



The Citation August

Attorney Jeff Fitzpatrick, Jr. Joins Roden+Love, LLC



Roden + Love, a leading personal injury and workers compensation firm in Savannah, is pleased to announce that Jeff Fitzpatrick, Jr. has recently joined the firm as an associate in the firm's litigation department.

Fitzpatrick focuses his practice in the fields of general civil trial practice, personal injury, products and premises liability, and wrongful death.

"Jeff's skill set will make him an asset to the firm, our clients, and the Savannah community," said Eric Roden, Partner of Roden + Love. "He is a welcomed and strong addition to our firm."

A Savannah native, Fitzpatrick grew up on Isle of Hope and graduated from Benedictine Military School in 2003. He graduated from the University of Georgia in 2007 where he was a member of Lambda Chi Alpha Fraternity and Gridiron Secret Society. After graduating from UGA, Fitzpatrick worked in the health and medical industries in Savannah for several years prior to attending law school.

Fitzpatrick earned his Juris Doctor Degree from Mississippi College School of Law in 2016, where he received the American Juris Prudence Award in Trial Practice and worked in the Securities Division at the Mississippi Secretary of State's Office.

Call for Pro Bono Awards Nominations

The Access to Justice Committee and the Pro Bono Resource Center of the State Bar of Georgia invite nominations for the State Bar of Georgia's 2017 Pro Bono Awards.

Each year, the State Bar of Georgia and the Pro Bono Resource Center recognize outstanding contributions of Georgia lawyers to the improvement of the civil legal system and the legal profession through pro bono public service to those unable to afford the services of a lawyer. Nominations are sought for: The H. Sol Clark Award, The William B. Spann Jr. Award, The ABC Business Law Pro Bono Award and The Dan Bradley Legal Services Award.

Nominations must be postmarked or submitted electronically to probono@gabar.org by **Sept. 8, 2017**. [Click here](#) for the nomination materials.

Attorney Patrick Webb Joins HunterMaclean's Real Estate Group



Hunter MacLean is pleased to announce that Patrick Webb has recently joined the firm as a partner in the real estate practice group.

Webb focuses his practice in the field of commercial real estate development, leasing, and finance, in addition to related areas including corporate finance, joint ventures, and general corporate transactions. Webb has served as the lead counsel for multiple developers of large mixed-use and multifamily developments, specializing in the acquisition, financing, development, and disposition of those multi-million dollar projects. He has in-depth experience in the purchase and sale of multi-million dollar office buildings, multifamily apartment complexes, and large multifamily REITs.

"Patrick brings a significant amount of knowledge and experience to our real estate practice group," said HunterMaclean Managing Partner Brad Harmon. "He has built a well-respected practice within his field, and we are excited to have him as part of our team."

Webb earned his Juris Doctor Degree from the Mercer University Walter F. George School of Law. He graduated with a Bachelor of Arts in Journalism from the University of Georgia.

Webb is active in a variety of community and civic organizations including the Autism Society of America, Habitat for Humanity, and Humane Society of America. He is also an avid supporter of his alma mater as a member of the University of Georgia Athletic Association and University of Georgia Alumni Association.



Attorney Publications

SBA member Craig T. Smith of Olivetti, McCray & Withrow, LLC in Hilton Head Island published an article titled "*And Stay Out! Redressing Elitism in the Post-PTFA Era*" in the Stanford Law & Policy Review Online.

Here is a link to the article:

<https://law.stanford.edu/publications/stay-redressing-elitism-post-ptfa-era/>



BOUHAN FALLIGANT

ATTORNEYS & COUNSELORS AT LAW

Attorneys Named to *Best Lawyers in America* 2018

Bouhan Falligant is pleased to announce 13 of its attorneys were recently selected for inclusion in the 2018 *Best Lawyers in America*. The designation honors those who have been selected by their peers for outstanding achievements in their respective practice areas.

“We are incredibly honored to have more Bouhan Falligant lawyers honored this year by *Best Lawyers in America*,” said Lea Holliday, managing partner, Bouhan Falligant. “This is recognition of the hard work we all do providing unparalleled services to our clients.” The Bouhan Falligant attorneys selected for the *Best Lawyers in America* designation include:



Rob Brannen
Real Estate Law



Dolly Chisholm
Corporate Law; Elder Law;
Real Estate Law



Dorothy W. Courington
Elder Law



J. Daniel Falligant
Banking and Finance Law;
Corporate Law; Real Estate
Law



Leamon R. Holliday
Commercial Litigation;
Education Law; Litigation—
Real Estate



Kathleen Horne
Banking and Finance Law;
Bankruptcy and Creditor Debt-
or Rights / Insolvency and
Reorganization Law



Carlton E. Joyce
Commercial Litigation;
Insurance Law; Medical Malprac-
tice Law—Defendants; Personal
Injury Litigation—Defendants;
Professional Malpractice Law—
Defendants; Transportation Law



Dennis B. Keene
Product
Liability Litigation—
Defendants;
Transportation Law



BOUHAN FALLIGANT

ATTORNEYS & COUNSELORS AT LAW

Named to *Best Lawyers in America* 2018 (Cont'd)



John G. Lientz
Banking and Finance Law



Melanie L. Marks
Real Estate Law



Edwin D. Robb
Admiralty and Maritime Law



Frank "Sonny" W. Seiler
Medical Malpractice Law -
Defendants; Personal Injury
Litigation - Defendants;
Personal Injury Litigation -
Plaintiffs; Product Liability
Litigation - Defendants



Gregory G. Sewell
Personal Injury Litigation -
Defendants

In addition, several Bouhan Falligant attorneys celebrated being recognized by *Best Lawyers* for milestone anniversaries: Joyce for 10 years, Robb for 25 years, and Seiler for 35 years.

Best Lawyers is the oldest and most respected peer-review publication in the legal profession. A listing in *Best Lawyers* is widely regarded by both clients and legal professionals as a significant honor, conferred on a lawyer by his or her peers. For more than three decades, *Best Lawyers* lists have earned the respect of the profession, the media, and the public, as the most reliable, unbiased source of legal referrals anywhere.

ABOUT BOUHAN FALLIGANT:

Bouhan Falligant is a full-service Georgia law firm with experienced attorneys who can handle a broad range of complex legal issues for businesses, governmental entities, organizations, professionals, and individuals, both regionally and nationally. Through 130 years of practicing law, the firm has developed the deep knowledge base and sound judgment that delivers value to our clients. Bouhan Falligant attracts exceptional attorneys who are diligent, determined and care about the success of its clients.



OLIVER MANER LLP

Partners Named to *Best Lawyers in America* 2018

Oliver Maner LLP is pleased to announce that fifteen of its partners have been named to the 2018 Edition of *Best Lawyers*, one of the oldest and most respected peer-review publication in the legal profession.

Best Lawyers has published its list for more than three decades, earning the respect of the profession, the media, and the public as a reliable, unbiased source of legal referrals.

Lawyers on the *Best Lawyers in America* list are divided by geographic region and practice areas. They are reviewed by their peers on the basis of professional expertise, and undergo an authentication process to make sure they are in current practice and good standing. Oliver Maner LLP would like to congratulate the following attorneys for being named to the 2018 *Best Lawyers in America* list:



David H. Dickey
Trusts and Estates, Tax Law



William P. Franklin, Jr.
Medical Malpractice Law and
Personal Injury Litigation –
Defendants



Julian R. Freidman
Employee Benefits (ERISA)
Law, Trusts and Estates, and
Tax Law



James P. Gerard
Real Estate Law



Douglas J. Giorgio, II
Trusts and Estates



Douglas E. Herman
Commercial Litigation, and
Litigation – Real Estate



I. Gregory Hodges
Personal Injury Litigation –
Defendants and Medical
Malpractice



William J. Hunter
Medical Malpractice Law and
Personal Injury
Litigation - Plaintiffs



OLIVER MANER LLP

Named to *Best Lawyers in America 2018* (Cont'd)



Patrick T. O'Connor
Litigation-Municipal, Legal
Malpractice Law,
Commercial Litigation, and
Bet-the-Company
Litigation, Mediation



Patricia T. Paul
Workers' Compensation Law –
Employers.



Christopher L. Ray
Personal Injury
Litigation –
Plaintiffs, Medical
Malpractice Law, and named
Savannah Personal Injury
Litigation—Defendants
“Lawyer of the Year”



Timothy D. Roberts
Commercial Litigation



Robert W. Schivera
Trusts and Estates



Lee A. Summerford
Trusts and Estates



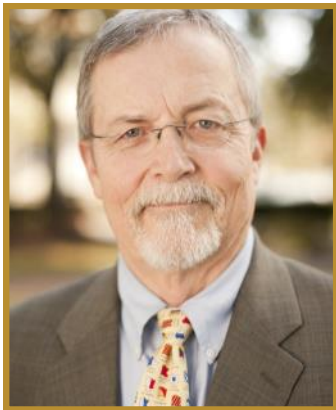
Andrew M. Wilkes
Medical Malpractice Law –
Defendants



23 Named to *Best Lawyers in America* 2018

HunterMaclean, is pleased to announce that 23 attorneys from the firm were recently selected for inclusion in *The Best Lawyers in America*® 2018. *Best Lawyers*, which is published annually in almost 70 countries, recognizes attorneys for significant achievements in their area of practice.

For more than three decades, *Best Lawyers* has been considered the most well-respected guide and resource for the legal industry. Attorneys are selected through peer-review surveys that have been completed by thousands of leading lawyers who confidentially evaluate their peers. The following HunterMaclean attorneys were selected for *Best Lawyers* in 2018:



Saunders Aldridge
Commercial Litigation



Thomas S. Cullen
Corporate Law



Andrew H. Ernst
Economic Development
Law, Environment Law



T. Mills Fleming
Health Care Law,
Immigration Law



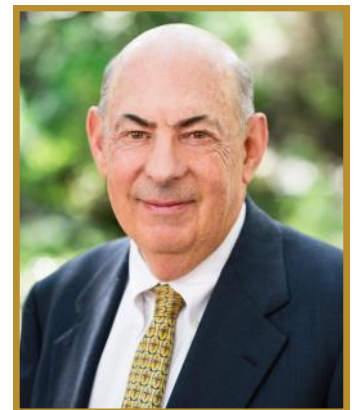
Bradley M. Harmon
Litigation - Construction



Edward O. Henneman, Jr.
Real Estate Law



Wade W. Herring, II
Employment Law -
Management, Litigation -
Labor and Employment



John M. Hewson, III
Corporate Law



Named to *Best Lawyers in America* 2018 (Cont'd)



Christopher R. Jordan
Railroad Law



Shawn A. Kachmar
Employment Law -
Management



Sarah H. Lamar
Employment Law -
Management, Labor Law -
Management



Frank S. Macgill
Tax Law,
Trusts and Estates



Kirby G. Mason
Medical Malpractice Law -
Defendants



Diana J.P. McKenzie
Information
Technology Law



Colin A. McRae
Admiralty and
Maritime Law



M. Lane Morrison
Trusts and Estates



Named to *Best Lawyers in America* 2018 (Cont'd)



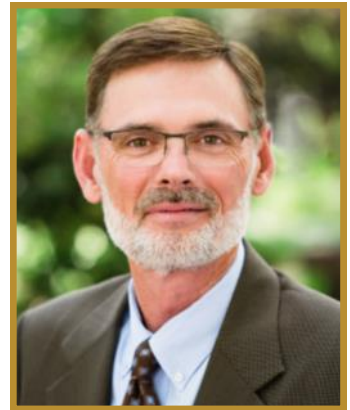
Christopher W. Phillips
Construction Law,
Litigation - Construction,
Medical Malpractice Law -
Defendants



David F. Sipple
Admiralty and
Maritime Law



Christopher H. Smith
Commercial Litigation,
Litigation - Construction



Ron D. Talley
Environmental Law,
Real Estate Law



John M. Tatum
Bet-the-Company
Litigation, Commercial Litiga-
tion, Litigation - ERISA,
Litigation -
Intellectual Property, Litigation -
Trusts and Estates



Harold B. Yellin
Land Use and Zoning Law,
Real Estate Law



Arnold C. Young
Insurance Law, Personal Injury
Litigation - Defendants, Product
Liability Litigation - Defendants

Three HunterMaclean attorneys were also recognized by *Best Lawyers* as “Lawyer of the Year” for a specific practice within this region: Frank S. Macgill – Trusts and Estates; John M. Hewson, III – Corporate Law; and Ron D. Talley – Real Estate Law. Thirteen of the 23 lawyers selected from HunterMaclean have been recognized as Best Lawyers for over 10 years. Two lawyers, Andrew H. Ernst and John M. Tatum, have been recognized for 20 consecutive years.



Hold Your Horses! Before You Cut the Checks, Consider Your Client's Special Needs

“Where’s my money?” “When can I get my money?” These are questions busy plaintiffs’ attorneys hear daily. The frequency and urgency of them can create the kind of stress that leads to costly mistakes. As experienced counsel, you know how important it is to determine whether your client is receiving means-tested government benefits before disbursing settlement or verdict proceeds.¹ If the client receives (or may need) such benefits, direct distribution of proceeds is likely to result in disqualification from benefits for your client² and, possibly, liability for you.³

Georgia offers three primary options for how to position litigation proceeds without jeopardizing critical government benefits:⁴ These are stand-alone special needs trusts⁵, ABLE Act accounts, and pooled special needs trusts⁷.

A first-party stand-alone special needs trust (sometimes referred to as a supplemental needs trust) is a special needs trust funded with assets belonging to the person with the disability (e.g., settlement proceeds). A self-contained entity with its own trustee a first-party trust is subject, of course, to Medicaid rules, SSI regulations, and other benefit-specific restrictions. Typically, as long as the beneficiary has no direct control over the assets and income of the trust and they are used to supplement, and not supplant, what government benefits will provide - the corpus of the trust will not be counted a resource against the client for purposes of benefits eligibility.

The ABLE (Achieving a Better Life Experience) Act is federal law adding a new section to the Internal Revenue Code section which created income-tax deferred college savings accounts colloquially known as 529 Plans⁸. Codified in Georgia as STABLE Accounts⁹, these are available to certain people with disabilities which onset be-

fore age 26. With a STABLE account, a person can set aside as much as \$14,000 per year up to a total of \$100,000 (while still protecting SSI eligibility) and as much as \$235,000 (if Medicaid eligibility is the only concern).

For many clients, neither of these approaches is quite the right fit. If a client’s settlement proceeds exceed \$14,000, the ABLE/STABLE account typically won’t work. If a client’s proceeds are less than \$250,000, it may be difficult to find a qualified trustee to serve for a reasonable fee - making a stand-alone special needs trust a dangerous, and potentially expensive, choice.

For this relatively large group of clients—those whose proceeds are between \$14,000 and \$250,000—a pooled special needs trust may be just right.

A pooled trust is a type of fund which operates not unlike a bank. Each client’s contribution to the fund is pooled together for administrative purposes but separated into accounts based on the individual’s contribution and held specifically for that client’s needs. This vehicle was intended to serve those with disabilities who have excess assets,

¹See, e.g., Medicaid, Supplemental Security Income (SSI), Supplemental Nutrition Assistance Program (“Food Stamps”), or subsidized housing.

²Georgia Medicaid Manual - Appendix A1-1.

³See *Grillo vs. Pettiette et al.*, Case No. 96-145090-92, 96th District Court, Tarrant County, TX.

⁴There are also Medicaid-compliant annuities available. These are often sold to attorneys and their clients using the label “structured settlements”. They typically involve tying up the client’s funds for a long period of time and pay large commissions to the agent who sells the annuity while generating minimal returns once fees are netted out.

⁵42 U.S.C. §1396p(d)(4)(A).

⁶Referred to in Georgia as STABLE accounts. O.C.G.A. § 30-9-1, *et. seq.*

⁷42 U.S.C. §1396p(d)(4)(C).

⁸26 U.S.C. § 529A.

⁹O.C.G.A. § 30-9-1, *et. seq.*

and for whom a stand-alone special needs trust is too expensive, slow, and complicated. Unlike a stand-alone special needs trust, a person with disabilities can establish a pooled trust at any age¹⁰.

A qualified non-profit organization¹¹ sets up the pooled trust account and helps create a plan for income and assets.¹² The amount allocated to this account will depend on factors such as assets, benefits eligibility requirements, immediate medical needs, and other needs. The non-profit organization running the trust employs a professional trustee whose fiduciary duty to the client includes overseeing management of all assets in the trust for the benefit of the enrolled individuals with special needs. The client, or a client's loved one or trusted friend, will serve as a liaison between the client and trustee - to make the client's needs known as frequently as is necessary but at least annually.

One benefit of such an arrangement is that the trustee and the nonprofit organization are typically both heavily involved in the special needs community and understand the skills and compassion needed to look after a client with special needs. At the same time, that trustee and the organization maintaining the pooled trust are well-educated on, and intimately knowledgeable about, the rules surrounding management and distribution of trust funds in a way which preserves benefits eligibility for the client.

If you do work for plaintiffs who currently have, or may later need, eligibility for means-tested government benefits be sure to advise your client on distribution alternatives, including pooled trusts before you cut the checks. The process does not have to be time-consuming and, done right, will protect your client and you.



Richard Barid and Michael Smith are co-founders of Savannah-based law firm Smith Barid, LLC, which focuses on estate planning, elder law, and special needs planning and routinely assists plaintiffs' attorneys with enrolling clients in pooled special needs trusts.

You can reach them at (912) 352-3999, richard@smithbarid.com or msmith@smithbarid.com

¹⁰Stand-alone special needs trusts are only available to those under age 65.

¹¹There are seven pooled special needs trusts authorized to provide fiduciary services in Georgia and approved by the Georgia Department of Community Health. Most Georgia attorneys have heard of the Georgia Community Trust, though it is not the only alternative.

¹²A special needs planning attorney can help the client in completing a joinder agreement to open an account under a pooled trust's master trust agreement.



Brennan, Wasden & Painter, LLC Seeking Qualified Attorneys

Brennan, Wasden & Painter LLC is seeking attorneys to assist with its professional liability and business litigation practice groups in both the Savannah and Augusta offices. Those with deposition and courtroom experience will receive preference. Georgia Bar required. Please submit a cover letter and resume to Wiley Wasden III at WWasden@BrennanWasden.com



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REGISTRATION DISCOUNT FOR
SAVANNAH BAR ASSOCIATION MEMBERS

Please join your colleagues from across the nation when we come to Savannah in October for the American Bar Association's Section of State and Local Government Law's **Fall CLE and Networking Conference!**

We are the ABA Section devoted to legal issues involving municipal and state governments, and our members are **private practitioners, government lawyers, law professors, judges, and in-house and nonprofit attorneys.** Our Section covers the cutting edge issues from diverse viewpoints, and consider ourselves to be the premiere national forum for analyzing and shaping the law. We selected Savannah as our meeting place, are excited to be coming to your hometown, and are hoping you can spend all or part of the Conference with us.

Savannah attorney C. Elisia Frazier, who is also a leader in our Section, is the Chair of our Host Committee and together we have crafted an agenda that covers both local and national topics. **Members of the Savannah Bar Association are entitled to a special registration discount.**

This three-day Conference features a full slate of Continuing Legal Education programs—including **three hours of Pro-**

fessionalism credits—featuring national experts as well as local speakers, grouped into three general tracks: **"The Rule of Law and Civility in Times of Heightened Tensions," "Florida v. Georgia: Water Wars in the U.S. Supreme Court," and "Property, Historic Preservation, and Resilience."**

Of course, the Conference features **networking, social, mentorship, and community service events**, so you can get to know your nationwide colleagues better. On **Thursday** an opening reception at **Vic's on the River**, and a dessert and drinks gathering at **Lulu's Chocolate Bar** and on **Friday** a luncheon with a keynote speaker (all included in your registration). Other events include community outreach, including a program on heirs property and a program helping Savannah-area Girl Scouts earn their civics badge.

Please visit www.stateandlocalgovtlaw.org for more information. Or email our Section's Chair Robert Thomas (rht@hawaiilawyer.com) or the Chair of our Host Committee, C. Elisia Frazier (cef1938@hargray.com) directly. They will be happy to tell you more and encourage you to come.



IMPORTANT NOTICE TO SBA MEMBERS:

The Savannah Bar Association has been contacted by the Supreme Court of Georgia's Office of Bar Admissions and advised that Gary M. Wisenbaker, who was disbarred on March 19, 2012, has applied for readmission to the Bar. The Board to Determine Fitness of Bar Applicants is soliciting comments from members of the SBA in response to Mr. Wisenbaker's application for readmission. If you would like to have your comments considered by the Board, please submit a letter to SBA President Maggie Puccini via email at mpuccini@bouhan.com on or before Friday, September 8, 2017.



Bill Broker elected Vice-chair of the Chatham Area Transit Authority (CAT)

Bill Broker, Managing Attorney of the Savannah Regional Office of Georgia Legal Services, was elected Vice-chair of the Chatham Area Transit Authority (CAT) at the board's meeting on July 18.

Now Open for Submissions

The Savannah Bar Association is always seeking content for upcoming editions of *The Citation*. Members are encouraged to submit:

- Your professional and personal announcements
- Law-related advertisements
- Articles or announcements regarding your preferred philanthropies
- Other written submissions

Suggestions for improving *The Citation* are also always welcome. Finally, we love to receive photographs and video to share with our readers! Bear in mind that our readers include not only current SBA members, but also many judges and law school students.

Please contact us at SBACitation@gmail.com with submissions or inquiries.