



# GEORGIA DEFENSE LAWYERS ASSOCIATION

## NEWSLETTER

April 1992

Vol. 1, No. 1

### OFFICERS

#### PRESIDENT

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#### EXECUTIVE VICE PRESIDENT

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Atlanta, Georgia 30363

#### SECRETARY - TREASURER

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#### VICE PRESIDENTS

Charles M. Goetz, Jr.  
R. Clay Porter  
David T. Whitworth

#### BOARD OF DIRECTORS

#### NORTHERN DISTRICT

George Duncan (1992)  
Steven J. Kyle (1993)  
Walter B. McClelland (1994)

#### MIDDLE DISTRICT

Thomas C. Alexander (1992)  
Joseph H. Chambliss (1993)  
Andrew J. Hill, III (1994)

#### SOUTHERN DISTRICT

David H. Hanks (1992)  
Wilson R. Smith (1993)  
Kenneth R. Carswell (1994)

#### STATE AT LARGE

William H. Pinson, Jr.  
Robert M. Travis  
H. Lane Young

#### EX-OFFICIO

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Willis J. Richardson, Jr.  
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Eugene G. Partain  
George C. Grant  
Melburne D. McLendon  
Douglas Dennis  
Paul W. Painier, Jr.  
Davidson Burch  
Richard A. Marchetti  
Patrick J. Rice  
Wilbur C. Brooks

Great things are happening to the Association. We have employed an Executive Secretary to coordinate the work of the Association, to manage the Expert Witness Bank, to coordinate the publication of the Journal and the Newsletter three times a year, to assist the Secretary, to assist in the operation of the Trial Academy and to do such other things as may be necessary to assist the members.

The officers, the Board Members, and the Committee Members have worked long and hard this year and I want to thank each one for all their efforts. Each is a hard-working defense lawyer with heavy demands on his or her time, but all have given of themselves greatly to the benefit of the Association and the members.

I believe this year's Annual Meeting put together by our Executive Vice President, Bruce Welch, will be an outstanding one. I look forward to seeing each one of you at The Homestead (April 30 through May 3, 1992).

Since the Newsletter is in its infancy, any suggestions as to how to improve it would be helpful. I encourage each of you to contribute your thoughts on how to make the Newsletter more beneficial to you.

It has been a pleasure and an honor to have served as our President this year. You are the finest group of people I know.

Salty

1992 Annual Meeting  
The Homestead, Hot Springs, Virginia  
April 30, 1992 - May 3, 1992

From Bruce Welch,  
Executive Vice President:

The continuing legal education program for the annual meeting of the Georgia Defense Lawyers Association at The Homestead in Hot Springs, Virginia, has been finalized and will enable the members to obtain CLE credits. The program is designed to provide six CLE credits with one hour each of Ethics and Professionalism. The Ethics and Professionalism hours will be provided by means of a presentation by Professor Timothy Terrell of Emory University School of Law and will utilize a professionally prepared video presentation from the Center on Professionalism of the University of Pennsylvania Law School. His presentation will also feature a panel discussion in which questions of ethics and professionalism are discussed by members of our organizations.

Suggestions on effective litigation management from the standpoint of corporate counsel will be provided by Ellis R. Mirsky, General Counsel of GAF Corporation.

U.S. District Court Judge Duross Fitzpatrick of the Middle District of Georgia will give a judge's view on proposed changes in the Federal Rules of Civil Procedure and discuss how

such changes may affect our practices in the federal courts.

In addition to these speakers from outside our organization, we will have the opportunity to be brought up to date on recent changes in case law and legislation by Pete Robinson, who serves as the Governor's Floor Leader in the State Senate.

Steve Kyle will give us the benefit of his experience with current issues involving tort reform.

The able litigator from Augusta, Pat Rice, will discuss the pro's and con's of admitting liability in the defense of a civil action.

Finally, Al Parnell will discuss the economics of law practice and give us the benefit of his discussions with various firms concerning the handling of litigation in tough times.

Our annual meeting will provide our members with an opportunity to obtain CLE credits in a pleasant and relaxing atmosphere and provide the opportunity to renew old acquaintances as well as develop new ones.

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SELECTION OF EXECUTIVE SECRETARY

The Board of Directors has selected Gregory J. Spicer as Executive Secretary of the GDLA. Mr. Spicer is a 34 year old attorney who is presently employed as a legal writing instructor on a fellowship at Walter F. George School of Law of Mercer University in Macon, Georgia. Mr. Spicer's duties will include the following:

- Collection of dues
- Preparation and maintenance of expert witness bank
- Such other and further activities deemed appropriate by the Board of Directors
- Maintenance of membership list
- Principal responsibility for preparation of publications of the GDLA, including the Journal, on an annual basis, and a Newsletter, on a quarterly basis

SCHEDULE FOR 1992 ANNUAL MEETING

Friday, May 1, 1992

9:15 a.m. *Risks vs. Benefits of  
Admitting Liability*  
Patrick J. Rice  
Attorney  
Augusta, Georgia

9:45 a.m. *Current Issues and  
Status of Tort Reform*  
Steven J. Kyle  
Attorney  
Atlanta, Georgia

10:15 a.m. Coffee Break

10:30 a.m. *Professional  
Responsibility in  
Pretrial Litigation*  
Timothy P. Terrell  
Professor of Law  
Emory University

12:30 p.m. Adjournment

Saturday, May 2, 1992

9:15 a.m. *An Update of Recent  
Developments in Case Law and  
Legislation Affecting Trial  
Lawyers*  
Senator Miller P. Robinson  
State Senator and Attorney  
Columbus, Georgia

10:00 a.m. *An In-House Counsel's  
Suggestions for Effective  
Litigation Management*  
Ellis R. Mirsky  
General Counsel  
GAF Corporation

10:45 a.m. Coffee Break

11:00 a.m. *An Analysis of Proposed  
Changes in Federal Rules of  
Civil Procedure from a  
Judicial Viewpoint*  
Honorable Duross Fitzpatrick  
Judge, U.S. District Court  
Middle District of Georgia

11:45 a.m. *The Economics of Trial  
Practice in Recessionary  
Times*  
Albert H. Parnell  
Attorney  
Atlanta, Georgia

12:30 p.m. Adjournment

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FUTURE ANNUAL MEETINGS

The following dates and locations have been  
selected for the 1993 and 1994 Annual  
Meetings:

1993      April 28-May 2  
            The Hamilton Princess  
            Hamilton, Bermuda

1994      April 25-May 1  
            Ponte Vedra Inn & Club  
            Ponte Vedra, Florida

## AMENDMENTS TO GDLA BY-LAWS

The following is a report from the By-Law Committee summarizing proposed changes in the By-Laws, accompanied by proposed changes in the By-Laws:

### 1. Membership Category for Retired Members and Exceptions for Past Presidents.

There is no provision for retired members, and the by-laws presently require active members to be in active practice. A proposed amendment creates a new category of membership for retirees and also one for honorary members. Only Boots Ramsey is an honorary member.

The by-laws provide that all past presidents are ex-officio members of the Board. However, one is eligible for active membership only while engaged in the private practice of law. In order to make past presidents eligible for active membership after they have retired from practice, a brand new Section 9 to Article II is proposed.

### 2. Initiation Fees/Dues for Members Aged Seventy (70) and Retired Past Presidents/Dues for Members.

The by-laws presently call for an initiation fee of Twenty-Five Dollars (\$25.00). If there is to be a financial restructuring of the Association, the by-law that provides for this initiation fee, Article V, Section 1, possibly should be amended. The proposal permits the Board to set initiation fees.

It has been suggested that active members who reach the age of seventy (70) should be excused from paying dues and that past presidents who retire from the active practice of law should be so excused. Included below is a proposed amendment to Article V, Section 3, which would let the Board set whatever dues it thinks best for retired members and would excuse retired past presidents from paying dues.

### 3. Lesser Dues for Less Experienced Members.

It has been suggested that members with fewer than seven (7) years of practice be charged lesser dues than more experienced members. Because the by-laws provide that the Board of Directors can fix the annual dues as it sees fit at each winter meeting, this committee questions whether an amendment is required in order to set up a two-tier system of dues. However, a proposed amendment expressly recognizes the Board's discretion to discriminate due to length of practice.

### 4. Amendments Relating to Vice Presidents.

It has been suggested that the by-laws be amended to provide for four (4) vice presidents, each of whom would be assigned specific duties in addition to any other duties that might be assigned to them by the president or the Board of Directors. It has also been suggested that the by-laws be amended in order to specify that the Executive Vice President be in charge of the program at the Annual Meeting. A proposed amendment to establish the fourth Vice Presidency is included. It is felt unnecessary to describe any specific duties of any specific vice president. As persons are elected to serve as vice president without their prior consent, it might prove unworkable to expect such persons to take on particular duties that the President or Board might think better handled by a different vice president.

It has also been suggested that the by-laws be amended either to change the title of the Executive Vice President to President-Elect or to specify that the Executive Vice President automatically assumes the position of President following his year of service as Executive Vice President. This committee took no action on this suggestion.

CURRENT AND PROPOSED BY-LAWS

Current ARTICLE II

Membership

SECTION 1. There shall be two (2) classes of membership, which are: Active members and associate members.

Current SECTION 3.

SECTION 3. Eligibility for Membership. A. To be eligible for election as an active member in this Association, a lawyer (a) must have been a member of a State Bar or State Bar Association for at least three (3) years and must have his principal office within the State of Georgia and must be a member in good standing of the State Bar of Georgia; (b) must be in private practice and engaged in the trial of litigation, primarily for the defense; and (c) must have manifested a genuine interest in, or sympathy with, the purposes of this Association as expressed in Article II hereof. B. To be eligible (1) for election as an Associate Member of this Association, and (2) to continue to hold membership as such, a lawyer (a) must be employed by and actively engaged on a full time basis in the claims work of a company doing business in the State of Georgia; and (b) must have manifested a genuine interest in, or sympathy with, the purposes of this Association as expressed in Article II hereof.

Proposed Amendment to SECTION 1:

There shall be four (4) classes of membership: Active, Retired, Associate, and Honorary.

Proposed New SECTION 8., ARTICLE III:

Any member of the Georgia Defense Lawyers Association who has been a member of such Association in good standing for a period of at least five (5) consecutive years prior to his retirement from the active practice of law may retain membership in the Association as a Retired member, as long as such persons continue to manifest a genuine interest in, or sympathy with, the purposes of this Association as expressed in Article II hereof.

Proposed New SECTION 9., ARTICLE II:

In recognition of their service to the Association, past presidents of the Association shall be entitled to membership even though they may retire from the active practice of law or otherwise cease to meet the requirements for eligibility as an Active member described above in Article II, Section 3, as long as such persons continue to manifest a genuine interest in, or sympathy with, the purposes of this Association as expressed in Article II hereof.

Proposed New SECTION 10., ARTICLE III:

Any attorney who has manifested a continued, genuine interest in, and sympathy with, the purposes of the Association and who has provided service to the Association, may be elected to Honorary Membership by the Board of Directors.

Current ARTICLE V

Dues, Fees and Assessments

SECTION 1. Each Active Member, at the time of his admission to membership, shall pay an initiation fee of Twenty-Five Dollars (\$25.00) and the annual dues for the fiscal year for which he is admitted to membership.

SECTION 2. Each Associate Member, at the time of his admission to membership, shall pay an initiation at the time of his admission to membership, shall pay an initiation fee of Ten Dollars (\$10.00) and the annual dues for the fiscal year for which he is admitted to membership.

SECTION 3. The annual dues for each Active Member shall be Twenty-Five Dollars (\$25.00) for the first year of this Association's life and thereafter shall be at such amount as shall be fixed by the Board of Directors at each Winter Meeting of the Board, and shall become due and payable on or before the first day of July.

SECTION 4. The annual dues for each Associate Member shall be Five Dollars (\$5.00) for the first year of this Association's life and thereafter shall be such amount as shall be fixed by the Board of Directors at each Annual Meeting of the Board, and shall become due and payable on or before the first day of July.

Proposed Amendment to SECTION 1:

Each Active Member, at the time of his or her admission to membership, shall pay an initiation fee and the annual dues for the fiscal year for which he or she is admitted to membership.

Proposed Amendment to SECTION 2:

Each Associate Member, at the time of his or her admission to membership, shall pay an initiation fee at the time of his or her admission to membership, as set by the Board of Directors at the annual meeting for the fiscal year for which he or she is admitted to membership.

Proposed Amendment to SECTION 3:

The initiation fee and annual dues for active members shall be set by the Board of Directors at each winter meeting of the Board and shall become due and payable on or before the first day of July of such year. The Board of Directors of the Association may, on the basis of the total consecutive years of active practice of law of each member, establish different rates of dues which shall be due and payable on the first day of July of each year.

Proposed Amendment to SECTION 4:

The initiation fee and the annual dues for each Associate Member shall be set by the Board of Directors at each winter meeting of the Board and shall become due and payable on or before the first day of July of such year.

New SECTION 5:

The annual dues for each Retired Member shall be set by the Board of Directors at each winter meeting of

the Board and shall become due and payable on or before the first day of July of such year. Each Retired Member, who during his or her membership served as President of the Association and by virtue of that office is an ex-officio member of the Board, shall not be required to pay annual dues. An Honorary Member shall not be required to pay annual dues.

New SECTION 6:

Old Section 5.

New SECTION 7:

Old Section 6.

#### Current ARTICLE VII

##### Board of Directors

SECTION 6. There shall be an Executive Committee which shall consist of the President, Executive Vice President, immediate Past President, Secretary-Treasurer, and two (2) other Directors appointed by the Board of Directors. The Executive Committee shall have and exercise such of the powers and authority of the Board of Directors in the intervals between meetings of the Board of Directors as may be delegated to it by resolution of the Board.

#### Current ARTICLE VIII

##### Officers and Their Duties

SECTION 1. The officers of this Association shall be a President, an Executive Vice President, three (3) Vice Presidents (elected from the membership at large rather than as representatives of any special geographic areas), a Secretary and a Treasurer. The same person may hold the offices of Secretary and Treasurer.

#### Proposed Amendment to ARTICLE VII, SECTION 6:

There shall be an Executive Committee which shall consist of the President, Executive Vice President, the three most immediate Past Presidents, and the Secretary-Treasurer. The Executive Committee shall have and exercise such of the powers and authority of the Board of Directors in the intervals between meetings of the Board of Directors as may be delegated to it by resolution of the Board.

#### Proposed Amendment to ARTICLE VIII, SECTION 1:

Change "three (3) Vice Presidents" to "four (4) Vice Presidents."

Proposed Amendment to ARTICLE VIII,  
SECTION 4:

SECTION 4. The duties of the Officers shall be as follows:

EXECUTIVE VICE PRESIDENT The Executive Vice President shall assume the duties of the President upon his request or when absent, and shall succeed to the office of President upon the resignation, inability or refusal to act, or death of the President. He shall be an ex-officio member of all Committees without the right to vote.

The Executive Vice President shall assume the duties of the President upon his request or when the President is absent, and shall succeed to the office of President upon the resignation, inability or refusal to act, or death of the President. He shall be an ex-officio member of all committees without the right to vote. The Executive Vice President shall fulfill such other duties as may be placed upon him by the President or the Board of Directors.

NEW MEMBERS

The GDLA welcomes the following new members:

**Albany:**

Luanne Clarke  
Gardner, Willis, Sweat & Goldsmith  
P. O. Drawer 71788  
Albany, Georgia 31707-0035  
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**Atlanta:**

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Dennis, Corry, Porter & Thornton  
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(404) 240-6909 (Fax)

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Hurt, Richardson, Garner,  
Todd & Cadenhead  
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Alston & Bird  
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(404) 881-7777 (Fax)

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