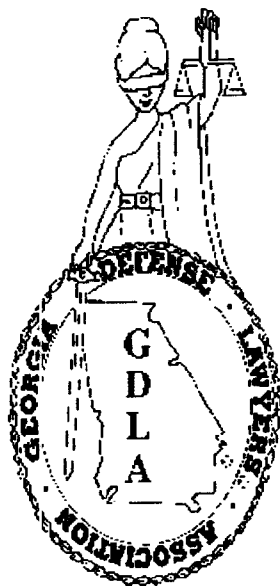


# GDLA NEWSLETTER

Volume 9

Editor: John A. Foster

October 1999



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## THE PRESIDENT'S MESSAGE

BY: George E. Duncan, Jr.

When the Georgia Defense Lawyers Association was founded thirty-three years ago by Dick Richardson, Ed Lane, Meade Burns, John Capers and others, the mission was to foster collegiality and professionalism within the defense bar. The need for collegiality and professionalism is perhaps stronger today than it has ever been and that portion of the mission of our Association remains unaltered. The aspect of our mission is, though, only a portion of what our Association strives to do.

Were I to say that the defense practice of law has changed in the last thirty-three years would be an understatement of gargantuan proportions. In 1966, few insurance carriers or defense clients required their lawyers to keep time slips, "Federal Express" and "fax machines", much less the "Internet" had not yet entered our vocabulary. The plaintiff's bar had no meaningful organization; discovery under the Civil Practice Act was in its infancy, Strict Liability had not yet been adopted in

Georgia and the Guest Passenger Statute was alive and well. In 1966, the only resources that a successful trial lawyer needed were a trial handbook, a jury charge file and a photocopy machine.

Obviously, the defense practice of law has changed and continues to change, and the defense lawyer needs new and expanded resources to practice law successfully, sanely and profitably. Moreover, because a defense trial practice has changed, an organization of defense trial lawyers must constantly assure itself and its members that membership in the Association provides a meaningful adjunct to a defense practice. Over the past several years, I feel that our organization has been reinventing itself. I think that the Georgia Defense Lawyers Association has evolved to the point that it is a very valuable asset to defense practice.

Why do I feel that membership in the Georgia Defense Lawyers Association is an important part of my practice? First and perhaps most basically, it is a sense of iden-



tity. Through my membership, I identify myself with lawyers throughout the state who are independent defense trial practitioners. We are not employed by insurance companies or controlled by our clients. At the same time we say to each other and to the public that the cornerstone of our practice is the defense perspective. We believe that simply because someone is injured does not mean that they are entitled to get money from someone else. We believe that a judicial system that is truly impartial must be fair to all those that come before it and must engender the confidence of both defendants and plaintiffs. Through my membership, I identify myself with attorneys that advocate positions of law without an overriding

**Continued on next page**

## Continued from page 1

self interest in the outcome. Certainly, defense lawyers strive to win, to serve their clients interests and to develop business, but I like to think that the lawyers with whom I identify myself do not have their economic self interest riding on every decision that they make.

The second reason why I believe in membership in the Georgia Defense Lawyers Association is because of what we do and what we offer to members. Over three-quarters of our members are now online. Members that have e-mail capabilities can instantaneously communicate with all other members of the Association. Those who have used the electronic mail capabilities have reported that within hours after sending a mass e-mailing, they have received information concerning adverse expert witnesses, assistance with briefs or arguments on novel points of law and recommendations for experts to help in unusual cases. Over the next twelve months, we will be expanding the system. We expect to have reciprocal arrangements with defense lawyers associations in other states that will enable us to get background and prior testimony on experts as well as other valuable information. We expect to broaden the work by the substantive law committees and have bulletins sent to the membership on recent legal developments and other matters of interest in specialized areas.

We traditionally have had the best, if not the only CLE in the state directed exclusively to defense practitioners. This year, we are looking to duplicate the success of last year's annual meeting in the new "family friendly" format. We have made a special arrangements with the Ritz Carlton Hotel at

Amelia Island for family rates and children's activities and we think that members should be able to plan a week at the beach around our August 3<sup>rd</sup> - 6<sup>th</sup>, meeting. Our law journal is of outstanding usefulness and quality and it now appears on the Internet. The Trial Academy is recognized as one of the best programs of its kind in the country, and it provides a unique training ground for younger lawyers who in today's insurance climate often times are not able to try small cases or gain experience as rapidly as they could in years past.

The most significant reason why I believe in the Georgia Defense Lawyers however, is the opportunity it provides for professional service.

I admit that I too often fall into the trap of viewing professional service as a chore rather than an opportunity. I find myself too often consumed with meeting deadlines in my cases, satisfying my billable hour quotas and dealing with the frustrations of auditors and litigation guidelines. I perceive myself as too busy to add one more thing to my plate, and I feel that if I volunteer to lend a bit of assistance on one project, the next thing I know I will be doing everything myself.

Service in the GDLA is unique in several respects. First, there are opportunities for participation in service at all levels of time commitment. Few of us will ever achieve the level of commitment of Dick Richardson, who throughout his professional career has considered camaraderie with his colleagues and fostering the Association as one of the prime missions of his life. Neither will many of us be able to equal the

hard work and vision of Steve Kyle, our outgoing President, or Salty Forbes, who has served our Association in many capacities and is now National Director of the DRI. Nevertheless, there is a place for service for those who have a few hours or even a few minutes to devote. We have a place for those who would like to speak at a seminar or even find speakers for seminars, for those who would like to monitor recent developments and keep the membership posted through the web page, for those who would like to write a journal article, an amicus brief or even a blurb or announcement in the newsletter.

The practice is changing. The profession and the judicial system are well served by an independent defense bar and the independent defense bar can only be served if we all work together. The defense trial lawyer who thinks that sharing his tools and techniques will cause him to lose clients is just as shortsighted as the law student who thinks that sharing his notes will keep him from making law review.

I encourage all of you to get "plugged in" and find a place for service. Not only will you find the reward of contribution for its own sake, but you will find that the more you participate with other independent defense lawyers, the stronger your own practice and even your own client base will be.

I look forward to working with you during the upcoming year.

**MINUTES OF THE GDLA BUSINESS MEETING IN  
CONJUNCTION WITH ANNUAL MEETING  
PONTE VEDRA, FLORIDA JUNE 19, 1999**



The business meeting of the Georgia Defense Lawyers Association was called to order by President Kyle at 8:30 a.m. Mr. Kyle recognized Jack McEwan, Director of the Southeast Region for the DRI. Mr. McEwan urged the membership to vote for GDLA's own Morton Forbes for DRI Director for the Southeastern region. Mr. McEwan advised the members of the DRI's recently passed resolution regarding litigation guidelines and third party audits.

Mr. Forbes presented the report of the nomination committee recommending a slate of officers and directors for the upcoming year as follows:

**President:** George Duncan

**Executive Vice President:** Greg Melton

**Secretary/Treasurer:** Walter McClelland

**Vice Presidents:** Hank Scudder, Rich Rominger, Drew Hill, and Jerry Bucharian

**Director for the Northern District for a term expiring 2002:** Warner Fox

**Director for the Middle District for a term expiring 2002:** Luanne Clarke

**Director for the Southern District for a term expiring 2002:** John Foster

**Director, State at Large:** Jim Purcell and George Lilly

There being no nominations from the floor, a motion was made and seconded to elect the proposed slate of officers and directors. The motion unanimously carried.

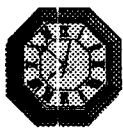
Mr. Kyle delivered the President's message reminding the membership that all continuing legal education requirements can be satisfied by members attending the association sponsored Winter CLE Seminar and the annual meeting. He advised of the continued success of the association sponsored trial academy which graduates from 30 to 50 lawyers each year. He advised that our association's WEB page format had been selected for presentation at the DRI annual meeting in October 1999. He acknowledged that the excellent turnout at the annual meeting reinforced the premise that the membership was approving of the switch from Spring to Summer and to a more family oriented meeting. President Kyle asked the membership to consider the idea of a "committee" of member law firms, each of whom would volunteer to write one amicus curiae brief per year on behalf of the organization.

Mr. Kyle recognized attending past President, McClendon, Chambless, Chambers, Welch, Grant, Forbes, Marchetti and Whitworth. President Kyle spoke on behalf of the Board in honoring Willis J. "Dick" Richardson as a founding member of our organization and our only meeting and membership chairman. President Kyle recognized special guest Ms. Lib Richardson. Ms. Richardson addressed the membership, thanking everyone for the support extended during Mr. Richardson's illness.

Mr. Duncan presented a GDLA silver chalice and plaque honoring Mr. Kyle for his leadership as president of the association. Mr. Forbes presented Mr. Kyle with a DRI plaque acknowledging his work as president of our association.

The business meeting was adjourned at 9:30 a.m.

**MINUTES OF THE GDLA BOARD MEETING IN  
CONJUNCTION WITH ANNUAL MEETING  
PONTE VEDRA, FLORIDA JUNE 19, 1999**



A meeting of the newly constituted Board of Directors was convened at the close of the annual meeting. The meeting was convened at 12:45 p.m. and adjourned at 1:30 p.m. The meeting was conducted by outgoing President, Kyle. Others in attendance were President-Elect Duncan; Executive Vice President-Elect Melton; Secretary-Treasurer-Elect McClelland; Vice President Buchanan; Vice Presidents-Elect Scrudder and Rominger, Past Presidents Forbes, Welch and Whitworth; Directors Clarke, Foster, Edwards, Griggs, Wasden and Smith and Directors-Elect Purcell and Fox. The minutes of the 1999 Spring Board of Directors Meeting were approved. Mr. Kyle agreed to serve in the capacity of meeting chairman. Mr. Kyle appointed Mr. Forbes to serve as membership chairman, Mr. Kyle asked past presidents Chambliss, Welch, Hanks and Marchetti to same on the membership committee.

Discussion was held regarding the American Bar Association's proposed "Multi-Discipline Partnership (M.D.P.)"

Mr. Scrudder and Mr. Rominger reported for the Long Range Planning Committee and the Ethics and Professionalism Committee regarding the ongoing discussions of captive counsel, litigation guidelines and third party audits.

Mr. Melton delivered the

financial report. A discussion ensued regarding the site for the 2000 annual meeting.

There being no other business, the meeting was adjourned.

**Association loses  
President in Perpetuity**

WILLIS J. "DICK" RICHARDSON our President in Perpetuity passed away on Sunday, October 10, 1999 after a long illness.

Dick practiced law in Savannah for 45 years. During his professional life, he was elected to the Georgia House of Representatives in 1963 and served for 6 years and was chairman of the Rules Committee during the administration of Governor Carl Sanders. Dick was Chairman of the Chatham County Board of Elections for more than 20 years.

Dick graduated from Savannah High School and played football for the University of Georgia Bulldogs. He was a member of the 1941 National Championship Team and played in the Rose Bowl in 1941. He graduated from Georgia with a Bachelors Degree and a Law Degree.

He served during World War II as a navigator on a B17. Dick will be sorely missed by our association and each of its respective members.



A variety of new legislation is become effective on July 1st. This is a brief heads-up.

The General Assembly has raised the jurisdictional ceiling for cases in Magistrate's Court to \$15,000.00.

The General Assembly has also amended the seatbelt statute to close the loop-holes relating to pick-up trucks and relating to causation of injury. They have amended the statute so that it no longer applies to passenger vehicles, but rather to "motor vehicles." Passenger vehicles were defined in such a way as to exclude pick-up trucks. The issue of causation was always in cases where the failure to use an available operative seatbelt had been raised by the defendant on the issue of causation or reduction of damages. The statute has also been amended to prohibit the introduction of failure to wear a seat safety belt on that ground as well.

The General Assembly has also seen fit to do away with the doctrine of vanishing venue. The statute at O.C.G.A. §9-10-31 has been amended and there is a special definition in the new statute, to provide that once the trial commences if the resident defendants are discharged from liability, then the trial will be transferred only if all the parties consent. If, however, the resident defendants are discharged from liability before commencement of the trial, the non-resident

## **MEMORANDUM** **RE: New Legislation**

BY: Campbell Bowman

defendant will have the right to a transfer. The statute provides that if venue on transfer is appropriate in more than one place, it will be plaintiff's choice as to where it goes.

In some interesting notes about legislation that did not pass, there was at least one proposal before the General Assembly to raise the minimum limits of insurance coverage to \$25,000.00 per person per accident and \$50,000.00 per accident. That was tabled before it actually went to the floor for a vote in the house. Tom Bordeaux proposed that the General Assembly adopt provisions which are similar to Rule 4 of the Federal Rules of Civil Procedure requiring that certain specified individual or entities would have a duty to minimize or avoid the cost of service of legal process on notice of the pendency of a legal action. The proposed language of the statute reflected that it closely tracked the language of Rule 4. However, the General Assembly saw fit to throw this one back.

Finally, there was a proposal from at least one General Assembly member to do away with hospital liens altogether. The statute obviously did not pass but all of these proposals are likely to be raised again during the next session of the legislature.

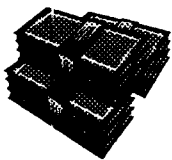


If you are not already a member of Georgia Defense Lawyers Association we invite you to apply for membership. If interested, please contact Morton G. Forbes at the following:

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There is no magic secret to ensuring you get paid for the work you do. Rather, there is a methodology you can and should follow. If you do, you will greatly improve your cash flow, and dramatically decrease the percentage of bad receivables.

What holds most people back from collecting their bills are a number of emotional issues. Sometimes these are combined with poor client management. Let's start by acknowledging that an attorney's busy schedule leaves little room for dealing with administrative issues, of which collection of receivables is a big one. Often you find everything and anything calling out to be done in order to avoid dealing with the work which should be done. Calling for money is one of those unpleasant tasks which falls by the wayside at the slightest excuse. You are not comfortable making those calls. And if you're honest, you're probably a little annoyed that you should even have to make those calls. After all, you dropped everything to accommodate the client's needs, and produced the desired results. Why should you have to call?

## **"GETTING PAID"**

By: Ellen Freedman

In addition, you know it's near impossible to call for additional work and try to collect on past due invoices at the same time. In today's competitive market, you'd rather get additional work, and keep the faith that the older bills will eventually be paid. And some of them definitely will be ... eventually, after you've had to dip into your line of credit to pay operating expenses. And then there are the many instances

where you know the "inside" story of your client's financial condition, and feel it would be inappropriate to ask for payment when you know the client is in a precarious position. You feel the client expects you to be understanding and get in the back of the creditor line.

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### ***Mark your Calendars!***

#### **1999**

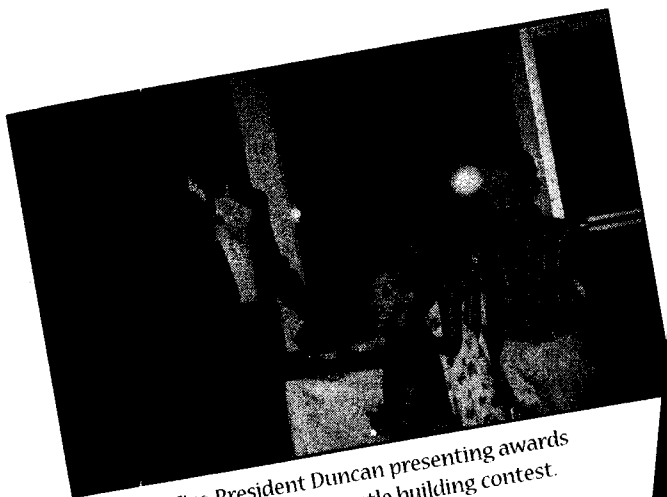
- ◆ November 5-6      Fall Board Meeting, Cashiers, NC
- ◆ December 2-4      GDLA Trial Academy, Callaway Gardens, Kay Deming will again chair this informative seminar. Plan now to make it available to your litigation associates

#### **2000**

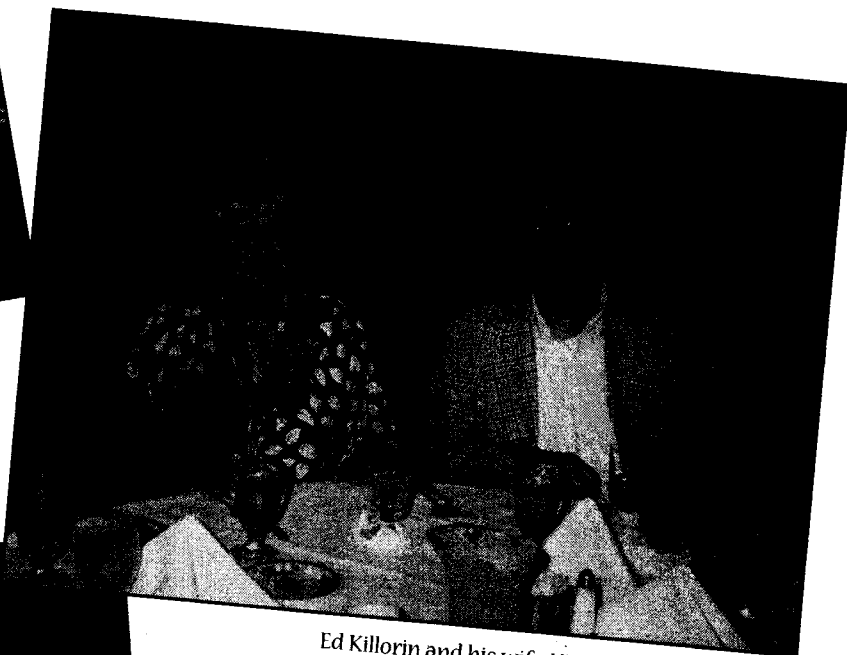
- ◆ January 21      Winter CLE Meeting, Marriott Perimeter Center, Atlanta Georgia, Topics and participants to be announced
- ◆ August 3-6      Annual Meeting, Amelia Island, Florida. The expected program will focus on scientific (and not-so-scientific) evidence, and also will have segments of the program tailored to individual practice needs. Plan now to attend!!!
- ◆ October 4-8      DRI Annual Meeting Westin Hotel at Palmetto, New Orleans, LA

# "SCENES FROM PONTE VEDRA"

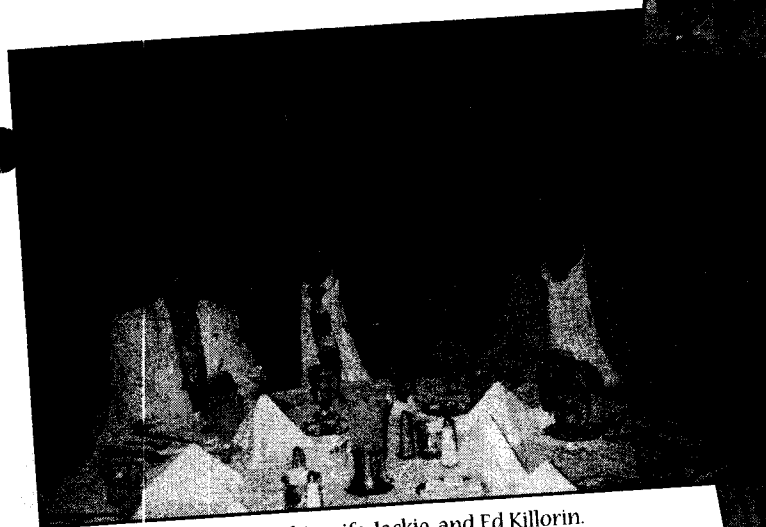
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Executive Vice-President Duncan presenting awards to the winners of the sand castle building contest.



Ed Killorin and his wife, Virginia, enjoying dinner.



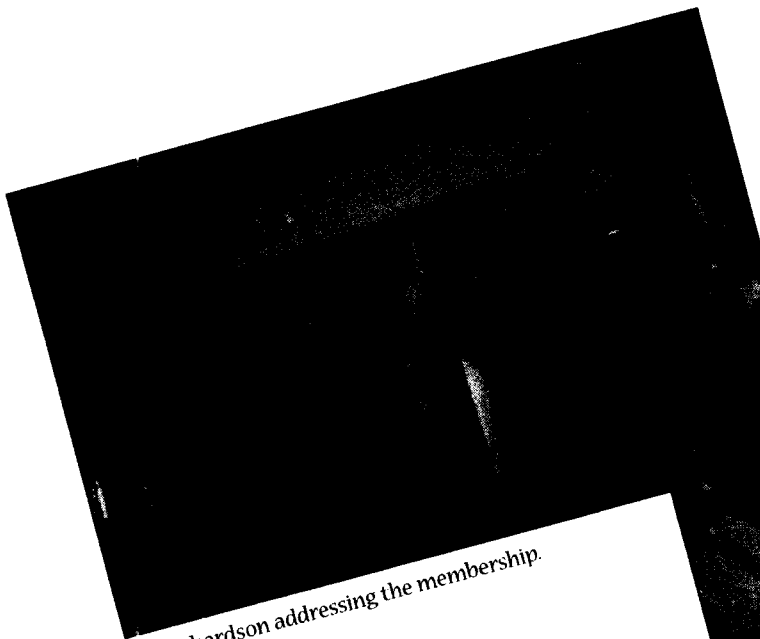
Past President McLendon, his wife Jackie, and Ed Killorin.



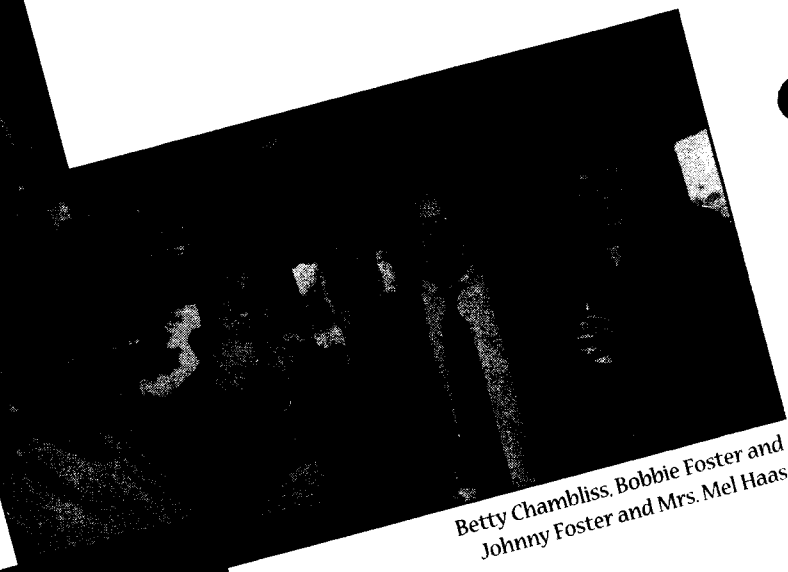
Having fun at Ponte Vedra.



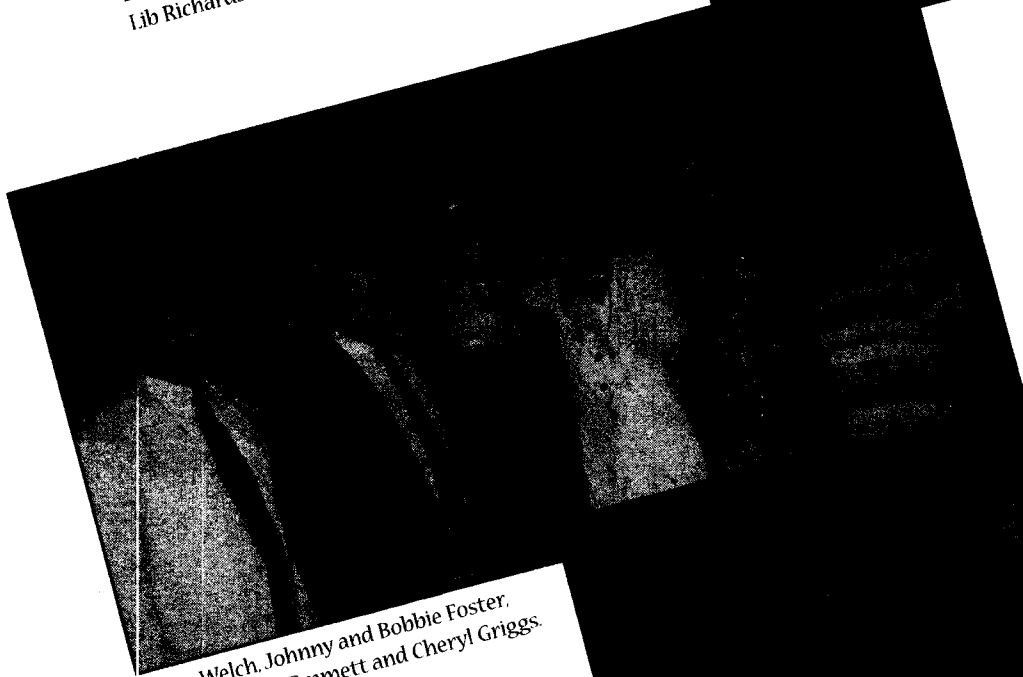
The winners of the sand castle contest.



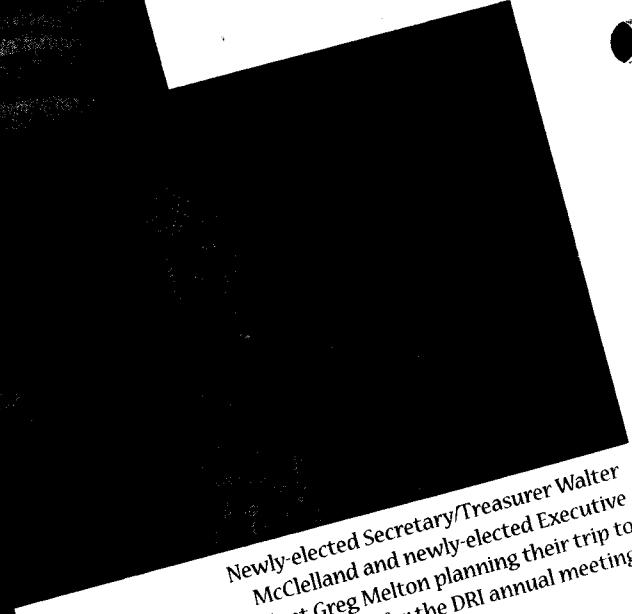
Lib Richardson addressing the membership.



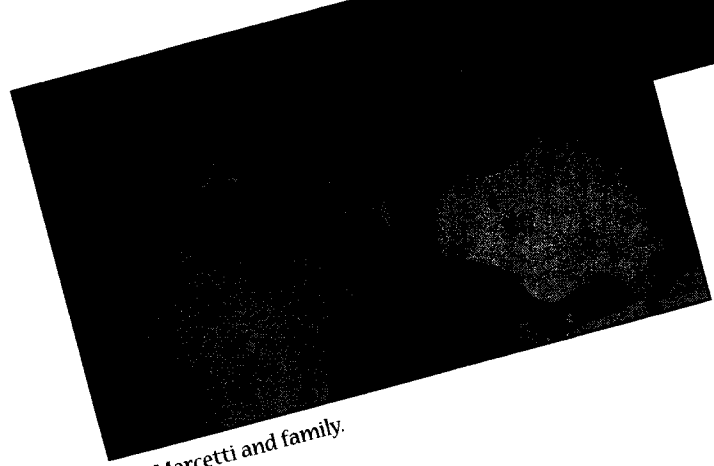
Betty Chambliss, Bobbie Foster and Johnny Foster and Mrs. Mel Haas.



Bruce Welch, Johnny and Bobbie Foster, Marsha Welch, Emmett and Cheryl Griggs.



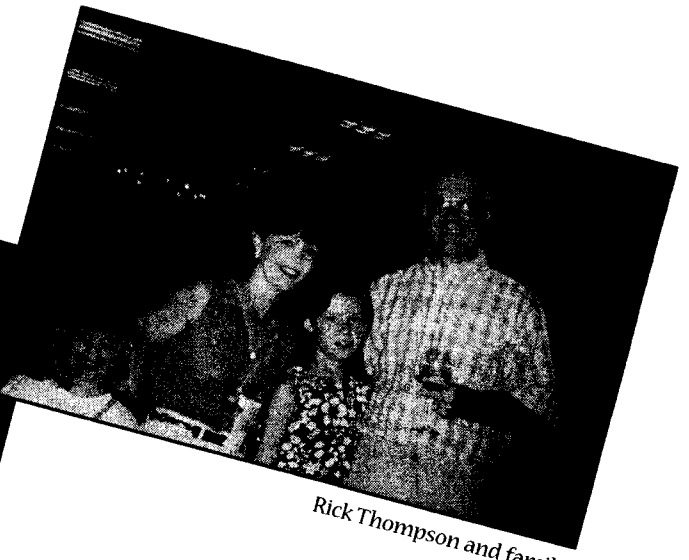
Newly-elected Secretary/Treasurer Walter McClelland and newly-elected Executive Vice-President Greg Melton planning their trip to New York for the DRI annual meeting.



Rick Marcetti and family.



*Connie Collins and Linda Jude of the Florida Defense Lawyers Association, Betty Chambliss.*



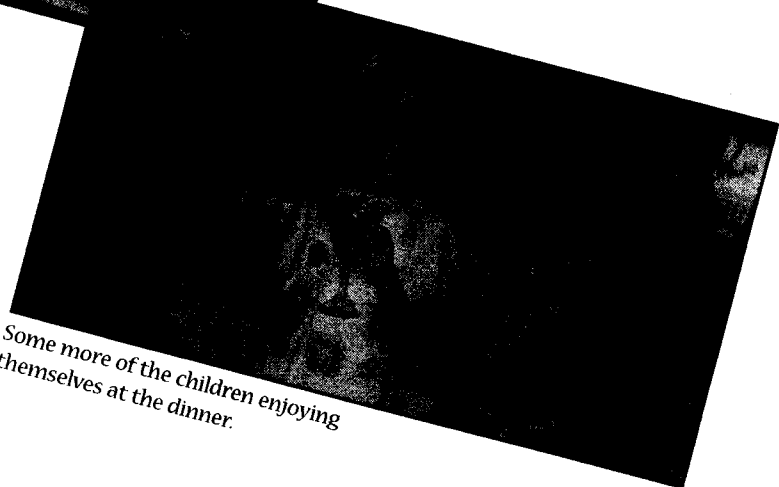
*Rick Thompson and family*



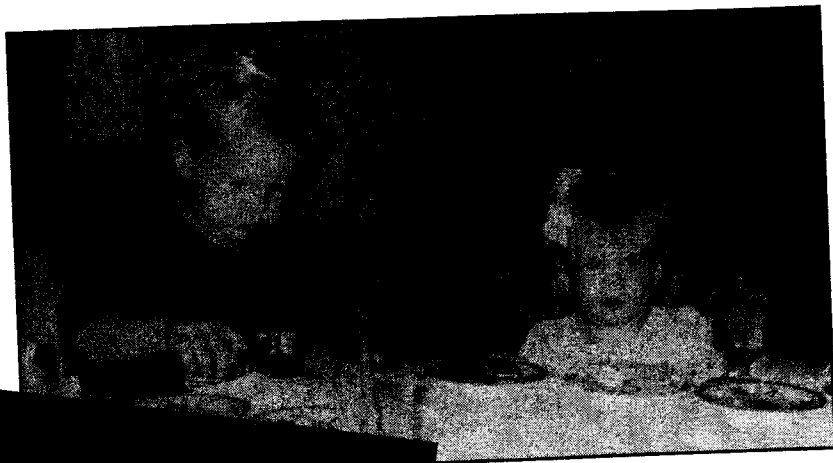
*Steve Kyle and family.*



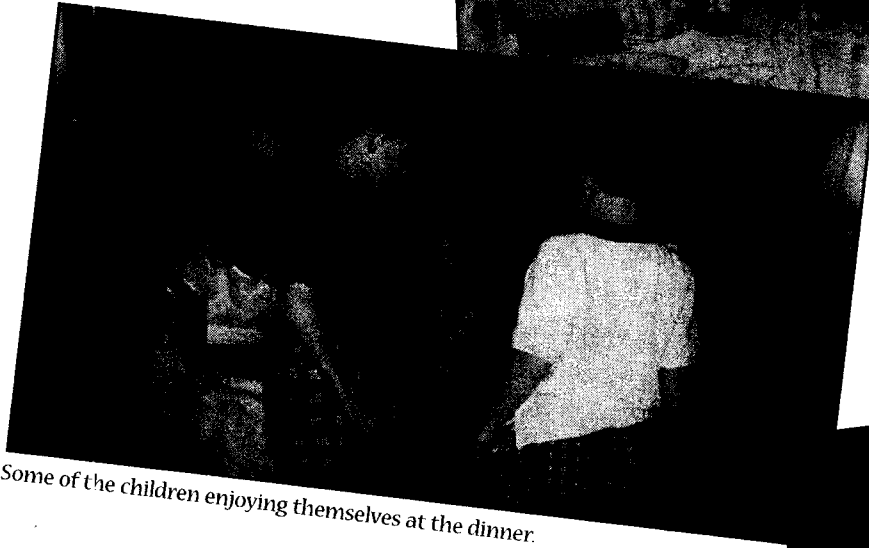
*Proud grandfather.*



*Some more of the children enjoying themselves at the dinner.*



Some of the children enjoying themselves at the Inn.



Some of the children enjoying themselves at the dinner.



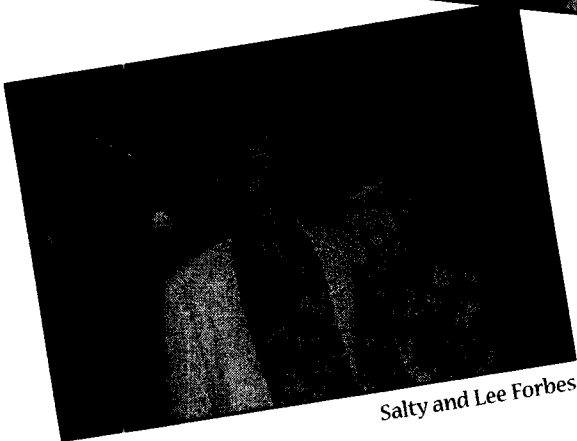
Hank Scrudder and family.



DRI Director Dick Collins, George Duncan, Mel Haas (one of our speakers), and Salty Forbes.



Our Maitre d' at Ponte Vedra who is retiring this year after 30+ years.



Salty and Lee Forbes.

## Continued from page 6

Putting aside the emotional issues, there can also be instances where clients are "surprised" in an unpleasant way when the bill arrives. This is a sure sign that the engagement agreement was not clear, and that communication between you and the client could be improved. And without knowing it, you could be delivering a message to your clients that you really do not care if you get paid on time, or maybe even at all.

Here are the steps You should take to keep the cash flowing:

- 1) Write a strong engagement letter which clearly spells out rates, costs, billing cycles, and expected payment terms, and allows the firm to disengage for non-payment, as well as apply an interest charge on past due balances and allows reimbursement of collection costs. Use this letter for every new client, and every matter for a client which is billed under a different arrangement from other matters, and do not proceed until the letter is returned signed. Pennsylvania rules require that the engagement letter be sent, but many attorneys overlook getting the signed copy back for the file. Learn a lesson on how to do this from your CPA. Likely he or she will not provide you with your final financial statement until you have returned the signed engagement letter. I can assure you he or she gets that signed statement back every time.
- 2) Take the time to find out what your client's billing cycle is, and try to time your bill to arrive before the cut off of a billing cycle, so that it does not wait around for another month's cycle.
- 3) Try to get your bills out by the tenth of the month if you do them all in one batch. Receiving the bill early in the month communicates to your client that your bills are important to you.
- 4) If there is something on the bill that surprises your client, you have not communicated adequately during the month. Keep the client informed of unusual or unexpected expenses or time spent. Whenever possible, give the client a say in whether or how aspects are handled that relate directly to costs or fees. Consider having the client pay directly for large costs.
- 5) Designate someone to call the client's bookkeeper whenever an invoice remains unpaid longer than 30 days (unless your agreement with the client stipulates payment in a longer cycle). This is a customer-service driven call, and can be handled by a bookkeeper, receptionist, or secretary, whoever has the best "people" skills. The person who makes the call needs to ascertain:
  - a. was the bill received?
  - b. if so, has it been processed for payment?
  - c. if not, is there a problem which needs to be addressed?
  - d. if it has been processed, when will a check go out?
- 6) If the bill has not been received, a copy should be immediately faxed or sent by overnight courier. A follow-up call should be made in 24 hours to the same person as the day before to ask the same questions posed the prior day. This prompt action will communicate the firm's desire to collect on the outstanding bill. It will transfer a sense of urgency. It will also eliminate any possible "stalling" tactics in the future. In addition, follow up calls should be made every one to two weeks until such time as payment is made, or a payment arrangement is made. The trite statement that "the squeaky wheel gets the oil" was probably invented when referring to successful collection strategies. Simply put, those who call most get paid first, and are paid more quickly in the future.
- 7) If there is a problem with the bill you must make contact with the client without delay to ascertain what the problem is, and resolve it. As an example, at one firm a client had a bill in excess of \$30,000 which was over a year old. The client had not been contacted. Upon making contact a year later the client said that he had a question about the bill and had left numerous messages to that effect, but the attorney did not return those calls. (But to the attorney's credit he apparently had responded to the same

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client's request for additional work in the interim.) The managing partner met with the client and discovered that the client's question concerned approximately \$ 1,000 worth of time and costs. The managing partner told the client that if he were willing to cut a check on the spot, the questionable items would be written off. The client was as relieved as the managing partner to get the debt resolved. The client indicated that he felt so uncomfortable knowing the invoice was outstanding for so long that he could no longer contact the attorney for additional work. Past due bills can therefore evoke emotional reaction for both the client and the attorney.

8) If the invoice is approved but payment cannot be made due to financial constraints, it is time to work out a payment plan. It should not be acceptable for you to finance your clients. You need to be paid, as do your employees, and your bills. You need to communicate this clearly and directly to the client. No matter what your client's financial situation, you are entitled to be paid for the work you do. You may ultimately not collect 100%, but you should be at the top of the line of creditors and get your fair share every step of the way. The only way to ensure that is to make sure the client knows that you expect to be paid for your work. Keep in mind that there comes a point in time, as the debt grows, when the "power" shifts to the client. For example, one firm found out the hard way when a client which ac-

counted for about 17% of its annual revenues experienced a downturn. At first the past due balances were ignored, due to the fact that the client had previously been such a good paying client. By the time the firm contacted the client to inquire about the past due bills, the client owed a lot (over six figures) of money to the firm. The client agreed to a payment schedule, after being advised that the firm would not continue working if the schedule was not adhered to. The client made most of the scheduled payments, but also gave a lot of additional work to the firm, promising that payment would come from the revenues the additional work produced for the client. In a short time the client had actually doubled the debt. When the firm informed the client it was "putting the pens down" the client threatened not to pay at all. At this point the client's debt was such a significant portion of the firm's total receivables, it could not afford to alienate the client. Did the firm get paid? Ultimately it wound up writing off an even greater debt than if the firm had put the pens down and walked away.

9) Probably obvious from the previous point is that you must be ready to walk away from a client who cannot or will not pay. Certainly there are loyalty issues. You do not want to abandon a client who is experiencing a temporary setback and will eventually bounce back. But that doesn't mean you can or should be their banker, either. You also need to

determine the client's capacity to catch up on your past due bills when they recover from the set-back. Equally important, can your firm afford to invest \$2 for every \$1 you collect?

10) What about the quality of your clients? Do you ascertain whether they have the capacity to pay for your work before you proceed? What we're talking about is the type of credit check our corporate counterparts perform. As you've probably discovered, an ability to pay a retainer to the firm is no indication of ability to take on considerable legal fees for litigation or transactional work. The best way to determine this is to have a frank discussion with the client before commencing work, and perhaps review their financial statement.

11) Lastly, there will come a time when you will have to consider whether you should sue the client for unpaid fees. This is a difficult decision-making process. Your professional liability insurance carrier will advise, emphatically, no way! They believe that the exposure to a counter suit for malpractice is just not worth the receivable. Take a look at your deductible and the client's debt, as well as your prior claim history, before even taking a look at the file to see if there might be any "merit" in a counter suit. If the debt is

**Continued on next page**

## Continued from page 8

lower than your deductible, or if your firm has already reported several claims in the past 5-7 years, you are best advised to walk away from the debt and client. This is not easy when your emotions are running high regarding the result you achieved for the client and your indignation at being stiffed. But reason must prevail. In summary, to ensure you get paid, you must work for quality clients who have the capacity to pay for the work you are being engaged to perform, and who know the terms of payment. You must have someone promptly follow up on every past due bill, and to keep following up frequently until payment is received. You must intervene immediately if there are questions raised about the bill. If a payment schedule is arranged it should be carefully monitored by the person designated to make calls. Keep an eye on the client's balance to make sure that they at least keep "even" if you continue to work, meaning that their payments equal or exceed current time spent. And finally, do not wait until it is too late to put pens down and walk away.

*Ellen Freedman is the Low Practice Management Coordinator for the Pennsylvania Bar Association. In that capacity she assists PBA's members with management issues and decisions on the business side of their practice, including areas like technology, human resources, risk management, set-*

*ting up a practice and so forth. Members are encouraged to Contact Ellen through the 800 'Hot Line' at PBA headquarters, (800-932-0311 x2228) or through email (lowpractice@pabar.org).*

*Ellen has managed inside law firms for twenty years. Most of that time has been spent in a mid-size (thirty + attorney) firm environment. Ellen has achieved the designation of Certified Legal Manager through the Association of Legal Administrators. She holds a Certification in Computer Programming from MAXWELL Institute, and a B.A. from Temple University, where she also did graduate studies in Criminology.*

*Ellen has been a frequent author and speaker on law firm management issues on a national, regional and local level.*

### UPDATE ON TRIAL ACADEMY

The faculty will include: Jerry Buchanan (Columbus), James L. Elliott (Valdosta), Rusty Gunn (Macon), Greg Hodges (Savannah), Mary Katz (Macon), Greg Melton (Dalton), Wade Monk (Rome) Al Parnell, Gordon Smith, Steve Goldner, and myself from Atlanta. George Duncan will also make an appearance, and Michael Sullivan will conduct the ethics portion although he will not be faculty. The trial Academy will be held at Callaway Gardens De-

cember 2nd through 4th – Contact Terri Eaton at (404) 885-3731 for registration forms.

### GED – Paper

Within the past several months, the GDLA Technology Committee, headed by Jerry Buchanan, has instituted a system that allows GDLA members to quickly and easily send e-mail messages to the entire membership. The Association plans to use the e-mail system to notify membership of significant recent case law developments, pending legislation, and association activities. Of perhaps more significance, members may directly contact all other members of the Association to ask for information on expert witnesses and assistance with difficult cases or legal issues.

The reports from those who have used this e-mail system are overwhelmingly positive.

Here are a few:

Robert Darroch, the first member to use the system, was looking for help on a unique question of law. He writes:

"I recently used the GDLA mailing list and believe that it is the most valuable and most underutilized resource available to GDLA members. I had an issue for which there were no appel

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late court decisions. I was looking for some trial court order to back up my position. Within hours I heard from over a dozen GDLA members who provide me with copies of other trial court orders in my favor (including one from the judge handling my case!), a similar brief that one GDLA member had file (and offered to let me plagiarize!), and a couple of new and helpful ideas that had not crossed my mind. In my experience, the GDLA has done a wonderful job of sharing information and making each member's job easier. Now we have the opportunity to do the same thing. I'm in favor of most things that make practicing law simpler, easier and more profitable and I believe this mailing list will do exactly that. I hope everyone will give it a try."

Mary Katz used the system to search for help in locating a doctor for an IME.

She writes:

"I'm surprised there haven't been more queries like mine. The response was much better than I had expected, and FAST. I estimate that I have received about ten replies - very helpful - and most came within an hour or two."

Paul Mueller asked the membership for assistance in formulating an argument that the law allowing plaintiffs to assert claims for mental pain and suffering, but at the same time claim that prior psychiatric records are privileged and not the subject of discovery was unconstitutional.

Paul writes:

"I got several notes from people who agreed with my approach, but who had no authority. Lynn Roberson was kind enough to send me an order from several years ago almost on point. The judge ruled that the privilege could not be penetrated by the defendant, but that the plaintiff could not have his cake and eat it too. Because the plaintiff refused to unlock the privilege the judge dismissed the claim on constitutional grounds."

George Duncan was looking for an expert witness in a product's liability case.

I was looking for help in what I felt to be a rather arcane marine product's liability case. Within a day, I had received nearly a dozen helpful responses. I found that Drew Hill was national counsel for a company in the same business as my client's. He directed me to a well-qualified expert in Detroit who had handled reconstruction of several virtually-identical cases. Paul Painter directed me to an attorney in Phoenix who had handled several cases almost identical to mine and I received several other excellent leads. Needless to say, the client was duly impressed. My query did generate a few crank responses, but then again, it is always good to hear from Mike Goldman too.

## Focus on the Amicus Committee

The Amicus Curiae Committee is charged with the mission of authoring briefs to be submitted by the Association as friend of the court on issues of areas of particular concern to the defense bar. Although by definition, the Association submits Amicus Briefs in support of positions of defendants, it is the hope of the Committee and the Association that the topics chosen for Amicus Briefs relate to broad issues of the fair administration of justice in civil litigation and not merely to the self-interest of insurance companies or other defense clients. Topics in which the Association has submitted Amicus Briefs in recent months have included whether the statute of limitations in a professional negligence case is tolled by continued representation of the client (Frame v. Hunter McClean Exley & Dunn, P.C.), whether the court is empowered to exclude testimony of expert witnesses when timely notice of changed testimony has not been provided to the opponent (Hunter v. Nissan Motor Company), and whether unambiguous exclusions in insurance policies that do not violate public policy should be enforced in negligent hiring as well as direct liability-claims. (Jefferson Insurance

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### Company of New York v. Charles Adrian Dunn).

Attorneys who write Amicus Curiae Briefs on behalf of the GDLA have reported that they get a great deal of personal satisfaction, particularly when the court cures egregious legal rulings such as in the Dunn and Hunter McClean cases. Too often, however, the Association does not publicly recognize the hard work and great contributions of its members who write Amicus Curiae Briefs. Special thanks is due to Wray Eckl, Melanie Eyre, and Kenneth Hindman, of Drew, Eckl & Farnham for their work on both the Dunn and Hunter McLean cases. W. Donald Morgan, Jr., took the lead on the Hunter McClean Brief and Allen Willingham of Love & Willingham has recently submitted a brief in the case of Security Life Insurance Company of Georgia v. Clark, which is currently pending on motion for reconsideration in the Court of Appeals.

You are invited to request the Georgia Defense Lawyers Association to submit Amicus Curiae Briefs in cases in which you are involved or in cases of which you are aware that have issues of significant interest to the defense bar. The guidelines for requesting a case are included at the end of this article. Requests for Amicus Briefs should be submitted through the Co-Chair of the Amicus Curiae Committee, James E. Singer, Bovis, Kyle & Burch, Suite 330, 53 Perimeter Center

East, Atlanta, Georgia 30346-2298 or through the Executive Committee of the Association.

In addition to the guidelines contained below, the Association requests that as an accommodation to the lawyers who will be helping prepare the Amicus Curiae Briefs, that you submit your request for assistance as early in the appellate proceedings as possible. Although it is a policy of the Association to submit Amicus Briefs only at the highest court when an issue is likely to be resolved, the Association and the lawyers volunteering to write Amicus Briefs need as much advanced notice as possible to be able to assist, and assist effectively, in the appellate proceedings.

Volunteer service, which helps to promote the efficient and impartial administration of justice, is one of the highest callings which a lawyer can have. The Georgia Defense Lawyers Association offers this opportunity for service and you are invited and requested to volunteer to write an Amicus Curiae Brief or even a portion of a brief within your area of interest and expertise.

Although the Association actively solicits individuals to volunteer for this work, we are beginning a program to solicit law firms to be "Patrons of the Association" and follow the lead of Drew, Eckl & Farnham, Love & Willingham, Freed & Berman and Rothchild & Morgan in committing to write one Amicus Curiae

Brief over the next three years. If you are able to make this special commitment not merely to the Association, but to the profession generally to assist in the writing of an Amicus Curiae Brief, please contact Association President, George E. Duncan.