August 2022 *Volume 28, Number 1*

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

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PUBLISHER'S STATEMENT

The *Georgia Bar Journal* (ISSN-1085-1437) is published six times per year (February, April, June, August, October, December) by the State Bar of Georgia, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303. Copyright State Bar of Georgia 2022. One copy of each issue is furnished to members as part of their State Bar license fees. Subscriptions: $36 to non-members. Single copies: $6. Periodicals postage paid in Atlanta, Georgia, 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.

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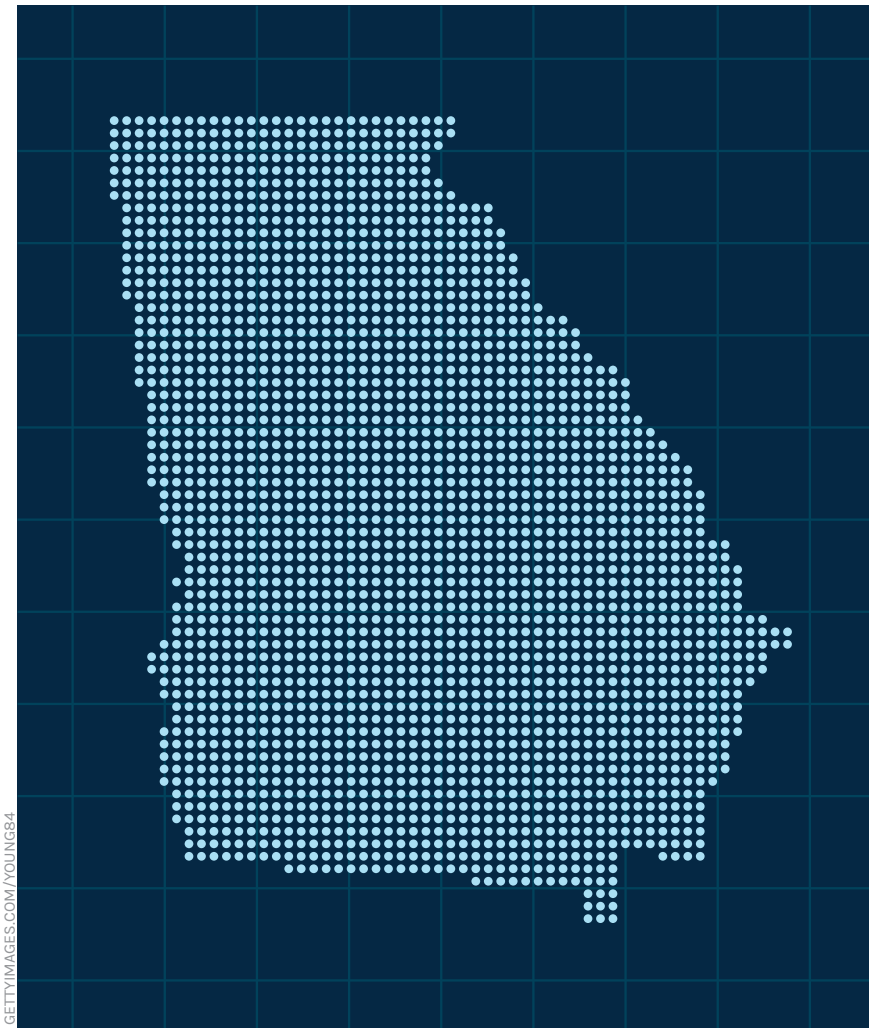

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The August Issue

Welcome to the August edition of the *Georgia Bar Journal.* Following a successful 2022 Annual Meeting at Amelia Island, we are ready to kick off a successful 2022-23 Bar year.

This issue introduces the new State Bar of Georgia President Sally Akins. You can read about Akins' plans for this board year in her first "From the President" feature as well as her remarks to the Board of Governors at the Annual Meeting. To learn more about our 60th State Bar president, be sure to check out Linton Johnson's article, "'You're Supposed to Do Your Part': Sally Akins' Legacy of Leadership."

As we say "hello" to Sally Akins, we say "goodbye" to 2021-22 State Bar of Georgia President Elizabeth L. Fite. If you're interested in Fite's final remarks to the Board of Governors, be sure to read her article on page 34. This *Georgia Bar Journal* issue includes a recap of the Annual Meeting as well as a full list of the 2022-23 State Bar Officers, Executive Committee and Board of Governors members.

YLD President Ron Daniels has big plans for his Bar year. As the 76th president of the YLD, he's ready for a season of change. As Daniels writes in his article on page 10, "there aren't any obstacles in front of us—just opportunities to find workable solutions."

State Bar of Georgia Executive Director Damon E. Elmore is also excited to kick off the new Bar year. In his article, Elmore shares updates on major projects that the State Bar has been focusing on.

Our legal article is "Variations on a Theme: Georgia's Evolving Test for Interlocutory Injunctive Relief." Authors Steven Shaikewitz and Greg Lisby write about the Georgia appellate courts' recent struggles to adopt a clear rule for the grant or denial of an interlocutory injunction. They take a close look into the different tests that the courts use to make their rulings.

In addition to our feature articles, the *Georgia Bar Journal* is also a resource for professional advice and practice management tips. Be sure to check out part two of Nkoyo-Ene Effiong's article, "Top Six Practices to Help You Regain Control of Your Law Practice," and R. Javoyne Hicks and Lynn Garson's attorney wellness article, "Self-Talk: How Hard Can It Be?" Sheila Baldwin also gives us a preview of the upcoming Take Charge! Solo & Small Firm Conference scheduled to take place Sept. 22-23 at the Bar Center in Atlanta.

Other highlights in this issue include an article on David Lipscomb, who received the 2022 Distinguished Service Award. In "Records Restriction in Georgia," Susan Coppedge, executive director of Georgia Legal Services Program, writes about how attorneys can remove barriers in the record restriction process for clients who are ready to move forward with their lives.

Thank you again for reading this August issue. Here's to a successful and productive 2022-23 Bar year with the State Bar of Georgia. ●

MEGAN HODGKISS
Editor-in-Chief, *Georgia Bar Journal*
journal@gabar.org



ON THE COVER
Pictured on the cover is 2022-23 President Sarah B. "Sally" Akins with husband Dale and family dog Boudreaux.

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A Renewed Commitment to Professionalism



SARAH B. "SALLY" AKINS

President
State Bar of Georgia
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Two and a half years ago, COVID-19 took an unprecedented toll on the delivery of justice in our state, and although things are almost fully back to normal now, the effects are still being felt. Two months ago, just before I took office, unauthorized access to the State Bar's network caused an interruption to some of the means of communication and services to our members.

Our Bar leaders and staff have had to rise to a number of major challenges and make the best of difficult situations over the years. Simply put, we have learned to expect the unexpected, and the 2022-23 Bar year will be no different.

While staying prepared for whatever may come our way over the next 12 months, I am committed to focusing on the core values of our profession and our ongoing mission to serve the public and the justice system. This includes a renewed commitment to professionalism among the members of the State Bar of Georgia.

Active Bar members know the importance of professionalism. Every day, in every area of law practice, we see firsthand examples of attorney professionalism or, hopefully only on rare occasions, a lack thereof.

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 with the primary charge of enhancing professionalism among Georgia's lawyers. In part, its purpose is to ensure that the practice of law remains a high calling, enlisted in the service of client and public good. Composed of 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.

For Georgia lawyers, two documents—our Lawyer's Creed and Aspirational Statement—represent higher standards of lawyer behavior than the minimal standards set forth in the Code of Professional Conduct and reflect the understanding that lawyers have relationships with clients, opposing parties and their counsel, the courts, colleagues, the profession and the public.

The aspirational goals bind Bar members together as a community. The mission statement of the Chief Justice's Commission on Professionalism summarizes our duty to "exercise the highest levels of professional integrity in their relationships with (our) clients, other lawyers, the courts and the public to fulfill (our) obligations to improve the law and the legal system and to ensure access to that system."

The impact of the COVID-19 pandemic has in many ways made lawyers' jobs (and lives) more difficult and caused frustration and strained professional relationships. But in other ways, it has reinforced

the idea that we are all in this together and even in adversarial situations resulted in better understanding and increased civility among opposing parties.

My hope is that as we enter a new phase of the COVID-19 era we can reinforce our commitment to conducting ourselves in a professional manner. It's actually something we should resolve to do every year.

Just before our Annual Meeting in June, the Bar mourned the tragic and very untimely passing of Jeff Ward, my colleague at Miles Mediation in Savannah and friend to so many of his fellow Georgia lawyers through his various positions of service and leadership. This unbearable loss brought to mind several things: Life is short. Life is fragile. Life is unpredictable. And sometimes life is *too* short. It can be cut short when we least expect it. Reflecting on Jeff's life and career, I am asking you to join me in pledging a renewed commitment to civility and professionalism not only to our colleagues, but also—and most especially—to our adversaries.

As the late Justice P. Harris Hines used to say and, more importantly, to embody is, "Be kind." Be kind. It's not hard. Let's be kind to our colleagues and friends. Let's be kind to our families and neighbors. Let's be kind to our perceived enemies, our adversaries, those on the other side with whom we're perhaps not getting along. Maybe pause for a second

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.



SARAH B. "SALLY" AKINS
President

Akins is a full-time mediator at Miles Mediation & Arbitration, where she mediates every type of civil case. She is also of counsel with Ellis Painter in Savannah.



HON. J. ANTONIO "TONY" DELCAMPO
President-Elect

DelCampo, of DelCampo Grayson Lopez in Atlanta, focuses his law practice in the areas of personal injury, medical malpractice, trucking accidents, premises liability and business disputes. He is also a mediator/arbitrator with Henning Mediation and Arbitration.



IVY N. CADLE
Treasurer

Cadle, of Baker Donelson in Macon and Atlanta, is a real estate litigator who advocates for property rights in the areas of eminent domain, land use, title, zoning, conservation easements and commercial lending litigation. He is also a certified public accountant and mediator.



CHRISTOPHER P. TWYMAN
Secretary

Twyman, of Cox Byington Twyman LLP in Rome, practices in the areas of commercial and general business litigation, banking law, education and school law, and criminal defense.



ELIZABETH L. FITE
Immediate Past President

Fite, of Kutak Rock LLP in Atlanta, is a business litigator and trial attorney with significant experience handling complex business, personal injury and wrongful death lawsuits, and has previously represented DeKalb County in public safety matters.



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State Bar of Georgia

before you hit "send" on the email. And what I really started thinking about was this: You never know when it might be your last chance to be kind to that person or even when it could be the last thing on this Earth. Let's try to conduct ourselves in a way where there is no fear that we will we regret our last words to anyone. That's what I ask of you, my fellow Bar members, and I think that will be a beautiful tribute not only to Jeff Ward, but also to all those who have gone before—perhaps when they didn't realize it was their time.

A commitment to professionalism is one of the foremost principles of our State Bar. I would like to close with these words from then Georgia Bar Association President Holcombe Perry in 1963,when he was making the case for a unified State Bar:

> "It has been pointed out that in relation with the public the Bar has always been and always will be a unit," Mr. Perry said. "The actions and sayings of one lawyer reflect credit or discredit on the rest of his professional brethren in the eyes of the public. The interests of all lawyers are inextricably woven together. Through such an organization, with all lawyers participating, we will come to have a better appreciation of the fact that we are all members of a great and honorable profession of which we should be proud, a more adequate understanding of our mutual problems, a keener knowledge of our faults and our virtues, with a mutual determination to eliminate the former and preserve and enhance the latter; and finally we will have the opportunity of establishing among ourselves a sense of brotherhood, mutual respect and trust and through all of this to strive diligently to improve the administration of justice in our state." ●



A Season of Change



RONALD EDWARD "RON" DANIELS

YLD President
State Bar of Georgia
ron@danielstaylorlaw.com

Growing up in Rhine, Georgia, I couldn't have imagined ever being the president of an organization like the Young Lawyers Division. *Everyone* in Rhine knows *everybody* else. It's easy to do when the entire town's population is between 250 and 400 people at any given time. As you can imagine, it's not possible to know every one of the more than 10,000 members of the YLD. But like the people of my hometown, we all have at least one thing in common: we are all members of the YLD (or as I like to say #weareallYLD).

I am honored to serve as the YLD's 76th president and shall be a good steward of the trust which has been placed with me. The next Bar year promises to be a fun one filled with confronting the challenges facing our organization, our profession and young lawyers everywhere. As we begin this journey together, I am acutely aware we are in a season of change.

Just two months ago Supreme Court of Georgia Chief Justice Michael P. Boggs swore in the YLD's new slate of officers. Chief Justice Boggs was just Presiding Justice Boggs when he administered the oath. On July 1, the terms of office for our new officers, directors, district representatives and committee chairs began. You will recognize some faces—and some you won't. Some of our new committee chairs haven't had much involvement in the YLD before agreeing to serve as a chair and some haven't had any involvement. The new chairs and directors were selected to ensure we have a diverse mix of backgrounds, practices, geographic location and YLD experience.

As an organization, we must be prepared to change. The YLD has done this before. When it was created in 1947, the purpose of the Younger Lawyers Section was furthering the goals of the State Bar, increasing interest and participation of young lawyers, and fostering the principles of duty and service to the public. We have changed often over the years by restructuring committees, "sunsetting" programs and committees that were no longer viable, and by switching up our programming. Now we will change once again to adapt to the modern world.

My YLD involvement began the year after I was admitted to the Bar—2012 and 2013 respectively—at the urging of my longtime friend Ryan English who was then applying to be in the Leadership Academy. A year later, I was applying for Leadership Academy ... and the rest is history. The fact of the matter is a young lawyer who graduated in 2020 doesn't have the same experience.

There aren't any obstacles in front of us—just opportunities to find workable solutions. With this in mind, we held YLD Committee Chair Orientation on July 22 at the Bar Center and mixed things up. Our new chairs were tasked with brainstorming ideas on the spot

and committing to at least two tentative events for their committee to put on in the next six months. Our officers and directors met at Little Ocmulgee State Park in McRae, Georgia, on Aug. 5 and 6. Like our committee chairs, our directors were challenged to find ways to increase participation among our membership and increase our deliverables. Together, our board of directors, district representatives and committee chairs will ensure this Bar year—and our organization—is successful.

Change isn't something which is inherently good or bad. Change is what you make of it. And while our goals are ambitious, we have the benefit of knowing what the YLD has done in the past. In 1971, the YLD was the driving force behind the creation of the Georgia Legal Services Program. We have raised millions to ensure Georgia's children do not go hungry during the summer. We have re-written the Juvenile Code. We have assisted countless first responders with basic estate planning through wills clinics around the state. We've got a track record of pulling off ambitious goals. Change may not always work out on the first try. But we will *keep running up that hill* until we figure it out.

Our Fall Meeting will be held, for the first time, in conjunction with a regional summit with the young lawyers' organizations from the Alabama, Florida, Louisiana, Mississippi and Tennessee bar associations at Walt Disney World's

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.



RONALD EDWARD "RON" DANIELS | *YLD President*

Daniels is a partner at Daniels Taylor Law LLC, which has offices in Eastman and Dublin. He maintains a general practice including civil litigation and real estate closings. He also serves as a Special Assistant Attorney General representing the Division of Child Support Services and the Department of Corrections.



BRITTANIE D. BROWNING | *YLD President-Elect*

Browning is an associate at Akerman LLP in Atlanta. She focuses her practice on litigation and appellate matters, as well as insurance coverage issues and insurance litigation.



KENNETH MITCHELL JR. | *YLD Treasurer*

Mitchell is an attorney with Giddens Mitchell & Associates, P.C., in Decatur. He has extensive trial experience and practices criminal defense and business litigation.



VERONICA ROGUSKY COX | *YLD Secretary*

Cox is a trial attorney at the Atlanta District Office of the Equal Employment Opportunity Commission (EEOC). The mission of the EEOC is to prevent and remedy unlawful employment discrimination and advance equal opportunity for all in the workplace.



ELISSA B. HAYNES | *YLD Immediate Past President*

Haynes is a partner in Freeman Mathis & Gary LLP's Atlanta office, where she is vice-chair of the firm's National Appellate Advocacy section. Her trial and appellate practices are focused claims involving negligent security, premises liability, personal/catastrophic injury and wrongful death.



JENA G. EMORY | *YLD Newsletter Co-Editor*

Emory is an associate in the general liability practice group of Copeland, Stair, Valz & Lovell's Atlanta office. Her practice is primarily focused on coverage defense matters.



VIRGINIA C. JOSEY | *YLD Newsletter Co-Editor*

Josey is a trial attorney with Virginia Josey Law in Macon. Her practice focuses on helping the seriously injured.

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Yacht Club Resort and Convention Center. By thinking outside the box, we are able to offer more than five hours of CLE programming, networking opportunities with lawyers from the southeast and handle our normal Fall Meeting business. The CLE programming will be both informative and engaging—a reoccurring theme for CLE courses we will offer this Bar year. Our very own Justice Andrew A. Pinson and YLD Past President Rizza O'Connor will both be featured CLE speakers at the regional summit.

In talking with affiliate leaders and young lawyers around Georgia, it is clear we need to be prepared to meet young lawyers in their spaces. With this in mind, we are making efforts to engage the young lawyers who are employed as prosecutors and public defenders at their respective organizations' annual trainings and conferences. And, once again, I am loading up my car and preparing to travel the state to attend at least one event of each YLD affiliate this year. There is no substitute for engaging our members where they are.

We may be in a season of change, but we won't forget where we came from. LaToya Williams, MaryBeth Handte and Mitchell Synder are spearheading our Signature Fundraiser planning. Leadership Academy Co-Chairs Kindall Browning-Rickle, Samantha Mullis and Ray Tran are hard at work preparing for another great class. Autumn Cole and Ashley Akins will use their past experience as Leadership Academy co-chairs to develop more opportunities to bring Leadership Academy alumni together. And we will continue to promote wellness initiatives for young lawyers.

I would not be the lawyer I am today or the person I am today without my involvement in the YLD. I hope to see you at an upcoming YLD meeting or event and encourage you to take advantage of the opportunities the YLD has to offer. And while I may not get to know all of you, I'm going to do my level best to try. ●

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A New Bar Year



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DAMON E. ELMORE

Executive Director
State Bar of Georgia
damone@gabar.org

Summer means the beginning of a new year for the State Bar. In June, our new officers were installed, and we have some new faces on our Board of Governors. President Sally Akins has completed her committee assignments and our fiscal year started on July 1.

We are pleased with the way our Annual Meeting turned out thanks to the support of hundreds of our fellow members, solid planning by our Meetings Department and other team members, and because of perfect weather. Future meetings will have a tough act to follow, but we are up to the challenge.

At the Annual Meeting, I provided an update about the work that had our attention from an operational perspective as we concluded the previous Bar year with our focus on several major projects and a recent unauthorized access event that held the majority of our time, our resources and our effort.

There were a few, specific matters we believed the Board and our members were interested in having a specific update on. That includes: our work related to long-term financial planning; a brief update on our ICLE department; next steps in the process related to our Coastal Georgia office; and the most recent details about the recent unauthorized access to our network.

Long-Term Financial Planning

As it relates to our pledge to begin the process of taking a deeper look at our financial position, with a particular focus on unallocated cash and investments, the report was that we have not forgotten the charge. We have consulted with similarly sized bar organizations, engaged our audit and accounting partners, solicited feedback from our volunteer leaders and other key stakeholders, and started the work internally. We have a decent map and remain confident in providing a quality report in time for our Fall Meeting.

ICLE

We could not be more pleased with the direction our ICLE department is moving. That is due in part to a greater ability to put on programming. It is also a result of the patience and renewed and ongoing partnerships with our Sections, related organizations, individuals and others that serve as program chairs/planners, or in another capacity as a valuable stakeholder and partner with the program. We are grateful to you all.

But it is mainly due to the work of the department and the people who are a microcosm of the Bar's engaged team members. They, too, are working hard and making contributions with their sweat equity and ideas that will benefit the overriding mission of continued legal education in the short and long term. Our search for a new director has concluded, and soon that person will be able to carry out the vision of the department on a day-in-and-day-out basis.

Coastal Georgia Office

Last year we provided notice that we would not renew our lease for the current Coastal Georgia Office space in Savannah. As we have also updated, we provided notice earlier this year and will exit the Bay Street location in October. We are actively evaluating responses to our multiple requests for proposals and believe we are close to landing on a next location. Thank you to all of you who have provided your input and feedback, especially our friends in my beloved Savannah and the surrounding 912 area.

Unauthorized Access Event

You might have had a chance to look at the memo we provided to the Executive Committee and published in our Board Book, or stayed in the know with the updates we provided on our website or email or social media related to the unauthorized access event. All of it was an accurate recap from the initial phase of the technical interruption and throughout.

We continue to rebuild and restore systems and processes as a result, taking advantage of the response in order to assess, protect and build better. We are grateful for your patience throughout that time. We have worked diligently in our forensics process to be sure we have evaluated all scenarios and options. I continue to be grateful to our internal team and external partners for all of their good work and support there. We could have found ourselves in a bad position, but, instead, it is better.

Every day we do more and build more. Little by little, but quickly, we are building a better website. Little by little, but quickly, access to member databases for the work we do in departments like CCLC, Membership, the Office of the General Counsel, Sections and everything in between, is being restored. Little by little, but better.

So now we get back into a groove of supporting our staff and carrying out the work of the Board of Governors and Bar leadership. This includes supporting Sally Akins and her plans for "a renewed commitment to professionalism among members of the State Bar, increased emphasis on the benefits available to Georgia lawyers through Bar membership, increased awareness of the Bar's programs that protect the public interest and an enhancement of the continuing legal education programming for Bar members." That's it. My office still has no agenda or program or plan. The aim is to simply make sure that our processes and people are best suited to do that work. We will take full advantage of that space and deliver results. We always welcome your ideas and feedback. DEE ●

Point of Personal Privilege:

Each year the Board holds an election to extend my term as executive director of the Bar. I am extremely grateful for their vote of confidence. We remain confident in our position and the manner in which we will support our members in the upcoming Bar year and beyond. I appreciate the opportunity to continue the work with an amazing team, including the new faces we welcomed since our last update. Always you will hear me boast about our staff and the work that they put in, not only carrying out their daily tasks, but how they go above and beyond the call of duty to support our members and our overall mission of improving the quality of legal services. All of it is not just because we have to, but because we want to. DEE



Variations on a Theme: Georgia's Evolving Test for Interlocutory Injunctive Relief

Over the years, Georgia's appellate courts have struggled to adopt a clear rule for the grant or denial of an interlocutory injunction. This article looks at the different tests the courts use to make their rulings.

BY STEVEN SHAIKEWITZ AND GREGORY C. LISBY

When it comes to granting or denying temporary injunctive relief, it has been wryly suggested that there seem to be almost as many tests as there are jurisdictions.[1] To add credence to this claim, it is likely that no jurisdiction has embraced only one test throughout its legal history. That is certainly the case in Georgia, where a number of tests have been employed over the years. This article will explore the evolution of Georgia's interlocutory injunction test, from its genesis to its most recent iteration. It will demonstrate that Georgia's courts have reexamined, refined and attempted to improve its test—a task with which they continue to grapple.

The main purpose of an interlocutory injunction is to preserve the status quo pending a trial on the merits.[2] That means preserving the situation as it existed before the alleged harm to the plaintiff occurred, not preserving the status quo after the plaintiff filed suit.[3] Also, the quest for an interlocutory injunction need not be the beginning, nor the end, of a lawsuit seeking injunctive relief. That is because a plaintiff can first begin his or her action with a

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request for a temporary restraining order, although he or she need not do so.[4] Also, a claimant can seek a permanent injunction, whether or not he or she is successful in obtaining interlocutory relief.[5]

The test for interlocutory injunctive relief differs from the tests for a temporary restraining order and a permanent injunction. A temporary restraining order, which under Georgia law cannot exceed 30 days, may be granted without notice to the adverse party if the applicant can demonstrate that "immediate and irreparable injury, loss or damage will result to the applicant before the adverse party can be heard in opposition."[6] The test for a permanent injunction requires the movant to prove actual harm and succeed on the merits, rather than merely demonstrating a likelihood of success on the merits and the potential for irreparable harm.[7]

The Traditional Test and the Sliding Scale Test

Although numerous interlocutory injunction tests have been applied throughout the United States, many jurisdictions have adopted either of two basic tests—the "traditional test" or the "sliding scale test"—or have tweaked them to their liking.[8] Georgia's courts appear to have embraced elements of both tests in their test at one time or another.

To obtain interlocutory injunctive relief, the traditional test requires the plaintiff to satisfy four prongs: (1) the likelihood of success on the merits of the case; (2) the potential for irreparable harm to the plaintiff if the injunction is denied; (3) the balance of hardships to the parties (i.e., the hardship to the defendant if the injunction is granted as measured against the hardship to the plaintiff if no injunction issues); and (4) the effect of an injunction, or the denial of an injunction, on the public interest.[9]

Under the more lenient sliding scale test, the plaintiff must demonstrate that (1) in the absence of injunctive relief he or she will suffer irreparable injury; and (2) either (a) the likelihood that the plaintiff will succeed on the merits or (b) serious questions on the merits of the case exist, justifying an order for injunctive relief, coupled with a showing that the balance of hardships tip in the plaintiff's favor.[10]

The primary difference between the two tests is that under the traditional test, the moving party must demonstrate the likelihood of prevailing on the merits, while under the sliding scale test, no such showing need be made. The sliding scale movant must only raise a serious legal question and demonstrate that the balance of harms lies in his or her favor. Thus, the sliding scale approach balances the interests of the parties and significantly lessens the burden upon a movant seeking an interlocutory injunction.

It is axiomatic that a party cannot seek equitable relief if he or she has an adequate legal remedy.[11] Yet, "an adequate legal remedy does not mean any legal remedy."[12] An adequate legal remedy must be as practical and efficient as the equitable remedy a claimant seeks.

Note that under both the traditional and the sliding scale tests, the party seeking a temporary injunction must show he

An adequate legal remedy must be as practical and efficient as the equitable remedy a claimant seeks.

or she will be irreparably injured in the absence of injunctive relief.[13] Georgia's courts have given the plaintiff more leeway in this regard. Indeed, the Supreme Court has stated that when "the equities favor the party seeking the injunction ... a demonstration of irreparable injury is not an absolute prerequisite to interlocutory injunctive relief."[14]

Early Attempts to Forge a Workable Test

Georgia's Supreme Court was not established until 1845. Thus, we must look to the early decisions of Georgia's superior courts, which were reported beginning in 1805, to ascertain how requests for injunctive relief were first weighed.[15]

The earliest reported test for injunctive relief reported in Georgia was articulated by Judge Charlton in *Ex Parte Grimball*.[16] There, he set forth an overly broad test, writing that an injunction was "a prohibitory writ, restraining a person committing or doing a thing which appears to be against equity and good conscience."[17] Charlton recognized that "[t]his is a simple definition given by one of the elementary compilers;" nevertheless, he found it "sufficiently comprehensive to adopt it."[18]

Thirteen years later, Charlton attempted to refine the *Grimball* test in *Albritton v. Bird*.[19] In *Albritton*, the judge wrote:

> "[N]o stage of a common law proceeding, no matter what appellation it may assume, can present an insurmountable barrier to the energies of an injunction. Let the foundation of the application be any species of inequity, which a Court of common law cannot remedy, and if the party, upon whom it operates, can step forth with clean hands, and exhibit himself ... [a] victim of fraud, oppression, perfidy, and injustice, equity will interpose and take him under the protection of her abstract principles of right."[20]

The tests proposed by Charlton were long on words and short on specifics, providing no real guidance for the grant or denial of injunctive relief. Ten years later, a clearer, more refined standard was announced by Judge Law in *Read v. Dews* (II).[21] Adopting his test from an unidentified opinion of the U.S. Supreme Court,[22] Law opined that whether a petition for equitable relief should be granted or denied depended on whether it alleged a "probable right and a probable danger that the right would be defeated" without injunctive relief.[23] And while Law deemed the use of injunctive relief necessary for the preservation of an equitable remedy, he decreed that it was to be used with care so as not to "hinder the enjoyment of a legal right."[24]

Law's approach can be seen as an early attempt to weigh the twin goals of the sliding scale test: a likelihood of success on the merits—what Law called "a probable right"—and a balancing of the equities—what he deemed "a probable danger." Nevertheless, it lacked a hard and fast equation. It would take a number of years for the Supreme Court of Georgia to step in and propose clearer guidelines for the grant or denial of a temporary injunction.

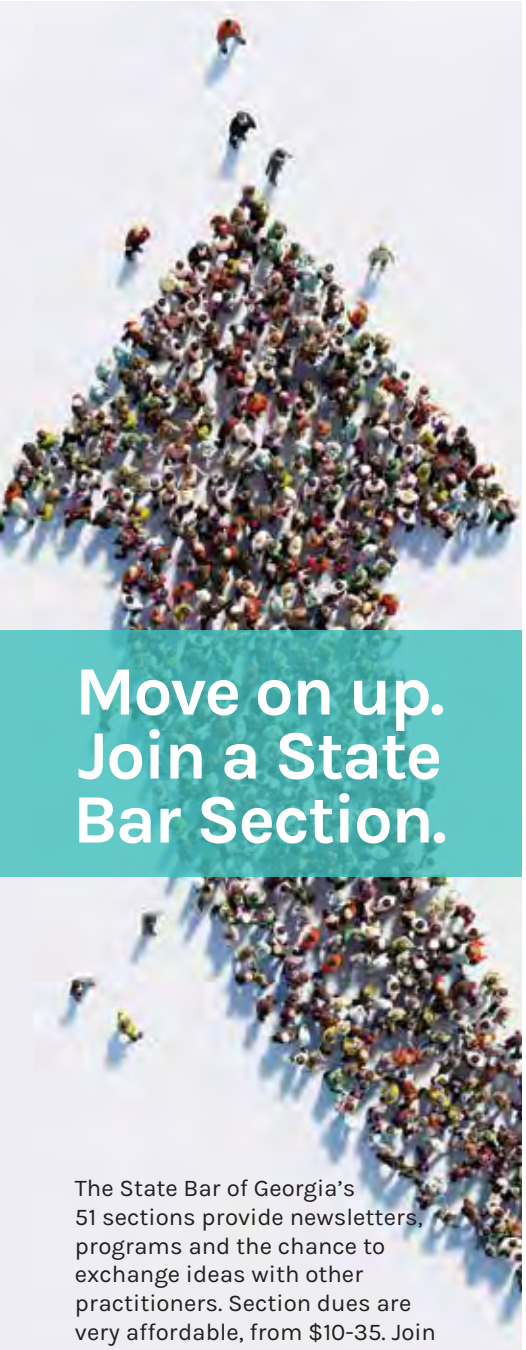
The Supreme Court Establishes Guidelines Embodying Elements of the Sliding Scale Test

In *Everett v. Tabor*,[25] the Supreme Court of Georgia held:

> If the evidence for the complainant is weak, and that for the defendant strong, the injunction could be refused. If that for the complainant is strong, and that for the defendant weak, or even if it be in practical equipoise, the injunction should be granted or refused according to the peculiar circumstances of the particular case. There should be a balance of conveniences in such cases, and a consideration whether greater harm might result from refusing than from granting the [injunction]. If the grant of an injunction in such a case would operate oppressively to the defendant, the restraining order should be refused; but if it appears that if the injunction were denied the complainant would be practically remediless in the event he should thereafter establish the truth of his contention, it would be strong reason why interlocutory relief should be granted.[26]

This "balancing of conveniences" test set out in *Everett* matched well with the sliding scale test in that it distinctly permits a court to grant or deny a temporary injunction even if the movant is unable to demonstrate a likelihood of success on the merits, so long as the balance of conveniences or "harms" tips in favor of the movant. The Supreme Court applied this test many times after it was pronounced in *Everett*.[27] However, the Court often substituted the word "equities" for "conveniences," so that the test spoke of the need to balance the equities in determining whether an injunction should issue.[28]

Although the "balance conveniences" standard enunciated in *Everett* was frequently followed,[29] the Supreme Court sometimes deviated from, or added to, that standard, muddying the waters somewhat. For example, in *Parker v. West View Cemetery Assoc.*,[30] the Court ruled that in determining whether to grant or deny a temporary injunction, a court should balance conveniences and consider whether greater harm would be done by granting or refusing injunctive relief. But the Court went further. It plugged the public interest prong of the traditional test into the balance conveniences approach, holding that in considering whether greater harm might be done by granting or refusing injunctive relief, the convenience and rights of the public and third parties could be considered.[31]



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State Bar of Georgia

Tacking More Firmly Toward the Traditional Test

A greater departure from the "balance conveniences" standard came in 1976, in *Ledbetter Bros. v. Floyd County*.[32] There, in keeping with the sliding scale approach, the Supreme Court opined that a trial court may issue an injunction to maintain the status quo until a final hearing on the merits if, by balancing the relative harms, it would appear that the equities favored the party seeking the injunction.

However, the Court added that in doing so the lower court:

> may look to the final hearing and contemplate the results. ... In balancing the relative conveniences of the parties, the court may determine that the law and facts are so adverse to one party's position that a final order in his favor is unlikely. Where the court concludes that a final judgment for the plaintiff is unlikely, it may be justified in denying the temporary injunction because of the inconvenience and harm to the defendant if the injunction was granted.[33]

Thus, the *Ledbetter Bros.* Court appeared to blend the traditional test requirement that a party seeking an interlocutory injunction must demonstrate the likelihood of success on the merits with the sliding scale—"balance conveniences"—approach.

The Court relied on two cases to reach that result: *Bradley v. Roberts*[34] and *Milton Frank Allen Pubs. v. Georgia Assoc. of Petroleum Retailers.*[35] However, neither one of these opinions required or encouraged the courts to consider the likelihood of success in determining whether a temporary injunction should be granted or refused. The logic of such a requirement is appealing, however. After all, if a moving party is unlikely to succeed on the merits, what constructive purpose will a temporary injunction serve?

Applying this logic, perhaps, the "likelihood of success" language from *Ledbetter Bros.* was repeated in *Lee v. Environmental Pest & Termite Control, Inc.*,[36] in which the Court, citing *Ledbetter Bros.*, opined:

> In determining whether the equities favor one party or the other, a trial court may look to the final hearing and contemplate the results. If the trial court determines that the law and facts are so adverse to a plaintiff's position that a final order in his favor is unlikely, it may be justified in denying the temporary injunction because of the inconvenience and harm to the defendant if the injunction were granted.[37]

Subsequent decisions of the Supreme Court followed suit. In *Garden Hills Civic Assoc. v. MARTA*,[38] for example, the Court made it clear that the likelihood of a movant's "ultimate success" on the merits is not conclusive, but it can be taken into consideration in determining whether to grant or deny interlocutory relief. Likewise, in *R.D. Brown Contractors v. Columbia County Board of Education*,[39] the Court held that "[a]lthough the merits of the case are not controlling, they nevertheless are proper criteria for the trial court to consider in balancing the equities."[40]

The Likelihood of Success Factor Reexamined

But did *Garden Hills*[41] and *R.D. Brown*[42] require a court to weigh the likelihood of success? Would a court abuse its discretion if it did not? This question was intimated by the Supreme Court in *Zant v. Dick*[43] and squarely addressed by the Court of Appeals in *Toberman v. Larose LP*.[44] There, the court concluded that, when *Zant* is "read in conjunction" with other Supreme Court precedent, "a trial court is not required to find that a movant is likely to succeed on the merits before granting an interlocutory injunction, under certain circumstances where other equitable facts counsel in favor of the grant."[45]

In *Bishop v. Patton*,[46] the Supreme Court appeared to restate the traditional rule:

> An interlocutory injunction should not be granted unless the moving party shows that: (1) there is a substantial threat that the moving party will suffer irreparable injury if the injunction is not granted; (2) the threatened injury to the moving party outweighs the threatened harm that the injunction may do to the party being enjoined; (3) there is a substantial likelihood that the moving party will prevail on the merits of her claims at trial; and (4) granting the interlocutory injunction will not disserve the public interest. ... The first factor—substantial threat or irreparable injury if an interlocutory injunction is not entered—is the most important one, given that the main purpose of an interlocutory injunction is to preserve the status quo temporarily to allow the parties and the court time to try the case in an orderly manner.[47]

Arguably, by embracing these four factors of the traditional test, the *Bishop* ruling was calling for interlocutory injunction movants to satisfy each prong of this test. However, the *Bishop* court's emphasis on the first factor—irreparable injury—as being "the most important one" seemed to suggest that the Court was not moving in that direction. A month later, in *SRB Investment Services v. BB&T*,[48] the Court clarified that all four factors did not need to be shown when it stated, "To the extent that our opinion in *Bishop v. Patton* [] may be read as requiring the moving party to prove all four of these factors to obtain an interlocutory injunction it is hereby disapproved."[49] Indeed, in *City of Waycross v. Pierce County Board of Commissioners*,[50] the Supreme Court made it crystal clear that Georgia's courts are to employ "a balancing test" and that it is not incumbent upon a movant "to prove all four factors to obtain the interlocutory injunction."[51]

Conclusion

Over the years, Georgia's appellate courts have struggled to adopt a clear rule for the grant or denial of an interlocutory injunction. In a series of cases, they ruled that interlocutory injunctive relief can be granted without establishing a substantial likelihood of success on the merits, but interlocutory relief can be denied when it appears unlikely that a movant will be able to prevail on the merits of his or her claim.[52] This approach appeared to blend both the traditional and sliding scale tests. Nevertheless, in light of *Zant*[53] and *City of Waycross*,[54] it is clear that Georgia's appellate courts favor a sliding scale, balancing approach to interlocutory injunctive relief.[55] Thus, a plaintiff need not prove any of the four factors of the traditional test, including the likelihood of success on the merits, to obtain a temporary injunction in a Georgia court. ●



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Endnotes

1. *See, e.g.*, Arthur O. Wolf, *Preliminary Injunctions: The Varying Standards*, 7 W. New England L. Rev. 173, 183-184 (1984), in which the author found at least nine different tests for injunctive relief in the federal appellate courts.
2. *See generally* Bernocchi v. Forcucci, 279 Ga. 460, 461, 614 S.E.2d 775, 777 (2005) (enjoining corporate stock offering); Parker v. Clary Lakes Recreation Ass'n, Inc. 272 Ga. 44, 44, 526 S.E.2d 838, 839 (2000) (enjoining a change in a civic association's bylaws).
3. *See* Hampton Island Founders v. Liberty Capital, 283 Ga. 289, 658 S.E.2d 619 (2008); Byelick v. Michael Herbelin USA, Inc., 275 Ga. 505, 570 S.E.2d 307 (2002).
4. *See* O.C.G.A. § 9-11-65(b) (2020).
5. *See* City of Willacoochee v. Satilla Rural Elec. Membership Corp., 283 Ga. 137, 139, 657 S.E.2d 232, 234 (2008) (where *Byelick* is quoted to resolve issue of whether injunction was interlocutory or permanent).
6. O.C.G.A. § 9-11-65(b) (2020).
7. *See generally* Southern Packaging & Storage Co. v. United States, 588 F.Supp. 532, 544 (D. S.C. 1984).
8. *Compare* Adams v. Baker, 919 F.Supp. 1496 (D. Kan. 1996) *with* Ahmad v. Long Island Univ., 18 F.Supp.2d 245 (E.D. N.Y. 1998). *See* David E. Shipley, *The Preliminary Injunction Standard in Diversity: A Typical Unguided Erie Choice*, 50 Ga. L. Rev. 1169, 1171 (2016) (where Georgia's interlocutory injunction test is described as a "sliding scale").
9. *See generally* Adams, *id.*
10. *See generally* Ahmad, 18 F.Supp.2d at 245.
11. *See* Besser v. Rule, 270 Ga. 473, 510 S.E.2d 530 (1999); Habersham & Son v. Bond, 1 Ga. Ann. (Ga. Super. Ct. - C.S. Henry 46) 604 (1842).
12. Southern Healthcare Systems v. Health Care Capital Consolidated, 273 Ga. 834, 835, 545 S.E.2d 882, 885 (2001), *citing* Sherrer v. Hale, 248 Ga. 793, 797, 285 S.E.2d 714, 718 (1982). *See also* O.C.G.A. § 23-1-4 (2020).
13. In some jurisdictions, the terms "irreparable injury" and "inadequate legal remedy" are deemed to be one and the same. *See* Southern Packaging, 588 F.Supp. at 532. *Compare* Fogie v. Thorn Americas, Inc., 95 F.3d 645 (8th Cir. 1996) *with* Walgreen Co. v. Sara Creek Prop. Co., 966 F.2d 273, 275 (7th Cir. 1992) ("The use of 'irreparable harm' or 'irreparable injury' as synonyms for inadequate remedy at law is a confusing usage [and] should be avoided.")
14. Parker v. Clary Lakes Recreation Ass'n, Inc. 272 Ga. 44, 44, 526 S.E.2d 838, 839 (2000) (quoting Lee v. Envtl.

Pest & Termite Control, 271 Ga. 371, 373, 516 S.E.2d 76, 78, 1999). In light of this holding, one must conclude that Georgia's courts view the terms "irreparable injury" and "inadequate legal remedy" differently. *Compare* Besser v. Rule, 270 Ga. at 473, 510 S.E.2d at 530, with Parker, *id.*

15. *See* State v. Cuthbert, 1 Ga. Ann. (Ga. Super. Ct. - T.U.P. Charlton 13) 8 (1805).
16. *See* Ex Parte Grimball, 1 Ga. Ann. (Ga. Super. Ct. - T.U.P. Charlton 153) 56 (1808).
17. *Id.* at 57.
18. *Id.*
19. 1 Ga. Ann. (Ga. Super. Ct. - R.M. Charlton 93) 150 (1821).
20. *Id.* at 151.
21. 1 Ga. Ann. (Ga. Super. Ct. - Law) 245 (1831).
22. Read v. Dews (I), 1 Ga. Ann. (Ga. Super. Ct. - Law) 244, 244 (1831) ("It has been decided by the Supreme Court of the United States that a Circuit Court of the United States could not enjoin proceedings of a State Court. It results, that unless this Court interferes in a case like that which is presented by this bill, there may be a failure of justice"). The authors have identified this unnamed precedent of the U.S. Supreme Court as *Georgia v. Brailsford*, 2 U.S. (2 Dall.) 402 (1792) (where an interlocutory injunction was determined to be an appropriate remedy while the state pursued its confiscation claim against debt the estate of a Georgia resident owed a British merchant).
23. 1 Ga. Ann. (Ga. Super. Ct. - Law) at 247 (quoting Justice Johnson in *Brailsford*, 2 U.S. at 405, who wrote: "In order to support a motion for an injunction, the bill should set forth a case of probable right, and a probable danger that the right would be defeated, without this special interposition of the Court").
24. *Id.*
25. 119 Ga. 128, 46 S.E. 72 (1903).
26. *Id.* at 130, 46 S.E.2d at 73.
27. *See, e.g.*, Steenhuis v. Todd's Constr. Co., 227 Ga. 836, 183 S.E.2d 354 (1971); Ballard v. Waites, 194 Ga. 427, 21 S.E.2d 848 (1942); Jones v. Lanier Dev. Co., 188 Ga. 141, 2 S.E.2d 943 (1939).
28. *See, e.g.*, Bernocchi v. Forcucci, 279 Ga. 460, 461, 614 S.E.2d 775, 777 (2005).
29. *See, e.g.*, Burnham v. State Hwy Dept., 224 Ga. 543, 549, 163 S.E.2d 698, 702 (1968).
30. 195 Ga. 237, 24 S.E.2d 29 (1943).
31. *Id.* at 244, 24 S.E.2d at 33.
32. 237 Ga. 22, 226 S.E.2d 730 (1976).
33. *Id.* at 22, 226 S.E.2d at 731.
34. 233 Ga. 114, 210 S.E.2d 236 (1974).
35. 223 Ga. 784, 162 S.E.2d 724 (1968).
36. 271 Ga. 371, 516 S.E.2d 76 (1999).
37. *Id.* at 373, 516 S.E.2d at 78.
38. 273 Ga. 280, 539 S.E.2d 811 (2000).
39. 280 Ga. 210, 626 S.E.2d 471 (2006).
40. *Id.* at 212, 626 S.E.2d at 474. *See also* Coffey v. Fayette County, 279 Ga. 111, 112, n.6, 610 S.E.2d 41, 42 (2005); Sweeney v. Landings Assoc., 277 Ga. 761, 762-763, 595 S.E.2d 74, 75 (2004).
41. 273 Ga. at 280, 539 S.E.2d at 811.
42. 280 Ga. at 210, 626 S.E.2d at 471.
43. 249 Ga. 799, 294 S.E.2d 508 (1982) (where the legal similarities and differences between interlocutory injunctions and stays of execution were discussed).
44. 218 Ga. App. 775, 637 S.E.2d 158 (2006).
45. *Id.* at 778, 637 S.E.2d 161.
46. 288 Ga. 600, 706 S.E.2d 634 (2011).
47. *Id.* at 604-605, 706 S.E.2d 638-639.
48. SRB Inv. Services v. BB&T, 289 Ga. 1, 709 S.E.2d 267 (2011).
49. *Id.* at 5, n.7, 709 S.E.2d at 271.
50. 300 Ga. 109, 793 S.E.2d 389 (2016).
51. *Id.* at 112, 793 S.E.2d at 392. *See also* David E. Shipley, *The Preliminary Injunction Standard in Diversity: A Typical Unguided Erie Choice*, 50 Ga. L. Rev. 1169, 1194 (2016) ("There is no uncertainty about the good health of the sliding scale or balancing approach to the grant or denial of interlocutory injunctions in Georgia's equity jurisprudence").
52. *See, e.g.*, Coffey v. Fayette County, 279 Ga. 111, 112, n.6, 610 S.E.2d 41, 42 (2005); Sweeney v. Landings Assoc., 277 Ga. 761, 762-763, 595 S.E.2d 74, 75 (2004); Chambers v. Peach County, 268 Ga. 672, 673, 492 S.E.2d 191, 192 (1997).
53. 249 Ga. 799, 294 S.E.2d 508 (1982).
54. 300 Ga. at 109, 793 S.E.2d at 389.
55. *See, e.g.*, Green Bull Georgia Partners v. Register Communications, 301 Ga. 472, 801 S.E.2d 843 (2017) (where a court's restoration of an interlocutory injunction pending appeal was permissible); Wood v. Wade (A21A0558), 869 S.E.2d 111 (Ga. App., Feb. 4, 2022) (where an interlocutory injunction enjoining attorneys from disparaging other attorneys was permissible); Yakob v. Kidist Miriam Ethiopian Orthodox Tawahedo Church, 359 Ga. App. 13, 856 S.E.2d 722 (2021) (where an interlocutory injunction to compel corporate board meeting attendance was impermissible); Aliera Healthcare v. Anabaptist Healthshare, 355 Ga. App. 381, 844 S.E.2d 268 (2020) (where an interlocutory injunction protecting dissipation of health plan assets was permissible); Kennedy v. Shave Barber Co., 348 Ga. App. 298, 822 S.E.2d 606 (2018) (where an interlocutory injunction prohibiting former employee from operating competing salon within three-mile radius was permissible).

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2022 Annual Meeting: A Return to Amelia Island

BY STEPHANIE J. WILSON



After heading to South Carolina last summer, the State Bar of Georgia was welcomed back to the Omni Amelia Island Resort with open arms for the 2022 Annual Meeting. Many of the events were available in a hybrid in-person/virtual format allowing those who did not wish to travel the ability to take part. The Annual Meeting is always a special time for members of the State Bar of Georgia to not only attend to the business of the Bar but also to spend time with colleagues, friends, family members and guests for an unforgettable weekend that is the perfect mixture of meetings and merriment.

Opening Night Festival

The weekend began with the ultimate outdoor summer party on the Magnolia Terrace where guests enjoyed a relaxing and fun-filled evening dedicated to good food, great music and a chance to catch up with old friends and make new ones. Festival activities included face painting, games (for the young and the young at heart) and more, surrounded by a rustic but glamorously decorated space, complete with fire pits, tent chalets and canoe bars. Partygoers could stop by the

The Opening Night Festival on the Magnolia Terrace.

PHOTO BY ASHLEY G. STOLLAR

photo booth camper to snap some pics to remember the evening. The Band Be Easy—a State Bar favorite—provided the soundtrack for the evening.

Weekend Bar Business

Despite the beautiful beaches and fun galore available in Amelia Island, the main objective of the weekend was the business of the Bar. A number of sections and committees scheduled meetings in which they reviewed the business of the past year while they looked forward to the work and challenges of the next. CLE seminars on Thursday and Friday afforded all present the opportunity to explore topics like environmental justice or the annual installment of the war stories series. Balancing out the business of the day were the evening events that seamlessly incorporated networking and socializing in a casual and relaxed atmosphere. Beginning with the Opening Night Festival on Thursday, members and their guests could choose to attend events depending on their interest and affiliation. Receptions hosted by law school alumni groups, sections and other organizations gave attendees the opportunity to enjoy time with friends and colleagues that they may not have seen in quite some time (or at least since the previous year's meeting or possibly pre-COVID-19). 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 3 plenary session began with special recognition by President Elizabeth L. Fite of members of the judiciary, past presidents of the Bar and other special guests, in addition to recognizing and honoring retiring Executive Committee members and Board of Governors members. Following a few business items, President Fite invited Justice Charlie Bethel to the podium to present the Juvenile Law and Child Advocacy Awards.



PHOTO BY JENNIFER R. MASON

(Left to right) 2021-22 State Bar President Elizabeth L. Fite presents a replica check to Georgia Legal Services Program Executive Director Susan Coppedge in the amount of $619,393 representing the voluntary contributions made by Bar members to GLSP's 2021 "And Justice for All" campaign.

Joining Justice Bethel for these presentations were Nicki Vaughan, immediate past chair, Child Protection & Advocacy Section, and Ira Foster, general counsel, Georgia Legal Services Program. The Chief Justice Harris Hines Award for Outstanding Advocacy for Children in Dependency Proceedings was presented to Katie Hamm, Hall County case manager, and Jennifer Cline, Rockdale County special assistant attorney general. The Judge Willie Lovett Award for Advancing the Field of Juvenile Law was presented to Donald Lee, staff attorney with Gwinnett County Juvenile Court's Guardian Ad Litem unit.

President Fite welcomed Susan Coppedge, executive director, Georgia Legal Services Program, to present a replica check in the amount of $619,393 representing the voluntary contributions made by Bar members to GLSP's 2021 "And Justice for All" campaign.

Next, Chief Justice David Nahmias delivered the State of the Supreme Court of Georgia address followed by the State of the Court of Appeals of Georgia address by Chief Judge Brian Rickman, the State of the Office of Governor by Executive Counsel David Dove on behalf of Gov. Brian Kemp, the State of the Georgia House Judiciary Committee by Rep. Chuck Efstration (R-Dacula) and the State of the Georgia Senate Special Judiciary Committee by Sen. Brian Strickland (R-McDonough).

Outgoing YLD President Elissa B. Haynes reported on the activities of the Young Lawyers Division. She took time to highlight the extensive work of the YLD members and committees in presenting impactful CLEs and programming, for their service to the public and the profession, a successful Signature Fundraiser benefiting Kate's Club and the 11th Annual Legal Food Frenzy which



PHOTO BY JENNIFER R. MASON

(Left to right) Law partners Randall Grayson, 2022-23 State Bar of Georgia President-Elect Tony DelCampo and Dax López following the swearing-in ceremony on Saturday evening.



PHOTO BY M. LANE SOSBEE

(Left to right) Anthony L. "Tony" Cochran shows off his Tradition of Excellence Award from the General Practice & Trial Law Section with fellow Smith Gambrell Russell partner Emily C. Ward.

raised $880,248 or the equivalent of 3.5 million meals for food-insecure Georgians. The Georgia YLD also participated in the Eleventh Circuit Judicial Conference, which was held in Atlanta in May. They hosted a roundtable with members of the federal judiciary with a record-setting 83 federal judges in attendance from Georgia, Alabama and Florida. She thanked the YLD officers and Board of Directors, the Bar's officers, Executive Committee and the Board of Governors for their support.

President Fite then gave the Memorials Report.

During the plenary session, President Fite delivered her outgoing remarks as required by the bylaws of the State Bar. A copy of these remarks can be found on page 34.

Sarah B. "Sally" Akins presided over the 292nd meeting of the Board of Governors on Saturday, June 4. Highlights of the meeting included:

- President Akins addressed the Board of Governors (see page 38).
- The Board approved the following presidential appointments:
  State Disciplinary Board: Christopher Sutton Connelly, Summerville (2025); Judy Fitzgerald, Atlanta (2023); Robert Rogers Giannini, Lawrenceville (2025)
  Formal Advisory Opinion Board: Cassady Vaughn Brewer, Atlanta (2024); David Neal Lefkowitz, Athens (2023); Martin Adam Levinson, Atlanta (2023); Letitia A. McDonald, Atlanta (2024); Amanda Rourk Clark Palmer, Atlanta (2024); Mary A. Prebula, Atlanta (2024); Jeffrey Hobart Schneider, Atlanta (2024)
- The Board of Governors approved the appointment of C. Bradford Marsh to the represent the Bar on the Board of the Institute of Continuing Judicial Education.
- The Board approved President Akins' 2022-23 appointments to standing, special and program committees.
- Following a report by President Akins, the Board approved the following list of nominees to the Judicial Qualifications Commission: Robert O. Bozeman, Decatur; Elizabeth Broadway Brown, Atlanta; J. Anderson "Andy" Davis, Rome; Dax Eric Lopez, Atlanta; Jamala Sumaiya McFadden, Atlanta.
- Treasurer Ivy Cadle reported on the Bar's finances and investments, and the Board approved by majority vote the 2022-23 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 that the State Bar of Georgia 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/or Investment 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 president, the immediate past president, the executive director, the office manager and the general counsel, provided either the president or the treasurer shall sign all checks or vouch-


PHOTO BY STEPHANIE WILSON

(Left to right) 2020-21 YLD President Bert Hummel and 2019-20 YLD President Will Davis catch up at the Opening Night Festival.


PHOTO BY ASHLEY G. STOLLAR

(Left to right) Hon. Phinia Aten and Justice Verda Colvin dressed to the nines for the Presidential Inaugural Gala.

ers and that said accounts can be reconciled from time to time by said persons or their designees. The authority herein given is to remain irrevocable so 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 of Georgia for the fiscal year 2021-22.
- The Board approved the proposed 2022-23 elections schedule.
- The Board approved proposed changes to the Investment Policy as presented by President-Elect Tony DelCampo on behalf of the Investment Committee.
- The Executive Committee elections were held with the following results: William C. "Bill" Gentry, Martin E. Valbuena and Nicki N. Vaughan were reelected to two-year terms.
- The Board approved the appointments of Seth Bruckner, Marquetta Bryan, Keishan J. Davis, Laverne Lewis Gakins and Matthew Howell for two-year terms to the Georgia Legal Services Program Board.
- The Board approved the appointment of Cathy Clark Tyler for a three-year term to the Chief Justice's Commission on Professionalism.
- The Board elected Damon E. Elmore as executive director for the 2022-23 Bar year.
- Executive Director Elmore reported on the current Bar operations.
- YLD President Ronald Edward "Ron" Daniels reported on the activities of the Young Lawyers Division. He thanked Immediate Past President Elissa B. Haynes for her year as president of the YLD. He said one of his major initiatives was to identify people who usually are not involved in the YLD, have diverse backgrounds and are geographically diverse to be committee chairs and directors. He said the YLD will do things differently this year and try new ways of doing things. YLD President Daniels reported on upcoming YLD meetings, including the Officer and Directors Meeting in August and the YLD Fall Meeting in Orlando, in conjunction with Louisiana, Mississippi, Alabama, Tennessee, and Florida's YLDs. He pointed out that those with a burgundy ribbon were young lawyers, and he encouraged the Board to talk to them.
- Chief Justice's Commission on Professionalism Executive Director Karlise Y. Grier reported on the activities of the commission.
- Mark Middleton, one of the representatives of the Bar's Legislative Program, provided a summary of the Bar's 2022 legislative package. *(The State Bar of Georgia's Legislative Program is exclusively funded by voluntary contributions from our members.)*
    - Support for the Inclusion of Fraud Prevention Provisions from ATLA/MBA Model Act in Georgia's Remote Online Notary Legislation (HB 334)—Real Property Law Section.
      Status: Did not pass. A conference committee of legislators from both chambers failed to reach a consensus on the language of the bill.
    - Support for the Adoption of Advance Psychiatric Directive Legislation in Georgia (HB 752)—Fiduciary Law Section.
      Status: Passed.
    - Support for the Superior and State Court Appellate Practice Act (HB 916)—Appellate Practice Section.
      Status: Passed.
    - Support for Establishing the Judicial Legal Defense Fund Commission (HB 409)—Bench and Bar Committee.
      Status: Passed.


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Photos *from the* ANNUAL MEETING


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3


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6



8



11


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12

1. *(Left to right)* Georgia State University College of Law Dean LaVonda N. Reed and 2020-21 State Bar of Georgia President Dawn M. Jones.
2. *(Left to right)* 2021-22 State Bar of Georgia President Elizabeth L. Fite presents the Law Day Award of Achievement to 2021-22 Cobb County Bar Association President-Elect Soo Hong.
3. State Bar of Georgia's 2022-23 Executive Committee: *(back row, left to right)* Member David Lipscomb, Member Martin Valbuena, Member Javoyne Hicks, Immediate Past President Elizabeth L. Fite, YLD President Ron Daniels, YLD Immediate Past President Elissa Haynes, Member Bill Gentry; *(front row, left to right)* YLD President-Elect Brittanie Browning, Secretary Chris Twyman, President-Elect Tony DelCampo, President Sally Akins, Treasurer Ivy Cadle and Member Nicki Vaughan. *(Not pictured: Member Shiriki Jones.)*
4. *(Left to right)* Secretary Chris Twyman, Treasurer Ivy Cadle and President-Elect Tony DelCampo were sworn in as officers of the State Bar of Georgia on Saturday, June 4.
5. *(Left to right)* R. Gary Spencer and Justice Verda M. Colvin at the Opening Night Festival.
6. Presidential Gala Dance Club band Cashmere packs the dance floor.
7. 2021-22 YLD President Elissa B. Haynes with the recipients of the YLD Award of Achievement for Service to the Profession. *(Left to right)* Merry Layman, Elissa Haynes, Carlos Fernández, Jamie McDowell and Mishael Najm.
8. *(Left to right)* 2003-04 State Bar of Georgia President Bill Barwick and Justice Carla Wong McMillian.
9. 2019-20 State Bar of Georgia President Darrell L. Sutton, wife Meredith, daughter Louise and son Wilson enjoying the Opening Night Festivities.
10. 2022-23 YLD Officers are sworn in by Presiding Justice Michael P. Boggs. *(Left to right)* Newsletter Co-Editors Jena Emory and Virginia Josey, Immediate Past President Elissa Haynes, Secretary Veronica Cox, Treasurer Kenneth Mitchell Jr., President-Elect Brittanie Browning and President Ron Daniels.
11. The Band Be Easy provides the soundtrack for the Opening Night Festival.
12. *(Left to right)* Sandra Kate and Justice John J. Ellington at Saturday night's Presidential Inaugural Gala.

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Friday Afternoon Coffee Break
Antitrust Law Section

- Support for "Raise the Age" Legislation (HB 272)—Children and the Courts Committee.
  Status: Did not pass. Failed to receive a final vote in the Senate.
- Support for Digital Court Reporting Legislation—General Practice & Trial Law Section.
  Status: This proposal was ultimately not filed during the 2022 session.
- Support for FY 2023 Judicial Council Budget Request—$750,000 to Fund Civil Legal Services Grants for Kinship Care Families.
  Status: Kinship grants are fully funded in the 2023 fiscal year budget.
- Support for FY 2023 Judicial Council Budget Request—$3 Million to Fund Civil Legal Services Grants for Victims of Domestic Violence.
  Status: Domestic violence grants are fully funded 2023 fiscal year budget.
- Support for FY 2022 Judicial Council Budget Request—$800,000 to Fund the Georgia Appellate Practice and Educational Resource Center.
  Status: The Georgia Resource Center is fully funded in the 2023 fiscal year budget.

- The Board received a copy of the State Bar of Georgia Audit Report for the year-end 2021 and related auditor's letter regarding governance.
- The Board received a copy of the minutes of the Executive Committee meetings held on Feb. 18, 2022, March 11, 2022, and April 14, 2022.
- The Board received a written memo from Executive Director Damon E. Elmore for the closure of the 2016-2018 State Bar strategic plan.
- The Board of Governors received a written memo from Executive Director Damon E. Elmore regarding the unauthorized access of State Bar network and systems.
- The Board received a written report from the Fee Arbitration Program.
- The Board received a written report from the Law Practice Management Program.
- The Board received written reports from the following sections: Administrative Law, Alternative Dispute Resolution, Antitrust, Appellate Practice, Aviation Law, Child Protection & Advocacy, Construction Law, Consumer Law, Creditors' Rights and Commercial Litigation, Employee Benefits Law, Equine Law, Family Law, Fiduciary Law, Franchise & Distribution Law, Health Law, Insurance Law, Intellectual Property Law, Local Government, Nonprofit Law, Privacy & Technology, Real Property Law, Taxation Law and Workers' Compensation Law.
- The Board received a written report on the Formal Investigations undertaken by the Unlicensed Practice of Law Program.
- The Board received a written report on the Roadmap to Law School Program from Ira L. Foster, general counsel, Georgia Legal Services Program.
- The Board received written reports for the Coastal Georgia Office in Savannah and the South Georgia Office in Tifton.
- The Board received a written media report from the Communications Department.

Annual Awards

During the plenary session, outgoing President Elizabeth L. Fite recognized specific Bar members and organizations for the work they have done over the past year.

Chief Justice Thomas O. Marshall Professionalism Awards

The 21st Annual Chief Justice Thomas O. Marshall Professionalism Awards, sponsored 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. Lawton E. Stephens, Superior Court, Western Judicial Circuit, Athens; and Benjamin F. Easterlin IV, 1996-97 president, State Bar of Georgia, Atlanta.

Local and Voluntary Bar Awards

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

- 51 to 100 members: Glynn County Bar Association
- 501 members or more: Georgia Association of Black Women Attorneys

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: Gwinnett County Bar Association
- 501 members or more: Cobb County Bar Association

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

The Best Newsletter Award is presented to voluntary bar associations that provide the best informational source to their membership.

- 501 members or more: Atlanta Bar Association

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

- 501 members or more: Georgia Association of Women Lawyers

The President's Cup Award 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*
  Privacy & Technology Law—Christina D. McCoy, chair
- *Awards of Achievement*
  Equine Law—Philip Burrus, chair
  Health Law—Keri Conley, chair
  Taxation Law—Jeffrey L. Cohen, 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 2022 recipients were: Hon. M. Gino Brodgon Sr., Atlanta (general practice), Anthony L. "Tony" Cochran, Atlanta (defense), Katherine L. McArthur, Macon (plaintiff) and Hon. Timothy R. Walmsley, Savannah (judicial).

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 Shawn Ellen LaGrua, Hon. Amanda Heath and Hon. Linda T. Walker.

The Ross Adams Award was presented to Jonathan B. Pannell, 2012-13 YLD president.

The Joe Dent Hospitality Award was presented to Carlos Fernández.

The Award of Excellence for Dedication to the YLD was presented to Ivy N. Cadle and Michael B. Terry.

The Award of Achievement for Service to the Bar was presented to Kindall Browning, Kyle Davis and Samantha Mullis.

The Award of Achievement for Service to the Public was presented to Audrey Bergeson, Veronica Cox, Hannah Couch, Jena Emory, Morgan Lyndall and Jamie Rush.

The Award of Achievement for Service to the Profession was presented to Chanel Chauvet, Carlos Fernández, Meredith "Merry" Layman, Lindsey Macon, Jamie McDowell, Mishael Najm and Kate Reddy.

The YLD Ethics & Professionalism Award was presented to Katie Rose Martin.

The Outstanding YLD Affiliate was presented to the Savannah Bar Association Young Lawyers Division.

The Elissa Haynes Champion for Justice Award was presented to Christopher E. Bruce and Norbert D. "Bert" Hummel IV.

The Bert Hummel Heart of a Lion Award was presented to Elizabeth L. Fite, Elissa B. Haynes, Christopher P. Twyman and Jessica Wood.

The Griffin Bell Triumph in Leadership Award was presented to Elizabeth L. Fite and Chief Justice David E. Nahmias.

Passing of the Gavel

Saturday evening began with the annual reception honoring the justices and judges of the Supreme Court of Georgia and the Court of Appeals of Georgia, followed by the business portion of the evening. Prior to the swearing-in ceremony, President Fite presented the Distinguished Service Award, the highest accolade bestowed by the State Bar of Georgia, to David S. Lipscomb (see page 44). Lipscomb was honored for his "conspicuous service to the cause of jurisprudence and to the advancement of the legal profession in the state of Georgia."

Following the award presentation, Presiding Justice Michael P. Boggs swore in Sarah B. "Sally" Akins as the 60th president of the State Bar. With her hand on the Bible, Akins repeated the following:

I, Sarah Brown Akins, 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 Savannah-garden-party-themed evening continued with dinner, drinks, dancing and entertainment, including a bourbon, cigar and scotch lounge on the Magnolia Terrace and the dance club featuring the high-energy band Cashmere. ●



Stephanie J. Wilson
Assistant Director of Communications
State Bar of Georgia
stephaniew@gabar.org

2022–23 State Bar Officers, Executive Committee and Board of Governors Members

Officers

President
Sarah B. "Sally" Akins
Savannah

President-Elect
Hon. J. Antonio "Tony" DelCampo
Atlanta

Treasurer
Ivy N. Cadle
Macon

Secretary
Christopher P. Twyman
Rome

Immediate Past President
Elizabeth L. Fite
Atlanta

YLD President
Ronald Edward "Ron" Daniels
Eastman

YLD President-Elect
Brittanie D. Browning
Atlanta

YLD Immediate Past President
Elissa B. Haynes
Atlanta

Executive Committee

William C. "Bill" Gentry
Marietta

R. Javoyne Hicks
Stone Mountain

Shiriki Cavitt Jones
Atlanta

David S. Lipscomb
Lawrenceville

Martin E. Valbuena
Dallas

Nicki Noel Vaughan
Gainesville

New Board of Governors Members

Alcovy Circuit, Post 2
Anne Templeton LaMalva, Monroe

Atlanta Circuit, Post 18
Hon. Rachel R. Krause, Atlanta

Atlanta Circuit, Post 31
Hon. Robert David Wolf, Atlanta

Atlanta Circuit, Post 35
N. John Bey, Atlanta

Atlanta Circuit, Post 40
Hon. Shukura L. Ingram, Atlanta

Lookout Mountain Circuit, Post 3
Hon. Ralph Lee Van Pelt Jr., Ringgold

Member-at-Large, Post 3
Michael Alexander Prieto, Dunwoody

Rome Circuit, Post 1
Christopher Ross Jackson, Rome

Southern Circuit, Post 1
Hon. Paul William Hamilton, Valdosta

Stone Mountain Circuit, Post 5
Keith E. Adams, Decatur

Board of Governors Members

Alapaha Circuit, Post 1
Daniel Jackson Connell III, Adel

Alapaha Circuit, Post 2
Hon. Clayton Alan Tomlinson, Nashville

Alcovy Circuit, Post 1
Michael G. Geoffroy, Covington

Alcovy Circuit, Post 2
Anne Templeton LaMalva, Monroe

Appalachian Circuit
Will H. Pickett Jr., Jasper

Atlanta Circuit, Post 1
Nicole Christine Leet, Atlanta

Atlanta Circuit, Post 2
Kent Edward Altom, Atlanta

Atlanta Circuit, Post 3
Lisa Katsuko Liang, Atlanta

Atlanta Circuit, Post 4
Jeffrey Ray Kuester, Atlanta

Atlanta Circuit, Post 5
Catherine Koura, Atlanta

Atlanta Circuit, Post 6
Tracee Ready Benzo, Atlanta

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

Atlanta Circuit, Post 8
Hon. Paige Reese Whitaker, Atlanta

Atlanta Circuit, Post 9
Keith Elliott Gammage, Atlanta

Atlanta Circuit, Post 10
Edward A. Piasta, Atlanta

Atlanta Circuit, Post 11
Hon. Jill Pryor, Atlanta

Atlanta Circuit, Post 12
Joyce Gist Lewis, 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 Daniel Blitch IV, Atlanta

Atlanta Circuit, Post 17
Hon. JaDawnya C. Baker, Atlanta

Atlanta Circuit, Post 18
Hon. Rachel R. Krause, Atlanta

Atlanta Circuit, Post 19
Zahra S. Karinshak, Atlanta

Atlanta Circuit, Post 20
Jennifer Auer Jordan, Sandy Springs

Atlanta Circuit, Post 21
Patricia Anne 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
Amanda Rourk Clark Palmer, Atlanta

Atlanta Circuit, Post 26
Anthony B. Askew, Atlanta

Atlanta Circuit, Post 27
Nancy Jean Whaley, Atlanta

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

Atlanta Circuit, Post 29
Tina Shadix Roddenbery, Atlanta

Atlanta Circuit, Post 30
Shiriki Cavitt Jones, Atlanta

Atlanta Circuit, Post 31
Hon. Robert David Wolf, Atlanta

Atlanta Circuit, Post 32
Seth David Kirschenbaum, Atlanta

Atlanta Circuit, Post 33
Hon. Susan Eichler Edlein, Atlanta

Atlanta Circuit, Post 34
Allegra J. Lawrence, Atlanta

Atlanta Circuit, Post 35
N. John Bey, Atlanta

Atlanta Circuit, Post 36
Graham Elliott McDonald, Atlanta

Atlanta Circuit, Post 37
Harold Eugene Franklin Jr., Atlanta

Atlanta Circuit, Post 38
Michael Dickinson Hobbs Jr., Atlanta

Atlanta Circuit, Post 39
Anita Wallace Thomas, Atlanta

Atlanta Circuit, Post 40
Hon. Shukura L. Ingram, Atlanta

Atlantic Circuit, Post 1
H. Craig Stafford, Hinesville

Atlantic Circuit, Post 2
Hugh J. McCullough, Glennville

Attorney General
Christopher M. Carr

Augusta Circuit, Post 1
Hon. Amanda Nichole Heath, Augusta

Augusta Circuit, Post 2
Benjamin Howard Brewton, Augusta

Augusta Circuit, Post 3
Thomas Reuben Burnside III, Augusta

Augusta Circuit, Post 4
John Ryd Bush Long, Augusta

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

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

Blue Ridge Circuit, Post 2
Eric Alvin Ballinger, Canton

Brunswick Circuit, Post 1
Stephen Elliott Tillman, Baxley

Brunswick Circuit, Post 2
Martha Wilson Williams, Brunswick

Chattahoochee Circuit, Post 1
Amy Carol Walters, Columbus

Chattahoochee Circuit, Post 2
Brandon Lee Peak, Columbus

Chattahoochee Circuit, Post 3
Alex Musole Shalishali, Columbus

Chattahoochee Circuit, Post 4
Donna Stanaland Hix, Columbus

Cherokee Circuit, Post 1
Randall H. Davis, Cartersville

Cherokee Circuit, Post 2
John Thomas Mroczko, Cartersville

Clayton Circuit, Post 1
Kathryn Lauranne Powers, Jonesboro

Clayton Circuit, Post 2
Harold B. Watts, Jonesboro

Clayton Circuit, Post 3
Hon. Martin L. Cowen III, Jonesboro

Cobb Circuit, Post 1
Katie Kiihnl Leonard, Marietta

Cobb Circuit, Post 2
Ronald Arthur Lowry, Marietta

Cobb Circuit, Post 3
C. Lee Davis, Atlanta

Cobb Circuit, Post 4
Patrick H. Head, Marietta

Cobb Circuit, Post 5
Dawn Renee Levine, Marietta

Cobb Circuit, Post 6
Laura Joan Murphree, Marietta

Cobb Circuit, Post 7
William C. Gentry, Marietta

Columbia Circuit
Danny L. Durham, Evans

Conasauga Circuit, Post 1
Terry Leighton Miller, Dalton

Conasauga Circuit, Post 2
Robert Harris Smalley III, Dalton

Cordele Circuit
James W. Hurt, Cordele

Coweta Circuit, Post 1
Hon. Nina Markette Baker, LaGrange

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

Dougherty Circuit, Post 1
Joseph West Dent, Albany

Dougherty Circuit, Post 2
George P. Donaldson III, Albany

Douglas Circuit
Kenneth Brown Crawford, Douglasville

Dublin Circuit
Joseph Carl Sumner Jr., Dublin

Eastern Circuit, Post 1
Paul Wain Painter III, Savannah

Eastern Circuit, Post 2
Lester B. Johnson III, Savannah

Eastern Circuit, Post 3
Jonathan B. Pannell, Savannah

Eastern Circuit, Post 4
John Bell Manly, Savannah

Enotah Circuit
Hon. Joy Renea Parks, Dahlonega

Flint Circuit, Post 1
Amanda Renee Flora, McDonough

Flint Circuit, Post 2
John Philip Webb, Stockbridge

Griffin Circuit, Post 1
Janice Marie Wallace, Griffin

Griffin Circuit, Post 2
Hon. Christopher Charles Edwards, Fayetteville

Gwinnett Circuit, Post 1
David S. Lipscomb, Lawrenceville

Gwinnett Circuit, Post 2
Judy C. King, Lawrenceville

Gwinnett Circuit, Post 3
Wesley Charles Ross, Lawrenceville

Gwinnett Circuit, Post 4
Gerald Davidson Jr., Lawrenceville

Houston Circuit
Carl A. Veline Jr., Warner Robins

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

Lookout Mountain Circuit, Post 2
Douglas Ray Woodruff, Ringgold

Lookout Mountain Circuit, Post 3
Hon. Ralph Lee Van Pelt Jr., Ringgold

Macon Circuit, Post 1
John Flanders Kennedy, Macon

Macon Circuit, Post 2
Thomas W. Herman, Macon

Macon Circuit, Post 3
Rebecca Holmes Liles Grist, Macon

Member-at-Large, Post 1
William Thomas Davis, Newnan

Member-at-Large, Post 2
Rotsen Dara Diya Law, Atlanta

Member-at-Large, Post 3
Michael Alexander Prieto, Dunwoody

Middle Circuit, Post 1
Mitchell McKinley Shook, Vidalia

Middle Circuit, Post 2
Jerry Neal Cadle, Swainsboro

Mountain Circuit
Hon. James T. Irvin, Toccoa

Northeastern Circuit, Post 1
Mark William Alexander, Gainesville

Northeastern Circuit, Post 2
Nicki Noel Vaughan, Gainesville

Northern Circuit, Post 1
Kimberly Wilkerson Higginbotham, Hartwell

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

Ocmulgee Circuit, Post 1
Carl Santos Cansino, Milledgeville

Ocmulgee Circuit, Post 2
Ashley Mackin Brodie, Gray

Ocmulgee Circuit, Post 3
Christopher Donald Huskins, Eatonton

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

Oconee Circuit, Post 2
Hon. Stephanie Diane Burton, Hawkinsville

Ogeechee Circuit, Post 1
Daniel Brent Snipes, Statesboro

Ogeechee Circuit, Post 2
V. Sharon Edenfield, Statesboro

Out-of-State, Post 1
Scott R. McMillen, Winter Park, Florida

Out-of-State, Post 2
William J. Monahan, Washington, D.C.

Pataula Circuit
Edward R. Collier, Dawson

Paulding Circuit
Martin Enrique Valbuena, Dallas

Piedmont Circuit
Barry E. King, Hoschton

Rockdale Circuit
Daniel Shelton Digby, Conyers

Rome Circuit, Post 1
Christopher Ross Jackson, Rome

Rome Circuit, Post 2
J. Anderson Davis, Rome

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

South Georgia Circuit, Post 2
Tabitha Edwina Payne, Whigham

Southern Circuit, Post 1
Hon. Paul William Hamilton, Valdosta

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

Southern Circuit, Post 3
H. Burke Sherwood, Valdosta

Southwestern Circuit
Hon. R. Rucker Smith, Americus

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

Stone Mountain Circuit, Post 2
William Dixon James, Decatur

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

Stone Mountain Circuit, Post 4
Donna Coleman Stribling, Decatur

Stone Mountain Circuit, Post 5
Keith E. Adams, Dectaur

Stone Mountain Circuit, Post 6
Claudia Susan Saari, Decatur

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

Stone Mountain Circuit, Post 8
R. Javoyne Hicks, Stone Mountain

Stone Mountain Circuit, Post 9
Sherry Boston, Decatur

Stone Mountain Circuit, Post 10
Hon. Dax Eric Lopez, Decatur

Tallapoosa Circuit, Post 1
Michael Douglas McRae, Cedartown

Tallapoosa Circuit, Post 2
Brad Joseph McFall, Cedartown

Tifton Circuit
Hon. Render Max Heard Jr., Tifton

Toombs Circuit
Hon. Thomas Brittan Hammond, Warrenton

Towaliga Circuit
Curtis Stephen Jenkins, Forsyth

Waycross Circuit, Post 1
Matthew Jackson Hennesy, Douglas

Waycross Circuit, Post 2
C. Deen Strickland, Waycross

Western Circuit, Post 1
Hon. Lawton E. Stephens, Athens

Western Circuit, Post 2
Edward Donald Tolley, Athens

Fite'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 to furnish a copy of the report to the Supreme Court of Georgia." Following is the report from 2021-22 President Elizabeth L. Fite on her year, delivered June 3 at the State Bar's Annual Meeting.

BY ELIZABETH L. FITE



2021-22 President Elizabeth L. Fite presents her final remarks to the Board of Governors during the plenary session of the Annual Meeting.

PHOTO BY JENNIFER R. MASON

Distinguished guests, friends and colleagues: my name is Elizabeth Fite, and I stand before you as the 59th president of the State Bar of Georgia.

While certain moments seem to last for an eternity (i.e., Executive Committee nomination speeches), a year as State Bar president can pass in a blink of an eye. And although it seems like only yesterday, I was sworn in as State Bar president, I stand before you today to express my gratitude for a fantastic year and recount to this Board but a mere fraction of the things your Bar has done this year.

As for my gratitude, I'd like to recognize Dawn M. Jones and Bert Hummel on their last day on the dais. They have served this organization well by remaining true to themselves and leading during a time that, to put it mildly, wasn't as enjoyable as they had hoped. Yet, through it all, they lead with their hearts and conviction, and that's all any of us

can do. Please join me in thanking them for their service.

Also, I will miss seeing Bert's face on the jumbotron behind me.

I'd like to thank the State Bar staff for their partnership with me over the years. Many of us have grown up together. There are too many to name, but they give their heart and soul to make meetings like this and our programs a success.

I don't know if you've heard this before, but lawyers can sometimes be demanding. Our staff often bear the brunt of members' frustrations, and as the sole email address that was publicly available for part of May, I encourage us all to do better.

Thank you to my friends and family for the support over the years and for acting as a sounding board for my ideas/hopes/concerns about the Bar—especially when you truly had no interest in the organization beyond my everlasting enthusiasm for it.

Thank you to the members of this august profession who believed in me and encouraged me this year.

When I started the year, I told you I didn't have a pet project or new program I wanted to start. Instead, I wanted educate our members on the many services and offerings that the Bar provides. Thus, we launched the #knowyourbar campaign.

In #knowyourbar, I discussed:

- Law Practice Management Program (provides tools you need to run a firm or law office/department).
- Sudden Health Crisis and Succession Planning (a resource to aid your clients and your family/loved ones in the event you become unable to practice).
- ReliaGuide (a way to find other lawyers and promote yourself).
- Client Assistance Program (CAP)
  - CAP started in the mid-1990s and was the first of the kind in the nation. Since its inception, many other bar organizations have modeled their own CAP programs after ours.
  - CAP is often the only interaction members of the public have with our profession. CAP works to facilitate direct communication between attorneys and clients to resolve informal complaints or grievances related to communications between attorney and client. Thus, if anyone from CAP calls you, please answer—because that means a member of the public has called the State Bar to share something about you.

I didn't even touch on Fastcase, #useyour6, the Lawyer Assistance Program, the Bar building and our satellite offices, and the list goes on.

At the risk of being too on the nose, there's nothing that highlights the value of the Bar like taking the website down for a few weeks. At the outset of the Bar year, I wanted to revamp the Bar's website, and well, be careful what you ask for. I've characterized the month of May as the most intense focus group with the greatest number of participants we could ever do to learn what our members need most at the Bar. What I learned is the members do need us.

In addition to this education piece, we've done so much more. Too much to name, but I'll endeavor to give a more complete picture. Everything we've done was with an eye toward the future realizing the unique obligations we have as a mandatory bar association.

We did a lot of internal housekeeping this year with various policies and rules. We updated the elections process with help from the Elections Committee. We updated the Executive Committee/officer reimbursement policy, which we will discuss tomorrow, but some of the changes were designed to allow more people to participate. We reviewed internal policies and procedures considering challenges faced by mandatory bars. We honored the strategic plan by memorializing our efforts in a closeout document.

After years of debate and discussion, concluded—for now—the vote on professional liability insurance and the Clients' Security Fund. The Office of the General Counsel Oversight Committee worked to develop a plan and framework in anticipation of our general counsel, Paula Frederick's, eventual retirement. Betatested an executive director review process that consists of a self-evaluation by our executive director, a peer review and feedback from the Personnel Committee. We nurtured and grew our relationships with all branches of government.

We created avenues for continuity of leadership by increasing dialogue between the officers that are elevating—hopefully to make less steep the learning curve associated with running this organization. We encouraged members to run for office both within the Bar structure and at the Gold Dome and educated them on ways how they can.

We encouraged young lawyers to stay involved, which is a topic near and dear to

my heart. We wanted to help them bridge the gap and stay involved.

We structured committees for growth and to be more representative of our community and profession as a whole. We continued to be fiscally conscientious and good stewards of Bar license fees and raised awareness of the importance of an unallocated cash policy and looking with fresh eyes at our reserves policy.

We invited comments early on a potential revamp of the advertising rules, by not only telling this Board, but also specifically inviting stakeholders such as the Georgia Trial Lawyers Association, Georgia Defense Lawyers Association and Georgia Association of Criminal Defense Lawyers to comment early.

We used technology to allow more people to participate in meetings and achieve more accurate vote counts. While hybrid meetings are great, I encourage you all to continue to attend meetings in person. There is no substitute for the camaraderie, discussion and debate that in-person meetings can afford.

For our members, we had some emotional talks about sudden health crisis, mental health and suicide prevention. Please use the resources the Bar has for you: #useyour6, sudden health crisis portal, Lawyers Assistance Program, the Wellness Committee, Suicide Prevention Committee. I also encourage everyone who hears this message to share these programs with members of their legal community.

We talked about the value of mentorship and civility and their importance to our profession. We presented awards; congratulated members in their communities on their successes; and mourned with them for their losses.

We had countless committee meetings and section meetings.

We traveled across the state to interact with local bar associations.

Personally, I've learned that when you travel around the state and make the effort to meet other people in their communities you not only gain a greater understanding of the state and the needs of that community, but you also may very walk away with some of the best canned jellies and preserves out there.

More seriously, I encourage everyone in this room to take some time to visit a local bar meeting outside of your community. It is absolutely the best way to gain a greater understanding of the needs of our lawyers around the state.

We had Executive Committee meetings outside of Atlanta, inviting local bar associations to attend, so that our members across this state know how much they are valued.

We participated in Law Day programs.

We had an excellent legislative session with little surprises, which is truly a feat for a legislative program. The Bar is well represented by Christine, Rusty, Mark and Roy, and I think this year their teamwork was superb.

Doing the legislative work of an organization such as ours is not easy. Balancing the very personal interests of our members in certain pieces of legislation with the obligations of a mandatory bar organization is difficult. Our legislative team is often the focus of ire for our members because they are following the will of this body as it relates to what legislation we will support or oppose. As a result, they too, could use some understanding and appreciation for enduring that which many of us do not.

We navigated server/website outages, which you'll hear about in greater detail tomorrow during the executive director's report.

We've laughed, cried, made some people mad and some happy.

The list could continue, but I, as always, remain mindful of your time.

I've told you some of the things the Bar has done, so what did I do?

I grew as a person. I supported an organization I truly love. I tried to listen more than I spoke, yet I also used this platform to educate. I endeavored to provide a space for people to feel heard and valued by this organization. Found so many friends on this journey; those I would have never met and some of whom are, unequivocally, family to me now.

Going forward, I know this organization is in great hands, and I have so much confidence in the leadership to come and the diversity of perspective it brings. I look forward to hearing what Sally has in store for us tomorrow, but I'll use my last few moments in this role to tell you what I intend to do. Realizing that my words might fail me in this moment, I am borrowing words from another:

Never gonna give you up,
Never gonna let you down,
Never gonna run around and desert you,
Never gonna make you cry,
Never gonna say goodbye,
Never gonna tell a lie and hurt you.

Thank you, all. God bless you and God bless the State Bar of Georgia. ●



Elizabeth L. Fite

Immediate Past President
State Bar of Georgia

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State Bar of Georgia

Remarks of Sarah B. "Sally" Akins to the Board of Governors

The following is excerpted from Sarah B. "Sally" Akins' remarks to the Board of Governors on June 4, during the 2022 Annual Meeting in Amelia Island, Florida.

BY SARAH B. "SALLY" AKINS

I am thrilled to be at this podium addressing y'all this morning. I deeply appreciate your support, confidence and trust as I become president of the State Bar of Georgia. I could never have imagined standing before you when I first started practicing law 32 years ago, but I am extremely pleased and grateful to be here now. I pledge to you that I will do my best—I will always do my best—but what I ask is that you help me by sharing your suggestions and your comments as we move forward this year. It takes more than one person to do this job and I am excited to work with each one of you. I am especially thankful for those of you who serve on committees—as members or leaders—including the Executive Committee and officers. We will get through this as a team and will have a very good year.

I am also looking forward to working with the fabulous employees of the State Bar, many of whom have become very good friends and have already supported me so much. Like so many other Bar volunteers, I rely on the staff daily and they do a tremendous job. They are diligent, dedicated and dependable; they truly have the best interests of the Bar at heart.

I want to thank the members of our appellate courts for their support and their presence here today. We in Georgia are very fortunate to have a great relationship between all members of the bench and bar. From my travels to other states, I can tell you that is not a given.

Above all, I owe a humungous shout out and thank you to outgoing president, Elizabeth Fite, for keeping a steady hand on the wheel while facing several challenges, not the least of which was the unauthorized access of the Bar's network and website during the last couple months of her presidency when she *should've* been winding down. Please join me in giving Elizabeth a big round of applause.

You just heard a little bit about this from Paul Painter—Paul, we should have traded notes before we both got up here to speak—but last weekend, our colleague and former Board of Governors member, Jeff Ward, died accidentally and tragically; he is already sorely missed. Jeff was very active in the State Bar. His wife is Jennifer Davis Ward. That's a name that is probably very familiar to many of you. She worked at the State Bar during the late '80s and through the '90s, ending her tenure as director of communications, and still remains active with the State Bar, which is remarkable given that she's a layperson. Jennifer is a big part of the State Bar family. She was appointed by the Supreme Court to the State Disciplinary Board years ago and still serves our profession there. She also served two terms on the Chief Justice's Commission of Professionalism and was invited to continue on as an advisor; she is still serving on that commission today and is a key member of its grants subcommittee. I will tell you that, personally, not having Jeff and Jennifer here this weekend changed the dynamic for me. It would have been much happier with them. I can confidently say this: everybody in this room would have been happier if those two were here with us this weekend. However, as we mourn the untimely passing of our colleague and friend, I want to challenge all of us think about it in a different way since it is certainly easy to be sad about such a tremendous loss. It's a shock and a lot of people who are Jeff's friends are still in shock. But, as I stopped and thought about it for a few minutes, I said to myself, "This is a unique opportunity to reassess priorities." And I have since tried to do that and turn that tragic moment into a positive outcome, with a renewed commitment to professionalism.

We're also going to turn the unauthorized access of the Bar's network into a productive event. It's an opportunity for us to rebuild. We've already started this process, and it certainly is giving us a chance to rebuild and improve things, and we pledge to do that. I'm sure you have followed Elizabeth's email briefs to all members regarding the details surrounding the unauthorized network access,

but the bottom line is that the Bar staff and several trained IT experts are managing the fallout and have been working diligently to restore our networks and rebuild them in a safer environment. Y'all have probably seen their progress as the State Bar website has started to repopulate with the resources you're accustomed to accessing; we will continue this restoration until we are fully restored and, as I mentioned, improved.

My next area of focus will be looking at continuing legal education. You might know the Supreme Court appointed a task force last year and one of its charges was to examine CLE ranging from how we oversee compliance to the quality and delivery of programming. The Commission on Continuing Lawyer Competency, which is charged with overseeing mandatory CLE, is also taking a fresh look at where we are today and how it comports with changes in technology and more since its enactment. The Institute of Continuing Legal Education, which is the largest provider of programming for State Bar members, is also in a transition phase. The time is right to review where we are with this critically important requirement. After all, CLE's ultimate goal is to protect the public by ensuring lawyers remain up to date on changes in the law, especially if they decide to shift their area of practice. We will focus on enhancing our CLE by producing and promoting high quality, comprehensive and innovative programming that is both valuable to Georgia lawyers and conveniently available no matter where you're located geographically. Please let us know—especially for those of you who are not in metro-Atlanta—how you think it's going, how far you must drive to get to a CLE and if you feel you're being well served. Your opinion is very important. We're planning to expand our rebroadcasting alternatives to make scheduling as convenient as possible for the busy members of our Bar so it's not a burden to earn your CLE hours. We'll be reaching out for your feedback on enhancing CLE programming; and, in turn, please ask the members of your circuits, who you are here representing, what additions or other changes they would like to see. CLE should be as worthwhile and accessible as possible. It's really good now, but everything can be improved and that should be our goal for CLE in Georgia.



PHOTO BY JENNIFER R. MASON

2022-23 President Sarah B. "Sally" Akins presents remarks to the Board of Governors on Saturday, June 4, at the Annual Meeting.

As the year progresses, please feel free to reach out and give your honest opinion on how you think the Bar is doing. Is there anything you think the Bar *should* be doing or *should not* be doing? If you hear from members in your circuits, please share their feedback, as well.

As we embark on this journey together, we will no doubt have a wonderful year and I very much look forward to it. If I don't hear from you, do not be surprised if you hear from me because you will! I will not be shy about asking for your advice and assistance.

Thank you again for everything you do for your clients, your colleagues, your friends, your family, and for the entire legal profession and the justice system of the great state of Georgia. ●



Sarah B. "Sally" Akins

President
State Bar of Georgia

sakins@milesmediation.com

'You're Supposed to Do Your Part': Sally Akins' Legacy of Leadership

"I think the State Bar of Georgia is a very unique bar association in that the folks generally like each other and are very collegial. I don't mean just the leadership, but I mean the lawyers in general."

BY LINTON JOHNSON



For Sarah B. "Sally" Akins, the decision to serve the legal profession as a leader of the State Bar of Georgia resulted in part from values that were instilled in her at an early age.

"My parents and grandparents were always big on 'you're supposed to do your part,' volunteer-wise," Akins said in an interview after her installation as the 60th president of the State Bar. "Everything you do does not earn you money. There's a certain part of life where you need to be volunteering your time, your energy and your talents if you have that, to better your community, your profession, whatever it is. That's been the background that I came from."

Elected by her fellow Savannah Bar members to represent them on the Board of Governors, then winning a seat on the Executive Committee and subsequent elections as secretary, treasurer and president-elect, Akins said she has received non-monetary rewards from her service as a Bar leader.

Dale, Sally and Boudreaux Akins

PHOTO BY MINDI JO PHOTOGRAPHY

"I'm the type of person who likes knowing people, and I like meeting people that but for being involved in the State Bar of Georgia I would never cross paths with," she said. "So that was one impetus, not only to fulfill what I felt like was my professional service responsibility, but also to meet different people around the state and to have those people enrich my life from the experience of knowing them and learning from them. I think the State Bar of Georgia is a very unique bar association in that the folks generally like each other and are very collegial. I don't mean just the leadership, but I mean the lawyers in general."

Akins, a senior neutral with Miles Mediation & Arbitration and of counsel with Ellis Painter in Savannah, is the daughter of two north Floridians, but she spent very little of her childhood in the Sunshine State. Her father was a computer engineer with Exxon whose job computerizing oil refineries necessitated the family moving to Holland when little Sally Brown was six months old. There were subsequent moves to England and Venezuela before she was out of elementary school and they moved back to the United States.

"I graduated from high school in New Jersey and immediately fled south to the University of Florida, where my father had graduated," Akins said. About the time she was deciding where to go to law school, she went to visit a sorority sister who had married and was living in Macon while her husband was a law student at Mercer University.

"I just really fell in love with the campus and the fact that it was so much smaller than the University of Florida," Akins recalled. "It was quite the different experience, and I'm very grateful that I did. It was fabulous. The first thing it did was it introduced me to my husband, who is still my husband 30 years later. So that was a pretty important benefit."

Besides Dale Akins, she said "I met a lot of fine people at Mercer, and a lot of people who were active in the community, who were just really impressive—not only the faculty but also the students. I enjoyed the size of the town, I enjoyed the size of the school, the people; just everything about it was really fantastic."

At the end of her time at Mercer in 1990, Akins graduated, learned she had passed the Bar and landed a job all in one weekend. The job was a clerkship for Superior Court Judges Arthur W. Fudger and F. Marion Cummings in the Tallapoosa Judicial Circuit, which at the time covered Haralson, Paulding and Polk counties. (Paulding has since become a one-county circuit.)

"That was a fabulous experience because I knew I wanted to be a trial lawyer, and it gave me a nice inside understanding about at least what these two judges liked and didn't like in terms of courtroom behavior and your demeanor and the way you conducted yourself in general, with respect to how you communicated with the court," she said. They were very different, and that was also a really good experience. For example, Judge Fudger always gave the pattern jury charges. He never asked me about it. With Judge Cummings, I would stay up in the law library and research it with him. So it was a nice dichotomy and contrast in their styles."

It was a one-year clerkship, and Akins wound up leaving a bit early because she landed a job at what was then the Freeman & Hawkins firm in Atlanta (now Hawkins Parnell & Young). "It was a great place to be a young trial lawyer, because they threw you into everything immediately," she recalls. "You didn't spend hours in the law library your first years. So I defended all types of civil cases, from road wrecks to legal malpractice cases. It was a nice place to be a young lawyer, living in Atlanta and thinking you were making so much money you couldn't believe it because it was probably twice as much as I was making as a law clerk."

She had worked in Atlanta for 2 ½ years when Dale Akins, who had by then set up a law practice in Beaufort, South Carolina, proposed to her—with one condition: "I'm not moving to Atlanta, so you've got to figure out how to move here." She accepted, and decided Savannah was the closest place she could practice without having to take the South Carolina Bar exam. The late Lane Young, her mentor at Freeman & Hawkins, had a longtime friend in Savannah named Clay Ratterree and introduced her to the firm then known as Painter, Ratterree & Bart. According to Akins, in the early 1990s, the only attorney job openings in Savannah occurred when someone died, retired or moved. As good luck would have it, an associate in that firm was moving to Atlanta.

"That was very fortuitous and probably the best thing that ever happened in my legal career, because it introduced me to my longtime mentor, the late Paul Painter Jr.," she said. "First of all, he was the finest lawyer and man I've ever known. That's the most important thing about him. Additionally, he always encouraged me and always opened doors for me. He taught me how to conduct myself. 'When you go to a new courthouse, Sally,'

After taking the reins of the State Bar, Akins said the most important ways the Bar can serve the profession is through continuing legal education and ensuring the disciplinary system continues to run efficiently and effectively.

he would tell me, 'introduce yourself to the judge, tell him who you are, before you go stand up in front of them in court.' But most importantly, when I did make those introductions, when I said I worked for Paul Painter, I had instant credibility. That was a very huge gift that he gave me, which was the ability to use his name and be associated with him."

Painter opened doors for Akins to get involved in the State Bar and its General Practice & Trial Law Section, as well as the Georgia Defense Lawyers Association. She eventually served as GDLA's 50th president in 2017-18 and is also a past president of the Southeast Georgia chapter of American Board of Trial Advocates and the Savannah chapter of the Georgia Association of Women Lawyers. "Not only did it open doors," she said, "but that firm, which was very small at the time, encouraged me to do those things, even if it took away from billable hours and even though it cost money because they paid my expenses to do these activities. So it was just really a lovely, nurturing place to be a young lawyer."

She is still affiliated, in an of counsel capacity, with the current version (Ellis Painter) of the firm she joined in 1993. For the past four years, she has been a full-time mediator with Miles Mediation's Savannah office, but she looks back fondly on her nearly three decades of defending automobile accident cases, premises liability, pharmaceutical malpractice and many other civil actions. Among her clients were large corporations, including Orkin, Home Depot and Walgreen's.

"I loved it, I really did," Akins said. "Frankly, I loved trying jury trials, but I was kind of like a kid taking a test. I never minded taking the test; I just never like studying for the test. So I never liked getting ready for the trials, but I always liked it when I was prepared and went in there to do it."

Her husband Dale is an equally experienced plaintiff's lawyer. Rather than a source of conflict, that turned out to be a benefit. "That was a blessing because he's a very good plaintiff's lawyer," Akins said. "So I would always tell him, here's what my trial is about, and he would say 'this is what I would do.' Usually, it would work out really well, because he had thought about a lot of things I never had to face. So I was ready if the opposing lawyer did think of it. It was nice to have his brain because it functions differently than mine does in terms of being on that side of the 'v.'" Asked if she reciprocated with that kind of assistance, she replied, "Absolutely."

Akins is also a past chair of the Board of Bar Examiners and serves on the U.S. District Court Advisory Committee for the Southern District of Georgia and the U.S. Court of Appeals for the Eleventh Circuit Court Advisory Committee. She received the General Practice & Trial Law Section's Tradition of Excellence Award and was recognized by the *Daily Report* with its Distinguished Lawyer Award. Her peers have selected her as a Super Lawyer since 2010 and as a Top 50 Female Super Lawyer since 2012.

After taking the reins of the State Bar, Akins said the most important ways the Bar can serve the profession is through continuing legal education and ensuring the disciplinary system continues to run efficiently and effectively.

"I think part of that part of the puzzle is about educating the public," she said. "Because even my husband, who is a lawyer as well in South Carolina and Georgia, will ask me 'why does it take so long for the process to work?' I say, 'Well, because it's due process.' What's tantamount is protecting the public, but you've got to understand that you can't have someone who might not have made a mistake or violated the Rules of Professional Conduct not have their chance and get railroaded. I wish that people were more aware that the State Bar is not sitting on its hands. If all of those parts, which are many, of the disciplinary process work, they work as efficiently as possible to ensure that the public is protected when a lawyer does make a misstep."

Finally, Akins said she invites feedback from all Bar members on issues that are important to them. "The folks who are driving the bus don't know about everyone's concerns or their specific problems," she said. "So if there are suggestions—'it would be great if the Bar did this or that'—I'd love to hear about that. I obviously can't promise that we'll make everything happen, but I think it's nice to hear from anybody who has an idea, suggestion or concern or question." ●



Linton Johnson

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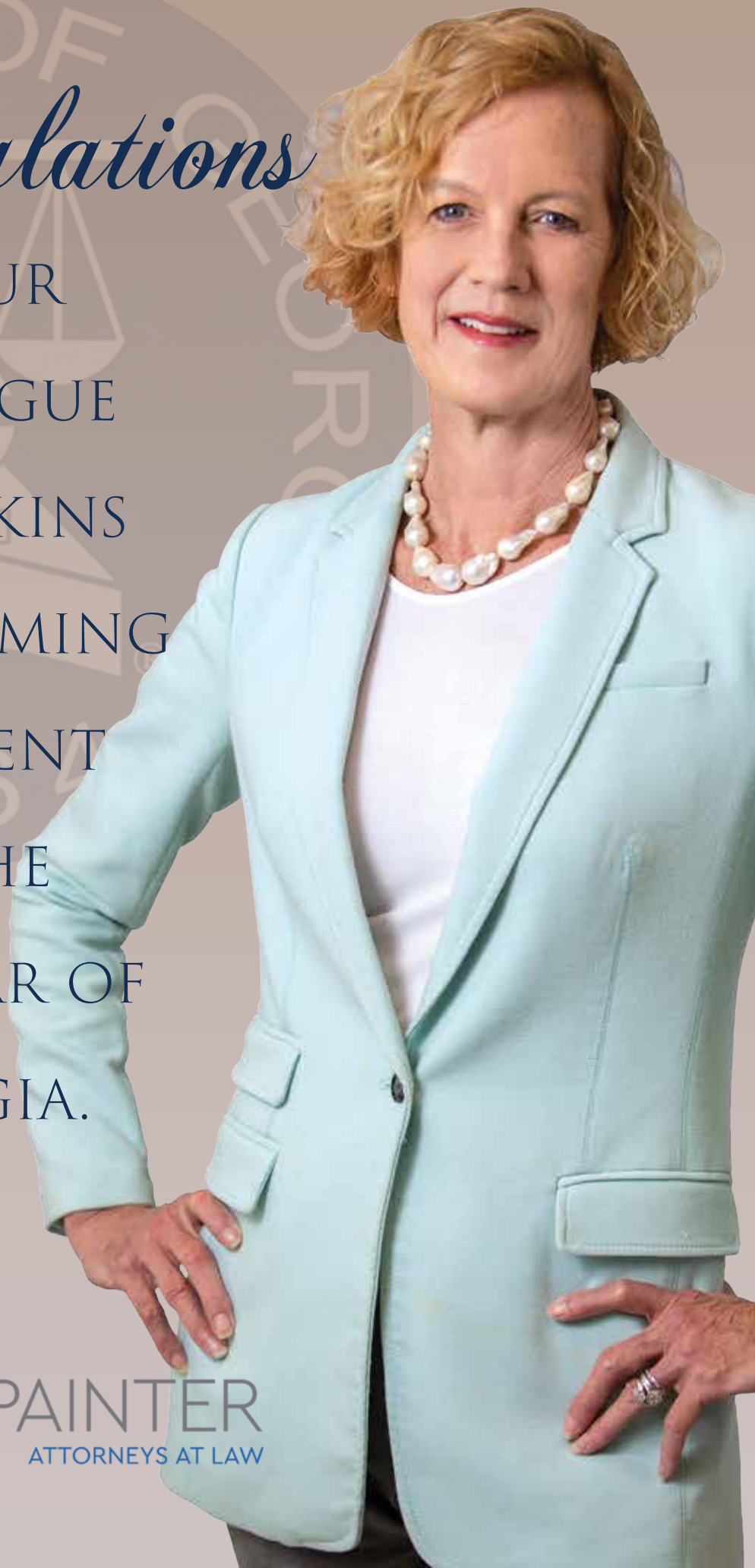
Congratulations

to our colleague

Sally Akins

on becoming President of the State Bar of Georgia.



ELLIS PAINTER

ATTORNEYS AT LAW

David S. Lipscomb Receives the Bar's Highest Honor

The 2022 Distinguished Service Award was presented to David S. Lipscomb at the State Bar's Annual Meeting for his extensive service to the legal profession, the justice system and the public.

BY ASHLEY G. STOLLAR

The Distinguished Service Award is the highest honor bestowed by the State Bar of Georgia for conspicuous service to the cause of jurisprudence and to the advancement of the legal profession in the state of Georgia.

David Lipscomb was presented with this prestigious award on June 4 by 2021-22 President Elizabeth L. Fite during the State Bar's Annual Meeting in Amelia Island, Florida.

Lipscomb was honored for his extensive service to the legal system over his 46-year career as an attorney, which includes 29 years as a member of the Board of Governors of the State Bar of Georgia, representing the Gwinnett Judicial Circuit, and 23 years as a member of the State Bar's Executive Committee.

Lipscomb is a graduate of Georgia State University, where he earned a bachelor's degree in political science. He attended Emory University School of Law and earned his law degree from the Woodrow Wilson College of Law. He was admitted to the State Bar of Georgia in 1976.

Lipscomb served as president of the Gwinnett Bar Association in 1986-87, was appointed as a special master by the Gwinnett Judicial Superior Court and the Supreme Court of Georgia, serves as a special assistant attorney general and, since 1989, has chaired the Gwinnett County Indigent Defense Governing Committee.

Upon presenting Lipscomb with the 2022 Distinguished Service Award, Bar President Elizabeth L. Fite remarked, "David Lipscomb distinguished himself as an attorney in multiple areas of law practice, as well as through his longstanding leadership and countless hours of service to the legal profession. The legal community in our state owes considerable appreciation to David for his exemplary commitment, integrity and leadership in service to the legal profession, the justice system and the state of Georgia." ●



PHOTO BY JENNIFER R. MASON

(Left to right) David Lipscomb accepts the Distinguished Service Award from 2021-22 State Bar President Elizabeth L. Fite.



Ashley G. Stollar

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Kudos



Nelson Mullins Riley & Scarborough LLP named Elisa Kodish as the firm's national pro bono partner, leading the award-winning program as it invests further in its mission of providing legal services to the underserved. Kodish will help formulate and execute the firm's strategic vision for pro bono across the firm's 900 attorneys and 31 offices. Nelson Mullins engages in complex pro bono litigation, policy and legislative advocacy, and provides individual representation to a diverse group of individuals and organizations whose mission is to serve people with limited means and to protect and enforce human rights, civil rights and disability rights, advocate for adequate housing, health care, education and parental rights, and advance social and racial justice.



Cozen O'Connor announced that Alycen Moss, co-chair of the firm's property insurance group, was appointed to co-vice chair of the firm's Global Insurance Department. Moss, managing partner of the firm's Atlanta office, focuses her practice on civil litigation and has extensive experience with matters pertaining to property and casualty insurance, transportation matters, and mass and complex torts.

On The Move

IN ATLANTA



Morris, Manning & Martin, LLP, announced that Seslee S. Smith was appointed as general counsel. In this role, Smith oversees all legal matters directly related to the firm, including advising the managing partner and management committee on legal, insurance, employment and professionalism issues. She will also work with the chief financial officer to review contracts with the firm's outside vendors. The firm is located at 3343 Peachtree Road NE, 1600 Atlanta Financial Center, Atlanta, GA 30326; 404-233-7000; Fax 404-365-9532; www.mmmlaw.com.



Baker Donelson announced the addition of William W. Fagan III as of counsel. Fagan's practice focuses on mergers and acquisitions and other complex business transactions, regulatory compliance, and corporate governance and securities. The firm is located at 3414 Peachtree Road NE, Suite 1500, Atlanta, GA 30326; 404-577-6000; Fax 404-221-650; www.bakerdonelson.com.



McAngus Goudelock & Courie announced the addition of attorney Crystal Yarbrough. Yarbrough's practice focuses on general litigation. The firm is located at 270 Peachtree St. NW, Suite 1800, Atlanta, GA 30303; 678-500-7300; Fax 678-669-3546; www.mgclaw.com.



DANIELS



LEWIS

Bovis, Kyle, Burch & Medlin, LLC, announced the addition of Constantine Daniels and Wendy Lewis as associates. Daniels' practice focuses on complex civil litigation. Lewis' practice focuses on workers' compensation defense and insurance defense. The firm is located at 200 Ashford Center N, Suite 500, Atlanta, GA 30338; 770-391-9100; Fax 770-668-0878; www.boviskyle.com.



FISH



REYNOLDS

Chamberlain Hrdlicka announced the addition of Katie Fish and Chadd Reynolds as associates. Fish's practice focuses on condemnation and eminent domain and real estate. Reynolds' focuses his practice on commercial law with an emphasis on construction business matters. The firm is located at 191 Peachtree St. NE, Suite 4600, Atlanta, GA 30303; 404-659-1410; Fax 404-659-1852; www.chamberlainlaw.com.



BROWN



HOWARD



LYON



REED

Swift, Currie, McGhee & Hiers, LLP, announced the addition of Jordan Brown, Brandon Howard, Samuel Lyon and Blake Reed as associates. Brown focuses his practice on defending employers and insurers against workers' compensation claims. Howard's practice focuses on business and property claims, commercial liability, construction, bodily injury and bad faith litigation. Lyon focuses his practice on insurance liability and bad faith litigation. Reed's practice focuses on advocating on behalf of a wide array of businesses in matters related to premises liability, automobile liability and wrongful death. The firm is located at 1355 Peachtree St. NE, Suite 300, Atlanta, GA 30309; 404-874-8800; Fax 404-888-6199; www.swiftcurrie.com.



Harris Lowry Manton LLP announced the addition of Spencer P. Mead as an associate. Mead's practices focus on personal injury, product liability, car accidents and truck accidents. The firm is located at 1418 Dresden Drive NE, Suite 250, Brookhaven, GA 30319; 404-777-5130; Fax 404-961-7651; www.hlmlawfirm.com.



Eversheds Sutherland announced the addition of David A. Wender as partner. Wender focuses his practice on bankruptcy and restructuring, representing a broad range of clients in complex bankruptcy cases, out-of-court workouts, debt restructurings, asset dispositions and claims reconciliation procedures. The firm is located at 999 Peachtree St. NE, Atlanta, GA 30309; 404-853-8000; Fax 404-853-8806; www.us.eversheds-sutherland.com.



GreenbergTraurig announced the addition of Matthew W. Nichols as shareholder. Nichols focuses his practice primarily on the municipal market, working on leveraged finance, direct placements, syndicated private placements and municipal bond offerings. The firm is located at 3333 Piedmont Road NE, Suite 2500, Atlanta, GA 30305; 678-553-2100; Fax 678-553-2212; www.gtlaw.com.



Levine Smith Snider & Wilson, LLC, announced the addition of Dale M. Cecka as senior counsel. Cecka's practice focuses on family law matters including divorce, custody and legitimation, prenuptial and postnuptial agreements, modifications, contempt and family violence actions. The firm is located at 3490 Piedmont Road NE, Suite 1150, Atlanta, GA 30305; 404-237-5700; Fax 404-237-5757; www.lsswlaw.com.



MendenFreiman announced the addition of Shunta V. McBride as counsel. McBride focuses her practice on estate planning, trust and estate administration, tax planning and business law. The firm is located at 5565 Glenridge Connector NE, Suite 850, Atlanta, GA 30342; 770-379-1450; Fax 770-379-1455; www.mendenfreiman.com.



Hall Booth Smith, P.C., announced the addition of Aaron D. Webb as of counsel. Webb's practice focuses on medical malpractice defense, aging services, general liability, and arbitration and mediation. The firm is located at 191 Peachtree St., Suite 2900, Atlanta, GA 30303; 404-954-5000; Fax: 404-954-5020; www.hallboothsmith.com.

A Productive Summer for the State Bar of Georgia Diversity Program

The State Bar of Georgia Diversity Program (GDP) had a very busy summer. On June 28, Nelson Mullins hosted a Summer Associates & Judiciary Reception. The event featured an interview of Supreme Court of Georgia Associate Justice Verda Colvin. The purpose of the event was to confirm to pipeline candidates the State Bar of Georgia's commitment to diversity in the legal profession. A special thank you to Charles Huddleston, a long-time supporter of the GDP, for helping to plan the event.

The GDP hosted its annual High School Pipeline Program July 11-21 at Atlanta's John Marshall Law School. The Pipeline Program included approximately 20 rising freshmen, sophomores and juniors who spent almost two weeks honing their written and verbal communication skills with teachers. Scholars wrote a paper, worked on oral arguments and received feedback from teachers, lawyers and judges. Each day, the scholars visited a different law firm or corporate or government legal department for a lunch and learn on various topics. For example, at Equifax, scholars learned what credit is, why it's important, and how to get and keep a good credit score. Equifax is a member of GDP's Steering Committee. Georgia Power, Swift Currie, Akerman and the city of Atlanta's Department of Law also provided lunches to scholars and shared information on social media etiquette, study skills, interviewing and resume writing, how city government works and more. The High School Pipeline Program is a collaboration of the GDP, the Leadership Institute for Women of Color Attorneys and Atlanta's John Marshall Law School. We appreciate all of our sponsors, teachers and volunteers.

The work of GDP is not funded by Bar license fees but it is made possible by sponsors and Steering Committee members. If your law firm or corporate or government legal department is interested in joining the Steering Committee, please reach out to Halima H. White, executive director of the State Bar of Georgia Diversity Program, at 404-219-8174 or gadiversityprogram@gmail.com.



Serve the Bar. Earn CLE credit.

2 Volunteer and complete online training to be a peer in the Georgia Lawyers Helping Lawyers program and earn up to **two** CLE hours during your training. Visit www.georgiaLHL.org for more information.

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

6 Earn up to **six** CLE credits for having your legal article published in the *Georgia Bar Journal*. Contact jenniferm@gabar.org to learn more.

State Bar of Georgia

IN MACON


BUCKLAND


MORRIS


WELDON

James Bates Brannan Groover LLP announced the addition of Mark A. Buckland, Amanda M. Morris and L. Carrie Weldon as associates. Buckland's practice focuses on corporate and transactional law, including corporate formation, structuring corporate entities and contractual negotiations. Morris' practice focuses on business and commercial litigation. Weldon's practice focuses on general litigation matters including representing insurance companies, local governments and businesses in a variety of civil matters. The firm is located at 231 Riverside Drive, Suite 100, Macon, GA 31201; 478-742-4280; Fax 478-742-8720; www.jamesbatesllp.com.

IN RICHMOND HILL



Weiner, Shearouse, Weitz, Greenberg & Shawe announced the opening of an office in Richmond Hill and the addition of Jim Gardner as of counsel. Gardner focuses his practice on commercial and residential real estate, civil litigation, estate planning and probate in addition to general business law. The firm is located at 10385 Ford Ave., Suite A, Richmond Hill, GA; 912-756-3688; Fax 912-756-3640; www.wswgs.com.

IN NOBLESVILLE, INDIANA



Kimberly Hughes announced the formation of the Hughes Law Office, LLC. Hughes Law Office handles plaintiffs' personal injury, business formation and transactions, construction defect, business disputes, employment law and estate planning. The firm can be contacted at 513-479-2625 or khughes@hirehughes.com.

Hagen Rosskopf Hosts Successful Bike Collection Day for Free Bikes 4 Kidz ATL



Hagen Rosskopf's team before loading all the collected bikes onto trucks to deliver to Free Bikes 4 Kidz ATL in November 2021. *(Left to right)* Matt Hagen and Kendrick McWilliams, attorneys; Diana Wong, Kimberly Hart, Pamela Woods Conley, paralegals; Bruce Hagen, founding partner; Lory Gustave, Amie Risley, Jamie High, paralegals; Zach Nelson, attorney, and Dan Pruitt, paralegal.

PHOTO COURTESY OF HAGEN ROSSKOPF

During the 6th Annual Bike Giveaway Day in November 2021, Free Bikes 4 Kidz (FB4K) Atlanta refurbished and gave away 700 bikes and new helmets to kids. Each child was assisted by a volunteer to help them find the bike best suited for them, and the entire experience made each kid feel like they were getting a very special bike. For many of the kids at the Giveaway Day, this was their very first bike.

Bruce Hagen and his team at Hagen Rosskopf decided to offer the law office as a permanent drop off location after hosting a successful bike collection day in May 2021. Over the next months, they received almost 200 bicycles that were later cleaned up and repaired by a small army of FB4K volunteers, including 2021 U.S. pro national bicycle road race champion Joey Rosskopf.

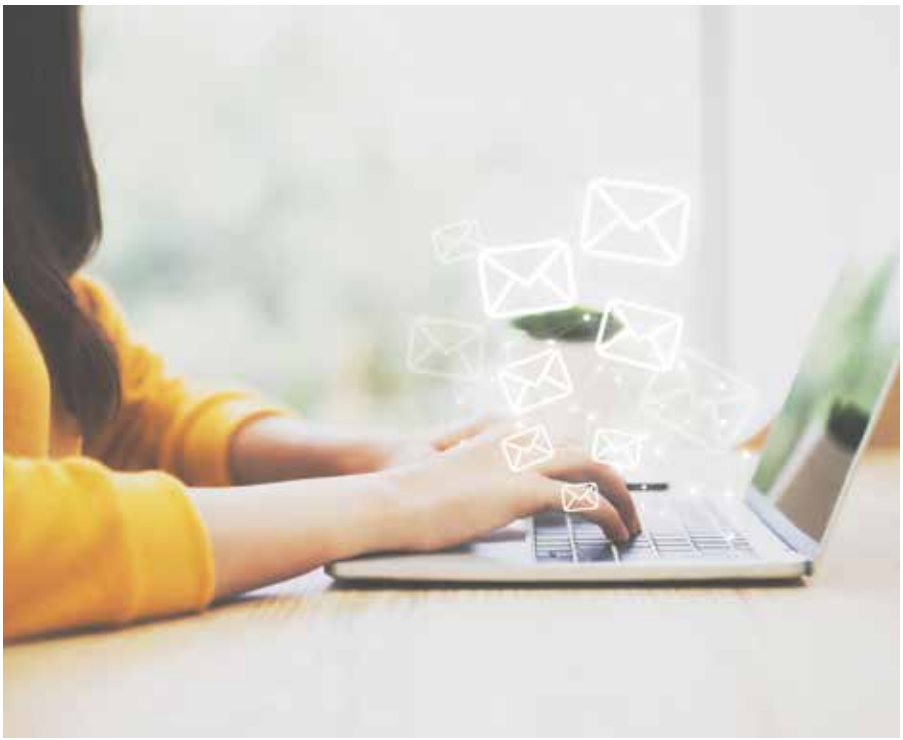
Hagen Rosskopf's team is currently accepting donations of used bicycles and tricycles for FB4K Atlanta's 2022 Annual Giveaway. All bicycles can be dropped off 24/7 on the porch of Hagen Rosskopf/Bike Law GA's law practice located at 119 N. McDonough St., Decatur GA 30030.

Learn more about FB4K Atlanta's mission by visiting fb4katl.org/donate/donate-a-bike/.

You've Got Mail

Is it ever a good idea to blind copy your client on an email? Read on to find out why it likely isn't.

BY PAULA FREDERICK



GETTYIMAGES.COM/MARCHMEENA29

"Let me get this straight," you say into the phone "—you sent me and my co-counsel an email. Unbeknownst to me, you blind-copied your client. I hit 'reply all' and pointed out all the problems with your position. Through no fault of mine, your client received my response. Now you say *I've* violated the Bar Rules by communicating directly with your client?"

"You did!" opposing counsel asserts. It's Rule 4.2—you can't communicate with somebody else's client when you're on the other side of the case!"

"But this never would have happened if you had not been sneaky enough to blind copy your client in the first place," you point out. "You assumed the risk!"

Whether from a desire to enhance communication or just for convenience, a lawyer sometimes copies their client on email to opposing counsel. When that happens, does the recipient violate the Rules of Professional Conduct by responding to all?

Rule 4.2 is the "no-contact" rule. It prohibits a lawyer from communicating directly with opposing counsel's client, unless counsel has given permission or the communication is authorized by law.

You might be surprised at how often this happens. Sometimes the email program automatically includes blind copies on the response. Sometimes the responding lawyer isn't paying attention to who the other recipients of the email are. Sometimes the recipient lawyer is aware that opposing counsel's client is copied on the email, but assumes they consent to direct communication.

It's a risky practice, particularly since the *client* could be the one who reveals confidential information in a "reply all" response.

We don't have any explicit authority on the topic in Georgia, but several other jurisdictions have issued advisory opinions that provide helpful (if non-binding) guidance.[1]

Most agree that deliberately using "reply all" to send a message to a represented opposing client is a technical violation of Rule 4.2. The violation may be mitigated by the fact that the sender set the violation in motion by including the client as a "bcc recipient" in the first place; doing so may imply that the sender consents to ongoing communication with the client. Even so, the better practice for the receiving lawyer is to get express consent from opposing counsel before continuing the group discussion.

If you typically copy clients on email to opposing counsel, think twice. It is certainly foreseeable that the recipient of an email might hit "reply all" with a response. To prevent that from happening, state in the body of the email that you are copying your client for convenience but that you want any responses directed to you alone.

Better still, send the email without including the client, and forward it separately. ●



Paula Frederick

General Counsel
State Bar of Georgia

paulaf@gabar.org

Endnote

1. *See*, e.g., Pennsylvania Bar Association Committee on Legal Ethics and Professional Responsibility Formal Opinion 2020-100 (issued January 22, 2020) and the opinions cited therein.

Attorney Discipline Summaries

April 19, 2022, through May 17, 2022

BY LEIGH BURGESS

Disbarments

Tiffini Collette Bell
1571 Phoenix Blvd., Suite 1
College Park, GA 30349
Admitted to the Bar 2006

On April 19, 2022, the Supreme Court of Georgia disbarred attorney Tiffini Collette Bell (State Bar No. 676971) from the practice of law in Georgia. The disciplinary matter came before the Court pursuant to the report of the special master who recommended that Bell be disbarred for her violations of a variety of the Georgia Rules of Professional Conduct in conjunction with her representation of a client in a dispossessory action. The State Bar filed a formal complaint, and Bell answered. Discovery proceeded, and the Bar then moved for partial summary judgment. Bell did not respond to the Bar's motion. No hearing having been requested, the special master considered the record and entered an order granting the Bar's motion for partial summary judgment. Shortly thereafter, the special master entered her report and recommendation recommending Bell's disbarment.

As background, in September 2017, a client retained Bell to represent her in a dispossessory action against a tenant. The client paid Bell $210 to draft and file a complaint. On Sept. 28, 2017, Bell informed her client that she would file the complaint that day, but she did not. The following day, the client inquired as to whether Bell filed the complaint and served the defendant, to which Bell replied that she had filed the complaint but was waiting for the client to pay the service fee. Bell did not file the complaint until Oct. 3, 2017. Afterward, Bell twice told her client that she had served the defendant, but Bell never served the defendant with the complaint.

In November 2017, the client informed Bell of updated costs to add to the claim. Bell told her client that she would amend the claim that week, but Bell never amended the claim. In December 2017, Bell told her client that she filed a motion for default and expected the court to schedule a hearing on that motion near the beginning of 2018, but Bell never filed a motion for default in the case. The court

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

Warren R. Hinds, P.C.
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placed the case on a calendar call for June 26, 2018, and although Bell was aware of the hearing, she did not appear, causing the court to dismiss the case for want of prosecution. Bell received a copy of the dismissal order but did not notify her client about it until August or September 2018. Other than the complaint, Bell did not file anything in the client's case. Bell told her client that she filed a necessary certificate verifying that the defendant was not on active duty in the military, but she never did so. Bell told her client that she would refile the lawsuit after it was dismissed, but she never did so. Throughout the representation, Bell failed to adequately respond, or to respond at all, to her client's attempts to contact her for information and updates on the case.

Based on these facts, the special master found that Bell had violated Rules 1.2 (a), 1.3, 1.4 (a) and 3.2. The maximum punishment for a violation of Rule 1.2 or 1.3 is disbarment, whereas the maximum punishment for a violation of Rule 1.4 or 3.2 is a public reprimand. The special master found that Bell's violations of the duties owed to her client were intentional and knowing, rather than inadvertent or negligent; that they harmed her client; and that disbarment was the appropriate sanction. The special master found no factors in mitigation of discipline but found in aggravation that Bell had a history of prior discipline, a dishonest or selfish motive, a pattern of misconduct, multiple offenses and substantial experience in the practice of law.

Bell filed a short, one-page list of exceptions to the special master's report and recommendation arguing that the Court should suspend her rather that disbar her; however, the Court did not find her arguments persuasive. The Court agreed with the special master's findings of facts and agreed that disbarment was the appropriate sanction.

Donald Francis Hawbaker
5610 Park View Drive
Midlothian, TX 76065
Admitted to the Bar 2013

On May 3, 2022, the Supreme Court of Georgia accepted the petition for voluntary surrender of license of Donald Francis Hawbaker (State Bar No. 908709) which is tantamount to disbarment.

The disciplinary matter came before the Court on the report of the special master who recommended that the Court accept Hawbaker's petition for voluntary surrender of his license following his felony convictions. Rule 8.4 (a) (2) states that conviction of a felony is a violation of the Georgia Rules of Professional Conduct, and the maximum penalty is disbarment.

Hawbaker was incarcerated following his July 2, 2021, guilty pleas in the Superior Court of Spalding County to five felony counts of aggravated assault on a peace officer; he was sentenced on each count to a term of 20 years, serve 10, with the counts to run concurrently. As background, deputies went to Hawbaker's home on Feb. 4, 2020, to serve an arrest warrant on him for simple assault and disorderly conduct, but Hawbaker refused to leave his home and opened fire on the deputies.

Although Hawbaker cooperated in the disciplinary proceeding and had no prior disciplinary record, he failed to acknowledge the wrongful nature of his conduct, failed to express any remorse for the serious injury that he could have caused and failed to admit that he caused serious damage to the legal profession generally.

Following the docketing of the record in the Court, neither party submitted a response, and after reviewing the record, the Court agreed to accept the special master's recommendation, which was consistent with prior cases.

David J. Farnham
P.O. Box 609
Blue Ridge, GA 30513
Admitted to the Bar 1986

On May 17, 2022, the Supreme Court of Georgia accepted the petition for voluntary surrender of license of David J. Farnham (State Bar No. 255410) which is tantamount to disbarment.

The disciplinary matter came before the Court on the report of the special master who recommended the Court accept the petition for voluntary surrender of license Farnham filed in lieu of an answer to a formal complaint filed in February 2022.

The Court noted that Farnham was admitted to the Bar in 1986 and had a substantial disciplinary history as well as a pending disciplinary matter. The facts, as admitted in Farnham's petition for voluntary surrender are as follows. Farnham was retained by a client to pursue a personal injury claim for injuries suffered by her minor daughter in an automobile accident. The insurance carrier for the at-fault driver agreed to pay the policy limits of $250,000, and Farnham received those proceeds in July 2019 and deposited them into his trust account. He explained to his client that because the daughter was a minor, he would need to file a petition to compromise the claim of the minor in the probate court. Thereafter, Farnham failed to promptly file a petition in the probate court and failed to respond to many of his client's messages seeking information about the settlement proceeds.

Farnham was briefly suspended from the practice of law by the Court for failing to adequately respond to a notice of investigation in an unrelated matter. During this time, Farnham explained to his client that he could not do anything while he was suspended. However, even after the suspension was lifted, Farnham failed to file a petition with the probate court. He represented in his petition that the money remains in his trust account, and he admitted that by this conduct he violated Rules 1.2, 1.3, 1.4 and 3.2. The maximum sanction for a violation of Rules 1.2 and 1.3 is disbarment, and the maximum sanction for a violation of Rules 1.4 and 3.2 is a public reprimand.

The State Bar filed a response and recommended that the petition be accepted, and after reviewing the record and the special master's recommendation, the Court accepted Farnham's petition.

Suspensions

Phillip Norman Golub
124 Highway Ave., Suite B
Blackshear, GA 31516
Admitted to the Bar 1980

On May 3, 2022, the Supreme Court of Georgia suspended attorney Phillip Norman Golub (State Bar No. 300503) from the practice of law in Georgia for

a period of one year with conditions on reinstatement.

The disciplinary matter came before the Court pursuant to the report of the special master who recommended Golub be suspended for one year with conditions on reinstatement for his failure to complete a client's work, failure to adequately communicate with her and failure to refund his unearned fee. In 2014, a client retained Golub to represent her in a matter involving a fraudulent transfer of property. While he agreed to represent the client, Golub did not have her sign an engagement agreement. The client was elderly and in poor health, and her condition impaired her ability to communicate. As a result, Golub primarily communicated with her son. Golub charged the client $7,500 in attorney fees paid in three installments over the course of two years.

In 2015, Golub filed two lawsuits on the client's behalf against several defendants—one in January and one in June. After being served with the lawsuits, some of the defendants filed motions to dismiss, and Golub filed responses. Throughout his communications with Golub, the client was under the impression that the defendants had not responded to the lawsuits and that the cases would be placed on the trial calendar. The defendants also served discovery requests and requested the client's deposition; however, due to the client's health, Golub did not think she could handle a deposition or engage in discovery, so he delayed her deposition and continued to extend the discovery period in both cases.

Discovery in the January 2015 lawsuit was extended six times, and as of January 2017, two years after the lawsuit was filed, the parties still had not conducted discovery. Moreover, during this two-year period, Golub did not serve responses to the defendants' written discovery requests, serve written discovery requests on the defendants, conduct depositions, file motions in the case, try to settle or otherwise conclude the case, or make any efforts to get the case on the trial calendar. Discovery in the June 2015 case also was extended several times, and as of January 2017, a year and a half after that case was filed, the parties had not conducted discovery. As in the first case, Golub did not serve responses to the defendants' written discovery requests, serve written discovery requests on the defendants, conduct any depositions, try to settle or otherwise conclude the case, or make any efforts to get the case on the trial calendar.

The client's son attempted to contact Golub on numerous occasions regarding the status of his mother's cases, but Golub did not always respond to his requests and failed to inform the client or her son when the trial court set the cases for a hearing in April 2017 on the defendants' motion to dismiss. Golub ultimately filed voluntary dismissals without prejudice in the cases but failed to inform the client or her son that he did so until the son contacted him in June 2017. Golub subsequently filed renewal actions in the client's cases in October 2017, but did not inform the client or her son that he had done so and failed to serve the defendants in the renewal actions. Prior to the refiling, in September 2017, the client passed away, although Golub was unaware of this because he did not attempt to communicate with her or her son even after he filed the renewal actions.

As a result, Golub failed to substitute a party to the lawsuits and did not file anything with the trial court regarding the client's death, and in October 2018, the defendants in one of the cases filed a suggestion of death. The defendants also filed motions to dismiss and asked the court to hold a hearing as soon as possible. Golub again filed dismissals without prejudice in both cases, and again failed to inform the son that he dismissed the lawsuits. Golub also did not do any research to determine what, if any, impact dismissing the lawsuits for a second time would have on the client's estate being able to continue to pursue her claims, and he did not do any research to determine whether the client's estate would be prevented from refiling the lawsuits once a representative was appointed. Golub also failed to provide any billing records to the client or her son, failed to refund the fee he was paid that he did not earn, and failed to complete work on the client's cases.

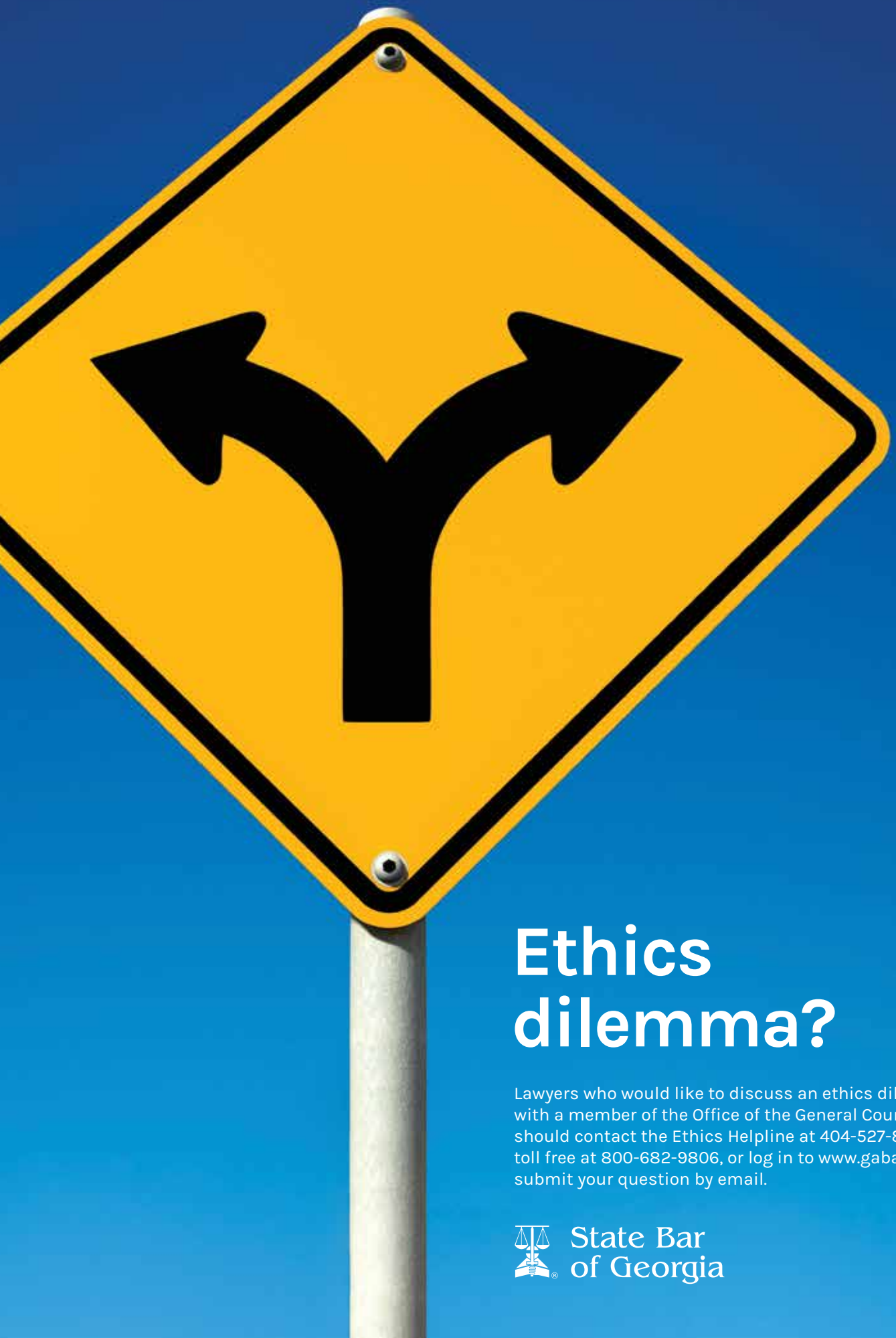
The special master found that Golub's acts and omissions violated Rules 1.2 (a), 1.3, 1.4 (a), 1.16 (d), 3.2 and 8.4 (a) (4) of the Georgia Rules of Professional Conduct. The maximum sanction for a violation of Rules 1.2, 1.3 and 8.4 (a) (4) is disbarment, while the maximum sanction for a violation of Rules 1.4, 1.16 and 3.2 is a public reprimand. In aggravation, the special master concluded that Golub had a prior disciplinary history, substantial experience in the practice of law, that he committed multiple offenses and that the client was a vulnerable victim. In mitigation, the special master found that Golub lacked a dishonest or selfish motive, experienced health matters that affected his representation, expressed genuine remorse for his actions and the resulting harm, and that the prior disciplinary matter was remote in time dating back to 1999. The special master recommended that Golub be suspended for one year with reinstatement conditioned on his full refund of the $7,500 in attorney fees paid to him for the underlying matter and any cost associated with paying this money into the client's estate in probate so that the money can be paid back to the client's heirs.

Neither Golub nor the State Bar filed exceptions to the special master's report, and having reviewed the record, the Court agreed that a one-year suspension with the recommended conditions for reinstatement was appropriate in this matter.

Reginald J. Lewis
541 10th St. NW, Suite 420
Atlanta, GA 30318
Admitted 2002

On May 3, 2022, the Supreme Court of Georgia accepted the petition for voluntary discipline of Reginald J. Lewis (State Bar No. 451251) and directed that Lewis received a six-month suspension as discipline for his admitted violations in three separate client matters.

The disciplinary matter came before the Court on Lewis' petition before the issuance of a formal complaint. With regard to State Disciplinary Board Docket (SDBD) No. 7522, Lewis admitted that on Aug. 22, 2018, a client hired the law firm he worked for to represent her in connection with a personal injury case; that the



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

State Bar of Georgia

case was assigned to Lewis in January 2019, but he did not perform any work on the case or communicate with the client; that in September 2019, he notified the client by letter that he was no longer representing her; and that the client then requested her client file, but he failed to return it. By these actions, he admitted that he violated Rules 1.3, 1.4 and 1.16 (d) of the Georgia Rules of Professional Conduct.

With regard to SDBD No. 7523, Lewis admitted that in January 2016, another client hired the firm he worked for to represent her in a personal injury matter; that her case was assigned to Lewis; that on May 8, 2017, he filed a statement of claim on behalf of that client in the Magistrate Court of Fulton County; that the parties consented to transferring the case to the State Court of Fulton County; that after the transfer, he performed no additional work on the client's case and failed to communicate with her; and that in July 2018, he filed a dismissal without prejudice of the client's case, but did not advise the client that he had done so. Lewis admitted that in this matter, he violated Rules 1.2, 1.3 and 1.4.

With regard to SDBD No. 7524, Lewis admitted that a third client retained him to represent her in connection with a personal injury matter; that on Aug. 22, 2014, he filed a lawsuit on that client's behalf; that when the case was put on the calendar call for April 26, 2017, he failed to appear and the court therefore dismissed the case without prejudice; that he did not notify the client of the dismissal; that he attempted to file a renewal action, but missed the deadline by a week; that he did not inform the client of that error; that in January 2018, the defendant filed a motion to dismiss the renewal action as untimely; that he neither informed the client of the motion, nor responded to it; and that although the trial court granted the motion in April 2018, he failed to inform the client about the dismissal of her action. Lewis admitted that in this matter he violated Rules 1.1, 1.2, 1.3, 1.4 and 3.2.

Although Lewis acknowledged that the maximum penalty for a single violation of Rules 1.1, 1.2 and 1.3 was disbarment, he asserted in mitigation that he had no prior disciplinary record; that he lacked a dishonest or selfish motive; that he was cooperative during the disciplinary proceedings; and that he was remorseful. In its response, the State Bar supported the requested discipline, accepted all the mitigating factors identified by Lewis but asserted in aggravation that Lewis committed multiple offenses, he engaged in a pattern of conduct and he had substantial experience in practicing law. After reviewing the record and considering the mitigating factors presented, the Court agreed that a six-month suspension was the appropriate sanction for Lewis' violations.

Review Board Reprimand

Debra Kaye Scott
1230 Peachtree St. NE, Suite 1900
Atlanta, GA 30309
Admitted to the Bar 1994

On April 19, 2022, the Supreme Court of Georgia accepted the petition for voluntary discipline of Debra Kaye Scott (State Bar No. 631980) and directed that Scott received a Review Board reprimand for her admitted violations of Rules 1.4 and 1.5 (b) of the Georgia Rules of Professional Conduct. The maximum penalty for a violation of both rules is a public reprimand.

The disciplinary matter came before the Court on the petition for voluntary discipline filed by Scott before the issuance of a formal complaint. In her petition, Scott admitted that in February 2018, a client hired her and paid her a $3,000 retainer for representation in an employment discrimination case against the client's employer; that the client paid an additional $10,000 fee in July 2018; and that, although Scott believed the amount to be an additional retainer, the client had a different understanding based on their verbal communications. Scott ultimately refunded the client the $10,000 but admits that she should have provided the client with a written explanation of the basis for the fee. Scott admits that these actions violate Rule 1.5 (b).

Scott further admitted that she began representing a different client with regard to ongoing workplace issues and an employment discrimination case against his employer in February 2018, and that over the course of the representation, she was paid a total of $12,000. In a scheduling order issued in the discrimination case, the court set a deadline for the parties to file their witness and exhibit lists. Prior to the deadline, Scott discussed the presentation of evidence and corresponding strategy with the client, but they disagreed on the relevance of many of the witnesses and documents. Because the disagreement could not be resolved, Scott deferred to the client and requested that he provide her with a list of the specific documents, witnesses and proposed testimony he wished to submit, but he failed to provide any information until well after the deadline. Because the witness and exhibit lists were not submitted by the deadline, the court entered a dismissal order. Scott admitted that, given the gravity of the situation, she should have made a substantial effort to discuss the issues in person with the client in the immediate lead-up to the deadline. Scott admitted that her actions amounted to a violation of Rule 1.4.

The Bar responded to Scott's petition, agreed that her mental state was negligent, asserted that her substantial experience in the practice of law should be considered an aggravating factor in determining discipline, but also set out as additional mitigating factors that Scott had made a good faith effort to make restitution and that she continually expressed remorse for her actions. Ultimately, the Bar did not oppose the petition or discipline proposed, and the Court agreed the imposition of a Review Board reprimand was adequate discipline. ●



Leigh Burgess
Assistant Grievance Counsel
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Records Restriction in Georgia: Restoring Confidence and Removing Barriers

The record restriction process can be overwhelming or inaccessible to individuals trying to navigate it on their own. It is, however, ideally suited to attorneys who want to use their analytical skills and attention to detail to remove barriers for clients who are ready to move forward and improve their lives.

BY SUSAN COPPEDGE

Many Georgians would be surprised to learn that, if someone is charged with a crime, information about the charge can remain on their Georgia criminal record even if it doesn't result in a conviction. Recent studies have shown that 1 in 3 U.S. adults—approximately 70 million people—have a criminal record, including those who were arrested but not convicted. Because these records can have significant long-term impacts for an individual and their family, Georgia Legal Services Program's Records Restriction Program assists eligible Georgians with low incomes through the process of limiting public access to certain information contained in their criminal records.

In Georgia, record restriction and sealing mean that non-convictions (acquittal, nolle pros, dismissal, etc.) and certain types of convictions (such as pardoned felonies; eligible first convictions under the First Offender Act; and misdemeanors that do not involve enumerated ineligible offenses like sex crimes, family violence, DUI and others) are restricted from public view, but remain accessible to law enforcement for criminal justice purposes.

A criminal charge—even a minor one that's decades old, or that may have never resulted in a conviction—can dramatically impact economic security and stability for an individual and their family. As Sarah Anderson, Pro Bono Program supervising staff attorney at GLSP's Savannah Regional Office explains, "Even if a charge was dismissed or pardoned, just having it on a person's record can keep them from getting a job or prevent them from entering a training program that can be key to getting a better job. It may mean they can't access public benefits or move their family into safer housing. Having these records restricted removes barriers that can keep someone from moving forward. Record restriction really can change lives."

The clearest example of the benefits of record restriction can be found in access to employment opportunities once an individual's record is cleared. In one recent example, Brenda* had a felony conviction for financial transaction fraud in 1995. She had paid restitution for the full amount of $2,657.70, completed her probation, had no additional arrests and in 2020, received a pardon for the charge. Since then, she had earned certificates in cosmetology and patient care technician from Savannah Technical College and was employed at a hospital where she received special recognition for employee excellence. She raised four exemplary children who are all employed or pursuing advanced degrees. She became a homeowner 11 years ago and volunteers regularly at her church. But she still feared that the publicly available record of this one conviction would prevent her from progressing further in her career.

Earlier this year, her motion to restrict and seal the record of her pardoned felony conviction was granted pursuant to O.C.G.A. §§ 35-3-37(j)(7) and (m), giving Brenda a renewed sense of confidence and security that a pardoned conviction could not overshadow all she has accomplished in the past 27 years.

Another client, Roger,* was convicted of two misdemeanor counts of possession



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of marijuana and possession of dangerous drugs in 1982; he was sentenced to one month's probation and a fine and had not been arrested since. Roger lived outside of Georgia for a number of years, working as a bank security guard. He moved to Georgia and had an opportunity to continue working in the security industry but knew that the publicly available record of his 30-year-old convictions would prevent him from passing a background check. He requested help from GLSP in restricting and sealing his record so that the two misdemeanor convictions are visible only to law enforcement. Earlier this year, a judge signed the order to restrict and seal the records; Roger is now working in Georgia.

The positive impact of record restriction extends beyond an individual and their household; society also benefits when criminal convictions that are relatively minor or decades old are restricted. Public revenue can increase, and recidivism may be reduced, as individuals can find jobs with higher wages. The *Harvard Law Review* published preliminary research from the University of Michigan finding that a year after a record is cleared, individuals were more likely to be employed and their average wages were 22% higher than those of eligible people whose records have not been cleared. Increased income and access to a broader range of opportunities can also help prevent homelessness and reliance on public benefits.

GLSP hosts free educational town halls to educate Georgia residents about what charges may be eligible for record restriction under existing Georgia law. But because the record restriction process requires understanding of both eligibility criteria and the administrative processes involved in obtaining and completing the required documentation, it can still be overwhelming or inaccessible to individuals trying to navigate it on their own. It is, however, ideally suited to attorneys who want to use their analytical skills and attention to detail to remove barriers for those clients who are ready and willing to move forward and improve their lives, and the lives of everyone around them.

This alignment of opportunity and impact underscores the importance of attorney volunteers in pro bono efforts like GLSP's Records Restriction Clinic. Using our professional skills in what may seem like routine contexts can help clear obstacles and smooth pathways for our Georgia neighbors who are working to realize their potential and advance their communities. I encourage you to contact Sarah Anderson at sanderson@glsp.org for more information about volunteering at an upcoming Records Restriction Clinic, or you can also support GLSP's efforts throughout the state by making a donation at www.glsp.org/donate. ●

**All client names have been changed to protect confidentiality.*



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Top Six Practices to Help You Regain Control of Your Law Practice—Part II



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This article is the continuation of a two-part series outlining the top six mindsets and practices of excellent CEOs that will guide you along your journey. Be sure to look back at the June issue of the *Georgia Bar Journal* if you missed the first installment.

BY NKOYO-ENE R. EFFIONG

I'm back with part two of the top six practices to help you regain control of your law practice.

It's summertime. I'll keep it brief ... well, relatively brief.

The last time we gathered, I shared the first three things you need to do to regain control of your law practice. They were as follows:

- Practice 1: Setting the strategy—spend time working on your law practice;
- Practice 2: Aligning the organization—spend time working on your internal and external processes; and
- Practice 3: Leading the team—cultivate a cohesive team culture.

Today, we will address the last three practices of an effective CEO. Let's dive in.

Practice 4: Working with Clients

Great CEOs are intentional about defining the client experience. They have intentionally designed their cli-

ent's journey, from how prospects find and retain them to closing the matter. While a legal matter may be routine to us as practitioners, it may be the first or one of a few times your clients have engaged an attorney. Even if your clientele routinely interacts with lawyers and the legal system, it is still in your better interest to have a systematized way of doing things to ensure the same quality of service every time.

What this means for you: Map out your client's journey.
Spend some time thinking about the journey your clients take to work with you. Determine what they should know at each important phase of your process and how you want them to feel along the way. For example, what should your client know during the intake and onboarding process? How should they leave that phase of work feeling about how your firm works once they become a client? How do you want them to feel?

Practice 5: Marketing the Practice

"Every single company out there, whether they know it or not, is a media company in addition to the business or product that they specialize in."—Gary Vaynerchuk (GaryVee) (emphasis in original).

Every single company. Yes, even your law practice.

If you are going to regain control of your law practice, you must commit to consistently marketing your practice. The last thing you want to be is the best-known secret in today's world. What better way to come out of hiding than through a marketing funnel? A marketing funnel is a replicable system that helps potential clients know, like and trust you so that they will retain you to solve their legal issue(s). At a minimum, your marketing funnel should let potential clients know what you do, how you do it and why they should choose you to solve their legal problems.

As the CEO of your law practice, it is up to you to create buzz and brand awareness around your firm. If your phones are not ringing consistently at the rate you would like, your business will not survive.

What this means for you: Design your primary marketing funnel.
You can reduce the feast or famine roller-coaster by designing (or hiring someone to design) a marketing funnel that curates a consistent flow of leads you can nurture through their client journey. Most potential clients go through a process when deciding to hire an attorney. If you align your marketing funnel with the client's journey (see Practice 4), not only will you be able to capture your ideal client's attention, but you will also be able to help them confidently select you as the best attorney for them.

Practice 6: Managing Your Time & Energy

Contrary to popular belief, productivity is not about cramming as many tasks as possible into a day. That is a recipe for burnout. Here is why; when you focus primarily on completing as many tasks as possible in each day, you often do not account for the amount of energy it takes to complete any one task. Some tasks consume more energy (i.e., writing a brief, drafting a contract) than others (i.e., reviewing an invoice, scheduling a meeting). High-energy tasks are harder to complete efficiently when your energy is already consumed by a multitude of things scheduled in your day. Over time, a lack of energy can cause a dip in productivity, even when you have ample time to complete a task. Therefore, it is equally vital that you manage your time and your energy.

What this means for you: Create margin in your calendar.
Schedule downtime on a daily, weekly, quarterly and yearly basis. No one can operate at high intensity continuously, not even elite athletes. Your mind needs time to rest and recover. When you give yourself time to rest, you will replenish your energy levels and become more productive when you are back at work. If you are not ready to block actual away time, at least start with eating lunch away from your devices.

That completes the top six practices to help you regain control of your law practice.

If you are ready to transition from employee to CEO of your Georgia law practice, join us Sept. 22-23 at Take Charge! Solo & Small Firm Conference. Reserve your spot today! ●



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You're Invited to the Take Charge! Solo & Small Firm Conference: The Revival

The Take Charge! Solo & Small Firm Conference will be held Sept. 22–23 at the Bar Center in Atlanta. Make plans to attend this event as it's "revived" after a two-year hiatus.

BY SHEILA BALDWIN

What is more exhilarating than a three-ring circus? Possibly the revival of the Law Practice Management Program's annual Solo & Small Firm Conference after a two-year interruption. If you have attended, you know what I mean by my comparison. This event is brimming with excellent speakers, knowledgeable tech experts, solution providers, and lots of good food and conversation. A goal for this event is to provide our members the opportunity to engage with top technology, financial and practice management professionals for a two-day experience



PHOTOS BY JENNIFER MASON, ASHLEY STOLLAR AND STYRON PENNYWELL

Court of Appeals Judges *(left to right)* Carla Wong McMillian, Kenneth B. Hodges III, Sara L. Doyle and M. Yvette Miller address the audience at the Take Charge! Solo & Small Firm Conference in 2019.

with minimal cost in terms of time and resources. We do this by utilizing the Bar Conference Center, producing it in-house with Bar staff, and by inviting sponsors and exhibitors to help defray expenses. Each year we have accomplished this goal, which is evidenced by increased participation and good reviews. A variety of sessions and topics that cover the essential elements of running an excellent law firm creates value to lawyers, no matter their area of practice. Read more and start planning.

This year's event, *Take Charge! Solo & Small Firm Conference: The Revival*, will be held on Sept. 22-23. Why *The Revival?* Revival is an improvement in the condition or strength of something. This year's theme is rooted in a radical belief that law practice owners should be happy, healthy and whole. The pandemic has prompted a significant shift in how we work and engage with others. Accordingly, we amplify wellness, connection and sustainability for lawyers and law practices alike. Our intention is for attendees to leave the conference feeling reconnected, refreshed and reinvigorated to run their law practices with purpose in an ever-changing world.

Law Practice Management solutions covered include firm management, client experience, technology & cybersecurity, finances and wellness presented with the current needs of the attendee in mind. Speakers address a variety of topics like:

- Running a virtual law firm.
- Finding your niche.
- Handling complex civil litigation.
- How to create a marketing funnel.
- Data backup, on the cloud or not.
- Is your firm sellable, hiring/staffing—managing your staff.



PHOTOS BY JENNIFER MASON, ASHLEY STOLLAR AND STYRON PENNYWELL

At the 2019 conference, *(left to right)* Sheila Baldwin, member benefits coordinator, State Bar of Georgia; exhibitors Ken Sharma, owner, Atlanta Custom Tailors and his daughter-in-law Preeti Sharma gathered near the raffle tumbler.



PHOTOS BY JENNIFER MASON, ASHLEY STOLLAR AND STYRON PENNYWELL

Sessions at the 2019 Take Charge! Solo & Small Firm Conference drew packed houses.



BAR BENEFITS

Law Practice Management & Resource Library

DID YOU KNOW?

Law Practice Management provides business management assistance; technical and general consultations; software advice and training; sample forms; start up resources; a solo/small firm discussion board and video resources.

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State Bar of Georgia

We have hosted fantastic national and local speakers too numerous to mention, but a sampling includes:

- Robert "Bob" Ambrogi, legal writer, media consultant and founder of Lawsites Blog & LawNext Podcast.
- Casey Faherty, co-founder and chief strategy officer at LexFusion.
- Jay Foonberg, author of the highly esteemed "How to Start and Build a Law Practice," a classic ABA best-seller and noted as most frequently stolen from law libraries.
- Kimberly Bennett, Erin Gerstenzang and Jennifer Downs, co-organizers of ATL LEGAL TECH guest panel on technology.
- Brett Burney, principal of Burney Consultants LLC and author of "Macs in Law" for the ABA and a variety of blogs and online courses for legal professionals.
- Ben Shor, senior content designer for Microsoft, national speaker and author of a variety of "The Lawyer's Guide to Microsoft" books.

Historically, we model *Take Charge!* after the ABA TECHSHOW by centering much of our activity around our Exhibit Hall, which attracts leading companies with consultants who can demo software and offer advice our members on the best products and services for their specific needs. Their involvement supports the Bar's mission to encourage professionalism and legal ethics in the practice of the law as stated in the ABA Model Rules of Professional Conduct, Rule 1.1, which states "To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education, and comply with all continuing legal education requirements to which the lawyer is subject."

As I write this article, we are in the planning stages of the *Take Charge! Solo & Small Firm Conference: The Revival*, but since you're reading this in the August *Georgia Bar Journal*, registration is likely already available through ICLE. Go sign up and become one of our growing community of lawyers who attend each year. Plan to stay for the reception after day one and get reacquainted with the friends you made in past years. Valuable prizes and conference swag add to the festive atmosphere for those who participate in the bingo raffle. Prizes are cool technology items like a Fujitsu ScanSnap, wireless ear buds, gift baskets or $100 gift certificates to name a few, which add to the value of your experience. If you have any questions or suggestions to make this the best legal tech conference in the area, please let us know. You can reach me at 404-526-8618 or sheilab@gabar.org. ●



PHOTOS BY JENNIFER MASON, ASHLEY STOLLAR AND STYRON PENNYWELL

2019 conference attendees consult with exhibitors in the exhibit hall.



PHOTOS BY JENNIFER MASON, ASHLEY STOLLAR AND STYRON PENNYWELL

Law Practice Management (LPM) Program Director Nkoyo Effiong *(left)* and LPM Resource Advisor Kim Henry *(right)* are all smiles.



Sheila Baldwin

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Self-Talk: How Hard Can It Be?

Read on for an explanation of self-talk and learn how it's done.

BY R. JAVOYNE HICKS
AND LYNN GARSON

The co-authors of this article talk frequently about the need to drill down to make the well-being resources that the State Bar offers relatable. For example, both the Attorney Wellness Committee and the Lawyer Assistance Program, which Hicks and Garson respectively chair, promote #useyour6, (i.e., the six prepaid counseling sessions made available through the Bar to each Georgia lawyer in good standing), but until the Attorney Wellness Committee members came up with the idea of "demystifying" the process, no one gave any thought to the fact that it can be intimidating to call a helpline or go to a counselor, particularly if you've never done it before. From Hicks' efforts, we now have multiple resources "demystifying" what happens when an attorney calls the Lawyer Assistance Program hotline.[1]

Both authors agree that when speaking about mental health, they often mention self-talk. It is one tool that everybody in the wellness space throws out at one time or another. Usually, no one pays attention to whether self-talk is easy, hard, learned, needs to be taught or any of the foregoing. It was only in considering the topic of this article that we ourselves began to understand the need to explain what is meant by "self-talk" and to show how it is done.

Lynn Garson's Story

I didn't become a devotee of self-talk until I was inpatient in a mental health facility in 2008. The therapists there threw a lot of the mud at the wall, and one such was a technique called Acceptance and Commitment Therapy (ACT), an offshoot of DBT for those who are familiar with it. The concept, as explained to me, is to catch a troubling thought in the moment and decide whether it serves me. Perhaps it had in the past but no longer did, or perhaps it never had. If I conclude that that particular thought does not serve me, the teaching of ACT is to shift my thinking and let go of the thought—not once but every time it comes into my mind. A more tangible way to think about it is that I am taking a loop that is making deeper and deeper grooves in my brain the longer it loops around and re-routing it in a completely different (and more benign) direction.

An example of such a process in action is readily apparent in my struggle with being overly responsive to email requests from clients. I constantly comment to others that in order to guard our mental health, we need to dial down the urgency that permeates our practices, and one way to do that is to set boundaries as much as possible in terms of response time to emails.

That is all well and good, and I firmly believe it to be true. The only problem is that there is a very old thought pattern making a continuous loop in my mind telling me "You will not be liked, respected or valued as a lawyer if you don't respond to this email within five minutes." Part of me knows for a fact that this is not true. I know that my clients value me for my institutional knowledge, my expertise and the close personal relationships that we have formed, among other things. Will they push to get quick turnaround for some projects? Absolutely. Will they discard me if I don't respond to emails in five minutes? Absolutely not. Even knowing that, it's still a work in progress for me to separate out which part of a prompt turnaround time is in response to pushing from clients and which part is in response to an old maladaptive thought pattern. If I am willing to stop myself in the moment (and the discipline to do exactly that is crucial), I might say something like the following to myself: "You know what you're doing and this is not healthy. Let's step back and breathe for a minute. Let's try to dial down the angst. OK, now, can you choose not to have the usual knee jerk response this time?" Sometimes the answer is yes, sometimes no. Sometimes I'll pick a middle ground and draft the email but use Outlook's "delay" feature. My unhealthy thought pattern is deeply entrenched, and I am well aware that it is going to take consistent work over a long period of time for me to reroute my thinking.

Javoyne Hicks' Conversations

My non-clinical focus concentrates on the self-talk that exists and what to do about it. Each of us have that internal voice rumbling around in our head on a regular basis. Mine is often loudest at night when it's time to go to sleep. I often turn on "Criminal Minds" to drown out the noise. (I do not recommend this for everyone.) The ultimate goal, however, is to find a way to get those voices either under control or out of my head.

So how hard can it be to exercise the operation of self-talk? It's just you. You don't have to meet with anyone, agree with anyone or satisfy anyone but your-

self, right? Well, we are our own worst critic and without anyone else around to dissuade us from the negative conversations in our head, we can become too focused on the bad things and not on the positive. What can we do about it? The first is to take the time to acknowledge that the thoughts are popping into your head. Often there are conversations in your head that you are not even aware are taking place. These discussions are impacting your day and your mood without you knowing. When you first acknowledge that your voice in your head is active, acknowledge it. You are not able to control what you do not recognize exists.

Second, take a moment to determine what you are telling yourself. "I'm really tired today; these kids are getting on my nerves. (By the way, that thought has never been part of my inner voice. My kids are great ... but I digress.); I can't do all of this work; I'm ugly, fat, less than, too old, too young, not worthy, an imposter, etc." Now that you know what the voices are saying, you can change any negative statements. Before you start to beat yourself up if you are not successful in changing all the negative talk or any of the negative statements, give yourself credit for the progress of acknowledging and identifying. Baby steps.

Third, prepare a list of positive affirmations that you can have on hand when the statements you want to change are identified. "I'm smart; I'm beautiful; I'm energetic; I earned what I have; I'm good at what I do; I'm a great mom, dad, aunt, uncle, lawyer, friend, etc." Keep the list on your phone, in your Notes app, on a list of paper by the bed or any place easily assessable. Practice saying the positive language so you can be ready for the battle.

Finally, if the other options fail and your self-talk is too loud or you are too tired to deal with the steps, you have three options: (1) Concentrate on something that takes attention away from the conversation (e.g., "Criminal Minds." Find the non-harmful go-to that is soothing to you, like television, music, meditation, audio books or exercise.). It should be something that you don't have to think about to access. Something positive for you that comes quickly and naturally; (2) Write it out. It is important to release the negative or capture the positive self-talk. Not all self-talk is negative. Often that inner voice is bringing you the next great idea, leading you to new direction or providing comfort in the middle of the storm; or (3) If and when all else fails or you want to start here, talk to someone to release the self-talk from your mind. I keep my therapist's number on speed dial. (#useyour6, your six free counseling sessions included in your Bar license fee.) But you do not have to have a therapist to take advantage of this most important step. The idea is to talk to someone that provides a safe, judgment-free zone who will listen with no commitment to act. Also, have your own personal board of governors, those people in your life that you can rely on depending on the issue your self-talk is focused on for the day. The most important thing is to get the self-talk out of you. It takes away the negative power when it can dissipate in the air instead of imploding within.



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Conclusion

If you follow the more formal process as described by Garson or think that Hicks' suggestions are useful, at the end of the day, self-talk is something that we all experience. The thing we need to remember is we have the power to control it. "Wheels Up."[2] ●



R. Javoyne Hicks is chair of the Attorney Wellness Committee of the State Bar of Georgia, a member of the State Bar's Executive Committee and Board of Governors, and a senior attorney at Lawrence & Bundy, LLC.



Lynn Garson is chair of the State Bar of Georgia Lawyer Assistance Program Committee and a health care lawyer at BakerHostetler in Atlanta.

Endnotes

1. "What Happens When You Call? Demystifying the LAP Hotline and #useyour6" https://www.youtube.com/watch?v=vuyyI7QyBwo.
2. "Wheels Up," Criminal Minds: Season 13, Episode 1, CBS 2017.

Back to Basics: Writing About Case Law in Briefs and Motions

Conveying the value of cases to legal readers is critical for legal writers. This installment of "Writing Matters" reminds you of the basic principles of writing about case law.

BY DAVID HRICIK AND KAREN J. SNEDDON



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With this installment of "Writing Matters," we're returning to the basics of effective legal writing. Effective legal writing conveys an accurate, meaningful understanding of the authorities, both factual and legal. This back-to-basics installment addresses how to discuss case law, including explaining the rule, analogizing to favorable precedent and distinguishing unfavorable precedent, and organizational issues.



State the Background Legal Principles Without Using Case Names as the Subjects of Sentences

When we *talk* about cases, we lead with the case names, but when *writing* about cases, flip the order of the sentence. When a case name is the subject of a sentence, the case is doing the action. To understand this, compare the following two sentences:

Version A

In *Hous. Auth. of Atlanta v. Famble*, 170 Ga. App. 509, 511, 317 S.E.2d 853, 857 (1984), the Court of Appeals of Georgia stated: "The essential elements of negligence are set out in *Lee St. Auto Sales v. Warren*, 102 Ga. App. 345(1), 116 S.E.2d 243: '(1) A legal duty to conform to a standard of conduct raised by the law for the protection of others against unreasonable risks of harm; (2) a breach of this standard; (3) a legally attributable causal connection between the conduct and the resulting injury; and (4) some loss or damage flowing to the plaintiff's legally protected interest as a result of the alleged breach of the legal duty.'"

Version B

The essential elements of negligence are: "(1) A legal duty to conform to a standard of conduct raised by the law for the protection of others against unreasonable risks of harm; (2) a breach of this standard; (3) a legally attributable causal connection between the conduct and the resulting injury; and, (4) some loss or damage flowing to the plaintiff's legally protected interest as a result of the alleged breach of the legal duty." *Hous. Auth. of Atlanta v. Famble*, 170 Ga. App. 509, 511, 317 S.E.2d 853, 857 (1984) (quoting *Lee St. Auto Sales v. Warren*, 102 Ga. App. 345(1), 116 S.E.2d 243).

In Version A, the case (or rather the case name) is the subject of the sentence; in Version B, the case name is relegated to a citation. In Version A, the case name and citation act as a barrier for reader-entry into the sentence. In Version B, the reader is drawn into the sentence with the recitation of the elements of negligence. The case is then presented as the source of the information. We think the second is more effective where, as in this example, the law itself is settled. The case is being used to convey the black letter law, not its result. In other words, what the law is, not which court said it or the result of the case, is what matters. In addition to in our view being easier to read, the first sentence has 112 words and the second has 103. That is almost 10% fewer words—a substantial savings in modern litigation when word count



The SOLACE program is designed to assist any member of the legal community (lawyers, judges, law office and court staff, law students and their families) in Georgia who suffer serious loss due to a sudden catastrophic event, injury or illness. Email **solace@gabar.org**.

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matters and when time and attention are at a premium.

In many instances, it is neither effective nor clear to use cases as the subject of a sentence. This is true when the quotation is the point of emphasis, not the case or its result. In that circumstance, avoid using the case name as the subject of the sentence. The case name and citation bloat the sentence with additional words and unnecessary detail. The reader is left to wonder if the case, or the law, or something else entirely matters. But, as next shown, sometimes the opposite is true.

Cite Only Precedent That Decided the Issue

A basic principle is to ensure that each precedential case cited actually decided the issue in dispute. It is fundamental that opinions "do not stand for points that were neither raised by the parties nor actually decided in the resulting opinion," and "questions which merely lurk in the record, neither brought to the attention of the court nor ruled upon, are not to be considered as having been so decided as to constitute precedents."[1] Careful case selection is critical to effective legal writing.

This principle is illustrated by a recent Supreme Court of Georgia case interpretating our state's apportionment statute. The issue was whether, in an action against a single defendant, damages could be reduced by fault the jury had attributed to non-parties. Whether reduction of damages was proper turned on the text of the statute: one section of the apportionment statute applied to an action "brought against more than one" defendant and permitted reduction of damages, but another section applied to an action brought against "one or more" defendants and did not permit reduction of damages.

So, in the case on appeal, the text of the statute meant that damages could not be reduced because it had been brought against a single defendant—against "one or more" not "more than one" defendant. Even so, on appeal, that single defendant argued that a case against one defendant was against "more than one." To support that argument, the defendant quoted language from three cases—*Martin v. Six Flags Over Ga. II, L.P.,* 301 Ga. 323, 801 S.E.2d 24 (2017), *Zaldivar v. Prickett,* 297 Ga. 589, 774 S.E.2d 688 (2015), and *Couch v. Red Roof Inns, Inc.,* 291 Ga. 359, 729 S.E.2d 378 (2012). The Supreme Court of Georgia looked at the facts of those three precedent cases and wrote:

> But *Martin* and *Red Roof Inns* do not apply here because those cases involved more than one named defendant. And although there was only one named defendant in *Zaldivar*, that case expressly reserved the question before us today. Because none of the cases cited by [the defendant] actually decided the issue before us today, they do not help [the defendant].[2]

No matter how eloquent the language in a precedential case, if the case did not decide the issue, don't use it!

Analogize to Favorable Precedent and Distinguish Unfavorable Precedent

Not only is it important to pick precedent that actually decided the issue, it is critical to analogize to those precedents with favorable results and to distinguish those with unfavorable results. The fundamental point of legal reasoning in the common law is, of course, to reason by analogy, and to argue that the case at bar is "like" those cases with "good" results for the litigant, and unlike those with "bad" results. Analogical reasoning, comparing "similar" cases, and disanalogical reasoning, distinguishing "different" cases, is critical to advancing the goal of many briefs and motions.

Nevertheless, in our experience that basic principle is often missed in brief writing because of superficial reading of cases. For example, a search may reveal a case with a "favorable" quotation that is quickly inserted in a brief. A more careful review of the case would reveal that the case itself reaches the opposite result from the litigant's position. Using such a case in that situation may prove problematic. More than once, we have seen experienced lawyers state that their facts are "like" a precedential case with a nice quote but falling into the trap of saying their case is "like" one that had reached an unfavorable result or which was, even if favorable, readily distinguishable.

In that regard, federal judges were asked to rate the "quality of advocate's use of existing precedent in analogizing favorable cases and distinguishing unfavorable cases," with judges stating more than 25% were "poor" or "fair," and less than 20% were "very good."[3]

Don't fall into the trap of superficial use of cases. Take the time to analogize or distinguish persuasively and as needed.

Conclusion

Before the writing process begins, writers must have something of value to share. Very often, legal writers gain that value from carefully reading cases. Conveying the value of those cases to legal readers is critical for legal writers. We hope this back-to-basics installment of "Writing Matters" has reminded you of the basic principles of writing about case law. ●



David Hricik is a professor of law at Mercer University School of Law who has written several books and more than a dozen articles. The Legal Writing Program at Mercer continues to be recognized as one of the nation's top legal writing programs.



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

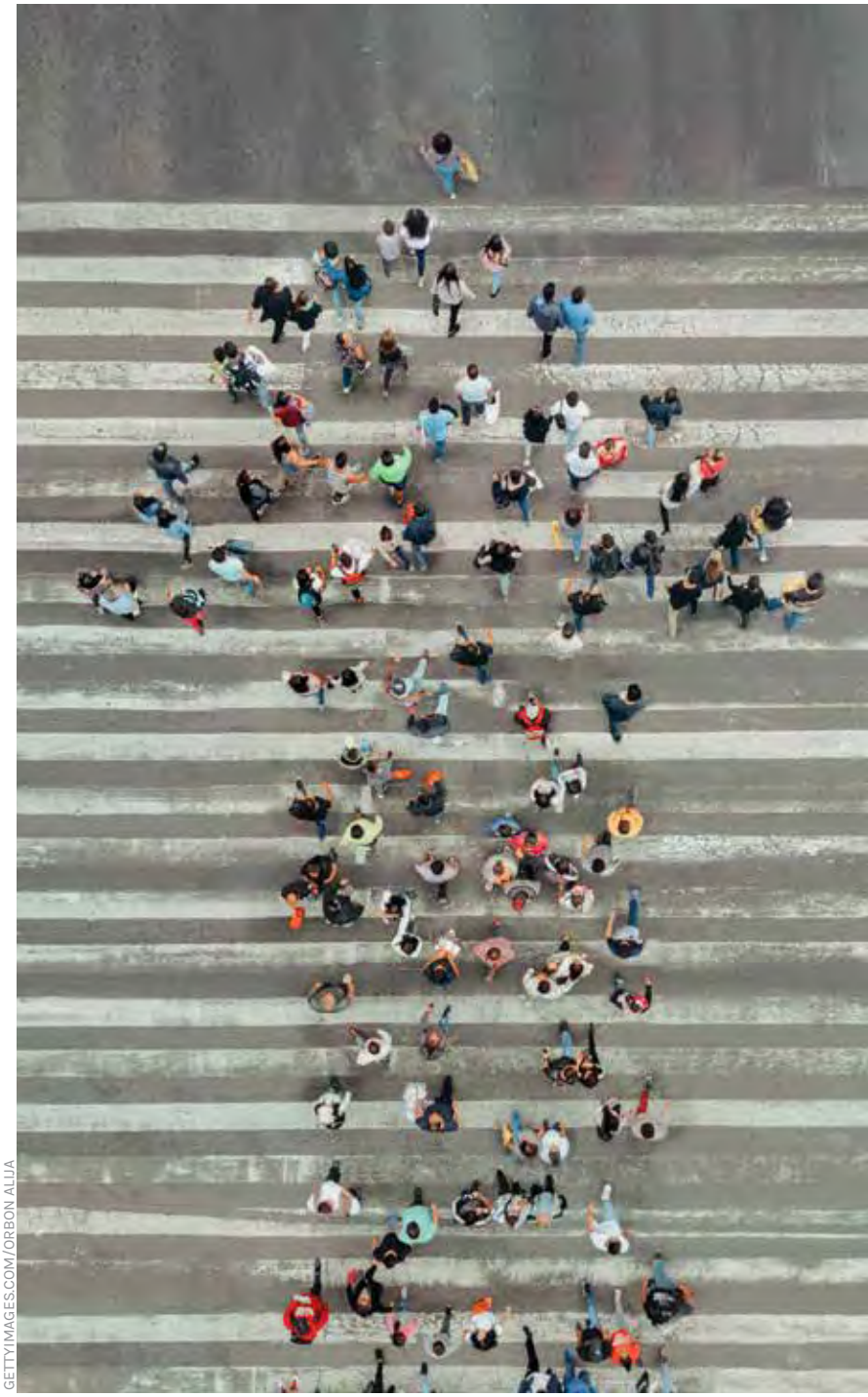
Endnotes

1. *Palmer v. State,* 282 Ga. 466, 468, 651 S.E.2d 86 (2007) (citations and punctuation omitted).
2. *Alston & Bird, LLP v. Hatcher Mgmt. Holdings, LLC.,* 312 Ga. 350, 356–57, 862 S.E.2d 295, 300 (2021).
3. Kristen K. Robbins, *The Inside Scoop: What Federal Judges Really Think About the Way Lawyers Write*, 8 Legal Writing: J. Legal Writing Inst. 257 (2002).

Who Better to Lead Than Lawyers?

Lawyers have a special role within society that uniquely qualifies them to lead—and they owe it to others to do so.

BY KARLISE Y. GRIER



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I often find myself drawn to a transcription of proceedings of a Consultation on Professionalism convened by Chief Justice Thomas O. Marshall and hosted by Emory University President James Laney on March 31, 1988. I think there are many words of wisdom in the transcript. The Consultation on Professionalism—which brought together a distinguished group of lawyers and judges from around the state—may have been the first gathering of its kind to discuss professionalism. Recently, after hearing Judge Dorothy Beasley speak at the 2022 annual meeting of the Georgia Association for Women Lawyers, I found myself once again rereading the 1988 transcript because Beasley posed the question, "Who better to lead than lawyers?"

Beasley's questions reminded me of some observations made by attorney Felker Ward at the 1988 consultation. An excerpt of his remarks is as follows:

> I have concluded that we as lawyers are something kind of special. First of all, I concluded that from some of the reading materials that Chief Justice Marshall sent us. As I read through them and stopped and thought about it, I said, you know, we *are* special. We have a lot of influence over what happens in this society.
>
> Then I was reminded of my days in law school here at Emory. We had one of the outstanding lawyers of our country, Melvin Belli, come out here and talk to us. I will never forget it. He gave us some sta-

The fact that lawyers should lead and act in various roles in our society was a theme that was often reiterated in the early years of Georgia's professionalism movement.

> tistics showing that if you take the education and income of a lawyer and compare them to the rest of the country, we are almost a pinpoint. We are such a small class by so many measures that it constitutes almost an imperceptible percentage in our society. When I combined Mr. Belli's point with the perception that people have of us out there in the world and with the genuine influence we have, I was forced to conclude again that we are a special lot. ... I suggest to you that if we are special, as I've been led to believe that we are, then we have a responsibility to do something. The best way to do something is to teach by example. While our words may pass away, we can, by our actions, set lasting examples and enduring standards for society as a whole.[1]

The fact that lawyers should lead and act in various roles in our society was a theme that was often reiterated in the early years of Georgia's professionalism movement. Former Supreme Court of Georgia Chief Justice Harold G. Clarke wrote in a 1989 article:

> In a positive sense, lawyers owe the public the debt of service and leadership. Service generally takes a form of pro bono legal work, because the needs of the deprived lie waiting for the service of the more fortunate. The grand tradition of the legal profession insists that lawyers not shrink from leadership roles. By nature and training, lawyers possess qualities which uniquely fit them for positions of leadership in both the public and private sector. From the very beginnings of our republic, Americans have looked to lawyers for leadership. Some evidence indicates the setting of the sun on this tradition. Fewer and fewer lawyers offer to serve as public officials, and it even seems that lawyers are volunteering less frequently to lead in civic and charitable activity. At least one reason for this unfortunate development is the explosion of cost in the operation of a law practice which makes time an enormously valuable commodity. With respect to public office, another reason is the tendency on the part of some persons to distrust lawyers and therefore diminish their electability. Perhaps the best way to regain lost trust is to reassert our willingness to serve and lead.[2]

We are fortunate that within our Georgia legal community, there are many opportunities to gain leadership training through programs such as the State Bar of Georgia's Young Lawyers Division Leadership Academy or through one of the leadership or public office training academies of the voluntary bar associations. In his 1988 remarks, Ward challenged his audience to act regarding the lack of diversity in large law firms. While the issue of large law firm diversity is an issue that perhaps does not resonate with everyone who reads this article, I would wager that there is at least one issue that you care about, and like Ward, I challenge you to take action. We as lawyers owe it to others to lead because we have a special role within our society that uniquely qualifies us to lead. So, like Beasley, I ask: "Who better to lead than lawyers?" ●



Karlise Y. Grier
Executive Director
Chief Justice's Commission on Professionalism
kygrier@cjcpga.org

Endnotes

1. Proceedings of a Consultation on Professionalism and the Practice of Law, Chief Justices Commission on Professionalism, Professionalism Then (1988) and Now (2019) http://cjcpga.org/wp-content/uploads/2021/02/1988ConsultationOnProf.pdf (Last visited June 24, 2022).
2. Harold G. Clarke, *Professionalism: Repaying the Debt*, 25 Ga. St. B. J. 170 (1989), http://cjcpga.org/wp-content/uploads/2022/02/25-GSBJ-170-1989-Professionalism-Repaying-the-Debt.-Harold-Clarke-ethics-minimum.pdf.

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.

DOUGLAS C. BAXTER
Myrtle Beach, South Carolina
University of Georgia School of Law (1985)
Admitted 1985
Died May 2022

PERRY PEARCE BENTON
Brookhaven, Georgia
University of Alabama School of Law (1980)
Admitted 1985
Died June 2022

BARNEY L. BRANNEN JR.
Lebanon, New Hampshire
University of Georgia School of Law (1960)
Admitted 1959
Died April 2022

CURTIS GENE BROWN
Kennesaw, Georgia
Ohio Northern University Pettit College of Law (1986)
Admitted 1992
Died July 2022

JAMES DAVID BROYLES
Atlanta, Georgia
Woodrow Wilson College of Law (1974)
Admitted 1975
Died April 2022

ROBERT DALE CLARK
Atlanta, Georgia
Emory University School of Law (1972)
Admitted 1973
Died May 2022

DAVID HUGH CONNOLLY
Augusta, Georgia
University of Georgia School of Law (1957)
Admitted 1956
Died May 2022

ALLISON PAIGE COPLEIN
Atlanta, Georgia
Emory University School of Law (1994)
Admitted 1994
Died April 2022

SUZANNE E. DEDDISH
Atlanta, Georgia
Wake Forest University School of Law (2000)
Admitted 2000
Died June 2022

SRI HEMANTH DIGUMARTHI
Atlanta, Georgia
Georgia State University College of Law (2006)
Admitted 2006
Died June 2022

JAMES B. FRANKLIN
Statesboro, Georgia
University of Georgia School of Law (1964)
Admitted 1963
Died July 2022

WILLIAM E. FRANTZ
Marietta, Georgia
Emory University School of Law (1971)
Admitted 1971
Died June 2022

GEORGE G. GEIGER
Atlanta, Georgia
Woodrow Wilson College of Law (1969)
Admitted 1971
Died January 2022

DAVID KENDALL GINN
Johns Creek, Georgia
University of Georgia School of Law (1971)
Admitted 1972
Died April 2022

WILLIAM PRESTON HOLLEY III
Marietta, Georgia
Atlanta Law School (1978)
Admitted 1978
Died April 2022

RYAN MITCHELL HORN
Duluth, Georgia
South Texas College of Law (2012)
Admitted 2013
Died December 2021

KELSO C. HORNE JR.
Dahlonega, Georgia
University of Georgia School of Law (1983)
Admitted 1983
Died March 2022

WILLIAM H. ISON
Jonesboro, Georgia
Atlanta's John Marshall Law School (1968)
Admitted 1968
Died April 2022

WILLIAM EUGENE JESSUP
Duluth, Georgia
University of Georgia School of Law (1977)
Admitted 1977
Died February 2022

JAMES D. JOHNSON
Highlands, North Carolina
Emory University School of Law (1984)
Admitted 1984
Died January 2022

MICHAEL J. KOVACICH
Stone Mountain, Georgia
University of Georgia School of Law (1969)
Admitted 1969
Died February 2022

ALAN P. LAYNE
Lyons, Georgia
Mercer University Walter F. George School of Law (1978)
Admitted 1978
Died November 2021

MORTON P. LEVINE
Atlanta, Georgia
University of Georgia School of Law (1953)
Admitted 1953
Died April 2022

FAY ROGER LOGGINS
Gainesville, Georgia
University of Georgia School of Law (1972)
Admitted 1972
Died February 2022

JAMES EDGAR LONG
Holly Springs, Georgia
Emory University School of Law (1969)
Admitted 1970
Died April 2022

DONALD GENE MAYHALL
Dunwoody, Georgia
University of Alabama School of Law (1955)
Admitted 1971
Died May 2022

PATRICK JOSEPH MCGEE
Atlanta, Georgia
Emory University School of Law (1966)
Admitted 1966
Died June 2022

TYRONE CARLTON MEANS
Montgomery, Alabama
University of Kansas School of Law (1976)
Admitted 1998
Died March 2022

EDWARD JAMES PETERSON
Macon, Georgia
Capital University Law School (1998)
Admitted 1998
Died January 2022

OBITUARIES

ROBERT P. ROWE
Heber City, Utah
University of Georgia School of Law (1969)
Admitted 1969
Died April 2022

JOHN G. RUNYAN
Thomasville, Georgia
Atlanta Law School (1977)
Admitted 1983
Died March 2022

CURTIS MICHAEL SIMPSON
Florence, Alabama
University of Georgia School of Law (1980)
Admitted 1980
Died May 2022

JEFFREY S. WARD
Savannah, Georgia
University of Georgia School of Law (2002)
Admitted 2002
Died May 2022

DAVID V. WEBER
Augusta, Georgia
Mercer University Walter F. George School of Law (1976)
Admitted 1976
Died February 2022

JACK FREDDIE WITCHER
Bremen, Georgia
University of Georgia School of Law (1967)
Admitted 1966
Died May 2022

STEPHENS B. WOODROUGH
Saint Petersburg, Florida
University of Kentucky J. David Rosenberg College of Law (1961)
Admitted 1975
Died February 2022

ELLEN ZELLNER
Forsyth, Georgia
Atlanta Law School (1965)
Admitted 1972
Died March 2022



James Burke "Jimmy" Franklin, age 84, passed away on July 9 in Statesboro.

A native and lifelong resident of Bulloch County, Franklin was the younger son of Claire Burke and Samuel Jasper Franklin. After graduating from Statesboro High School in 1956, Franklin attended Georgia Institute of Technology, where he earned a degree in Industrial Engineering and was a member of the Alpha Tau Omega Fraternity. Immediately upon graduating from Georgia Tech, Franklin enrolled at the University of Georgia School of Law, where he earned his J.D. in 1962, during which time he was inducted into the Gridiron Society. After serving in the U.S. Army, Franklin returned to his hometown where he began his 56-year career as a well-respected and successful attorney. At the time of his death, he was practicing law with his daughter at Franklin Law, LLC.

Franklin loved the law and took great pride in his profession. Throughout his career, he held several leadership positions including president of the Bulloch County Bar Association, president of the State Bar of Georgia and president of the Georgia Bar Foundation. The Supreme Court of Georgia awarded him the Amicus Curiae Award, the highest award given in recognition of distinguished service and contribution to the administration of justice.

A long-time active member of the First United Methodist Church, Franklin served on several boards and committees including the Board of Trustees and the Administrative Board. He was a member of the Pathfinders Sunday School Class. Franklin was committed to serving and giving back to his community, which he dearly loved. He served as president of the Statesboro Jaycees, president of the Bulloch County Chamber of Commerce, and president and a Paul Harris Fellow of the Statesboro Rotary Club. He served as chairman of the Georgia Southern University Foundation and was an active trustee for 25 years. His community awarded him the Deen Day Smith Service to Mankind Award. In 2005, he was named "One of Georgia's Most Influential People."

Growing up in the country, Franklin had a lifelong love of the outdoors that he shared with his older brother Sammy, and he was just as much at home on the Ogeechee River as he was in the courtroom. Often referred to as "Jackfish Jimmy," he was considered by many to be one of the best fishermen on the Georgia coast. Franklin was also active in Republican politics for more than 60 years.

Franklin took great pride in serving his clients, his community and his state, but if asked what his greatest accomplishment in life was, he would quickly and without hesitation respond, "Roni, Mari, Ava and J.R." Franklin fiercely and dearly loved his four grandchildren, and the feeling was mutual. ●

In Memoriam Contributions to the Georgia Bar Foundation

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Robert M. Brinson Sr.

In Memory of James Cox III
Robert M. Brinson Sr.

In Memory of David Galler
Nathan M. Jolles

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In Memory of John Marshall
Robert M. Brinson Sr.
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Ken Sissel

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Lamar Sizemore Jr.
Sandra Sizemore

In Memory of Pete Robinson
Robert M. Brinson Sr.

In Memory of Hon. Larry Salmon
Robert M. Brinson Sr.

*Unless otherwise directed by the donor, In Memoriam contributions will be used for the Fellows program of the Georgia Bar Foundation.



William Edward Frantz Jr. passed away on June 1. Born in 1938 in New Orleans, he was affectionately known as "Frenchy" or "Billy" growing up. Most of his childhood was spent in Metairie, Louisiana, where he peddled the streets on his bike delivering newspapers. After a short stint in Virginia, he moved to Atlanta and graduated from Avondale High School. His strong work ethic continued through his college years as he paid his way through school and served six years as an Airman Second Class in the Georgia Air National Guard. One college summer when money ran low, he worked as a roughneck in the oil fields of Oklahoma, frugally sleeping in his car at night, determined to save enough to return to Athens and finish his degree. His persistence paid off in 1961 when he received an accounting degree from the University of Georgia.

Following graduation, Frantz put his accounting degree to work and became an Internal Revenue Service agent, gaining experience and insight that later proved invaluable to his future clients. While working full time, he earned his J.D. from Emory University School of Law in 1971. After several years as a manager in the Tax Department of Touche Ross and Co. in Atlanta, Frantz left to become a cofounder of Frantz, Sanders & Grattan in 1976. This began a long and distinguished career in tax law that continued for almost 50 years and took him to every corner of Atlanta and all over the world.

His New Orleans drawl belied a will of steel and often wore down the fiercest opponents, won the most difficult cases and "kept the 'guvamint' honest." Though he consistently proved a wily and stubborn adversary to those he met in the courtroom, he often became a friend and mentor to IRS agents and young attorneys. Peers credit his success to "practical lawyering," an uncanny ability to read people and strategic creativity. Frantz's humble style and teasing nature endeared him to colleagues and friends who regarded him as an honorable and principled man.

He enjoyed a stint teaching as an adjunct professor at Georgia State University School of Accountancy, Masters Tax Program from 1980-82, and served as president and trustee of the Atlanta Tax Forum from 1988-94. With his knowledge of tax law and heart for service, he became a founding advisory board member of the Georgia State University College of Law Tax Clinic, a not-for-profit designed to provide legal help to those in need.

Frantz used his talents in and out of the legal profession to serve others. He served within multiple ministries as a board member and valuable resource advising in legal and fiduciary matters. Ministries benefited from his razor-sharp mind and heartfelt concern for practical leadership. He took great joy in studying and preparing to teach a weekly men's Bible study at his church. ●



Morton P. Levine, 95, passed away in Atlanta, Georgia, on April 26.

Levine was born on April 7, 1927, in Mt. Vernon, New York, the third son of Meyer and Esther Levine. He grew up with brothers, Maurice, Sidney, and Robert (Bobby) in Mt. Vernon where his father owned an automobile dealership.

When World War II slowed new car sales, Levine pitched in to help his family by finding work in a factory where he polished plastic ring boxes. He gave his paycheck to his parents to help his parents pay for food and other needs.

The day after high school graduation, Levine was drafted into the U.S. Army. While serving his country, he was promoted to the rank of corporal and awarded the WWII Victory Medal. After his honorable discharge in 1947, Levine was admitted to the University of Georgia in Athens, where he pledged the Tau Epsilon Phi fraternity.

He later enrolled in the University of Georgia School of Law, enabling him to stay in Athens, a town he had come to love. He earned his J.D. in 1953, becoming the first member of his family to practice law.

He started his own firm in Atlanta, specializing in bankruptcy law. He proved his negotiating and conflict resolution skills in large and small cases. Levine was in the people business, representing a diverse group of clients over the years, many of whom were in the automotive industry since it was an industry he knew well, and learned about, from his father. He also was well-respected by bankruptcy judges throughout the country and was appointed in more than 100 cases to serve as bankruptcy trustee for the debtor.

Levine was a member of the State Bar of Georgia and the Atlanta Bar Association, as well as a founding member of the Southeastern Bankruptcy Law Institute. He was president of the Southeastern Bankruptcy Law Institute in 1978-79. In 2003, the Atlanta Bar Association's Bankruptcy Section honored Levine with the David Pollard Award for exemplifying a high standard of professionalism and ethics in bankruptcy practice. His three sons proudly followed in his footsteps. His youngest son, Ronald is a partner in the firm he founded, now named Levine and Block.

Loved and respected by his peers, Levine cherished the comradery he shared with his colleagues. He was regarded by his associates as an energetic and gentle man who was devoted to his clients and his duty as an attorney.

Levine married Phyllis Louise Borochoff on June 22, 1958. They reared four children, Jonathan, Russell, Susan and Ronald. Levine, an avid Georgia Bulldogs fan, purchased four season tickets in Sanford Stadium in 1954 and has held those same seats for 68 years. Until recent years, he rarely missed a home game and his tailgates in the parking lot across from his fraternity were a sight to be seen.

Levine was a member of Ahavath Achim Synagogue in Atlanta. ●



Robert Preston "Bob" Rowe Sr. of Heber City, Utah, passed away on April 30.

Rowe was born in 1940 in Wichita, Kansas, to Homer and Louise Rowe. Because of the nature of his father's work, the family lived in a variety of locations in the South, eventually settling in Atlanta where he attended Marist High School (1958). He graduated from University of Florida in 1962 (Sigma Chi) and after four years with the Marine Corps, he attended the University of Georgia School of Law (1969). During his time in law school, he was very proud of being editor of the *Georgia Law Review*.

Rowe began his legal career at Troutman & Sanders in Atlanta in 1970. For more than 10 years at the firm, he gained experience and training in practicing commercial real estate law.

These years he developed the relationships, business skills and confidence to become a successful lifelong lawyer. In 1981, he ventured out and started his own practice—Rowe & Foltz, later known as Rowe, Foltz & Martin. For 20 years, Rowe led this first-class retail legal practice working on many large commercial real estate developments throughout the South.

The trust and integrity that Rowe continuously demonstrated with his clients fostered the lifelong professional relationships that kept him practicing law until the age of 80.

Rowe's time in the Marine Corps as a captain was the most formative of his life. He proudly served in the Vietnam War and developed life-long friendships with his Marine Corps tentmates. He was an avid fisherman, skilled gardener and natural storyteller. Despite his affiliation with Georgia, he remained an ardent Gator fan throughout his life. In 2014, he moved from Rome, Georgia, to Heber City, Utah, with his wife Jeanie, bringing his daylilies with him. People gravitated to Rowe for his wit, easy laugh, compelling stories, Southern style and positive outlook. He exemplified the phrase "the glass is half full,"one in his long repertoire of sayings. At his home in Utah, he enjoyed his neighbors' company and his view of Mt. Timpanogos. ●



Jeffrey Scott "Jeff" Ward was born in Yakima, Washington, on May 10, 1969.

Ward's parents, Judy and Jerry, moved to Farmington, Maine, in 1974 where he first mastered what would become two of his favorite pasttimes, hunting and fishing; he also enjoyed whitewater canoeing on the Allagash River. The family returned to Yakima in 1979. Ward lived in the gym and excelled in youth sports, playing football, basketball and baseball. His love for golf also started then.

In 1985, Ward moved to Mancos, Colorado, to live with his aunt and uncle at their cattle ranch.

After graduation from Mancos High School in 1987, he returned to Yakima Valley College on a basketball scholarship. In 1989, he transferred to Mankato State University in Minnesota where he earned a B.S. in Political Science and Government.

Following college, he went on to earn an M.S. in environmental resource management from Arizona State University in 1995. Following graduation, he moved to Athens, Georgia, where he worked as a field engineer, siting and permitting construction developments to comply with environmental and U.S. Army Corps of Engineers rules and regulations.

He entered law school at the University of Georgia School of Law and graduated in 2002. There he would excel as a member of Moot Court Team; he was Best Oralist at the National Moot Court Competition and was Best Oralist and Best Brief in the Intrastate Moot Court Competition.

After graduating from law school, he joined Gilbert Harrell Summerford & Martin in Brunswick.

Ward lived on St. Simons Island, where he was involved in the community, even graduating from Leadership Glynn (County). He especially loved coaching little league and otherwise doting on his children, Bennett, Beth Anne and Mobley.

In 2012, Ward moved to Drew Eckl & Farnham, serving as managing partner of the firm's Brunswick office. He was an accomplished civil defense litigator and chalked up many victories at trial. He was regional counsel for Walmart's pharmaceutical division, managing every lawsuit filed in the Southeast.

Ward was a dedicated member of the State Bar of Georgia, donating his time in a variety of roles: Board of Governors, Brunswick Circuit; State Disciplinary Review Board, member and chair; Advisory Committee on Legislation; Bench & Bar Committee; and the Commission on Continuing Lawyer Competency, member and chair-elect. He was also a proud member of the Old Warhorse Lawyers Club and enjoyed being a member of the Judicial Invitational Golf Tournament.

In 2010, he was elected to the Georgia Defense Lawyers (GDLA) Board of Directors. He was a dedicated volunteer, serving as Amicus Committee chair and three years as editor-in-chief of GDLA's magazine, *Georgia Defense Lawyer*. Ward served as GDLA president from 2020-21.

In late 2018, Ward began dating GDLA's Executive Director Jennifer Davis. They were married in August 2019.

Ward found his career niche when he joined Miles Mediation & Arbitration Services full-time in April 2021. He had a passion for helping people and was regularly sought out by both plaintiff's and defense attorneys to settle difficult disputes. He even received thank you notes from plaintiffs themselves. Miles elevated him to senior neutral after a few short months; he was truly born to mediate. Not surprisingly, he was inducted into the National Academy of Distinguished Neutrals.

Ward passed away following an accident on Memorial Day, May 30, after playing in a member-guest golf tournament in Albany and enjoying the company of his wife and friends. ●

Note: ICLE courses listed here are subject to change and availability. For the most up-to-date ICLE program details, please visit www.gabar.org/ICLE. For questions and concerns regarding course postings, please email ICLE@gabar.org.

AUGUST

23 **Beginning Lawyers Program | Transition Into Law Practice Program**
Bar Center | Atlanta, Georgia
6 CLE Hours

30 **Group Mentoring | Transition Into Law Practice Program**
Bar Center | Atlanta, Georgia
No CLE Hours

31 **Restrictive Covenants and Trade Secrets**
Bar Center | Atlanta, Georgia
6 CLE Hours, including 1 Professionalism Hour and 2 Trial Practice Hours

SEPTEMBER

7-8 **Institute for City and County Attorneys**
University of Georgia Center for Continuing Education | Athens, Georgia
12 CLE Hours

14 **Medical Malpractice Boot Camp**
Bar Center | Atlanta, Georgia
6 CLE Hours

16 **Wellness for Lawyers**
Bar Center | Atlanta, Georgia
6 CLE Hours

22-23 **Solo & Small Firm Institute**
Bar Center | Atlanta, Georgia
12 CLE Hours

OCTOBER

6-8 **Workers' Compensation Law Institute**
Jekyll Island Convention Center | Jekyll Island, Georgia
12 CLE Hours

13-15 **Insurance Law Institute**
The King & Prince Beach and Golf Resort | St. Simons Island, Georgia
12 CLE Hours

18 **Group Mentoring | Transition Into Law Practice Program**
Bar Center | Atlanta, Georgia
No CLE Hours

20-21 **Truck Wreck Cases**
Bar Center | Atlanta, Georgia
12 CLE Hours

26 **Zoning Law**
Bar Center | Atlanta, Georgia
6 CLE Hours

28 **Jury Trials in Divorce**
Bar Center | Atlanta, Georgia
6 CLE Hours

NOVEMBER

2 **Business Litigation**
Bar Center | Atlanta, Georgia
6 CLE Hours

11 **Adoption Law**
Bar Center | Atlanta, Georgia
6 CLE Hours

NOVEMBER

17 **Commercial Real Estate**
Bar Center | Atlanta, Georgia
6 CLE Hours

18 **Criminal Practice**
Bar Center | Atlanta, Georgia
6 CLE Hours

DECEMBER

1 **Health Care Fraud**
Bar Center | Atlanta, Georgia
6 CLE Hours

FEBRUARY 2023

9 **Residential Real Estate**
Bar Center | Atlanta, Georgia
6 CLE Hours

17 **Bootcamp for Trial Lawyers**
Bar Center | Atlanta, Georgia
6 CLE Hours

MARCH

23 **Professional and Ethical Dilemmas in Litigation**
Bar Center | Atlanta, Georgia
6 CLE Hours

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



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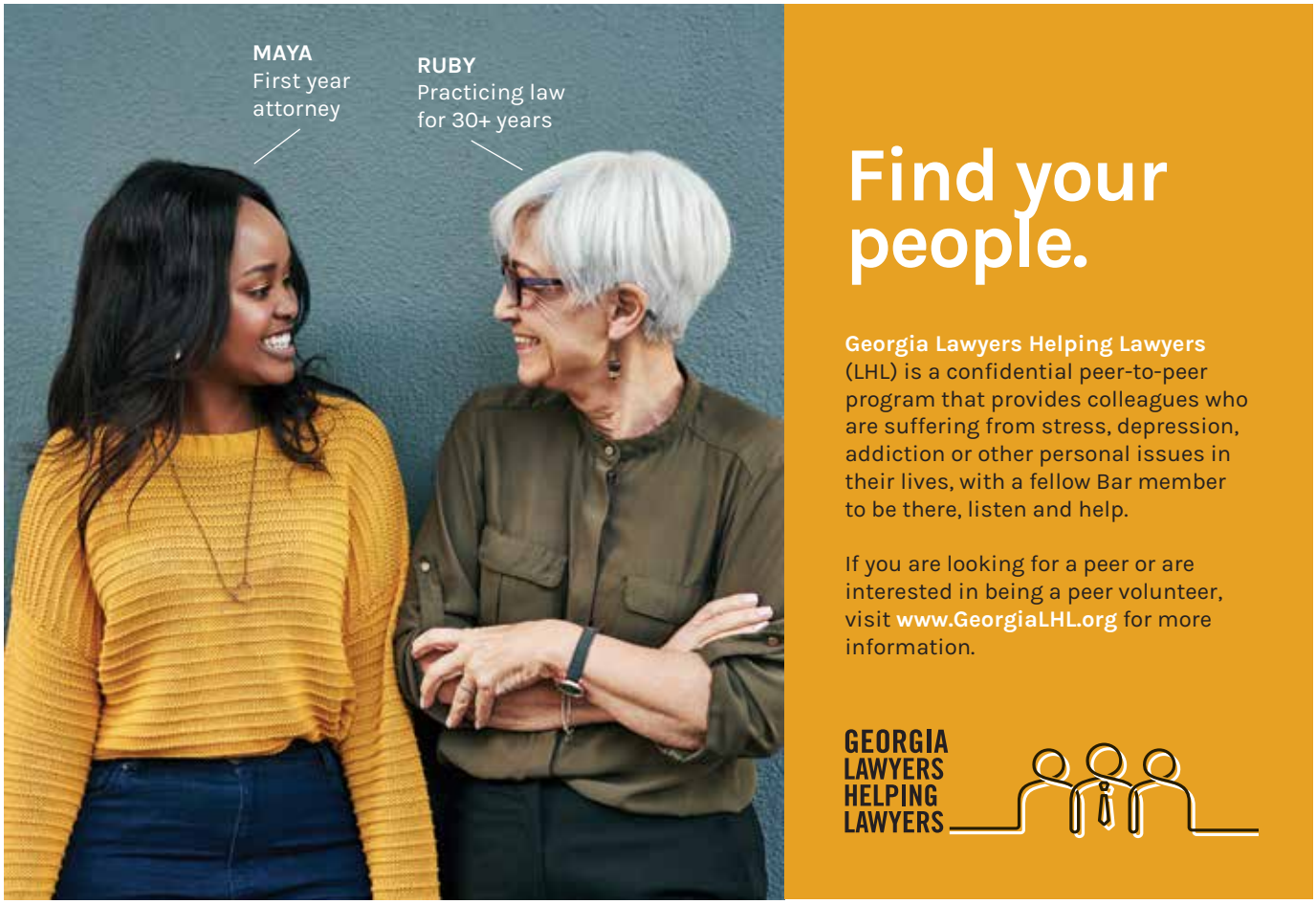
State Bar of Georgia

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 Wednesday, Aug. 3, 2022, to Friday, Sept. 2, 2022.

A copy of the proposed amendments may be obtained on and after Wednesday, Aug. 3, 2022, 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. NW, Atlanta, Georgia 30303; 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 Friday, Sept. 2, 2022.



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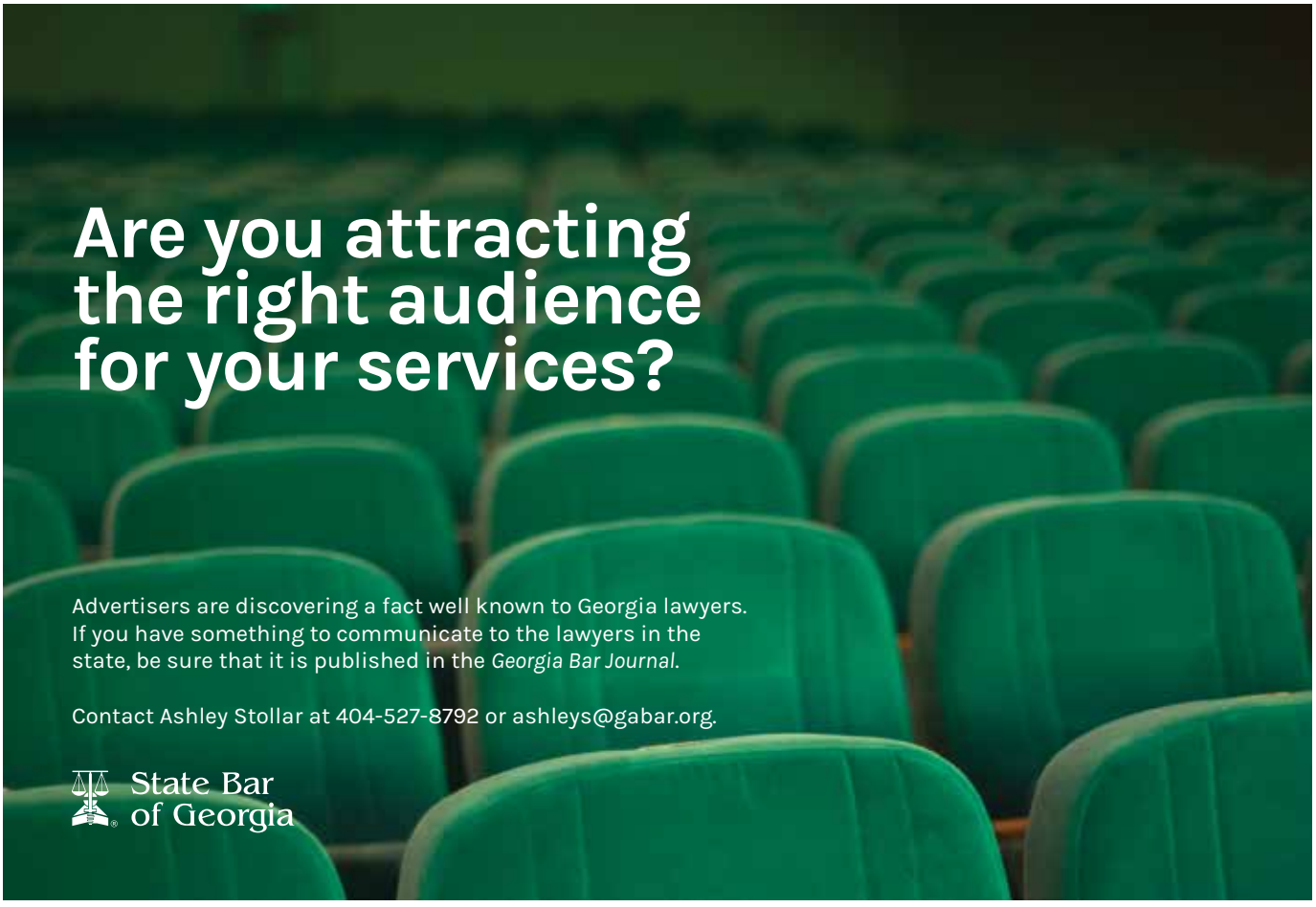



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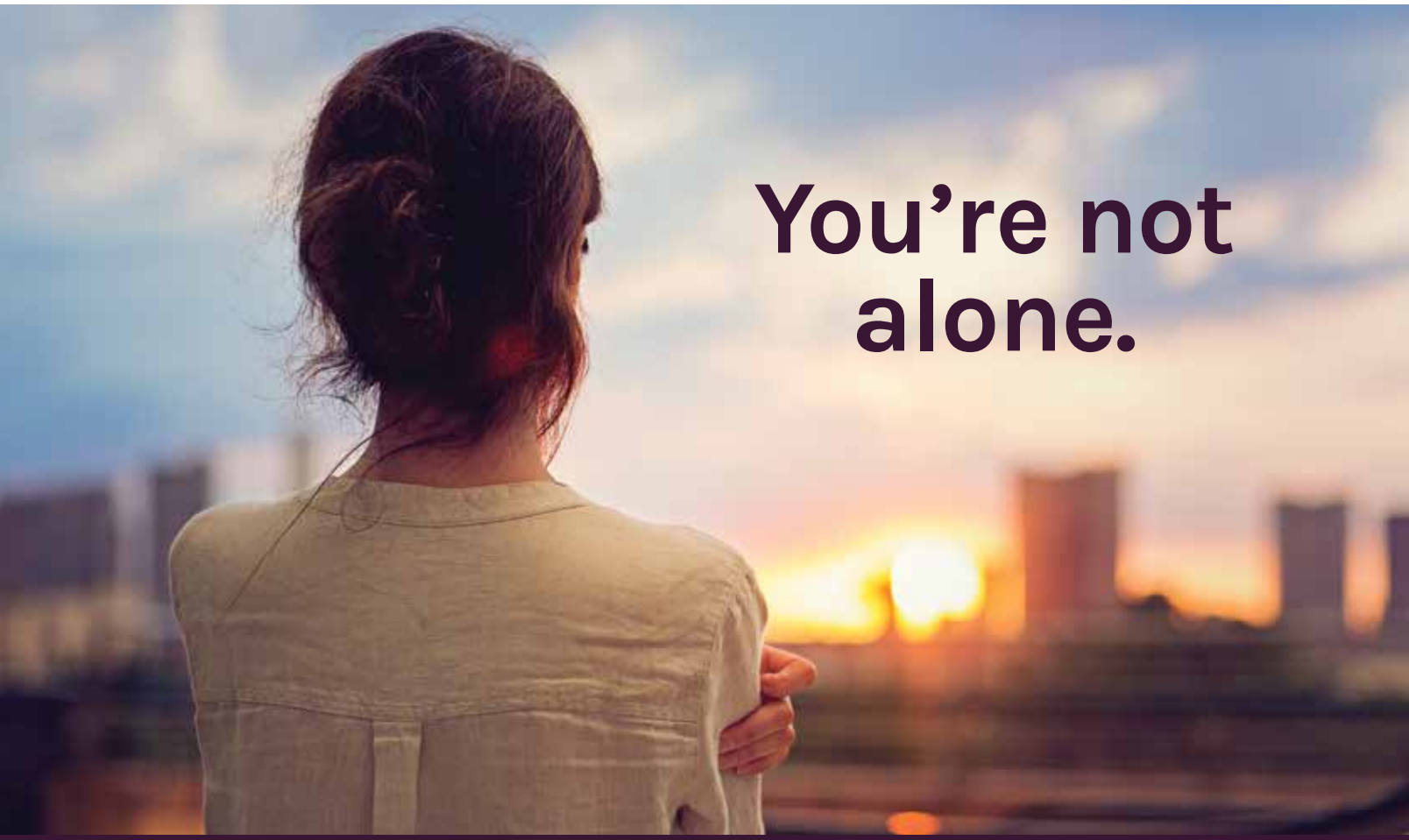

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