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THE FAMILY LAWYER

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Atlanta Bar Association's
Family Law Section

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2005-2006

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Quote of the Month

"Change your thoughts
and you change your
world."

-Norman Vincent Peale
(1898-1993)

PRESIDING JUSTICE HUNSTEIN ADDRESSES THE ANNUAL SECTION LUNCHEON HONORING FULTON COUNTY SUPERIOR COURT JUDGES

By Jon Hedgepeth, Kessler & Schwarz, P.C.

Presiding Justice Carol W. Hunstein addressed the annual Family Law Section Luncheon on November 17th at the Georgia Railroad Depot. Presiding Justice Hunstein, who was appointed by Governor Zell Miller in November of 1992, is the second woman in history to serve as a permanent member of the Georgia Supreme Court. Prior to her successful bid in 1984 for election to the Superior Court in DeKalb County, she was in pri-

vate practice with the firm of Hunstein and Hunstein. She has been a member of the Georgia Bar since 1976.

In addition to her Judicial duties, Justice Hunstein is an adjunct professor at the Emory University School of Law.

During her eight years on the DeKalb County bench, she was very active at the county, state and national levels. By appointment of the Chief Justice, she served as

Chairperson of the Georgia Commission on Gender Bias in the Judicial System and she was the first woman ever to serve as president of the Council of Superior Court Judges. By virtue of that office, she became the only person ever to have served as Chief Justice before becoming a permanent member of the Court. When all of the Justices recused themselves and designated seven superior court judges to hear and decide a case, then

Superior Court Judge Hunstein served as Chief Justice. In DeKalb County, she chaired many committees including the Alimony and Support Unit Committee, Diversion Center Committee, Probation Committee and Domestic Violence Task Force.

Justice Hunstein is a recipient of the Margaret Brent Award for Excellence from the ABA Commission on Women in the Profession, the Joseph T. Tuggle, Jr., Professional-**SEE LUNCHEON, page 2**

RECENT DECISIONS

By Melody Z. Richardson

The Supreme Court of Georgia recently refused to extend the principle of "virtual adoption" to a situation where a mother gave legal guardianship of her child to the wife. *Dial v. Dial*, ___ Ga. ___ (S05A0657 10/24/05)(2005 WL 2708220). In that case, the trial court ordered the husband to pay child support for the child that was not his biological child and whom he had not adopted. Holding that there was no legal relationship between the husband and the child, the Court ruled that there was no legal relationship between the husband and the child, and, thus, the trial court erred in awarding child support to the wife who was taking care of the child pursuant to a private agreement between the wife and the child's mother.

In a reminder that "equitable division" does not necessarily mean an "equal division", the Supreme Court upheld the trial court's award of 75% of

Husband's retirement plan to Husband and 25% to Wife. *Fuller v. Fuller*, ___ Ga. ___ (S05F1376 10/24/05)(2005 WL 2708413). The Supreme Court also upheld the trial court's refusal to hold Husband in contempt for failure to comply with a temporary order requiring a \$10,000 support payment to Wife where Wife "self-helped" herself to slightly more than \$10,000 by converting checks payable to Husband and by borrowing from the parties' equity line. The fact that the parties knew and discussed the equity line loan at the temporary hearing was not persuasive to the Supreme Court that the amount borrowed should not be offset. Finally, the Supreme Court held that where the trial court communicated only with Husband's lawyer regarding changes to be made to the final order, while those communicates may have been a "technical violation" of the Code of Judicial Conduct prohibiting ex parte communications, any error was harmless.

LUNCHEON, continued from page 1

ism Award, an honorary LL.D from Stetson University College of Law, a commendation from the Georgia General Assembly for outstanding public service, the Emory University Legal Association for Women Students Public Service Award, and the DeKalb Women's Network Women Who Have Made a Difference Award. She is a former Rosalyn Carter Honorary Fellow in Public Policy of the Emory University Institute of Women's Studies and has been inducted into the Florida Atlantic University Hall of Fame.

The Justice began by honoring the Fulton County Superior Court judges and by paying tribute to the one Superior Judge we could not honor in person, the Honorable Rowland Barnes who was well known for his wisdom, his discipline and wonderful sense of humor.

The Justice admitted that domestic cases are the ones she worries about having made the right decision. Justice Hunstein said, "Child custody is the toughest. It requires a devotion by both the lawyers and the citizens of the community." The Justice added that, if you take it seriously, it is an exceedingly demanding job.

Justice Hunstein stated that Fulton County has the largest and busiest bench, yet it has maintained its integrity despite increasingly difficult conditions. Justice Hunstein noted that Fulton County has the first completely separate Family Law Division, and that it is being used as a model by the American Bar Association. The Justice suggested that it is good to have a separate division of the Superior Court dedicated to family law; however, it is unwise to have a separate Court for family law issues. She said, "It would be the least funded, the least staffed, and would contain the least qualified judges." The Justice described the separate courts, such as the Drug Court, opened in 1997, as an example, and discussed the new concept of the Business Court as an idea which may come to fruition.

Justice Hunstein described a condition she has been seeing more and more of which she calls "bench stress." She discussed a seemingly recent resurgence of violence against judges. "Judges and their families need to be safe from harm." Said the Justice. The Justice noted that judges dealing with family law issues have an increased danger given the impact they can make on a person and a family.

The Justice also discussed what she called a vicarious trauma from exposure to gruesome and terrible material. This is from Judges having to review often horrific crime scene images, always with no emotion, prior to ruling on their admissibility at a trial. With all the stresses and strains of being a Judge, Justice Hunstein implored the Judges to make the time for relaxation and said, "We don't want to get to the point like the Washington District Court Judge who verbally intimidates litigants." Justice Hunstein was referring to a particular Judge who was subsequently ordered to take sensitivity training and was admonished for wearing "Do You Want A Piece of Me!?" tee shirt.

Justice Hunstein ended by recognizing Justices Carly and Thompson and relaying Justice Benham's excuse for his absence which was the birth of a grandchild that very day.



Pictured from left are Section Member-at-Large, **Judicial Officer Daniel A. Bloom**, *Atlanta Volunteer Lawyers Foundation*; Families First Award recipient **Jeanney M. Kutner**; Presiding Justice **Carol W. Hunstein** and Section Chair, **Kurt A. Kegel**, *Davis, Matthews & Quigley* at the Section luncheon on November 17th.

The Family Law Section of the Atlanta Bar wishes to congratulate The Honorable M. Jeanney Kutner, the 2005 recipient of the Families First Award.

The Following Attorneys have taken Pro Bono Cases this past month:

GAL:
 Amy Waggoner
 Brooke Barylick
 Alison Finkelstein
 Wayne Morrison
 Catherine Knight

THANK YOU!!!

Please contact Dan Bloom at AVLIF if you are able to take on a Pro Bono Case.

**FAMILY LAW SECTION
HOLIDAY PARTY**

**THURSDAY, DECEMBER 8
6:00 PM to 8:00 PM**

**SMITH'S OLDE BAR
1578 Piedmont Avenue**

*Spouses and Significant
Others Welcome!!!*

*Please bring toys to be
donated to Toys for Tots!*

**SEASON'S
GREETINGS**

What's Coming Up...

December 8 - Family Law Section Breakfast -
Judge Schuster, Cobb County Superior Court

December 8 - Family Law Section Holiday Party

January 12 - Family Law Section Breakfast - TBA

February 9 - Family Law Section Breakfast - Judge
Tusan, Fulton County Superior Court

COLLABORATIVE CORNER

By Susan Hurst

Are you a healer?

At the International Academy of Collaborative Professional's forum in Atlanta at the end of October, Justice Benham, gave an inspired keynote address. He started out by saying that there are three original professions, (get your minds out of the gutter, prostitution is not one). The medical profession, whose purpose is to heal the body. The clergy, is the profession intended to heal the soul. The purpose of the legal profession, according to Justice Benham, is to heal the community.

The broken body seeks a doctor, the broken spirit seeks God, and the broken family turns to us, family lawyers, trusting that we will help. What we do with that trust not only defines us in our relationship to those family members, but also in relationship to our community and to our society at large. Yet, when we litigate, we so often splinter the family further. We so easily turn a crack into a fracture, a scratch into an open wound.

Our job is to solve, to the best of our ability, our client's legal problems. Pursuant to that job, we do everything we can to see that that all of the family law issues — custody, support, and property division — are concluded completely. We strive to achieve our client's satisfaction by getting the issues resolved beneficially. These tasks are not just competent professionalism, they are the demands of the law.

But, as Justice Benham, so eloquently noted, a society that operates only within the bounds of the law operates at its most base level. The stricture of law is a minimum acceptable standard of behavior. It is not, must not be the standard to which the community aspires. It does not heal.

To be healing professionals we must go beyond what the law requires. We need to help clients not only comport themselves within the demands of the law, but to aspire to use their resources, including the law, to obtain the most beneficial resolution for themselves, their children and their ex-spouses. We are at our best when we help the family members mend the cracks and bandage the scratches, maybe even pour new foundations. To this we aspire, so that with our help, our clients can move beyond the damage of the divorce and become full assets to their neighbors and friends. Only by helping them heal, can we be healers of our community.

BASIC INTERDISCIPLINARY COLLABORATIVE PRACTICE TRAINING

January 27-28, 2006, April 28-29, 2006 & September 28-29, 2006

Cost \$625.00

Location: Atlanta, GA

Contact: Lauren Alexander

at (770) 818-0018 OR training@collaborativelawoffice.com

Atlanta Bar Association
The Family Lawyer 752-06-006
400 International Tower
229 Peachtree Street NE
Atlanta, GA 30303-1601

Family Law Section Breakfast
with guest speaker,
Judge J. Stephen Schuster,
Superior Court of Cobb County

Thursday, December 8, 2005 at 7:30am
The Buckhead Club, 3343 Peachtree Road
\$15 pre-registered; \$18 at door

Name _____

Yes, I would like _____ reservation(s)
at \$15 each (\$18 at door).

Check Enclosed

Please charge AMEX/VISA/MC

Exp. _____

Return this form to Atlanta Bar Association:

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