

GEORGIA BAR
JOURNAL

The Legal: Business Interruption Insurance Claims Arising Out of Coronavirus/COVID-19

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58TH
STATE BAR
PRESIDENT

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Allies: A Cure for What Ails Us



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In working for all Bar members and by protecting the public, the State Bar of Georgia holds as its central mission three tenets: 1) fostering of duty and service to the public; 2) improving the administration of justice; and 3) advancing the science of law. These tenets stand as the foundation of what we as a bar association strive to achieve and upon which we build through our collective effort.

As we enter this new Bar year and face numerous unique and extraordinary challenges, I am especially reminded of our foundational principles and how they apply particularly to what we face today. I view these challenges as two public health crises: one a pandemic caused by widespread coronavirus infection, and the other brought about by a justice system fraught with racism, racial bias and resulting disparities. As a Bar, to succeed in our efforts to support all Bar members and to protect the public, we must work together; we must support each other; we must become and remain allies.

Allies are intentional. They actively participate in the work of the Bar. They are goal-oriented in each task to which they have been assigned. Through committees, sections and boards, allies are purposeful in the Bar work they do, the roles to which they were appointed and the actions they take. Allies seek knowledge and information to improve not only their understanding of the challenges

to be faced and goals to be met, but also how to best address those challenges and goals. Allies remain focused on the proposed outcomes being sought on behalf of the Bar, its members and the public.

We must be intentional in minimizing the spread and impact of coronavirus in the state of Georgia, to protect ourselves, our families, our clients and our fellow Georgia citizens. We must be intentional in addressing a justice system that does not treat everyone fairly and equally, to also protect ourselves, our families, our clients and our fellow Georgia citizens.

Allies are advocates, too. Although it is impossible to walk in the shoes of another, allies empathize. They do not discount the experiences of others. Allies tackle myths, misstatements and jokes that can undermine the collective efforts of the Bar. They are vocal and speak up for those who do not have a voice, who are not seated at the table, or who are not in a position of power or decision-making that is often required to create widespread, lasting change.

We must be advocates for those most at risk for coronavirus infection and its complications, including death. We must be advocates for those most at risk of being unfairly and disproportionately impacted by our justice system, especially those who have lost their lives.

We must be vocal. We must speak up. We must not be silent.

Allies are risk-takers as well. They take positions that better society as a whole but may be unpopular in some communities. Allies work to understand and recognize that flaws exist in the justice system, in society and in every one of us. They have uncomfortable conversations that may expose their individual flaws and may run counter to their self-interests. Allies bravely welcome such conversations to the extent said exposure furthers the work that must be done. We must be risk-takers to protect others against coronavirus and against injustice, no matter how unpopular we may be as a result.

Allies are committed. They believe they are obligated to do something, to take some action and help in some way. Whether working within our Bar, in community groups, as activists, as demonstrators, through law firm diversity and inclusion efforts, or as court employees or judges, allies seek opportunities to positively impact our Bar and our state. They are committed to acting beyond the boundaries of their personal or professional lives.

Allies see the bigger picture—that we are all bound to each other and are, accordingly, each other’s keeper. We are responsible for each other’s well-being. In response to the global, national and statewide calls for action we have heard, as echoed by our members and by our fellow citizens, we must be committed to curbing the spread of coronavirus and systemic injustice, and also finding a remedy for both.

Now, more than ever before, the crises we face as a bar association are indistinguishable from those we face as individual citizens. Never before has the intersection of our lives and our livelihoods been so visible and pronounced. To address these two diseases that currently infect our country and state—coronavirus and racial injustice—we must work together. Together we can address the root causes of the infection and its spread. Together we can establish an environment where these diseases no longer flourish or thrive. Together we can find a cure.

Together, as allies, we can obtain and sustain a healthy and sound community, Bar and state. Will you be an ally? ●

OFFICERS’ BLOCK

The State Bar of Georgia’s eight officers are elected to a one-year term by the membership and serve as members of the Executive Committee. Three of the officer positions are held by the president, president-elect and immediate past president of the YLD, shown on page 11.



DAWN M. JONES
President

Jones, of The Firm of Dawn M. Jones, LLC, is a former ICU nurse representing clients and their families for death or severe injuries resulting from medical negligence, nursing home neglect/abuse, collisions and other tort-related matters. She also serves as a litigation and expert witness consultant.



ELIZABETH L. FITE
President-Elect

Fite, of Rogers & Fite, LLC, in Atlanta, focuses her law practice in civil litigation related to wrongful death and catastrophic injuries, tractor-trailer collisions, automobile collisions, negligent security claims, hazing claims and sexual assault.



SARAH B. “SALLY” AKINS
Treasurer

Akins is with Ellis, Painter, Ratterree & Adams LLP and Miles Mediation & Arbitration. Her practice focuses on mediating civil cases, including premises liability, professional negligence and products liability, amongst others.



HON. J. ANTONIO “TONY” DELCAMPO
Secretary

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



DARRELL SUTTON
Immediate Past President

Sutton and his firm, Sutton Law Group LLC in Marietta, represent individuals, businesses, insurers, self-insured companies and third-party administrators throughout Georgia, defending workers’ compensation and commercial general liability claims.

The Necessity of Unparalleled Unity

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

BY KARLISE Y. GRIER

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

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

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

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

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

Police Encounter One

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

after a sweeping manhunt that spanned two states.

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

Shelby police received a tip about a suspicious car in the area and arrested Roof without incident, Mullen added.^{4,5}

Police Encounter Two

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

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



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

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

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

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

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

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

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

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



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Endnotes

1. See generally George W. Dougherty, Stefanie A. Lindquist and Mark D. Bradbury, *Evaluating Performance in State Judicial Institutions: Trust and Confidence in the Georgia Judiciary*, 38 St. & Loc. Gov’t Rev., 176-190 (2006), www.jstor.org/stable/4355433 (Last visited June 26, 2020)
2. George W. Bush, *Statement by President George W. Bush*, George W. Bush Presidential Center, <https://www.bushcenter.org/about-the-center/newsroom/press-releases/2020/06/statement-by-president-george-w-bush.html> (emphasis supplied). (Last visited June 26, 2020).
3. Zach Murdock, *Connecticut Supreme Court’s first Black chief justice calls for ‘real and immediate improvements’ to judicial system amid national protests*, Hartford Curant (June 10, 2020, 10:28 AM), <https://www.courant.com/news/connecticut/hc-br-chief-justice-robinson-reforms-protests-20200610-k6dwuubv7zau5citiytiwrwcrm-story.html> (Last visited June 26, 2020).
4. Erik Ortiz and F. Brinley Bruton, *Charleston Church Shooting: Suspect Dylann Roof Captured in North Carolina*, NBC News (June 18, 2015, 8:12 AM EDT / Updated June 18, 2015, 8:25 PM EDT), <https://www.nbcnews.com/storyline/charleston-church-shooting/charleston-church-shooting-suspect-dylann-roof-captured-north-carolina-n377546> (Last visited June 26, 2020).
5. See Glenn Smith, *Emanuel AME shooter Dylann Roof Claims He Has Been Targeted for Abuse in Federal Prison*, The Post and Courier (April 23, 2020), https://www.postandcourier.com/news/emanuel-ame-shooter-dylann-roof-claims-he-has-been-targeted-for-abuse-in-federal-prison/article_846e04ac-84be-11ea-ac75-dba4446ab87.html (as of April 23, 2020, Roof was still alive in a federal prison and appealing his death sentence) (Last visited June 26, 2020).
6. Evan Hill, et al., *How George Floyd Was Killed in Police Custody*, N.Y. Times (May 31, 2020 / Updated June 22, 2020), <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html> (Last visited June 26, 2020).
7. Chief Justice’s Commission on Professionalism, *A Lawyer’s Creed and Aspirational Statement on Professionalism* at Lines 41-44, <http://jcpga.org/wp-content/uploads/2019/07/2-Lawyers-CreedAspStatement-v-2013-Line-Number-with-new-logo-and-seal-v07-25-19.pdf> (Last visited June 26, 2020).
8. Chief Justice’s Commission on Professionalism, *A Lawyer’s Creed and Aspirational Statement on Professionalism* at Lines 56-57, <http://jcpga.org/wp-content/uploads/2019/07/2-Lawyers-CreedAspStatement-v-2013-Line-Number-with-new-logo-and-seal-v07-25-19.pdf> (Last visited June 26, 2020).
9. Chief Justice’s Commission on Professionalism, *A Lawyer’s Creed and Aspirational Statement on Professionalism* at Lines 58-59, <http://jcpga.org/wp-content/uploads/2019/07/2-Lawyers-CreedAspStatement-v-2013-Line-Number-with-new-logo-and-seal-v07-25-19.pdf> (Last visited June 26, 2020).
10. Mike Scarella and Jonathan Ringel, *Georgia Chief Justice Sees ‘Unparalleled Unity’ in Diverse Protesters Expressing ‘Outrage’*, Law.com, Daily Report (June 05, 2020, 08:28 PM), <https://www.law.com/dailyreportonline/2020/06/05/our-moral-imperative-washington-state-justices-issue-open-letter-confronting-racial-injustice-404-47952/> (The original version of this story was published on The National Law Journal) (Last visited June 26, 2020).
11. Chief Justice’s Commission on Professionalism, *Mission of the Chief Justice’s Commission on Professionalism*, <http://jcpga.org/mission/> (Last visited June 26, 2020).