



2016
*Tradition of Excellence
Awards*



(L-R) Chairman, William F. “Trey” Underwood, III presents the 2016 Tradition of Excellence Awards at the Section Breakfast June 17th at the Omni Amelia Island Plantation Resort to Judge Michael L. Murphy, Buchanan (judicial); John W. Timmons, Athens (general practice); John A. Dickerson, Toccoa (defense); and William S. Stone, Blakey (plaintiff)

MARK YOUR CALENDAR NOW



**for the
17th Annual
GENERAL PRACTICE
and
TRIAL SECTION INSTITUTE**

MARCH 16, 17, 18, 2017
to be held at
King and Prince Hotel
St. Simons Island

Chairman: William F. "Trey" Underwood, III

CALENDAR CALL

"Georgia's Largest Law Firm"

GENERAL PRACTICE AND TRIAL SECTION STATE BAR OF GEORGIA

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LETTER TO THE MEMBERSHIP FROM INCOMING CHAIRPERSON:

Kristine Orr Brown



I am honored to serve as Chairman of the State Bar of Georgia's General Practice and Trial Section this year. It has been a true privilege to serve on this board since 2009. I have learned much from past Chairmen, fellow board members, and Executive Director Betty Simms, and hope to continue the Section's good works during the current year. Thank you to Trey Underwood for his excellent leadership last year. The Section membership appreciates all the time and energy Trey dedicated to ensuring the Sections continued success.

I have benefited greatly from membership in this Section. When I joined my father's

Gainesville law practice in 1995, it was truly a "general" practice. Over the years, he had handled cases from divorce to zoning to employment law to personal injury, and the list goes on. While my practice is now largely specialized in employment law, membership in the General Practice and Trial Section is beneficial for multiple reasons. The Section offers a very strong seminar schedule concerning trying cases and a variety of seminars concerning specific areas of the law. The Section also offers an annual seminar for those new to the practice of law. Section membership is diverse as to areas of law practiced and location in the state. Getting to know attorneys from around the state who one might not otherwise meet through specialized groups or list-serves provides a great resource when one needs to refer a potential client or is faced with a situation in one of his or her cases that is outside that attorney's normal practice area(s). The Section provides a great vehicle for presenting legislative proposals to the State Bar seeking its support for legislation. The Section also provides an opportunity for pro bono work through its yearly Ask-A-Lawyer Day event in which attorneys volunteer to

assist individuals who Georgia Legal Services ("GLS") is unable to assist due to the legal matter involved or the lack of available resources. Many people throughout the State who otherwise would not have the opportunity to receive legal advice are helped by the volunteers. This year, Ask-A-Lawyer Day will be held on October 27, 2016 in each of the cities in which GLS has an office, as well as Young Harris and Valdosta. The areas of law being covered this year are: records restrictions, family, consumer, and landlord tenant.

During the course of the year, I hope to increase membership use of the Section listserv. Like me, many members may not have known that we have a listserv because it has not been utilized. However, I believe such a listserv could be helpful to many section members. Joining this section is very affordable and the listserv would economically provide access to a wide-ranging group of attorneys for purposes of advice or referrals. Access to attorneys experienced in so many areas of the law is likely not possible through practice specific listserves. The Board is beginning the process of creating listserv guidelines and updating membership access. I look forward to reintro-

ducing the listserv upon completion of those tasks.

The Board also plans to submit a survey to the membership concerning preferences for the annual Trial Institute, including questions regarding location and the factors considered in deciding upon attendance. We hope that the results will better enable the Section to plan the Institute in the way that best satis-

fies the membership's needs.

I would like to conclude by congratulating this year's Traditions in Excellence winners, John Dickerson, The Honorable Michael Murphy, John Timmons, and Bill Stone. It was such a pleasure attending the Tradition of Excellence Breakfast at the State Bar Annual Convention and getting to hear the wonderful personal stories about these

gentleman. One can learn much from such accomplished lawyers. I encourage all members to attend this event in the future.

I am looking forward to the year ahead. Please contact me at kbrown@orrbrownandbillips.com or 404.492.8686 if you have any suggestions or questions regarding the Section.

EVENTS TO WATCH FOR

January 6, 2017

**The General Practice and Trial Section
Mid year Luncheon**

to be held at the Ritz Carlton Hotel in Buckhead

January 13, 2017

Jury Trials

Co-Chairs Rob Register and Nick Pieschel

March 16-18, 2017

**The 17th General Practice and Trial
Section Institute**

to be held at the King and Prince Hotel, St. Simons Island.
Chair Trey Underwood

William F. Trey Underwood, III
Section Chair



REMARKS FROM OUTGOING CHAIR

Tempus Fugit: The English translation for this Latin phrase is “time flies.” There is a clock in my house which my grandfather built, and the clock bears this Latin phrase. Tempus fugit aptly describes my time as the Chair of the General Practice and Trial Section. The past year has passed quickly. When I first became Chair of the Section at last year’s annual meeting, I was honored but felt a bit overwhelmed. Fortunately, our Executive Director, Betty Sims, and my fellow Board members made the job of chairing the section one of relative ease.

Through the efforts of Paul Painter and Georgia Legal Services, the Section’s annual Ask a Lawyer day was again a success and put Georgia lawyers in touch with many citizens unable to otherwise afford legal services and in need of legal help. Originally founded by former Chair, Pope Langdale, the Section’s Ask a Lawyer day has become a staple event that proves to be ever more successful each year. Our current Chair, Kris Orr Brown, Paul Painter, and the rest of our Section’s members, as well as Georgia Legal Services, are already working toward making this year’s event even better. This year’s Ask a Lawyer Day is scheduled to take place on October 27, 2016. If you have participated in the past, you know what a rewarding experience

it can be, and, if you haven’t participated previously, I would encourage you to participate in this worthwhile pro bono project.

Like clockwork, our Section once again this year sponsored and co-sponsored a number of well attended continuing legal education seminars. Immediate Past Chair, Nick Pieschel put together a great lineup of speakers at this year’s General Practice and Trial Section Institute at Amelia Island. Rob Register, our new Secretary/Treasurer, served as Chair of our popular Jury Trial seminar once again, and the attendance at that seminar was better than ever.

Rather than returning to Amelia for 2017, I have opted to return the Institute to the King and Prince at St. Simons. It is scheduled to take place March 16-18, 2017. I hope to be able to continue the tradition of excellence for the seminar set by Nick and other past Chairs. If you have previously attended the Institute, you are familiar with the excellent presentations and speakers. If you haven’t attended previously, or if you have, I hope you will join us in St. Simons for 2017. The Institute allows for 12 CLE hours just prior to the deadline for submitting CLE hours for the year.

Undoubtedly, the highlight of my time as Chair was being able to present our Tradition of

Excellence Awards to this year’s recipients, Judge Michael Murphy, John Timmons, Bill Stone, and John Dickerson. The Tradition of Excellence Breakfast is always an inspiring morning. The “war stories” told by the recipients and their introducers always give the audience a refreshing stimulation to go back out and continue the fight for our clients. This year’s breakfast proved no different.

Lastly, I would like to thank my fellow Board members, Immediate-Past Chair Nick Pieschel, and, of course, Betty Sims, without whom our Section could not thrive. It has truly been an honor and privilege to serve as the Chair of this Section. I was humbled to be able to lead a great group of attorneys. Fortunately, I know our Section is in good hands going forward. Kris Orr Brown has already taken over the reins and is settling in as the current Chair. Paul Painter and Rob Register will follow Kris and, without question, continue the tradition of excellence of our section.

DEFENSE



JOHN A. DICKERSON

Introduced by
Dennis Cathy

Tradition of Excellence Award

Good morning, everyone. I am here to introduce a titan of the Northeast Georgia Mountain Circuit Bar - my friend John Dickerson. I was going to commence this talk by recognizing the eminence and prestige of the august luminaries who are present here but there are so many of them if I referenced all of them I would not have time for my talk and if I didn't reference all of them someone's ego would be bruised. As a matter of fact, this room has never before seen this infusion of ego with the possible exception of the one time when Steve Spurrier was in this room and ate alone. But I do look around and recognize so many people who have been so instrumental delivering civil and criminal justice to the citizens of the State of Georgia. Among the people here who are to be given the highest accolades are those who have heretofore received the Tradition of Excellence Award. It is truly the cast of a hall of fame of the State Bar. The General Practice and Trial Section of the State Bar is to be commended for creating this recognition and it brings together friends and colleagues who can say on this one day at this unholy hour "thank you, we honor you and we respect you."

Today, my friend from Toccoa, Georgia, will join that pantheon of legal legends. He has already received many honors, about as many as one man can have, but I hope this one will be a little special to him.

When John received this award he called and asked me if I would present the award to him. I said to him "John, for the last 30 years you have made me your lackey in courtrooms throughout North Georgia so how can I say no?" John and I started practice at about the same time and we are about the same age and both of us practice in the Mountain Judicial Circuit. There is a physical barrier between our two counties known as Currahee Mountain. For some of you who might not know that was the training ground of the revered and historical Band of Brothers of World War II. There was also the gulf of philosophies between a plaintiff's lawyer - the good guys of which I represent - and the defense lawyers - the black hats, who John has made a career of representing. Now don't get me wrong, John has done lots of work other than insurance defense work. He has been renowned for his work in municipal law representing a wide as-

continued on next page

Introduction for John A. Dickerson

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sortment of cities and towns in North Georgia including my home town Mountain City for which I am eternally grateful. However, we saw each other mostly in the world of plaintiff versus defendant. I often introduced John to my children as "Kids, here is a man who is trying to keep you from going to college."

Let me tell you a little about John as a man and as a person who is unsurpassed in character. A little history: John was born in Hartwell, Georgia, and he is the son of the late Fay and Laura Elizabeth Dickerson. Fay was the John Deere dealer in Hart County and there are still stories out there of a young Dickerson boy - probably too young to drive - delivering one of the John Deere tractors out to the farms of the tractor customers. No low boy trailer here. John Dickerson would simply jump on the John Deere tractor and drive it on the public roads out to the farms. The rumor is that is how he got his unparalleled knowledge of the Rules of the Road which he trots out to his client's advantage oftentimes. Also, it was in the hard scrabble terrain of Hart County that he fell in love with Paula Merat. They became sweethearts in junior high and high school and eventually because of some unremembered coercion he convinced Paula to become his wife. It's often said that behind every successful man there is an astonished mother-in-law and Paula's mother, Mrs. Merat, was no exception - that's a joke; she loved him. Johnny went off to Clemson University across the river in South Carolina and there he achieved everything that an undergraduate could possibly achieve. He was president of the student senate, he was president of Blue Key, he was president of his fraternity - but let's face it - it was just Clemson. He overcame the impediment of having attended Clemson and sought redemption at the Lumpkin School of Law at the University of Georgia where miraculously his achievements continued. But, alas, he remained a Clemson Tiger who bleeds orange.

In 1972, he became an associate at the law firm of McClure, Ramsay & Struble and has been a named partner at McClure, Ramsay, Dickerson & Escoe for the last 44 years. I realize that by just looking at him you do not think that it is possible that he has been at it that long! In this day and time with the fluid movement of lawyers in the eternal quest for a bigger and better deal it is quite unusual for someone to stay with a practice, demonstrate their loyalty and become a solid part of the community like John has done. John's contribution to the civic and professional world is hard to grasp, especially when we consider the eclectic nature of it. He has been instrumental in the Mountain Circuit Bar and he has been the past chair of the administrative board of the First United Methodist Church of Toccoa. That's another common denominator between me and John - we are both Methodists. John was president of the City Attorneys' section of the Georgia Municipal Association and served a hitch as a member of the disciplinary board of the State Bar. He has been a director of the Georgia Chamber of Commerce; he has been a past chairman of the parents' council at Presbyterian College; he has been on the statewide Judicial Evaluation Committee; and he has received the Chief Justice Thomas O. Marshal professionalism award as well as the Robert B. Struble professional award. He is a member of the Old War Horse Club; he is recognized as a Georgia Super Lawyer; he is an Eagle Scout; he served as past president of the Toccoa Little League; and he has been elected into membership of the American College of Trial Lawyers - pretty heady stuff for an old tractor delivery boy. We up here in the Mountain Circuit are very proud of him.

I've never heard anybody say a bad word about John Dickerson and I've never heard one person utter a word of envy or jealousy about him. What a thing that can be said about a man in this day and time. I can say this to

him here now and not at the Acree-Davis Funeral Home in Toccoa.

He and Paula have three children. Allen and his wife Kim live in Marietta. Allen works for the Georgia Municipal Association and they have a daughter Merat - named after her mom's family and son Johnny named after his old grandpa. They call Johnny the "Tornado" also like his old grandpa. The second son, Corey, and his wife, Jennifer, live in Jefferson where Corey coaches football and Jennifer teaches. Corey and Jennifer have two children as well. Another boy and a girl - Will and Madison. Of course, there is the third son that I know the best of all and that's his son David who practices with the firm of Whelchel Dunlap in Gainesville following in his daddy's footsteps by doing a lot of medical malpractice defense work. He and his wife Misty have two daughters, Emily and Ansley Grace. In talking to David about his dad he said: "Now that all us boys have children, we can fully appreciate how our daddy never missed a tennis match, a track meet or a baseball game. Now I know how daddy did it. He would go to that office at 5:00 in the morning and stay as late it took in order to be there for us and our events. I know now how he did it. We all had sports heroes when we came up and we realized early on - the three boys - that we'd never be sports figures so our hero vision changed from the Bobby Hurleys and the other Duke basketball players to our own dad who was right there in our house."

For the past 28 years John has been working with his main paralegal Darlene Cordell who is indispensable to John. What does that say - 28 years in the pressure cooker of litigation practice? Darlene's only comment was, "We know how to take care of each other, but he tells me he's way too dependent on me."

I solicited some comments from our two Superior Court judges who are active right now by saying, "Look I'm gonna talk about John, how about giv-

ing me a comment or two?" Of course, knowing my irreverence, they both figured they'd better say something pretty nice. Judge Chan Caudell: "Every encounter I've had with John Dickerson in the almost 25 years I've known him have been memorable. The experience is memorable because of John's remarkable command of the facts and law that apply to the dispute. That talent combined with his ability to recognize the strengths and willingness to concede the weaknesses of his case make him an example I wish all young lawyers could model themselves after." These are the comments from Superior Court Judge Rusty Smith: "John is the consummate professional. He is one of the lawyers that you think of if you read the State Bar's aspirational statement on professionalism. From a judge's standpoint, John is a problem-solver. In every conference we have ever had he always says 'Judge, let's make this easy' and he proposes an imminently fair solution that everyone else has overlooked. I've never seen him waste one second of time looking to

blame opposing counsel no matter how difficult they may be. With John there are no contentious discovery or scheduling disputes; I've never seen him become angry; he is courteous and kind to everyone. He also takes every opportunity to contribute to the profession and to our community."

According to Robert Struble, John's former partner who later became a Superior Court Judge in 1982, when he told John he was going to accept the appointment to the Superior Court bench John expressed concern in his own abilities, worried that he was too young and too inexperienced, and was afraid he couldn't handle all the litigation on his own. The Judge replied "John, if you weren't ready, I wouldn't be leaving this firm." Boy, was he ready!

I leave you with this: as an observer of the State Bar of Georgia for all these many years, I could name no person who has such a combination of energy, dignity, grace, professionalism and competence as John Dickerson. He's a good citizen, a good husband, a good father, a good colleague and

a really good man. From a personal standpoint, when I thought about that which impresses me most about John Dickerson, over and above the things I've already told you about him, one character trait came to mind and that is the respect and deference he gives the other litigants in the case and not just the lawyers. John projects the feeling that while there may be differences of opinion about the facts of the case, he is ever mindful that he is often dealing with a human being who has suffered great tragedy and loss. Even though he never compromises his client's position, he treats other people with such courtesy and dignity that the process is more tolerable for *everyone* involved. And, some of you lawyers know what I am talking about - it makes my job a lot easier dealing with my own clients and for that, John, I am eternally grateful. He is a man who has a heart and understands that you can use that heart without compromising your position in any way. I am proud to be a friend of John Dickerson.

Remarks by John A. Dickerson

Thank you, Dennis. I am humbled and honored to be the recipient of this award. I know and/or have worked with the vast majority of lawyers who are past recipients of this award. To be on the same page with these extraordinary members of the Bar is mind-numbing.

Deputy Attorney General Sally Yates recently reminded us of our responsibility at a recent commencement address when she said, "Whether it's resolving a civil dispute, or ensuring that an individual criminally accused is afforded his rights or is fairly prosecuted citizens of our country can't obtain justice without lawyers."

Justice in our world requires lawyers.

I would be remiss if I did not recognize my wife and my family. I have three sons, three daughters-

in-law, and six grandchildren. My wife and especially the children as they were growing up were tolerant and understanding of the demands of the trial practice. Time and time again my wife has had to put up with me waking up in the middle of the morning during a trial week struggling to find out how to deal with a particular piece of evidence. She knew when to be circumspect when I lost a big case. She knew that the end of a long trial didn't mean a night on the town, but rather meant falling asleep in the chair during the evening news.

Even though my name will be on the list and my name is engraved on this plaque, none of this would have been possible without Paula's support win or lose. Thank you, Paula. Thank you, Alan, Cory, and David, and thank all of you.

GENERAL PRACTICE

JOHN W. TIMMONS



Introduced by
Jennifer Riley

Tradition of Excellence Award

The County Seat Lawyer:

“He resolved problems by what he called ‘first principles.’ He did not specialize, nor did he pick and choose clients. He rarely declined service to worthy ones because of inability to pay...He never quit. He could think of motions for every purpose under the sun, and he made them all. He moved for new trials, he appealed; and if he lost out in the end, he joined the client at the tavern in damning the judge – which is the last rite in closing an unsuccessful case... The law to him was like a religion, and its practice was more than a means of support; it was a mission.”

The Honorable Robert H. Jackson, 36 A.B.A. J. 497 (1950).

I am so pleased to be here with you this morning and to have the honor and the privilege to introduce, my step-father and a man who truly personifies Justice Jackson’s County Seat Lawyer: John Timmons, this year’s recipient of the Tradition of Excellence Award in General Practice.

In preparation for this speech, I realized I needed to learn something about the award John is receiving. I read every introduction

of every recipient from 2001 to the present, and what I learned is this: The awards that are being given out this morning are a very big deal.

They require:

- a minimum of 20 years of outstanding achievement as a lawyer,
- a significant contribution to continuing legal education and the Georgia Bar,
- a record of community service, and

- a personal commitment to excellence.

The past recipients are a who's who of Georgia lawyers: Judge Griffin Bell, Chief Justice Norman Fletcher, Justice George Carley, Frank Jones, John Marshall, Buddy Darden, Cathy Cox. The list is long.

There are currently 45,000 members of the Georgia State Bar – give or take a few. There were four people selected for the Tradition of Excellence award in 2016. I am a lawyer, not a mathematician, but that puts this year's recipients in a very elite group.

In 2004, during an introduction of his brother (John C. Bell, Jr.) for the Tradition in Excellence Award for the Plaintiff's Bar, David Bell said that there are three questions you should ask in assessing a recipient for the Tradition in Excellence award:

"Is the profession better?"

"Have you helped people?"

"Does the community benefit from what you did?"

Considering these questions, no one is more deserving than John:

- He has bettered the profession through his unflinching commitment to integrity and passionate advocacy on behalf of his clients, irrespective of their circumstances or place in the world,
- He has not turned away clients because they cannot pay or because their causes – or they – are not popular, and
- The community as a whole has been the beneficiary of his tireless dedication to public service – from his service in the Marines to his service to the Bar.

John grew up in Atlanta on East Andrews - a formerly sleepy street whose homes, which once housed families, today house shops and restaurants.

He played in the fields that now lay beneath Lenox Mall and in the 7th grade, was the RL Hope Elementary

School patrolman responsible for controlling the traffic light at the intersection of Peachtree and Piedmont. This made him a very important person – even back in those, quieter days.

John relocated up North - to Charlottesville - to attend undergrad at the University of Virginia on a full academic scholarship. He came home to Georgia in 1967 to attend law school at the University of Georgia.

While he had many scholarly achievements at the University of Georgia, John seems to be most proud of the organization he founded while at UGA: The University of Georgia Rugby Football Club. He was its first president and is an honorary life member. Also, for years, he got free beer at the Landsdowne Road Pub. *John has always understood the importance of finding the fun in the serious.*

John graduated from Law School in 1970 and after taking the Bar Exam, John went on active duty. He earned a commission in the United States Marine Corps as a Captain, attending the Basic School at Quantico and then the Naval Justice School at Newport, where he qualified as a judge advocate. He was assigned to the Third Marine Division on Okinawa, where he served as prosecutor and defense counsel trying numerous general and special courts-martial.

John returned to civilian life in 1973, locating in Athens where he continued his role in public service as the assistant director of the Legal Aid and Defender Society at the University of Georgia School of Law (which, at that time, he tells me, served as the public defender's office).

In 1976, John entered private practice in Athens – and he has been an inspiring member of the legal profession and Athens Bar for the past 40 years. Over those years, he has represented every type of client, in every type of case from capital murder to underage possession (which you can imagine, in Athens, can keep you

quite busy...).

John has been lead counsel in over 200 jury trials and has tried cases in more than twenty counties in Georgia and the Middle and Northern Federal Districts. He has been the recipient of many awards and accolades. In addition to this prestigious award, John was selected by his peers as one of Georgia's Top Lawyers for criminal law in 2014.

John has also served in a number of leadership positions in the legal community:

- He is the past chairman and trustee for the General Practice and Trial Section of the State Bar of Georgia,
- A trustee for the Institute of Continuing Legal Education in Georgia,
- A fellow of the Lawyers Foundation of Georgia,
- The past president of the Western Circuit Bar Association, and
- The past president of the Marine Corps Association of Georgia Lawyers.

I could go on and on.

In 1998, I got to experience, firsthand, John's passion, commitment to his clients and unflinching integrity when I clerked for him during the summer between my first and second years of law school. John allowed me to tag along when he went to court and met with his clients, and I observed as he worked through the details of a case and spent endless hours in preparation for a hearing or an important meeting.

That summer, I learned an incredible amount about the ins and outs of what it takes to be a successful, practicing lawyer. But, I also learned something perhaps more important - a lesson that I think is universal whether you are a solo practitioner, a lawyer in a big firm, or are working as in-house counsel, like me. The law is hard work. It's a commitment. It is not always going to be fun, and it is rarely – very rarely – ever glamorous.

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Introduction for John Timmons

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It's often late nights, a slog of details and deadlines, and demanding clients. And, if you want to succeed and still be standing - and smiling - 40 years into your career, you have to approach it with passion, continuous curiosity, and the enthusiasm of a first-year law student. That, I think, is why John is here today - he has a passion, curiosity and enthusiasm for his work and his clients that is truly remarkable and inspiring.

Watching him inspired me and may very well be why I am here today. And, I am not the only one. In preparing for this speech, my mom told me about an email John received from an attendee at a professionalism CLE at which John spoke. The lawyer wrote:

"I have felt somewhat disconnected from the profession lately given my hours, commute, personal life, etc. I just wanted to say thank you for your talk on professionalism. It has inspired me and reminded me why I chose to become an attorney in the first place. I plan to take a more active role in the profession and to get more involved again as I was when I first became an attorney. I did not get a chance to talk to you after the presentation, but I wanted to let you know that your words helped reinvigorate my passion for our profession."

There are few accomplishments greater than inspiring others and helping them grow.

But, of course, as the rugby story foreshadowed, there is more to John than just a luminous legal career, an ability to inspire and a beautiful wife. He is truly a Renaissance man.

- He is an aspiring artist. The UGA Museum of Art displayed his hand-painted toy soldier collection in 2014 - a collection that brings together his love of history and his latent artistic streak.
- He is a voracious reader and a tremendous history buff .
- He is an avid gardener. He is currently experimenting with growing arugula, little gem, and mesclun. He clearly recognized before the rest of us that kale is going out of style...
- He is also a hunter and a sportsman, and until 2009, he was still playing rugby from time-to-time with the UGA Old Boys side of The Blind Pigs Rugby Sporting Club.

He is also devoted to his wife of twenty-one years (my mother) and his children and grandchildren who could not be here today:

- Courtney, her husband, Tim, their daughters, Olivia & Delancy who live in Oklahoma City,
- his daughter, Cate, her husband, Ben, their son Mylan & daughter Reyn, who live in Rome, Georgia, and

- his son, Cullen, who lives in Nashville, Tennessee and is in a surgery residency at Vanderbilt University.

At the beginning of this introduction, I quoted David Bell and repeated the questions he posed twelve years ago:

"Is the profession better?" John has led and inspired others through his example - enthusiasm for the law, integrity, and passionate advocacy.

"Have you helped people?" John has refused to turn people away - no matter their cause or their personal circumstances.

"Does the community benefit from what you did?" John has been a tireless public servant -- from his early service in the Marine Corps to his work as a public defender before entering private practice.

"The law to him was like a religion, and its practice was more than a means of support; it was a mission."

Ladies & Gentlemen, I am sure you will agree that, while the world of rugby may have lost a star, the world of law gained a great legal mind and dedicated public servant.

It is with great pride that I give you John Timmons.

Remarks by
John W. Timmons

I am really humbled beyond words to be here accepting this award this morning. I am awed to be in the company of the fellow recipients. John Dickerson and I have practiced in overlapping geographic areas most of our careers, but unfortunately have not had much personal interaction, but I have known his reputation for decades. I knew Bill Stone when he was a law student, and could tell he was going to be an outstanding lawyer from the beginning. They still talk about his exploits as a student lawyer working with the Solicitor's Office in the State Court, Judge Murphy, we never had the pleasure, but I know your reputation from Bill Lundy, Wright Gammon, and the West Georgia lawyers who have practiced with you for years.

From my side, I have no log cabin story. I enjoyed a somewhat sheltered life growing up in post-war Atlanta. It did not take courage to direct traffic, even as a 7th grader in 1958. We had good schools, excellent teachers, and an innocence which probably does not exist anymore.

By sheer luck I was able to attend UVA, and that experience opened the world for me. When I was a senior in college, I had to make a choice. Law school was enticing, but there was still the military to take into account. John Greenfield, a distinguished Atlanta lawyer now, but a combat Marine then, put me onto the USMC Platoon Leaders Course-Law, where I might become a JAG officer. So the summer before I started law school, I spent 6 weeks at OCS at Quantico. My law school photo (mugshot? why did they take those?) shows Candidate Timmons, with almost shaved head.

When I began at UGA Law, it was a time of excitement. I recall it as a time when "Giants walked the Earth" The faculty included Perry Sentell, Dean Lindsey Cowan, Verner Chaffin, Col. Jack Murray, Bob Leavell, and Kirby Turnage—to name a few. As I reflect on a theme of RELATIONSHIPS and building them, let me mention Kirby particularly who I knew as a professor first, colleague and worthy opponent, and valued friend. We can all reflect on how many of our friends we first met as opponent in

cases. Aren't the relationships with other lawyers the true treasure we amass in our professional lives? I have had so many mentors who became good friends, and all of whom lifted me up and pulled me along.

Dean Cowan had convinced the big Atlanta firms to hire Georgia students, at least as summer interns. So I spent the summer of '69 at Kilpatrick, Cody, Rogers, McClatchey & Regenstein, with all of the then named partners still practicing. There I was exposed to outstanding attorneys: Gus Cleveland, the real Father of Continuing Legal Education in Georgia, as well as ICLE, was a partner, and a true gentleman. I also got to know and learn from the examples of Emmet Bondurant and Matt Patton, two Tradition of Excellence recipients. Another mentor there, Phil Heiner, would have been one had we not lost him way too soon.

My first real job as a lawyer involved strictly criminal law, but with a portfolio of about 45 cases split between prosecution and defense. This experience reinforced the importance of Relationships, as I was able to build them within the law enforcement community while working for the government, and use the relationships to clients' advantage while on the defense.

Upon discharge from active duty, I took a job with my most influential mentor, Colonel Robert Peckham. The Legal Aid & Defender Society was a teaching clinic at UGA School of Law, and Bob Peckham was simply outstanding. A female juror once opined, "If Bob Peckham told me the moon was made of green cheese, I'd believe him." I was at his side for three and a half years, and he became an uncle figure to me. We had fun defending the poor and downtrodden. Legal Aid also provided the beginning of decades or relationships with law students who worked with me during their time in law school during those years and during private practice. The enthusiasm of youth all of these years has been a great inspiration. I am sure I learned more from them than they did from me.

The Legal Aid clientele was not always agreeable, but it was always colorful. And, since

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Remarks by John W. Timmons *continued from previous page*

some of them had lifetimes of experience in the criminal justice system, they had strong opinions regarding legal tactics and strategy. On more than a few occasions, I heard the Colonel hold forth with one of his famous "Peckhamisms": "Why don't we play a game for a few minutes, Mr. Foote? Let's pretend I'm the lawyer and you're the client."

After seven years of Marine Corps and Legal Aid, it was time to try my hand at private practice. Denny Galis, demonstrating exceptional patience and forbearance, gave me the opportunity, and he and Peggy have been life-long friends. This was the first time I actually had to discuss fees with clients. Of course I wanted to do everything, although I was best experienced for trial work. But, I just had to do some real estate, I thought. So I handled a closing for the XO (Executive Officer) of the Navy Supply Corps School in Athens. The closing went well, and I was a star. Until, upon closer examination, after the closing when everyone important had gone home, I realized I had failed to compute any attorney fees into the settlement equations. I quickly confronted the cold hard fact that I could not make a living as a real estate attorney. Fortunately, I have been gifted with colleagues and partners who are outstanding in that area. If anyone should be up here today for General Practice, it would be my partner Jim Warnes, who has literally done everything, and done it well.

Practicing in Athens and Northeast Georgia has been another great blessing. I "grew up" practicing before two outstanding judges, Jim Barrow and Joe Gaines. They set a high standard, but also set such a tone of civility that we proudly say the legal culture in the Western Circuit is very collegial and fair minded. Lawyers from outside the circuit often make that observation. Whether trying a case or just presenting a motion to Judge Barrow, you just wanted to do your best and be on your toes. If I could find some obscure English statute in the basement of the Law School, and weave it into a constitutional argument, that was icing on the cake. Everyone in those courtrooms was treated with tact and dignity. Indeed, Joe

Gaines was the mentor who emphasized the adage that there is dignity in every form of work.

Colonel Peckham made it a point to attend the State Bar's Annual Meeting, and I got into the habit. One thing leads to another, and, through opportunity given me by Congressman John Barrow (Judge Barrow's son), I landed a spot on the General Practice and Trial Section Board in the middle 90's. I was exposed to outstanding lawyers from throughout the state, who just give so much back to the profession. I had not really participated in a Section before, and observing the GPTS operate, with a steady succession of outstanding lawyers from all over the state, and with Betty Simms providing excellent administrative continuity, I began developing a loyalty to the Section and to these colleagues, many of whom have become dear friends. By mentioning any I will omit others who also deserve credit, so indulge me if I give a moment to remember Rudolph Patterson, who was an absolute mainstay of the GPTS Board. After he became President of the State Bar, and had some "patronage" power, he asked us if there were other places where we would like to serve the Bar. Rudy linked me with the ICLE Board at my request, and that has become my favorite bar activity since 2002.

If anything, being around the GPTS Board and the ICLE Board has been humbling. Yet both activities have been inspirations in that I've enjoyed relationships with some of Georgia's finest lawyers.

Finally, and not the least, what can I say about my life's true love and inspiration, Barbara. She is my absolute touchstone without whom I would not function or thrive. Anyone who knows me and Barbara says I married way above my pay grade. I can never dispute that. She has made my last twenty-three years absolutely wonderful. She has been patient and tolerant beyond understanding, and I had better leave it at that. She is thinking "**It's time to get the hook!**" so I had better sit down. Thank you all, so very much. I am truly honored to receive this award, and totally humbled.

JUDICIAL

JUDGE MICHAEL L. MURPHY



Tradition of Excellence Award

Introduced by

Bill Lundy & Karen Wilkes

Bill Lundy

It is both my privilege and honor to introduce as the General Practice and Trial Section's Judge of the year our very own judge Michael Murphy of the Tallapoosa judicial circuit.

Judge Murphy has lived in our circuit his entire life. He is a proud Haralson county man from way back. He is from a family that has always believed in serving the community. His father was the longest serving speaker of the house of representatives, speaker Tom Murphy. It was from him that judge Murphy learned so many valuable lessons of life and applied them to his tenure as our judge.

Judge Murphy possesses every quality a judge should possess. Patience, honesty, a strong sense of justice and right and wrong, intellect, thoughtfulness and a presence that commands respect from both attorneys and those that appear in his court.

Judge Murphy has always understood the tremendous responsibility he faces daily to sit in judgment over our citizens. He perhaps is better suited than many, as he came to the position of superior court judge later in life. Judge Murphy spent many

years in private practice in Bremen, Georgia, representing regular people every day in court and helping people through difficult times.

Perhaps very importantly before taking the bench, he understands what it means to make a payroll and operate a law practice. Before taking the bench he experienced the high highs and low lows of winning and losing cases. That is no small thing and it has always informed him when deciding cases.

Judge Murphy inspires confidence in the judiciary with his rulings and patience. He has always understood that a superior court judge is a "rubber meets the road" position and represents the only direct contact some people ever have with the judicial system. He wants it always to be an experience that inspires confidence and fairness, and he is a very fair judge to all that appear in his court.

Judge Murphy has presided over many jury trials with every pressure it brings to the parties and attorneys and juries. He is always a steady hand of assurance and we all look to

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Judge Murphy Introduction by Bill Lundy

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him for leadership in the courtroom and he delivers it, always.

Judge Murphy loves the Georgia bulldogs, and he tried to be one many years ago on the football field. Judge was a very talented athlete in high school, but discovered pretty quickly how difficult the college football world can be for a 5'9" walk on player! Thank God he stayed and graduated and became an attorney

and now our judge.

We bestow this honor on those that have maintained a tradition of excellence. Judge Murphy has served us so well. I recognize we are in a small circuit and that many may not know him or have appeared in his court, but if you ever do, you will know exactly what I am talking about.

Judge Murphy has always kept a balance in his life and with his fam-

ily. It is not easy to be the judge and be a good father and husband, but he has always worn every hat well. He has a terrific sense of humor as well as justice.

I am privileged to introduce him. It is one of the honors I will always count highest in my life. I present to you our 2016 tradition of excellence honoree, the Honorable Michael L. Murphy.

Karen Wilkes

I am Karen Wilkes and I am the Chief Assistant Public Defender for the Tallapoosa Judicial Circuit. And, for those of you who may not know what that is, the Tallapoosa Circuit consists of two counties, Polk and Haralson. And, for those of you who may not know where that is, we are due West of Atlanta as far as you can go before you get to Alabama.

I am here this morning to introduce this year's judicial recipient of the Tradition of Excellence award, given by the General Practice section of the State Bar of Georgia. The Honorable Michael L. Murphy, Chief Judge of the Tallapoosa Circuit.

The Tradition of Excellence Award is given each year to four outstanding members of the Bar – one Plaintiff lawyer, one Defense lawyer, one General Practice lawyer, and one Judge. They are nominated and chosen on the grounds of outstanding legal and personal characteristics. They must have 20 years of outstanding achievement as a lawyer or judge. They must be over 50 years old. They must have made a significant contribution to CLE or Bar activities. They must have a record of community service. And they must have a personal commitment to excellence. Judge Murphy is all these things. And more.

About a month ago, when I found out that Judge Murphy was chosen for this award, my first thought was "I can't believe he hasn't already

won this." He has certainly met these high standards of excellence. Many times over. I guess they must have been waiting for him to turn 50.

When I found out that Judge Murphy wanted me to introduce him at the awards presentation here today, I felt like I had won an award. And the more I thought about it, the more it became apparent to me that I have indeed won an award.

Not just because I get to be here at this lovely resort, at the beach, on a work day. Not just because I get to stand here and talk, which anyone who knows me knows I love to do. And not just because I get to be part of and bear witness to this honor being bestowed on Judge Murphy and to see him receive this well deserved recognition and the commendation of his peers, colleagues and other members of the Bar.

All of that is wonderful. But, I have an even greater prize. I get to try cases in Judge Murphy's court. And let me tell you why that's so special.

I've tried LOTS of cases. I have been practicing law for 25 years now, the first half in private practice and the second half as a public defender in one form or another. And in all those years I have tried almost 100 criminal cases, most of which have been as a public defender. I started in Rome and took appointed cases from the court. Then we went to a contract system, and I was under contract with the county to provide indigent

defense. Then when the state wide public defender agency was created, I joined them. I have been a public defender in Rome and in Hartwell, and I have been a conflict defender going to various counties across northwest and west central Georgia handling cases where the public defender had a conflict. And now I am with the Tallapoosa Circuit.

So, I have been to lots of counties and tried lots of cases in lots of courtrooms in front of lots of judges. And I have seen the differences between them. I have seen judges who worry more about their dockets than the people on them. Who, whether intentionally or not, intimidate the parties, the lawyers, the witnesses, the court staff, and even the jurors. Who seem to have forgotten that these are real people in front of them, with everything on the line – their families, their jobs, their homes, their children, their education, their incomes, their futures, their freedom. And it may be efficient to forget these things. Scaring people may make cases go away. That may shorten the hours the judge has to spend on the bench or after hours working on jury charges for the next day. But, that is not justice. And that most certainly is not Judge Murphy.

Don't get me wrong. I'm not saying Judge Murphy is a push over. He will put you in jail if you are late one more time to his court. Don't ask me how I know this. But, trust me, it's true. He will also call you at home at

6 o'clock in the morning to make sure you're up so he doesn't have to put you in jail again. Once again, don't ask me how I know this. But, trust me, it's true.

I say all this, and maybe I've said too much, because it is just one of the thousands of ways that Judge Murphy has shown that you can follow the letter of the law and at the same honor the spirit of the law. You can be tough and at the same time you can inspire. And Judge Murphy does this. Because to him, the people matter as much as the law.

When you appear in Judge Murphy's courtroom, you will be treated with dignity, whether you are a defendant, a plaintiff, a lawyer, a witness, a family member, a juror, or a pro se party trying to navigate your way through the process. You will get to explain yourself, tell your side of the story, argue your case, argue the law, and express your concerns, your hopes and your fears. And when you leave, no matter what the outcome, you will know that Judge Murphy heard you. And considered you. And included you. You will know that you mattered. And that is justice.

I suspect that Judge Murphy learned much of this growing up surrounded by great legal minds and great citizens, in particular his father, who was larger than life, the late great Tom Murphy, the longest serving Speaker of the House of the Georgia legislature, and indeed of any state legislature. From what Judge Murphy has told me, his father loved the law, loved its rich history, and loved its ability to help the people he served.

This is something Judge Murphy and I have in common, as I too was raised by great legal minds, in particular my father, Eugene Wilkes, the

law professor, who is now retired, but who taught criminal law and criminal procedure and legal history at UGA for 42 years. No doubt he taught many of you here, including Judge Murphy. And no doubt his passion for the law has had a lasting effect on you, as it always has and continues to have on me.

From our fathers, we both learned of the majesty of the law and we both revere it and have dedicated our professional lives to it. We also learned the immense power of the law and its ability to change people's lives forever. And we were taught to never lose sight of that, of the people who are governed and affected by it. What happens in court matters. Not only because our laws matter, but because the people matter.

Judge Murphy has dedicated his life to these principles. I won't list every example, every time he has stayed late at the office waiting for lawyers to bring him orders to sign, making sure that nobody sits in jail one minute longer than they should, hearing cases after hours to accommodate out of town parties, going to the high school on weekends and after long days in court to coach their mock trial team. But, I will tell you about Judge Murphy's most recent achievement. And I think he considers it one of his best.

It started many years ago with a young boy who Judge Murphy coached in little league. This young boy had "issues." Of course, back then, 30 or 40 years ago, we didn't know what we know now about mental illness, the warning signs, the symptoms, the causes or the treatment. So, we just said that boys like him had "issues." This bothered Judge Murphy because he recognized something was wrong, but

couldn't really do anything about it. Not that he didn't try. Judge Murphy coached the boy, talked to the boy, counseled the boy, counseled his parents, and worked with them as best he could. But, sadly, back then we just didn't have the resources or the access to information that we have now. And, so, that young boy with "issues" grew up to be a young man with "issues." He had run-ins with the law. And he is now in a state mental hospital in Alabama. But, through it all, Judge Murphy was there trying to help. And, to this day, that young man still calls Judge Murphy to tell him how he's doing, and to seek comfort, guidance and hope for the future. And Judge Murphy gives this to him.

This young man had such an impact on Judge Murphy that the judge was determined to do something that would make a difference for all the young men like this with "issues." So, Judge Murphy decided to start a Mental Health Court in our Circuit. He contacted the appropriate state officials, sought and obtained funding, and put together a team to accomplish this. And now, in our little Circuit next to the Alabama line, our little, 2 county, rural, under-served Circuit, we are taking in our first Mental Health Court participants. Their lives will change, and they will have a chance for a better life because Judge Murphy cared enough to make it happen. Just another example of the excellence of Judge Murphy.

And with that, let me now introduce you to the Honorable Michael L. Murphy, Chief Judge of the Tallapoosa Circuit, and this year's recipient of the Tradition of Excellence Award.

Remarks by
Judge Michael L. Murphy

Wow, with that introduction, I am compelled to revise my remarks... "I am here today to announce my candidacy for Governor of the State of Georgia...if I can only find my hair piece & lose a hundred pounds...."

I thank Bill Lundy & Karen Wilkes for their incredibly generous & kind remarks... truth is, like Ulysses Grant, there is no apparent good reason that I should receive any recognition... in law school, I adhered more to the notions of Twain & Louis Lamour: "Don't let schooling interfere with your education" & "all education ain't academic"...

I accept the "Tradition of Excellence Award" with a profound sense of "deep humility" and "awe"...."deep humility" in the weight of those past-recipients who have stood here before me; "awe" that you have concluded me worthy to be included among the "noble ranks of previous recipients"...Ranks which include my father, Tom Murphy, & many judges he & I knew personally, each one of whom was possessed of above-average "intelligence", "experience", and "know-how"... more importantly, each was blessed & endowed by their Creator with a "well-developed-and-way-above-average-and-indefinable-sense of humor" ...they were judges who understood how hard it was, & is, to "practice" law the right way... judges whose sensibilities, abilities, & knowledge of life & the law prompted them to make the practice of law "fun", & not mere "drudgery"... judges who were not tyrants or bullies, who understood that good lawyers don't have to be goaded, pushed, insulted, harassed, or even prompted into taking care of their business... judges who were smart & capable, yet possessed of a magical sense of humor which set them apart from their contemporaries & drew them to your attention... I pay tribute especially to my beloved father, Thomas B. Murphy, who, though he might have served on the Supreme Court, chose to spend his career, instead, in the Ga General Assembly as a "lightning rod" ...helping protect the citizenry of our state for 42 years and who was my mentor in life, and always will be, my role model....and though

I try... every day...to be the same kind of professional & family man he was, I know I will never have the positive impact on the lives of my family, my colleagues, or the people of this state that my father did...though our personalities were different & he was shrewder & smarter than me, I share & hold sacred the same fundamental values about life & how to treat people he did. And my wonderful wife, Carol Meadows Murphy, a 1966 graduate of Druid Hills High School...a "city girl", who chose to marry this "country boy" & endured a lot after she became a "Murphy"...for 46 years she has been my "rock" and "my steadfast ally" ...she is the greatest and most profound blessing the Good Lord has bestowed upon me ... and my precious, daughter, Lauren Ray, who was supposed to be a boy, but think-goodness, was a girl, but not just any girl...an athlete, scholar, and very successful professional, she is, more importantly, a wonderful mother in her own right.... Carol & Lauren have "hearts of gold" and would give you the shirt off their backs ...both are endowed with compassion and understanding of their fellow man and are blessed with fabulous interpersonal skills that allowed them to make something "good" maybe, out of a hard-head like me...I love the both of you so much...and, finally, she and my wonderful son-in-law, Todd Ray, a very capable person who is not only a very fine man & wonderful father, have given Carol & I an exceptional grandson & grand-daughter, Thomas & Murphy Ray who are the lights of our life.

When Ms Sims notified me of my selection to receive this award, I thought, "oh my goodness" because I don't believe in mistakes...rather, I believe that "life is what it is" & all you need do is to look into the mirror to understand why things turn out like they do... "choices" and "consequences"...that's all it is... nothing more, nothing less ...and then I ruminated on another of Twain's observations... "It is better to deserve honors, & not have them, than to have them & not deserve them"... so "thank you" for giving me the benefit of the doubt.

This recognition means "a lot" to me, more

than you can imagine...I will spend the remainder of my career trying to "justify" or "live-up-to" this recognition ... I grew up in the shadows of my wonderful father, a giant in Georgia history. "Trying to live up to his expectations for me" made me a far better person than I would have been otherwise...so I pledge to you, henceforth, that I will never, willfully, dishonor your confidence in me nor embarrass nor bring shame upon you for your selection of me to receive this recognition... henceforth, with God's blessing, I will do my utmost to insure that no-one will ever be able to mock "your" decision or criticize me as underserving...

In closing, I urge you to take to heart the advice of Og Mandino... "Beginning today, treat every-

one you meet as if they were going to be dead by midnight. Extend to them all the care, kindness and understanding you can muster, and do it with no thought of any reward. Your life will never be the same again."

And I offer this prayer for all of us...

"God of grace & God of glory, Fears & doubts too long have bound us; shame our wanton, selfish gladness, rich in things & poor in soul; On Thy people pour Thy power; Free our hearts to faith and praise, That we fail neither man nor thee!"

Thank each of you for whatever role you played in the honor you have bestowed on me and my family here today... God Speed and God Bless each of you in all that you do...

Help our Section grow...

**sign up a
new member
today!**

PLAINTIFF

WILLIAM S. STONE



*Tradition of
Excellence
Award*

Introduced by
Jim Butler

When I was a younger man one of my early mentors taught me a valuable lesson. He had more close friends that anyone I'd ever known. Guys who'd take a bullet for him. I was intrigued.

I learned why: if you were a friend of this man and said to him "I need you to do something for me," his response was always the same: "I'll do it; what is it?" Not the other way around.

Such men are rare.

It took me 20 years to figure out the corollary to his policy: he knew that no friend of his would ask him to do something that he could not or should not do. But that realization did not diminish the impressiveness of his habitual response.

Bill Stone is that kind of man.

For 35 years – starting in 1981 in the Jones v. State Farm appellate wars – Bill and I have worked shoulder to shoulder. In law cases, in politics, in raising children. We literally had our children together – our firstborns, both boys, were born 3 months apart; his daughter and my first daughter the same month; his twin boys and my youngest daughter 3 months apart. He kept going, and added a fifth. Our kids grew up together; we travelled together;

we got divorced together.

Bill is 5 for 5 in the kids department: that is very difficult to do under any circumstances. Counting his childrens' excellent choices for spouses, he is 9 for 9. Remarkable. He has been a superb father, and now has his first grandchild, a grandson, Jack – a gift from Lauren & Ryals.

I have seen close-up and first-hand what he has done for his family, his community, his friends, his clients, for all the lawyers who asked him for help or insights, for the bar, for the judiciary, and for the Civil Justice System.

Bill's service to the organized bar has been immense and spans decades. He is a past President of the Georgia Trial Lawyers' Association – but that does not do justice to his service to that organization. He has been a leader of "GTLA" for more than three decades, making contributions to a degree of which most are unaware.

For decades now Bill has been a leader in a group that has fought the court-packing schemes of the tort deformeders. He has had a hand in writing many Georgia statutes.

Most of what he has done for the Civil Justice System is known to but

a handful, because he did not do it for “credit,” for commendation, for public adulation, or for personal gain. In fact those mammoth efforts over decades cost Bill a lot, in time, distraction from law practice and family, and in money.

He did those things because they were the right things to do. That is the true mark of character. It is the stuff upon which nations are built, and the Civil Justice System depends.

C.S. Lewis said “Integrity is doing the right thing even when no one is watching.” Bill Stone is that kind of man.

There are not enough such men – as Mark Twain attested when he said “do the right thing – it will gratify some people and astonish the rest.”

That it took this long for this award to be bestowed on Bill is astounding, and a bit embarrassing. But then, too few really knew his body of work.

I have said for decades that Bill was the best law-man I knew. By that I meant and mean that he has superb insights into what the law is, and should be. He is an indefatigable researcher, ponderer, and thinker. He talks to himself – debating fine points of law. And answers himself. That does get a little spooky at times. But the answers are usually well-framed and sensible.

As Bill’s long-time law partner David Boone put it, “his recall, including case law decisions and dicta from 100 plus years is not only authoritative but fun to hear.”

For all these years he has worn me out. On beach trips every year when the kids were small and on quail hunting and fishing trips, many was the time I’d have to do this – [make sign] – which was my signal to him to stop: I’d had enough law. He never has too much law.

Bill is a walking encyclopedia of the law. Among plaintiffs’ lawyers in Georgia, no one I know or have heard of comes close to having provided as much help and assistance, freely and voluntarily, to so many other plaintiffs’ lawyers.

Adam Malone has called Bill “a genius for the cause of justice.” Amen. Bill Stone is that kind of man.

Paul Painter, Jr. truly a Great American, first got to know Bill when they served as the first Co-Chairs of the State Bar’s Professionalism Committee. Paul wrote:

“He quickly gained my respect for his professional approach to, and love of, the practice of law.

“We later were litigation adversaries, and I can attest he’s a helluva trial lawyer—smart, creative, well-prepared, solid in every respect. In all of my dealings with him, he has been a fine gentleman.”

Bill can be a tough adversary. Many years ago Bill’s client was being deposed in Bill’s Blakely office by a lawyer from Albany. The deposition was contentious. During a break, said lawyer followed Bill from the conference room to Bill’s office. Said he “Bill, it’s obvious you don’t like me, and I’d like to ask why,” Said Bill, “that’s an honest question that deserves an honest answer. The reason I don’t like you is because you’re an [expletive deleted].”

When the deposition resumed, that lawyer said “first I’d like to put on the Record that during the break Mr. Stone called me an [expletive deleted], and if he does that again we’ll have to step outside and settle this like men.” To which Bill responded, “is that a fact, [expletive deleted].” Not surprisingly, the lawyer did not want to step outside.

That’s Bill. Don’t mess with him and you’ll get along great.

Bill is a fourth generation lawyer from Blakely GA. Now his sons Ryals and James have joined him – the fifth generation. Bill’s father, Lowrey, was Chief Superior Court Judge of the Pataula Circuit.

Bill is a member of the Bar of Georgia and Alabama, and has handled cases in many states and all across Georgia.

He has long been an active mem-

ber of the Board of Governors of the American Association for Justice (AAJ) and serves as Co-Chair of the AAJ Ethics Committee. Bill has served on a variety of committees for the State Bar of Georgia. He is an active member of the Board of Governors of the Attorneys Information Exchange Group (AIEG). Bill has served on the Georgia Judicial Nominating Commission.

For literally decades Bill has been a frequent lecturer at legal continuing education seminars, and has published many articles.

Despite all that, I have it on good authority that Bill is still a young man – he has not yet reached that stage of life when he’d “rather have a talking frog.”

Humans’ perceptions are an odd thing. Oftentimes what we think we ‘see’ is determined as much by what’s behind the eyes as by what’s in front of them. Bill Stone sees things clearly, and objectively. He is a man of wise observations, such as:

“No man is entirely worthless; he can always serve as a bad example.”

“If you’re gonna ride the train & drink whiskey, you gotta have money.”

“Be patient with the Young, compassionate with the Old, and tolerant of the Weak & the Wrong; at some point in your life you will be all of these things.”

I present to you my friend Bill Stone, winner this year 2016 of the Tradition of Excellence Award.

Remarks by
WILLIAM S. STONE

Good morning. Thank you for honoring me with this year's Tradition of Excellence Award. This is both a high privilege and a humbling experience. Recognition by your peers is the supreme a professional person can receive. It's like being given the Super Bowl ring.

It is special to have this award presented by Trey Underwood. Many of you don't know this, but Trey's family is originally from Blakely, and his grandfather, Pete Underwood, taught me to fly airplanes beginning on my fifteenth birthday. Mr. Pete was quite a character and we all miss him, Trey.

It is a privilege to share this moment with John Dickerson, John Timmons, and Judge Murphy. I have to confess this is something I never sought, and never dreamed I would receive. I was absolutely astounded when Betty Simms called to tell me I had been selected to receive this award.

I especially want to thank Jim Butler, Joel Wooten, Ed Tolley, Hugh McNatt, Mark Dehler, and the many others who supported my selection.

I have been truly blessed by the opportunity to be a lawyer. I have enjoyed it so much I can truly say I have never worked a day in my life.

When you receive this award, it makes you step back and reflect. What is excellence? It is a word we often use casually in our everyday lives. But what exactly does it mean?

The dictionary defines excellence as "exceptionally high merit, quality, or ability; superlative." That is a lot to live up to. How do we achieve excellence?

Throughout our lives most of us have role models, mentors, and examples to follow. I start with my parents. My father was truly the best man I have ever known. He served as a superior court judge for about 18 years, retiring as a chief judge of the Pataula Judicial Circuit. One of his great lessons that he taught me comes from the prophet Isaiah: What does the Lord require of you but to do justice, to love mercy, and to walk humbly with your God. My mother was involved in the everyday teaching of right and wrong.

Both my parents insisted on excellence. My brother and sister and I got in trouble if we came

home with an A- on our report card. We got rewarded for A's. Back then the price of an A was a dime. That was a lot of money then. My mother used to say "Whatever the job, great or small, do it well or not at all".

The lessons I learned about ethics were taught by my parents. You don't need a course in law school, a continuing legal education seminar, or a code of professional responsibility to instruct you on excellence. If you did not learn ethics at your Mama's knee, there are no law school courses, CLE programs, or rule books that will teach you. There is one very simple test: Whenever you are thinking about doing something, if you wouldn't want to tell your Mama about it, don't do it.

When I was a boy about 9 or 10 years old, one of my heroes was Vince Lombardi, the legendary coach of the Green Bay Packers – the man for whom the Super Bowl trophy is named. Most of my friends' favorite NFL team was the Baltimore Colts led by the great quarterback Johnny Unitas. But the Packers usually won the championship, and ultimately the first 2 Super Bowls. They did not have exceptional players, just mostly a bunch of sound journeymen players. How did they achieve excellence? Lombardi made them function together as an excellent, cohesive team in which every player, though not individually extraordinary, gave an extraordinary performance on every play by doing his job and carrying out his assignment flawlessly as a part of a team effort to reach excellence. Vince Lombardi often told the team:

"Gentlemen, we will chase perfection, and we will chase it relentlessly every day, knowing all the while we can never attain it because nothing is perfect. But along the way, we will catch excellence. I'm not remotely interested in just being good."

Lombardi believed if you won't settle for anything less than your best, you will be amazed at what you can accomplish in your lives. He often said,

The quality of a person's life is in direct proportion to his commitment to excellence in his chosen field of endeavor.

The result was a team of ordinary individuals executing every play on offense or defense with excellence that was virtually unstoppable – The stuff that championship teams are made of.

I want to talk to you a few minutes about what we all do as judges and lawyers, and how much you as judges and lawyers mean to our society. We have a Constitution that is the greatest social compact ever devised by mankind. But it does not work without you in our judicial system.

Think about it. Nearly all the great problems our nation has faced were not solved by legislative or executive branches of government. It is the judicial system that has to roll up its sleeves and go to it.

In 1964, when I was about 10 years old, there was a CBS TV series called “Slattery’s People” starring Richard Crenna. It was about the struggles of a state legislator. I was always impressed by the intro voice-over played at the first of every episode:

Democracy is a very bad form of government, but I ask you never to forget, all the others are so much worse!

Democracy simply does not work without courts and lawyers. We are the safety valve of society. We give people recourse to make the inequities and injustices that flow inevitably from our freedom right and fair again. And so we preserve our democratic society by not letting it destroy itself. It is the courts and courageous lawyers who step in when legislators and executives fail to live up to our need for equality and justice. Let me give you a few examples:

Consider the full implementation of civil rights. Courts and lawyers did that, not legislators or presidents. While President Kennedy is credited with proposing the Civil Rights Bill, it is no secret that he was lukewarm on civil rights for minorities because he, like most politicians, was afraid of a backlash that would divide the electorate and cost him votes. Courageous lawyers brought civil rights lawsuits, and courageous judges like Frank Johnson in Birmingham, Alabama, brought the hard cases and made the hard rulings that ushered in a new era of civil rights for everybody, not just the majority. Judge Johnson had to have great courage, because Alabama was a dangerous place to disagree with powerful segregationists – even for a U.S. district judge.

Take automobiles and other products for example. They are much safer today than ever be-

cause courts, lawyers, and juries have held manufacturers to a proper standard of caring for their customers and other people who are affected by their products. We saw a recent example in Southwest Georgia last year. A jury in Bainbridge heard the evidence that an automobile manufacturer and its executives failed to use accepted safeguards to prevent post-crash fuel-fed fires in its Jeep Cherokee automobiles with deadly consequences. In a very conservative jurisdiction, a jury educated Chrysler that the life of a 4-year old little boy who was burned to death in one of its Jeep vehicles was worth \$120 million, and the price of inflicting his pain and suffering from such a horrible death was \$30 million.

Courts, lawyers, and juries exposed the tobacco companies’ fraudulent marketing schemes and imposed huge punitive damage awards when they learned that the tobacco companies had been lacing their products with chemicals purposely to addict young people to their deadly product.

It is courts, lawyers, and juries who constrain the biggest of our corporate and individual citizens from taking advantage of the smallest and weakest of our citizens. So, to paraphrase the intro from “Slattery’s People”, I tell you that the American court and jury system may be a very bad way to administer justice, but I ask you never to forget, all the others are so much worse. It is that system that fulfills the promised right to life, liberty, and pursuit of happiness, and the safety and welfare of us all.

We must constantly be vigilant to avoid the politicization of our judiciary. We are blessed in this state to have a court system in which maybe not all, but by far and away most of our judges, are right and fair thinking people who try their best to follow the law and administer justice as God gives them the right to see it. There are constant stresses to pack courts with people who are guided by ideology, and not by justice and legal principles. That must be avoided at all costs. Georgia needs to remain Georgia, not Alabama, Texas or Mississippi.

You in this room are what makes our system of justice work. It may not be perfect, but it is excellent. Through your efforts every day to make it more perfect, you keep it excellent, and bring it closer to perfection.

So, I am humbled and grateful for being added

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2016 Tradition of Excellence Breakfast

June 17, 2016
Omni Amelia Island Plantation Resort



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Tradition of Excellence Reception

Everyone had a Great Time!



Tortious Misconduct: A narrow exception to the general rule of corporate immunity from liability for slander committed by employees

Christopher C. Edwards and Erich Schultheiss

This article is an update of an earlier article authored solely by Christopher C. Edwards and published in *The Verdict*, April 1989, republished with the express permission of *The Verdict*. Christopher C. Edwards is Chief Superior Court Judge of the Griffin Judicial Circuit Superior Court. Erich Schultheiss graduated from Georgia State University College of Law and was a 2013 Summer Law Intern with Chief Judge Edwards. He is now a member of the Georgia Bar.

So you think you know Georgia tort? How about a tort called “tortious misconduct”? never heard of it? That’s because tortious misconduct is not taught in law school¹ and is not codified. You will not find tortious misconduct indexed in Georgia’s leading treatise on torts.²

HISTORY AND DEFINITION OF THE TORT

Tortious misconduct is a virtually unknown narrow exception to the general rule of corporate immunity from liability for words or conduct committed by business employees against business invitees and even customers on the phone.³ Georgia’s appellate courts have “inelegantly and inexactly”⁴ or “blithely”⁵ termed the tort “tortious misconduct” (herein “the tort”).

Business inviters, including corporations, have a public duty of ordinary care to protect their business invitees from abusive, insulting, or

opprobrious language or conduct perpetrated by business employees. The tort is not premised upon *respondet superior*,⁶ but upon the omission of the business/owner to protect invitees from “abusive language which amounts to slander” committed by the business employees.⁷

...(T)he plaintiff’s cause rests not on slander but on the theory that a business invitor owes a public duty to protect its invitees from abusive language and conduct...the misconduct may involve elements of slander but the gist of the right of recovery... is based on the right of the invitee to be protected from any tortious misconduct on the part of the corporation from its agents and employees acting within the scope of their duties about their master’s business.⁸

The words spoken need be neither slanderous nor intentional infliction of emotional distress, but may be merely “opprobrious and frightening.”⁹ Unlike slander, the words spoken need not be published and heard by a third party, but need only be spoken from the employee directly to the customer.¹⁰

The duty of extraordinary care owed by common carriers to protect passengers is the historic precursor of the current standard of mere ordinary care owed by business inviters to business *invitees*.¹¹

We do not, of course, wish to

be understood as dealing with the present action as though it were an attempt to sue the company for slander committed by its agents. On the contrary, we merely mean to hold that a carrier is liable in damages for failure to protect a passenger from abusive language which amounts to slander – not as to perpetrator of the outrage itself.¹²

The rule of common carrier liability was extended by the Supreme Court of Georgia to protect business invitees of merchants.

It appears that the rule was formulated by the Supreme Court and followed and extended with alacrity ... in order to except business invitees from the seemingly harsh rule that “a corporation is not liable for damages resulting from speaking false, malicious and defamatory words by one of its agents, even where in uttering such words the speaker was acting for the benefit of the corporation and within the scope of his agency, unless it affirmatively appears that the agent was directed or authorized by the corporation to speak the words in question.”¹³

Words amounting to slander are but one element of the tort. The action also requires proof of the business invitor-invitee relationship¹⁴, and proof that the offending words were uttered by a servant or employee in the course of

business. Acts constituting intentional infliction of emotional distress, assault, battery, false arrest and false imprisonment are often involved.

Through this exception (to the general rule of corporate immunity from slander claims) business invitees by virtue of their relationship are accorded a remedy against the invitor for the latter's breach of its duty in failing to accord the invitee on its premises immunity from opprobrious, insulting and abusive words from its agents and servants employed to deal with the customer-invitees. The breach of this duty occurs the instant those types of words expressing slanderous statements which tend to humiliate, mortify, or wound the feelings of the customer are uttered by the company's agents or servants and the liability arises by the company's act of omission to fulfill its duty.¹⁵

The invitor's omission to protect the customer need not occur on the business premises.¹⁶ The tort's application has also been extended to allow liability for tortious misconduct without the invitee's physical presence at the place of business if a reasonable relationship to the business exists in the transaction. For example, repeated, threatening, profane and abusive telephone calls from a finance company to its customer have been held to create an actionable claim for tortious misconduct.¹⁷

"The business invitor's public duty of ordinary care to protect the invitee, and not respondeat superior, is the basis of the business invitor liability."

THE STATUTORY "REASONABLE BELIEF" DEFENSE IN SHOPLIFTING CASES

Claims for accusatory slanderous statements alleging shoplifting have been held to be restricted by a statute enacted to create a defense to false arrest and false imprisonment claims

in shoplifting cases.¹⁸ In such cases, the merchant or employee need only prove that he "reasonably believed" the person was engaged in shoplifting to avoid liability for the tort. Although the statute mentions only false arrests and false imprisonment claims, the case law extends the statutory defense to tortious misconduct claims.¹⁹ However, this extension is only applicable when the conduct that is the basis for the tortious misconduct claim arises out of a reasonable belief that the customer is shoplifting. In other words, the statute cannot be applied if the belief is unreasonable or the defendant's conduct is a reaction to something other than shoplifting. To apply the bar in these circumstances would be "an overbroad reading of the statute as well as the cases which have construed it."²⁰ The "reasonable belief" may be premised solely upon the activation of an anti-shoplifting device.²¹ A police officer's opinion, based on hearsay, that probable cause existed to accuse or detain the plaintiff is not admissible as evidence of the employee's "reasonable belief," nor may such an opinion by a police officer authorize a directed verdict.²²

PLEADING AND PRACTICE

Despite the advent of notice pleading, tortious misconduct should be pleaded with great care and specificity due to the bench and bar's unfamiliarity with the tort.

A cause of action is alleged by a petition which asserts that the plaintiff while an invitee on the premises of another for the purpose of transacting business was subjected to opprobrious, insulting, and abusive words amounting to slander by a clerk employed to deal with the business invitee.²³

Inadequate pleading of all the tort's elements may cause the claim to be summarily adjudicated based on the general rule of corporate immunity for slander.²⁴ All the elements of tortious misconduct, as

listed below, should be pleaded with supporting factual allegations. Likewise, proof at trial of all the tort's elements is required.

The allegations of a complaint for tortious misconduct should include the following:

1. Description of status of parties as business invitor and invitee.

2. Defendant's public duty to protect plaintiff from offensive, insulting, opprobrious, abusive, false, malicious, defamatory, humiliating, mortifying, or threatening (as appropriate) words or conduct of its agent/employee.

3. Defendant's employment or agency relationship to perpetrator of wrongful conduct.

4. Employee/perpetrator's pursuit of defendant's business purposes within the scope of employment at time and place of acts.

5. Breach of public duty owed to plaintiff by defendant business invitor to protect plaintiff from said tortious misconduct.

6. Specific description of employee/perpetrator's acts, including a) time and place; b) acts were willful and malicious; c) intention to injure, shock, frighten and to inflict emotional distress upon plaintiff; d) list the torts thereby committed²⁵ (e.g., slander, assault, battery, false arrest, false imprisonment.)

7. Cause of action is for tortious misconduct under *Zayre v. Sharpton*, 110 Ga. App. 587, 589, 139 S.E. 2d 339 (1964) (cert. den.) and *Fountain v. World Finance Corp.*, 144 GA. App. 10, 240 S.E. 2d 558 (1977) (cert. den.) Cite cases in pleadings to preclude assertion of corporate immunity for slander.

8. Allege that breach of public duty proximately caused certain damages to Plaintiff.

9. Describe damage to plaintiff. If there is no special damage, at a

continued on next page

Tortious Misconduct:

continued from previous page

minimum, allege injury to peace, happiness, injured feelings and humiliation. See 10 below.

10. Review of the opinions cited herein shows that general and punitive damages are typically claimed. If punitive damages are claimed, an O.C.G.A. §51-12-5.1 basis for punitive damages must be alleged and proved. See 6(b) and (c) above. Special damages may also be pleaded. Alternatively, if general, special, or punitive are unavailable, damages may be asserted under O.C.G.A. §51-12-6 which provides for injuries that are solely attributable to the “peace, happiness or feelings” of the plaintiff.

11. Optional allegations include:

a) Conspiracy allegations.²⁶

b) Negligent hiring allegations. “Thus where an invitor’s servant is the actual wrongdoer, the invitor cannot escape liability by having delegated its duty to a servant proving unworthy of the trust, for then the company is liable for the act of omission in properly performing its duty.”²⁷

SUGGESTED JURY CHARGE

A suggested jury charge is below:

The plaintiff asserts a claim for money damages against defendant for “tortious misconduct.” Tortious misconduct is defined as follows: I charge you that a business owner owes a public legal duty of ordinary care which may not be delegated, to protect and immunize his invitees, or customers, from abusive, insulting,

and opprobrious words or conduct committed by the employee or agent of the business invitor while such an employee or agent is acting within the context of a business relationship between the business invitor and the invitee or customer, whether such words or conduct occur on or off the business premises. Whether or not the plaintiff has proved tortious misconduct by a preponderance of the evidence is a matter solely for you, the jury, to decide. *Zayre of Atlanta v. Sharpton*, 110 Ga. App. 587, 590, 139 S.E. 2d 339 (1964); *Fountain v. World Finance Corp.*, 144 Ga. App. 10, 240 S.E. 2d 588 (1977). [In addition, pattern jury charges on ordinary care, proximate cause, and other alleged torts should be given. Remember, not only words but conduct can be tortious misconduct.]

FOOTNOTES

1 Six of Georgia’s 1L tort professors graciously responded to Mr. Schultheiss’s July 2014 inquiry and relayed that “tortious misconduct” is not taught in their torts classes.

2 Charles R. Adams III, *Georgia Law of Torts* §28:9, 28:6, 4:5(d)(3)(2013).

3 Swift, *supra*; *Behre v. National Cash Register*, 100 Ga. 213, 27 S.E. 986 (1896).

4 Swift, *supra*, at 572.11 5 *Zayre of Atlanta v. Sharpton*, 110 Ga. App. 587, 589, 139 S.E. 2d 339 (1964)

6 *Ibid.* at 590.

7 *Cole v. Atlanta and West Point R. Co.*, 102 Ga. 474, 31 S.E. 107 (1897).

8 *Swift v. S.S. Kresge Company, Inc.*, 159 Ga. App. 571, 572, 284 S.E. 2d 74 (1981), citing *Southern Grocery Stores, Inc. v. Keys*, 70 Ga. App. 473, 477, 28 S.E. 2d 581 (1944).

9 *Fountain v. World Finance Corp.*, 144 Ga. App. 10, 240 S.E. 2d 558 (1977)

10 *Ibid.* at 12. *See also Davis v. Rich’s Department Store, Inc.*, 248 Ga. App. 116, 119, 545 S.E. 2d 661 (2001)(holding that only “personal” contact between a customer and merchant can support the claim and where a third party commits the conduct that is the basis for the tort, even if it was at the request of the merchant, the plaintiff cannot succeed).

11 *Ibid.* at 588-90, citing *Cole v. Atlanta and West Point R. Co.*, 102 Ga. 474, 31 S.E. 107, and *Moore v. Smith*, 6 Ga. App. 649, 65 S.E. 712 (1909).

12 *Ibid.* at 479.

13 *Zayre supra*, at 590, citing *Behre, supra*.

14 The relationship must be one which “inures to the benefit” to both the plaintiff and defendant. *Todd v. Byrd*, 283 Ga. App. 37, 640 S.E. 2d 652 (2006). *See also Carter v. Willowrun Condominium Ass’n, Inc.*, 179 Ga. App. 257, 345 S.E. 2d 924 (1986) (holding that a landlord/tenant relationship is not one that satisfies the business invitor/invitee relationship).

15 *Ibid.* at 590.

16 *But see Greenfield v. Colonial Stores, Inc.*, 110 Ga. App. 572, 139 S.E.

2d 403 (1964). Despite the court’s unfavorable ruling for the plaintiff because the actions occurred off of the merchant’s premises, more recent case law shows the dissent’s opinion is correct. Where the tortious actions arise out of a business transaction and the employees are acting within the scope of their employment, the merchant can still be held liable even though the actions occurred off of the premises.

17 *Fountain, supra. See also Colonial Stores v. Sasser*, 79 Ga. App. 604, 54 S.E. 2d 719 (1949).

18 O.C.G.A. §51-7-60.

19 *Swift, supra*.

20 *Simmons v. Kroger Co.*, 218 Ga. App. 721, 723, 463 S.E. 2d 159 (1995)

21 O.C.G.A. §51-7-61.

22 *Tomblin v. S.S. Kresge Co.*, 132 Ga. App. 212, 207 S.E. 2d 693 (1974).

23 *Zayre, supra* at 587.

24 *See, e.g., Gerald v. Ameron Automotive Centers*, 145 Ga. App. 200, 243 S.E. 2d 565 (1978) (cert. den.)

25 The safer practice is to plead and prove all elements of the underlying torts. Some cases such as *Fountain, supra*, at 12, clearly state that the offensive conduct need not have all the elements of an underlying tort (i.e., no publication required for a slander-type claim). Other cases, such as *Jordan v. J.C. Penny Co.*, 114 Ga. App. 822, 152 S.E. 2d 786 (1966), and *Sowell v. Douglas County Electric Membership Corp.*, 150 Ga. App. 520, 258 S.E. 2d 149 (1979) require pleading and proof of a definite underlying tort. The distinction in such rulings is that tortious misconduct claims are more liberally allowed when the perpetrator/employee acted maliciously as shown by “...threatening, profane, abusive and disrespectful language” *Sowell, supra*, at 521 citing *Fountain, supra*.

26 *Lanham v. Keys*, 31 Ga. App. 635, 121 S.E. 856 (1935)

27 *Zayre, supra* at 590. *Zayre* at 590, affords “immunity” from tortious misconduct to business invitees. ~ 6 ~

Tortious Misconduct Under Georgia Law

Cases constituting tortious misconduct

CASE	LOCATION	FACTS	HOLDING AND COMMENTS
<i>Cole v. Atlanta & West Point R. Co.</i> , 102 Ga. 474, 31 S.E. 107 (1897)	On the defendant's train	The plaintiff passenger was "publicly denounced in coarse and brutal language" by the defendant's employees	Trial court's dismissal of the petition was reversed. The petition stated a cause of action authorizing jury trial.
<i>Lemaster v. Millers</i> , 33 Ga. App. 451, 126 S.E. 875 (1925)	Defendant's department store	In a loud and angry voice which could be heard by other customers, defendant's employee falsely accused the plaintiff of having an item belonging to the store in her handbag.	Trial court's dismissal of the petition was reversed. The petition stated a cause of action authorizing jury trial.
<i>Southern Grocery Stores v. Keys</i> , 70 Ga. App. 473, 28 S.E. 2d 581 (1944)	Defendant's grocery store	Plaintiff had a bag from another store with purchases in it that were also sold at the store she was currently in. When checking out, the cashier falsely accused her of stealing the item in front of a line of customers	Trial court's dismissal of the petition was reversed. The petition stated a cause of action authorizing jury trial.
<i>Colonial Stores v. Sasser</i> , 79 Ga. App. 604, 54 S.E. 2d 719 (1949)	Outside defendant's store on street	Plaintiff suspected of shoplifting was patted down after exiting store by store manager. Manager refused demand for apology stating a pat down was store policy.	The court held that despite the fact that the conduct occurred outside of the defendant's premises, the employee was still acting within the scope of his employment and therefore, facts still sustain a claim for tortious misconduct.
<i>Zayre of Atlanta, Inc. v. Sharpton</i> , 110 Ga. App. 587, 139 S.E. 2d 339 (1964)	Defendant's department store	Plaintiff exited dressing room, wearing her own dress, when a store employee very loudly accused plaintiff of stealing the dress she was wearing	Trial court affirmed in denying dismissal of the petition. The petition stated a cause of action authorizing jury trial.

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Tortious Misconduct Under Georgia Law

Cases constituting tortious misconduct

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CASE	LOCATION	FACTS	HOLDING AND COMMENTS
<i>Tomblin v. SS. Kresge Co.</i> , 132 Ga. App. 212, 207 S.E. 2d 693 (1974)	Defendant's department store	Employee of the store accused the plaintiff of stealing a pin and had her arrested for shoplifting. She was tried and acquitted.	Statutory shoplifting defense case. Court reverses and remands to determine whether defendant had reasonable belief plaintiff was shoplifting. Opinion implies that these facts may constitute tortious misconduct if claim was not barred by statutory shoplifting defense.
<i>Fountain v. World Finance Corp.</i> , 144 Ga. App. 10, 240 S.E. 2d 588 (1977)	On the telephone	Finance company employee on debt collection call threatened to take her child's social security payments, used profanity and called plaintiff "vile" names.	Trial court's summary judgment for defendant was reversed. The petition stated a cause of action authorizing jury trial provided the required element of a business invitor-invitee relationship was proved
<i>Adams v. Trust Co. Bank</i> , 145 Ga. App. 702, 244 S.E. 2d 651 (1978)	At defendant's bank	The plaintiff's bank account was wrongly frozen by defendant. Upon inquiring within the bank, a security guard "abused him verbally and assaulted him."	Trial court's summary judgment in favor of defendant was reversed. The complaint stated a cause of action authorizing jury trial.
<i>Revco Discount Drug Center of Georgia, Inc. v. Famble</i> , 173 Ga. App. 330, 326 S.E. 2d 532 (1985)	At the defendant's drugstore	Defendant's employee loudly and angrily accused the plaintiff of stealing batteries within earshot of two customers, the pharmacist and the cashier.	Jury verdict for plaintiff affirmed.
<i>Simmons v. Kroger Co.</i> , 218 Ga. App. 721, 463 S.E. 2d 159 (1995)	At defendant's grocery store	Plaintiff falsely accused of shoplifting by eating candy without paying for it, threatened with arrest, escorted to manager's office but not prosecuted.	Trial court's summary judgment in favor of defendant was reversed. The complaint stated a cause of action authorizing jury trial.

Tortious Misconduct Under Georgia Law

Cases not constituting tortious misconduct

CASE	LOCATION	FACTS	HOLDING AND COMMENTS
<p><i>Greenfield v. Colonial Stores, Inc.</i>, 110 Ga. App. 572, 139 S.E. 2d 403 (1964)</p>	<p>At a completely different store near defendant's store</p>	<p>Plaintiff purchased items from Defendant's store and then left and went to another store to continue his shopping. Upon arriving at the other store, two agents of defendant's arrived behind him, pulling both his arms behind his back and exclaiming loudly for other customers to hear that he stole meat from them and demanded he give it back.</p>	<p>The majority held that this did not support a claim for tortious misconduct because the acts occurred on premises that were not owned by defendant. However, the dissent asserted that this should be enough to support a claim for tortious misconduct because the act was "so integrally a part of the transaction of the company's business as to grow logically and inescapably out of it." Recent case law suggests that the dissent was correct – if they are acting in their capacity as employees, it shouldn't matter if it occurred off the premises. See <u>Colonial Stores</u>, <i>infra</i> and <u>Fountain</u>, <i>infra</i></p>
<p><i>Jordan v. J.C. Penny Co.</i>, 114 Ga. App. 822, 152 S.E. 2d 786 (1966)</p>	<p>At defendant's department store</p>	<p>Defendant demanded, in presence of a number of other customers, that plaintiff surrender her credit card because she had filed bankruptcy. It was later discovered that a woman with the same name that lived near to plaintiff was actually the one that filed bankruptcy. The defendant eventually mailed plaintiff a letter of apology.</p>	<p>The Court held that this does not amount to tortious misconduct because there was nothing in the record indicating that the words spoken by defendant's employees were abusive or opprobrious. The defendant could deny credit to anyone at any time. Note this is a 1966 case.</p>

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Tortious Misconduct Under Georgia Law Cases not constituting tortious misconduct

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CASE	LOCATION	FACTS	HOLDING AND COMMENTS
<i>City Stores Co. v. Henderson</i> , 116 Ga. App. 114, 156 S.E. 2d 818 (1967)	At defendant's retail store	When plaintiff tried to use her credit card, the cashier demanded surrender of the card due to an overdue account. A number of other customers heard the accusation.	The court held that this evidence does not support a claim for tortious misconduct for two reasons: First, plaintiff did have an overdue account, hence the cashier was authorized to take the credit card. Second, there is nothing alleged in the complaint about the clerk telling her this in a loud, boisterous, angry, or otherwise hurtful manner.
<i>Gerald v. Ameron Automotive Centers</i> , 145 Ga. App. 200, 243 S.E. 2d 565 (1978)	At defendant's retail store	Plaintiff worked at defendant's store and on his day off, bought hubcaps from the store. Later, the regional manager claimed that he never paid for them and stole them from the store.	"No pleadings or action below by the plaintiff gave even the faintest notice that he was relying in any way on any cause of action other than slander." Plaintiff may have had an actionable claim for tortious misconduct, but since there was no pleading alleging the elements of tortious misconduct, <u>Behre</u> barred the stated cause of action for slander against the corporation.
<i>Sowell v. Douglas County Electric Membership Corporation</i> , 150 Ga. App. 520, 258 S.E. 2d 149 (1979)	At plaintiff's house	After defendant electrical company discovered that plaintiff tampered with his meter on two occasions, they shut off his electricity and told him to pay the charges associated with tampering or go without electricity.	The court held that the defendant merely acted within the contract between the two parties and that these actions were acceptable.

Tortious Misconduct Under Georgia Law Cases not constituting tortious misconduct

CASE	LOCATION	FACTS	HOLDING AND COMMENTS
<i>Hav Swift v. S.S. Kresge Co., Inc.</i> , 159 Ga. App. 571, 284 S.E. 2d 74 (1981)	At defendant's retail store	Plaintiff was called a "thief" and was arrested for shoplifting. Shoplifting charge was dismissed.	Court held that defendant's words and action were immunized by the statutory shoplifting defense.
<i>Carter v. Willowrun Condominium Ass'n, Inc.</i> , 179 Ga. App. 257, 345 S.E. 2d 924 (1986)	In a letter	Defendant landlord wrote a letter to plaintiff accusing plaintiffs of breaking rules of their lease	The Court held that the plaintiffs were not business invitees of the defendant named in the suit. The landlord-tenant relationship does not qualify as a business invitor-invitee relationship.
<i>Doe v. Village of St. Joseph, Inc.</i> , 202 Ga. App. 614, 415 S.E. 2d 56 (1992)	At defendant's boarding school	Parents of 13-year-old girl attending boarding school sue boarding school for teacher's alleged sexual conduct with girl.	The Court held that the theory of tortious misconduct requires two elements absent here: First, the public duty to protect invitees from tortious misconduct applies only in context of "mercantile establishments [that exist] for the purpose of selling goods;" and second, that the offending employee of the defendant was acting in the scope of employment duties. Therefore, even if the allegations were true, the plaintiff cannot recover under the theory of tortious misconduct.

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Tortious Misconduct Under Georgia Law Cases not constituting tortious misconduct

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CASE	LOCATION	FACTS	HOLDING AND COMMENTS
<i>Fly v. Kroger Co.</i> , 209 Ga. App. 75, 432 S.E. 2d 664 (1993)	At defendant's grocery store	Plaintiff purchased meat that was on sale from the store where she worked. The next day she was called into a grievance meeting where employer accused her of improperly reducing the price of the meat she had purchased.	The mixed factual status of plaintiff in her conduct as employee alleged marking down the meat and as invitee in buying the meat contributed to the court holding that the employer's conduct in meeting behind closed doors did not constitute opprobrious or abusive conduct of an invitee.
<i>Taylor v. Super Discount Market</i> , 212 Ga. App. 155, 441 S.E. 2d 483 (1994)	At defendant's grocery store	The cashier, believing that plaintiff was attempting to use counterfeit money, seized plaintiff's money and subsequently gave it to a security guard who then called the police. The police quickly determined the money was authentic legal tender.	Since the store employee immediately turned over the money to the proper authority and there were no abusive words or conduct, the court held no tortious misconduct occurred.
<i>Mitchell v. Lowe's Home Centers, Inc.</i> , 234 Ga. App. 339, 506 S.E. 2d 381 (1998)	At defendant's retail store	Defendant's employees accused plaintiff of unauthorized use of a credit card and called her identification "bogus." Plaintiff was using her mother's account with authority, but plaintiff was mistaken about credit account number, thus arousing suspicion.	Defendant's conduct held to be reasonable under the circumstance, hence no tortious misconduct occurred.

Tortious Misconduct Under Georgia Law

Cases not constituting tortious misconduct

CASE	LOCATION	FACTS	HOLDING AND COMMENTS
<i>Davis v. Rich's Dept. Store, Inc.</i> , 248 Ga. App. 116, 545 S.E. 2d 661 (2001)	Over the telephone	Plaintiff's identity was stolen. Fraudster obtains Rich's credit card in Plaintiff's name. Rich's takes collection action. Plaintiff explains that identity was stolen but plaintiff takes no action as requested by Rich's to demonstrate that identity was stolen. Rich's persists in collection through collection agency	Plaintiff never truly had any business invitor-invitee relationship with Rich's. Therefore, an essential element of tortious misconduct is absent.
<i>Wolter v. Wal-Mart Stores, Inc.</i> , 253 Ga. App. 524, 559 S.E. 2d 483 (2002)	At defendant's department store	Plaintiff has more than one credit card and reports one stolen. Bank mistakenly reports another of plaintiff's cards to also be stolen. Plaintiff attempts to use the card that should not have been reported stolen at Walmart. Walmart supervisor said "take that card. He's using a stolen card" and took the card.	Court affirms summary judgment for defendant holding that defendant had a legitimate reason for believing the card was stolen and the defendant's conduct was not abusive or opprobrious.
<i>Todd v. Byrd</i> , 283 Ga. App. 37, 640 S.E. 2d 652 (2006)	At defendant's retail store	The plaintiff was accused of stealing and was arrested.	Defendant wins because plaintiff was in the store merely to go to the bathroom. Therefore, she does not qualify for business invitee-invitor relationship.
<i>Kirkland v. Earth Fare</i> , 289 Ga. App. 819, 658 S.E. 2d 433 (2008)	At defendant's grocery store	An employee of the defendant accused the plaintiff of sexually harassing female employees of the store and stimulating himself in the men's restroom.	Since the accusations were not in front of any customers and since he was able to continue with his business "unmolested" after the incident, the court ruled that the conduct was not abusive or opprobrious. However, earlier cases hold no publication of the words amounting to slander are required. See, <i>Fountain v. World Finance Corp.</i> , 144 Ga. App. 10, 240 S.E. 2d 588 (1977)

Providing Business Advice to a Healthcare Client can be the Good Deed that will not go Unpunished

J.D. "Randy" Dalbey



J.D. "Randy" Dalbey graduated from the University of Georgia School of Law cum laude in 1988, and has been a partner at Chilivis, Cochran, Larkins and Bever for over 15 years. Randy focuses his practice on representing individuals and small businesses, particularly healthcare providers, in complex litigation and dispute resolution, and government investigations.

As lawyers, virtually all of us have been asked many times for our opinion about some form of legal document or arrangement. A family member, friend or neighbor wanting to know "is this lease alright?" or "does this employment agreement look ok?" is simply an occupational hazard, and most of us usually will oblige. With healthcare comprising almost 20% of our economy, many of these leases, employment agreements, or other contracts or arrangements increasingly can involve some type of healthcare business.

What many lawyers may not know, however, is that businesses in any healthcare-related field must operate very differently from those in most other fields. In fact, many common, every-day business practices employed by persons in a non-healthcare business, are potentially illegal in a healthcare business. The reason for this is, simply put, "the Golden Rule." In healthcare, it is the federal government which has "the gold" - in 2013, the federal government paid over one trillion dollars (\$1,000,000,000,000) towards healthcare services. See, <https://www.cms.gov/research-statistics-data-and-systems/statistics-trends-and-reports/nationalhealthexpenddata/nhe-fact-sheet.html>. And make no mistake, the federal government loves to make rules for the providing of healthcare

and the payment therefor.¹ Thus, a lawyer's effort to do a good turn can be like pushing someone into quicksand - and then diving in after him.

The primary sources of payment by the federal government for healthcare services fall under the umbrellas of "Medicare" and "Medicaid," and each contains multiple programs under which payments are made. An explanation of the organization and operation of these programs is well-beyond the scope of this article; however, some basic understanding of these programs is helpful.

Medicare and Medicaid both are government-funded insurance programs which pay certain amounts of the cost of covered medical care provided to certain groups of persons. Generally, Medicare provides payment of a percentage of the cost of medical care provided to persons age 65 and older or who are disabled. Medicare is administered by the federal government through the Centers for Medicare and Medicaid Services ("CMS"), which contracts with various private contractors to administer the program in different areas of the country. Medicaid, on the other hand, is funded largely by the federal government but is administered by the individual states. Both Medicare and Medicaid payments may be made under a variety of different programs, either directly to

healthcare providers as direct reimbursement for the cost of a service (such as a doctor's exam or a prescription), or as a per diem payment (such as to a hospital or nursing home). Healthcare providers who wish to receive payment for treating Medicare or Medicaid patients must complete the proper forms, sign the proper agreements, and obtain the proper approvals. Both these forms and the claim forms which are submitted for receiving payment, certify that the provider is in compliance with all laws, rules and regulations for healthcare providers. See, CMS Form 855 and Form 1500, available at <https://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/index.html>.

The two statutes, and accompanying regulations, which can cause the most problem for non-healthcare lawyers are the federal Stark law ("Stark"), 42 U.S.C. §1395nn, and the Anti-Kickback Statute ("AKS"), 42 U.S.C. §1320a-7b (b). These statutes are the focus of this article.

Stark is sometimes referred to as the "anti self-referral law." Generally speaking, it bars a physician from referring patients for certain types of medical services, labeled "designated health services," to any entity with which the physician has a "financial relationship." 42 U.S.C. §1395nn (a). "Designated health services" include laboratory, physical therapy, occupational therapy, radiology and imaging, radiation therapy, durable medical equipment, prescription drugs, hospital, home health, and a number of other services. 42 U.S.C. §1395nn (h)(6). Stark is a strict liability statute, and thus, intent or knowledge is irrelevant – a physician who "self-refers" a patient for a designated health service paid for by Medicare or Medicaid has violated the law.

AKS also prohibits certain conduct in connection with the "referral" of a patient, prohibiting the offering, paying, soliciting or receiving of "any remuneration" (i.e., a kickback)

in return for a referral. 42 U.S.C. §1320a-7b (b). AKS, however, is in many respects broader in scope than Stark. First, AKS applies to any referral, not just referrals by a physician. In addition, AKS is not limited only to referrals for a "designated health service," instead applying to any referral for any "item or service" where payment will be made by Medicare or Medicaid. AKS is a criminal statute, and thus requires a showing of intent.

The terms "referral," "financial relationship" and "remuneration" are broadly defined. Thus, a referral is more than your family doctor directing you to a particular specialist, and includes any prescription, order for a medical test or a certification or recertification for a health service. 42 C.F.R. § 411.351 (Stark); U.S. v. Patel, 778 F.3d 607 (7th Cir. 2015)(adopting Stark definition for AKS). A "financial relationship" includes any payment arrangement, including salary, lease, commission, etc., as well as any kind of ownership or investment, whether direct or indirect. 42 U.S.C. § 1395nn(a) (2). Finally, "remuneration" includes anything of value, from direct payment to free use of space or equipment. Thus, Stark and/or AKS potentially reach(es) virtually every business relationship or transaction involving a physician and any other healthcare provider.

How might these apply in the real world? Consider the simple act of a physician ordering a blood test or X-ray, or writing a prescription, each of which is a "referral." Each of these services is a "designated health service." And lease agreements, employment agreements and independent contractor status are "financial relationships." Therefore, if the lab or X-ray company leases space in a building owned, directly or indirectly, in whole or in part, by the physician, a Stark violation may have occurred. In addition, because the lab or X-ray company is paying

"remuneration" to the physician in the form of lease payments, an AKS violation also may have occurred. If the physician is an employee or a contract physician to a group practice which owns the lab and X-ray equipment and bills for those tests,² the physician has "referred" the patient to the group practice for a designated health service and a Stark violation may have occurred. If the pharmacy pays a courier service to home-deliver its patients' prescriptions and the physician owns any interest in the courier company, violations of both Stark and AKS may have occurred.

Fortunately, both Stark and AKS provide "exceptions" or "safe harbors" for many common business practices, including various leases, employment agreements, service agreements and sales of a healthcare business. It is extremely important to keep in mind, however, that such exceptions and safe harbors protect an arrangement or transaction that otherwise is a violation of the statutes. Each exception or safe harbor has multiple requirements which a party claiming its protection must satisfy to avoid violating the statute.

Thus, for example, both Stark and AKS protect lease arrangements - but only if the lease is in writing, signed by the parties, specifies the leased space, is for an amount of space not more than is reasonably necessary, is for at least one year in length, sets the lease payment in advance and for an amount that is commercially reasonable and fair market value, AND meets a number of other requirements. See 42 C.F.R. §§ 411.357(a) (Stark), 1001.952(b)(AKS). Agreements for management or other personal services (excluding employment) must be in writing, specify all services to be performed, be for a term of at least one year, not exceed the services reasonably required to meet the commercially reasonable purposes of the arrangement, pay

continued on next page

Providing Business Advice

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compensation that is set in advance, be for fair market value, and not take into account the volume or value of referrals, AND meet a number of other requirements, in order to satisfy Stark and AKS. 42 C.F.R. §§ 411.357 (d), 1001.952 (d).

A detailed analysis of the many exceptions and safe harbors for these statutes is well-beyond the scope of this article. Note, however, two terms mentioned above which appear repeatedly throughout the exceptions and safe harbors – “volume or value of referrals,” and “fair market value.” Fair market value is the amount a willing buyer and seller would agree upon NOT TAKING INTO ACCOUNT the value of any referrals.³ The phrase “volume or value of referrals”³ is, much as it sounds, essentially a ban on payments that increase or decrease based on the amount of business between the parties – i.e., the incentive payment process routinely used to compensate persons in virtually every industry, is problematic in healthcare. For this reason, the number of consultants who can and do provide fair market value opinions and analysis is growing exponentially.

Put simply, every employment agreement, sales agreement, management contract or lease, if between healthcare providers, could lead to a potential Stark or AKS violation. And normal business practices (such as free samples, volume discounts, even entertainment) often violate AKS, since the intent of such normal business practices is to generate a corresponding referral. It is easy to see, therefore, how any business or financial transaction or arrangement involving a healthcare provider must be carefully scrutinized for compliance with Stark and AKS.

The consequences for failing to comply with these complicated rules can be staggering. First, each statute has its own penalties. Thus, any moneys received in violation

of Stark must be “disgorged,” and if the healthcare provider knew or should have known of the violation, the provider can be subject to penalties of up to \$15,000 per service provided in violation of the statute, \$100,000 for each transaction entered into which should be expected to lead to violations of the statute, and \$10,000 per day for each day a violation should be reported but is not. 42 U.S.C. §1395nn (g). AKS is a criminal statute, whose violation can lead to five years’ imprisonment. 42 U.S.C. §1320a-7b (b).

Moreover, Stark and AKS violations can form the basis of claims under a federal statute known as the “False Claims Act.”⁴ Generally speaking, the False Claims Act prohibits filing or causing to be filed a “false claim” to get money from the federal government, or making a false statement material to getting a claim paid by the government. In order to be paid by Medicare and Medicaid healthcare providers are required to certify on their claims, inter alia, that they are in compliance with all healthcare statutes, including Stark and AKS. Therefore, if a healthcare provider has violated Stark or AKS, but continues to submit claims for payment to Medicare or Medicaid, the provider may have made a false statement material to getting his/her/its Medicare or Medicaid claims paid.

The False Claims Act also allows a whistleblower, called a “relator,” to file a complaint alleging violations of the False Claims Act. 31 U.S.C. § 3730 (b). In fact, the False Claims Act contains considerable incentives for relators to file such complaints. These include, in addition to being paid a portion of any recovery, statutory attorneys’ fees, 31 U.S.C. § 3730 (d) and protection from retaliation, 31 U.S.C. § 3730 (h). Thus, the office manager who knows that the doctor pays no rent on his office which is in a building owned by the hospital

where he sends his patients, or that the lab to which the doctor sends his patients pays the doctor an annual “consulting fee,” is financially encouraged to hire an attorney and file False Claims Act lawsuits against all of these entities. Relators also are encouraged to file quickly, as only the “first to file” the whistleblower lawsuit can share in the recovery. 31 U.S.C. § 3730 (b)(5).

When the whistleblower complaint is filed, it remains under seal with the court for a period of time that is within the court’s discretion – which can run years. 31 U.S.C. § 3730 (b). During this time, the government can investigate the allegations of the complaint using every tool available to a litigant in discovery, and then some. See 31 U.S.C. § 3733. (Notably, potential damages continue to accrue.) Thus, the mere filing of a whistleblower complaint can lead to tens of thousands of dollars of attorney fees, in addition to significant business disruption.

If the government so chooses, it can after investigation “take over” the whistleblower complaint. 31 USC 3730 (b)(4). Even if the government does not take over the whistleblower complaint, however, the whistleblower and his/her attorney can litigate the case just like any other. 31 U.S.C. § 3730 (c)(3). The False Claims Act provides for treble damages, 31 U.S.C. § 3729 (a)(1), in addition to fines and penalties of up to \$11,000 per Medicare and Medicaid claim submitted. “Damages” in this context arguably have been interpreted to equal the provider’s total Medicare and Medicaid payments received during the limitations period. *United States v. Rogan*, 517 F.3d 449, 453 (7th Cir. 2008); *United States ex rel. Freedman v. Suarez-Hoyos*, 781 F. Supp. 2d 1270 (M.D. Fla. Mar. 18, 2011). With a limitations period of at least six years – and up to ten years under some circumstances – a False Claims Act

complaint can destroy a healthcare business, regardless of who pursues the complaint, which is a very steep price indeed for a speaking fee or some free rent.

Contracts which violate Stark or AKS can have other implications as well. A contract which violates Stark or AKS may be unenforceable as illegal. *Polk County v. Peters*, 800 F. Supp.2d 1451 (E.D. Tex. 1992). Thus, e.g., a physician who signs an employment contract which violates Stark or AKS may be unable to collect amounts which the contract requires to be paid. In addition, at least one court has allowed to go forward claims of tortious interference and unfair competition based on violations of Stark and/or AKS. *Ameritox, Ltd. v. Millenium Laboratories, Inc.*, 20 F.Supp.3d 1348 (M.D. Fla. 2014), rev'd on other grounds *Ameritox,*

Ltd. v. Millenium Laboratories, Inc., 803 F.3d 518 (11th Cir. 2015). Thus, a provider who pays a clinic "per head" based on referrals, or who gives rebates based on the number of tests or dollar volume generated, may be on the receiving end of a lawsuit from a competitor.

Finally, a healthcare provider may face various "collateral" consequences for violating Stark or AKS, or for paying a settlement to the government in response to a False Claims Act complaint. First, the government has the power to exclude or suspend a provider from participation in Medicare and Medicaid. Moreover, many commercial insurance companies require providers to notify the insurer if the provider is suspended or excluded from Medicare or Medicaid, and likely will take some similar action against the

provider. If the provider is a professional who is required to be licensed, such as a doctor, the licensing board may attempt to limit – including suspension or revocation – the provider's professional license. So if the regulatory violation does not put the provider out of business, the professional licensing board may.

When a non-healthcare lawyer does a favor for someone in a health-care-related field by providing free advice on some type of business issue, the lawyer must make sure that his/her good intentions do not start both lawyer and client down the proverbial road to ruin – because in today's world of regulation and enforcement, any mis-step in providing this good deed likely will not go unpunished.

FOOTNOTES

1. Anyone who doubts this need merely look at Chapters IV and V of Title 42 of the Code of Federal Regulations, and realize that you only have scratched the surface of government regulation of this industry.
2. It is common to bill separately for the "cost" of providing such a separate and distinct service; this is known as the "technical fee," which is in addition to the bill submitted for the physician's "professional fee" for treating the patient.
3. Thus, a hospital hiring a physician cannot base the physician's employment on the number of patients the physician will refer to the hospital, even though such a method of calculating compensation seems reasonable and "fair market value" in a non-healthcare business.
4. Many states, including Georgia, have their own False Claims Act statutes also. These statutes are modeled on the federal statute.

Remarks by William S. Stone

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to this list of Georgia's elite lawyers. When you look at the list of past recipients of the Tradition of Excellence Award, you are overwhelmed to be added to it. These folks are the giants of the profession, and I have been privileged to know most of them and be influenced positively by them. This is like being inducted into the lawyers' Hall of Fame. I have to keep pinching myself to remind myself this is really happening.

But I really want to take this opportunity to thank you all for all the good work all of you do every day in making and keeping our country, our democracy, and our people, the greatest nation the world has ever seen. Without you, it would not be so. It is really all of you who deserve this honor and credit, because you have created and maintained the tradition of excellence to which we all aspire.

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