



The Citation

Update from the Federal Bar Association of the Southern District of Georgia

The Federal Bar Association of the Southern District of Georgia is diligently working on the coming year's programs. For those of you who practice in federal court and are not members, know that the FBA is a professional association for judges and lawyers involved in federal practice before the United States District Courts and the federal agencies.

When you join the Federal Bar Association – you immediately benefit in the following ways:

Connect

- Cultivate new and existing relationships with judges and fellow practitioners at local and national gatherings.
- With more than 80 chapters across the country, you can participate in events that are convenient for you.
- And with 20 Substantive Law Sections and 5 Divisions, you can be sure that your area of practice and your interests are represented.

Grow

- Stay up-to-date on industry topics with access to premium research and monthly magazine – The Federal Lawyer and our bi-monthly electronic newsletter.
- Earn CLE credits and explore best practices through our webinars and educational sessions created with your needs and interests in mind.
- Sharpen your leadership skills through local and national opportunities for governance positions.

Advocate

- Focus on reaffirming the importance of the independence of the federal judiciary, financial support for the federal courts and promptly filling judicial vacancies.

Join today online at www.fedbar.org/Membership.aspx and indicate that you are part of the SOUTHERN DISTRICT OF GEORGIA CHAPTER OF THE FEDERAL BAR ASSOCIATION. Please take a look at our chapter's own FBA webpage www.fedbar.org/Chapters/Southern-District-of-Georgia-Chapter.aspx for more information. Details of upcoming events will be forthcoming.



Save the date! Admiral Harvey Weitz Boat Ride

Save the date and mark your calendars for Friday, April 5, 2019. Langston Bass is hard at work finalizing this year's Admiral Harvey Weitz SBA Boat Ride, and the Savannah Bar Association encourages everyone to come out and enjoy the day. Notices with instructions about registering for the 2019 Admiral Harvey Weitz SBA Boat Ride will be coming to your email inbox soon.

Save the date! Georgia Association for Women Lawyers

Save the dates for the Savannah Chapter of GAWL upcoming events, all are welcome to attend:

February 8, 2019 - Free CLE at 11:30am-Sponsored by Veritext at Coastal Georgia Bar Office

February 15, 2019 - Luncheon at 11:30am-Location TBD-Topic is: Implicit Bias- Speaker is: Elizabeth Berenguer

March 7, 2019 - Wine Tasting at Savannah Wine Cellar at 5:30pm- Benefiting the GAWL Foundation

Bouhan Falligant Hires Greg Finch as New Attorney

Bouhan Falligant announced it has hired Gregory L. Finch as an associate attorney. Finch's practice will focus on healthcare, transportation and professional litigation matters.

Prior to joining Bouhan Falligant, Finch was a Litigation Associate at Steptoe & Johnson in Louisville, Kentucky. Before joining Steptoe & Johnson, Finch worked in litigation for Whonsetler & Johnson also in Louisville.

Finch earned his law degree from the University of Louisville Brandeis School of Law and an undergraduate degree in writing, rhetoric and communication from Transylvania University, where he was a student athlete. He is a member of the bar in Kentucky, Indiana and Georgia.



Greg Finch



Don L. Waters to Serve as Chairman of the University System of Georgia's Board of Regents

In November 2018, the Board of Regents, the 19-member governing body for the University System of Georgia, elected Regent Don L. Waters to a one-year term as the Board's chair. Governor Nathan Deal appointed Waters in 2013 to the Board of Regents to represent the First Congressional District.

Waters is the CEO of Waters Capital Partners, LLC, an investment company and family office. He was the chairman, president and chief executive officer of Brasseler USA, Inc., an international manufacturer of dental and medical surgical instrumentation. Prior to that he practiced both as a Certified Public Accountant, as a partner with Price Waterhouse & Co., and as an attorney with HunterMaclean.

Waters will serve as Board chair of the Board of Regents from Jan. 1, 2019, through Dec. 31, 2019.

Come Celebrate with Judge Faye Sanders Martin!

Members of the Savannah Bar are invited to celebrate the 85th birthday of Judge Faye Sanders Martin, Senior Judge of the Ogeechee Judicial Circuit, at a drop in party.

Sunday, February 10th, 2019 from 1:30- 3:30 pm at The Lodge At Bethany, 77 Bethany Way, Statesboro, GA. 30458.

Cake, ice cream and light refreshments will be served. Please come. No gifts please. Hosted by her daughters, Janna Martin & Jenny Lynn Anderson.





SBA Nominations Committee Announcement

Pursuant to our Savannah Bar Association, Inc. By-laws, Article VII, section 7.03, nominations for the positions of President-Elect, Secretary, and Treasurer for the 2019-2020 bar year may be made in writing to any of the following members of the Nominating Committee during the period from March 1 to March 15, 2019:

- Leesa Bohler, lbohler@mcd-r-law.com
- Maggie Puccini, MPuccini@bouhan.com
- Philip Thompson, pthompson@epa-law.com

The Nominating Committee will meet no later than April 1, 2019 and will recommend a slate of candidates for election at the May 2, 2019 annual meeting luncheon.



Your SBA executive board members hard at work at January monthly planning meeting.

January YLD Update

Thank you to all who attended this month's happy hour at McDonough's Restaurant & Lounge. The event was made possible by our generous sponsor Boyd & Jenerette, P.A. Keep an eye on your inbox for details on next month's February happy hour event, we hope to see you there!



Office Space for Rent

Shared office space available at 315 Commercial Drive, Suite D. Three offices, large conference room, kitchen, file room, 2 bathrooms. First floor. Nicely appointed. Contact Liz Thompson 912-353-9300 or liz@rtzlaw.com



Update on Restrictive Covenants Under OCGA 13-8-50 from Charles M. Dalziel, Jr.

Most all of us know that Georgia largely abandoned its common law relating to restrictive covenants via a Constitutional Amendment that made OCGA 13-8-50 constitutional as of May 11, 2011. Contracts before that date have the old common law and concepts of public policy applied to them (hostile to covenants). Contracts entered into after May 11, 2011 have the new statute applied to them, with safe harbors for contract provisions enumerated. We who handle a lot of these cases know there haven't been many reported decisions under the new statute. Here are three:

1. *Carpetscare Multiservices, LLC v. Carle*, 347 Ga. App. 497, 819 S.E.2d 894 (October 3, 2018). Pro Se litigant Carle gets judgment on the pleadings in his favor affirmed. His non-compete has no geographic limitation at all. 13-8-53(a), says the two judge majority (Rickman and McFadden, Ray dissenting), creates a safe harbor for a covenant, yes—but the drafter has to put the boat in the slip. Where no geographic limitation at all is provided, the covenant is declared void by OCGA 13-8-53(d)—any restrictive covenant not in compliance with the safe harbor is declared unenforceable and void. This ruling is based on the plain meaning of the statute. In dissent, Judge Ray says the statute doesn't require a geographic limitation, but only that it be reasonable if there is one. He finds tying the geographically unlimited covenant to former customers makes it reasonable. Carle suggests defense counsel has a great line of defense if she can find a way the covenant does not comply with the safe harbor. Then, counsel can argue 53(d) declares it void.

2. *Cady Studios, LLC v. Clift*, USDC NDGa, Civil Action No. 1:18-cv-4670 (November 13, 2018, Mark Cohen, J.) Confidentiality Agreement with no time limit is unenforceable (just like under the old law) BECAUSE the statute's safe harbor requires that the confidentiality agreement limit its application by time, i.e., it must only restrict "for so long as the information remains confidential or trade secret." 13-8-53(e). DEFENSE LAWYERS NEED TO CREATE OVER TIME A LIST OF DEFECTS IN COVENANTS WHICH PUT THEM IN "ENEMY HARBOR"—Not safe harbor—and then use the 53(d) declaration that non-compliant covenants are void. Over time a body of law similar to that pre amendment will arise.

3. *Kennedy v. Shave Barber Company, LLC*, December 20, 2018, Georgia Court of Appeals, 2018 WL 6694822—Is a master barber a key employee who can have an enforceable non-compete? Yes, when she posted her work schedule and a link to her employer's website (for making appointments on her social media accounts and posted pictures of herself working, and talked in the posts about the Shave. She had name recognition and her own customer base, so she was hooked.

Contact Charles M. Dalziel, Jr. at (404) 735-0438 for further assistance with restrictive covenants and injunctions.



Christopher H. Smith Joins Miles Mediation & Arbitration

HunterMaclean is pleased to announce that attorney Christopher H. “Smitty” Smith has been asked to join Miles Mediation & Arbitration. With office locations in Savannah, Athens, and Atlanta, Miles Mediation & Arbitration is one of the largest ADR providers in the United States.

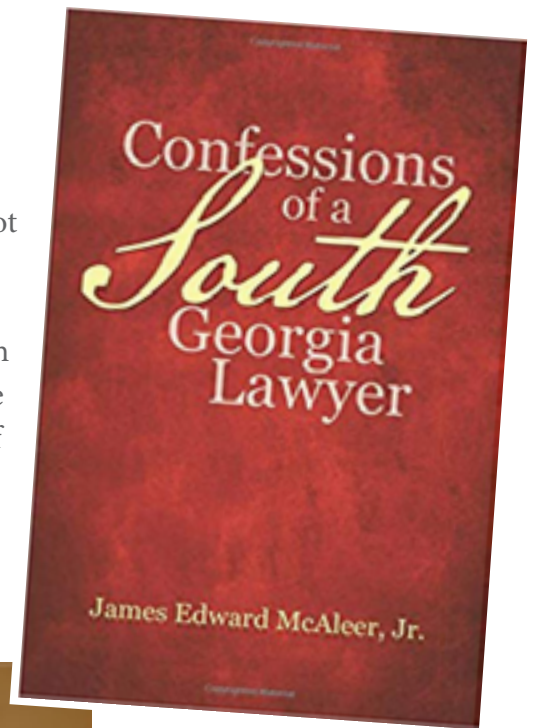
Smitty focuses his mediation practice on complex business disputes, construction law, and catastrophic personal injury. As a partner with Hunter Maclean, Smitty serves as the leader of the firm’s Transportation Group. He has tried numerous cases across the country, and was nominated to American Board of Trial Advocates in 2012. He is listed in The Best Lawyers in America and has been named one of Georgia Trend’s Legal Elite as well as a top attorney by Savannah Magazine. He is a graduate of both Leadership Savannah and the State Bar of Georgia’s Leadership Academy. With 20 years of litigation experience, Smitty has participated in more than one hundred mediations, and has been a registered neutral with the Georgia Commission on Dispute Resolution since 2012.

SBA Hot Topics Thanks James Edward McAleer

Mr. McAleer was welcomed as a guest speaker at last week’s SBA Hot Topics Seminar.

James Edward McAleer served as President of the Savannah Plaintiff’s Trial Lawyers Association in 1971, as President of the Savannah Bar Association from 1984-85, and was the 2001 Recipient of the Savannah Bar Association’s Professionalism Award.

Confessions of a South Georgia Lawyer by James Edward McAleer is now available at Barnes & Noble, E. Shaver, Bookseller, EBay and Amazon.



Left: SBA Hot Topic Event Photo



Standing Order for Delivery of Notices for Publication

Please be advised of the below standing order entered by Judge Bordeaux pertaining to delivery of notices for publication to the legal newspaper of Chatham County. Parties and attorneys are responsible for delivering citations to the Savannah Morning News for publication unless a statute specifically requires the Court to deliver the citation [e.g., Year's Support] . Notice of this standing order will be provided to pro se parties when pleadings are filed in Probate Court.

P19-00014-30

W. Wilson
 PROBATE COURT
 CHATHAM COUNTY, GA.
 FILED
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**STANDING ORDER
 REGARDING
DELIVERY TO LEGAL ORGAN OF CITATIONS TO BE PUBLISHED**

Rule 5.6 (E) of the Uniform Probate Court Rules provides: "Unless the court directs otherwise, the court will deliver all citations which are to be published in the county where the petition is filed to the legal newspaper of that county."

IT IS HEREBY ORDERED, except in instances in which a statute (e.g., O.C.G.A. § 53-3-6 (year's support) or authoritative case law provides otherwise, the Probate Court of Chatham County will *not* deliver citations which are to be published to the legal newspaper (a/k/a legal organ) of Chatham County.

SO ORDERED THIS 2nd day of January, 2019.

Thomas C. Bordeaux

 THOMAS C. BORDEAUX, JR., JUDGE
 PROBATE COURT OF CHATHAM COUNTY

cc: Savannah Bar Association
State Bar of Georgia



Pro Bono Awards to be Presented

At the Savannah Bar Association luncheon on February 21st, the Pro Bono Committee of the Savannah Bar Association will present its annual awards to the exemplary Pro Bono attorneys, advocates, and partners who have demonstrated outstanding Pro Bono service.

In addition, Georgia Legal Services Program (GLSP) will recognize its Champions of Justice who have worked to build GLSP both locally and throughout the state. The awards will be presented by Rick Rufolo, the new Executive Director of GLSP. Mr. Rufolo will also be the speaker for the event.

Be sure to come out and help recognize your colleagues for their contributions.

Thank You for Your Pro Bono Service

Georgia Legal Services Program thanks all the attorneys who accepted Pro Bono cases during the fourth quarter of 2018 (10/1/18-12/31/18). These individuals make access to our courts a reality.

If you would like to join this elite group of attorneys who are furthering GLSP's mission to provide quality representation to eligible clients, please contact GLSP's Pro Bono Coordinator, Ruth Ann Dutton, at (912) 651-2283, ext. 2184 or rdutton@glsp.org.

Richard Baird

Thomas Langston Bass, Jr.

Vince Bick

Elizabeth Branch

Kristin Cerbone

Dolly Chisholm

Martin Hilliard

Kathy Horne

Jon Maire

Melanie Marks



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.