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State Bar of Georgia Young Lawyers Division

THE YLD REVIEW

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Working for the Profession and the Public

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From the President

Leaving on a Good Note With Notorious R.B.G.



**Rizza
O'Connor**

Before jumping into the title subject of this piece, I want to note that this is my final newsletter article as YLD president, and I would like to commit a few words to a brief reflection of my time in YLD leadership. On the evening of Dec. 20, 2014, I got a text from then-YLD President Sharri Edenfield that said, "Why don't you run for YLD secretary?" This was a loaded question because there was a lot to consider. If I were to win as secretary and then move into the traditional roles leading up to president, the path would necessitate a five-year commitment to the YLD. I am certainly glad that I said yes. As an organization of about 10,000 members, the YLD has been the ultimate platform to be able to make a difference in our profession and communities. I am proud of the work we have done. This year we raised almost \$40,000 in our Signature Fundraiser to benefit Lawyers for Equal Justice. We have participated in more than 50 lunch-and-learn sessions, CLEs, panel discussions

and programs to help young lawyers grow their skills and knowledge in their respective practice areas. We have raised money for the homeless, cooked and supplied food to the Ronald McDonald House, and have assisted cancer patients and public servants in the creation of free wills and estate documents. This is a small sample of what the YLD has done this year. Thank you to the YLD committee chairs and YLD Board of Directors for their hard work in making this a productive year.

When I became secretary, my son Judson was a little more than one year old, and my daughter Evie was a year away from being born. Using my children as a yardstick for reference, Judson is now five, and Evie is three. As a mom, magistrate and YLD president, it has been challenging to balance all the responsibilities that come with these wonderful roles. I have learned, perhaps the hard way, to work around the clock and multitask. Despite the hard work and struggles to balance it all, it has been worth it to lead such a dynamic organization that is committed to promoting the personal and professional growth of young lawyers while also striving to serve the public and our communities.



PHOTOS COURTESY OF RIZZA O'CONNOR

Judson O'Connor in 2015.



The O'Connor Family in 2018.

I doubt that there is an iconic lawyer that knows more about juggling professional and family life than Justice Ruth Bader Ginsburg of the U.S. Supreme Court, affectionately known by some as “Notorious R.B.G.” During my last YLD meeting as president this past April, the YLD had the incredible experience of meeting Justice Ruth Bader Ginsburg, along with Justice Clarence Thomas and Justice Brett Kavanaugh, after being sworn in to the U.S. Supreme Court at the conclusion of the YLD Spring Meeting in Washington, D.C. As I reflect on our time at the Supreme Court with a few of its justices, I cannot help but share some lessons that we as lawyers could learn from Justice Ginsburg.

Stay Motivated

Justice Ginsburg was one of nine women admitted to Harvard Law School in the fall of 1956. The dean of the Harvard Law School hosted the nine women for dinner one evening and asked them to take turns around the room explaining their justification for taking a spot in the class from a male candidate. She later transferred to Columbia Law School, where she graduated first in her class. Even then she had trouble finding a federal clerkship. She ended up getting a clerkship from a lower-ranking district court judge, but only because one of her mentors threatened to stop sending clerks his way if he did not give her the

► SEE R.B.G., PAGE 6

From the Editors

That’s a Wrap



**Audrey
Bergeson**



**Baylie
Fry**

We cannot believe how quickly this Bar year has flown by. We want to thank you all for your contributions to *The YLD Review* this year. Our goal as editors was to spotlight the amazing talents and insights of Georgia’s young lawyers, and we could not have done that without you. We hope that our readers have found value in learning from their peers on topics ranging from insights from the bench to professional development to practical life advice.

We also want to thank our fearless YLD President Rizza O’Connor for her contributions and dedication to the YLD and *The YLD Review*. We are humbled and honored to have been a part of her YLD legacy, and wish her continued success throughout her career and involvement in the State Bar of Georgia.

We also welcome and congratulate incoming YLD President Will Davis and wish him great success in the 2019-20 Bar year. We are excited to see all the great things he has in store.

As we look to the next Bar year, we hope that you will continue to remain active and involved in the many committees and organizations that the State Bar has to offer, and if you are a new Bar member, we hope that you will join us at future events. If you don’t know where to start or how to continue your involvement, please reach out to one of your YLD officers or committee chairs, and let them know of your interests. There are so many ways to contribute and be active in the YLD, and there is a space and a place for everyone.

So for now, we are signing off. Thank you again for a great year, and we hope to see you around the YLD very soon! YLD

#ProTips: Millennial Energy Lawyer’s Perspective on Professional Development



**Josh
Combs**

What kind of attorney are you? Are you a transactional or litigation attorney? Those two questions replay in my head regularly. I only recently perfected a 30-second elevator response that does not result in the questioner immediately falling asleep or running for cover. The truth is I do litigation-like things and transactional-like things. Specifically, I advise clients in the energy industry on any regulatory-litigation or regulatory issue that they face and I assist clients in navigating challenging, dynamic issues to stay current and compliant.

During my first year as an energy associate in BigLaw, I struggled with developing my own roadmap for professional development and personal growth. Simply put, most attorney development frameworks do not reflect the realities of my practice. In fact, most other lawyers are unfamiliar

with what my practice entails—our work falls outside the traditional transactional and litigation classifications. With shifting client demands and expectations, technology and other external factors, millennial attorneys must employ innovative and creative professional development strategies for success. This is especially true for regulatory attorneys, as the web of industry-specific laws and regulations is constantly changing.

This column offers a few takeaways and comments (#ProTips?) from my first three and a half years of practice. Hopefully, my perspective helps other young regulatory lawyers or lawyers in hybrid practices with development roadmaps that reflect the realities of their respective practices.

Be Humble, Dig in Early

Every lawyer strives to anticipate client needs (or ought to) and offer exceptional, practical, and accurate legal advice. In my experience, young energy lawyers face a few

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Adulting 101

Hey. You. Step Away From the Desk and Go Sweat.



**Zack
Howard**

Hello there, friends. If you're reading this, chances are you are either a lawyer or know someone who is. And, chances are, you know that lawyers tend to spend a lot of time sitting at a desk, looking at a computer screen, typing, reading, writing, corresponding, reviewing discovery, editing documents and a million other things that may require a ton of *mental* energy, but definitely would not qualify as *physically taxing* under even the most liberal definition. I don't claim to be particularly talented at "adulting" or even exercising, but I do happen to know that a big part of being an adult is taking care of yourself. And taking care of yourself means taking care of *all* of yourself, including your body.

One thing that's great about taking care of your body is that by doing so, you actually help take care of the rest of yourself as well, which can come in handy at your (or your friend's/loved one's) fancy lawyer job. Without going in to *all* of the many benefits of exercise, keep in mind the ways that exercise can help you at work:

No More Stress Ever!

Exercise has been shown to improve mood and decrease feelings of depression, anxiety and stress regardless of intensity and even over short periods.

Infinite Energy Always

Exercise has a positive impact on energy levels and can decrease fatigue.

Unmatched Wit and Intellect

Exercise aids in brain health, memory and mental function by increasing blood flow to the brain.

Incomprehensible Sleep Quality and Relaxation Powers

Regular exercise of any kind improves sleep quality and your ability to relax.



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What lawyer do you know that *couldn't* use less stress, more energy, improved memory and better sleep?² Given the well-documented benefits to exercise, why is it that more of us don't get out there and get active or do so more often? Let's go through some of the most common *excuses* reasons and figure out why they are all stupid and shouldn't stop you:

1 I'm too busy.

Look, I get it. According to a study I just made up but I'm pretty sure is close to being statistically accurate, 108 percent of lawyers are too busy to do any of the things. Time management is something that I could write a whole other article on, but suffice it to say that the benefits of exercise more than outweigh the time sacrifices you have to make to accommodate it in your schedule. Keep in mind that you do not have to work out an hour a day in order to see improvement in your physical and mental health. If you aren't exercising at all right now but can block out 15 minutes three times a week, that is already an infinite³ improvement. Moreover, because of the benefits discussed above, you can recoup much of the "lost time" created by exercising and may even find that you are *more* efficient. I can

tell you without hesitation that I am more productive on days after I exercise than I am on days after I watch three hours of "The Office" (that I've already seen twice, what is wrong with me) on Netflix.

2 It's too inconvenient.

Just because you don't have a gym next to your house doesn't mean you can't work out. It is really incredible what kind of workout you can get in with absolutely no equipment and very little space. If you've never tried to do a burpee, go Google it right now, do 10 of them and tell me you aren't already out of breath. They are a soul-crushingly good workout and require absolutely no equipment and roughly as much space to complete as a mattress. If you live in a larger city in Georgia, you probably have better access to classes, gyms and other in-person fitness resources, but for those of you in more rural areas, I guarantee there are still plenty of roads, sidewalks and places-where-you-can-buy-a-yoga-mat to accommodate your fitness needs in a manner that's close to your home or office. Also, it's now easy to get access to fitness classes on demand through your mobile device through YouTube, Fitbit and even services that make dedicated hard-

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Judicial Spotlight

Judge John S. Morgan, State Court of Cobb County



**Henry
Brewer**

I want to take a moment to introduce you to Judge John S. Morgan of the State Court of Cobb County. Morgan, after graduating from Mercer Law, worked in private practice in St. Petersburg, Florida, for two years. He then moved to Cobb County and transitioned to the Solicitor's Office, where he was the first prosecutor assigned to Judge Irma Glover. With that valuable experience in hand, he took the leap back into private practice for the next 20 years. His practice consisted primarily of criminal defense and civil litigation. When Judge Glover announced her retirement, he seized the opportunity to run for her seat, coming full circle to when he started practicing in Georgia. Morgan was elected to the State Court of Cobb County in 2016.

So, you are a relatively new judge that has made the transition from private practice. How has your jump to the bench changed your perspective on the law?

I would say that my perspective of the law has not really changed. What has changed, and what I find interesting, is that my application of the law to a set of facts or circumstances has changed. I am no longer a zealous advocate for the state or the defense in criminal cases. I am no longer an advocate for the plaintiff or the defense in civil litigation. This is something that is new to me after 30 years of practice.

When I ran for office in 2016, I remember being approached by a number of fellow attorneys who would inquire as to whether I felt I would be inclined in my rulings to be pro-prosecution or pro-defense, or in civil cases if I would lean towards the plaintiff or the defense, or whether I would be a conservative judge or perhaps more liberal in my rulings.

The truth of the matter is that my interest is no longer to be a zealous advocate for one position or another, but to simply try to get it right. Whether my ruling is going to be construed as conservative or liberal is not my concern. My primary concern is to attempt to correctly apply statutory law and legal precedent to the facts before me. Sometimes this is an easy task, but often it is a very difficult task and the correct application of the law to a given set of circumstances can be very challenging.

What are your pet peeves when litigants come before you?

Let me start off by saying that all judges are different, and what holds true in one jurisdiction may be different in another. But, there are a few things that frustrate me as judge that I perhaps did not appreciate as much when I was in private practice.

In Cobb County once a pre-trial order has been submitted, either of the parties may stipulate the case be moved to a trial calendar. It can be frustrating to walk into a courtroom on the morning of trial to find that the pertinent parties are really not prepared for trial. As a judge, I am keenly aware that we may have 30 or so jurors who have taken the day off from work to fulfill their civic duty for jury service. My goal is to utilize their time as efficiently as possible. The morning of trial, while jurors are waiting, is not the time to resolve lengthy or complex motions. Nor is it the time to announce to the court that the parties have failed to reach an agreement on designations regarding what portions of a deposition will be read to a jury and that the parties require the assistance of the court to resolve these issues before striking a jury.

We have a standing order that we attach to our pre-trial orders in an attempt to preclude delays, but obviously the court cannot anticipate every contingency. If an attorney has an issue that is going to require some time to resolve, he or she should contact the court to set up a motions date or



Judge John S. Morgan

hearing date to resolve these matters well before trial. We are more than happy to accommodate such instances with adequate notice. Please do not wait until the morning of the trial.

My advice to young lawyers would be use the knowledge of the court's staff to avoid the ire of a judge. If you have never been before a particular judge, call the staff attorney or administrative assistant to figure out how the judge likes things done or what their procedure is on a certain issue. That minimal extra work could pay off dividends down the road.

How do you handle a difficult case before you where you think your opinion will be appealed?

I try to approach all of my cases in the same way. I am cognizant, however, in some instances there is a high probability of an appeal. In those cases, I try to conduct due diligence and look for guidance from as much legal precedent as I can find. I will also often try to make my order a little longer in an attempt to let the parties, as well as the appellate court, gain a better understanding of my rationale behind my

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PHOTO COURTESY OF U.S. SUPREME COURT

Members of the YLD were fortunate enough to meet Notorious R.B.G., and also Georgia native Justice Clarence Thomas, on their visit to the U.S. Supreme Court during the YLD Spring Meeting in April.

position. Despite these challenges, Justice Ginsburg continued to follow her passion. She did not let obstacles stop her ambition. As young lawyers, we will face challenges in our careers, but if we persist toward our goals, we can find success.

Build a Strong Support System

Justice Ginsburg and her husband, Marty, met at Harvard College. They shared a beautiful partnership where their relationship allowed them both to thrive. While Marty was trying to make partner in his firm, Justice Ginsburg took on most of the housework and child rearing. Later when Justice Ginsburg's career was taking off, it was Marty who picked up the responsibility of the home.

In addition to her husband, Justice Ginsburg had close friends like Justice Sandra Day O'Connor and Justice Antonin Scalia, even though they often disagreed in matters before the Court. The Ginsburg family even took vacations with the Scalia family. Justice Ginsburg clearly knew the value of people in her life who could provide help and support. As young lawyers, it is important to have a support system to help take some stress away when you feel overwhelmed. Supportive friends and family will keep you encouraged and balanced.

Learn How to Balance Your Commitments

Justice Ginsburg entered law school when her first child, Jane, was 14 months old. She went to school from 8:30 a.m. to 4 p.m., and then spent much, if not most, of the rest of the day with her child and husband. Balanc-

ing school or work and other commitments can seem impossible, but Justice Ginsburg's success makes it apparent that she had time management figured out. As lawyers, the time management skills demonstrated by Justice Ginsburg, to some degree at least, are necessary to living a balanced, healthy life. Your work is essential, but so are your relationships and your physical, emotional and mental well-being. Find ways each day to carve out time to recharge and do things that you enjoy. Giving yourself a mental break will help you be more productive and motivated when you do go back to work.

These three lessons from Justice Ginsburg's life can help us as lawyers at any stage in our careers. One way to live out these lessons, among many, could be to become active in the YLD. The YLD's professional programs are a great encouragement to help you continually improve and sharpen your legal skills, while having fun and building relationships with your peers. While you are at the YLD's professional programming, you will meet people who have common interests with you. One of my favorite things that I have gained from the YLD is the number of relationships that I have built with lawyers from all over the state. Some of these relationships have led to strong support systems. Lastly, YLD events are fun. Each event will give you an opportunity to unplug and unwind with your fellow colleagues, contributing to that balance that all of us desperately need.

If you have not been to a YLD event yet, I highly encourage you to plan on doing so during this upcoming Bar year. I am excited for the YLD next year under the leadership of 2019-20 President Will Davis, and I know that the YLD will continue to soar. YLD



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Secrets to a Successful Cross-Examination



**LaKeisha
Randall**

Most trial attorneys would agree that cross-examination is the heart of trial. This advocacy tool allows you to undermine the credibility of witnesses, build your theory, and capture the hearts and minds of jurors. It has been said that, it does not matter what the witness says, it only matters what the jury believes. Here are four secrets to a successful cross-examination:

1 Begin powerfully and end unforgettably.

With language, the words you use and their placement matter—create an outline that captivates the jury’s attention in the order you orchestrate. Begin powerfully and end memorably.

Before your first word of cross-examination, jurors have already begun forming their impressions of the witness (and the case) during direct examination. To undermine your opponent and bolster your position, begin powerfully. The drama of switching from one attorney to the other creates a unique suspense; harness it.

At the outset of your examination, you have the jury’s foremost attention so address your strongest points first and continue the sequence in order of importance. The structuring of your cross-examination matters as much as the veracity of the witness.

Following the proven theories of primacy and recency, end your cross-examination with an admission central to your case or with a response aligned with your theory or theme.

2 Use simple, leading questions.

The structure of your questions should be simple—a good rule of thumb is to only include one new fact per question. Your goal is to persuade the jurors and arm them with



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the information needed to decide in your favor. In doing so, remember to choose language that is easy for the jurors to follow. The use of plain language also reduces the witness’ ability to say he or she does not understand your question.

3 Never lose control of your witness.

Using leading questions reduces the risk of losing control of your witness. Remember, this is your examination. Asking open-ended questions is the most common way to lose control of the witness and undermine your credibility.

If the witness is hostile and begins to quarrel with you, do not mirror this behavior. It is important to remain mindful of the power dynamics that could be perceived by the jury between a layperson and a lawyer—maintain control of the witness with professionalism.

4 A good cross-examination begins at deposition.

Impeachment with a prior inconsistent statement begins, of course, with a prior

statement. Witness statements can be sorted into three basic categories: (1) statements made under oath with a transcript (such as a deposition, grand jury proceeding or pre-trial hearing); (2) statements made under oath without a transcript (such as an affidavit); and (3) everything else (such as a statement to a police officer or investigator). By far the most common way that witnesses are impeached in a civil case is by confronting them with the transcript of their deposition.

If you’ve noticed inconsistencies in the initial investigation, pleadings or written discovery, prepare deposition questions that include a series of questions related to the area of inquiry. During the deposition, make sure you get a clean and concise series of questions and answers that can be used during your cross-examination at the trial.

At trial, use the “3Cs” technique for the cross-examination:

1. Commit the witness to their current testimony;
2. Credit the prior statement; and
3. Confront the witness with the inconsistent statement. YLD

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extra hurdles in achieving those important development objectives.

Learn to Talk the Talk

I quickly learned the importance of becoming comfortable with highly technical issues and concepts. We collaborate closely with engineers, regulatory accountants, financial analysts and other non-attorney experts and professionals on a regular basis so I needed to understand their world and appreciate their thought processes. Accordingly, I immersed myself into the industry and culture to deepen my understanding of the commercial and operational factors driving our client's business. I established daily alerts on key clients and subscribed to every energy/utility trade publication possible. I monitored legislation, regulatory proposals and proceedings, and industry conferences. Through these efforts, I began, on my own accord, sending internal team updates on major issues or industry developments. The benefit of this was threefold: (1) I confronted the learning curve head-on; (2) I stayed current on the constantly ever-evolving landscape of the industry and regulatory environment; and (3) collectively, this regularly resulted in more work and expanded my opportunities as a young lawyer.

Embrace What You Don't Know

In addition to the industry learning curve, young energy lawyers must master the complex and overlapping federal and state frameworks governing energy regulation. What did this mean for me? I had to humble myself. I spent nights and weekends (on my own time) working to understand the federal statutory and regulatory framework governing energy regulation. Although my practice primarily involves state energy regulation, it was important to understand and appreciate the overarching background and broad regulatory regime before diving into the specific state environments in which our clients operate.

Intentional and Creative Learning Plan

In order to gain the core skills crucial for regulatory practices, young lawyers must craft learning plans in an intentional and



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creative fashion. Most CLE curriculum and other attorney training emphasizes foundational skills for litigation or transactional lawyers. Although some of those skills apply to regulatory and other hybrid practices, energy lawyers must pursue more targeted learning options in the early stages of their career. To do this, I researched and vetted a variety of industry-specific trainings and workshops that could potentially qualify for CLE course credit—I often had to separately apply for seminar and workshop credit. For example, I attended a week-long intensive utility rate school training during my third year of practice. The platform offered a concise and comprehensive introduction to public utility accounting concepts, financing, pricing and rate setting through a hypothetical utility rate case. This program attracts hundreds of regulators, policymakers, regulatory accountants, auditors, economists and financial analysts from around the nation—lawyers represented a small fraction of the program participants. Not only did I learn alongside stakeholders likely to participate in the administrative proceedings that we participate in, but I was also able to connect with key industry professionals and decision-makers, which could potentially generate future business and opportunities for my practice group.

I gained invaluable experience through this program, and it was an essential com-

ponent of my professional development and growth. And the icing on the cake was that the bar ultimately approved several CLE credits for the course.

Observe, Absorb and Apply

After becoming comfortable with the highly technical concepts and complex regulatory frameworks governing energy regulation, I began keenly observing the ways in which key partners interact with our clients including how they discuss issues, assess risk, and develop regulatory and legal strategy. No law school or workshop can teach these skills.

As with all development, this is an ongoing process. Importantly, we never offer advice or regulatory solutions in isolation. Our clients make many decisions that involve the intersection of politics and business, both public and private. Unique considerations and factors drive the decision-making process for businesses affected with a deep public interest like many clients that we represent. Steve Hewitson, a Troutman Sanders partner in the Energy Section and also the firm's professional development partner, explained that "we are not counsel for a particular lawsuit or transaction. As regulatory attorneys, we must understand how issues and decisions impact the overall regulatory environment, as well as our clients' business and operational goals." ^{YLD}

More Than Legal Advice: The Importance of Pro Bono Work



**Katy
Appleby**

I just received a phone call from a pro bono client. I am assisting him in getting a legal name change. I unfortunately had to deliver some bad news about his case. I was anticipating him to be angry or upset; I expected him to be frustrated with me and about the legal process. Instead he said, “Thank you for everything you are doing for me, I couldn’t do this without you. I know I would have already given up without your help.” This kind affirmation, even after a setback, encapsulates the reason pro bono work is so rewarding and important.

The legal system is inherently oppressive, and honestly, it’s scary. Even for us. Think about it, before law school had the “\$” symbol really crossed your mind, let alone to know what it meant. One of the many things I value about my pro bono opportunities is the ability to help others navigate the legal system. What I didn’t realize is how often that role doesn’t necessarily take “legal expertise.” Often it’s just getting the client to the starting line and giving them the resources to take advantage of the legal process. A bulk of my pro bono experiences are adult name changes. Through these cases I assist individuals in getting the court to recognize the name my client truly identifies with, not the name they were given at birth. In Georgia, the name change process requires the petitioner to file a name change petition in court (scary, how do I do that, what’s a case caption?), go through a publication process (what does it mean to publish in a legal organ of the county? What even is a legal organ?), and then finally appear in front of a judge for a hearing (I have to go in front of the judge?). On the scale of governmental red tape, this process doesn’t seem incredibly arduous. However, what I have found is that the



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clients are so overwhelmed by the process that they don’t even start. The clients ask me questions like the ones previously presented, and they aren’t wrong to be confused. Seriously what is a legal organ? Practically speaking, however, this paralysis to begin the process means that these clients are continuing to live in a world where their legal name doesn’t reflect who they truly are. And that is why I think taking these pro bono cases is so important. In taking on these cases, I am not signing up to be the next great legal mind writing the brief that makes the critical argument for a Supreme Court case; I am signing up to be a resource to a very real person, who really needs my help just in navigating the legal system.

I have had the opportunity to get involved in pro bono work with Atlanta Legal Aid. Legal Aid has pro bono projects in just about every area of the law. They do everything from name changes to estate planning and educational/disability services. Each case I’ve taken, I have felt appropriately trained and supported. The attorneys and staff at Legal Aid are incredibly knowledgeable and helpful. They want you to have a great pro

bono experience so that you will continue to take pro bono cases. I have always really appreciated that the opportunities from Legal Aid are typically very discrete. Agreeing to take on a matter does not obligate you to be wrapped up in the matter for several months or years, it is typically 30 hours or less (and usually less). And lastly, it just feels good. The practice of law can often be draining, it can be adversarial, but these cases are a great opportunity to remember that our profession can be incredibly rewarding. Legal Aid recently launched a new pro bono website, www.legalaidprobono.org, where you can check out which pro bono opportunities are available, learn more about the organization and their projects as well as what training materials are available. I encourage all of my colleagues to check it out, and if Atlanta Legal Aid doesn’t have a project that sounds interesting, to check out one of the other amazing pro bono organizations serving the metro Atlanta area. I am grateful to have gotten the opportunity to grow and develop as an attorney through my pro bono experiences, but more so I am grateful to have been given the opportunity to help clients and truly make a difference in their lives. YLD

► SWEAT, FROM PAGE 4

ware like Peloton and NordicTrack, if you can afford that.

3 I don't like exercising.

One great thing about exercising is there's no *right* way to do it. Your friends and family may be really into a certain kind of exercising but you may absolutely hate it. That doesn't mean that they're right and you're wrong.⁴ My wife⁵ started going to Orangetheory Fitness classes recently and immediately got hooked. In the meantime, I was using the home gym at our condo complex and completely baffled by why she would spend money on those classes when we were already paying for a gym that was *attached to our condo building*. But then she convinced me to come out for a free trial class and, well, guess who is now eating his words and going to classes every other day?⁶ The key is to try out different things until you find something you like. Maybe organized sports is the thing for you competitive types. Perhaps running long distance if you want to get away and do your own thing. Maybe boxing if you're a litigator and have previously only *dreamed* of literally punching your opponent in the face? Get out there and try some things and you just might find something that you actually enjoy (and stops you from punching other lawyers).

4 It's too expensive.

It's 100 percent true that some exercise solutions can be obnoxiously expensive. That can be a real impediment to certain fitness programs that require in-person classes or equipment. I'm a state employee, so this concern is near and dear to my heart. My advice here is similar to advice I've given above. We are in a golden age of choice for exercising options. There are *hundreds* if not thousands of options for achieving your fitness goals that require little or no money. There are even some that pay you! For example, I referee youth soccer on the weekends, which not only is a great cardio workout, but also earns me a paycheck.⁷ If the only thing stopping you from getting active is the cost, just broaden your horizons a little; this is one of the few times where "you get what you pay for" doesn't

necessarily apply, because in this case, you don't have to pay anything to get some pretty incredible benefits.

5 It's overwhelming/embarrassing being the new person.

It can absolutely be very overwhelming trying to take on a new exercise program or just generally improve your fitness regimen. I think there are two keys to overcoming this obstacle. The first is to establish concrete and manageable goals for yourself. Scientists have used science in a very sciency way (with beakers and schematics) to determine that goal-setting is incredibly helpful to improving fitness.⁸ The best goals are those that are specific, attainable, measurable and with a specific deadline. For instance, if today you're capable of doing 10 pushups without stopping, make your goal to increase that number to 15 in four weeks. If you can run a 5K in 40 minutes, try to take that down by a minute every month. Having a specific goal to attain will make you more likely to put in the work to attain that goal. Second, remember that your toughest critic is *you*, not the people around you. I used to be self-conscious going to the gym until I thought about the fact that when I'm at the gym, I'm generally only paying attention to myself and accomplishing my own goals. People around you should be supportive of you regardless of your current fitness level, and if you find yourself in an environment where you feel like that's not the case, then (a) that is their problem, not yours, and (b) I encourage you to find a community of people that *are* supportive. I guarantee you that they are out there.

For those of you still on the fence about this whole "sweating" thing, keep in mind that the State Bar of Georgia *and* the YLD have a great number of resources devoted to lawyer wellness, which includes physical health. The State Bar's Lawyers Living Well program offers numerous resources and discounts relating to physical health programs and products, all of which are available at www.lawyerslivingwell.com. The YLD also has two dedicated Directors of Health and Wellness, the dynamic duo of Matt and Michelle Gettinger, who have and are con-

tinuing to incorporate health and wellness events at every YLD meeting, including a yoga session, a 5K and even a kickball competition. So if you're able to come out to a YLD meeting, there's no excuse for not staying active.

I hope that this article encourages at least one of you out there to act like an adult should and take care of the only body you're ever going to get. While it can be difficult to motivate yourself, the benefits immensely outweigh the costs. Now seriously. *Step away from the desk and go sweat.* YLD

Endnotes

1. These titles may contain slight hyperbole.
2. Also where does that lawyer work? Are they hiring? Asking for a friend.
3. Not hyperbole. Fifteen minutes divided by zero minutes is infinity!
4. Of course you're not wrong—you're a lawyer.
5. Side note about my wife: she is a two-time cancer survivor who has undergone chemotherapy, radiation treatment, numerous surgeries *and* has to put up with me. She is also a litigator at a firm in Atlanta that often requires long hours of work. Despite all that—and due in no small part to the incredible benefits I talked about at the beginning of this article—she still finds the time to work out more than me pretty much every week. She inspires me to keep at it, and I hope that if she can do it, you can too!
6. Hint: it's me.
7. It also earns me the privilege of being yelled at by infuriated soccer parents who could "SEE THAT OFFSIDES FROM A MILE AWAY," which is something that money really can't buy.
8. "Goal Setting to Promote a Health Lifestyle," by Raheem J. Paxton, Wendell C. Taylor, Gina Evans Hudnall and Juliette Christie, at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3904755/>.

► JUDGE, FROM PAGE 5

rulings. In the end, I must try to do the best that I can knowing and understanding that no judge is infallible. From time to time I know that I might get it wrong. I just have to continue to exercise due diligence in an attempt to reach the correct legal conclusion as often as possible.

A practice tip for young lawyers: whether its civil or criminal, do good work in your briefs. Put your best case forward at the trial court level and preserve those appellate issues.

What are your thoughts on social media and the law?

Social media as it relates to judges does present its challenges. The rules governing social media differ widely from state to state. The reality is that judges in Georgia are by and large elected officials. As candidates for public office, we cannot live in a vacuum. In Georgia, while there is no prohibition against a judge participating in social media platforms such as Facebook, a judge should nevertheless be cognizant of the judicial canons and those rules governing or touching upon social media. As always, judges should attempt to avoid any appearances of impropriety or engagements in any social media activities that undermine the integrity of the office or compromise the public's trust in the neutrality of the office of a judge.

In terms of practice, I think social media is here to stay and will continue to have an interplay with the law. People post a lot of things online—some good and some not so good. Young lawyers are tech savvy and would be wise to counsel their clients accordingly on the risks of posting certain information online.

Have you seen any helpful trial tactics in your courtroom by litigators?

At the risk of offending some of the truly great litigators out there that may not agree with me, here are just a couple of things that I have seen that do not typically work and some that work really well.

First, you must believe in your case or, at the very least, pretend that you believe in your case. If you don't believe in your case, you will never convince a jury to believe in it.

Next, do what works for you. Don't imitate what others do. It will come off as unoriginal.

Finally, know your audience. Juries understand where you are going with your witnesses. If you're a plaintiff's attorney in a soft tissue, personal injury case, and you have six witnesses all saying the same thing about how the plaintiff just isn't the same after the accident, you might find that cumulative testimony making the jury fall asleep. If not, a three-hour long deposition video certainly will. Be intentional and smart with your time and the juries. Ask compelling questions that will elicit good testimony; that will go a long way with them.

What do you make of email communication with opposing counsel?

As an attorney emailing opposing counsel in a case, I would always suggest maintaining a level of professionalism. One should always assume that at some point, whatever they are writing could be reviewed by a judge or, in some rare instances, by a jury. Judges and jurors do not respond well to a lack of professionalism. Do not compose condescending, sarcastic or unprofessional letters to opposing counsel in order to copy your client in an attempt to impress them.

With regard to correspondences with the court through my staff attorney, I am fine with them as long as opposing counsel is copied on the email. Such correspondences should be limited to scheduling issues and other issues not involving the merits of the case. State Court is a court of record, so I would prefer that matters of a more complex nature be addressed in open court.

For all the young lawyers out there that have aspirations of one day donning the black robe, what advice would you give them to realize that dream?

Obviously, I would suggest that they garner as much experience as they can both in and out of the courtroom. Whether they are planning on running for office or seeking an appointment, they should practice as often as they can before the court in which they seek office. A good friend of mine once said,

"The first time an attorney enters a courtroom it should not be as the judge."

Whether you are a litigator in civil cases or criminal cases representing the state, the defense or the plaintiff, try to get as much exposure in the courtroom in the jurisdiction in which you may one day seek to become a judge. I would also strongly suggest becoming active in the community as well.

Even if you are appointed to the position, odds are that you will one day have to seek re-election. The attorneys and the people of the community need to know who you are before they will elect you to office.

I would also suggest reaching out to some of the municipal court judges or magistrate court judges to see if you could obtain a part-time position, which will offer judicial experience and a better understanding as to whether or not you really want to become a judge.

Any other practice tips for young lawyers?

Don't be afraid to ask for help. Whether you reach out to a colleague who has expertise in a certain area of the law or an older, wiser attorney, never be hesitant to seek advice. When I first began practicing personal injury, I would regularly take older more experienced attorneys to lunch and ask them questions about my cases or glean some insight as to trial tactics. If you are a plaintiff's attorney doing personal injury work, don't hesitate to seek out the advice of experienced insurance defense litigators. Ask about the more common mistakes they see committed by plaintiff's attorneys or what pitfalls to avoid. If your area of practice is criminal defense, talk to some veteran criminal defense attorneys as well as to assistant district attorneys. Even if the person you are talking to is usually on the opposing side of your issues, you will find that most veteran attorneys are professionals and that they are more than willing to offer sound advice to young lawyers who are brave enough to ask. YLD

Stress in the Practice of Law: Are There Any Solutions?



**Lynn
Garson**

For young lawyers, the stress of practicing law is particularly severe. You have recently come out of law school, may not know your craft as a day to day practice very well yet, perhaps carry large debt and also had or continue to have a difficult time finding a job. A recent study has found that the time when a lawyer is most at risk for issues of depression, anxiety, high stress and other struggles is during the first 10 years of practice.¹ In other words, if you are struggling emotionally as a young lawyer, it is normal and your feelings are shared by many of your colleagues. You are not alone.

What causes stress for lawyers? Many things, but the biggest culprit is the trap of perfectionism. Are you like I used to be, thinking that perfectionism is what makes you good at being a lawyer and as such is an asset, not a liability? It took me many years to figure out that, counterintuitive as it may be to some of us, striving for perfection will prevent you from becoming a great lawyer and also unwittingly carries seeds of self-destruction for some of us who practice its most rigid form. By now many of you have read the heart wrenching article by the widow of Gabe MacConaill, a young partner at Sidley Austin in San Diego who took his life on Oct. 14, 2018. If you haven't, read it now.² The widow, Joanna Litt, speaks of maladaptive perfectionism, which combines, in her words, "unrealistic standards of achievement with hypercriticism of failing to meet them." In her husband's case, he paid the highest price.

Changing an ingrained pattern of perfectionism requires awareness, followed by a concerted effort to replace it with new, adaptive patterns. I was recently directed to an excellent resource on this topic, including the following grid:

The Perfectionist	The Optimalist
Journey as a straight line	Journey as an irregular spiral
Fear of failure	Failure as feedback
Focus on destination	Focus on journey and destination
All or nothing thinking	Nuanced, complex thinking
Defensive	Open to suggestions
Faultfinder	Benefit finder
Harsh	Forgiving
Rigid	Adaptable, dynamic ³

Understanding the concept of forgiving myself in the context of perfectionism in my law practice was my personal turning point. Amazingly, I am now good-humored about admitting to a client that I made a mistake. Being on point most of the time and maintaining extreme vigilance to prevent mistakes when the stakes are high gives me latitude for the small failures. It also allows me to connect with my clients in a very personal way. They feel comfortable admitting their mistakes to me because they know they won't be judged. Does this mean that my days are no longer stressful? Yes and no. I can't imagine a law practice that carries little or no stress. Mine certainly carries plenty, particularly in this day and age of being on call 24/7. But that combination of fear and tension that used to dog me is gone, and that makes a huge difference.

Time constraints and the overload and intensity of responsibilities are another big

area of stress. In the case of young lawyers, you are expected to manage your time and be responsive on client matters and be responsible for a number of administrative matters, and . . . and . . . and. Yet it is immutable that there are only 24 hours in a day and you are supposed to eat, sleep, feed the dog, call mom and dad (couldn't resist a little plug in case my kids read this), find and maintain romance, and enjoy life during some of those hours.

Frankly, in the day nobody cared if you ate, slept or did anything else but work. That's the interesting thing about the complaints that have been lodged against you Millennials, i.e., that you don't want to pay your dues, you expect to move up too fast, etc. I can't speak to all of it, but one thing I can say: you are changing the landscape by being vocal and adamant that you will not tolerate being treated as cannon fodder. Because of this, your group has had a great deal

to do with a number of new initiatives on stress management and some older ones that are getting a lot more play than in the past.

These initiatives include the wellness initiatives of the State Bar of Georgia⁴ and the American Bar Association,⁵ the six free counseling sessions available as part of the Lawyer Assistance Program⁶ and the Lawyers Helping Lawyers Program,⁷ which digitally matches peer volunteers with members of the Georgia Bar who are struggling with a variety of issues.

Before I comment on those, let's look at ways to de-stress on a more intimate level. Here are some that have worked for me:

Build a Community

First and foremost, I have built a community of people, both inside and outside my firm, who can relate to the stresses of practicing law. Why is that important? Because I know from personal experience that the single most healing thing for any kind of adversity is community. When I entered a psych facility in Baltimore in 2008, I don't think I had smiled for six months. I was severely clinically depressed and suffered from catastrophic anxiety. The first evening I spent in the facility, a group of us got together and played poker. We used Sweet'N Low and Splenda packets because money was not permitted. I relaxed and smiled for the first time in so long—all because I was surrounded by a community of people who understood me.

Develop a Personal Practice

On an individual level, it is important to develop a personal practice that de-stresses you in the moment. When I am overwhelmed, I force myself to stop, step back, breathe and make a list, prioritizing my projects. The mere act of writing the list helps to calm me (apparently there is scientific evidence backing that response). I then remind myself, literally, that I know how to read, and if worse comes to worse, I will read from one word to the next and then the next for as long as it takes. I know I can do that, so that thought helps to calm me as well. Then I choose something easy from the list that

will not stress me out, something that can be done fairly quickly, and knock it out. I check it off the list. I may need to do another project like that. But pretty soon, the thing that was the “bear in the woods” freaking me out comes to seem like just another project, a complex one perhaps, but just a project.

The de-stressing process I have described works well for me. Everyone is different, and each of us has to experiment with what works for us. There are a number of meditation/mindfulness/breathing apps that may be useful. One that I recently added to my phone is called “Stop Breathe Think.” It's new so I can't comment on it, but try some of the new apps out for yourselves.

As for the more institutional approaches to stress relief for lawyers, a few comments on each:

Wellness Initiatives of the ABA

The ABA Commission on Lawyer Assistance Programs (COLAP) has been focused on wellness for some time now. In 2017, COLAP published “The Path to Lawyer Well-Being: Practical Recommendations for Positive Change,” a report by the National Task Force on Lawyer Well-Being (<http://lawyerwellbeing.net/>). In the report, the task force confirms the lack of well-being in the legal profession and offers recommendations for improvement. It is worth the read. In addition, COLAP offers extensive resources on its website,⁸ as well as some extremely informative podcasts.⁹

Wellness Initiatives of the State Bar of Georgia

Under immediate past Bar President Ken Hodges, attorney wellness has been a high priority for the State Bar over the past year. As a result, young lawyers can benefit from resources such as discounts at any number of workout facilities, yoga studios, cycling studios, chiropractor services and more. The site features a video on two quick techniques for relaxation and stress relief. This past January, the State Bar of Georgia sponsored a retreat in Arizona featuring speaker after speaker on the topic of attorney wellness.

The State Bar also provides a forum at www.lawyerslivingwell.org to view articles and resources related to wellness and learn more about Bar programs that help lawyers in their lives and practices.

Lawyer Assistance Program

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 (CorpCare), a Georgia-headquartered national counseling agency. Confidentiality of all communications to the LAP is of such paramount importance that the LAP has spent the last five years crafting and implementing new Bar rules that sever all links between LAP and the disciplinary arm of the Bar.

You may have heard of a new rollout of a superb initiative of the LAP that has long been in place, #useyour6. This refers to the six free counseling sessions per calendar year that are available to each member of the Bar in good standing. Counseling is provided by seasoned counselors under contract with CorpCare, some three hundred of them throughout the State of Georgia. The average years in practice among the group is twenty years, so these are experienced professionals. Independently and as co-chair of the LAP Committee, I strongly encourage you to use your 6 if you have an issue or issues that you'd like to discuss with a professional. I've been doing it for years and I can attest that talk therapy with a trained counselor with whom one connects is worth its weight in gold.

Lawyers Helping Lawyers Program

Georgia Lawyers Helping Lawyers (LHL) is a confidential peer-to-peer program developed by the LAP that provides colleagues who are suffering from stress, depression, addiction or other personal issues in their lives with a fellow Bar member to be there, listen and help. At www.georgialhl.org, you can sign up to be a peer volunteer or use the

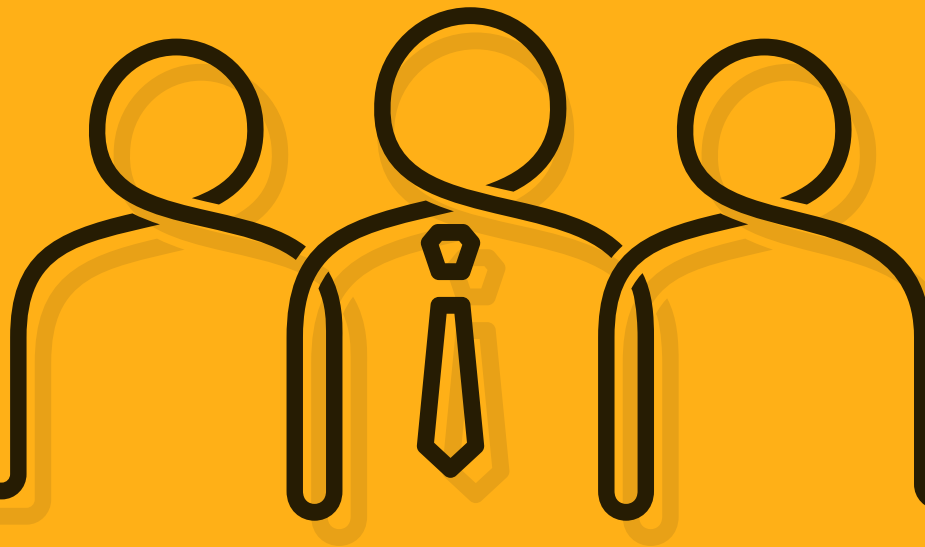
GEORGIA LAWYERS HELPING LAWYERS



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



The program is seeking not only peer volunteers who have experienced particular mental health or substance use issues, but also those who have experience helping others or just have an interest in extending a helping hand.



For more information, visit:

www.GeorgiaLHL.org

It's better for everyone—clients, the Bar and the lawyer him or herself—when a lawyer seeks help for mental health or substance abuse issues. The Bar encourages lawyers to get treatment or assistance when they need it. A request for help is confidential and the Office of the General Counsel is not informed when a lawyer seeks help through the program.

site to find a fellow lawyer to talk to about the issues you are facing. Remember the discussion above about the healing power of community? That's the power of LHL. There is no substitute for a compassionate ear and shared experience. And who among us hasn't experienced the stresses of practicing law?

LHL is the first program of its kind in the country, simultaneously guaranteeing anonymity while also leveraging the benefits of online technology. The timeliness of this initiative is underscored by so much recent attention to the difficulties that lawyers face. The LHL Peer Program presently has available a core of trained volunteers. The goal is to expand that core to create an extremely robust volunteer base so that those in need have the opportunity to find the best "match" possible. The beauty of the online system is that a match might occur between lawyers who live in different parts of the state, which greatly expands the possibility of providing help. It also gives the opportunity for those living in smaller communities to find a match outside of their immediate area, which often will increase their comfort level and encourage someone to seek help who might not have otherwise done so.

The same revised confidentiality rules described above protect all communications from volunteers and members of LHL to each other and to LAP. In fact, Paula Frederick, general counsel for the Bar, has affirmed such confidentiality in a public statement:

"It's better for everyone—clients, the Bar and the lawyer him or herself—when a lawyer seeks help for mental health or substance abuse issues. The Bar encourages lawyers to get treatment or assistance when they need it. A request for help is confidential and the Office of the General Counsel is not informed when a lawyer seeks help through the program."

To ensure such confidentiality in the actual matching process, volunteers' names

and contact information are not available on the website, only identified by peer numbers, and only CorpCare has access to the identifying information that it keeps in an encrypted database.

Members of the YLD are welcome to join LHL as volunteers and the service is available to help any member in need. If the idea of talking to a peer appeals to you, please take advantage of this unique program.

Yes, we all are subject to stress in this wonderfully challenging and rewarding profession that we have chosen. The key takeaway that I hope you have gotten from this article is that you don't have to suffer alone and you don't have to suffer in silence. If you need it, please reach out for help. ^{YLD}

Endnotes

1. Study on Lawyer Impairment," https://www.americanbar.org/groups/lawyer_assistance/research/colap_hazelden_lawyer_study/. This important study, jointly commissioned by the Hazelden Betty Ford Foundation and the American Bar Association, was published in 2016. It paints a painful a picture of our profession—a lot of silent misery and a lot of fear about seeking help. In addition to identifying the first 10 years of practice as the highest risk, the study reports that 21 percent of licensed, employed attorneys qualify as problem drinkers, 28 percent struggle with some level of depression and 19 percent demonstrate symptoms of anxiety. The collaborative research project marks the first nationwide attempt to capture such data about the legal profession, gathered from approximately 12,000 attorneys from 19 states and across all regions of the country.
2. "Big Law Killed My Husband: An Open Letter from a Sidley Partner's Widow," <https://www.law.com/americanlawyer/2018/11/12/>

big-law-killed-my-husband-an-open-letter-from-a-sidley-partners-widow/?slreturn=20190218185626

3. Ben-Shahar, T. (2009) *The Pursuit of Perfect: How to Stop Chasing Perfection and Start Living a Richer, Happier Life*
4. Georgia Lawyers Living Well, <https://www.gabar.org/wellness/>
5. <https://abacolap.wordpress.com/2018/02/28/a-list-of-lawyer-well-being-podcasts/>
6. Georgia Bar Lawyer Assistance Program, <https://www.gabar.org/committeesprogramssections/programs/lap/index.cfm>
7. Lawyers Helping Lawyers, www.georgialhl.org.
8. http://www.americanbar.org/groups/lawyer_assistance/resources.html
9. <https://abacolap.wordpress.com/2018/02/28/a-list-of-lawyer-well-being-podcasts/>. (Two of them are mine—you are welcome to check them out.)
10. <https://www.gabar.org/wellness/social.cfm>
11. Please note that no one is promising that all issues can be resolved in six sessions. If more time is indicated, the attorney is welcome to continue (and pay for) the arrangement independently.
12. In addition to the sources previously mentioned, see New York Times article "The Lawyer, the Addict," July 15, 2017, <https://www.nytimes.com/2017/07/15/business/lawyers-addiction-mental-health.html> and ABA press release, "Growing concern over well-being of lawyers leads to comprehensive new recommendations," https://www.americanbar.org/news/abanews/aba-news-archives/2017/08/growing_concern_over.html
13. Training is available via an online video of the in-person training that was given and presently qualifies for one professionalism and one ethics CLE credit.



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