

# CHIEF JUSTICE'S COMMISSION ON PROFESSIONALISM



## THE CHIEF JUSTICE'S COMMISSION ON PROFESSIONALISM (Founded 1989)

### A Brief History of the Chief Justice's Commission on Professionalism

#### Karlise Y. Grier, Executive Director

The mission of the Chief Justice's Commission on Professionalism is to support and encourage lawyers to exercise the highest levels of professional integrity in their relationships with their clients, other lawyers, the courts and the public, and to fulfill their obligations to improve the law and legal system and to ensure access to that system.

After a series of meetings of key figures in Georgia's legal community in 1988, in February of 1989, the Supreme Court of Georgia created the Chief Justice's Commission on Professionalism ("Commission"), the first entity of this kind in the world created by a state high court to address legal professionalism. In March of 1989, the Rules of the State Bar of Georgia were amended to lay out the purpose, members, powers and duties of the Commission. The brainchild of Justice Thomas Marshall and past Emory University President James Laney, they were joined by Justices Charles Weltner and Harold Clarke and then State Bar President A. James Elliott in forming the Commission. The impetus for this entity then and now is to address uncivil approaches to the practice of law, as many believe legal practice is departing from its traditional stance as a high calling – like medicine and the clergy – to a business.

The Commission carefully crafted a statement of professionalism, *A Lawyer's Creed* and the *Aspirational Statement on Professionalism*, guidelines and standards addressing attorneys' relationships with colleagues, clients, judges, law schools and the public, and retained its first executive director, Hulett "Bucky" Askew. Professionalism continuing legal education was mandated and programming requirements were developed by then assistant and second executive director Sally Evans Lockwood. During the 1990s, after the Commission conducted a series of convocations with the bench and bar to discern professionalism issues from practitioners' views,

the State Bar instituted new initiatives, such as the Committee on Inclusion in the Profession (f/k/a Women and Minorities in the Profession Committee). Then the Commission sought the concerns of the public in a series of town hall meetings held around Georgia. Two concerns raised in these meetings were: lack of civility and the economic pressures of law practice. As a result, the State Bar of Georgia established the Law Practice Management Program.

Over the years, the Commission has worked with the State Bar to establish other programs that support professionalism ideals, including the Consumer Assistance Program and the Diversity Program. In 1993, under President Paul Kilpatrick, the State Bar's Committee on Professionalism partnered with the Commission in establishing the first Law School Orientation on Professionalism Program for incoming law students held at every Georgia law school. At one time, this program had been replicated at more than forty U.S. law schools. It engages volunteer practicing attorneys, judges and law professors with law students in small group discussions of hypothetical contemporary professionalism and ethics situations.

In 1997, the Justice Robert Benham Community Service Awards Program was initiated to recognize members of the bench and bar who have combined a professional career with outstanding service to their communities around Georgia. The honorees are recognized for voluntary participation in community organizations, government-sponsored activities, youth programs, religious activities or humanitarian work outside of their professional practice or judicial duties. This annual program has previously been held at the State Bar Headquarters in Atlanta and in the past it has been co-sponsored by the Commission and the State Bar. On March 2, 2023, the Benham Awards ceremony was held for the first time at the Nathan Deal Judicial Center in Atlanta, Georgia with the sponsorship support of 37 lawyers, law firms, and other individuals. Historically, the program generally has attracted several hundred attendees who celebrate Georgia lawyers who are active in the community.

In 2006, veteran attorney and former law professor, Avarita L. Hanson became the third executive director. In addition to providing multiple CLE programs for local bar associations, and government and law offices, she served as Chair of the ABA Consortium on Professionalism Initiatives, a group that informs and vets ideas of persons interested in development of professionalism programs. She authored the chapter on *Reputation*, in Paul Haskins, Ed., ESSENTIAL QUALITIES OF THE PROFESSIONAL LAWYER, ABA Standing Committee on Professionalism, ABA Center for Professional Responsibility (July 2013) and recently added to the newly-released accompanying *Instructor's Manual* (April 2017). Ms. Hanson retired in August 2017 after a distinguished career serving the Commission.

Today, the Commission, which meets three times per year, is under the stewardship and management of its fourth Executive Director, attorney Karlise Yvette Grier. The Commission continues to support and advise persons locally and nationally who are interested in professionalism programming. For example, in 2023, Ms. Grier was published in the American

Bar Association Judges' Journal Spring 2023 issue.<sup>1</sup> The Chief Justice of the Supreme Court of Georgia serves as the Commission's chair, and Chief Justice Michael P. Boggs currently serves in this capacity. The Commission has twenty-two members representing practicing lawyers, the state appellate and trial courts, the federal district court, all Georgia law schools and the public. (See Appendix A). With its chair, members and staff, the Commission is well equipped to fulfill its mission and to inspire and develop programs to address today's needs of the legal profession and those concerns on the horizon. (See Appendix B).

The Commission works through committees and working groups in carrying out some of its duties. In the past, the Commission has also worked with other state and national entities, such as the American Bar Association's Center for Professional Responsibility and its other groups. To keep Georgia Bar members abreast of professionalism activities and issues, the Commission maintains a website at [www.cjcpga.org](http://www.cjcpga.org). The Commission also provides content for the Professionalism Page in every issue of the *Georgia Bar Journal*. In 2018, the Commission engaged in a strategic planning process. As a result of that process, the Commission decided to focus on four priority areas for the next three to five years: 1) ensuring high quality professionalism CLE programming that complies with Commission guidelines; 2) promoting the understanding and exercise of professionalism and emphasizing its importance to the legal system; 3) promoting meaningful access to the legal system and services; and 4) ensuring that Commission resources are used effectively, transparently and consistently with the mission.

After 30 years, the measure of effectiveness of the Commission should ultimately rest in the actions, character and demeanor of every Georgia lawyer. There is still work to do. The Commission will therefore remember the words of Cubbedge Snow set forth below and continue to lead the movement and dialogue on legal professionalism.

*"[T]he effort for professionalism requires constant striving; we cannot expect an easy or quick result."*

--Excerpt from remarks at the 1988 Consultation on Professionalism and the Practice of Law given by Mr. Cubbedge Snow, Jr., 12<sup>th</sup> President of the State Bar of Georgia, 1974-1975

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<sup>1</sup> See Karlise Y. Grier, *Judges and the Georgia Professionalism Movement: The Impact of Service and Leadership*, 62 A.B.A. Judges' J. 26 (2023), <https://tinyurl.com/yc766kx7> (Last Visited on 07-20-23).

## CHIEF JUSTICE’S COMMISSION ON PROFESSIONALISM



### PROFESSIONALISM AND GEORGIA’S LEGAL PROFESSION

#### THE MEANING OF PROFESSIONALISM

The three ancient learned professions were the law, medicine, and ministry. The word profession comes from the Latin *professus*, meaning to have affirmed publicly. As one legal scholar has explained, “The term evolved to describe occupations that required new entrants to take an oath professing their dedication to the ideals and practices associated with a learned calling.”<sup>2</sup> Many attempts have been made to define a profession in general and lawyer professionalism in particular. The most commonly cited is the definition developed by the late Dean Roscoe Pound of Harvard Law School:

The term refers to a group . . . pursuing a learned art as a common calling in the spirit of public service - no less a public service because it may incidentally be a means of livelihood. Pursuit of the learned art in the spirit of a public service is the primary purpose.<sup>3</sup>

Thinking about professionalism and discussing the values it encompasses can provide guidance in the day-to-day practice of law. Professionalism is a wide umbrella of values encompassing competence, character, civility, commitment to the rule of law, to justice and to the public good. Professionalism calls us to be mindful of the lawyer’s roles as officer of the court, advocate, counselor, negotiator, and problem solver. Professionalism asks us to commit to improvement of the law, the legal system, and access to that system. These are the values that make us a profession enlisted in the service not only of the client but of the public good as well. While none of us achieves perfection in serving these values, it is the consistent aspiration toward them that defines a professional. The Commission encourages thought not only about the lawyer-client relationship central to the practice of law but also about how the legal profession can shape us as people and a society.

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<sup>2</sup> Deborah L. Rhode, *PROFESSIONAL RESPONSIBILITY: ETHICS BY THE PERVASIVE METHOD* 39 (1994)

<sup>3</sup> Roscoe Pound, *THE LAWYER FROM ANTIQUITY TO MODERN TIMES* 5 (1953)

## **BACKGROUND ON THE LEGAL PROFESSIONALISM MOVEMENT IN GEORGIA**

In 1986, the American Bar Association ruefully reported that despite the fact that lawyers' observance of the rules of ethics governing their conduct is sharply on the rise, lawyers' professionalism, by contrast, may well be in steep decline:

[Although] lawyers have tended to take the rules more seriously because of an increased fear of disciplinary prosecutions and malpractice suits, . . . [they] have also tended to look at nothing but the rules; if conduct meets the minimum standard, lawyers tend to ignore exhortations to set their standards at a higher level.<sup>4</sup>

The ABA's observation reflects a crucial distinction: while a canon of ethics may cover what is minimally **required** of lawyers, "professionalism" encompasses what is more broadly **expected** of them – both by the public and by the best traditions of the legal profession itself.

In response to these challenges, the State Bar of Georgia and the Supreme Court of Georgia embarked upon a long-range project – to raise the professional aspirations of lawyers in the state. The work began most visibly on March 31, 1988, with a *Consultation on Professionalism and the Practice of Law* that was convened at Emory University by Chief Justice O. Thomas Marshall and hosted by James T. Laney who was then the President of Emory.<sup>5</sup> During the consultation the leadership of Justice Charles L. Weltner and the staff support of Dr. Michael L. Goldberg were also noted. Upon taking office in June 1988, then State Bar President A. James Elliott gave Georgia's professionalism movement momentum when he placed the professionalism project at the top of his agenda. In conjunction with Chief Justice Marshall, President Elliott gathered 120 prominent judges and lawyers from around the state to attend the first Georgia Convocation on Professionalism.

For its part, the Georgia Supreme Court took three important steps to further the professionalism movement in Georgia. First, at the *First Annual Georgia Convocation on Professionalism*,<sup>6</sup> the Supreme Court of Georgia announced and administered to the attorneys

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<sup>4</sup> American Bar Association Commission on Professionalism, " . . . IN THE SPIRIT OF PUBLIC SERVICE." A BLUEPRINT FOR THE REKINDLING OF LAWYER PROFESSIONALISM, (1986) p.7, [https://www.americanbar.org/content/dam/aba/administrative/professional\\_responsibility/professionalism\\_migrate\\_d/Stanley\\_Commission\\_Report.pdf](https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/professionalism_migrate_d/Stanley_Commission_Report.pdf) (Last Visited July 20, 2023).

<sup>5</sup> To review a transcript of the March 31, 1988, *Consultation on Professionalism and the Practice of Law* see <https://tinyurl.com/3y5xedn2> (Last Visited July 20, 2023).

<sup>6</sup> THE *FIRST ANNUAL GEORGIA CONVOCATION ON PROFESSIONALISM* explored the topic "The Practice of Law – Is There Anything More To It Than Making Money." The Convocation was convened by Chief Justice Thomas O. Marshall, in conjunction with the State Bar of Georgia, in Macon, Georgia on October 14, 1988. To review a transcript of the proceedings see <https://tinyurl.com/3xxu9f8j> (Last Visited July 20, 2023).

who were present a new Georgia attorney’s oath emphasizing the virtue of truthfulness, reviving language dating back to 1729. (See Appendix C and Appendix G). Second, in February 1989, the Supreme Court of Georgia took an additional significant step to confront the concerns and further the aspirations of the profession and created the Chief Justice’s Commission on Professionalism (the “Commission”). In addition, the Court gave the Commission the primary charge of ensuring that the practice of law in this state remains a high calling, enlisted in the service not only of the client, but of the public good as well. This challenging mandate was supplemented by the Court’s third and final step. Third, the Supreme Court amended the mandatory continuing legal education (CLE) rule to require all active Georgia lawyers to complete one hour of Professionalism CLE each year.<sup>7</sup>

### **GENERAL PURPOSE OF CLE PROFESSIONALISM CREDIT**

Beginning in 1990, the Supreme Court of Georgia required all active Georgia lawyers to complete one hour of Professionalism CLE each year.<sup>8</sup> The one hour of Professionalism CLE is distinct from and in addition to the required ethics CLE. The general goal of the Professionalism CLE requirement is to create a forum in which lawyers, judges and legal educators can explore the meaning and aspirations of professionalism in contemporary legal practice and reflect upon the fundamental premises of lawyer professionalism – competence, character, civility, commitment to the rule of law, to justice, and to the public good. Building a community among the lawyers of this state is a specific goal of this requirement.

### **DISTINCTION BETWEEN ETHICS AND PROFESSIONALISM**

The Supreme Court has distinguished between ethics and professionalism, to the extent of creating separate one-hour CLE requirements for each.<sup>9</sup> The best explanation of the distinction between ethics and professionalism is the explanation offered by former Chief Justice Harold Clarke of the Supreme Court of Georgia:

*“. . . the idea [is] that ethics is a minimum standard which is required of all lawyers, while professionalism is a higher standard expected of all lawyers.”<sup>10</sup>*

(See Appendix F: *Repaying The Debt*).

Laws and the Rules of Professional Conduct establish minimal standards of consensus impropriety; however, the minimum standards do not define the criteria for all professional

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<sup>7</sup> See Rule 8-104 (B)(3) of the Rules and Regulations for the Organization and Government of the State Bar of Georgia and Regulation (4) thereunder at State Bar of Georgia, Governance Rules, <https://www.gabar.org/handbook/index.cfm#handbook/rule227> (Last visited July 19, 2023).

<sup>8</sup> See *Id.*

<sup>9</sup> See *Id.*

<sup>10</sup> See Harold G. Clarke, *Professionalism: Repaying the Debt*, Ga. St. B. J., May 1989, at 170, <https://tinyurl.com/mwfpvyr8> (Last visited July 19, 2023).

behavior. In the traditional sense, persons are not “ethical” simply because they act lawfully or even within the bounds of an official code of ethics. People can be dishonest, unprincipled, untrustworthy, unfair, and uncaring without breaking the law or the code. Truly “ethical” people measure their conduct not by rules but by basic moral principles such as honesty, integrity and fairness.

The term “Ethics” is commonly understood in the CLE context to mean “the law of lawyering” and the rules by which lawyers must abide in order to remain in good standing before the bar. Legal Ethics CLE also includes malpractice avoidance. “Professionalism” harkens back to the traditional meaning of ethics that encompasses the basic moral principles discussed above. The Commission believes that lawyers should remember in counseling clients and determining their own behavior that the letter of the law is only a minimal threshold describing what is legally possible, while professionalism is meant to address the aspirations of the profession and how we as lawyers should behave. Ethics discussions tend to focus on misconduct -- the negative dimensions of lawyering. **Professionalism discussions have an affirmative dimension -- a focus on conduct that preserves and strengthens the dignity, honor, and integrity of the legal system.**

As former Chief Justice Benham, a retired Justice of the Supreme Court of Georgia, has previously observed that society should expect more of lawyers than mere compliance with legal and ethical requirements.<sup>11</sup>

## **PROFESSIONALISM ISSUES**

In March of 1990, the Chief Justice’s Commission on Professionalism adopted *A Lawyer’s Creed* (See Appendix D) and an *Aspirational Statement on Professionalism* (See Appendix E). A committee of the Commission, chaired by attorney Thomas (“Tom”) G. Sampson, Sr., oversaw the drafting of the *Creed* and *Aspirational Statement*, although Sampson acknowledged that the *Creed* was principally drafted by former Mercer University Law Professor, Jack L. Sammons. In Georgia, the *Creed* and the *Aspirational Statement* should serve as the beginning points for professionalism discussions, not because they are to be imposed upon Georgia lawyers or bar associations, but because they serve as words of encouragement, assistance and guidance. These comprehensive statements may be utilized to frame discussions and remind lawyers about the basic tenets of our profession.

Karl N. Llewellyn, jurisprudential scholar who taught at Yale, Columbia, and the University of Chicago Law Schools, often cautioned his students:

The lawyer is a man of many conflicts. More than anyone else in our society, he must contend with competing claims on his time and loyalty. You must represent

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<sup>11</sup> See, e.g., *Evanoff v. Evanoff*, 262 Ga. 303 (1992)(Benham, J. concurring)

your client to the best of your ability, and yet never lose sight of the fact that you are an officer of the court with a special responsibility for the integrity of the legal system. You will often find, brethren and sistern, that those professional duties do not sit easily with one another. You will discover, too, that they get in the way of your other obligations – to your conscience, your God, your family, your partners, your country, and all the other perfectly good claims on your energies and hearts. You will be pulled and tugged in a dozen directions at once. You must learn to handle those conflicts.<sup>12</sup>

The real issue facing lawyers as professionals is developing the capacity for critical and reflective judgment and the ability to “handle those conflicts,” described by Karl Llewellyn. A major goal of Professionalism CLE is to encourage introspection and dialogue about these issues.

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<sup>12</sup> Mary Ann Glendon, *A NATION UNDER LAWYERS* 17 (1994)



# CHIEF JUSTICE'S COMMISSION ON PROFESSIONALISM

Honorable Michael P. Boggs  
Chief Justice, Supreme Court of Georgia  
Chair



Karlise Y. Grier  
Executive Director

## APPENDICES

- A**      **2023-2024 COMMISSION MEMBERS**
- B**      **MISSION STATEMENT**
- C**      **OATH OF ADMISSION**
- D**      *A LAWYER'S CREED*
- E**      *ASPIRATIONAL STATEMENT ON PROFESSIONALISM*
- F**      *SELECT PROFESSIONALISM ARTICLES*
- G**      *EXCERPTS FROM FIRST ANNUAL GEORGIA  
CONVOCATION ON PROFESSIONALISM*

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# APPENDIX A

## CHIEF JUSTICE'S COMMISSION ON PROFESSIONALISM

Honorable Michael P. Boggs  
Chief Justice, Supreme Court of Georgia  
Chair



Karlise Y. Grier  
Executive Director

### CHIEF JUSTICE'S COMMISSION ON PROFESSIONALISM 2023-2024

#### Members

The Honorable Michael P. Boggs, Chair  
*Waycross*

Mr. M. Lamar Barnett, Jr., *Columbus*  
Associate Dean Michael Scott Boone, *Atlanta*  
Ms. Brittanie Browning, *Atlanta*  
Mr. Christopher J. Chan, *Atlanta*  
Professor Nathan S. Chapman, *Athens*  
Professor Clark D. Cunningham, *Atlanta*  
Mr. J. Antonio DelCampo, *Atlanta*  
Ms. Anissa D. Floyd, *Atlanta*  
Ms. Molly Barrett Gillis, *Marietta*  
The Honorable Elizabeth D. Gobeil, *Savannah*  
The Honorable Steven D. Grimberg, *Atlanta*

Professor Tonja Jacobi, *Atlanta*  
Mr. Francys Johnson, *Statesboro*  
Mrs. Nekia Hackworth Jones, *Atlanta*  
Professor Patrick E. Longan, *Macon*  
The Honorable T. Russell McClelland III, *Cumming*  
The Honorable Shondeana Crews Morris, *Decatur*  
Ms. Lauren Shubow, *Atlanta*  
Mrs. Cathy Clark Tyler, *Atlanta*  
Ms. LaToya Simone Williams, *Atlanta*  
Ms. Sandy Wisenbaker, *Newnan*

#### Advisors

Ms. Jennifer M. Davis, *Rossville*  
The Honorable Andrew Pinson, *Atlanta*

#### Staff

Ms. Karlise Y. Grier, *Atlanta*

#### Liaisons

Mr. James D. Blich IV, *Atlanta*  
Mr. Damon Elmore, *Atlanta*  
Mr. Michael Herskowitz, *Atlanta*  
Ms. Julia D. Neighbors, *Atlanta*  
Mr. Robert Leonard Rothman, *Atlanta*  
Ms. DeeDee Worley, *Atlanta*

*Names in italics denotes public member/non-lawyer*

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## **APPENDIX B**

### **MISSION STATEMENT**

The mission of the Chief Justice's Commission on Professionalism is to support and encourage lawyers to exercise the highest levels of professional integrity in their relationships with their clients, other lawyers, the courts, and the public and to fulfill their obligations to improve the law and the legal system and to ensure access to that system.

### **CALLING TO TASKS**

The Commission seeks to foster among lawyers an active awareness of its mission by calling lawyers to the following tasks, in the words of former Chief Justice Harold Clarke:

1. To recognize that the reason for the existence of lawyers is to act as problem solvers performing their service on behalf of the client while adhering at all times to the public interest;
2. To utilize their special training and natural talents in positions of leadership for societal betterment;
3. To adhere to the proposition that a social conscience and devotion to the public interest stand as essential elements of lawyer professionalism.

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## APPENDIX C

### HISTORICAL INFORMATION ABOUT THE COMMISSION'S ROLES IN THE DEVELOPMENT OF THE CURRENT GEORGIA ATTORNEY OATH

In 1986, Emory University President James T. Laney delivered a lecture on “Moral Authority in the Professions.” While expressing concern about the decline in moral authority of all the professions, he focused on the legal profession because of the respect and confidence in which it has traditionally been held and because it has been viewed as serving the public in unique and important ways. Dr. Laney expressed the fear that the loss of moral authority has as serious a consequence for society at large as it does for the legal profession.

For its part, the Georgia Supreme Court took an important step to further the professionalism movement in Georgia. On October 14, 1988, after the “*First Annual Georgia Convocation on Professionalism: The Practice of Law – Is There Anything More To It Than Making Money?*” convened by Chief Justice Thomas O. Marshall in conjunction with the State Bar of Georgia, the Court announced a new Georgia attorney’s oath emphasizing the virtue of truthfulness, reviving language dating back to 1729.<sup>13</sup> Reflecting the idea that the word “profession” derives from a root meaning “to avow publicly,” the revised oath of admission to the State Bar of Georgia indicated that whatever other expectations might be made of lawyers, truth-telling was expected, always and everywhere, of every true professional. *See also* Appendix G. After it was adopted until it was further amended in 2002, the revised oath was administered to thousands of lawyers in circuits all over the state.

The Attorney’s Oath (historical) as first administered on October 14, 1988

I, \_\_\_\_\_, swear that I will truly and honestly, justly, and uprightly demean myself, according to the laws, as an attorney, counselor, and solicitor, and that I will support and defend the Constitution of the United States and the Constitution of the State of Georgia. So help me God.

In 2002, during the leadership of then-State Bar President George E. Mundy, the Committee on Professionalism was asked to revise the Oath of Admission to make the wording more relevant to the current practice of law, while retaining the original language calling for lawyers to “truly and honestly, justly and uprightly” conduct themselves. The revision was approved by the Georgia Supreme Court in 2002.

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<sup>13</sup> To review a transcript of the proceedings of the *First Annual Georgia Convocation on Professionalism*, see <https://tinyurl.com/3xxu9f8j>.

## APPENDIX C

### OATH OF ADMISSION TO THE STATE BAR OF GEORGIA

“I, \_\_\_\_\_, swear that I will truly and honestly, justly and uprightly conduct myself as a member of this learned profession and in accordance with the Georgia Rules of Professional Conduct, as an attorney and counselor and that I will support and defend the Constitution of the United States and the Constitution of the State of Georgia. So help me God.”

*As revised by the Supreme Court of Georgia, April 22, 2002*

See <https://www.gasupreme.us/rules/amendments-to-rules/attorney-oath/> (Last visited July 19, 2023)

*Entered by Order of Supreme Court of Georgia, October 9, 1992, nunc pro tunc July 3, 1990; Part IX of the Rules and Regulations of the State Bar of Georgia, as amended September 10, 2003 and April 26, 2013*

## APPENDIX D

### A LAWYER'S CREED



**To my clients,** I offer faithfulness, competence, diligence, and good judgment. I will strive to represent you as I would want to be represented and to be worthy of your trust.

**To the opposing parties and their counsel,** I offer fairness, integrity, and civility. I will seek reconciliation and, if we fail, I will strive to make our dispute a dignified one.

**To the courts,** and other tribunals, and to those who assist them, I offer respect, candor, and courtesy. I will strive to do honor to the search for justice.

**To my colleagues in the practice of law,** I offer concern for your welfare. I will strive to make our association a professional friendship.

**To the profession,** I offer assistance. I will strive to keep our business a profession and our profession a calling in the spirit of public service.

**To the public** and our systems of justice, I offer service. I will strive to improve the law and our legal system, to make the law and our legal system available to all, and to seek the common good through the representation of my clients.

*Entered by Order of Supreme Court of Georgia, October 9, 1992, nunc pro tunc July 3, 1990; Part IX of the Rules and Regulations of the State Bar of Georgia, as amended September 10, 2003 and April 26, 2013*

## APPENDIX E

### ASPIRATIONAL STATEMENT ON PROFESSIONALISM

The Court believes there are unfortunate trends of commercialization and loss of professional community in the current practice of law. These trends are manifested in an undue emphasis on the financial rewards of practice, a lack of courtesy and civility among members of our profession, a lack of respect for the judiciary and for our systems of justice, and a lack of regard for others and for the common good. As a community of professionals, we should strive to make the internal rewards of service, craft, and character, and not the external reward of financial gain, the primary rewards of the practice of law. In our practices we should remember that the primary justification for who we are and what we do is the common good we can achieve through the faithful representation of people who desire to resolve their disputes in a peaceful manner and to prevent future disputes. We should remember, and we should help our clients remember, that the way in which our clients resolve their disputes defines part of the character of our society and we should act accordingly.

As professionals, we need aspirational ideals to help bind us together in a professional community. Accordingly, the Court issues the following Aspirational Statement setting forth general and specific aspirational ideals of our profession. This statement is a beginning list of the ideals of our profession. It is primarily illustrative. Our purpose is not to regulate, and certainly not to provide a basis for discipline, but rather to assist the Bar's efforts to maintain a professionalism that can stand against the negative trends of commercialization and loss of community. It is the Court's hope that Georgia's lawyers, judges, and legal educators will use the following aspirational ideals to reexamine the justifications of the practice of law in our society and to consider the implications of those justifications for their conduct. The Court feels that enhancement of professionalism can be best brought about by the cooperative efforts of the organized bar, the courts, and the law schools with each group working independently, but also jointly in that effort.

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# APPENDIX E

## GENERAL ASPIRATIONAL IDEALS

As a lawyer, I will aspire:

- (a) To put fidelity to clients and, through clients, to the common good, before selfish interests.
- (b) To model for others, and particularly for my clients, the respect due to those we call upon to resolve our disputes and the regard due to all participants in our dispute resolution processes.
- (c) To avoid all forms of wrongful discrimination in all of my activities including discrimination on the basis of race, religion, sex, age, handicap, veteran status, or national origin. The social goals of equality and fairness will be personal goals for me.
- (d) To preserve and improve the law, the legal system, and other dispute resolution processes as instruments for the common good.
- (e) To make the law, the legal system, and other dispute resolution processes available to all.
- (f) To practice with a personal commitment to the rules governing our profession and to encourage others to do the same.
- (g) To preserve the dignity and the integrity of our profession by my conduct. The dignity and the integrity of our profession is an inheritance that must be maintained by each successive generation of lawyers.
- (h) To achieve the excellence of our craft, especially those that permit me to be the moral voice of clients to the public in advocacy while being the moral voice of the public to clients in counseling. Good lawyering should be a moral achievement for both the lawyer and the client.
- (i) To practice law not as a business, but as a calling in the spirit of public service.

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## APPENDIX E

### SPECIFIC ASPIRATIONAL IDEALS

As to clients, I will aspire:

- (a) To expeditious and economical achievement of all client objectives.
- (b) To fully informed client decision-making.  
As a professional, I should:
  - (1) Counsel clients about all forms of dispute resolution;
  - (2) Counsel clients about the value of cooperation as a means towards the productive resolution of disputes;
  - (3) Maintain the sympathetic detachment that permits objective and independent advice to clients;
  - (4) Communicate promptly and clearly with clients; and,
  - (5) Reach clear agreements with clients concerning the nature of the representation.
- (c) To fair and equitable fee agreements.  
As a professional, I should:
  - (1) Discuss alternative methods of charging fees with all clients;
  - (2) Offer fee arrangements that reflect the true value of the services rendered;
  - (3) Reach agreements with clients as early in the relationship as possible;
  - (4) Determine the amount of fees by consideration of many factors and not just time spent by the attorney;
  - (5) Provide written agreements as to all fee arrangements; and,
  - (6) Resolve all fee disputes through the arbitration methods provided by the State Bar of Georgia.
- (d) To comply with the obligations of confidentiality and the avoidance of conflicting loyalties in a manner designed to achieve the fidelity to clients that is the purpose of these obligations.

As to opposing parties and their counsel, I will aspire:

- (a) To cooperate with opposing counsel in a manner consistent with the competent representation of all parties.  
As a professional, I should:
  - (1) Notify opposing counsel in a timely fashion of any cancelled appearance;

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## APPENDIX E

- (2) Grant reasonable requests for extensions or scheduling changes; and,
  - (3) Consult with opposing counsel in the scheduling of appearances, meetings, and depositions.
- (b) To treat opposing counsel in a manner consistent with his or her professional obligations and consistent with the dignity of the search for justice.
- As a professional, I should:
- (1) Not serve motions or pleadings in such a manner or at such a time as to preclude opportunity for a competent response;
  - (2) Be courteous and civil in all communications;
  - (3) Respond promptly to all requests by opposing counsel;
  - (4) Avoid rudeness and other acts of disrespect in all meetings including depositions and negotiations;
  - (5) Prepare documents that accurately reflect the agreement of all parties; and,
  - (6) Clearly identify all changes made in documents submitted by opposing counsel for review.

As to the courts, other tribunals, and to those who assist them, I will aspire:

- (a) To represent my clients in a manner consistent with the proper functioning of a fair, efficient, and humane system of justice.
- As a professional, I should:
- (1) Avoid non-essential litigation and non-essential pleading in litigation;
  - (2) Explore the possibilities of settlement of all litigated matters;
  - (3) Seek non-coerced agreement between the parties on procedural and discovery matters;
  - (4) Avoid all delays not dictated by a competent presentation of a client's claims;
  - (5) Prevent misuses of court time by verifying the availability of key participants for scheduled appearances before the court and by being punctual; and,
  - (6) Advise clients about the obligations of civility, courtesy, fairness, cooperation, and other proper behavior expected of those who use our systems of justice.

*Entered by Order of Supreme Court of Georgia, October 9, 1992, nunc pro tunc July 3, 1990; Part IX of the Rules and Regulations of the State Bar of Georgia, as amended September 10, 2003 and April 26, 2013*

## APPENDIX E

- (b) To model for others the respect due to our courts.  
As a professional I should:
  - (1) Act with complete honesty;
  - (2) Know court rules and procedures;
  - (3) Give appropriate deference to court rulings;
  - (4) Avoid undue familiarity with members of the judiciary;
  - (5) Avoid unfounded, unsubstantiated, or unjustified public criticism of members of the judiciary;
  - (6) Show respect by attire and demeanor;
  - (7) Assist the judiciary in determining the applicable law; and,
  - (8) Seek to understand the judiciary's obligations of informed and impartial decision-making.

As to my colleagues in the practice of law, I will aspire:

- (a) To recognize and to develop our interdependence;
- (b) To respect the needs of others, especially the need to develop as a whole person; and,
- (c) To assist my colleagues become better people in the practice of law and to accept their assistance offered to me.

As to our profession, I will aspire:

- (a) To improve the practice of law.  
As a professional, I should:
  - (1) Assist in continuing legal education efforts;
  - (2) Assist in organized bar activities; and,
  - (3) Assist law schools in the education of our future lawyers.
- (b) To protect the public from incompetent or other wrongful lawyering.  
As a professional, I should:
  - (1) Assist in bar admissions activities;
  - (2) Report violations of ethical regulations by fellow lawyers; and,
  - (3) Assist in the enforcement of the legal and ethical standards imposed upon all lawyers.

*Entered by Order of Supreme Court of Georgia, October 9, 1992, nunc pro tunc July 3, 1990; Part IX of the Rules and Regulations of the State Bar of Georgia, as amended September 10, 2003 and April 26, 2013*

## APPENDIX E

As to the public and our systems of justice, I will aspire:

- (a) To counsel clients about the moral and social consequences of their conduct.
- (b) To consider the effect of my conduct on the image of our systems of justice including the social effect of advertising methods.

As a professional, I should ensure that any advertisement of my services:

- (1) is consistent with the dignity of the justice system and a learned profession;
- (2) provides a beneficial service to the public by providing accurate information about the availability of legal services;
- (3) educates the public about the law and legal system;
- (4) provides completely honest and straightforward information about my qualifications, fees, and costs; and,
- (5) does not imply that clients' legal needs can be met only through aggressive tactics.

- (c) To provide the pro bono representation that is necessary to make our system of justice available to all.
- (d) To support organizations that provide pro bono representation to indigent clients.
- (e) To improve our laws and legal system by, for example:
  - (1) Serving as a public official;
  - (2) Assisting in the education of the public concerning our laws and legal system;
  - (3) Commenting publicly upon our laws; and,
  - (4) Using other appropriate methods of effecting positive change in our laws and legal system.

*Entered by Order of Supreme Court of Georgia, October 9, 1992, nunc pro tunc July 3, 1990; Part IX of the Rules and Regulations of the State Bar of Georgia, as amended September 10, 2003 and April 26, 2013*

## APPENDIX F

# SELECT PROFESSIONALISM ARTICLES

For Additional Professionalism Articles visit

<https://cjcpga.org/articles/>

# PROFESSIONALISM: REPAYING THE DEBT

by Presiding Justice Harold G. Clarke,  
Georgia Supreme Court

**A**fter the Supreme Court of Georgia and the State Bar of Georgia announced their emphasis on professionalism, skeptics posed two questions: what is it and why does it matter? This article attempts to examine, but perhaps not answer, those questions looking at them in reverse order.

Public attitudes and expressions offer evidence of diminished professionalism in the law practice. Nobody allows us to forget the poll which indicated that lawyers enjoy public esteem equivalent to that of used car salesmen. Lawyer jokes are popular at every cocktail party and prove to us that cleverness is not so funny when we are the subject.

The natural question is what led to this attitude? Some point to Watergate as the watershed and say until that time lawyers enjoyed far greater respect. While it is true that John Dean uttered that immortal sentence, "How in God's name could so many lawyers get involved in something like this?" I do not believe that this one unfortunate episode created lawyer unpopularity. The popular pastime of lawyer baiting began long before anybody ever heard of Watergate. Even the English poet John Keats said, "I think we may class the lawyers in the natural history of monsters." And Woodrow Wilson, who once practiced law in Atlanta, commented, "I used to be a lawyer but now I am a reformed character." The problem is not a new one but it has become more acute in recent years.

I believe the main causes of deterioration of lawyer reputation are the over-commercialism of the profession, over-aggressiveness on the part of some lawyers, and the view that lawyers and the law stand as obstacles in the path of things which should be accomplished.

I further believe that the existence

of these problems makes necessary an identification of the nature of professionalism and an examination of how it can be instituted.

## Professionalism Defined

Most observers express a belief that a definition of professionalism lies outside an area in which a consensus can be reached. Some even say that professionalism is simply in the eye of the beholder. With this in mind, I proceed not as a member of the Supreme Court of Georgia, but as a beholder who believes the term is capable of definition. I also believe that lawyers and judges benefit from the exercise of attempting to define professionalism. So, here goes my effort.

I wrote this definition down several years ago, and while I believe it is one I personally drafted after reviewing numbers of others, there is at least a possibility of forgotten plagiarism.

**Professional** – A member of a group which provides an essential service in which the public has a vital interest and requires of the performer extensive training and the exercise of qualitative judgment.

"Essential service," "vital public interest," "extensive training," and "qualitative judgment" constitute the key phrases in this definition. Every lawyer would do well to use these phrases as a checklist for his or her everyday activities. This checklist stands as a reminder that the distinction between a profession and a commercial enterprise is that a profession demands adherence to the public interest.

Upon becoming a professional, an individual is endowed with certain privileges, including better earnings than most and higher status than most. These privileges likely lead to a higher standard of living and per-

*Presiding Justice Harold G. Clarke has served on the Supreme Court of Georgia since his appointment in 1979. He is a life-long resident of Forsyth, having been born there September 28, 1927. He graduated from the University of Georgia School of Law in 1950 and was admitted to the Bar that same year. Justice Clarke served in the U.S. Army where he held the position of Managing Editor of the Pacific Stars and Stripes. He served as president of the State Bar of Georgia and president of the Flint Circuit Bar Association. From 1961 to 1971, Justice Clarke was a member of the Georgia General Assembly. He is a Fellow of the American College of Trial Lawyers and a Master Bencher of the Joseph Henry Lumpkin American Inn of Court.*



haps a high standard of self satisfaction. Deserved privileges need no criticism, but lawyers need to examine whether they deserve their privileges. Another way to put it is whether lawyers are repaying their "debt," that of being a professional.

The debt of professionalism has an enormous principal, carries an astronomical rate of interest and its term extends for a lifetime. The debtor is each lawyer, but the creditors are at least five in number. Each lawyer owes a debt to the client, the law, the system of justice, fellow lawyers, and the public.

## Debt to the Client: Hard Work, Not Hardball

To the client, the lawyer owes honesty, knowledge, hard work, concern, courtesy, communication and zeal within appropriate limits.

The requirement of honesty as a professional goes deeper than the prohibition against lying and stealing. A professional's honesty is the type of openness and candor with the client which even extends to expression of independent judgment that a client's cause may not be a winner. The requirements of courtesy and concern also overlap and go along with the realization that to the client a matter of legal business is gravely important and sometimes even frightening. Appropriate response to the anxieties of a person tangled in the web of legal problems is a serious debt of professionalism. The lawyer who fails to answer letters, return phone calls, and keep the client abreast of developments falls short of professionalism by failing to appreciate the need for communication. Professionalism mandates zeal in the representation of clients. It also mandates reasonable limits upon that zeal. In a speech to a group of lawyers assembled for the administration of the oath of admission, Justice Hardy Gregory of the Georgia Supreme Court said the following:

Barbara Tuchman, the Pulitzer Prize winning historian, has recently published a best seller, *The March of Folly*. Her thesis is that governments often pursue policies contrary to their own best interest despite the availability of feasible alternatives. She traces this folly through history, from Troy to Vietnam. One prize example is the government of Great Britain at the time of the American Revolution. England could have yielded so little and gained so much yet the British government blindly insisted on its sovereign right to tax tea and other things prompting Benjamin Franklin to comment: 'Everything one has a right to do is not best to be done.' The message is this: I detect in law practice today a new meanness and blind insistence on the rights of clients with a serious lack of a spirit of compromise and sometimes even common sense. There's a time to take a stand and there's a time to find a way. Good lawyering is knowing the difference.

Hard work as a debt owed to the client surprises no one but lawyers too often fail to pay this debt.

### **Debt to the Law: Lawyers as Problem Solvers**

To the law itself, the lawyer owes a debt of study, understanding of the purpose of the law and the application of the law to good use. The lawyer who limits study to the technicalities of statutes and regulations and the meanderings of judicial opinions falls short of that which professionalism demands. Certainly, a lawyer needs knowledge of the law and its interpretations, but a lawyer also needs an understanding of human beings. That kind of understanding flows not so much from law books as it does from the humanities. Writing in *Law and The American Future*, Lyman M. Tondel, Jr., said, "... training and other qualities to perform the function beyond those of the technician are needed - those of the expositor and protector of individual liberty. The lawyer should also acquire a broad understanding of the role of the law, the power, purposes of regulation in our society, and the uniqueness of the lawyer's role; and he should know enough of history and culture to have a broader perspective than most." Mr. Tondel also quotes Learned Hand: "I am arguing that an education which includes the 'humanities' is essential to political wisdom. By humanities, I especially mean history; but close beside history and of almost, if not quite, equal importance are letters, poetry, philosophy, the plastic arts, and music. . . ."

In looking for an understanding of the purpose of the law and the application of its use for good, one statement comes quickly to mind. A lawyer justifies his or her existence only when the lawyer serves as a problem

solver. A substantial portion of the public views the legal profession as an institution dedicated to erecting barriers which impede progress. They see us as spending our time telling clients why they can't do things that ought to be done. J. P. Morgan once said, "I don't want a lawyer to tell me what I cannot do; I hire him to tell me how to do what I want to do." Mr. Morgan's statement is capable of two interpretations. First, he sought a lawyer to discover loopholes for the accomplishment of questionable goals. Another interpretation leads to the belief that he sought a lawyer who had the clarity of thought to recognize a problem and the creativity to find a solution. This is a worthy quest. Negativism should not be the hallmark of the law practice. We should rather strive as professionals to devise a system of conduct within which worthy things can be accomplished, so long as they do not infringe upon the rights of others.

In a speech to the Southern Conference of Bar Presidents, E. Osborne Ayscue, Jr., Past President of the North Carolina Bar Association, commented:

"The lawyer who uses his relationship with his client to influence him to act within the spirit of the law, and not just within its technical letter, is a professional. The lawyer who assists a client in finding a way to achieve a socially undesirable result, while staying within the letter of the law, is nothing more than a hired gun."

### **Debt to Justice: To Act in the Public Interest**

To the system of justice, lawyers owe a debt of respect, candor, cooperation and willingness to represent

*(Continued on page 172)*

"I (attorney's name) swear that I will truly and honestly, justly and uprightly demean myself, according to the laws, as an attorney, counselor, and solicitor, and that I will support and defend the Constitution of the United States and the Constitution of the State of Georgia. So Help me God."

*The new professionalism oath for Georgia attorneys which was adopted by the Georgia Supreme Court and took effect on October 14, 1988.*

## Professionalism

(Continued from page 171)

unpopular causes. As an officer of the court, a professional's respect for the system stems from an understanding that failure to work for efficient, inexpensive and speedy administration of justice amounts to failure in the practice of law. Lack of candor with the court serves to impede the wheels of justice and degrade the profession. The legal profession has risen to no greater heights than when it stepped forward in defense of the despised. A lawyer proves his or her professionalism with the willingness to represent an unpopular cause. Just as John Adams defended British soldiers who participated in the Boston Massacre, lawyers of this age have a duty to serve those in need without respect to their popularity.

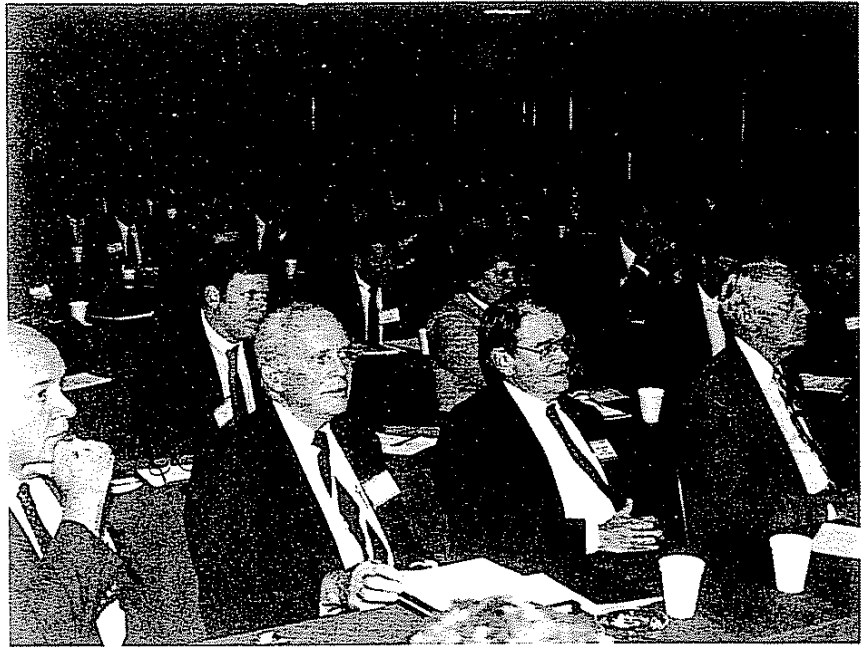
Activities within the organized bar constitute a portion of the debt owed by lawyers to the system of justice. The Bar is an organization dedicated to the public interest. At its very inception the Supreme Court stated the purpose of the State Bar in Rule 1-103:

"The purposes of the State Bar of Georgia shall be: (a) to foster among the members of the bar of this State the principles of duty and service to the public; (b) to improve the administration of justice; and (c) to advance the science of law."

The State Bar through its activities has been faithful to this purpose. These activities run the gamut from pro bono service to improved lawyer competence and enforced discipline. Its success or failure depends upon the work, interest and time of its members. A professional recognizes this need.

### Debt to Fellow Lawyers: Cooperation and Civility

Lawyers owe a debt to fellow lawyers. This debt involves civility and cooperation. Some would say this proposition reeks of collusionary cliquism. The ABA Journal, July 1987, contained an article entitled "Playing Hardball." This article quoted a prominent law professor as viewing civility in litigation as a "euphemism for the old boy network,



Some of the 120 lawyers and judges who attended an October convocation on professionalism in Macon.

or covering up for one another." Almost a year later, the ABA Journal, March 1988, expressed a different view in the article, "Rambo Litigation - Why Hardball Tactics Do Not Work." This article viewed hardball as ineffective and often causing harm to the clients. The New York City Bar Association's Committee on Federal Courts in its 1988 report expressed opposition to hardball litigation tactics<sup>1</sup> and Chief Justice Warren E. Burger, retired, expressed similar views as far back as 1971. In his remarks to the American Law Institute, he said, "Someone must teach that good manners, disciplined behavior and civility - by whatever name - are the lubricants that prevent law suits from turning into combat. More than that, it is really the very glue that keeps an organized society from flying apart." On another occasion, Chief Justice Burger said, "In their highest role, lawyers are - or should be - healers of conflicts. . . . In their highest role, lawyers should try to conciliate, mediate and arbitrate."

Most of us recall Leo Durocher's alleged quote "nice guys finish last." The truthfulness of that statement is doubtful on the baseball field and far more doubtful in the courtroom and law offices. Polarization of lawyers and parties resulting from uncivil conduct frequently creates an unfor-

tunate outcome for all concerned. Civility with the fellow lawyer lies in the public interest because of the likelihood of quicker resolution of disputes with better results. Long experience teaches that undue aggressiveness leads to the kind of polarization which often prevents settlement or at least deters more efficient resolution of contested disputes. This even impacts on the public interest because of the increased financial burden on the judicial system.

### Duty to Serve and to Lead

The last and perhaps most important debt to be discussed is the one owed to the public. Professionalism burdens lawyers with a duty to serve and to lead.

The lawyer's debt to the public begins with the duty to weigh the public interest against the purely private interest of the lawyer and the client. An aspect of professionalism is the development of the sixth sense which imposes a self-prohibition against crossing the undefinable line into action which a professional is expected to avoid. 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.

### A Higher Standard Than Ethical Canons

Leaving the issue of the debts of professionalism, it is well to call attention to the use to which lawyers may put the privileges of professionalism. Chief Justice Warren said: "... because the Constitution permits a given activity does not mean it is ethically appropriate for members of a profession to pursue it." I would take this a step further and paraphrase that statement in this manner: because the canons of ethics permit a given activity does not mean that it is professionally appropriate for lawyers to pursue it. The predicate for this proposition is the idea that ethics is a minimum standard which is *required* of all lawyers while professionalism is a higher standard *expected* of all lawyers. This is the kind of standard which leads to a satisfaction for a job well done or a life well spent. John Ruskin said: "The highest reward for a person's toil is not what they get for it, but what they become by it." We may well ask what we have become by our experience as members of the legal profession.

Another question is what our ex-

perience may do to the profession itself. Writing in the Torts and Insurance Practice and Section's Monograph on Professional Independence, Professor Bob McKay reasoned that in return for the right to regulate itself, the legal profession has accepted the implicit compact to act in the public interest.

### What Is At Stake?

This reasoning leads to even more serious considerations. Acting in the public interest is an element of professionalism. It can be said that when lawyers fail to act professionally, they forfeit their right to independence. The loss of lawyer independence obviously would result in a diminution of the stature of the bar. But more important is the effect it would have on the public good. For more than two hundred years, an independent bench and bar have stood as primary protectors of individual rights and the stability of our government. In exercise of their independence, lawyers have undertaken the representation of unpopular causes throughout the history of this republic beginning with the defense of the British soldiers in the Boston Massacre cases and continuing through a long line of cases in which lawyers and the judicial system stood fast in defense of individual liberties. Whether the right protected was that of little Miss Brown in the claim against the Board of Education or an unlovable, industrial giant in its battle against a government agency, the independence of the lawyers was essential in securing those rights.

Institutionally, lawyers in the ex-

ercise of their independence wrote the Declaration of Independence, devised the basic tenets of the United States Constitution and mapped out the framework of a judicial system which affords more protection to more people than any the world has ever known. To say that the independence of lawyers and the courts is important only to the legal profession and the judiciary overlooks many of the great truths of history. The United States in its two hundred year history has faced numerous crises in which factions of one sort or another have pulled in opposite directions. Yet only in 1861 has the legal system failed to resolve the conflicting positions of those factions. In the absence of independence, the system could not have acted so successfully in defense of the republic.

This leads then to the conclusion that the stakes in the question of whether lawyers act professionally extend far beyond the impact on the lawyers themselves or their clients or the courts. The absence of professional conduct leads to the loss of the right of self-regulation. The loss of the right of self-regulation leads to the loss of lawyer independence. The loss of lawyer independence puts at risk individual rights and the institutional protection of the republic. We cannot carry so heavy a burden as an amalgam of self-seeking individuals. We can do it only as members of a profession.

### Footnote

1. The Committee on Federal Courts, *A Proposed Code of Litigation Conduct*, 45 THE RECORD OF THE ASSN. OF THE BAR OF THE CITY OF NEW YORK 738 (Oct. 1988).

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# Honoring Georgia's Lawyers

I sincerely hope the Commission on Professionalism's work will honor Georgia's lawyers for what they do each day and will help each lawyer to become consummate professionals while they do the tireless and often thankless work of representing clients.

BY KARLISE Y. GRIER

**In June of 2018, I was shaken to the core** when I learned of the death of attorney Antonio Mari. I did not personally know Mari, a family law attorney who was murdered by a client's ex-husband. I had, however, as a former family law attorney of almost 18 years, personally experienced the dynamics that caused his death: enmity, anger, retribution and a myriad of other vitriolic emotions directed at you as a lawyer (by opposing parties or clients) because you are striving to do your job to the best of your ability. I wanted to take a moment in this article to pay tribute to Mari and to honor the thousands of other Georgia lawyers who are just like him, men and women who toil in the trenches every day—putting their clients interests above their own personal well-being—as they strive to provide exemplary service and excellent representation. I also wanted to commend the wonderful professionalism example set by the Bartow County Bar Association, which stepped up in the midst of this horrible tragedy to divide up and take Mari's cases and to help close down his law practice.<sup>1</sup>



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According to the *Daily Report*, Mari was afraid of the pro se opposing party who ultimately killed him.<sup>2</sup> Nevertheless, Mari fulfilled his legal obligations to his client and obtained a final divorce decree for the client less than two hours before his client's ex-husband shot him to death. This balance of client interests versus personal interests is not always played out as dramatically as in Mari's case, but it is always there. Do you go to your child's soccer practice or do you first finish the brief that is due tomorrow? Do you take time to go for a walk or a run or do you take that early morning meeting with a client who can't take time off from their work as an hourly employee? Do you tell the pro bono client you are meeting with they have to leave your office and reschedule (knowing they most likely won't) because they reek of cigarette smoke and you have asthma? Do you file a motion to withdraw well in advance of trial or do you take the chance the client will pay you "in installments" as promised, knowing the client really needs a lawyer in this custody battle?

Each day, Georgia lawyers are called upon to make choices, large and small, that force them to balance their personal well-being against the interests of their clients. Striking the "correct" balance is at the heart of what we call "professionalism."<sup>3</sup> One of the first quotes I came across when I started as executive director of the Chief Justice's Commission on Professionalism was from Karl N. Llewellyn, a jurisprudential scholar who taught at Yale, Columbia and the University of Chicago Law Schools. Prof. Llewellyn cautioned his students:

The lawyer is a [person] of many conflicts. More than anyone else in our society, he [or she] must contend with competing claims on his [or her] time

and loyalty. You must represent your client to the best of your ability, and yet never lose sight of the fact that you are an officer of the court with a special responsibility for the integrity of the legal system. You will often find, brethren and sistern, that those professional duties do not sit easily with one another. You will discover, too, that they get in the way of your other obligations—to your conscience, your God, your family, your partners, your country and all the other perfectly good claims on your energies and hearts. You will be pulled and tugged in a dozen directions at once. You must learn to handle those conflicts.<sup>4</sup>

I hope that, under my stewardship, the Chief Justice's Commission on Professionalism will honor Georgia's lawyers by ensuring CLE providers offer outstanding programming regarding professionalism concepts that give lawyers the opportunity to discuss the challenges (and sometimes joys) of practicing law. I look forward to continuing to recognize the amazing community service work of lawyers and judges at the Justice Robert Benham Awards for Community Service. I hope that the Commission's convocations, such as the 2018 Convocation on Professionalism and the Global Community, will continue to explore cutting-edge issues in the legal profession. I hope the Commission's work will help to embolden lawyers to stand courageously for the rule of law in our country and to provide guidance to lawyers on how to do so thoughtfully and with integrity. I look forward to the Commission's continued partnership with the State Bar of Georgia Committee on Professionalism and with Georgia's law schools as we strive to introduce law students to professionalism concepts during the Law School Orientations on Professionalism.

Too often, I think our profession focuses on the "bad" things for which lawyers may be known. I truly believe most lawyers are good, hard working men and women who want to do the best job they can for their clients in return for fair payment for their work. During my stewardship as executive director of the Commission, it is my goal to focus on and cultivate the good and the goodness in our profession that often happens without notice or comment. I am eager to help us all (myself included) grow to be the best professionals we can be. I sincerely hope the Commission's work will honor Georgia's lawyers for what they do each day and will help each lawyer to become consummate professionals while they do the tireless and often thankless work of representing clients. ●



**Karlise Y. Grier**

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

## Endnotes

1. See R. Robin McDonald, *Cartersville Attorney Gunned Down by Client's Ex-Husband*, *Daily Report*, June 22, 2018, at 1, <https://www.law.com/dailyreportonline/2018/06/21/cartersville-attorney-gunned-down-by-clients-ex-husband/> (last visited June 22, 2018).
2. See *Id.*
3. To learn more about how Georgia defines professionalism, see *A Lawyer's Creed* and the *Aspirational Statement on Professionalism* at: <http://cjcpga.org/lawyers-creed/> (last visited August 10, 2018).
4. Mary Ann Glendon, *A Nation Under Lawyers* 17 (1994).

# You Matter

As lawyers and judges, we specialize in helping people with problems. We mask the fact that we have our own problems. It is okay to ask others if they need help. It is okay to ask for help. Your life matters. You matter.

BY KARLISE Y. GRIER

**"I did not think anyone would care if I was here or not,"** shared Dr. Mark Swancutt, a panelist at the Suicide Awareness Program convened by the Chief Justice's Commission on Professionalism on April 30. Dr. Swancutt then shared how wrong he was, as evidenced by the outpouring of support he received when he was hospitalized for an illness. His powerful testimony was not unique. Throughout the Suicide Awareness Program, which had as one of its goals making the case that suicide is preventable, we heard many times how people often feel their family, friends and colleagues would be better off without them. We also learned during the program that it is untrue when believe that we don't matter.

## Your Life Matters. You Matter.

Suicide is a difficult topic, and even more so when it is something that you have personal experience with. A number of the program's speakers and panelists shared these experiences with those participating as this extremely important dialogue began. Moderator Sally Yates shared the impact that her father's death had on her life. J. Kelley Quillian, a former judge of



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the Court of Appeals of Georgia, died by suicide in 1986.<sup>1</sup> State Bar Attorney Wellness Committee Chair R. Javoyne Hicks spoke about the challenges she faced as a single parent after her children lost their father, attorney Charles Hicks, to suicide. And it was those unique experiences that played a large part in Hicks' role helping to launch the State Bar's Attorney Wellness Program—Lawyers Living Well.<sup>2</sup>

State Bar Past President Robin Frazer Clark and Hon. Bill Reinhardt highlighted the tremendous professional and personal contributions made by some of our colleagues who died by suicide, including 2004-05 State Bar President Rob Reinhardt. Theirs lives mattered—as does each of our lives. And because we all matter, one of Clark's initiatives during her year as president was to launch the State Bar of Georgia's Suicide Awareness Prevention Campaign.

Suicide is preventable, and we as a legal community can each play a role in creating an environment that makes it less likely that another colleague will die by suicide. In professionalism parlance, I would say, "To my colleagues in the practice of law, I offer concern for your welfare. I will strive to make our association a professional friendship."<sup>3</sup> As a practical matter, I would offer these suggestions gleaned from the Suicide Awareness Program.

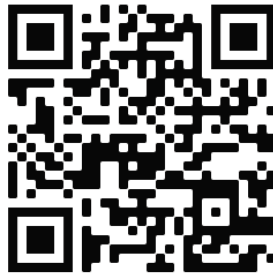
### Be Lovingly Present

Attorney Lynn Garson shared in a paper she wrote for the program:

"Recognizing that depression is a disease of isolation, others can try to spend time with the person or check in by phone if in person is not possible. The calls and visits from my friends propped me up enough to stay alive until I got the help I needed. If I had thought that no one cared, I wouldn't have made it through. If you see any spark of interest or liveliness, do your best to fan the flame. Given the person's low state, it may not work, but

## Chief Justice's Commission on Professionalism Suicide and Awareness Program Resources

Access all of the resources and materials compiled for the Suicide Awareness Program via the QR Codes below:



SUICIDE AWARENESS PROGRAM



SUICIDE AWARENESS PROGRAM RESOURCES



STATE BAR OF GEORGIA  
LAWYERS LIVING WELL

if it does, you will have gained some ground. If the person wants to talk, listen. Don't listen so that you can respond and fix it (which you can't and will make you both miserable). Listen to be present to that person's distress. Don't hide from it, don't dramatize it and don't inject your own pain or experience into the conversation unless invited. Just be lovingly present."<sup>4</sup>

**Colleagues, friends and family don't have to have a solution, just have referral numbers in your phone.**

While we as lawyers and judges may be hard-wired to solve problems, being present for colleagues, friends or family who may need help doesn't mean we are the ones who are best equipped to provide that help. Rachael Holloman, suicide preven-

tion director for the Georgia Department of Behavioral Health and Developmental Disabilities, made this clear when she discussed the QPR program. QPR stands for Question, Persuade and Refer, three steps anyone can learn to help prevent suicide. Just like CPR, QPR is an emergency response to someone in crisis and can save lives. Asking someone about the presence of suicidal thoughts and feelings opens up a conversation that may lead to a referral for help. There are numerous resources available to help those in crisis (both lawyers and non-lawyers) including the National Suicide Prevention Lifeline by phone at 1-800-273-TALK (8255) or by chat at [suicidepreventionlifeline.org/chat/](https://suicidepreventionlifeline.org/chat/).<sup>5</sup> Holloman reminded the audience that everyone can do this one thing—put the referral numbers for resources discussed during the program into their phones.

### **If You Have Suicidal Thoughts, Ask for Help**

Attorney Eric Lang stressed self-awareness in his panelist remarks. He shared that before getting the appropriate treatment, he believed that most people regularly thought about death by suicide.

He did not initially understand that this condition warranted treatment; that it was treatable.

Other people may not always recognize that they need help. Psychiatrist and program panelist Dr. Ben Hunter, medical director of outpatient services at Skyland Trail in Atlanta, recommended that if an individual regularly thinks about death by suicide, or if an individual has a family history of depression or death by suicide, that person should seek professional counseling. In Georgia, one place to begin—just to talk to someone and start a conversation—is the Georgia Crisis and Access Line (GCAL), 1-800-715-4225. GCAL is available 24/7 to both lawyers and non-lawyers. Reading the article “Help Is Out There” by Lynn Garson and “Choosing A Therapist” by Plamen Russev is also a good first step.<sup>6</sup>

### **Employee Assistance Programs, #UseYour6 and a Helpline for Judges Can Help Save Lives**

Judge Wes Tailor shared the challenges he experienced as an attorney after being in New York City and near ground zero when the World Trade Center collapsed.

He received help from the Employee Assistance Program of his then-employer—a large Atlanta law firm. Tailor also shared that he has taken advantage of the State Bar of Georgia’s #UseYour6 sessions.<sup>7</sup> All Georgia lawyers have access to six free counseling sessions each year through the State Bar of Georgia’s Lawyer Assistance Program.

Joe Chancey, the Managing Partner at Drew Eckl & Farnham LLP and a member of the Planning Team for the Suicide Awareness Program, contributed a paper entitled “Talking To Employees About Mental Health—Can I? Should I? Must I? Navigating The Medical Privacy Maze In Georgia,” to assist law firms in navigating the legal issues related to supporting the mental health of attorneys.<sup>8</sup> Another Drew Eckl Partner, Taylor S. Poncz, also shared her experiences after losing a colleague to death by suicide in “Attorney Mental Health & Wellness—A Personal Essay on Why I Believe We Have an Ethical Obligation to Act on it in the Workplace.”<sup>9</sup>

Judge Shondeana Crews Morris, another member of the Suicide Awareness Planning Team, responded to a question about resources solely for judges.

## **ACKNOWLEDGMENTS**

The planning team for the Suicide Awareness Program, with staff support from the Commission and the program co-sponsors, began working on the program in May 2019, after learning of the death by suicide of an associate at Drew Eckl Farnham, LLP. The Commission is grateful to everyone who contributed in any manner to the Suicide Awareness Program.

### **PLANNING TEAM MEMBERS**

#### **SOLACE Committee Co-Chair**

Hon. Clyde L. Reese III, Court of Appeals of Georgia

#### **SOLACE Committee Co-Chair**

Hon. Render M. Heard, Tifton Circuit Juvenile Court

#### **Suicide Prevention Committee Program Chair**

Hon. Shondeana Crews Morris, DeKalb County Superior Court

Partner Joe Chancey, Drew Eckl Farnham<sup>13</sup>

### **PROGRAM CO-SPONSORS**

Georgia Department of Behavioral Health and Developmental Disabilities

Judicial Council of Georgia/Administrative Office of the Courts

State Bar of Georgia Attorney Wellness Committee

State Bar of Georgia Suicide Awareness and Prevention Committee

### **SPECIAL RECOGNITION**

The Suicide Awareness Program took place under the leadership of then-Chief Justice Harold D. Melton in his role as Commission chair. We thank him for his work in bring this program to light.

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Need help but don't know where to start? Contact the Georgia Crisis and Access Line (GCAL) at 800-715-4225 and begin a conversation. GCAL is available 24/7 to both lawyers and non-lawyers.

She told the audience that the American Bar Association has a National Helpline for Judges Helping Judges available at 1-800-219-6474.<sup>10</sup>

### Take Care of Yourself and One Another

Dr. Alex Crosby, senior medical advisor, Division of Injury Prevention for the Centers for Disease Control and Prevention, closed by reiterating that death by suicide is preventable and that we as a community of professionals each have a role to play in prevention. Not everyone can perform the same role, but we can all do something, including checking on others and taking care of ourselves. Dr. Crosby shared a variety of ways that individuals can consider when determining how they can best help to prevent death by suicide.<sup>11</sup> Hicks then reminded the audience that we don't have to wait until we feel like we are in crisis to get help. She encouraged everyone to be proactive in taking care of themselves before sharing the many ways that the State Bar of Georgia Attorney Wellness Committee is helping lawyers to live well.<sup>12</sup>

### Available Resources

The Commission compiled numerous resources to help you help yourself and others. The resources highlighted in this article are only some of the information that you can find as our legal community works to prevent death by suicide. Use the QR Codes on page 83 to access all of the resources and materials compiled for the Suicide Awareness Program, or visit [cjcpga.org/suicide-awareness-program/](http://cjcpga.org/suicide-awareness-program/).

As lawyers and judges, we specialize in helping people with problems. Lawyers help craft creative solutions to assist people in solving their problems. Judges make decisions—sometimes life and death—that resolve the problems of those in conflict. We mask the fact that we have our own problems. We sometimes don't know how to check in on others we may be worried about. It is okay to ask others if they need help. It is okay to ask for help.

Your life matters. You matter. ●



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### Endnotes

1. You can read more about Yates' experience with her father's battle with depression at: <https://www.cnn.com/2018/06/11/opinions/when-my-dad-lost-his-struggle-with-depression-sally-yates>.
2. Learn more about Lawyers Living Well at <https://www.gabar.org/wellness/>.
3. See *A Lawyer's Creed and the Aspirational Statement on Professionalism* at: <http://cjcpga.org/wp-content/uploads/2019/07/2-Lawyers-CreedAspStatement-v-2013-Line-Number-with-new-logo-and-seal-v07-25-19.pdf>.
4. You may read the complete essay by Lynn Garson, *Everything I Know About Suicide*, at the link here: <http://cjcpga.org/wp-content/uploads/2021/04/Updated-v-04-27-21-Everything-I-Know-about-Suicide-4813-4438-5509-v.3.pdf>

5. A resource page from the Suicide Awareness Program is available at the link here: <http://cjcpga.org/suicide-awareness-program-resources-qr-code-page/>.
6. See <http://cjcpga.org/wp-content/uploads/2021/04/Help-Is-Out-There-by-Lynn-Garson.pdf>.
7. #UseYour6 is the informal name for the State Bar of Georgia's Lawyer Assistance Program. For more information, visit <https://www.gabar.org/wellness/upload/Use-Your-6.pdf>.
8. See <http://cjcpga.org/wp-content/uploads/2021/04/Drew-Eckl-Farnham-from-Joe-Chancey-Suicide-Awareness-Employee-Privacy-Branded.pdf>.
9. See <http://cjcpga.org/wp-content/uploads/2021/04/DRI-For-Life-Article-Mental-Health-and-Awareness-Branded.pdf>.
10. See also [https://www.americanbar.org/groups/lawyer\\_assistance/articles\\_and\\_info/resources\\_for\\_judges/](https://www.americanbar.org/groups/lawyer_assistance/articles_and_info/resources_for_judges/)
11. See [http://cjcpga.org/wp-content/uploads/2021/07/Alex-Crosby-06-28-21-Cleared-Slides-StateBarGeorMentHlthPromo\\_June2021shrtA.pdf](http://cjcpga.org/wp-content/uploads/2021/07/Alex-Crosby-06-28-21-Cleared-Slides-StateBarGeorMentHlthPromo_June2021shrtA.pdf).
12. See Note 2, supra.
13. Staff support was provided by Karlise Y. Grier, executive director, Chief Justice's Commission on Professionalism and Layne Bridges (State Bar of Georgia South Georgia Office, on behalf of the State Bar of Georgia SOLACE Program). Previous staff support was provided by Bonne Cella. The Administrative Office of the Courts, under the leadership of Cynthia Clanton, provided assistance with webinar logistics and support, provided by Michelle Barclay, Noelle Lagueux-Alvarez, Bruce Shaw and Latoinna Lawrence. Amber Rikard provided graphic design support on behalf of the State Bar of Georgia's Attorney Wellness Committee.

# The Importance of Lawyers Abandoning the Shame and Stigma of Mental Illness

One tenet of the Chief Justice's Commission on Professionalism's "A Lawyer's Creed" is "To my colleagues in the practice of law, I offer concern for your welfare." If you are aware of a colleague that may be experiencing difficulties, ask questions and offer to help them contact the Lawyer Assistance Program for help.

BY MICHELLE BARCLAY

**January is the month when Robin Nash**, my dear friend and lawyer colleague, godfather to my child, officiate for my brother's marriage and former director of the Barton Center at Emory University, left the world. Positive reminders of him are all around, including a child law and policy fellowship in his name, but January is a tough month.

Robin's suicide, 12 years ago, was a shock to me. As time passed and I heard stories about Robin from others who knew him and I learned more about suicide, I can see in hindsight the risk looming for him. Today, I think his death was possibly preventable.

In 2006, Robin wrote this essay about himself for Emory's website

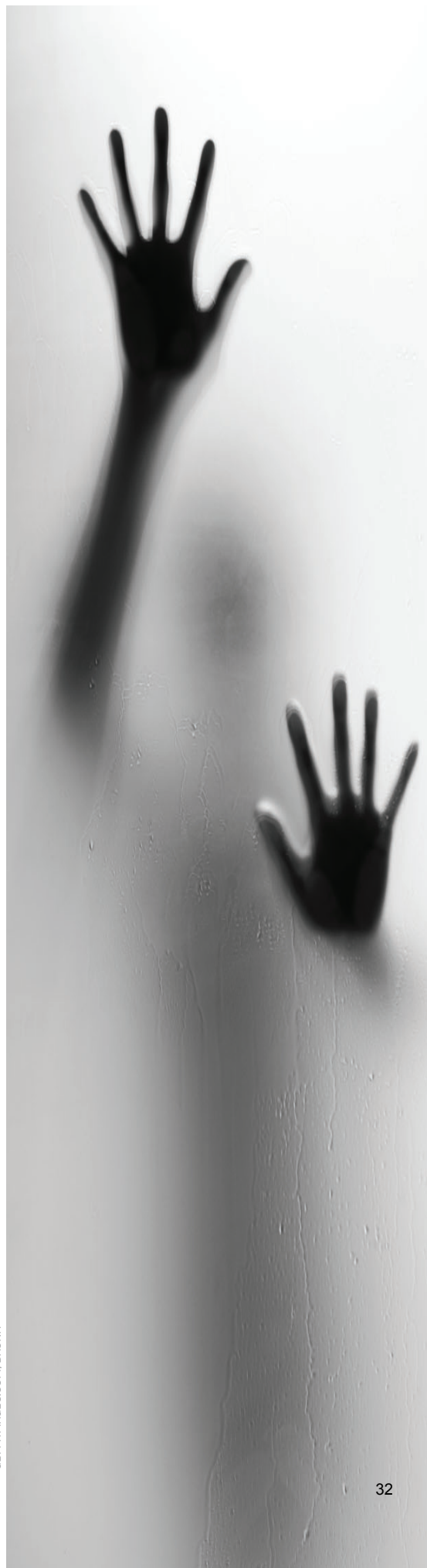
"Robin Nash, age 53, drew his first breath, attended college and law school and now works at Emory University. He loves to travel to places like Southeast Asia and the Middle East but he always returns home to Emory and his hometown of Decatur. Robin majored in Economics and Mathematics. He began his law practice in 1980 in Decatur surviving mostly on court appointed cases for mentally ill patients in commitment hearings.

His practice expanded to working with institutionalized developmentally delayed clients, special education cases, wills and estate litigation and representing banks in the hugely interesting area of commercial real estate closings.

In 1995, he was appointed as a juvenile court judge in DeKalb County. He resigned from the bench effective December 2005. He sold most of his personal belongings, paid off his remaining debts and moved overseas to think and travel. After thinking and traveling for three months, he returned to the active world of Decatur. He was appointed director of the Barton Clinic effective April 15, 2006."

When Robin came back from traveling, he told his friends—"I can be more impactful here."—which was and is true. Robin's impact continues today through the work of young lawyers serving as Robin Nash Fellows and through the lives of the thousands of mothers, fathers, daughters and sons he touched, helping people traumatized by child abuse, neglect, addiction and crime.

He was impactful in part because he had so much empathy for others. He was



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well regarded and well loved. He was a person you could count on who did extraordinary things for others—helping a student obtain a TPO in the middle of the night to stop a stalker; quietly helping a refugee family get stable and connected to services; and of course, his consistent care of his friend Vinny. Vinny was a severely disabled adult Robin befriended and with whom he had a deep connection. Because he was a lawyer, Robin was able to help Vinny obtain full access to available medical services without being institutionalized.

So why did Robin leave? He lost his battle with mental illness. He masked it well and as a private person, did not share his struggles. His friends had some insight into his struggles but it was always complicated. While a judge, Robin was known for saying things like, “I am a manager of misery” or “I manage the competition not to serve the most vulnerable families and children.” But he also said, “Talk like this is just dark humor which is a useful coping mechanism for an emotionally draining job.”

I know today that a low serotonin level in his body was dangerous for his depression and that the medications he took waxed and waned in effectiveness. I also now know that he had not slept well for days before he acted. We’d had a work meeting the day before he died where he made a long ‘to do’ list. Who makes a long ‘to do’ list when one is contemplating suicide? Plenty of people, I have learned. I saw that ‘to do’ list on his table when I was in his apartment after his death.

What could have helped? Abandoning the shame and stigma of mental illness is a good start. I have been heartened by the social movement campaign, Time to Change,<sup>1</sup> designed to help people speak up about mental illness. A safety plan shared with a reasonably wide network of people can also help. Antidepressant medications can help. Recent studies about anti-depression drugs “puts to bed the controversy on anti-depressants, clearly showing that these drugs do work in lifting mood and helping most people with depression.”<sup>2</sup> Science is advancing better treatments at a rapid pace. And some ex-

person has considered killing themselves can open the door to intervention and saving a life.

Before becoming a lawyer, I worked as a nurse in a variety of settings at both Grady and Emory hospitals. I saw attempted suicides. I witnessed a number of those people who were grateful they were not successful. I saw safety plans work when enough people knew about the risks. Sometimes, medicines were changed, new treatments tried and I saw people get better.

I feel like with my background I could have and should have probed Robin more. But at the time, I thought I was respecting his privacy by not asking too many questions. Today I know that a person can be fine one day and then chemicals in their brain can wildly change within 24 hours, and they’re no longer ok. I learned that not sleeping can be deadly. I have also learned that just talking about it can help a person cope.

A book that has helped me is called “Stay: A History of Suicide and the Philosophies Against It,” by Jennifer Michael Hecht.<sup>3</sup> If I had a second chance, I would try to use some of the arguments in that book, such as:

None of us can truly know what we mean to other people, and none of us can know what our future self will experience. History and philosophy ask us to remember these mysteries, to look around at friends, family, humanity, at the surprises life brings—the endless possibilities that living offers—and to persevere.

Of course, first I would have just asked about his mental health with love and listened. I still wish for that chance to try. ●

*Afterword by Chief Justice’s Commission on Professionalism Executive Director Karlise Yvette Grier: One tenet of the Chief Justice’s Commission on Professionalism’s “A Lawyer’s Creed”<sup>4</sup> is “To my colleagues in the practice of law, I offer concern for your welfare.” If you are aware of a colleague that may be experiencing difficulties, ask questions and offer to help them contact the Lawyer Assistance Program<sup>5</sup> for help.*

## Counseling for Attorneys

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- Anxiety/Stress
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- Career Concerns
- Couples Counseling
- Relationship Conflicts

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**(404) 874-0937**

Midtown Atlanta

*Michelle and Andy Barclay are so grateful to the Emory University community for the grace and care that surrounded everyone, especially the students, when Robin died.*

**Michelle Barclay, J.D.**, has more than 20 years experience working in Georgia’s judicial branch. She is currently the division director of Communications, Children, Families, and the Courts within the Judicial Council of Georgia’s Administrative Office of the Courts. Before becoming a lawyer, she was a nurse for 10 years, specializing in ICU and trauma care. Her degrees include a Juris Doctor from Emory University School of Law, a Bachelor of Science in Nursing from Emory University and a Bachelor of Interdisciplinary Studies from Georgia State University. She is also co-founder along with her husband Andrew Barclay of the Barton Child Law and Policy Center at Emory University School of Law. She can be reached at 404-657-9219 or [michelle.barclay@georgiacourts.gov](mailto:michelle.barclay@georgiacourts.gov).

## Endnotes

1. <https://twitter.com/TimetoChange>.
2. See <http://www.bbc.com/news/health-43143889> (last viewed April 2, 2018).
3. See, e.g., <https://www.amazon.com/Stay-History-Suicide-Philosophies-Against/dp/0300186088> (last viewed April 2, 2018).
4. <https://www.gabar.org/aboutthebar/lawrelatedorganizations/cjcp/lawyers-creed.cfm>.
5. <https://www.gabar.org/committeesprogramssections/programs/lap/index.cfm>.

# The Voice of Experience

Georgia lawyers should heed the voice of experience that reminds them that one aspect of professionalism is to fulfill their role in defining part of the character of our society.

BY KARLISE Y. GRIER

I recently had the pleasure of conducting a professionalism training for a voluntary bar association. One of the reasons I enjoy leading these trainings is because I have the opportunity to meet and learn from wonderful lawyers from around the state and from various practice areas. This was the case most recently. During the professionalism CLE training, the attendees and I discussed a hypothetical problem, which asked lawyers to consider a fact pattern as follows:

Your client is marketing a property for sale and there is only one bidder; nevertheless your client wants you to try to help them get the price up by speaking to the attorney for the one bidder. Your client wants you to lead opposing counsel to believe that there are lots of competing bids, but if the bidder goes up in price, the bidder will win the bid.<sup>1</sup>

My question to the lawyers who attended the CLE was: “Would you lead opposing counsel to believe that there are lots of competing bids?” Attorneys shared a variety of views regarding the approach to the problem—as did the attendees of the CLE when the Commission first used the hypothetical problem in February 2022. What captured my attention during this in-person CLE, which allowed for interactive engagement with an audience I could observe, was how the responses of the attendees varied, in part, based on how long the

lawyers who answered the question had practiced law.

One of the answers that most surprised me came from seasoned attorney John M. Clark, who has been practicing law for 43 years. He responded by saying that he would consider, and ask his client to consider, if the action the client proposed was really in the client’s best interest. It was an intriguing question that led to some thoughtful discussions among the CLE attendees. In the past, when I have conducted CLEs using this question, I have asked attorneys to contrast what might be allowed by the rules of ethics—the minimum standards that lawyers are required to follow—with the professionalism aspirations—the higher ideals that lawyers are expected to voluntarily follow.<sup>2</sup> Comment 2 to Rule 4.1 of the Georgia Rules of Professional Conduct (Georgia’s Ethics Rules) states:

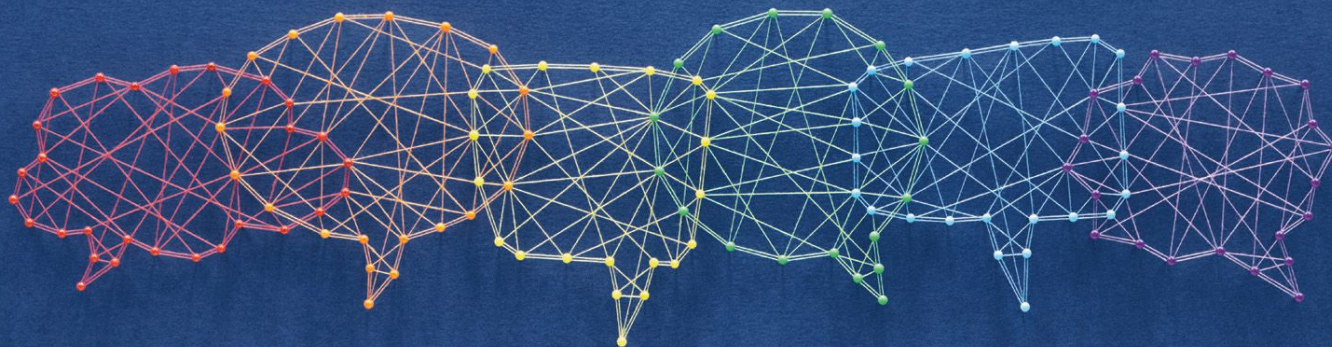
This Rule refers to statements of fact. Whether a particular statement should be regarded as one of fact can depend on the circumstances. Under generally accepted conventions in negotiation, certain types of statements ordinarily are not taken as statements of *material fact*. Comments which fall under the general category of ‘puffing’ do not violate this rule. Estimates of price or value placed on the subject of a transaction and a party’s intentions as to an acceptable settlement of a claim are in this category, and so

is the existence of an undisclosed principal except where nondisclosure of the principal would constitute fraud.”<sup>3</sup> (emphasis added)

I advise lawyers to contact the Ethics Helpline (404-527-8741 or 800-682-9806) if they want guidance about the application of Georgia’s Ethics Rules to a particular fact pattern.<sup>4</sup>

Often times, when I have discussed the hypothetical problem, the discussions have centered on the meaning of professionalism in the context of the hypothetical. We have also discussed *if* the conduct were considered as puffing, what would be the possible professionalism consequences for the lawyer, if the lawyer did what the client asked. One of the consequences that is always considered is the impact on the lawyer’s reputation. Reminding lawyers about the importance of their reputation and how easy it is to lose their reputation is an important conversation. During a Law School Orientation on Professionalism in 2019, Presiding Judge Stephen Louis A. Dillard of the Court of Appeals of Georgia gave advice to incoming law students about reputation that also remains a great reminder for lawyers. He said, “The one thing you have as a lawyer is your reputation. ... It takes a lifetime to build up your reputation and only a moment to lose it. ... No client is worth losing your reputation.”<sup>5</sup>

Clark’s question about whether the action was in fact in the client’s best interest presented another avenue for discussing



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this hypothetical problem. His question reminded me that while at first blush the hypothetical problem may seem to pit the client’s objectives against the attorney’s ethics rules or professionalism aspirations, this is perhaps not true. Possibly what is in the client’s best interest and the lawyer’s best interest are the same—not engaging in misleading conduct regardless of whether it is puffing. Sometimes, when we as lawyers are in the midst of working on behalf of our clients, we forget that we are not only called upon to serve as advocates but also as counselors. Georgia’s General Aspirational Ideals phrase the reminder about lawyers as counselors in this manner: “To achieve the excellence of our craft, especially those that permit me to be the moral voice of clients to the public in advocacy while being the moral voice of the public to clients in counseling. Good lawyering should be a moral achievement for both the lawyer and the client.”<sup>6</sup> Clark’s experienced voice and wise counsel echoed what the Supreme Court of Georgia said in 1992 when the Court adopted A Lawyer’s Creed and the Aspirational Statement on Professionalism: “We should remember, and we should help our clients remember, that the way in which our clients resolve their disputes defines part of the character of our society and we should act accordingly.”<sup>7</sup> I hope Georgia lawyers

will continue to embrace their roles as counselors, as well as advocates, and that they will heed the voice of experience that reminds us that one aspect of professionalism is to fulfill our role in defining part of the character of our society. ●



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## Endnotes

1. Thank you to Angela Hsu who drafted the original version of the hypothetical problem for the Commission’s February 23, 2022, Pop-Up CLE: Perspectives on Professionalism and Ethics. See <http://cjcpga.org/022222-cjcp-cle/> (Last visited Oct. 14, 2022).
2. See Harold G. Clarke, *Professionalism: Repaying the Debt*, 25 Ga. St. B. J. 170, 173 (1989), <http://cjcpga.org/wp-content/uploads/2022/02/25-GSBJ-170-1989-Professionalism-Repaying-the-Debt.-Harold-Clarke-ethics-minimum.pdf> (ethics is a minimum standard which is required of all lawyers while professionalism is a higher standard expected of all lawyers) (Last visited Oct. 14, 2022).
3. State Bar of Georgia, State Bar Handbook, Ethics and Discipline, Current Rules, Rule 4.1, <http://www.gabar.org/Handbook/index.cfm#handbook/rule289> (Last visited Oct. 14, 2022).
4. Lawyers who would like to discuss an ethics dilemma with a member of the Office of the General Counsel staff should contact the Ethics Helpline at 404-527-8741, 800-682-9806 or log in and submit your question by email. State Bar of Georgia, Ethics and Discipline, <https://www.gabar.org/barrules/ethicsandprofessionalism/index.cfm>.
5. To view Judge Dillard’s 2019 comments to incoming Mercer 1L students, discussing their reputation, visit <https://www.dropbox.com/s/9tayqrs93j1jnuj/Judge%20Dillard%20Reputation.mp4?dl=0>.
6. Chief Justice’s Commission on Professionalism, *A Lawyer’s Creed and Aspirational Statement on Professionalism* at Lines 67-70, <http://cjcpga.org/wp-content/uploads/2019/07/2-Lawyers-CreedAspStatement-v-2013-Line-Number-with-new-logo-and-seal-v07-25-19.pdf> (Last visited Oct. 14, 2022).
7. Chief Justice’s Commission on Professionalism, *A Lawyer’s Creed and Aspirational Statement on Professionalism* at Lines 33-35, <http://cjcpga.org/wp-content/uploads/2019/07/2-Lawyers-CreedAspStatement-v-2013-Line-Number-with-new-logo-and-seal-v07-25-19.pdf> (Last visited Oct. 14, 2022).

# The Plumb Line

The principles embodied in A Lawyer’s Creed and the Aspirational Statement on Professionalism help us remain true to what should be the normal in lawyers’ dealings with their clients, opposing counsel, colleagues, courts, other legal professionals and the public in general.

BY KARLISE Y. GRIER

The plumb bob or plumb line employs the law of gravity to establish what is “plumb” (that is, what is exactly vertical, or true).<sup>1</sup>

I once heard a speaker say that society cannot let the crazy, the abnormal and the actions that we believe are wrong become the “normal.” No matter how painful it might sometimes be to face the circumstances of the day, we cannot become numb to what is wrong around us. This is true of what happens in our world. It is also true of what happens in our profession. We have to fight against the sentiment that “it’s just the way things are” when we know something is wrong or abnormal. Becoming desensitized and simply ignoring unacceptable conduct should not be an option.

When you read this article, the first two months of the “new year” will be almost complete. Yet, with most of 2023 in front of us, it will still be the perfect time



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## One tenet of A Lawyer’s Creed and the Aspirational Statement on Professionalism states: “The dignity and the integrity of our profession is an inheritance that must be maintained by each successive generation of lawyers.”

to dust off your copy of A Lawyer’s Creed and the Aspirational Statement on Professionalism<sup>2</sup> and consider the “plumb line.” One tenet of A Lawyer’s Creed and the Aspirational Statement on Professionalism states: “The dignity and the integrity of our profession is an inheritance that must be maintained by each successive generation of lawyers.” You might ask, “What does this have to do with a plumb line”? A plumb line (or plumb bob) is a tool dating back to ancient Egypt. Evidence suggests that Egyptian architects used plumb bob-like tools to establish verticals in constructing the pyramids between 2600 BCE and 2500 BCE.

A Lawyer’s Creed and the Aspirational Statement on Professionalism also gives us principles to help establish what is true for our profession. The creed embodies principles such as honesty, truthfulness, trustworthiness, integrity, fairness and civility. These principles are our “verticals” to help us remain true to what should be the normal in lawyers’ dealings with their clients, opposing counsel, colleagues, courts, other legal professionals and the public in general.

Notice, the plumb does not change its result based on the circumstances in which it is placed. It remains a true measure of the vertical. Likewise, despite the circumstances in which we are placed as lawyers, our true principles should remain the same. The “result” we should

give when someone is rude, dishonest, condescending, untrustworthy, unfair or uncivil is not determined by our circumstances but by our plumb line, the vertical that should show our true character. Does this sound unrealistic and out of touch? If yes, perhaps that is because we have allowed—or are allowing—the abnormal and the crazy to seem normal. For our generation of lawyers to have an inheritance of dignity and integrity to share with future lawyers, we should all have a plumb line that keeps us vertical—which is also defined as upright<sup>3</sup> or upstanding.<sup>4</sup>

It won’t always be easy to remain true to the aspirational goals to which the Supreme Court of Georgia in 1992 asked lawyers to adhere in A Lawyer’s Creed and the Aspirational Statement on Professionalism. We should, nevertheless, not lose sight of these aspirational goals as the normal. This generation of lawyers will, I hope, stand against accepting as normal behavior that is rude, dishonest, condescending, untrustworthy, unfair or uncivil on the occasions when we see it in our profession.

Just as Bob Vila continues to use a plumb line tool similar to the tool the Egyptians used almost 5,000 years ago, let’s continue to use the aspirational goals given to us by the Supreme Court of Georgia a little more than 30 years ago to help keep us vertical so that we may maintain the dignity and the integrity of

our profession as an inheritance for the next generation of lawyers. ●



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### Endnotes

1. Bob Vila, The Plumb Bob: What Is This Tool, and How Do You Use It?, Bob Vila, Tools & Workshop (Last visited Dec. 16, 2022), <https://www.bobvila.com/articles/495-the-plumb-bob/>.
2. Chief Justice’s Commission on Professionalism, *A Lawyer’s Creed and Aspirational Statement on Professionalism* at lines 64 - 66 (Last visited Dec. 16, 2022), <http://cjcpga.org/wp-content/uploads/2019/07/2-Lawyers-CreedAspStatement-v-2013-Line-Number-with-new-logo-and-seal-v07-25-19.pdf>.
3. Upright is on synonym for vertical. One definition of upright is “marked by strong moral rectitude,” Merriam-Webster, Inc, Dictionary, upstanding (Dec. 16, 2022), <https://www.merriam-webster.com/dictionary/upright>.
4. Upstanding is on synonym for vertical. One definition of upstanding is “marked by integrity,” Merriam-Webster, Inc, Dictionary, upstanding (Dec. 16, 2022), <https://www.merriam-webster.com/dictionary/upstanding>.

# Honestly

Join with me in reflecting on and considering how the promises we made in the Attorney Oath of Admission should guide our professional and personal conduct as Georgia lawyers who act with professionalism and—honestly.

BY KARLISE Y. GRIER

**It did not occur to me to think much** about my attorney oath of admission until recently, after I read an article in the *Daily Report* that talked about a Texas judge who led attorneys in retaking their oath of office.<sup>1</sup> It prompted me to look for and more carefully consider the wording of the oath of admission I took when I became a Georgia lawyer. In doing some research on the attorney oath of admission, I learned that the oath I took, and the oath that is currently in use, were created as part of Georgia's professionalism movement.

On March 31, 1988, Chief Justice Thomas O. Marshall, along with State Bar of Georgia President A. James Elliott, gathered 120 prominent judges and lawyers from around the state to attend a "Consultation on Professionalism and The Practice of Law" hosted by Emory University's President James T. Laney at Emory's Houston Mill House. At the conclusion of the consultation, Hon. Griffin B. Bell, who had served as the 72nd attorney general of the United States,<sup>2</sup> made closing remarks that were captured in a transcript of the consultation.<sup>3</sup> In speaking about the attor-

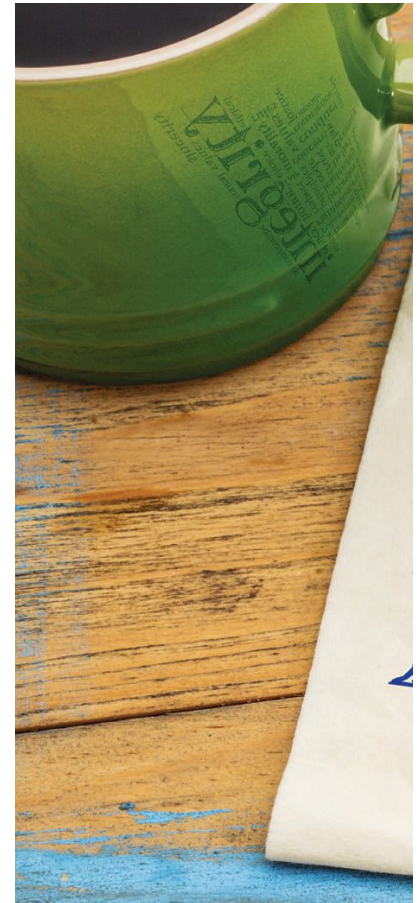
ney oath of admission, Bell said: "[W]hen we were admitted to the bar, we all made certain promises through the oath we took. We would do well, I think, to recall the original oath for attorneys and solicitors in the State of Georgia. That oath, taken from an English statute dated 1729 and used in our state until 1823, required that both attorneys and solicitors swear 'to truly and honestly demean themselves.' Many years later the wording of the oath was changed to require that lawyers 'justly and uprightly demean themselves.' Perhaps we should have stayed with the old oath. The words 'truly and honestly' just seem to be stronger. And therefore, it might be a good idea to readopt the old oath as a part of our new emphasis on professionalism."<sup>4</sup> The Supreme Court of Georgia did readopt some of the wording of the 1729 oath, and in particular, the words "that I will truly and honestly demean myself. ..."

The oath used after the consultation until 2002 read as follows: "I, \_\_\_\_\_, swear that I will truly and honestly, justly, and uprightly demean myself, according to the laws, as an attorney, counselor, and solicitor, and that I

will support and defend the Constitution of the United States and the Constitution of the State of Georgia. So help me God."<sup>5</sup>

This is the attorney oath of admission that I would have taken in July 1992. Ten years later, in 2002, the oath was again revised to make the wording more relevant to the current practice of law, while retaining the original language calling for lawyers to "truly and honestly" conduct themselves.<sup>6</sup> The current oath, which was approved by the Supreme Court of Georgia on April 22, 2002, and which remains in place today reads: "I, \_\_\_\_\_, swear that I will truly and honestly, justly and uprightly conduct myself as a member of this learned profession and in accordance with the Georgia Rules of Professional Conduct, as an attorney and counselor, and that I will support and defend the Constitution of the United States and the Constitution of the State of Georgia. So help me God."<sup>7</sup>

In 1988, why did Griffin Bell believe that it might be a good idea to readopt the oath dating back to 1729, which contained the words "truly and honestly" as a part of Georgia's new emphasis on professional-





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ism? I believe because he understood that people can be *dishonest*, unprincipled, untrustworthy, unfair and uncaring without breaking the law or the code.<sup>8</sup> Truly *professional* people measure their conduct not by rules but by basic moral principles such as honesty, integrity and fairness. In addition, professionalism challenges us to consider our conduct in all aspects of our lives, not just our professional lives.<sup>9</sup> Although it has been 33 years since Judge Bell encouraged the attendees of Georgia's first consultation to remember the promises each attorney made through the oath he or she took, Judge Bell's message is equally important today. So, I ask you to join with me in reflecting on and considering how the promises we made in the Attorney Oath of Admission should guide our professional and personal conduct as Georgia lawyers who act with professionalism and—honestly. ●



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### Endnotes

1. Angela Morris, *Judge Renews Vow to Uphold Law After Capitol Hill Riots, Asks Lawyers to Do the Same*, *Law.com*, Texas Lawyer, <<https://www.law.com/texaslawyer/2021/01/08/judge-renews-vow-to-uphold-law-after-capitol-hill-riots-asks-lawyers-to-do-the-same/>>.
2. Bell served as the United States Attorney General from January 26, 1977, until August 16, 1979.
3. See Chief Justice's Commission on Professionalism, *Proceedings of A Consultation on Professionalism and the Practice of Law* (March 31, 1988) at 38 – 47, <<http://cjcpga.org/wp-content/uploads/2021/02/1988ConsultationOnProf.pdf>>.
4. See *Id.* at 47. See also Carol Rice Andrews, *The Lawyers Oath Both Ancient and Modern*, 22 *Geo. J. Legal Ethics* 3, 14 and 22 (2009),
5. See Richard P. Kessler Jr., *Bobby Jones, Sept. 11 and Keeping the Lawyer's Oath*, *Georgia Bar Journal*, April 2002, at 61.
6. See *Id.* at 63.
7. Supreme Court of Georgia, *Attorney Oath* (April 22, 2002) <<https://www.gasupreme.us/rules/amendments-to-rules/attorney-oath/>>.
8. See, e.g., Ga. Rules of Prof'l Conduct, Rule 4.1 and Comments 1 and 2. See also Art Hinshaw and Jess K. Alberts, *Doing the Right Thing: An Empirical Study of Attorney Negotiation Ethics*, 16 *HARV. NEGOTIATION L. REV.* 95 (2011) (concluding that the American Bar Association's Model Rule 4.1, which is similar to Rule 4.1 of Georgia's Rules of Professional Conduct, legitimizes some deceitful negotiation techniques and only prohibits fraudulent misrepresentations about material matters).
9. See *A Lawyer's Creed and the Aspirational Statement on Professionalism* at Lines 48, 64, 155, 157, <<http://cjcpga.org/wp-content/uploads/2019/07/2-Lawyers-CreedAspStatement-v-2013-Line-Number-with-new-logo-and-seal-v07-25-19.pdf>>. (As a lawyer, I will aspire to preserve the dignity and the integrity of our profession by my conduct; as to the public and our systems of justice, I will aspire to consider the effect of my conduct on the image of our systems of justice.)

# Professionalism in the Midst of Stress: Show The World Who We Are

Even with all the stress of 2020, many Georgia lawyers and judges have demonstrated remarkable professionalism. On behalf of the Chief Justice’s Commission on Professionalism, I thank you for showing the world who we really are.

BY KARLISE Y. GRIER

**When 2020 began on the first day in** January, many people planned for a year that has not existed. Instead, the year has turned into a surreal experience with a COVID-19 pandemic that most of us could never have imagined. For many of us, including both lawyers and judges, the pandemic has created numerous unexpected personal and professional challenges, uncertainty and fear. If a pandemic alone were not enough of a challenge, it arrived during a presidential election year, a time that historically has divided Americans, and during a time when Americans are increasingly discussing issues of race and justice. In the midst of struggling with all of these challenges, we as lawyers and judges have also had to find ways to fulfill obligations to those we serve. In short, for a myriad of reasons, 2020 has been a stressful year for many of us in the legal community.

I have been disheartened by some of the responses to the stress caused by this current climate. For example, a few days before I wrote this article, I came across a public post on social media in which several attorneys called a group of at-

torneys “racists” because the group supported a particular presidential candidate. As I read all of the comments (more than 200 of them), many of which were made by attorneys that I personally know, and some of whom held leadership positions in the profession, I was personally saddened and disappointed. I was saddened and disappointed to see attorneys publicly attacking one another, sometimes using profane language, on a public page, one that any current or potential client, judge, law student or other member of the public could access. I would have been equally saddened and disappointed if the page were “private.” We, as lawyers and judges, are a professional community. *We are better than this*, I thought, and I did not believe that any of the comments I saw on social media had shown the world who we are as a *community of legal professionals*.

If we as lawyers were not stuck in our homes with very limited in-person, face-to-face interaction because of the pandemic, would we say such things to one another? Did the lawyers who posted the comments consider that they represented not only themselves but the organizations



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... as I reflected on what has transpired thus far this year, I was also truly inspired and heartened by the acts of professionalism I saw from many Georgia lawyers and judges.

that they serve (whether volunteer or paid), and the legal profession as a whole? In an example from my own life, during the pre-pandemic days when I would go to church or Bible study, I was often addressed as “Attorney Grier” instead of by my first name. In other words, even in my personal life, I still represented the profession to which I belong.

In “A Lawyer’s Creed and the Aspirational Statement on Professionalism,” lawyers and judges are encouraged to reflect on the idea of how they present themselves, both personally and professionally, as shown in the following statements:

- To preserve the dignity and the integrity of our profession by my conduct. The dignity and the integrity of our profession is an inheritance that must be maintained by each successive generation of lawyers.<sup>1</sup>
- To model for others, and particularly for my clients, the respect due to those we call upon to resolve our disputes and the regard due to *all participants* in our dispute resolution processes.<sup>2</sup>

- Be courteous and civil in *all* communications.<sup>3</sup>
- To consider the effect of my conduct on the image of our systems of justice.<sup>4</sup>

As I wrote this article, self-isolating by sitting in my home alone to help fight COVID-19, I committed to more diligently reflect on and strive to live according to the aspirational goals listed above. I committed to being more thoughtful about what I say and how I say it, whether in correspondence, virtual conferences, hearings, on social media or (when the time comes) face to face. And as I wrote, I hoped each Georgia lawyer and judge would join me in doing the same.

Nevertheless, as I reflected on what has transpired thus far this year, I was also truly inspired and heartened by the acts of professionalism of many Georgia lawyers and judges. The judiciary, led by Chief Justice Harold D. Melton, quickly responded to the pandemic in March, issuing a series of Judicial Emergency Orders. In May, the Judicial Council of Georgia, chaired by Chief Justice Melton, established the Judicial COVID-19

Task Force to address the challenges of ensuring access to the courts in the midst of the pandemic. Both civil and criminal lawyers, who often take opposing sides in court cases, worked with one another and with judges from across the state to develop a Georgia Court Reopening Guide.<sup>5</sup> The State Bar of Georgia established a committee to identify and address issues with the delivery of legal services resulting from the pandemic. Georgia's 9th Annual Legal Food Frenzy, spearheaded by Attorney General Chris Carr and the Young Lawyers Division of the State Bar of Georgia, raised a record-breaking \$852,090 as a result of the contributions of more than 220 law firms, legal organizations, in-house counsel and courts across Georgia,<sup>6</sup> even while law firms and other organizations were cutting hours and pay.<sup>7</sup>

In April, June and August, the Chief Justice's Commission on Professionalism (Commission) provided five free professionalism CLEs to help attorneys learn how to address the rapidly changing legal environment during the pandemic with professionalism.<sup>8</sup> The combined total attendance reported for all five CLEs was more than 5,200 attendees.<sup>9</sup> The CLE in April, "Moving Forward with Professionalism In the Midst of A Public Health Emergency," contained numerous mental health resources that attorneys could use to help themselves and their clients during these stressful times.<sup>10</sup> The CLEs were made possible because of the hard work and dedication of Chief Justice Melton; several Commission members and advisors, including Justice Sarah Hawkins Warren, Hon. Clyde Reese, Hon. Susan Edlein, State Bar President-Elect Elizabeth Fite, Rebecca Grist, YLD President Bert Hummel, State Bar President Dawn M. Jones and Claudia Saari; and numerous other lawyers and judges who served as CLE panelists and planners.

Further, the Commission continued with its regular work. In August, the State

Bar of Georgia Committee on Professionalism (COP), with staff support from the Commission, organized the 28th Law School Orientations on Professionalism (Orientations). A total of 200 lawyers and judges served as leaders facilitating small group discussions among more than 1,000 mostly 1L students about professionalism and how professionalism applies in law school. Because of the pandemic, all group leaders participated virtually regardless of which of the five Georgia law schools at which they volunteered, and the Orientations were again a great success, despite physical distancing. The Commission was grateful to the law students and COP members who helped to refine the Orientations' hypothetical problems; the volunteer lawyers and judges who served as group leaders; and the law school professors and administrators who created a new paradigm for hosting the Orientations.

Even with all the stress of 2020, many Georgia lawyers and judges have demonstrated remarkable professionalism. On behalf of the Chief Justice's Commission on Professionalism, I thank you for showing the world who we really are. ●



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### Endnotes

1. Chief Justice's Commission on Professionalism, *A Lawyer's Creed and Aspirational Statement on Professionalism* at Lines 64 – 66.
2. *Id.* at Lines 51 – 53 (emphasis added).
3. *Id.* at Line 108 (emphasis added).
4. *Id.* at Line 157.
5. *Georgia Court Reopening Guide* (visited September 18, 2020) [https://georgiacourts.gov/wp-content/](https://georgiacourts.gov/wp-content/uploads/2020/06/Georgia-Court-Reopening-Guide-FINAL.pdf)

[https://georgiacourts.gov/wp-content/](https://georgiacourts.gov/wp-content/uploads/2020/06/Georgia-Court-Reopening-Guide-FINAL.pdf)

6. Georgia Legal Food Frenzy, *How It Works, Awards* (visited September 4, 2020) <https://galegalfoodfrenzy.org/how-it-works/awards/>.
7. See, e.g., Jonathan Ringel, *Hard Realities: As Firms Cut Pay, Food Banks Need More Help Than Ever*, DAILY REPORT (April 15, 2020) <https://www.law.com/dailyreportonline/2020/04/15/hard-realities-as-firms-cut-pay-food-banks-need-more-help-than-ever/>.
8. For complete information regarding speakers, panelists, and program materials, see Chief Justice's Commission on Professionalism, *Professionalism During A Time of Physical Distancing*, <http://cjcpga.org/popup040620/> (CLE date of April 6, 2020); Chief Justice's Commission on Professionalism, *Getting the Deal Done with Professionalism During A Time of Physical Distancing*, <http://cjcpga.org/popup041620/> (CLE date of April 16, 2020); Chief Justice's Commission on Professionalism, *Moving Forward with Professionalism In the Midst of A Public Health Emergency*, <http://cjcpga.org/moving-forward/> (CLE date of April 28, 2020); Chief Justice's Commission on Professionalism, *Criminal Justice, Professionalism, and Coronavirus*, [https://criminal.justice.professionalism\\_coronavirus.eventbrite.com](https://criminal.justice.professionalism_coronavirus.eventbrite.com) (CLE date of June 11, 2020); 5) Chief Justice's Commission on Professionalism, *Professionalism and the Georgia Court Reopening Guide*, <http://cjcpga.org/reopening-guide/> (CLE date of August 7, 2020).
9. CLE attendance number is the number of attorneys who attended each CLE for CLE credit and counts some individual attorneys more than one time, if the attorney attended multiple CLEs.
10. Mental health resources are available on the Commission's website at <http://cjcpga.org/moving-forward/>.

# The Necessity of Unparalleled Unity

At this pivotal time in U.S. history, there is the necessity of unparalleled unity by each one of us as legal professionals—because achieving justice for all is the duty of all.

BY KARLISE Y. GRIER

Several years ago, I attended an event at the State Bar of Georgia during which an official from the Republic of Georgia spoke. The official talked of the challenges of luring foreign companies to do business in his country. He said one of the main reasons was because no one had confidence in the integrity of his country's judicial system—not the foreign companies and not the people of the Republic of Georgia. I remembered his words because it was the first time that I had contemplated how much our way of life in the United States rests on the public's confidence in the legitimacy of our legal system. If our system of "justice" fails, our way of life can also easily fail.<sup>1</sup> The foregoing statement is one reason why I believe every lawyer should support efforts to ensure that all people in the United States—regardless of race—have trust and confidence in our legal system.

In a statement released on June 2, 2020, in response to the protests surrounding the death of George Floyd, former U.S. President George W. Bush said:

Many doubt the justice of our country, and with good reason. Black people see

the repeated violation of their rights without an urgent and adequate response from American institutions. We know that lasting justice will only come by peaceful means. Looting is not liberation, and destruction is not progress. But we also know that lasting peace in our communities requires truly equal justice. The rule of law ultimately depends on the fairness and legitimacy of the legal system. *And achieving justice for all is the duty of all.*<sup>2</sup>

"People who do not believe that we have a racial injustice problem are entitled to their own opinions, but they are not entitled to their own facts," Hon. Richard A. Robinson, chief justice of the Supreme Court of Connecticut, recently wrote.<sup>3</sup> Consider, therefore, the facts regarding two distinct police encounters with two disparate outcomes as reported in two news articles.

## Police Encounter One

The 21-year-old white man suspected of having gunned down nine people at a historic Black church in South Carolina, was back in Charleston Thursday

after a sweeping manhunt that spanned two states.

Dylann Roof was caught after 11 a.m. following Wednesday night's massacre at Emanuel African Methodist Episcopal Church. He was arrested about 245 miles north in Shelby, North Carolina, during a traffic stop, Charleston Police Chief Gregory Mullen said at a news conference.

Shelby police received a tip about a suspicious car in the area and arrested Roof without incident, Mullen added.<sup>4,5</sup>

## Police Encounter Two

On May 25, Minneapolis police officers arrested George Floyd, a 46-year-old Black man, after a convenience store employee called 911 and told the police that Mr. Floyd had bought cigarettes with a counterfeit \$20 bill. Seventeen minutes after the first squad car arrived at the scene, Mr. Floyd was unconscious and pinned beneath three police officers, showing no signs of life.<sup>6</sup>

As you reviewed the facts from the above news articles, did you ask yourself which outcome would you want for yourself, your family and your friends?

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Would you want the outcome that permits you to have a trial where you have the presumption of innocence, the right to a jury of your peers, the right to representation, and the right to confront and cross-examine witnesses against you? Or would you want the outcome that condemns you to death in 17 minutes? Which outcome do you believe inspires the most confidence in the fairness and legitimacy of the legal system?

In “A Lawyer’s Creed” and the “Aspirational Statement on Professionalism” adopted by the Supreme Court of Georgia in 1990, the Court at that time stated: “It is the Court’s hope that Georgia’s lawyers, judges and legal educators will use the following aspirational ideals to reexamine the justifications of the practice of law in our society and to consider the implications of those justifications for their conduct.”<sup>77</sup> Thereafter, in one of the aspirational ideals the Court challenged Georgia lawyers and judges to commit that the “social goals of equality and fairness will be personal goals for me.”<sup>78</sup> The Court also called upon lawyers and judges in the “Aspirational Statement on Professionalism” to “preserve and improve the

law, the legal system and other dispute resolution processes as instruments for the common good.”<sup>79</sup>

During these pivotal times, I hope all Georgia lawyers and judges will reflect on the aspirational ideals set forth in “A Lawyer’s Creed” and the “Aspirational Statement on Professionalism.” I hope all Georgia lawyers and judges will also consider the observations of the chief justice of the Supreme Court of Georgia, Hon. Harold D. Melton, who has said:

“The prominence and horror of the George Floyd murder does point to continued divisiveness. But, at the same time, it also points to unparal-

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During these pivotal times, I hope all Georgia lawyers and judges will reflect on the aspirational ideals set forth in “A Lawyer’s Creed” and the “Aspirational Statement on Professionalism.”

leled unity as exhibited by unprecedented numbers of people of all ages, races, and walks of life who are: (1) expressing outrage at the continued unnecessary violence by some police officers against African Americans; and (2) asking ‘What can we do to make things better going forward?’<sup>10</sup>

I cannot and do not speak for the Supreme Court of Georgia or for any justice on the Court. I do, however, serve as the current steward of an organization with the stated mission of encouraging “lawyers [and judges] to exercise the highest levels of professional integrity in their relationships with their clients, other lawyers, the courts, and the public and to fulfill their obligations to improve the law and the legal system and to ensure access to that system.”<sup>11</sup> As a steward of the Chief Justice’s Commission on Professionalism, I believe professionalism should compel each of us to ask: “What can I personally do as a Georgia lawyer or a Georgia judge to make things better going forward?”

At this pivotal time in U.S. history, there is the necessity of unparalleled unity by each one of us as legal professionals—because achieving justice for all is the duty of all. ●



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## Endnotes

1. See generally George W. Dougherty, Stefanie A. Lindquist and Mark D. Bradbury, *Evaluating Performance in State Judicial Institutions: Trust and Confidence in the Georgia Judiciary*, 38 St. & Loc. Gov’t Rev., 176-190 (2006), [www.jstor.org/stable/4355433](http://www.jstor.org/stable/4355433) (Last visited June 26, 2020) (the abstract states in part: “Like other governmental institutions, state courts must be concerned with their institutional legitimacy and citizens’ perceptions regarding their efficacy as forums for the fair and efficient resolution of legal disputes. The results of this study of public satisfaction with court performance in Georgia suggest that citizens evaluate the courts in terms of public confidence (i.e., institutional competence) and political trust (i.e., the judiciary’s ability to satisfy its fiduciary responsibilities to promote justice). A significant racial divide exists on the matter of trust but not confidence.”).
2. George W. Bush, *Statement by President George W. Bush*, George W. Bush Presidential Center, <https://www.bushcenter.org/about-the-center/newsroom/press-releases/2020/06/statement-by-president-george-w-bush.html> (emphasis supplied). (Last visited June 26, 2020).
3. Zach Murdock, *Connecticut Supreme Court’s first Black chief justice calls for ‘real and immediate improvements’ to judicial system amid national protests*, Hartford Curant (June 10, 2020, 10:28 AM), <https://www.courant.com/news/connecticut/hc-br-chief-justice-robinson-reforms-protests-20200610-k6dwwubv7zau5citytiwrwrcm-story.html> (Last visited June 26, 2020).
4. Erik Ortiz and F. Brinley Bruton, *Charleston Church Shooting: Suspect Dylann Roof Captured in North Carolina*, NBC News (June 18, 2015, 8:12 AM EDT / Updated June 18, 2015, 8:25 PM EDT), <https://www.nbcnews.com/storyline/charleston-church-shooting/charleston-church-shooting-suspect-dylann-roof-captured-north-carolina-n377546> (Last visited June 26, 2020).
5. See Glenn Smith, *Emanuel AME shooter Dylann Roof Claims He Has Been Targeted for Abuse in Federal Prison*, The Post and Courier (April 23, 2020), [https://www.postandcourier.com/news/emanuel-ame-shooter-dylann-roof-claims-he-has-been-targeted-for-abuse-in-federal-prison/article\\_846e04ac-84be-11ea-ac75-dbba4446ab87.html](https://www.postandcourier.com/news/emanuel-ame-shooter-dylann-roof-claims-he-has-been-targeted-for-abuse-in-federal-prison/article_846e04ac-84be-11ea-ac75-dbba4446ab87.html) (as of April 23, 2020, Roof was still alive in a federal prison and appealing his death sentence) (Last visited June 26, 2020).
6. Evan Hill, et al., *How George Floyd Was Killed in Police Custody*, N.Y. Times (May 31, 2020 / Updated June 22, 2020), <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html> (Last visited June 26, 2020).
7. Chief Justice’s Commission on Professionalism, *A Lawyer’s Creed and Aspirational Statement on Professionalism* at Lines 41-44, <http://cjcpnga.org/wp-content/uploads/2019/07/2-Lawyers-CreedAspStatement-v-2013-Line-Number-with-new-logo-and-seal-v07-25-19.pdf> (Last visited June 26, 2020).
8. Chief Justice’s Commission on Professionalism, *A Lawyer’s Creed and Aspirational Statement on Professionalism* at Lines 56-57, <http://cjcpnga.org/wp-content/uploads/2019/07/2-Lawyers-CreedAspStatement-v-2013-Line-Number-with-new-logo-and-seal-v07-25-19.pdf> (Last visited June 26, 2020).
9. Chief Justice’s Commission on Professionalism, *A Lawyer’s Creed and Aspirational Statement on Professionalism* at Lines 58-59, <http://cjcpnga.org/wp-content/uploads/2019/07/2-Lawyers-CreedAspStatement-v-2013-Line-Number-with-new-logo-and-seal-v07-25-19.pdf> (Last visited June 26, 2020).
10. Mike Scarcella and Jonathan Ringel, *Georgia Chief Justice Sees ‘Unparalleled Unity’ in Diverse Protesters Expressing ‘Outrage’*, Law.com, Daily Report (June 05, 2020, 08:28 PM), <https://www.law.com/dailyreportonline/2020/06/05/our-moral-imperative-washington-state-justices-issue-open-letter-confronting-racial-injustice-404-47952/> (The original version of this story was published on The National Law Journal) (Last visited June 26, 2020).
11. Chief Justice’s Commission on Professionalism, *Mission of the Chief Justice’s Commission on Professionalism*, <http://cjcpnga.org/mission/> (Last visited June 26, 2020).

# Promoting a Professional Culture of Respect and Safety #MeToo

In keeping with our professionalism aspirations, I challenge you to take a proactive, preventative approach to sexual harassment and to start the discussions . . . about things we as lawyers can do to promote a professional culture of respect and safety to prevent #MeToo.

BY KARLISE Y. GRIER

*“There is no doubt that Marley was dead. This must be distinctly understood, or nothing wonderful can come of the story I am going to relate.”—Excerpt from: “A Christmas Carol” by Charles Dickens.*

**To borrow an idea from an iconic writer:** There is no doubt that #MeToo testimonials are real. This must be distinctly understood, or nothing wonderful can come of the ideas I am going to share.

I start with this statement because when I co-presented on behalf of the Chief Justice’s Commission on Professionalism at a two-hour seminar on Ethics, Professionalism and Sexual



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Harassment at the University of Georgia (UGA) in March 2018, it was clear to me that men and women, young and old, question some of the testimonials of sexual harassment that have recently come to light. For the purposes of starting a discussion about preventing future #MeToo incidents in the Georgia legal profession, I ask you to assume, *arguendo*, that sexual harassment does occur and to further assume, *arguendo*, that it occurs in Georgia among lawyers and judges.<sup>1</sup> Our attention and discussion must therefore turn to “How do we prevent it?” We won’t expend needless energy on “Is he telling the truth?” We won’t lament, “Why did she wait so long to come forward?”

First, I want to explain why I believe that sexual harassment in the legal profession is, in part, a professionalism issue. As Georgia lawyers, we have A Lawyer’s Creed and an Aspirational Statement on Professionalism that was approved by the Supreme Court of Georgia in 1990.<sup>2</sup> One tenet of A Lawyer’s Creed states: “To my colleagues in the practice of law, I offer concern for your welfare. I will strive to make our association a professional friendship.”

Frankly, it is only a concern for the welfare of others that in many cases will prevent sexual harassment in the legal profession because of “gaps” in the law and in our ethics rules. For example, under federal law, sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. Title VII applies to employers with 15 or more employees.<sup>3</sup> According to a 2016 article on lawyer demographics, three out of four lawyers are working in a law firm that has two to five lawyers working for it.<sup>4</sup> In Georgia, there are no state laws similar to Title VII’s statutory scheme.

There is currently nothing in Georgia’s Rules of Professional Conduct that explicitly prohibits sexual harassment of a lawyer by another lawyer.<sup>5</sup> Moreover, it is my understanding that generally the Office of the General Counsel will not

prosecute a lawyer for alleged lawyer-on-lawyer sexual harassment absent a misdemeanor or felony criminal conviction, involving rape, sexual assault, battery, moral turpitude and other similar criminal behavior.<sup>6</sup> Other circumstances in which laws or ethics rules may not apply include sexual harassment of lawyers by clients or sexual harassment that occurs during professional events, such as bar association meetings or continuing education seminars.<sup>7</sup>

Former Georgia Chief Justice Harold Clarke described the distinction between ethics and professionalism as . . . the idea that ethics is a minimum standard which is required of all lawyers while professionalism is a higher standard expected of all lawyers. Therefore, in the absence of laws and ethical rules to guide our behavior, professionalism aspirations call on Georgia lawyers to consider and implement a professional culture of respect and safety that ensures zero tolerance for behavior that gives rise to #MeToo testimonials.<sup>8</sup>

The American Bar Association Commission on Women in the Profession recently published a book titled “Zero Tolerance: Best Practices for Combating Sex-Based Harassment in the Legal Profession.” The book provides some

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Former Georgia Chief Justice Harold Clarke described the distinction between ethics and professionalism as . . . the idea that ethics is a minimum standard which is required of all lawyers while professionalism is a higher standard expected of all lawyers.

practical advice for legal employers to address or to prevent sexual harassment.<sup>9</sup> Some of the suggestions included: establishing easy and inexpensive ways to detect sexual harassment, such as asking about it in anonymous employee surveys and/or exit interviews; not waiting for formal complaints before responding to known misconduct; and discussing the existence of sexual harassment openly.<sup>10</sup> The federal judiciary's working group on sexual harassment has many reforms that are currently underway, such as conducting a session on sexual harassment during the ethics training for newly appointed judges; reviewing the confidentiality provisions in several employee/law clerk handbooks to clarify that nothing in the provisions prevents the filing of a complaint; and clarifying the data that the judiciary collects about judicial misconduct complaints to add a category for any complaints filed relating to sexual misconduct.<sup>11</sup> For those planning CLE or bar events, the American Bar Association Commission on Women in the Profession cautions lawyers to "be extremely careful about excessive use of alcohol in work/social settings."<sup>12</sup>

During our continuing legal education seminar at UGA, one of the presenters, Erica Mason, who serves as president of the Hispanic National Bar Association (HNBA), shared that HNBA has developed a "HNBA Conference Code of Conduct" that states in part: "The HNBA is committed to providing a friendly, safe, supportive and harassment-free environment for all conference attendees and participants . . . Anyone violating these rules may be sanctioned or expelled from the conference without a registration refund, at the discretion of HNBA Leadership."<sup>13</sup> Mason also shared that the HNBA has signs at all of its conferences that reiterate the policy and that provide clear instructions on how anyone who has been subjected to the harassment may report it. In short, you don't have to track down a procedure or figure out what do to if you feel you have been harassed.

Overall, some of the takeaways from our sexual harassment seminar at UGA provide a good starting point for discussion about how we as lawyers should aspire

to behave. Generally, our group agreed that women and men enjoy appropriate compliments on their new haircut or color, a nice dress or tie, or a general "You look nice today." Admittedly, however, an employment lawyer might say that even this is not considered best practice.

Many of the seminar participants agreed on some practical tips, however. Think twice about running your fingers through someone's hair or kissing a person on the cheek. Learn from others' past mistakes and do not intentionally pat or "flick" someone on the buttocks even if you mean it as a joke and don't intend for it to be offensive or inappropriate.<sup>14</sup>

In our professional friendships, we want to leave room for the true fairytale happily ever after endings, like that of Barack and Michelle, who met at work when she was an associate at a law firm and he was a summer associate at the same firm.<sup>15</sup> We also need to ensure that our attempts to prevent sexual harassment do not become excuses for failing to mentor attorneys of the opposite sex.

Finally, just because certain behaviors may have been tolerated when you were a young associate, law clerk, etc., does not mean the behavior is tolerated or accepted today. Professionalism demands that we constantly consider and re-evaluate the rules that should govern our behavior in the absence of legal or ethical mandates. Our small group at UGA did not always agree on what was inappropriate conduct or on the best way to handle a situation. We did all agree that the conversation on sexual harassment was valuable and necessary.

So in keeping with our professionalism aspirations, I challenge you to take a proactive, preventative approach to sexual harassment and to start the discussions in your law firm, corporate legal department, court system and/or bar association about things we as lawyers can do to promote a professional culture of respect and safety to prevent #MeToo. ●



**Karlise Y. Grier**

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## Endnotes

1. See, e.g., In the Matter of James L. Brooks, S94Y1159 (Ga. 1994) and The Washington Post, *Wet T-Shirt Lawyers* (December 23, 1983), The Washington Post, [https://www.washingtonpost.com/archive/politics/1983/12/23/wet-t-shirt-lawyers/c46ac2e6-2827-49a7-9041-f00ac5f21753/?utm\\_term=.bf1ec57a8b95](https://www.washingtonpost.com/archive/politics/1983/12/23/wet-t-shirt-lawyers/c46ac2e6-2827-49a7-9041-f00ac5f21753/?utm_term=.bf1ec57a8b95) (Last visited May 31, 2018). For a more recent articles on sexual harassment in the legal profession, see generally, Vanessa Romo, *Federal Judge Retires in the Wake of Sexual Harassment Allegations* (December 18, 2017), NPR, The Two-Way Breaking News, <https://www.npr.org/sections/thetwo-way/2017/12/18/571677955/federal-judge-retires-in-the-wake-of-sexual-harassment-allegations> (Last visited May 31, 2018) and The Young Lawyer Editorial Board of The American Lawyer, *YL Board: This is What Sexual Harassment in the Legal Industry Looks Like* (February 28, 2018), The American Lawyer, Commentary, <https://www.law.com/americanlawyer/2018/02/28/yl-board-this-is-what-sexual-harassment-in-the-legal-industry-looks-like/> (Last visited May 31, 2018).
2. See State Bar of Georgia, *Lawyer's Creed and Aspirational Statement on Professionalism*, <https://www.gabar.org/aboutthebar/lawrelatedorganizations/cjcp/lawyers-creed.cfm> (Last visited May 31, 2018).
3. U.S. Equal Employment Opportunity Commission, About EEOC, Publications, *Facts About Sexual Harassment*, <https://www.eeoc.gov/eeoc/publications/fs-sex.cfm> (Last visited May 31, 2018).
4. Brandon Gaille, *30 Mind-Boggling Lawyer Demographics*, BrandonGaille.com, <https://brandongaille.com/30-mind-boggling-lawyer-demographics/>, February 8, 2016 (viewed on April 26, 2018). See also American Bar Association 2013 Lawyer Demographics Data, [https://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/lawyer\\_demographics\\_2013.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/lawyer_demographics_2013.authcheckdam.pdf) (viewed on April 26, 2018).
5. The Georgia Code of Judicial Conduct differs from the Georgia Rules of Professional Conduct in that Rule 2.3 (b) of the Code of Judicial Conduct specifically prohibits discrimination by a judge in the performance of his or her judicial duties. See <https://>



# Convocation on Professionalism and the Global Community

The purpose of the Convocation was to model professionalism while discussing a high-conflict issue and to demonstrate the ways in which attorneys have implemented “A Lawyer’s Creed” and the “Aspirational Statement” in their work with the global community.

BY LESLIE E. STEWART



PHOTO BY DON MORGAN PHOTOGRAPHY

Supreme Court of Georgia Chief Justice Harold D. Melton

**On Nov. 30, 2018, the Chief Justice’s** Commission on Professionalism (the Commission) held its Convocation on Professionalism (the Convocation) at Atlanta’s Porsche Experience Center. This year, the Convocation theme was Professionalism and the Global Community, which focused on the professionalism values of competence, civility, character, and commitment to the rule of law and the public good. The purpose of the Convocation was to model professionalism while discussing a high-conflict issue and to demonstrate the ways in which attorneys have implemented “A Lawyer’s Creed” and the “Aspirational Statement” in their work with the global community. The event, which was sponsored by Squire Patton Boggs, Miller & Martin PLLC and Alston & Bird LLP, was well-received by the attendees. The speakers included an array of notables and dignitaries with ties to Georgia, beginning with Supreme Court of Georgia Chief Justice Harold D. Melton, who urged the attendees to demonstrate professionalism through service to their community, a key element of “A Lawyer’s Creed” and the “Aspirational Statement.”

The first panel, “Overview of the Global Community in Georgia,” was facilitated by Javier Díaz de León, Consul General of Mexico. Two judges, Hon. Meng H. Lim, Tallapoosa Circuit Superior Court, and Hon. Dax E. Lopez, DeKalb County State Court, spoke movingly about how their judicial careers have been influenced by their experiences of straddling two cultures. Abby Turano, deputy commissioner for International Relations, Georgia Department of Economic Development, explained how and why Georgia welcomes foreign businesses to Georgia.

The second panel, “A View from General Counsels of Companies Doing International Business,” was moderated by Shelby S. Guilbert Jr. from King & Spalding. The panelists, including Angus M. Haig, senior vice president and general counsel for Cox Automotive, and Ricardo Nuñez, senior vice president and general counsel for Schweitzer-Mauduit International, described their challenges and how core values affect their roles as international general counsels. Audrey Boone Tillman, executive vice president and general counsel for AFLAC, portrayed the challenges and successes of being a woman of color supervising attorneys in Japan. Joseph Folz, vice president, general counsel and secretary for Porsche Cars North America, shared his experiences working for a German-based company.

The third panel, “The Business Pros and Cons of Developing a Formal Working Relationship with an International Lawyer or Law Firm,” was facilitated by Petrina A. McDaniel from Squire Patton Boggs. Tricia “CK” Hoffler, principal at The CK Hoffler Firm, regaled the attendees with her vivid descriptions of being threatened by automatic gunfire as a result of a cultural miscalculation while she represented an un-named government. Therese Pritchard, from Bryan Cave and Robert Tritt, Dentons US LLP, discussed the necessity of retaining competent local counsel in international cases.

The Convocation’s keynote speaker, Randolph “Randy” Evans, U.S. Ambassador to Luxembourg, described his humble beginnings in Georgia and how the values instilled in him by his family continue to influence the way in which he deals with his professional duties—of treating each person with respect and dignity.

After lunch, the next panel, “What Lawyers Need to Know about Labor Trafficking,” focused on the darker side of doing business in the global community. The moderator, Hon. Richard Story, judge, U.S. District Court, Northern District of Georgia, oversaw a lively discussion between Norm Brothers, senior vice president and general counsel for UPS; Susan Coppedge, former U.S. Ambassador-at-Large, the Office to Monitor and Combat Trafficking in Persons, and senior advisor to the Secretary of State (Ret.); and Jay Doyle of Lewis Brisbois Bisgaard & Smith LLP. This panel focused on the way in which government and private business have collaborated to combat the scourge of human trafficking.

The attendees were then treated to a presentation on “An Overview of Professionalism in Immigration Cases” by James McHenry, director of the Executive Office for Immigration Review at the Department of Justice, who unpacked the complex hearing procedures surrounding this timely topic.

The second afternoon panel, “Emerging Issues and Pro Bono Opportunities for Attorneys as a Result of Changes in Immigration Laws,” was moderated by Phil Sandick from Alston & Bird. The panelists were Audra Dial from Kilpatrick Townsend & Stockton, Jorge Andres Gavilanes from Kuck Baxter, Monica Khant, executive director of the Georgia Asylum and Immigration Network, and Willis Linton Miller from The Latin American Association. During this panel, the speakers touched on the need for pro bono assistance on these important cases due to an upsurge in work and the conse-

quent burnout on the part of those working full time in this area.

The final panel of the day, “Ethics, Regulatory and Procedural Issues in International Practice,” was facilitated by Shelby R. Grubbs, from Miller & Martin. Along with Paula Frederick, general counsel of the State Bar of Georgia and Ben Greer Jr., retired partner at Alston & Bird, the presenters discussed the competing ethical standards that attorneys must negotiate in international work and the necessity of adhering to Georgia standards regardless of cultural or ethical differences.

The Convocation offered a marvelous opportunity for in-person attendees to learn about how the principles of professionalism impact our legal work in the global community. Commission member Hon. Carla McMillian, Court of Appeals of Georgia, tweeted throughout the day at @cjcpga in English and Spanish with the help of Commission member Maria F. Mackay, a Georgia certified interpreter who provided Spanish interpretations of the proceedings for McMillian to tweet. Commission advisor Jennifer Davis and Commission liaison Dee Dee Worley provided invaluable “behind the scenes” staff assistance for the event throughout the day. The Commission staff was grateful for the support of the Commission members and other Convocation contributors and planners who provided invaluable assistance for this immensely successful Convocation. More information about the Convocation and other upcoming Commission events, including the 20th Annual Justice Robert Benham Awards for Community Service, is available on the Commission’s website at [www.cjcpga.org](http://www.cjcpga.org). ●



**Leslie E. Stewart** is a child welfare attorney and has served as a Supreme Court Fellow on Georgia’s Cold Case project since March 2009 and is also a contractor with the Chief Justice’s Commission on Professionalism.

# Celebrating 30 Years of Legal Professionalism in Georgia

“[T]he effort for professionalism requires constant striving; we cannot expect an easy or quick result.”

—Excerpt from remarks at the 1988 Consultation on Professionalism and the Practice of Law given by 1974-75 State Bar of Georgia President Cubbedge Snow Jr.

BY KARLISE Y. GRIER

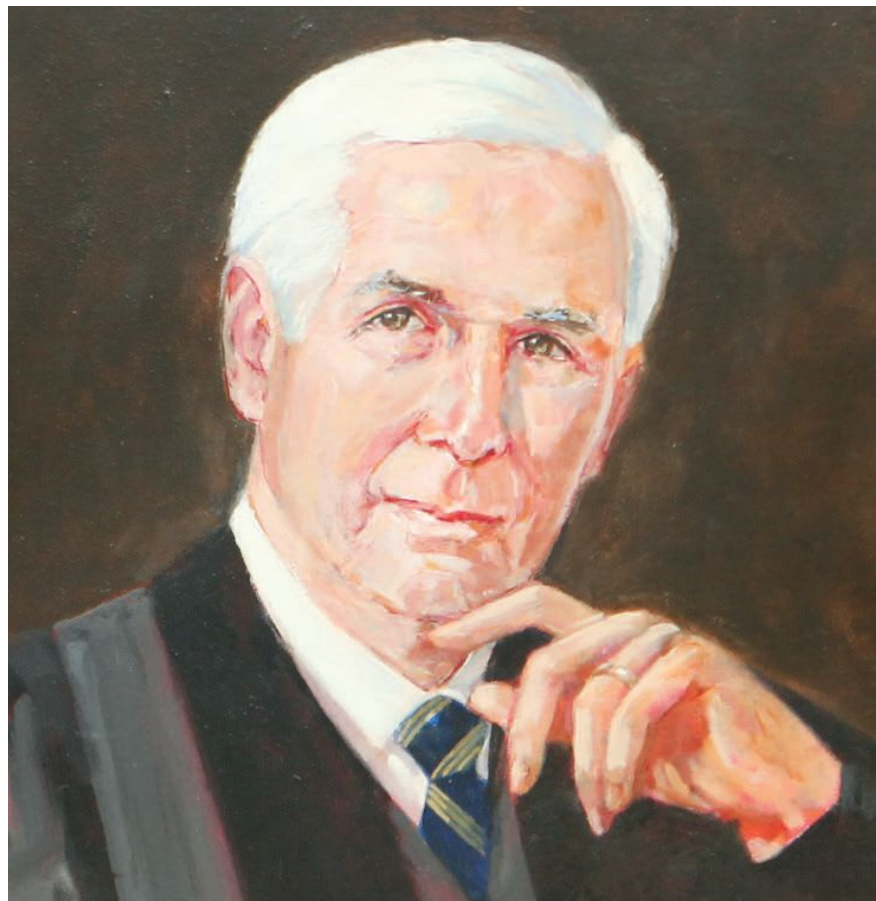


PHOTO PROVIDED BY THE SUPREME COURT OF GEORGIA

Chief Justice Thomas O. Marshall (1920-2003).

**On March 31, 1988, former Chief Justice Thomas O. Marshall** convened a Consultation on Professionalism and the Practice of Law. James T. Laney, the former president of Emory University, hosted the consultation. Thirty-five lawyers and judges attended the 1988 consultation and joined the discussion. Some of the recommendations that resulted from the consultation included: 1) the idea of a Center for the Study of Professionalism; 2) the appointment of a Special Counselor for Professionalism to act in an ongoing capacity as advisor and liaison with the Bar, and in particular with the Committee on Professionalism, to increase efforts to improve both the mettle and image of Georgia’s lawyers; and 3) the suggestion to improve the level of civility among practicing lawyers at repetitive seminars for which mandatory continuing legal education credit would be given. State Bar of Georgia Past President Cubbedge Snow Jr. summarized his recommendations for next steps after the consultation as follows:

I think that it is important that there be real encouragement for firms throughout the state to take more of an interest

in seeing that the younger lawyers do become more and more aware, not just of the technical ethical rules, but of the rules of professionalism. . . . My second thought would be that we might want to consider, through some sort of appropriate institution, the development of the Code of Professionalism. One would think that it not inappropriate for the Supreme Court itself to consider issuing such a [code], provided it was clearly pointed out that this was in the nature of aspirational goals.

In part, as a result of the 1988 Consultation on Professionalism, the Supreme Court of Georgia issued an order on Feb. 1, 1989, which stated: “In recognition of the need for emphasis upon and encouragement of professionalism in the law practice, the Court hereby creates The Chief Justice’s Commission on Professionalism.” The Supreme Court of Georgia also issued the following charge:

The Commission’s primary charge shall be to enhance professionalism among Georgia’s lawyers. In carrying out its charge, the Commission shall provide ongoing attention and assistance to the task of ensuring that the practice of law remains a high calling, enlisted in the service of client and public good.

One of the commission’s first tasks after its creation was the promulgation of a professionalism statement. After several years of work by the commission, the Supreme Court of Georgia entered an order on Oct. 9, 1992, adopting A Lawyers Creed and the Aspirational Statement on Professionalism, setting forth aspirational ideals that addressed an attorneys’ relationships with clients, opposing parties and counsel, the courts, colleagues, the profession and the public.

According to former Executive Director Avarita Hanson, the commission was responsible for spearheading several new initiatives after engaging in a series of convocations with the bench and the bar to discern professionalism issues. Some of the State Bar of Georgia programs that



PHOTO PROVIDED BY DON MORGAN PHOTOGRAPHY & VIDEO

(Left to right) Vice Chief Judge Carla Wong McMillian, Court of Appeals of Georgia; Associate Dean A. James Elliott, Emory University School of Law; and Chief Justice Harold D. Melton, Supreme Court of Georgia, speak on a panel at the Convocation on Professionalism.

## Chief Justice’s Commission on Professionalism’s Suicide Awareness Program

**TUESDAY, APRIL 28 | 2 - 5 P.M.**

3 CLE HOURS, INCLUDING 1 PROFESSIONALISM HOUR  
LIVE AT THE BAR CENTER IN ATLANTA | VIA SATELLITE  
AT THE SAVANNAH AND TIFTON OFFICES  
(ADDITIONAL SATELLITE LOCATIONS TBA)



Sally Yates

Make plans now to attend the Suicide Awareness Program, moderated by Sally Quillian Yates. The commission will highlight one of the aspirational ideals from A Lawyer’s Creed, “To my colleagues in the practice of law, I offer concern for your welfare.” Spurred by that ideal, the program will bring together a panel of lawyers and judges whose desire is to educate, inform and provide resources for all members of the profession. The live program will be broadcast to various satellite viewing locations throughout the state to encourage lawyers and judges to come together as one community and gain a better understanding of one of the great challenges currently faced by Georgia lawyers and judges.

If you are thinking of hurting yourself, or if you are concerned that someone you know may be suicidal, contact the Bar’s Lawyer Assistance Program confidential hotline at 800-327-9631. #UseYour6. Learn more by contacting CJCP at [kygrier@cjcpga.org](mailto:kygrier@cjcpga.org), or by visiting [cjcpga.org/suicide-awareness-program](http://cjcpga.org/suicide-awareness-program). •



(Left to right) A. James Elliott and Susan Cahoon, participants in the 1988 Consultation on Professionalism, return for the 2019 Convocation on Professionalism.



Thomas G. Sampson speaks on a panel during the 2019 convocation.

resulted from the commission’s work include the formation of the Women and Minorities in the Profession Committee (now known as the Committee to Promote Inclusion in the Profession), and the Law Practice Management Program. According to Hanson, “Over the years, the commission has worked with the State Bar to establish other programs that support professionalism ideals, including the Consumer Assistance Program and the Diversity Program.”

In 1993, under then-President Paul Kilpatrick, the State Bar’s Committee on Professionalism partnered with the commission in establishing the first Law School Orientation on Professionalism Program for incoming law students, held at every Georgia law school. Now in its 27th year, the orientations engage volunteer practicing attorneys, judges and law professors with law students in small group discussions of hypothetical contemporary professionalism and ethical situations. In 1999, the commission established the Justice Robert Benham Awards for Community Service to recognize members of the bench and

bar who have combined a professional career with voluntary participation in community organizations, government-sponsored activities, youth programs, religious activities or other humanitarian work outside of their professional practice or judicial duties.

On Dec. 13, 2019, the Chief Justice’s Commission on Professionalism celebrated the commission’s anniversary with the 2019 Convocation: Professionalism Then (1988) and Now (2019). Chief Justice Harold D. Melton welcomed the approximately 150 lawyers and judges who attended the convocation, which was chaired by Vice Chief Judge Carla Wong McMillian, Court of Appeals of Georgia, and Associate Dean A. James Elliott, Emory University School of Law. During the convocation, speakers and participants reflected on how the legal profession has changed over the past 30 years and explored how those changes impacted legal professionalism. Elliott and Susan Cahoon, two of the individuals who participated in the 1988 Consultation on Professionalism, also participated in the 2019

convocation. Thomas G. Sampson, who served in 1989 on the first Chief Justice’s Commission on Professionalism, also spoke.

The commission’s work to continue its legacy during 2020 has already begun. For example, the commission will honor eight individuals at the 21st Annual Justice Robert Benham Awards for Community Service on March 14. In addition, the commission will present a Suicide Awareness Program on April 28.

As the commission looks toward the next 30 years, we are excited to continue fulfilling the mandate of the Supreme Court of Georgia to provide ongoing attention and assistance to the task of ensuring that the practice of law remains a high calling, enlisted in the service of client and public good. •



**Karlise Y. Grier**

Executive Director  
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# A Renewed Commitment to Professionalism



SARAH B.  
“SALLY” AKINS

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

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 first-hand 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 professional-

ism 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

# 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.

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



**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.

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 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.” ●



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APPENDIX G

*EXCERPTS*  
*FROM THE*  
*FIRST ANNUAL*  
*GEORGIA*  
*CONVOCATION ON*  
*PROFESSIONALISM*

FIRST ANNUAL GEORGIA CONVOCATION  
ON  
PROFESSIONALISM

---

*I swear that I will truly and honestly, justly  
and uprightly demean myself, according to the  
laws, as an attorney, counselor, and solicitor,  
and that I will support and defend the  
Constitution of the United States and the  
Constitution of the State of Georgia. So help  
me God.*

ATTORNEY'S OATH, STATE BAR OF GEORGIA  
EFFECTIVE OCTOBER 14, 1988

PROCEEDINGS  
OF THE  
FIRST ANNUAL GEORGIA CONVOCATION  
ON  
PROFESSIONALISM

“THE PRACTICE OF LAW —  
IS THERE ANYTHING MORE TO IT THAN MAKING MONEY?”

Convened by Chief Justice Thomas O. Marshall

In Conjunction with  
The State Bar of Georgia

Macon, Georgia  
October 14, 1988



Edited by Michael L. Goldberg, Ph.D.

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FOREWORD	iv
PROCEEDINGS	1
Introductory Remarks	1
Professor Calvin Woodard	7
Discussion	13
Dr. Michael L. Goldberg	23
Group Reports	28
Discussion	33
QUESTIONS FOR DISCUSSION	41
INDEX	43

## *Contents*

## *Foreword*

On October 14, 1988, Georgia's first Annual Convocation on Professionalism was held in Macon. Convened by the Chief Justice of the Supreme Court of Georgia, and held in conjunction with the State Bar of Georgia, the Convocation's 120 distinguished participants, drawn from the ranks of the state's law firms, courts, law schools, and bar, were confronted with one overriding question: "The Practice of Law — Is There Anything More To It Than Making Money?"

The Convocation was made possible through a generous grant from the **Georgia Bar Foundation**. Its proceedings, which were transcribed by Brown Reporting Services, have been edited for publication by Dr. Michael L. Goldberg, Special Consultant to the Georgia Supreme Court. The publishing of these materials was made possible by the generosity of The Institute of Continuing Legal Education in Georgia.

**THOMAS O. MARSHALL**  
CHIEF JUSTICE, SUPREME COURT OF GEORGIA

CHIEF JUSTICE THOMAS O. MARSHALL

Distinguished judges, distinguished attorneys, it is a pleasure to welcome you to the convocation on professionalism. I want to thank all of you for coming here today to explore the question before us: "The Practice of Law—Is There Anything More To It Than Making Money?"

That question is not a rhetorical one. Just consider the following bits of news reported within the last few weeks:

Item: The *Atlanta Business Chronicle* conducted a survey of managing partners of law firms. The survey asked the partners to list the most serious problems facing legal practice in the next century. First on their list was "the decline in professionalism." Second was "greed."

Item: *The New York Times* carried an essay by Scott Turow, author of the best-selling novel, *Presumed Innocent*, and *One L*, an account of his experience as a first-year law student at Harvard. Turow's essay was adapted from the afterword of the new edition of *One L* and was written from the perspective, not of a first-year law student, but of a practicing lawyer with a decade of experience. From that vantage point, Turow observes that in the practice of law:

...There is a good deal of misbehavior in the profession. Suspicion runs deep through this supposed fraternity; most lawyers...will admit having been exposed, almost routinely, to conduct by other lawyers that crosses the lines of the acceptable and the ethical...

Indeed, the distrust of lawyers for one another is part of what I would call...the legal malaise. Many lawyers do not like to practice. They regard themselves as imprisoned

in gilded cages, highly paid, well regarded, and unhappy...On one side stands the adversary, of dubious ethics and limitless zeal; on the other, the client, waiting hungrily for favorable results. Together they make for a stressed-out existence of economic pressure and ceaseless competition...

Item: A story carried over the wires — and editorialized in *The Atlanta Constitution*—reported on the activities of Whitney North Seymour, the special prosecutor in the Michael Deaver case. You will recall that Mr. Seymour successfully prosecuted Mr. Deaver for illegitimately cashing in on his White House experience. He argued that high officials must adhere to higher standards of ethics.

And yet, even before sentence had been passed on Deaver, Seymour had sent letters to college campuses to promote himself as a paid speaker: “As a result of my indoctrination in the ways of Washington as independent counsel, I have developed quite strong views on how to achieve a higher standard of ethics in government.”

And Mr. Seymour’s response to charges that he has tried to capitalize on his public role by demanding from \$2,500 to \$5,000 per campus visit? His fee, he says, is “way below market.”

And that really is the bottom line here for our discussion today. Is the practice of law to be guided by the market alone?

Notice: I did not suggest — and do not mean to suggest — that market forces and economics ought not to play any role in our practice. I do ask, however, whether they ought to play the **only** role in our practice. Hence, my original question, and the question of this meeting: Is there anything more to law practice than money-making?

As I said before, so I say again. I am not asking



you a rhetorical question. If all there is to being a lawyer is making money, let us just say so and stop wasting everybody's time—and money—with all of our talk about ideals, aspirations, and professionalism. You know, the word "profession" comes from a root meaning "to avow publicly." If it is true that our profession is finally about nothing more than money-making, let us at least have the integrity to declare that publicly.

But I hope that there is more to our professional practice than that, and I deeply believe that many of you hope that, too. I say "hope" rather than "know," because at this point, that is all it is—just a hope. Sure, lots of folks, both inside the bar and out, have talked about improving professionalism among lawyers. But so far, what we have gotten for the most part is just talk. There is very little evidence to show how—or whether—such high-sounding talk can be translated into down-to-earth action.

And it is action more than just talk that we are after here today. This morning, our keynote speaker, Professor Cal Woodard of the University of Virginia, will describe what kinds of actions in the past have led to the current state of affairs in our profession. This afternoon, our breakout group moderators will help us investigate the ways in which our actions in our firms, in our courts, in our law schools, and in the bar itself affect the very character of our profession. This evening, we will reconvene under Presiding Justice Harold Clarke to determine which actions, if any, we resolve to undertake to help insure that ours remains a profession in the highest sense of calling and vocation.

In just a few moments, Jim Elliott, President of the State Bar, will share with you his thoughts and hopes for this convocation. But before he does, I personally want to thank him for his leadership and support in this effort. Furthermore, I want to thank

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Marshall

the Georgia Bar Foundation for its generous financial support in making this convocation possible.

Finally, let me once again thank all of you for coming here today to help answer what may ultimately be the weightiest legal question of our time.

Let me now turn the chair over to my colleague, Presiding Justice Harold Clarke.

**PRESIDING JUSTICE HAROLD G. CLARKE**

Thank you, Mr. Chief Justice.

Your presence here today is strong evidence of your concern for professionalism. Judge James Hill said to me earlier that talking about professionalism to this group is like preaching to the choir. But even if that is true, maybe we can turn the choir into a group of evangelists to send back out to other congregations to pull more people into the tent of professionalism.

I am pleased now to be able to present to you someone who has done a wonderful job as President of the State Bar of Georgia, Jim Elliott.

**STATE BAR PRESIDENT A. JAMES ELLIOTT**

We are really here today for at least two purposes. The first is to step back from the trees for a minute to take a look at the forest, and the kind of trees I have got in mind are those depositions that have to be taken, or those court calendars that have to be met, or those documents that have to be drafted and reviewed. The "forest" we are talking about is the forest of the legal profession and its present state.

As the Chief Justice has mentioned, the title of today's convocation suggests an answer; but as he has also pointed out, the suggested answer is **not** that we totally ignore economics. Instead, we are going to re-examine the balance that exists between our

revenue-producing activities on the one hand and our activities which produce no revenue on the other.

Not long ago, I wrote a little piece for the president's page of the *State Bar Journal*, and I got two surprises from it. The first surprise was that anybody read it. The second surprise was that of the 200 responses I received, only one came from a lawyer under the age of forty.

Now, if someone were cynical, I suppose he or she might draw the inference that young lawyers really do not care about what is going on in the profession. However, such an inference would be totally incorrect. Maybe a more accurate inference would be that those of us who are older have not devoted the time our predecessors did in emphasizing the importance of professionalism.

Of course, we all tend to say to young lawyers that public service is important. Nevertheless, one of our problems is that we also send a lot of other signals, and most of those signals say something to the contrary. Because these are bright kids coming in, they pick up very quickly that the partners who seem to be prospering are generally **not** the ones thought of as being the most public-spirited. With starting salaries now reaching \$55,000 in some Atlanta law firms, we obviously expect and demand that young lawyers be productive. But we need to persuade them that being a good lawyer entails substantially more than simply becoming technically proficient.

Most of you occupy a special place in your organization, and in that position, you have some responsibility for the economic health of the organization. But most of you also have another special responsibility; you help set the philosophy that guides the organization, the philosophy that ends up structuring the institutional personality of your firm.

*"...being a good lawyer entails substantially more than simply becoming technically proficient."*

Elliott

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Consequently, all of us here have the opportunity and the ability to have a real impact, an impact that can be positive and that can be immediate on our firms and on our courts. Earlier, I mentioned there were a couple of purposes to this meeting. In that respect, the convocation's second purpose is to leave here with a realistic plan of action that will have a major positive impact on the profession.

I'm glad you're here, and I think we have a unique opportunity to do something that is very good.

Thank you.

**JUSTICE HARDY GREGORY, JR.**

It is my privilege to introduce Calvin Woodard to this gathering of distinguished Georgia lawyers. Professor Woodard, a North Carolinian by birth, was educated at the University of North Carolina, B.A. degree; Yale, L.L.B. degree; and Cambridge University, Ph.D. degree. Although he engaged in the practice of law with Sullivan & Cromwell of New York City from 1953 to 1955, he has devoted most of his career to his talent of teaching law to others.

After teaching history for a short time at Yale, he moved to the University of Virginia in 1964, and he has taught law there ever since except for special assignments at other institutions, such as Stanford and the University of Hanover, West Germany. He is now a professor at the Virginia Law School, where he not only teaches typical law students, but also anchors the graduate program for judges. In this latter capacity, he has taught and greatly influenced approximately ten percent of the sitting appellate judges in the United States. While he has taught in the fields of legal history, legal process, torts, and

welfare state, I believe his allegiance is to the subject of jurisprudence.

Those of you who know him will appreciate the difficulty one faces in attempting in a brief introduction to convey a glimpse of the towering intellect and winning personality wrapped in the package of electrifying scholarship known as Cal Woodard. How I wish I might convey something of the charm, the warmth, the sincerity, and even the open-mindedness of this man. On the latter point, I note that Cal once gave a law examination in which he posed as the third and final problem this question: "Ask yourself—and answer—a question that you would have liked to ask in class."

Cal Woodard.

#### **PROFESSOR CALVIN WOODARD**

I want to start these remarks with the idea that we really are at a paradoxical situation. We heard at the outset a statement of the state of the profession from the Chief Justice and others which is certainly true. But now I want to ask you for just one moment to imagine yourself a man from Mars or a person from a Third-World country coming to this country and looking at our legal profession. This is what I suggest such a person might find:

Surely, the promise of American law is being fulfilled before our very eyes, for I see a nation 'under law,' neither under the invincible dispensations of a single religious faith, nor under the mandates of a single monolithic moral code. Instead, I see us under a law over which all the people are sovereign, and I see law and, therefore, lawyers playing an ever-increasing role in every aspect of

It is by doing just acts that the just man is produced. Without doing such acts, no one would have even a prospect of becoming good. Most people, however, do not do such acts but take refuge in theory and think they will become good in that way. They, thus, behave somewhat like patients who listen attentively to their doctors, but who do none of the things that their doctors prescribe. As these people will not be made well in body by such a treatment, others will not be made well in soul by such a diet of theory.

May your discussions today produce the kind of remedies that will actively nourish both the body and soul of your profession.

*(The two breakout sessions were then held; six breakout groups met during these sessions, which lasted over three hours. Following the session, the convocation as a whole was reconvened.)*

#### **JUSTICE CLARKE**

I was asked to listen to what the six group leaders had to say when they came out of your meetings and to attempt to bring together some brief statement of what might be called a consensus.

The first breakout session, you remember, was for the purpose of considering whether there is anything more to law practice than just making money. I can report to you that the consensus is: "Yes, there is more." I can report to you also that the consensus is that, nevertheless, it is necessary to make some money. We do have obligations to ourselves and our families, and as a matter of fact, it

was the conclusion of at least one group that lack of money can sometimes be the cause of lack of professionalism.

Several of the groups arrived at this conclusion: things are not as bad as they are sometimes perceived to be. Perhaps we always think things are a little worse than things used to be, because we yearn for the good old days. But maybe the good old days were never as good as we thought. Nevertheless, even if we are not as bad as we sometimes think we are, appearances are important. We live in the age of the image, and we cannot ignore what our image might be. We face criticisms, and we must be able to respond to the criticisms. The response that I hear from the six breakout groups was that we need to do better.

One of the things that was pointed out is that law practice has become too impersonal. There is a lack of acceptance of personal responsibility for the acts of the lawyer; there is a lack of personal relationship between the lawyer and the client; there is a lack of personal relationship between the lawyer and other lawyers. This theme seems to have been an important thread that ran through the various groups.

Lawyers have become in some instances too anonymous. Now, that is not to say that they ought to try to get a lot of publicity, but at least they ought to be human beings in the eyes of their clients. Part of the reason for that condition is a lack of time. One group said that lawyers do not even have time for themselves; in that group's words, "Lawyers have become anonymous even to themselves."

What are some of the means, then, to overcome these problems? One of the groups came up with a character profile of a good lawyer. I have listed the characteristics given by that group, and I have added to them some of the characteristics listed by other groups.

*"...law practice  
has become too  
impersonal. . .  
Lawyers have  
become. . .too  
anonymous."*

Clarke

*Character  
Profile  
of a  
Good Lawyer*

- ❖ First, a lawyer should be honest and truthful.
- ❖ Second, a lawyer should be competent in the area of his or her own practice, but also knowledgeable in other areas of practice in order to be able to help clients find other lawyers competent in those areas.
- ❖ Third, a lawyer should be courteous as well as zealous in the representation of the client. Here, we pick up over and over again the idea that we need a greater degree of civility in the practice of law.
- ❖ Fourth, a lawyer should be fair and ethical.
- ❖ Fifth, a lawyer should be reliable.
- ❖ Sixth, a lawyer should have a social conscience. That means that lawyers ought to be dedicated to service to the public and to society. Lawyers ought to be willing to take up an unpopular cause or to engage in pro bono work even when it is unpleasant or costly, or both.
- ❖ Seventh, a lawyer should be willing to exercise independent judgment; that may mean a confrontation at times with the lawyer's own client.
- ❖ Eighth, a lawyer ought to think positively about the profession.

At that point comes another observation made by several of the groups: law practice is somehow just not as much fun as it once was.

Last, the groups felt that there is a difference between ethics and professionalism; ethical conduct is the minimum standard demanded of every lawyer while professional conduct is a higher standard that is expected of every lawyer.

Now let me turn to the reports coming out of the second breakout session, "How Can Professionalism Be Institutionalized?" Each of the groups seem



to have uniformly divided the focus of their discussion into four parts: law schools, law firms, the bar, and the courts. I will take the law schools first, because that is where the prospective lawyer arrives first.

Among those things suggested by the groups is that there ought to be courses on professionalism, which ought to be taught by one of the top members of the faculty, somebody recognized as being an outstanding faculty member. Furthermore, there ought to be a program of lawyers-in-residence at law schools, consisting of practicing lawyers or even judges, who would come to the law school and spend some considerable period of time there to meet informally with students and discuss what real lawyering is like and what the obligations of the lawyer might be. Along similar lines was a suggestion for law schools to organize an American Inns of Court; one has in fact already been formed in this state. The NITA programs were also felt to be important as settings in which lawyers and students can get together to study a system of trial practice. Finally, it was suggested that law schools ought to encourage externships as a way of encouraging the interaction between the students and practicing lawyers.

Concerning law firms, some of the things suggested include: in-house seminars on professionalism; pro bono work; credit for billable hours for the pro bono work performed by associates; having partners as well as associates engage in pro bono activities; and hiring on the basis not only of grade point average and class standing, but also according to criteria pertaining to an individual's aspirations and character.

A strong suggestion coming from every group was that law firms ought to institute mentor programs. The older lawyers ought to make themselves

*"...ethical conduct is the minimum standard demanded of every lawyer while professional conduct is a higher standard that is expected of every lawyer."*

Clarke

*“...law firms ought to institute mentor programs. The older lawyers ought to make themselves available to the associates as . . . ‘heroes.’”*

Clarke

available to the associates as counselors, role models, or even, according to one word that kept recurring, “heroes.”

There were other suggestions, some of which were very innovative. For instance, there was some conversation about the possibility of abolishing the whole idea of billing by the hour in favor of returning to value billing.

Also suggested was the encouragement of bar activities. Involvement in those activities provides the opportunity to meet and be with other lawyers so that as a result of such interaction, lawyers can begin to recognize the mutual problems they share.

Regarding the institution of the bar itself, comments were made that local bar associations ought to be more active; there ought to be more meetings so that lawyers would not be anonymous to one another. An important suggestion was that young lawyers who are not in law firms should be given an opportunity to have the involvement with older lawyers through mentor programs instituted by the State Bar or by local bars. Older lawyers interested in helping could be invaluable there, even if they are retired older lawyers.

Finally, concerning the courts, interesting things were also suggested. Trial judges might do well to call lawyers into chambers to correct them privately when they see them engaging in unprofessional conduct. Similarly suggested was that trial judges could also praise lawyers privately who engage in exceptional professional conduct.

Additionally, the suggestion came from several of the groups that the courts ought to be more active in their enforcement of professional conduct, but that in doing so, the courts ought to be consistent.

Court encouragement of pro bono activities was also mentioned repeatedly. That idea is obviously very much on our minds regarding the need to

institutionalize professionalism.

Last, the suggestion was made that the courts may have fostered unprofessional activities by deciding too many cases on technical grounds so as to encourage the lawyers to "blind-side" one another. Consequently, we in the court system ought to be careful not to elevate form over substance.

In sum these were a few of the major points that I perceive coming from the discussion groups.

**JUDGE ROBERT E. MCDUFF**

May I make this motion from the floor, Mr. Justice? It seems in order. I believe you have distilled the thinking of the convocation in very fine fashion, and I would move that your remarks be adopted as a report of this convocation and sent on to the State Bar for its consideration and further action.

**JUSTICE CLARKE**

If there is no discussion, those favoring the motion say, "Aye!"

The "Ayes" have it; the report is adopted, and we shall send it to the State Bar for consideration.

It has come to my attention that there are people who would like to offer comments and recommendations at this time. I recognize Ben Weinberg.

**MR. WEINBERG**

Our group had a very interesting afternoon, and I know of two or three things that I plan to attempt to inaugurate in our firm, one of which is the enhancement of our existing mentor program.

Another thing that I intend to recommend to the

**JUSTICE CLARKE**

Gene Mac Winburn.

**STATE BAR PRESIDENT-ELECT  
GENE MAC WINBURN**

I think we would miss an opportunity if we did not provide some continuity. While it is good to have things to take back, I think it is most important that we continue moving forward; therefore, I move that we do this again.

**JUSTICE CLARKE**

You have heard the motion. Is there a second? I heard a second. Any opposed? All in favor say, "Aye!" The motion carries. Thank you very much.

And now, I would like to present to you my good friend and colleague, Justice Charles L. Weltner.

**JUSTICE CHARLES L. WELTNER**

In the second year of George II, which was four years before the founding of the Colony of Georgia, namely, in the year 1729, Parliament passed an act to regulate attorneys and solicitors. The regulation contained in that act of Parliament was a requirement that every attorney and every solicitor take a prescribed oath.

The words of that oath were as follows: "I swear that I will truly and honestly demean myself in practice as an attorney...." That became the oath in our state until some time in the first quarter of the nineteenth century, when it was changed to contain the words of our present oath, the oath that each of you took upon admission to the bar. That oath for some reason contains, instead of the words "truly

and honestly," the words "justly and uprightly."

Some months ago at a consultation on professionalism held at Emory University, Judge Griffin Bell commented upon this and suggested that perhaps it might be a good idea to take those words "truly and honestly" and put them back into the oath administered to lawyers in our state. So I have the pleasure to announce to you that on September 28, 1988, the Supreme Court of Georgia adopted a new oath, and that oath reads as follows: "I swear that I will truly and honestly, justly and uprightly demean myself...." Interestingly enough, my friends, the effective date of that order was today, October 14, 1988.

**JUSTICE CLARKE**

Ladies and gentlemen, you have heard the new oath, and, of course, that now will be the oath that will be administered to all of the new admittees to the Georgia Bar.

However, it occurred to us on the Court that after having had a day such as we have had today, this might be a good moment for each of us to affirm our commitment to truthfulness and honesty by retaking the oath as it is now constituted and as it was more nearly constituted back some 200 years ago. So while each of you now is handed a card containing the oath, I call on the Chief Justice to come forward and administer the new oath to himself and each of you.

**CHIEF JUSTICE MARSHALL**

I want to make sure that everyone has a copy of the oath, and I might mention as a point of personal privilege, that as this is my fortieth year as a member

*"...on  
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oath."*

*Weltner*

*I swear that  
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and uprightly  
demean myself  
... as an  
attorney. . ."*

Attorney's Oath

of the Georgia Bar, it is a great privilege for me to be here tonight and to have this opportunity to administer this new oath to each of you who is willing to recommit yourself to the virtues and values expressed by it.

I therefore ask that the members of the Georgia Bar stand and raise their right hands and join me in taking this oath, repeating after me.

I (Your Name) swear that I will truly and honestly, justly and uprightly demean myself, according to the laws, as an attorney, counselor, and solicitor, and that I will support and defend the Constitution of the United States and the Constitution of the State of Georgia. So help me God.

Congratulations to each of you. At the request of the Presiding Justice, I hereby adjourn this meeting.

1. Though the convocation participants constantly referred to the need “to improve professionalism” and even gave a definition of professionalism, they gave few, if any, specific examples of what might constitute unprofessional conduct. What kind of actions or behavior would you deem “unprofessional”?
2. The convocation participants continually invoked the notion of “mentor” as a way of improving professionalism. In your judgment, how applicable is that notion to current law practice, given the size of your practice and the time pressures you face?
3. Of the four institutions comprising the framework of law practice, i.e., law firms, law schools, courts, and the Bar, which one do you believe can have the greatest impact in fostering professionalism? Why?
4. Which two or three actions by the legal profession do you judge to be absolutely crucial if it is to preserve a sense of professionalism?
5. If professionalism includes service “to the public good,” how specifically ought lawyers to provide such service? More basically, what, in your view, constitutes “the public good”?
6. Many of the speakers at the convocation seemed to indicate that professionalism has declined in recent years. However, several of the participants at Macon took a contrary view, claiming that while most lawyers’ commitment to professionalism has remained unchanged over the years, the public perception or public image of lawyers has undergone a drastic change. What is your

*Questions  
for  
Discussion*

opinion on the matter, and given your answer, what steps do you think the organized bar ought to take?

7. Many, if not most, of the people who claim that professionalism has declined lay the blame on changes in the economics of law practice that occurred during the 1970s. Is economics the sole factor at work, or are there others that you would cite as well?
8. As the convocation stressed, the idea of professionalism suggests certain images for lawyers, while implying various professional ideals. Name some lawyers, either real or fictional, who embody a professional ideal for you, making sure to articulate which specific ideals they embody.



SPEAKER	PAGE(S)
Hon. Dorothy T. Beasley .....	14
Professor Lief H. Carter .....	13
Hon. Harold G. Clarke .....	4, 13, 22, 28, 33, 39
Mr. William F. Cummings .....	18
Dean C. Ronald Ellington .....	35
Mr. A. James Elliott .....	4, 37
Hon. Hilton M. Fuller, Jr. ....	34
Dr. Michael L. Goldberg .....	23
Hon. Hardy Gregory, Jr. ....	6
Ms. Avarita Hanson .....	17
Hon. Harold N. Hill, Jr. ....	15
Ms. Phyllis J. Holmen .....	21
Hon. G. Conley Ingram .....	20
Hon. Thomas O. Marshall .....	1, 40
Hon. Robert E. McDuff .....	33
Professor Roy M. Sobelson .....	36
Mr. Ben L. Weinberg, Jr. ....	19, 33
Hon. Charles L. Weltner .....	38
Mr. Gene Mac Winburn .....	38
Professor Calvin Woodard .....	7, 14-21

*Index*