

SAVANNAH BAR ASSOCIATION

The Citation

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Volume 96, Issue 11

June 2015

Editor: Tawny D. Mack

Ben Karpf Named to Board of The Creative Coast

Ben Karpf (Bouhan Falligant) was recently named to the board of The Creative Coast. As a board member, he will serve as an advocate for the entrepreneurial community of the creative coast region by supporting, mentoring and connecting local businesses.



At Bouhan Falligant, Karpf's practice focuses on intellectual property law and commercial transactions, including drafting and negotiating commercial contracts, corporate matters and intellectual property litigation. He also advises clients on matters related to copyright law, the Internet, mobile devices, social media and related technology, and the clearance and prosecution of trademarks and service marks.

Karpf attended college, graduate school, and law school in Washington, D.C. He received J.D. and M.A. degrees from Georgetown University and a Bachelor of Arts degree in English from The George Washington University. During law school, Karpf worked as a law clerk for the Center for Democracy & Technology and the Media Access Project. During graduate school, he was a volunteer with the Future of Music Coalition.

Save the Date - YLD Alumni Happy Hour

The Young Lawyers Division of the Savannah Bar Association ("YLD") is hosting an alumni happy hour at Hang Fire on July 23rd at 5:30 p.m. until 7:30 p.m. The YLD hopes to see everyone there!

Local Young Lawyers Graduate from the State Bar YLD Leadership Academy

Heather Hammonds Lundy (HunterMaclean), **Tawny D. Mack** (McCorkle & Johnson, LLP), **David William Bobo Mullens, III** (Oliver Maner), and **L. Rachel Wilson** (McCallar Law Firm) graduated from the Young Lawyers Division of State Bar of Georgia's Leadership Academy on June 19th at the State Bar's Annual Meeting.



The Leadership Academy was founded in 2006 and is a program for young lawyers who are interested in developing their leadership skills in addition to learning more about their profession, their communities, and their state.

Heather Lundy and Tawny Mack were also elected to the State Bar YLD's Executive Council to serve as members-at-large. **Zachary "Zack" Howard** (Oliver Maner) and **Carson Penney** (HunterMaclean) currently serve the State Bar YLD's Executive Council as representatives from the Southern District of Georgia. **Rachel Young Fields** (HunterMaclean) and **Quentin Marlin** were appointed as Directors of the State YLD. Additionally, Zack Howard was appointed to serve as co-chair of the State YLD's Community Service Projects Committee, Tawny Mack was appointed to serve as co-chair of the State YLD's Real Estate Committee, Quentin Marlin was appointed to serve as co-chair of the State YLD's Military Support Committee, and Bobo Mullens was appointed to serve as co-chair of the State YLD's Legislative Affairs Committee.

Triecce Gignilliat Ziblut Elected as Secretary/Treasurer of the Real Property Law Section of the State Bar of Georgia

Triecce Gignilliat Ziblut, a partner with the law firm of Rubnitz & Ziblut, was elected Secretary/Treasurer of the Real Property Law Section of the State Bar of Georgia. Triecce joined the RPLS Executive Committee in 2011 where she has served as Chair of the Newsletter and Residential Committees. Triecce also has been elected to the Board of GRECAA (the Georgia Residential Closing Attorneys Association).

Chatham County DUI Court

Established by the Honorable H. Gregory Fowler, Chief Judge – State Court of Chatham County, Chatham County's DUI Court celebrates twelve years of changing lives. Over 1,000 participants have graduated from DUI Court that requires participants to complete a structured yearlong substance abuse treatment program.

Chronic multiple offenders cause deaths and injuries on Georgia's highways. Traditional DUI sentencing, such as jail, suspended driving privilege, and fines do not deter repeating life-threatening crime. In 2002, the Governor's Office of Highway Safety (GOHS) provided grant funding to the Judicial Council to establish specialized court dockets to manage these cases and identify the repeat offenders. The Judicial Council chose Chatham County, one of three counties, to pilot the court. The grant lasted for three years after which time Chatham County began funding the Court. To supplement this funding, on July 21, 2006, Chatham County Board of Commissioners approved amending ordinance 17-123, Alcoholic Beverage Excise Tax, to provide additional revenues for the operation of the DUI Court program. The City of Savannah provides additional funding to the DUI Court for participants needing some financial assistance. The City Manager recommended this contribution in his 2007 *Service Program and Budget* letter to the Honorable Mayor and Alderman as an investment in their vision that Savannah be a safe, environmentally healthy, and economically thriving community for all its citizens.

Understanding that jail alone will not stop most repeat DUI offenders, the DUI Court held their first Court in May 2003 with the primary goal **to reduce the recidivism rate among multiple DUI offenders in the area**. A secondary goal is to help participants meet Georgia DDS license reinstatement requirements.

The DUI Court provides intensive judicial oversight, offender accountability, and substance abuse treatment using evidence based counseling. Participation and completion of the DUI Court is a requirement of probation and the court works closely with treatment and probation to ensure that the probationer is compliant. Completion of DUI Court requires a minimum of 52 weeks of treatment in which the participant is drug/alcohol tested on average at least twice weekly. The participant is "home visited" by Chatham County Deputy Sheriffs to ensure they are drug/alcohol free and the participant is required to meet with the DUI Court Judge every two weeks where non-compliant issues are addressed and sanctioned. Sanctions range from verbal reprimands to time in jail depending on the severity of the noncompliance. The participant pays for his/her treatment and drug screens at the current rate of \$42.00 per week for 52 weeks. They also must pay their probation fees and any fines imposed at the time of sentencing.

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Chatham County DUI Court Cont'd

A comprehensive evaluation of the three pilot DUI courts was undertaken. The results clearly demonstrate that DUI Courts work, and that they are effective at reducing the recidivism rates of DUI offenders. At 12 months post-graduation, DUI Court participants are almost 3 times less likely to have a new DUI arrest. At 24 months post-graduation, DUI Court participants are 4 times less likely to have a new DUI arrest. Even more promising, DUI Court participants are 20% less likely to be arrested for a new felony.

The Chatham County DUI Court boasts a less than 8% DUI recidivism rate, compared to a nation average of 32%. In 2014, there were 5,774 treatment-counseling appointments made with an attendance rate of over 96%. Program participants submitted to nearly 9,000 Drug/Alcohol test in that period.

Graduates of DUI Court often state, "This program saved my life." It is common for relatives of graduates to thank the DUI Court program leaders for "Giving me my son/daughter back to me."

Combined with the data that proves the success of DUI Court and the transformation of lives witnessed, the Chatham County DUI Court will continue to provide an alternative to defendants wishing to break their cycle of drug and alcohol addiction.

Savannah Law School Seeks Volunteers for 1L Orientation

Please consider volunteering for Savannah Law School's 1L Orientation on Saturday, August 15th. The State Bar of Georgia's Committee on Professionalism encourages lawyers and judges to volunteer to return to your alma mater or any ABA-accredited Georgia law school to help give back part of what the profession has given you by dedicating a half day of your time this August. [Download the flyer](#) for more information and to sign up to participate.

Adam Walters Selected to Participate in Leadership Development Program

Adam Walters has been selected to participate in the American Health Lawyers Association's 2015-2016 Physician Organization Group's Leadership Development Program.

Changing the Face of Residential Real Estate 180° Liz Thompson, real estate attorney

In response to the Great Recession, Congress passed a law known as the Dodd-Frank Wall Street Reform and Consumer Protection Act that changed our financial regulatory environment, affecting all federal financial regulatory agencies and almost every part of the nation's financial services industry. Dodd-Frank Act directs the Consumer Financial Protection Bureau (CFPB) to integrate mortgage disclosures under TILA and RESPA Sections 4 and 5. To lenders and title companies, this is known as the TILA-RESPA Integrated Disclosure (TRID) Rule or Integrated Mortgage Disclosure Rule.

It affects loan applications received on or after August 1, 2015, although an announcement was made on June 17, 2015 indicating that the government is working on changing the effective date to October 1, 2015.

Here are the major changes:

1. GFE and initial TIL have been combined to create a Loan Estimate (LE). The HUD-1 and final TIL have been combined to create the Closing Disclosure (CD).
2. There are new timing requirements and cost tolerances for these new forms. Of particular interest; a transaction cannot close unless the LE has been delivered to the borrower no later than 7 days prior to closing and the borrower has received the CD 3 days prior to closing.
3. The Lender is responsible for generating and delivering the CD to borrower(s), not the closing attorney. The lender is liable for certain incorrect fee and timing tolerances, and may be sued for statutory violations, as well as punitive damages, by consumers.

The new Rule places new, substantial penalties on the lender for TRID noncompliance. TRID is a significant change to how residential transactions are closed. Lenders will be much more involved before and after closing. Initially, as lenders and closing attorneys learn to work in this new environment, sales contracts will have to use a much longer time in which to close. Buyers should avoid making any major changes to their financing within 10 days of closing that could change their APR. Lenders will be requiring that all approved attorneys comply with the published 7 Pillars of Best Practices and to provide proof of compliance with these.

Here are some questions to consider:

1. As a residential closing attorney, have you met the requirements of Best Practices?

Have you migrated to software that enables you to work collaboratively with the lenders? Most lenders will have a separate software for delivering the Closing Disclosure. While pricing has not been announced, it is expected to be based on a per use basis. Have your employees gone through training on the new forms? As the closing attorney, you will be issuing a separate settlement statement (not a HUD-1), at or after closing, in addition to the lender Closing Disclosure. We are anticipating that the buyer and seller will sign separate settlement statements.

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Changing the Face of Residential Real Estate 180° Cont'd

As a closing attorney, are you well under way toward implementing ALTA Best Practices? Some lenders will be asking that same question and some may opt to not allow a company to close their mortgage transactions. Each lender will be different. Wells Fargo has been sending out announcements of its requirements for over six months, and SunTrust has already required some closing attorneys to provide a self assessment of compliances with Best Practices.

Buyers will have to ask their lender's mortgage processor if they are able to work with you as the closing attorney and, if not, what is required to make it possible.

2. Is your Buyer's mortgage rate lock long enough to carry them through a closing delay?

This new Rule is a big change for the lending and settlement industry. Initially, the new Rule will have a learning curve which may cause closing delays. If the closing is delayed, can the transaction (buyer and seller) tolerate the delay and allow the transaction to proceed? Expect frustration. For example, in a rising interest rate environment, if a transaction is delayed past the rate lock expiration, the buyer's new interest rate may increase. This could cause a buyer to back out of a transaction, or worse; an increased interest rate could impact the buyer's ability to be approved for the mortgage. The probability of closing delays is high as there will be a very steep learning curve.

The TRID Rule states a corrected Closing Disclosure must be issued and a new 3 business day waiting period applies if:

1. Annual Percentage Rate (APR) changes beyond allowable limits
2. The Loan Product changes
3. A Pre-payment penalty is added

Items that may change the APR:

- Adding or removing origination points or discount points
- Changing the loan amount
- Special credits paid outside of closing (POC)
- Changes to the property type

Unfortunately, while the ALTA 7 Pillars of Best Practice present extensive guidelines, there are few hard and fast statements of what is required. The CFPB does not directly impact the closing attorneys, nor does it have direct control over them, but, because it places such a huge burden on the lenders, the lenders are now going to be taking over some aspects previously handled by closing attorneys, and putting additional burdens on the attorneys.

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Changing the Face of Residential Real Estate 180° Cont'd

At the present time, each firm is interpreting the 7 Pillars of Best Practice differently, but all agree there will be a much larger burden of recording keeping (for instance, all closing attorneys must keep a log of consumer complaints, the details of same and how they were resolved-with no specific definition of what is a "consumer complaint."). It is anticipated that smaller firms will be impacted the most. Additional requirements are encrypted emails, positive pay for IOLTA accounts, clean desk policy and employee background checks every three years.

These changes will only affect closings presently subject to the current Good Faith Estimate (GFE), which is primarily long term mortgages. Commercial loans are not affected, nor are some residential loans not subject to GFE. The scope and extent of all of these changes continue to be an unknown, but attorneys handling residential real estate need to be aware these changes are coming, and stay educated as this all evolves.

Savannah Fiduciary Seminar Provides Online Information for 401(k) and Defined Contribution Plan Managers and Administrators

The Savannah Fiduciary Seminar has made the 2015 presentations and exhibits available online in the form of podcasts, PDF downloads, and PowerPoint presentations. The Seminar brings together top professional service firms to present important updates, insights, and practical tips for 401(k) and Defined Contribution Plan managers and administrators to meet key fiduciary duties. The 2015 Seminar materials are available online at <http://bit.ly/Fiduciary2015>.

The Savannah Fiduciary Seminar includes presentations from Julia Butler, COO of the Fiduciary Group, Randall Webb, Audit & Assurance Manager as TJS Deemer Dana, Rick Pummill, US Manager of Consulting and Compliance for The Retirement Plan Company, and **Rebecca Sczepanski**, ERISA and employee benefits attorney at HunterMaclean, who presents a summary of the legal issues regarding fiduciary status, including how to identify ERISA and state law fiduciaries. She also provides an update on major fiduciary litigation and tips for avoiding or mitigating the risks associated with fiduciary status related to retirement plans.

The Savannah Fiduciary Seminar is a presentation for sponsors, trustees, and administrators of 401(k) and Defined Contribution Plans on meeting fiduciary duties, reducing liabilities, and improving effectiveness of their company plans. For more information contact Julia Butler at julia@tfginvest.com, Rick Pummill at rpummill@trpcweb.com, Randall Webb at randall.webb@tjsdd.com, and Rebecca Sczepanski at rszczepanski@huntermaclean.com.

Brad Stevens Announces the Formation of The Stevens Firm, PC

Savannah Bar member Brad Stevens is pleased to announce that after seven (7) years working as an insurance adjuster in Savannah and Atlanta, almost ten (10) years practicing law with the attorneys and staff at Ashman, Lasky & Cooper and then Lasky Law Group, and almost three (3) years practicing law as a Partner at Friedman, Martin & Stevens, LLP, I have opened a new law firm, The Stevens Firm, PC. The team at The Stevens Firm, PC, includes my friend and Paralegal with whom I've practiced law with for over twelve (12) years, Mrs. Jennifer Granat, my new Legal Assistant, Mrs. Kristie Kulij, and we have hired a second year law student at Savannah Law School who will be working as an Intern and Receptionist, Ms. June Teasley. The office is located at 124 W. Liberty St., Savannah, GA 31401. The telephone number is 912-417-4597. We will continue to represent individuals that have been harmed as a result of the negligence of others.

Tom Cole Appointed to Juvenile Court Bench

The Chatham County Juvenile Court is pleased to announce that the Superior Court Judges have appointed Tom Cole to the Juvenile Court bench. Judge Cole is a 1993 graduate of the University of Georgia School of Law and was the founding partner of the Cole, Clark & Gore law firm. Prior to his appointment, he served as a Juvenile Court Judge Pro Tempore, was chief judge in Port Wentworth and also a judge in Thunderbolt. The staff at Juvenile Court is looking forward to working with Judge Cole.

Sherwin P. Robin & Associates, PC Consolidates Offices

Please be advised that Sherwin P. Robin & Associates, PC is closing its Savannah office and is consolidating to its Metter office, which is located at 315 Cedar Street, Metter, Georgia 30439

Advertisements

Savannah Law School Job Announcement

Savannah Law School has an exciting and challenging opportunity available for a Director of Career Development. A full position description may be found on our website: <http://www.savannahlawschool.org/about/jobs-sls/>. Please send resume and the names of three references to Vice Dean Rose Anne Nespica at rnespica@savannahlawschool.org.

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