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Legal Ethics

by Patrick Emery Longan

This Article covers the period from June 1, 2011 through May 31, 2012.1 As it does every year, the Georgia Supreme Court decided a number of lawyer-discipline cases and other matters related to licensure. The supreme court and the Georgia Court of Appeals decided cases involving legal malpractice, ineffective assistance of counsel, attorney disqualification, and judicial ethics. The State Bar of Georgia Formal Advisory Opinion Board took several actions that relate to the professional responsibilities of Georgia lawyers, and the supreme court promulgated a number of changes to the Georgia Rules of Professional Conduct.

I. LAWYER DISCIPLINE

A. Disbarments2

The Georgia Supreme Court disbarred eight lawyers during the survey period for misconduct that was primarily, if not exclusively, financial. One lawyer voluntarily surrendered his license because in two cases, he settled claims for clients but did not notify them of the receipt of the funds or deliver or account for them.3 The court disbarred another attorney because he collected funds in numerous garnishment actions.

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1. For an analysis of Georgia legal ethics law during the prior survey period, see Patrick Emery Longan, Legal Ethics, Annual Survey of Georgia Law, 63 Mercer L. Rev. 217 (2011).
2. Lawyers in Georgia can voluntarily surrender their licenses or submit a petition for voluntary discipline. The acceptance of a voluntary surrender of a license or the granting of a petition for voluntary discipline or disbarment are tantamount to disbarment by the court and are treated as such in this Article. GA. RULES OF PROF'L CONDUCT R. 4-110 (2011).
but he failed to deliver the funds and instead commingled them with his own.\textsuperscript{4} Another lawyer settled cases for three clients and converted the proceeds to his own use.\textsuperscript{5} The court disbarred a lawyer because he collected money for a client on a promissory note but did not notify the client or deliver the money; instead, the lawyer commingled the funds with his own and failed to communicate with the client about the status of the matter.\textsuperscript{6} Another attorney lost his license after he purported to represent a client in a real estate transaction while the lawyer's license to practice law was suspended, and in connection with that transaction the lawyer wrongfully withheld $18,000 in funds that the client had deposited with the lawyer.\textsuperscript{7} A lawyer was disbarred for converting $30,000 to his own use and not following his client's instructions as to disbursement of an additional $330,000.\textsuperscript{8} The court disbarred another lawyer who, in his third year of practice, settled a case for $2,250 without the client's authority and took the money for his own use.\textsuperscript{9} Justice Benham dissented on the basis that a two-year suspension would have been more appropriate, given that the lawyer had little experience and no prior disciplinary history.\textsuperscript{10}

The court disbarred eight lawyers during the survey period primarily for abandonment of clients. One lawyer accepted advance payments from three clients but neither completed the work nor returned the money, and he eventually became totally unresponsive to the clients.\textsuperscript{11} Another lawyer, who had a lengthy disciplinary history, lost his license because he solicited employment to represent a client in a criminal case but did not appear for the client's bond hearing and did not respond to telephone calls from the client or the client's mother.\textsuperscript{12} One attorney abandoned six clients and was convicted of a misdemeanor charge of theft of services.\textsuperscript{13} The court disbarred her despite her claims, otherwise unsupported, that her misconduct resulted from health problems.\textsuperscript{14}

\textsuperscript{5} In re Henderson, Jr., 289 Ga. 837, 837-38, 716 S.E.2d 223, 224 (2011).
\textsuperscript{6} In re Lakes, 289 Ga. 392, 393, 711 S.E.2d 693, 693-94 (2011).
\textsuperscript{7} In re Suttle, 290 Ga. 368, 368-69, 720 S.E.2d 638, 639 (2012).
\textsuperscript{8} In re Herrmann, 291 Ga. 88, 89, 727 S.E.2d 497, 498 (2012).
\textsuperscript{10} Id. at 440, 721 S.E.2d at 900 (Benham, J., dissenting).
\textsuperscript{11} In re Evans, 289 Ga. 744, 744, 715 S.E.2d 131, 131-32 (2011).
\textsuperscript{12} In re Anthony, 290 Ga. 436, 437-38, 721 S.E.2d 901, 901-02 (2012). The court had suspended Mr. Anthony for eighteen months just a few months before this decision because the lawyer had failed to take action for a client, return the client's calls, or surrender papers from the client's file. In re Anthony, 289 Ga. 834, 835, 716 S.E.2d 221, 222 (2011).
\textsuperscript{14} Id. at 913-14, 717 S.E.2d at 218.
The court disbarred a lawyer who failed to appear for a client's hearing, did not respond to repeated attempts by the client to contact her, did not refund the fee, and made false statements in the disciplinary proceedings. Another lawyer lost his license because he accepted fees but abandoned a series of bankruptcy clients. The court disbarred a lawyer who, in a federal case, stopped communicating; the client learned that the court had granted summary judgment against her only when she hired another lawyer. Finally, a lawyer who had been disciplined twice before for abandoning clients was disbarred because he filed a claim to enforce a mechanic's lien too late, failed to appear for the hearing, did not inform the client of the dismissal, and obtained a "release" from the client but falsified the notarization and failed to advise the client to seek the advice of an independent lawyer.

Three lawyers voluntarily surrendered their licenses because they pled guilty to felonies. One pled guilty to four counts of forgery. Another admitted that he violated federal law against bringing in or harboring aliens. The third entered a guilty plea to bank and wire fraud in connection with a real estate transaction for which he acted as the closing attorney.

The court disbarred three lawyers because they had been disbarred in other states. One had lost his license in Florida because of improper withdrawals from his trust account and because he inappropriately certified that his trust account was in compliance with the rules. Another was disbarred, also in Florida, because she did not cease practicing law after she had been suspended indefinitely. The third lost her license in the District of Columbia because she filed a fraudulent voucher seeking payment for services she had not rendered to an indigent client.

Finally, five lawyers were disbarred for other reasons. One had a significant history of prior discipline and lied to two clients when he told

them that default judgments had not been entered in their cases; the lawyer's response to the complaint contained a forged signature for the notary. 25 Another was disbarred after being suspended for failing to pay bar dues and not fulfilling continuing legal education requirements, but nevertheless representing a client in a real estate transaction. 26 Yet another lawyer created and introduced false evidence at a trial in support of her own personal injury claim. 27 Finally, the court disbarred two lawyers with no prior disciplinary history after more than a decade of litigation because the lawyers used "runners" to obtain business. 28 Justice Melton and Justice Hines dissented in that case because disbarment was too severe a punishment in light of the punishment given in similar cases. 29

B. Suspensions

The supreme court unanimously issued indefinite or lengthy suspensions in three cases. One lawyer who had experienced unspecified personal or emotional problems was suspended indefinitely for abandoning a client. 30 The court imposed as conditions of reinstatement that the lawyer pay restitution to the client and obtain a certification that the lawyer is mentally competent to practice law. 31 Another was suspended for five years as reciprocal discipline after he was suspended for that time in North Carolina for assisting in mortgage fraud and for intentionally misleading the courts. 32 One lawyer closed her law firm without telling her clients and submitted false information in letters to the bar about clients whose claims were apparently handled by non-lawyers who purported to act on behalf of the closed firm. She was suspended for three years and may be reinstated only if she obtains a certification from a licensed social worker and a finding from the Review Panel that she is competent to practice law. 33 Another lawyer received a three-year suspension, with reinstatement conditioned upon a certification that no physical impairment impedes his ability to practice law, 34 over the dissent of three Justices. 35 In one

29. Id. at 306-07, 720 S.E.2d at 600 (Melton, J., dissenting). The Author testified before the special master on behalf of Mr. Sinowski and Mr. Freedman.
31. Id. at 390, 711 S.E.2d at 692.
matter, the lawyer failed to send a client his file after the representation ended and falsely told the Investigative Panel that he had done so. In another matter, the lawyer was appointed to serve as appellate counsel in a criminal case but did not order the transcript or work on the appeal before lying to the Office of General Counsel about it or before a formal complaint was filed. The lawyer submitted letters of support and some evidence of health issues but also had a prior disciplinary history. Although the special master recommended a one-year suspension, a bare majority of the supreme court issued the three-year suspension. The dissent emphasized that the lawyer had been untruthful with the Investigative Panel and the Office of General Counsel, and it noted the lack of any substantial evidence of a physical impairment. The three dissenting justices would have disbarred the lawyer. 

The court issued suspensions of between one and three years in five cases, one of which has already been discussed in the previous paragraph. One lawyer was suspended for eighteen months because she had a prior disciplinary history and had entered into a fee-splitting relationship with a non-lawyer and then lied about it to the Office of General Counsel. Another lawyer pled guilty to the felony of aggravated assault but avoided disbarment, receiving instead a suspension of approximately seventeen months, because he had no disciplinary history and because he affirmatively sought and received extensive treatment for post-traumatic stress disorder and alcohol abuse. The court suspended a lawyer for eighteen months because the lawyer withdrew from representing a client, did not refund the client's money, kept the file, and did not keep a proper accounting of her trust account; the court described her conduct as "inexcusable" and her attitude toward the disciplinary process as "cavalier." Finally, a lawyer received an eighteen-month suspension for "wholesale abandonment" of a client who suffered an adverse judgment as a result of the lawyer's failure to appear in court or communicate with the client. 

The court suspended three lawyers for one year. One was a solo bankruptcy practitioner who neither investigated when a client's property was scheduled for foreclosure nor filed a bankruptcy petition to

35. Id. (Nahmias, J., dissenting).
36. Id. at 795-96, 725 S.E.2d at 253-54 (majority opinion).
37. Id. at 795-96, 725 S.E.2d at 254.
38. Id. at 796-97, 725 S.E.2d at 254-55 (Nahmias, J., dissenting).
39. Id. at 798, 725 S.E.2d at 255.
42. In re McFall, 289 Ga. 829, 830, 716 S.E.2d 221, 221 (2011).
stop the sale. Another had been suspended for one year in North Carolina for representing clients with adverse interests and received the same discipline in Georgia. The court suspended the third lawyer because he borrowed a client’s money from his trust account twice and on several occasions took money that was not his from a joint account with the same client. Because the client was made whole, the lawyer had no disciplinary history, and the lawyer was cooperative with the investigation, the court imposed a one-year suspension.

The supreme court issued six suspensions of less than one year. The court accepted the voluntary petition for discipline of a lawyer who had willfully and deceitfully obstructed efforts to obtain discovery about the lawyer’s assets that were available to satisfy a contempt judgment. Another lawyer pled guilty as a first offender to tampering with evidence and obstruction of a law enforcement officer in connection with a dispute with an employee. The court noted in mitigation the lack of a disciplinary history and the facts that the lawyer was undergoing emotional problems of a non-recurring nature at the time, had primary responsibility as a single mother for two minor children, made a good-faith effort to rectify the consequences of her violations, and cooperated with the bar.

A lawyer with no disciplinary history but with serious personal problems, including alcoholism and depression, was suspended for six months as a result of, among other things, failures to communicate, return a client’s file, prepare adequately for trial, and deposit a client’s funds into his trust account. Another lawyer with no disciplinary history settled a client’s claim without authority and deposited the funds into his trust account, which at several points did not contain enough funds to cover what was owed to the client. The lawyer paid the client in full without deducting any fees and successfully petitioned the court for a six-month suspension. A lawyer who was suspended in Florida for forty-five days for falsifying affidavits as a very new lawyer at the direction of his boss received reciprocal discipline in Georgia.

47. Id. at 828-29, 716 S.E.2d at 218-19.
50. Id. at 455, 711 S.E.2d at 725.
53. Id. at 91-92, 727 S.E.2d at 499-500.
Finally, a lawyer was suspended for thirty days as a matter of reciprocity because he received that punishment in Tennessee for failing to account for funds held in a fiduciary capacity in one case and for failing to keep a client informed or disclose a conflict of interest in another case.55

C. Reprimands

The supreme court approved Review Panel reprimands in eight cases. In one, the lawyer sent a client letters about a pending summary judgment motion to the wrong address; when the client did not respond, the lawyer effectively withdrew but did not obtain court permission to do so or notify the client of his withdrawal or the judgment entered against the client by the court.56 The court accepted the petition for voluntary discipline from a lawyer who became embroiled in a fee dispute with a client and, among other things, created a contract for legal services to replace the one she believed the client had removed from her files and sent it to the client.57 The court did the same for a lawyer who violated the rule against concurrent conflicts of interest by naming himself as a plaintiff in a case he filed on behalf of clients who had been defrauded.58 A lawyer who did not return client phone calls, showed up late for court, did not return fees or the file after being terminated, and inadvertently misstated facts in his response to the grievance also received a Review Panel reprimand.59 Another lawyer received the same sanction because he did not send all discovery materials to a client, became inaccessible to the client for a period of time, even after the client fired him, and failed to provide new counsel with the client's file.60

A petition for voluntary discipline led to a Review Panel reprimand for a lawyer who represented a client over a period of years but failed to adequately document the time he spent on her financial matters or to communicate with her regarding how her financial objectives were to be accomplished.61 Another lawyer received the same punishment because twice he falsified his client's signature on documents and notarized them.62 Finally, a lawyer received a Review Panel reprimand because

she failed to file a workers’ compensation claim for a client before the statute of limitations expired and on occasion did not return the client’s phone calls.\textsuperscript{63}

The court ordered three public reprimands during the survey period. The court accepted a petition for voluntary discipline from a lawyer who did not act diligently in two matters at a time when the lawyer was suffering from alcoholism; the lawyer had addressed his addiction through Alcoholics Anonymous, a substance abuse facility, and the Lawyer’s Assistance Program.\textsuperscript{64}

In another case, the court accepted a voluntary petition for discipline and ordered a public reprimand for a lawyer who notarized a document for a client’s father when the father was not in his presence.\textsuperscript{65} The court did the same for a lawyer who failed to act diligently and communicate with one immigration client and failed to communicate adequately with a second.\textsuperscript{66}

\section*{D. Other Matters}

The supreme court decided three matters related to attorney admission and rejected three petitions for voluntary discipline. The court granted a certification of fitness to re-admit an attorney who was disbarred in 2003 because he had pled guilty in 2000 to federal tax crimes; the lawyer was certified because he showed remorse, engaged in volunteer work, and otherwise demonstrated that he was rehabilitated.\textsuperscript{67} A bar applicant, however, was denied such a certification.\textsuperscript{68} The applicant had an extensive criminal history, had not revealed all of it in connection with his law school application, and stated on his fitness application that he did not have any condition or impairment involving substance abuse that, if left untreated, would affect his ability to practice law.\textsuperscript{69} In fact, the applicant was a recovering alcoholic who regularly attended 12-step meetings.\textsuperscript{70} The court ruled that the applicant had not carried his burden to demonstrate his fitness.\textsuperscript{71} Another applicant was denied a certification of fitness because he omitted criminal history information from both his law school application

\begin{thebibliography}{9}
\bibitem{65} \textit{In re} Swain, 290 Ga. 678, 678-79, 725 S.E.2d 244, 245 (2012).
\bibitem{66} \textit{In re} Farris, 291 Ga. 98, 98-99, 727 S.E.2d 503, 504 (2012).
\bibitem{68} \textit{In re} Payne, 289 Ga. 746, 749, 715 S.E.2d 139, 142 (2011).
\bibitem{69} \textit{Id.} at 746-47, 715 S.E.2d at 139-41.
\bibitem{70} \textit{Id.} at 747, 715 S.E.2d at 141.
\bibitem{71} \textit{Id.} at 748, 715 S.E.2d at 141-42.
\end{thebibliography}
and his fitness application, was not candid about why he had done so, and displayed a lack of maturity and judgment in connection with a law school internship.\textsuperscript{72}

The court rejected a petition for voluntary discipline because the court held that, because the lawyer had essentially neglected three matters for clients and had an extensive disciplinary history, a six-month suspension would not be sufficient.\textsuperscript{73} The court rejected another petition in which the attorney admitted that he had failed to act diligently and to communicate adequately in one matter; the court specifically noted that the attorney had not returned part of the retainer as promised to the client.\textsuperscript{74} Finally, the court rejected a petition for a Review Panel reprimand from an attorney who failed to maintain a trust account for sixteen years, failed to keep appropriate records of client and trust funds, and failed to surrender disputed funds in one case for over two years.\textsuperscript{75}

II. MALPRACTICE AND BREACH OF FIDUCIARY DUTY

The Georgia Court of Appeals decided five significant cases during the survey period regarding claims of malpractice or breach of fiduciary duty against attorneys.\textsuperscript{76} Four of these cases involved issues of causation, while the fifth concerned whether a claim for legal malpractice is assignable.

In \textit{Whiteside v. Decker, Hallman, Barber & Briggs, P.C.},\textsuperscript{77} the plaintiff was a trustee in bankruptcy. The debtor had caused an

\textsuperscript{72} In \textit{re Yunker, Jr.}, 289 Ga. 636, 637-39, 715 S.E.2d 92, 93-94 (2011).

\textsuperscript{73} In \textit{re Boykin}, 290 Ga. 871, 871, 873, 725 S.E.2d 324, 325-26 (2012).

\textsuperscript{74} In \textit{re Glenn}, 291 Ga. 49, 49-50, 727 S.E.2d 495, 495-96 (2012). The Author was appointed by the supreme court as the special master in this case. The admissions recited in the text are admissions noted by the court in its opinion rejecting the petition for voluntary discipline and do not indicate any prejudgment of any factual matter in this case.

\textsuperscript{75} In \textit{re Ibrahim}, 291 Ga. 94, 95, 727 S.E.2d 501, 502 (2012).

\textsuperscript{76} The court issued two opinions in malpractice cases that are worthy only of a passing mention. In \textit{Fortson v. Freeman}, 313 Ga. App. 326, 721 S.E.2d 607 (2011), the court construed all the causes of action alleged as professional negligence and affirmed the dismissal of the case for failure to file an expert affidavit. \textit{Id.} at 326, 721 S.E.2d at 608.

In the other case, the court affirmed a judgment against an attorney in a malpractice case when the attorney's only points of error involved the admissibility of two items of evidence. \textit{Hart v. Groves}, 311 Ga. App. 587, 588-89, 716 S.E.2d 631, 632-33 (2011). As to one of them, the lawyer waived any error because he never obtained a ruling at trial on its admissibility. \textit{Id.} at 588, 716 S.E.2d at 632. With respect to the other, the court held that the hearsay evidence was admitted for a non-hearsay purpose and that, even if it was error to admit it, the error was harmless. \textit{Id.} at 588-89, 716 S.E.2d at 632-33.

\textsuperscript{77} 310 Ga. App. 16, 712 S.E.2d 87 (2011). The Author served as an expert witness for the plaintiff in this case.
automobile accident that killed one person and injured two others, including a passenger, Moreno, who suffered severe head injuries. Moreno's guardian sued the driver (the debtor), and Infinity Casualty Insurance Company (Infinity) undertook the defense of the case because it insured the owner of the car. Infinity hired Decker, Hallman, Barber & Briggs to handle the case.\footnote{Id. at 16-17, 712 S.E.2d at 88-89.}

Infinity allegedly failed in bad faith to settle the driver's claim for the policy limits of $15,000, and eventually Moreno obtained a judgment against the driver (and debtor) for $8 million. Once the driver filed bankruptcy, Moreno became a creditor of the bankruptcy estate. The trustee sued Infinity on the bad-faith claim, and that suit netted $4.5 million of the $8 million the estate owed to Moreno. The trustee then sued the Decker Hallman firm and partner Winston Briggs to recover the remaining debt of the estate to Moreno. The trustee alleged that the defendants breached fiduciary duties to the debtor (who was their client in the underlying case) by not advising him that he had a bad faith claim against Infinity (who was paying the lawyers to represent the driver), by taking affirmative measures to extinguish that claim, and by advising Infinity that it had no bad faith liability to their client.\footnote{Id. at 17-18, 712 S.E.2d at 89.}

The trial court and the court of appeals assumed without deciding that the law firm and Mr. Briggs breached their fiduciary duties but held that the trustee had not established that any such breaches caused any damage to the client.\footnote{Id. at 18, 712 S.E.2d at 90.} The trustee's evidence of causation came from an insurance expert who concluded that, but for the breaches of fiduciary duty (and assuming the law firm and Briggs had withdrawn from the representation because of a conflict of interest), the debtor would have obtained an independent lawyer who would have been able to convince Infinity to settle Moreno's claim for an amount in excess of the policy limits.\footnote{Id. at 19, 712 S.E.2d at 90.} The court of appeals affirmed the trial court's decision that this opinion had to be disregarded as “wholly speculative.”\footnote{Id. at 20-21, 712 S.E.2d at 90-91.} Without proof of causation, the trustee lost.\footnote{Id.}

In \textit{Quarterman v. Cullum},\footnote{311 Ga. App. 800, 717 S.E.2d 267 (2011).} the plaintiff hired an attorney to represent him in a case against the client's brother about the will of the client's mother. In the underlying case, the court entered an order that the plaintiff could take the deposition of his brother during a six-month
period upon showing good cause. The deposition was not taken, the
plaintiff lost the case, and the plaintiff sued his lawyer for malpractice
because the lawyer did not take the deposition.\textsuperscript{65} The court of appeals
affirmed a summary judgment for the lawyer because the plaintiff
offered no evidence of what testimony the deposition would have elicited
or how any such evidence would have affected the result of the
underlying case.\textsuperscript{66} Without such proof of causation, the plaintiff’s claim
failed.\textsuperscript{67}

In \textit{Duncan v. Klein},\textsuperscript{88} the plaintiff sought advice from an attorney
regarding a possible claim of employment discrimination. When the
lawyer advised that the plaintiff had no claim, the plaintiff resigned his
job and, at great direct and indirect expense, went to law school far from
home. In law school, the plaintiff learned that, in fact, he could sue his
former employer, and he did so. The plaintiff settled that case and then
sued the lawyer for malpractice. He claimed the lawyer’s negligence
caused him to forego a claim of constructive discharge, which “caused”
him to go to law school.\textsuperscript{89}

The court of appeals rejected both arguments, finding first that the
plaintiff could have asserted his constructive discharge in the case he
brought against his former employer.\textsuperscript{90} As to the second claim, the
court concluded:

If Duncan had decided instead to remake himself as a fisherman,
would anyone seriously contend that Klein and the firm owe him a boat
and a dock? If Duncan had decided to become a professional gambler,
would anyone seriously contend that they owe him a six-figure stake
at the Bellagio? We doubt it. That one loses his job because his lawyer
makes a mistake does not mean that he is entitled to remake his life,
however he sees fit, and at whatever cost, on the dime of the lawyer.
The claim of such an entitlement is preposterous.\textsuperscript{91}

The court affirmed the summary judgment against the plaintiff.\textsuperscript{92}

In the last of the causation cases, the court reversed an interlocutory
ruling of a trial court that excluded expert testimony about the likely

\textsuperscript{85.} Id. at 801, 717 S.E.2d at 268-69.
\textsuperscript{86.} Id. at 805-06, 717 S.E.2d at 271-72.
\textsuperscript{87.} Id. at 806, 717 S.E.2d at 272.
\textsuperscript{89.} Id. at 15, 720 S.E.2d at 343.
\textsuperscript{90.} Id. at 19-20, 720 S.E.2d at 346.
\textsuperscript{91.} Id. at 23, 720 S.E.2d at 348 n.7.
\textsuperscript{92.} Id. at 24, 720 S.E.2d at 349.
outcome of the "case-within-[the]-case." The lawyer had sued the wrong defendant on a wrongful death claim. The plaintiff sought to introduce expert testimony that the plaintiffs would have recovered $500,000 in the wrongful death case if it had been handled correctly. The trial court granted a motion in limine to exclude the testimony, but the court of appeals reversed that ruling. The court applied its recent ruling in Johnson v. Leibel (since unanimously overruled) that such testimony is admissible if "a lay person could not competently determine whether or not the negligence of the attorney proximately caused the plaintiff's damages, i.e., whether the plaintiff would have prevailed in the underlying action."

In Villanueva v. First American Title Insurance Co., the court of appeals decided a question of first impression: whether legal malpractice claims are assignable in Georgia. The lawyer had closed a real estate transaction, but before the prior lienholder could be paid off from the proceeds, the money was taken from the firm's trust account. The title insurance company paid off the prior lienholder and, by a contractual assignment, asserted a claim against the lawyer for committing malpractice in the transaction. The court of appeals applied the Official Code of Georgia Annotated section 44-12-24 (O.C.G.A.) and held that such claims are assignable because they are for property loss rather than for injury to the person, reputation, or feelings. The court also rejected an argument that the lawyer was not liable because of the intervening criminal act by which someone else took the money from the trust account. The court held that there was a jury issue whether such an act was foreseeable because the lawyer admittedly had

94. Id. at 152, 720 S.E.2d at 653.
98. Id. at 168, 721 S.E.2d at 155.
99. Id. at 165-66, 721 S.E.2d at 152-53.
100. O.C.G.A. § 44-12-24 (2002).
101. Villanueva, 313 Ga. App. at 168, 721 S.E.2d at 155. O.C.G.A. § 44-12-24 provides that "[e]xcept for those situations governed by Code Sections 11-2-210 and 11-9-406, a right of action is assignable if it involves, directly or indirectly, a right of property. A right of action for personal torts or for injuries arising from fraud to the assignor may not be assigned." O.C.G.A. § 44-12-24.
some concerns about that person’s access to the trust account before the money was taken. The court remanded the case for trial.

III. INEFFECTIVE ASSISTANCE OF COUNSEL

A. Georgia Supreme Court

The Georgia Supreme Court decided five significant cases during the survey period related to ineffective assistance of counsel. In Johnson v. State, the court concluded that the defendant had not been adequately advised regarding a plea offer. The state offered to accept a plea in exchange for a twenty-five-year sentence. The defendant was informed of the offer but was not advised that it would be withdrawn if not accepted before the defendant pleaded not guilty. He was also not advised that the charges carried the potential of a mandatory life sentence without parole. The defendant’s counsel also did not conduct an examination of the facts necessary to give informed advice to the defendant. Once the defendant learned that his alibi witnesses were not going to be helpful, and learned about the possibility of the mandatory life sentence, he authorized his counsel to make a counteroffer. When the counteroffer was rejected, defense counsel sought to accept the original offer, but the assistant district attorney replied that the offer was withdrawn as a matter of office policy once the defendant pleaded not guilty.

The court held that the failure to conduct a sufficient examination of the facts and to inform the client of both the possibility of a mandatory life sentence and the district attorney’s policy of revoking offers constituted ineffective assistance. The court also held that the

103. Id. at 169, 721 S.E.2d at 156.
104. Id. at 170, 721 S.E.2d at 156.
105. One other case is worthy of a brief mention. In State v. Abernathy, the supreme court assumed without deciding that there was a conflict of interest for a public defender when another lawyer in the same circuit defender’s office had represented someone else charged in connection with the same events. State v. Abernathy, 289 Ga. 603, 604, 715 S.E.2d 48, 51 (2011). The court found no prejudice and noted that the conflict issue is squarely before the court in In re Formal Advisory Opinion No. 10-1, No. S10U1679 (docketed July 1, 2010). Abernathy, 289 Ga. at 604-05, 715 S.E.2d at 51-52.
107. Id. at 536, 712 S.E.2d at 814. It should be noted that during the survey period the United States Supreme Court decided two important cases regarding plea offers and ineffective assistance of counsel. See Missouri v. Frye, 132 S. Ct. 1399 (2012); Lafler v. Cooper, 132 S. Ct. 1376 (2012).
109. Id. at 536, 712 S.E.2d at 814.
defendant had shown harm because he did attempt to accept the original offer once his counteroffer was rejected. The court remanded for "further proceedings consistent with this opinion" without elaborating on what those proceedings would be. Justices Melton and Hines dissented because the defendant made a counteroffer. Therefore, they concluded, the defendant could not prove that there was a reasonable probability that he would have accepted the original offer if he had been properly advised at the time.

The court reversed four cases in which the habeas courts had upheld claims of ineffective assistance of counsel. Two of the cases involved appellate counsel. In Walker v. Hagins, the lawyer had neglected to ensure that the transcript of a hearing on a motion to dismiss the jury panel was included in the record on appeal. The habeas court presumed prejudice, but the supreme court held that a showing of prejudice was necessary and that its own examination of the missing transcript showed no harm to the defendant.

In Arrington v. Collins, the petitioner claimed that appellate counsel was ineffective because he failed to raise several arguments in the appeal. The habeas court found ineffective assistance and harm,

110. Id. at 535-36, 712 S.E.2d at 814.
111. Id. at 536, 712 S.E.2d at 814. Interestingly, the remedy in these situations is a difficult and open question because of the trial court's power to reject an agreed-upon plea bargain. See Lafler, 132 S. Ct. at 1396 (Scalia, J., dissenting):

   It is impossible to conclude discussion of today's extraordinary opinion without commenting upon the remedy it provides for the unconstitutional conviction. It is a remedy unheard-of in American jurisprudence—and, I would be willing to bet, in the jurisprudence of any other country.

   The Court requires Michigan to "reoffer the plea agreement" that was rejected because of bad advice from counsel. That would indeed be a powerful remedy—but for the fact that Cooper's acceptance of that reoffered agreement is not conclusive. Astoundingly, "the state trial court can then exercise its discretion in determining whether to vacate the convictions and resentence respondent pursuant to the plea agreement, to vacate only some of the convictions and resentence respondent accordingly, or to leave the convictions and sentence from trial undisturbed."

   Id. (quoting the majority opinion) (citations omitted).
112. Johnson, 289 Ga. at 536, 712 S.E.2d at 814 (Melton & Hines, JJ., dissenting).
113.
115. Id. at 512, 722 S.E.2d at 727.
116. Id. at 515, 722 S.E.2d at 728-29.
118. Id. at 603, 724 S.E.2d at 373.
but the supreme court reversed because the tactical omission of these arguments was within the range of reasonableness. In *Hambrick v. Brannen*, the habeas court found counsel deficient because he had not investigated his client's mental health history in connection with a probation revocation hearing and that, if he had done so, there would have been a reasonable probability of a different outcome. The supreme court ruled there was error as to both prongs. First, the lawyer was not ineffective, because the decision not to pursue the insanity defense came after a sufficient investigation and adequate consultation with the defendant and his family. Second, the court determined that there was no prejudice because the record did not reveal what a more thorough investigation of the client's mental health would have found or how it might have affected the proceeding.

Finally, in *Humphrey v. Morrow*, the court reversed the habeas court's decision and reinstated the death penalty. Trial counsel allegedly failed to conduct a reasonable investigation into the defendant's early life and failed to present psychological and forensic evidence that would have made a significant difference in the probability of a guilty verdict and a recommendation of death. The supreme court rejected all of these arguments, finding that the investigation was reasonable, that the psychologist's testimony would not have had a significant impact, and that the lack of forensic evidence was not prejudicial because it would have been cumulative, not helpful to the defendant, and less credible than the expert testimony that was presented. The court finally held that there was no reasonable probability that the lawyer's failure to object to a confusing sentencing verdict form caused harm because "there is no reasonable probability that the jury would have imposed anything less than two separate death sentences for the two murders if trial counsel had successfully objected to the form of the sentencing verdict."

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119. *Id.* at 608, 724 S.E.2d at 377.
120. 289 Ga. 682, 715 S.E.2d 89 (2011).
121. *Id.* at 682-83, 715 S.E.2d at 90-91.
122. *Id.* at 684-85, 715 S.E.2d at 91-92.
123. *Id.* at 683-84, 715 S.E.2d at 91.
124. *Id.* at 684-85, 715 S.E.2d at 92.
126. *Id.* at 877, 717 S.E.2d at 179.
127. *Id.* at 870, 717 S.E.2d at 175.
128. *Id.* at 870, 873, 717 S.E.2d at 175, 177.
129. *Id.* at 874-75, 717 S.E.2d at 178.
B. Georgia Court of Appeals

During the survey period, the Georgia Court of Appeals decided three ineffectiveness cases that are worthy of note. These cases involved guilty pleas and warrant mention in light of the attention that the Supreme Court of the United States gave two claims of ineffectiveness in connection with guilty pleas last term. In Badger v. State, the defense lawyer apparently never conveyed an offer of a five-year sentence in exchange for a guilty plea. There was significant evidence that the client had been adamant that he was not guilty and would not accept any plea bargain. The trial court was critical of the lawyer for not conveying the offer, but both the trial court and the court of appeals agreed that there was no reasonable probability that the defendant would have accepted it. There was, therefore, no prejudice.

Similarly, in Roseborough v. State, the defense lawyer in a child molestation case mistakenly agreed with the judge's comment that the minimum sentence was one year rather than five years. However, the defendant testified at the hearing on his ineffectiveness claim that the mistake did not make a difference to him because he did not want to plead guilty at all. Finally, the defendant in Bailey v. State complained that his counsel was not available to discuss an offer that the defendant initially rejected, but the defendant could provide no

130. In another routine case, the court upheld a claim of ineffective assistance when an attorney failed to make a directed verdict motion when the State's own evidence showed that the defendant was not guilty of one of the many counts brought against him. Murray v. State, 315 Ga. App. 653, 655-56, 727 S.E.2d 267, 268-69 (2012).
133. Id. at 157-58, 712 S.E.2d at 583-84.
134. Id. at 159-60, 712 S.E.2d at 584-85. It bears noting that when these events transpired, Comment 1A to Georgia Rule of Professional Conduct 1.4 stated that a lawyer who receives a proffered plea bargain in a criminal case "should" convey the offer unless the client has made it clear in prior discussions that the deal would be unacceptable. See GA. RULES OF PROF'L CONDUCT R. 1.4 cmt. 1A, reprinted in State Bar of Georgia, Directory & Handbook, GA. B.J. Vol. 16 no. 3 (2010-2011) (Special Issue) (text of Georgia Rules of Professional Conduct before they were amended in 2011). The word "should" now has been changed to "must" in the new Comment 2 to Rule 1.4, but the lawyer is still permitted not to convey offers that the client has authorized the lawyer to reject. See GA. RULES OF PROF'L CONDUCT R. 1.4 cmt. 2 (2011), available at http://gabar.org/barrules/handbookdetail.cfm?what=rule&id=54.
137. Id. at 458-59, 716 S.E.2d at 532-33.
evidence that the offer was even still in effect when he claimed to have been unable to discuss the matter with his lawyer. Therefore, he could show no deficient performance or harm, particularly since he never showed any intent to accept the offer when it was open.

IV. DISQUALIFICATION

The Georgia Court of Appeals decided two significant disqualification cases during the survey period. In *Lewis v. State*, the trial court disqualified Alston & Bird from representing the defendant because the State identified an employee of a corporate client of that firm as a witness. Under *Wheat v. United States*, the prosecution has standing to overcome the presumption in favor of a defendant’s counsel of choice and seek disqualification of a defense lawyer only upon a showing of a serious potential for conflict. The court of appeals reversed the trial court’s order because the prosecution had not made such a showing. In particular, there was no evidence that the corporate client whose employee would be cross-examined by an Alston & Bird lawyer in the criminal trial was such an important client, or would be so put off by the cross-examination, that Alston & Bird would be reluctant to cross-examine vigorously. The court described the record on this point as “one conjecture piled upon another” and reversed.

In *Greater Georgia Amusements, LLC v. Georgia*, the court of appeals invalidated the appointment of private lawyers as special assistant district attorneys because the attorneys were working under a contingent fee arrangement. The district attorney had agreed to pay the lawyers one-third of the gross amount recovered for the state (and forty percent if an appeal was necessary) in forfeiture actions involving convenience stores that had gaming machines. Although the court held that the district attorney had the power to appoint the lawyers as special assistant district attorneys, the court voided the

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139. *Id.* at 826-28, 723 S.E.2d at 57-58.
140. *Id.* at 829, 723 S.E.2d at 59.
142. *Id.* at 275-76, 718 S.E.2d at 113.
144. *Id.* at 164.
146. *Id.* at 289, 718 S.E.2d at 122-23.
147. *Id.* at 289-90, 718 S.E.2d at 123.
149. *Id.* at 746-47.
150. *Id.* at 745.
contingent fee arrangement because it guaranteed "at least the appearance of a conflict of interest" between a district attorney’s "public duty to seek justice and his private right to obtain compensation for his services." The court also noted that the Georgia legislature has now forbidden such contingent fee arrangements with attorneys for the state in forfeiture actions.

V. JUDICIAL CONDUCT

In Mayor & Aldermen of Savannah v. Batson-Cook Co., the Georgia Supreme Court decided a significant case involving recusal. In Georgia, Uniform Superior Court Rule 25 sets forth the procedure for a motion to recuse. The rule requires a written motion and affidavits, and the trial judge must determine whether the papers are timely, whether they are legally sufficient, and whether a recusal would be warranted if all the facts are true. If the answer to all of these questions is yes, then the judge must refer the motion to another judge for decision. In the City of Savannah case, the trial judge made no finding as to timeliness but ruled that the affidavits were not legally sufficient and did not state a basis for recusal. The supreme court reversed. The court noted first that the proper standard for review of a trial judge’s decision under Rule 25 is de novo, and the court overruled cases that had used an abuse of discretion standard. Using that standard, the court reversed the trial judge’s decision and described the circumstances:

In the case before us, the familial relationship between the judge and an attorney who had represented one of the parties in the underlying dispute that resulted in the litigation and who was employed by a firm,

151. Id. at 746-47.
152. Id. at 745 n.2.
153. In addition to the cases noted in the text, there was one additional significant case involving judicial conduct. The supreme court permanently removed a magistrate judge from office because of numerous violations of the Code of Judicial Conduct, including drug use, misuse of his office, and actions that did not promote public confidence in the integrity and impartiality of the judiciary. In re Judge Anthony Peters, 289 Ga. 633, 636, 715 S.E.2d 56, 58 (2011).
156. See id.
157. Id.
158. Id.
159. Savannah, 291 Ga. at 116, 728 S.E.2d at 192.
160. Id. at 122, 728 S.E.2d at 195.
161. Id. at 119-20, 728 S.E.2d at 194.
a partner of which was general counsel to a party in the case, who acted at times as if counsel of record, and whose conversation with the trial judge advising him of the existence of the case was followed by the trial judge's assignment of the case to himself, are objective facts which we conclude would cause a fair-minded and impartial person to have a reasonable perception of the trial judge's lack of impartiality.\textsuperscript{162}

The supreme court also decided one case during the survey period involving the proper bounds of a judge's involvement in a case, while the Georgia Court of Appeals decided two such cases. In \textit{Pride v. Kemp},\textsuperscript{163} the supreme court granted a writ of habeas corpus to a defendant whose guilty plea was found to have been involuntary as a result of the judge's comments.\textsuperscript{164} The judge had rejected a plea bargain under which the defendant would serve thirteen years and told the defendent the minimum sentence in a plea would be twenty years.\textsuperscript{165} The court told the defendant that if he was convicted at trial the sentence would be the "maximum" and the judge would "stack the sentences."\textsuperscript{166} The judge also expressed a hope that the defendant would choose to go to trial so "I can give him what I would really like to give him."\textsuperscript{167} Under these circumstances, the supreme court unanimously held that the defendant's decision to plead guilty was not voluntary.\textsuperscript{168}

The court of appeals reversed the conviction of a defendant who opted for a bench trial after the judge told him that the sentence would be the minimum if the defendant waived his right to jury trial but also said that after a jury trial, "I am not bound by anything I said I would do at the end of a bench trial, the maximum you could get would be . . . 41 years."\textsuperscript{169} The trial court also advised the defendant that if the defendant chose a jury trial the court would take into account "the fact that the time of the court is being used" and noted that "during a jury trial I find out a lot more information about a case."\textsuperscript{170} The court of appeals found no authority directly on point but concluded, by analogy to \textit{Pride}, that the standard was whether the trial court's statements made the waiver of the constitutional right to a jury trial involuntary.\textsuperscript{171} The court concluded that there was a substantial likelihood of

\begin{itemize}
\item \textsuperscript{162} Id. at 121, 728 S.E.2d at 195.
\item \textsuperscript{163} 289 Ga. 353, 711 S.E.2d 653 (2011).
\item \textsuperscript{164} Id. at 353, 711 S.E.2d at 654.
\item \textsuperscript{165} Id.
\item \textsuperscript{166} Id.
\item \textsuperscript{167} Id. at 354, 711 S.E.2d at 654.
\item \textsuperscript{168} Id. at 355, 711 S.E.2d at 655.
\item \textsuperscript{170} Id. at 896, 714 S.E.2d at 426.
\item \textsuperscript{171} Id. at 898, 714 S.E.2d at 427.
\end{itemize}
undue influence and reversed the conviction that followed the bench trial.\(^{172}\)

Finally, in *Price v. State*,\(^{173}\) a judge's involvement in a case also led to a reversal.\(^{174}\) The defendant was convicted of obtaining controlled substances by fraudulent means but contended that she had the doctor's permission to phone in the refills in question. The case turned entirely on the credibility of the witnesses.\(^{175}\) At one point, the judge asked a defense witness, "[a]re you lying under oath up here?" and, "[e]verything you've said has been truthful?"\(^{176}\) The court of appeals held that these questions "clearly intimated" the judge's opinion about the credibility of the witness\(^{177}\) and thus violated the judge's statutory duty not to "express or intimate his opinion as to what has or has not been proved or as to the guilt of the accused."\(^{178}\) The court reversed the defendant's conviction.\(^{179}\)

VI. MISCELLANEOUS CASES

During the survey period, the Georgia Court of Appeals decided three miscellaneous cases that are worthy of note. In *Eichholz Law Firm v. Tate Law Group*,\(^{180}\) the question was whether a joint venture agreement to share contingent fees between two law firms was enforceable after the clients discharged one of the firms.\(^{181}\) The court noted that Georgia Rule of Professional Conduct 1.5\(^{182}\) allows fee-splitting only if the client "does not object to the participation of all the lawyers involved," and the court took the discharge by the clients of one of the firms to be such an objection.\(^{183}\) The agreement could not be enforced.\(^{184}\)

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\(^{172}\) *Id.* at 899, 714 S.E.2d at 427-28.


\(^{174}\) *Id.* at 135, 712 S.E.2d at 138.

\(^{175}\) *Id.* at 132, 712 S.E.2d at 135-36.

\(^{176}\) *Id.* at 133, 712 S.E.2d at 136.

\(^{177}\) *Id.* at 134, 712 S.E.2d at 137.

\(^{178}\) *Id.*; see also O.C.G.A. § 17-8-57 (2008).


\(^{181}\) *Id.* at 850, 714 S.E.2d at 415.

\(^{182}\) GA. RULES OF PROF'L CONDUCT R. 1.5 (2011).

\(^{183}\) *Eichholz*, 310 Ga. App. at 851, 714 S.E.2d at 415-16; see also GA. RULES OF PROF'L CONDUCT R. 1.5(eX2).

In *Outlaw v. Rye*, the court of appeals declined to enforce an attorney's lien asserted under O.C.G.A. § 15-19-14. Because the property against which the lien was filed was not recovered by the lawyer, the statutory lien could not be enforced. Nor did it matter that the lawyer and the client had a contract that provided that, if the attorney's fees were not paid, the client's property would be "deemed" to have been recovered by the lawyer. The court of appeals rejected the argument that the lien statute effectively could be amended by agreement of the lawyer and client; the court affirmed the dismissal of the lawyer's petition to foreclose on the lien.

Finally, the court of appeals decided one case about the standard for recovery of attorney fees under O.C.G.A. § 9-15-14, which governs recovery of attorney fees for "frivolous actions and defenses." The court reversed the trial court's award of fees against a losing party when that party's argument was not "nonsensical, illogical, foreclosed by existing precedent, or without some arguable support in the case law and statutes." The court noted that the purpose of the statute is to "discourage the bringing of frivolous claims, not the presentation of questions of first impression about which reasonable minds might disagree or the assertion of novel legal theories that find arguable, albeit limited, support in the existing case law and statutes." Because the plaintiff had not advanced such frivolous claims or theories, the court reversed the award of attorney fees against it.

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186. *Id.* at 580, 718 S.E.2d at 906.
   
   Upon all actions for the recovery of real or personal property and upon all judgments or decrees for the recovery of the same, attorneys at law shall have a lien for their fees on the property recovered superior to all liens except liens for taxes, which may be enforced by mortgage and foreclosure by the attorneys at law or their lawful representatives as liens on personal property and real estate are enforced. The property recovered shall remain subject to the liens unless transferred to bona fide purchasers without notice.
   
   *Id.* § 15-19-14(c).
189. *Id.* at 582-83, 718 S.E.2d at 908.
193. *Id.* at 677, 725 S.E.2d at 810.
194. *Id.* at 677-78, 725 S.E.2d at 810.
VII. DECISIONS OF THE FORMAL ADVISORY OPINION BOARD

The Annual Report of the Office of General Counsel of the State Bar of Georgia contains a full report of the actions of the Formal Advisory Opinion Board during the survey period.\(^{195}\) Four items bear mention here. In Formal Advisory Opinion 10-1,\(^{196}\) the Board concluded that different lawyers employed in the same circuit public defender's office may not represent co-defendants if one lawyer could not do so.\(^{197}\) That opinion remained pending for discretionary review with the Georgia Supreme Court throughout the survey period.\(^{198}\) The supreme court approved one advisory opinion, which requires a lawyer who has been appointed as legal counsel and as guardian ad litem for a child to seek to be removed as the child's guardian if the attorney concludes that the child's instructions to the lawyer conflict with the child's best interest.\(^{199}\) Finally, the Formal Advisory Opinion Board accepted a request for drafting a formal advisory opinion to answer the question whether "a Georgia lawyer who participates in a piecemeal element of a Georgia residential real estate transaction where neither he nor other Georgia lawyers will supervise the other aspects of the closing process violate the Georgia Rules of Professional Conduct."\(^{200}\)


\(^{196}\) Id. at 19.

\(^{197}\) Id.

\(^{198}\) Id. It should be noted in this regard that the State Bar of Georgia has asked the Georgia Supreme Court to amend Georgia Rule of Professional Conduct 1.10 to add a section (d). That new section would state, "A lawyer representing a client of a public defender office shall not be disqualified under this rule because of the representation by the office of another client in the same or a substantially related matter unless there is a conflict as defined by Rules 1.7, 1.8(f) or 1.9." Cliff Brashier, Notice of Motion to Amend the Rules and Regulations of the State Bar of Georgia, 17 GA. B.J. 64, 65 (Dec. 2011). The amendment makes no substantive change. In effect, it states that no conflict will be imputed to a fellow public defender when there is no conflict to impute. The Author is a member of the State Bar of Georgia Disciplinary Rules and Procedures Committee, which drafted the proposed change, and this interpretation of the proposed amendment is personal and not necessarily representative of the views of the Committee or its other members.


\(^{200}\) STATE BAR OF GEORGIA ANNUAL REPORT, supra note 195, at 17. The required role of Georgia lawyers in real estate transactions has been the focus of attention before. In In re UPL Advisory Opinion 2003-2, the court stated that under Georgia law, the preparation of a document that serves to secure a legal right is considered the practice of law. The execution of a deed of conveyance, because it is an integral part of the real estate closing
VIII. AMENDMENTS TO THE GEORGIA RULES OF PROFESSIONAL CONDUCT

During the survey period, the Georgia Supreme Court amended a number of the Georgia Rules of Professional Conduct in light of changes that the American Bar Association made to the Model Rules of Professional Ethics after the 2000 Commission completed its work. Although a comprehensive review of all the changes is beyond the scope of this Article, a few of the changes bear mentioning.

The new version defines “informed consent” and substitutes that concept for “consent after consultation” in connection with several rules, including Rule 1.6 on release of confidential information and 1.7 on waiver of conflicts of interest. Rule 1.4 has been expanded to require lawyers to inform clients promptly about any matters that require informed consent, to reasonably consult with the client about the means to be used to achieve the client’s objectives (mirroring the preexisting duty to do so under Rule 1.2), and to consult with the client about limitations on the lawyer’s conduct if the client expects assistance that would violate the Rules or other law. Other changes include deletion of Rule 2.2 on the lawyer as intermediary, the addition of a new rule on the lawyer as a third-party neutral, and some changes to the definition of misconduct with respect to criminal acts by the lawyer. Finally, the major changes include new limits on the

process, is also the practice of law. As a general rule it would, therefore, be the unlicensed practice of law for a non-lawyer to prepare or facilitate the execution of such deeds. In re UPL Advisory Opinion 2003-2, available at http://www.gabar.org/barrules/handbookdetail.cfm?what=rule&id=542.


203. GA. RULES OF PROF'L CONDUCT R. 1.7 (2011).

204. “Informed consent” is defined in the new rules as “the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.” GA. RULES OF PROF'L CONDUCT R. 1.0(h) (2011).


207. GA. RULES OF PROF'L CONDUCT R. 1.4.


209. Rule 8.4(a)(8) states that it is misconduct to “commit a criminal act that relates to the lawyer’s fitness to practice law or reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer, where the lawyer has admitted in judicio the commission of such act.” GA. RULES OF PROF'L CONDUCT R. 8.4(a)(8) (2011).
lawyer's obligation to notify third parties and deliver to them property in the lawyer's possession,\textsuperscript{210} a new option for a lawyer for an entity to "report out" confidential information to protect the client,\textsuperscript{211} a slight change of wording to the no-contact rule,\textsuperscript{212} and changes to the comment to that rule concerning contacts that may or may not be made with constituents of a represented organization.\textsuperscript{213}

IX. CONCLUSION

The survey period was an eventful one for court decisions and other actions that relate to the professional responsibilities of Georgia lawyers. In this area, as in all aspects of a lawyer's competence, "a lawyer should engage in continuing study and education."\textsuperscript{214}

\begin{itemize}
\item \textsuperscript{210} GA. RULES OF PROF'L CONDUCT R. 1.15(I)(b) (2011).
\item \textsuperscript{211} GA. RULES OF PROF'L CONDUCT R. 1.13(c)(2) (2011).
\item \textsuperscript{212} GA. RULES OF PROF'L CONDUCT R. 4.2(a) (2011).
\item \textsuperscript{213} GA. RULES OF PROF'L CONDUCT R. 4.2 cmt. 4A. The full text of the Georgia Rules of Professional Conduct is available at http://www.gabar.org/barrules/georgia-rules-of-professional-conduct.cfm.
\item \textsuperscript{214} GA. RULES OF PROF'L CONDUCT R. 1.1 cmt. 6 (2011).
\end{itemize}