a breach because they fear damage to the firm’s reputation. Think about the reputational damage from *not* notifying clients and later being found out.

Recent cyberattacks have certainly gotten the attention of lawyers and law firms. Contact the Bar’s Law Practice Management Program for help keeping confidential client information secure. Look into adding cyber breach coverage to your insurance package and develop a response plan with the hope that you will never need it. ●



**Paula Frederick**

General Counsel  
State Bar of Georgia  
paulaf@gabar.org

PHOTO BY ISTOCK.COM/MATEJMO

# Attorney Discipline Summaries

(May 13, 2017 through July 12, 2017)

BY JESSICA OGLESBY

## Suspensions

### Michael Robert Johnson

1145 Hightower Trail, Second Floor  
Sandy Springs, GA 30350  
Admitted to Bar 1975

On May 15, 2017, the Supreme Court of Georgia ordered that attorney Michael Robert Johnson (State Bar No. 395056) be suspended for six months from the practice of law. Johnson admitted by virtue of default that in November 2015 a client retained him to represent him in a civil matter for \$7,500 to be paid in installments with a \$2,500 deposit up front, which the client paid. Johnson employed a disbarred attorney as his paralegal, and he informed the client that the paralegal would assist him in the client's matter. But Johnson failed to personally do any work at all on the matter and instead allowed the disbarred attorney to have contact with the client in person, by telephone and through written correspondence. Johnson (and his paralegal) ultimately abandoned the legal matter to the client's detriment. Johnson also personally failed to communicate with the client, and when the client attempted to terminate the representation, he failed to refund the unearned fees.

In aggravation of the level of discipline, the Investigative Panel considered that Johnson acted willfully in collecting a fee from the client and then abandoning his case, and that he acted with a selfish motive. The State Bar also noted that Johnson has a prior disciplinary history, including a formal letter of admonition that he received on Jan. 8, 2012, and an Investigative Panel Reprimand that he received on Aug. 12, 2016.

### John Michael Spain

P.O. Box 78859  
Atlanta, GA 30357  
Admitted to Bar 1999

On June 30, 2017, the Supreme Court of Georgia accepted the petition for voluntary discipline of attorney John Michael Spain (State Bar No. 668898) and imposed a one-year suspension with conditions for reinstatement. This matter arose from Spain pleading nolo contendere in the State Court of Fayette County to one misdemeanor violation of O.C.G.A. § 16-5-90 (stalking) and one misdemeanor violation of O.C.G.A. § 16-11-39.1 (harassing communications) for an "email tirade" against opposing counsel in his divorce case. He was sentenced to one year of probation on each count to be served consecutively.

In mitigation, Spain offered that he has no prior disciplinary record and at the time of his misconduct he was suffering from personal and emotional problems related to his marriage, compounded by the divorce which, contrary to his expectations based on a prenuptial agreement, entailed substantial litigation for which his bankruptcy practice provided no helpful experience. Spain stated that he has since retained an attorney to represent him in the divorce action and that he has sought professional help for these problems. In addition, he stated that he acted in good faith to rectify the consequences of his conduct by entering nolo contendere pleas, and has cooperated fully with the State Bar in bringing this matter to a voluntary resolution. Finally, he stated that his misconduct did not involve his own practice or his own

clients, that he is deeply remorseful and recognizes that his conduct was contrary to his professional obligations and long-standing personal values, and that he wishes that he could reverse his actions. The Court noted, however, that Spain's efforts to explain his conduct, including by referencing the litigation conduct of his opposing counsel victim, may cause one reasonably to doubt the true extent of his remorse, including whether he considers himself the ultimate victim

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

## Warren R. Hinds, P.C.

*"An Attorney's Attorney"*

- Bar Complaints
- Malpractice Defense
- Ethics Consultation



1303 Macy Drive  
Roswell, Georgia 30076  
Call (770) 993-1414  
[www.warrenhindsllaw.com](http://www.warrenhindsllaw.com)



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

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



State Bar  
of Georgia

in all of this. In aggravation, Spain had a selfish motive in trying to extract a settlement in the divorce proceedings, that he has failed to completely accept responsibility for his conduct, and that he has considerable experience in the practice of law.

The Court also noted the State Bar's observation that the Court's rejection of Spain's earlier petition for voluntary discipline, *In the Matter of Spain*, 300 Ga. 641 (2017), had clarified the range of permissible discipline when an attorney is convicted or found guilty of a crime in violation of Rule 8.4(a)(3). The minimum discipline is a period of suspension.

#### **David R. Sicay-Perrow**

P.O. Box 2108  
Atlanta, GA 30301-2108  
Admitted to Bar 1990

On June 30, 2017, in a reciprocal discipline case arising from the disbarment of attorney David R. Sicay-Perrow (State Bar No. 645285) in a Tennessee disciplinary case, the Supreme Court of Georgia ordered Sicay-Perrow suspended from the practice of law in Georgia for a period of five years or until reinstated to practice in Tennessee, whichever occurs earlier, with conditions for reinstatement.

Sicay-Perrow entered a conditional guilty plea to a disciplinary matter pending in Tennessee in which he admitted committing acts in Georgia in 2013 that amounted to violations of Rules 1.15 (I)-(III), 5.3 (a), and 8.4 (a) (1) of the Georgia Rules of Professional Conduct, and agreed to disbarment pursuant to Tenn. Supreme Ct. R. 9, § 4.1 (2006) with a conditional right to reinstatement. Although Sicay-Perrow argued that mitigating factors existed which should lessen the discipline imposed in Georgia, the State Bar and the Review Panel disagreed and focused instead on determining what would be a substantially similar discipline to that imposed in Tennessee. As a condition for reinstatement in Georgia, Sicay-Perrow is required to satisfy his obligations to Trustee Management Corporation and Fidelity Bank, as referenced in the Tennessee Order of Enforcement dated Jan. 26, 2016.

#### **Disbarments**

##### **Everett H. Mechem**

220 Broad St., Suite 206  
Kingsport, TN 37760  
Admitted to Bar 2001

On May 15, 2017, the Supreme Court of Georgia disbarred attorney Everett H. Mechem (State Bar No. 500499). On Sept. 26, 2016, the U.S. District Court for the Eastern District of Tennessee convicted Mechem on 28 counts of wire fraud, two counts of Supplemental Security Income fraud, two counts of making a false statement and one count of theft of public money.

##### **Jeffrey W. Harris**

43 25th St. NW, Apt. 15  
Atlanta, GA 30309  
Admitted to Bar 1985

On June 5, 2017, the Supreme Court of Georgia disbarred attorney Jeffrey W. Harris (State Bar No. 330325). Harris failed to file an answer to the formal complaint in this disciplinary case and was found to be in default. As a result of his default, Harris was deemed to have admitted the following facts and violations: in the course of his real estate practice, Harris received and administered funds regarding the sale of real estate. In January and February 2015, a bank notified the State Bar that Harris had issued 19 checks from his attorney trust account at a time when the account held insufficient funds to pay the checks. During that same time frame, Harris deposited \$12,500 of his personal funds to cure the deficiencies in his trust account, but he made duplicate withdrawals of attorney fees and did not maintain an adequate accounting of his trust account. In short, Harris misappropriated trust funds and commingled those funds with his own thereby violating both Rules 1.15 (I) and 1.15 (II), violations of which may be punished by disbarment.

In aggravation, the special master found that Harris acted knowingly and caused injury or potential injury to his client and that he had substantial experience in the practice of law. Noting that Harris ignored the gravity of these disciplinary proceedings by his failure to respond, the Special Master concluded that Harris



should be disbarred based on the violations he is deemed to have admitted.

### Public Reprimand

#### Thomas E. Stewart

218 Flat Shoals Church Road  
Stockbridge, GA 30281  
Admitted to Bar 1995

On May 15, 2017, the Supreme Court of Georgia ordered that attorney Thomas E. Stewart (State Bar No. 681875) receive a Public Reprimand. The State Bar filed its formal complaint in September 2014, alleging violations of Rules 1.2, 1.3, 1.4, 5.3 and 5.5 (a) of the Georgia Rules of Professional Conduct found in Bar Rule 4-102 (d).

A family of Mexican citizens entered the United States legally but chose to remain illegally. In 2008, the father asked Stewart's non-lawyer assistant for help in hiring an attorney to represent the family in connection with their immigration cases. That same year, the son married a United States citizen, and the non-lawyer assistant helped the son and his wife prepare the documentation necessary to start the process for the son to obtain legal status. The assistant also signed Stewart's name to the necessary papers without Stewart's knowledge or permission and did not immediately tell Stewart he had done so. In January 2009, Stewart was hired by and met with the family. During that meeting, he did not ask the daughter whether she

had been a victim of a crime when, in fact, she had been and would have been eligible to apply for a "U Visa," which, if approved, would have entitled her to remain in the United States for a certain amount of time. However, Stewart erroneously filed one for the father, who was not eligible for such relief.

In March 2011, the father died, and Stewart did not contact the family to discuss the effect that the father's death had on their immigration cases, and did not inform the Immigration Court of the father's death. In June 2011, Immigration and Customs Enforcement announced a new prosecutorial discretion policy that the mother and daughter informed Stewart's non-lawyer assistant that they were not interested in taking advantage of, because it would not convey legal status, but Stewart took no effort to communicate further with them about it. Stewart did not inform the family about the policy of Deferred Action for Childhood Arrivals (DACA). Though his non-lawyer assistant did tell the mother about DACA, including what documents she would need to collect, the non-lawyer assistant failed to inform her that without the documentation to apply for DACA she would have no means of avoiding an order of deportation at her February 2013 hearing in Immigration Court. At the February 2013 hearing, the daughter had no alternative but to accept an order of voluntary departure from the United States.

### Reinstatements Granted

#### Nakata S. Smith Fitch

Thousand Oaks, CA  
Admitted to Bar 1998

On May 17, 2017, the Supreme Court of Georgia lifted attorney Nakata S. Smith Fitch's (State Bar No. 262068) disciplinary suspension. Though the Court lifted Fitch's disciplinary suspension, it noted that she must still relieve herself of the administrative suspension imposed by the State Bar, pay any required membership fees so that she may be reinstated as an active member in good standing, and must submit to, pay for, and implement the recommendations of an evaluation by the State Bar's Law Practice Management Program within six months of reinstatement.

#### L. Nicole Brantley

420 Seabreeze Drive  
Rincon, GA 31326  
Admitted to Bar 2002

On June 30, 2017, the Supreme Court of Georgia reinstated attorney L. Nicole Brantley (State Bar No. 320909) to practice law. Brantley complied with all of the conditions for reinstatement following suspension by the Court. ●



#### Jessica Oglesby

Clerk, State Disciplinary Board  
State Bar of Georgia  
jessicao@gabar.org

STATE BAR OF GEORGIA

# PRO BONO RESOURCE CENTER

*We can help you do pro bono!*

- Law practice management support on pro bono issues
- Professional liability insurance coverage
- Free or reduced-cost CLE programs and webinars
- Web-based training and support for pro bono cases
- Honor roll and pro bono incentives

[www.gabar.org](http://www.gabar.org) / [www.GeorgiaAdvocates.org](http://www.GeorgiaAdvocates.org)



State Bar  
of Georgia

Lawyers serving the public good.

# Legal Tech TIPS

BY MICHAEL MONAHAN



## 1 Have I Been Pwned?

[haveibeenpwned.com](http://haveibeenpwned.com)

Use this website to check if you have an account that has been compromised in a data breach. Just type in an email address or a username. You can also sign up to get a notification should a breach occur in the future.

## 2 WriteClearly

[Google Docs Add-On](#)

The average reading level of adult Americans is an 8th grade level. Experts recommend that to be readable by the average American, a web page should be written at a 6th grade reading level. Use WriteClearly to easily test the reading grade level of a web page with a single click.

## 3 Google Docs Tip

Speech type a document.

[Google Docs >> Tools >> Voice Typing](#)

Google has rolled out speech typing for Google Docs enabling users to write and edit text with simple voice commands. For example, users can say 'highlight [word]' and then express 'delete' to remove said word. To use this feature, go to 'tools' then 'voice typing.'

## 4 LucidChart

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

Use LucidChart to quickly create and insert a flowchart, UML, wireframe, mind map and more directly into a

PHOTO BY ISTOCK.COM/KARANDAEV

PHOTO BY ISTOCK.COM/PHANT

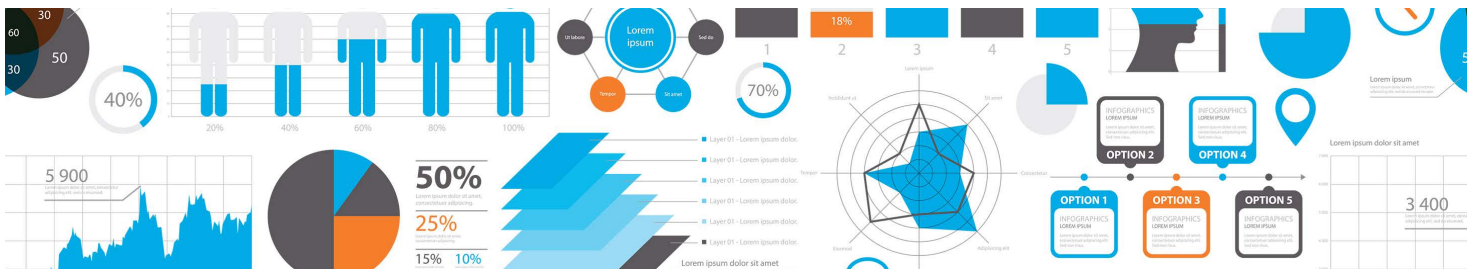


ILLUSTRATION BY ISTOCK.COM/BGBLUE

Google document. It's a convenient Google Docs add-on for when you need flow charts and diagrams in your reports.

## 5 DepoPlus and DepoView

[deplus.appstor.io](http://deplus.appstor.io)

Manage your deposition content with some free iTunes apps like DepoPlus and DepoView. The DepoPlus app makes your deposition interactive. Use it to instantly stream deposition videos and make video clips by simply highlighting transcript text. DepoView from inData Corporation allows attorneys to import and manage deposition transcripts along with corresponding video. It provides simple processes to organize depositions into individual cases, create focused clips from those depositions and export the clips to be used in TrialDirector for presentation. Paid versions of these and more deposition apps that are more robust are also available.

## 6 CourtroomEvidence

[itunes.apple.com/us/app/courtroom-evidence/id390360684?mt=8](http://itunes.apple.com/us/app/courtroom-evidence/id390360684?mt=8)

CourtroomEvidence serves as a mobile reference guide for courtroom evidentiary foundations. Use this iTunes app to review predicates commonly used to get evidence admitted by laying the proper foundation. The app offers step-by-step instructions and checklists.

## 7 Picture It Settled Lite

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

Picture It Settled Lite is a free iOS and Android app that helps you analyze your case's settlement. Settlement talks finally break out in your contentious case. But the pace of negotiations seems slow.

## Testimonial



Will Davis  
Holland Roddenbery  
LLC, Atlanta

### Waze

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

Waze, hands down, is the most functional app that I rely on daily. As lawyers, we are frequently expected to be in many places at once on any given day of the week, and when traffic jams up or interstates collapse, Waze lets me know how to get places and when I'll get there. If needed, I can confidently update judges and opposing counsel on where I am and there is no more guesswork about how long it will take me to get from Atlanta to Decatur and then to Canton. If you haven't downloaded Waze or some other navigation app, I highly encourage it.

You're wondering if the dots will ever connect. The app will give you insights in your progress toward a deal.

## 8 Skype

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

Use Skype for quick meetings with your staff or clients. Why travel for short meetings? Save time and money by using this app that allows audio and video communication. International calls are also much more affordable using Skype.

## 9 CallProtect

[www.att.com/offers/call-protect.html](http://www.att.com/offers/call-protect.html)

Take control over spam calls on your smartphone. Apps like CallProtect (Android and iTunes) help block unwanted spam calls or alert you to potential spam, and the apps give you the opportunity to easily block future

spam calls. Check with your service carrier to see if the company has its own proprietary app before heading to iTunes or GooglePlay.

## 10 Waze

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

Use Waze to manage your commute and travel. Type in your destination address and just drive with the app open on your phone to passively contribute traffic and other road data. You can also take a more active role by sharing road reports on accidents or any other hazards along the way, helping to give other users in the area a heads-up about what's to come. And since we are addressing lawyers, we must inform you that Waze can also be used to share information on police activity along your route, and we don't encourage you to break the law.

# Another Solo and Small Firm Institute Is In the Books

Attendees and supporters of the Solo and Small Firm Institute learned new skills and expanded their network of contacts during this annual event.

BY NATALIE R. KELLY

On July 14 and 15, more than 100 of Georgia's solo and small firm practitioners descended on the State Bar offices in Atlanta, Tifton and Savannah to learn about the latest issues their practices face and to take home some practical solutions to help them improve. With an exhibit hall of more than 25 vendors showcasing their products and services designed just for the solo and small firm legal market, attendees were treated to first-hand demonstrations and unique networking opportunities at this year's annual institute.

A full year's worth of CLE credit was available for attending the event's educational sessions. With tracks for "How To," Technology and Practice Management, Substantive Law, Office Operations and a Vendor Showcase, there was something for everyone no matter their role. The institute featured programming appropriate for legal staff, law school career development and alumni personnel,



PHOTO BY SHEILA BALDWIN

The exhibit hall featured more than 25 vendors with products and services that catered to the solo and small firm market.



PHOTO BY SHEILA BALDWIN

(Left to right) Kathleen Womack, chair, Law Practice Management Program Advisory Committee; Jay G. Foonberg, author and guest speaker; and Natalie R. Kelly, director, Law Practice Management Program.

and law students. Those seeking credit for the Transition into Law Practice Program were able to select hand-picked programs to fulfill their requirements. Dedicated Fastcase training was provided by Fastcase staff and the Bar's very own and newest Fastcase 50 awardee, Sheila Baldwin, during the event.

The educational sessions included presentations from some of Georgia's finest lawyers and a select group of vendors. The special guest speakers, as in years past, were stellar in bringing their thought-leading ideas and solutions to the audience. With Catherine Sanders Reach, director of the Chicago Bar Association's Law Practice Management and Technology Program; Jay G. Foonberg, author; and Casey Flaherty, former in-house counsel for a major automaker and legal tech consultant, the attendees were exposed to everything from practice management skills to legendary start up and law office business advice directly from the experts. Reach talked about today's flexible law firm; Foonberg, author of the No. 1 ABA bestselling book of all time, "How to Start and Build a Law Practice," introduced a new program for e-mentoring; and Flaherty shared his now-famous legal technology assessment solution with the attendees. Using the hashtag, #gasolo17, highlights of the event's exciting education programs and social happenings were channeled across a myriad of social media networks during the exhibit hall breaks and educational sessions.

But the fun didn't stop there. The attendees' were awarded frequent giveaways—in fact, the program started with giveaways immediately following the welcome from State Bar President Brian D. "Buck" Rogers and Law Practice Management Program Advisory Committee Chair Kathleen Womack, and concluded with prizes awarded during the Conference Wrap Up session by Law Practice Management Program Director Natalie Kelly. Grand prizes included two Law Practice Management Program Resource Library book sets, five annual licenses for WordRake proofreading software for Microsoft Office and a shiny new Fujitsu ScanSnap ix500 scanner. These

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

**F. Harley Norwitch - Government Examiner, Retired**  
 Court Qualified Scientist - 35+ years. Expert testimony given in  
 excess of five hundred times including Federal and Offshore

Offices in West Palm Beach and Augusta  
[www.QuestionedDocuments.com](http://www.QuestionedDocuments.com)  
 Telephone: (561) 333-7804 Facsimile: (561) 795-3692



Randy Kessler, Kessler & Solomiany LLC, conducts the session "How to Resolve a Family Law Case."

prizes and those awarded by many of the exhibitors were taken home by some very lucky attendees.

Social highlights included the Atlanta Legal Technology and Innovation Meetup Group joining attendees to share their latest information and ideas during the institute's popular Friday evening reception. Another highlight of the evening was the group tours of the State Bar building which used to be the Federal Reserve Bank.

At the end of the day, the attendees and supporters of the event including

the Law Practice Management Program, Transition into Law Practice Program, General Practice and Trial Section, Young Lawyers Division, Walton County Bar Association and the New Rock Legal Society had an incredible time and look forward to next year's institute, Sept. 28-29, 2018. ●



**Natalie R. Kelly**

Director, Law Practice Management  
 State Bar of Georgia

nataliek@gabar.org

# You Can Help Us Beat the Odds

As funding for legal services programs is decreased, the need for Georgia lawyers to volunteer their time has never been greater.

BY MIKE MONAHAN

Federal funding for civil legal services programs is in jeopardy. Legal services programs have awkwardly adapted year after year while receiving either level or decreased federal funding, and now we face the outright elimination of federal funding that not only supports legal aid but which pays for most of the pro bono program coordination in Georgia. The truth is volunteer lawyers can never replace federal or state-supported legal services programs; sufficient numbers of volunteers might be available, however, to *supplement* the work of legal aid and legal services programs. Lawyers like you can be an asset to the state's justice system and can extend civil legal services to persons who otherwise would go unrepresented.

There are more than 2 million poor people in Georgia, with about 72 percent of the poor living in small cities and rural areas. Nearly 70 percent of Georgia's lawyers work in the metro-Atlanta area where only 28 percent of the poor reside. As is the case in much of the country, in Georgia, legal aid and legal services programs struggle to meet the civil justice needs of the poor.

Attorneys who volunteer and accept a case from a participating coordinated civil pro bono program are included in our Pro Bono All Stars Honor Roll published annually in the *Georgia Bar Journal* and on the State Bar of Georgia's website. Each year, the State Bar confers pro bono awards to lawyers and

**Due Justice.**

**Do Good.**

law students. The H. Sol Clark Award is presented to an attorney who has done the most to further pro bono activity and legal representation for the poor. The William B. Spann, Jr. Pro Bono Award is given to the bar association or community organization with the most active or innovative pro bono program in Georgia. The State Bar presents its A Business Commitment Business Law Pro Bono Award to a lawyer, law firm or corporate counsel program that has provided significant business law services to an existing or emerging nonprofit serving the low-income community in Georgia. We also honor law students whose work furthers access to justice.

Volunteer lawyers working with structured pro bono programs receive certificates of recognition, signed by the director of the Pro Bono Resource Center and the president of the State Bar of Georgia, on an annual basis as a gesture of the Bar's appreciation for their service to the public. We provide vouchers courtesy of the Institute of Continuing Legal Education for lawyers who have handled at least three pro bono cases during the previous calendar year under the supervision of a structured civil pro bono program. The vouchers entitle them to a \$150 discount off the cost of an ICLE-sponsored program. Many participating pro bono programs offer free or reduced fee CLE programming to volunteer lawyers who, in exchange for the CLE, agree to take on one or two pro bono cases. Pro bono programs also offer free periodic training programs to volunteers.

### Sign on with a Volunteer Program

Pro bono publico is a phrase that encompasses many types of service to the community, the most important of which is the use of your skills as a lawyer. You can be an advocate for justice by representing a senior citizen who has been denied access to health care or by taking on the case of a child with severe learning disorders who needs special education. Most clients face family law issues, such as domestic violence, or consumer law matters, like home repair rip-offs. You could agree to handle one or two cases a year on prob-

## PRO BONO STAR STORY

---

# RONALD EDWARD "RON" DANIELS



BY RACHAEL SCHELL



Ronald Edward  
"Ron" Daniels  
Attorney  
Daniels Law LLC

Ronald Edward "Ron" Daniels is known by most simply as "Ron." But for some pro bono clients, he is more than just "Ron." He is someone willing to listen and to try and provide them with help. A few months ago he got a call from someone whose pay was being garnished over a lawsuit she had never seen. After a few months and some digging in court records, Ron was able to set aside the underlying judgment for improper service and get all of her funds returned to her.

Growing up in the small South Georgia town of Rhine, Ron learned the importance of pulling together resources and helping those in need. Helping people who have fallen on hard times is second nature to him. It's what he has always done. To Ron, a successful pro bono case means as much to him as a favorable result for a paying client. Ron consis-

tently receives glowing reports from GLSP clients concerning his professionalism, selflessness and passionate representation. He genuinely cares for every client and every case. Their victories are his victories.

Ron maintains a statewide practice focused on suing abusive debt collectors and representing consumers in a variety of consumer protection matters including dealing with credit card, medical and student loan debt. He enjoys an of counsel relationship with the firm of Stewart, Seay & Felton, and manages their Macon office. Additionally, he serves as the special assistant attorney general representing the Division of Child Support Services for the Oconee Judicial Circuit. ●

lems like these, or the lawyers and paralegals in your corporate counsel program could all work together on a special kind of legal clinic or advice line.

### Be a Pro Bono Business Lawyer

Many Georgia nonprofits and emerging nonprofits serving low-income communities lack the resources to obtain necessary legal counsel, and many more are unaware that they have a legal issue. Many nonprofits, rushed into creation, need legal audits and advice on corporate restructuring. Volunteer lawyers can handle corporate legal matters, tax exemptions, real property matters, contracts, as well as just about any legal issue arising in the business law context. Corporate counsel programs can also adopt “signature projects” by choosing special issues or unique clients and providing in-depth, long-term business law services.

## FIND US EVERYWHERE



[gabar.org](http://gabar.org)•[georgiayld.org](http://georgiayld.org)

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

[facebook.com/  
statebarofgeorgia](https://facebook.com/statebarofgeorgia)

[flickr.com/gabar](https://flickr.com/gabar)

[youtube.com/  
statebarofgeorgia](https://youtube.com/statebarofgeorgia)

[twitter.com/statebarofga](https://twitter.com/statebarofga)

### Share Your Expertise Online or by Telephone or Email

Many business law practitioners find that they are best suited to provide back-up support to legal services lawyers or to other volunteer lawyers on legal issues with which they have a volume of experience. For example, you can volunteer your time to provide legal advice or consultations by telephone or email on real property transactions, contracts, divorce settlements, damages appraisals—just about anything. You can also volunteer to draft or review documents by email, prepare legal training materials or participate in seminars on poverty law issues. Join our new pro bono online service, <https://georgia.freelegalanswers.org>, and do pro bono from your kitchen table or office. Today’s technology allows you to do this work while you are sitting at your own desk.

### Help Put a Dot.Com after Pro Bono

Corporate counsel programs and large law firms use or have access to cutting edge technology and information systems. Your program or firm, as part of its pro bono obligation, can find ways to help legal services and pro bono programs by allowing them access to your technology. For example, most legal services and pro bono programs do not have access to high quality computer scanning equipment. Your program could offer its scanner and a fraction of staff support to scan important documents, news articles and legal forms. You could also lend your technology staff to a program that needs website design or network troubleshooting. You could help a program produce and publish its newsletter or training materials or even help us secure affordable software.

### Invest in Access to Justice

All lawyers, including those in corporate counsel programs, are urged by Georgia pro bono Rule 6.1 to contribute financially to civil legal services programs. Legal services and legal aid programs in Georgia are efficiently run law firms. These programs and their affiliated pro

bono units operate with minimal overhead while delivering high quality legal services to thousands of Georgians. Staff lawyers are well-trained and dedicated. However, thousands of poor Georgians who need legal help who apply for services cannot be represented due to lack of funding. Invest in access to justice by contributing financially to legal services programs and their pro bono partners.

While financial contributions are crucial to the development and maintenance of quality civil legal services programs and pro bono—especially considering the current federal budget debate, there are other roles for lawyers, including serving on fundraising committees and networking with corporate foundations.

### Get Started

Volunteer to take a pro bono case from your local structured pro bono program or donate the dollar equivalent of one or two billable hours. Join a State Bar committee or your local bar pro bono committee and be a voice for pro bono publico.

Ask how you can help. The State Bar of Georgia and its Access to Justice Committee are studying ways to address the possible elimination of federal legal services dollars that support not only legal aid but the civil pro bono programs in which you participate around the state. Learn more by visiting the Bar’s website or contacting your local legal aid program.

Visit our new pro bono support site [www.DueJusticeDo50.org](http://www.DueJusticeDo50.org) and let’s make a difference today. ●



**Michael Monahan**

Director  
Pro Bono Resource Center  
State Bar of Georgia

[probono@gabar.org](mailto:probono@gabar.org)

### CORRECTION

Elizabeth A. Branch of Statesboro was inadvertently left off the Pro Bono All-Stars acknowledgement list that ran in the June issue of the *Georgia Bar Journal*. We apologize for this omission.



## “And Justice for All”

2017 State Bar Campaign for the Georgia Legal Services Program, Inc.

# If You Don't Stand for Justice for All, Who Will?

Give Today at [www.glsp.org](http://www.glsp.org) (Click on Donate Now)



**M**s. Smith contacted the Georgia Legal Services Program for help when she was unable to pay her rent after discovering the bank account she shared with her abusive husband was locked. He was in jail facing 10 felony charges for battering his wife and firing repeatedly at police officers during a 10-hour standoff at their home. While in jail, he had removed his wife from their joint bank account. Ms. Smith was evicted from their ransacked home following her husband's arrest. She feared her husband would be released from jail and find out where she is currently living.

A GLSP lawyer assisted Ms. Smith in filing a Temporary Protective Order with provisions for spousal support and access to the bank account. Her husband refused to comply, and the GLSP lawyer filed a motion for contempt. The lawyer talked to the bank's vice president about Ms. Smith's TPO, and he agreed to unlock the joint account. Ms. Smith was able to pay her rent and other expenses. Without GLSP's involvement, Ms. Smith would have become homeless and penniless.

Please give at [www.glsp.org](http://www.glsp.org) (click on Donate Now) and help more vulnerable clients obtain justice and opportunities out of poverty.



State Bar of Georgia



GEORGIA LEGAL  
SERVICES PROGRAM®

*Access to Justice and Opportunities Out of Poverty*

**Thank you for your generosity and support.**

# Labor & Employment Law Section's Mentoring Program Sets a New Standard

This section-wide mentoring program, the first of its kind, exceeded expectations while providing inspiration for other State Bar sections to create their own mentorship programs.

BY D. ALBERT "BERT" BRANNEN



PHOTO BY CRAIG WHITLEY

Mentorship Academy Board Member Jay Rollins welcomes academy participants and guests to the end of the year celebration at the National Center for Civil and Human Rights.

**In late 2015 into early 2016, the leadership of the Labor & Employment Law Section of the Bar, under the leadership of Robert Lewis, began exploring the idea of a section-wide mentoring program. A stellar group of present and former leaders of the Bar's section were assembled to create proposals and plans regarding the feasibility of the program and how the program would operate. This board of leaders consisted of Bert Brannen, Fisher & Phillips LLP; Ottrell Edwards, senior counsel at the EEOC; Gary Kessler, Martenson, Hasbrouck & Simon; Robert Lewis, assistant regional director in the U.S. Department of Labor's Solicitor's Office; Jay Rollins, Schwartz Rollins; Tamika Sykes, Sykes Law; Tessa Warren Quinn, Connor, Weaver, Davies & Rouco; and Brent Wilson, Elarbee, Thompson, Sapp & Wilson. This group soon realized that while the Bar actively promotes mentoring by lawyers, none of the Bar's sections have an intentional, formal mentoring program. So, the group moved quickly to establish the materials and parameters for a Mentorship Academy and by July 1, 2016, the academy was up and run-**

ning with 32 participants (16 pairings of mentors and mentees). In its first year, the program has exceeded everyone's expectations.

The final program description, outline, applications and monitoring material were an amalgam of several different programs. Rollins had implemented a similar program with the Georgia Chapter of the National Employment Lawyers Association (NELA-GA) and it was this program that prompted the Labor & Employment Law Section to approach Rollins about implementing a section-wide mentorship program, in fact NELA-GA is a co-sponsor of the Academy. Brannen had implemented a program for associates at Fisher & Phillips LLP, where he manages the Atlanta office. Lewis had been instrumental in the establishing the USDOL mentor program, and Edwards also had experience with mentoring at the EEOC.

An administrative committee and board were formed initially, followed by the selection of 20 mentees and 20 mentors. The board took great care to select for diversity in practice focus and whether the individuals represented plaintiffs or employers, unions or management, or were in-house or serving within government agencies. Once selected, mentors were carefully matched with mentees, with an eye toward complying with the respective parties' requests for a particular match.

During the course of the first year, four group meetings were conducted with a specific theme:

- Kick-off meeting: get acquainted, learn about the program, sign the participation pledge;
- October meeting: five senior lawyers gave their tips for success;
- January meeting: Bert Brannen provided insights and tools for professional development; and
- April meeting: a panel of three judges offered their practical tips for professional success.

Each month, from September to May, mentors and mentees met one on one. Although sample talking points were offered,



Mentors and mentees from the 2016-17 Labor & Employment Law Section Mentorship Academy at the National Center for Civil and Human Rights in Atlanta.

the mentors and mentees were free to talk about anything that may benefit their professional lives. Monthly reports and semi-annual evaluations were completed to make sure that participants remained active. By all accounts, the participants found the program extremely helpful.

The grand finale of the year was held June 14 at the National Center for Civil and Human Rights, highlighted by an inspirational message delivered by Hon. Clarence Cooper, judge, U.S. District Court, Northern District of Georgia.

When asked about the program, mentor Josh Viau from Fisher & Phillips LLP and former Labor & Employment Law Section chair said, "The rewards are mutual for the mentor and mentee. As a mentor, not only do you get the satisfaction of helping a new lawyer find his or her way, but the enthusiasm of the younger lawyers is contagious and revitalizing for those of us who have been practicing for some time."

One mentee said, "While I value the internal mentors within my firm, the Mentorship Academy provided a unique opportunity to gain the perspective of an outside mentor on my professional growth. I enjoyed getting to know my mentor and learning about his practice,

and I benefitted from his experience during our candid conversations about client development and career advancement. I have no doubt that we will keep in touch and continue our mentor relationship after the program concludes."

Rollins gushed with excitement that the program had come so far in just one year, saying, "We hope that this program will double in size next year and that other sections will adopt this model and adapt to their own mentorship programs." ●



**D. Albert "Bert" Brannen** is managing partner in the Atlanta office of Fisher & Phillips LLP, where he has practiced law for more than 30 years. He mentors attorneys in the Atlanta office and helps them serve the firm's clients. Brannen has successfully represented employers in proceedings before the NLRB, EEOC, OFCCP, Wage and Hour Division, OSHA and other government agencies. Brannen is active in the State Bar of Georgia and has served as chair of the Labor & Employment Law Section and is a founding board member of its Mentorship Academy.

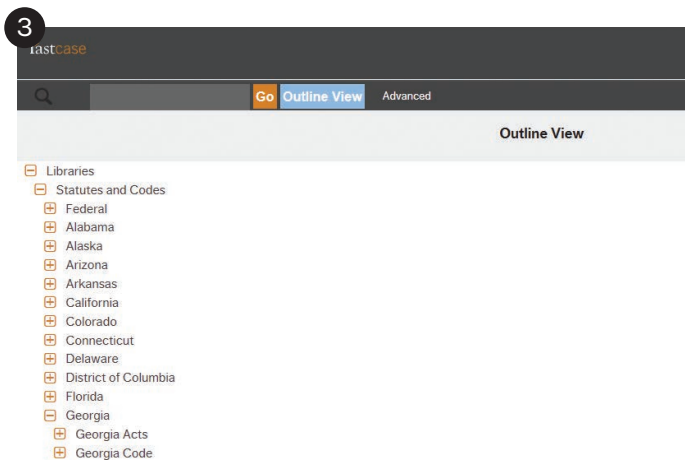
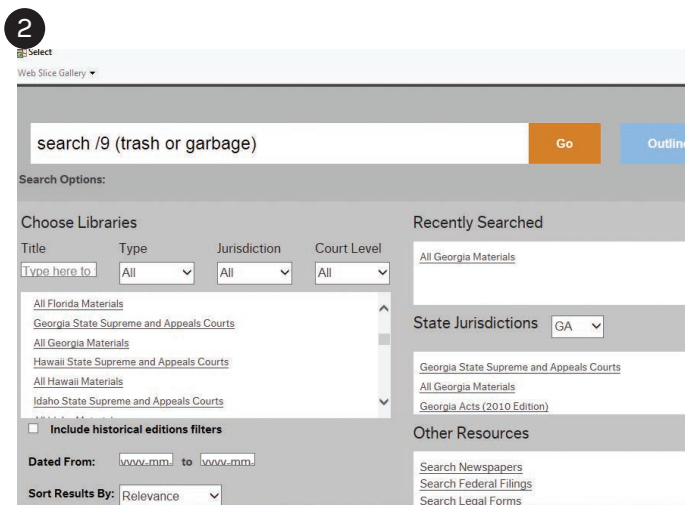
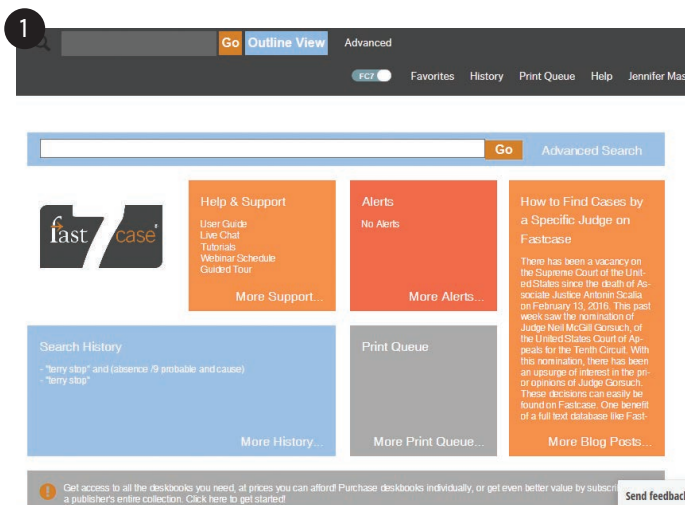
# Fastcase 7: Content Rich and User Friendly

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](http://www.gabar.org). Please call 404-526-8618 to request onsite classes for local and specialty bar associations.

BY SHEILA BALDWIN

Fastcase continues to be one of the State Bar's best member benefits with its free access to case law and a variety of other law-related materials. This article will introduce you to some of the most useful features that have long been available in Fastcase and illustrate how to access them in Fastcase 7. Hopefully your research expertise increases while you arm yourself with the information needed to make legal research more efficient and effective.

Fastcase offers all federal case law and state case law going back to at least 1950. It also includes statutes, regulations, court rules and constitutions from nearly all 50 states and the District of Columbia. In most cases, they have incorporated the content into the database so that you can browse and search the relevant statute, regulation, court rule or constitution within Fastcase. In some cases, Fastcase provides hyperlinks to the free official



versions of these resources as a convenience for our members. Collecting them all in one place allows you to find these resources quickly without having to search for them each time.

Fastcase 7 is designed to bring results within multiple jurisdictions at once. Make sure you click the toggle button from the top left screen when you log in to your Fastcase account from the Bar website. The colorful block design has a query bar at the top of the page that is best used for a quick generalized search with no content restrictions (see fig.1). When I enter the terms “search /9 (trash or garbage),” I get a total of 2,909 documents from a wide variety of jurisdictions and databases (see fig. 2). To create a more focused search, enter the same terms into the query bar at the top of the results page and click on the “Advanced” tab to the right. This will open up the advanced query screen where you can drill down to title, type, jurisdiction and court level. I like to leave the title, type and court level set to “all,” but choose Georgia as my jurisdiction. This will bring up another set of choices which are all Georgia-related databases. Choose “All Georgia Materials” to get any related materials that correspond to your search terms in the state. Using this technique, my results are reduced to 30 items, 28 being case law and two are journals or reviews.

As you can see, the “Advanced Search” link is best used for precision searching, including limitations of date span, jurisdiction and other modifications. It’s also great for creating seamless research because of the variety of data that is gathered with one click of the enter key. In the past, you would be required to do a separate search in statutes or law reviews in addition to

your original case law search. Fastcase uses your past history to create a shortcut to your most recent selections which are found on the right side of the screen. Most of the time you will choose from those selections to begin your search.

Also new in Fastcase 7, the search results are “bottomless,” with no need to click for the next page. Start scrolling, keep on scrolling, same page. Search results are automatically sorted by relevance to your search terms. However, the cases can be resorted by date or by number of citations in the database by clicking on those blue links toward the top of the page. The outline view, a favorite feature, is still available in 7 along with alerts, forecite and search within (see fig. 3).

These tips should get you started if you are a first-time user to Fastcase 7. And if

you are not receiving the maximum advantage from this member benefit, visit the website and schedule a training session. You can sign up for a webinar presented by Fastcase experts or choose to attend a live training here at the Bar; CLE credit is available for either option. Please feel free to contact me at [sheilab@gabar.org](mailto:sheilab@gabar.org) or call 404-526-8618 with any questions. ●



**Sheila Baldwin**

Member Benefits Coordinator  
State Bar of Georgia

[sheilab@gabar.org](mailto:sheilab@gabar.org)

Forensic Analysis Consultations  
**QUESTIONED DOCUMENTS ANALYSIS**  
(Handwriting)

Former: Police Academy Professor–FBI Academy Graduate  
University Professor in Criminal Justice at the Master Program  
Doctoral and Master degrees in Criminal Justice  
Qualified Expert by State & Federal courts in more than 400 cases  
**Free Consultations—45 years of experience—English & Spanish**  
Tel. 787-617-2836                      Email: [onofrejusino@hotmail.com](mailto:onofrejusino@hotmail.com)

# Fact Statements Part I: More than “Just the Facts”

This installment of “Writing Matters” offers tips to help lawyers improve the content of their fact statements.

BY MEGAN E. BOYD



PHOTO BY ISTOCK.COM/LUISPORTUGAL

**As lawyers, we are trained to focus on** the law—we debate the intent of legislatures, analogize and distinguish cases, and parse every word of statutes and regulations. Despite our focus on law, though, seasoned lawyers and judges generally agree that “most contentions of law are won or lost on the facts.”<sup>1</sup> And though we spend considerable time in law school learning to write about law, most of us learn little about writing statements of facts.

This installment of “Writing Matters” and the next installment offers tips to help lawyers improve the content of their fact statements and add interest and pizzazz to the most important—but sometimes most overlooked—section of any brief.

## **Give Some Context**

While extensive background won’t be necessary in some cases (such as auto accidents), a bit of background information is helpful in most cases to set the stage for the court. For example, in a breach of contract case, what is the parties’ relationship and how long has it existed? What is the substance of the contract?

Background information is particularly helpful to courts where the par-

ties' relationship is lengthy or complex, where multiple entities are involved, or where the court may be unfamiliar with the substantive area of law at issue. Even a few sentences that give the court some context can go a long way toward helping the court understand the big picture. This background information may come through a formal "Introduction" section or through a sentence or two at the beginning of the statement of facts.

Take, for example, the introduction in a brief filed in high-profile litigation involving transgender student G.G. (who we now know is Gavin Grimm):

Plaintiff G.G. is a 16-year-old transgender boy who has just begun his junior year at Gloucester High School. He is a boy and lives accordingly in all aspects of his life, but the sex assigned to him at birth was female. In accordance with the standards of care for treating Gender Dysphoria, he is undergoing hormone therapy; he has legally changed his name; and his state identification card identifies him as male. In every other context outside school, he uses the boys' restrooms, just like any other boy would.

During his sophomore year, with the permission of school administrators, G. used the boys' restrooms at school for seven weeks without incident. After some parents complained, however, the Gloucester County School Board (the Board) passed a new policy that singles out transgender students for different treatment than all other students. The policy prohibits G. from using the same restrooms as other boys and relegates him to single-stall, unisex restrooms that no other student is required to use.<sup>2</sup>

The authors go on to draft a lengthy statement of the case in which they outline the medical condition of gender dysphoria, G.G.'s diagnosis, his school's response and the aftermath of its decision not to allow G.G. to use the same restroom as other

students. But the introduction gives the reader helpful context that sets the stage for the rest of the brief.

### Avoid Being a Disinterested Historian

While dates can be very important in some cases (e.g., where the statute of limitations or a question of whether a party was timely served with process is at issue), in many cases, they are irrelevant. And as Ross Guberman notes in his book *Point Made*, "[f]ewer things are duller than a paragraph stuffed with dates."<sup>3</sup>

Writers often fall in the habit of acting like a disinterested historian in reciting the facts. Sentence after sentence starts or ends with "On X date . . ."

You can make a statement of facts flow by using time markers rather than specific dates. Words and phrases such as:

- Then
- Nearly two years later . . .
- After Smith and Jones signed the contract . . .
- Within a month . . .

add context when the specific dates aren't necessary for resolution of the issue and make the statement of facts flow more like a story.

A good example comes from a brief filed by Neal Katyal in litigation over President Trump's second executive order banning people from certain countries from entering the United States. Though he includes some key dates as well, Katyal employs this technique in outlining the events leading up to the travel ban:

- Then-candidate Donald Trump made it crystal clear **throughout his presidential campaign** that if elected, he planned to bar Muslims from the United States. **Shortly after** the Paris attacks in December 2015, Mr. Trump issued a press release calling for "a total and complete shutdown of Muslims entering the United States until our country's representatives can figure out what

is going on." When questioned about the idea **shortly thereafter**. . .

- **Later**, as the presumptive Republican nominee, Mr. Trump began using facially neutral language to describe the Muslim ban. . . .
- **Throughout the campaign**, Mr. Trump also made clear that his plans extended to disfavoring Muslim refugees while favoring their Christian counterparts.
- **After his election**, the President-Elect signaled that he would not retreat from his Muslim ban.<sup>4</sup>

Where dates are critical, include them. But consider using this technique to tell your client's story in a more interesting and readable way. ●



**Megan E. Boyd** is an instructor of law at Georgia State University of College of Law, where she teaches Lawyering: Foundations. She is the author of numerous articles on legal writing and co-author of "Show, Don't Tell: Legal Writing for the Real World." She maintains a legal writing blog, [www.ladylegalwriter.blogspot.com](http://www.ladylegalwriter.blogspot.com), and tweets about writing at @ladylegalwriter.

### Endnotes

1. Robert H. Jackson, *Advocacy before the Supreme Court: Suggestions for Effective Case Presentations*, 37 A.B.A. J. 801, 803 (1951).
2. Br. of Pl.-Appellant at 2, G.G. *ex rel.* Grimm v. Gloucester Cty. Sch. Bd., 822 F.3d 709 (4th Cir. 2016) (No. 15-2056), vacated by 137 S. Ct. 1239 (2017).
3. Ross Guberman, *Point Made: How to Write Like the Nation's Top Advocates* 69 (2d ed. 2014).
4. Mem. in Supp. of Pls.' Mot. for TRO at 3-4, *Hawai'i v. Trump*, No. 17-cv-00050-DKW-KSC, 2017 WL 1167383 (D. Haw. Mar. 29, 2017) (internal quotations and citations omitted).

# Farewell: I Believe It's Time for Another Adventure

Avarita L. Hanson reflects on her 11 years as executive director of the Chief Justice's Commission on Professionalism.

BY AVARITA L. HANSON

**It has been my honor and privilege** to serve as the executive director of the Chief Justice's Commission on Professionalism since May 2006, a wonderful 11 years. The Chief Justice's Commission on Professionalism, the first body of its kind in the nation, was created in 1989 by the Supreme Court of Georgia to enhance professionalism among Georgia's lawyers. In carrying out its charge, the commission works to assure that the practice of law remains a high calling, enlisted in the service of clients and the public good. Composed of a total of 22 representatives of the organized Bar, practicing bar, judiciary, law schools and the public, the commission serves as the institutional framework for sustaining an environment that fosters professionalism in the legal community through continuing legal education (CLE) and other programs.



Retiring Chief Justice's Commission on Professionalism Executive Director Avarita L. Hanson receives a special resolution from 2016-17 President Patrick T. O'Connor during the plenary session at the 2017 Annual Meeting.

During my tenure, we have enjoyed many notable accomplishments:

- Served under five chief justices who chaired the commission: Justice Leah Ward Sears, Justice Carol W. Hunstein, Justice George H. Carley, Justice Hugh P. Thompson and Justice P. Harris Hines.
- Oversaw and coordinated several special major programs, including a celebration of the commission's 25th Anniversary, raising \$44,000 for the Georgia Legal Services Program and honoring GLSP co-founder A. James Elliott.
- Coordinated and presented four Convocations on Professionalism: Law Practice 2010 and Beyond: Challenges and Opportunities (2010); The Future of Legal Education: Will It Produce Practice-Ready Lawyers? (2012); Aging in the Law: It's More Than a Senior Moment! (2014); and The New Normal for Delivery of Legal Services (2016).
- In addition to the Convocation CLE programs, presented more than 100 CLE programs to State Bar of Georgia members at the Annual, Midyear and Board of Governors meetings; at State Bar programs (Transition Into Law Practice, Wellness, Law Practice Management); and to the Young Lawyers Division, State Bar sections, local, circuit and specialty bar associations, public law groups, law firms and national bar associations.
- Took the commission's two signature programs, co-sponsored with



---

the State Bar of Georgia, to new heights. The Law School Orientations on Professionalism programs, co-sponsored by the State Bar's Committee on Professionalism, grew to include Savannah Law School, new and more diverse attorneys participating as group leaders and keynote speakers, and served winter orientation programs at Emory University School of Law and Atlanta's John Marshall Law School. The Justice Robert Benham Awards for Community Service Program has not only produced one of the State Bar's most highly coveted awards for judges and attorneys, it is one of the best publicly attended events, attracting more than 300 people each February to the Bar Center.

- Extended news about the Chief Justice's Commission on Professionalism statewide, across the country and internationally through the regular Professionalism Page in the *Georgia Bar Journal*. The column included not only coverage of commission events and programs, but cutting-edge news about professionalism topics such as emotional intelligence and wellness.
- In carrying out the commission's express charge to provide "guidance to professionalism movements in other jurisdictions, nationally and internationally," I was an invited speaker at the chief justice of Ontario's Advisory Committee on Professionalism's 10th Colloquium in Ottawa, Canada, in 2008. There, I presented excerpts from my paper, "Professionalism and the Judiciary: Lessons Learned as Georgia Approaches 20 Years of Institutionalizing Professionalism." On the national front, I chaired the American Bar Association's Consortium on Professionalism for three years (2011-14) bringing Georgia's professionalism issues and programs to the forefront. I also coordinated, chaired, moderated and presented several CLE professionalism pro-

grams for the 2014 Annual Convention of the National Bar Association in Atlanta and the Leadership Institute for Women of Color Attorneys; and assisted with two ABA award-winning Law Day programs.

- As a legal scholar and former law professor at Atlanta's John Marshall Law School, I contributed scholarly articles on a variety of topics, including authoring a chapter on "Reputation," for the ABA publication, "Essential Qualities of the Professional Lawyer" (2013) and for that publication's *Instructors Manual* (2017) and the *National Bar Journal*.

What has been most fulfilling throughout my 11 years with the commission? Clearly, I have most enjoyed the personal interaction with so many Georgia lawyers, judges and other legal professionals, and I am extremely honored, blessed and grateful to have worked on their behalf to bring the issues of professionalism to the forefront of their lives and work. Those issues simply are what Justice Robert Benham always reminds us: competence, civility, community and public service, and promoting access to justice through pro bono service. I have enjoyed spending countless hours engaging lawyers of all ages, types of practice and diverse backgrounds throughout Georgia in discussions of aspects of professionalism: the use of social media, the ethics of collaborative law, sexual harassment, communicating professionally, civil rights and professional obligations, pro bono work, civility, access to justice, generational connecting and wellness.

I trust that the next executive director of the commission will bring a love for engaging and working with the diverse population of Georgia lawyers, leadership of a bar association, a scholarly blend of research, scholarship, writing and trending on the legal profession, considerable management, finance and human resource skills, experience teaching professionals and, of course, an understanding and appreciation of the professionalism movement in Georgia. I know that State Bar of Georgia mem-

bers will offer my successor their support, ideas and commitment to professionalism.

My retirement excites me as I move to the next phases of my professional and personal life. There are so many people that contributed to our successes that I cannot herein thank them all by name, so do forgive me for that. I thank the five founders of the Chief Justice's Commission on Professionalism for their vision in creating this entity, with whom I was fortunate to interface over the years—the late Justices Thomas O. Marshall, Charles L. Weltner and Harold G. Clarke, and Dean A. James Elliott and Dr. James Laney. I thank the wonderful commission staff who provided me with daily support, Assistant Director Terrie Latala and Administrative Assistant Nneka Harris Daniel. I thank the 11 or so State Bar presidents and YLD presidents, and State Bar executive directors (Jeff Davis and the late Cliff Brashier), along with General Counsel Paula Frederick and their staff, with whom I often worked closely to execute programs and activities. I thank my two predecessors, Executive Director Hulett "Bucky" Askew and Sally Evans Lockwood, for establishing the commission's solid foundation for its first 16 years and the commission members who have served during my tenure. I add a special word of thanks to Presiding Justice Harold D. Melton and immediate past president of the State Bar of Georgia Patrick T. O'Connor for their very special recognitions of my leadership and service to the commission and the Bar this spring.

So now I leave you with my signature parting words: Ultimately, what counts is not what we do for a living; it's what we do for the living. Let's all do good and well. Thank you for allowing me to serve my chosen profession in such a special and significant way. Now, it's time for another adventure. ●



**Avarita L. Hanson**, Atlanta attorney, has served as the executive director of the Chief Justice's Commission on Professionalism since May of 2006.

**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.

**OTIS F. ASKIN**

Martinez, Ga.  
University of Georgia School of Law (1963)  
Admitted 1962  
Died October 2016

**ANGELO C. BALDI**

Atlanta, Ga.  
Brooklyn Law School (1967)  
Admitted 1979  
Died June 2017

**PAUL D. BERKE**

Atlanta, Ga.  
Woodrow Wilson College of Law (1978)  
Admitted 1978  
Died June 2017

**JOHN THOMAS BLEECKER**

Watkinsville, Ga.  
University of Georgia School of Law (1999)  
Admitted 1999  
Died May 2017

**OTIS L. BONNER III**

Atlanta, Ga.  
Atlanta's John Marshall Law School (2000)  
Admitted 2000  
Died May 2017

**LANNY B. BRIDGERS**

Atlanta, Ga.  
University of North Carolina School of Law (1971)  
Admitted 1971  
Died May 2017

**TIMOTHY ALBERT BUMANN**

Atlanta, Ga.  
Georgia State University College of Law (1987)  
Admitted 1987  
Died April 2017

**RICHARD C. FREEMAN III**

Smyrna, Ga.  
University of North Carolina School of Law (1969)  
Admitted 1969  
Died February 2017

**ARTHUR W. FUDGER**

Dallas, Ga.  
Emory University School of Law (1967)  
Admitted 1967  
Died May 2017

**ALBERT K. GILBERT III**

Atlanta, Ga.  
Mercer University Walter F. George School of Law (1983)  
Admitted 1983  
Died June 2017

**CHARLES N. KING III**

Dawsonville, Ga.  
University of Georgia School of Law (1955)  
Admitted 1954  
Died May 2017

**RICHARD A. MALONE**

Jesup, Ga.  
Atlanta's John Marshall Law School (1975)  
Admitted 1975  
Died January 2017

**ROBERT E. MCDUFF**

Marietta, Ga.  
Emory University School of Law (1962)  
Admitted 1954  
Died May 2017

**JEFFREY R. MOOREHEAD**

Aiken, S.C.  
Hamline University (1995)  
Admitted 1998  
Died March 2017

**ALI FORREST MORAD**

Atlanta, Ga.  
Emory University School of Law (1990)  
Admitted 1990  
Died May 2017

**RICHARD GREGORY NADLER**

Warner Robins, Ga.  
Mercer University Walter F. George School of Law (1972)  
Admitted 2007  
Died March 2017

**ELIZABETH E. NEELY**

Atlanta, Ga.  
Emory University School of Law (1967)  
Admitted 1966  
Died May 2017

**RANDY A. NORDIN**

Dunwoody, Ga.  
Emory University School of Law (1973)  
Admitted 1973  
Died August 2016

**PAUL W. PAINTER JR.**

Savannah, Ga.  
University of Georgia School of Law (1974)  
Admitted 1974  
Died May 2017

**GEORGE RUSSELL REAGAN**

Kennesaw, Ga.  
Atlanta's John Marshall Law School (1980)  
Admitted 1980  
Died June 2017

**THOMAS S. REIF**

Atlanta, Ga.  
Northwestern University Pritzker School of Law (1983)  
Admitted 2017  
Died May 2017

**DANIEL L. SHEA**

Rockville, Md.  
Potomac School of Law (1979)  
Admitted 1979  
Died April 2017

**MARVIN H. SHOOB**

Atlanta, Ga.  
University of Georgia School of Law (1948)  
Admitted 1948  
Died June 2017

**MACK STEVENSON**

Marietta, Ga.  
Woodrow Wilson College of Law (1980)  
Admitted 1981  
Died February 2017

**MATTHEW A. TAVRIDES**

Orlando, Fla.  
Mercer University Walter F. George School of Law (1989)  
Admitted 1989  
Died August 2016

**MICHAEL W. TITTSWORTH**

Norcross, Ga.  
University of Florida (1978)  
Admitted 1979  
Died December 2016

**GEORGE W. WILLS JR.**

Carnesville, Ga.  
Woodrow Wilson College of Law (1977)  
Admitted 1978  
Died March 2017

**ROBERT P. WILSON**

Watkinsville, Ga.  
Atlanta's John Marshall Law School (1965)  
Admitted 1965  
Died June 2017

**JAMIE P. WOODARD**

Atlanta, Ga.  
Mercer University Walter F. George School of Law (2003)  
Admitted 2003  
Died June 2017

## OBITUARIES



**Paul W. Painter Jr. of Savannah,** died in May 2017. He was born in Cleveland, Tenn., in 1945. He grew up and attended public schools in Rossville, Ga., graduating from Rossville High School in 1963. Painter then graduated with a degree in Industrial Management from Georgia Tech, where he was a member and president of Sigma Alpha Epsilon fraternity. After graduating from college, he attended the Navy's Officer Candidate School at Newport, R.I., where he received his commission. He was an active duty officer from 1968-71, where he was an underway officer of the deck. He married Judith Ann (Judi) Babine of Norfolk, Va., in August 1971.

After graduating law school in 1974, he began the practice of civil trial law he would pursue for more than 40 years. In 1988, he was a founding partner of the law firm known today as Ellis, Painter, Ratterree & Adams LLP, from which he retired in 2015.

Painter was selected to be a "Georgia Super Lawyer" and was recognized as one of Georgia's "Top 100" lawyers from the initial review process in 2004 until his last year of active practice in 2014 when he was also recognized as one of Georgia's "Top 10" lawyers. He was also recognized in the peer-reviewed publication "Best Lawyers in America."

Painter was past president of the University of Georgia School of Law alumni association and a member of the school's Board of Visitors, past president of the Savannah Bar Association and past president of the Georgia Defense Lawyers Association. He was a fellow and Georgia state chair of the American College of Trial Lawyers, a past member and chair of the Georgia Board of Bar Examiners and a member of various committees to which he was appointed by Georgia's state and federal courts.

He was awarded the State Bar of Georgia's Tradition of Excellence Award, the State Bar's Chief Justice Thomas O. Marshall Professionalism Award, the University of Georgia School of Law's Distinguished Service Scroll Award, the Savannah Bar Association's Professionalism Award (now the Frank S. Cheatham Professionalism Award), and the Paul W. Painter, Jr. Civility and Professionalism Award established by the Southeast Georgia Chapter of the American Board of Trial Advocates.

Painter was a founding member of the board of directors of Georgia Appleseed, Inc., a nonprofit, nonpartisan public interest law center whose mission is to increase justice in Georgia through law and policy reform and community engagement, a past director of Royce Learning Center, a school for children with learning disabilities and a past president of the Savannah Arthritis Foundation. He was a member of Wesley Monumental United Methodist Church and its Alpha Sunday School class. He was also a member of The Savannah Golf Club, the Forest City Gun Club and the Gridiron Society at the University of Georgia.



**Hon. Marvin H. Shoob of Atlanta,** died in June 2017. Born Feb. 23, 1923, in Walterboro, S.C., he grew up in Savannah and graduated from Savannah High School. Shoob attended the University of

Georgia School of Law under the GI Bill, graduating second in his class in 1948. Settling in Atlanta, he married the former Janice Paradies. In 1949, he began the practice of law with Nall & Miller. Eventually, he partnered with James P. McLain to begin the law firm that became known as Shoob, McClain, Merritt & Lyle.

Shoob was active in the Democratic Party of Georgia, and in the 1960s, he was treasurer of the Fulton County Democratic Party and was a delegate to the 1964 Democratic National Convention. Continuing to be active in state politics, he was finance chair for Sen. Sam Nunn in his first campaign for the U.S. Senate. In 1979, he was nominated by President Carter to serve as a federal judge in the Northern District of Georgia. He served in that position for the next 37 years, retiring in 2016 at the age of 93.

Shoob enjoyed relaxing at home with his family and playing, as he described it, occasional games of "mediocre" tennis with other judges, but the truth was that his favorite avocation was his vocation. During his long career, Shoob never flinched from making the hard decisions or "facing the issue." In 1993, he was honored with the Atlanta Bar Association's Logan E. Bleckley Award and in 2015 he was recognized as a "Lifetime Achiever" by the *Fulton County Daily Report*. In 2007, he received the Charles Weltner Profile in Courage Award from the Georgia First Amendment Foundation. He also received the Tradition of Excellence Award from the State Bar of Georgia. ●

### In Memoriam Contributions to the Georgia Bar Foundation

In Memory of Jeff Bramlett  
*Robert and Maggie Brinson  
Denny and Peggy Galis*

In Memory of Nick Chilivis  
*Denny and Peggy Galis*

In Memory of Nora Clarke  
*Robert and Maggie Brinson*

In Memory of Frank Love  
*Robert and Maggie Brinson*

In Memory of John Mayou  
*Robert and Maggie Brinson*

In Memory of  
Albert Newell NeSmith Sr.  
*W. Lonnie Barlow*

In Memory of Al Norman  
*Robert and Maggie Brinson*

In Memory of  
Paul W. Painter Jr.  
*Edenfield, Cox, Bruce  
& Classens*

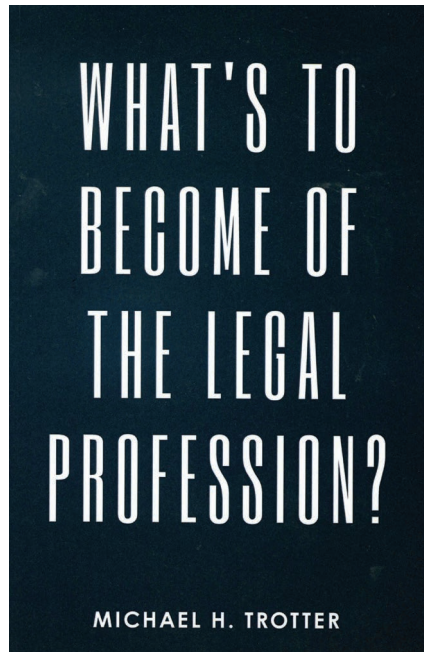
In Memory of  
Cubbedge Snow  
*Robert and Maggie Brinson*

\*Unless otherwise directed by the donor, In Memoriam contributions will be used for the Fellows program of the Georgia Bar Foundation.

# What's to Become of the Legal Profession?

by Michael H. Trotter,  
162 pages, CreateSpace  
Independent Publishing Platform

REVIEWED BY DONALD P. BOYLE JR.



**Prophets of doom warn that the attorney terminator is coming, and your job may be headed for Armageddon.** Michael H. Trotter (with whom I practice) surveys the bleak landscape and predicts the survival of human lawyers. This compact book summarizes the changes that have taken place in the practice of law over the past 70 years and what the author expects to happen in the future. His mood is optimism anchored by realism—there will be a role for lawyers in the future, even though the way that they practice is likely to change.

In an early chapter, Trotter lists the changes in the legal profession since 1945: (1) more laws; (2) more lawyers per capita; (3) more law students; (4) higher law school tuition; (5) larger law firms with multiple offices; (6) higher lawyer compensation; (7) limited liability entities and malpractice insurance; (8) advertising; (9) use of hourly rates, which increase ahead of the inflation

rate; (10) tracking of individual performance; (11) more staff and non-equity lawyers; (12) leverage; (13) billing for non-lawyer time; (14) lateral movement of lawyers; (15) specialization; (16) legal databases; (17) in-house law departments; (18) full-time law firm managers; (19) outsourcing of lawyer training; (20) women lawyers; (21) the withdrawal of private-practice lawyers from corporate boards of their clients; (22) computers; (23) standardization of legal education and continuing legal education; and (24) more lawyers working in non-legal positions.

Trotter chooses to focus on seven of these changes as the key developments since the end of World War II:

- The continuing growth and interaction of the economies of the United States and other countries, and of their governments, laws and regulations;

This compact book summarizes the changes that have taken place in the practice of law over the past 70 years and what the author expects to happen in the future.

- A significant reduction of the financial risks of practicing law in large groups;
- The virtual elimination of restraints on the marketing of legal services;
- The acceptability of the lateral movement of lawyers from one law firm to another;
- The pricing of legal services based on hours worked at fixed rates;
- The greatly increased leverage resulting from the expanded use of lawyer employees, and the greatly expanded use of billable non-lawyer personnel to support the delivery of legal services; and
- Advances in technology that have enabled many of the changes that have occurred.

Pressure on law firms comes from several sources. First, even though law school enrollment was down nearly 30 percent in 2015 from its peak of 52,488 first-year students in 2010, law schools continue to push more and more aspiring lawyers into a market with fewer and fewer places for them. Second, the cost of legal services is increasing, due to increased business activity, new laws and regulations, changes in the way that transactions and litigation are managed and increased hourly rates. Third, private law firms face their fiercest competition not from other law firms, but from the in-house law departments of their own clients. Fourth, standardization of discrete legal tasks and disaggregation of tasks allow clients to decrease the amount of work sent to private law firms. Finally, technology continues to change how legal work is done and takes matters out of the hands of private law firms.

Law firms are using a variety of strategies to survive and prevail over these challenges, including providing top-level expert advice; specializing in one or more limited areas of practice; developing a niche as a local or regional firm with diverse capabilities; taking a national or international approach; providing “econ-

omy service;” and practicing as virtual firms with no permanent location and associated real-estate expenses.

Despite all the changes, Trotter writes, there are nine U.S. law firms that he calls “Elite Law Firms,” which enjoy that status by having (1) only equity partners; (2) lockstep compensation or something close to it; (3) no or very few lateral partners; and (4) sustained profitability (as measured by the *American Lawyer* metric of Profits per Partner of \$2 million or more for each of the last six fiscal years). None of these Elite Law Firms has a Georgia office. For the Elite Law Firms, not much is changing (though they presumably benefit from labor-saving technology). Other law firms may try to claw their way into this group in order to survive, but Trotter sees this effort as doomed from the start. No law firm “created in the last 50 years” has found entry into the group of Elite Law Firms. The reputation that the Elite Law Firms enjoy is something separate from what any other law firm can expect for itself, and their special status insulates them from the pressures bearing down on other AmLaw 100 firms.

The changes discussed above are real and destabilizing, but Trotter does not believe that the practice of law will undergo any fundamental transformation. Despite the changes brought by technology, clients still need legal counsel, which is more than mere information. The increased complexity and amount of laws and regulations require someone with judgment to analyze the law, apply it to the client’s facts and give advice. A client may be equipped to look up the law, but still needs help in understanding it. In opposition to professor and author Richard Susskind, Trotter reminds the reader that legal services are not just information services: “The core of legal service is the amalgamation of factual and legal information, analysis, advice and action.” In other words, a client always is better off with someone to provide context and advice based on experience in similar matters and familiarity with the courts and other governing legal bodies. Still, Trotter may underestimate the extent to which *some* aspects

GEORGIA BAR  
**JOURNAL**



## Get Published Earn CLE Credit

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

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

Submit articles to  
Sarah I. Coole  
Director of Communications  
sarahc@gabar.org | 404-527-8791  
104 Marietta St. NW, Suite 100  
Atlanta 30303

of legal business are drying up as clients rely on their own access to legal information and forms.

In the future, the “magnitude and complexity of the law” will continue to increase, requiring more legal counsel to make sense of it. Law firms will continue to develop their own “knowledge management systems” to keep track of legal research and analysis, and this will continue to attract the business of individual and corporate clients, who lack such resources. Efficiency of legal services will further improve through technology. There will be more and more disaggregation of legal tasks. In-house law departments and alternative legal service providers will take a larger and larger chunk of available legal business. Paralegals and other unlicensed support personnel will find an increased role.

Perhaps most controversial of Trotter’s predictions is a restriction on the current easy lateral movements of lawyers. Trotter disputes the view sometimes asserted that Rule 5.6 of the Model Rules of Professional Conduct (enacted in Georgia with slight modifications)<sup>1</sup> allows a lawyer to solicit the work of the current firm’s clients before moving to a new law firm. Trotter interprets Model Rule 5.6 as making no change in a lawyer’s duty to his or her current partnership under principles of agency law. Rather, the Rule gives the lawyer freedom to solicit former clients *after* departing the firm.

Most lawyers know that these rules are often ignored when convenient—both by the departing lawyer and by the receiving firm. After all, a lawyer will be reluctant to make a move without some assurance that the clients will follow. Likewise, the receiving law firm wants to be confident that the new lawyer is bringing in new business. “Lawyer free agency” may be the reality, Trotter admits, but he insists that it is a violation of basic agency law and a cause of destabilization of law firms. He writes that law firms already are starting to protect themselves by adding provisions to their partnership agreements that inflict financial penalties, such as delayed returns of

capital or even refunds of compensation, in the event of an unwanted departure.

In a chapter on dispute resolution, Trotter takes another bold stance by decrying the use of persuasive legal authority from outside the jurisdiction. He believes that this practice inflates the size of legal filings and contributes to delays in decisions by courts. To show that the problem is nothing new, he quotes Roscoe Pound from an address in 1906 that the defects inherent in our system of case law are obvious as a result of its “want of certainty, confusion and incompleteness inherent in all case law . . . and the waste of labor entailed by [its] prodigious bulk.”<sup>2</sup> If such a reform is to come, however, the courts themselves will need to take action by rule.

Another author might have written a book with a similar title and a slightly different focus, which might have been called, “Who’s to Become a Lawyer?” Trotter may be correct that the changes that automation brings will not eliminate the need for most *current* lawyers. Those changes will continue to reduce the need to bring in fresh *new* lawyers, however, to handle mundane tasks such as document review and basic legal research. Just as has occurred in many other industries, existing workers will find that machines make them more productive, and employers will see less need to hire new workers. The fall in law school enrollments is undoubtedly due at least in some degree to these factors.

Trotter takes a glass-half-full approach and emphasizes the new opportunities to come. Some legal positions, such as basic document review, may disappear, but new positions will open up. He gives examples, such as “functional specialists” (business practice analysts and advisors, knowledge managers, librarians, management consultants, operations managers, practice group administrators, pricing specialists, project and dispute resolution coordinators, project managers, research specialists, risk managers and technologists); “pricing specialists” (who can assist clients with the analysis, structuring and pricing of legal service proposals and conduct requests for proposals and auctions);

trainers (who will be needed as training of young associates disappears); and online dispute resolution specialists.

In an epilogue, Trotter expands on the subject of automation of legal services and its effect on legal practice. He maintains that automation of legal services will not replace lawyers, due to four factors: (1) increased national and international economic and political activity; (2) continuing enactment of new statutes and regulations; (3) the unmet need for legal services by large segments of the population; and (4) the inadequacy of automation to manage all aspects of legal services. The last item perhaps is circular—and arguably, whistling in the dark—but the point that he makes is that counseling and analysis involve human factors that (at present) machines cannot replicate. ●



**Donald P. Boyle Jr.**, a member of the *Georgia Bar Journal* Editorial Board and past editor-in-chief, is a litigation partner at Taylor English Duma LLP.

## Endnotes

1. Model Rule 5.6 provides:  
A lawyer shall not participate in offering or making:  
(a) a partnership, shareholders, operating, employment, or other similar type of agreement that restricts the right of a lawyer to practice *after termination of the relationship*, except an agreement concerning benefits upon retirement; or  
(b) an agreement in which a restriction on the lawyer’s right to practice is part of the settlement of a client controversy.  
MODEL RULES OF PROF’L CONDUCT r. 5.6 (AM. BAR ASS’N 2016) (emphasis added); see GA. RULES OF PROF’L CONDUCT r. 5.6.
2. Roscoe Pound, *The Causes of Popular Dissatisfaction with the Administration of Justice*, 29 A.B.A. REP. 395 (1906), reprinted in AMERICAN BAR ASS’N, NATIONAL CONFERENCE ON THE CAUSES OF POPULAR DISSATISFACTION WITH THE ADMINISTRATION OF JUSTICE 3 (1976).

*Note: To verify a course that you do not see listed, please call the CLE Department at 404-527-8710. Also, ICLE seminars only list total CLE hours. For a breakdown, call 678-529-6688. For ICLE seminar locations, please visit [www.iclega.org](http://www.iclega.org).*

**AUGUST**

- 15** ICLE: **August Group Mentoring**  
Atlanta, Savannah and Tifton, Ga. | No CLE
- 17** ICLE: **Construction Law for the General Practitioner**  
Atlanta, Ga. | 6 CLE
- 17** ICLE: **Child Welfare Attorney Training (Fall)**  
Atlanta, Ga. | 7 CLE
- 18** ICLE: **Contract Litigation**  
Atlanta, Ga. | 6 CLE
- 18** ICLE: **School and College Law Seminar**  
Atlanta, Ga. | 6 CLE
- 24** ICLE: **Jury Trials in Divorce, A Lost Art?**  
Atlanta, Ga. | 7 CLE
- 24-27** ICLE: **Tropical Seminar (Fall)**  
San Juan, Puerto Rico | 4 CLE
- 25** ICLE: **Nuts & Bolts of Family Law**  
Savannah, Ga. | 6 CLE
- 29-30** ICLE: **39th Annual RPLI Residential Real Estate Replay**  
Atlanta, Ga. | 12 CLE
- 29-30** ICLE: **39th Annual RPLI Commercial Real Estate Replay**  
Atlanta, Ga. | 12 CLE
- 31** ICLE: **Trial of Leo Frank**  
Atlanta, Ga. | 3 CLE

**SEPTEMBER**

- 1-2** ICLE: **28th Annual Urgent Legal Matters**  
St. Simons Island, Ga. | 12 CLE
- 7** ICLE: **Secrets to a Successful Plaintiff's Personal Injury Practice**  
Atlanta, Ga. | 7 CLE
- 7-9** ICLE: **36th Annual Insurance Law Institute**  
St. Simons Island, Ga. | 12 CLE
- 14** ICLE: **Dram Shop**  
Atlanta, Ga. | 6 CLE
- 14-15** ICLE: **64th Institute for City and County Attorneys**  
Athens, Ga. | 12 CLE
- 15** ICLE: **Social Media and the Law**  
Atlanta, Ga. | 6 CLE
- 15-16** ICLE: **Intellectual Property Institute**  
Amelia Island, Fla. | 10 CLE
- 22** ICLE: **Trying Your Best: Employment Law Goes to Court**  
Atlanta, Ga. | 6 CLE
- 28** ICLE: **Nuts & Bolts of Family Law**  
Atlanta, Ga. | 6 CLE
- 29** ICLE: **Ancient Foundations and Modern Equivalent**  
Atlanta, Ga. | 3 CLE

OCTOBER

- |   |  |
|---|--|
| <p><b>4</b> ICLE: <b>Punitive Damages</b><br/>Atlanta, Ga.   6 CLE</p> <p><b>5</b> ICLE: <b>Class Actions</b><br/>Atlanta, Ga.   6 CLE</p> <p><b>5</b> ICLE: <b>Zoning Law</b><br/>Atlanta, Ga.   6 CLE</p> <p><b>5-7</b> ICLE: <b>Workers' Compensation Law Institute</b><br/>St. Simons Island, Ga.   12 CLE</p> <p><b>5-12</b> ICLE: <b>Survey of the French &amp; Continental Systems of Law and Perspectives on the Great War in Europe</b><br/>Europe   3 CLE</p> <p><b>6</b> ICLE: <b>Premises Liability</b><br/>Atlanta, Ga.   6 CLE</p> <p><b>11</b> ICLE: <b>The Lawyer's Compass</b><br/>Atlanta, Ga.   6 CLE</p> <p><b>13</b> ICLE: <b>Title Standards</b><br/>Atlanta, Ga.   6 CLE</p> <p><b>13</b> ICLE: <b>13th Annual Family Law Seminar</b><br/>Augusta, Ga.   6 CLE</p> | <p><b>17</b> ICLE: <b>Beginning Lawyers Program</b><br/>Statewide Satellite Rebroadcast   6 CLE</p> <p><b>19</b> ICLE: <b>Succeeding in Family Law Hearings and Trials</b><br/>Atlanta, Ga.   6 CLE</p> <p><b>19</b> ICLE: <b>23rd Annual U.S. Supreme Court Update</b><br/>Atlanta, Ga.   6 CLE</p> <p><b>20</b> ICLE: <b>33rd Annual Technology Law Institute</b><br/>Atlanta, Ga.   6 CLE</p> <p><b>20</b> ICLE: <b>24th Annual Securities Litigation</b><br/>Atlanta, Ga.   6 CLE</p> <p><b>20</b> ICLE: <b>Advanced Health Care Law</b><br/>Atlanta, Ga.   6 CLE</p> <p><b>26</b> ICLE: <b>Adult Guardianship</b><br/>Atlanta, Ga.   6 CLE</p> <p><b>26-27</b> ICLE: <b>36th Annual Business Law Institute</b><br/>Atlanta, Ga.   12 CLE</p> <p><b>27</b> ICLE: <b>Trial Advocacy</b><br/>Statewide Satellite Broadcast   6 CLE</p> <p><b>27</b> ICLE: <b>Expert Testimony in Georgia</b><br/>Atlanta, Savannah and Tifton, Ga.   6 CLE</p> |
|---|--|



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

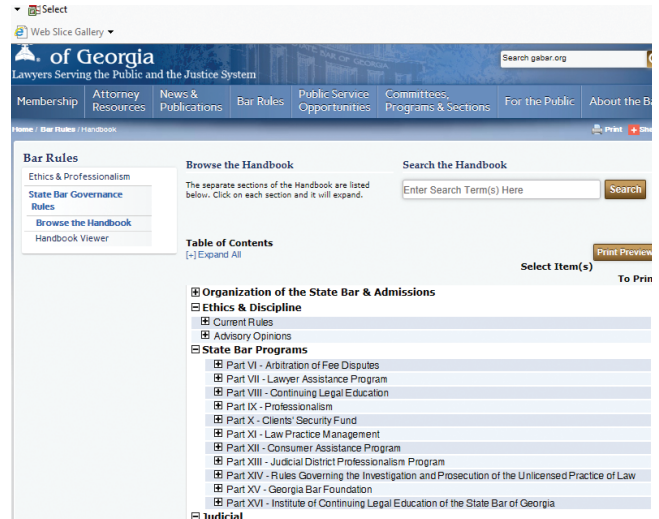
After considering the 2017-1 Motion to Amend the Rules and Regulations for the Organization and Government of the State Bar of Georgia, the Supreme Court of Georgia issued an order effective July 15, 2017, amending the following Rules: Rule 1-501. License Fees; Rule 1-501.1. License Fees-Late Fee; Georgia Rules of Professional Conduct Rule 5.5. Unauthorized Practice of Law; Multijurisdictional Practice of Law; and Rule 4-402. The Formal Advisory Opinion Board. The exact text of the Order can be found on the Supreme Court's website at [http://gasupreme.us/wp-content/uploads/2015/05/ORDER\\_2017\\_1-\\_FINAL.pdf](http://gasupreme.us/wp-content/uploads/2015/05/ORDER_2017_1-_FINAL.pdf).

The amended rules can be found on the State Bar of Georgia website at [www.gabar.org/barrules/handbook.cfm](http://www.gabar.org/barrules/handbook.cfm).

## Notice of and Opportunity for Comment on Amendments to the Rules of the U.S. Court of Appeals for the Eleventh Circuit

Pursuant to 28 U.S.C. § 2071(b), notice and opportunity for comment is hereby given of proposed amendments to the Rules of the U.S. Court of Appeals for the Eleventh Circuit. The public comment period is from August 3 to Sept. 7, 2017.

A copy of the proposed amendments may be obtained on and after August 3, 2017, from the court's website at <http://www.ca11.uscourts.gov/rules/proposed-revisions>. A copy may also be obtained without charge from the Office of the Clerk, U.S. Court of Appeals for the Eleventh Circuit, 56 Forsyth St., N.W., Atlanta, Georgia 30303 (phone: 404-335-6100). Comments on the proposed amendments may be submitted in writing to the Clerk at the above address, or electronically at <http://www.ca11.uscourts.gov/rules/proposed-revisions>, by 5 p.m. Eastern Time on Sept. 7, 2017.

A large, 3D-rendered green maze in the shape of a question mark. A small blue figure of a person is standing at the entrance of the maze. The maze is set against a white background.

**ETHICS DILEMMA?**

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

### Property/Rentals/Office Space

**Sandy Springs Law Building for Sale.** Beautifully furnished 6,579 square foot law building for sale including: two beautiful and spacious conference rooms; law library; two private entrances and reception areas; abundant free parking; two file/work rooms; storage room; break room adjacent to kitchen; security system. This brick law building overlooks a pond and is in a great location directly across the street from the North Springs MARTA Station; easy access to I-285 and GA 400; and close to Perimeter Mall, hotels, restaurants, hospitals, etc. Call 770-396-3200 x24 for more information.

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

**We have two to three offices available** in our suite in Piedmont Center in Buckhead, located in the heart of Atlanta's legal, financial, and real estate community with easy access to 400, I-85, and I-75. 120-190 SF each. Our offices are technology-equipped conference room, Internet, kitchen, and land line access. Parking is free for you and your clients. Rent is \$800-900/mo all-in. Available immediately. 12-24 month commitment period preferred. Contact Mark at admin@capval-llc.com or call or text 678-662-6478.

## Are You Attracting the Right Audience for Your Services?

Advertisers are discovering a fact well known to Georgia lawyers. If you have something to communicate to the lawyers in the state, be sure that it is published in the *Georgia Bar Journal*.

Contact Stephanie Wilson at 404-527-8792 or stephaniew@gabar.org

### Practice Assistance

**Harmon Law, LLC and Sayers Law, LLC**, are boutique firms available for contract work with law firms throughout Georgia. Based in Savannah, we conduct legal research; draft pleadings; manage discovery; and draft simple transactional matters. Contact Heather Harmon at 912-224-1374 or heatherslamenick@yahoo.com and Maria Sayers at 912-844-7279 or mariadsayers@gmail.com.

### Position Wanted

**Managing Attorney—In-town firm seeks experienced attorney** to assist in overseeing the management of cases in litigation. Ideal candidate will have significant experience in civil litigation. Collegial work environment, stable firm, benefits. All replies confidential. Please send resume to: spshns@me.com.

**A free mediation!** Let me show you how delightful mediation can be! I put your clients at ease quickly . . . so we can work this out! Intro offer—up to three hours free. Metro-Atlanta area. Divorce/Family, Personal Injury, Civil, Employment. Debbie Peters 770-368-2076, ak509@bellsouth.net.

**PI Associate Attorney—Personal injury law firm** is seeking a junior associate in the Jacksonville, Fla., area with 0-5 years of PI experience for entry level personal injury position. Energetic self-starters with great written and verbal communication skills are a must. If you are highly motivated to do great lawyering for your clients, aren't afraid to pay your dues and want excellent professional development and earnings potential, then send detailed cover letter (explaining your desire to represent the injured and your willingness to pay your dues) along with resume *and* references to plaintiffpi1@gmail.com. If you are not serious about your legal career and willing to pay your dues, then do not apply.

## Advertiser's Index

- 17 Gilsbar, LLC
- 1 Member Benefits, Inc.
- 39 Mitchell Kaye Valuation
- 67 Norwich Document Laboratory
- 75 Onofre Jusino
- 61 Warren R. Hinds, P.C.



GEORGIA BAR

# JOURNAL

**Get Published**  
**Earn CLE Credit**

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



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



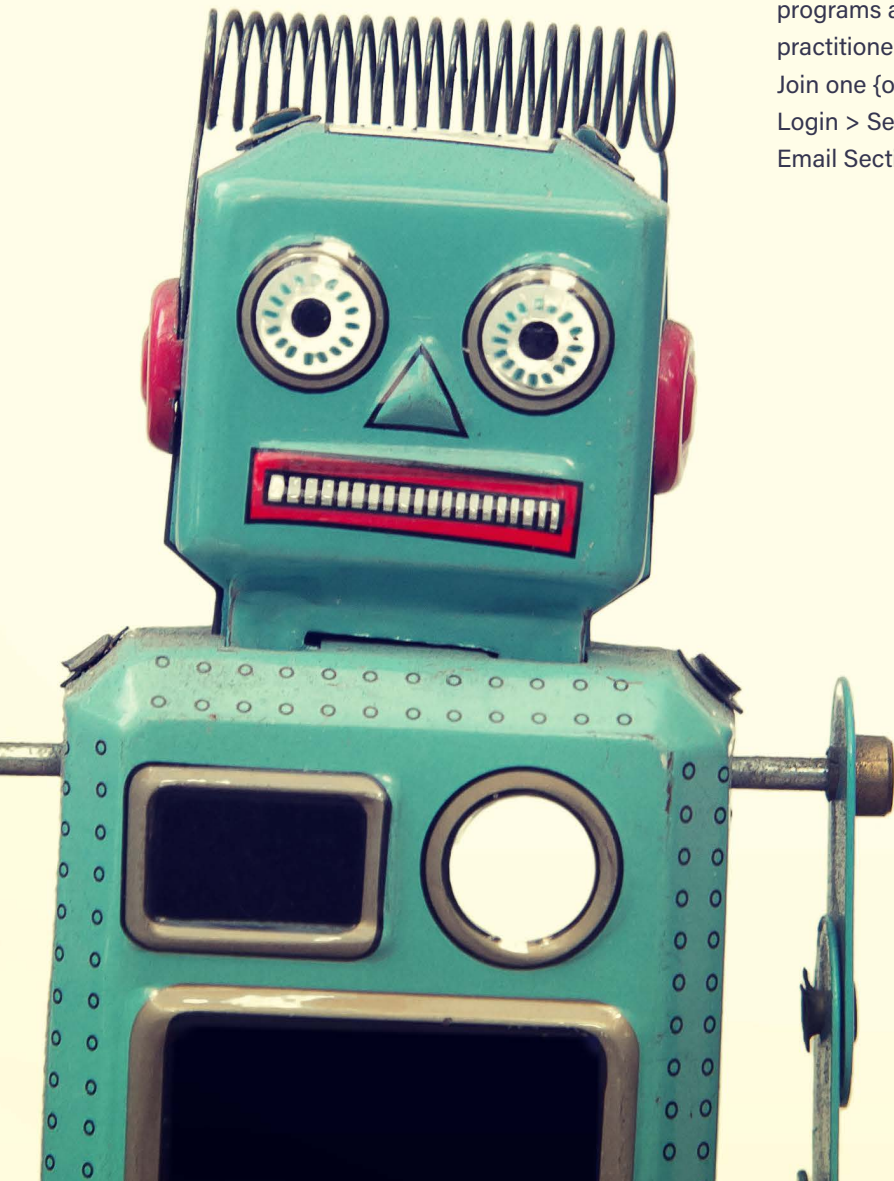
Submit articles to Sarah I. Coole  
Director of Communications  
sarahc@gabar.org | 404-527-8791  
104 Marietta St. NW, Suite 100, Atlanta, GA 30303

---

it's time to

# JOIN A STATE BAR SECTION

The State Bar of Georgia's 49 sections provide newsletters, programs and the chance to exchange ideas with other practitioners. Section dues are very affordable, from \$10-\$35. Join one {or more} today by visiting [www.gabar.org](http://www.gabar.org) > Member Login > Section Membership > Join Sections. Questions? Email Section Liaison Derrick Stanley at [derricks@gabar.org](mailto:derricks@gabar.org).



**NEW SECTION! JOIN NOW!**

## BIKE LAW

The Bike Law Section will study, review and/or initiate proposed law, policy or legislation promoting and protecting cycling and cyclists, and provide information regarding the unique legal aspects and application of legal principles common to cycling and cycling advocacy.