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DAILY REPORT

A SMART READ FOR SMART READERS



INSIDENEWS

Daily Report Bureau Chief Everett Catts offers another in a series on lawyers and mental health. p. 6
Pandemic fraud investigations have a new target: PPP lenders. p. 7

An ALM Publication

Newsreel

Alum Fully Endows Benham Program at UGA Law School

While money is tight for many law students amid the pandemic, the University of Georgia School of Law has secured permanent funding for its Benham Scholars Program, which helps students overcome significant adversity.

The program is now backed by a newly established Justice Robert Benham Scholars Program Fund, created with a \$500,000 pledge by the Hart Family Foundation Inc., tied to 1980 alumnus E. David Hart Jr.

"The quality education that I received at the [University of Georgia] School of Law has been very instrumental in our company's success," said Hart, the chief executive of Mountville Mills, a family-owned global manufacturing business in LaGrange. "I am very thankful to be able to give back."

Named for retired Supreme Court of Georgia Justice Robert Benham, who became the law school's second African American graduate in 1970, the endowed fund will permanently support students who've demonstrated a connection with or an intent to return to and work in rural or legally underserved communities.

"I encourage young students to attend the University of Georgia School of Law, as their chances of success will be greatly enhanced," Benham said. "The support of the faculty and students was tremendously helpful."

Since its creation in 2018 with the help of UGA President Jere W. Morehead's New Approaches in Diversity and Inclusion Initiative, school officials said a dozen law students had benefited from the Benham Scholars Program through focused efforts in recruitment, law school preparation, academic support and career planning.

Thanks to the addition of permanent funding, the scholar program will now expand to offer bar exam preparation, professional development attire and participation in the school's early start program, in addition to scholarships and participant support costs.

—Cedra Mayfield



Eric Lang (left) said he is "constantly trying to repay" those who have supported him. John Earles, state bar admissions director, said the time it can take to return keeps many lawyers out for good.

Sanctioned Lawyers' Road to Redemption Is a 'Large Hurdle'

CEDRA MAYFIELD | cmayfield@alm.com

LIFE AFTER A lawyer discipline can be downright daunting.

For starters, the road to redemption is often an uphill battle with strict conditions for reinstatement spelled out and assessed by the Supreme Court of Georgia's Fitness Board.

Add in terms of requirements, months can turn into years before an ousted attorney can apply for readmission to the State Bar of Georgia.

Earning a welcome back to the practice of law can be difficult, but it's doable.

"You should never consider your post-reinstatement life as a victory lap," said Eric Lang of Lang Legal in Atlanta. "Your past is in the rearview mirror, but you can still see it. And it reminds you what you owe others and what kind of attorney you need to be."

It's been six years since the Supreme Court of Georgia reinstated and the

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ACLU Asks Ga. Justices to Toss Ex-PD's Defamation Suit

GREG LAND | gland@alm.com



Brent Savage Sr. disputed that the ex-public defender was a public figure under the law.

IN ARGUMENTS BEFORE the Georgia Supreme Court, an attorney representing the American Civil Liberties Union sparred with a lawyer for a former misdemeanor public defender, who sued the nonprofit over online posts accusing him of charging for legal services that he should have been providing for free.

Both a Glynn County trial judge and the Georgia Court of Appeals declined to dismiss the case on anti-SLAPP grounds.

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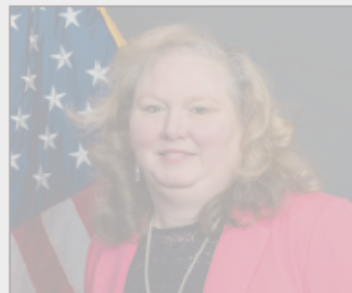
Long Co. Probate Election Fight Over 9-Vote Loss Fails at Ga. Supreme Court

CEDRA MAYFIELD | cmayfield@alm.com

GOOD NEWS FOR Long County Probate Court Judge Teresa L. Odum, whose political opponent has tried to unseat her via litigation: The Supreme Court of Georgia has tossed the election challenge that sought to overturn her nine-vote-margin victory.

"We are elated that the Supreme Court made the decision that it did," said Odum's attorney, Luke

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The court voted 7-0 to deny a petition opposing the election of Probate Judge Teresa Odum in southeast Georgia.

Wood Among Kraken Lawyers Sanctioned for Election Suit

JACQUELINE THOMSEN | jthomsen@alm.com

A FEDERAL JUDGE has ordered the attorneys behind a Michigan lawsuit seeking to overturn the 2020 election results to face sanctions, including referrals for potential disbarment.

U.S. District Judge Linda Parker issued the orders in response to motions for sanctions filed by lawyers for the city of Detroit and the state of Michigan over the quickly rejected election challenge. Her order affects lawyers Sidney Powell, Lin Wood,

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L. Lin Wood



REDEMPTION, from page 1

State Bar of Georgia readmitted Lang to the practice of law in the Peach State.

Lang had to sit on the sidelines for two years after being suspended for trust fund violations and client communication issues beginning in 2013.

"During my suspension and my return, my family, my friends, my professional colleagues and the Supreme Court [of Georgia] and the [State Bar of Georgia] put a great deal of faith in me," Lang said. "Constantly trying to repay their faith is both an honor and a challenge."

As a mental health advocate candid about his own struggles that led to a suicide attempt in 2012, Lang linked mental health as a mitigating factor in attorney discipline. He drafted a paper examining the role mental health played in a series of other attorneys' disciplinary measures and outcomes.

In an agreement signed as part of his reinstatement, the Supreme Court of Georgia mandated that, during the first few years of Lang's return to practice, a psychologist or psychiatrist must assure bar discipline authorities of his fitness to practice law every three months. That stipulation has since expired.

Work to Get Healthy

"The Supreme Court [of Georgia] generously reinstated me and conditioned my reinstatement not just on the passage of time but on certification regarding my mental health," Lang said. "I had to do the hard work on my mental health, regardless of the suspension. The work I did to get healthy was the same as the work I had to do to be reinstated."

Rather than see it wane, Lang said he received continued support following the two 12-month suspensions that affirmed his belief in the goodness of others.

"People that were there for me before, were there for me after and helped me come back," Lang said.

Lang is among a few attorneys who've returned to the land of the practicing after suspensions. Since 2017, just over a dozen suspended lawyers have had their Georgia law licenses reinstated.

Much more rarely are attorneys granted reinstatement after disbarment.

'Five Years is Long Enough'

Supreme Court of Georgia Office of Bar Admissions director John Earles said Part A, Section 10 of the Supreme Court of Georgia's Office of Bar Admission rules covers readmission and reinstatement. The parameters

outlined illustrate why it can be difficult for disbarred lawyers to gain readmission.

"They have to wait five years to apply for readmission," Earles said in an email. "Five years is long enough that many people either move on with their life and find another career or perhaps realize that it is going to be difficult for them to resume their law practice."

The rules also outline a \$3,500 fee disbarred attorneys must pay to file for readmission that Earles said might make some applicants more seriously weigh their likelihood of being granted certification of fitness.

"The disciplinary matter that led to disbarment ... likely creates a barrier to obtaining certification of fitness," Earles said. "The applicant will have to convince the Board to Determine Fitness of Bar Applicants that they have been rehabilitated, and that they will conduct themselves with a high degree of honesty and integrity should they be allowed to be readmitted to the Bar."

And the hurdles don't stop there.

Disbarred attorneys deemed fit to return to practicing law must then be greenlighted by the Supreme Court of Georgia, as the high court makes the final determination regarding certification of fitness.

'Fairly Large Hurdle'

Once doubly certified as fit, disbarred attorneys applying for readmission must then pass the state bar exam, again.

"That's likely a fairly large hurdle to overcome for someone who has been out of law school for a while," Earles said.

Disbarred attorneys, he said, aren't eligible to take a one-day Attorneys' Exam that includes the Multistate Performance Test and the Georgia essays but excludes the multiple choice Multistate Bar Examination.

"This is not an option for applicants on readmission," Earles said. "They have to pass the regular, two-day bar exam."

That's the challenge a 73-year-old former Fairburn attorney is now up against.

In July, the Supreme Court of Georgia granted James Archie Barnett's application for certification of fitness after a 23-year law practice hiatus. The high court disbarred Barnett in 1998 following four incidents where he failed to render requested services to clients.

Now the only thing standing between Barnett and his reinstated law license is his ability to satisfy the State Bar of Georgia Part B Board of Bar Examiners rules, including a pass score on the state bar exam. ☐

ELECTION, from page 1

Moses of Jones Osteen & Jones in Hinesville. "It helps protect voters from being disenfranchised in the state, particularly those voters who vote by absentee ballot."

In a 7-0 decision, the Supreme Court of Georgia upheld Chatham County Superior Court Judge John Morse's decision to deny a petition by former Long County Probate

Judge Bobby Harrison Smith for a new election.

Smith lost to Odum by nine votes in the June 2020 general election.

The high court determined improper votes fell short of the number needed to overturn the election.

"Of the challenged electors, only the ballots of six doubles and one mover should be

rejected," wrote Supreme Court of Georgia Justice Carla Wong McMillian for the high court. "Those seven ballots are not sufficient to place the results of the election in doubt, given the nine-vote margin of victory in this case. Accordingly, we discern no error in the trial court's denial of Smith's petition to contest the election."

'Something We Can't Take for Granted Anymore'

Moses said Smith's petition to secure a do-over election extended beyond citing voting irregularities, like nonresident and double-voting to including an attempt to disqualify absentee ballots containing errors.

"Of the challenged electors, only the ballots of six doubles and one mover should be rejected. Those seven ballots are not sufficient to place the results of the election in doubt, given the nine-vote margin of victory in this case. Accordingly, we discern no error in the trial court's denial of Smith's petition to contest the election."
—Justice Carla Wong McMillian, Supreme Court of Georgia

"Some of those voters had not signed their ballot in the correct place when they cast it," Moses said. "There was an additional person who voted by absentee ballot who testified that he was illiterate and that his wife had filled out his ballot for him and signed his name. He testified that that vote expressed his will [because] he talked about the choices with his wife."

Moses said although clerical errors existed, the high court allowed such absentee ballots to be counted during the recount, recertifying Odum's victory in a move he said strengthened election law in the state.

"The key takeaway is that the court sided with the voters in this case that when a voter says that a ballot expresses their will, even if

the ballot contains errors, ... that the court is going to side with the voters and say that their vote should count," Moses said.

Jake Evans, now a partner at Hall Booth Smith in Atlanta, represented Smith in the election challenge.

"We are disappointed in the court's order, because it is contrary to Georgia law and greatly undercuts election integrity in Georgia," Evans wrote in an emailed statement. "My client, Bobby Smith, remains honored to have served the people of Long County as their probate judge and expresses his gratitude for the opportunity to do so."

Evans comments echoed prior reaction following the lower court's petition denial in December 2020.

Then, Evans expressed feeling "disappointed and surprised," given what he said was the judge's "acknowledgment of double votes, flawed absentee ballots and applications and people voting in Long County that did not reside there."

Moses pointed out that Evans is running for Congress in a metro Atlanta congressional district, campaigning that "he's the only Georgia lawyer to successfully overturn two elections in the same race."

"He attempted to do that in this case and he and Judge Smith, thankfully, failed," Moses said. "The will of the voters was respected, but that's something we can't take for granted anymore." ☐

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260 Peachtree St. N.W.
Suite 2200
Atlanta, GA 30303

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LAW FIRM ACCOUNT EXECUTIVE

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